

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

*Customer Services*  
*Executive Director: Douglas Hendry*



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14 September 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, 21 SEPTEMBER 2011** at **10:00 AM**, 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 24 August 2011 (10.00 am) (Pages 1 - 4)
  - (b) Planning, Protective Services and Licensing Committee 24 August 2011 (10.30 am) (Pages 5 - 18)
  - (c) Planning, Protective Services and Licensing Committee 26 August 2011 (10.00 am) (Pages 19 - 24)
  - (d) Planning, Protective Services and Licensing Committee 26 August 2011 (10.30 am) (Pages 25 - 26)
  - (e) Planning, Protective Services and Licensing Committee 30 August 2011 (10.30 am) (Pages 27 - 30)
  - (f) Planning, Protective Services and Licensing Committee 30 August 2011 (11.00 am) (Pages 31 - 32)

(g) Planning, Protective Services and Licensing Committee 5 September 2011  
(Pages 33 - 44)

4. **ARDKINGLAS ESTATE: ERECTION OF MIXED DEVELOPMENT COMPRISING 16 DWELLING HOUSES, 7 COMMERCIAL UNITS, CHILDCARE CENTRE, INSTALLATION OF SEWAGE TREATMENT SYSTEMS AND ACCESS IMPROVEMENTS: LAND ADJACENT TO ARDKINGLAS SAWMILL, CLACHAN, CAIRNDOW (REF: 09/00385/OUT)**  
Report by Head of Planning and Regulatory Services (Pages 45 - 66)
5. **ADAMS (FLANSHAM) LTD: CHANGE OF USE OF AGRICULTURAL SHEDS TO A FIREWOOD PROCESSING UNIT: LAND NORTH WEST OF CAMIS ESKAN FARM HOUSE, HELENSBURGH (REF: 11/00213/PP)**  
Report by Head of Planning and Regulatory Services (Pages 67 - 80)
6. **CWP PROPERTY DEVELOPMENT AND INVESTMENT: ERECTION OF CLASS 1 FOODSTORE WITH ASSOCIATED DEVELOPMENT TO INCLUDE CAR PARKING, ACCESS ROAD, ROAD BRIDGE, PETROL FILLING STATION AND ENGINEERING WORKS: 361 ARGYLL STREET, DUNOON (REF: 10/00222/PPP)**  
Report by Head of Planning and Regulatory Services (Pages 81 - 136)
7. **NATIONAL GRID PROPERTY: SITE FOR THE ERECTION OF RETAIL STORE (CLASS 1) WITH ASSOCIATED DEVELOPMENT INCLUDING ACCESS, CAR PARKING AND LANDSCAPING: LAND AT FORMER GASWORKS, ARGYLL STREET/HAMILTON STREET, DUNOON (REF: 11/00689/PPP)**  
Report by Head of Planning and Regulatory Services (Pages 137 - 178)
8. **MR DUNCAN CAMPBELL: SUB-DIVISION OF GARDEN GROUND, ERECTION OF DWELLINGHOUSE AND DETACHED GARAGE AND FORMATION OF NEW VEHICULAR ACCESS: 7 LAGGARY PARK, RHU, HELENSBURGH (REF: 11/00784/PP)**  
Report by Head of Planning and Regulatory Services (Pages 179 - 190)
9. **MR A TEAR: ERECTION OF A 50 METRE WIND MONITORING METEOROLOGICAL MAST FOR A TEMPORARY PERIOD OF 14 MONTHS: ASCOG FARM, BALMORY ROAD, ASCOG, ISLE OF BUTE (REF: 11/00873/PP)**  
Report by Head of Planning and Regulatory Services (Pages 191 - 212)
10. **OSBORNE INTERIORS LTD: ERECTION OF 3 DWELLINGHOUSES: LAND BETWEEN 19 TO 37 CUMBERLAND AVENUE, HELENSBURGH (REF: 11/00887/PP)**  
Report by Head of Planning and Regulatory Services (Pages 213 - 232)
11. **MRS SARA MACLEAN: CONSTRUCTION OF CULVERT AND HANDRAILS: LAND NORTH WEST OF TIGHNABRUAICH PRIMARY SCHOOL, SCHOOL ROAD, TIGHNABRUAICH (REF: 11/01084/PP)**  
Report by Head of Planning and Regulatory Services (Pages 233 - 240)
12. **SCOTTISH WATER: VARIATION OF CONDITION 3 OF PLANNING PERMISSION 10/01977/PP - AMENDMENTS TO EXTERNAL FINISHES OF KIOSK: LAND OPPOSITE 8 MARINE PLACE, ROTHESAY, ISLE OF BUTE (REF: 11/01310/PP)**  
Report by Head of Planning and Regulatory Services (Pages 241 - 248)

**13. ARGYLL AND BUTE COUNCIL: UPGRADING AND EXTENSION OF EXISTING NETWORK OF FOOTPATHS TO PROVIDE SHARED USE WALKING AND CYCLING PATHS: LAND NORTH OF SOROBA HOUSE HOTEL, OBAN (REF: 11/01400/PP)**

Report by Head of Planning and Regulatory Services (Pages 249 - 260)

**14. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISION**

Report by Head of Planning and Regulatory Services (Pages 261 - 266)

**E1 15. ENFORCEMENT CASE: 00168ENFOTH2**

Report by Head of Planning and Regulatory Services (Pages 267 - 272)

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 1 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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 24 AUGUST 2011**

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

Councillor Rory Colville	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor Alex McNaughton
Councillor Alister MacAlister	Councillor James McQueen
Councillor Donald MacMillan	Councillor Al Reay

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Senior Solicitor  
Mr Islam, Applicant  
Ms Maguire, Applicant's Representative  
Mrs Munro, Objector  
Inspector Tom Harper, Strathclyde Police

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Chalmers, Robin Currie, Mary-Jean Devon and Neil Mackay.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR VARIATION OF LATE HOURS CATERING LICENCE - N ISLAM (CAMPBELTOWN)**

The Chair welcomed everyone to the meeting and invited everyone in attendance to introduce themselves. He then outlined the procedure that would be followed during the meeting.

**Applicant**

The Chair invited the Applicant to speak in support of his application. Ms Maguire advised that she was here to speak on behalf of the Applicant and stated that Mr Islam wished to extend the opening hours of "The Crew" on Friday and Saturday nights by half an hour to 2.30 am and to also sell hotdogs and donor kebabs. She explained that Mr Islam had received a number of requests from his customers to open later at the weekends as they were not happy at him having to close early. She advised that a later opening time would assist with costs and employing staff. She referred to the Police letter dated 7 January 2011 which was submitted in response to Mr Islam's previous application for a late hours catering licence to 3 am on Fridays and Saturdays and at that time the Police would have been happy with a licence until 2.30 am. Ms Maguire referred to the site of "The Crew" which was on Longrow away from the Main Street where trouble tends to happen. She also referred to the closure of "Amanda's" and stated that the owner of "Amanda's" had not ceased trading and had only

changed the name of the premises to "Spice" and she did not think that an extension of opening hours of "The Crew" would affect "Spice" as they offered a different type of food. Ms Maguire also advised that she did not think the extension of opening hours of "The Crew" would affect Mrs Munro's business as she was open all day and that there was room in Campbeltown for 3 businesses. She referred to the suggestion that the Police would have a greater area to cover and advised that Longrow was not far from the Main Street and that there was also CCTV cameras in the vicinity of Mr Islam's shop. She stated that Mr Islam was trying to offer a service requested by his customers and hoped that opening for an extra half hour would make a difference.

### **Questions to Applicant**

The Chair invited the Police and objector to ask the Applicant questions.

Inspector Harper advised that he had no questions at this time.

Mrs Munro asked if Mr Islam was busy till 2.00 am at the moment and Mr Islam confirmed that he was. Mrs Munro asked the Applicant to clarify if he was remaining open until closing time as she had seen the shop shut at 10.00 pm Monday to Thursdays and at 1.30 am on Fridays. Mr Islam confirmed that he did shut at 10.00 pm Mondays to Thursdays as he did not have as many customers on these nights but that he did remain open till 2.00 am on Fridays and Saturdays. He referred to one occasion when he shut on a Friday at 1.30 am due to a problem with his fryer. Mrs Munro asked if the Applicant had approached the owner of "Amanda's" to find out why they had closed. Mr Islam replied that "Amanda's" had not closed and that the name had just changed and was still owned by the same person. Mrs Munro stated that the new owner had approached her with the previous owner to introduce himself. Mr Islam advised that he was selling different food to this establishment.

### **Police**

The Chair invited Inspector Harper to speak and Inspector Harper confirmed that he had an update on crime figures from 1 January to date and advised that there had been 5 disturbance calls to Longrow, no violence to property at Longrow and no calls to "The Crew".

The Chair invited the Applicant and Objector to question the Police and they had no questions.

### **Objector**

The Chair then invited Mrs Munro to speak in support of her objection. Mrs Munro advised that there had been no change since the last application for a late hours catering licence submitted by Mr Islam. She believed there was over provision and not enough trade in Campbeltown to support the 3 catering establishments. She maintained that the owner of "Amanda's" had ceased trading and that the new owner of "Spice" had kept on the employment of one member of staff from "Amanda's". She maintained that the Applicant was not utilising the hours he currently had to open. She stated that when she was granted a late hours catering licence to 2.30 am this was when the pubs in Campbeltown all closed at 2.00 am. In recent times all but one pub now closed

at 1.00 am so the provision for a later opening time is not there, not even for herself and that in the last 4 years the town has deteriorated.

The Chair then invited the Applicant and Police to question the Objector to which there were none.

### **Members Questions**

The Chair then gave Members of the Committee the opportunity to question the Applicant, Objector and Police.

Councillor McCuish asked for clarification on why the Applicant was requesting to sell hotdogs and kebabs and the Senior Solicitor confirmed that this was part of the Applicant's request to vary the late hours catering licence.

Councillor McCuish asked if the Applicant had ever had to close early. Mr Islam confirmed that only once did he have to close at 1.30 am on a Friday due to a fault with his fryer.

Councillor McCuish referred to the Applicant only opening till 10.00 pm Monday to Thursday and asked why the Applicant needed to open for 4½ hours more on a Friday and Saturday. Mr Islam confirmed that he currently had a licence to open until 2.00 am on Friday and Saturdays and was only seeking to open for a further half hour on these evenings.

Councillor Reay asked for clarification on whether all licensed premises closed at 1.00 am. Mrs Munro advised that Whiskey Mac's was the only establishment that opened until 2.00 am.

Councillor Reay asked if Whiskey Mac's was within the vicinity of Mrs Munro's and Mr Islam's premises. Mrs Munro confirmed that it was closer to hers.

Councillor Kinniburgh asked Mrs Munro to clarify how busy she was between 2.00 and 2.30 am. Mrs Munro confirmed that in the summer she could be busy but was usually finished by 1.30 am on Thursdays. She advised that during the winter she did not employ staff for the late hours and just did the work herself.

Councillor Kinniburgh asked for clarification from the Police on the crime statistics for Main Street compared to Longrow. Inspector Harper advised that from 1st January 2011 to date for disturbances Longrow had 5 and Main Street had 12; for crimes of violence there were none at Longrow and 6 at Main Street; and for vandalism to property there was none at Longrow and 3 at Main Street.

### **Summing Up**

The Chair then invited the Police, Objector and Applicant to sum up.

Inspector Harper advised that the Police had no objection to the application and that their observations contained in their letter dated 11 January 2011 remained the same a part from the up dated crime figures to reflect the year to date.

Mrs Munro invited the Committee to refuse the application on the grounds of over provision, no demand, present hours not being utilised, no resurgence in

trade since previous application and not enough trade to support 3 establishments.

Ms Maguire advised that half an hour extra on a Friday and Saturday night would make a difference to Mr Islam and this was what had been requested by his customers and did not think that this would affect the other businesses and that there was never any trouble outside Mr Islam's premises.

The Chair invited Mr Islam and Mrs Munro to confirm that they had received a fair hearing. Both confirmed that this had been the case.

### **Debate**

Councillor Kelly advised that from what he had heard today and read in the paperwork he felt there was no need for extra hours in Campbeltown at this time and that the current opening hours were sufficient.

Councillor McNaughton agreed with the Chair's comments as did Councillor Reay and Councillor McQueen.

Councillor Colville advised that he did not necessarily disagree with the Chair but would have preferred if the opening hours for all the establishments could be the same but that he would not be moving any amendment to the Chair's recommendation.

### **Decision**

The Committee agreed:-

1. not to grant an extension to the Applicant's opening hours on Friday and Saturday evenings;
2. to allow the Applicant to sell hotdogs and kebabs; and
3. to note that notification of this decision would be sent to the applicant by the Head of Governance and Law within 7 days.

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



**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 24 AUGUST 2011**

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

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Gordon Chalmers	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor Alex McNaughton
Councillor Bruce Marshall	Councillor James McQueen
Councillor Alister MacAlister	Councillor Al Reay

**Attending:** Charles Reppke, Head of Governance and Law  
Angus Gilmour, Head of Planning and Regulatory Services  
Richard Kerr, Principal Planning Officer

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Robin Currie, Vivien Dance, Mary-Jean Devon and Neil Mackay.

**2. DECLARATIONS OF INTEREST**

Councillor Roderick McCuish declared a non financial interest in relation to planning applications 11/00387/PPP, 11/00504/PPP and 11/00505/PP which are dealt with at items 6, 7 and 8 of this Minute. He left the room and took no part in the discussion of these items.

**3. MINUTES**

- (a) The Minutes of the Planning, Protective Services and Licensing Committee of 22 June 2011 (10.00 am) were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing Committee of 22 June 2011 (10.30 am) were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee of 30 June 2011 were approved as a correct record.

**4. ARGYLL AND BUTE COUNCIL: APPLICATION FOR PARTIAL USE OF CAR PARK FOR SITING OF A MOBILE SNACK BAR WITH FOUR REMOVABLE TABLES AND CHAIRS: GANAVAN SANDS CAR PARK, OBAN (REF: 10/02132/PP)**

The Principal Planning Officer presented his report advising that the proposal was for the change of use of a small area of land situated adjacent to the public conveniences at the north eastern corner of the public car park at Ganavan Sands, by Oban. He advised that this was a Council interest application as the

land was owned by the Council. The proposed change of use was required to allow the land to be used for the stationing of a small mobile catering van and associated tables and chairs for operation between the hours of 9:00 and 20:00 hours, seven days per week during the months of April to October. He advised that there had been no objections received from consultees or third parties. The proposal accorded with Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' and Policies LP BAD 1, LP ENV 1, LP ENV 19 and LP TOUR 1 of the adopted 'Argyll and Bute Local Plan' and that there were no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the Development Plan. On this basis he invited the Committee to approve the application for planning permission.

### **Decision**

Agreed to grant planning permission subject to the following conditions and reasons:-

1. The mobile snack bar and external seating area as identified on the approved plan shall only be used between the hours of 0900 and 2000 hours during the months of April to October inclusive. Outwith these time periods, the tables, chairs and any barriers erected on the site shall be removed and securely stored, and between 1<sup>st</sup> November and 31<sup>st</sup> March, the snack bar shall be completely removed from site and shall not return to the site, all unless otherwise first agreed in writing by the Planning Authority.

*Reason: To safeguard the environmental amenity of the area.*

2. No development shall commence on site until full details, in plan form, of a proposed barrier to enclose the table and chairs has been submitted to and approved in writing by the Planning Authority.

*Reason: In the interest of road and pedestrian safety.*

3. The development shall be implemented in accordance with the details specified on the application form dated 14/12/10 and the approved drawing reference numbers:

Plan 1 of 3 (Location Plan at scale of 1:2500)

Plan 2 of 3 (Site Plan at scale of 1:500)

Plan 3 of 3 (Photo showing elevations of mobile snack van)

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.*

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

**5. MR M MACDONALD: APPLICATION FOR CHANGE OF USE OF LAND TO FORM 9 HARD STANDING AREAS FOR HOLIDAY LET LODGES/CARAVANS, FORMATION OF NEW ACCESS AND INSTALLATION OF TREATMENT PLANT WITH PARTIAL SOAKAWAY: LAND SOUTH OF BELLOCHANTUY COTTAGES, CAMPBELTOWN (REF: 11/00281/PP)**

The Principal Planning Officer presented his report advising that the proposal was for nine static caravans/lodges for general holiday accommodation and that the site was on the landward side of the road located within the 'settlement zone' for Bellochantuy and had a previous planning permission for five dwellings. While his recommendation was for approval, in view of the Community Council objection and the level of representation from local residents which was significant in the context of a small settlement, he recommended that a discretionary local hearing be held prior to the Committee determining the application.

**Decision**

Agreed to hold a discretionary hearing on Monday 5 September 2011 at 1.00 pm in the Kintyre Community Education Centre, Stewart Road, Campbeltown.

(Reference: Report by Head of Planning and Regulatory Services dated 13 July 2011, submitted)

Having previously declared an interest in the following 3 items of business, Councillor Roderick McCuish left the meeting and took no part in the discussion of these applications.

**6. MR AND MRS S BATE: APPLICATION FOR ERECTION OF A CROFT HOUSE LAND EAST OF ACHARA, OBAN (REF: 11/00387/PPP)**

The Principal Planning Officer presented his report advising that this was one of three proposals put forward by the same applicants for development of a site within Potential Area Development (PDA) 5/5 adjacent to the Oban settlement zone along Glencruitten Road immediately north east of the golf course. He referred to a letter that had been received from the Applicant requesting that this application and the following two applications (11/00504/PPP and 11/00505/PP) be continued to the next meeting to allow him more time to consider his options in view of the Planning Officer's report. The Principal Planning Officer advised that the applicant had submitted this letter having taking advice from a local Planning Advisor but that the Architect for the applications had professional view that the Committee ought to go ahead and consider all three applications at the meeting today. The Members noted the contents of the letter and agreed to determine all three applications at the meeting today.

On this basis the Principal Planning Officer went on to present his reports. He advised that the site was designated as a PDA to allow the golf expansion as a result of land which would be lost to the route of the Oban Development Road (ODR) and that the first application was for the erection of a Croft House. He advised that the applicants secured croft status for the land in December 2010, which required the application to be considered in the light of Structure Plan Policy STRAT AC 1 which supports the principle of a single house on a bareland

croft on appropriate sites and diversification of crofts. The Policy does however include other caveats and ought not to override the PDA allocation that requires a comprehensive masterplanned approach and also requires the ODR and golf course reconfiguration to come forward as the stimulus to the development of this site. He confirmed that the Council's Development Plan Officers have confirmed the policy position that the PDA status should take priority over the croft status and it is considered that the principle of the development was not acceptable on this site at this time. He advised that the proposed location of the croft house was different to the location advised when the applicants applied for croft status and that the reason given was the new location gave a better outlook. He advised that the proposed siting of the croft house was on a very elevated piece of land on a rocky knoll and was an entirely inappropriate location for a house which would break the pattern of houses already in this location. He recommended that the Committee refuse this application.

### **Decision**

Agreed to refuse the planning application on the basis that:-

1. The application proposes piecemeal development within the confines of PDA 5/5 identified by the 'Argyll and Bute Local Plan' (2009) for golf course expansion with possible ancillary, low density, high amenity, small scale housing and a 25% affordable element, associated with and prompted by the proposed Oban Development Road, the general route of which is provided for by the plan. There is a presumption that PDA's are not immediately effective and should therefore be planned for on a comprehensive basis in order to address servicing, ownership and other potential development constraints, in order to ensure that the purposes behind their designation are not frustrated or inhibited by premature or piecemeal forms of development, which in turn, could undermine the long term aspirations of the development plan for such sites. The proposal does not constitute part of the required master-planned approach to the PDA designation within which it is situated, and is therefore contrary to the provisions of the 'Argyll & Bute Local Plan' and there are no other material considerations, including croft status, which would warrant the application being determined other than in accordance with the primary designation of the land as delineated in the local plan; and
2. The site lies on the fringe of the existing settlement of Oban in an area characterised by low density scattered housing development and undulating natural landscape. The site cannot comfortably accommodate a dwelling house at the location proposed due to its skyline location, which is at odds with Local Plan Policies LP ENV 1, LP ENV 19 and LP HOU 1 and the Council's adopted Sustainable Design Guide, which seek to respect established patterns of development and integrate new buildings appropriately into their landscape settings. Development on the site proposed would create a dominant elevated house at variance with the pattern of well sited and contained development around the site. Notwithstanding the exceptional case advanced in respect of the provision of a house on a bareland croft, the site is not a location suited to development on the croft land in terms of Structure Plan Policy STRAT AC 1 and Local Plan Policy LP HOU 1, as there are more appropriate and less environmentally damaging locations available at the north-eastern

end of the croft, currently proposed for a three chalet development.

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

**7. MR AND MRS S BATE: APPLICATION FOR ERECTION OF 2 CHALET LETTING UNITS: LAND EAST OF ACHARA, OBAN (REF: 11/00504/PPP)**

Having regard to the Committee's decision on the request for a continuation, the Principal Planning Officer advised that this was the second of the three applications submitted by the same applicant for development of a site within Potential Area Development (PDA) 5/5 adjacent to the Oban settlement zone along Glencruitten Road immediately north east of the golf course. He advised that this application was for the erection of two chalet letting units situated within the existing site of an unauthorised chalet. He advised that the location of the chalets was in a more contained and discrete location however as with the croft house did not conform with the PDA designation and recommended refusal of the application.

**Decision**

Agreed to refuse the planning application on the basis that:-

The application proposes piecemeal development within the confines of PDA 5/5 identified by the 'Argyll and Bute Local Plan' (2009) for golf course expansion with possible ancillary, low density, high amenity, small scale housing and a 25% affordable element, associated with and prompted by the proposed Oban Development Road, the general route of which is provided for by the plan. There is a presumption that PDA's are not immediately effective and should therefore be planned for on a comprehensive basis in order to address servicing, ownership and other potential development constraints, in order to ensure that the purposes behind their designation are not frustrated or inhibited by premature or piecemeal forms of development, which in turn, could undermine the long term aspirations of the development plan for such sites. The proposal does not constitute part of the required master-planned approach to the PDA designation within which it is situated, and is therefore contrary to the provisions of the 'Argyll & Bute Local Plan' and there are no other material considerations, including croft status, which would warrant the application being determined other than in accordance with the primary designation of the land as delineated in the local plan.

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

**8. MR AND MRS S BATE: APPLICATION FOR ERECTION OF CHALET LETTING UNIT (RETROSPECTIVE): LAND EAST OF ACHARA, OBAN (REF: 11/00505/PP)**

Having regard to the Committee's decision on the request for continuation, the Principal Planning Officer presented his report advising that this was the third application submitted by the same applicants for development of a site within Potential Area Development (PDA) 5/5 adjacent to the Oban settlement zone along Glencruitten Road immediately north east of the golf course. He advised

that this was a retrospective planning application for a letting Chalet which was erected without planning permission and was currently being used by the applicant as living accommodation. The applicant was seeking permission for the Chalet to remain and be used as a letting unit. The Principal Planning Officer advised that an enforcement notice had been served and subsequently withdrawn due to it being served jointly instead of separately to the owners of the property. For the same reasons as before ie the development did not conform with the PDA designation, the Principal Planning Officer recommended refusal of this retrospective application and that the earlier enforcement notice be re-served with the drafting errors corrected in order to secure the removal of the unauthorised development.

### **Decision**

Agreed to refuse the planning application on the basis that:-

The application seeks to regularise piecemeal development within the confines of PDA 5/5 identified by the 'Argyll and Bute Local Plan' (2009) for golf course expansion with possible ancillary, low density, high amenity, small scale housing and a 25% affordable element, associated with and prompted by the proposed Oban Development Road, the general route of which is provided for by the plan. There is a presumption that PDA's are not immediately effective and should therefore be planned for on a comprehensive basis in order to address servicing, ownership and other potential development constraints, in order to ensure that the purposes behind their designation are not frustrated or inhibited by premature or piecemeal forms of development, which in turn, could undermine the long term aspirations of the development plan for such sites. The proposal does not constitute part of the required master-planned approach to the PDA designation within which it is situated, and is therefore contrary to the provisions of the 'Argyll & Bute Local Plan' and there are no other material considerations, including croft status, which would warrant the application being determined other than in accordance with the primary designation of the land as delineated in the local plan.

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

Councillor McCuish returned to the meeting.

**9. MR KIERAN O'ROURKE: APPLICATION FOR REINSTATEMENT OF DERELICT COTTAGE: LAND ADJACENT TO 31 ELLENABEICH, ISLE OF SEIL (REF: 11/00618/PP)**

The Principal Planning Officer advised that this was one of two applications in respect of the reinstatement of a derelict cottage adjacent to 31 Ellenabeich, Isle of Seil within a conservation area and this application accompanied an application for listed building consent. He advised that this was for a single dwelling designed to look like two dwellings and was considered appropriate to adjoining properties and the character of the conservation area. Whilst the dwellinghouse proposed is considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates well into its surroundings, it is accepted it will have some adverse impact on the privacy, amenity and

daylighting currently afforded to number 32, which would normally warrant protection through the operation of Local Plan Policies LP ENV 1, LP ENV 19 and Appendix A. However the site currently benefits from a live permission (reference 79/82) for redevelopment with a single dwellinghouse, by virtue of a 'meaningful start' having been made on the development by virtue of the implementation of drainage arrangements, which the Council has previously accepted as being sufficient to keep that consent live in perpetuity. He advised that Seil and Easdale Community Council had raised concerns but did not submit an objection to this application. He advised that objections had been received from 19 third parties but given that the site already benefitted from a consent for the development of a dwelling, which is a material consideration of significance in the adjudication of the current proposal, it is not considered that a hearing would add value to the process and recommended approval of this planning application as a minor departure to the Local Plan.

### **Decision**

Agreed to grant planning permission as a 'minor departure' to Policies LP ENV 1, LP ENV 19 and LP HOU 1 and Appendix A of the adopted local plan due to the existence of planning permission 79/82 which remains capable of implementation by virtue of a meaningful start having been made on that development subject to the following conditions and reasons:-

1. Notwithstanding the details shown in the plans hereby approved, the glazing in the three windows in the rear (southern) elevation shall be finished in obscure glass and shall be so maintained thereafter in perpetuity to the satisfaction of the Planning Authority.

*Reason: In order to protect the privacy and amenity of the adjacent property to the immediate south.*

2. Notwithstanding the provisions of Article 3 Class 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any equivalent provisions following the revocation and re-enactment thereof, with or without modifications, no window or other openings other than those shown on the approved plans shall be installed in the front, rear and side elevation of the proposed dwellinghouse without the prior written permission of the Planning Authority.

*Reason: In order to prevent the inclusion of window and other openings which would undermine the privacy and amenity of the adjacent properties and which could adversely affect the appearance of the proposed dwellinghouse.*

3. No development shall commence on site until full details, in plan form, of a form of screening for the oil storage tank have been submitted to, and approved in writing by the Planning Authority. Such details shall comprise a natural slate finish to match the garden walls of neighbouring properties. The screening measures as are agreed must be installed prior to the initial occupation of the house hereby approved and be so maintained thereafter in perpetuity.

*Reason: In the interests of visual amenity to ensure that the proposals do not adversely affect the architectural and historic character of the surrounding buildings and the Conservation Area.*

4. The development shall be implemented in accordance with the details specified on the application form dated 23/04/11 and the approved drawing reference numbers:

Plan 1 of 2 (Site Plan at scale of 1:200)  
Plan 2 of 2 (Drawing Number B-01 at various scales)

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

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

5. The parking area within the application site shall be fully formed to the satisfaction of the Planning Authority prior to the initial occupation of the house hereby approved and be so maintained thereafter in perpetuity.

*Reason: To ensure that parking can be undertaken in a way that avoids blocking the public road.*

(Reference: Report by Head of Planning and Regulatory Services dated 11 July 2011, submitted)

Councillor Bruce Marshall left the meeting.

**10. MR KIERAN O'ROURKE: APPLICATION FOR REINSTATEMENT OF DERELICT COTTAGE: LAND ADJACENT TO 31 ELLENABEICH, ISLE OF SEIL (REF: 11/00619/LIB)**

The Principal Planning Officer advised that this application accompanied the previous application and was for listed building consent for the reinstatement of a derelict cottage adjacent to 31 Ellenabeich, Isle of Seil.

**Decision**

Agreed to grant listed building consent subject to clearance by Historic Scotland and subject to the following conditions and reasons:-

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

*Reason: To comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.*

2. Notwithstanding the details shown in the plans hereby approved, the



glazing in the three windows in the rear (southern) elevation shall be finished in obscure glass and shall be so maintained thereafter in perpetuity to the satisfaction of the Planning Authority.

*Reason: In order to protect the privacy and amenity of the adjacent property.*

3. No development shall commence on site until full details, in plan form, of a form of screening for the oil storage tank has been submitted to, and approved in writing by the Planning Authority. Such details shall comprise a natural stone finish to match the garden walls of neighbouring properties. The screening measures as are agreed must be installed prior to the initial occupation of the house hereby approved and be so maintained thereafter in perpetuity.

*Reason: In the interests of visual amenity to ensure that the proposals do not adversely affect the architectural and historic character of the surrounding buildings and the overall setting of the Conservation Area.*

(Reference: Report by Head of Planning and Regulatory Services dated 11 July 2011, submitted)

**11. MR HUGH COLE: APPLICATION FOR ALTERATIONS AND CHANGE OF USE OF CHURCH TO DWELLINGHOUSE WITH CLASS 4 BUSINESS USE AND STORAGE: ROTHESAY FREE CHURCH (REF: 11/00624/PP)**

The Head of Planning and Regulatory Services presented his report advising that the proposal involved undertaking alterations to the former Rothesay Free Church (a Category B Listed Building) to facilitate its conversion to a business/storage use on the ground floor and a four bedroomed flatted dwelling on the upper floor. He advised that the proposed alterations to the property were unsympathetic in nature and included a raised decking area, inappropriate polycarbonate windows and an excessive number of rooflights, would have an adverse effect on the character and appearance of the building and this part of the Conservation Area and that there is a shortfall of off street parking and insufficient turning within the confines of the site. He referred to correspondence received from the applicant which had been circulated to Members which did not raise any new issues but showed the Applicant's frustrations and that there was a need to work with the Applicant to develop a more suitable conversion. He advised that a single dwelling would be more appropriate without storage facilities and that the current proposal did not fit the bill. On the basis of the foregoing he recommended refusal of the application and advised that he would ask Planning Officers to enter into further dialogue with the Applicant to determine if a more suitable proposal could be obtained.

**Decision**

Agreed to refuse planning permission for the following reasons:-

1. The proposed development, by virtue of the incongruous French doors, the substantial raised decking, the inappropriate windows and the excessive number of rooflights, would have a significantly adverse effect upon the character and appearance of this Category 'B' Listed Building and this part of

the Rothesay Conservation Area. On this basis, the proposal is considered to contravene STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 13a, LP ENV 14 and LP ENV 19 of the Argyll and Bute Local Plan 2009; and

2. The proposed development, by virtue of the shortfall in off-street parking of five spaces, would result in the demand for the parking of vehicles on the public road in a relatively narrow and congested thoroughfare. On this basis, the proposal is considered to contravene policy LP TRAN 6 of the Argyll and Bute Local Plan 2009.

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

**12. D MCNAIR AND SON: APPLICATION FOR ERECTION OF ACCESS PLATFORM AND FUEL SUPPLY GANTRY TO SERVE EXISTING FUEL OIL STORAGE TANK: OIL DEPOT, OLD QUAY, CAMPBELTOWN (REF: 11/00943/PP)**

The Principal Planning Officer presented his report advising that this local matter had been referred to Members for determination in light of the Council's ownership interest in the application site. The proposal fell within the 'settlement zone' for Campbeltown and lay outside of, but adjacent to, the Campbeltown Conservation Area. The application has been considered in the light of policies LP ENV 1 and LP ENV 19 and that the design and appearance of the access platform and gantry is considered appropriate in the context of this commercial area and working harbour environment. In view of its small scale it would not adversely affect the character or appearance of the nearby conservation area in terms of the effect of policy LP ENV 14 and he invited the Committee to grant planning permission subject to conditions and reasons.

**Decision**

Agreed to grant planning permission subject to the following condition and reason:-

The development shall be implemented in accordance with the details specified on the application form dated 31<sup>st</sup> May 2011 and the approved drawing reference numbers:

Plan 1 of 1 (Drawing No. McNair11/100-01 Rev B)

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.*

(Reference: Report by Head of Planning and Regulatory Services dated 18 July 2011, submitted)

**13. MR IAN WOOLLCOTT: APPLICATION FOR ERECTION OF CARE HOME AND FORMATION OF NEW ACCESS: LAND NORTH OF ASCOG MANSIONS, ASCOG, ISLE OF BUTE (REF: 11/00954/PP)**

The Head of Planning and Regulatory Services presented his report advising that one further representation in support of the application had been received by email from Jean Moffat. The principle for development of the site has been established by virtue of Planning Permission 05/01800/DET for the erection of ten dwellings (renewed for a period of 12 months by permission 11/00027/PP in June 2011). He advised that the current proposal was for the erection of a 40 bedroom care home incorporating a dedicated dementia care unit. He advised that on the basis that representations have been received from a total of 27 sources and that the objectors and supporters are evenly split, it was considered justifiable to hold a discretionary hearing into this application prior to a decision being made.

**Decision**

Agreed to hold a discretionary hearing on Tuesday 13 September 2011 at 2.00 pm in Rothesay, Isle of Bute.

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

Councillor Bruce Marshall returned to the meeting.

**14. ARGYLL AND BUTE COUNCIL: APPLICATION FOR CHANGE OF USE OF GROUND FLOOR FLAT TO FAMILY MEDIATION CENTRE: 60A EDWARD STREET (WOODSIDE), DUNOON (REF: 11/01032/PP)**

The Principal Planning Officer presented his report advising that this was a local Council interest application as it has been submitted by the Council in respect of premises it owns and was for the change of use of a ground floor flat to Family Mediation Centre. This property was identified by the Council as a potential alternative location for the Family Mediation Centre following refusal of retrospective permission in respect of premises at Wellington Street, which are due to be vacated shortly following dismissal of an appeal and associated enforcement action. It's felt that the actual use of this property as a mediation centre would be low key and have a very limited impact upon its surroundings and that conditions would be imposed on the grant of planning permission to ensure the use did not intensify by stipulating the days per week and hours per day the centre could open. He advised that the centre would be open Monday to Saturday between 8 am and 6 pm on an appointment basis and that staff would only be based there during appointment times. He advised that the current application does not share the same shortcomings in terms of access and consequent possible disturbance to neighbours that led to the refusal and dismissal of appeal in respect of the previous application and premises. He advised that there has been no objections received from Consultees but there has been 8 representations of objection from third parties including a petition with 10 signatures and that some of these dealt with material matters and others were based on misconceptions about what the Family Mediation Centre was about. In view of the number of representations he advised that it was necessary for the Committee to consider whether there was a need for a hearing

prior to determining the application. He advised that his recommendation was that a hearing should be held but acknowledged that the Committee may wish to take into consideration the substance of the representations received and the previous hearing.

### **Decision**

On the basis that many of the representations received related either to matters that were not material considerations or were errors of fact in regard to the work of the Family Mediation Centre as established at the hearing for an alternative site it was agreed that there would be no additional benefit to the Committee in convening a hearing given the foregoing circumstances and therefore the Committee having considered the request agreed to grant planning permission subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 20<sup>th</sup> June 2011 and the approved drawings 1;1250 location plan and 1;50 floor plan L(00)001 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*

2. The use hereby permitted shall be discontinued no later than 30<sup>th</sup> December 2016, unless a further permission has been sought and granted.

*Reason: In order to enable the Planning Authority the opportunity to assess the effect of the use on the surrounding area and to enable the use of the premises to revert to a residential flat if the use hereby permitted ceases.*

3. The use hereby approved shall not operate except between the hours of 8:00am until 6:00pm Monday to Saturday only.

*Reason: In order to control the intensity of use and to protect the established levels of privacy and amenity afforded to neighbouring residential properties.*

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

**15. ARGYLL FAMILY MEDIATION SERVICE: APPLICATION TO CONTINUE USE OF DWELLINGHOUSE (CLASS 9) AS FAMILY MEDIATION CENTRE (SUE GENERIS): ATHOLE COTTAGE, 20C WELLINGTON STREET, DUNOON (REF: 11/01272/PP)**

The Principal Planning Officer advised that this was a local application seeking temporary occupation of Wellington Street which was currently occupied by the Family Mediation Centre without planning permission. They were seeking temporary accommodation of the premises to avoid disruption to the service whilst other premises were secured and he referred to a letter from the Family Mediation Centre in which they were volunteering to reduce their opening hours and request visitors to park elsewhere and he stated that this was a material

change in circumstances. He advised that whilst the Centre would be able to control their opening hours they would not be able to control where people parked and hence, whilst it would be possible to restrict hours of operation by condition, it would not be possible to control parking by way of condition. He referred to the refusal of retrospective planning permission for the Mediation Service to occupy these premises on a permanent basis and he also referred to the enforcement notice which had taken effect on 22 August 2011. He also referred to the appeal which had also been dismissed and outlined the reasons for this. He advised that the Reporter's decision was a material consideration and that the reasons for refusal of the retrospective planning permission were equally applicable to the application for temporary occupation and recommended refusal of this application.

## **Decision**

1. Agreed to refuse planning permission for the following reasons:-
  - (a) The use would introduce an incompatible and incongruous use into a quiet residential area which would adversely affect the privacy and amenity of neighbouring residential properties, by virtue of the vehicle movements and comings and goings and general activity associated with the occupation of the premises for the intended purpose. Planning permission has been recently refused on appeal for the use of the premises for the intended purpose on a permanent basis, and although this application is now for temporary occupation, it would entail disturbance for a significant period, which would be unacceptable in terms of the impact of such a temporary use upon residential amenity. The proposal therefore does not comply with policies LP BAD 1 and LP COM 1 of the 'Argyll and Bute Local Plan' (2009).
  - (b) The operation of the centre will materially increase the use of the access lane which has sub-standard width and insufficient parking and visibility splays to accommodate the likely volume of traffic associated with the intended use, with a consequent detrimental impact on road safety contrary to Policy LP TRAN 4 and TRAN 6 of the 'Argyll and Bute Local Plan' (2009).
2. Agreed to resume consideration of the circumstances of the enforcement notice served in respect of this unauthorised use and the compliance period for such, in the light of permission having been granted for alternative premises at Edward Street, the likely timescale for them being available for occupation, and the operating concessions recently advanced by the Mediation Service for Wellington Street, and that this be brought back to the next meeting of the Committee.

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

Councillor Bruce Marshall left the meeting.

**16. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISION:  
STACAIN WINDFARM, BY INVERARAY**

The Principal Planning Officer advised that this report was before the Committee for information and advised on the outcome of the decision on Stacain Windfarm application (Ref: 05/00770/DET) which had been “called in” for determination by Scottish Ministers in 2008, in view of Members’ resolution to grant permission contrary to recommendation and to the view of Scottish Natural Heritage in their capacity as a statutory consultee.

**Decision**

Noted the contents of the report and that Scottish Ministers had refused planning permission on 15 July 2011 following a Public Local Inquiry.

(Reference: Report by Head of Planning and Regulatory Services dated 19 July 2011 submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on FRIDAY, 26 AUGUST 2011**

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

Councillor Gordon Chalmers  
Councillor Bruce Marshall  
Councillor Donald MacMillan

Councillor Alex McNaughton  
Councillor James McQueen

**Attending:** Iain Jackson, Governance Manager  
Graeme Forrester, Trainee Solicitor  
Ms A Campbell, Applicant  
Mr D C McDiarmid, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Rory Colville, Robin Currie, Vivien Dance, Mary-Jean Devon, David Kinniburgh, Neil Mackay, Alister MacAlister, Roderick McCuish and Al Reay.

**2. DECLARATIONS OF INTEREST**

Councillor Bruce Marshall declared a non financial interest in relation to item 3 of this Minute as he is a Director of the Dunoon Burgh Hall Trust. He left the room and took no part in the discussion of this application.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PUBLIC ENTERTAINMENT LICENCE - DUNOON BURGH HALL TRUST**

The Chair welcomed everyone to the meeting and invited everyone in attendance to introduce themselves. He then outlined the procedure that would be followed during the meeting.

**Applicant**

The Chair invited the Applicant to speak in support of the application. Ms Campbell advised that she was here to represent the Dunoon Burgh Hall Trust and gave a brief background into the history and development of the Burgh Hall. She explained that the upstairs theatre space had been mothballed since the 1980s and the downstairs area which had been used as office space had been mothballed in the 1990s. Following a community campaign the Trust was incorporated in 2010 and they were looking to reinstate the building into public use for arts, leisure and cultural events. She advised that a £1.2m restoration programme was underway following fundraising and that this will be used to significantly improve the building including improvements to sound proofing, acoustics and heating the building by way of insulation to the roof space, heavy duty, thermal lined curtains at the windows and, in time, replacement of the windows. She advised that the Trust required the entertainments licence in order to hold events that would bring income into the hall to help pay for heating, lighting and further improve the condition of the hall. She confirmed that funding

had been received from Historic Scotland and the LEADER Plus Programme and that applications have been submitted to the Heritage Lottery Fund and the Big Lottery Fund. She also advised that in the last year over 10,000 visitors had come to the hall and that there was significant support from the local community with over 40 volunteers involved with the project. She explained that not having the entertainment licence would restrict their business and that they were aware of the need to be considerate of neighbours and to minimise disturbance to them and to not have events running beyond midnight. They hope to be able to engage with the immediate community of Dunoon and Cowal as well as further afield and advised that an Arts Exhibition was planned for the hall in 2012 from the Tate Museum.

### **Questions to Applicant**

The Chair invited the Objector to ask questions. Mr McDiarmid advised that he had no questions but thanked Ms Campbell for her well presented and honest statement which covered very well the condition of the hall.

### **Objector**

Mr McDermott advised that he did not wish the Committee to attach any weight to his sole representation as due to the positioning of the notice at the Burgh Hall advising of the application, he believed many people would not have been aware that it was there and, indeed, he almost missed it himself, and queried whether or not this type of application should have been advertised in the local paper. Mr McDermott went on to refer to the contents of his letter included with the Committee paperwork which detailed the concerns he had. He expressed his concern about the inadequate sound proofing in the hall and advised that when events were held in the hall he could hear the music from his living room even with his windows closed and the television on. He advised that his house was less than 100 yards from the hall and the rear door of the hall pointed directly at his house. He advised that frequently the rear hall door remained open during events and this was where smokers congregated and that he could hear their conversations. He advised that he had no objection in principle to the licence but advised that he thought it should come with restrictions. He advised that the hall was not built, and was still unsuitable, for loud groups and discos and that in an ideal world he would like these prohibited. He advised that if these types of functions could not be prohibited he asked that consideration be given to the installation and mandatory use of sound control equipment and referred to this being used at a venue in St Andrews Square, Glasgow which was in a residential area and thought that this would be a straightforward measure to implement and that having this in place would protect himself and others from noise disturbance. He also asked if performances could be limited to an average of 1 per week. He referred to the rear doors and the possibility of having them shut at all times except in emergencies and that smokers be redirected to the front of the building instead of out the rear door and that this would be dependent upon someone responsible being in the hall to ensure this was the case. He also referred to the hall being used as a rehearsal venue for music groups. He advised that he understood the need to support young people and believed that a proper recording studio would be the subject of conditions and regulations and asked that the hall not be used for this purpose. He advised that none of the Directors of the hall lived within earshot of the hall and that it was incumbent upon them that people living close by did not need to suffer in the interim until



proper sound proofing was in place.

### **Questions to Objector**

The Chair invited the Applicant to ask questions. Ms Campbell advised that she had none but would like to address some of Mr McDiarmid's concerns. The Chair advised that she could do this when she summed up her case.

### **Members Questions**

The Chair then gave Members of the Committee the opportunity to question the Applicant and Objector.

Councillor Chalmers asked Ms Campbell what the maximum number of people was that could be accommodated at events.

Ms Campbell advised that in the downstairs hall for a wedding this would be 120 people. For an event with rows of seats this would be 150 people. She advised that for a standing event they would be allowed up to 300 people but that they would limit this to between 200 – 250 people maximum for ease of management and delivery of a safe and comfortable event.

Councillor Chalmers asked Ms Campbell if the suggestion of installing a sound control system would be feasible and if she had any thoughts on this.

Ms Campbell advised that the hall didn't have any PA equipment and relied on groups bringing their own and that there would be cost implications but it would be certainly something they could investigate further.

Councillor Chalmers asked Mr McDiarmid to comment on Ms Campbell's response.

Mr McDiarmid advised that it was not necessary for a PA system to be in place and that the sound control equipment was simply a piece of kit that groups could plug their own sound equipment into. He advised he did not know the cost of this equipment but did not expect it to be more than £1,000.

Councillor Chalmers asked Mr McDiarmid if he would expect events such as weddings to finish early and that wouldn't it be the case to expect these to run till about 1.30 am.

Mr McDiarmid advised that he would be more concerned about the frequency of these types of events and that if sound control equipment was in place this would solve a lot of the problems and that he had more than a degree of sympathy for the Trust.

Councillor Chalmers asked Mr Forrester to clarify whether or not there was a requirement for notices of applications for these types of license to be placed in the local paper.

Mr Forrester advised that there was no requirement.

Mr Jackson advised that in addition to a notice being displayed at the premises

in question, notices were also displayed at Council Offices.

Councillor McNaughton asked Ms Campbell to confirm how far along the Trust were in installing the sound proofing measures.

Ms Campbell advised that insulation of the roof had been completed yesterday and it was hoped to have the curtains in place on the side windows within the next 2 months. She explained that a different solution, including black out measures, for the rear windows would need to be found and it was hoped to have the alterations to these completed by December 2011. She also advised that within the next month work would start on replacing the rear door with a push bar fire exit door which would remain closed all the times. She advised that the back door was having to remain open at the moment due to fire regulations as it did not have a push bar handle. She hoped that the work on the rear door would be complete within the next 2 months. She advised that a lot of their funding was heritage money and that the building was the subject of various consents in respect of material changes to the hall. She confirmed that once the new door was in place this would remain closed at all times and that people would be directed to the front door if they wished to smoke. She advised that in the long term they hoped to replace all the single glazed windows and that this would require further fundraising.

Councillor McNaughton asked Ms Campbell if some sort of restriction on the types of events that could be held could be looked at until the sound proofing works were completed.

Ms Campbell advised that they currently limit the types of events that are held to make sure that they are not too loud. She confirmed that they have also moved the young people that come to practice to a small downstairs room and have asked that they restrict the volume of their music and hope that this will go some way to alleviate the situation. She advised that it was important to engage the young people in the community.

Councillor McQueen stated that there was no excuse for the back door to be left opened and that there should be a steward placed at the door at all times to ensure that this was the case. He asked Ms Campbell to confirm if they had such a steward in place.

Ms Campbell advised that during events someone was allocated to stand by the back door for security reasons and confirmed that steps would be taken to ensure that smokers used the front door in future.

Councillor MacMillan asked for clarification on whether or not the Committee could impose conditions on the licence.

The Chair advised that the Committee could do this if they wished.

### **Summing Up**

The Chair then invited the Objector and the Applicant to sum up.

Mr McDiarmid advised that he had nothing further to add but would like to state that he was very impressed with Ms Campbell and the honest way in which she

explained the condition of the building and its limitations. He advised that he did wish the Hall Trust all the best but advised that during the transitional period he did not think local residents should suffer and thought that some conditions should be placed on the licence.

Ms Campbell advised that she thought that she had managed to cover everything and that this project was for the community of Dunoon and Cowal. She advised that the Trust did not wish to fall out with neighbours and that they would do their best to improve the limitations of the building. She noted that this would be the final year of a 3 year licence and that next year they would be back and would hope to be able to prove that they have been able to operate considerably and successfully.

The Chair invited Ms Campbell and Mr McDiarmid to confirm if they had received a fair hearing. Both confirmed that this had been the case.

### **Debate**

Councillor Kelly advised that having read the paperwork and heard from both the Applicant and Objector that he was satisfied that there would be no need to impose conditions on the licence as he was confident that Ms Campbell would take on board all of Mr McDiarmid's concerns and noted the steps already being put in place to make sure these concerns were alleviated. He also advised Ms Campbell to get in touch with the local Environmental Health Officers in Dunoon who would be able to offer advice and assistance regarding appropriate noise levels.

Councillor McNaughton advised that he agreed with the Chair's comments.

Councillor Chalmers advised that he was confident everything had been covered but asked for clarification on the time restrictions.

Mr Forrester advised that the licence would be till 1 am. Ms Campbell advised that very rarely would any events run to this time as the hall was run by volunteers who did not wish to be out till that time.

### **Decision**

The Committee agreed

1. To Grant the Public Entertainment Licence to the Dunoon Burgh Hall Trust for the final year of a three year licence; and
2. To note that notification of this decision would be sent to the applicant by the Head of Governance and Law within 7 days.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
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on FRIDAY, 26 AUGUST 2011**

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

Councillor Gordon Chalmers  
Councillor Bruce Marshall  
Councillor Donald MacMillan

Councillor Alex McNaughton  
Councillor James McQueen

**Attending:** Iain Jackson, Governance Manager  
Graeme Forrester, Trainee Solicitor  
Mr G McArthur, Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Rory Colville, Robin Currie, Vivien Dance, Mary-Jean Devon, David Kinniburgh, Neil Mackay, Alister MacAlister, Roderick McCuish and Al Reay.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE - G. MCARTHUR (ROTHESAY)**

The Chair welcomed everyone to the meeting and invited everyone in attendance to introduce themselves. He then outlined the procedure that would be followed during the meeting.

**Applicant**

The Chair invited the Applicant to speak in support of his application. Mr McArthur advised that his friend had a taxi business and that he was looking for a part time driver. He advised that his friend had offered the position to him and that was why he required the taxi driver's licence. He referred to a previous application which he had subsequently withdrawn and he explained the reasons for this. He advised that in his previous application he had failed to include reference to his driving conviction and advised that it wasn't clear on the application form that this information was required as the application form only referred to criminal convictions.

**Objector**

Mr Jackson informed the Committee that the Police had advised that they would not be able to attend the meeting and referred Members to the representation submitted by the Police which was contained within the Committee paperwork.

**Members Questions**

The Chair gave Members of the Committee the opportunity to question the Applicant.

Councillor Chalmers asked Mr McArthur to clarify why his previous application was refused.

Mr Jackson advised Councillor Chalmers that the previous application had not been refused and that the Applicant had in fact withdrawn it.

Councillor Chalmers thanked Mr Jackson for clarifying this and explained that he thought that the application had been refused as this was what was stated at section 6(ii) of the application form.

Councillor Chalmers asked Mr McArthur to expand on the nature of his road traffic offence.

Mr McArthur advised that it had involved a works van which he had been helping to unload. He added that the traffic Police had driven by when Mr McArthur was in the process of moving the vehicle to a safer parking place. The traffic Police had seen something that they thought was dangerous and that they had subsequently fined Mr McArthur.

### **Summing Up**

The Chair invited the Applicant to sum up.

Mr McArthur advised that he thought it would be a good idea for the content of the application form to be revised as it wasn't clear that information on driving convictions were required even when they were spent. He referred to his own conviction which was now spent and confirmed that he no longer had endorsements on his licence.

The Chair invited Mr McArthur to confirm if he had received a fair hearing and Mr McArthur confirmed that he had.

### **Debate**

Councillor Kelly advised that he saw no reason why the taxi driver's licence could not be granted and the other Members of the Committee agreed.

### **Decision**

It was unanimously agreed to grant a Taxi Driver's Licence to Mr McArthur for a three year period.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the THE STUDIO THEATRE, CORRAN HALLS, OBAN  
on TUESDAY, 30 AUGUST 2011**

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

Councillor Gordon Chalmers	Councillor Neil Mackay
Councillor Donald MacMillan	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor James McQueen

**Attending:** Charles Reppke, Head of Governance & Law  
Graeme Forrester, Trainee Solicitor, Governance & Law  
Jane Gillies, Area Governance Assistant, Governance & Law

Sam Bouchnak, Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated by:  
Councillor Rory Colville  
Councillor Robin Currie  
Councillor Vivien Dance  
Councillor David Kinniburgh  
Councillor Bruce Marshall  
Councillor Alister McAlister  
Councillor Alex McNaughton  
Councillor Al Reay

**2. DECLARATIONS OF INTEREST (IF ANY)**

There were no declarations of interest

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR VARIATION OF STREET TRADER'S LICENCE - S BOUCHNAK (SCARINISH, TIREE)**

The Chair welcomed everyone to the meeting and invited everyone in attendance to introduce themselves. He then outlined the procedure that would be followed during the meeting.

**Applicant**

The Chair invited the Applicant to speak in support of his application. Mr Bouchnak stated that he runs a small van in Scarinish, having operated in various parts of the island over the past five years. He is in possession of a street traders license for a number of areas, but wished to trade in Scarinish as it has the highest population of people and businesses which are key economic factors in maintaining services to the island.

There had been one objector to the application and Mr Bouchnak had been given a temporary licence for the summer to avoid closure of his business. He advised that his business has been popular on the island, providing a service that would not otherwise be available, with some residents having used his service on a daily basis. Mr Bouchnak tabled a petition which had approximately 250 signatures, and included guests occupying a holiday home belonging to the objector. The Community Trust had provided a letter of support; a resident whilst carrying out renovations to their kitchen used Mr Bouchnak's services. There are 27 spaces in the car park, 1 is occupied by the applicant but he could utilise the grassy verge adjacent to the car park if necessary.

Mr Bouchnak advised that he had included a "tent" as part of the application as visitors would have no other shelter throughout the day and this would be a key economic factor in his business.

There had been an objection to noise from a generator, but Mr Bouchnak referred to a further letter from the objector advising that the situation had been remedied, and that their objection in regard to noise had been withdrawn. Environmental Health had no concerns over environmental issues.

### **Members Questions**

The Chair then gave Members of the Committee the opportunity to question the Applicant.

Councillor McCuish asked about a visit from Environmental Health regarding cooking smells coming from the van and the Applicant confirmed that there had been no environmental health problems.

Councillor Devon asked about the Applicant's normal working hours and Mr Bouchnak advised that he would normally open from 11am to 9pm, Monday to Saturday, but this would reduce to Tuesday, Thursday, Friday and Saturday between 12 noon and 8pm over the winter months. When asked further about his service, Mr Bouchnak advised that he has the only food available to customers apart from hotels. Mr Bouchnak had previously offered to relocate his van following objections but the objector was not interested in having it relocated, only removed.

Councillor McCuish asked whether there had been any previous complaints and was advised by Mr Bouchnak that there had been none, adding that his van had been in the current position since last June

Councillor Mackay asked for clarification of the location of the van in relation to the car park and adjacent properties and was shown a clear map of the area. Mr Bouchnak advised that he is busiest in the evenings due to demand.

Councillor McCuish asked about the size of the proposed tent and Mr Bouchnak advised that it would be approximately 4m<sup>2</sup> and that he would discuss this with the objector and try to reduce the visual impact. He would also discuss this with planning and fit in with the Development Plan for the area.

Councillor Daniel Kelly asked about siting of the tables and benches and was



advised that there is a grassy area adjacent to the car park and adjacent to the current location and that they would not take up car parking spaces

### **Summing Up**

The Chair then invited the Applicant to sum up.

Mr Bouchnak referred to his previous comments adding that he had been accepted on Tiree where each person uses their skills to help each other and that he had received a lot of support. He urged the Committee to listen to the people of Tiree and grant this licence.

The Chair invited Mr Bouchnak to confirm that he had received a fair hearing. He confirmed that this had been the case.

### **Debate**

Councillor McCuish advised that from what he had heard today he fully supported the application and urged that the applicant be encouraged to work with residents in the area to reduce the impact.

Councillor Devon agreed with Councillor McCuish's comments.

Councillor Mackay advised that this is a service which is not available elsewhere in the area and would support the application wholeheartedly.

Councillor McQueen stated that the locals wanted it, therefore he would not object.

### **Decision**

The Committee unanimously agreed:

1. that the application be granted;
2. that the Applicant be urged to discuss proposals with Planning prior to implementation; and
3. that notification of this decision would be sent to the applicant by the Head of Governance and Law within 7 days.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the THE STUDIO THEATRE, CORRAN HALLS, OBAN  
on TUESDAY, 30 AUGUST 2011**

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

Councillor Gordon Chalmers	Councillor Neil Mackay
Councillor Donald MacMillan	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor James McQueen

**Also Present:** Charles Reppke, Head of Governance & Law  
Graeme Forrester, Trainee Solicitor  
Jane Gillies, Area Governance Assistant  
  
Sam Bouchnak, Agent for the Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated by:  
Councillor Rory Colville  
Councillor Robin Currie  
Councillor Vivien Dance  
Councillor David Kinniburgh  
Councillor Bruce Marshall  
Councillor Alister McAlister  
Councillor Alex McNaughton  
Councillor Al Reay

**2. DECLARATIONS OF INTEREST (IF ANY)**

There were no declarations of interest

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982 - APPLICATION FOR  
VARIATION OF STREET TRADER'S LICENCE - S. HOBBS (KILMOLUAIG,  
TIREE)**

The Chair welcomed everyone to the meeting and outlined the procedure that would be followed during the meeting, noting that the Applicant would be represented by Mr Bouchnak

**Applicant**

The Chair invited Mr Bouchnak to speak in support of the application, and Mr Bouchnak submitted the same presentation as in the previous application, stating that there had been one objector to the application.

### **Members Questions**

The Chair then gave Members of the Committee the opportunity to question the Applicant's Agent.

Councillor McCuish asked whether the three picnic tables and benches would be in addition to the previous application and was advised this would not be the case, there would be three tables and benches in total.

Councillor Devon asked about van and was advised that the original van was 10ft, but the current one is 9ft.

The Chair invited Mr Bouchnak to confirm that he had received a fair hearing. He confirmed that this had been the case.

### **Decision**

The Committee unanimously agreed:

1. that the application be granted; and
2. that notification of this decision would be sent to the applicant by the Head of Governance and Law within 7 days.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the KINTYRE COMMUNITY EDUCATION CENTRE, STEWART ROAD, CAMPBELTOWN  
on MONDAY, 5 SEPTEMBER 2011**

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

Councillor Rory Colville	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor Alex McNaughton
Councillor Donald MacMillan	

**Attending:** Mr Charles Reppke, Head of Governance and Law  
Mr Peter Bain, Planning Officer  
Mr Malcolm MacDonald, Applicant  
Mr James Ross, Roads Officer  
Mrs Lorraine MacPhail, West Kintyre Community Council  
Mr Saunders, Objector  
Mrs Saunders, Objector  
Mr Baker, Objector  
Ms McAllister, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Chalmers, Robin Currie, Vivien Dance, Mary-Jean Devon, Bruce Marshall, Neil Mackay, Alister MacAlister, James McQueen and Al Reay.

**2. MR M MACDONALD: APPLICATION FOR CHANGE OF USE OF LAND TO FORM 9 HARD STANDING AREAS FOR HOLIDAY LET LODGES/CARAVANS, FORMATION OF NEW ACCESS AND INSTALLATION OF TREATMENT PLANT WITH PARTIAL SOAKAWAY: LAND SOUTH OF BELLOCHANTUY COTTAGES, CAMPBELTOWN (REF: 11/00281/PP)**

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

Mr Charles Reppke, Head of Governance and Law, outlined the hearing procedure and invited anyone who wished to speak at the meeting to identify themselves and once that process had been completed the Chair invited the Planning Department to set out their recommendations.

Mr Peter Bain presented the case on behalf of the Head of Planning and Regulatory Services. He advised that the planning application was for the installation of 9 hard standing areas for siting of holiday let/caravans, formation of new access and installation of treatment plant and partial soakaway on land south of Bellochantuy Cottages, Bellochantuy. He also made reference to the planning history of the site which had a consent for 5 houses still live. He advised that the original application had been for 10 hard standings and a site managers office and that this had been revised and reduced to 9 hard standings and the removal of the site managers office. He confirmed that the site was located within the 'settlement' zone for Bellochantuy and was the subject of policy STRAT DC 1 of the approved structure plan and LP TOUR 1 of the adopted local plan and that these policies supported the principle of

development of tourism development in the 'settlement' boundary subject to certain stipulations including size of the development and appropriateness of the site. He advised that the proposal including landscaping belt to the north and west of the site which would secure the privacy of the residential dwellings to the north of the site. He advised that apart from the Community Council, no objections had been received from the statutory consultees. With regard to the access, he advised that the existing access from the A83 which serves the existing development to the north of the site would be used. He advised that while the Roads Department had no objections they had stipulated a number of conditions and that these were numbered 4, 5, 6, 8 and 9 as detailed in the Planning report. He advised that condition 5 referred to 10 car parking spaces and that this should be amended to read 9 car parking spaces to reflect the adjustment made to the original application. He advised that the proposal was the subject of objections from eight individuals and from the West Kintyre Community Council and that the reasons for these objections were summarised in the Planning report. He referred in particular to the issue of flooding which had been raised by the objectors and highlighted to the Committee on a serious of slides the drainage arrangements which are in place on the site at the moment. He referred to recent flooding and that this appeared to have been caused by a blocked culvert which he showed in a photograph. He confirmed that he had spoken with SEPA and that they had confirmed that the site was out with the coastal flooding risk zone according the SEPA map. SEPA had also confirmed they were not aware of any flooding issues in this area and that the likely cause would be surface water due to drainage issues. Finally, Mr Bain referred to the proposed crossing area from the site to the beach and hotel which would be situated at the south east end of the site and that there would be good visibility to cross the road at this area. He advised that notwithstanding the issues raised by the third parties and the Community Council he recommended approval of the planning application subject to the conditions detailed in the Planning report.

## **APPLICANT**

The Applicant, Mr Malcolm MacDonald, advised that he was co-owner of the Bellochantuy Hotel and that he saw his proposal as assisting with the economical viability of the hotel and the life blood of the local community. He advised that he had missed the first meeting of the Community Council when his application had been discussed but confirmed that his business partner had attended the second meeting and he hoped that a lot of the issues raised at this meeting had been addressed. He referred to the flooding issue and advised that he had not been aware of a problem and that this would be addressed within his proposal. He referred to his existing planning approval for the erection of 5 dwelling houses on the site. He advised that he had thought long and hard about what do with the site in the current economic climate and did not feel he could add anything further to what Planning had already said.

## **STATUTORY CONSULTTEES**

Mr James Ross, on behalf of the Roads Authority, commented on the road safety issues raised by the objectors and highlighted on the slides the proposed crossing point from the site to the beach and hotel. He advised that there would be a hard standing on both sides of the road and that there would also be a pedestrian guard rail erected in a chicane type fashion on the side nearest the

site. He advised that on the beach side of the road there would be a ramp down to the old A83 road and that the Applicant had agreed to clear this back and maintain it with a footway running down towards the hotel. He advised that he was comfortable that there would be good visibility at the crossing area and that the Applicant had also been asked to erect 'pedestrian in road ahead' signs. He referred to the possibility of a pedestrian access from the existing residential development into the north of the site and running along the west of site to the crossing area to enable the local residents of Bellochauty to also walk safely to the crossing point. He advised that he was not sure if the Applicant could consider this as this was not a condition that could be imposed on the application.

Mrs Lorraine MacPhail, on behalf of West Kintyre Community Council, advised that their main issue of concern was road safety and stated that it would be their preference for speed restrictions to be put in place along the same lines as at Kilchenzie. She also referred to the vehicular access to the site which would result in visitors to the site driving past residential houses and that there was already limited space here for residents to park their cars and that the Community Council did not think this road was capable of supporting a lot of traffic back and forward. She also referred to noise, indicating that the noise people would make when sitting outside their caravans late at night would carry across to local residents. She referred to the hedges that would be planted to assist with blocking out this noise, and queried whether or not the farmer's access to his field had been taken into consideration when deciding where the hedges would be planted. As a side issue she also raised concerns about the types of people who would accommodate the caravans. She advised that there had been recently a methadone clinic set up at the local GP clinic and sought a guarantee from the Council that, as a short term measure, they would not be housing people using this clinic in the caravans.

## **OBJECTORS**

Mr Saunders, on behalf of his wife, spoke about flooding in the area and circulated to the Committee a copy of the Campbeltown Courier which showed the flooding which had taken place in this area the previous year. He referred to the burn and advised that the farmer cleaned this out twice a year but it kept being blocked every time there was heavy rain. He stated that he was worried about the septic tank that would be installed and whether or not it would cope with this flooding. Mr Saunders also referred to the proposed crossing area and stated that he did not believe that this crossing would be used and that people would take the shortest route across the road rather than walk down to the proper crossing. He referred again to the septic tank which could potentially be used by up to 45/60 people staying in the 9 caravans and queried how big the septic tank would be. He stated that he had no objections to houses being erected on this site and that this proposal was just to enable a private business to get bigger. He also referred to the farmer needing a 12 foot access into his field and that he would be requiring to access this field on a more regular basis as he proposed turning his field into a market garden. He advised that his main concern was the flooding issue and the septic tank and queried whether or not residents could receive a guarantee that if flooding was to occur they could make a claim against Mr MacDonald and the Council for allowing this to happen. Finally, he queried what the distance would be between each caravan.

Mr Baker advised that Mr Saunders had covered most of the issues he wished to raise. He advised that his main concern was the road and that there was no path on either side of the road that residents could walk on. He advised that he also believed that people would not use the proposed crossing area. He advised that he had no objection to the permission previously granted for 5 dwellings on the site.

## **QUESTIONS**

Councillor McCuish asked the Applicant to confirm how much space would be allocated between each of the caravans. Mr MacDonald confirmed that there would be at least 6 metres which was the standard laid down by the caravan industry.

Councillor McCuish asked Planning to explain why SEPA had no evidence that this was a high risk area for flooding. Mr Bain advised that he could not explain the disparity and confirmed that no concerns about flooding had been raised from residents when the previous application for 5 dwellings had been submitted. He advised that he had been in contact with SEPA who confirmed that this area was not designated a flood risk and was not on the maps and that the local office had not received any complaints about flooding.

Councillor Kinniburgh asked Roads to point out the proposed crossing area on the slides. Mr Ross did so and confirmed that the access to the crossing area would be at the south end of the site near the road side and that the hard standing would be directly opposite the old A83 road. He stated that a fence would be erected between the hedge and the road running along the west side of the site to screen car lights and to protect children on the site running out onto the road. He also pointed out where the pedestrian guard rails would be sited and referred again to the chicane feature of these rails. He advised that you could not predict where people would wish to exit the site but would presume that they would wish to exit the site to the south which was nearest to the hotel rather than to the north end of the site.

Councillor Kinniburgh referred to the site visit which had taken place prior to this meeting and asked if it would be possible to place a speed restriction on this area and, if it were possible, would there be any point in it. Mr Ross advised that speed restrictions in this area had been asked for on a number of occasions over the years and that assessments had been carried out and the road did not meet the required criteria for speed restrictions to be put in place. He advised that speed restrictions should be self enforcing. He stated that as there was no street lighting and no footpath to encourage slower speeds, he had asked for 'pedestrian ahead' signs to be placed further north on the road to warn drivers of the possibility of people being on the road.

Councillor Colville referred to the existing planning permission for 5 dwellings and also referred to the pink 'settlement' zone on the local plan. He asked if the Committee were to grant planning permission would there no longer be the opportunity for affordable housing in this area and would the new local plan take cognisance of that. Mr Bain advised that he could not give a guarantee and that there was no affordable housing requirement within the existing planning permission for 5 dwellings and that this application was not viable due to the current economic climate.



Councillor Colville referred to the Development Plan policies and quoted the terms of Policy LP TRAN 3. He queried whether this Policy should have been taken into consideration as no reference was made to it within the Planning report. Mr Bain confirmed that LP TRAN 3 should have been referenced in the report and confirmed that consideration of it had, nevertheless, been taken into account in respect of safe access from the site.

Councillor Colville asked if this was a material change and would it allow Roads to relook at speed restrictions on the road. Mr Ross confirmed that the road would still not meet the criteria. Councillor Colville advised that this was fast stretch of road and it was common knowledge that a number of incidents of speeding had been reported to the Procurator Fiscal.

Councillor Colville referred to the raised area next to the south side of the site and asked if approval of this planning application would prevent development on this site where the raised area was. Mr Bain advised that the area Councillor Colville was referring to was out with the application site and it was out with the 'settlement' zone.

Councillor Colville referred to the site already being raised by 6 inches and asked how confident Planning were that condition 3 in his report would address the flooding issue. Mr Bain advised that the purpose of condition 3 would be to maintain what was there before and may well have the ability to improve the situation.

Councillor Colville asked the Applicant to confirm whether he thought the flooding issue was out with his control. Mr MacDonald referred to the silt trap that was there and that it was his opinion that this had been neglected and that the farmer needed to be mindful of this.

Councillor Colville referred to the suggestion that the Applicant could allow neighbouring residents access through his site to the proposed crossing area and felt that this would not be an appropriate request to make and that this would disturb the caravanners. He asked if there would be anything to prevent a pathway being made available between the fence which would be erected in front of the hedge and the road way inside the red line boundary of the application site. Mr MacDonald advised that he would be happy to look at this. Mr Bain advised he could certainly engage with the Applicant in this respect but that it would be for the Applicant to volunteer this proposal and not something that could be imposed by way of a condition.

Councillor Kelly advised that this was perhaps something that the Applicant, Roads and Planning could investigate further.

Councillor Kelly asked Mr Ross if he wished to respond to an earlier question in respect of flooding. Mr Ross advised that spot checks could be carried out by local Roads Officers to make sure the farmer was regularly unblocking the culvert to prevent drainage problems and flooding of the area. He advised that he would take this up with the local Roads Office to ask that they approach the farmer to make it clear to him that it was his responsibility to clear any blockages and that the Council could recover expenses from the farmer if they needed to act on any flooding that occurred.

Councillor Colville referred to policy LP ENV 1 – Impact on general environment and asked if the Committee approved this planning application would it be the Planning Officer's opinion that this would mean unimpeded or enhanced access to the site from the beach is supplied by having to cross the A83 and, if not, would it not be more appropriate for traffic calming or speed restrictions in this area. Mr Bain advised that existing conditions would need to be looked at and it would be no more of an impediment than what is there for existing residents. He advised that there are no physical barriers preventing people from accessing the beach or hotel and that the road needed to be approached with care.

Councillor McCuish asked the objectors if he was correct in assuming that they originally thought the proposed pedestrian access to cross the road was at the north end of the site as they appeared surprised when the Roads Officer pointed out that it would be at the south end of the site. The objectors confirmed that this was the case.

Councillor McCuish then asked the objectors if this gave them comfort that the proposed access was not at the north end of the site. Mrs MacPhail advised that it did not.

Councillor McCuish asked what would intensify traffic more, 5 dwellings or 9 caravans. Mr Ross advised that in his opinion the 5 dwellings would generate more traffic as each house could have possibly 2 or 3 cars each coming and going from the properties at all times of the day and that they would also receive visitors with their own cars to the properties. In the case of the caravans, it was his opinion that holiday makers would use this site as a base and perhaps leave to tour about the area in the morning and return again in the evening. He advised that there was even the possibility that those people staying at the caravan site would arrive by bus and spend the rest of their holiday on the beach.

Councillor Colville referred to other factors in this area such as the bus stop, the hotel, and the end of road farm sales which generated a lot of traffic. He asked if Planning were aware of these other constraints. Mr Bain advised that he was.

Councillor Kinniburgh asked Roads if the bend in the road beyond the hotel led to a tendency for traffic to slow down. Mr Ross advised that he did not think the bend was severe enough. He advised that it may reduce the speed slightly but not noticeably. He advised that the proposed pedestrian access onto the road had visibility sightlines of in excess of 160 metres which would have been a condition for a vehicular access. He also advised that calculations had been made and it was considered that pedestrians would need 7.2 seconds to cross the road and that this was achievable at this area.

Councillor Kinniburgh asked the Community Council what their opinion was about the bend in the road. Mrs MacPhail advised that the bend in the road did not slow traffic down and she also stated that she found it difficult to believe that a parent with more than one child of differing ages would be able to cross the road safely in 7.2 seconds. She advised that this was a dangerous stretch of road.

Councillor Kinniburgh asked if there had ever been an accident involving a

pedestrian on this stretch of the road. Mr Saunders confirmed that there had been an accident involving 1 person.

Councillor Colville asked the Community Council if they believed this stretch of the road encouraged a lot of overtaking. Mrs MacPhail advised that she would agree with this statement.

Councillor McCuish asked the objectors if they regularly crossed the road. Mr Baker advised that residents regularly crossed the road to access the post box and recycling facilities at the hotel. He confirmed that you had to quickly jump on to the grass verge when traffic was passing.

Councillor Kinniburgh asked the Applicant to confirm how big his caravans were likely to be. Mr MacDonald advised that they would likely be no more than 4 or 6 berths.

## **SUMMING UP**

### **Planning Authority**

Mr Bain advised that having heard from the objectors and the Community Council it was very apparent they were not objecting to development of the site if it were the 5 dwelling houses. He referred to objectors' concerns regarding privacy, pedestrian safety, nature of operation of the site and flooding issues which related to surface water and drainage. He advised that it was his point of view that it was possibly within the scope of the application to provide a safe crossing point. He advised that he would dispute that there was a flooding issue and thought it odd that this was not raised at the time of the application submitted for the 5 dwelling houses and he took this to mean that the current problem was due to drainage issues. He advised that the condition being imposed in respect of flooding would seek to neutralise the position over and above development of the site. He advised that having regard to the issues raised and taking into the consideration the provisions of the Development Plan he recommended approval of the planning application subject to the conditions detailed in the Planning report.

### **Applicant**

Mr MacDonald advised that he had nothing further to add.

### **Statutory Consultees**

Mr Ross confirmed that the location of the crossing point and use of the old part of the A83 would result in there only being a short distance that residents would have to walk on the road especially if pedestrian access through the caravan site was made available by the Applicant.

Mrs MacPhail acknowledged that the hotel was well used and was a well established part of the community and that it made sense to make sure they were in a viable position. She advised that the Community Council's main concern was traffic going back and forward in front of residents' houses and that pedestrian road safety was a great concern.

## **Objectors**

Mr Saunders advised that his main concern was flooding and any sewage problems that may occur if the septic tank were to back up. He advised that the farmer regularly cleared the pipe but it blocked every time there was heavy rain and that the farmer couldn't be there 24/7 to deal with this problem.

Mr Baker advised that he had nothing further to add.

The Chair asked all parties whether they had received a fair hearing and this was confirmed.

## **DEBATE**

Councillor Colville advised that he was not against the proposal which would enhance this vibrant community, however he was very concerned about road safety and referred to a child having been killed in Muasdale and it was his fear that this could happen again. He referred to the suggestion of 'pedestrian ahead' road signs and advised that it was his opinion that people would not pay attention to these signs. He advised that people have been complaining about there being no signs showing where the Kintyre Way was when, in fact, there were signs there and that people just did not see them. He advised that signs warning of pedestrians on the road would not give him faith and that he would like a condition added that the road must have a speed restriction of 40 mph if the planning application were to be approved. He also asked that the final details of the flooding condition should be determined in consultation with the Chair and Local Member.

Councillor Kelly asked for advice on whether or not a 40 mph speed restriction condition could be imposed.

Mr Reppke advised that Members had heard from the Roads representative during the hearing that the road did not meet the criteria to allow for a 40 mph speed restriction, and Members would have difficulty imposing this as a planning condition if the criteria could not be met as the condition would require to be a suspensive one. He advised that if Members wished to look at this further they should consider continuing the application until further advice was sought from the Head of Roads and that they would not be able to impose this condition on the application today.

Councillor McCuish advised that it was his belief that if planning permission were to be granted today this would lead to a material change in circumstances and would allow the Roads Department to relook at the criteria for the road been restricted to 40 mph. He believed that there was a better chance of the road being subjected to a 40 mph speed restriction as a result of the increase in traffic from the caravan site. With regard to the flooding issue, he felt that it would be in the Applicant's interest not to have his land flooded and that he would do everything possible to prevent this happening.

Councillor Colville advised that he respected the advice given by Mr Reppke. He advised that he had also taken advice from the Senior Planning Officer in advance of this meeting and felt he would be able to provide a competent motion to impose a condition in respect of a 40 mph speed restriction.

Mr Reppke stressed that Members could not impose a planning condition if it could not be given effect to and that their decision could be the subject of challenge. He advised that Roads had already confirmed that the road did not support a 40 mph speed restriction and that further advice would need to be sought from the Head of Roads and the Head of Planning. He advised that Planning would not normally impose a condition that could not be given effect to and that it was not in the competence of this Committee to impose the 40 mph speed restriction.

Councillor Kelly advised that he could understand where Councillor Colville was coming from in respect of the concerns he has raised.

Councillor Kinniburgh advised that he agreed with Councillor McCuish's statement regarding flooding. With regard to road safety, he advised that he would have reservations about a 40 mph speed restriction and believed that it would be very difficult to enforce. He accepted the point Councillor Colville made about the road signs and that this was his concern also and asked if it would be possible to have flashing lights to draw attention to the road signs. He advised that he could support the Planning Officer's recommendation if condition 9 could be looked at again in this respect.

Councillor Kelly advised that he was sure Roads would take on board every concern raised.

Mr Reppke advised that in regard to Councillor Kinniburgh's comments about flashing road signs, Members would have to come up with a competent motion to change condition 9 and again he would recommend continuing consideration of this application until clarity was sought from the Head of Roads in this respect.

Councillor McNaughton advised that he understood that development was required for this small village if it meant there was a future for it and that he would not like to be seen to be not supporting developments like this. He advised that he also had concerns about the road and hoped that something could be done to slow the traffic down. He advised that he also agreed with Councillor McCuish's comments in respect of flooding and that it was in the interest of the Applicant not to have his land flooded and that he was happy to support the application at this stage.

Councillor MacMillan advised that he had faith in the Planners and Roads and was happy to support the application.

Councillor Colville advised that he did not wish to impose planning costs on the Applicant in respect of erecting roads signs. From the history of this area it was quite clear that the local community have been asking for a speed limit for a number of years. He also advised that he could not support the application without further investigation.

### **Motion**

Councillor Kelly advised that the issue of flooding, road safety and speed restrictions had been well discussed and moved to approve the Planning Application subject to the conditions and reasons as recommended by the

Planning Department with the exception of condition 3 which should be amended to include the provision that the final details of this would be agreed in consultation with the Chair and Vice Chair of this Committee and with the Local Member.

Moved by Councillor Kelly, seconded by Councillor McCuish.

### **Amendment**

To continue consideration of this application until such times as guidance has been sought from the Head of Roads on the various road safety matters.

Moved by Councillor Colville, seconded by Councillor Kinniburgh.

### **Decision**

The Motion was carried by 4 votes to 2 and the Committee agreed to grant planning permission subject to the following conditions and reasons:-

1. The proposed holiday letting units hereby approved shall not be occupied by any one person, family or group for any more than three months in any one calendar year, unless otherwise agreed in writing by the Planning Authority

*Reason: In accordance with the proposed use, as the holiday letting unit by reason of its siting and lack of curtilage would be unsuitable for use as permanent residential accommodation.*

2. Prior to the commencement of works, the exact specifications, appearance, materials and orientation of the proposed units shall be submitted to and agreed in writing with the Local Planning Authority. For the avoidance of doubt the caravans should be timber clad unless otherwise agreed in writing with the local planning authority. The development shall be implemented in accordance with the approved details and shall be retained as such unless any subsequent variation thereof is agreed in writing by the Planning Authority.

*Reason: In the interests of visual and site amenity.*

3. No development shall commence on site until details of a Sustainable Urban Drainage System (SUDS) have been submitted and approved by the Planning Authority in writing in consultation with the Chair and Vice Chair of the Planning, Protective Services and Licensing Committee and with the Local Member. Such details shall include a drainage layout plan which shall include full details of the surface and foul water discharge from the site and shall include any mitigation measures required to address surface water runoff from the site. The development shall thereafter be carried out in accordance with this plan.

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

4. Prior to the occupation of any of the proposed lodges/caravans a dropped kerb shall be installed between the public and private road. The private access road is to be surfaced for a minimum distance of 5 metres from the connection to the public road. Additionally, the proposed private access road should not encroach on the public road drainage ditch, with a minimum separation of 2 metres from the back of the road side ditch.

*Reason: In the interests of road safety.*

5. Prior to the commencement of works, a site plan demonstrating parking for a minimum of 1 vehicle per plot with a total minimum number of 9 spaces provided shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Area Roads Manager. These spaces will be constructed in accordance with the approved details prior to the occupation of any of the approved plots.

*Reason: In the interests of road safety.*

6. A refuse collection point is to be provided adjacent to the public road, in accordance with details which shall be agreed in advance in writing by the Local Planning Authority in consultation with the Area Roads Manager.

*Reason: In the interests of site management, waste management and amenity of site users.*

7. 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 and hardstanding areas;
- iii) screening in the form of hedging and/or fencing to be provided along the site boundary between the private and public road.

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 site being brought into use for the approved purpose. This plan shall be consistent with the suggestions made by the Local Biodiversity Officer under the consultation response dated 27/7/11. 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.*

8. Prior to the commencement of occupation of any of the any of the proposed lodges/caravans, the existing vehicular field access at the south-west of the application site shall be restricted to pedestrian use only with bollards or a fence installed to prevent vehicles from taking access. This pedestrian access shall have a fence or railing positioned between the site boundary and public road and a hard standing will be provided adjacent to the pedestrian access and on the public road verge opposite. The exact details of this crossing point shall be agreed in writing with the Local Planning Authority in consultation with the Area Roads Manager prior to implementation.

*Reason: To prevent the potential use of two vehicular access points, the provision of a safe, pedestrian only access and in the interests of road safety.*

9. No occupation of any of the proposed lodges/caravans shall be permitted until 'Pedestrians in Road Ahead' signs have been installed on the A83 Kennacraig - Campbeltown Road (Sign Diagram 544.1). The exact location of the signs shall be agreed in writing with the local planning authority in consultation with the Area Roads Manager.

*Reason: In the interests of road safety.*

10. The development shall be implemented in accordance with the details specified on the application form dated 17/2/11 and the approved drawing reference numbers:

Plan 1 of 2 (Location Plan at scale of 1:2500)

Plan 2 of 2 (Site Plan at scale of 1:500)

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.*

(Reference: Report by Head of Planning and Regulatory Services dated 13 July 2011, submitted)



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

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**Reference No:** 09/00385/OUT

**Planning Hierarchy:** Local application

**Applicant:** Ardkinglas Estate

**Proposal:** Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

**Site Address:** Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

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## DECISION ROUTE

### (i) Local Government Scotland Act 1973

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#### (A) THE APPLICATION

##### (i) Development Requiring Express Planning Permission

- Erection of 16 dwellinghouses (indicative details only, minimum 25% affordable housing requirement);
- Erection of 7 commercial units (potential business/industrial uses – indicative only Units A-D Use Class 4, Units E-G Use Class 5);
- Erection of childcare centre (indicative details only);
- Associated car parking, turning and servicing;
- Installation of two sewage treatment plants with outfall to River Fyne.

##### (ii) Other specified operations

- Tree planting and landscaping (within and outwith application site);
  - Boundary treatments;
  - Improvements to existing private access road;
  - Proposed footpath to Loch Fyne Oyster Bar alongside A83(T).
- 

#### (B) RECOMMENDATION:

It is recommended that

- i) planning permission be **refused** for the reasons set out overleaf
  - ii) a discretionary local hearing being held prior to the determination of the application in view of the number of representations received in the context of a small community.
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(C) **HISTORY:**

No planning history for the application site.

There have been permissions for adjacent commercial uses including Bonnar Sand and Gravel Co Ltd at Clachan Quarry and 'Here We Are' Wood Shed.

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(D) **CONSULTATIONS:**

**Scottish Natural Heritage** (response dated 2<sup>nd</sup> April, 22<sup>nd</sup> July 2009, 12<sup>th</sup> August 2009, and 9<sup>th</sup> September 2009): No objections in principle but recommend conditions in respect of natural heritage interests affected i.e. European Protected Species - otters and bats, Red Squirrels, breeding birds and planting and screening. Otters and bats are likely to be recorded within and adjacent to the development footprint. Recommend that a repeat survey for otters be carried out prior to any works commencing on site. Additionally, the plantation woodland to be felled should be surveyed for red squirrel dreys.

**Scottish and Southern Energy** (responses dated 23<sup>rd</sup> March, 29<sup>th</sup> June 2009 and 18<sup>th</sup> October 2010): Now withdraw previous holding objection based on safety issues associated with adjacent power station and tail race. Whilst SSE broadly welcomes the proposal, the applicant has intimated that he will erect a chain link fence along the western boundary of the tail race. An agreement requires to be reached with the developer or via planning conditions. SSE confirms that their concerns have now been resolved with the estate.

Most recent letter received suggests that the operation of the hydro scheme will have to be taken into account when decisions on effluent dilution are being considered. (Applicant confirms that reduced flows have been taken into account during the CAR authorisation from SEPA).

**Scottish Environment Protection Agency** (response dated 20<sup>th</sup> April 2009, 18<sup>th</sup> January 2011, 26<sup>th</sup> July 2011 and 8<sup>th</sup> September 2011): No objections in terms of foul drainage and surface water drainage as long as conditions and advisory notes which are recommended are attached to consent. They relate to SUDS and foul drainage.

SEPA confirm that the applicant has been issued with a CAR licence to discharge treated sewage effluent to the River Fyne however from their records it appears it is not in the same location as specified on the submitted planning application drawings. Whilst they consider a variation may be acceptable in principle they still require that a formal CAR application is made for the revised positioning.

SEPA's most recent letter dated 8<sup>th</sup> September objects to the Masterplan submitted for PDA 9/13. SEPA recommend the applicant submit the details of the waste water drainage and surface water drainage proposals for the overall masterplan area, to establish if they are acceptable for the whole development taking into account any cumulative impact and to resolve our objection to the waste water drainage proposals. They note this is imperative to avoid unnecessary delay and/or further objection from SEPA during future phases.

**Argyll District Salmon Fishery Board** (responses dated 28<sup>th</sup> July 2009, 4<sup>th</sup> June 2010, 9<sup>th</sup> December 2010) Object to the sewerage arrangements until reassurances can be given from then Council and SEPA that the treatments are foolproof and beyond risk.

**Area Roads Manager** (response dated 11<sup>th</sup> November 2009): No objections subject to conditions and advisory notes. Conditions recommended regarding visibility splays, access design, car parking, and designation of housing courts. Roads confirm that the developer will be responsible for the provision of street name plates and raising the Traffic Regulation Order. Roads also confirm that the proposed development will be subject to Roads Construction Consent, Road Bond and Road Opening Permit.

**West of Scotland Archaeology Service** (response dated 6<sup>th</sup> April 2009): No known archaeological issues raised.

**Operational Services (Flood Team)** (response dated 9<sup>th</sup> April 2009): Proposals for surface water discharge and associated SUDS are acceptable in principle. Other calculations, construction details and confirmation of wayleave still required.

**Sustainable Travel Co-ordinator/ Core Paths Team** (email dated 28<sup>th</sup> April 2009): Suggest that a direct link be created with an off-road footpath between the site and Loch Fyne Oysters.

**Transport Scotland** (response dated 30<sup>th</sup> April 2009): No objections subject to a condition regarding visibility splays.

**Scottish Water** (response dated 29<sup>th</sup> May 2009): No objections in principle but unable to reserve capacity at water and wastewater treatment works in advance of a formal agreement being reached. There are no public sewers or public water mains in the vicinity of the development site.

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**(E) PUBLICITY:**

The proposal was been advertised as a *Potential Departure* to policies POL RUR1, HO8 and HO10 of the 'Cowal Local Plan' 1993 (in force at the time of submission but now superseded), advertisement published 10<sup>th</sup> April 2009 (expiry date 1<sup>st</sup> May 2009); under Section 34 Bad Neighbour and Article 9 Vacant Land advertisement published 10<sup>th</sup> April 2009 (expiry date 24<sup>th</sup> April 2009).

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**(F) REPRESENTATIONS:**

Letters/emails of representation have been received from the following:

**Objectors**

Elaine Pound, Shore Cottage, Cairndow (facsimile message dated 16<sup>th</sup> April 2009, letter dated 6<sup>th</sup> January 2010, e.mail dated 21<sup>st</sup> December 2010, e mail dated 4<sup>th</sup> April 2011, e mail dated 5<sup>th</sup> April, e mail dated 18<sup>th</sup> May 2011);

J M Turnbull, Glen Kinglas Hydro Ltd, Strone Estate, Cairndow (letter dated 8<sup>th</sup> April 2009);

Alexander Miles, Rubha Beag, Cairndow (e.mail dated 23<sup>rd</sup> April 2009);

Tuggy Delap, Fyneales, Cairndow (email dated 3<sup>rd</sup> August 2009, e mail dated 5<sup>th</sup> September 2011);

Marya Egerton-Warburton, Ard-na-Slaite, St. Catherines (letter dated 23<sup>rd</sup> December 2010);

Peter Egerton-Warburton, Mulberry House, Bentworth, Alton, Hants (letter dated 17<sup>th</sup> December 2010);

Anastasia Delap, Achadunan Farm, Cairndow (letter dated 7<sup>th</sup> December 2010, letter dated 22<sup>nd</sup> July 2011);

Mr. and Mrs. R. J. Hammond, (e.mail dated 8<sup>th</sup> December 2010).

**Supporters**

Frances, Alistair & Kirsty Bremner, 11 Kilmorich, Cairndow (letter dated 7<sup>th</sup> April 2009);

Sarah Sumsion, Bachie Bhan, Cairndow (e.mail dated 22<sup>nd</sup> April 2009);

Janet and Nigel Callander, Mid Lodge Rear, Cairndow (letter received 27<sup>th</sup> April 2009);

Christine MacCallum, Clachan Farm (letter dated 28<sup>th</sup> April 2009);

Alice and Walter Beattie, Garage Cottage, Cairndow (letter dated 19<sup>th</sup> May 2009);

Alexander Pettit, Ballure, Cairndow (e.mail dated 8<sup>th</sup> June 2009);

Cairndow Community Childcare, Cairndow Hall, Cairndow (e.mail dated 23<sup>rd</sup> April 2009);

Stewart MacCallum, Cairndow (e-mail dated 24<sup>th</sup> February 2010);

John Smart, Stalkers Cottage, Glen Fyne, Cairndow (e.mail dated 15<sup>th</sup> December 2010);  
Jon Pope, (e.mail dated 16<sup>th</sup> January 2011)  
Ms Kathryn Dunn, Cairndow Community Childcare, Cairndow Village Hall, Cairndow (e-mail dated 13<sup>th</sup> September 2011).

Cllr Ron Simon, (e mail dated 29<sup>th</sup> August 2011)

### (i) Summary of issues raised

The concerns and issues raised in the letters of objection can be summarised as follows -:

- *Whilst Clachan is a better option for any future housing rather than Cairndow village, the current proposals are not sensitive to the prominent location at the head of the loch and require greater emphasis on design and layout;*
- *Misinformation in Supporting Document regarding Community Council meetings;*
- *Prominent location requires enhanced design;*
- *Loss of tranquillity through urbanisation;*
- *Application should be detailed instead of outline;*
- *Loss of plantation woodland likely to leave site exposed and more prominent.*
- *Proposals contravene Cowal Local Plan policies RUR1, HO8 and HO10.*
- *Otters and Bats present and detailed survey required before permission is granted.*
- *Sea Trout and Salmon enter the River Fyne to spawn. No waterway should be blocked and the appropriate fisheries authority consulted.*
- *Any demand for new housing in the Cairndow area should be within the existing village.*
- *There are a number of agricultural and commercial buildings adjoining the existing woodland and therefore the site lends itself more to commercial units rather than housing.*
- *Fast stretch of A83 Trunk Road very dangerous for pedestrians. Development should not go ahead unless a pedestrian access is provided from Cairndow village;*
- *Agree that there is a housing demand but this should be restricted to Cairndow;*
- *Site exceeds 2 hectares and as such requires Environmental Impact Assessment;*
- *Proposal not sufficiently backed by an acceptable Masterplan;*
- *Masterplan not had sufficient community consultation;*
- *Status of Potential Development Areas and hierarchy of policies;*
- *Application 'out of control' and existing proposal 'exploded out of all proportion';*
- *Loch Fyne Oyster complex cannot meet day to day shopping needs;*
- *Affordable provision for this area already satisfied in respect of development at the Pheasant Field;*
- *Status of industrial/commercial units as 'bad neighbour Class 5 developments;*
- *Status of Suds in terms of proposed land uses;*
- *Impact on the River Fyne*
- *CAR Licence does not conform to submitted plans;*

The concerns and issues raised in the letters of support can be summarised as follows -:

- *Plans to provide affordable homes and small business units appear viable compared to other local developments and would have less of an impact on the existing village of Cairndow;*
- *This type of housing is much needed to allow people to live in rural areas;*
- *Small workshops would give opportunities for new businesses to develop and enhance the mix of people wishing to live in the area;*
- *Great need for affordable housing in the Cairndow area and such a development will fill that need;*
- *Availability of affordable office space;*
- *Proposals have been ongoing for over two years;*
- *Indicative masterplan is fit for purpose;*
- *Majority of objectors do not work in area*

- *Cairndow Community Childcare is hoping to move to purpose built premises. The site fits many of the criteria required for a successful building.*

*Comments: Observations on the above issues are contained in the Assessment section below*

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**(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:** Yes

Protected Species Survey by Quadrat May 2009

*Surveys carried out identified that there are protected species present i.e. otter, red squirrel and bats and that there may be impacts to these species as a result of current proposals. Mitigation measures include moving the proposed sewage outfall away from an existing otter holt and creating a cordon around another holt. Bats have also been sited in the plantation woodland and it is recommended that felling be kept to a minimum and any felling to be carried on outside the breeding season.*

**(iii) A design or design/access statement:** Yes

Supporting Statement by Ardkinglas Estate 10 March 2009

*Supporting statement includes background information, site details, residential and commercial needs, site appraisal, projections of occupancy and leases, PDA9/13 masterplan and other sites, programme, design solution, detailed design, services, operational statement and summary.*

Revised Supporting Statement by Ardkinglas Estate 19 October 2010

*Applicant confirms that the mechanism to provide affordable housing will be selected at the detailed stages where the present options are either private rented housing under an extension of the RHfR scheme, or self-build under RHOG. Also confirmed that the footpath linking the site with Clachan Farm complex will be built at the time of the new housing being developed.*

*Comments regarding potential house types, heights, materials and orientation of houses to maximise solar gain. No details regarding Childcare Centre and commercial units at this stage.*

**(iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

Drainage Impact Assessment JIG Ltd. February 2009

*Drainage Impact Assessment outlines best methods for treatment of surface water. Source control methods (i.e. porous paviers) could result in 'urban' solutions for a semi-rural environment. This has resulted in a surface water collection system for Area 1 (residential and daycare facility) leading to a filter trench designed for adoption by the roads authority.*

*No impermeable surfaces are proposed for Area 2 (light industrial/commercial) at this stage and all roads and other surfaces would be free draining. Any future proposals to provide impermeable hard standings will be expected to provide further levels of treatment and also subject to SEPA licence in respect of the Water Environment (Controlled Activities)(Scotland) Regulations 2005.*

*During discussions, it was agreed that attenuation was not required of the system owing to its tidal discharge point.*

*Two waste-water treatment plants are proposed with calculations based on maximum occupancy. For effluent standards to be applicable, the discharge location needs to be*

*to the River Fyne as opposed to tidal waters. The outfall requires to be secured at a location ensuring discharge into the flow of the watercourse even during low-flow conditions.*

*Separate CAR authorisation will be required from SEPA for the housing and light industrial components, and potentially engineering works associated with the outfall.*

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**(H) PLANNING OBLIGATIONS**

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

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

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

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

'Argyll and Bute Structure Plan' 2002:

STRAT SI 1 - Sustainable Development;  
STRAT DC5 - Development in Sensitive Countryside;  
STRAT DC7 – Nature Conservation and Development Control;  
STRAT DC8 – Landscape and Development Control;  
STRAT DC10 – Flooding and Land Erosion;  
STRAT FW2 – Development Impact on Woodland;  
STRAT HO1 – Housing – Development Control Policy;  
PROP TRANS1 - Development Control, Transport and Access;

'Argyll and Bute Local Plan' (August 2009)

The application site is located within PDA9/13 and AFA 9/4 within Sensitive Countryside where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;  
LP ENV6 Development Impact on Habitats and Species;  
LP ENV7 Development Impact on Trees/Woodland;  
LP ENV8 Development Impact on Local Nature Conservation Sites;  
LP ENV10 Development Impact on Areas of Panoramic Quality;  
LP ENV12 Water Quality and Environment;  
LP ENV19 Development Setting, Layout and Design (including Design Guidance);  
LP BUS 2 Business and Industry Proposals in the Countryside Development Control Zones;  
LP BAD1 Bad Neighbour Development;  
LP HOU1 General Housing Development;  
LP HOU2 Provision of Housing to meet Local Needs including Affordable Housing Provision;  
LP SERV1 Private Sewage Treatment Plants and Wastewater Systems;  
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);  
LP SERV3 Drainage Impact Assessment (DIA);  
LP SERV4 Water Supply;  
LP SERV8 Flooding and Land Erosion;  
LP TRAN1 Public Access and Rights of Way;  
LP TRAN2 Development and Public Transport Accessibility;  
LP TRAN3 Special Needs Access Provision;  
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;

LP TRAN5 Off site Highway Improvements;  
LP TRAN6 Vehicle Parking Provision;  
Technical Note PDA 9/13 – Cairndow / Inverfyne Mini Brief

**Note :The Full Policies are available to view on the Council’s Web Site at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)**

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

The following advice and guidance from Central Government includes:

- |    |  |
|----|--|
| a) | Scottish Planning Policy (February 2010)';                                     |
| b) | Planning Advice Note 44 – ‘Fitting New Housing Development into the Landscape; |
| c) | Planning Advice Note 67 – ‘Housing Quality’;                                   |
| d) | Planning Advice Note 68 – ‘Design Statements’;                                 |
| e) | Planning Advice Note 72 – ‘Housing in the Countryside’;                        |
| f) | Planning Advice Note 74 – ‘Affordable Housing’;                                |
| g) | Planning Advice Note 83 – ‘Master Plans’                                       |

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

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

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

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

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**(O) Requirement for a hearing (PAN41 or other): Yes**

15 letters/emails of objection have been received from 9 individuals and 12 letters/emails of support from 16 parties. Whilst the overall numbers of representations are relatively low the split between those ‘in favour’ and those who ‘oppose’ are evenly balanced. Furthermore, given the number of representations received in the context of the relatively small size of Clachan / Carindow it is considered there would be merit in convening a pre-determination hearing (PAN 41) at a local community venue.

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

In the ‘Argyll and Bute Local Plan’, the application site is located within sensitive countryside, but forms part of Potential Development Area PDA 9/13 ‘Cairndow-Inverfyne’ where a mixed use - business/housing/recreation use is supported, and Area For Action AFA 9/4 ‘Inverfyne’ where strategic, business and environmental improvements are encouraged.

Whilst concern is noted with the specific density, structural planting and layout of the proposed mixed development, the general principle of clearfelling the conifer plantation and creating a mix of housing, childcare centre and commercial units on the site is broadly acceptable.

The submitted masterplan drawings have been considered 'for indicative purposes only' as the applicant does not wish them to be subject to consultation or to form part of this application for review. Whilst the masterplan illustrates long term aspirations for PDA 9/13 and AFA 9/4, these currently have no planning status and do not form sufficient basis for the planning authority or statutory consultees to comment upon them, nor do they meet the aspirations of the Council's Local Plan, which seeks a masterplan approach to be adopted when bringing forward PDA sites. This 'future proofing' and strategic approach is even more important in scenarios such as this, where a long term phased development is sought (current application relates to a 2ha gateway point / phase 1 development of > 30ha PDA in sensitive area). Whilst some aspects of these long term proposals and masterplan may be encouraged or supportable by the department, the current level of detail afforded is insufficient to allow full consideration and to be able to express a view whether this application (i.e. phase 1) would sit comfortably as a foundation for future comprehensive development of the PDA.

Acceptability of the current proposal will be fully dependent on the successful integration of the development in its landscape context through structured tree planting and retention of key landscape features. This is shown on the updated Masterplan drawing by the retention of three grazing fields (Clachan Field nos. 1, 2 and 3) to act as an appropriate landscape buffer between the application site and the Loch Fyne Oysters complex. It is proposed to retain deciduous trees along the southern boundary of the application site and along the field boundary running westwards from the site. This will be augmented by proposed tree planting within the application site itself and outwith the site along a thick belt on the northern side of Clachan Field no.3. Further off-site, tree retention and planting around the walker's car park and approach to the site is proposed with a large area of replanting proposed on the eastern side of the Sawmill Field. Off-site tree and shrub planting is also proposed adjacent to the A83(T) running from the application site to Loch Fyne Oysters complex. The indicative tree/shrub planting and retention of landscape features is considered to be insufficient to screen the site and integrate it within its surroundings in its current form. Tree belts / shelter belts are considered too narrow to provide adequate context, screening or backdropping for their exposed location. Notwithstanding this, it is considered that an appropriate scheme of tree planting and landscaping could be provided in terms of species, density and location as part of a wider detailed masterplan if one were to be progressed (see para above). A detailed planting schedule along with a Section 75 legal agreement to secure the offsite planting proposed would be required in the event the application were to be approved.

The additional development aspirations shown on the Masterplan layout require to be taken through the ongoing Local Plan process in terms of proposed land uses and intensification of earlier concepts. Approval or refusal of this application would not therefore imply that any of the areas shown on revised masterplan layout CDA 06 have any formal status.

Original design ideas for dwellinghouses raised concern but the applicant has confirmed that these are only for indicative purposes at this stage. Other design options have been explored with examples of modern sustainable house types submitted for indicative purposes. Should permission be granted, the applicant will require to address those design concerns raised thus far.

Of greater concern is the density and layout of the proposals. The presence of the PDA and AFA do not supersede or take precedence over other policies in the plan and it is therefore essential to achieve a balance of scale and density that respects this highly prominent area identified as 'Sensitive Countryside' and also as having Panoramic Quality. Both Local Plan Policies on sensitive countryside and areas of panoramic quality require the highest standards of design, siting, landscaping, boundary treatment and materials in new developments. Consequently, it is considered at present that the proposed development of housing, workshops and childcare facility is too dense and inappropriate for this rural location and context. Furthermore, the wider potential residential, tourism and commercial areas shaded on the masterplan exceed expectation for the rural context and would not be supported. There is also likely to be 'bad neighbour' land use tensions arising from the close proximity of industrial uses and residential properties with only small / narrow tree belts for mitigation.



There is also a potential for 'bad neighbour in reverse' situation from the new dwellings being developed adjacent to the quarry access road, agricultural shed and weighbridge

In terms of consultation responses, no major objections subject to conditions have been raised for the application site itself, however SEPA have raised objection to the masterplan based on its current lack of detail.

In summary, whilst the components of the mixed-use scheme are considered to be compatible with PDA 9/13, the submitted Masterplan drawings and themes are not sufficiently well-developed in terms of the brief for PDA 9/13 and AFA 9/4 to ensure this application can proceed on the basis of a first phase of a much larger scheme. Given the comments above, it is considered that the proposals in their current form may prejudice the greater wider aspirations of PDA 9/13 and AFA 9/4. This in combination with the concerns noted about density, render the proposal inconsistent with the relevant policies contained in the Argyll and Bute Structure Plan and Argyll and Bute Local Plan, by virtue of inappropriate siting and design, and failure to respect landscape character and the settlement pattern to the detriment of the designated area of sensitive countryside and the area of panoramic quality.

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

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**(R) Reasons why Planning Permission in Principle should be Refused**

1. Having regard to the siting and design of the proposed mixed use development, the concentration and proximity of the proposed buildings to each other and existing commercial / agricultural uses is considered too dense and inconsistent with the character of the surrounding rural settlement pattern. This would detract from the designated area of sensitive countryside and the area of panoramic quality within which the development would be located. Additionally, the lack significant structural planting on-site will result in a development that would be out of context, incongruous and exposed in its rural surroundings. Such a development would therefore be contrary to Scottish Planning Policy (February 2010); to Policies STRAT SI 1, STRAT DC 1, STRAT HO 1 of the 'Argyll and Bute Structure Plan' 2002; and to Policies LP ENV 1, LP ENV 10 and LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4); and, LP HOU 1 of the 'Argyll and Bute Local Plan' (August 2009), all of which presume against the nature of the development proposed.
2. Having regard to the density of the proposed development in terms of the inclusion of 16 homes and 7 commercial units within a 2ha site and also the positioning of existing commercial activities and quarry access road adjacent to the site, it is considered that the development would give rise to 'bad neighbour' and 'bad neighbour in reverse' tensions between incompatible uses. Additionally, the lack significant structural planting on-site would result in a development that may expose the proposed new residential units to noise, dust and vibration from both on-site and external commercial activities. Such a development would therefore be contrary to Policies LP BAD 1 and BAD 2 of the 'Argyll and Bute Local Plan' (August 2009), both of which presume against the nature of the development proposed.
3. A Masterplan approach is advocated in devising proposals for the development of all PDA's identified by the 'Argyll and Bute Local Plan' (August 2009), in order to ensure that development is planned for on a comprehensive basis and that phased development, where required, is able to proceed in the knowledge that it will not conflict with, or compromise, the future development of the remainder of a PDA. The lack of a sufficiently detailed Masterplan in this instance has resulted in an objection from SEPA and has prevented the planning department from being able to assess fully this 2ha gateway / phase 1 application in the overall context of the wider > 30ha development site designated as a PDA, and has not enabled a proper assessment of its acceptability in terms of its relationship with future phases. The proposals are therefore considered to be contrary to

paragraphs 11.14 and 11.15 of the Written Statement of the 'Argyll and Bute Local Plan' (August 2009) and to government advice given in Planning Advice Note 83 – 'Masterplanning'. The inability to plan for the future in a co-ordinated and comprehensive manner gives rise to potentially adverse landscape, biodiversity, infrastructure and servicing implications in this the designated area of sensitive countryside and area of panoramic quality.

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

n/a

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

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**Author of Report: Ross McLaughlin**

**Date: 13<sup>th</sup> September 2011**

**Reviewing Officer: Richard Kerr**

**Date: 14<sup>th</sup> September 2011**

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

1.

**REASONS FOR REFUSAL RELATIVE TO APPLICATION 09/00385/OUT**

1. Having regard to the siting and design of the proposed mixed use development, the concentration and proximity of the proposed buildings to each other and existing commercial/agricultural uses is considered too dense and inconsistent with the character of the surrounding rural settlement pattern. This would detract from the designated area of sensitive countryside and the area of panoramic quality within which the development would be located. Additionally, the lack significant structural planting on-site will result in a development that would be out of context, incongruous and exposed in its rural surroundings. Such a development would therefore be contrary to Scottish Planning Policy (February 2010); to Policies STRAT SI 1, STRAT DC 1, STRAT HO 1 of the 'Argyll and Bute Structure Plan' 2002; and to Policies LP ENV 1, LP ENV 10 and LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4); and, LP HOU 1 of the 'Argyll and Bute Local Plan' (August 2009), all of which presume against the nature of the development proposed.
2. Having regard to the density of the proposed development in terms of the inclusion of 16 homes and 7 commercial units within a 2ha site and also the positioning of existing commercial activities and quarry access road adjacent to the site, it is considered that the development would give rise to 'bad neighbour' and 'bad neighbour in reverse' tensions between incompatible uses. Additionally, the lack significant structural planting on-site would result in a development that may expose the proposed new residential units to noise, dust and vibration from both on-site and external commercial activities. Such a development would therefore be contrary to Policies LP BAD 1 and BAD 2 of the 'Argyll and Bute Local Plan' (August 2009), both of which presume against the nature of the development proposed.
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**Note to Applicant**

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:

1:2500 Location Plan as existing CDA 02 RevB received 28th April 2010;  
1:1000 Site Layout Plan as proposed CDA 04 RevB received 20th October 2010;  
1:2500 PDA 9/13 masterplan (provisional draft) CDA 06 received 20th October 2010  
+Supporting Design Statement Section 9.0 dated 19th October 2010 and 'Notes accompanying drawing no. CDA 06' received 20th October 2010.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00385/OUT**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

This application is for a mixed-use development comprising 16 dwellinghouses, 7 commercial units and a childcare community building within a conifer plantation site between Bonnar's weighbridge office and existing farm shed at the head of Loch Fyne, west of the private road leading to Clachan Power Station.

In the 'Argyll and Bute Local Plan', Cairndow is identified as a minor settlement, with dispersed residential development located around the head of Loch Fyne. Clachan is primarily a commercial/tourist area that has developed over the past few years with the success of Loch Fyne Oysters and more recently The Tree Shop and "Here We Are". Further dispersed residential, commercial and agricultural uses are located inland at Inverfyne and Achadunan at the entrance to Glen Fyne.

In the 'Argyll and Bute Local Plan', the application site is located within the southern part of Potential Development Area PDA 9/13 'Cairndow-Inverfyne' where a mixed use - business/housing/recreation use is supported, and Area For Action AFA 9/4 'Inverfyne' where strategic, business and environmental improvements are encouraged.

The mini development brief for PDA 9/13 outlines a variety of potential development options that include estate development to consolidate existing business activity at the Oyster Bar/Tree Shop, recreational facilities within the re-instated gravel workings, provision of small workshop units and environmental improvements for the farm/sawmill buildings where structural landscaping and planting will be required. At the time of the 'Argyll and Bute Modified Finalised Draft Local Plan' (June 2006), an adjacent PDA 9/14 was deleted due to flooding issues on part of that site, but the residential component absorbed by PDA 9/13.

In terms of STRAT DC5 of the 'Argyll and Bute Structure Plan', 'medium scale' development (defined as between 6 and 30 units) in open countryside zones would generally be discouraged, unless particular opportunities reveal themselves through the development process, where a special case is appropriate and consistent with other policies of the Structure Plan and in the Local Plan. In this case, whilst special circumstances have been established in principle through the presence of PDA 9/13 in the Local Plan, the density of development as proposed is considered to be out of character within the local settlement pattern. It is considered that a high density form of development comprising 16 dwellinghouses, 7 commercial units and a childcare community building within a 2ha site (of a < 30ha PDA) would be incongruous in terms of the local development pattern, and starkly out of place at the exposed head of Loch Fyne. Whilst mitigation to a degree can be obtained through structural planting, the current proposals are nevertheless considered too concentrated and dense for this rural location within sensitive countryside and would be at odds with the existing rural settlement pattern.

Moreover, the site is also located within an 'Area of Panoramic Quality' where an even greater design, locational and scale criteria must be adhered to. Policy LP ENV 10 states that '*in all cases the highest standards of location, siting, landscaping, boundary treatment and materials..... will be required*'. This further emphasises our concerns about the density and cohesion of differing uses in this sensitive landscape.

**The development is identified as Potential Development Area 9/13 which offers support for mixed use development however the density and intensification of use is contrary to STRAT DC1, DC5 and HO1 of the Argyll and Bute Structure Plan and Policy LP HOU 1 and LP ENV 10 of the Argyll and Bute Local Plan.**

## B. Location, Nature and Design of Proposed Development

The proposal involves the clear-felling of plantation woodland and erecting a mixed development that includes 16 dwellinghouses, 7 commercial units and a childcare centre. The application site measures 1.90 hectares and is therefore not a 'major' application in the planning hierarchy, nor does it warrant Environmental Impact Assessment.

Indicative layouts display that the residential development would be situated in the southern portion of the site and could take the form of two courtyard clusters both accessed from a new vehicular access off the existing private road. The dwellinghouses include a mix of detached (2 units), semi-detached (8 units) and terraces (6 units). The dwellings tend to be orientated with their main elevations facing south to maximise daylight and aspect. Plots 1-6 are arranged around a car parking courtyard with plots 7-16 arranged around a larger car parking courtyard.

The focal point of the development would be the proposed Cairndow Community Childcare building that would be located immediately south of the existing quarry office and weighbridge. No details have been submitted at this stage, but the indicative layout shows a turning area off the private road with car parking and dropping-off area.

Seven commercial/industrial units are proposed in the northern portion of the site and contained within five industrial buildings. Two larger units (Unit A and Unit B/C/D) are located close to the housing development and accessed via a new separate vehicular access south of the existing workshop and sawmill building. These units are proposed for light industrial uses (Use Class 4) due to proximity to proposed housing. A further three industrial units (units E, F and G) are proposed in the northern portion of the site that would also share this access. These units are proposed for small/medium general industrial uses (Use Class 5).

In terms of LP BUS 2 'Business and Industry Proposals in the Countryside Development Control Zones', commercial and industrial development is supported by PDA 9/13 where Appendix A 'Sustainable Siting and Design Principles' outlines design criteria for Isolated Industrial and Commercial Development that includes, scale, visual impact from key viewpoints, setting, integration within the landscape, screening, design, colour and materials.

The proposal must be assessed against the provisions of Policy LP ENV 19 - Development Setting, Layout and Design of the Argyll and Bute Local Plan where a high standard of appropriate design is expected in accordance with the Council's design principles. Moreover, the site is also located within an Area of Panoramic Quality and must therefore be assessed against Policy LP ENV 10 – Development Impact on Areas of Panoramic Quality also. This policy resists development where there is a significant adverse effect on the character of a landscape and stipulates in all cases that the highest standards in terms of location, siting, landscaping, boundary treatment and materials must be adhered to.

This is further explored in Appendix A 'Sustainable Siting and Design Principles' where in terms of 'Design of New Housing in Countryside Development Zones', the design and construction of new dwellings within this landscape must respect local identity and the environment and should be designed taking the following advice into account:

- *Location – houses must be carefully located within the landscape to complement their surroundings and should make the minimum possible physical impact;*

The proposed development requires the clear felling of the conifer plantation woodland. This will result in the retention of a limited number of mature deciduous trees along the southern and western perimeter of the site, in a thin and exposed linear belt. The removal of the plantation woodland will remove a solid unnatural mass from the general landscape and open up views into Glen Fyne. It will also, however, expose the site to the south and in particular from the A83 (T), and to a lesser degree from the private road up Glen Fyne. By default, it would also leave the deciduous tree belt to the south west somewhat unprotected.

The current indicative scheme (this is a planning application in principle) lacks design flair and displays suburban qualities in terms of the courtyard parking areas, orientation of buildings, design of buildings and relationship to other proposed and existing uses. There is also a major concern that the interrelationship between commercial and residential uses could result in a 'bad neighbour' situation, with amenity conflicts between uses which could prove incompatible at close quarters. .

The submitted details are, however, considered '*for indicative purposes only*' at this stage and would need major modifications in respect of the overall concept and rationale for future development if the application for permission in principle were to be approved in its current form. Natural features and sympathetic structured tree planting need to be used to better effect to integrate the proposed development within its rural surroundings which are identified as 'sensitive countryside' in the current Local Plan.

The location of the industrial/light industrial buildings in the northern portion of the site adjacent to existing similar uses is generally acceptable in principle, but would also require refinement in terms of siting, design, materials and screening.

- *Siting – must respect existing landforms and development patterns and the amenity of other dwellings;*

The proposal would (with the clearing of the conifer plantation), introduce new forms of development into an open countryside location. Careful positioning, design and screening would help to integrate such a proposal into the landscape. The submitted drawings do not however demonstrate sufficiently that such a mixed development could be achieved at the suggested density and with the proposed level of on-site planting. Furthermore, the relationship with this phase 1 development and latter phases remains unknown, due to lack of details in the form of a detailed masterplan. To this extent, the current mix of development at the density proposed cannot be supported, as siting would be incompatible with adjacent uses and settlement pattern.

Notwithstanding this, the principle of establishing a residential neighbourhood with commercial activities in the northern portion beyond a buffer zone is generally acceptable in terms of the aspirations for PDA 9/13. However, to re-emphasise, trying to achieve this in the current 2ha site could only be achieved by way of an incongruous form of development which would unacceptably compromise its rural surroundings.

- *Principles of Design – High standards of design are expected where scale form, proportions, materials, detailing, colour must all work together to enhance the existing built form and landscape;*
- *Materials and Detailing – materials and detailing should be compatible with the traditions of the area and be sympathetic to the landscape;*
- *Outbuildings – should relate to the main building in form and design and be carefully positioned on the site, relating to the house;*

The submitted drawings indicate simple forms of residential development that would require to be improved in terms of vernacular or contemporary designs forming a cohesive theme for the development. The drawings indicate a simplistic scheme that merely establishes servicing and infrastructure requirements. The submitted drawings indicate buildings with unbalanced fenestration, awkward roof detailing and monotonous elevations that would look out of context in their rural surroundings. However, as the submissions merely provide indicative options of how the site could generally be developed, this would need to be further explored in terms of establishing key viewpoints around the site, in order to establish landmark features to devise a suitable form of development that could successfully integrated into this rural landscape.

- *Landscaping and Boundaries – where privacy and amenity is important, built form should be screened from viewpoints using appropriate native planting. Hard-landscaping should be kept to a minimum. Boundaries will either integrate a site or alienate it;*

It is proposed to retain deciduous trees along the southern boundary of the site and along the field boundary running westwards from the site. This will be strengthened by tree planting within the site itself and outwith the site along a thick belt on the northern side of Clachan Field no. 3. Further tree retention and planting around the walker's car park and approach to the site is proposed, with a large area of replanting proposed on the eastern side of the Sawmill Field to provide effective screening for properties in Achadunan. Tree planting is also shown along a new proposed footpath connecting the site to the Loch Fyne Oysters complex. Whilst no precise details have been submitted in respect of proposed boundary treatments and planting, it is considered that conditions and a Section 75 legal agreement could control landscaping and screening of these sites within their rural context in the event of permission being granted. However, in its current form, the onsite tree belts are insufficient to adequately screen or backdrop the proposed new buildings and are insufficient to integrate the development proposed within this rural location.

- *Parking – car parking areas should not be dominant features which are highly visible from access ways or dominate views from within buildings.*

Indicative car parking and turning arrangements are shown for the residential and industrial components of the scheme. These are likely to change as the scheme develops at the detailed stage. Roads have no objection in principle but recommend standards in respect of car parking and design of housing courts/parking areas.

In terms of design, the overall solution is considered to be at odds with the development plan in terms of locational aspirations, siting and scale. Whilst it is accepted that micro-siting, building design, materials, access and landscaping can be addressed to a degree at an Approval of Matters Specified in Conditions (AMSC) application or by way of a Section 75 agreement, there are fundamental density issues on what is a relatively small 2ha site, especially when viewed in context of the overall >30ha PDA. Other infrastructure shortcomings have not been identified by consultees, however the impacts from the wider masterplan remain unknown due to lack of submitted detail. At this stage, it is therefore considered that, overall, the proposed development is inconsistent with the provisions of Policies LP ENV 10, ENV19 and Appendix A of the Argyll and Bute Local Plan together with the Council's Design Guide.

**Having due regard to the above the proposal is considered to be consistent with Policies STRAT SI 1 and STRAT DC5 of the Argyll and Bute Structure Plan and Policies LP ENV 10, LP ENV 19 and LP HOU1 (including Appendix A and LP BUS2 of the Argyll and Bute Local Plan.**

### C. Natural Environment

Quadrat Scotland has carried out a joint survey of the applicant's development sites at Clachan and The Pheasant Field (ref. 09/00463/DET currently under consideration) and JDC ecology has submitted findings in terms of protected species including otter, bat and red squirrel.

In terms of otter, an existing holt was located close to the proposed sewage outfall. It was recommended that the outfall be relocated away from this holt and this has been done in the revised layout drawing ref. CDA 04 RevB. It is also suggested that further mitigation measures should include suitable screening around this and another holt to avoid disturbance. Whilst no signs of roosts were found, bats were present close to the woodland or within the old sawmill. It is suggested that the abundance of similar habitat should not have a significant impact on foraging activity through the loss of the woodland. There is no mention of red squirrels in the survey that applies to The Pheasant Field only.

Whilst SNH has no objection in principle to the development, it is recommended that repeat surveys be undertaken for otter, bat and red squirrel. On the basis that disturbance impacts to otters are considered significant during and after construction, a licence to disturb otters should be sought for works in addition to conditions recommended in respect of suitable mitigation

measures. Comprehensive advisory advice is provided in respect of SNH guidance with regards European Protected Species.

In landscape and visual terms, SNH recommends that extensive native broadleaf planting within the application site should be designed to integrate the development more sensitively in the landscape and that any boundary features such as drystone dykes, native woodland and isolated trees should be retained where possible.

The applicant has also confirmed that CAR authorisation has been issued for the discharge of treated sewage effluent into the River Fyne and this authorisation took full account of migratory fish and other aquatic flora and fauna. Whilst SEPA currently feel that the CAR Licence is shown in an erroneous position on the submitted plans they have provided that they are likely to approve a variation as long as discharge shall not increase.

**On the basis of general acceptance and the imposition of necessary safeguarding planning conditions, the proposal is considered to be consistent with Policy STRAT SI 1, STRAT DC7, STRAT DC8, STRAT FW2 of the Argyll and Bute Structure Plan, and policies LP ENV 6, ENV7, ENV8 of the Argyll and Bute Local Plan.**

### D. Affordable Housing

Whilst figures are not available for individual communities within each housing market area, research from the Draft Housing Needs and Demand Assessment indicates that for the Cowal Housing Market area (of which Cairndow forms part) there is a total housing requirement over the next ten years for 984 units. The previous housing market study in 2002 estimated a need for up to 12 affordable rented houses in Cairndow, and recommended more detailed research in to meeting shortfalls for owner occupied housing in Cairndow by way of small scale mixed tenure developments.

In the original Supporting Statement, it was stated that Ardinglas Estate has applied for grant funding under the Rural Homes for Rent (RHfR) pilot scheme launched by the Scottish Government that aims to provide affordable private rented housing in rural areas. Within the current proposal, ten dwellinghouses (plots 1, 2, 3 and 10-16) are the subject of the RHfR application. The applicant envisages that plots no. 4-9 would be offered for sale as serviced plots with detailed planning permission. If the RHfR application is unsuccessful, an alternative proposal will be sought. For the purposes of this application, it is proposed that 25% affordability is accepted and, if the RHfR project proceeds, then affordability would be 62%.

The updated Supporting Statement indicates that the mechanism to provide affordable housing will be selected at the detailed stages where the present options are either private rented housing under an extension of the RHfR scheme, or self-build under Rural Homes Ownership Grants (RHOG). At the time of writing, it is not possible to confirm the status of RHfR scheme from the Scottish Government, and therefore a recommended planning condition allows a degree of flexibility in respect of securing a mechanism to deliver a minimum of 25% affordable housing on this site, as prescribed by the Argyll and Bute Local Plan.

**Whilst the final mechanism has not yet been secured, in the event of an approval, a suspensive condition or Section 75 legal agreement could require an acceptable level and variety of affordable housing to be provided on site and implemented in harmony with the mainstream housing proposed. Consequently, the proposal is considered to be consistent with the provisions of Policy LP HOU 2 of the Argyll and Bute Local Plan.**

### E. Archaeological Matters

No known archaeological issues are raised by West of Scotland Archaeology Service (WoSAS).



**Given the above, it is considered that the proposal is consistent with the provisions of Policy LP ENV17 of the Argyll and Bute Local Plan.**

#### **F. Flooding**

The Drainage Impact Assessment states that the River Fyne is influenced by the operations of a major hydro-electric scheme whilst the large ponded area to the north is a remnant of sand and gravel quarrying activities still in operation further north. SEPA's Indicative Flood Map reveals the likelihood of flooding on significantly lower lying ground near the site, but not on the site at any point.

Para. 2.3 of SEPA's latest letter (8<sup>th</sup> September 2011) suggests the addition of a condition relating to units E-G to incorporate SuDS.

**Given the above, it is considered that the proposal is consistent with the provisions of Policy STRAT DC 10 of the Argyll & Bute Structure Plan and Policy LP SERV 8 of the Argyll and Bute Local Plan.**

#### **G. Road Network, Parking and Associated Transport Matters**

Roads have no objections in principle to the proposed scheme subject to conditions regarding visibility splays, access design and gradient, responsibility for housing courts, parking standards and street name plates. It is noted that all roads and footways will be the subject of Roads Construction Consent (S21), Road Bond (S17) and Road Opening Permit (S56). Roads comment that the existing road serving the site and sections of the old A83 will require significant improvements in respect of widening, passing places, visibility splays and drainage.

Transport Scotland recommends a condition regarding visibility splays for the access onto the A83 Trunk Road.

Pedestrian links are proposed that would link the site to Clachan. This would be consistent with the Core Paths Group aspirations for a path network in the area.

**Having due regard to the above the proposal is considered to be consistent with Policies LP TRAN 1, LP TRAN 2, LP TRAN 3, LP TRAN 4 and LP TRAN 6 of the Argyll and Bute Local Plan.**

#### **H. Infrastructure**

SEPA have no objections in principle but offer advisory comments regarding foul drainage, surface water drainage, waste management and regulatory advice.

SEPA find the surface water drainage proposals contained in the Drainage Assessment acceptable but recommend that a condition be included in respect of a phased provision for SuDS schemes.

SEPA confirm that the applicant has been issued with a CAR licence to discharge treated sewage effluent to the River Fyne however from their records it appears it is not in the same location as specified on the submitted planning application drawings. Whilst they consider a variation may be acceptable in principle they still require that a formal CAR application is made for the revised positioning.

In an email dated 12th September the applicant has rebutted SEPA's conclusions stating that a CAR licence for what is proposed has been approved. He goes on to state that two CAR licences, - one for the housing and childcare buildings (CAR/L/1036411 dated 17 July 2009) and one for the Commercial Area (CAR/R/1035832 dated 3 April 2009) were applied for and granted by SEPA. He confirms that it was always proposed that the two systems would share a common outfall.

His latest e-mail correspondence has also been forwarded to SEPA for their comment.

SEPA's most recent letter dated 8<sup>th</sup> September objects to the Masterplan submitted for PDA 9/13. SEPA recommend the applicant submit the details of the waste water drainage and surface water drainage proposals for the overall masterplan area, to establish if they are acceptable for the whole development taking into account any cumulative impact and to resolve our objection to the waste water drainage proposals. They note this is imperative to avoid unnecessary delay and/or further objection from SEPA during future phases.

**Having due regard to the above the proposal is considered to be consistent with Policies LP SERV 1: Private Sewage Treatment Plants and Wastewater (i.e. drainage systems); LP SERV 2 Sustainable Drainage Systems; LP SERV 3 Drainage Impact Assessment and LP SERV 4: Water Supply, of the Argyll and Bute Local Plan.**

## I. Master planning

The Scottish Government most commonly refers to Masterplans being, *'a plan that describes and maps an overall development concept, including present and future land use, urban design and landscaping, built form, infrastructure, circulation and service provision. It is based upon an understanding of place and it is intended to provide a structured approach to creating a clear and consistent framework for development'*. (PAN 83)

The Scottish Government endorses the use of masterplanning in general, but considers that it is especially useful for large sites and in areas/sites which are going to undergo substantial change, have multiple uses, or are sensitive in terms of environmental or landscape terms. We certainly consider this PDA location at Inverfyne which is over 30ha in size aligns with all of these scenarios and would benefit from a co-ordinated and comprehensive approach to current and future development.

Masterplanning the site would allow the landowner to articulate future development aspirations / aims of the PDA and receive feedback from the statutory consultees, local authority and the local community in order that this Phase 1 building block (current application) can be set on the most stable of foundations possible. It would also allow infrastructure (such as roads, sewage, water) considerations to be given proper assessment so it can be planned and phased ensuring that this application does not sterilise or inhibit future development potential of the remainder of the PDA. Given the sensitive countryside and landscape qualities of the site, a masterplan approach would also afford a clearer indication of long-term planting which will be essential to integrate all physical development in the PDA with its wider landscape context. Moreover, given the mixed use nature of this PDA, it will be essential to this phase and others that there are no land use tensions arising from incompatible adjacent forms of development.

Overall, we endorse the Scottish Government's promotion of masterplans as a discipline to ensure that well conceived and long term development frameworks are created for sites which are environmentally sensitive, are subject to significant change, and which are intended to host a variety of differing land uses; all of which are the case with this large PDA. This is embedded in our Local Plan and it is specified in the Supplementary Development Briefs that this site should be masterplanned.

This aspect and requirement for a masterplan has always been made clear to the applicant and was acknowledged by their own consultants as long ago as 2005. During submission to the local plan process made by CKD Galbraith (the applicants agent at the time), dated 13th July 2005 in respect of PDA 9/13 it was provided that:-

*Ardkinglas Estate welcomes the proposed PDA at Cairndow – Inverfyne as a broad indication from Argyll & Bute Council that subject to a detailed ACE and the compliance of any proposals with all relevant Structure and Local Plan policies, that the potential for medium scale development, in particular that linked to the existing Loch Fyne Oyster operation could be realised on this site. The Estate are keen to work with Argyll and Bute Council in overcoming the*

*noted access and road safety constraints as well as with the preparation of the proposed comprehensive Master Plan approach.*

Whilst a sketch masterplan has been submitted for 'indicative purposes only' it falls far short of the level of detail the Council, statutory consultees and the community can comment upon or take comfort from that the design, landscaping, quality, mix of uses and overall sense of place for the whole PDA has been comprehensively considered.

It would be the Council's intention to either endorse any suitable masterplan that is submitted alongside Phase 1 application or adopted it as supplementary planning guidance, both of which are recommended in PAN 83. This would also give the applicant a degree of certainty and security in planning for future phases of development. However, at present, the masterplan has only been submitted for indicative purposes only and is not of sufficient detail or quality to satisfy PAN 83 or the provisions of the Argyll and Bute Local Plan.

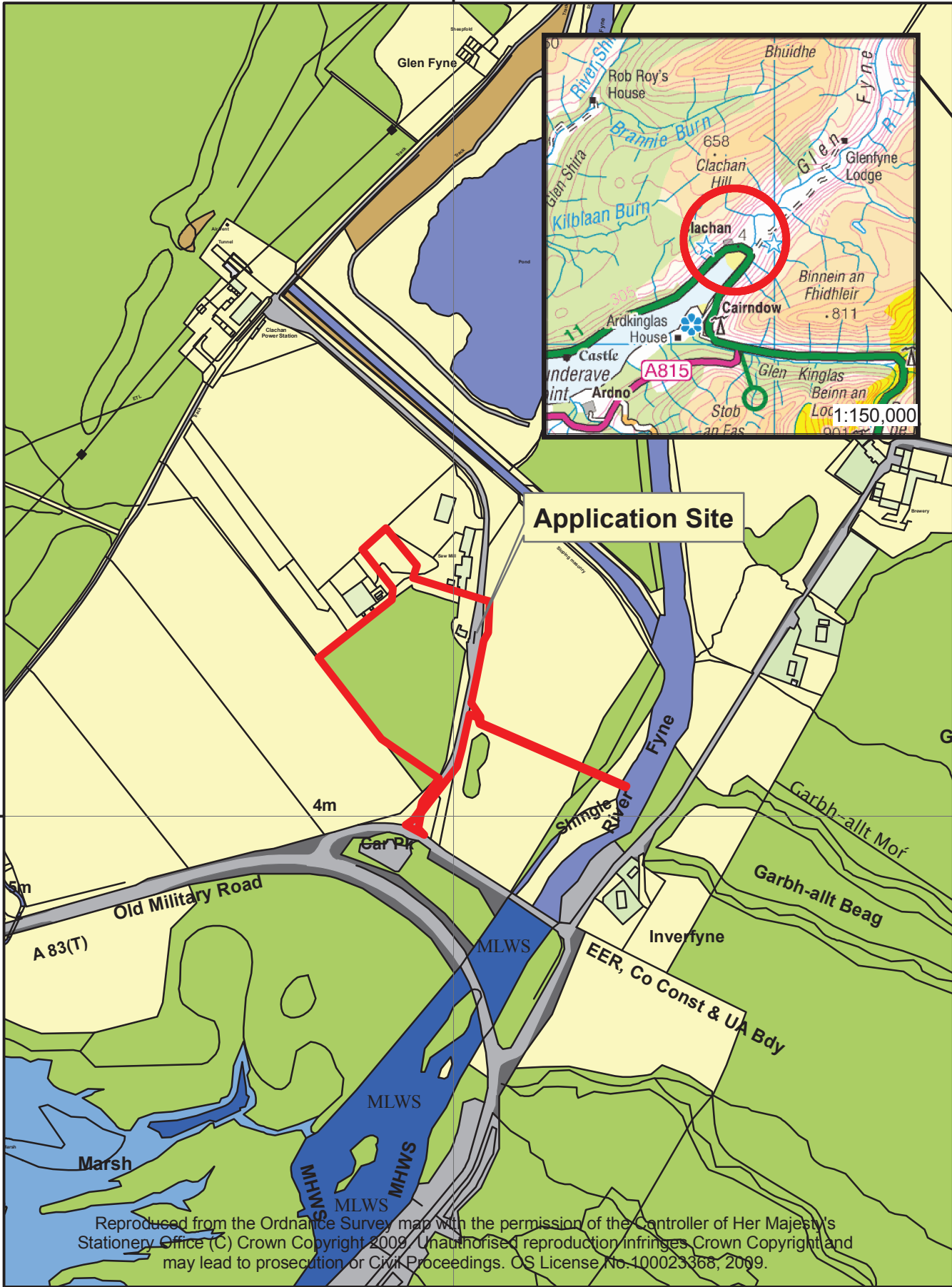
**It is therefore considered to be contrary to paragraphs 11.14 and 11.15 of the written statement of the Argyll and Bute Local Plan (August 2009) and Planning Advice Note 83 – 'Masterplanning'. There is an inability to plan for the future in a coordinated and comprehensive manner with the potential for adverse landscape biodiversity infrastructure and servicing implications in this area of sensitive countryside and panoramic quality**

## **J. Conclusions**

Whilst the components of the mixed-use scheme are considered to be compatible with PDA 9/13, the submitted Masterplan drawings and themes are not sufficiently well-developed to give comfort in terms of the brief for PDA 9/13 and AFA 9/4. The proposal may prejudice the greater development of PDA 9/13 and AFA 9/4 and detailed concern is noted on the intensification and density of the proposal in this sensitive countryside location and giving cognisance of the relatively dispersed settlement pattern in the surrounding area. Furthermore, we note concerns about the proximity of both existing and proposed commercial activities and quarry vehicle traffic movements to the proposed dwellings which may give rise to 'Bad Neighbour' conflicts. At this 'in-principle' stage, the proposal is therefore considered to be contrary to the policies of the Argyll and Bute Structure Plan and Argyll and Bute Local Plan.

It is worth noting that the Scottish Government recently extended an invitation to the applicant and Council to discuss this application in a mediation capacity and in order to seek a mutually agreeable outcome. This invitation was declined by the applicant however the Council still consider the idea of using the Scottish Government Planning Division to be of benefit to both the Council and the applicant in order to unlock this PDA. From the applicant's perspective they will have the benefit of being able to access Scottish Government specialist staff / resources and we as a Planning Authority can use this as a test case to develop "best practice guidance" which can be rolled out in other PDA applications to ensure that this information request i.e. Masterplan is proportionate and delivers "added value" benefits to the applicant, the local community and the Planning Authority.

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**Location Plan relative to  
Application Ref: 09/00385/OUT**



Date: 26.11.10

Scale: 1:5,000

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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**

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**Reference No:** 11/00213/PP

**Planning Hierarchy:** Local Application

**Applicant:** Adams (Flansham) Ltd

**Proposal:** Change of use of agricultural sheds to firewood processing unit

**Site Address:** Land North West of Camis Eskan Farm House, Helensburgh

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#### **DECISION ROUTE**

(i) Local Government Scotland Act 1973

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#### **(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Change of use of agricultural sheds to firewood processing unit

**(ii) Other specified operations**

None

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#### **(B) RECOMMENDATION:**

It is recommended that planning permission be refused for the reasons set out overleaf.

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#### **(C) HISTORY:**

99/02017/WGS – Proposed mixed woodland planting (No objections 28/12/2000)  
99/02028/DET – Formation of car park and upgrading of access (Withdrawn 21/12/2000)  
01/01423/DET – Conversion of farm buildings to 4 dwellinghouses (Withdrawn 16/11/2001)  
01/02061/COU – Conversion of farm buildings to 4 dwellinghouses, associated parking area and formation of passing places on access road (Approved 06/06/2002)  
04/00954/DET – Alteration and extension to dwellinghouse (Approved 23/07/2004)  
05/00742/DET – Demolition of shed and erection of 2 dwellings (Withdrawn 10/03/2006)

05/00968/PNAGRI – Erection of agricultural building (Permitted development 26/05/2005)  
06/02777/DET – Erection of garage (Approved 03/01/2007)  
10/00367/PP – Erection of 2 agricultural sheds (retrospective) (Approved 11/05/2010)

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**(D) CONSULTATIONS:**

Area Roads Manager (Memos 22.03.2011, 30.03.2011 and 13.07.2011)

The principle of the wood processing unit and the area available space within the site was not a concern. The key question was the potential traffic movements through the residential area. The applicant's in depth explanation of their intend use, confirms that there would not be any more traffic movements than that of the potential for the already approved use of the site. As a result of the information I am now prepared to support this application however, as the proposed use has the potential for other operators to change the strategy and increase traffic movements I would ask if it were possible to restrict the approval to the applicant.

Area Environmental Health Manager (memo dated 01/09/2011) – has requested that a noise assessment be carried out by the applicant in advance of the determination of the application.

*Comment: As there are fundamental green belt policy considerations weighing against this proposal, it would not be appropriate to require that the applicant should go to the expense of commissioning such a study, given the prospect of it being refused on policy grounds, regardless of the acceptability of noise considerations. However, in the event that Members were minded to approve the application, a continuation would be appropriate in order to allow the production of such a study to inform a final decision. .*

Helensburgh Community Council (Letter 17 March 2011) – Proposal is contrary to Policy STRAT DC3 of the Argyll and Bute Structure Plan' 2002.

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**(E) PUBLICITY:** None

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**(F) REPRESENTATIONS:** 17 letters of representation have been received from the following

Helensburgh Green Belt Group – Mr A. McBeth, 40, West Montrose Street, Helensburgh W.G. Connor, West Cottage, Camis Eskan Farm, Helensburgh, G84 7JZ (letter dated 17.03.2011)

A.B. Connor, West Cottage, Camis Eskan Farm, Helensburgh, G84 7JZ (letter dated 17.03.2011)

Charles Carver, Stables Cottage, Camis Eskan Farm, Helensburgh, G84 7JZ (letter dated 16.03.2011)

Dee and Lynne Duncason, 5 Camis Eskan Farm, Helensburgh, G84 7JZ (letter dated 17.03.2011)

William Wilson, Tigh na Mara, Camis Eskan, Helensburgh (letter dated 17.03.2011)

Eric Thompson, North Lodge, Camis Eskan, Helensburgh, G84 7JZ (letter dated 16.03.2011)

Donald Mayer, 9 Collins Road, Colgrain, Helensburgh, G84 7UA (letter dated 25.03.2011)

Norrie McNaught, 33 Drumfork Road, Helensburgh (letter dated 27.03.2011)

Liz McNaught, 33 Drumfork Road, Helensburgh (letter dated 27.03.2011)

Mrs J. Lloyd (no address) (e-mail dated 25.03.2011)



M.J. Carr, (no address) (e-mail dated 25.03.2011)  
Emma Flett (no address) (e-mail dated 25.03.2011)  
George Newlands (no address) (e-mail dated 28.03.2011)  
Mr & Mrs Court, 7 Collins Road, Helensburgh, G84 7UA (letter dated 28.03.2011)  
John and Audrey Hayward (no address) (e-mail dated 05/04/2011)  
Mrs E.L. Yates, 29 Redgauntlet Road, Helensburgh, G84 7TR (e-mail dated 12.04.2011)  
Andrew Nisbett (no address) (e-mail dated 18.04.2011)

**(i) Summary of issues raised**

- a. The proposal is contrary to the provisions of Policy STRAT DC3 of the of the Argyll and Bute Structure Plan 2002 as –

This application is not for an agricultural-related development

This application is not related to farm diversification

This application is not for outdoor sport or recreational development

The other categories, numbers (A) 4 – 6, pertain to natural heritage, access resources, alterations and extensions to buildings and a change of use of existing buildings.

None of these categories has any connection with this planning application.

STRAT DC 3 goes on to list “(B) Exceptional cases of development outwith categories (A) 1 – 6. According to the strategy, these cases need to successfully demonstrate that the proposal will either retain a significant building at risk, directly support the provision of vital infrastructure or involve building development directly supporting recreational use of land.

The current planning application bears no relation to the “exceptional cases” listed in STRAT DC 3.

STRAT DC 3 concludes at (C) “Developments which do not accord with this policy are those outwith the categories (A) 1 – 6 and (B) above.”

As the planning application does not accord with any of the categories of permissible development described in (A) 1 -6 and (B) above, it does not comply with compatible Greenbelt zoning and is therefore contrary to STRAT DC 3.

*Comment – See my assessment*

- b. It is clearly evident that the raw materials for this operation will have to be brought in by road, with large lorries arriving with felled trees to offload and other vehicles using the same route to collect the finished articles. By virtue of the fact that it is proposed to use 2 large barns then this will be a large scale operation. The only roads leading to and from this location are relatively narrow and encompass a one-way system. They have 2 schools en-route, which clearly will have plenty of children and parents using the route to their respective schools. Safety of local children must be a major concern and the roads on the estate were never intended for this sort of use.

*Comment – See my assessment.*

- c. Colgrain Primary access at Redgauntlet Road has school crossing staff assistance there for the children, and their parents park on the roadway seriously reducing access at these times. The older children attending Hermitage Academy use the whole route to walk to and from school and to

and from the local curry club at lunchtime. It is inconceivable to consider this usage with access as described above.

*Comment – See my assessment.*

- d. Change of use of these lambing sheds will require significantly different vehicular access compared with its current use which involves only herding sheep off the hill. This in turn raises questions about the ownership and adequacy of the access road which is a private road to Camis Eskan farm. This road is still owned by the owner of Camis Eskan farm but is passing its upkeep costs on to the residents of the newly developed Camis Eskan farm properties. The latter residents' agreement would therefore have to be obtained before the firewood processing operation could be allowed to use the road but these residents have neither been 'notified' nor consulted on the proposed change.

*Comment – This is a civil matter between the parties concerned.*

- e. As one of the subject sheds is very large, it has to be assumed that the proposed firewood processing unit will be on a comparably large scale i.e. of sawmill proportions. Therefore, what we are seeing is the thin end of the wedge for development at Camis Eskan under the guise of agricultural use. The processing of cut timber is a noisy operation and if it is on an industrial scale commensurate with the size of the shed and operates on a normal 5 day working week, the anti-social effects of noise on the adjacent residents should be considered. Clearly, it will be significantly louder, more anti-social and more permanent than for the current seasonal use.

*Comment – See my assessment.*

- f. The vibrations felt from a 7.5 ton lorry is disturbing when passing our (7 Collins Road) house so the structural damage to our property is a great concern when the estimated weight of the vehicles passing our property on a regular basis will be approximately 30 tons, possibly even heavier if loaded to a maximum capacity. This is why we are strongly objecting to the planning application.

*Comment – This is a civil matter between the parties concerned. See also my assessment.*

- g. When consent was given for forestry development on this site the condition was that access for timber operations should be via Red Road and not Camis Eskan farm road. No conditions have been set for accessing this firewood processing unit.

*Comment: See my assessment.*

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## **(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

Supporting information has been supplied by the applicant setting out the following:

### **Scope of operations**

The tenant's use is unlikely to be exclusive as the owner's own forestry business will probably want to make some use of the yard/shed for storage. The intended uses would be storage of machinery and equipment. The only process on site is production of domestic firewood for subsequent delivery to customers: no footfall sales. The key stages in the process are sourcing timber, seasoning timber, processing into logs, storage and handling of logs, and dispatch to the customer.

### **Sourcing timber**

The prospective tenant already has an existing tree surgery business. Timber would be brought back to the site in small trailers behind 4x4 vehicles and would be relatively low key. In future a further proportion of timber may be sourced from Camis Eskin woods of which there are 100 acres requiring active management. The timber would be brought down to the yard using the internal tracks on the premises. As the business expands it is envisaged that future demand for logs could exceed volumes capable of being sourced from tree surgery arisings and management of the existing woodlands. It is therefore envisaged that that a proportion of timber would be sourced on the open market and brought back to the site. This would normally be by lorry, either articulated or 6 wheel and trailer. Lorry movements are likely to be infrequent and it is not envisaged that more than an average of 1 load will be delivered per week even at maximum future production. Movements would be timed to avoid school runs and during work hours and would be no more onerous than the existing traffic of livestock, farm feeds etc.

### **Seasoning timber**

Hardwood has to season for a period of months before processing and timber lengths would be stacked in the yard.

### **Processing timber**

Timber will be converted to logs either by chainsaw or using a proprietary tractor operated firewood processing machine. There would be various noise sources associated with the process including chainsaws, tractor operation and noise from the saw in the processor. The machine will run in the large shed to allow wet weather working and this will mitigate any noise output from the site. External noise will be generated by tractors, vehicles and chainsaws, but it is envisaged that this will be during normal working hours and their will not be evening operation. None of these noises are alien to the environment at Camis Eskin. We do not know the specific processor but as an example a Palax Combi Processor has an equivalent continuous 'A' weighted sound pressure at the work station of 87.5dB (A) and a sound power level of 102dB (A).

### **Storage and handling**

Storage will be in the yard (timber lengths) or sheds (cut logs).

## **Dispatch**

Cut logs will be dispatched to the customers in small loads either by 4x4 and trailer or possibly small tipper. Dispatch will involve no more than a few loads per working week and will not be every day.

## **Summary**

The proposed use is essentially a continuation of the existing agricultural and forestry designation. The yard and buildings are approximately 150m away from the nearest third party buildings and it is envisaged that the field in between will be planted to offer some screening. This is a new business venture in the area. There would be a slight increase in the general traffic volume but the nature of the proposed use is such that vehicle movements will always be limited by the amount of wood that can be stored and processed in any given calendar year.

## **Additional information**

### Process

The process of preparing wood suitable for domestic firewood for use in either open fires, or enclosed wood burning stoves is a slow operation. Good domestic firewood, that will burn with maximum efficiency in terms of calorific value released and therefore heat generated, requires to be dried to a moisture content of around 20%. At moisture contents above this wood either sparks, and is therefore dangerous, or uses a significant proportion of its energy to dry the wood whilst burning releasing less heat and more emissions that (a) emit more smoke from the process into the atmosphere, and (b) deposit tar residues in the chimney leading to further reduced efficiency and increase risk of chimney fires. Typically hardwood species will be at a green (just cut) moisture content of around 50%. The timber therefore requires considerable drying time until it is suitable for burning. As the firewood to be processed on the site is for sale, then the quality must be good (dry) otherwise the operator will not maintain market share and the business will fail. Drying time will vary depending on species, time of year felled, diameter of timber in the stack, degree of processing, etc, but as a rule of thumb most hardwood will require at least one spring and one summer to dry, with some bigger sections needing 2 years seasoning – the old woodcutters saying is that good firewood had been cut for two Octobers before burning.

The process to be followed on the site is proposed as;

Source wood: Arboricultural arisings, Transport to site: Trailer

Source wood: Purchased roundwood, Transport to site: Lorry

Season: Stack in yard to dry, 6-12 months

Process: Batch process into logs

Store: Store split logs under cover (sheds)

Dispatch: Individual loads delivered to customers by trailer

The primary constraint on production of quality firewood is therefore storage space and this differentiates the process from other types of industrial wood processing where the timber is supplied to the facility on a just-in-time basis, processed and dispatched within a turn around time of 1 – 2 months. Wood in a firewood processing facility would be operating on a turn around time of 1 – 2 years.

## Storage

The site of the planning application is the two existing buildings and associated yard. The yard space extends to approximately 1,750m<sup>2</sup> in front of the sheds and 500m<sup>2</sup> behind the two sheds. This area has to store all the roundwood firewood being seasoned on the site prior to processing. Timber will typically be brought to the site in cut lengths of 2m – 3m in the round. Standard stacking guidelines are for the maximum recommended safe height of a timber stack to be no higher than the length of the stacked product; therefore 3m cut lengths can be stacked to 3m height. A single lorry delivery is 24 tonnes of round wood and requires a linear stacking space of 10m at 3m height, therefore to store 10 lorry loads a footprint of 100m length is required, with working areas either side, etc. The stacked footprint is 300m<sup>2</sup>, with the same area free for working around the stack. Based on the available yard space the total area is 2,250m<sup>2</sup>. Each 240 tonnes stored requires around 600m<sup>2</sup> space including working zones, therefore the maximum available yard space supports  $2,250/600 = 3.75 \times 240$  tonnes = 900 tonnes. This would represent saturation point in terms of roundwood storage on the site.

As the timber is processed it can be stored undercover as split logs. Split logs irregularly stacked (piled) have a loose density (volume) of approximately 45% of their solid density due to voids of air within the pile. This means that 1 tonne of roundwood will convert to 2.2m<sup>3</sup> of split logs after processing. Within the site it is envisaged that the entire small shed and approximately half of the large shed will be capable of storing processed logs awaiting dispatch to the customer. The small shed is 151m<sup>2</sup> and the large shed is 474m<sup>2</sup> in total, or 236m<sup>2</sup> if you take half (the other half is required for the firewood processor and machinery storage).

Assuming a safe stacked height of 2m the total loose volume of split logs in the small shed would be 300m<sup>3</sup> or 136 tonnes of roundwood before processing. Assuming a safe stacked height of 3m the total loose volume of split logs in half the large shed would be 700m<sup>3</sup> or 320 tonnes. Based on these calculations, the maximum expected capacity of the site if all areas were full would be 900 tonnes of round wood and 450 tonnes of split wood totalling 1,350 tonnes. If all this wood were delivered to the site by lorry it would represent 56 lorry movements. In the application the maximum intensity was rounded down to an average on one movement per week or 52 per annum. It is also highly unlikely that all areas would ever be full to capacity.

## Intensification

During the course of the application we consulted with the Roads Department about the intensity of lorry movements into the site. At the time discussions suggested that an average of one lorry per week was not problematic, this being no different than the current intensity of refuse collection. In the supporting documentation we also undertook to avoid weekend, out of hours or school run time deliveries to ensure minimum disruption to residents. The proposal as currently tabled is therefore not contentious on roads grounds.

An intensification of the use of the facility could of course generate considerable traffic. However, the process of seasoning and storing firewood is slow and requires a large area to support even a low throughout operation. At the Camis Eskan site, even if additional processing capacity is brought onto site, there is no potential for intensification as the key determinant is available storage space and therefore capacity on the site is effectively self regulated.

The calculation for roundwood stacking takes account of adequate working area between adjacent stacks. The site cannot accommodate one continuous stack, so space must be left for a tractor to turn around in between stacks. Therefore 3 metres between stacks would not be enough. Also, the stacks will necessarily be dismantled in the order they were erected i.e. first in = longest drying time = first out. This is why the free area is approximately the same as the stacked area.

Of course lorry loads won't necessarily all arrive at one week spacing. That is why we have said at an average of 1 per week, not at one per week. There may be 4 loads and then nothing for 2 months, etc. But this doesn't mean we can bring in or store any more wood on the site. Stocking up to 900t would be gradual. Hardwood availability is the limiting factor - it is not usually produced in large volumes as it is normally a by-product of conifer clear felling. Very unlikely we could go and source 900t at one time in the whole of the UK.

The existing farm sheds have the potential to generate a similar level of traffic movement under their current planning classification, by way of agricultural supplies being delivered and agricultural produce being dispatched. It is safe to say that the current proposal would generate no greater traffic movements than the existing use.

I can confirm that it is not the intention for the firewood to come from Camis Eskan, and indeed that is not physically possible as there is simply not enough hardwood woodland there. A small proportion **may** end up coming from Camis Eskan over a sustained period, but the purpose of the application is to allow the processing of wood into firewood sourced from wherever it can be economically and legitimately sourced. This may be from the prospective tenant's tree surgery business as aboricultural arisings, this may simply be purchased by the tenant, or some of this may be as a result of woodland management on Camis Eskan.

We do not need any new agricultural buildings to replace these two sheds, nor have we asked for any. Our intention is simply to make good use of the two existing sheds rather than having them lie redundant and unoccupied.

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**(H) PLANNING OBLIGATIONS**

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

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

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

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

'Argyll and Bute Structure Plan' 2002

STAT SI 1 – Sustainable Development  
STRAT AC 1 – Development in Support of Farms, Crofts and Estates  
STRAT DC 3 – Development within the Greenbelt

Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 19 – Development Setting, Layout and Design  
LP BUS 2 – Business and Industry Proposals in the Countryside Development Control Zones  
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 5 – Off-Site Highway Improvements

Appendix A – Sustainable Siting and Design Principles  
Appendix C – Access and Parking Standards

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

Argyll & Bute Sustainable Design Guidance (2006)  
Scottish Planning Policy 2010

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

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

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

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

- (O) **Requirement for a hearing (PAN41 or other):** Although 17 representations have been received, given that these are objections which accord with the recommendation for refusal, it is not considered necessary to hold a discretionary hearing in that circumstance, as it would not add value to the decision-making process.
- 

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

Planning permission is sought for the change of use of 2 agricultural sheds to a firewood processing unit. The site is in open countryside north-east of Colgrain in the Greenbelt. A number of key issues need to be addressed, namely whether there is a locational need for this development in the Greenbelt, whether it is an appropriate use, and what impact it will have on adjoining properties and the surrounding area.

Structure Plan Policy STRAT SI Sustainable Development, *inter alia*, seeks to maximise the opportunity for local community benefit, make efficient use of brownfield land, conserve the natural environment and respect the landscape character of an area and the setting and character of settlements. PAN 73 – Rural Diversification advises that

*“... we should not lose sight of the intrinsic rural character that makes our countryside attractive to live and work in. Traditional sectors like farming and forestry are essential in retaining this rural character but these are changing too. Agricultural diversification has meant farmers concentrating on new areas of agriculture, growing alternative crops, rearing new breeds and turning to organic farming. Farm diversification has involved farming families adapting even further and turning their skills to new businesses secondary to the main farm business. These enterprises may be an extension of the existing farm business but equally the new activity can be unrelated to agriculture. Farm diversification is therefore an integral part of wider rural diversification that enables farmers and their families to continue the farming activity while providing jobs and income for others in the community.”*

The application site is within the Greenbelt which is a special and more restricted form of Countryside Around Settlement zone. Its main function is to maintain settlement separation and to prevent urban sprawl. An ancillary function is to provide an attractive setting for settlements. Policy STRAT DC3 of the of the 'Argyll and Bute Structure Plan' 2002 deals with development within the Greenbelt. It states that encouragement will only be given to very limited and specific categories of countryside based development. These comprise:

- 1 Agricultural related development
- 2 Farm diversification – tourism related development
- 3 Outdoor sport and recreational development
- 4 Development required to manage and sustain the natural heritage and access resources of the Greenbelt
- 5 Demolition and replacement of buildings and alterations or extensions to buildings, including dwellinghouses, subject to no change of use occurring
- 6 Change of use of buildings, including alterations and subordinate extensions of such buildings to residential institutional use (Use Class 8 B and C)

The Town and Country Planning (Scotland) Act 1997 contains a number of definitions. Under 'agriculture' it includes land for woodlands where the use is ancillary to the farming of the land for other agricultural purposes. In this case the proposal is for a new business separate from the farm operation and a new planning unit will be created. This application is not related to farm diversification and is not for outdoor sport or recreational development. The other categories pertain to natural heritage, access resources, alterations and extensions to buildings and a change of use of existing buildings to residential institutional use, none of which are relevant in this case.

STRAT DC 3 goes on to list "(B) Exceptional cases of development outwith categories (A) 1 – 6. According to the strategy, these cases need to successfully demonstrate that the proposal will retain a significant building at risk, directly support the provision of vital infrastructure or involve building development directly supporting recreational use of land. The current planning application does not relate to the "exceptional cases" listed.

STRAT DC 3 concludes at (C) "Developments which do not accord with this policy are those outwith the categories (A) and (B) above."

In the applicant's supporting statement it is indicated that he has an existing tree surgery business. Timber would be brought back to the site in small trailers behind 4x4 vehicles. In future a further proportion of timber may be sourced from Camis Eskin Woods of which there are 100 acres requiring active management. The timber would be brought down to the yard using the internal tracks on the premises. As the business expands it is envisaged that future demand for logs could exceed volumes capable of being sourced from tree surgery arisings and management of the existing woodlands. It is therefore envisaged that that a proportion of timber would be sourced on the open market and brought back to the site.

Where new build is proposed in the Greenbelt, an assessment has to be made in terms of whether it will be visually intrusive. Where no justification exists then the development is taken to have a detrimental visual impact. In this case it is complicated by the fact that the business proposes to utilise two existing sheds. Therefore, any visual impact will be limited as it utilises an existing built form.

In terms of site specific criteria, the proposal is a potential 'bad neighbour' in that the operations do involve noisy activity. However, the site is some 150 metres from the nearest third party dwelling. Environmental Health has been consulted and at the time of writing a reply is awaited.



The Area Roads Manager raised concerns regarding the ability of the local road network to handle the proposed operation, particularly if it becomes successful and the use intensifies. The principle of the wood processing unit and the area available space within the site was not a concern. The key question was the potential traffic movements through the residential area. The applicant's in-depth explanation of their intended use confirms that there would not be any more traffic movements than that of the potential for the already approved use of the site. As a result of the information, the Area Roads Manager is now prepared to support this application. However, as the proposed use has the potential for other operators to change the strategy and increase traffic movements, he has asked if that if the application were to be approved it should be a personal permission limited to the current applicant.

In conclusion, there are arguments both for and against the proposal. In terms of the former, use of land for woodland is included within the definition of 'agriculture' which is itself recognised as a legitimate Greenbelt land use. Secondly, the proposal is to utilise existing buildings thus not adding to the built form. With regard to the arguments against, the use of land for woodland has to be ancillary to the farming of land. This is a new planning unit being created which will operate separately from the existing farming unit. Secondly, while the proposed use will utilise wood from the immediate area, it will also process wood from elsewhere. As such, it is not considered that it necessarily requires this specific location to operate successfully, as timber will be transported to the premises, wherever it is located.

Taking into account all of the above points, it is considered that no special circumstances are apparent in this case that would justify a departure from Greenbelt policy. A site specific justification has not been established requiring a location within the Greenbelt. As such the proposal is contrary to Structure Plan Policy STRAT DC3, which states that encouragement will only be given to very limited and specific categories of countryside based development. It is recommended therefore that planning permission be refused.

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

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

It is considered that a site specific justification has not been established and that the development does not require to be located within the Greenbelt. As such the proposal is contrary to Structure Plan Policy STRAT DC3, which states that encouragement will only be given to very limited and specific categories of countryside based development.

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

N/A

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

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**Author of Report: Howard Young**

**Date: 01.09.2011**

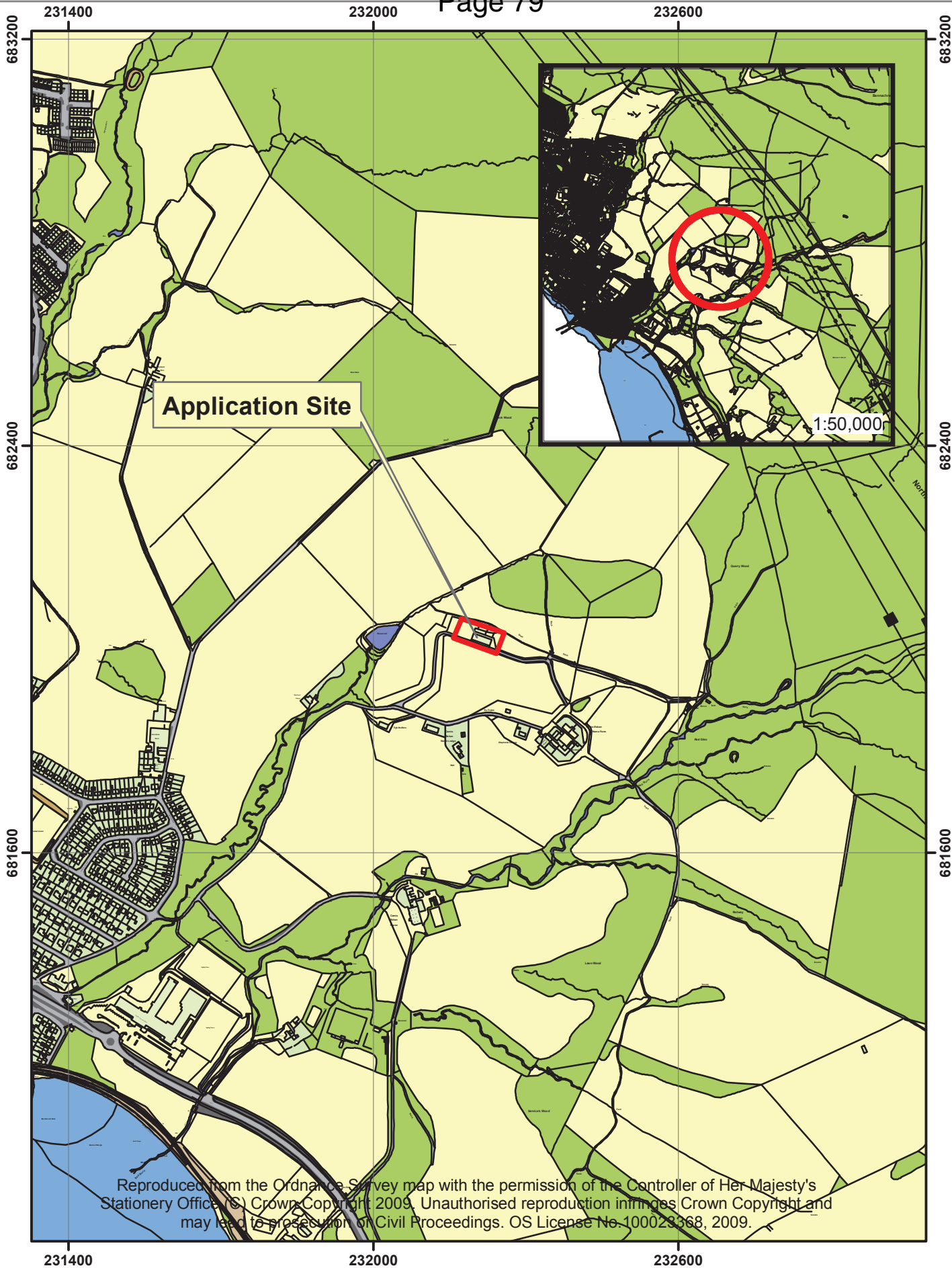
**Reviewing Officer: Richard Kerr**

**Date: 02.09.2011**

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

**REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 11/00213/PP**

1. The application site lies within the Helensburgh and Cardross Greenbelt as defined in the 'Argyll and Bute Structure Plan' 2002. Within this area, permission will not be given except in very special circumstances for development for purposes other than those related to agriculture, farm diversification, tourism, outdoor sport and recreation, development required to manage and sustain the natural heritage and access resources of the Greenbelt, demolition and replacement of buildings and alterations or extensions to buildings, including dwellinghouses, subject to no change of use occurring and change of use of buildings, including alterations and subordinate extensions of such buildings to residential institutional use. No such special circumstances are apparent in this case. It is considered that a site specific justification has not been established and that the proposed development does not require to be located within the Greenbelt at this location. As such, the proposal is contrary to Structure Plan Policy STRAT DC3, which only gives encouragement to very limited and specific categories of countryside based development.



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**Location Plan relative to  
Application Ref: 11/00213/PP**

Date: 22.06.2011

Scale: 1:10,000



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

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

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**Reference No:** 10/00222/PPP

**Planning Hierarchy:** Major

**Applicant:** CWP Property Development and Investment

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

**Site Address:** 361 Argyll Street, Dunoon.

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#### **SUPPLEMENTARY REPORT 4**

##### **1.0 SUMMARY**

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

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

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

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

##### **2.0 FURTHER REPRESENTATIONS**

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

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

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

The further letters of representation raise no new issues.

### **3.0 FURTHER CLARIFICATION REGARDING GAS WORKS SITE & APPLICATION**

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

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

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

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

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

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

An email on 5<sup>th</sup> May also confirmed:-

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

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

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

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

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

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

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

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

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

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

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

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

#### **4.0 FURTHER INFORMATION FROM APPLICANT ON PLANNING GAIN**

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

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

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



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

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

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

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

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

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

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

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

## 5.0 Conclusion

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

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

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

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

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

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

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

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

**Author: Ross McLaughlin**

**Contact Point: David Eaglesham 01369 708608**

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

**9<sup>th</sup> May 2011**

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

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

---

**Reference No:** 10/00222/PPP

**Planning Hierarchy:** Major

**Applicant:** CWP Property Development and Investment

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

**Site Address:** 361 Argyll Street, Dunoon.

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**SUPPLEMENTARY REPORT 3**

**1.0 SUMMARY**

The purpose of this supplementary report is to confirm the receipt of further letters of representation and a plan from Montague Evans on behalf of National Grid.

**2.0 FURTHER REPRESENTATIONS**

Seven further letters of support and one letter of objection have been submitted since Supplementary Report 2. These are from:

Support

- William Rankin & family, 32 Sandhaven, Sandbank (e-mail dated 2 April 2011)
- Catherine Fraser, Dunoon (e-mail dated 5 April 2011)
- Tom & Sue McKillop, Broxwood Cottage, Sandbank (e-mail dated 6 April 2011)
- Audrey Forrest, 131 Argyll Road, Dunoon (e-mail dated 6 April 2011)
- Mr & Mrs Trybis, Toward (e-mail dated 6 April 2011)
- Douglas McCallum, Hoop House Flat4, 109 Bullwood Road, Bullwood By Dunoon (e-mail dated 6 April 2011)
- Nick & Karen Bancks, Norwood House, Hunter Street, Kirm, Dunoon (letter received 7 April 2011)

Object

- Neil And Pauline Colburn, 4 Hydro Cottage, Cairndow (letter dated 2 April 2011)

The further letters of representation raise no new issues.

#### **4.0 FURTHER PLAN**

The plan submitted by Montague Evans (received 7 April 2011) shows a potential development on the former gas works site at Hamilton Street. While this has not been assessed in terms of either retail impact or practicability (access, parking, flood risk etc), it demonstrates a smaller store than proposed in the present application.

#### **5.0 RECOMMENDATION**

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

**Author: David Eaglesham 01369 708608**

**Contact Point: David Eaglesham 01369 708608**

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

**7 April 2011**

**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**

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**Reference No:** 10/00222/PPP

**Planning Hierarchy:** Major

**Applicant:** CWP Property Development and Investment

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

**Site Address:** 361 Argyll Street, Dunoon.

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**SUPPLEMENTARY REPORT 2**

**1.0 SUMMARY**

The purpose of this supplementary report is to confirm the receipt of late letters of representation containing petition letters of objection, one further letter from the applicants agent and to clarify some previous information contained in the original planning report dated 4<sup>th</sup> March 2011 and Supplementary Report 1 dated 15<sup>th</sup> March 2011.

**2.0 FURTHER REPRESENTATIONS**

Three further petitions of 484 letters of objection and 11 individual letters of objection (all in pro forma style) have been submitted since Supplementary Report 1. These are from:

- Dinah McDonald, Bookpoint, 6 Deer Park, Glen Massan, Dunoon (letter dated 24<sup>th</sup> March 2011 enclosing 202 petition letters of objection);
- Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 28<sup>th</sup> March 2011 enclosing 277 petition letters of objection);
- Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 30<sup>th</sup> March 2011 enclosing 5 petition letters of objection);
- Claire Conlon, 110 Sandhaven, Sandbank (letter dated 16<sup>th</sup> March 2011);
- John Nicol, 1 Cherryhill, Hunter Street, Kirn (letter dated 17<sup>th</sup> March 2011);
- Margaret Nicol, 1 Cherryhill, Hunter Street, Kirn (letter dated 17<sup>th</sup> March 2011);
- Robert McChlery, 8 Wellington Street, Dunoon (letter dated 22<sup>nd</sup> March 2011);
- C.A.P McChlery, 8 Wellington Street, Dunoon (letter dated 22<sup>nd</sup> March 2011);
- G. Judd, Roslea, Wyndham Road, Innellan (letter dated 15<sup>th</sup> March 2011);
- J. Judd, Roslea, Wyndham Road, Innellan (letter dated 15<sup>th</sup> March 2011);

- Kenneth McRoberts, 3 Royal Crescent, Dunoon (letter dated 22<sup>nd</sup> March 2011);
- Fiona McRoberts, 3 Royal Crescent, Dunoon (letter dated 22<sup>nd</sup> March 2011);

These pro-forma letters of objection state that the signatories “*object to the proposal to build a large out-of-town supermarket selling a similar wide range of non-food goods currently sold in our local high street shops. If this proposal were allowed to go ahead it could result in many of our town centre high street shops and other small shops around the town closing and could decimate our town centre within a few years. Considerable loss of trade from local high streets to new out-of-town supermarkets has already been demonstrated in other small towns such as Dumfries, Dingwall and Alloa.*”

- Mr. R Wall, Stonefield, Strone (letter dated 10<sup>th</sup> March 2011) objects on the basis that:

*Twenty years ago, the town was much more vibrant and since then we have lost butchers, fishmongers and delicatessens, wholefood shops etc;  
The existing shops are already threatened by the existing supermarkets;  
The proposed location threatens a precedent to extend the town and kill the centre;  
The proposal will destroy native woodland and increase the threat to the small stream;  
The paved area of car park and extensive roof area will add to the storm water burden on the sewers and result in more pressure on the sewage system;  
The proposal may offer jobs (low paid unproductive) but it will threaten and remove more from existing employment;  
Rural shoppers may not be enticed into the town and tourists may stay away.*

- Ben Mitchell (email dated 23<sup>rd</sup> March 2011) objects on the basis that :

*The proposed development would have a deleterious effect on the local community – currently most of the local commerce and services for Dunoon and surrounding area are located within walking distance of a well defined town centre, this plan would fragment that nexus. Cannot see how it would provide any mitigating benefit to the local populace – we already have more than enough developments of this kind.*

A further letter has been received from James Barr on behalf of the applicant (dated 30<sup>th</sup> March 2011). The letter contains statements from CBRE (dated 21<sup>st</sup> March 2011) clarifying methodology employed using the NSLSP survey information.

### **3.0 CLARIFICATION INFORMATION**

For clarification it should be noted that the original petition received from Walkers Garden Centre (letter dated 28<sup>th</sup> October 2010) contained 860 letters of petition, not 850 as stated in the letter. It should also be clarified that this standard petition letter included the following:

*“I support CWP’s plans to bring a new supermarket to Dunoon on the site of Walker Home and Garden Centre and land to the rear. This will bring added choice, more competition and 280 new local jobs and will allow Walkers to relocate and expand their business in Dunoon”.*

As an addendum to Supplementary Report 1, the following objections were not included in the list of objectors in Appendix B;

- KRM Adams, 54 Shore Road, Innellan (letter dated 4<sup>th</sup> September 2010);
- Miss N J Potts, Kilmun (email dated 22<sup>nd</sup> October 2010);
- Mrs. P Evans, Bhenn Tower, Ardenslate Road, Kirn (email dated 26<sup>th</sup> October 2010);



An email was also received from Brian Chennell (dated 13<sup>th</sup> September 2010) confirming that the Dunoon and Cowal Business Association conducted another survey amongst its members regarding the proposed supermarket development and the results of this secret ballot were:

For development – 25  
Against development – 35  
No decision – 16.

#### **4.0 ASSESSMENT**

Given the late batches of representations, it may be beneficial to update Members of representations received to date.

##### ***Objections***

387 petition letters (under cover letter 10<sup>th</sup> March 2011)  
202 petition letters (under cover letter 24<sup>th</sup> March 2011)  
277 petition letters (under cover letter 28<sup>th</sup> March 2011);  
5 petition letters (under cover letter 30<sup>th</sup> March 2011);  
14 individual petition letters;  
29 non-standard letters.

914 Total number of letters of objection

##### ***Support***

860 petition letters (under cover letter 28<sup>th</sup> October 2010);  
205 petition letters received individually;  
3 non-standard letters (not included in Appendix B of Supplementary Report 1);  
17 non-standard letters.

1085 Total number of letters of support.

#### **5.0 RECOMMENDATION**

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

**Author: Brian Close 01369 708604**

**Contact Point: David Eaglesham 01369 708608**

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

**30 March 2011**

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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**

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**Reference No:** 10/00222/PPP

**Planning Hierarchy:** Major

**Applicant:** CWP Property Development and Investment

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

**Site Address:** 361 Argyll Street, Dunoon.

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## SUPPLEMENTARY REPORT 1

### 1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of late letters of representation containing supporting information from James Barr (agents for CWP) in respect of this application and from local residents.

The first of these (dated 3<sup>rd</sup> March 2011) relates to matters discussed at a meeting on 15<sup>th</sup> February 2011 and recent correspondence received from agents representing the National Grid site (Montagu Evans) and the Co-op (G L Hearn). The second, (also dated 3<sup>rd</sup> March 2011) contains further information on potential development of the National Grid site with an indicative layout as supporting information.

5 individual letters of objection and a petition of 387 letters of objection, all in pro forma style, have been submitted. These are from

- Dina McEwen, Sydney Cottage, 8 McArthur Street, Dunoon (letter dated 10<sup>th</sup> March 2011).
- Noel Fitzpatrick, Upper Hansville, Innellan, Dunoon (letter dated 10<sup>th</sup> March 2011).
- Kenneth Barr, 11 Dixon Avenue, Kirn, Dunoon (letter dated 13<sup>th</sup> March 2011).
- Charles M Gardiner, 11 Fairhaven, Kirn, Dunoon (letter dated 12<sup>th</sup> March 2011).
- Robert Waters, Glenrest, 19 Broomfield Drive, Dunoon (letter dated 12<sup>th</sup> March 2011).
- Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 15<sup>th</sup> March 2011 enclosing 387 letters).

These pro-forma letters of objection state that the signatories "*object to the proposal to build a large out-of-town supermarket selling a similar wide range of non-food goods currently sold in our local high street shops. If this proposal were allowed to go ahead it could result in many of our town centre high street shops and other small shops*

*around the town closing and could decimate our town centre within a few years. Considerable loss of trade from local high streets to new out-of-town supermarkets has already been demonstrated in other small towns such as Dumfries, Dingwall and Alloa."*

- A letter of support for the application on unspecified grounds has been received from G.F. Johnstone, Dunloskin Cottage, Dunloskin Farm, Sandbank High Road, Dunoon (letter dated 10<sup>th</sup> March 2011).

I also attach at Appendix B a listing all representations received which was omitted from inclusion with my original report.

## 2.0 FURTHER SUPPORTING INFORMATION

James Barr note the recent submission by National Grid in terms of developing the gasworks site for retail purposes but consider that this does not alter CWP's position on the site's potential. The submission of a Proposal of Application Notice (PAN) is questioned for a site that is under 2 ha and development under 5,000 sqm. James Barr confirms their position that the site is not suitable or appropriate for the proposed development as per the Planning and Retail Statement and that the actual developable part of their landholdings is around 1 hectare. James Barr dispute the comment made by Montagu Evans that the gasworks site would be capable of accommodating a standard retail format footsore extending to 3,000 sqm that would also be capable of providing car parking and servicing for a store of that size, due to site configuration and relationship to the Milton Burn. For these reasons, CWP has dismissed the National Grid site as a suitable option. For a site to be attractive to modern foodstore operators, the requirement for retailers for a store in Dunoon is a minimum of 40,000 sqft with a petrol filling station, together with appropriate servicing and car parking, which is considered necessary to the level of leakage and clawback.

James Barr also refutes information submitted by Montagu Evans that includes a list of schemes that CWP have been involved with. Some of the information relates to foodstore and non-food retail proposals and other sites had particular requirements. James Barr have cited case law where the retailer's own site requirements need to be taken into consideration in the sequential approach and that an edge of centre site in Dalry was not deemed sequentially preferable as it could not meet the operational needs of the retailers.

James Barr consider that there is no evidence to support the claim that the National Grid site is deliverable and the Council must satisfy itself that it can be delivered in technical terms such as layout, servicing, access, car parking, building footprint, infrastructure, contamination and flooding.

James Barr considers that further objections made on behalf of the Co-op add no new information or matters for consideration.

In relation to a department memo dated 17<sup>th</sup> February 2011, James Barr suggests that this memo contains inaccurate and misleading information in respect of the average turnover approach taken in the retail assessment. James Barr considers that their application is being judged on inaccurate information and unjustified statement based on inaccurate information.

**Department Comment** – In relation to the above, the applicants have pointed out that the department had erroneously referred to their original retail impact assessment using average turnovers for all supermarket operators. It is confirmed that the

applicants had suggested a convenience turnover figure of £9000 per sqm in their assessment dated January 2010, and that it was in paragraph 4.42 of their assessment dated September 2010 that they refer to an average convenience turnover of £11,970 per sqm and comparison turnover of £8241 sqm. The applicants have submitted three complete retail assessments, comprising 32 appendices, and 63 tables, as well as numerous other supplementary documents to correct errors which were previously pointed out to them in their original assessments. In the departmental memo, the most relevant information was extracted to help inform the decision making process and primarily referred to the applicant's retail assessments of September 2010 and the revised assessment of January 2011, in as much as it relates to their proposals for a smaller store, and different convenience /comparison floorspace ratios.

James Barr suggests that the department has expressed comments that appear to pre-determine a development before an application is made for the gasworks site. The suggestion that the figures make a case for a smaller store on the gasworks site is prejudicial in terms of specific site location.

**Department Comment** – In respect of the above, James Barr letter, it is stated that paragraph 15 of the departmental memo is biased against their client's proposal and pre-supports a development proposal which has not yet come forward for determination. The last sentence of paragraph 15 states "*I consider that the applicants have not met the requirements of the sequential test, in discounting the former gas works site, which is located in a sequentially preferable edge of town centre location.*" It is a matter of fact that the former gas works site is within an edge of town centre location as defined in Dunoon Town Centre Map in the Adopted Argyll and Bute Local Plan and is therefore in a sequentially preferable location.

James Barr comments that information contained in the revised Planning and Retail Statement is wrong where the scenario for a smaller store is estimated to clawback expenditure at 40% and not 30% as stated. Additionally, the level of clawback suggested by the department of 50% is at odds with what was previously agreed at 60%. James Barr suggests that the assumption that a smaller store is better placed to clawback leakage than a larger store is not a reasonable position to adopt. This is based on statements regarding 'ambitious' and 'robust' retained convenience expenditure where the difference between assumptions accounts for only 4.25% of a difference.

**Department Comment** – In respect of the implication that the departmental memo referred to a store of 1045 sqm. convenience floorspace as being acceptable, this is not the case. Comments in the memo referred to the James Barr estimate that the gas works site could accommodate a store of 2500 sqm with 1600 sqm net, and then stated that such as development would be capable of more than accommodating the available expenditure. It should be noted that this amount of floorspace being acceptable was never stated, as any application would have to be accompanied by its own retail assessment, and would be dependent on a number of factors with regard to potential impact. The important aspect of this being that their subsequent points in relation to turnover and clawback of a smaller store and the impact on the town centre and tables 16a, 16b, 17a, 17b, and 18b as attached to their letter dated 3<sup>rd</sup> March are based on their assumption on level of floorspace, which would be considered acceptable.

James Barr considers that the difference of predicted impact is negligible when compared with estimates by the department considered to be acceptable and this

slight difference in predicted impact could be mitigated through a contribution to the CHORD project.

### **3.0 ASSESSMENT**

In considering the above, Members should be aware that the production of Retail Impact Assessments (RIA) (or 'Planning and Retail Statement' in this case) is not a precise science, due to the variables and assumptions involved in the production of conclusions. It is for that reason that Scottish Planning Policy advocates the 'broad based approach' referred to above. Ultimately, in reaching a conclusion on the merits of the application, it is for Members to conclude what weight to place upon the conclusions of the applicant's RIA and the officers' rejection of its conclusions - a view also expressed by third parties - on the basis of a critique of that RIA.

The department's view remains that the applicant's RIA is ambitious in its assumptions and that the potential impact on Dunoon Town Centre is unacceptable, while any form of mitigation measures would not reduce this impact to an acceptable degree. The department has researched the submitted figures in the RIA thoroughly in the context of the Dunoon and Cowal catchment, and that reliance may be placed upon its conclusions in reaching a decision on the unacceptable nature of the application, notwithstanding the critique presented in letters from James Barr on behalf of the applicant.

### **4.0 RECOMMENDATION**

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

**Author: Brian Close 01369 708604**

**Contact Point: David Eaglesham 01369 708608**

**Angus J Gilmour**

**Head of Planning & Regulatory Services**

**15<sup>th</sup> March 2011**

**APPENDIX B – RELATIVE TO APPLICATION NUMBER: 10/00222/PPP**

**REPRESENTATIONS:**

**Support**

1. Thomas MacIntyre, 29 Valrose Terrace, Dunoon (letter dated 13<sup>th</sup> August 2010);
2. Susan MacIntyre, 29 Valrose Terarace, Dunoon (letter dated 13<sup>th</sup> August 2010);
3. Mr D Allison, 207 Alexandra Parade, Dunoon (letter dated 12 August 2010);
4. Catherine Docherty, 12 Hafton Court, Dunoon (letter dated 11<sup>th</sup> August 201);
5. Mrs Barbara Gray, 55 The Glebe, Dunoon (letter dated 11<sup>th</sup> August 2010);
6. Mr Kevin Gray, 55 The Glebe, Dunoon (letter dated 11<sup>th</sup> August 2010);
7. Suzanne Nugent, 10 Douglas Cottages, Park Road, Dunoon (letter dated 7<sup>th</sup> August);
8. Ryan Nugent, 10 Douglas Cottages, Park Road, Dunoon (letter dated 7<sup>th</sup> August 2010);
9. Scott Marshall, The Hermitage, 20 Park Road, Dunoon (letter dated 7<sup>th</sup> August 2010);
10. Frances MacDonald, The Hermitage, 20 Park Road, Dunoon (letter dated 7<sup>th</sup> August 2010);
11. Jill English, Ashton View, 5b George Street, Hunters Quay (letter dated 10<sup>th</sup> August 2010);
12. David Crowe, Ashton View, 5b George Street, Hunters Quay (letter dated 10<sup>th</sup> August 2010);
13. Laura Sands, 30 Cromwell Street, Dunoon (letter dated 10<sup>th</sup> August 2010);
14. Louise Murphy, 105/109 Bell Street, Glasgow (letter dated 10<sup>th</sup> August 2010);
15. Ross Ferrier, 105/109 Bell Street, Glasgow (letter dated 10<sup>th</sup> August 2010);
16. Yvonne Lamb, 97 Snadhaven, Dunoon (letter dated 10<sup>th</sup> August 2010);
17. Shelia M Cameron, 2 Tom Nah Ragh, Dalinlonghart (letter dated 11<sup>th</sup> August 2010);
18. Janet Gillespie, 14 Victoria Road, Dunoon (letter dated 11<sup>th</sup> August 2010);
19. Sarah Anderson, 39c Glenmorag Crescent, Dunoon (letter dated 11<sup>th</sup> August 2010);
20. Steven Galloway, 4 Kilbride Road, Dunoon (letter dated 11<sup>th</sup> August 2010);
21. Abbey McMaster, 39 Glenmorag Crescent, Dunoon (letter dated 11<sup>th</sup> August 2010);
22. Colin Miller, 99 Alexander Street, Dunoon (letter dated 7<sup>th</sup> August 2010);
23. Dawn Miller, 99 Alexander Street, Dunoon (letter dated 7<sup>th</sup> August 2010);
24. Christopher Gray, 55 The Glebe, Dunoon (letter dated 7<sup>th</sup> August 2010);
25. William Quinn, 135 Alexander Street, Dunoon (letter dated 5<sup>th</sup> August 2010);
26. Lynn MacFarlane, 103 Auchamore Road, Dunoon (letter dated 5<sup>th</sup> August 2010);
27. Michelle Allison, 55 The Glebe, Dunoon (letter dated 6<sup>th</sup> August 2010);
28. Sarah MacFarlane, 103 Auchamore Road, Dunoon (letter dated 5<sup>th</sup> August 2010);
29. Martin Allison, 207 Alexandra Parade, Kirn, Dunoon (letter dated 7<sup>th</sup> August 2010);
30. Margaret MacFarlane, 103 Auchamore Road, Dunoon (letter dated 5<sup>th</sup> August 2010);
31. Karen Quinn, 135 Alexander Street, Dunoon (letter dated 5<sup>th</sup> August 2010);
32. Carol Mullen, 142 Victoria Road, Dunoon (letter dated 11<sup>th</sup> August 2010);
33. Amanda Arden, 147 Alexander Street, Dunoon (letter dated 11<sup>th</sup> August 2010);
34. Turner, 133 Alexander Street, Dunoon (letter dated 11<sup>th</sup> August 2010);
35. Moira Newall, 31 Fountain Quay, Kirn, Dunoon (letter dated 12<sup>th</sup> August 2010);
36. Taylor Currie, 96 Bullwood Road (letter dated 12<sup>th</sup> August 2010);
37. Honor McCutcheon, 141 Bullwood Road (letter dated 12<sup>th</sup> August 2010);
38. Scott Currie, 141 Bullwood Road (letter dated 12<sup>th</sup> August 2010);
39. Kerri Pullar, Earlton, High Road, Sandbank, Dunoon (letter dated 12<sup>th</sup> August 2010);
40. Abbie Ewart, 82 Sandhaven, Sandbank (letter dated 12<sup>th</sup> August 2010);
41. Alexis Ewart, 82 Sandhaven, Sandbank, Dunoon (letter dated 12<sup>th</sup> August 2010);
42. Stefan Toremar, 1 Eachaig, Kilmun (letter dated 12<sup>th</sup> August 2010);
43. Gail Galloway, 9 Dhalling Road, Dunoon (letter dated 12<sup>th</sup> August 2010);
44. Moira Roberston, 57 Alexander Street, Dunoon (12<sup>th</sup> August 2010);
45. Glenis Coles, 199 Victoria Road, Dunoon (letter dated 12<sup>th</sup> August 2010);

46. Bobbie Davie, 68 Queen Street, Dunoon (letter dated 12<sup>th</sup> August 2010);
47. Chris-Elaine Davie, 68 Queen Street, Dunoon (letter dated 12<sup>th</sup> August 2010);
48. Kirsty Lauder, 137 Argyll Road. Dunoon (letter dated 13<sup>th</sup> August 2010);
49. Ms R. Templeton, 1 Machair Cottage, Toward (letter dated 12<sup>th</sup> August 2010);
50. Catherine MacIntyre, 38 Cowal Place, Dunoon (letter dated 8<sup>th</sup> August 2010);
51. Devon Dupre-Smith, Hamilton House, 7 Wellington Street, Dunoon (letter dated 8<sup>th</sup> August 2010);
52. Irene McKendrick, 6 Kilmun Court, Kilmun, Dunoon (letter dated 12<sup>th</sup> August 2010);
53. Laura MacKendrick, 6 Kilmun Court, Kilmun, Dunoon (letter dated 12<sup>th</sup> August 2010);
54. E. Smith, Hally Cottage, 6 Clyde Street, Dunoon (letter dated 13<sup>th</sup> August 2010);
55. D.J. Black, 13 Tigh-Na-Cladach, Bullwood Road, Dunoon (letter dated 16<sup>th</sup> August 2010)
56. Eileen Brand, 2 Thornwood, Innellan (letter dated 16<sup>th</sup> August 2010);
57. H. Mathieson, 84c Shore Road, Innellan (letter dated 16<sup>th</sup> August 2010);
58. Douglas A. Lauffer, North Campbell Road, Innellan (letter dated 16<sup>th</sup> August 2010);
59. Nigel Potts, 20 Newton Park, Innellan (letter dated 16<sup>th</sup> August 2010);
60. Vanessa Davie, 68 Queen street, Dunoon (letter dated 17<sup>th</sup> August 2010);
61. James Elsby, 2 Eton Avenue, Dunoon (letter dated 13<sup>th</sup> August 2010);
62. Lauren Davie, 68 Queen Street, Dunoon (letter dated 18<sup>th</sup> August 2010);
63. Sarah Love, 21 Wellington Street, Dunoon (letter dated 17<sup>th</sup> August 2010);
64. Gavin Galloway, 12 Dixon Avenue, Kirn, Dunoon (letter dated 10<sup>th</sup> August 2010);
65. Myra Campbell, 53 Queen Street, Dunoon (letter dated 16<sup>th</sup> August 2010);
66. Christopher Dickson, 7 Lorimer Terrace, Sandbank (letter dated 12<sup>th</sup> August 2010);
67. Winniefred Sommerville, Flat 1, 129 Edward Street, Dunoon (letter dated 12<sup>th</sup> August 2010);
68. Kerry MacIntyre, Cairnfield, 125 Edward Street, Dunoon (letter dated 12<sup>th</sup> August 2010);
69. Edward MacIntyre, 29 Valrose Terrace, Dunoon (letter dated 12<sup>th</sup> August 2010);
70. Laura Jane Carmichael, 136b Alexander Street, Dunoon (letter dated 12<sup>th</sup> August 2010);
71. Kelly Marie Walker, 18 Valrose Terrace, Dunoon (letter dated 12<sup>th</sup> August 2010);
72. Christine Dickson, 7 Lorimer Terrace, Sandbank (letter dated 12<sup>th</sup> August 2010);
73. Claire Dickson, 38 Cowal Place, Dunoon (letter dated 12 August 2010);
74. M. Hall, 46 Alexander Street, Dunoon (letter dated 8<sup>th</sup> September 2010);
75. M. McEwan, 9 The Glebe, Dunoon (letter dated 8<sup>th</sup> September 2010);
76. Mrs Lynn Stewart, Lilybank, 6A Alfred Street, Dunoon (letter dated 23 August 2010);
77. Karen Keith, Madiera Lodge, 32 Edward Street, Dunoon (letter dated 25<sup>th</sup> August 2010);
78. Kirsten Oliphant, 7 Park Avenue, Dunoon (letter dated 25<sup>th</sup> August 2010);
79. Patricia MacAlister, 132 John Street, Dunoon (letter dated 25<sup>th</sup> August 2010);
80. Mary Blincow, 31D Park Road, Dunoon (letter dated 25<sup>th</sup> August 2010);
81. Billy Stewart, Hope Cottage, Blairmore, Dunoon (letter dated 1<sup>st</sup> September 2010);
82. Ronald Stokes, 15 Hunter's Grove, Hunters Quay (letter dated 1<sup>st</sup> September 2010);
83. Melanie Douglas, 46 Alfred Street, Dunoon (letter dated 23<sup>rd</sup> August 2010);
84. Penny Galloway, Bentre, King Street, Dunoon (letter dated 20<sup>th</sup> August 2010);
85. Donald Mackay, 130 Fairhaven, Kirn (letter dated 20<sup>th</sup> August 2010);
86. Peter Campbell, 28 Valrose Terrace, Dunoon (letter dated 8<sup>th</sup> September 2010);
87. David McMillan, 20 Johnston Terrace, Dunoon (letter dated 9<sup>th</sup> September 2010);
88. Joan Berndt, 40 Cowal Place, Dunoon (letter dated 9<sup>th</sup> September 2010);
89. Mrs M. Wilson, Ashton View, 177 Edward Street, Dunoon (letter dated 9<sup>th</sup> September 2010);
90. Agnes Kerr, 6 Ardyne Terrace, Innellan (letter dated 8<sup>th</sup> September 2010);
91. Owner/Occupier, 2 Wallace Court, Sandbak (letter dated 8<sup>th</sup> September 2010);
92. Margaret Munro, 12 Lochan Avenue, Kirn, Dunoon (letter dated 8<sup>th</sup> September 2010);
93. Craig, 43 Victoria Road, Dunoon (letter dated 8<sup>th</sup> September 2010);
94. V. Graham, 201 Victoria Road, Dunoon (letter dated 8<sup>th</sup> September 2010);
95. J. Stewart, 6 Allan Terrace, Sandbank, Dunoon (letter dated 8<sup>th</sup> September 2010);
96. Owner/Occupier, 213 Edward Street, Dunoon (letter dated 8<sup>th</sup> September 2010);
97. Macleod, Flat 2/2, Woodford, Dunoon (letter dated 8<sup>th</sup> September 2010);



98. J. Degning, 6 Ardyne Terrace, Innellan (letter dated 8<sup>th</sup> September 2010);
99. M. Fergusson, 58 Shore Road, Innellan (letter dated 8<sup>th</sup> September 2010);
100. Kathie Cameron, 1 Dalriada Grove, Shore Road, Innellan (letter dated 8<sup>th</sup> September 2010);
101. Barbara McLauchlan, 6 Dalriada Grove, Innellan (letter dated 8<sup>th</sup> September 2010);
102. Patrick James Burns, 87 Marine Parade, Kirn (letter dated 8<sup>th</sup> September 2010);
103. Karina Lilika, 73 Alexandra Parade, Dunoon (letter dated 25<sup>th</sup> August 2010);
104. Liva Krastina, 73 Alexandra Parade, Dunoon (letter dated 25<sup>th</sup> August 210);
105. Nancy Laursen, 5 Glenmorag Avenue, Dunoon (letter dated 25<sup>th</sup> August 2010);
106. Crawford, 166 John Street, Dunoon (letter dated 25<sup>th</sup> August 2010);
107. Alexis Rithchie, Ardvaine, High Road, Sandbank (letter dated 8<sup>th</sup> August 2010);
108. Shelley Anthony Davies, Cambrai, Green Bank Lane, Kirn (letter dated 2<sup>nd</sup> August 2010);
109. Rita McKenzie, 56 Ardenslate Road, Kirn (letter dated 3<sup>rd</sup> August 2010);
110. Sarah Campbell, 41 Eton Avenue, Dunoon (letter dated 3<sup>rd</sup> August 2010);
111. Owner/Occupier, Flat ½, 133 John Street, Dunoon (letter dated 5<sup>th</sup> August 2010);
112. Dean Morrison, 1/3, 106 John Street, Dunoon (letter dated 5<sup>th</sup> September 2010);
113. Susan Pochetta, 13 Hill Street, Dunoon (letter dated 4<sup>th</sup> September 2010);
114. Ashleigh McKenzie, 30 Dixon Avenue, Kirn (letter dated 6<sup>th</sup> September 2010);
115. William Honeyball, 16A Clyde Street, Dunoon (letter dated 4<sup>th</sup> September 2010);
116. Mrs Honeyball, 16A Clyde Street, Dunoon (letter dated 4<sup>th</sup> September 2010);
117. Johan Jacobs, 3 Kilbride Road, Dunoon (letter dated 3<sup>rd</sup> September 2010);
118. Jennifer Barron, 29 Marine Parade, Dunoon (letter dated 3<sup>rd</sup> September 2010);
119. Owner/Occupier, 12 Clyde Street, Kirn, Dunoon (letter dated 2<sup>nd</sup> September 2010);
120. Jill Emmerson, Eckvale, Sandbank (letter dated 1<sup>st</sup> September 2010);
121. Mrs A. Henderson, 12 Arthur Terrace, Dunoon (letter dated 23<sup>rd</sup> August 2010);
122. David Stewart, 151 George Street, Dunoon (letter dated 23<sup>rd</sup> August 2010);
123. Emma Stewart, 151 George Street, Dunoon (letter dated 23<sup>rd</sup> August 2010);
124. Angela Kay, 12 Jonston Terrace, Dunoon (letter dated 7<sup>th</sup> September 2010);
125. Nancy Paterson, 45 Alexandra Parade, Dunoon (letter dated 2<sup>nd</sup> September 2010);
126. Jannette Reid, 1 Dixon Avenue, Kirn, Dunoon (letter dated 2<sup>nd</sup> September 2010);
127. Megan Carmichael, 2 Victoria Road, Hunters Quay, Dunoon (letter dated 2<sup>nd</sup> September 2010);
128. Chloe Dalton. 9 Robertson Terrace, Sandbank (letter dated 2<sup>nd</sup> September 2010);
129. MR Ian Stewart, Lilybank, 6A Alfred Street, Dunoon (letter dated 23<sup>rd</sup> August 2010);
130. Joanne McAllister, 24 Ardenslate Crescent, Kirn, Dunoon (letter dated 4<sup>th</sup> September 2010);
131. Nancy Malcolm. 25 Eton Avenue, Dunoon (letter dated 4<sup>th</sup> September 2010);
132. Ciorstaidh Dornan, Top Flat, Dalriada, Ferry Brae, Dunoon (letter dated 4<sup>th</sup> September 2010);
133. J. Birtles, 16 Dixon Avenue, Kirn (letter dated 4<sup>th</sup> September 2010);
134. Linda McGregor, 0/2, 3 Woodford Grove, Dunoon (letter dated 3<sup>rd</sup> September 2010);
135. Mathew Maccoll, Flat ½, 8 Argyll Terrace, Dunoon (letter dated 2<sup>nd</sup> September 2010);
136. Stephen Cole, 6 Ardmhor Road, Dunoon (letter dated 2<sup>nd</sup> September 2010);
137. Ileen Stokes, 15 Hunter's Grove, Hunters Quay (letter dated 1<sup>st</sup> September 2010);
138. Michelle McDonald, 90 Dixon Avenue, Dunoon (letter dated 1<sup>st</sup> September 2010);
139. Owner/Occupier, 4 Kirn Gardens, Kirn (letter dated 1<sup>st</sup> September 2010);
140. Owner/Occupier, 4 Kirn Gardens, Kirn (letter dated 1<sup>st</sup> September 2010);
141. Rachell Glendigging, c/o 99 Alexander Street, Dunoon (letter dated 29<sup>th</sup> August 2010);
142. Robert Glendigging, c/o 99 Alexander Street, Dunoon (letter dated 28<sup>th</sup> August 2010);
143. Sinitia Mezeiko, 39 Fairhaven, Kirn (letter dated 25<sup>th</sup> August 2010);
144. Linda Holdurn, 3 Victoria Crescent, Kirn Brae, Dunoon (letter dated 23<sup>rd</sup> August 2010);
145. Kirsteen McCarron, 11 Bencorrum Brae, Dunoon (letter dated 6<sup>th</sup> August 2010);
146. Michelle Gray, 207 Alexandra Parade, Kirn (letter dated 6<sup>th</sup> August 2010);
147. Martin Allison, 207 Alexandra Parade, Kirn (letter dated 6<sup>th</sup> August 2010);
148. Ian Wilson, 60 Edward Street, Dunoon (letter dated 7<sup>th</sup> August 2010);

149. Richard Longster, 164 John Street, Dunoon (letter dated 10<sup>th</sup> August 2010);
150. Roberston, 21 Miller Court, Dunoon (letter dated 10<sup>th</sup> August 2010);
151. Angela Roberston, Flat 1/3, 59 John Street, Dunoon (letter dated 10<sup>th</sup> August 2010);
152. James Hamilton, 5 Dixon Place, Kirn (letter dated 18<sup>th</sup> August 2010);
153. N. Roberston, 9 Johnston Terrace, Dunoon (letter dated 9<sup>th</sup> August 2010);
154. Alan g. Alan, 58 Argyll Road, Kirn (letter dated 18<sup>th</sup> August 2010);
155. Alan Stewart, Brackley Cottage, Toward (letter dated 1<sup>st</sup> September 2010);
156. AM. Houston, 14 McArthur Street, Dunoon (letter dated 18<sup>th</sup> August 2010);
157. Alison Marshall, 82 Mary Street, Dunoon (letter dated 18<sup>th</sup> August 2010);
158. Lorraine Galbraith, 32 Dixon Avenue, Kirn (letter dated 18<sup>th</sup> August 2010);
159. Bruce Thomson, 9A Jane Street, Dunoon (letter dated 18<sup>th</sup> August 2010);
160. Galloway, Hafton Court, 58 Ardenslate Road, Kirn (letter dated 10<sup>th</sup> August 2010);
161. Hilda Galloway, Hafton Court, 58 Ardenslate Road, Kirn (letter dated 10<sup>th</sup> August 2010);
162. John Allison, 207 Alexandra Parade, Kirn (letter dated 10<sup>th</sup> August 2010);
163. Valerie Kent, 7 Gerhallow, Bullwood, Dunoon (letter dated 6<sup>th</sup> August 2010);
164. Suzanne Roberston, 164 John Street, Dunoon (letter dated 6<sup>th</sup> August 2010);
165. Santa Mezeiko. 39 Fairhaven, Kirn (letter dated 25<sup>th</sup> August 2010);
166. Sintia Fomina, 3 Regent Terrace, Dunoon (letter dated 25<sup>th</sup> August 2010);
167. David McDermot, 2/3, 53 John Street, Dunoon (letter dated 18<sup>th</sup> August 2010);
168. David Whyte, 3 Ash Gardens, Kirn (letter dated 18<sup>th</sup> August 2010);
169. Brian Gray, 8 Dixon Avenue, Kirn (letter dated 18<sup>th</sup> August 2010);
170. Douglas Ross Gray, 115B Edward Street, Dunoon (letter dated 18<sup>th</sup> August 2010);
171. John Cargill, 55 Ardenslate Crescent, Kirn (letter dated 8<sup>th</sup> September 2010);
172. R. Sherville, 27 Fairhaven, Kirn (letter dated 8<sup>th</sup> September 2010);
173. Graeme Macpherson, 7 Leven Lane, Kirn (letter dated 8<sup>th</sup> September 2010);
174. Darren Lauffer, 6 Heatherbloom Place, Strone (letter dated 8<sup>th</sup> September 2010);
175. David Hughes-Barr, 49 Sandhaven, Sandbank (letter dated 7<sup>th</sup> September 2010);
176. Linda Hughes-Barr, 49 Sandhaven, Sandbank (letter dated 7<sup>th</sup> September 2010);
177. Elaine Appleby, 15 Fairhaven, Kirn (letter dated 18<sup>th</sup> August 2010);
178. Irene Allison, 207 Alexandra Parade, Kirn (letter dated 6<sup>th</sup> August 2010);
179. Patricia McCann, 4 Bogleha Green, Argyll Street, Dunoon (letter dated 18<sup>th</sup> August 2010);
180. Hazel Galloway, 45 Kilbride Road, Dunoon (letter dated 25<sup>th</sup> August 2010);
181. Christine Boyle, 193 Alexandra Parade, Dunoon (letter dated 18<sup>th</sup> August 2010);
182. Sandy MacAlister, 132 John Street, Dunoon (letter dated 25<sup>th</sup> August 2010);
183. Richard Salisbury, 47 Forest View, Strachur, Cairndow (letter dated 25<sup>th</sup> August 2010);
184. K.R.M. Adams, Dunadd, 54 Shore Road, Innellan (letter dated 23<sup>rd</sup> August 2010);
185. Chris Talbot, 12 McKinlay's Quay, Sandbank, Dunoon (letter dated 18<sup>th</sup> August 2010);
186. Lorna Rae, 58 Dixon Avenue, Kirn (letter dated 13<sup>th</sup> August 2010);
187. Calum Rae, 58 Dixon Avenue, Kirn (letter dated 14<sup>th</sup> August 2010);
188. John and Marion Paterson, 67 Sandhaven, Sandbank (letter dated 14<sup>th</sup> August 2010);
189. Nicola Rae, 58 Dixon Avenue, Kirn (letter dated 13<sup>th</sup> August 2010);
190. Margaret Holgate, St. Abbs, 24 Shore Road, Innellan (letter received 16<sup>th</sup> August 2010);
191. Deborah Rycroft, 4 Broxwood Place, Sandbank (letter dated 15<sup>th</sup> August 2010);
192. Kivanc Altin, 13 Albert Place, Sandbank (letter dated 15<sup>th</sup> August 2010);
193. Rhona Atlin, 13 Albert Place, Sandbank (letter dated 15<sup>th</sup> August 2010);
194. John McCombe, 33 Johnston Terrace, Dunoon (letter dated 12<sup>th</sup> August 2010);
195. Mr D Robson, 29 King Street, Dunoon (letter dated 12<sup>th</sup> August 2010);
196. Ishbel Fairman, 29 Sandhaven, Sandbank (letter dated 11<sup>th</sup> August 2010);
197. Mrs. May Gill, 18 Dalriada Grove, Innellan (letter dated 12<sup>th</sup> August 2010);
198. Doreen MacDonald, 3 Dhailing Park, Kirn (letter dated 10<sup>th</sup> August 2010);
199. Fiona Morrison, 6 Strawberry Field Road, Crosslee (letter dated 10<sup>th</sup> August 2010);
200. Melanie Gladwell and Gordon Drummond, 197 Edward Street, Dunoon (letter dated 10<sup>th</sup> August 2010);
201. Edwina Carter, 38 Park Road, Kirn (letter dated 10<sup>th</sup> August 2010);

202. Ormonde Ross Carter, 38 Park Road, Kirn (letter dated 10<sup>th</sup> August 2010);
203. W S Sutherland, Drum Cottage, Kilfinnan (letter dated 10<sup>th</sup> August 2010);
204. Kevin Lynch, 19 Drumadoon Drive, Helensburgh (letter dated 11<sup>th</sup> August 2010);
205. Delia Blackmore, Fingal House, 35 Argyll Road, Dunoon (letter dated 10<sup>th</sup> August 2010);
206. J. Hutchison, 2 Victoria Crescent, Kirn (letter dated 30<sup>th</sup> July 2010);
207. M. Smith and M. McBride, Ashmore, 9 Brandon Street, Dunoon (letter dated 27<sup>th</sup> July 2010);
208. Mr. J. Douglas McCallum, Hoop House, Flat 4, 109 Bullwood Road, Innellan (letter dated 16<sup>th</sup> July 2010);
209. Email
210. Maurice Bianchi, Kilmun (email dated 10<sup>th</sup> August 2010);
211. Donald Ross and Catherine Ross, 104 Sandhaven, Sandbank (email dated 10<sup>th</sup> August 2010);
212. W. Craig, 3 Brae Cottages, Sandbank (email dated 27<sup>th</sup> July 2010);
213. Margaret Holgate, St. Abbs, 24 Shore Road, Innellan (email dated 15<sup>th</sup> July 2010);
214. Dr. Ann P. Carter and Mr. Clive C. Carter, 4 Hunters Grove, Hunters Quay (email dated 24<sup>th</sup> July 2010);
215. Susan Watling, Springfield Cottage, Wellington Street, Dunoon (email dated 24<sup>th</sup> July 2010);
216. Mrs. Lorna Rae, 58 Dixon Avenue, Kirn (email dated 27<sup>th</sup> July 2010);
217. May Finnie, 11 Cammesreinach Crescent, Hunters Quay (email dated 20<sup>th</sup> July 2010);
218. Fiona Morrison, 3 Dhalling Park, Kirn (email dated 15<sup>th</sup> July 2010);
219. Ailsa Allaby, Braehead Cottage, Tighnabruaich (email dated 21<sup>st</sup> July 2010);
220. Richard McGilvray, Innellan (email dated 20<sup>th</sup> July 2010);
221. Helen Hackett, Lynnburn, 21 Bullwood Road, Dunoon (email dated 20<sup>th</sup> July 2010);
222. Mrs. K.B. Wallace (email dated 16<sup>th</sup> July 2010);
223. Mario Pellicci (email dated 16<sup>th</sup> July 2010)

**Against**

1. GVA Grimley representing Wm Morrison Supermarkets plc (letter dated 27<sup>th</sup> July 2010);
2. GL Hearn representing the Co-operative Group (letters dated 20<sup>th</sup> May 2010, 27<sup>th</sup> October 2010 & 23 February 2011);
3. Montagu Evans representing National Grid Property Holdings Ltd. (letters dated 23<sup>rd</sup> April and 6<sup>th</sup> May 2010);
4. Mackays Stores Limited trading as M&Co (letter dated 7<sup>th</sup> September 2010)
5. John C. MacLeod, The Paint and Hardware Shop, 124/126 Argyll Street, Dunoon (letter dated 28<sup>th</sup> July 2010);
6. Jennifer A. Harrison and Anthony S. Watkins – The Swallow Café, 172 Argyll Street, Dunoon (letter dated 27<sup>th</sup> July 2010);
7. Jack Gibson – Steven Gibson Ltd. 96 Argyll Street, Dunoon (letters dated 19<sup>th</sup> June and 20<sup>th</sup> July 2010);
8. Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 6<sup>th</sup> December 2010)
9. P. Hegarty and Mhairi Hegarty – Montgomery Butchers, Argyll Street, Dunoon (letter received 20<sup>th</sup> July 2010);
10. Scott Docherty – The Codfathers Fishmongers, Argyll Street, Dunoon (letter received 20<sup>th</sup> July 2010);
11. Dinah McDonald – Bookpoint 6 Deer Park, Glen Massan (letters dated 1<sup>st</sup> June 2010 & 7 February 2011);
12. Brian Cunningham – ECO Health Shop, 40 Cromwell Street, Dunoon (email dated 26<sup>th</sup> July 2010);
13. Norman Wright - Wrights Clothing, 192 Argyll Street, Dunoon (email dated 22<sup>nd</sup> July 2010);
14. Murray – Cothouse Services, by Sandbank (email dated 27<sup>th</sup> July 2010);
15. Email
16. Alastair & Nora Cameron, 2 Avondale Lane, Bullwood Road, Dunoon (letter dated 8<sup>th</sup> October 2010);
17. John Nicol, 1 Cherryhill, Kirn (letter dated 26<sup>th</sup> July 2010);
18. Owner/Occupier, 1B Eccles Road, Hunters Quay, Dunoon (letter received 20<sup>th</sup> July 2010);
19. Vivien Hill, Rosehill, Strachur (letter received 20<sup>th</sup> July 2010);
20. D. Manson, 3 West Street, Dunoon (letter dated 2<sup>nd</sup> July 2010);
21. Gordon and Marjorie Roberts, 103 Shore Road, Innellan (letter dated 21<sup>st</sup> June 2010);
22. Lillian Gardner, Dalchruin, Baycroft, Strachur (letter dated 12<sup>th</sup> June 2010);
23. Councillor Bruce Marshall (email dated 27<sup>th</sup> July 2010);
24. Margaret Saidler (emails dated 16<sup>th</sup> June and 20<sup>th</sup> July 2010);
25. Gwyneth Maskell (email dated 29<sup>th</sup> June 2010);
26. Jean Maskell (email dated 9<sup>th</sup> June 2010);
27. John Quirk, Dunmore House, 203A Alexandra Parade, Dunoon (email dated 26<sup>th</sup> July 2010);

**Representation**

- J. Hutchison, 2 Victoria Crescent, Kirn (letter received 30<sup>th</sup> July 2010).

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

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**Reference No:** 10/00222/PPP

**Planning Hierarchy:** Major

**Applicant:** CWP Property Development and Investment

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

**Site Address:** 361 Argyll Street, Dunoon.

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## DECISION ROUTE

### (i) Local Government Scotland Act 1973

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#### (A) THE APPLICATION

##### (i) Development Requiring Express Planning Permission

- Erection of Class 1 foodstore (3,716 sqm / 40,000sqft gross retail floorspace);
- Formation of car parking (238 spaces);
- Formation of access road and road bridge;
- Erection of petrol filling station;
- Ground engineering works to re-grade site;
- Timber crib retention along banks of Milton Burn.

##### (ii) Other specified operations

- Connection to public sewer and public water supply
  - Demolition of existing Garden Centre and associated storage and commercial buildings.
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#### (B) RECOMMENDATION:

It is recommended that:

- (a) a discretionary local hearing be held, and
  - (b) planning permission be refused for the reasons set out below (in section R).
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#### (C) HISTORY:

92/0498/DET001 Change of use and alterations to form garden centre granted 1992;  
93/00297/DET Extend retail premises, erect unit & relocate petrol station granted 1993;

94/00385/DET Erection of garage forecourt shop (amended proposals) granted 1994;

05/02264/DET Erection of 2 warehouse storage buildings (Class 6) granted on 27<sup>th</sup> July 2006. The proposal was never implemented;

07/02189/COU Use of land for the siting of storage containers (retrospective) granted 3 June 2008 and implemented.

09/00003/PAN Proposal of Application Notice for erection of a Class 1 foodstore and associated development to include car parking, access road, road bridges, petrol filling station and engineering works by CWP Property Development and Investment

07/01903/DET Detailed planning application by Kier Homes for a 74 house development on PDA 2/5. This application is currently being considered awaiting additional supporting information.

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**(D) CONSULTATIONS:**

**Area Roads Manager** (response dated 16<sup>th</sup> September 2010): No objections subject to conditions and advisory notes. Roads Construction Consent, Road Bond and Road Opening Permit all required. For full details refer to report below.

**Public Protection** (response dated 25<sup>th</sup> October 2010): Recommend conditions in respect of contamination of site, noise from development, dust, lighting and operational hours.

**Scottish Environment Protection Agency** (responses dated 19<sup>th</sup> March, 14<sup>th</sup> April 2010): Original objection removed due to submission of revised flood risk information. No objections in principle subject to conditions regarding land raising, site levels and flood management measures including finished floor levels. Advisory notes.

**Scottish Water** (response dated 25<sup>th</sup> February 2009): No objections in principle. Due to size of development Scottish Water will have to assess impact on existing infrastructure. Potential capacity issues. Advisory comments.

**Flood Alleviation Manager** (response dated 31<sup>st</sup> March and 18<sup>th</sup> August 2010) :Confirm that proposals in Flood Risk Assessment are acceptable on the understanding that the 'Summary and Conclusions' are implemented and that allowances for freeboard and volumes of surface water discharge to Milton Burn are agreed with the Flooding Authority.

Additional technical comments on Drainage Overview to be incorporated into proposals.

**Scottish Natural Heritage** (responses dated 29<sup>th</sup> October 2009, 12<sup>th</sup> May 2010, and 23<sup>rd</sup> August 2010): Recommend that a repeat survey be carried out for bats, otters, red squirrel, water vole and breeding birds. In terms of Sea Trout, SNH have forwarded details to Argyll District Salmon Fishery Board.

On the basis of an updated Ecology Report, SNH now satisfied with the conclusions and mitigation measures for otters and breeding birds.

**Local Biodiversity Officer** (response dated 13<sup>th</sup> May 2010, 23<sup>rd</sup> August 2010, and 11<sup>th</sup> October 2010): Reserve judgement initially. Comments regarding bat and otter surveys and recommend that red squirrel and woodland birds are monitored. Comments regarding Sea Trout and bridge construction in terms of contamination. Recommend that a detailed landscaping plan to include species of biodiversity interest be submitted for the car park and the area around the proposed supermarket.

On the basis of the updated Ecology Report, now satisfied with conclusions but would like to see bat boxes placed on retained trees near where felling has take place.

**Argyll District Salmon Fishery Board** (response dated 27<sup>th</sup> November 2009): Original comments lodged as part of the Pre Application Consultation process. Comments regarding CAR regulations and mitigation requirements for trout and eels that are present in the Milton Burn that flows from Loch Loskin.

**West of Scotland Archaeology Service** (response dated 11<sup>th</sup> March 2010): Comment that the site lies within an area of some archaeological sensitivity based on the presence of recorded sites and finds from various periods. Recommend that a site evaluation be carried out prior to taking a decision. Alternatively a suspensive condition is recommended to establish that a programme of archaeological works be agreed and implemented.

**Dunoon Community Council** (response received 12<sup>th</sup> March 2010): Object on the basis of traffic congestion in the area, sightlines, noise and light pollution and flooding.

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**(E) PUBLICITY:**

The application was advertised under Regulation 20(1) Advert Statement (publication date 5<sup>th</sup> August 2010, expiry date 27<sup>th</sup> August 2010).

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**(F) REPRESENTATIONS:**

Representations: Around 1100 representations have been received with 30 letters/emails of objection and 1070 letters/emails of support. Refer to Appendix for full list of representations.

**Supporters**

The persons who have written letters of support (1070) are listed in an appendix to this report. The majority of these letters of support take the format of a standard petition letter. Canvassing by Walkers Garden Centre has resulted in a petition with 850 names, and a doorstep campaign by a local business owner has resulted in petition letters totalling approximately 160 names. The grounds of support are summarised as follows:

- The new supermarket will improve the quality of food retail provision in the area;
- The new supermarket will improve choice and bring lower prices for shoppers;
- The new supermarket will provide new job opportunities (standard petition letter.)
- It will save time and money travelling out of Dunoon;
- Proposal will increase the number of people shopping in Dunoon;
- Existing supermarkets are too small and constricted by lack of space;
- Primary opposition appears to be local traders in Argyll Street;
- Many people in Dunoon and Cowal regularly travel across the water for shopping – significant economic gain if this spending could be kept in Dunoon;
- Wish to see large modern supermarket with plenty of choice and toilets;
- Desire to do a single shopping in one store than driving from one supermarket to another;
- Being able to shop, get petrol, coffee and the toilet in one place would be a bonus;

It should be noted that a letter from Kier Homes (dated 15<sup>th</sup> December 2010) confirms that Kier's contract with the landowners allows for the development of the site as part of a mixed-use development to include a foodstore development as proposed. On this

basis, Kier Homes wish to confirm that approval of the proposed foodstore development would not impeded the construction of housing on the remaining part of the site and would potentially rationalise infrastructure provision. In this context. Kier Homes remain committed to the delivery of housing at Dunloskin.

## Objectors

Those who have raised objections (30) are listed in an appendix to this report. These include objections from the existing supermarkets, the owners of the Gasworks site and many of the town centre retailers.

- The proposal in an out of centre location will promote unsustainable shopping patterns and will not support Dunoon Town Centre;
- the former Dunoon Gasworks site is in a sequentially preferable location and available for medium scale retail development and therefore the proposal is contrary to PROP SET2 of the Structure Plan and policy LP RET1 of the adopted Argyll and Bute Local Plan;
- the proposal will prejudice the delivery of housing allocations PDA 2/5 and 2/6; the retail impact assessment underestimates the net floorspace and company average of Morrisons and underestimates the turnover of the existing Co-op store that is considerably higher than the figures suggested;
- also feel that company average turnover applied to other convenience floorspace in the catchment are overly conservative;
- do not feel that future projected population growth should be used in the estimation of retail capacity;
- the turnover of the proposed store has been underestimated and the turnover ratios used are much lower than the company average figures for the main foodstores in the UK;
- no justification to support the position that the proposed store would trade at a level significantly below company average levels;
- Surplus of convenience expenditure in the catchment area is not sufficient to support a store of the scale proposed without having a significant adverse impact upon Dunoon Town Centre;
- Maximum trade leakage lower than forecasted based on existing convenience expenditure;
- Proposal would be contrary to SPP8 in that the development would have a detrimental impact on the vitality and viability of Dunoon Town Centre;
- Proposed development is a departure from the Local Plan
- Dunoon currently has two supermarkets, both of which have the potential for expansion;
- Introducing a third supermarket located so far out of town will have result in a drastic decline in footfall in the town centre (town centre shops will see a decrease in turnover of 9.4%).
- Findings in the Retail Impact Study are misleading and biased.
- An independent Retail Impact Study should be carried out to gain an accurate assessment of the impact the development would have on town centre retailers;
- Experience shows that out of town centres have a detrimental impact on traditional town centres;
- The proposal could lead to the closure of one of the existing supermarkets;
- Closure of retail outlets in Dunoon Town Centre will have a detrimental effect on the number of day visitors visiting Dunoon;
- Current economic climate already affecting Dunoon Town Centre in terms of closed shops and struggling businesses;
- Any employment created would be short lived with cumulative impact of closed shops and loss of jobs from existing supermarkets;



- The present regeneration of Dunoon Town Centre would be seriously undermined by an out of town development;
- Morrisons provide a facility for linked trips where its proximity within the town centre allows shoppers to purchase goods from a range of town centre shops from a central parking facility;
- Alternative land uses should be promoted through the local plan process;
- Catchment area cannot sustain three supermarkets and town centre shops;
- Large retailers compete against every type of business trading in the area;
- Contradictions and misleading information in the Planning and Retail Statement;
- Applicant has acknowledged that the store is out of centre and that there will be significant trade diversion from Dunoon town centre;
- Visitors come to Dunoon want to wander the shops in the town centre, not to visit another supermarket;
- Object to the desecration of large areas of natural landscape;
- "The Health of the High Street" by the British Shops and Stores Association stresses the importance of a health High Street and there is a move nationally to revitalise and promote our town centres;
- Suggested similar examples e.g. Huntly are actually experiencing serious problems with an edge of town supermarket competing with town businesses and in breach of convenience only planning conditions;
- Proposed development will exacerbate existing traffic congestion problems;
- Dunoon need improved leisure and social facilities, not another supermarket;
- New junction will cause traffic flow problems especially at peak times;
- Surrounding uses requiring a quick exit i.e. Fire Station, Emergency Ambulance and Hospital;
- Bridges across the Milton Burn are a potential for flooding;

The owners of the Gasworks site (National Grid Property) have confirmed (letter dated 28<sup>th</sup> February 2011) that their site is available for redevelopment for an appropriate use on vacant land that is sequentially preferable to the CWP proposal. NGP also confirm that they are actively considering submitting a Proposal of Application Notice (PAN) with the intention of submitting a retail planning application in due course.

NGP state that the gasworks site has been remediated in readiness for beneficial reuse and feasibility works undertaken shows that the site could easily accommodate a standard retail foodstore extending in the region of 3,000sqm (32,000sqft) gross.

Contrary to CWP's assertions, NGP do not consider that either the linear shape of the gasworks site or the existence of a watercourse represent insurmountable constraints to redeveloping the site for retail use.

NGP have submitted details from a range of retail schemes that CWP have been involved with where a site of the size of the gasworks site would be attractive to modern food store operators.

In terms of suggestions that the site is at risk of flooding, appropriate mitigation measures can be accommodated which would protect proposed development at the site whilst not increasing the risk of flooding elsewhere.

The Co-operative Group (represented by GL Hearn) in their letter dated 24<sup>th</sup> February 2011 state that the revised retail statement continues to rely upon data sourced from the National Survey of Local Shopping Patterns (NSLSP) patterns to support the views on the turnover of existing retail floorspace and the leakage of trade stores outwith the catchment area. It is suggested that the NSLSPIS not sufficiently robust to be applied at a local level and is not an appropriate tool for estimating the turnover of existing retail floorspace. A well designed household survey is considered to provide more accurate information such as: - specific stores used by main food shoppers, reason for visiting certain stores, how they travel, whether they are undertaking linked trips and how much they spend in each store. These views are supported by the Scottish Government's 2007 research paper on retail planning which establishes that only well designed

household surveys can be used to provide estimates of the turnover of existing floorspace and even then, that household surveys cannot provide 100% accurate information on expenditure flows and turnover rates.

It is concluded that there is no justification for a large out-of-centre foodstore and the scale is likely to have a significant adverse impact on the vitality and viability of the existing shopping facilities in Dunoon town centre. Despite revising their Retail Impact Analysis, the applicants have not offered any meaningful justification to support their view that the proposed store will trade below company average levels and will have a limited impact on Dunoon town centre.

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**(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.

Revised Design and Access Statement (December 2010) states that *the topography of the site has dictated the orientation and location of the building. Existing and proposed screening in addition to excavation and use of a curved roof will all help to integrate the building into the landscape. While buildings are indicative at this stage, careful use of materials for the foodstore building and petrol filling station will reduce any perceived bulk. The organisation of the car park into rows makes navigating in and out of the store easy for vehicles and customers. The extruded entrance lobby can be clearly identified giving legibility to the scheme. The statement concludes that the proposed development aims to achieve the qualities of successful, places as highlighted by PAN67: to be welcoming, adaptable, easy to get to and move around, safe and pleasant, resource efficient and distinctive.*

- (iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

'Planning and Retail Statement' (Revised) dated January 2011 by James Barr;  
Concludes that the proposed development:-

- *is acceptable in the context of National, Strategic and Local planning policy;*
- *is consistent with the aims and objectives of the PDA allocation as it seeks to assist in the delivery of housing units;*
- *can be considered consistent with policy PROP SET 2 and Policy LP RET1 of the Local Plan;*
- *meets the sequential approach as there are no suitable sites or vacant premises located within or adjacent to the town centre and the site is an out of centre site that is easily accessible by a choice of modes of transport, particularly walking;*
- *will meet both a quantitative and qualitative deficiency within catchment and town;*
- *will improve customer choice where retail provision is limited for main food shopping;*
- *is easily accessible by pedestrians and public transport;*

- *will not have a significant adverse impact on Dunoon Town Centre; and,*
- *will provide additional employment opportunities in the local area.*

*'Transport Assessment' dated February 2010 by Savell Bird & Axon; The Transport Assessment confirms that the local road network will continue to operate within capacity with the addition of traffic associated with the proposed development. The proposal includes a number of features to improve accessibility e.g. footway along the southern side of the supermarket access road, replacement footway along Argyll Street frontage, provision of cycle stands and retention and relocation of two bus stops on Argyll Street. A Travel Plan will also require to be developed and agreed with the Council.*

*The 'Design and Access Statement' (revised December 2010) states that the building and external works aim to be welcoming, flexible inclusive and convenient for all regardless of age or disability. A continuous pedestrian route will be provided from Argyll Street into the site and along the frontage without ramps or stairs. Cycle stands, accessible parking spaces and parent and child parking spaces are all proposed.*

*'Flood Risk Assessment' dated 21<sup>st</sup> January 2010 by Kaya Consulting Ltd.; This assessment considered flood risk from the Milton Burn, from three unnamed tributary watercourses and from surface water run-off generated from outwith the site. The areas proposed for the superstore and petrol filling station are outwith the predicted functional floodplain. However, a number of minor drainage issues can be addressed satisfactorily during the detailed design stage. The eventual bridge design can also be modelled to avoid flood risk to others.*

*'Site Flooding/Sustainable Drainage Overview Study Rev A' by Scott Bennett Associates dated August 2010; This report incorporates the findings of the Kaya Flood Risk Assessment and contains proposals for flood risk, SUDS measures including surface water storage attenuation below the car park, swales, filter strips and porous paving. The report concludes that based on the strategy and surface water management proposed, there would be no significant flood risk to either the development or to adjacent properties.*

*'Ecology Report Rev 03' dated July 2010 by CB Consulting and Wild Surveys. The report confirms no statutory designated sites or non-designated sites within or adjacent to the site. Desk and field studies identify otter activity, bats, water voles and breeding birds and appropriate mitigation measures are proposed to avoid or minimise impacts.*

*'Consultation Report Stage II' dated 1<sup>st</sup> October 2010 by James Harbison & Co; While not a formal requirement, this document demonstrates the commitment to engage with the communities of Dunoon and Cowal. Further consultations show a cumulative support for the proposals and as at 1<sup>st</sup> October 2010 1750 names have been gathered from a wide spectrum of the Dunoon and Cowal community based on returns received from public exhibition, Dunoon and Cowal Business Association, Community Council Debate, Senior Citizens' Group. Local survey, Walker's customer petition plus website support and Facebook support.*

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**(H) PLANNING OBLIGATIONS**

- (i) **Is a Section 75 agreement required:** No. Application is recommended for refusal.
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- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
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- (J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

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

'Argyll and Bute Structure Plan' (2002)

STRAT SI 1 - Sustainable Development;  
STRAT DC1 - Development Within the Settlements;  
STRAT DC7 – Nature Conservation and Development Control;  
STRAT HO1 – Housing – Development Control Policy;  
STRAT DC8 – Landscape and Development Control;  
STRAT DC9 – Historic Environment and Development Control;  
STRAT FW2 – Development Impact on Woodland;  
STRAT DC10 – Flooding and Land Erosion;  
PROP SET2 – Town Centres and Retailing;  
PROP TRANS1 - Development Control, Transport and Access.

'Argyll and Bute Local Plan' (2009)

The application site is located within the extended settlement boundary of Dunoon and partly within PDA 2/5 where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;  
LP ENV6 Development Impact on Habitats and Species;  
LP ENV7 Development Impact on Trees/Woodland;  
LP ENV17 Development Impact on Sites of Archaeological Importance;  
LP ENV19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance;  
LP HOU1 General Housing Development;  
LP HOU2 Provision of Housing to meet Local Needs including Affordable Housing Provision;  
LP HOU4 Housing Green Space;  
LP BAD1 Bad Neighbour Development;  
LP RET 1 Retail Development in the Towns – The Sequential Approach;  
LP SERV1 Private Sewage Treatment Plants and Wastewater Systems;  
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);  
LP SERV3 Drainage Impact Assessment (DIA);  
LP SERV7 Contaminated Land;  
LP SERV8 Flooding and Land Erosion;  
LP TRAN1 Public Access and Rights of Way;  
LP TRAN2 Development and Public Transport Accessibility;  
LP TRAN3 Special Needs Access Provision;  
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;  
LP TRAN5 Off site Highway Improvements;  
LP TRAN6 Vehicle Parking Provision;

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

- Scottish Planning Policy (February 2010), paras. 52-65
  - Planning Advice Note 2/2010 – ‘Affordable Housing’;
  - Planning Advice Note 52 – ‘Planning in Small Towns’;
  - Planning Advice Note 59 – ‘Improving Town Centres’;
  - Planning Advice Note 67 – ‘Housing Quality’;
  - Planning Advice Note 68 – ‘Design Statements’;
  - ‘A Policy Statement for Scotland - Designing Places’;
  - Consultee Responses;
  - Third Party Representation;
  - Scottish Government - Town Centre and Retailing Methodologies: Final Report (2007);
  - EKOS (Economic and Social Development) – Dunoon Locality Socio-Economic Baseline Report.
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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes**

As an urban development project exceeding 0.5 hectares in size, the proposal would represent Schedule 2 development under the Regulations. In determining whether the proposal represents EIA development, the Council has considered the selection criteria set out in Schedule 3 of the Regulations. With regard to the characteristics of the development and the environmental sensitivity of the location, it is noted that part of the site is occupied by commercial buildings and the western half of the site allocated in the Argyll and Bute Local Plan for housing development with an application currently being processed. For these reasons, it is considered that the proposed development does not require an EIA.

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**(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes**

*‘Pre-application Consultation Report’ dated 27<sup>th</sup> January 2010 by James Harbison & Co; The Pre-application Consultation (PAC) Report confirmed that a public exhibition was held in Queens Hall on 16/17 October 2009 where approximately 400 people visited and filled out questionnaires. Despite 74% doing their main food shopping in Dunoon, 61% felt that a new supermarket is needed in Dunoon and 70% supported the proposal for a new supermarket on the proposed Argyll Street site. Findings demonstrate a significant leakage of food shoppers who choose to undertake their main weekly shop outside Dunoon and research indicates that the market share to town centre food retailers (excluding Morrisons and the Co-op) is 7%.*

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**(M) Has a sustainability check list been submitted: Yes - received 11<sup>th</sup> May 2010.**

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

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**(O) Requirement for a hearing (PAN41 or other): Yes**

The proposal represents a departure from the Development Plan and is recommended for refusal. In view of the complexity of the proposal, its potential impacts on the landscape and environment of a wider area, and the volume of representations by consultees, affected local businesses and individuals, it is recommended that a discretionary local hearing be held before finally determining the application.

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

The proposed retail development is located on the north western outskirts of Dunoon, and includes part of a Potential Development Area (PDA 2/5) at Dunloskin Farm identified in the Argyll and Bute Local Plan as suitable for medium density housing (including 25% affordable) development. The site is outwith the identified town centre which is identified as the preferred location for new retail investment. It is also outwith the defined edge of town centre location, which in the absence of suitable town centre sites, is the sequentially preferred location for retail development.

The applicant suggests that there is currently significant trade diversion (or leakage) out of the Dunoon catchment area due to existing choice and quality of main convenience shopping within Dunoon. The applicant feels that a large foodstore at the edge of the Dunoon settlement will arrest that trade diversion offering competition, choice, lower prices and new jobs to Dunoon.

The application site lies within the main town settlement of Dunoon but outwith Dunoon Town Centre and the Edge of Centre zone as identified in the Argyll and Bute Local Plan (August 2009). The proposal is therefore considered as an 'out-of-town' location.

In line with Scottish Planning Policy and the Argyll and Bute Structure Plan policy Prop Set 2, the Argyll and Bute Local Plan establishes a presumption in favour of retail development within town centres, and adopts a sequential approach to retail development outwith town centres, firstly to sites within identified edge of town centre locations, and then to other sites which are accessible or can be made accessible by a choice of means of transport (see policy LP RET 1) elsewhere within the town. The policy requires that in any of these cases that there is no significant detrimental impact on the vitality or viability of existing town centres, and the proposal is consistent with the other structure and local plan policies. The policy allows for a retail impact assessment to be requested to demonstrate the anticipated impact of the proposal on the town centre.

The applicants have therefore submitted a Planning and Retail assessment which seeks to address the policy issues in relation to both the sequential test issue and the retail impact on the town centre. The applicants suggest that the only available alternative site is the former Dunoon Gasworks site on Argyll Street/Hamilton Street, but this site has been discounted due to its size and configuration.

The proposal is also regarded by the applicants as a method to facilitate a residential development in the rear part of Potential Development Area 2/5 Dunloskin Farm, which is currently the subject of an application for 74 houses for the entire site by Kier Homes. The current application must therefore also be assessed on its impact on this potential housing site with almost half of the PDA site proposed for the foodstore and associated buildings and land.

The proposed foodstore would be more than double the size of the existing Morrisons Store and have a petrol filling station and large car park adjacent. The applicants feel that the proposal will keep the trade diversion within Dunoon that would significantly

reduce the number of trips made for main food shopping and keep this lost expenditure within Dunoon.

Around 1100 representations have been received with 30 letters of objection and 1070 letters in support of the application, as detailed in appendices. Many of these indications of support take the form of a petition. Objections have been received from many town centre traders including the two existing supermarkets and the owners of the former Gasworks site who have confirmed that they wish to develop their site for supermarket usage.

The proposal is considered to be contrary to the settlement strategy for Dunoon with policies to support the town centre function as the focus for retailing. It is also considered that the scale and location of the proposed development would have a significant detrimental impact on the viability and vitality of Dunoon Town Centre and other retail outlets. It is considered that the protection of Dunoon Town Centre and its established retailing outlets as a retailing centre and tourist centre outweigh any drawback of perceived leakage to areas outwith the catchment.

Given all of the above, the application is considered to be contrary to policies contained in National Planning Policy Guidance, the Argyll and Bute Structure Plan and the Argyll and Bute Local Plan and does not justify the grant of planning permission.

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

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**(R) Reasons why Planning Permission in Principle should be refused**

1. The proposed development would undermine the settlement strategy that supports Dunoon Town Centre and its edge of centre locations as preferred locations for retail purposes. The proposal to site a major foodstore in an 'out-of-town' location could have the potential to undermine and potentially harm the character and status of Dunoon Town Centre as an established traditional town centre location and function. Accordingly, the proposed development would be contrary to Policy STRAT SI 1, STRAT DC1, PROP SET 2, PROP SET3 and PROP SET4 of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19 and P/PDA 1 of the Argyll and Bute Local Plan (August 2009).
2. The proposal is considered to be contrary to the policy LP RET 1 of the Argyll and Bute Local Plan (August 2009). The proposed foodstore is outwith Dunoon Town Centre, an alternative sequentially better site is available within the edge of town centre, and there is a significant detrimental impact on the vitality and viability of the town centre and other retail outlets, The proposal is not consistent with Development Plan Policy, as the sequential test has not been satisfied, and that it would be possible to provide a smaller store, more appropriate to the catchment area's available expenditure either within the defined town centre, or edge of town centre areas.

Accordingly, the proposed development would be contrary to Scottish Planning Policy (February 2010, paras. 52-65), to PROP SET 2 of the Argyll and Bute Structure Plan (November 2002), and to policy LP RET 1 of the Argyll and Bute Local Plan (August 2009).

3. The proposed foodstore and car parking area is located partly within Potential Development Area (PDA 2/5) identified in the Argyll and Bute Local Plan (August 2009) for housing, and consequently it is therefore not consistent with the other local plan policies relating to development of PDAs and to housing.

Notwithstanding the above conflict with retail policy, an application with an indicative layout for 74 houses had been submitted, the proposed layout submitted shows 42 houses on the rear part of the site, a loss of 32 units. This is a considerable reduction and a clear conflict with the local plan policy for the development of PDAs. Policy LP HOU 2 on affordable housing would also apply to this PDA in its entirety. The layout for the development of the site for housing shows 74 houses, the affordable housing policy requires 19 of these to be affordable, and the proposal would result in the loss of 8 of these.

Accordingly, the proposed development would be contrary to Policy STRAT SI 1, STRAT DC1, PROP SET 2, PROP SET3 and PROP SET4 of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19, HOU1, HOU2 and P/PDA 1 of the Argyll and Bute Local Plan (August 2009).

4. The development proposes a major foodstore on the upper (west) part of the site adjacent to Dunoon Cemetery and adjacent to an area of woodland that is considered to be a key landscape feature. The siting of the building in this upper and highly prominent part of the site would require ground engineering (and retaining features) to re-grade the slopes to accommodate the large commercial building. The commercial building itself would be located in a dominant position at the back of the site and lacks any traditional design features. The indicative curved metal clad roof and bland elevational treatment are typical of a unit within a retail park and do not benefit the semi-rural nature of the application site. The provision of a large car park area in front of the superstore presents an equally bland and urbanised design feature that does not integrate well within the immediate surroundings. Furthermore, the proposed development would diminish the environmental quality of any housing development in the remaining part of Potential Development Area (PDA 2/5) identified in the Argyll and Bute Local Plan.

Accordingly, the proposed development would be contrary to Policies STRAT SI 1, STRAT DC1, of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19 (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance) and HOU1 of the Argyll and Bute Local Plan (August 2009).

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

No, the application is recommended for refusal.

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

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**Author of Report: Brian Close**

**Date: 4<sup>th</sup> March 2011**

**Reviewing Officer: David Eaglesham**

**Date: 4<sup>th</sup> March 2011**

**Angus Gilmour  
Head of Planning**



**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/00222/PPP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The application site lies within the Main Town settlement of Dunoon, as defined in the Argyll and Bute Local Plan. In the Argyll and Bute Structure Plan, policy STRAT DC 1 supports development that serves a wide community of interest including 'large scale' development on appropriate infill, rounding-off and re-development sites. Developments which do not accord with this policy are those which are essentially incompatible with the close configuration of land uses found in settlement e.g. development which results in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.

Schedule R1 of Policy LP RET 1 of the Argyll and Bute Local Plan defines 'large scale' retail development as being in excess of 1000sqm gross floor space (the proposal is for 3,716 sqm gross). Dunoon already has two large scale retail foodstores located in the Main Town Centre and Edge of Town Centre. In addition, Structure Plan Policy PROP SET 3 promotes the use of Brownfield sites over Greenfield sites in the interests of sustainable development.

PROP SET 2 of the Argyll and Bute Structure Plan seeks to sustain the viability and vitality of town centres where a sequential approach to retail development will be adopted. Policy LP RET 1 of the Argyll and Bute Local Plan states a presumption in favour of retail development (Use Classes 1, 2 and 3) provided it is within a defined town centre or where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre. Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport and that there would be no significant detrimental impact on the vitality or viability of existing town centres and the proposal is consistent with other Structure and Local Plan policies.

In terms of the retailing policies above, the proposed large scale retail foodstore is at the edge of the settlement of Dunoon but outwith the preferred Main Town Centre and Edge of Centre zones.

The application site includes the eastern half of Potential Development Area 2/5 '*Dunloskin*' that is identified in the Argyll and Bute Local Plan for medium density housing with 25% affordability. An application (ref. 07/01903/DET) for 74 dwellinghouses is currently being considered for PDA 2/5 which proposes an alternative river crossing across the Milton Burn north of Walker's Garden Centre.

It is considered that in land use terms, the location of a third supermarket within Dunoon to serve the convenience shopping needs throughout the Cowal catchment is inconsistent with the Settlement Strategy set out in the Development Plan. The location of a large foodstore at the edge of the settlement has the potential to compete with Dunoon Town Centre and Edge of Centre zone to the detriment of the town centre function. The choice of this particular location at the edge of the settlement is assessed below in terms of the 'sequential approach' to retail development set out in the Scottish Planning Policy (SPP).

Additionally, the proposal would have a significant impact on PDA 2/5 that has been allocated for housing purposes to meet housing provision under PROP SET4 and settlement plans under PROP SET5 of the Argyll and Bute Structure Plan.

**Accordingly, in terms of the settlement strategy, the proposal would be inconsistent with policies STRAT SI 1, STRAT DC1, PROP SET2, PROP SET3, PROP SET4 and PROP SET5 of the Argyll and Bute Structure Plan, and policies LP ENV1, LP ENV 19, LP HOU1 and LP RET 1 of the Argyll and Bute Local Plan.**

## **B. Location, Nature and Design of Proposed Development**

### **(a) Location**

The application site (2.26 Ha) comprises Walker's Garden Centre and Filling Station and associated commercial and storage units, and a field to the west across the Milton Burn.

The application site is bounded by Dunloskin Farm amongst grazing fields and woodland to the north, A885 Argyll Street and Dunoon Hospital to the east, Dunoon Fire Station, Hamilton Street Yard and Dunoon Cemetery to the south and grazing fields with woodland to the west. The Milton Burn runs through the site from north to south. The site slopes from west to east but lessens towards the Milton Burn where the developed eastern portion of the site is relatively level.

In policy and land use terms, the application site includes the eastern half of Potential Development Area PDA 2/5 'Dunloskin' that is identified for medium density housing with 25% affordability. A proposal for a residential development of 74 houses (ref. 07/01903/DET) is currently being considered but the current proposal would result in the loss of 32 units (including the site's attenuation pond). This scheme involves a different access and would be located north of the existing petrol filling station and potentially involve the re-routing of the Milton Burn.

### **(b) Nature and Design of Proposed Development**

The proposal necessitates the demolition of the entire Walker's Garden Centre site including the petrol filling station and associated commercial, industrial and storage uses.

The proposal involves the erection of a large scale retail foodstore (3,716 sqm / 40,000sqft gross retail floorspace) on the site of the garden centre and land to the west, adjacent to Dunoon Cemetery. An indicative site layout shows the rectangular footprint of a building some 70 x 55 metres, orientated with its long main elevation facing eastwards with the southern gable located a few metres away from the cemetery wall. Images depict a typical modern supermarket building with glazed entrance feature and curved metal roof. A large car parking area is proposed between the foodstore and the Milton Burn that would provide 238 parking spaces including 14 disabled spaces. A new main vehicular access is proposed from the A885 Argyll Street (on the site of the existing Walkers Garden Centre) across the Milton Burn via a new bridge and serving the car park, foodstore service yard and remainder of PDA 2/5 to the west. The proposal also includes the erection of a new petrol filling station with car wash close to the site of the existing facility.

Whilst no end-user has been identified, the applicant comments that the proposed foodstore is aimed at a retail occupier from one of four mainstream food retailers – Tesco, Morrisons, ASDA and Sainsburys. The nature of the store will be predominantly focused on convenience goods to provide for main food shopping requirements but will also include a limited range of comparison goods. The proposed store has a gross external floor space of 3,716 sqm with a total net retail area of 2,228 sqm. This will comprise an estimated 1,448 sqm net convenience goods floor space and 780sqm comparison goods floor space (i.e. a 65/35 convenience/comparison split). It is indicated that a mainstream store such as this could carry over 20,000 lines of goods for sale. This will predominantly concentrate on 'brand' labels but will also include 'own label' brands. Convenience goods provided in the store will include fresh foods such as breads, fruit and vegetables, meats, dairy produce and fish. The store will also have large ranges of pre-packed and frozen foods. A limited range of comparison goods could include such items as CD/DVDs, textiles, towels and bedding. It is suggested that the development could create 280 new permanent jobs in a mixture of full and part-time plus 60 construction jobs.

Policy LP ENV19 of the Argyll and Bute Local Plan includes in Appendix A Sustainable Siting and Design Principles design guidance relative to 'Isolated/Commercial Development';

*18.1 the appearance of the development should be considered. The form and pattern of the landscape will largely determine the acceptability of the proposal..... The extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor.*

*18.2 When assessing the appearance of isolated commercial development, the Planning Authority will take the following into consideration:*

- The size and extent of the proposal. This includes the visual impact of the scheme and the distance/location from which it is visible;*
- The location of the proposal and its landscape setting, including the way in which the development has used the natural contours of the site is of prime importance. A large building must be absorbed by the landscape as much as possible, whether by excavating and building into the landform, using existing landforms to mask the development or screening by new trees;*
- The design and colour of the development(s) and ancillary structures can be used to minimise their perceived bulk and visual impact. Natural materials such as timber and stone will help to fit a large building into the landscape, as will dark natural colours (particularly on the roof).*

In their Design and Access Statement, the applicants comment that the topography of the site has dictated the orientation and location of the building. Existing and proposed tree planting in addition to excavation and use of a curved roof will all help to integrate the building into the landscape. While buildings are indicative at this stage, careful use of materials for the foodstore building and petrol filling station will reduce any perceived bulk.

The proposed metal-roofed supermarket building would be located adjacent to Dunoon Cemetery to the rear of an expansive car parking area. In terms of siting, the Flood Risk Assessment confirms that the proposed superstore and petrol filling station are outwith the predicted functional floodplain of Milton Burn and other watercourses. Accordingly, the siting of the foodstore at the rear of the site will require ground engineering works to re-grade the slopes with potential retaining structures to address the topography of the site. In terms of design, neither the supermarket building nor the car park pays any respect to the semi-rural surroundings and the overall effect is to urbanise the area. The lack of suitable screening and proposed siting, scale, design and materials of the proposed superstore would not be absorbed by the landscape but represent an incongruous feature that would appear alien in its relationship to Dunoon Cemetery and potential housing development to the rear.

Additionally, the location of the supermarket at the rear of the site has the potential to seriously compromise a suitable setting and layout for housing on the remainder of PDA 2/5. The loss of 32 residential units from the 74 houses proposed in the Kier Homes application has implications for resulting site density and ability to produce a harmonious layout in terms of plot ratios, landscaping and integration of key natural features.

It is considered that the proposed development does not respect the landscape character or setting of the area with an incongruous layout and design that is inconsistent with the provisions of Policy LP ENV 19 and Appendix A of the Argyll and Bute Local Plan together with the Council's Design Guide.

Although these issues could be mitigated during consideration of any detailed submission for either the supermarket or the housing within the remainder of the PDA, , **the proposal is considered to be contrary to Policy STRAT SI 1 of the Argyll and Bute Structure Plan 2002 and to Policies LP ENV 1 and ENV 19 and Appendix A of the Argyll and Bute Local Plan (August 2009).**

### C. Retail Policy Considerations

In policy terms the retail policy LP RET 1 of the Argyll and Bute Local Plan is the principal policy against which the proposals should be assessed. Also of relevance is the fact that the site of the supermarket and its associated car park forms part of a larger Potential Development Area (PDA 2/5) identified as suitable for housing development, subject to addressing master plan and access constraints.

#### *(i) The Sequential Approach to Retail Development in Towns*

Scottish Planning Policy (SPP), Argyll and Bute Structure Plan Proposal PROP SET 2 and Argyll and Bute Local Plan Policy LP RET 1 set out that a sequential approach to site selection for retail development will be undertaken to ensure that new development does not undermine the vitality and viability of existing town centres. The SPP and Local Plan sets out that site locations should be assessed in the following order:

- Town centre sites;
- Edge of centre sites;
- Other commercial centres identified within the development plan;
- Out of centre sites in locations that are, or can be made, easily accessible by a choice of transport modes.

#### Policy LP RET 1 Retail Development in the Towns – The Sequential Approach

There will be a presumption in favour of retail development (Use classes 1, 2 and 3) provided:

(A) It is within a defined town centre; OR,

(B) Where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre; OR,

(C) Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport; AND IN ANY OF THESE CASES,

(D) There is no significant detrimental impact on the vitality or viability of existing town centres (the Council may request an assessment at the developer's expense, as it considers necessary, to establish this, and may require applications to be accompanied by a reasoned statement of the anticipated impact of the proposal on the town centre); AND,

(E) The proposal is consistent with the other Structure and Local Plans policies.

The first aspect of LP RET 1 which requires to be considered is the availability of sites within Dunoon town centre, and then edge of town centre locations. Given the traditional nature of the town centre, it is accepted that there are no suitable sites within the town centre its self. However, within the edge of town centre designation the former Dunoon Gasworks site bounded by Argyll Street, Hamilton Street and the Milton Burn and south of Walkers Garden Centre has been assessed by the applicants in terms of the retail sequential test. This site (1.21 Ha / 12,100 sqm) has recently undergone remediation works to cleanse the site of contamination associated with its former use. The site proposed by the

applicants at Walkers/Dunloskin is approximately twice the size of the gas works site, and consequently the applicants are proposing a foodstore with a gross floorspace of 3716 sqm and a net floorspace of 2228 sqm.

The applicants estimate that the smaller former gas works site within the edge of town centre would only be able to accommodate a foodstore of approximately 2500 sqm. They have therefore dismissed the former gas works site as incapable of accommodating the size of the store they propose due to size, configuration and potential flood risk. On this basis, and the fact that no other Edge of Centre locations are available, the applicants consider that it is appropriate to consider the application site as an out-of-centre location that is acceptable in terms of its accessibility by public transport and pedestrians.

While it is acknowledged that part of the former gas works site has been identified in the SEPA Indicative Flood Map as forming part of the functional floodplain of the Milton Burn, this should not in itself rule out any potential development of the site. While the site could be improved by the proposed Milton Burn Flood Prevention Scheme, suitable flood defence mechanisms and compensatory flood storage would still have to be designed into any potential development of the site.

The owners of the gas works site (National Grid Property Holdings) comment that their site represents a sequentially preferable site for retail development. Contrary to the applicant's statement, they consider that neither the linear shape of the site nor the existence of a watercourse across it would detract from the marketability of the site to a modern foodstore operator nor inhibit its development. They have also stated that there is the potential for further land assembly around their landholding. The site, which has recently been subject to a level of remediation, is surplus to National Grid's operational requirements and it is their intention to submit an application proposing retail development at the site. The agents confirm that the Victoria Road site represents a significant brownfield redevelopment opportunity in close proximity to Dunoon Town Centre, sequentially preferable in retail terms to the site of the proposed development. The owners of the site have confirmed that it would be available for retail development.

Given this recent interest shown by the owners of the gasworks site and that an application for retail development may be imminent, it is considered that the former gas works site is available for retail development, and therefore cannot be dismissed solely on the basis of the size of store proposed. It should accordingly be given more detailed consideration in the retail impact assessment which the applicants have submitted in support of their application and is assessed in more detail below.

A retail impact assessment attempts to estimate the potential impact of a new retail development on existing retail provision (particularly within town centres). This involves defining the catchment area of the town, establishing the population of the area, and then calculating the average retail expenditure of the catchment population. This is then compared with an assessment of the turnover of the retail floorspace within the catchment area. Where a surplus is identified this is either considered as export expenditure or attributed as additional expenditure for existing retailers within the catchment area. Having quantified the level of turnover of existing retailers and the available expenditure within the catchment, and the amount exported to other centres, it is then possible to establish if there is sufficient expenditure to support additional floor space. There are a considerable number of variables in these calculations, and a number are based on averages and estimates, and others are relatively subjective.

The following table provides extracts from the tables in the revised retail impact assessment submitted by the applicants in support of their application:

	<b>2010</b>	<b>2014</b>
Population of Catchment	15,411	15,463
Convenience expenditure per capita	£2,079	£2,195
Total convenience expenditure	£32,033,624	£33,941,967
Comparison expenditure per capita	£2,735	£3,109
Total comparison expenditure	£42,155,285	£48,067,043
Estimated convenience turnover in catchment	£21,472,988	£22,752,202
Estimated comparison turnover in catchment	£25,000,000	£25,000,000
Surplus convenience expenditure	£10,560,636	£11,189,766
Surplus comparison expenditure	£17,155,285	£23,067,043

The surplus expenditure is generally taken to represent the amount of money spent by residents of the catchment area in shops outwith Dunoon and Cowal, and in theory would be available to support additional floorspace within the catchment. However, the extent to which this exported expenditure can be retained or clawed back depends on a number of factors, and varies between convenience and comparison goods, and proximity and size of competing retail centres.

In addition to expenditure available from residents within the catchment area, the applicants have made reference to the value of tourism expenditure based on the EKOS report – Dunoon Locality Socio-Economic Baseline. This concludes that tourism is worth £6,300,000 to the area, of which it is estimated by Visit Scotland, 10% or £630,000 would be retail expenditure. The applicants have not incorporated this figure in to their assessment but have stated that this would potentially also be available to support retailing in Dunoon,

In deriving the turnover of the retail floor space within the catchment, the company average turnovers are used for supermarkets and large national multiples, and this approach is normally also used to calculate the turnover of any new store. Where an operator is known, this is usually the companies' average, and where the operator is not known, an average of the top 5 operators is usually used. As this is a company average, there will be stores which trade at under this level and stores which trade at over this level. The level of trading of individual stores depends on a number of factors such as size of store and location, and extent of competition locally. However as retail impact assessments are based on using averages for existing floor space, using these for new proposals helps to retain consistency. There are some instances where using different figures from the average may be justified, for example, where the existing retailers in the town are prepared to disclose a stores actual turnover, or where a proposed operator is known, and where they propose to transfer the actual turnover of an existing store to a new one (such as in the case of Tesco in Campbeltown) and they are therefore well placed to make an assessment of the turnover of the new store.

In relation to this application, the applicants' original retail impact assessment used an average turnover approach for all supermarket operators, where as in the revised retail impact assessments they have adopted a turnover which is 75% of company averages. The following table outlines the effect of these two different approaches on the floorspace of the store as envisaged in the original and first revised retail impact assessment:

Floor space	Average turnover ratio	75% of Average turnover ratio	Turnover based on Average ratio	Turnover based on 75% of average ratio
Convenience 1,858	11,970	8,977	22,240,260	16,679,916
Comparison 557	8,241	6,180	4,590,237	3,442,511
Total turnover	-	-	26,830,497	20,122,427

It should be noted that the applicants have submitted a second revised retail impact assessment based on a reduction of net floorspace by just over 200 sqm but an increase in the proportion of space given over to comparison retailing as follows.

Floor space	75% of Average turnover ratio	Turnover based on 75% of average ratio
Convenience 1448 square metres	£8,977	£11,699,283
Comparison 780 square metres	£6,180	£4,338,676
Total turnover		£16,037,958

While the reduction in the proportion of floorspace given over to convenience and the use of 75% of company average turnover has resulted a reduction of turnover by £5 million, it is considered that this merely reinforces the case for a smaller store located on the former gas works site, as a store of 2500 sqm gross which would equate to about 1600 sqm net, with a 75% convenience and 25% comparison goods split, would more than accommodate the available expenditure. As such, it is considered that the applicants have not met the requirements of the sequential test, in discounting the former gas works site which is located in a sequentially preferable edge of town centre location.

## **(ii) Appropriate Scale and Location**

One of the main thrusts of Scottish Planning Policy is the recognition that *“town centres are a key element to the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilities .....the range and quality of shopping, wider economic and social activity, integration with residential areas and the quality of the environment are key influences on the success of a town centre”*. (para 52).

The SPP also highlights the need for a hierarchical approach to town centres and that any significant changes in the evolving role and functions of centres should be addressed through development plans rather than changes being driven by individual applications. The SPP focuses on town centre strategies and states that the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. This should involve the use of vacant land and under-used land or premises. Actions to support improvements in town centres and to create distinctive and successful places are encouraged and these can range from small scale public realm works to assembly of larger scale development sites which aid regeneration.

The Argyll and Bute Structure Plan also stresses the importance of Dunoon Town Centre as an important shopping focus for the Main Town settlement and wider catchment. The retailing sector is an important component of the economy and fulfils a critical role in sustaining the viability and vitality of the Town Centre. Land use policies which support the competitive retail market have to be balanced with the need to secure the economic

integrity of town centres and to support the use of public transport. The sequential test with a preference for retail developments over 1000sqm gross floorspace to be located in the town centres is appropriate given the limited size of the Argyll and Bute towns and their retail catchment populations.

Despite the applicant stating that the out of centre site is '*easily accessible*' for public transport and pedestrians, the following points should be noted:

- The application site is located approx. 1.2km from the core of the primary retail area taken from the top of Moir Street on Argyll Street; approx 1.1km from Morrisons and approx 0.8km from the Co-op;
- Whilst the site can be made accessible by public transport, it is not particularly accessible for pedestrians walking from the Town Centre or even Edge of Centre areas. The site of the foodstore at the rear of Dunoon Cemetery is not well linked and lacks pedestrian permeability to surrounding residential neighbourhoods;
- The proposed new store is actually located approx 300 metres from the proposed access from Argyll Street with pedestrian access either across the large car park or main junction serving the store;
- Major food shopping tends to favour car borne shoppers than the ability to shop daily from a more accessible town centre location.

In conclusion, the proposed large foodstore would not be readily accessible by shoppers on-foot and is not within easy walking distance from the existing town centre area. Additionally, given the comments in sections (i) and (iii) such a scale and location would compete rather than complement the existing town centre.

### **(iii) Impact on Vitality and Viability of existing Dunoon Town Centre**

#### The Applicant's Case

The applicants consider that the existing town centre of Dunoon provides goods and services to meet generally daily needs of local residents. The applicants also suggest that Dunoon town centre has a relatively healthy occupancy rate with evidence of investment from a small number of national retailers and strong occupancy levels of independent business. The applicant's feels that Dunoon town centre appears to be well utilised particularly for Class 1, Class 2 and Class 3 services and that the town centre appears healthy with low vacancy rates (12 vacant units/7%), high pedestrian flows and retailers continuing to invest and trade along Argyll Street and throughout the wider town centre area.

The applicants suggest that there are qualitative deficiencies in the available offer in Dunoon and that the new superstore will meet these and result in improved retail options within the town. The RIA notes that Dunoon Town Centre comprises a total of 165 units with a variety of Class 1,2,3,5,7, 10, 11 and sui generis uses (public houses, hot food takeaway etc). Of the Class 1 shops (55%), 43% sell comparison goods, 7% sell food/convenience and 5% sell bulky goods.

The Retail Impact Assessment (RIA) submitted by the applicants suggests that Dunoon suffers from a significant level of convenience expenditure leakage and there is a need for quantitative and qualitative improvement, particularly relating to main food shopping. It is suggested that this level of leakage points to lack of provision, choice and variety meaning that residents and shoppers from Dunoon and Cowal choose to make trips to other locations outwith the Dunoon catchment area to undertake main food shopping. As a consequence, the proposed development does not aim to compete with the existing town centre but aims to recapture the locally derived expenditure (leakage) lost to Inverclyde and



beyond. The RIA suggests that Morrisons retains around 40% of the local convenience expenditure whilst overall the town centre accounts for 65% of the locally derived expenditure. The applicants suggests that the most significant factor is the level of leakage which is estimated at 33% of locally derived expenditure which is almost the same amount of money spent in Morrisons being spent outwith the Dunoon and Cowal catchment. The RIA anticipates that the proposed store would account for 34% of the available convenience expenditure with the small amount of comparison floorspace being insignificant in terms of comparison turnover from the catchment.

### Assessment

In addition to assessing the expenditure capacity of the catchment area population, the retail impact assessment submitted by the applicants seeks to calculate the likely impact of the proposed new floorspace on the existing retail provision within the catchment, and more particularly Dunoon town centre. In assessing the impact on existing floorspace consideration has been given to a number of factors. These include; the amount of expenditure currently spent outwith the area; an assessment of the capacity of the new store to claw back that expenditure; and the extent to which the new store will compete with existing retail floorspace thereby diverting trade from them to be spent in the new shop. Also to be taken in to consideration, is the extent to which tourism expenditure and trade from people living outwith the primary catchment area e.g. Inveraray contribute to the expenditure available to support retailing in Dunoon. These variables could have a significant effect on the predicted impact on the town centre.

Table 1 below includes a compilation of floorspace comparison figures extracted from the RIA to illustrate some of the comments made in this section and scale/impact of the proposed foodstore.

**Table 1 : Comparison of floor space (extract from submitted Retail Impact Assessment)**

	<b>Proposed Store</b>	<b>Existing Morrisons</b>	<b>Existing CO-OP</b>	<b>Town Centre Shops</b>	<b>Out of Centre Shops</b>
<b>Gross floor area</b>	3,716sqm	(2,145sqm*)	(1,250sqm*)	-	-
<b>Net retail area</b>	2,228sqm	1,035sqm	1,000sqm	500sqm	200sqm

*\*Gross external area taken from GIS plan, not from agent figures.*

The applicants have submitted figures which demonstrate the effect that they believe the new store will have on the turnover of existing stores. This indicates that taking all of the above factors into consideration, that the proposed store will have an impact of 14.7% on the turnover of convenience stores within the town centre. There would also be a 34.2% impact on the turnover of other convenience stores in Dunoon outwith the town centre, and an impact of 9.2% on the turnover of convenience shops in villages. These levels of impacts assume that 60% of the new stores turnover can come from the clawback of exported expenditure. This would mean that the proposed new store and the existing convenience floorspace would be expected to retain 88% of the convenience expenditure which is currently spent outwith Dunoon. The retention of this level of exported convenience expenditure may be ambitious, particularly because the applicants have predicated their argument that the proposed store requires to be in the order of 4000 sqm gross to allow it to be of a size and a scale which is large enough to enable it to compete with the superstores in Inverclyde and West Dunbartonshire where people from Cowal

currently shop. Indeed, the applicants have provided an alternative scenario of a smaller store with a net convenience floorspace of 1045 sqm where they expect only 30% of the turnover to come from clawback of leakage, and this would equate to only 18.8% of the leaked expenditure, this level of clawback is low, and has been used to demonstrate the applicants opinion that a smaller store would have a greater impact on convenience retailing in the town centre than the store they have proposed. A more robust assumption might be to assume a 50% clawback of leaked expenditure.

The revised January 2011 retail impact assessment is based upon a smaller store where convenience floorspace has been reduced by 406 sqm and comparison floorspace is increased by 223 sqm. This has the effect of increasing the comparison floorspace from 23% of sales floorspace to 35% (previously a 77:23 convenience/comparison split but now a 65:35 split). The proposed turnover of comparison goods increases to £4,820,751 with £4,338,676 or an extra £896,165 from the catchment as a result. The applicants have indicated that they expect the majority (75%) of the comparison turnover of the new store to come from the clawback of expenditure which is spent outwith Dunoon. Twenty per cent of comparison turnover or £867,735 is expected to come from existing shops in the town centre, and this would equate to a 3.7% reduction in the turnover of comparison shops in the town centre. These figures are based on the revised retail impacts' assessment that currently the total amount of comparison expenditure retained in Dunoon is £23,400,000 or 48.7% with just over half being spent in higher order centres such as Glasgow, Braehead, Greenock or Clydebank. The proposed development is based on increasing the retained comparison expenditure to £26,842,511 or 55.8% of all comparison expenditure from the catchment population. Typically, smaller town centres elsewhere can be expected to retain 50% of their catchment area's comparison expenditure. The extent to which currently exported comparison expenditure can be retained is unknown. If the proposed new store was unable to achieve its target of 75% of its comparison turnover from the clawback of exported expenditure, then the impact of the town centre could be much more significant.

## Methodology

The Co-op's agents suggest that information derived from the National Survey of Local Shopping Patterns (NSLSP) is not sufficiently robust to be applied at a local level and is not an appropriate tool for estimating the turnover of existing retail floorspace. A well designed household survey (Scottish Government's 2007 research paper) is deemed more reliable where key matters such as specific stores used by main food shoppers, reason for visiting certain stores, how they travel, whether they are undertaking linked trips and how much they spend in each store can all be quantified.

In terms of NSLSP, the Co-op's agents consider that company average turnover rates should be used to model the turnover of exiting and proposed retail floorspace and for a robust estimate of retail impact to be gauged. In the revised RIA, there is no justification for the application of turnover ratios that are significantly below published national average rates where these lower than average turnover ratios hide the true retail impact of the proposed supermarket.

It is considered that the RIA has not adopted a broad-based approach but instead has attempted detailed calculations or forecasts of a sector's growth where small variations or assumptions has led to a wide range of forecasts. In relation to the RIA, the applicant has indicated that the proposed store is aimed at a retailer from ASDA, Morrisons, Sainsburys and Tesco. However the turnover of the proposed store has been estimated as an average of all retailers. It is considered that it may have been more appropriate to use the average turnover of these four retailers, in terms of predicted impact rather than the average of all retailers, given that the applicant has stated that it is the intention to market it to these retailers.

The smaller store shows an anticipated impact on convenience shops within Dunoon town centre of 14.7% (previously 17.1%), and 3.7% (previously 3.7%) impact on comparison

goods. Contrary to the applicant's statement that the proposal will not have a significant impact on Dunoon Town Centre, this overall level of impact 8% (previously 9.1%) is considered to be significant. Furthermore, using revised population and expenditure figures would increase this impact, as would attributing the average turnovers of the prospective operators to the store, further still.

In terms of population of the catchment area and calculation of available expenditure, the applicant's population projections shows a population of 15387 in 2008 increasing slightly to 15455 in 2012. Whilst the department may be prepared to accept this projected increase in population, other recent projections indicate a declining population over the same period. Accordingly, and in line with the advice in paragraph 65 of SPP, it is considered that future growth in population based on housing allocations in the Argyll and Bute Local Plan should not be factored in. Take-up of these housing allocations has slowed considerably over the last two or three years, and it is therefore highly likely that not all of the units planned for will be delivered within the plan period. Furthermore, household sizes in Argyll and Bute continue to fall, and as such even with a high rate of housing completions as factored in to the Local Plan, population levels are likely to remain stable, rather than increase at the rate which the applicant suggests.

In terms of the applicant's Town Centre Health Check Appraisal, the overall score has now been reduced to 3.13 (previously 3.28) and now regarded as fair instead of good. Many factors have been assessed as "very good" or "good" but there is no comparable town to assess this comparison against i.e. how does Dunoon compare to Oban or Helensburgh? It is considered that the applicant's Town Centre Health Check is subjective in nature and does not reflect the more fragile nature of Dunoon's High Street and other retailing areas where vacant units, charity shops and poor shop frontage design should perhaps result in a lower score. It should also be recognised that a significant amount of works have been undertaken on town centre renewal projects to promote an otherwise fragile town centre. The town centre will continue to be the focus for such projects in an attempt to revitalise the town centre area. The presence of an out of town superstore could undermine any ongoing and future proposals to enliven Dunoon Town Centre. Furthermore, the proposed population projections coupled with ambitious take-up of housing allocations and declining household sizes cannot support the forecasted expenditure and growth rates suggested by the applicant.

### Conclusions

The RIA confirms that the main source of trade diversion will be predominantly from Morrisons but also from the Co-op store. Whilst the planning system seeks to encourage competition in the market place, this should not be done at the cost of weakening the trading positions of existing convenience and comparison retail outlets within Dunoon Town Centre and Edge of Centre locations. The size of the proposed foodstore, that would be approximately twice the floorspace of Morrisons, has been designed by the applicants specifically to '*compete with the larger stores that shoppers use elsewhere outwith the catchment*'. It is considered that such a scale of foodstore would compete directly with existing supermarkets and have a significant adverse impact on not only Dunoon Town Centre but isolated retail outlets.

Reducing the amount of net floorspace by just under 1000sqm has resulted in an increase in the amount of comparison floorspace (previously a 77:23 convenience/comparison split but now a 65:35 split). Despite the applicants suggestion that almost 50% of comparison expenditure is spent outwith the Dunoon catchment, the potential impact on existing comparison retailers has not been sufficiently demonstrated and the figures provided suggest that this would be a significant and unacceptable trade diversion.

It is interesting to note that, in the Pre-Application Consultation process, the applicant' claim that a '*significant*' number (25%) of residents choose to shop outwith Dunoon and Cowal.

Accordingly, this would mean that the majority of the town and catchment (75%) are happy to shop locally. In any event, the number of responses made at the Pre-application Consultation exhibition (409 responses) and number of representations received as part of this application (1100) are not wholly representative of a town with a population of approximately 10,000 residents within the Dunoon area. The statements in the petition letters are very basic and do not provide an accurate picture of retailing trends in the Dunoon and Cowal areas. Despite the statistics, tables and statements submitted, the shopping trends of Cowal residents are more complex than and not as easy to predict as the submitted RIA would suggest. It would therefore be wrong to assume that the majority of Cowal residents make shopping trips outwith the peninsula for convenience purposes only. Proximity to Inverclyde, Paisley and Glasgow coupled with a deficiency in local employment opportunities, indoor leisure activities and peninsular lifestyles mean that residents will continue to make journeys out of the Cowal area for business, leisure, cultural, social and retail activities. Contrary to the applicant's statements, the provision of a third large foodstore in Dunoon will not arrest the trend of residents wishing to shop locally during the week but planning trips outwith the peninsula at weekends that may also include convenience shopping.

Weakening a high street that already suffers from a number of vacant premises could also have the potential to undermine the tourism strategy that depends on visitors and shoppers to the town centre. The creation of a larger third foodstore will not increase visitor numbers but may well result in a loss of local and niche market retail outlets that combine to give Dunoon town centre its traditional and particular charm.

Given all of the above, it is considered that the proposed foodstore and associated development is contrary to the adopted Argyll and Bute Local Plan policy LP RET 1 part A, as it is outwith the defined town centre; to part B in that the developer has not satisfactorily demonstrated that the former gasworks site within the defined edge of town centre is not suitable; and part D that the size of the proposed store is too large for the available expenditure within the catchment area without having a detrimental impact on the vitality and viability of retailing in the existing town centre. Additionally, it should also be noted that as the western portion of the site is identified as a Potential Development Area for housing in the adopted Local Plan, the proposal would not accord with LP RET 1 part E.

In summary, the retail impact assessment does not justify a third large foodstore within Dunoon to directly compete with Morrisons and the Co-op that have Main Town Centre and Edge of Centre locations respectively, in addition to the impact on other convenience/comparison outlets in the Town Centre and surrounding areas. The assumption that significant leakage can be arrested by proposing a superstore that is more than twice the size of Morrisons does not square with the discrepancies in terms of trips made outwith the peninsula to undertake main food shopping.

**On the basis of the above and in terms of the Retail Sequential Test and impact on Dunoon Town Centre and other retail outlets, the proposal is considered to be contrary to Policy LP RET 1 of the Argyll and Bute Local Plan (August 2009).**

## **D. Natural Environment and Biodiversity**

The applicant's submitted Ecology Report identified otter activity with regular sprainting along the watercourses within the site, several bat species recorded locally, twenty three species of birds breeding and foraging within the riparian and woodland habitats and water vole recorded locally although field surveys identified no suitable habitat and no presence within the site or adjacent areas. Mitigation measures are proposed to avoid or minimise impacts on otter, breeding birds and the ecological receptors identified.

Both SNH and the Local Biodiversity Officer find the proposals acceptable in principle provided the mitigation measures can be fully implemented.

**On the basis of general acceptance and the imposition of necessary safeguarding planning conditions, the proposal could be considered to be consistent with Policy STRAT DC7 of the Argyll and Bute Structure Plan 2002, and policies LP ENV 2 and ENV 6 of the Argyll and Bute Local Plan (August 2009).**

#### **E. Impact on Woodland / Landscape Character**

There is currently a belt of deciduous trees along the western bank of the Milton Burn that help screen the field to the west, but these are to be removed. An area of mixed deciduous trees to the rear (west) of the proposed foodstore comprises a key landscape feature in the current proposals to develop the entire PDA 2/5 for residential purposes (under application ref. 07/01903/DET). This central woodland feature is anticipated to provide the centrepiece for this development providing commensurate active/ passive open space and recreational areas with a network of paths improving the site for pedestrians. The presence of a large commercial building at the edge of this woodland would not only compromise the habitat of the central woodland but would provide it with a hard urban edge that might not be capable of producing the quality central landscaped/woodland feature expected to be delivered as part of the housing development for the entire site.

While the proposed development, due to its scale and location, would urbanise the site to the detriment of existing habitats along the Milton Burn and central woodland feature and also compromise the layout of an acceptable housing layout for the remainder of PDA 2/5, these issues could be mitigated during consideration of any detailed submission for the supermarket or for the remainder of the housing within the PDA.

**Accordingly, the proposed development is not considered to be contrary to Policies LP ENV 1, ENV 7 and ENV 19 of the Argyll and Bute Local Plan (August 2009).**

#### **F. Affordable Housing and Revised Housing Layout on PDA 2/5**

The current application for a residential development (ref. 07/01903/DET) by Kier Homes requires a 25% affordability provision which in terms of the proposed 74 units represents 19 affordable units. The current proposal if built to the masterplan layout proposed by the applicant would result in the loss of 32 units to the front (east) of the site and deliver only 11 affordable homes (i.e. a net loss of 9 units). The 25% affordability applies to the entire PDA 2/5 and the loss of 9 affordable homes from the currently proposed 74 unit scheme (being considered under current application ref. 07/01903/DET) would require to be compensated for: that could include off-site provision or commuted payments. The applicant has not addressed the shortfall of affordable units.

**The overall loss of affordable housing on the site and lack of a chosen mechanism to address the reduction of affordable units is considered to be contrary to the provisions of Policy LP HOU 2 of the Argyll and Bute Local Plan (August 2009).**

#### **G. Archaeological Matters**

West of Scotland Archaeology Service (WoSAS) comments that the site lies within an area of some archaeological sensitivity based on the presence of recorded sites and finds from various periods in the surrounding landscape. It is recommended that an initial assessment followed by archaeological field evaluation be carried out. Alternatively, in terms of PAN42, a suspensive condition is suggested.

Whilst no information has been submitted at this stage, the applicant confirms a preference to accept a suspensive condition to address any potential archaeological concerns.

**It is considered that the imposition of such a condition would allow the applicant/developer the ability to deal with such matters once planning permission has been secured and accordingly consistent with the provisions of Policy ENV 17 of the Argyll and Bute Local Plan (August 2009).**

#### **H. Road Network, Parking and Associated Transport Matters**

A Transport Assessment has been prepared and discussed with Roads. The Transport Assessment confirms that the local road network will continue to operate within capacity with the addition of traffic associated with the proposed development.

Policy LP TRAN 2 of the Argyll and Bute Local Plan requires development of this scale to take account of public transport accessibility as well as providing suitable routes for pedestrians and cyclists. The applicant has addressed this issue and the following would be provided:

Measures to improve accessibility:

- A 2 metre wide footway along the southern side of the supermarket access road;
- A replacement footway along Argyll Street frontage;
- Provision of 4 cycle parking stands providing spaces for up to 8 cycles;
- Retention and relocation of two bus stops on Argyll Street (locations to be agreed);

Measures that may form part of the eventual Travel Plan:

- Implementation of car share strategies;
- Provision of Travel Information Centre within the development relating to promotion of travel modes other than by private car;
- Negotiations with local suppliers to obtain discounts for outdoor clothing, cycle equipment and travel passes;
- Provision of secure cycle parking, shower and changing facilities;
- Provision of cycle and motorcycle training courses;
- Negotiations with bus operators to improve services and facilities; and
- A Travel Plan incentive pack and personal attack alarm to encourage employees to walk, cycle or use public transport on a regular basis.

Roads have no objections in principle to the proposed scheme subject to conditions outlined below. It is also noted that the access road will require to be adopted; this will require the road including the footways to be constructed as per the Council's Development Guidelines and would be subject to a Road Construction Consent; Road Bond and Road Opening Permit. Roads also note that a puffin crossing (precise location to be agreed) should be installed on Argyll Street, this will require a Section 75 Agreement and consultation with Argyll and Bute Council Roads Department is required as per precise location. A "hurry call" should be installed in to the pedestrian crossing for the nearby fire station.

- *The required sightlines of 2.4 x 42 metres are attainable in both directions on to Argyll Street;*
- *The required sightlines of 2.4 x 42 metres are attainable in both directions from car park, filling station and service access on to access road. All walls, hedges fences within the sightlines to be maintained at a height not greater than 1 metre above road level. Land within visibility splays will be included in the adoption boundary. Nothing else should be placed within these visibility splays, i.e. signs etc.;*

- *Dropped kerbs will be required at all junctions including the main access to allow safe passage of pedestrian traffic;*
- *The gradient of the access road not to exceed 5% for the first 5m and 8% for the remainder. Access to superstore parking area not to exceed a gradient of 5% for the 1<sup>st</sup> 5 metres and 8% for the remainder, and a system of surface water drainage will be required to prevent water running on to the public road (new site access road). Petrol station access as above. Service access as per car park access – if gates are to be used they must not open out on to the public road, must be set back far enough for an articulated lorry to sit while not obstructing the public road;*
- *Parking requirements – 1.0 spaces per 25m<sup>2</sup> – for 3995m<sup>2</sup> requires minimum of 160 parking spaces, maximum number of 285 – with a 4% designated for disabled users for this development;*
- *Parking bays to be a minimum of 2.5 x 5 metres for aisle width of 6 metres;*
- *A bus stop on the access road is required outside the supermarket; this should be designed as a bus “pull in” to avoid obstructing sightlines. An area suitable for turning a bus should be provided on the new access road. Developer to contact councils public transport department regarding additional mileage payments for 1<sup>st</sup> year, should routes require to be changed to accommodate, a legal agreement will be required to achieve this. Bus stops/pull ins should include high kerbs, design to be agreed with Council roads dept;*
- *The developer should appoint a travel plan co-ordinator. Once the store has been open for a period of 6-7 months an updated model should be shown to the council, highlighting any necessary changes/issues.*
- *No lights for supermarket signage should shine directly towards pedestrians or motorists.*
- *The access to be constructed prior to other works starting on site.*

**On the basis of general acceptance and the imposition of necessary planning conditions and potential Section 75 Agreement, the proposal is considered to be consistent with Policies LP TRAN 1, TRAN 2, TRAN 3, TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan (August 2009).**

#### **I. Flooding and Surface Water Drainage**

With regard to Policy LP SERV 8 which deals with flooding and land erosion, SEPA advise that the site lies partially within the fluvial elements of the indicative limits of flooding shown on the Indicative River and Coastal Flood Map (Scotland) for floods with a 1 in 200 year return period (i.e. a flood with a 0.5% chance of occurring in any single year).

A Site Flooding/Sustainable Drainage Overview Study in conjunction with a Flood Risk Assessment in accordance with Policies LP SERV 2 and LP SERV 3 considered flood risk from the Milton Burn, from three un-named tributary watercourses and from surface water run-off generated from outwith the site. The areas proposed for the superstore and petrol filling station are outwith the predicted functional floodplain. However, a number of minor drainage issues can be addressed satisfactorily during the detailed design stage. The eventual bridge design can also be modelled to avoid flood risk to others.

Following amendments and further clarification, this is considered acceptable to SEPA and the Council's Flood Alleviation Manager subject to conditions regarding successful implementation of 'Summary and Conclusions' in the Flood Risk Assessment, allowances are made for freeboard and volumes of surface water discharge to Milton Burn are agreed with the Flooding Authority.

**In terms of Policies LP SERV 2, SERV 3 and SERV 8 of the Argyll and Bute Local Plan (August 2009), the indicative flood risk/surface water drainage strategy is considered to be acceptable at this stage and could be addressed by planning conditions.**

**J. Waste Management**

Waste collection from the site is to be made from a dedicated screened bin area located within the service yard, of a size appropriate to the foodstore. The service yard has an indicative layout that would be capable to facilitate the pick-up of waste material by refuse collection vehicles, which will have access to the yard at scheduled times.

**In terms of Policy LP SERV 5 of the Argyll and Bute Local Plan (August 2009), the indicative strategy is considered to be acceptable at this stage and could be addressed by planning condition.**

**K. Public Water Supply**

Scottish Water has confirmed that they would have no objections in principle and Loch Eck Water Treatment Works currently has capacity but comment that the scale of the development will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

**In terms of Policy LP SERV 4 of the Argyll and Bute Local Plan (August 2009), the indicative public water supply strategy is considered to be acceptable at this stage and could be addressed by planning condition.**

**L. Foul Water Arrangements**

Scottish Water has confirmed that they would have no objections in principle but Alexandra Parade Outfall currently has limited capacity to serve the new demand. Due to the scale of the development, the applicant will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

**In terms of Policy LP SERV 1 of the Argyll and Bute Local Plan (August 2009), the in principle agreement to connect to the public sewer system is considered to be acceptable at this stage and could be addressed by planning condition.**

**M. Contamination**

Due to the existing industrial and commercial uses on the site, Public Protection recommend conditions in respect of contaminated land.

**In terms of Policy LP SERV 7 of the Argyll and Bute Local Plan (August 2009), it is considered that suspensive planning conditions could address the contaminated land issues raised.**

**N. Noise, Dust, Lighting and Operational Hours**

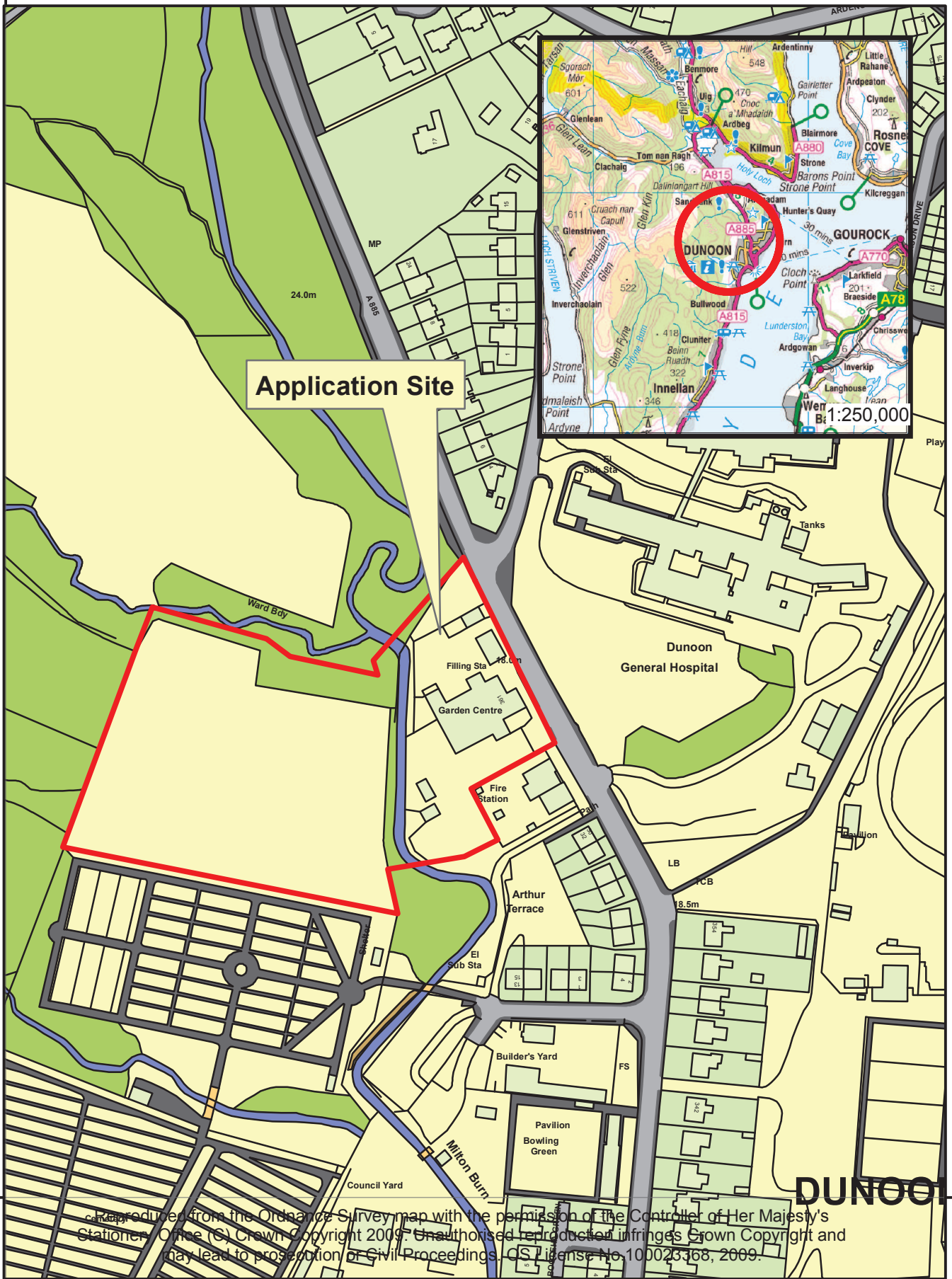
In terms of potential impact on surrounding land uses, Public Protection recommend conditions in respect of minimising noise from the development, minimising the effect of noise and dust from construction, details of control of lighting and operational hours to reduce night-time noise in the area.



**In terms of Policy LP BAD 1 of the Argyll and Bute Local Plan (August 2009), it is considered that suspensive planning conditions could address the environmental concerns raised.**

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# Location Plan relative to Application Ref: 10/00222/PP



Date: 18.02.11

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**

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**Reference No:** 11/00689/PPP

**Planning Hierarchy:** Local

**Applicant:** National Grid Property

**Proposal:** Site for the erection of retail store (Class 1) with associated development including access, car parking and landscaping.

**Site Address:** Land at former Gas Works Argyll Street/Hamilton Street, Dunoon, Argyll

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## DECISION ROUTE

### (i) Local Government Scotland Act 1973

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## (A) THE APPLICATION

### (i) Development Requiring Express Planning Permission

- Erection of Class 1 foodstore (2,932sq m / 31,560sq ft gross external floor area – 3,225sq m / 34,714sq ft gross internal floor area);
- Formation of car parking (125 spaces);
- Formation of vehicular access from Hamilton Street;
- Formation of delivery access and service yard from Argyll Street;
- Formation of bus lay-by on Argyll Street.
- Provision of compensatory flood storage area (indicative);
- Landscaping and tree planting (indicative);
- Erection of timber screen fencing along southern boundary (indicative).

### (ii) Other specified operations

- Connection to public sewer and public water supply;
  - Demolition of redundant single storey building;
  - Demolition of brick boundary wall;
- 

## (B) RECOMMENDATION:

It is recommended that Planning Permission in Principle be granted as a 'minor departure' to development plan policy subject to

- 1) the conditions and reasons together with '*notes to the applicant*' set out overleaf;
- 2) a Section 75 Agreement to address an appropriate developer contribution to mitigate a potential adverse impact on Dunoon town centre;

- 3) A PAN 41 hearing being held prior to the determination of the application in view of the number of representations received relative to a prospective departure to the provisions of the development plan.
- 

**(C) HISTORY:**

The application site was formerly Dunoon Gas Works but this was demolished in the early 1990s. Following a programme of site assessment and investigation during the late 1990s, ground remediation was undertaken between 2004 and 2008.

A planning application ref. 01/00619/OUT for a change of use of land to retail by Lattice Property Holdings was withdrawn on 1st May 2001.

Planning permission ref. 04/00252/DET for temporary engineering and enabling works to facilitate environmental improvements and erection of boundary wall by Secondsite Property Holdings Ltd was granted on 7<sup>th</sup> May 2004 and has been implemented.

Related applications:

Planning permission ref. 07/00674/DET for the construction of flood defence works from Hamilton Street to Alexandra Parade by Argyll and Bute Council was granted on 8<sup>th</sup> June 2007 and is currently underway.

09/00003/PAN Proposal of Application Notice for erection of a Class 1 foodstore and associated development to include car parking, access road, road bridges, petrol filling station and engineering works on the site of Walkers Garden Centre and land to the rear by CWP Property Development and Investment submitted 16<sup>th</sup> September 2009 and Pre-Application Consultation process carried out.

An application ref. 10/00222/PPP for the erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works on the site of Walkers Garden Centre and land to the rear by CWP Property Application continued by Committee following a local hearing on April 2011 and PPSL Committee on 18<sup>th</sup> May 2011 in order to enable that application to be considered concurrently with this application.

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**(D) CONSULTATIONS:**

**Public Protection** (response dated 3<sup>rd</sup> June 2011): Note that the site has undergone extensive works to remediate contaminated land but it is important that the remediation is appropriate to the intended use. Recommend conditions in respect of contamination of site, noise from development, and lighting. Conditions recommended in respect of noise, lighting and contamination.

**Flood Alleviation Management** (responses dated 16<sup>th</sup> May, 16th August, and 31st August 2011): No objections subject to conditions and advisory note. Comments regarding the detailed design and means of access to the watercourse for inspection purposes. A condition survey of the training walls to be carried out detailing any remedial works to be carried out. Prior to submitting a detailed design, a site investigation including CCTV to locate and identify existing pipework should be carried out with any impacts identified on adjacent roads drainage. Pathway at Hamilton Street Bridge to be designed and provided. CAR Licence required from SEPA.

Updated comments in response to letter from James Barr / Kaya – Confirm that a copy of the Milton Burn Flood Risk Assessment was supplied to Kaya and to Dougal Baillie Associates. Satisfied with the information submitted at this stage but expect a detailed proposal to take cognisance of the Carl Bro report. Additionally, a detailed scheme should investigate fully the responsibility of riparian owners to maintain the adjacent watercourse

to reduce possibilities of culvert blockage at Argyll Street and access to the watercourse to allow the Council to carry out its duties under the Flood Risk Management Act 2009.

**Scottish Environment Protection Agency** (responses dated 6<sup>th</sup> June, 25<sup>th</sup> July, 23<sup>rd</sup> August 2011): Initial objection based on lack of information on flood risk. Updated response removes objection on flood risk grounds but recommend conditions regarding compensatory flood storage, submission of a SuDS scheme, submission of a Construction Method Statement and Regulatory Advice regarding requirement for CAR licence, pollution prevention and waste management proposals.

Updated comments in response to letter from James Barr / Kaya – SEPA confirm that the submitted Flood Risk Assessment met their minimum requirements and therefore acceptable to inform the development management process. Given the nature of the site it was accepted in this case that level for level compensatory storage could not be provided and as such pre and post modelling has been undertaken which confirms that the proposal should have a neutral effect on flood risk based on the information provided at this stage. In terms of compensatory flood storage SEPA recommend that the 200 year plus 50% culvert blockage flood extent should be adopted and considered as essentially functional floodplain and that this aspect should be covered by a planning condition. Flood Risk advice supplied for the applicant.

**Scottish Water** (response dated 13<sup>th</sup> May 2011): No objections in principle. Due to size of development Scottish Water will have to assess impact on existing infrastructure. Potential capacity issues. Separate surface water drainage system required. Advisory comments.

**Area Roads Manager** (response dated 5<sup>th</sup> September 2011): No objections subject to conditions and advisory notes. Detailed design for junction at Hamilton Street/Argyll Street required. Road Opening Permit required. For full details refer to report below.

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**(E) PUBLICITY:**

The application was advertised under Regulation 20(1) Advert Statement (publication date 13<sup>th</sup> May 2011, expiry date 3<sup>rd</sup> June 2011).

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**(F) REPRESENTATIONS:**

Representations: 72 letters/emails of objection and 1 of support.

**Supporters**

The person who has expressed support is listed in Appendix B to this report.

**Objectors**

Those persons who have raised objections are listed in Appendix B to this report.

The grounds of objection may be summarised as follows:

- Traffic problems due to locations and junctions close by;
- We have a sufficient small supermarket (the co-op) which has met our needs;
- Dunoon needs a larger supermarket as proposed on the Walkers site to fill the shopping gap we have;

- Whilst the National Grid shows there is demand for a new supermarket in Dunoon, only the Walkers scheme can provide the supermarket the area needs;
- I prefer your application to that of the National Grid site;
- No better than existing two supermarkets;
- Walkers scheme promises more car parking and will help to deliver houses to the rear;
- Proposed development would cause a loss of jobs at the Co-op;
- Proposed development is directly across from an existing Co-op supermarket;
- Proposed development would not attract larger chains to aid cost savings and choice for the consumer;
- A smaller store would be limited in shopping diversity;
- Any supermarket should go ahead on the Walkers site offering more to the community and retain the existing garden centre/coffee shop and keep the fuel station open offering competitive prices;
- If Walkers closed, a new petrol station will be required and the proposed development cannot provide this;
- Bigger store needed to compete with larger supermarkets in Inverclyde;
- Due to the location there would be public transport problems with longer stops delaying traffic;
- Has any operator shown an interest in the proposed foodstore;
- Issues of noise and light pollution from proposed development;
- Close proximity of loading bays to houses on McArthur Street with little scope for screening;
- Loss of privacy for some surrounding residential properties;
- Delivery times and impact on residential amenity;
- Traffic hazards with large vehicles accessing the site from Argyll Street;
- Turn the gas works site into a rugby/shinty pitch;
- Use the gas works site for affordable housing;
- Flooding issues from Milton Burn;
- Possible previous ground contamination;
- Fairness in dealing on a 'first submitted first dealt with' basis.



*Comment - One of the salient issues raised is the protection of residents in McArthur Street from noise and activities arising from the proposed service yard and delivery area. An acoustic barrier is proposed by the applicants which could be designed to mitigate any noise from this part of the site and the subject of a condition.*

Letters of objection (dated 4<sup>th</sup> July & 6 September 2011) from James Barr Ltd. include comments on the submitted Retail Statement, Transportation Assessment. The points raised are summarised below and also addressed in the main report under appropriate sections.

- Retail Statement is largely based on the Planning and Retail Statement by James Barr and relies heavily on the data and assumptions contained therein;
- The proposal is not an alternative site to the CWP proposal – CWP proposal includes a 40,000sqft foodstore with petrol filling station and 238 car parking spaces – National Grid proposes a 34,000sqft foodstore with no petrol filling station and 123 car parking spaces;
- National Grid site cannot accommodate the CWP proposal;
- Feedback received from retailers to CWP and their agents Colliers (refer below) suggest that the optimum retailer requirements for Dunoon and Cowal are a 40,000sq.ft foodstore with appropriate levels of car parking and petrol filling station;
- Proposal seeks to draw support from CWP proposal but cannot offer the same retailing, parking or petrol filling station provision;
- Proposed internal floorspace arrangements leave a smaller amount of back of house/storage than normally required to make a foodstore operate effectively;
- The proposal represents a significant under-provision of car parking spaces which is not comparable to the CWP proposal;
- The proposal lack a petrol filling station which is a key component of rural foodstore developments;
- Issue of the health of Dunoon Town Centre – regarded as healthy or not?
- CWP and National Grid roughly agree on leaked expenditure contrary to the views of the planning department;

*Comment: this alludes to the fact that officers have questioned the validity of the assumptions in both RIA's that the developments will be capable of clawing back 40% of leaked expenditure.*

- Despite the National Grid site being sequentially preferable, it cannot accommodate the CWP proposal therefore unsuitable in sequential terms;
- Comparison floorspace between National Grid and CWP proposal not significant;
- No evidence to support turnover of proposed development where planning department previously considered that company averages should be used ;
- Proposal cannot claw back the same level of leakage expenditure as it does not offer the full range of facilities that CWP proposes and a higher percentage of trade diversion will require to come from the town centre and edge of centre locations;

- Proposed foodstore will have a higher impact on town centre than CWP proposal due to its inferior offer despite net convenience floorspace being the same;
- 8% negative impact on town centre is incorrect and should include impact on Morrisons making the %impact comparable with the CWP proposal;

*Comment: As the Morrisons store is located within the defined town centre, diversion of trade from that store should be taken into account in calculating the overall impact on the town centre. Doing so produces a 20.5% impact in terms of convenience spend, but when comparison spend is included, this reduces to an overall impact of 9.5% upon the town centre as a whole.*

- Department's previous views of 'ambitious' retention of convenience expenditure;
- Overall negative impact (convenience and comparison) on town centre of 9.5% represents an under-estimate of retail impact- 8% previously regarded by planning department as significant.

*Comment: Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate against any perceived impact on the existing town centre. The basis on which the figure of 8% impact on the town centre was calculated for the CWP proposal was regarded as an under-estimate by the planning department given the larger scale and nature of their proposals.*

Objection letters (dated 8<sup>th</sup> July, 2<sup>nd</sup> August, 23<sup>rd</sup> August, and 31<sup>st</sup> August 2011) have also been received from James Barr/Kaya Consulting Ltd. on flood risk modelling and responses made by the applicant's consultants, SEPA and the Council's Flood Alleviation Team. Kaya suggest that the Carl Bro (CB) modelling study is more likely to provide a better representation of the impact of the bends in the river on flood levels at the site. Additionally, limiting the amount of land that can be raised for development and maintaining existing overland flow paths will reduce the size of the proposed development which could affect the viability of the development. Kaya consider that the DBA model under-predicts water levels, that the site may not be capable of accommodating sufficient compensatory flood storage, overland flow paths could be affected by culvert blockage and it would be premature to make a decision on the flooding risk aspects without addressing these concerns.

A letter from James Barr Ltd. (dated 25<sup>th</sup> July 2011) with supporting information from Colliers (dated 20<sup>th</sup> July 2011) disagrees with conclusions reached in the DTZ letter dated 7<sup>th</sup> June 2011. The agents confirm that their dedicated in-house retail team are actively involved in live transactions on behalf of developers with three of the four main retailers. Based on these discussions, Colliers advise that their optimum requirements for a store in Dunoon have been confirmed to be approximately 40,000sq ft with adequate car parking, servicing and a petrol filling station.

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**(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 -. Design Statement submitted 22<sup>nd</sup> June 2011 and outlines site development strategy, flood risk management, building modelling and finishes, soft landscaping and accessibility (refer to Report).
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

'Retail Statement' dated August 2011 by Montagu Evans; concludes that the proposed development:-

- *is acceptable in the context of National, Strategic and Local planning policy;*
- *represents a significant brownfield redevelopment opportunity close to Dunoon Town Centre;*
- *the brownfield site has been remediated for development;*
- *is consistent with Strategic and Local Plan policies in respect of the sequential approach to retailing;*
- *the site is sequentially preferable in retail terms to that of the CWP proposal;*
- *there is both a qualitative and quantitative deficiency for a modern retail foodstore within the catchment;*
- *residual expenditure is considerable and being spent elsewhere either within the catchment (over trading) or outwith (leakage);*
- *main sources of trade diversion will be from the existing Morrisons foodstore provision;*
- *limited impact on convenience retail provision within Dunoon Town Centre which is regarded as being relatively healthy;*
- *is likely to claw back a significant portion of the residual expenditure being leaked from the catchment;*
- *locating a new foodstore in an edge of centre location enhances the proportion of linked trips (both retail and service related).*

'Transportation Assessment' dated May 2011 by Dougal Baillie Associates;

*The Transportation Assessment assesses the potential for minimising private car usage by public transport and an assessment of existing pedestrian, cycle and public transport facilities have been carried out.*

*It is concluded that the proposed development site is located adjacent to existing public transport facilities with bus stops located on Argyll Street. The site is well served by existing footway network on Hamilton Street and Argyll Street providing access to local residential areas and local public transport facilities. The proposed development is in accordance with SPP Transport and Planning being easily*

*accessible by a range of transport modes from many locations within the surrounding area.*

*Findings conclude that the existing roads network can operate without the need for signalisation.*

*125 car parking spaces are proposed which complies with National Parking Standards for retail development and therefore acceptable, especially given the proximity of the site to the town centre. Cycle parking will also be catered for within the development.*

Additional supporting transportation information dated 22<sup>nd</sup> August 2011 by Dougal Baillie Associates;

Following a meeting with Council Officers, additional information submitted on access position, forward visibility at junction, junction design and need for signalisation, parking ratio, pick-up/drop-off, service bay diameter and bus stop layout (refer to report for details).

'Flood Risk and Drainage Assessment' dated April 2011 by Dougal Baillie Associates;

*Hydrological and hydraulic studies conclude that the majority of the site is at little or no risk of fluvial flooding from the Milton Burn. A small area of the site on the western side is at risk of flooding and the area is therefore classed as being active functional flood plain with a medium to high risk of flooding. To ensure that the site is not at risk of flooding, it is recommended that a minimum floor level of 12.95m AOD includes a freeboard allowance which will also require a degree of land raising within the functional flood plain. To ensure a neutral impact, compensatory flood storage provisions are incorporated into the scheme design to replace lost capacity. The design, specification and corresponding calculations demonstrating performance of the compensatory flood storage provisions should be undertaken at a detailed design stage and any works within the watercourse will require authorisation by SEPA through a licence issued under CAR.*

*Foul drainage will be discharged into the existing Scottish Water combined sewer network which traverses the site.*

*It is proposed to discharge surface water run-off to the adjacent Milton Burn as this will be at least equal to natural Greenfield runoff release rates and will be provided by using a range of SUDS source control measures.*

'Response to SEPA letter dated 6<sup>th</sup> June 2011' by Dougal Baillie Associates dated 29<sup>th</sup> June 2011 including Hydraulic Model Output – longitudinal profile and cross sections.

*Further clarification on the linear reservoir routing used on the sub-catchment upstream of Loch Loskin; clarification on sensitivity analysis of Argyll Street bridge; provision of long profile and cross sections from hydraulic modelling; consideration of alternative development location within the site which negate the need for land raising; further information on the mitigation measures related to the flooding of the north-west corner and further information on proposed land raising.*

Additional supporting flooding information dated 22<sup>nd</sup> August 2011 by Dougal Baillie Associates;

Following a meeting with Council Officers, additional flood information has been submitted regarding differences in the Milton Burn flood level estimations and flood inundations maps as outlined in the DBA report when compared to Carl Bro Flood Risk Assessment, flood hydraulics in the event of bridge blockage and surface water drainage and attenuation storage (refer to report).

'Site Condition Statement' by WSP Environmental dated 17<sup>th</sup> June 2011 who confirm that a programme of remediation was successfully undertaken between 2004 and 2008 and validated to the approval of the regulator. Confirm that the site is considered suitable for redevelopment and consider that the current indicative design would not be at risk from potential residual contaminants.

A letter of support has also been received from DTZ dated 26<sup>th</sup> August 2011 incorporating comments from Kennedy & Co who confirm the following:

- *The National Grid site is a prepared brownfield site which is available for sale;*
- *Unlike the CWP site, National Grid are not displacing or extinguishing an existing employment generating business including an existing petrol filling station business;*
- *Understand that the Property Director of the major firm that Colliers represent has visited Dunoon and prefers the location of the National Grid site;*
- *Aware that the cost associated with infrastructure works including bridging the burn, site levelling and compensating the owners of the CWP site are significant and to date no operator is associated with the CWP application;*
- *Can confirm that over a number of years, National Grid and their agents has received notes of interest from a number of retailers, developers and property companies, including CWP;*
- *Only today, we received an inquiry from Eric Young & Co regarding the site and a number of developers have approached us.*
- *One of the consistent points made against the National Grid application is that it does not show a petrol filling station. There is no need to have a petrol filling station as that role is already fulfilled at the outlet provided by Walkers. If their application is inappropriate and not considered suitable and refused by the Committee then the Walkers business and petrol filling station will remain in situ this providing the need for that purpose.*

A letter from Dundas & Wilson (dated 25<sup>th</sup> August 2011) on behalf of National Grid requests that: *both the current application and the CWP application (ref. 10/00222/PPP) should be considered at the same Committee and the National Grid scheme should be considered first given that it occupies a sequentially preferable "edge of centre" location and recognised by the Council as being a "significant material consideration" in the determination of the CWP scheme. Additionally, one of the reasons of refusal for the CWP application was that "an alternative, sequentially better site is available within the edge of centre" i.e. the National Grid application site. In letters to James Barr from the Council, it reinforced officers' views that the National Grid application is very material to the determination of the CWP application, where Members endorsed this view. Furthermore, it was stated by the Council that "the planning department do consider that there is a sequentially preferable site in Dunoon".*

*It is suggested that James Barr also consider the National Grid to be a significant material consideration in determination of the CWP application which would explain why they are seeking to have the applications determined at different committees.*

*Dundas & Wilson state that it is imperative that both applications are considered at the same committee and as the "sequentially preferable site" and "new material consideration" the National Grid application should be determined by Members before any decision is*

*taken on the non-policy compliant CWP alternative. To do otherwise would be illogical, perverse and leave the Council exposed to legal challenge.*

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** Yes - A Section 75 Agreement is required to address an appropriate developer contribution to mitigate a potential adverse impact on Dunoon town centre.

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

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

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

'Argyll and Bute Structure Plan' (2002)

STRAT SI 1 - Sustainable Development;  
STRAT DC1 - Development Within the Settlements;  
STRAT DC10 – Flooding and Land Erosion;  
PROP SET2 – Town Centres and Retailing;  
PROP TRANS1 - Development Control, Transport and Access.

'Argyll and Bute Local Plan' (August 2009)

The application site is located within the main town settlement of Dunoon within the Edge of Town Centre zone and within Area for Action AFA 2/2 where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;  
LP ENV19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance;  
LP RET 1 Retail Development in the Towns – The Sequential Approach;  
LP SERV1 Private Sewage Treatment Plants and Wastewater Systems;  
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);  
LP SERV3 Drainage Impact Assessment (DIA);  
LP SERV7 Contaminated Land;  
LP SERV8 Flooding and Land Erosion;  
LP TRAN2 Development and Public Transport Accessibility;  
LP TRAN3 Special Needs Access Provision;  
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;  
LP TRAN5 Off site Highway Improvements;  
LP TRAN6 Vehicle Parking Provision;

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

- Scottish Planning Policy (February 2010), paras. 52-65
- Planning Advice Note 52 – 'Planning in Small Towns';
- Planning Advice Note 59 – 'Improving Town Centres';
- Planning Advice Note 69 – 'Planning and Building Standards Advice on Flooding';

- Planning Advice Note 79 – ‘Water and Drainage’;
  - Consultee Responses;
  - Third Party Representation;
  - Scottish Government - Town Centre and Retailing Methodologies: Final Report (2007);
  - GOAD retail database;
  - James Barr Retail Impact Assessment / CWP proposal.
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**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact 1999 Assessment: Yes**

As an urban development project exceeding 0.5 hectares in size, the proposal would represent Schedule 2 development under the Regulations. In determining whether the proposal represents EIA development, the Council has considered the selection criteria set out in Schedule 3 of the Regulations. With regard to the characteristics of the development and the environmental sensitivity of the location, it is noted that remediation works have been undertaken on the site to remove contamination associated with the former use of the site as Dunoon Gasworks. Additionally, the approved Milton Burn Flood Defence proposals and flood defence proposals currently under construction will contribute to the alleviation of any significant concerns regarding potential flooding of the site or loss of functional floodplain. The proposal is supported by technical studies in respect of flood risk and contamination and represents development of a prominent brownfield site earmarked in the Argyll and Bute Local Plan for development including retail. For these reasons, it is considered that the proposed development does not require an EIA.

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

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

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

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**(O) Requirement for a hearing (PAN41 or other): Yes.**

In view of the complexity of the proposal, the volume of objections (72) and the prospective departure from the provisions of the development plan, it is recommended that Members should hold a PAN 41 hearing before determining the application.

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

In the ‘Argyll and Bute Local Plan’ (August 2009), the proposed retail development is located on the former Dunoon Gas Works site that is situated within the Main Town settlement of Dunoon. While the ‘brownfield’ site lies outwith the identified Dunoon Town Centre, which is identified as the preferred location for new retail investment, it is located within the defined ‘edge of town centre’ zone, which in the absence of suitable town centre sites, is the next sequentially preferred location for retail development.

In line with Scottish Planning Policy and ‘Argyll and Bute Structure Plan’ Prop SET 2, ‘Argyll and Bute Local Plan’ policy LP RET 1 establishes a presumption in favour of retail development within town centres, and adopts a sequential approach to retail development outwith town centres, firstly to sites within identified ‘edge of town centre’ locations, and then to other sites which are accessible or can be made accessible by a choice of means

of transport elsewhere within the town. The policy requires that in any of these cases that there is no significant detrimental impact on the vitality or viability of existing town centres, and the proposal is consistent with the other structure and local plan policies. The policy allows for a retail impact assessment to be requested to demonstrate the anticipated impact of the proposal on the town centre.

The applicants have therefore submitted a Retail Statement which seeks to address the policy issues in relation to both the sequential test issue and the retail impact on the town centre.

The applicants consider that the proposal represents a significant brownfield redevelopment opportunity close to Dunoon Town Centre, is sequentially preferable in retail terms to that currently proposed by CWP for a foodstore (to the rear of Walkers Garden Centre, ref. 10/00222/PPP) and represents a better alternative in policy and settlement strategy. The applicants believe that while there is demand for a further foodstore in Dunoon, the proposal by CWP for a larger foodstore with petrol filling station does not reflect operator's requirements and therefore should not preclude the consideration of the former gas works site, as being sequentially preferable and a realistic and achievable proposal.

Whilst the proposed store is smaller (2,932 sq m gross external floorspace) than the CWP proposal (3,716sq m), it contains a mezzanine floor for plant and staff accommodation and no petrol filling station. The applicants comment that the former gas works site has been promoted for development throughout the process in preparing the adopted 'Argyll and Bute Local Plan' and recent remediation works confirm this commitment to developing the site. The applicants also suggest that the location of the proposed smaller foodstore closer to Dunoon Town Centre (than the out-of-town centre CWP proposal) will also result in far greater linked retail and service trips and hence no significant loss of footfall, as would be the case with the CWP proposal.

The proposed foodstore would be larger than Morrisons (by approx 787sq m gross external floor area) but smaller than the proposed foodstore by CWP (by approximately 784sqm). The applicants have submitted a retail assessment which seeks to demonstrate the capacity of the catchment area to support additional retail floorspace, to calculate the potential to clawback leaked expenditure, and to assess the likely impacts on existing shops within the town centre. They have suggested that the proposed store is unlikely to trade at company averages and more likely to trade below that figure. A figure of 80% of company averages has been used in their Retail Statement.

The assessment of the relative impacts of the current proposals and those of CWP on the town centre relies upon the judgements made by the respective applicants consultants as to the degree to which expenditure currently lost from Dunoon could be attracted back to the town. CWP have argued that they need a larger store in order to compete with stores outwith the catchment. In their RIA they anticipate 60% of their stores turnover coming from retention of leaked expenditure. This equates to £7,019,570 or 62.7% of leaked expenditure as detailed in their assessment. As the current application is for a smaller store the applicant's agents have stated that 50% of the stores turnover will come from clawback of leaked expenditure. This would be £6,018,178 or 57.7% of the leaked expenditure.

The applicants feel that the proposal will keep nearly 58% of the current trade diversion within Dunoon and that this would significantly reduce the number of trips made outwith Dunoon for main food shopping and keep this lost expenditure within the town.

The applicants consider that a smaller foodstore in such a central location will impact primarily on the largest foodstore in Dunoon (i.e. Morrisons) with expected 22% convenience trade diversion and 8% on other convenience outlets in the town centre. The impact on the Co-op has not been assessed as this store is outwith the town centre and



does not enjoy the same degree of protection afforded by Local Plan Retail Policy as the town centre as a whole. With regard to comparison expenditure there is estimated to be a 2.8% impact on the turnover of town centre comparison good retailing. The impact on the town centre convenience and comparison retailing are calculated to be 9.5% on the town centre as a whole (including Morrisons) While the two retail assessments cannot be compared directly with each other because different approaches have been used the CWP proposals estimate that their larger store will trade at 75% of company averages with a 15% impact on Morrisons and 8% on the other town centre convenience shops. In relation to comparison retailing they estimate a 3.7% impact, and overall an 8% impact on town centre retailing.

Given all of the above, the application is considered to represent a 'minor departure' to Policy PROP SET2 of the Argyll and Bute Structure Plan and Policy LP RET 1 part (D) of the Argyll and Bute Local Plan where there will still be convenience/comparison trade diversion from the town centre but this has to be balanced with the potential increased footfall by linked trips to a new foodstore on a prominent vacant brownfield site within walking distance of the existing town centre and expected clawback from outwith the catchment.

No objections have been raised from statutory consultees in respect of transportation matters, flood risk, contamination and environmental concerns and safeguarding conditions are recommended below to address any concerns.

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**(Q) Is the proposal consistent with the Development Plan:** No – 'minor departure' to part (D) of Policy LP RET 1 of the Argyll and Bute Local Plan.

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**(R) Reasons why Planning Permission in Principle should be Granted**

The proposal is considered consistent with parts (B), and (E) of Policy LP RET 1 of the 'Argyll and Bute Local Plan' in that it would promote the use of a prominent vacant 'brownfield' site within a sequentially preferable site within an edge of centre location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate against any perceived impact on the existing town centre.

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

The proposal is considered consistent with parts (B), and (E) of Policy LP RET 1 of the Argyll and Bute Local Plan in that it would promote the use of a prominent vacant 'brownfield' site within a sequentially preferable site within an 'edge of town centre' location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate such a degree of anticipated impact on the existing town centre, and therefore a 'minor departure' to Policy LP RET 1 is justifiable in these circumstances.

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

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**Reviewing Officer: David Eaglesham**

**Date: 7<sup>th</sup> September 2011**

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/00689/PPP**

1. This permission is granted in terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application for planning permission in principle and the further approval of Argyll and Bute Council or of the Scottish Minister on appeal shall be required with respect to the under-mentioned additional matters (to be applied for within an application/s of matters specified in conditions) before any development is commenced.
  - a. The siting, design and external appearance of the proposed development.
  - b. The landscaping of the site of the proposed development.
  - c. Details of the access arrangements.
  - d. Details of the proposed water supply and drainage arrangements.

*Reason: To comply with Section 59(1) of the Town and Country Planning (Scotland) Act 1997.*

2. In the case of the additional matters specified in (1) above, an application/s for compliance with this condition, in terms of Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 must be made to Argyll and Bute Council before whichever is the later of the following :
  - a) the expiration of a period of 3 years from the date of this permission.
  - b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.
  - c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b and c above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

*Reason: In accordance with Section 59(1) of the Town and Country Planning (Scotland) Act 1997*

3. In the case of the application for approval of matters specified in condition (1) above, the development to which the permission relates must be begun within 2 years of the date of this approval; or in the case of there being other matters remaining outstanding 2 years from the date of such further approval; or such other period as the planning authority may determine, provided that such a further application can be submitted in accordance with the approved timelines specified in the ongoing planning permission in principle.

*Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.*

4. The development shall be implemented in accordance with the details specified on the application form dated 5<sup>th</sup> May 2011 and the approved drawing reference numbers: 1:1250 Location Plan (PL)001, 1:500 Illustrative Foodstore Layout (PL)002 RevB, 1:250 Proposed Foodstore Illustrative Elevations (SK)004, 1:500 Former Gas Works Site Survey GJ169/CDA/02 Rev0, 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.*

5. The net convenience sales area of the development shall not exceed 1448 sq.m. and the net comparison sales area shall not exceed 552 sq.m.

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the submitted retail assessment.*

6. The level of noise emanating from the site shall not exceed 40dB(A)  $L_{\text{night, outside}}$  nor 45dB  $LA_{\text{eq}(5 \text{ mins})}$  nor 60 dB  $LA_{\text{max}}$  between 23:00 hours and 07:00 hours and must not exceed 50 dB  $LA_{\text{eq}(1 \text{ hour})}$  at any other time. The level of noise from the site is to be measured at the facade of the nearest noise sensitive receptor for daytime noise.

*Reason: In the interests of public health and amenity.*

7. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from fixed plant and/or machinery has been submitted to and approved in writing by the Planning Authority. The development shall not commence until the measures in the approved noise prevention scheme operate to the satisfaction of Public Protection.

*Reason: In the interests of the amenity of surrounding properties.*

8. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from service yard activity has been submitted to and approved in writing by the Planning Authority. Such a scheme shall provide for an acoustic barrier or other similar noise control measures. The development shall not commence until the acoustic barrier or other measures in the approved noise prevention scheme shall be installed in its approved form prior to the start of any other construction process on site.

*Reason: In the interests of the amenity of residents at McArthur Street.*

9. Prior to any works commencing on site, the applicant shall have regard to the Scottish Executive Guidance Note Controlling Light Pollution and Reducing Light Energy Consumption (March 2007) and follow the lighting design process described in the Guidance Note. The information recorded should be of good standard to enable the lighting submission proposal to be evaluated. All lighting proposals shall be submitted to and approved in writing by the Planning Authority in consultation with Public Protection.

*Reason: In order to avoid the potential of light pollution infringing on surrounding land uses/properties*

9. No development or any works whatsoever shall take place on site until an assessment of the condition of the land has been undertaken and has been approved in writing by the Planning Authority in consultation with the Public Protection Unit. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites. Where such risks are identified then a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be prepared, and is subject to the approval of the Planning Authority in consultation with the Public Protection Unit. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

10. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any development with the exceptions of those actions required to

carry out remediation, unless otherwise agreed, in writing, with the Planning Authority, in consultation with the Public Protection Unit. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation shall be produced, and subject to approval in writing of the Planning Authority in consultation with the Public Protection Unit.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

11. In the event that contamination was not previously identified is found at any time when carrying out the approved development it shall be reported in writing immediately to the Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is deemed necessary then a remediation scheme shall be prepared in accordance with the requirements of condition 8 above which is subject to the approval in writing by the Planning Authority. Following completion measures identified in the approved remediation scheme a verification report shall be prepared which is subject to the approval in writing by the Planning Authority in accordance with condition 10 above.

*Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.*

12. Before development commences, an Environmental Action Plan shall be submitted to and approved in writing by the Planning Authority. This plan shall address issues such as foul drainage, contamination, the potential for dust, mitigation measures to be adopted and the methods of monitoring and recording matters relating to dust control, all to the satisfaction of the Planning Authority in consultation with the Head of Public Protection.

*Reason: In the interests of public health and amenity.*

13. Prior to the commencement of any works, full details of a compensatory flood storage scheme (designed to include the 200 year plus 50% culvert blockage scenario) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved scheme.

*Reason: In order to maintain the capacity of the floodplain.*

14. No development shall commence until a condition survey of the training walls that are to be retained on site has been carried out and submitted to and approved in writing by the Planning Authority. Such a study shall include full details of any remedial works to be carried out and these works addressed as part of the proposed development.

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

15. Prior to submitting the detailed design, a site investigation including CCTV to locate and identify existing pipe work shall be carried out. Full details including a marked up site plan identifying any implications to adjacent roads drainage shall be submitted to the Planning Authority in consultation with the Roads Authority for written approval

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

16. The pathway for overland flow during 1:200 annual exceedence probability (AEP) at Hamilton Street Bridge shall be designed and submitted to the Planning Authority in consultation with the Roads Authority for written approval. Such information shall show the pathway for overland flow re-entering Milton Burn as close to the bridge as possible. The designer is advised to liaise directly with the Council's Design Services (refer to Advisory Note 6 below).

*Reason: In order to assess this aspect in detail and in order to prevent flooding.*

17. Any details pursuant to Condition 1 (d) above shall provide for full drainage details including foul drainage details, and a SuDS scheme with methods to deal with surface water drainage of the site. Prior to the commencement of any works, such a SuDS scheme shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.

*Reason: In order to provide for sustainable development of the site, and to protect existing and proposed development from the effects of potential increased surface water run-off to surrounding areas.*

18. Within a minimum of two months from the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved method statement.

*Reason: To control pollution of air, land and water.*

19. Any details pursuant to Condition 1 (b) above shall provide for a full tree survey, landscaping scheme and boundary treatment incorporating a plan (at a scale of 1:200 or greater) to indicate all trees, shrubs and other features to be retained, felled and replanted. This scheme shall specifically include the age species and location of tree planting as suitable screen planting around the application site (that shall be planted as heavy standards) and method to protect surrounding/overhanging trees during and after construction. No trees shall be felled without prior written approval of the Planning Authority in advance of approval of a tree planting scheme.

*Reason: In order to integrate the proposed development within its surroundings.*

20. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the site foul drainage system can be connected to the public sewerage system.

*Reason: In order to provide for sustainable development of the site, and to avoid any unacceptable adverse impact on the water environment.*

21. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the proposed development can be served with a water supply from the public mains system.

*Reason: In order to ensure that the proposed development can be connected to the public water main.*

22. No works in connection with the development hereby approved shall take place unless a Waste Management Plan for the site has been submitted to and approved in writing by the Planning Authority in consultation with Protective Services and the Scottish Environment Protection Agency. This plan shall include details of the arrangements for the storage, including the design and location of all bin stores together with the separation and collection points for waste from the site or roadside collection points, including provision for the safe pick up by refuse collection vehicles. The approved Waste Management proposals shall be carried out in accordance with the approved scheme.

*Reason: To ensure the waste from the proposed site is dealt with in a sustainable manner in accordance with the National Waste Strategy for Scotland and the Area Waste Plan for Argyll & Bute.*

23. No development, including any site works, shall commence until a detailed design for the junction between Hamilton Street and Argyll Street has been submitted to and approved in writing by the Planning Authority in consultation with Roads. Such detailed design shall

mitigate the reduced junction capacity due to the predicted traffic volumes generated by the development and the base line traffic.

*Reason: In the interests of road safety.*

24. The visibility splays required for the Hamilton Street access shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road. Additionally, a minimum of 25 metres is required as forward visibility from Argyll Street onto Hamilton Street.

*Reason: In the interests of road safety.*

25. The Hamilton Street access shall be a minimum width of 6 metres with radii of 6 metres. The gradient of the access shall not exceed 5% for the first 10 metres or 8% for the remainder. The location of this access is some 35 metres from Argyll Street junction, the access should be moved as far from Argyll Street as the site will permit.

*Reason: In the interests of road safety.*

26. The visibility splays required for the service access on Argyll Street shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road.

*Reason: In the interests of road safety.*

27. The gradient of the service access onto Argyll Street shall not to exceed 5% for the first 10 metres or 8% for the remainder. Provision shall be made within the service bay to ensure that all vehicles must be able to enter and leave in a forward manner.

*Reason: In the interests of road safety.*

**ADVISORY NOTES TO APPLICANT RELATIVE TO APPLICATION: 11/00689/PPP**

3. 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.
4. 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.
5. In respect of conditions 15, 16 & 17 above, the applicant/developer is advised to liaise directly with the Council's Design Services. It is also advised that digital copies of the as built drainage system must be supplied on completion of the works. Periodically the Local Authority must inspect the watercourse therefore a means of access to the Milton Burn should be provided in the detailed design (refer also to condition 16). Please contact the Council's Flood Risk Management Team in the first instance. Contact Mr. Grant Whyte, Blairvadach House, Shandon, tel 01436-658868.
6. The attention of the applicant/developer is drawn to the comments received from SEPA in their response letters dated 6<sup>th</sup> June, 25<sup>th</sup> July, and 23<sup>rd</sup> August 2011. SEPA highlight various issues regarding flood risk, surface water drainage (SuDS), pollution prevention and environmental management, space for waste management provision within the site layout, submission of a Construction Method Statement and Regulatory Advice regarding works within the floodplain and/or watercourse that will require authorisation via a CAR licence from SEPA through the Controlled Activities Regulations (Scotland) Act. The applicant/developer is strongly advised to contact SEPA prior to making detailed designs for the scheme. Please contact Nicola Abrams, Senior Planning Officer, Planning Service, Aberdeen Office, Inverdee House, Baxter Street, Torry, Aberdeen AB11 9QA, tel. 01224 266698 or by e-mail at [planning.aberdeen@sepa.org.uk](mailto:planning.aberdeen@sepa.org.uk).
7. The applicant/developer is advised that in terms of construction noise the Public Protection Service will use powers under the Control of Pollution Act 1974 to control the noise from construction work.

It is envisaged that, in order to comply with the above controls, construction operations within the site may require being restricted to the hours of 0800 to 1800 Monday to Saturday only and at no times on Sundays and Bank Holidays.

In addition, all vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.

Prior to the commencement of any construction or engineering works, the applicant is requested to discuss with the Council's Public Protection Unit (Mrs. Jo Rains, tel. 01369 707120 ext 24) measures that will be put in place to control noise from the site. It should be noted that any agreement made at this time will not preclude any action being taken under Section 60 of the Control of Pollution Act 1974 should it be deemed necessary.

8. Notwithstanding the extensive work to remediate contaminated land, the Council's Public Protection Service advises that the remediation must be appropriate to the intended use. Given the nature of the use of the site, there is still potential for contamination to exist and specific conditions (9-11) have therefore been imposed on this permission. Should the applicant/developer wish to discuss matters relating to possible contamination of the site and the submission of a Remediation Plan, he should liaise directly with Mrs. Jo Rains, Area Environmental Health Manager, tel. 01369-707124) regarding these issues.
9. The applicant is advised by Scottish Water that :



- Scottish Water has no objection to this planning application. Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk).
- In terms of planning consent, Scottish Water does not object to this planning application. However, please note that any planning approval granted by the Local Authority does not guarantee a connection to our infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.
- Due to the size of this proposed development it is necessary for Scottish Water to assess the impact this new demand will have on our existing infrastructure. With any development of 10 or more housing units, or equivalent, there is a requirement to submit a fully completed Development Impact Assessment form. Development Impact Assessment forms can be found at [www.scottishwater.co.uk](http://www.scottishwater.co.uk).
- Loch Eck Water Treatment Works currently has capacity to service this proposed development.
- Dunoon (Alexandra) Wastewater Treatment Works – at present there is limited capacity to serve this new demand. The Developer should discuss their development directly with Scottish Water.
- 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 is funded to provide capacity at Water and Waste water Treatment Works for domestic demand. Funding will be allocated to carry out work at treatment works to provide growth in line with the Local Authority priorities. Developers should discuss delivery timescales directly with us. Developers should discuss delivery timescales directly with us.
- If this development requires the existing network to be upgraded, to enable connection, the developer will generally meet these costs in advance. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules. Costs can be reimbursed by us through Reasonable Cost funding rules
- A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.
- These proposals may involve the discharge of trade effluent to the public sewer and may be subject to control as defined in Part II of the Trade Effluent Control and Charging Scheme. No substance may be discharged to the public sewerage system that is likely to interfere with the free flow of its content, have detriment to treatment / disposal of their contents, or be prejudicial to health.

- An appropriate water storage system Water storage equivalent to 24 hours usage is recommended for commercial premises. Details of such storage installations must be forwarded can be discussed to Scottish Water's Customers Connections department at the above address.
- It is possible this proposed development may involve building over or obstruct access to existing Scottish Water infrastructure. On receipt of an application Scottish Water will provide advice that advice that will require to be implemented by the developer to protect our existing apparatus.
- There may be contaminated land issues relevant to the development of this site. The developer must ensure that satisfactory precautionary measures are taken to protect public water and sewer pipes from any possible contamination. The developer may have to submit a full soil investigation report to Scottish Water. Customer Connections will be able to provide advice on this subject. on request.
- Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

For the advisory notes above, the applicant/developer is advised to contact Scottish Water directly (Planning and Development Services, 419 Balmore Road, Glasgow G22 6NU, Stephen Kelly, Customer Connections, Tel. 0141 355 5511 or at [www.scottishwater.co.uk](http://www.scottishwater.co.uk))

10. The applicant is advised by the Council's Roads Engineer that :

- Dropped kerbs are required to provide a safe crossing point for pedestrians, provision for pedestrian crossing points will be required to be agreed by Roads;
- Traffic Management is required within the site along with a defined drop off and pick up point;
- A positive surface water drainage system to be provided to prevent water running on to the footway and carriageway;
- No signs will be allowed to be within visibility splays and if illuminated unable to shine directly onto passing traffic;
- If gates are to be fitted they must be over 15 metres back to allow HGVs to pull completely off the carriageway. Dropped kerbing to be provided on the radii for safe pedestrian access;
- A Road Opening Permit (S56) will be required for all works on or adjacent to the road;
- Suitable boundary treatments are required to provide safe pedestrian access and screening to reduce potential of headlights within car park dazzling other road users.

*The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell (tel. 01369 708613) directly on these matters.*

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00689/PPP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

Argyll and Bute Structure Plan policy STRAT DC 1 supports development that serves a wide community of interest including 'large scale' development on appropriate infill, rounding-off and re-development sites. Developments which do not accord with this policy are those which are essentially incompatible with the close configuration of land uses found in settlement e.g. development which results in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.

PROP SET 2 of the 'Argyll and Bute Structure Plan' seeks to sustain the viability and vitality of town centres where a sequential approach to retail development will be adopted. Policy LP RET 1 of the 'Argyll and Bute Local Plan' states a presumption in favour of retail development (Use Classes 1, 2 and 3) provided it is within a defined town centre or where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre. Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport and that there would be no significant detrimental impact on the vitality or viability of existing town centres and the proposal is consistent with other Structure and Local Plan policies.

The application site lies within the 'Main Town' settlement of Dunoon and within the 'Edge of Town Centre' zone as defined in the 'Argyll and Bute Local Plan' (August 2009).

The application site also lies within Area for Action AFA 2/2 as identified in the 'Argyll and Bute Local Plan'. AFA 2/2 – Dunoon-Argyll Street/Hamilton Street/Victoria Road is identified as a local area for action with development and environmental enhancement prescribed. Such areas should be the focus for partnership or community action and may include investment and funding packages, land assembly and asset management programmes, development and redevelopment proposals, infrastructure provision, and environmental enhancement proposals.

Schedule R1 of Policy LP RET 1 of the 'Argyll and Bute Local Plan' defines 'large scale' retail development as being in excess of 1000sq m gross floor space (the proposal is for 2,932sq m sq m gross external / 3,225sq m gross internal). In addition, Structure Plan Policy PROP SET 3 promotes the use of 'brownfield' sites over 'greenfield' sites in the interests of sustainable development.

Dunoon currently has two large scale retail foodstores, Morrisons and the Co-op, located in the Main Town Centre and Edge of Town Centre zones respectively. In terms of the retailing policies above, and on the basis that no suitable sites exist within the town centre, the proposed large scale retail foodstore is within the preferred 'Edge of Town Centre' zone.

In terms of settlement strategy, development of this 'brownfield' site would be consistent with the aspirations of AFA 2/2 in developing a prominent Edge of Town Centre site located adjacent to Argyll Street and in close proximity to Dunoon Town Centre.

**Accordingly, in terms of the settlement strategy, the proposal would be consistent with policies STRAT SI 1, STRAT DC1, PROP SET2, PROP SET3, PROP SET5 of the 'Argyll and Bute Structure Plan', and policies LP ENV1, LP ENV 19 and LP RET 1 of the 'Argyll and Bute Local Plan'.**

## **B. Location, Nature and Design of Proposed Development**

### **i) Location**

The application site (1.12 ha) comprises the former Dunoon Gas Works site that is bounded by Hamilton Street to the north and A885 Argyll Street to the east. The site falls by some 4m southwards and westwards from the junction of Argyll Street and Hamilton Street. The Milton Burn runs north to south along the western and southern boundaries of the site. Beyond the Milton Burn to the west lie Council Depots and dwellings on Victoria Road that overlook the application site from a higher level. Residential properties on the northern side of McArthur Street are in close proximity and overlook the application site from the south. The site is bounded to the north by residential dwellings on Hamilton Street, a vacant funeral directors and vacant garage on Argyll Street. To the east of the site are the Co-op foodstore, Queen Street junction, monumental sculptor's yard, residential flats on Argyll Street/ Argyll Road junction and Dunoon Police Station.

### **ii) Nature and Design of Proposed Development**

The proposal involves the erection of a large scale retail foodstore (2,932 sq m / 31,560 sq ft gross external floor area). An indicative layout shows a rectangular footprint of a building some 61 x 45 metres on the southern portion of the site, orientated north-south with its main entrance frontage facing north towards Hamilton Street and long side elevation facing Argyll Street. Indicative elevational details have also been submitted at this stage.

The main vehicular access is proposed from Hamilton Street utilising the existing access. A secondary service access leading to a service yard is proposed off Argyll Street at the southern end of the site to the rear of the proposed building. A large car parking area is proposed between the foodstore building and Hamilton Street that would provide 125 parking spaces including wider bays for disabled spaces.

Whilst no end-user has been identified, the Retail Statement confirms that supermarket operators have expressed a direct interest in the site based upon the development of a store of the size proposed without a petrol filling station. The nature of the store will be predominantly focused on convenience goods to provide for main food shopping requirements but will also include a limited range of comparison goods. The proposed store has a gross internal floor space of 3,225 sq m / 34,714sq ft which includes a mezzanine floor of 393sq m/ 4230sq ft for plant and staff accommodation only.

The ground internal floor area of 2,832 sq .m will comprise an estimated 1,448 sq m net convenience goods floor space and 552 sq m comparison goods floor space (i.e. a 72/28 convenience/comparison split).

Policy LP ENV19 of the 'Argyll and Bute Local Plan' includes in Appendix A Sustainable Siting and Design Principles design guidance relative to 'Isolated/Commercial Development'; Whilst the location of the application site is not regarded as isolated, it is in a prominent edge of centre location and therefore the design criteria are considered to be relevant.

*18.1 the appearance of the development should be considered. The form and pattern of the landscape will largely determine the acceptability of the proposal..... The extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor.*

*18.2 When assessing the appearance of isolated commercial development, the Planning Authority will take the following into consideration:*

- *The size and extent of the proposal. This includes the visual impact of the scheme and the distance/location from which it is visible;*

- *The location of the proposal and its landscape setting, including the way in which the development has used the natural contours of the site is of prime importance. A large building must be absorbed by the landscape as much as possible, whether by excavating and building into the landform, using existing landforms to mask the development or screening by new trees;*
- *The design and colour of the development(s) and ancillary structures can be used to minimise their perceived bulk and visual impact. Natural materials such as timber and stone will help to fit a large building into the landscape, as will dark natural colours (particularly on the roof).*

In their Design Statement, the applicants comment that the position of the building was determined by the width and configuration of the site, site levels with the higher part of the site at the northern end, site levels to suit servicing, location of service yard and level access from Argyll Street.

In terms of flood risk, the building will be designed to incorporate specific mitigation measures to set the ground floor level of the building above anticipated maximum flood level and to ensure that sufficient volume of flood relief capacity is retained on site. An area of lowered soft landscaping in the central western portion has been designated for flood relief.

The functional requirements of a supermarket dictate a simple rectangular form with glazed public entrance and canopy presented to face the car park. The location of the entrance allows convenient access from Argyll Street for both pedestrians and bus users. A bus lay-by is proposed on Argyll Street adjacent to the main entrance. Tree and screen planting is proposed along the Argyll Street elevation to conceal the service yard and to break up the long eastern elevation of the building.

Although a planning permission in principle application, the building is proposed to have a low-pitched powder coated profiled metal roof, screened behind parapet walls. External walls are proposed as a facing brickwork dado with a smooth metal panel system. The entrance lobby and adjacent shop frontage will be aluminium framed glazed screens/curtain wall with the frontage canopy clad in smooth metal panels.

A landscaping strategy is proposed to replace the self seeded specimens with strategically planted trees which will maintain and strengthen the wooded backdrop to the site whilst not impeding floodwater flow. Along the eastern edge of the site, it is proposed to locate trees with a shrubs/hedge to screen the eastern elevation of the building with a low brick screening wall around the car park.

All public access points and escape points will give directly level access from both the car park and footpath on Argyll Street.

It is acknowledged that the application is in principle only at this stage where only indicative building footprint and elevations have been submitted. Whilst the site of the building appears in an acceptable position, siting, design and materials will all be addressed in a detailed application. Given the indicative proposals above, it is considered that a proposed supermarket building could be accommodated on the site with scope for screening and to integrate with the wide variety of building types and uses that surround the site.

**At this stage, it is considered that the proposal is consistent with the provisions of Policy LP ENV 19 and Appendix A of the 'Argyll and Bute Local Plan' together with the Council's Design Guide.**

### C. Retail Policy Considerations

In policy terms, policy LP RET 1 of the Argyll and Bute Local Plan is the principal policy against which the proposal should be assessed.

#### i) The Sequential Approach to Retail Development in Towns

Scottish Planning Policy (SPP), 'Argyll and Bute Structure Plan' Proposal PROP SET 2 and 'Argyll and Bute Local Plan' Policy LP RET 1 set out that a sequential approach to site selection for retail development will be undertaken to ensure that new development does not undermine the vitality and viability of existing town centres. The SPP and Local Plan sets out that site locations should be assessed in the following order:

- Town centre sites;
- Edge of centre sites;
- Other commercial centres identified within the development plan;
- Out of centre sites in locations that are, or can be made, easily accessible by a choice of transport modes.

#### Policy LP RET 1: Retail Development in the Towns – The Sequential Approach

There will be a presumption in favour of retail development (Use classes 1, 2 and 3) provided:

- (A) It is within a defined town centre; OR,
- (B) Where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre; OR,
- (C) Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport; AND IN ANY OF THESE CASES,
- (D) There is no significant detrimental impact on the vitality or viability of existing town centres ... AND,
- (E) The proposal is consistent with the other Structure and Local Plans policies.

The first aspect of LP RET 1 which requires to be considered is the availability of sites within Dunoon town centre, and then edge of town centre locations. Given the traditional nature of Dunoon town centre, it is accepted that there are no suitable sites within the town centre itself. Accordingly, the application site is considered to be the sequentially preferable site in locational policy terms and consistent with parts (A) and (B) above.

Despite suggestions by CWP that the former gas works is too small to accommodate a sufficiently sized foodstore, awkward site configuration and flooding issues, the applicants consider that their site represents a sequentially preferable site for retail development. Contrary to statements by CWP, they consider that neither the linear shape of the site nor the existence of a watercourse across it would detract from the marketability of the site to a modern foodstore operator nor inhibit its development. The agents confirm that the application site represents a significant brownfield redevelopment opportunity in close proximity to Dunoon Town Centre, sequentially preferable in retail terms to the site of the proposed out-of-town development by CWP. The owners of the site have confirmed that it would be available for retail development and confirm that the site has generated interest from supermarket operators.

In this instance, the Argyll and Bute Local Plan specifically included the former gas works site within the Edge of Town Centre zone as a potential redevelopment site and in the absence of a suitably large site within the town centre itself becomes the preferred site and therefore complying with criteria (B) of Policy LP RET 1 of the Argyll and Bute Local Plan in locational

terms. The remediation works carried out to this site have enabled the site 'ready' for development and the development of such a prominent 'brownfield' site is welcomed and consistent with policies STRAT S11 Sustainable Development of the Argyll and Bute Structure Plan and Policy LP ENV1 of the Argyll and Bute Local Plan.

## ii) **Appropriate Scale and Location**

One of the main thrusts of Scottish Planning Policy is the recognition that *"town centres are a key element to the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilities .....the range and quality of shopping, wider economic and social activity, integration with residential areas and the quality of the environment are key influences on the success of a town centre"*. (para 52).

The SPP also highlights the need for a hierarchical approach to town centres and that any significant changes in the evolving role and functions of centres should be addressed through development plans rather than changes being driven by individual applications. The SPP focuses on town centre strategies and states that the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. This should involve the use of vacant land and under-used land or premises. Actions to support improvements in town centres and to create distinctive and successful places are encouraged and these can range from small scale public realm works to assembly of larger scale development sites which aid regeneration.

The Argyll and Bute Structure Plan also stresses the importance of Dunoon Town Centre as an important shopping focus for the Main Town settlement and wider catchment. The retailing sector is an important component of the economy and fulfils a critical role in sustaining the viability and vitality of the Town Centre. Land use policies which support the competitive retail market have to be balanced with the need to secure the economic integrity of town centres and to support the use of public transport. The sequential test with a preference for retail developments over 1000sqm gross floorspace to be located in the town centres is appropriate given the limited size of the Argyll and Bute towns and their retail catchment populations.

Furthermore, the CHORD project has recently focussed investment within Dunoon Town Centre and this emphasises the role of the town centre as an economic, retail and tourist hub.

In conclusion, the proposed foodstore would be readily accessible by shoppers on-foot and is within easy walking distance from the existing town centre area enabling a greater number of linked trips. Additionally, given the comments in sections (i) and (iii) such a scale and location would be seen to generally complement rather than compete with the existing town centre.

## iii) **Impact on Vitality and Viability of existing Dunoon Town Centre**

The applicants generally concur with the findings of the CWP/James Barr Town Centre Health Check Appraisal that the existing town centre of Dunoon provides goods and services to meet generally daily needs of local residents. The applicants also concur with the CWP/James Barr findings that Dunoon town centre has a very healthy occupancy rate with relatively few vacancies and that the nature and range of comparison retailers will continue to be a draw to the town centre. Whilst there are some convenience units within the town centre, the main provision is the existing Morrisons store located within the town centre. Both Morrisons and the Co-op exhibit visible signs of over-trading with goods being sold directly from the sales floor. Over-trading is suggestive of wider qualitative deficiencies within the catchment. The Morrisons store has been refurbished recently indicating a facility trading well.

Unlike the CWP proposal to site a foodstore out of town, a new retail foodstore in an 'edge of centre' location creates more opportunity to encourage a linking of trips which will ultimately encourage greater support to the town centre as customers visit both for their main food shop, specialist retail shopping and services and comparison retailing.

The applicants also support the view taken by CWP that a high proportion of residents undertake their main food shopping outwith the catchment at centres including Inverclyde and West Dunbartonshire. The applicants suggest that given the nature of Dunoon's catchment, there will always continue to be a leakage of expenditure to higher order centres particularly for comparison goods. This trade leakage is estimated in both RIA's to be of the order of 40%, although a degree of scepticism is warranted as regards the assumptions leading to such a conclusion, as it is not based upon empirical evidence gathered in similar circumstances based upon experience with previous developments elsewhere. As it is essentially a forecast of the aggregated consequences of individuals' future spending decisions, it necessarily has some element of doubt surrounding it.

A retail impact assessment attempts to estimate the potential impact of a new retail development on existing retail provision (particularly within town centres). This involves defining the catchment area of the town, establishing the population of the area, and then calculating the average retail expenditure of the catchment population. This is then compared with an assessment of the turnover of the retail floorspace within the catchment area. Where a surplus is identified this is either considered as export expenditure or attributed as additional expenditure for existing retailers within the catchment area. Having quantified the level of turnover of existing retailers and the available expenditure within the catchment, and the amount exported to other centres, it is then possible to establish if there is sufficient expenditure to support additional floor space. There are a considerable number of variables in these calculations, and a number are based on averages and estimates, and others are relatively subjective.

The following table provides extracts from the tables in the revised retail statement submitted by the applicants in support of their application:

	<b>2010</b>	<b>2014</b>
a. Population of Catchment	15,412	15,465
b. Convenience expenditure per capita	£2,079	£2,195
c. Total convenience expenditure a x b	£32,033,624	£33,941,967
d. Comparison expenditure per capita	£2,735	£3,109
e. Total comparison expenditure a x d	£42,155,285	£48,067,043
f. Estimated convenience turnover in catchment	£22,551,965	£23,514,611
g. Estimated comparison turnover in catchment	£25,000,000	£25,000,000
h. Surplus convenience expenditure c – f	£9,481,659	£10,427,356
i. Surplus comparison expenditure e - g	£17,155,285	£23,067,043

The surplus expenditure is generally taken to represent the amount of money spent by residents of the catchment area in shops outwith Dunoon and Cowal, and in theory would be available to support additional floorspace within the catchment. However, the extent to which this exported expenditure can be retained or clawed back depends on a number of factors, and varies between convenience and comparison goods, and proximity and size of competing retail centres. For the purposes of the assessment of retail impact, the effects of tourism expenditure on the catchment have not been considered.

The Retail Statement suggests that, given the limited nature of the existing convenience retail provision within the defined town centre, a proportion of trade will be diverted from Morrisons



and the Co-op. Due to its current share of the market, the main town centre impact will be on Morrisons and it is likely that the impact upon Morrisons will readjust its market share and lower its turnover ratio. The proposed larger foodstore will 'claw back' a significant proportion of that expenditure lost from the catchment as residents instead utilise the new foodstore for their main food shop.

In the context of the proposed development, given the rural nature of the catchment and existing provision, the proposed store would, in all likelihood, trade below any individual operator average, or indeed culmination of operators averages. An example is Tesco in Campbeltown who accepted that their store would trade at 75% of the national company average. For the purposes of their retail analysis, a figure of 80% of the national company averages has been used by the applicants. The following table outlines the effect of these two different approaches on the floorspace of the store as envisaged in the retail analysis:

Floor space	Average turnover ratio	80% of Average turnover ratio	Turnover based on Average ratio	Turnover based on 80% of average ratio
Convenience 1,448sq.m.	11,545	9,236	16,717,160	13,373,728
Comparison 552sq.m.	4,618	4,618	2,549,136	2,549,136
Total turnover	-	-	19,266,296	15,922,864

Using the 80% of company average turnover, it is estimated that the turnover of the proposed retail foodstore would be in the region of £15.9m with the convenience element being £13.3m. It is assumed that the scale of the proposed foodstore will draw a small proportion of trade from outwith the primary catchment. Assuming that 10% of trade is drawn from outwith the catchment, the turnover of the proposed store would equate to some £14.33m being derived from the primary catchment, £12.04m of which relates to convenience expenditure. This 10% of trade is likely to include a proportion of tourist trade.

When compared to the turnover of existing convenience retail provision within the catchment, there appears to be a surplus of around £10.42m of available convenience expenditure from within the catchment at 2014. This surplus expenditure is either spent in shops outwith the catchment area and is referred to as leakage from the catchment, or is spent in shops within the catchment area where it is assessed as overtrading. This £10.42m surplus expenditure equates to some 30% of total available convenience expenditure and is considered potentially available to support additional retail provision within the catchment.

The applicant's RIA estimates that the proposal would have an 8% negative impact upon the existing town centre. This calculation does not include the existing Morrisons store which is also located in the town centre so should be included for the purposes of assessing vitality and viability, in which case a negative impact of 20.5% is produced. However, if both convenience and comparison turnover is taken into account (which is legitimate in terms of assessing the overall vitality and viability of a centre) then the anticipated negative impact on the centre overall reduces to 9.5%. The impact of the CWP proposal on the town centre is estimated in their RIA to be 8.0% but because of differing assumptions employed in the production of these assessments (percentage of average turnovers attributed by the consultants to the proposed stores and also differences in the proportion of turnover attributed to clawback of leaked expenditure), no reliable comparisons may be drawn between the two assessments (officers did not accept some of the principles underpinning the CWP retail impact assessment). What is clear is that an out-of-town development with a greater floorspace and with a higher proportion of comparison sales, by virtue of its peripheral location, its scale and its greater competition with goods sold by smaller retailers in the town, will necessarily have more impact upon trading in the town centre than this lesser scaled proposal in a sequentially preferable location which poses less competition with

existing comparison outlets and a greater potential for linked trips with other businesses in the town.

### **Assessment**

In addition to assessing the expenditure capacity of the catchment area population, the applicant's retail impact assessment seeks to calculate the likely impact of the proposed new floorspace on the existing retail provision within the catchment, and more particularly Dunoon town centre. In assessing the impact on existing floorspace consideration has been given to a number of factors. These include; the amount of expenditure currently spent outwith the area; an assessment of the capacity of the new store to claw back that expenditure; and the extent to which the new store will compete with existing retail floorspace thereby diverting trade from them to be spent in the new shop. Also to be taken in to consideration, is the extent to which tourism expenditure and trade from people living outwith the primary catchment area e.g. Inveraray contribute to the expenditure available to support retailing in Dunoon. These variables could have a significant effect on the predicted impact on the town centre.

Table 1 below includes a compilation of floorspace comparison figures extracted from the Retail Statement to illustrate some of the comments made in this section and scale/impact of the proposed foodstore.

	<b>Proposed Store</b>	<b>Proposed CWP Store</b>	<b>Existing Morrisons</b>	<b>Existing Co-op</b>	<b>Town Centre Shops</b>	<b>Out of Centre Shops</b>
<b>Gross Floor Area</b>	2,932sqm	3,716sqm	(2,145sqm*)	(1,250sqm*)	-	-
<b>Net Retail Area</b>	2,000sqm	2,228sqm	1,035sqm	1,000sqm	500sqm	200sqm

*\*Gross external floor area taken from GIS plan, not from agent figures.*

The applicants have submitted figures which demonstrate the effect that they believe the new store will have on the turnover of existing stores. This indicates that taking all of the above factors into consideration, that the proposed store will have an impact of 22% on Morrisons and 8% on the turnover of convenience stores within the town centre, based on 80% of company averages. On this basis the convenience impact on the town centre as a whole would be 20.5% The impact on the turnover of other convenience stores in Dunoon outwith the town centre (including the Co-op) and convenience shops in villages has not been calculated as it does not enjoy the same degree of policy protection. Expected comparison trade diversions on the town centre (including Morrisons) is 2.8%. The overall impact on the town centre (convenience and comparison) is 9.5% If company averages are used then the convenience impact on Morrisons would be 28% and 10% on other convenience outlets in the town centre.

By comparison, the CWP scheme anticipated a 14.7% impact on convenience shops within Dunoon Town Centre and 3.7% impact on comparison goods.

### **Methodology**

For the purposes of retail impact assessment and in any comparison with the CWP proposal, base year is taken to be 2010 with a forecast year of 2014 and prices are based at 2007.

Whilst the applicant's agents have used information from the James Barr Planning and Retail Statement, it is still considered that information derived from the National Survey of Local Shopping Patterns (NSLSP) is not sufficiently robust to be applied at a local level and is not an appropriate tool for estimating the turnover of existing retail floorspace. A well designed household survey (Scottish Government's 2007 research paper) is deemed more reliable

where key matters such as specific stores used by main food shoppers, reason for visiting certain stores, how they travel, whether they are undertaking linked trips and how much they spend in each store can all be quantified.

In terms of NSLSP, it is considered that company average turnover rates should be used to model the turnover of existing and proposed retail floorspace and for a robust estimate of retail impact to be gauged. However the applicants have preferred to use 80% company averages in their retail assessment as compared to 75% used in the CWP scheme. This is one of the reasons why the two assessments cannot be directly compared with each other.

Similar to the CWP scheme, it is considered that the Retail Statement has not adopted a broad-based approach but instead has attempted detailed calculations or forecasts of a sector's growth where small variations or assumptions can lead to a wide range of forecasts. In relation to the Retail Statement, the turnover of the proposed store has been estimated as 80% of the average of the top 4 supermarket retailers. It is considered that it may have been more appropriate to use the average turnover of these four retailers, in terms of predicted impact rather than a percentage of their average turnovers.

The applicants concur with the views expressed by CWP/ James Barr on the Town Centre Health Check Appraisal. However, no supporting information has been submitted to justify the agent's comments that "the town centre does appear to be very healthy" as they have not provided details of comparable towns which could provide a basis for their assessment. It was previously considered that the CWP's Town Centre Health Check was subjective in nature and did not reflect the more fragile nature of Dunoon's High Street and other retailing areas where vacant units, charity shops and poor shop frontage design should perhaps result in a lower score. It should also be recognised that a significant amount of works have been undertaken on town centre renewal projects to promote an otherwise fragile town centre. The town centre will continue to be the focus for such projects in an attempt to revitalise the town centre area. The departments own survey work on the health of Argyll and Bute town centres reveals that Dunoon sits somewhere in the middle of these with regard to a range of indicators (vacant shops, condition of shop front, signage etc) town centre health.

### **Conclusions**

The Retail Statement confirms that the main source of trade diversion will be predominantly from Morrisons (22% at 80% company average) but also from the Co-op store (% impact not stated as an out-of-town centre location) and will also have an expected 8% impact on other convenience stores within Dunoon Town Centre

The size of the proposed foodstore, that would be larger than Morrisons and more than twice the floorspace of the Co-op, has been designed by the applicants specifically not to 'compete with the larger CWP foodstore proposal in terms of the sequential test but does represent a realistic and commercially attractive proposal of an appropriately sized foodstore, car park and service yard for the site. However, given the smaller size of the foodstore, it would still be capable of arresting a significant amount of leaked convenience expenditure outwith the catchment (where the CWP scheme had greater comparison floorspace) but would introduce a third supermarket to Dunoon which would compete directly with existing supermarkets.

Given all of the above, it is considered that the proposed foodstore and associated development is consistent with the adopted Argyll and Bute Local Plan policy LP RET 1 part B, as no suitable sites are available within Dunoon Town Centre and the application site is within the defined Edge of Town Centre. However it is not entirely consistent with part (D) in that there would still be an impact on the town centre as a result of the proposed development. However, the scale and location of the store would result in greater linked trips within the town centre and edge of centre zones and is well located in terms of pedestrian accessibility and public transport routes. Given the retail analysis, it is considered that the main impact would be on the existing Morrisons store but with a further lesser impact (8%) on smaller town centre convenience shops and 2.8% on town centre comparison shops. Overall

the impact would be 9.5% on the vitality and viability of retailing in the existing town centre. It is however considered that a developer contribution for town centre improvements could help to offset some of this predicted negative impact.

***On the basis of the above and in terms of the Retail Sequential Test and impact on Dunoon Town Centre and other retail outlets, the proposal is considered to represent a 'minor departure' from Policy LP RET 1 part (D) of the Argyll and Bute Local Plan (August 2009) by virtue of a predicted negative impact on the existing town centre. This scale of this negative impact would be offset in this case by the proposed store's edge of centre location within walking distance of the town centre and with potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate anticipated impact on the existing town centre, and therefore a 'minor departure' to Policy LP RET 1 is justifiable in these circumstances.***

#### **F. Road Network, Parking and Associated Transport Matters**

The submitted Transport Assessment concludes that the proposed development has a potentially significant impact during one time period on the Hamilton Street and Argyll Street priority junction but this impact can be mitigated with the installation of traffic signals. The proposed development is located adjacent to existing public transport facilities with a bus stop on Argyll Street. The site is well served by the existing footway network on Hamilton Street and Argyll Street providing access to local residential areas and local public transport facilities. The site is easily accessible by a range of transport modes. Car parking levels complies with National Parking Standards and cycle parking will be provided.

In terms of junction design, various options have been tested including 'as existing', mini-roundabout, give-way signs, right hand turning lane but the provision of traffic signals appears to be the preferred option and the eventual phasing has still to be agreed with Roads.

A revised site layout plan incorporates changes suggested by Roads and these include moving the main vehicular access further west to maximise queuing space, increased car parking spaces, provision of a bus lay-by on Argyll Street adjacent to the entrance to the foodstore and provision of a pick-up / drop-off point at the front of the store.

Roads have accepted the diameter of the service bay on the basis that delivery vehicles must enter and leave the service yard in a forward manner.

Roads have no objections in principle to the proposed scheme subject to conditions outlined below.

***On the basis of general acceptance and the imposition of necessary planning conditions, the proposal is considered to be consistent with Policies LP TRAN 1, TRAN 2, TRAN 3, TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan (August 2009).***

#### **G. Flooding and Surface Water Drainage**

A 'Flood Risk and Drainage Assessment' submitted by the applicants' consultants Dougal Baillie Associates (DBA) concludes that the majority of the site is at little or no risk of fluvial flooding from the Milton Burn. A small area of the site on the western side is at risk of flooding and the area is therefore classed as being active functional flood plain with a medium to high risk of flooding. To ensure that the site is not at risk of flooding, it is recommended that a minimum floor level of 12.95m AOD includes a freeboard allowance which will also require a degree of land raising within the functional flood plain. To ensure a neutral impact, provision on-site compensatory flood storage is incorporated into the scheme design to replace lost capacity, with an identified location for such, although it is intended that the specification and

corresponding calculations demonstrating performance of the compensatory flood storage provisions will be undertaken at the detailed design stage. Any works within the watercourse will require authorisation by SEPA through a licence issued under the Controlled Activities Regulations (CAR authorisation).

It is proposed to discharge surface water run-off to the adjacent Milton Burn as this will be at least equal to natural Greenfield runoff release rates and will be provided by using a range of SUDS source control measures.

SEPA considered the revised proposals acceptable subject to conditions regarding the provision of compensatory flood storage, SuDS scheme, a construction method statement and advice on waste management, flood risk, SuDS, pollution prevention and CAR licence for any land raising in the functional flood plain.

The Council's Flood Alleviation Team also found the proposals acceptable subject to conditions regarding the detailed design and means of access to the watercourse for inspection purposes, a condition survey of the training walls detailing any remedial works to be carried out, a site investigation including CCTV to locate and identify existing pipework with any impacts identified on adjacent roads drainage and pathway at Hamilton Street Bridge to be designed and provided. CAR Licence required from SEPA.

Letters of objection have been received from James Barr / Kaya Consulting Ltd. On behalf of the CWP proposal that raise issues on the validity of the flood risk assessment by DBA, the existence of another flood risk assessment by Carl Bro (CB) and responses received from SEPA and the Council's Flood Alleviation Group.

Kaya suggest that DBA undertook their flood risk assessment without reference to the more extensive flood modelling study undertaken by Carl Bro where their predicted flood levels are around 0.65m above the DBA levels at the downstream end of the site. Any overtopping would result in a greater part of the site being flooded and the Council should have either investigated the reasons for conflicting reports or accepted the higher predicted flood levels. Additionally, limiting the amount of land that can be raised for development and maintaining existing overland flow paths will reduce the size of the proposed development which could affect the viability of the development.

DBA have provided additional supporting information in respect of the matters raised by Kaya. In respect of differences in the Milton Burn flood level estimations as outlined in the DBA Report when compared to the CB FRA at the Argyll Street Bridge inlet, DBA consider that the modelling was carefully developed to ensure that head losses associated with the sharp bends immediately downstream of the Argyll Street bridge were modelled as accurately as possible and that the simulation predicts a water level that is very close to the CB estimate.

In respect of differences in the Milton Burn inundation maps as outlined in the DBA Report when compared to the CB FRA, DBA consider that the DBA findings are based on a present day (2011) survey and watercourse corridor cross sections and the survey work for the CB modelling is believed to be undertaken around 8 years ago. Since that time, changes in site topography have occurred through remediation of the site and that a footbridge across the Milton Burn no longer exists. Given that the footbridge no longer exists afflux associated with this structure will be lost and water levels / flooding extent upstream will be lower than that estimated in its presence. DBA are satisfied that their flood inundation mapping represents the most accurate estimate of areas at risk of flooding based on current survey data.

In respect of bridge blockage scenario, DBA consider that the probability of flooding will be negligible given the dimensions of the bridges at Argyll Street and Hamilton Street and canalised reach from Argyll Street.

In respect of surface water drainage, DBA confirm that the FRA states that post-development surface water discharges from the site are limited to the 2-year Greenfield run-off rate. DBA

also confirm that the indicative geocellular storage areas/volumes take cognisance of flood levels in the Milton Burn and impacts that high water levels will have on the outfall hydraulics.

Given the supporting information from DBA revised response from SEPA, it is considered that the flood risk and any loss of the functional flood plain can be addressed by suitable conditions. Objection letters received from Kaya primarily refer to the Carl Bro modelling study that may offer a more thorough assessment of flood risk but these comments have been incorporated in SEPA's response and addressed by a planning condition.

***In terms of Policies LP SERV 2, SERV 3 and SERV 8 of the Argyll and Bute Local Plan (August 2009), the indicative flood risk/surface water drainage strategy is considered to be acceptable at this stage and could be addressed by planning conditions.***

#### **H. Waste Management**

No details have been submitted on waste management but the service yard is of an appropriate size to accommodate and facilitate the pick-up of waste material by refuse collection vehicles, which will have access to the yard at scheduled times.

**In terms of Policy LP SERV 5 of the Argyll and Bute Local Plan (August 2009), the indicative strategy is considered to be acceptable at this stage and could be addressed by planning condition.**

#### **I. Public Water Supply**

It is proposed to connect to the public water supply.

Scottish Water has confirmed that they would have no objections in principle and Loch Eck Water Treatment Works currently has capacity but comment that the scale of the development will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

**In terms of Policy LP SERV 4 of the Argyll and Bute Local Plan (August 2009), the indicative public water supply strategy is considered to be acceptable at this stage and could be addressed by planning condition.**

#### **J. Foul Water Arrangements**

Foul drainage will be discharged into the existing Scottish Water combined sewer network. Scottish Water has confirmed that they would have no objections in principle but Dunoon (Alexandra) Wastewater Treatment Works currently has limited capacity to serve the new demand. Due to the scale of the development, the applicant will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

**In terms of Policy LP SERV 1 of the Argyll and Bute Local Plan (August 2009), the in principle agreement to connect to the public sewer system is considered to be acceptable at this stage and could be addressed by planning condition.**

#### **K. Contamination**

A supporting statement has been submitted by WSP Environmental who were commissioned to remediate the former gas works site and undertake geotechnical investigation for potential future development. WSP confirm that while the risk from potential residual contaminants is

unlikely to be increased as a result of the proposed development, the design and foundations of the proposed building will require consideration during design.

Public Protection acknowledge that the site has undergone extensive work to remediate contaminated land but recommend conditions to ensure that remediation is appropriate to the intended use.

**In terms of Policy LP SERV 7 of the Argyll and Bute Local Plan, it is considered that suspensive planning conditions could address the contaminated land issues raised.**

#### **L. Noise, Dust, Lighting and Operational Hours**

In terms of potential impact on surrounding land uses, Public Protection recommend conditions in respect of minimising noise from the development, minimising the effect of noise from construction, and details of control of lighting.

It is proposed to erect a timber boundary fence around the service yard to screen it from properties on McArthur Street and Argyll Street. Following objections from residents on McArthur Street regarding potential amenity issues and noise from the service yard, the agents confirm that their client would be agreeable to developing an acoustic fence around the service yard to mitigate any noise related issues and would be happy to accept a condition on any planning permission in this respect.

**In terms of Policy LP BAD 1 of the Argyll and Bute Local Plan, it is considered that suspensive planning conditions could address the environmental concerns raised.**

#### **M. Conclusion**

The consideration of this application is more complex than assessing it purely on its individual merits in isolation. Due to the submission of another foodstore application by CWP for a larger store to the rear of Walkers Garden Centre (that has been recommended for refusal but currently 'on-hold' following a Local Hearing and PPSL Committee), this application must also be assessed against that scheme in terms of the sequential test to retailing and comparative retail impact analysis.

In their submission, CWP suggest that the gas works site is too small and awkwardly configured to accommodate a suitable foodstore and petrol filling station to clawback leaked expenditure and that the site has flooding and ground condition problems. CWP therefore dismissed the gas works as unsuitable for their proposed foodstore in terms of the sequential test.

The recommendation of refusal for the CWP proposal is based on the sequential test not being satisfied in terms of the gas works site given that is considered to be sequentially preferable in land use terms, that the location of the CWP foodstore is at the edge of the settlement not easily accessible for pedestrians and that the retail impact analysis suggest an unacceptable level of impact (14.7% on convenience and 3.7% on comparison in the town centre) on the vitality and viability of Dunoon Town Centre. The proposed development anticipates a predicted impact of 8% impact on convenience (excluding Morrisons) and 2.8% impact on comparison (excluding Morrisons) within the town centre.

Whilst the predicted impact on the town centre by the two stores is broadly comparable in terms of impact upon convenience retailing (based on available statistics), the CWP proposal by virtue of its greater scale and its larger proportion of comparison goods has greater potential to impact upon the smaller outlets in the town centre which predominantly rely on the sale of comparison goods. A key factor of the National Grid proposal is that it would satisfy the sequential test by utilising a 'brownfield' site within a preferred 'edge of town centre' zone with greater potential for linked trips to be made to and within the town centre. This and the fact that it is a smaller convenience floorspace than the CWP proposal, is seen to complement the town centre function rather than to compete against it. The lack of objections

from shopkeepers for the current proposal may suggest that they do not feel as threatened by this scale of development and by a lesser comparison goods component, as compared to the strength of objection received for the CWP proposal, as a large out-of-centre store selling a wider range of goods. Officers still have reservations about the amount of achievable clawback from outwith the catchment, but believe that any major impact will be on the existing foodstores, and on the Morrisons store in the town centre in particular, which over-trades and which could sustain additional competition whilst still remaining viable. The argument made for the CWP proposal is that their larger foodstore would be better placed to clawback expenditure from outwith the catchment and also facilitate a housing development. This scheme, however, is not favoured primarily due to its scale, the size of its comparison goods component and its 'out-of-town' location which would be likely to draw trade and shoppers from the town centre, with a reduced likelihood of 'linked trips'.

There are demonstrable advantages inherent in the National Grid proposal in terms of its 'edge of town centre' location, its sequential preferability to the CWP site, and a lesser amount of proposed comparison goods sales than the CWP proposal. The location of the site closer to the town centre gives it a significant advantage in that it provides the opportunity for linked trips with the remainder of the town centre, to the benefit of its vitality and viability. Although it does not include a petrol filling station as the CWP proposal would, if the CWP site were not to be redeveloped for retail purposes then the existing filling station would remain, so this facility would not be lost within the town. Whilst less car parking is achievable at the National Grid site, it nonetheless complies with the Council's standards, has not deterred operator interest, and it would be better placed to deliver Green Travel Plan obligations due to better pedestrian connectivity with the rest of the town centre.

Subject to conditions and the recommended legal agreement, the proposed development satisfies various policy criteria in respect of land use issues, flood risk, transportation matters and contamination. On this basis and with the developer contribution to assist environmental improvements within Dunoon Town Centre, the Department on balance considers that the proposal should be accepted as a 'minor departure' to Local Plan policy LP RET 2 and that there are no reasonable grounds, including the matters raised by third parties, which would warrant the refusal of planning permission.

**APPENDIX B – RELATIVE TO APPLICATION NUMBER: 11/00689/PPP**

**REPRESENTATIONS:**

**Against**



1. Mr John Bellaby 2 Marina View, Pier Road, Sandbank Dunoon (email dated 13 June 2011);
2. Aileen McDermott (email dated 14 June 2011);
3. Mr Dennis Robson Islay Cottage 26 King Street Dunoon (letter received 13 June 2011);
4. Margaret Blackwood 54 Fairhaven Kirn Dunoon (email dated 13 June 2011);
5. Mrs Norma Birtles Seaford Cottages 74a, Shore Road Innellan (email dated 11 June 2011);
6. E McKay 46 The Glebe Dunoon (email dated 16 June 2011);
7. William, Margaret and Caroline Rankin 32 Sandhaven, Sandbank Dunoon (email dated 11 June 2011);
8. Michael Fulton (email dated 14 June 2011);
9. Dwina Taylor (email dated 14 June 2011);
10. James B Bell on behalf of Hunter's Quay Community Council Lucinda 61 Hunter Street Kirn (letter dated 17 June 2011);
11. Mrs A Anderson Santana Lizvale Terrace 58G Shore Road Innellan PA23 7TP
12. Mrs J G Bryson 67 Alexandra Parade Dunoon PA23 8AQ
13. Mr H R Bennett 1 Shore Road Innellan (email dated 16 June 2011);
14. Richard and Fiona Biggart Rimrock 4 Calderwood Cluniter Road Innellan (email dated 16 June 2011);
15. Mr A Gardner 223 Edward Street Dunoon (email dated 16 June 2011);
16. John and Marion Paterson 67 Sandhaven Sandbank Dunoon (email dated 17 June 2011);
17. John and Shirley Donald Ferndene 4B Broughallan Park Kirn Brae (email dated 14 June 2011);
18. Pat Lynn Duncreggan View Blairmore (email dated 15 June 2011);
19. Catherine Fraser Hunter's Quay (email dated 15 June 2011);
20. Sheila Munro 2 St Andrews Square Dunoon Argyll (email dated 15 June 2011);
21. Neil McLean 55 Alexandra Parade Dunoon (letter dated 12 June 2011);
22. Capt Robin Coles 199 Victoria Road Dunoon Argyll (email dated 15 June 2011);
23. Jenny Gray 3 McLennan Cottage Shore Road Dunoon (email dated 14 June 2011);
24. Mr Robert Trybis Stoneywood Toward Dunoon (email dated 11 June 2011);
25. Sheena McCloy 3 Gerhallow Bullwood Road Dunoon (email dated 11 June 2011);
26. Mrs A M Clark 3 Cherryhill Hunter Street Kirn Dunoon (letter dated 11 June 2011) \* with attached letter from CWP prompting 'Walkers Customer & Supermarket Suporter);

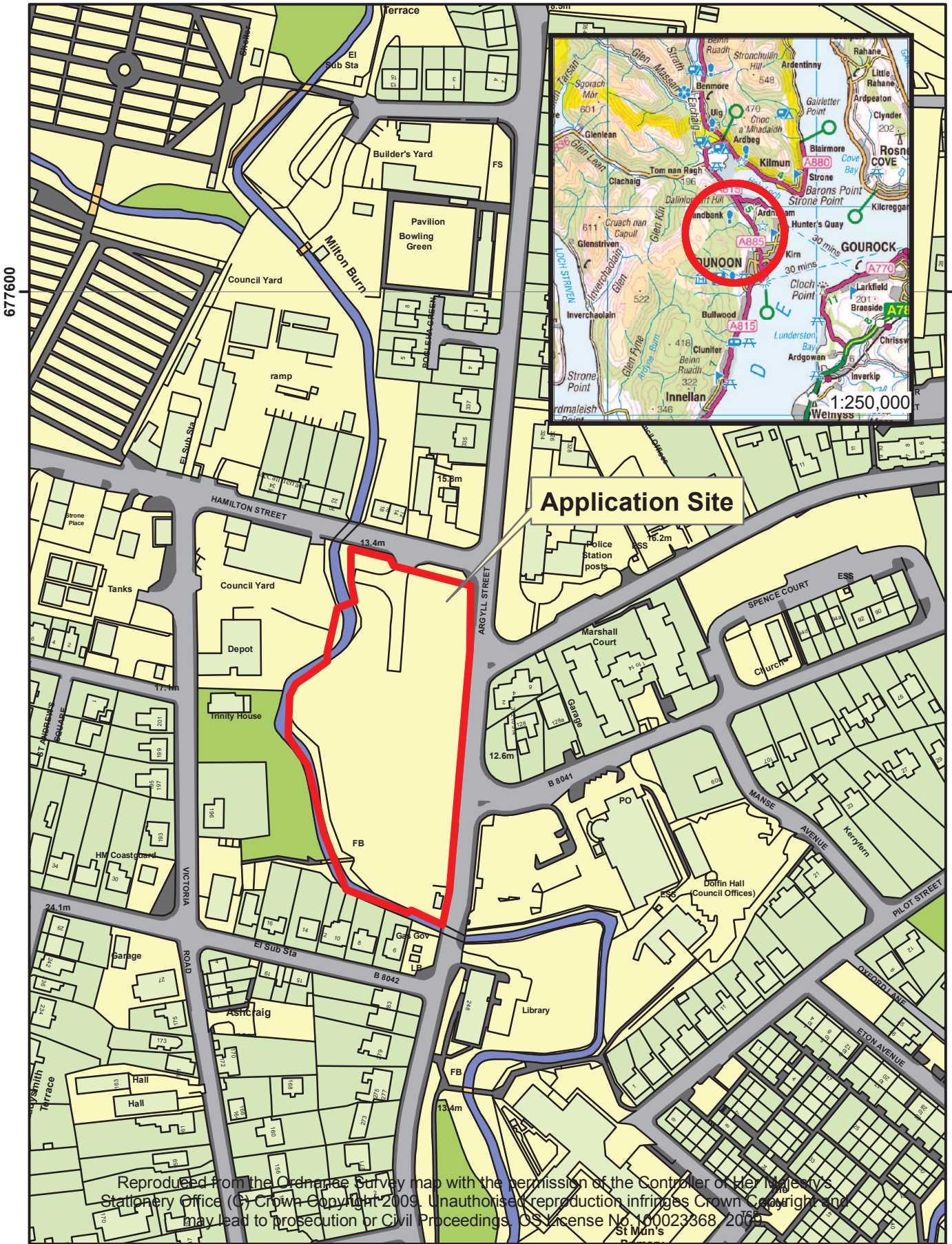
27. Jennifer Godbert 5 Bogleha Green Argyll Street Dunoon (email dated 15 June 2011);
28. John and Anne Mundie 7 Pilot Street Dunoon (email dated 15 June 2011);
29. John Fairman Blartulloch 131 Alexandra Parade Dunoon (letter received 17 June 2011);
30. Mrs Margaret Sinclair Elmwood 63 Hunter Street Kirn Dunoon (letter received 17 June 2011);
31. Mrs A Anderson Santana Lizvale Terrace 58G Shore Road Innellan (letter dated 12 June 2011);
32. Mrs J G Bryson 67 Alexandra Parade Dunoon (letter received 17 June 2011);
33. Ann and Robert McLaren 33 Cowal Place Dunoon (email dated 14 June 2011);
34. Wn W Craig 3 Brae Cottages Sandbank (email dated 14 June 2011);
35. Mr Craig Houston 14 McArthur Street Dunoon (email dated 16 May 2011);
36. Dina McEwan Sydney Cottage 8 McArthur Street Dunoon (letter dated 17 May 2011);
37. James Barr (on behalf of CWP Property Development and Investment) 226 West George Street Glasgow G2 2LN (letters and e-mails dated 25 May, 4, 8 & 25 July, 4, 23 & 31 August and 6 and 12th September 2011)
38. Mrs Karen Bancks Norwood House Hunter Street Kirn (email dated 13 May 2011);
39. David McLucas (email dated 27<sup>th</sup> June 2011);
40. A J Henderson 4 Dhalling Park, Kirn (email dated 30<sup>th</sup> June 2011) ;
41. L O'Hare 7 Hunter Street Kirn (letter dated 23<sup>rd</sup> June 2011);
42. Mr and Mrs Waddell Ormidale, Hunter Street Kirn (letter dated 23<sup>rd</sup> June 2011);
43. A Linden 7 Hunter Street Kirn (letter dated 23<sup>rd</sup> June 2011);
44. M Lanigan Flat 1 106 Argyll Street Dunoon (letter dated 23<sup>rd</sup> June 2011);
45. Catherine and Donald Ross
46. Mrs J Duffy 18 Charles Gardens Argyll Road Kirn (letter received 21<sup>st</sup> June 2011);
47. Alistair Baird Shearwater Marine Services (email dated 21<sup>st</sup> June 2011);
48. W Sinclair Sutherland Drum Cottage Kilfinan Tighnabruaich (email dated 21<sup>st</sup> June 2011);
49. Mr George Macdonald 8 King Street Dunoon (email dated 23<sup>rd</sup> June 2011);
50. Audrey MacDougall (email dated 22<sup>nd</sup> June 2011);
51. Fiona MacDonald 2 Portanstick Blairmore Dunoon (email dated 22<sup>nd</sup> June 2011);
52. Mary Hackett H W Chartered Accountants 231/233 St Vincent Street Glasgow (email dated 23<sup>rd</sup> June 2011);

53. Kevin Lynch (email dated 4<sup>th</sup> July 2011);
54. Kirsty Fairman 3 Lorimer Terrace Sandbank (email dated 6<sup>th</sup> July 2011);
55. Mrs U Paton (email dated 6<sup>th</sup> July 2011);
56. Alistair Baird 47B Hunter St, Kirn, Dunoon (email dated 19<sup>th</sup> July 2011)
57. H Donaldson 5 Newton Park Innellan
58. S. Lyon? 13 Cromwell Street Dunoon Dunoon
59. Molly Macdonald 20 Park Road Kirn Dunoon
60. Owner/Occupier 38 Cowal Place Dunoon Argyll
61. M T Thomson Kerry Farm Strone
62. Owner/Occupier 91 Argyll Road Kirn Dunoon
63. Hilda Galloway 58 Ardenslate Road Kirn Dunoon
64. M Muir 39 Valrose Terrace Dunoon
65. Alexander C Muir 9 Westfield Strone Dunoon
66. Owner/Occupier 9 Westfield Strone Dunoon
67. S Walsh 7 Shuna Gardens Kirn
68. Owner/Occupier 209 Alexandra Parade Dunoon
69. Colin Miller 99 Alexander Street Dunoon
70. Suzanne Welsh 12 Pilot Street Dunoon
71. Dawn Miller 99 Alexander Street Dunoon
72. K Walsh 7 Shuna Gardens Kirn
73. Ms Catherine Livingstone (email dated 2<sup>nd</sup> September 2011).

## **Support**

1. Miss Katriona Maclean 4 Old Police Station Argyll Road Dunoon (email dated 12 May 2011).

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Application Site

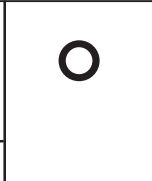
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# Location Plan relative to Application Ref: 11/00689/PPP

Date: 13.07.11

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**

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**Reference No:** 11/00784/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mr Duncan Campbell

**Proposal:** Sub-division of garden ground, erection of dwellinghouse and detached garage and formation of new vehicular access

**Site Address:** 7 Laggary Park, Rhu, Helensburgh

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**DECISION ROUTE**

(i) Local Government Scotland Act 1973

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Erection of dwellinghouse
- Erection of garage
- Formation of new access
- Alterations to boundary wall
- Erection of 1.8 metre timber fence

**(ii) Other specified operations**

- Connection to existing public water supply
  - Connection to existing public sewer
- 

**(B) RECOMMENDATION:**

It is recommended that planning permission be refused for reasons given overleaf.

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**(C) HISTORY:** C9209 – Erection of dwellinghouse (outline) – Refused 25/11/1992

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**(D) CONSULTATIONS:**

Area Roads Engineer	27.06.2011	No objections subject to conditions.
Scottish Water	14.07.2011	No objections

Scottish Natural Heritage                      No response, time expired

Horticultural Services                         No response, time expired

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**(E) PUBLICITY:** Listed Building/Conservation Advert (expiry date 24.06.2011)

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**(F) REPRESENTATIONS:**

Thirteen letters of objection have been received from the following:

Stuart Graham, Laggary Cottage, Station Road, Rhu (letter dated 08/06/2011)

Miss Karen Young, 28 Laggary Road, Rhu (letter dated 17/06/2011 and email dated 21/06/2011)

K I Thompson, Laggary Lodge, Pier Road, Rhu (letter dated 15/06/2011)

Mr John and Mrs Elizabeth Reid, 29 Laggary Road, Rhu (letter dated 14/06/2011)

James and Susan Miller, 8 Laggary Park, Rhu (letter dated 13/06/2011)

Jim and Katy Findlay, 4 Laggary Park, Rhu (letter dated 21/06/2011)

Mrs JPC Whitaker, 10 Laggary Park, Rhu (letter dated 20/06/2011)

D Reid 31 Laggary Road, Rhu (letter dated 18/06/2011)

B M Petchey, 30 Laggary Road, Rhu (letter received 21/06/2011)

Michael Hamill, 9 Laggary Park, Rhu (letter dated 10/06/2011)

Alan Pyke and Alison Hatrick, Coach House, Cottage Station Road, Rhu (letter received 24/06/2011)

John J Reid and Mrs Elizabeth Reid, 29 Laggary Road, Rhu (26/06/2011)

Mrs Christine Henderson, 6 Laggary Park, Rhu Helensburgh (email dated 19/06/2011)

**(i) Summary of issues raised**

This area of ground has been neglected and left to deteriorate over the years. This may have been intentional in order to improve the possibility of gaining planning permission.

*Comment: Any application is judged on its own merits and determined against Development Plan Policies and other material considerations.*

There are road traffic issues as an opening at this location would be dangerous due to the speed of traffic and the inadequate visibility sightlines.

*Comment: The Area Roads Manager has no objections.*

It is proposed to remove 6 or 7 trees to clear the site. Most of these are in fair to good condition and amongst the tallest on site. The removal of these trees would be detrimental to the area.



*Comment: See my assessment.*

Development is restricted in this area through the deeds of each property.

*Comment: This is a civil matter.*

The stone wall contributes to the character of the conservation area and this part of station road. Its removal should be resisted.

*Comment: The proposal will reduce the height of the wall and reposition it slightly. The new wall will be built using stone duntakings from the existing wall. This will be similar in character to the dwelling next door and it is not considered that this will have a detrimental impact on the character of the area.*

There is a problem with water run-off in the area already. Should this be allowed the areas of hardstanding would increase this water run-off.

*Comment: Should the application be approved a SuDS condition would be placed on the consent to ensure that an acceptable scheme of surface water drainage was implemented.*

A previous application on this site 12-15 years ago was turned down by Dumbarton District Council.

*Comment: An application was refused in 1992 and is a material consideration in the assessment of this application. See also my assessment.*

If this is granted it could set a precedent.

*Comment: Each case is judged on its own merit.*

The development will have an adverse affect on the character and amenity of the area.

*Comment: See my assessment.*

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**(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 eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

**Summary of main issues raised by each assessment/report**

Design/Access Statement

The application site is the rear portion of garden ground located to the north-west of the main house at 7 Laggary Park, Rhu. The existing property is a sizeable detached

dwellinghouse with a total curtilage of almost 3000sqm. The application site is outwith the maintained parts of the garden ground and do not contribute to the amenity of the house in terms of useable garden ground.

The site measures 30m x 36m, has a small stream running through it and is located at the north-west corner of Station Road. At 1109 sqm, being within an established residential area and having scope for a separate vehicular entrance, it is deemed appropriate to consider the formation of a new house plot.

The aim is to sub-divide the rather isolated and under used section of their rear garden, to remove some of the overgrown trees and scrub growth and to open up the area along side Station Road, and to introduce a new family sized house in a way that externally reflects the traditional scale and character of the better properties within the locality, it will look attractive and well maintained without detracting from the privacy of the main house or other neighbouring properties and as such it will generally enhance the overall residential and visual amenity of the locality.

In terms of external materials and finishes, a series of roof planes will add visual interest and character, clad in natural slate, with rendered walls and window/door openings offering a strong vertical emphasis. The house design is

The house and garage positions have been established in conjunction with the findings of the Tree Survey to ensure the suggested Construction Exclusion Zones can be adhered to. The site is fairly flat and there will be no need for significant underbuilding. In so doing these design criteria, in conjunction with re-built natural stone walling to either side of the entrance with appropriate replacement landscaping, will ensure clear visibility of cars or pedestrians travelling along Station Road whilst also offering a greater sense of privacy to occupants of the proposed house.

In order to comply with roads guidelines the existing wall will be taken down and re-built to provide the required visibility splays. The access will bridge over the underground stream. There will be sufficient scope for 2 or more vehicles to enter, turn and leave the property in forward gear and without encroaching on the public highway.

With regards to other landscaping works upon completion it is proposed to create grassed lawns around the house with the trees and bushes around the perimeter being protected by fencing during the period of construction and thereafter retained. In this way they will continue to offer a mature landscape screening between the existing and proposed houses.

The services are on site and readily available. The surface water will be routed for attenuation to new drainage/soakaway channels introduced around the proposed house.

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**(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  
STRAT FW 2 – Development Impact on Woodland

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 7 – Impact on Tree/Woodland  
LP ENV 14 – Conservation Areas and Special Built Environment Areas  
LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

- (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):** Although 13 letters of representation have been submitted permission for the development of this site has previously been refused and is recommended for refusal again. As such it is not considered that a hearing is required in this instance.

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

Planning permission is sought for the erection of a dwellinghouse and garage within the lower garden area of 7 Laggary Park, Rhu. This is a detached dwellinghouse within the Rhu Article 4 Conservation Area and the site also has a Tree Preservation Order in place. The proposal is to subdivide the plot with the northern part being used for the new dwellinghouse. This would give the proposed new dwellinghouse a direct road frontage onto Station Road. The formation of the access would involve the reduction in height of the existing stone boundary wall in order to allow the required sightlines.

The plot is large enough to accommodate a new dwellinghouse and the design is considered acceptable. However, the proposal would result in the loss of seven mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. As originally submitted, the proposal would also have resulted in the loss of two other mature trees. Although amended plans have indicated that the trees will remain on site, the proximity of the proposed dwellinghouse to these trees could mean that they might become a nuisance, could have their root system undermined and could potentially result in their loss as well. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. Moreover, sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north, would undermine the established character and settlement pattern of this area.

An application for the same plot (although for outline consent) was refused in 1992. The reasons for refusal were that the development would have a detrimental impact on the amenity and landscape quality of Rhu Conservation Area as it would intrude on the area of woodland which is an important aspect of Laggary Park and establishes the character and amenity of this part of the village; that a structure in this area would significantly detract from the streetscape of the area; and that the development could set a precedent. While this refusal was a number of years ago, it is still considered a material consideration in the determination of this application and that the underlying principle against development remains.

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

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

---

**(S) Reasoned justification for a departure to the provisions of the Development Plan**  
N/A

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

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**Author of Report:** Stephanie Glen

**Date:** 31/08/2011

**Reviewing Officer:** Howard Young

**Date:** 02/09/2011

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

**GROUNDS OF REFUSAL RELATIVE TO APPLICATION REF. NO. 11/00784/PP**

The site is located in the rear garden area of 7 Laggary Park. The existing character of Laggary Park is of substantial dwellings set within large garden areas around Laggary House, an imposing Category B Listed Building. The proposed dwellinghouse is sited on a wooded area of garden ground which is covered by a Tree Preservation Order and is within the Rhu Article 4 Conservation Area. The application site forms part of the setting of the Laggary Park development and has amenity value in the immediate area and wider Conservation Area due to its mature tree cover and woodland appearance successfully integrating and softening the impact of existing residential development into its wider landscape setting. The proposed development would result in the loss of seven mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. As originally submitted the proposal would also have resulted in the loss of two other mature trees. Although amended plans have indicated that these trees will remain on site, the proximity of the proposed dwellinghouse to these trees could mean that they might become a nuisance, could have their root system undermined and could potentially result in their loss as well. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. In addition, the existing character of Laggary Park is of large dwellings set within large garden areas around Laggary House, a Category B Listed Building. Along this area of Station Road, the only other existing houses are long established, are associated with Laggary House and run parallel with the adjoining road. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. The proposal is therefore contrary to Policies STRAT DC 9 and STRAT FW 2 of the Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 7, LP ENV 14, LP ENV 19, LP HOU 1 and Appendix A of the Argyll & Bute Local Plan. These require, inter alia, that proposals provide a high standard of building and landscape design, prevent the loss of trees, contribute to environmental quality and maintain or enhance the amenity of the surrounding area. Proposals which unacceptably detract from the character or appearance of Conservation Areas or their setting will be resisted.

**NOTE TO APPLICANT**

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 16/05/2011 and the refused drawing reference numbers Loc Rev A, 01 Rev. B, 02 and 03.

## **PLANNING LAND USE AND POLICY ASSESSMENT**

### **A. Settlement Strategy**

The site is within the settlement boundary of Rhu as defined by the adopted Local Plan. The site is also within the Rhu Article 4 Conservation Area and is covered by a Tree Preservation Order. Within the settlement boundary there is a presumption in favour of development subject to site specific criteria being met. In this instance, the development must maintain or enhance the character and appearance of the Conservation Area and it must not have an adverse impact on trees within the site.

### **B. Location, Nature and Design of Proposed Development**

The site is located in the rear garden area of 7 Laggary Park. The existing character of Laggary Park is large dwellings set within large garden areas around Laggary House, an imposing Category B Listed Building. The curtilage of 7 Laggary Park is large measuring approximately 2950 square metres. The proposed house plot is an unused area at the bottom (north-west) of the applicant's garden measuring approximately 1150 square metres. It is bounded by Station Road to the north-west and on all other sides by residential properties and would therefore have a direct road frontage. There is a mix of house types in the area, with Laggary House, a listed building to the east and ex local authority housing to the west of the site.

The proposed house would be located towards the rear of the plot at an angle with the road. As originally submitted it was also intended to erect a double garage 7 metres south-west of the dwelling. However, amended plans submitted for discussion indicate the garage removed. The dwellinghouse itself will be 1½ storeys, with a central gable feature with dormer windows to either side of this. The windows will have a vertical emphasis with mullions between the windows to the front elevation and the house will be finished in wet dash render with smooth banding around the window and door openings and it will have a natural slate roof.

The site is within the Rhu Article 4 Conservation Area. In accordance with Policy LP STRAT DC 9 of the Structure Plan and Policy LP ENV 14 of the adopted Local Plan, all development must maintain or enhance this area. It is considered that the scale, design and choice of materials of the dwellinghouse is acceptable. In accordance with Policy LP ENV 19 of the adopted Local Plan, the proposed new dwelling should be sited so as to pay regard to the context in which it is located, should be of a density compatible with the surrounding area and be designed to be compatible with its surroundings. The development should not create any amenity issues to neighbours or the surrounding area by way of overlook, overshadowing, loss of daylight and so on. While the new house will not raise any amenity issues with neighbours, it is considered that the siting of the house is not in keeping with the settlement pattern of the area. While the plot itself follows the pattern of the adjacent properties to the north east of the site, these houses are traditional lodge/gate houses sited to the very front of their sites abutting Station Road. The position of the proposed house does not reflect this existing character, instead proposes the house to be at an angle within the grounds which is out of character with the area. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

### **C. Impact on Woodland/Access to Countryside.**

The proposed application site is currently overgrown with shrubs and is wooded containing a number of trees. This wooded area continues along Station Road and Laggary Park forming a larger Tree Preservation Order known as No. 8 Laggary. Part of the site is also scheduled Ancient Woodlands. Policy LP ENV 7 of the adopted Local Plan states that the Council will protect trees and resist development which is likely to have an adverse impact on them.

The trees are spread over the site and because of the driveway, dwellinghouse and garage, most of the trees within the site will need to be removed to make way for the development, with just the perimeter trees remaining.

A tree survey was undertaken to determine the condition of the trees on site. Of the 13 trees identified it was considered that 6 would have to be removed to make way for the proposals, and one should be felled as it is dead. Of all of the trees to be removed, none are in poor condition and in fact all are described as in fair or good condition. It is considered that these trees are an important feature of the area and contribute towards the character and amenity of the Conservation Area. Two trees in particular are of importance, these are a 16 metre high Common Lime and a 27 metre high Beech tree. In the tree survey these trees are described as Category B1 which means that they are of moderate quality and value and are in such a condition that they can make a significant contribution. Category B1 also means that these trees may have been included in the higher category had it not been for their slightly impaired condition. Regardless of their slightly impaired condition (one has a weak fork and the other has decay affecting a main fork), these trees are still considered to be able to make a significant contribution, with a minimum of 20 years suggested.

It is considered that the removal of these trees, especially the two identified above, cannot be justified. A Tree Preservation Order was placed on the site to ensure their protection and while in some instances, it may be appropriate to allow the removal of trees and their replanting, in this instance it cannot be justified. Even taking into account the amended layout proposed, while the two largest trees will not be removed, the proximity of the proposed dwellinghouse to these trees could mean that they were a nuisance, could undermine their root system and could potentially result in their loss as well. In addition, most of the trees and shrubs on site are to be removed and their replacement with a dwellinghouse, hard standing, fences and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

#### **D. Road Network, Parking and Associated Transport Matters.**

The proposed dwellinghouse will have a frontage onto Station Road and as such will take vehicular access from this point. This part of the site is bounded by a 2 metre high stone wall which continues southwards down Station Road. This is a traditional stone wall which would have been listed had Laggary House not been subdivided prior to it being listed. In order to facilitate the sightlines required by the Area Roads Manager, this wall will have to be taken down to one metre in height and slightly relocated. The wall will then be re-built using the duntakings from the existing wall. While it is considered that the wall does contribute to the character and appearance of the area, reducing the height of it at this location would not detrimentally affect the amenity of the area as this would be of a similar manner to the adjacent property.

#### **E. Infrastructure**

Scottish Water has no objections to the proposal.

**F. Conclusion.**

The development would result in the loss of protected trees which contribute to the character and appearance of the Conservation Area and this part of Rhu. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually discordant and would not maintain or enhance the character of the conservation area. In addition, the existing character of Laggary Park is of large dwellings set within large garden areas around Laggary House, a Listed Building. Along this area of Station Road, the only other existing houses are long established, are associated with Laggary House and run parallel with the adjoining road. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north, would undermine the established character, amenity and settlement pattern of this area contrary to development plan policy.



227200



Application Site

1:24,000

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227200



**Location Plan relative to  
Application Ref: 11/00784/PP**

Date: 24.08.2011

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**

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**Reference No:** 11/00873/PP

**Planning Hierarchy:** Local

**Applicant:** Mr A Tear

**Proposal:** Erection of a 50 metre wind monitoring meteorological mast for a temporary period of 14 months.

**Site Address:** Ascog Farm, Balmory Road, Ascog, Isle of Bute

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#### **DECISION ROUTE**

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

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#### **(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Erection of a 50 metre wind monitoring meteorological mast for a temporary period of 14 months.

**(i) Other specified operations**

None

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#### **(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that:

- 1) Planning permission be granted subject to the conditions, reasons and informative notes contained within this report;
  - 2) The conclusions of the Area Capacity Evaluation undertaken to accompany the assessment of the proposal be endorsed as a material consideration in the determination of this application and in the consideration of subsequent applications within the defined ACE compartment.
- 

#### **(C) HISTORY:**

There is none for this particular site.

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**(D) CONSULTATIONS:**

Infratil Airports Europe Limited (e-mail dated 29<sup>th</sup> June 2011) – no objection.

National Air Traffic Services (letter received 29<sup>th</sup> June 2011) - no objection.

Scottish National Heritage (letter received 5<sup>th</sup> July 2011) - objects to the proposal unless it could be progressed with recommended mitigation measures. In order to minimise the risk of avian collision, it is recommended that bird diverters be attached to each of the four guy wires, at five metre intervals on each wire. Furthermore, it is recommended that the bird diverters be maintained for the lifetime of the mast and be replaced within one month should they break or become detached.

Ministry Of Defence - no response, time expired.

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**E) PUBLICITY:**

Regulation 20 Advert (expiry 15<sup>th</sup> July 2011)

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**(F) REPRESENTATIONS:**

E-mail representations have been received from a total of 23 people as follows:

Mr John Dennis, Flat 2, 4 Battery Place, Rothesay, PA20 9DP (received 18<sup>th</sup> July 2011)

Mrs Christine Carley, Clyde House, Ascog, PA20 9EU (received 19<sup>th</sup> July 2011)

Mrs Louise Johnson, Millburn, Ascog, PA20 9ET (received 14<sup>th</sup> July 2011)

Mr Ronald Falconer, Hawkstone Lodge, Ascog, PA20 (received 19<sup>th</sup> July 2011)

Mrs Marjorie Falconer, Hawkstone Lodge, Ascog, PA20 (received 19<sup>th</sup> July 2011)

The Landmark Trust, Shottesbrooke, Maidenhead, SL6 3SW (received 15<sup>th</sup> July 2011)

Mrs Susie Alcorn, Ascog Hall, Ascog, PA20 9EU (received 14<sup>th</sup> July 2011)

Mr John Thomas, Balmory Hall, Balmory Road, Ascog (received 15<sup>th</sup> July 2011)

Mr Tony Harrison, The HUF Haus, Ascog, PA20 9LL (received 14<sup>th</sup> July 2011)

Mr Harry Thomson, Stella Matutina, Ascog, PA20 9EU (received 16<sup>th</sup> July 2011)

Mr Norman Foster, Seal Lodge, Ascog, PA20 9EU (received 19<sup>th</sup> July 2011)

Mr John Thomson, Montford Cottage, Craigmore Road, Rothesay (received 18<sup>th</sup> July 2011)

Mrs Sue Dennis, Flat 2, 4 Battery Place, Rothesay, PA20 9DP (received 18<sup>th</sup> July 2011)

Mrs Ulrike McCulloch, Dalegarth, Ascog, PA20 9ET (received 18<sup>th</sup> July 2011)

Mr Ian McCulloch, Dalegarth, Ascog, PA20 9ET (received 19<sup>th</sup> July 2011)

Mr Richard Carley, Clyde House, Ascog, PA20 9EU (received 19<sup>th</sup> July 2011)

Mr Harry Reid, Millburn Cottage, Ascog PA20 9ET (received 22<sup>nd</sup> July 2011)

Andrew Nicol, Mount Stuart Trust, Isle of Bute (received 26<sup>th</sup> July 2011)

Mr George Morrison, Duneistein, Loch Ascog, Isle of Bute (received 28<sup>th</sup> July 2011)

Mr Alistair Cairns, Braeside, Loch Ascog, Isle of Bute (received 29<sup>th</sup> July 2011)

Mr Alexander Steven, Dunagoil, Kingarth, Isle of Bute (received 1<sup>st</sup> August 2011)

Peter Baron, 39 Crichton Road, Rothesay, Isle of Bute (received 4<sup>th</sup> August 2011)

Mr Martin Belshaw, The Vineries, Millbank, Ascog, Isle of Bute (received 18<sup>th</sup> August 2011)

The points raised can be summarised below:

- The proposed would have a significantly adverse visual impact given the prominence of the site;
- The proposal is a precursor to an application for large wind turbines that would have a significantly adverse visual impact given the prominence of the site;
- There is significant concern over the impact on birdlife.

*Comment: The above issues will be addressed in the Assessment section below.*

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

The agent has submitted a document in support of the application (dated 24<sup>th</sup> May 2011), the contents of which can be summarised as follows:

- § Design of the mast is typical to the type used for assessment of wind resource at potential turbine development locations. There will be three anemometers mounted on the mast to measure wind speed and three wind vanes to record the direction of wind at any given time. The mast will be secured at the location by use of guy ropes and is not a permanent structure with no foundations; thus, it can be completely removed from the site at the cessation of monitoring activities;
- § Wind speed measurement and directionality at the proposed location is vital in aiding the determination of wind resource at a site to fully investigate the potential for wind energy development. Only one mast is proposed as there is no requirement for multiple masts to be used at this site. At present, no practical alternative exists to on-site assessment in gaining the most accurate data possible for the location. The mast to be installed is self-sufficient, it operates on battery power with a solar panel incorporated into the system for continuous trickle charge – this means no services will be required to be connected to the site;
- § The proposed location for the meteorological mast is owned by the applicant, Mr A Tear. The siting of the mast will be on the Hill of Ascog, which was determined as the best site (of the land owned by the client) for a wind turbine development. Every effort will be made to position guy ropes to minimise impact on agricultural production;
- § There is no landscaping proposed for the site since this could potentially affect the local wind conditions;

- § The erection of the mast will utilise normal road-going vans and 4x4 vehicles to transport materials to the intended location. The proposed mast is fully built at ground level, negating the need for any high lifting equipment to access the site; as a consequence, there will be no requirement for an access track to be created.

The agent has submitted a response to the objections (e-mail from G Mallia dated 22<sup>nd</sup> July 2011) which can be summarised as follows:

- § Several of the objections are related to wind turbines and not the met mast. A met mast is used in order to assess the wind resource. In this case it would be monitoring the wind conditions on Hill of Ascog. It is only once data from the mast has been collected and analysed that the viability of wind turbines at Ascog can be determined and any potential adverse and positive effects on the local environment can be evaluated following extensive environmental surveys. In summary we feel that any comments relating to wind turbines are not relevant to the determination of this application.
- § With regards to the objections relating to the visual impact of the mast, we do not believe that this would have a significant visual impact as it is a narrow structure. In addition, we would like to stress that this is only a temporary structure that would be taken down after 12 months. The applicant would also place bird diverters on the met mast as per SNH's requirements in order to ensure that it would not have a negative impact on birdlife.

On behalf of the applicant, Elspeth McVey (e-mail dated 24<sup>th</sup> July 2011) has made the following comments:

- ∇ We are working in partnership with Peter McDonald from Fyne Homes/Fyne Futures and Towards Zero Carbon Bute on a community renewable energy project.  
  
As you know, we have been working with the Scottish Agricultural College on a feasibility study for the site for some months.
- ∇ Recently we have learnt that we have been successful in Stage 2 of our application for a Community And Renewable Energy (CARES) loan scheme which helps landowners cover the expensive pre-planning stages of assembling an EIA.
- ∇ One of the conditions the Scottish Government lays down to successful recipients of the CARES loan is that 20% of net revenue goes back to the community, a much higher figure than is typical for wind projects.
- ∇ The CES/Scottish Government announcement regarding CARES will be made soon. Our work on the EIA is ongoing and we will, of course, consult the community as we go forward.
- ∇ We are already planning a conference round about Autumn of this year.

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**(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 5 – Development in Sensitive Countryside  
STRAT DC 8 – Landscape and Development Control

Argyll & Bute Local Plan 2009

LP ENV 5 seeks to ensure that proposals will not compromise the conservation objectives and overall integrity of Sites of Special Scientific Interest.

LP ENV 6 seeks to give full consideration to the legislation, policies and conservation objectives where they apply to a variety of habitats and species.

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

(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

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(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

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(O) **Requirement for a hearing (PAN41 or other):**

The application has attracted objection from a total of 23 people. At the October 2010 meeting of the Planning, Protective Services and Licensing Committee, Members agreed a new protocol for undertaking pre-determination hearings. Rather than adopting

a simple numbers approach (i.e. in excess of 20 representations), it was decided to assess the need for a hearing depending upon a number of criteria.

In this particular case, it is considered that the issues raised are not technically complex and that an approval would not set a precedent for accepting wind turbines at the site (which is a concern that many of the objectors have). In these circumstances, it is recommended that a hearing is not convened prior to a decision being made.

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

In terms of the adopted 'Argyll and Bute Local Plan', the site is identified as being within Sensitive Countryside within which Policy STRAT DC 5 of the approved 'Argyll and Bute Structure Plan' only gives support to 'small scale' development or, in exceptional cases, a development with locational need may be supported and subject to compliance with other relevant Local Plan Policies. In such circumstances, STRAT DC 5 requires that an Area Capacity Evaluation (ACE) be undertaken in order to support an exceptional case.

The site is also situated within the Isle of Bute Area of Panoramic Quality within which Policy LP ENV 10 (Impact on Areas of Panoramic Quality) states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

Appendix A of the adopted 'Argyll and Bute Local Plan' states that impact on the landscape is a major consideration when new development is proposed and all significant developments require to be assessed for their compatibility with the present landscape character as detailed in the SNH Landscape Character Assessment.

The mast is a 50 metre high slender tubular structure restrained by a set of steel wire rope guys. The guys are anchored at various radii, the outermost being 25 metres from the mast. The mast has a relatively thin profile (17.5 centimetres or 7 inches in diameter) and it is considered that given its small scale diameter and that it will only be sited for a temporary period of fourteen months, it will not constitute a permanent and prominent feature in the context of its landscape setting. Therefore, it is not considered that its presence will have a significant adverse visual impact on the wider landscape setting of the area.

It should be made explicitly clear that the temporary approval of this mast for wind monitoring purposes does not imply that the surrounding area is a suitable site, in planning terms, for a wind farm development.

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

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

The proposal accords with Policies STRAT DC 5 and STRAT DC 8 of the approved 'Argyll and Bute Structure Plan' and Policies LP ENV 5, LP ENV 6, LP ENV 10 and LP ENV 19 and Appendix A of the adopted 'Argyll and Bute Local Plan' and 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.

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



Not applicable

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

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**Author of Report: Steven Gove**

**Date: 1/9/2011**

**Reviewing Officer: David Eaglesham**

**Date: 2/9/2011**

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/00873/PP**

1. Permission is hereby granted for a period of 14 months from the date of the erection of the mast. The wind monitoring mast, supporting guy wires (and any base and associated fencing) shall be completely removed from the site upon the expiry of the fourteen month period. Thereafter, the site shall be reinstated with the planting of indigenous vegetation within one month of the mast being removed from the site, unless a further period for an extended period is obtained from the Planning Authority.

*Reason: In order that the Planning Authority may review the circumstances pertaining to the development within a reasonable period of time and in the interests of visual amenity.*

2. The wind monitoring mast shall not be erected until full details of bird deflectors (which should be spaced at no greater than 5.0 metre intervals) to be installed on all guy wires of the mast have been submitted to and approved by the Planning Authority in consultation with Scottish Natural Heritage. The approved deflectors shall be installed on the mast for the duration of its installation and any that break or become detached shall be replaced within one month of the breakage or detachment occurring.

*Reason: In the interest of nature conservation to protect important bird species, as the application site is located adjacent to Loch Ascog, which is a Site of Special Scientific Interest that provides an internationally important roosting area for wintering greylag geese.*

3. The development shall be implemented in accordance with the details specified on the application form dated 24<sup>th</sup> May 2011 and the approved drawing reference numbers:

Plan 1 of 3 (Drawing Number 11428 – Site Location)  
Plan 2 of 3 (Drawing Number 11428 – Mast Site Plan)  
Plan 3 of 3 (Drawing Number 11428 – Mast Elevation)

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

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

**NOTE TO APPLICANT**

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- 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 applicant should be aware that the granting of this permission for the wind monitoring mast does not imply that the area is a suitable location for a wind farm.

**ANNEX A – RELATIVE TO APPLICATION NUMBER 11/00873/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

In terms of the adopted 'Argyll and Bute Local Plan' 2009, the site is identified as being within Sensitive Countryside within which Policy STRAT DC 5 of the approved 'Argyll and Bute Structure Plan' 2002 only gives support to 'small scale' development or, in exceptional cases, a development with locational need may be supported and subject to compliance with other relevant local plan policies. In such circumstances, STRAT DC 5 requires that an Area Capacity Evaluation (ACE) be undertaken in order to support an exceptional case.

**B. Location, Nature and Design of Proposed Development**

Planning permission is sought for the erection of a wind monitoring mast for a temporary period of 14 months for data collection purposes at a site on Ascog Hill, Ascog Farm, Isle of Bute.

The mast is a 50 metre high tubular structure restrained by a set of steel wire rope guys. The guys are anchored at various radii, the outermost being 25 metres from the mast.

The purpose of the mast is to measure wind speeds from a specific location to assess suitability for wind farm development.

The mast has a relatively thin profile (17.5 centimetres or 7 inches in diameter) and it is considered that given its small scale diameter and that it will only be sited for a temporary period of fourteen months, it will not constitute a permanent and prominent feature in the context of its landscape setting. Therefore, it is not considered that its presence will have a significant adverse visual impact on the wider landscape setting of the area.

In addition to the above, the proposed mast is only to be sited for a temporary period of 14 months.

It should be noted that the granting of a temporary approval of this mast for wind monitoring purposes would not imply that the surrounding area is a suitable site for a wind farm development.

**C. Natural Environment**

Scottish Natural Heritage was consulted and has advised that the application site lies adjacent to Loch Ascog, one of six freshwater bodies comprising the Central Lochs of Bute Site of Special Scientific Interest. The SSSI provides an internationally important roosting area for wintering greylag gees. They have advised that, to ensure any impacts on bird interests are minimised, bird diverters should be fitted to the outer most guy wires as this will increase the visibility of the structure for birds and reduce potential collision risk. A condition to this effect will be attached to the permission.

In this regard, it is considered that the potential impact on the SSSI can be adequately dealt with by condition and, therefore, the proposal is consistent with the terms of Policies LP ENV 5 and LP ENV 6 which seek to ensure SSSI's and protected species are not affected by adverse development.

**D. Landscape Character**

The site is situated within the Isle of Bute Area of Panoramic Quality.

In terms of the Landscape Assessment of Argyll and the Firth of Clyde (1996), it details the area as '*Rolling Farmland with Estates*' providing a landscape characterised by, amongst other things, broad, rounded ridges with occasional steep banks, knolls and conical upstanding hills; groups of fairly large, rectangular fields, enclosed by linear shelterbelts and blocks of woodland; and scattered large farmsteads in countryside. It states that the stone walls and estate policy woodlands should be restored, managed and protected and the historic parklands and estates should be conserved having regard to key views from local roads and public rights of way.

Structure Plan Policy STRAT DC 8, Landscape and Development Control, states that development which by reason of location, siting, scale, form design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy.

Furthermore, Policy LP ENV 10 (Impact on Areas of Panoramic Quality) of the adopted Argyll and Bute Local Plan states that development in, or adjacent to, an Area of Panoramic Quality will be resisted where its scale, location or design will have a significant adverse impact on the character of the landscape.

However, as detailed above, the mast has a relatively thin profile (17.5 centimetres or 7 inches in diameter) and it is considered that given its small scale diameter and that it will only be sited for a temporary period of fourteen months, it will not constitute a permanent and prominent feature in the context of its landscape setting. Therefore, it is not considered that it will have a significant detrimental impact on the surrounding landscape or the wider Area of Panoramic Quality. The location of the mast and the locational need for it are accepted in terms of the conclusions of the accompanying Area Capacity Evaluation (ACE) set out in Appendix B.

In this regard, it is considered that the proposal complies with the criteria set out in Policies STRAT DC 8 and LP ENV 10 which seek to ensure that developments do not have an adverse impact on the character of the landscape.

## **APPENDIX B - AREA CAPACITY EVALUATION (ACE)**

### **ASCOG HILL, ASCOG FARM, ISLE OF BUTE**

#### **a) Purpose of the assessment**

This assessment has been undertaken in accordance with the Supplementary Planning Guidance approved by the Council on 19th February 2009. This sets out situations on which an assessment may be triggered, including, as in this case, a development demonstrating a special case to be within the Sensitive Countryside Development Control Zone.

The guidance requires that the findings should be made available to applicants and/or agents and to Members in advance of the determination of any related planning application(s) in order that, if necessary, there is an opportunity to prepare a response to the findings for consideration by 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. ACE's will be considered by Members at the same time as the related development proposal is being determined, and once endorsed will become a material consideration in respect of any future applications within that ACE compartment.

This assessment has been generated by a current application reference 11/00873/PP for temporary siting of a 50 metre high anemometer mast within the 'sensitive countryside' development control zone.

The assessment has been undertaken in respect of an area of common landscape character as detailed below and shown in the accompanying map.

#### **b) Area of Common Landscape Character**

The area of common landscape character comprises undeveloped open hill ground at Ascog Hill, which lies to the south east of Rothesay. It comprises land lying largely above the 50 metre contour and features the hill top with a distinctive stand of trees at the summit together with wooded slopes.

The ACE compartment is in an area categorised by the Scottish Natural Heritage Landscape Assessment of Argyll and the Firth of Clyde 1996 as "Rolling Farmland with Estates".

The Area of Common Landscape Character has been confined to the extent of the elevated ground which is delineated as 'countryside around settlement' and sensitive countryside' in the Argyll & Bute Local Plan. The adjacent lower lying land is identified as 'rural opportunity area' in the plan, but by virtue of the approved Bute & Cowal Landscape Capacity Study this has been specifically identified by the Council's landscape consultants as having no capacity for small scale development, and hence, is now operated as a 'red' ROA (Site CB 52).

#### **c) Key Environmental Features**

The key characteristics of this landscape character type, relevant to this assessment, are:

- Broad, rounded ridges with occasional steep banks, knolls and conical upstanding hills;
- Flat coastal plain with sandy bays along the Firth of Clyde;
- Groups of fairly large, rectangular fields, enclosed by linear shelterbelts and blocks of woodland;

- Stone walls, follies, beech hedgerows and estate policy woodlands;
- Numerous hedgerow trees, often forming avenues along lanes;
- Scattered large farmsteads in countryside;
- Urban development on coastal plain and broader vales.

The Landscape Assessment identifies the following main landscape issues that need to be considered, when addressing the acceptability of prospective development within this landscape character type:

- § Stone walls and estate policy woodlands should be restored, managed and protected;
- § Historic parklands and estates should be conserved having regard to key views from local roads and public rights of way;
- § Traditional hedgerows should be conserved;
- § Linear development along roads should be avoided.

In the case of the land forming the defined Area of Common Landscape Character, this is characterised by a hill with a summit which contains a stand of trees. There are relatively steep slopes on the north, west and south sides of the hill and these slopes are wooded. A public road runs to the west and south of the area and, due to the height of the hill, it is also visible from long distances to the south west. There is no built development within the area.

#### **d) Capacity to Absorb Development Successfully**

The defined Area of Common Landscape Character comprises land falling within a 'Countryside Around Settlement' development control zone and a 'Sensitive Countryside' development control zone which in itself indicates little, if any, capacity to absorb development successfully. Buildings in the locality are confined to the lower lying areas below the hill ground which is not considered suitable area for built development due to its elevation, its irregularity and the difficulty in achieving access.

The proposed anemometer mast which has prompted this ACE is a 50 metre high mast for the purpose of measuring and recording wind speeds from a specific location to assess the suitability of the locality for a wind farm development. On this basis, it is considered that the proposed mast has a locational need to be in this area, in order to afford reasonable opportunity to monitor the available wind resource.

The mast is a 50 metre high slender tubular structure restrained by a set of steel wire rope guys. The guys are anchored at various radii, the outermost being 25 metres from the mast. The mast has a relatively thin profile (17.5 centimetres or 7 inches in diameter) and it is considered that given its small scale diameter and that it will only be sited for a temporary period of fourteen months, it will not constitute a permanent and prominent feature in the context of its landscape setting. Therefore, it is not considered that its presence will have a significant adverse visual impact on the wider landscape setting of the area.

The wider area lies within the Isle of Bute 'Area of Panoramic Quality'. Due to the relative homogeneity of the Area of Common Landscape character and the *de minimis* impact upon the wider area from the temporary presence of this particular form of development, there would be negligible, if any, benefit in considering an alternative location to that proposed by the applicants, which has been selected as being capable of fulfilling their technical requirements in terms of data collection. Any impact will be small scale, reversible and will not give rise to any change in the landscape character of the area in question.

In terms of the residual development capacity of the ACE compartment, the elevated, open and relatively wild character of the area is such that it would not lend itself to development with any sort of buildings. Demand for built development in the locality is

capable of being accommodated within the identified 'rural opportunity area' lying along the access road situated between the dwellinghouse known as '*Braeside*' and the farm at '*High Bogany*'.

The accompanying photographs give an indication of the landscape within the ACE compartment.



Annexe A to

AREA CAPACITY EVALUATION MATRIX			
<b>ACE Title</b>		Ascog Hill, Ascog Farm, Isle of Bute	
<b>Date</b>	29/08/11	<b>Location</b>	Ascog Hill, Ascog Farm, Isle of Bute
Surrounding Strategic Planning Zones			
Town Village:		N/A	
Minor Settlement:		N/A	



Green Belt:	N/A	
Countryside Around Settlements :	The north eastern part of the site is within the 'Countryside Around Settlement' development control zone	
Rural Opportunity Area	The site is bounded to the east by the 'Rural Opportunity Area' development control zone	
Sensitive Countryside / Coast :	The majority of the site is situated within the 'Sensitive Countryside' development control zone.	
Very Sensitive Countryside / Coast:	N/A	
<b>Landscape Character</b>		
Landform & Cover	The area is characterised by a hill with a summit which contains a stand of trees. There are relatively steep slopes on the north, west and south sides of the hill and these slopes are wooded. A public road runs to the west and south of the area.	
Development Pattern	There are no buildings located within the area subject of the ACE. Development (such as a water treatment works and a waste water treatment works) is confined to the lower areas which historically have been more practical to develop and where access can be readily achieved.	
<b>Notable Key Environmental Features</b>		
Significant Historical Interest and Important Cultural Associations	Scheduled Monuments Unscheduled Monuments etc	None
	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	None
	Important groups or areas of buildings including Conservation Areas	None
	Other important examples of built heritage including transport / industrial heritage	None
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	Loch Ascog SSSI located to south west
	Locally 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	None
	Important local paths / networks and their immediate corridors	The public road linking the south of Rothesay to Ascog runs to the south and west
	Important views and prospects	The site is highly visible from the public road running to the south and west. It is also visible from longer distances such as the Firth of Clyde and the public road running from the south of Rothesay to Kingarth
	Named and other waterfalls shown on OS	None
	Important car parks lay byes etc	None
	Valued landscapes including NSAs RSAs & LSAs	Site is within the Isle of Bute Area of Panoramic Quality
Health and Safety Constraints	Water catchment zones	Yes – Loch Ascog
	MoD Zones	None
	Air Safety - Airfield Safeguarding and CAA Consultation Zones	None
	Safety - Health and Safety Executive Consultation Zone	None
<b>INFRASTRUCTURE</b>		
Road Access	N/A	
Water	N/A	
Sewerage	N/A	
Electricity	N/A	
<b>DEVELOPMENT</b>		
Proposed Development	Erection of Anemometer Mast for temporary period of 14 months	

Other Issues/Notes	None

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**Application Ref: 11/00873/PP**

 **Application Site**

 **ACE Compartment**



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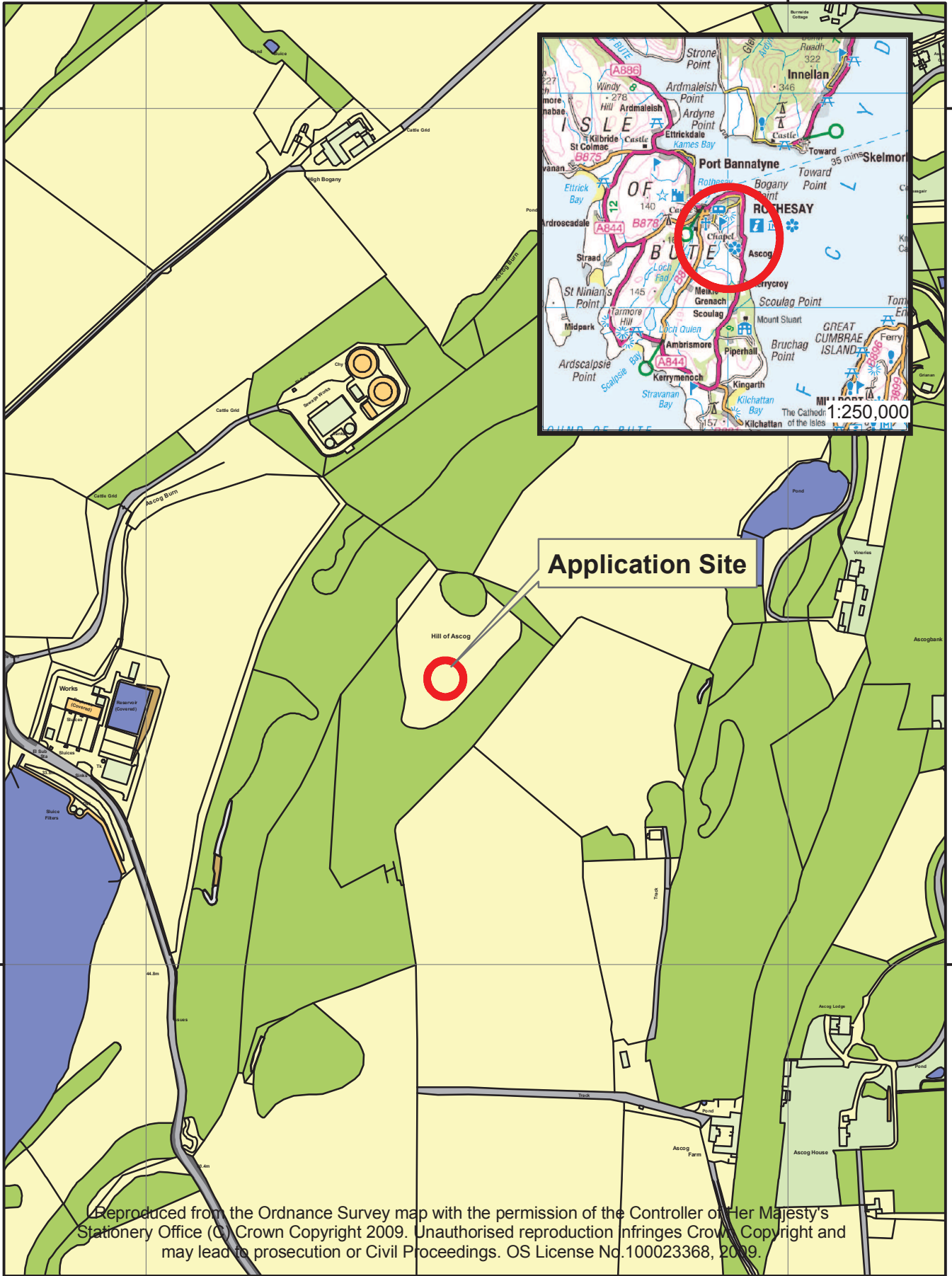
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# Location Plan relative to Application Ref: 11/00873/PP

Date: 05.09.11

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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**

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**Reference No:** 11/00887/PP

**Planning Hierarchy:** Local Application

**Applicant:** Osborne Interiors Ltd

**Proposal:** Erection of 3 dwellinghouses

**Site Address:** Land between 19 to 37 Cumberland Avenue, Helensburgh

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#### **DECISION ROUTE**

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

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#### **(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Erection of 3 dwellinghouses
- Formation of 3 new vehicular accesses onto Cumberland Avenue

**(ii) Other specified operations**

- Connection to existing public main
  - Connection to existing public sewer
- 

#### **(B) RECOMMENDATION:**

It is recommended that planning permission be refused for the reasons set out overleaf subject to a discretionary local hearing being held in view of the number of representations received. .

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#### **(C) HISTORY:**

02/01358/OUT – Erection of residential development in outline – refused 3<sup>rd</sup> September 2002  
05/00512/DET – Erection of 3 houses - refused 29<sup>th</sup> November 2005  
06/00361/DET – Erection of 3 houses - refused 22<sup>nd</sup> December 2008

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**(D) CONSULTATIONS:**

**Helensburgh Community Council** 24.06.2011 Object as the site is an Open Space Protection Area and the proposal is contrary to Policy LP REC 2 of the adopted Local Plan. Three previous applications for residential development have been refused. The designation of this site has been tested exhaustively at a PLI.

**Roads Helensburgh and Lomond** 27.06.2011 No objections in principle subject to the provision of 3 car parking spaces for each property

**Scottish Water** 13.07.2011 No objection

**Head of Economic Development & Strategic Transportation** (11.08.2011, 15.08.2011, 22.08.2011, 26.08.2011 and 01.09.2011)

*Comments below in respect of proposed off-site mitigation:*

Kidston Park was part of the original Outline Business Case put forward by Helensburgh for funding from the Council's CHORD Programme. The OBC looked at the cumulative economic impact of the following elements:

Element 1 - Transforming the Town Centre - Traffic Management and Streetscape Improvement

Element 2 - Redeveloping the West Bay Esplanade

Element 3 - Redeveloping Kidston Park

It did not assess each element individually.

The works listed in the OBC for Kidston Park included the following: new cafe and toilets; tourist information; improved play area and upgraded car park. It did not include the refurbishment of the bandstand or the drink fountain. Both of these items were discussed when consideration was being given to submitting a Heritage Lottery Application from the "Parks for People" fund.

Following feedback from HLF (that the heritage element was too weak) a formal application was not submitted and therefore the economic/business case was not developed for Kidston Park. The bandstand has worth from a heritage perspective. However, the structure is not a priority from the economic development and regeneration perspective in terms of potential economic impact, nor is it part of the CHORD programme. The refurbishment and enhancement of the play area will have limited direct beneficial impact on economic development

**Access Manager** 06.09.2011 These three areas are woodlands or land where the public have rights of responsible non motorised access under the Land Reform Scotland Act 2003. None of the claims made to date by the owners have demonstrated that any of the land is outwith the rights of access.

**Local Biodiversity Officer** 06.09.2011 The site in its current state of complete cover by ground flora with some tree regeneration provides a habitat for birds, insects and some smaller mammals. With the tree regeneration above the height of the brambles, the site has the potential to develop into broadleaved woodland with some

shrub layers in the open spaces not colonised by tree species.

**Project Manager** 09.08.2011  
**Roads and  
Amenity Services**

The Department would not want to take responsibility for the bandstand for the foreseeable future

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(E) **PUBLICITY:** Local Application Advert (expiry date 08.07.2011)

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(F) **REPRESENTATIONS:**

A total of 50 representations have received comprising 2 from elected members, plus 38 objectors and 10 supporters. A list of representations from members of the public is set out in the Appendix at the end of this report.

### **Representation by Elected Members**

#### **Summary of issues raised**

Councillor Robb (e-mail dated 22/06/2011) has made representation as follows:

- The site is an OSPA and no alternative sites in the vicinity of the proposed development would provide similar community benefit.
- The scale, character and style of the proposed building are not in keeping with those in the surrounding area.
- The OSPA provides protection for a natural green corridor in that part of town which encourages biodiversity and a balance between open space and development.

Councillor Mulvaney (letter dated 27 July 2011) has expressed support for the application on the following grounds:

- The application site cannot genuinely be considered a valued open space – it is devoid of trees (on which the original TPO and then the OSPA designation were determined); it is overgrown and inaccessible to any member of the public. It has in my view little visible amenity or practical amenity to local residents or even to the wider community and its value, as an open space is negligible.
- The application for three houses, all single storey facing onto Cumberland Avenue, is in keeping with the existing streetscape and as such will naturally integrate into the current built environment; helping to integrate the existing bungalows at the bottom of Cumberland Avenue with the modern ex-MOD housing at the top of the street. The new development being softened by tree and shrub planting, which I understand is on 17% of the site.
- The applicant's have mitigated the policy presumption against development on this site with an imaginative restoration to a bandstand at the nearby public Kidston Park. This is a public park, accessible by all of the community, and the suggested improvements will provide something that is of inherently greater value, use, and amenity than that what it replaces in the inaccessible scrub that is the application site at Cumberland Avenue. This scheme in my view goes far beyond mitigation on a like-for-like basis; it is tangible improvement for the community, and is an enhancement to a genuine and accessible open space. If planners do not favour this particular scheme, I would

suggest that other improvements and enhancements to this accessible and valued open space at Kidston Park, all for the public good, are negotiated with the applicant.

- I would urge members of the PPSL Committee to visit the site and ultimately support the application, recognising the negligible amenity value of the existing site; the integration of the proposed quality development, which accords with existing streetscape and built environment; and finally the genuine enhancement in amenity value for the community in an imaginative scheme of mitigation proposed in the nearby public Kidston Park.

## **Objectors**

### **Summary of issues raised**

- Section 25 of the Town and Country Planning (Scotland) Act 1997 states that “Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.” Section 37 (2) of the Town and Country Planning (Scotland) Act 1997 further states that “In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.” Under the Argyll and Bute Local Plan, adopted by the Council less than two years ago in August 2009, the site is designated as an Open Space Protection Area. It therefore follows that, without relevant material considerations to the contrary; the application should be refused in accordance with relevant legislation.

*Comment: See my assessment.*

- In his supporting letter of 26 May 2011, the applicant’s agent identifies three possible material considerations, apart from the development plan:
  - i. Removal of Tree Preservation Order on the site and felling of trees
  - ii. The “derelict and overgrown” nature of the site
  - iii. Local Plan Policy REC 2, and the applicant’s intention to plant 110 trees to the rear of the site and a number of cherry trees to the front
- None of the matters constitutes a relevant material consideration under the Town and Country Planning (Scotland) Act 1997, and that they should each be ignored.

On the first of these matters, the status of the site as an Open Space Protection Area is entirely separate from whether or not the site is subject to a Tree Preservation Order. Moreover the Council’s decision in August 2009 to approve the OSPA designation was taken after its decision in January 2008 to remove the TPO, thus confirming the value of the site as an OSPA, irrespective of whether it is subject to a TPO.

*Comment: It should be noted that the matters raised by the applicant in his supporting letter are material considerations in the determination of this application and have been the subject of representation as detailed in the comments of objectors below.*

- On the second matter, it should first be noted that the site does not meet the Scottish Government’s definition of derelict land, which is defined in the Scottish Vacant and Derelict Land Survey as “land which has been so damaged by development or use that it is incapable of development for beneficial use without rehabilitation and which is not being used for the purpose for which it is held or for use acceptable in the local plan or land which is not being used and where contamination is known or suspected (even if treatment is required only for the buildings thereon)”

*Comment: This is noted.*

- Until the applicant recently cut back all the natural regeneration taking place on the site, the site was beginning to recover of its own accord from the felling of the larch trees. The use of the term “overgrown” is highly subjective, since from a biodiversity viewpoint, the site, even in its current state, is capable of providing valuable cover for birds and wildlife.

*Comment: See my assessment.*

- Moreover, even if the local authority were concerned about the state of the site, this would be no grounds to override the development plan. Instead, the correct course of action would be for the Council to exercise its powers under Section 179 (1) of the Town and Country Planning (Scotland) Act 1997, which states that “If it appears to a planning authority that the amenity of any part of their district, or an adjoining district, is adversely affected by the condition of any land in their district they may serve on the owner, lessee and occupier of the land a notice under this section requiring such steps for abating the adverse effect as may be specified in the notice to be taken within such period as may be so specified.”

*Comment: The Planning Authority has powers under Section 179 (1) of the Town and Country Planning (Scotland) Act 1997, to take action in respect of the condition of land which has adverse consequences for amenity.*

- On the third matter, any reference to Local Plan Policy REC 2 is irrelevant in this case since the applicant has offered no community benefit to compensate for the loss of the Open Space Protection Area. It should be noted that Local Plan Policy REC 2 primarily concerns the protection of open space, with development seen as the exception rather than the rule. No reasonable interpretation of this policy would allow the applicant to claim that planting within the private grounds of dwellings satisfies the requirement to provide equal community benefit for the loss of the Open Space Protection Area. Indeed, were the Council to accept the applicant’s argument here, it would set a very dangerous precedent elsewhere in Argyll and Bute.

*Comment: See my assessment.*

- Instead, there are three material considerations in particular that point to the importance of upholding the development plan designation -

Planning history: Three previous applications for residential development on the site have been refused: 02/01358/OUT, 05/00512/DET and 06/00361/DET. These applications were the subject of extensive objections within the local community, which should be considered relevant to the current proposal. Moreover, contrary to the inaccurate claim of the applicant’s agent in his supporting letter for the current application, it should be emphasised that the most recent of these refusals on 5 August 2008, was issued by the Council on amenity and policy grounds, after, not before, the removal of the Tree Preservation Order.

Report of the Public Local Inquiry into objections to the Modified Finalised Draft Argyll and Bute Local Plan submitted in 2008. The Reporters noted that “A great deal of evidence was submitted in connection with these objections (to this site and three others owned by the applicant) and we have taken account of all the other relevant matters it raised, including those in the written submissions both in favour and against the proposals, but we find that none of these outweighs the considerations upon which our conclusions are based.” They concluded that “We support the modification to remove the Open Space Protection Area status from objection site W3 (Rhu Road

Higher), but otherwise consider that this designation should remain over the other three objection sites so that no other change to the plan should be effected as a result of these objections.” Since the matter was tested so exhaustively at the public local inquiry, it is contended that any further debate on the future of the site should take place as part of the current Local Development Plan, and should not be pre-empted by a planning application so soon after the Local Plan was adopted.

*Comment: A new development plan is being prepared and the public will have the opportunity to influence and debate land use policy including a variety of site designations.*

- Helensburgh Community Woodland Group (HCWG) wishes to acquire the application site and has commissioned a professional valuation, with a view to making an offer to purchase it from the applicant, so that it can be retained and enhanced as an Open Space Protection Area. Unless the Council grants planning permission for housing, the value of the land will be based on its current development plan designation and is affordable to the local community. HCWG considers that the retention of open space on this site and its counterpart on the opposite site of Cumberland Avenue is essential for biodiversity purpose to maintain the ring of greenspace south of Duchess Woods.

*Comment: See my assessment.*

- The design of the proposed houses is not in keeping with the area. Three large area two storey houses on rising ground, because of their size, shape and elevation, will dominate the area.

*Comment: See my assessment.*

- The earlier felling of Larch trees does not amount to a relevant material consideration that should be used to ignore the development plan. The site was beginning to regenerate of its own accord until the applicant cut back new saplings. The applicant has advanced no good reason why this land should be taken out of open space and built on, especially when there is a brownfield site nearby (former Dobbies Garden Centre) that has already been allocated for housing. The development is unnecessary, contrary to the development plan and unwanted by the local community.

*Comment: See my assessment.*

- Once again these “developers” are seeking to further despoil a site which they have managed to turn from woodland to wasteland. Clearly another 3 kit houses will contribute nothing to the amenity of the area which is already suffering from over-development.

*Comment: See my assessment.*

- A new development plan is currently being prepared and any further debate on the future of this site should take place as a part of this process as there would appear to be doubts on the requirement/need to develop on this site.

*Comment: A new development plan is being prepared and the public will have the opportunity to influence and debate land use policy including a variety of site designations. However, that is still in its initial stages and the current application requires to be assessed on its merits against current development plan policy and other material considerations. The proposed new development plan is not a material consideration at this point in the plan-making process.*

- Since the clearance of trees on this site and the one on the other side of the road at Cumberland Avenue there have been concerns about the adverse effect of increased exposure to wind and weather that adjoining properties are subjected to. If the

regeneration of vegetation, including trees, which was recovering on its own accord, were allowed to continue then this site would again afford weather/windbreak coverage for properties on Ardencaple Estate and would also provide cover for birds and other wildlife. For these and other reasons the application should be refused.

*Comment: These points are noted.*

## **Supporters**

### **Summary of issues raised**

- This land was refused planning permission in the past due to trees. An OSPA was put on this site because of the visual amenity that the trees provided. This amenity has been lost for over three years. The gap site is at best an open space eyesore.

*Comment: See my assessment.*

- OSPA status does not mean that development cannot be done. Lomond School Sports Hall is a massive building built on OSPA land. Therefore if the developer can justify mitigation, this site should be developed as what we have now is an overgrown pocket of land in a built up area that will not be looked at for the foreseeable future.

*Comment: Each application is judged on its merits in terms of development plan policy. See also my assessment.*

- The land in question was planted with trees to provide separation between low cost Service married quarters and quality detached houses. Life has moved on and the former married quarters are now providing good quality affordable houses and it is time this area was integrated with the Ardencaple Estate. The proposals will improve the current streetscape and with an amount of landscaping and tree planting detailed will only enhance this area of the town.

*Comment: See my assessment.*

- This is a minor departure from the Local Plan.

*Comment: See my assessment.*

- Three houses with their split level design would blend in well with the topography of the ground and ergonomically with the surroundings.

*Comment: See my assessment.*

- There is most certainly seems to be a vendetta going on over these parcels of land. We live in a democracy not a dictatorship.

*Comment: This is not a material planning consideration.*

- The Council revoked the TPO in order to grant permission years ago.

*Comment: Elected Members agreed to remove the TPO on this site but also agreed to it being an OSPA. The previous application 06/00361/DET was decided after the TPO was removed on this site.*

- If the Council refuses this application what chance does the proposed Waitrose Supermarket have? We need flexibility here and commonsense must prevail. This site is as big an eyesore as the old Hermitage Academy.

*Comment: Each application is judged on its merits against Development Plan policy and other material considerations.*

- Pleased that the trees have been removed on this site and the one across the road as they impacted on my (1 Kidston Gardens) daylight, particularly during the winter months and also my views of the river.

*Comment: View is not a material planning consideration.*

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**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

**Applicant's Supporting Statement**

The site has OSPA status and is controlled by Policy LP REC 2.

It is not a playing field or sports pitch, neither is it a recreational area. It is an area of rough open space between two housing developments adjacent to a road in an area designated for housing development.

It has no other amenity value other than being open space. This is in some way offset by the derelict nature of its present condition.

The exceptions in Policy LP REC 2 allow for just this situation, where the redevelopment of part of the site will enhance the overall area. There will be no compromise of any sporting potential and an enhancement of the negligible amenity value. The current application meets the requirements in this exception.

There are no access rights over this land which has an exception under the Land Reform Act 2003 and there is a clear long term excess of public open space in the area.

The proposed planting of 110 trees and shrubs to the rear and Cherry trees to the front, will greatly enhance the amenity value of the application site.

The applicant has met with Council officers on two occasions and negotiations have dragged on for over a year and have been a waste of time. The officers did not seem to understand the dynamics of community involvement in their suggestions and due entirely to the inflexibility of negotiating officers we have been unable to agree anything deliverable off site for mitigation under the terms of LP REC 2.

Officers in their recommendation for refusal on previous applications concentrated wholly on the presence of trees and the amenity these trees provided. Trees are no longer present on the application site. The position, ridge height and detail for the proposed three houses has been agreed at recent pre-application meetings and agreement in principle has been reached for three dwellings on this site subject to an agreement on mitigation.



The development of this site rests on the level of mitigation on offer in accordance with LP REC2. Previously, we have offered an area of ground larger than the W1 site on Glenauran Rd and community woodland on the W2 site, neither of these has been acceptable to you. LP REC 2 specifies community benefit and therefore this does not restrict mitigation provision to the immediate neighbour community and we are looking at the wider community. The provision of a bandstand at Kidston which the Council tried a couple of years ago to achieve without success would provide both visitors and the wider community with a substantial heritage item. The Council is trying to enhance Kidston Park and this bandstand would be the perfect addition. Alternatively, we could provide £50,000 to upgrade play equipment or any other item at Kidston.

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

**(H) PLANNING OBLIGATIONS**

- (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 2 – Development Impact on Biodiversity  
LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP REC 2 – Safeguarding of Recreational Land and Important Open Spaces

LP TRAN 1 – Public Access and Rights of Way  
LP TRAN 4 – New and Existing Public Roads and Private Access regimes  
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

- (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)

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

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

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

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

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**(O) Requirement for a hearing (PAN41 or other):** Planning permission has been previously refused on this site on three occasions, one of which was the subject of a previous Hearing. However, given the large number of representations it is considered that a discretionary local Hearing is justified in this instance.

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

This application proposes the erection of three dwellings on land within the Helensburgh settlement boundary. The site currently has Open Space Protection Area (OSPA) status afforded to it by Policy LP REC 2 of the 'Argyll and Bute Local Plan'. The merits of this designation were examined as part of the Local Plan Inquiry process with the Reporters concluding that this area, in combination with two others in the locality, constituted a valuable feature in the streetscape; forming important visual open space areas within their residential neighbourhood; and that their semi-wilderness appearance provided a welcome contrast with the level formality of the council's maintained parkland and playing fields nearby. Policy LP REC 2 presumes against development of OSPAS unless there would be no loss of amenity and alternative provision of equal community benefit and accessibility could be made available by way of mitigation.

The site has been the subject of three previous refusals of planning permission for residential development. In 2002, permission was refused on the grounds of inappropriate loss of woodland with an adverse impact upon the setting and character of the immediate locality. A further application was refused in 2005 on similar grounds, and in 2008, following removal of TPO status from the site, but in the light of the imposition of OSPA status, permission was refused on the grounds that the land constituted valued open space with amenity value in the immediate area and in wider context of Helensburgh.

The OSPA status of the land, the Reporters conclusions on its amenity value as an open space, and the previous refusals of permission are all material to the determination of this further application. The planning history to date has demonstrated that the site was not merely of value because of the presence of trees and that even with the trees felled, its value as open space which contributes to the softening of the built environment remains. Indeed, this was recognised in the previous 2008 decision which post-dated the removal of TPO protection from this site.

Similarly, while the use made of an open space (for sport, recreation or other purposes) might be of importance in terms of its value, such use is not decisive in terms of its value as an open space contributing amenity to the locality. Planning Advice Note (PAN) 65 advises that all spaces, regardless of ownership and accessibility (i.e. public and private spaces), contribute to the amenity and character of an area.

This area has value as a green space and buffer between housing and appears valued as such by many of those third parties making representation. It helps to soften the impact of and

integrate existing development. Its replacement with dwellings, accesses, hardstanding, fences and other associated suburban development would clearly compromise its amenity value, and would fail to maintain or enhance the character of the area. In mitigation for the presence of built development, the applicant is proposing a replacement planting scheme located primarily to the rear of the site. However, this will cover only approximately 17% of the site. A financial contribution of £50,000 towards off-site works within Kidston Park is also proposed. It is not considered that this would constitute appropriate alternative provision of equal community benefit and accessibility, as it will not provide the same function as the existing open space, given the specific contribution the site at Cumberland Avenue has locally as a green space, wildlife corridor and a buffer between housing.

The proposal is contrary to development plan policy insofar as it would conflict with policy LP REC 2 by undermining the function of an open space protection area, valued for the function it performs in providing relief to the built environment, and the measures proposed by way of mitigation are insufficient and inappropriate to offset this loss of amenity.

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

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

N/A

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

N/A

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

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**Author of Report:** Howard Young

**Date:** 05/10/2011

**Reviewing Officer:** Richard Kerr

**Date:** 06/10/2011

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

**GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REF. NO. 11/00887/PP**

1. The application site is a valued open space which has amenity value in the immediate area and is designated an Open Space Protection Area (OSPA). There is a presumption against the development or redevelopment of OSPAs. The retention or enhancement of this OSPA site cannot be best achieved by redeveloping it for housing. The loss of this area, which has value as a green space and buffer between housing, and which helps to soften the impact of and integrate existing development, and its replacement with dwellings, accesses, hardstanding, fences and other associated suburban development will compromise its amenity value and will not maintain or enhance the character of the area. In addition, the applicants' replacement planting scheme located primarily to the rear of the site, will cover only approximately 17% of the site with the rest of the ground being used for development. The proposal is therefore contrary to the terms of parts B and D of Policy LP ENV 1 and part B of Policy LP ENV 19 of the Argyll and Bute Local Plan, which seek to resist development which is not of high quality and does not respect the local environment.
  
2. The application site is a valued open space which has amenity value in the immediate area and is designated an Open Space Protection Area (OSPA). There is a presumption against the development or redevelopment of OSPAs. The retention or enhancement of this OSPA site cannot be best achieved by redeveloping it for housing. The loss of this area, which has value as a green space and buffer between housing, and which helps to soften the impact of and integrate existing development, and its replacement with dwellings, accesses, hardstanding, fences and other associated suburban development will compromise its amenity value and will not maintain or enhance the character of the area.. Off-site mitigation has been proposed in the form of a sum of £50,000 towards the provision of a bandstand, play equipment or another similar item at Kidston Park, and by way of a planting scheme primarily to the rear of the site. The mitigation proposed is different in kind from the value the site has at the moment as an open space contributing to the amenity of its surroundings, would be invested in a different locale and is not of equal or equivalent value. The loss of this space would not just compromise but remove its amenity value. Kidston Park is not as readily accessible to residents on Cumberland Avenue and surrounding houses as it involves access over the main road and improved facilities within the park will not offset the loss of the existing open space, given the specific contribution the site at Cumberland Avenue has as a green space, wildlife corridor and buffer between housing, helping to soften the impact of and integrate the existing built form in to the wider area. In addition, the applicants replacement planting scheme located primarily to the rear of the site, will cover only approximately 17% of the site with the rest of the ground being used for development. Without the provision of further or enhanced open space then there will be a loss of amenity. As such, it is not considered that a case has been made in terms of mitigation sufficient to satisfy the requirements of Policy LP REC 2. The proposal is therefore contrary to parts B (i) and B (ii) of Policy LP REC2 of the Argyll and Bute Local Plan which, inter alia, presumes against development which compromises the amenity value of Open Space Protection Areas.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00887/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The application site is located within the settlement boundary of Helensburgh. It was formally one of 4 sites within the ownership of the Ministry of Defence (MoD) and part of TPO 16/04 where it had the designation W1. TPO status was subsequently removed from this site. Within such areas there is a presumption in favour of development subject to all development plan policies being complied with.

**B. Location, Nature and Design of Proposed Development**

The application site is located on the west side of Cumberland Avenue, Helensburgh. The site, which is an Open Space Protection Area (OSPA), measures approximately 0.21ha. The proposal is for 3 detached dwellinghouses accessed from Cumberland Avenue. The proposed houses would be split level with single storey on to Cumberland Avenue and two storeys to the rear facing on to Dalmore Crescent. They would be rendered and have concrete tiles. The design is considered acceptable at this location.

Section 25 of the Town and Country Planning (Scotland) Act 1997 states that in making any determination under the planning Acts regard is to be had to the development plan. The determination shall be made in accordance with the plan unless material considerations indicate otherwise. The policy background is set out above and assessed below. In terms of material considerations, the site history is a key factor.

In 2002, under the previous ownership of the MoD and before the site had OSPA or TPO designation, planning permission (in outline) for residential development was refused, *inter alia*, on the grounds that the residential development of the site would result in the loss of the majority of the woodland which comprises the application site which will have in an unacceptable detrimental impact upon the setting and character of the immediate locality. This was contrary to a range of Development Plan policies in effect at the time.

In 2005, planning permission for the erection of 3 dwellinghouses was refused on the grounds that the site had significant amenity value in the immediate area and wider setting of Helensburgh due to its mature tree cover and woodland appearance. The loss of this important woodland area would will be visually intrusive, visually discordant and will not maintain or enhance the character of the area. The design of the proposed dwellinghouses was also considered to be unacceptable.

Finally, in 2008, following removal of the TPO, planning permission for the erection of 3 dwellinghouses was refused on the grounds that the application site is a valued open space which has amenity value in the immediate area and wider setting of Helensburgh and is designated as an Open Space Protection Area. The proposed development would result in the loss of this open space. The loss of this space and its replacement with dwellings, accesses, hardstanding, fences and other associated suburban development will be visually intrusive, visually discordant and will not maintain or enhance the character of the area.

One of the determining issues is whether there has been any material change in circumstances since the last refusal in 2008. At that time the TPO had been modified to remove this site. However, it did have OSPA status which was confirmed by the Reporters in the Local Plan Inquiry on what is now the adopted Local Plan. In doing they stated in connection with this and the two remaining parts of the TPO which are also OSPAs, *inter alia*, that:

*The open spaces speak for themselves. All three provide a valuable feature in the streetscape; they form important visual open space areas within their residential neighbourhood; and their semi-wilderness appearance provides a welcome contrast with the level formality of the council's maintained parkland and playing fields nearby. In these terms we are entirely satisfied that the value of these areas fulfils the description required in the structure plan as 'important'.*

Policy LP REC 2, *inter alia*, presumes against the development or redevelopment of OSPAs. It will only be allowed where:

- (i) The retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site which will not compromise its amenity value;
- (ii) There would be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available.

The application site is not merely valuable because of the trees that were previously growing there. Even with the trees felled, its value as open space which contributed to the softening of the environment remains. Indeed this was recognised in the previous application 06/00361/DET which was decided after the TPO was removed on this site. Similarly, while the use made of it might contribute towards its value, it was not decisive in this respect and its amenity value for the community remains. Planning Advice Note (PAN) 65 advises that all spaces, regardless of ownership and accessibility (i.e. public and private spaces), contribute to the amenity and character of an area. PAN 65 also sets out how areas of open space should not be allowed to deteriorate through inadequate management, nor should poor maintenance regimes provide justification for their disposal for development.

The proposal will neither retain nor enhance the existing function of the site. The area has value as a green space and buffer between housing and helps to soften the impact of and integrate existing development. Its replacement with dwellings, accesses, hardstanding, fences and other associated suburban development will clearly compromise its amenity value, and will fail to maintain or enhance the character of the area. In order to comply with policy, the applicant is proposing a replacement planting scheme located primarily to the rear of the site. However, this will cover only approximately 17% of the site, with the rest of the ground being used for development. The proposal is therefore contrary to the terms of parts B and D of Policy LP ENV 1 and part B of Policy LP ENV 19 of the Argyll and Bute Local Plan which seek to resist development which is not of high quality and does not respect the local environment.

The applicant also proposes the provision of a bandstand at Kidston Park, or £50,000 to upgrade equipment or any other item at Kidston Park.

As indicated above the Reporters in the Local Plan PLI stated *inter alia* that the open spaces speak for themselves. They provide a valuable feature in the streetscape; they form important visual open space areas within their residential neighbourhood; and their semi-wilderness appearance provides a welcome contrast with the level formality of the council's maintained parkland and playing fields nearby. In these terms they were entirely satisfied that the value of these areas fulfils the description required in the structure plan as 'important'.

Policy LP REC 2 supports the retention or enhancement of the facilities if it doesn't compromise its amenity value and there would be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available. A sum of £50,000 for play equipment or another similar item is different in kind from the value the site has at the moment, is in a different locale and is not of equal or equivalent value. The loss of this space would not just compromise but remove its amenity value. As such, it is not considered that a case has been made in terms of this element of proposed mitigation.

The bandstand would require to be the subject of a separate application, which has not yet been submitted. This is a standalone structure whose function is primarily as a decorative feature. It is not as readily accessible to residents on Cumberland Avenue and surrounding houses as it involves access over the main road. Consequently, it is not considered to be an alternative provision of equal community benefit and accessibility as it won't provide the same function as the existing open space, given the specific contribution the site at Cumberland Avenue has as a green space, wildlife corridor and buffer between housing helping to soften the impact of and integrate the existing built form in to the wider area. Without provision of further or enhanced open space, there will be a loss of amenity. The proposal is therefore contrary to parts B (i) and B (ii) of Policy LP REC2 of the Argyll and Bute Local Plan which, presumes against development which compromises the amenity value of Open Space Protection Areas.

Reference is made in the representations to an application by Lomond School for the redevelopment of part of their existing pitches for the erection of a new games hall. The application was submitted in 2007 under reference 07/01587/PP and assessed against development plan policy and other material considerations. This included Policy LP REC 2. It was considered that the provision of a new sports hall would enhance the existing facilities, adding to its sporting potential and without a detrimental impact on the amenity of the area.

In terms of B (ii), SportScotland were consulted on the proposal. In their initial response they stated that, based on the initial evidence submitted, the proposal was not considered consistent with NPPG 11. Following this the Council's Playing Fields Development Manager was consulted. In a letter to SportScotland dated 5<sup>th</sup> December 2007 he stated:

*"I have reviewed the Council's position and would confirm that the pitch at Ardencaple is not required to be retained on the basis that there are enough pitches of appropriate quality and accessibility elsewhere in the locality to satisfy current and future community demand."*

The area of ground was part of a private school with limited community access. In addition, it was indicated that there would be some community access at the new facility. SportScotland subsequently submitted a second consultee response dated 11 December 2007 withdrawing their objection. On the basis of the above the proposal was considered consistent with Policy LP REC2.

Reference is also made in the representations and applicant's supporting statement to negotiations with Council officers and the community. This relates to potential mitigation in line with Policy LP REC 2 regarding the site directly opposite the current application site. Members will recall that they recently agreed for all the Larch trees to be felled on this site designated W2 in terms of TPO 16/04 and also designated an OSPA.

On site W2 planning permission for first 7 and then 6 houses has been refused under reference numbers 05/00514/DET and 06/01317/DET respectively. The latter application and an application to clear fell under reference 06/02621/TPO was the subject of a conjoined PLI. The Reporter dismissed the appeal. The site was also part of the Local Plan PLI where the Reporters confirmed the OSPA designation.

As indicated above, Policy LP REC 2 supports the retention or enhancement of the facilities if this can be achieved by the redevelopment of part of the site which will not compromise its amenity value. It also supports alternative provision of equal community benefit and accessibility subject to no loss of amenity.

Discussions took place with the owners of the site with a view to allowing development on the W1 site (the current application site) linked to the provision of community woodland on the W2 site. The Planning Authority sought expressions of interest and facilitated a meeting with the Helensburgh Community Woodland Group who were willing to consider taking over responsibility for the W2 site.

It is understood that these negotiations have failed to reach an agreement, although the HCWG has expressed interest in purchasing the W1 site. Whilst, in part, these are civil matters, a potential solution allowing development on the current application site linked to a community woodland on W2 could potentially satisfy the provisions of Policy LP REC 2 with regard to appropriate mitigation. However, in the absence of an agreement it is considered, for the reasons set out above, that the mitigation currently being offered as part of this application fails to satisfy Policy LP REC 2. As such, the proposal will not ensure the retention or enhancement of the facilities, and the development proposed will unacceptably compromise its amenity value.

**C. Road Network, Parking and Associated Transport Matters.**

The Area Roads Manager has no objections to the proposed access and parking arrangements.

**D. Infrastructure**

Scottish Water has no objections to the proposal.

**E. Access and Biodiversity**

The removal of the trees from the site does not have any effect upon access rights to it. Access rights are for responsible, non-motorised, access to land and inland waters for recreation and passage and not to a particular sort of land or water. The site falls within Public Rights of Access under the Land Reform Scotland Act 2003.

The site in its current state of complete cover by ground flora with some tree regeneration provides a habitat for birds, insects and some smaller mammals. With the tree regeneration above the height of the brambles, the site has the potential to develop into broadleaved woodland with some shrub layers in the open spaces not colonised by tree species.



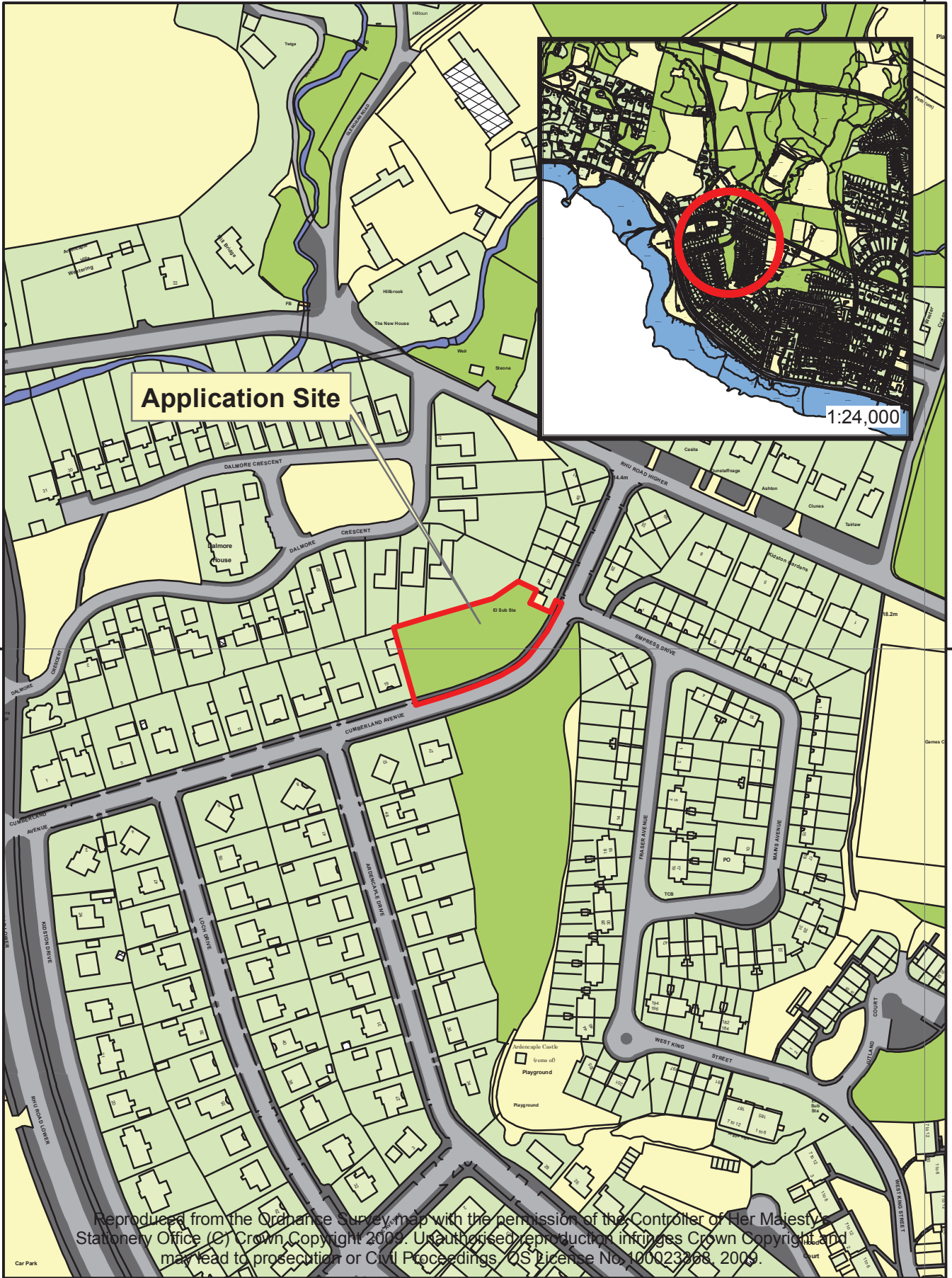
## Objectors

Thomas Grieg, 454 Kilmarnock Road, Newlands, Glasgow (e-mail dated 09/06/2011)  
Tom Adam, 19 Cumberland Avenue, Helensburgh (letter dated 11/06/2011)  
David Watt, 12 Dalmore Crescent, Helensburgh (e-mail dated 14/06/2011)  
Hellen Watt, 12 Dalmore Crescent, Helensburgh (e-mail dated 14/06/2011)  
David Adams 12 Cumberland Avenue, Helensburgh (e-mail dated 15/06/2011)  
Margaret Scott, 48 Ardencaple Drive, Helensburgh (e-mail dated 17/06/2011)  
Helensburgh Community Woodlands Group c/o Rosemary Stevenson, 8 Cumberland Avenue, Helensburgh (e-mails dated 19/04/2011 and 09/08/2011)  
J McNeil, 46 Ardencaple Drive, Helensburgh (letter dated 19/06/2011)  
Mrs M McNeil, 46 Ardencaple Drive, Helensburgh (letter dated 19/06/2011)  
Alistair Quinian, 42 The Hill, Littlebourne, Canterbury (e-mail dated 20/06/2011)  
Mrs Catherine Quinian, 3 Strathclyde Court, Helensburgh (e-mail dated 19/06/2011)  
Mrs Mary Latimer, 17 Cumberland Avenue, Helensburgh (e-mail dated 18/06/2011)  
Stan Latimer, 17 Cumberland Avenue, Helensburgh (e-mail dated 18/06/2011)  
Charles Clements, 36 Ardencaple Drive, Helensburgh (e-mail dated 18/06/2011)  
Rosemary Lawson, 92 East King Street, Helensburgh (e-mail dated 18/06/2011)  
Mrs Pat Reed, 16 Frazer Avenue, Helensburgh (e-mail dated 17/06/2011)  
Robert Teale, 34 James Street, Helensburgh (e-mail dated 20/06/2011)  
David Tipple, 4 Frazer Avenue, Helensburgh (e-mail dated 19/06/2011)  
Angus MacInnes, 19 Upper Glenfinlas Street, Helensburgh (e-mail dated 19/06/2011)  
Mrs Mary MacInnes, 19 Upper Glenfinlas Street, Helensburgh (e-mail dated 19/06/2011)  
Mrs Catherine Grout, 18a Upper Glenfinlas Street, Helensburgh (e-mail dated 19/06/2011)  
Ian Reed, 16 Frazer Avenue, Helensburgh (e-mail dated 20/06/2011)  
Melville Matheson, 7 Larchfield, Colquhoun Street, Helensburgh (e-mail dated 21/06/2011)  
Mrs Isabel Stirling, 15 Duchess Avenue, Helensburgh (e-mail dated 21/06/2011)  
Catriona Mallan, 36a James Street, Helensburgh (letter dated 21/06/2011)  
Ms April Wylie, Scotstoun Street, Glasgow (e-mail dated 22/06/2011)  
Mrs E H Campbell, Flat 5, Dalmore House, Dalmore Crescent, Helensburgh (letter dated 21/06/2011)  
Craig MacPhee, 39 Ardencaple Drive, Helensburgh (e-mail dated 23/06/2011)  
M J Board, 1 Empress Drive, Helensburgh (letter received 27/06/2011)  
John Christie, 10 Cumberland Avenue, Helensburgh (e-mail dated 27/06/2011)  
Stuart Latimer, 5 Machrie Drive, Helensburgh (e-mail dated 27/06/2011)  
Andrew Armitage, 21F Baird Avenue, Helensburgh (e-mail dated 29/06/2011)  
Mrs Judith Adams, 12 Cumberland Avenue, Helensburgh (e-mail dated 30/06/2011)  
Mrs Sheila Mathers, 145 West King Street, Helensburgh (e-mail dated 04/07/2011)  
Morag and Alan Joffrey, (no address) (e-mail dated 03/07/2011)  
Rosemary Stevenson, 8 Cumberland Avenue, Helensburgh (e-mail dated 07/07/2011)  
Ms Amanda Stevenson, 8 Cumberland Avenue, Helensburgh (e-mail dated 07/07/2011)  
Elizabeth G. Dow, 15 Cumberland Avenue, Helensburgh (letter dated 14/07/2011)

## Supporters

Colin Gordon, 43 Loch Drive, Helensburgh (letter dated 19/06/2011)  
D Dougan, 16 Townhead Road, Helensburgh (letter dated 22/06/2011)  
J Blair, 59 Buchanan Road, Helensburgh (letter dated 22/06/2011)  
C Conkie, 24 Normanhurst Court, Helensburgh (letter dated 21/06/2011)  
T Stewart Aitken, 4 Sutherland Gate, 24 Sutherland Street, Helensburgh (letter dated 22/06/2011)  
D McKell, 19a Baird Avenue, Helensburgh (letter dated 21/06/2011)  
Donald Cameron, 158/7 West King Street, Helensburgh (letter dated 21/06/2011)  
Mr C Aranci, 2 Kidston Gardens, Helensburgh (letter dated 27/06/2011)  
Graham Hill, 1 Kidston Gardens, Rhu Road Higher, Helensburgh (letter dated 04/07/2011)  
Mr S Nawrocki, 38 Lomond Street, Helensburgh (letter dated 26/07/2011)

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Application Site

1:24,000

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**Location Plan relative to  
Application Ref: 11/00887/PP**

Date: 24.08.2011

Scale: 1:2,500



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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**

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**Reference No:** 11/01084/PP

**Planning Hierarchy:** Local

**Applicant:** Mrs Sara MacLean

**Proposal:** Construction of culvert and handrails

**Site Address:** Land North West of Tighnabruaich Primary School, School Road, Tighnabruaich

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

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

Construction of culvert and handrails

**(ii) Other specified operations**None

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**(B) RECOMMENDATION:**

It is recommended Planning Permission be granted subject to the conditions, reasons and informative notes attached to the end of this report.

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**(C) HISTORY:**None.

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**(D) CONSULTATIONS:**SEPA (letter dated 15<sup>th</sup> August 2011) – No objections.

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**(E) PUBLICITY:**

Neighbour Notification (closing date 17<sup>th</sup> August 2011) and Regulation 20 Advert (closing date 26<sup>th</sup> August 2011).

---

**(F) REPRESENTATIONS:**

No letters of representation have been 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 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 Settlements

Argyll and Bute Local Plan 2009

LP ENV 10 – Development Impact on Areas of Panoramic Quality

LP ENV 19 – Development Setting, Layout and Design

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

N/A

---

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

---

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

---

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

---

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

---

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

---

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

It is proposed to construct a bridging culvert on an un-named tributary on land to the north west of Tighnabruaich Primary School. Timber handrails will be constructed on top of the culvert to allow pedestrian access.

The site is located in a relatively inconspicuous location which is a significant distance from main public areas of Tighnabruaich. The extent of the works is minimal and there will be no impact upon the Area of Panoramic Quality. SEPA has confirmed that they have authorised the development under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 and, on this basis, it is considered that the proposal would not have an adverse effect upon this minor watercourse.

In the specific circumstances of this proposal, the scheme is considered to be worthy of support and to accord with the relevant Development Plan policies.

---

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

---

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

The proposal accords with policies STRAT DC 1 of the Argyll and Bute Structure Plan 2002 and LP ENV 10 and LP ENV 19 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**

N/A

---

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

---

Reviewing Officer: David Eaglesham

Date: 30/8/2011

Angus Gilmour  
Head of Planning & Regulatory Services

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF: 11/01084/PP**

1. The development shall be implemented in accordance with the approved drawings: Location Plan (scale 1:5000); Site Plan (scale 1: 500); and Elevation/Section Details (scale 1:100) 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.



**NOTES TO APPLICANT**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. 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.
3. 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.
4. SEPA has stated that the applicant should produce a Construction Method Statement (CMS) prior to any works on site to prevent pollution of the water environment. All potential pollution risks associated with the proposal and all aspects of site work that might impact on the environment should be systematically identified, and the proposed preventative measures and mitigation detailed in the CMS. The applicant should ensure that all works on site comply with the best practice guidelines laid out in the relevant Pollution Prevention Guidelines (PPGs). The Pollution Prevention and Environmental Management section of SEPA's website contains further information which may be of assistance to the applicant in producing the CMS. All works should then be carried out in line with the finalised CMS and best practice.

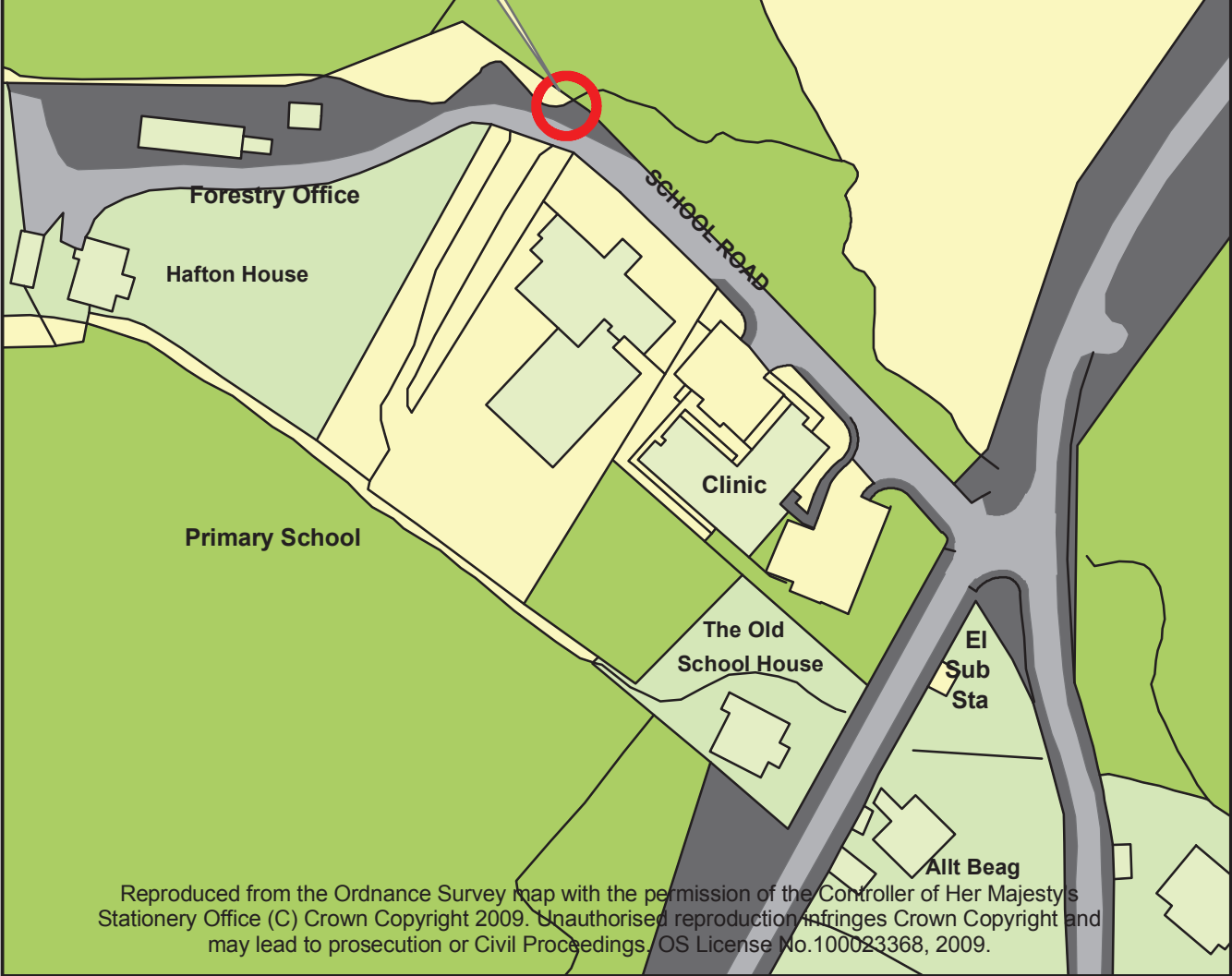
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**Application Site**



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**Location Plan relative to  
Application Ref: 11/01084/PP**



Date: 30.08.11

Scale: 1:1,250

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

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

---

**Reference No:** 11/01310/PP

**Planning Hierarchy:** Local

**Applicant:** Scottish Water

**Proposal:** Re-profiling of ground and re-alignment of handrail to accommodate buried pumping station chambers, formation of lay-by and installation of rock armouring and retaining wall (Variation of Condition 3 of Planning Permission 10/01977/PP to amend the external finish of the kiosk)

**Site Address:** Land opposite 8 Marine Place, Ardbeg, Rothesay, Isle of Bute

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**DECISION ROUTE**

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

---

**(A) THE APPLICATION**

(i) **Development Requiring Express Planning Permission**

Variation of Condition 3 of Planning Permission 10/01977/PP to amend the external finish of the kiosk

(ii) **Other specified operations**

N/A

---

**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions, reasons and informative notes at the end of this report.

---

**(C) HISTORY:**

Planning Application (ref: 05/00093/DET) for the raising of existing ground levels to accommodate buried pumping station chambers, re-alignment of existing railings, access alterations and ancillary development (including a control kiosk) was withdrawn on 5<sup>th</sup> April 2005.

Planning Application (ref: 05/00671/DET) for the raising of existing ground levels to accommodate buried pumping station chambers, re-alignment of existing railings and

ancillary development at the subject site was withdrawn on 20<sup>th</sup> May 2005 as the overall project was put on hold.

Planning Permission (ref: 10/01977/PP) granted on 21<sup>st</sup> January 2011 for the re-profiling of ground and re-alignment of handrail to accommodate buried pumping station chambers, formation of lay-by and installation of rock armouring and retaining wall at the subject site. Work has commenced.

Non Material Amendment (ref: 11/01303/NMA) approved on 10<sup>th</sup> August 2011 for changes to the pumping station design and replacement of lay-by with dropped kerbs.

Application for Planning Permission (ref: 11/01293/PP) currently under consideration for the extension of the rock armouring around the pumping station.

---

**(D) CONSULTATIONS:**

None.

---

**E) PUBLICITY:**

Article 9 neighbour notification procedure (closing date 10<sup>th</sup> August 2011) and Conservation Area Advert (closing date 19<sup>th</sup> August 2011).

---

**(F) REPRESENTATIONS:**

No representations have been 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 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 CST 1 advances support for coastal development where certain criteria can be met.

**(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

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**(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**

Condition 3 of Planning Permission 10/01977/PP sought details of the proposed kiosk at the site for a pumping station on land opposite 8 Marine Place, Ardbeg. It specified that the kiosk should be clad in stone and should be no more than 2.0 metres in height. The current application seeks to amend the wording of the condition to allow for the erection of a glass reinforced plastic kiosk coloured "*Rothesay Blue*" to match the existing

handrails in the vicinity. This request has emanated following discussion and consultation with the local community. The colour is utilised widely in the Rothesay promenade gardens on lighting columns, shelters, railings and so on.

The kiosk as currently proposed was accepted by the Council in the scheme that was granted approval earlier this year for a pumping station on land opposite 11 and 12 Ardbeg Road (ref: 11/00428/PP) and, given that the use of this colour has been allowed elsewhere, it is considered reasonable to accede to the request that has been put forward by Scottish Water for this particular site.

On the basis of the foregoing, the proposal is considered to be acceptable and to accord with the relevant Development Plan policies.

---

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

---

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

The proposal accords with policies STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 10, LP ENV 14, LP ENV 19 and LP CST 1 of the Argyll and Bute Local Plan (2009) and the proposal raises no other material consideration which would justify refusal of permission.

---

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

Not applicable

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

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**Author of Report: Steven Gove**

**Date: 1/9/2011**

**Reviewing Officer: David Eaglesham**

**Date: 2/9/2011**

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



**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO: 11/01310/PP**

1. The development shall be implemented in accordance with the details specified on the approved drawings numbers: Drawing No. 400114-0000-20-DRG-9920 Rev 0B; Drawing No. 400114-0000-20-DRG-9921; Drawing No. 400114-0000-20-DRG-9922; and Drawing No. 400114-0000-20-DRG-9923 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*

2. Notwithstanding the provisions of Article 3 and Class 43A of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no works shall be carried out within the development site in respect of the erection of the control kiosk until its details have been submitted to and approved in writing by the Planning Authority. Such details shall show the erection of a kiosk that shall be constructed of glass reinforced plastic; shall have a colour that will be similar to the adjacent handrailings; and shall be no higher than 2.0 metres above the level of the carriageway as it adjoins the frontage of the site. The kiosk shall be erected in accordance with such details as may be approved, unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In order to safeguard the visual amenity of the Rothesay Conservation Area from the unsympathetic siting and design of sewerage infrastructure normally carried out without Planning Permission under Article 3 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992.*

2. No lighting units shall be installed unless the prior written consent of the Planning Authority is obtained in consultation with the Public Protection Service. Any lighting units that are approved shall be operated, positioned and angled to prevent any glare or light spillage outwith the boundary of the site, having regard to the Institute of Lighting Engineers Guidance.

*Reason: In order to avoid the potential of light pollution.*

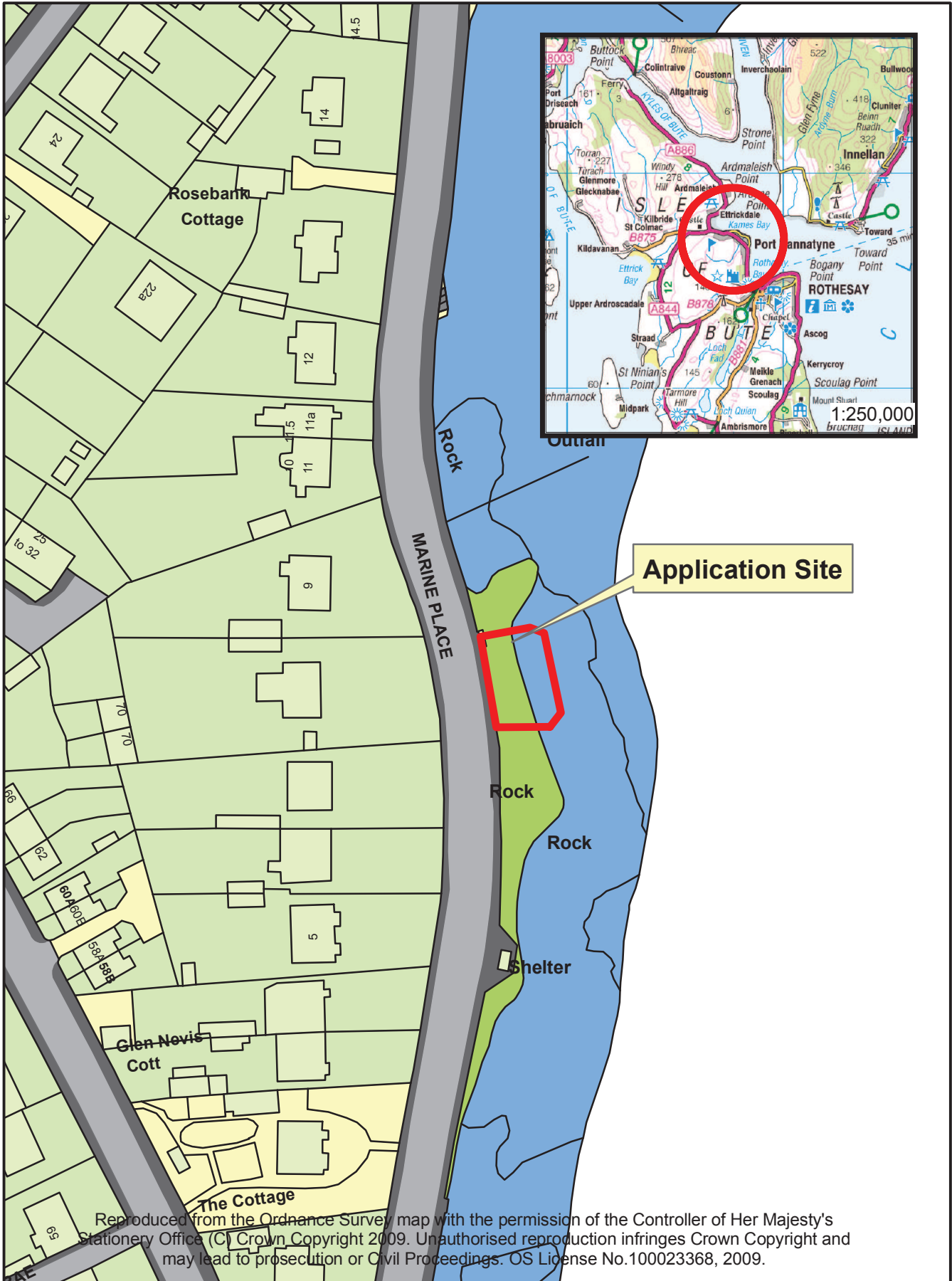
3. The calculated noise levels, arising from the operation of the pumping station, shall not increase pre-determined ambient background noise levels (LA90), as agreed with the Planning Authority, by more than 3dBA at the nearest noise sensitive property. All measurements shall be taken in accordance with BS 4142:1997.

*Reason: In the interests of public health and amenity and in accordance with Policy LP BAD 1 of the Argyll and Local Plan 2009.*

**NOTES TO APPLICANT**

1. 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.
2. Public Protection Service has powers under the Environmental Protection Act 1990 to remedy any environmental nuisance. It is strongly recommended that prior to any works taking place agreement is reached with Jo Rains, Area Environmental Health Manager, Argyll and Bute Council, Hill Street, Dunoon (telephone Number 01369 707124).
3. It is strongly recommended that prior to any works taking place agreement is reached relative to the method to suppress dust for the construction of the pumping station. You are advised to contact Jo Rains, Area Environmental Health Manager, Argyll and Bute Council, Hill Street, Dunoon (telephone Number 01369 707124).
4. A Road Opening Permit would be required in connection with the proposed works.
5. A system of surface water drainage is required to prevent water running of the road in accordance with Section 99 of the Roads (Scotland) Act 1984 that states that:

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



# Location Plan relative to Application Ref: 11/01310/PP

Date: 30.08.11

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:** 11/01400/PP

**Planning Hierarchy:** Local Development

**Applicant:** Argyll and Bute Council

**Proposal:** Upgrading and extension of existing network of footpaths to provide shared-use walking and cycling paths

**Site Address:** Land North of Soroba House Hotel, Oban

---

**DECISION ROUTE**

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

---

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

- Upgrade and extension of existing footpath

**(ii) Other specified operations**

- Installation of bollards
  - Erection of post and wire fencing
  - Removal of trees
- 

**(B) RECOMMENDATION:**

It is recommended that the application is approved subject to the conditions and reasons appended below.

---

**(C) HISTORY:**

None

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**(D) CONSULTATIONS:**

Area Roads Manager (report dated 10/8/11) - No objection subject to following stipulations:

- Access at junction of public road to be constructed to Roads Services drawing SD08/005a;

- Visibility splays measuring 42m x 2.4m x 2m required;
- A system of surface water drainage is required to prevent water from passing onto the public road;
- Details of road markings at junction of public roads and shared surface use paths.

West of Scotland Archaeology Service (e-mail dated 11/8/11) - no objection.

Public Protection Unit (memo dated 10/8/11) - no objection.

Scottish Rights of Way Society (letter dated 30/8/11) - no objection. Supportive of the enhancement of the existing Right of Way SA 120, which was signposted in 1997, and forms part of the proposal.

Scottish Natural Heritage - no response and no request for an extension to the consultation period.

---

**(E) PUBLICITY:**

The proposal has been advertised in terms of regulation 20, closing date 01/9/11.

---

**(F) REPRESENTATIONS:**

Representation received from Ms Lorna Conway, Elderslie, Soroba Road, Oban, Argyll, PA34 4SB (22/8/11)

Objection received from Mrs Mary Wade, 11 Aros Close, Oban, Argyll, PA34 4RN (29/8/11)

**(i) Summary of issues raised**

- Surface water runoff

*Comment: The planning application form states that the applicant intends to install a Sustainable Drainage System to service the development. Full details of this have not been submitted as yet and will be required by suspensive condition prior to the commencement of works on site. For this development type, it is likely that this is readily achievable.*

- Tree removal will cause increased down draught and noise impact from the hospital helipad.

*Comment: The trees to be removed as part of this proposal are not covered by a Tree Preservation Order nor are they in a Conservation Area. Additionally, the Council's Environmental Health officers have not raised any concerns in relation to the application. Further, the plans indicate that only 40 windblown trees along this length of path will require removal. Nevertheless, it is proposed that a condition is attached controlling tree felling, to allow this specific matter to be evaluated in the event that more trees are proposed for felling.*

---

**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

(i)	<b>Environmental Statement:</b>	No
(ii)	<b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>	No
(iii)	<b>A design or design/access statement:</b>	No
(iv)	<b>A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b>	No
<hr/> <b>(H) PLANNING OBLIGATIONS</b>		
(i)	<b>Is a Section 75 agreement required:</b>	No
(I)	<b>Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:</b>	No
<hr/> <b>(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</b>		
(i)	<b>List of all Development Plan Policy considerations taken into account in assessment of the application.</b>	
	<u>Argyll and Bute Structure Plan 2002</u>	
	STRAT DC 1 – Development within the Settlements	
	<u>Argyll and Bute Local Plan 2009</u>	
	LP ENV 1 – Impact on the General Environment	
	LP ENV 7 – Impact on Trees/Woodland	
	LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems	
	LP TRAN 1 – Public Access and Rights of Way	
	LP REC 1 – Sport, Leisure and Recreation	
	LP COM 1 – Community Facility Development	
(ii)	<b>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.</b>	
	The Town & Country Planning Act (Scotland) 1997	
	The Planning etc. (Scotland) Act, 2006	
	SPP, Scottish Planning Policy, 2010	
(K)	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	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:** No

---

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

The proposal is for the upgrading of an existing footpath from Glengallan Road to Soroba Road running along the rear and southern boundaries of the hospital. The path will be asphalt with bollards in place to prevent vehicular access.

There have been no objections from consultees. Two representations have been received from members of the public detailed above. Both matters raised can be suitably addressed by means of planning conditions.

Recommended conditions address road safety measures, a system of surface water drainage to prevent ponding as a result of the additional hard standing of the path, and protection of non-windblown trees at the site to allow full consideration of any additional requirement for tree felling.

---

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

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

1. The proposal will provide an upgrade to a current community facility and provide greater pedestrian and cycle permeability to this area of Oban.
  2. The proposal will result in a positive benefit to the community, by enhancing the local path network and encouraging greater numbers of people to walk or cycle and thereby reduce traffic using the road network.
  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

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

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**Reviewing Officer: Stephen Fair**

**Date: 02/09/11**

**Angus Gilmour  
Head of Planning**

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 11/01400/PP**

1. Prior to the commencement of work on site, the access at the junction of the public road leading to the site shall be formed in accordance with Argyll & Bute Council Roads Department drawing number SD 08/005a with the access details as shown on the submitted drawing from the new back edge of the carriageway and shall have visibility splays of 2.4m x 42m in both directions formed from the centre line of the proposed access from Glengallan Road. Prior to work starting on site, these visibility splays shall be cleared of all obstructions over 1.05m in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over 1.05m in height in perpetuity.

*Reason: In the interests of road safety.*

2. No development shall commence on site until full details of the proposed means of surface water drainage has been submitted and approved by the Planning Authority in writing. Such details shall include a drainage layout plan which shall include full details of the surface water discharge from the site and shall include any mitigation measures required to address surface water run-off, prevent ponding and prevent increased surface water run-off onto adjacent properties. The development shall thereafter be completed in strict accordance with this plan prior to the initial use of the path by members of the public.

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

3. Except for the 40 windblown trees identified in the plans as requiring removal, no trees within the site shall be lopped, topped, felled or otherwise damaged without the prior written consent of the Planning Authority.

*Reason: To ensure that the visual, nature conservation interests and potential noise impacts associated with tree clearance alongside the hospital helipad, are fully considered prior to tree felling taking place and allow an opportunity for mitigation measures to be devised if additional tree felling is proposed.*

4. The development shall be implemented in accordance with the details specified on the application form dated 29/7/11 and the approved drawing reference numbers:

Plan 1 of 6 (Location Plan at scale of 1:5000)

Plan 2 of 6 (Site Plan at scale of 1:1250)

Plan 3 of 6 (Plans of Access Path to Glengallen Drive at scale of 1:100)

Plan 4 of 6 (Plan of Access Paths to Balvicar Road at scale of 1:100)

Plan 5 of 6 (Plan of Path at Hospital Gate, Plan of Junction at Soroba Hotel Road, Section C-C and Section D-D at scale of 1:100, 1:25)

Plan 6 of 6 (Section E-E, Dropped Kerb Profile, Bollard Detail at scale of 1:25)

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

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

**NOTE TO APPLICANT**

- **The length of this planning permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/01400/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The proposal is located within the settlement zone of Oban adjacent the hospital. It is in respect of the upgrading of an existing footpath route. The footpath links Glengallen Road with Soroba Road via the rear of the hospital, with a further two access points from Glengallen Drive.

**B. Location, Nature and Design of Proposed Development**

The main path commences from Glengallen Road will measure 2.5m wide with an asphalt surface. Two subsidiary access points to this route off Glengallen Drive will measure 1.6m and 2m wide. The route provides access out onto Soroba Road in the vicinity of the Soroba House Hotel. Bollards will be installed at two points along the route to prevent access by vehicles. The existing post and wire fence will be removed and replaced where appropriate along the route. The path will not impact on any protected sites or species.

The existing path is enclosed, in part, by a large number of self-seeded trees. These are spindly specimens growing close together which has led to trees with tall thin trunks and poorly developed canopies. Some areas of these trees have been subject to windblow which has left them fallen towards the hospital boundary. None of the trees are protected and it is appropriate that they are thinned and those which have fallen and those which remain vulnerable to further windblow are removed at the time of the upgrading of the path. Given that there is planting within the grounds at the rear of the hospital and to the rear of properties on the other side of the path at Glengallen Drive, having regard to the effect of policy LP ENV 7, it is not considered necessary to require replacement planting in this particular circumstance.

The proposal will provide a more formal footpath than is already in place thus encouraging more users than currently enjoy the route. It is considered that the nature of this footpath will not impact on the amenity of adjoining properties as users of the mixed use path will be using the path as a means of travel rather than as a stopping point.

Local Plan policy LP REC 1 (Sport, Leisure and Recreation) encourages the provision of facilities to encourage recreation activities. Mixed use footpaths can provide a catalyst for additional recreational activity, which bolsters the health of the local population and contributes to reduced road use. It is considered that this proposal is consistent with the aims of this policy.

The proposal is considered consistent with local plan policies ENV1, ENV 7, ENV19 and LP REC1.

**C. Road Network, Parking and Associated Transport Matters**

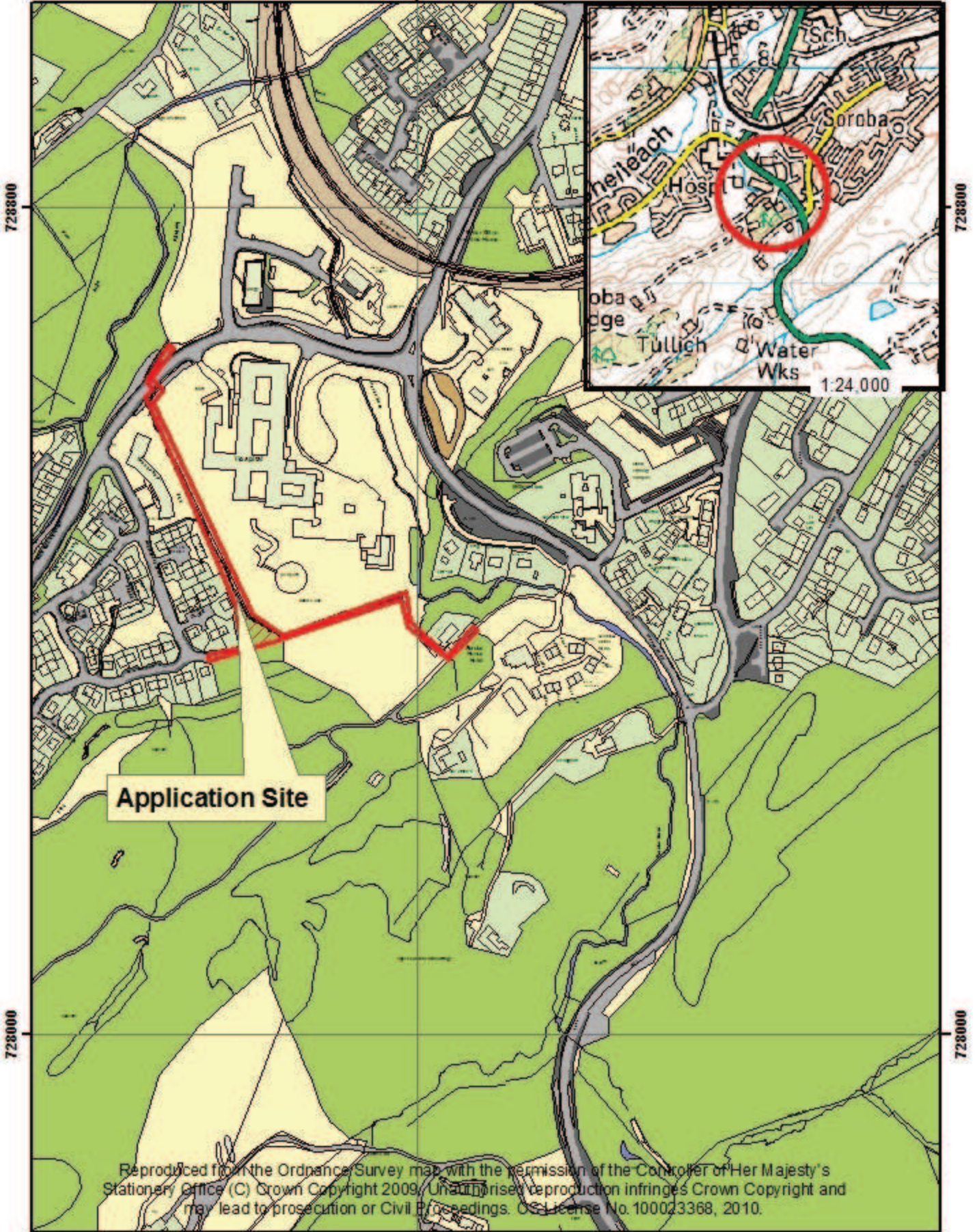
The Area Roads Manager has not objected to the proposal but requests conditions be attached to any consent. The requirements for visibility splays, construction of the access point to Glenshellach Road and the SuDS requirements all form conditions. Request for details of road markings are not within the planning remit, however as this is a Council application it is envisaged that such details can be provided upon direct request of the Area Roads Manager to the applicant.

**D. Infrastructure**

Although no details have been submitted, the applicant will be required to provide information on surface water drainage measures to prevent water ponding, or run off as a result of this development. This has been addressed through a pre-start condition.

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185800



**Application Site**

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185800



**Committee Plan Relative to  
Planning Application Ref: 11/01400/PP**

Date: May 2011

Scale: 1:5,000



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Argyll and Bute Council  
Development and Infrastructure Services

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**21 SEPTEMBER 2011**

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**UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISIONS**

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**A) INTRODUCTION**

This report advises of recent appeal decisions by the Scottish Government Directorate for Planning and Environmental Appeals relative to the cases set out below.

**B) RECOMMENDATION**

Members are asked to note the contents of the report.

**C) DETAILS OF APPEAL DECISIONS**

**PLANNING APPEAL DECISION – LBA-130-10– Dismissed**  
**Installation of replacement timber windows**  
**Braehome, 27 Crichton Road, Rothesay PA20 9JR**

Listed building consent 10/00383/LIB was refused on 31 March 2011 under officer delegated powers on the following grounds:

1. The proposed replacement windows on the subject property, by virtue of their inappropriate double swing method of opening, would have an unacceptable impact upon the architectural and historic interest of this Category C(S) Listed Building located in a visually prominent position within the Rothesay Conservation Area. As a consequence, the development is contrary to STRAT DC 9 of the Argyll and Bute Structure Plan 2002; Policy LP ENV 14 of the Argyll and Bute Local Plan 2009; the Council's non-statutory Rothesay Window Policy Statement and Design Guide E 'Replacement of Windows'; and the advice contained within Historic Scotland's Scottish Historic Environmental Policy 2008.

An appeal against the refusal was submitted to Scottish Ministers on 16 June 2011. The Reporter concluded that the proposal would fail to preserve either the listed building or the character and appearance of the Rothesay Conservation Area. He therefore dismissed the appeal against the refusal of listed building consent.

**PLANNING APPEAL DECISION – CLUD-130-2001– Allowed**  
**Use of car park (extended)**  
**Poppies Garden Centre, Land east of Tigh Na Mara Dunstaffnage by Oban**  
**PA37 1PX**

Application for Certificate of lawfulness 11/00171/CLAWU was refused on 6 April 2011 under officer delegated powers on the following grounds:

1. It is not considered that the ten year period to establish a lawful use of this land has been proven. The supporting statements and recollection of the writers of the sworn affidavits are countered by dated photographic evidence sourced by the Planning Authority showing the land was covered by well established grass/vegetation during the relevant time period. The area of land may have been used sporadically for parking and turning of vehicles and/or the storage of materials, but the land has, as far as can be ascertained, remained principally as undeveloped marsh habitat. Accordingly, it is not appropriate for the Planning Authority to grant the certificate of lawfulness as applied for.

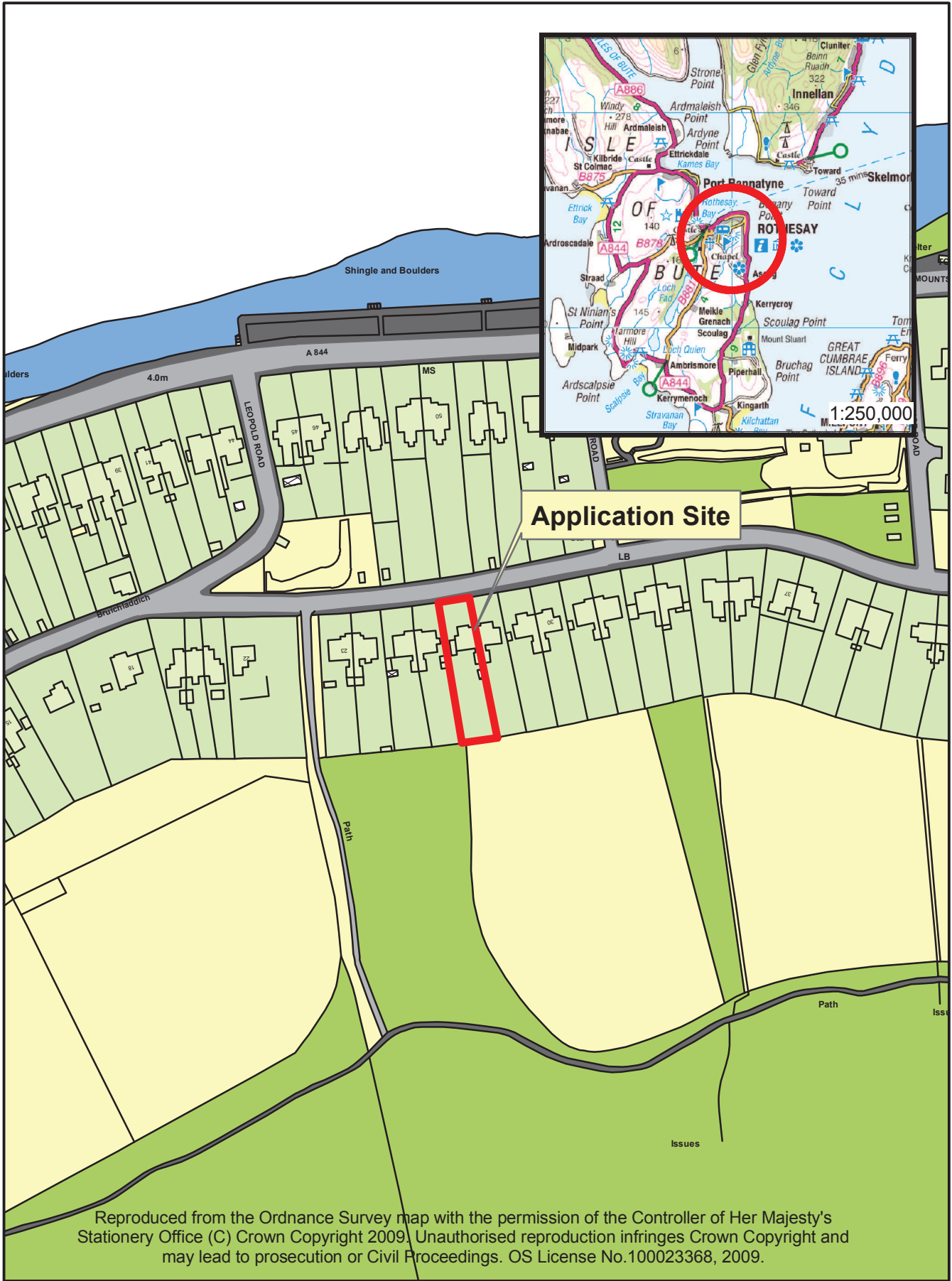
An appeal against the refusal was submitted to Scottish Ministers on 7 June 2011. The Reporter considered affidavits in support of the appellants claim that the land had been used for the parking and turning of vehicles over many years and accorded these more weight than the Council's evidence based upon aerial photography which he found less conclusive in terms of regularity of use of the land. He concluded that on the balance of probability, he was satisfied that the extended car park had been in existence for more than ten years. He therefore allowed the appeal and granted the certificate of lawfulness.

#### **D) IMPLICATIONS**

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

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**Angus J Gilmour  
Head of Planning & Regulatory Services 13<sup>TH</sup> September 2011**



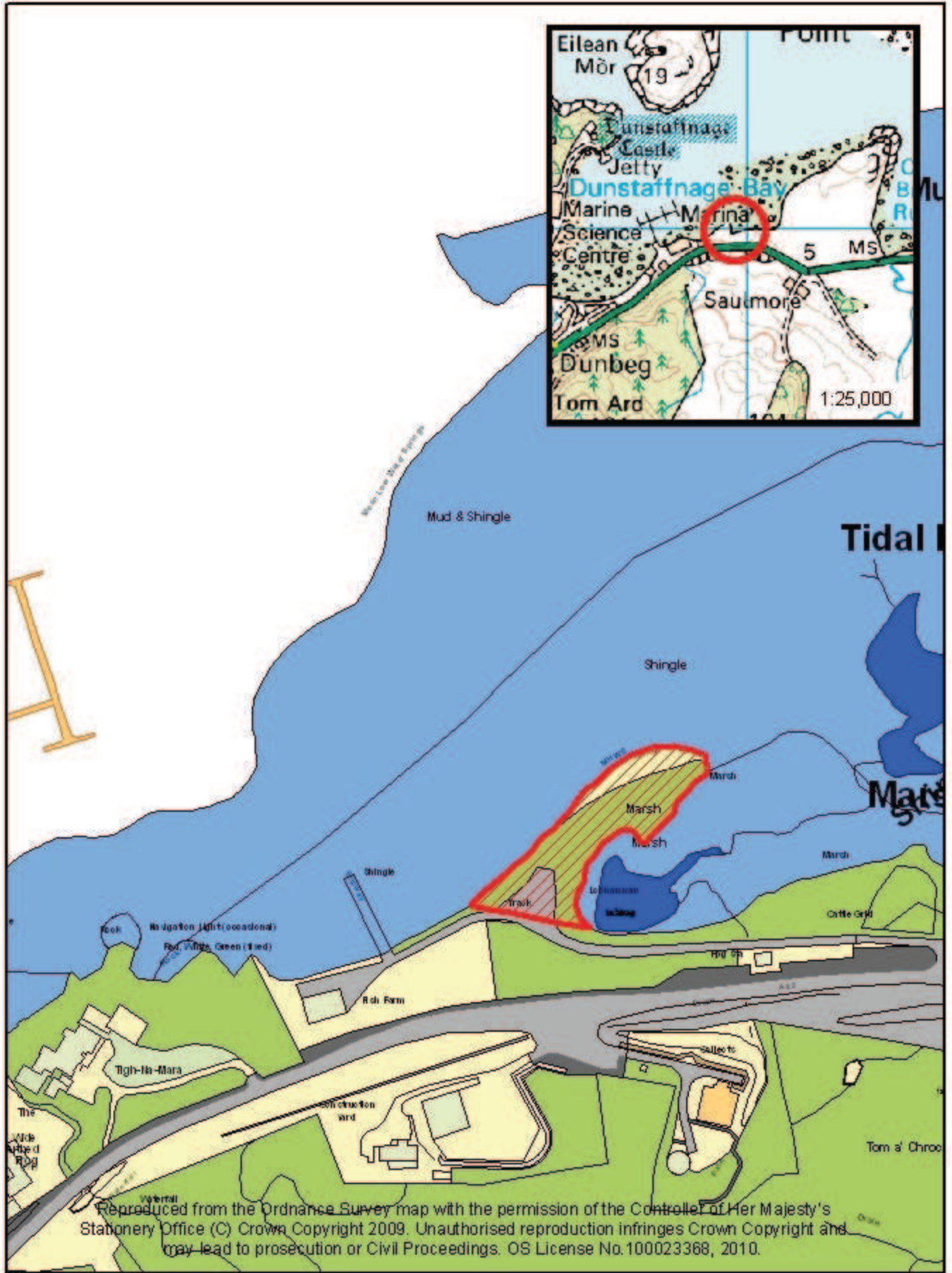
**Relative to Appeal  
Decision 10/00383/LIB'**

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**Location Plan relative to  
Application Ref: 11/00171/CLAWU**

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