

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

Customer Services  
Executive Director: Douglas Hendry



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12 October 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, 19 OCTOBER 2011** at **10:30 AM**, or at the conclusion of the PPSL Committee meeting at 10.00 am, whichever is the later, 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 13 September 2011 (Pages 1 - 12)
  - (b) Planning, Protective Services and Licensing Committee 21 September 2011 (10.00 am) (Pages 13 - 24)
  - (c) Planning, Protective Services and Licensing Committee 21 September 2011 (2.00 pm) (Pages 25 - 28)
  - (d) Planning, Protective Services and Licensing Committee 21 September 2011 (2.30 pm) (Pages 29 - 34)
4. **FOOD SAFETY ENFORCEMENT IN ARGYLL AND BUTE: OUTCOME OF FOOD STANDARDS AGENCY AUDIT**  
Report by Head of Planning and Regulatory Services (Pages 35 - 40)
5. **REVIEW OF THE CONSUMER LANDSCAPE**  
Report by Head of Planning and Regulatory Services (Pages 41 - 44)

6. **CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI FARE SCALE REVIEW**  
Report by Head of Governance and Law (Pages 45 - 46)
7. **MR DUNCAN CAMPBELL: SUB-DIVISION OF GARDEN GROUND, ERECTION OF DWELLINGHOUSE AND DETACHED GARAGE AND FORMATION OF NEW ACCESS: 7 LAGGARY PLACE, RHU, HELENSBURGH (REF: 11/00784/PP)**  
Report by Head of Planning and Regulatory Services (Pages 47 - 64)
8. **EE-USK: REMOVAL OF CONDITION 4 RELATIVE TO LISTED BUILDING CONSENT 10/01817/LIB (DEMOLITION NOT TO COMMENCE UNTIL CONTRACT LET FOR RE-DEVELOPMENT): ARGYLL HOTEL, CORRAN ESPLANADE, OBAN (REF: 11/01019/LIB)**  
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Report by Head of Planning and Regulatory Services (Pages 81 - 88)
10. **ARGYLL AND BUTE COUNCIL: PROPOSED BIOMASS HEATING PLANT TO SERVE OFFICES AND NURSERY, COMPRISING BOILER ROOM, FUEL STORAGE, UNDER GROUND PIPEWORK CONNECTIONS, ACCESS IMPROVEMENTS AND ENABLING WORKS: KILMORY CASTLE, LOCHGILPHEAD (REF: 11/01461/PP)**  
Report by Head of Planning and Regulatory Services (Pages 89 - 98)
11. **MR D MCCHEYNE AND MS A MACLEAN: ALTERATIONS AND CHANGE OF USE OF OFFICES TO DWELLINGHOUSE: FORMER COUNCIL OFFICES, DELL ROAD, CAMPBELTOWN (REF: 11/01543/PP)**  
Report by Head of Planning and Regulatory Services (Pages 99 - 108)
12. **PROPOSED CLOSURE/DIVERSION OF PUBLIC PATH - ROUTE BETWEEN CORRAN ESPLANADE AND CHARLES STREET AND GEORGE STREET, OBAN**  
Report by Head of Planning and Regulatory Services (Pages 109 - 114)

## **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**

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

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

Contact: Fiona McCallum

Tel. No. 01546 604406

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**  
**held in the ROTHESAY PAVILION, 45 ARGYLL STREET, ROTHESAY, ISLE OF BUTE**  
**on TUESDAY, 13 SEPTEMBER 2011**

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

Councillor David Kinniburgh	Councillor Alister MacAlister
Councillor Neil Mackay	Councillor Donald MacMillan
Councillor Alex McNaughton	Councillor James McQueen
Councillor Al Reay	

**Attending:** Charles Reppke , Head of Governance and Law  
 Ian Woollcott, Applicant  
 Scott Graham and Craig Veldon, Agents for the Applicant  
 David Eaglesham, Area Team Leader, Planning  
 Mr R Falconer, Objector  
 Mrs J McIntyre, Supporter  
 Councillor R Macintyre, Supporter  
 Councillor I Strong, Supporter

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated by:-

Councillor Gordon Chalmers  
 Councillor Rory Colville  
 Councillor Robin Currie  
 Councillor Vivien Dance  
 Councillor Mary Jean Devon  
 Councillor Bruce Marshall  
 Councillor Roderick McCuish

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

There were no Declarations of Interest.

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

Councillor Robert Macintyre informed the Committee that he had submitted written representation in support of the application which was not detailed within

the report. Councillor Isobel Strong stated that she too had submitted written representation. After discussion, the Committee unanimously agreed to allow both Councillor Macintyre and Councillor Strong to speak at the hearing.

### **PLANNING AUTHORITY**

David Eaglesham presented the case on behalf of the Head of Planning and Regulatory Services.

He tabled a Supplementary report which confirmed the receipt of late letters of representation and correspondence since the planning report dated 15 August, 2011.

He advised that the planning application was for the erection of a residential care home, formation of new access and the installation of a private sewage treatment plant to be situated on the A844 to Ascog Village on the east side of the Bute; to the south of Rothesay. The Committee had agreed to the hearing due to the number of representations received and confirmed that these numbered 27 in total. He advised that the site had been viewed by Members and he detailed the various aspects of the proposed development in a series of slides. In policy terms, he advised that the proposed development on the Argyll and Bute Local Plan was within the pink area, a designated settlement zone.

He confirmed that other than the objections detailed, there had been no other statutory consultee objections. Therefore, he recommended approval of the Planning Application subject to the conditions, reasons and informative notes at the end of the report.

### **APPLICANT**

Mr Gavin Graham spoke on behalf of the Applicant, assisted by Mr Craig Veldon and detailed the case in the building design and access alluding to the care taken in respect of the history of this conservation area.

He related that the land had previously received planning approval in January 2006 for substantive housing development. This was considered by some at that time to be an over-development of the site and that scale of the housing development was not in keeping with the area.

The form of the proposed building is a direct response to the brief and the site. It has the appearance of a two-storey Victorian house extended with wings linked across the frontage by a single storey fully glazed public rooms and entrance foyer. He informed Members that any concerns in regards the proposed design had been addressed. He noted the support received from the local community for this much needed facility, which would also generate local jobs.

He advised Members that a local forum – Bute Forum for Older Voices – had written to Nicola Sturgeon, Health Secretary, highlighting the distinct lack of care facilities and removal of 24-hour care from the island. Mr Graham continued that a recent census conducted with 34 Local Authorities had attested that Argyll and Bute council was third last in the table for the provision of care facilities for the elderly. Between March 2000- March 2010, there had been a 19.4 % reduction in care provision within Argyll and Bute.

He stated that the proposed development would incorporate a dedicated dementia unit, which was not presently available on the island.

In regards the issue of road safety and the impact on wildlife, again these had been addressed.

He stated that there were no sound planning reasons for the planning application to be refused and that no statutory consultees had opposed it.

### **SUPPORTERS**

Councillor Macintyre spoke on behalf of the planning application and stated that care facilities on the island had been seriously diminished. Residents had intimated their concerns regarding both this and the frequent instances whereby residents requiring specialist care were often transferred to mainland to receive this.

Councillor Strong related instances of previous residential childrens care home on the island which had functioned well with no adverse impact onto the local community. In her opinion, the proposed development would not have an adverse impact on the Ascog area.

She fully agreed with Councillor Macintyre in regard to the upheaval and problems caused to both patients and family members when they were transferred to the mainland for care. The new care home would provide an excellent facility for the island's ageing population.

Jeannette McIntyre, on behalf of Bute Forum for Older Voices, reiterated the trauma of families being split up, when the administration of care was implemented on the mainland. She detailed the sometimes onerous travel arrangements for family members endeavouring to visit patients. She stated that the new facility would provide peace of mind to older residents.

### **OBJECTORS**

Mr Ronnie Falconer detailed the concerns raised by local residents at a local meeting he had chaired regarding the proposed development. The meeting had been held on an impartial basis and reflected views both for and against the development.

He agreed that there was a strong need for a care home on the island, but stated that the siting of the proposed development on a different venue would be more opportune. He felt that the Ascog estate may change considerably if the care home was in situ.

He detailed that he had concerns in regards the scale of the development and questioned the need for a care home of this size. The adjacency of the development to Clyde House may result in a lack of privacy for its owner. He wondered if there would be potentially high traffic movements in and out of the proposed development which would be detrimental to which, in his opinion, was already an accident blackspot. He realised that there were no objections received from the Area Roads manager.

He continued that the development could have an adverse impact on the local environment – trees, birds and bats – he related a recent siting of otters. There was an indication that this was evidence of the increased bio-diversity of the area. He raised the issue of flooding and queried the proposals to deal with that potential hazard. He questioned whether the existing drainage could effectively deal with the effect of surplus water. Again, he noted that the Scottish Environment Protection Agency (SEPA) had not raised any concerns, but reiterated the need to maintain the drainage system assiduously.

He enquired whether when the care home was completed, would places be readily available for local residents. Mr Falconer stressed that he was not against the provision of a local care home, but wished to ensure that the proper conditions and recommendations were in place prior to planning approval was granted. He detailed the conditions he wished to highlight to Members:

6. Regarding the discharge pipe leading from the sewage treatment plant. To ensure that the pipe construction was constructed in accordance with the approved details to ensure no adverse affect to human health.
7. Regarding the proposed access, sufficient traffic signage was in place to negate a further risk of accident.
- 11 Regarding the drainage system, to incorporate the basic principles of Sustainable Urban Drainage systems (SUDS) and any adverse effects would be borne at the expense of the developer.

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

### **QUESTIONS**

Councillor Reay enquired of the Applicant what form of heating was in place and if there were plans to utilise solar energy.

He was informed that the primary heating for the building would be provided by a ground source heat pump serving a full underfloor heating system. In regards solar energy, the siting of the panels on the slated roof would not present a major problem. However, the panels had a limited life span.

Councillor Kinniburgh asked if there was a timeline in regards the drainage system. If anything adversely happened, were there time stipulations for the developer to rectify problems. He recalled that at a previous hearing the SUDS had a 10 year limitation.

David Eaglesham replied that he was not aware of this limitation and that landowners needed to ensure that water did not adversely impact onto others. However, the Planning Department could not oversee this issue. This would be a civil matter.

Councillor Mackay enquired on the number of Bute residents who had needed to leave the island to receive suitable care.

Councillor Strong replied that to her knowledge there had been 3 instances in the last 6 months whereby residents had been transferred to the mainland to receive care.

Councillor Mackay raised the issue of road safety and questioned if signage to advise of the proximity of a residential home was necessary.

David Eaglesham responded that he did not envisage traffic being increased and noted that the Roads Department had not raised any concerns. He did not think that flashing signage was conducive in this conservation area and furthermore drivers emerging from the care home could be observed by other road users. The road directly outside the home was a straight stretch of road.

Councillor Mackay questioned the issues in regards the sewage treatment plant and enquired if there was a likelihood of the drainage impacting onto

neighbouring properties. Ronnie Falconer responded that he had detailed his specific concerns. David Eaglesham replied that he did not envisage problems. The water was discharged directly into the river. SEPA would monitor any discharge/effluence emitting from the care home drainage system.

Councillor Reay enquired if there was adequate screening of the care home in relation to the adjacent property, Clyde House. Scott Graham replied that there would be adequate plant screening to address the issue of car highlights impacting onto the adjacent property.

Councillor Reay raised the issue of the area being classed as an accident blackspot and enquired if there were statistics to verify this. David Eaglesham replied that he did not have any statistics to quantify this. Ronnie Falconer responded that he had not received verification from Strathclyde police and the statement was an observation on his part. He detailed a previous accident on the road which had caused great concern to local residents.

Councillor Reay questioned of Ronnie Falconer if, as he had stated, that a care home was a necessary facility, where on the island he would situate a home. Ronnie Falconer replied that he was not against the proposed development; however, it should be appropriate to the location. He continued that it would perhaps be of benefit to future care home residents if the development was closer to the town so they could avail the shops, Health Centre and other facilities. There were other unused buildings around the town which could be utilised.

The Chair stated that the application was being considered for the site detailed on the report, not for conjecture for other venues. He stated that the site access was proving concern for some of the Members and that the Applicant would meet with the Roads Department to give this further discussion. Councillor Mackay requested more clarification on this issue. Charles Reppke, Head of Governance Law interjected that this issue should be addressed when Members debate the matter.

The Chair stated that this would be dealt with later during the course of the debate.

Councillor Kinniburgh raised the issue of the pavement width outside the care home. David Eaglesham responded that the pavement width was not the current standard width.

Councillor Kinniburgh enquired if the Applicant had plans to raise the height of the wall. Currently, the wall had been lowered beyond 5/6 metres of the access. Scott Graham replied that the proposed height of the wall was 1 metre high. Councillor Kinniburgh raised the issue of the old access point. David Eaglesham replied that this access would not be used. Access and ingress would be by means of the new access. A barrier would be erected to reduce pedestrian access at this point.

Councillor MacAlister stated that reduced speed limit from 60mph to 30mph – at close proximity to the care home – would mean a car travelling at a higher speed would need to break drastically if pedestrians were crossing at this point.

## **SUMMING UP**

### **Planning Authority**

David Eaglesham advised that the Applicant could address the concerns raised by the Objector. In regards to the issue over sewage, SEPA could consult with Building Control to resolve any dubiety over this.

With regards to Councillor Kinniburgh's query over the timescale. David advised that if the Applicant was in breach of the planning conditions within a 10 year period then necessary action could be taken to address any problem which had arisen.

He recommended that the Applicant and the Roads Department could meet to discuss and agree any road signage that might be appropriate.

He had limited concerns in the design and location of the proposed development and recommended approval of the planning application.

### **Applicant**

Scott Graham advised Members of the careful design of the building, mindful of the previous planning application which would have resulted in a denser housing development.

He agreed that he would instigate discussions with the Roads Department to agree on road signage.

### **Councillor Macintyre**

He reiterated that this was a much needed facility for the island which would negate the need for people to travel to the mainland to receive a required level of care. Thus, reducing onerous travel for family members wishing to visit them

### **Councillor Strong**

She envisaged that the care home would not have any detrimental effect on other residents.

### **Jeannette McIntyre**

She fully agreed with Councillor Macintyre and Councillor Strong in that there was a tremendous need for this facility. It would meet the needs of local residents and enable them to have a care provision in their own area.

### **Objector**

Ronnie Falconer again highlighted the size of the development and his concerns

in relation to traffic issues, pavement width and signage. He reiterated the points he had previously made in regards increased bio-diversity on the environment and adjacency of the development to neighbouring properties.

He noted that any adverse impact on local drainage should be rectified by the developer up to a 10 year period.

He agreed that a care home facility was needed on the island, but had heard nothing that would guarantee places for islanders.

### **DEBATE**

Councillor Reay stated that with the population living longer, there was a need for a care home. The design of the building appeared of a high quality sited in an open setting. He stated that Planning should fully approve the SUDS scheme to ensure that there is no risk to the drainage system and other properties.

Councillor McNaughton stated that his concerns had been addressed and agreed to the planning application.

Councillor McQueen replied that he had no issue and agreed to the planning approval.

Councillor MacMillan advised that he thought the design of the building was of a high quality and approved the planning application.

Councillor Kinniburgh supported the planning application and thought this would provide a quality care home. He raised the issue of the SUDS scheme and discussion between the Applicant and Roads department to address signage.

Councillor Mackay stated that Planning Development should take away the points raised and liaise with the Applicant to address these issues.

Councillor Kelly fully supported this planning application and stated that the Applicant should address the issues recorded and liaise with the Roads Department.

Charles Reppke advised that the Committee could not stipulate as a condition that signage be erected to advise road users of the proximity of the care home, without advice from the roads authority on the criteria.

Furthermore, in regards the SUDS, there was no other warranty, as had been alluded to by Mr Falconer, that the Committee could give in respect of third parties that was a matter of civil law. However, the SUDS scheme should meet the conditions stipulated in the condition with the report.

### **DECISION**

It was unanimously agreed that planning permission be granted as set out in the report subject to the following conditions and reasons:-

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO:  
11/00954/PP**

1. The development shall be implemented in accordance with the details specified on the approved drawings numbers: Drawing No. 2344/PL/011, Drawing No. 2344/PL/009, Drawing No. 2344/PL/002; Drawing No. 2344/PL/003, Drawing No. 2344/PL/004, Drawing No. 2344/PL/005, Drawing No. 2344/PL/006, Drawing No. 2344/PL/007; and Drawing No. 2344/PL/008, 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. A landscaping scheme shall be submitted to the Planning Authority prior to any works being first undertaken at the site. This scheme shall specifically include full details of the age, species and location of all existing trees and vegetation proposed to be retained and those to be removed together with full details of proposed planting. Specifically the landscaping scheme shall provide for native tree planting along the southern boundary of the site:
  - i) The landscaping scheme, as may be approved, shall be fully implemented no later than  
the first planting and seeding season following the commencement of the development and thereafter shall be maintained to the satisfaction of the Planning Authority for a period of five years. Any losses of plant species to be included in the landscaping scheme, through disease, weather exposure, neglect or damage, shall be replaced with equivalent species within one growing season.
  - ii) Prior to any works being first undertaken at the site, and upon the written approval of the landscaping scheme, each tree to be removed shall be clearly indicated (*tagged*) on site using a coloured identification and each tree to be retained shall be clearly indicated (*tagged*) on site using a separate coloured identification. Such measures shall be put in place for the written approval of the Planning Authority before any felling/lopping commences.
  - iii) Prior to the felling/lopping of any trees within the site, the subject trees will be surveyed for evidence of any bats and nesting birds. Should such evidence be found, the developer shall contact the Planning Authority for further advice in consultation with Scottish Natural Heritage;
  - iv) During the course of construction those trees that are to be retained (*as indicated and approved in writing by the Planning Authority as ii above*), shall be protected by suitable fencing not less than one metre in height that shall be erected around the extremities of the crowns of these trees, or as may be agreed in writing with the Planning Authority. No material, spoil or fires shall be placed within such protected areas during any construction works.

*Reason: In the interests of visual and residential amenity, the overall integrity and setting of the development within the area and to ensure that no damage is caused to trees during development operations.*

3. A substantial sample panel, being not less than 2.0 square metres, showing the proposed external wall finishes shall be made available on the site for the inspection and written approval of the Planning Authority. The panel shall be made available prior to the application of any render to the external walls being implemented. The building shall be constructed using the approved finishes unless the prior written consent of the Planning Authority is obtained for variation.

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

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

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

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

*Reason: To ensure the ongoing maintenance of the method of sewerage treatment in the interests of residential amenity and public health of existing and future occupiers of the area and to prevent the unnecessary proliferation of septic tanks.*

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

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

7. Prior to the commencement of development on the site, visibility splays of 42.0 metres x 2.5 metres in both directions shall be formed from the centre line of the proposed access and shall, thereafter, be kept clear of all obstructions over 1.05 metres in height above the level of the adjoining carriageway unless the prior written consent of the Planning Authority is obtained for variation.

*Reason: In the interests of road safety.*

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

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

9. Prior to the commencement of the development, details of the position, height and appearance of all boundary treatments shall be submitted to and approved in writing by the Planning Authority. In particular, such details shall show the erection of substantial screening along the southern boundary of the site. All boundary treatments shall be constructed in accordance with the approved details unless the prior written consent of the Planning Authority is obtained for variation.

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

10. Unless otherwise agreed in writing with the Planning Authority, the vehicular access onto the public road shall be constructed in accordance with the Council's Standard Drawing No. Figure 10.16. The access formation shall be undertaken prior to the first coming into use of the approved residential care home.

*Reason: In the interests of road safety.*

11. Prior to any construction works on site, full details shall be submitted for the prior written approval of the Planning Authority of a drainage scheme that shall incorporate the basic principles of Sustainable Urban Drainage Systems identified in 'Planning Advice Note 61' which shall provide details of a totally separate drainage system with the surface water discharging to a suitable outlet. The drainage system shall include measures to slow down run-off; methods of treatments and its release into the system, existing and proposed drainage of the site and temporary surface water drainage system during construction phases; unless prior written consent for variation is obtained in writing from the Planning Authority. The scheme, as may be approved, shall be implemented commensurate with this development at a timescale as may be agreed in writing with the Planning Authority.

*Reason: In order to provide for a sustainable drainage scheme for the development.*

12. No lighting units shall be installed unless the prior written consent of the Planning Authority is obtained in conjunction 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 the interest of the amenity of adjacent residential properties.*

**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. The Area Roads Manager has advised that a Road Opening Permit will be required in association with the formation of the vehicular access. A system of surface water drainage should also be undertaken to prevent water running onto the footway or carriageway.
5. The Environmental Health Officer has advised that the proposed development includes the preparation and service of food on the site for residents and staff. The developer should contact the Public Protection Service (Richard Gorman on 01700 501366) to seek advice regarding the following:
  - The requirements of relevant food legislation in terms of the layout of the food rooms and the management of food production;
  - The registration of the food business 28 days prior to the opening/use of the premises;
  - The impact of other relevant legislation including health and safety and smoking regulations.
6. **Correspondence has been received from the Director of Capital Developments (GB) Ltd to the effect that his company owns part of the land under which the discharge pipe is proposed to be constructed. Prior to the commencement of the development, the applicants should satisfy themselves that they have sufficient control over all of the land within the application site to enable the development to be constructed in accordance with the approved plans and in compliance with Conditions 6 and 11 above.**

(Reference: Report by Head of Planning and Regulatory Services dated 12 September 2011, submitted).

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 SEPTEMBER 2011**

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

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

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

**1. APOLOGIES FOR ABSENCE**

An apology for absence was intimated from Councillor Alex McNaughton. It was noted that Councillor Gordon Chalmers would be arriving late to the meeting.

**2. DECLARATIONS OF INTEREST**

Councillor Bruce Marshall declared a non financial interest in relation to planning application 10/00222/PP which is dealt with at item 6 of this Minute as he had made a representation on this application. He left the room and took no part in the discussion of this item.

Councillor Vivien Dance declared a financial interest in relation to planning application 11/00887/PP which is dealt with at item 10 of this Minute as she is a Director of a company that gives advice to the Applicant. Councillor David Kinniburgh declared a non financial interest in relation to this planning application as he had made representations on a similar application in 2005. Councillors Dance and Kinniburgh left the room and took no part in the discussion of this item.

Councillor James McQueen declared a non financial interest in relation to planning application 11/00689/PPP which is dealt with at item 7 of this Minute as he was former employee of Scottish Gas. He left the room and took no part in the discussion of this item.

**3. MINUTES**

- (a) The Minutes of the Planning, Protective Services and Licensing Committee of 24 August 2011 (10.00 am) were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing

Committee of 24 August 2011 (10.30 am) were approved as a correct record.

- (c) The Minutes of the Planning, Protective Services and Licensing Committee of 26 August 2011 (10.00 am) were approved as a correct record.
- (d) The Minutes of the Planning, Protective Services and Licensing Committee of 26 August 2011 (10.30 am) were approved as a correct record.
- (e) The Minutes of the Planning, Protective Services and Licensing Committee of 30 August 2011 (10.30 am) were approved as a correct record.
- (f) The Minutes of the Planning, Protective Services and Licensing Committee of 30 August 2011 (11.00 am) were approved as a correct record.
- (g) The Minutes of the Planning, Protective Services and Licensing Committee of 5 September 2011 were approved as a correct record.

The Chair ruled, and the Committee agreed, to adjourn the meeting for 15 minutes to allow Members the chance to read over a number of supplementary reports which had been tabled at the start of the meeting.

The Committee reconvened at 10.25 am.

**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)**

The Development Manager spoke to the terms of his report and to a supplementary planning report which was tabled at the meeting and referred to a revised response from Transport Scotland, a response from Public Protection and further representation from Elaine Pound. He advised that in the Argyll and Bute Local Plan the application site was located within sensitive countryside, but forms part of Potential Development Area PDA 9/13 'Cairndow-Inverfyne' where mixed use – business/housing/recreation use is supported, and Area for Action AFA 9/4 'Inverfyne' where strategic, business and environmental improvements are encouraged. He recommended that planning permission be refused but in view of the number of representations received in the context of a small community, also recommended that a discretionary hearing be held prior to determination of the application.

**Decision**

Agreed to hold a discretionary hearing on 21 October 2011.

(Reference: Report by Head of Planning and Regulatory Services dated 14 September 2011, submitted and Supplementary Planning Report 1 dated 20 September 2011, tabled)

Councillor Gordon Chalmers joined the meeting at 10.45 am during discussion of the foregoing item.

**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)**

The Principal Planning Officer spoke to the terms of his report advising that the application site was in open countryside north-east of Colgrain in the Greenbelt. He advised that it is considered that a site specification justification has not been established and that the development does not require to be located within the Greenbelt and, as such, the development 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. He advised that 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. He recommended refusal of the application as it was non compliant with Greenbelt policy. He advised that if the Committee were minded to approve the application then a noise assessment would need to be carried out by the applicant in advance of the determination of the application.

**Motion**

Due to the volume of representations to this application it is proposed that a hearing take place prior to determination of the application.

Moved by Councillor Daniel Kelly, seconded by Councillor Roderick McCuish

**Amendment**

I am minded that this application should be approved as a minor departure from STRAT DC 3 as I believe this is an acceptable farm diversification (which is not strictly in accordance with STRAT DC 3) which makes use of an existing facility which will bring economic benefits to the farm/establishment and ensure its future sustainability.

Furthermore that a suspensive condition be placed to require a noise impact assessment be undertaken to the satisfaction of the Head of Planning and Regulatory Services prior to any permission being granted and that a PAN 41 Hearing be arranged.

Moved by Councillor Bruce Marshall, seconded by Councillor Vivien Dance

**Decision**

The motion was carried by 12 votes to 2 and the Committee resolved accordingly.

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

Having previously declared an interest in the following item Councillor Bruce Marshall left the room and took no part in the discussion of this application.

**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)**

The Committee resumed consideration of this application which was the subject of a hearing on 8 April 2011. At a subsequent meeting of the Committee on 18 May 2011 it had been agreed to continue determination of the application to allow for consideration of planning application number 11/00689/PPP relating to a further application for a supermarket on another site in the town and to allow for assessment of that site's availability and deliverability.

Mr Reppke reminded the Committee that Councillors Dance, Reay and Chalmers would not be able to participate in the debate of this application as they had not been present at the hearing when this application was considered.

The Development Manager spoke to the terms of supplementary planning report no 5 advising that a further letter of support had been received from Mr and Mrs Baldock since the circulation of supplementary planning report 4. This report also provided clarification regarding the gas works site and application and on planning gain matters which had been offered verbally by the applicant during the hearing. The Development Manager also spoke to the terms of supplementary planning report no 6 which was tabled at the meeting and referred to further emails issued to the Council by the Applicant and their specialist agent relating to retail impact matters relevant to their own site and flooding matters at the National Grid application over his own. The Development Manager recommended refusal of the application for the reasons detailed in his original report.

**Decision**

Agreed to continue consideration of this application until after the hearing and determination of the application by National Grid Property (planning ref: 11/00689/PPP).

(Reference: Report by Head of Planning and Regulatory Services dated 4 March 2011, Supplementary Report 1 dated 15 March 2011, Supplementary Report 2 dated 30 March 2011, Supplementary Report 3 dated 7 April 2011, Supplementary Report 4 dated 9 May 2011, Supplementary Report 5 dated 8 September 2011, submitted and Supplementary Report 6 dated 19 September 2011, tabled)

Councillor Marshall returned to the meeting.

Having previously declared an interest in the following item Councillor James McQueen left the room and took no part in the discussion of this application.

**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)**

The Development Manager spoke to the terms of his report and to a supplementary report which confirmed receipt of a revised response received from Flood Risk Management and receipt of additional representations. He advised that in the Argyll and Bute Local Plan the proposed retail development was 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. Whilst recommending approval of the planning application as a 'minor departure' to development plan policy he recommended that a PAN 41 hearing be held prior to determination of the application in view of the number of representations received relative to a prospective departure to the provisions of the development plan.

**Decision**

Agreed to hold a PAN 41 Hearing on Wednesday 9 November 2011 in the Queens Hall, Dunoon.

(Reference: Report by Head of Planning and Regulatory Services dated 7 September 2011, submitted, Supplementary Planning Report 1 dated 20 September 2011, tabled and correspondence received from CWP Properties dated 19 September 2011, tabled)

Councillor McQueen returned to the meeting.

**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)**

The Head of Planning and Regulatory Services spoke to the terms of the report and to a supplementary report which was tabled at the meeting and made a minor change to the reason for refusal recommended in the original report for the purposes of clarity. He advised that planning permission was sought for the erection of a dwellinghouse and garage within the lower garden area of 7 Laggary Park, Rhu and that this detached dwellinghouse was within the Rhu Article 4 Conservation Area and the site also had a Tree Preservation Order in place. He advised that the proposal was contrary to Policies STRAT DC 9 and STRAT ENV 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 and Bute Local Plan and recommended refusal of the application.

**Decision**

Agreed to continue consideration of this application to the PPSL Committee on 19 October 2011 and that arrangements be made for a site visit in advance of that date.

(Reference: Report by Head of Planning and Regulatory Services dated 2 September 2011, submitted and Supplementary Report 1 dated 19 September 2011, tabled)

**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)**

The Principal Planning Officer spoke to the terms of his report advising that 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 be undertaken in order to support an exceptional case. 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, LP ENV 19 and Appendix A of the Argyll and Bute Local Plan. He advised that there were 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 and recommended approval of the application and that an Area Capacity Evaluation be carried out and that the findings of the ACE be endorsed.

**Decision**

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

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.*

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

Having previously declared an interest in the following item Councillor Vivien Dance and Councillor David Kinniburgh left the room and took no part in the discussion of this application.

Councillors Alister MacAlister and Roderick McCuish left the meeting.

**10. OSBORNE INTERIORS LTD: ERECTION OF 3 DWELLINGHOUSES: LAND BETWEEN 19 TO 37 CUMBERLAND AVENUE, HELENSBURGH (REF: 11/00887/PP)**

The Head of Planning and Regulatory Services spoke to the terms of his report and to a supplementary report which referred to an email Members would have received from the Applicant's agent. He advised that the application site currently has Open Space Protection Area status afforded to it by Policy LP REC 2 of the Argyll and Bute Local Plan. He recommended that planning permission be refused subject to a discretionary hearing being held in view of the number of representations received.

**Decision**

Agreed to hold a discretionary hearing on 10 October 2011 in the Victoria Halls, Helensburgh.

(Reference: Report by Head of Planning and Regulatory Services dated 6 September 2011, submitted and Supplementary Report 1 dated 20 September 2011, tabled)

Councillors Dance and Kinniburgh returned to the meeting.

Councillor Donald MacMillan left the meeting.

**11. MRS SARA MACLEAN: CONSTRUCTION OF CULVERT AND HANDRAILS: LAND NORTH WEST OF TIGNABRUAICH PRIMARY SCHOOL, SCHOOL ROAD, TIGNABRUAICH (REF: 11/01084/PP)**

The Principal Planning Officer spoke to the terms of his report advising that the application site was located in a relatively inconspicuous location which is a significant distance from main public areas of Tighnabruaich. He advised that the proposal accorded with policies STRAT DC 1 of the Argyll and Bute Structure Plan and LP ENV 10 and LP ENV 19 of the Argyll and Bute Local Plan and recommended approval of the planning application.

**Decision**

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

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.*

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

**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)**

The Principal Planning Officer spoke to the terms of his report and to a supplementary planning report tabled at the meeting which referred to amended conditions. He advised that the proposal accorded with policies STRAT DC 1 and STRAT DC 9 of the Argyll and Bute Structure Plan and policies LP ENV 10, LP ENV 14, LP ENV 19 and LP CST 1 of the Argyll and Bute Local Plan and recommended approval of the planning application.

**Decision**

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 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; Drawing No. 400114-0000-20-DRG-9923; and Drawing Number 400114-0000-20-DRG-9979-0A 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. 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.*

(Reference: Report by Head of Planning and Regulatory Services dated 2 September 2011, submitted and Supplementary Report 1 dated 19 September 2011, tabled)

**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)**

The Principal Planning Officer spoke to the terms of his report advising that this was a Council interest application and that the proposal conforms with the relevant development policies and that there are no other material considerations, including issued raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan and recommended approval of the planning application.

**Decision**

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

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.*

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

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

Consideration was given to a report advising of recent appeal decisions by the Scottish Government Directorate for Planning and Environmental Appeals.

##### **Decision**

1. Noted that the Appeal against the refusal for Listed Building Consent Ref: 10/00383/LIB was dismissed by the Reporter; and
2. Noted that the Appeal against the refusal for an Application for Certificate of Lawfulness Ref: 11/00171/CLAWU was allowed by the Reporter.

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

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

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

The Principal Planning Officer advised that since the production of the original report the Family Mediation Service had notified the Council that they had vacated Athole Cottage and that a request to extend to time period for compliance of an enforcement action was no longer required.

##### **Decision**

Noted the contents of the report.

(Reference: Report by Head of Planning and Regulatory Services dated 1 September 2011, submitted and Supplementary Report 1 dated 20 September 2011, tabled)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 SEPTEMBER 2011**

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

Councillor Robin Currie  
Councillor Vivien Dance

Councillor Mary-Jean Devon  
Councillor James McQueen

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Senior Solicitor  
Mr Forrest, Applicant (arrived late to Hearing)  
Mr MacIntyre, Objector  
Mr Darroch, Objector  
Mr Tucker, Objector  
Mr Morrison, Objector  
Mr Gemmell, Objector  
Mr Gemmell, Objector  
Ms S Galt, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Chalmers, Rory Colville, David Kinniburgh, Bruce Marshall, Neil Mackay, Donald MacMillan, Alister MacAlister, Roderick McCuish, Alex McNaughton and Al Reay.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR TAXI LICENCE - A FORREST (DUNOON)**

The Chair introduced himself and invited those present at the meeting to do likewise and then outlined the procedure that would be followed.

Mr Reppke advised that a late letter of objection had been received from Mr James Anderson. He explained that Mr Anderson had originally sent the letter in on time but without his home address which is a requirement of the Civic Government (Scotland) Act 1982. The letter was returned to Mr Anderson and he re-submitted this outwith the timescales. He advised that if the Committee wished to take Mr Anderson's objection into consideration they should continue consideration of this application for a least 14 days to allow the Applicant to make comments on the objection. The Chair ruled, and the Committee agreed, that they would not consider Mr Anderson's correspondence.

As the applicant was not present the Chair invited the Objectors to state their case.

**Objectors**

Mr MacIntyre advised that he had sent in his objection on behalf of the Dunoon Taxi Driver Association and made reference to various points within his letter of objection. He stated that his objection was mainly due to his belief that there was currently over provision in the Dunoon area and a lack of trade. He referred to the survey carried out by Argyll and Bute Council in 2003 on the Demand for Taxis in Argyll and Bute and stated that nothing had changed since then.

Mr Gemmell advised that trade was much worse since 2003 and this was not helped by the current financial climate.

Mr Darroch advised that taxi drivers were having to do longer hours to make a decent income.

### **Members Questions**

Councillor Devon asked if there were any periods of unmet demand for taxis in Dunoon. Mr MacIntyre advised there was no unmet demand. He referred to the previous afternoon when he and Mr Darroch had sat at the taxi rank outside Morrisons for over an hour without having to move and that 2 drivers that worked for the Applicant were also there at this time. He referred to weekends being very difficult and drivers having to work very long hours. He advised that in the last two weeks he has been available for hire for approximately 84 hours each week and only worked 10 hours in the first week and 10.5 hours in the second week. Mr Darroch advised that there was also no unmet demand for taxis with wheel chair access.

Councillor Devon asked how working 84 hour weeks compared with 2 years ago. Mr MacIntyre advised that drivers were having to work more hours for less money.

Councillor Dance referred to there being no take up of taxi driver vacancies. Mr MacIntyre advised that Thistle Taxis had received no take up or enquiries in respect of the last 3 adverts they had placed in the Dunoon Observer.

Councillor McQueen asked Mr MacIntyre if he had a family would he be able to survive financially. Mr MacIntyre advised that if he had a wife or partner they would need to be in full time employment.

Councillor McQueen asked Mr Gemmell how long he had been in the taxi business and if his business was doing well. Mr Gemmell advised that he had been in the taxi business for 50 years. He advised that it would be hard on existing drivers if there were more taxi licences approved. He stated that you couldn't get drivers as there was no money in the taxi trade. He advised that a driver needed 4 or 5 jobs per day to make it worthwhile. He also made reference to the fare increase and the VAT increase.

Councillor Currie asked if the Applicant already operated taxis in Dunoon and the Objectors advised that he did.

Councillor Currie asked the Objectors if they knew why the Applicant was applying for more licences. Mr Gemmell advised that he could only assume this was maybe to try and steal his drivers as 2 of his drivers had already moved to

work for the Applicant.

### **Summing Up**

Mr MacIntyre advised that trade was poor and the Applicant already had 2 taxi licences. He stated that the country was still in the grip of a recession and there would be more job losses to come. He advised that the summer trade was very poor this year and business was quieter than normal. He advised that Cowal Games was very quiet this year. He also referred to the cost of living being high stating that diesel was 20p per litre higher than the previous year and that VAT had gone up to 20%. He also referred to car insurance premiums going up which added to further hardship. He advised that he felt the 20p increase on the flag fall had led to a drop in demand. He stated that it took from mid December last year to May this year to cover 10,000 miles and that was working 7 days per week. He referred again to no responses being received to 3 adverts for taxi drivers. He advised that they were also losing business to Interlock Transport Services and the Red Cross. He also referred to a complaint he had made about the taxi survey not being re done and that he had received a response from the Chief Executive advising that there was no requirement to carry out another survey as the Planning, Protective Services and Licensing Committee considered all taxi applications and that they would take into account the findings of the survey.

Mr Darroch and Mr Gemmell confirmed that Mr MacIntyre had covered everything they would wish to say.

Mr Reppke advised the Committee that the Applicant had arrived late to the meeting and, as the Applicant had not had the opportunity of presenting his case and as the Applicant was the same for both cases, he recommended to Members that they adjourn this meeting and convene the next meeting at 2.30 pm when the Applicant would have the opportunity of presenting his case and that a decision on the application before them at the 2.00 pm meeting could be determined after a decision is made on the application to be considered at the 2.30 pm meeting.

The Chair ruled, and the Committee agreed to adjourn the meeting at 2.25 pm.

The Committee reconvened at the conclusion of the 2.30 pm PPSL Committee meeting on Wednesday 21 September 2011.

### **Debate**

Councillor Kelly advised that having heard from both the Applicant and the Objectors he did not consider there to be an unmet demand for Taxis in Dunoon.

### **Decision**

It was unanimously agreed to refuse Mr Forrest's request for a taxi licence on the basis that the Committee did not consider there to be any evidence of an unmet demand for taxis in Dunoon.

(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 COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 21 SEPTEMBER 2011**

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

Councillor Robin Currie  
Councillor Vivien Dance

Councillor Mary-Jean Devon  
Councillor James McQueen

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Senior Solicitor  
Mr Forrest, Applicant  
Mr MacIntyre, Objector  
Mr Darroch, Objector  
Mr Gemmell, Objector  
Mr Tucker, Objector  
Mr Morrison, Objector  
Mr Gemmell, Objector  
Ms S Galt, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated from Councillors Gordon Chalmers, Rory Colville, David Kinniburgh, Bruce Marshall, Neil Mackay, Donald MacMillan, Alister MacAlister, Roderick McCuish, Alex McNaughton and Al Reay.

**2. DECLARATIONS OF INTEREST**

None declared.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR TAXI LICENCE - A FORREST (DUNOON)**

The Chair introduced himself and invited those present at the meeting to do likewise and then outlined the procedure that would be followed.

Mr Reppke advised that a late letter of objection had been received from Mr James Anderson. He explained that Mr Anderson had originally sent the letter in on time but without his home address which is a requirement of the Licensing Act. The letter was returned to Mr Anderson and he re-submitted this outwith the timescales. He advised that if the Committee wished to take Mr Anderson's objection into consideration they should continue consideration of this application for a least 14 days to allow the Applicant to make comments on the objection. The Chair ruled, and the Committee agreed, that they would not consider Mr Anderson's correspondence.

**Applicant**

The Chair invited the Applicant to speak in support of his Application.

Mr Forrest apologised for arriving late to the previous meeting and explained his

reason for this. He advised that he was having to apply for 2 more taxi licences as his business was getting busier and he had been approached by more drivers interested in working for him. At the moment he had 5 drivers, which included himself and his wife, and only 2 cars. At the very least he advised that he would need 1 more car. He advised that he was trying to provide a better service for his customers and that he has never had to advertise his business it has all been through word of mouth. He advised that his drivers seemed happy and they always had plenty of work. He had never experienced his drivers complaining that they were not earning enough money. He advised that he would like to provide a variety of cars and ideally have a 6 seater car also which was the subject of the application discussed at the 2.00 pm meeting today. He referred to the Objectors' comments in their letters of representation regarding there being too many taxi licence holders in Dunoon. He advised that he had contacted Argyll and Bute Council and had been advised that there were currently 44 taxi licences for the Cowal and Bute area. He advised that there can not be 44 taxi cars in Dunoon at anytime in a single day and that a lot of these would be part time drivers. He also referred to there being 22 taxi rank spaces in Dunoon and that this was enough for all the cars. He advised that on a Thursday, Saturday, Sunday and Tuesday he had travelled round Dunoon at different times of the day on each of those days and there was always spaces at the taxi ranks. He advised that there was very rarely taxis sitting at the ferry terminal. He advised that he had not influenced drivers coming from other companies to work for him. He referred to the The Demand for Taxis in Argyll and Bute survey carried out by the Fraser of Allander Institute for Argyll and Bute Council and said that this was now too long in the tooth to be relevant. He advised that a lot of the survey results had come from posted or phone surveys and felt that it would have made more sense to ask the people who use the taxis, for example, by handing out survey forms at the taxi ranks. He referred to the Taxi Driver Association and advised that after being in the business for 3 years he was not aware of this company. He advised that he did not agree with Mr MacIntyre's comment in his letter of objection that the increase in fares of 20p and been a problem for business. It was his experience that people just accepted an increase in prices and that the 20p increase was a maximum charge which did not need to be implemented in full. He also advised that on the previous Sunday one of his drivers had earned £240.

### **Questions to Applicant**

The Chair invited the Objectors to ask the Applicant questions.

Mr Gemmell asked what percentage of work Mr Forrest got off the street. Mr Forrest advised that it was quite high and that he didn't advertise.

### **Objectors**

The Chair invited the Objectors to speak in support of their objections.

Mr Darroch advised that he thought the survey carried out in 2003 was still relevant and so the results of this still stand and asked that the Council cap the number of operator licences for 2 years then review this and referred to what has been done by Perth and Kinross Council. He referred to the number of cars which sat at the taxi ranks and confirmed that very few sat at the cenotaph. He advised that it was difficult for individual taxis and small businesses at Morrisons

as Morrisons refused to open the side door of their building next to the taxi rank. He confirmed that the previous day he had sat for an hour with other taxi drivers outside Morrisons and that no one had moved in that time. He advised that he was one of 3 drivers that visited the ferry terminal regularly and that discussions had been held with Roads regarding getting a proper taxi rank painted out there. He advised that since Argyll Ferries took over he had seen a 50% drop in business as buses were timetabled to pick up passengers. He referred again to the empty taxi rank spaces and advised that the spaces that were empty were where people were not looking for taxis.

Mr Gemmell advised that most of the work was through people phoning and that was why cars were not at the taxi ranks.

### **Questions to Objectors**

The Chair invited Mr Forrest to ask the Objectors questions.

Mr Forrest asked Mr Darroch if he had a booking office and licensed premises. Mr Darroch advised that he did not and that he worked with individual operators.

Mr Forrest asked Mr Darroch if he advertised his mobile number and if so, this would suggest that he answered the phone while driving. Mr Darroch advised that he used blue tooth to take calls.

### **Members Questions**

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

Councillor Devon asked Mr Forrest if he believed there was unmet demand in Dunoon. Mr Forrest advised that yes there was and that his whole business was generated by unmet demand. He advised that he did not advertise and that demand was great when there were fewer drivers working.

Councillor Devon referred to the £240 made by his driver, and asked Mr Forrest if this was more than normal. Mr Forrest advised that the driver had a lucky night as there were fewer drivers working and that this was the high end of an average day. He advised that the average was just over £100, but could be higher if some other cars were not out.

Councillor Devon asked Mr Forrest to clarify how many licences he held and how many hours he worked. Mr Forrest advised that he did not work and that he had 2 licences and the average number of hours his drivers worked was 11 or 12 hours per day.

Councillor Devon asked the Objectors if they thought £240 was an exceptional amount to earn in one day and they replied that it was.

Councillor Devon asked Mr Forrest to expand on his statement that he did not work. Mr Forrest advised that he did not drive taxis in Argyll at the moment and that he ran a taxi business in Bishopbriggs and travelled there Monday to Friday and that he worked in the Office. He advised that he was hoping to move his business to Dunoon so that he didn't have to travel long distances to work.

Councillor Currie asked Mr Forrest to clarify how many licences he held. Mr Forrest advised that he held 2 licences in Argyll and Bute and 2 licences in East Dunbartonshire.

Councillor McQueen asked Mr Forrest how many drivers he had. Mr Forrest advised that he had 2 part time drivers and 1 full time driver plus his wife and himself.

Councillor McQueen asked if Mr Forrest made a good living and Mr Forrest advised that he did.

Councillor McQueen asked the Objectors if they made a good living. Mr MacIntyre advised that he made a living but it was not good. Mr Darroch advised that he got by.

### **Summing Up**

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

Mr Darroch advised that there was no unmet demand and that this was stated clearly in the 2003 survey and still stood. He advised that £240 on a Sunday was exceptional that maybe on a Cowal Games Sunday you would receive this but on a regular weekday it was very unlikely. He referred to Morrisons not opening their side door and not being busy at the ferry terminal and that he could not see a justification for having more licences.

Mr MacIntyre advised that Argyll and Bute Council had taken half the taxi ranks away and replaced them with drop off points at the Argyll Ferries terminal and that a request had been made to place the taxi ranks nearer to the ferry and that this had been agreed by Bute and Cowal Area Committee and that they were waiting for the taxi ranks to be painted out. He advised that he would like to see another survey carried out and referred to the response to his complaint from the Chief Executive advising that there was no requirement to carry out another survey as the Planning, Protective Services and Licensing Committee considered all taxi applications and that they would take into account the findings of the survey. He referred to meetings of the Taxi Driver Association and confirmed that Mr Forrest was more than welcome to attend these and that notes advising of these meetings were handed out to Mr Forrest's drivers. He confirmed that he used blue tooth to take calls.

Mr Gemmell referred to hours worked on a Sunday.

Mr Darroch advised that he had met with the Police before Cowal Games to set up a system to deal with visitors and that Mr Forrest's drivers had been given copies of the arrangements.

Mr Forrest advised that he would be happy to join the Taxi Driver Association. He advised that he was more than a bit surprised at the objections that had been raised about taking on more licences. He advised that he was unaware there was a problem for other drivers and he only knew what his experiences were. He advised that he regularly had to get up in the middle of the night when people couldn't get a taxi. He advised that he was getting busier and needed another

car to expand business to meet the unmet demand of his customers.

The Chair invited the Applicant and Objectors to confirm that they had received a fair hearing. Both confirmed that this had been the case.

**Debate**

Councillor Devon advised that from what she had heard today she could not agree to adding another licence as there was no unmet demand.

Councillor Kelly advised that he agreed with Councillor Devon's comments.

**Decision**

It was unanimously agreed to refuse Mr Forrest's request for a taxi licence on the basis that the Committee did not consider there to be any evidence of an unmet demand for taxis in Dunoon.

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

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**ARGYLL AND BUTE COUNCIL  
DEVELOPMENT &  
INFRASTRUCTURE SERVICES**

**PLANNING, PROTECTIVE SERVICES  
AND LICENSING COMMITTEE**

**19<sup>th</sup> OCTOBER 2011**

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**FOOD SAFETY ENFORCEMENT IN ARGYLL AND BUTE –  
OUTCOME OF FOOD STANDARDS AGENCY AUDIT**

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**1. PURPOSE**

- 1.1** The Council's Environmental Health service was the subject of a rigorous three day audit by the Food Standards Agency (Scotland). (FSA) on 13th – 15th September 2011. The purpose was to audit the level of compliance with the requirements for a Food Authority, regulating food establishments subject to Regulations (EC) 852 and 853/2004.
- 1.2** Members are advised of the positive audit report which has been received from the FSAS This recognises the work of the Council's Environmental Health service and identifies a performing service with competent and professional staff protecting food safety in Argyll and Bute and the wider population. It also affirms the service ethos of proportionate risk-based enforcement and working with businesses to secure compliance.
- 1.3** The audit report also identifies three major areas of best practice, including our very comprehensive inspection procedures, the supporting aide memoire and business profile information documentation.

**2. RECOMMENDATIONS**

- 2.1** That Members recognise the findings of the FSAS audit and the excellent work undertaken by Environmental Health staff, within Regulatory Services, to protect food safety.
- 2.2** That Members approve the action plan, which addresses minor issues, raised by the audit, and require the Regulatory Services Manager, as the Council's Head of Food Safety, to respond formally to the FSAS on this matter.
- 2.3** That a progress report be submitted to PPSL Committee on the action plan, at the March 2012 Committee.

**3. /....**

### 3. BACKGROUND

**3.1** The Council, as the statutory food authority, require to undertake its duties under the Food Hygiene (Scotland) Regulations 2004, implementing the requirements of various EC Regulations and to meet the terms of the Framework Agreement on Local Authority Food Law Enforcement (Food Framework).

**3.2** The 2011 Focused Audit Programme in Scotland targeted Argyll and Bute, Highland, and Aberdeenshire Councils. These Councils were selected because they represent the principal Authorities in Scotland regulating food manufacturing and processing. Argyll and Bute Council was selected because it regulates:-

- (i) One of the main shellfish sectors in Europe, including the largest by volume supply of processed oysters
- (ii) The main wild pectinidae (Scallop) sector in Scotland
- (iii) One of the main salmon smokery sectors in Scotland
- (iv) Overall the third largest by number manufacturing sectors in Scotland

**3.3** The audit of Argyll and Bute was undertaken on 13<sup>th</sup> – 15<sup>th</sup> September 2011 and focused on the following aims :-

- (i) To audit the performance of the Local Authority against the Food Framework for the enforcement of food safety at 843/2004 approved establishments. These are manufacturers and processors of higher risk food products authorised by the Local Authority to trade throughout Europe under an approval code, and include principally fish and shellfish processing plants, and dairy processing establishments (e.g. cheese manufacturers). There are 61 approved establishments in Argyll and Bute.
- (ii) To undertake visits to selected premises with enforcement staff.
- (iii) To assess the appropriateness of systems, processes and the level of enforcement undertaken by the Council.

**3.3** The audit process produces a draft report which is sent to the Council within 20 working days of the audit. The Local Authority is required to develop an action plan to address any non-conformity, and to submit this to the FSA within 20 working days. The final report is then issued to the Local Authority, published by the FSA nationally on its website ([www.food.gov.uk](http://www.food.gov.uk)), and reported to the European Commission.

### 4. DRAFT AUDIT REPORT

**4.1** The closing verbal report and draft audit report for Argyll and Bute Council were very positive and recognise the exemplary work being undertaken by Environmental Health staff to protect food safety. The important comments to note are :-

- (i) /....

- (i) The audit identified that our inspection procedures are HACCP (Hazard Analysis Critical Control Point)-focused and verify systems as they would expect.
- (ii) Our Officers are trained and demonstrated suitable skills on audit.
- (iii) Inspections were undertaken professionally and competently.
- (iv) Our enforcement decisions were proportionate and appropriate.
- (v) There was evidence to demonstrate that we were actively working with businesses to achieve compliance.
- (vi) Adequate internal monitoring procedures and systems are in place.

**4.2** The audit process identified examples of Best Practice from audits which are highlighted to other Local Authorities. The audit identified three major areas of Best Practice for the Council's inspection procedures, the business profile and inspection aide memoire documentation. It should be noted that the Council's inspection procedures are currently being considered as a "national standard" by the Scottish Food Enforcement Liaison Committee (SFELC).

**4.3** The audit identified a number of areas which require further attention by the Council. It was noted that the Food Service Plan 2011/2012 does not meet the requirements of the Food Code of Practice and some minor administrative issues were also identified.

**4.4** By way of comment, the Food Service Plan was approved by PPSL and reflects a risk-based approach to enforcement and resource allocation. The Plan reflected the resource difficulties within the service at that time, and the intention not to undertake the full intervention strategy for low risk premises.

## **5. ACTION PLAN**

**5.1** The audit identified some areas for improvement, namely:

- (i) The Food Service Plan must meet the Food Law Code of Practice. The Food Service plan 2011-12, approved by Committee, does not meet the requirements. *It is hoped we will meet the requirements of the Food Code of Practice, as a result of the service review outcomes and new delivery arrangements.*
- (ii) Ensure that inspections at approved establishments include a check on the format of the Business Identification Mark.
- (iii) Ensure that they follow our own procedure and issue their standard letters to food business operators following inspection..

- 5.2** It is my considered opinion that the proposed action plan in appendix I will meet these issues and subject to approval by Committee will be forwarded to the FSAS.

## **6. CONCLUSIONS**

- 6.1** The Audit of the Council's food safety arrangements within Environmental Health by the Food Standards Agency has been very positive and identifies a performing service with competent and professional staff. It also supports the service ethos of proportionate risk-based enforcement and working with businesses to secure compliance.
- 6.2** The action plan in Appendix I will address the areas for improvement identified by the FSAS audit. The plan is based on a verbal report and the final draft report is due to be published on 14<sup>th</sup> October 2011. In the event that this report is different, a revised action plan will be taken to Committee on 19<sup>th</sup> October 2011

## **7. IMPLICATIONS**

<b>Policy</b>	The service requires to review its resources to meet the requirements of the food framework
<b>Financial</b>	Will require to review service plan against Food Law Framework and Code of Practice
<b>Equality</b>	None
<b>Personnel</b>	None

**ALAN MORRISON**  
**Regulatory Services Manager**  
**AM/KT/7334 OCT 2011**

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**FOOD STANDARDS AGENCY AUDIT REPORT  
ARGYLL AND BUTE COUNCIL AUDIT – SEPTEMBER 2011  
ACTION PLAN FROM AUDIT REPORT, REF. XXX**

Non-Conformance Identified	Proposed Actions	Details	Timescale
Ensure that Food hygiene interventions are carried out at a frequency which is not less than that determined by the food establishment intervention rating scheme in the Food Law Code of Practice (Scotland). [The Standard – 7.1]	Develop the Food Service Plan 2012-13 to meet the requirements for the Food Law Code of Practice and identify any issues of non-compliance for consideration by PPSL Committee	<ol style="list-style-type: none"> <li>1. The Food Service Plan 2012-13 will be prepared to identify service priorities for 2012-13 and meet the requirements of the Food Law Code of Practice for the food hygiene inspections of high, medium and low risk premises</li> <li>2. The programme will be monitored through the services performance management systems.</li> </ol>	31 <sup>st</sup> March 2012
Ensure that inspections at approved establishments include a check on the format of the business Identification Mark. {The Standard 7.3	<p>Review the inspection aide memoire to review this information as part of every inspection</p> <p>Discuss new requirements with authorised officers</p>	<ol style="list-style-type: none"> <li>1. The approval status will be confirmed as part of the inspection, rather than the one-off annual approval process where an administrative error was identified.</li> <li>2. The inspection documentation has been reviewed to include the areas relating to waste management, etc, which are detailed in the food practice</li> <li>3. Raise at team meetings and at inspection planning sessions.</li> </ol>	30 <sup>th</sup> November 2011
Ensure that they follow their own procedure and issue their standard letters to food business operators following inspection. [The Standard 16.1]	Review the standard letters procedures and reissue	<ol style="list-style-type: none"> <li>1. Determine why letters not being issued and issue instructions based on findings</li> <li>2. Review inspection procedures and the use of standard letters and notifications</li> <li>3. The current project to implement an electronic document management system within Regulatory Services will address the reference to non-standard documentation</li> </ol>	<p>1<sup>st</sup> November 2011</p> <p>31<sup>st</sup> January 2012</p> <p>1<sup>st</sup> April 2012</p>

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ARGYLL AND BUTE COUNCIL  
DEVELOPMENT &  
INFRASTRUCTURE SERVICES

PLANNING, PROTECTIVE SERVICES  
AND LICENSING COMMITTEE  
19<sup>TH</sup> OCTOBER 2011

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## REVIEW OF THE CONSUMER LANDSCAPE

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### 1. BACKGROUND

- 1.1 This paper highlights to Members the implications of the Government consultation (June 2011) which proposes radical changes in the way in which Councils' Trading Standards services deliver consumer protection across the United Kingdom. These proposals arise from the decision to abolish the Office of Fair Trading (OFT).
- 1.2 The proposals recommend that all consumer protection functions delivered nationally by the OFT are delivered by Council Trading Standards Services. The only exception will be consumer advice, which is currently delivered by the OFT under the banner "Consumer Direct", and this will be transferred to the Citizens' Advice from April 2012. The proposals will be subject to public consultation later in the spring.

### 2. RECOMMENDATIONS

- 2.1 That Members note the consultation paper and support the view that it is essential that any proposals will not diminish the delivery of consumer protection at a local level. The Regulatory Services Manager shall; bring a further report to Committee once the outcome of the review is known..

### 3. BACKGROUND – THE CURRENT ENFORCEMENT POSITION

- 3.1 Currently consumer protection work is delivered; *locally*, by individual Council Trading Standards services (e.g. underage sales, local scams, pricing in shops), *regionally* by groups of Councils choosing to work together (e.g. dealing with cross border rogue traders, illegal money-lending), and *nationally* by the Office of Fair Trading (OFT). All of these elements have to be working effectively together to provide the levels of protection that local communities need.
- 3.2 Many years ago groups of Councils (usually organised on English region, Welsh and Scottish lines) chose to organise themselves into groups to tackle these problems. For the last 5 years, the Department of Business, Innovation and Skills (BIS) (formerly Dept. of Trade & Industry) have provided additional funding for those activities relating

to cross-border rogue trading and illegal money-lending, recognising the national resilience that enforcement work in this area provides. Councils have keenly embraced these agendas through these groups.

- 3.3** The OFT has been responsible for taking enforcement action regarding nationally important consumer protection cases. Recent examples include the internet pricing system used by Ryanair, although the number of cases taken by the OFT has been relatively few. Councils have supported the enforcement role of the OFT, whilst at the same time having concerns over the lack of political oversight on this aspect of their work, together with the somewhat bureaucratic and prescriptive nature of some of the actions taken.

#### **4. ENFORCEMENT – THE NEW PROPOSALS**

- 4.1** The Government seem keen to see local government provide the delivery mechanism and governance structure for all the regional and national consumer protection work. It is expected that there will be a governance mechanism at a political level (via the LG Group) and at heads of service level, that would direct the work currently done regionally by Councils and be responsible for allocating government funding, under a service level agreement, for specific activities to deliver many of the functions currently provided by the OFT. It is recognised that there must not be any financial risk to Councils participating in this new work (e.g. from legal costs relating to large national cases) and the Government is working with Council Trading Standards Services to explore ways of providing some form of indemnity or insurance backed scheme to guarantee this.
- 4.2** None of this affects in any way the vast majority of Trading Standards work which will continue to be wholly delivered, funded and managed locally by Councils.
- 4.3** At this stage the funding associated with this change of enforcement is unknown, but if all the various funding streams and governance structures were joined up it is likely to be in the region of £12 – £15 million and is likely to be initially for a period of 3-4 years. This would give local government the chance to work together to rationalise all of the separate central government governance mechanisms, making them both closer to Councils and more efficient.
- 4.4** There are quite a few potential models under consideration. The OFT appear to favour a Joint Enforcement Board, where control of regional (Scotland-wide) and national (UK-wide) enforcement is overseen by a new Competition & Markets Authority, with input from Trading Standards.
- 4.5** Another model under consideration is one where the Society of Chief Officers of Trading Standards in Scotland (SCOTSS) takes responsibility for a Scottish National Reaction Team, which will

provide a Scottish Scambusters & Illegal Moneylending Team and provide support to individual Scottish Local Authorities that require assistance with large cases. This option is likely to be supported by SCOTSS and by the general Scottish trading standards community.

#### **4.6 Changes to Consumer Advice**

**4.6.1** The OFT has provided the Consumer Direct telephone helpline for over 5 years working closely with Councils' Trading Standards services. This provides simple consumer advice and refers to Councils more complex issues or those where enforcement action may be required. In essence the process will remain the same, but under the proposals it will be the Citizens' Advice Bureau who will be funded by government to provide the frontline consumer advice rather than the OFT. It is understood they will rename "Consumer Direct" to "Citizens' Advice."

**4.6.2** In Scotland, Citizens Advice Scotland intends to provide this service by continuing to use the Consumer Direct call centre at Shawbost in the Western Isles. In England and Wales, the situation is less certain, with a tendering process currently being undertaken.

**4.6.3** It will be essential that Council Trading Standards services receive information from Citizens Advice about the type of complaints being reported so that they can plan and target their activities accordingly and so ensure that they continue to have the greatest deterrent effect against rogue traders

**4.6.4** This is important locally as all consumers benefit from access to good consumer advice. It enables them to become informed consumers who are confident in exercising their purchasing power and deal with problems if they arise.

### **5. CONCLUSIONS**

**5.1** All businesses and consumers benefit from the protection provided regionally and nationally by Council trading standards services. It is important than any proposed changes to the consumer landscape addresses local, regional and national issues, including national pricing rip-offs and international scams; illegal money-lending, a crime often based in specific, often deprived, local communities, requires specialist expertise that very few Councils can maintain locally. And rogue traders, being no respecter of boundaries. In doing so, this protects legitimate businesses who comply with the law.

### **6. IMPLICATIONS**

Policy	This may significantly change the delivery of the Council's Trading Standards service and the funding of 3 <sup>rd</sup> sector consumer advice
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Financial	Unclear at present
Equality	An issue which requires further consideration
Personnel	Potential subject to proposals

**ALAN MORRISON**  
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**AM/KT/7310 SEP 2011**

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**ARGYLL AND BUTE COUNCIL  
CUSTOMER SERVICES**

**PLANNING, PROTECTIVE  
SERVICES AND LICENSING  
COMMITTEE**

**19 OCTOBER 2011**

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**CIVIC GOVERNMENT (SCOTLAND) ACT 1982  
TAXI FARE SCALE REVIEW**

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**1. BACKGROUND**

- 1.1** In terms of the Civic Government (Scotland) Act 1982, Section 17 the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis.
- 1.2** The Planning, Protective Services and Licensing Committee at their meeting on 19<sup>th</sup> January 2011 decided to increase the fare structure as follows:-

Tariff 1 from £2.50 to £2.70

Tariff 2 from £3.00 to £3.20

Tariff 3 from £3.50 to £3.70

that the charges in respect of soiling, waiting and telephone bookings remain as £100 (maximum), 30p per minute and 30p respectively;

that there be no change to the yardage distances which are currently based on an initial charge per 860yds and a subsequent charge of 20p for each additional 200 yds;

that a further review of the fare structure should be undertaken in 12 months time rather than 18 months as required by the Civic Government (Scotland) Act 1982.

- 1.3** The purpose of this report is to advise the Committee regarding the commencement of these procedures for the review.

**2. ARRANGEMENTS FOR TAXI FARE SCALE REVIEW**

- 2.1** The procedure for reviewing taxi fares has changed. A licensing authority must before fixing fares consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area. Following the consultation the licensing authority must review the existing scales and publish them, propose a date when the proposed scales shall come into effect and consider representations.

**2.2** The proposed forthcoming review of fares will be advertised in the press in the next few weeks and an opportunity will be given for representations to be submitted.

**2.3** Consultation requires to be carried out with the taxi associations in Argyll and Bute before the Committee takes a decision on the review.

### **3. ACTION**

**3.1** It is recommended that all Taxi Operators within the local authority area will be notified in writing of the review and they and their representatives will be invited to make written representations by 28 November 2011. Thereafter a report will be placed before the 18 January 2012 meeting of this Committee in order that the Committee can review and propose new scales and agree the proposed date for this to come into force.

### **4. RECOMMENDATIONS**

**4.1** It is recommended that a report be submitted to this Committee early in the new year, for a decision on what the fare scale will be from February/March 2012.

### **5. IMPLICATIONS**

**5.1** Policy – None

**5.2** Financial – None

**5.3** Legal – The Council require to review taxi fares every 18 months in terms of the Act

**5.4**  
HR – None

**5.5**  
Equalities – None

**5.6**  
Risk - None

CHARLES REPPKE  
Head of Governance and Law

For further information contact: Alison MacNab  
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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:** 11/00784/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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## SUPPLEMENTARY REPORT NO.2

### 1.0 SUMMARY

Members will have received a submission from the applicant regarding the above application. The key points are summarised and assessed below.

- Is the proposed development inconsistent with the conservation area or unattractive? Does the loss of two trees impact significantly on the conservation area? Tree density in the area remains very high and the number of trees on site remains higher than similar homes in the conservation area. Moreover, of the two trees that require removal, the larger has a cavity, and this weak point predicts the major limb falling. Additionally, both trees shed leaves onto the steep road reducing tyre traction in autumn and winter and leading to blockage of the burn running under the road leading to flooding.

*Comment: The application site forms part of a larger area which is a TPO and which successfully integrates and softens the impact of existing residential development into its wider landscape setting. The applicant's tree survey submitted with the application indicates 13 trees within the site and one on the boundary. Of these 6 are in good condition, 6 in fair condition, 1 in poor condition and 1 dead tree. Under the original plans the dead tree will be removed while 6 others would need to be removed to accommodate proposals. Of these 6, 4 are in fair condition and 2 in good condition. Additionally, another tree in good condition may be affected by the proposals. 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. The state of the trees and the issue of leaves causing traction issues and flooding is the responsibility of the owner. The planning authority would look sympathetically on any appropriate works to a protected tree.*

- Thirteen objections have been raised of which two people have objected twice. Of the objectors five will not be able to see the proposed development.

*Comment: Anyone can object to an application. The objections are on legitimate planning grounds and are a material consideration in the assessment of the proposal along with the previous refusal of planning permission on this site.*

- Along this area of Station Road there is a mixed style of housing. Directly opposite are 34 local authority houses and a modern estate. Further along the road to the south is a period house, Laggary Lodge, which is already flanked on two sides by modern houses. To the north and adjacent to the proposed site is Laggary Cottage which sits directly opposite the modern estate on Glebe Road. Next to that is the Coach House which is directly opposite a modern detached house with integral garage (Glebe Cottage), followed by the modern houses of Torr Crescent

*Comment: Station Road presents two distinct "sides" one traditional, one more modern, and clearly marks a boundary between different types of housing. It is not a transition zone but two markedly different areas. 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. Both the design and 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. The applicant has indicated a potential amended footprint with the proposed house sitting gable end on to the road. This is reinforced by a simulated picture of the proposed house shown with replacement planting. It is difficult to say if the perspective is accurate in terms of depth of field but it does confirm that even with this amended footprint it will still be visually intrusive, visually discordant and contrary to policy. Sub-dividing the plot and siting a new house of modern design set back 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.*

- Approximately half of the entire site is cultivated, set to lawn and used as a family garden. The proposed development involves only the rear, unmaintained, overgrown half of the land. We propose to build a quality 4 bedroom dwellinghouse of an identical design to a house already built 400m further along Station Road. The boundary wall would be rebuilt in stone. We also propose to re-plant sympathetically trees/shrubs in order to maintain the character of the road.

*Comment: The planting of replacement trees and shrubs around part of the plot will not be sufficient to retain the woodland character of the site in either the short or the long term. The site is covered by a Tree Preservation Order and the proposal will prevent significant regeneration and replanting of trees by reducing the area available for tree cover and changing the character of the site from woodland to suburban garden. The loss of trees and other vegetation cover and their replacement with a substantial dwelling, hardstanding and other associated suburban development will clearly neither preserve nor enhance the character of the area as required by development plan policy. This is reinforced by the simulated picture of the proposed house which in this location and this part of the conservation area will be visually intrusive, visually discordant and contrary to policy.*

- The previous planning refusal raised a number of concerns. The first of these was precedent as there was concern that there could be copycat development at number 3 and 5 Laggary Park. This is not the case as the frontage of these

gardens could not allow for the permissible sight lines deemed necessary for a vehicular access.

*Comment: Whilst each case is judged on its merits, if permission is granted, it could well set a precedent for copycat proposals, particularly as permission was previously refused on this site. It is likely that appropriate access could be provided should other development be proposed.*

- The second reason for refusal under the previous application related to the detrimental impact on amenity and landscape quality. The site does not have public access and amenity can only be viewed as a balance between the appearance of trees and available light for homes and gardens. The proposal would reduce tree density and would improve light to the front gardens of several smaller family homes opposite.

*Comment: Amenity is defined, inter alia, as the pleasant or normally satisfactory aspects of a location which contribute to its overall character and the enjoyment of residents or visitors. As such lighting is only one minor aspect of this. Trees form an important part of our environment and in the delivery of sustainable development. They contribute considerably to the amenity of the landscape and streetscene, add maturity to new developments, make places more attractive, and help soften the built environment by enhancing pleasant views, by breaking up view lines and by screening unattractive buildings and undesirable views. A planning authority has a legal duty to protect trees. In this case the loss of trees and other vegetation cover and their replacement with a substantial dwelling, hardstanding and other associated suburban development will clearly neither preserve or enhance the character of the area and critically undermine the amenity of adjoining properties and the surrounding area. This was clearly recognised in the previous refusal on this site.*

- The third concern under the previous refusal was that the introduction of a structure into a position immediately adjacent to Station Road would detract from the established streetscape and at odds with the original design concept of Laggary Park which places no property in direct roadside position to Station Road other than long established properties. The proposed development would be outwith and unseen from Laggary Park. It would be directly opposite an estate of ex local authority housing and the modern housing (Glebeheld Road) which was developed sometime after Laggary Park. This does not constitute historic or long established buildings.

*Comment: This previous reason for refusal and the others are correct and still relevant. As indicated above Station Road presents two distinct "sides" and clearly marks a boundary between different types of housing. It is not a transition zone but two markedly different areas. 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. Both the design and 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 of modern design 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.*

## **2.0 RECOMMENDATION**

It is recommended that whilst the contents of this report are noted, they do not change the recommendation contained in the original report of handling and that planning permission should be refused for the reasons set out in that report.

Author: Howard Young 01436 658888  
Contact Point: Richard Kerr 01546 604845

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

03 October 2011

**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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**SUPPLEMENTARY REPORT No 1**

**A. INTRODUCTION**

This report makes a minor change to reason for refusal recommended in the original report for the purposes of clarity. The underlying grounds of refusal remain unaltered.

**B. GROUNDS OF REFUSAL RELATIVE TO APPLICATION 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 six 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. 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.

**Author of Report: Howard Young**

**Date: 19/09/2011**

**Reviewing Officer: Richard Kerr**

**Date: 19/09/2011**

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

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**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

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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 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)

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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):** 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.

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**(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

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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:** 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**

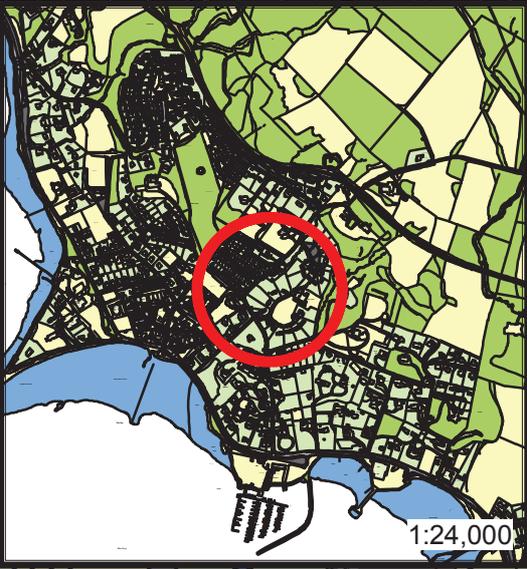
Scottish Water has no objections to the proposal.

**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.



Application Site



1:24,000

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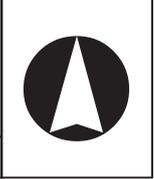
227200



**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 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:** 11/01019/LIB

**Applicant:** Ee-Usk, North Pier, Oban

**Proposal:** Removal of Condition 4 relative to Listed Building Consent 10/01817/LIB (Demolition not to commence until contract let for re-development).

**Site Address:** Argyll Hotel, Corran Esplanade, Oban

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

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**(A) THE APPLICATION****(i) Development Requiring Listed Building Consent**

- Demolition of Argyll Hotel (category C(s) Listed Building) without compliance with condition 4 of listed building consent 10/01817/LIB requiring that demolition should not commence until a contract has been let for redevelopment.

**(ii) Other specified operations**

- N/A
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**(B) RECOMMENDATION:**

It is recommended that Listed Building Consent be refused for the reason given in this report

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**(C) HISTORY:**

**03/01811/LIB** - Demolish existing buildings at rear of property and construct new rear 3 storey extensions and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27<sup>th</sup> January 2004

**03/01809/DET** - Demolish existing buildings at rear of property and construct new 3 storey extension and refurbish existing hotel Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 27<sup>th</sup> January 2004

**04/02426/DET** Erection of Three Flats (formerly staff housing) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5<sup>th</sup> April 2005

**04/01438/LIB** – Demolition of existing buildings at rear of hotel and erection of 2 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3<sup>rd</sup> November 2004

**04/01436/DET** – Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Refused - 3<sup>rd</sup> November 2004

**04/01434/LIB** – Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1<sup>st</sup> October 2004

**04/01433/COU** - Change of use of and alterations to hotel to form 8 flats with ground floor restaurant and public house Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 1<sup>st</sup> October 2004

**04/00053/LIB** Demolish and construction of new extension to rear of property and refurbishment, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5<sup>th</sup> April 2004

**04/00052/DET** - Demolish Buildings at Rear of Property and Construct New Rear Extension; Refurbish Existing Hotel - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5<sup>th</sup> April 2004

**05/02290/DET**- Erection of 6 Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 13<sup>th</sup> January 2006

**05/00485/DET** - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 12<sup>th</sup> July 2005.

**05/00002/REFPLA** - Appeal against refusal of consent for Demolition of existing buildings at rear of hotel and erection of 5 Town Houses, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Appeal Withdrawn – 16<sup>th</sup> February 2005

**05/00021/COND** - Appeal against condition(s) imposed on application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only - Appeal Dismissed – 25<sup>th</sup> July 2005

**05/01547/DET** - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 9<sup>th</sup> November 2005

**05/00771/VARCON** - Application for removal of condition No.2 on planning permission ref no. 04/02426/DET relative to the flats use being restricted to holiday accommodation only, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 6<sup>th</sup> July 2005

**06/00145/ENFLB** - Poor State of Repair of C(S) Listed Building. ENF001 - Amenity Notice Served - 20<sup>th</sup> November 2006

**07/00644/DET** – Alterations and extension to the Argyll Hotel, Oban to form Public Bar and Flats, Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3<sup>rd</sup> January 2008

**07/00643/LIB** - Construction of nine new permanent flats and associated stair towers to rear of hotel building Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 3<sup>rd</sup> January 2008

**09/00222/ENOTH1** - Interim interdict to restrain owner from carrying out unauthorised works of demolition - 16<sup>th</sup> February 2009.

**09/00222/ENOTH1** - Demolition of a listed building - Amenity Notice Served - 22<sup>nd</sup> May 2009

**10/01817/LIB** – Listed building consent granted for demolition of hotel 31<sup>st</sup> May 2011

**10/01831/PP** – Demolition of hotel and erection of new 63 bedroom hotel - Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ – Granted 20.04.11

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**(D) CONSULTATIONS:**

**Historic Scotland (4<sup>th</sup> August 2011)** – The perceived economic benefit associated with the redevelopment of this site to provide a modern hotel was a key element of the justification for the demolition of the Argyll Hotel. In our view, it is important that this listed building is only demolished if it is clear that redevelopment is to take place. No detailed account of the issue has been provided with the application and we would recommend that this is sought from the applicant. If there is clear justification that the wording of the condition is an impediment to the development taking place, a legal agreement may be an appropriate alternative solution.

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**(E) PUBLICITY:**

The application has been advertised by way of a Site Notice and in the Oban Times/Edinburgh Gazette - Listed Building/Conservation Advert – expiry date 21<sup>st</sup> July 2011.

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**(F) REPRESENTATIONS:**

None

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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
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**(H) PLANNING OBLIGATIONS**

**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 & Bute Structure Plan' (Approved 2002)

Policy STRAT SI 1 – Sustainable Development

Policy STRAT DC 1 – Development within the Settlements

Policy STRAT DC 9 – Historic Environment & Development Control

'Argyll & Bute Local Plan' (Adopted 2009)

Policy LP ENV 13(b) – Demolition of Listed Buildings

Policy LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas (SBEA)

Appendix A: Listed Buildings & Special Built Environment Areas

- (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
  - Scottish Historic Environment Policy, 2008 (SHEP)
  - Managing Change in the Historic Environment – Demolition
  - Scottish Government Circular 4/1998 Use of Conditions in Planning Permissions
  - Scottish Government Circular 1/2010 Planning Agreements
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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: No**

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

The issue in this case is whether a condition attached to listed building consent for the demolition of this building ought to be removed. The condition in question provided that demolition of this listed building ought not to take place until there was certainty that permitted redevelopment of the site to provide a replacement hotel would follow, and that was to be secured by evidence being provided by the developer to the Council that a contract was in place for the implementation of the redevelopment of the site, in advance of demolition works being commenced.

The applicant contends that this condition is onerous and acts as an impediment to the implementation of the development as a whole. As an alternative to appealing the condition to Scottish Ministers, he has elected to apply to the Council for the removal of the condition. In such circumstances the onus is on the prospective developer to demonstrate why he is unable to adhere to the requirements of the condition, and to advance any measures which he is in a position to offer by way of mitigation. However, in this case, although the owner of the building claims that the effect of the condition is to frustrate the development, that claim is on the basis of an assertion on his part, rather than on the basis of any argued case corroborated by the professional opinion of property valuers, development financiers or any other third party evidence which could help substantiate such a claim.

The purpose of the condition is to prevent the removal of a building until there is reasonable certainty that redevelopment will follow. This prevents the prospect of there being a long gap between works of demolition and redevelopment, or potentially, a site being cleared and no redevelopment whatsoever taking place. The use of such a condition avoids unsightly gap sites within important areas of townscape such as this, and potential demand for problematic cleared sites being redeveloped for purposes other than those envisaged at the time consent was granted for demolition.

Historic Scotland are clear that the principal reason for them not seeking to intervene in the Council's decision to permit demolition, was the economic benefit case argued by the applicant in support of the replacement hotel. Without such benefits accruing from the provision of a new hotel in support of the Oban tourism economy, on the basis of the criteria for the consideration of demolition requests as set out in 'Scottish Historic Environment Policy', the applicants would not have been able to have satisfied the requirements of government policy in respect of the demolition of listed buildings.

Planning conditions are only to be imposed where they satisfy the 'six tests' established by case law, and which are replicated in Circular 4/1998. These require that a condition must be *necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects*. In this case, the condition applied satisfies all of those tests, and importantly, its imposition safeguards the position adopted by Historic Scotland that there must be a guaranteed link between the loss of

the historic asset and the realisation of the redevelopment advanced in support of such loss.

.Members should note that such a condition is widely used in demolition/redevelopment cases involving listed buildings or the demolition of unlisted buildings in conservation areas, and to that end, the condition is not one which is novel or spurious. Indeed, it is one of wide applicability which indicates the need for the applicant to have advanced an exceptional case for its removal. The applicant has been invited to elaborate upon his request but has declined to do so and wishes the application to be determined as it stands. Officers have advised that a Section 75 legal agreement might provide an alternative means of safeguarding Historic Scotland's and the Council's position whilst giving additional comfort to the developer and his financiers. It would however be for the applicant to advance the detail of any proposed alternative approach, given the Council's satisfaction with the terms of the condition as imposed. No alternative mechanism has been suggested by the applicant and therefore the application is simply for the deletion of the condition.

In the absence of any coherent argued case on a site specific basis in support of the removal of the condition, as there is no justification for deviation from normal planning policy considerations, and it is recommended that the application be refused, as the granting of listed building consent without such a safeguard in place would not satisfy the requirements of development plan policies STRAT DC 9 or LP ENV 13(b) and associated government advice. .

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

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**(R) Reasons why listed building consent should be refused**

See reason stated elsewhere in this report.

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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:**

In the event that Members are minded to grant listed building consent for demolition without condition 4 as previously imposed to satisfy Historic Scotland's requirements, the application is required to be notified to Historic Scotland, thereby affording the opportunity for Scottish Ministers to give consideration to the need to 'call-in' the application for their own determination.

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**Author of Report: Richard Kerr                      Date: 1<sup>st</sup> October 2011**

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

**REASON FOR REFUSAL RELATIVE TO APPLICATION 11/01019/LIB**

1. The granting of listed building consent for the demolition this Category C(s) listed building is inextricably linked with the associated proposals for which planning permission has been granted to redevelop the site for a modern hotel building. The approved redevelopment proposal were advanced and accepted as being integral to the case for demolition, as the anticipated economic benefit associated with the redevelopment of this site to provide a replacement hotel was a material factor in the ability of the proposal to be able to satisfy the criteria for the acceptance of the demolition of listed structures, as set out in Scottish Historic Environment Policy (2008). Removal of the condition in question would therefore introduce uncertainty as to when, and if, redevelopment proposals would necessarily follow, and could lead to premature demolition of the building and a potentially long-standing gap site, which would be harmful to townscape character, the Special Built Environment designation of the area, and the settings of adjoining listed buildings. It would not therefore secure a consent which would satisfy those considerations which were instrumental in the grant of listed building consent for demolition in the first instance, and without such a condition, the proposal fails to meet the requirements of development plan policies STRAT DC 9, LP ENV 13(b) and LP ENV 14 or the associated government advice set out in Scottish Historic Environment Policy (2008) and Historic Scotland's Managing Change in the Historic Environment – Demolition (2010)

## **A. Introduction**

Listed building consent has been granted by the Council for the demolition of the derelict Argyll Hotel on the Coran Espanade in Oban. The building has been vacant and deteriorating for a number of years, given that it does not lend itself to occupation as a modern hotel by virtue of its construction and layout and due to the fact that it has been progressively deteriorating in terms of its structure and its fabric, with consequent adverse consequences for the townscape of this part of the town. The Argyll Hotel itself was given a category C(s) listing by Historic Scotland in 1995. It has been the subject of 4 building phases of early, earlier, mid-to-late and late 19<sup>th</sup> century. The buildings are traditional in style with Scots Baronial embellishments to the upper floors. It comprises a 10-bay frontage, comprised of 3 terraced buildings on the Corran Esplanade and prior to past unauthorised demolition, an adjoining annexe to the rear. The walls to the street elevation are painted, coursed rubble and to the rear are random rubble. There are droved dressings and raised margins with projecting cills to the window openings. Historic Scotland's listing team reviewed the building in 2009 and concluded that it warranted continued protection as a listed building.

Historic environment policy as set down by the government and also set out in development plan policy, seeks in principle to avoid the demolition of listed structures other than where there is justification in terms of the policy criteria set out in 'Scottish Historic Environment Policy'. In this case, at the time the original listed building consent for demolition was granted, both the Council and Historic Scotland accepted that the condition of the building was an impediment to its refurbishment, and that there was a persuasive case for demolition and redevelopment with a modern hotel building, in the interests of the tourism economy of the town. With that in mind, the listed building consent for demolition and the planning permission for redevelopment were linked by way of a condition imposed upon the former, which required that the works of demolition ought not to commence until a contract had been let for redevelopment. The purpose of this was to avoid premature demolition and to guarantee that the consents would be implemented hand in hand, thereby ensuring that the justification accepted for the demolition would be realised by the obligation to implement the permission for redevelopment.

## **B. Scottish Historic Environment Policy (2008) - (SHEP)**

This document, in association Scottish Planning Policy on the Historic Environment (SPP 2010), expresses Scottish Ministers' policy on the historic environment. It indicates that protection of the historic environment is not about preventing change. Change in this dynamic environment should be managed intelligently and with understanding, to achieve the best outcome for the historic environment. SHEP recognises that once lost listed buildings cannot be replaced. There is, therefore, a presumption against demolition or other works that adversely affect the special interest of a listed building or its setting.

Where the application proposes the demolition of a listed building, such as in this instance, the SHEP policy requires that they provide evidence to show that at least one of the following criteria has been satisfied:

- 1) the building is not of special interest; or
- 2) the building is incapable of repair; or
- 3) the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period; or;
- 4) the demolition of the building is essential to delivering significant benefits to economic growth or the wider community.

Although SHEP establishes a presumption in favour of retention of listed buildings it recognises that decisions on the fate of individual buildings often have to take into account economic realities. In granting consent for demolition of this building, it was concluded by the Council and Historic Scotland that the best outcome for the historic environment in this case, given the dilapidation of the building and the absence of any apparent viable options for its re-use, was the demolition of the Argyll Hotel, in the interests of protecting the settings of adjoining listed buildings and maintaining the qualities of the Special Built Environment Area.

In acceding to consent being granted, Historic Scotland accepted that one of the SHEP criteria was met in this instance (only one is required to be met) and that it is likely that a second could be met, although the applicant had failed to provide a consolidated case to provide sufficient assurance that this was absolutely the case.

The case for demolition was therefore accepted by both the Council and Historic Scotland on the grounds that repair of the building would not be economically viable in and on the basis of economic and community benefit, associated on the one hand with the removal of this problematic and deteriorating building, and on the other with the opportunity which redevelopment of the site would offer in terms of the development of the local tourism economy. Accordingly the demolition of this Grade C(s) building is was deemed to be consistent with the balanced approach advocated by Scottish Historic Environment Policy (2008), but most importantly on the basis that demolition and redevelopment would go hand in hand, and that this position would be adequately safeguarded by the imposition of the condition in question in conformity with Historic Scotland advice and local plan policy.

### **C. Managing Change in the Historic Environment – Demolition**

Historic Scotland's advice to planning authorities is contained in a series of publications addressing 'Managing Change in the Historic Environment' (2010). The document covering demolition indicates that applications should be assessed against the following tests: importance of the building; condition of the building; economic viability of reusing the building; and, wider public benefits, in line with national policy. To obtain consent for demolition, applications need to meet at least one of these tests.

In terms of the implementation of permitted works of demolition, Paragraph 6.4 states that:

*Demolition should not begin until evidence is given of contracts let either for the new development or for appropriate long-term treatment as open space where that outcome conforms to the character of the area. Gap sites could be harmful to the character of the area if allowed to lie undeveloped for a significant time between demolition and redevelopment.*

The requirement to have regard to this policy position is further set out in Policy LP ENV 13(a) of the 'Argyll and Bute Local Plan'. Removal of the condition in question, without demonstrable justification would conflict with both Managing Change advice and local plan policy.

### **D. Development Plan Policy**

The application requires to be assessed in terms of policies STRAT SI 1, STRAT DC 9 and LP ENV 13(b) in respect of the demolition of a listed building and the consequences for adjacent listed buildings, and in terms of Policy LP ENV 14 in terms of the consequences for the Special Built Environment Area established by the local plan. These policies essentially reflect the overall approach to the historic environment established by national policy and discussed in the preceding sections.

Policy STRAT SI 1 of the Argyll & Bute Structure Plan (approved 2002) states that the Council must seek to: maximise the opportunity for local community benefit; make efficient use of vacant and/or derelict brownfield land; conserve the built environment and avoid significant adverse impacts on built heritage resources. Policy STRAT DC 9 advocates a proportionate and realistic approach which is given greater expression in the case of demolition by local plan Policy LP ENV 13(b). The justification to Policy STRAT DC 9 of the Council's Structure Plan indicates that the strength of protection is proportionate to the importance of the asset in question and that there is a need to respond positively to modern needs innovation and change. It goes on to say that a balanced proportionate approach is the underlying intention of the Structure Plan policy on the historic environment. In adopting such a proportionate response in this case, it is necessary to have regard to:-

- the inherent qualities of the building,
- its grading and status (as a category C(s) listed building),
- the extent to which it blights other properties (including adjacent higher category listed buildings),
- the negative impact it has on the townscape qualities which contribute to Oban's tourist draw,
- the degree to which it is inhibiting investment in this high profile town centre location, due not only to its derelict condition, but also given that it is ultimately unsuited to the modern day needs of a growing and rapidly evolving tourist industry;
- the Scottish Government's prioritisation of economic growth, with tourism identified as a key growth industry and given further justification through the Council's 'Economic Development Action Plan' (2010 -2013), with tourism in Argyll and Bute considered as one of our most important industries and affording the best potential for economic growth.

In accepting the case for the demolition of this problematic building, consideration was given by the Council and Historic Scotland at the same time to what were advanced by the applicant as associated redevelopment proposals affording the opportunity to secure a new modern high quality hotel development in the town, which would be significant not only in enhancing the built environment, but which would represent a major asset to the Oban tourism economy. In weighing historic environment and tourism economy considerations in the balance, it was considered that the proposal to demolish the Argyll Hotel would be consistent with the provision of Policies STRAT SI 1 and STRAT DC 9 of the 'Argyll & Bute Structure Plan' (approved 2002).

Local Plan Policy LP ENV 13(b) specifically addresses cases where demolition is proposed. It is predicated by the principle that demolition will only be supported in exceptional cases where effort has been exerted by all concerned to find practical ways of keeping a building, where it is clear that its condition precludes re-use for modern purposes and where it has been marketed unsuccessfully. In granting consent for demolition, it was accepted that the building did not lend itself to modern hotel use, and to that extent, demolition of the building would satisfy the requirement of Policy LP ENV 13(b) as the building would be regarded as being incapable of use for modern purposes at economic cost and secondly, the demolition of this building would be considered necessary to secure the delivery of significant benefits to economic growth or the wider community in Oban.

However, the ability to realise the redevelopment proposals was a significant material consideration in the acceptability of the application for listed building consent for demolition. Dissolution of the link between the implementation of these inter-related development proposals, by removal of the condition in question, would undermine the arguments advanced, and ultimately accepted, as part of the case for demolition, to the point at which that case would fail to meet the tests established by SHEP and the policy position set out in 'Managing Change in the Historic Environment,' and in turn, would not satisfy Structure and Local Plan policy requirements.

**E. Request for removal of condition**

Condition 4 of listed building consent 10/01817/LIB specifies:

*The demolition of the building shall not proceed until satisfactory evidence has been submitted to the Planning Authority to show that a contract has been let for the redevelopment of the site in accordance with proposals for which planning consent has been obtained.*

The terms of this condition satisfy Historic Scotland's requirement that premature demolition ought not to take place in advance of redevelopment works being committed. It also takes cognisance of the requirements of Section D of Local Plan policy LP ENV 13(b), which requires consideration being given to the need for such a requirement. In the case of this important and prominent site on the main road through Oban town centre, and having regard to the adverse implications of premature demolition for the settings of adjacent and nearby listed buildings it was considered that such a condition was fundamental to the acceptability of the case for demolition.

The Argyll Hotel is located within a 'Special Built Environment Area' as defined by the 'Argyll & Bute Local Plan' (adopted 2009 between the Regent Hotel (category B listed) and the Oban Inn (category B listed) and faces the Columba Hotel (category B listed) on the opposite side of the Esplanade. To the rear of the building, there is a terrace of listed (category B) former houses (now completely surrounded and dwarfed by later tenements to the George Street, Stafford Street, and Corran Esplanade, accessible only by a vennel at the north east end corner of the block and a pend beneath the Argyll Hotel) known as 'Charles Street'. The locality is therefore one of significant value in historic environment terms.

The site owner and prospective developer contends that the condition is unreasonable and acts as an impediment to the clearance of the site and his proposals to redevelop the land for a new hotel. Given the wide applicability of such a condition nationally, and its track record in the case of the redevelopment of other sites occupied by listed structures or unlisted buildings in conservation areas, he has been asked to specify those particular impediments which pertain in this case, and why there might be justification for departing from normal policy considerations and dispensing with the condition.

It has been suggested to him, that if a coherent case were to be presented substantiated by property valuers and/or development financiers, then consideration could be given to removal of the condition and its possible substitution by a legal agreement more closely aligned to the circumstances of the case, which could still safeguard the interests of the Council and Historic Scotland, whilst providing the necessary level of comfort to those financing and implementing the project. He has declined to provide a site specific justification or to advance any suggested alternative approach, and simply seeks to rely on assertions that it is not possible for him to implement the development with this condition in place.

His position is summarised in an e-mail of 27<sup>th</sup> September 2011 circulated to Members which reads as follows:

*We would like to convey to you our commitment to building a new hotel on the site of the old Argyll. The Argyll was purchased by us in April 2008, at that time money was easy to borrow for new projects in the tourist industry. Shortly after that, recession hit, and investment finance became difficult to access. Lending agencies are no longer able to accept a notional value of land.*

*The cleared site value of the Argyll is more than double that of the existing. We need that cleared site valuation in order to raise the 35% of borrowings we require. The condition that the contact be let prior to demolition is preventing us from raising that capital!*

*We have been in business in Argyll for over 25years, the last 12 years in Oban, where we employ 65 people. We rely on the people of Oban for the success of our business. The people of Oban have an expectancy of us to build the new hotel, they are well aware of our commitment to do just that. Were we to deviate from our expressed intention, it would be extremely detrimental to the reputation we have established.*

*It is in all our interest to have the new hotel up and running at the earliest possible date as every delay is costing us dearly.*

*As agreed by all parties the building is beyond repair. Once demolished you have control of how we hoard the cleared site. We have now invested over £400,000 on the Argyll. Our commitment to this development is absolute.*

*Will you please now reconsider your position.*

The situation regarding the condition from the Council's point of view, is that it has been imposed for sound planning purposes, that it satisfies national advice and local plan policy considerations, and that it meets the 'six tests' for the imposition of planning conditions set out in Circular 4/1998. Planning conditions should only be imposed where they make a difference between the acceptability or otherwise of a development. In this case, the need for the condition was clear at the time it was imposed and in the absence of any more refined mechanism expressed via a legal agreement proposed by the applicant and accepted by the Council as a suitable alternative, it remains so.

The owner and prospective developer's argument as set out above is that the value of the site once cleared is double that of the existing. He has not provided professionally qualified opinion to support such a claim by way of any pre- and post-demolition valuation of the site. In the absence of such, an opinion on the extent to which the presence of the building will affect the asset value in terms of the ability to raise development finance has been sought from the Council's Estates Surveyors. Their view is that unless there is a structural problem with the Argyll Hotel requiring its immediate demolition (which there is not) then the condition imposed ought not to be a problem. (The Council's Building Standards officers are regularly monitoring the condition of the building - last inspection 27.09.11 - and subject to safety fencing, boarding of windows and other associated measures being in place, they confirm that at the present time the building does present an uncontrolled risk to members of the public). The site value pre- and post-demolition will only vary by the cost of the demolition. The site value would also vary with planning consent, but given that consent is for a replacement hotel in this case, then planning permission is not a factor, only the cost of the demolition.

The ideal solution in this case from a financing point of view would be to demolish the existing hotel immediately prior to the construction of the replacement building, thereby avoiding having to pay interest on the cost of demolishing the old hotel over an extended period of time. It could very well be that the demolition and the new build are different contracts on the basis that say a hotel operator will take on a vacant site but does not wish to be involved with demolition of an existing building. However, that said, the best solution is still to tie up the new building contract and make that dependant on the demolition of the old building and fix the timing so the old building comes down as close to the start date for the new build as possible, allowing an element for delays, etc.

If the link between demolition and redevelopment is broken, and if the condition were to be removed, as requested by the site owner, then despite his best intentions, there remains the prospect that redevelopment might not follow, for a range of reasons not necessarily all in his control, in which case an unsightly gap site would ensue which would be more harmful to amenity in townscape terms than the retention of the albeit dilapidated building, the structural condition of which does not justify immediate demolition. This could then prove to be a long-term problematic site which could lead to demand for redevelopment for purposes other than the envisaged hotel use, which was instrumental in the decision to accept demolition of the existing hotel in the first instance.

Given that the applicant claims that the condition is an insurmountable impediment, officers have consulted with Glasgow City Council as to their experience with the applicability of the condition in question, given that there will be a greater incidence of demolition and redevelopment of listed structures in the context of a city authority. They have confirmed that in cases of demolition of a listed building, or a building in a conservation area, it is their standard practice, over many years and following current SHEP guidance, to impose a suspensive condition to control the timing of the demolition. That condition would require evidence to be submitted to the Council demonstrating that there is a contractual commitment to implement the replacement building/development before demolition of the existing building can take place. It is the view of the Principal Planning Officer for their City Centre Team that this procedure works reasonably well, and he does not recall anyone challenging such a condition, either at appeal or through a further application to delete the condition.

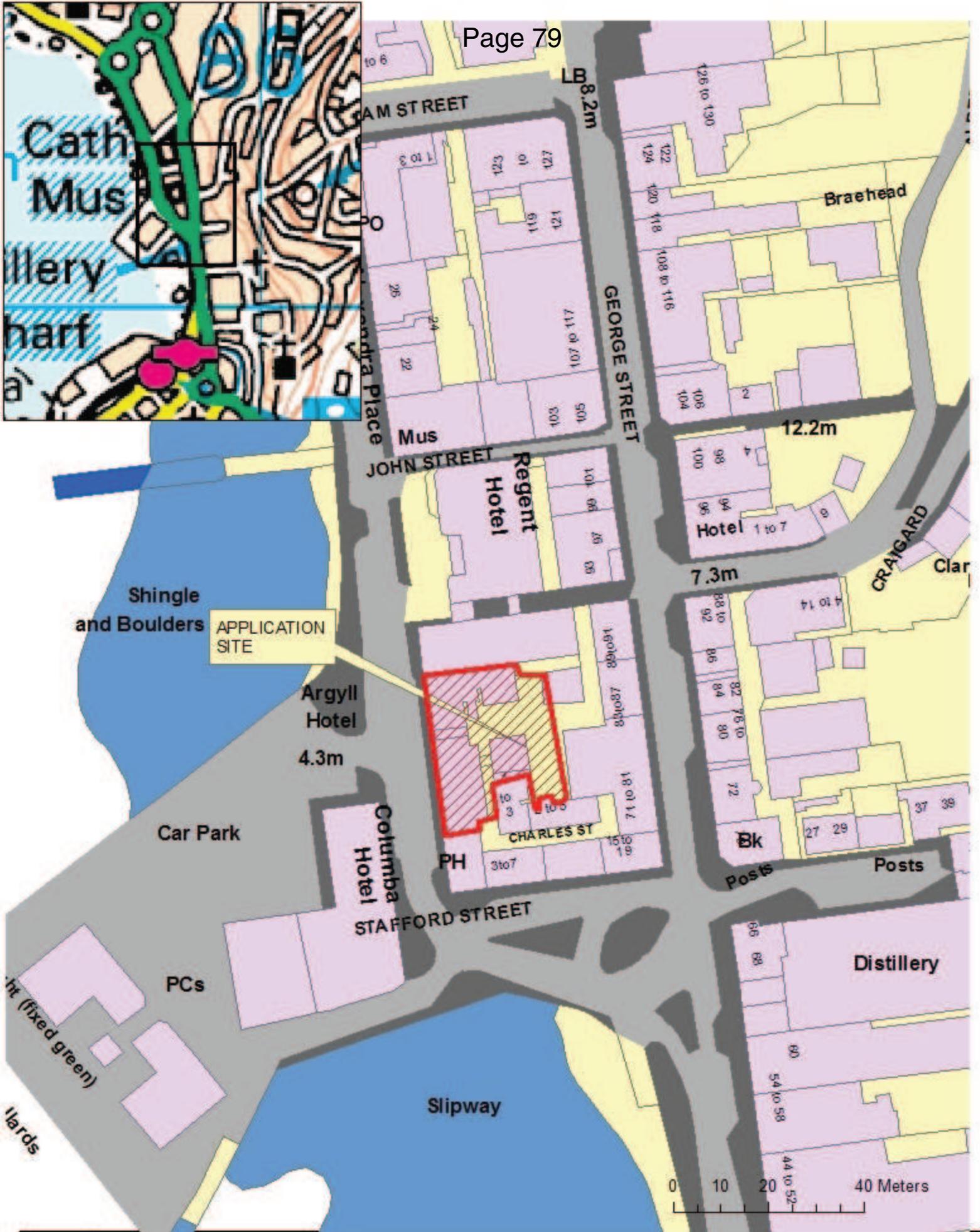
In the case of the current application, the prospective developer is effectively asking Members to proceed on the basis of trust and that he should be allowed to demolish the building forthwith, on the basis that he will proceed with redevelopment thereafter. Whilst there is no reason necessarily to question his motives or his sincerity, in that scenario, there would remain many uncertainties, including factors outwith his control, which could influence the timing of redevelopment, whether a hotel development would follow, or if the site were to remain in a vacant state for a long period of time.

The location of this building a close quarters with other listed buildings in the town centre requires particular consideration in terms of the damage which could be caused to the townscape of this important tourist centre in circumstances where uncontrolled demolition could lead to a situation of uncertainty and possibly lasting adverse impact on its surroundings. It is not therefore a case where normal policy considerations ought to be dispensed with lightly, as the ramifications cannot be predicted with certainty. Only by means of linking the commencement of demolition with a contractual commitment to redevelop can certainty be achieved; hence the purpose of imposing the condition in the first place.

Without maintenance of a guaranteed link between redevelopment proposals and works of demolition, the case for having granted listed building consent for demolition is fatally undermined. In such an event, the demolition would cease to be enabling work associated with the achievement of a wider proposal, and would simply become an independent operation in its own right, capable of implementation without any assurance

of when, and if, redevelopment might follow, and whether momentum for hotel redevelopment (as opposed to demand for some other form of development) might be sustained.

Removal of the condition in question would not therefore secure a consent which would satisfy those considerations which were instrumental in the grant of listed building consent for demolition in the first place, and without such a condition (and in the absence of some appropriate alternative mechanism being advanced by the applicant), the intended demolition of this listed building fails to meet the requirements of development plan policy and associated government advice.



APPLICATION SITE

### Committee Plan Relative to Planning Application 11/01019/LIB



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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:** 11/01104/PP

**Planning Hierarchy:** Local Development

**Applicant:** Argyll and Bute Council

**Proposal:** Erection of extension to provide additional classroom and store

**Site Address:** Taynuilt School, Taynuilt, Argyll, PA35 1JE

---

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

---

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

- Erection of extension
- 

**(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 and reasons appended to this report.

---

**(C) HISTORY:**

00/00459/NID - Siting of metal storage unit. Granted 17<sup>th</sup> May 2000

05/02217/CPD - DDA alterations. No objections 10<sup>th</sup> November 2005

07/01917/DET - Erection of early years unit. Granted 29<sup>th</sup> October 2007

08/00064/NMA - Non Material Amendment for Amendment to Window Position of Side Elevation Relative to Early Years Unit Approved Under 07/01917/DET. Granted 15<sup>th</sup> January 2008

08/00141/NMA - Non Material Amendment for Change of Roof Covering Relative to Pre 5 Unit Approved Under 07/01917/DET. Granted 28<sup>th</sup> January 2008

---

**(D) CONSULTATIONS:**

Area Roads Manager - No objections. (Report dated 15<sup>th</sup> August 2011)

West of Scotland Archaeology Service - No objections. (Letter dated 17<sup>th</sup> August 2011)

Public Protection Unit - No objections. (Memo dated 16<sup>th</sup> August 2011)

---

**(E) PUBLICITY:**

The proposal has been advertised in terms of Section 60 of the Town and Country Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, closing date 8<sup>th</sup> September 2011.

---

**(F) REPRESENTATIONS:**

None received

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

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

**(H) PLANNING OBLIGATIONS**

- |  |    |
|--|----|
| <b>(i) Is a Section 75 agreement required:</b> | No |
|--|----|
- 

- |   |    |
|---|----|
| <b>(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:</b> | 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**

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

Full details of the approved structure plan, including proposal maps and full policy wording can be viewed on the Council's website by clicking on the following link <http://www.argyll-bute.gov.uk/planning-and-environment/argyll-and-bute-structure-plan>

Argyll and Bute Local Plan 2009

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

LP COM 1 – Community Facility Development

Appendix A – Sustainable Siting and Design Principles

Full details of the adopted local plan, including proposal maps and full policy wording can be viewed on the Council's website by clicking on the following link <http://www.argyll-bute.gov.uk/planning-and-environment/local-plan>

(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.**

None

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<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	No
------------	---	----

---

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

---

<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	No
------------	--	----

---

<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	Yes
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---

<b>(O)</b>	<b>Requirement for a hearing (PAN41 or other):</b>	No
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**(P) Assessment and summary of determining issues and material considerations**

This is an application for planning permission for the erection of a new classroom extension at Taynuilt School, Taynuilt.

In terms of the adopted 'Argyll and Bute Local Plan' the site is located within the Settlement Zone of Taynuilt within which Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' gives encouragement within the main towns to development serving a wide community of interest.

The proposal involves the erection of a single storey extension to the north elevation with a floor area of approximately 76 square metres. It is considered that the proposed extension is of a suitable design and in keeping with the existing building. The proposal therefore complies with policies LP ENV 1 and LP ENV 19 of the adopted 'Argyll and Bute Local Plan'.

---

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

---

**(R) Reasons why planning permission should be granted:**

The proposal conforms to relevant development plan policies and that there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

---

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

N/A

---

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

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**Author of Report: Andrew Barrie**

**Date:** 3<sup>rd</sup> October 2011

**Reviewing Officer: Richard Kerr**

**Date:** 3<sup>rd</sup> October 2011

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO 11/01104/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 21<sup>st</sup> June 2011 and the approved drawing reference numbers:

Plan 1 of 5 (Location Plan at scale of 1:1250)  
Plan 2 of 5 (Drawing Number AL(00)002 A)  
Plan 3 of 5 (Drawing Number AL(00)003 A)  
Plan 4 of 5 (Drawing Number AL(00)004 A)  
Plan 5 of 5 (Drawing Number AL(00)005 A)

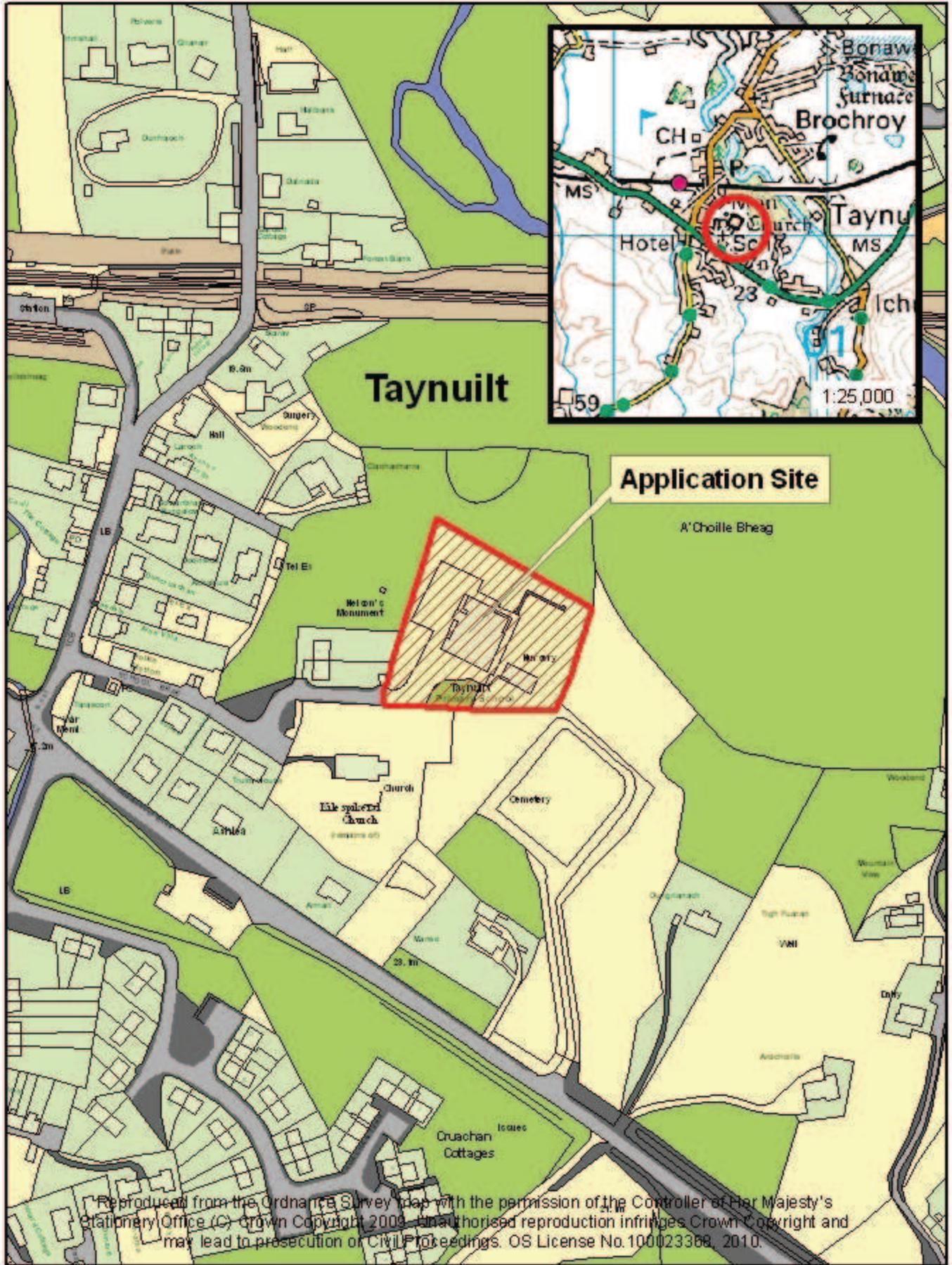
unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

**NOTE TO APPLICANT**

- **The length of the 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.

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### Location Plan relative to Application Ref: 11/01104/PP

Date: 23.02.2011

Scale: 1:2,500



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

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

---

**Reference No:** 11/01461/PP

**Planning Hierarchy:** Local Development

**Applicant:** Argyll and Bute Council

**Proposal:** Proposed Biomass Heating Plant to Serve Offices and Nursery, Comprising Boiler-room, Fuel Storage, Underground Pipework Connections, Access Improvements and Enabling Works.

**Site Address:** Kilmory Nurseries, Kilmory Castle, Kilmory Industrial Estate, Lochgilphead, Argyll.

---

## **DECISION ROUTE**

### **Local Government Scotland Act 1973**

---

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

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

- Installation of Biomass Heating Plant
  - Erection of Boilerhouse
  - Formation of Fuel Storage Silo
  - Underground Pipework Connections
  - Access Improvements
  - Formation of Area of Hardstanding
  - Enabling Works
- 

#### **(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 and reasons appended to this report.

---

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

No history relevant to this part of the site.

---

#### **(D) CONSULTATIONS:**

Area Roads Engineer

Email dated 08/09/11, advises no objections, but recommends the erection of a pedestrian sign.

West of Scotland Archaeology Service

Letter dated 20/09/11 – no objections as site has been subject to previous heavy disturbance.

Scottish Environmental Protection Agency

Email dated 29/08/11, advises no objections.

Public Protection Officer

Memo dated 29/08/11, advises no objection subject to a condition.

---

**(E) PUBLICITY:**

The proposal has been advertised in terms of setting of listed building procedures, closing dated 23/09/11.

---

**(F) REPRESENTATIONS:**

No representations have been received regarding the proposed development.

---

**(G) SUPPORTING INFORMATION**

Has the application been the subject of:

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

**(H) PLANNING OBLIGATIONS**

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

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

STRAT DC 9 – Historic Environment and Development Control

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 7 – Development Impact on Trees/Woodland

LP ENV 13a – Development Impact on Listed Buildings

LP ENV 19 – Development Setting, Layout and Design

LP BAD 1 – Bad Neighbour Development

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

LP REN 3 – Other (Non-Wind) Forms of Renewable Energy Related Development

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)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

---

<b>(K)</b>	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	No
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---

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

---

<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	No
------------	--	----

---

<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	Yes
------------	---	-----

---

<b>(O)</b>	<b>Requirement for a hearing (PAN41 or other):</b>	No
------------	--	----

---

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

Planning permission is sought for a Biomass Heating Plant to serve the offices and nursery, comprising a boiler-room, fuel storage, underground pipework connections, access improvements and enabling works at Kilmory Nursery, Kilmory Castle, Lochgilphead.

The proposal is consistent with the provisions of policy LP REN 3 which seeks to encourage non-wind renewable energy development where this is compatible with the amenity of its surrounds and does not give rise to an adverse impact upon infrastructure.

Furthermore, the proposal will not give rise to detrimental impacts upon the amenity of the locale and is of appropriate, scale design, finishes and location having regard to the setting of the castle which is a category B listed building.

---

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

---

**(R) Reasons why planning permission should be granted**

The proposal is consistent with the provisions of policy LP REN 3 which seeks to encourage non-wind renewable energy development where this is compatible with the amenity of its surrounds and does not give rise to an adverse impact upon infrastructure.

Furthermore, the proposal will not give rise to detrimental impacts upon the amenity of the locale and is of appropriate, scale design, finishes and location having regard to the setting of the castle which is a category B listed building.

---

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

N/A

---

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

---

**Author of Report:** Judith Stephen      **Date:** 24<sup>th</sup> September 2011

**Reviewing Officer:** Peter Bain      **Date:** 27<sup>th</sup> September 2011

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/01461/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 08/08/11 and the approved drawing reference numbers:

Plan 1 of 7 (Site Location Plan)  
Plan 2 of 7 (Photos of Existing Stone Retaining Wall and Gate)  
Plan 3 of 7 (Plan of Proposed Gate)  
Plan 4 of 7 (Drawing No. CPp/ABC/KC/002)  
Plan 5 of 7 (Drawing No. 1350/003A)  
Plan 6 of 7 (Drawing No. 1350/002)  
Plan 7 of 7 (Drawing No. 1350/004)

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.*

2. The use hereby permitted shall not commence until full particulars and details of a scheme for the dispersion of atmospheric pollutants from the development, including a calculation of the required flue heights from the boiler plants, has been submitted and approved by the Planning Authority and the development shall not be carried out otherwise than in accordance with any approval given.

*Reason: In order that the Planning Authority may be satisfied as to the arrangements for preventing loss of amenity to neighbouring premises due to atmospheric pollutants.*

3. Prior to the commencement of development, a scheme shall be submitted and approved by the Local Planning Authority to control the emission of dust from the site and the development shall not be carried out otherwise than in accordance with the approval given.

*Reason: In the interests of the amenity of the locale.*

4. Prior to the development hereby permitted commencing, a scheme shall be agreed with the local planning authority which specifies the provisions to be made for the control of noise emanating from the site.

*Reason: In order to prevent noise disturbance to nearby properties.*

5. The stone removed for widening of the existing access shall be reused for the retaining wall of the development hereby granted consent unless otherwise approved in writing by the Planning Authority.

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

**NOTE TO APPLICANT RELATIVE TO APPLICATION 11/01461/PP**

- **The length of the 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.
- The Area Roads Manager has commented that in the interests of road safety it would be advisable to erect a 'Pedestrian on Road Ahead' sign, (diag 544.1) close to the gable of the Kilmory annexe.
- It is advised that the permission relates solely to the provisions of the Town and Country Planning (Scotland) Act 1997; in particular it is noted that the details submitted do not include for the alteration of the fabric of Kilmory Castle for the purpose of connecting the biomass heating plant to an existing/proposed heating system within this category B listed building. In this respect it is advised that such works may require to be the subject of a separate application for listed building consent having regard to the provisions of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997.

**A. Settlement Strategy**

In terms of the adopted 'Argyll and Bute Local Plan', the site is within the 'main town' of Lochgilphead where Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' gives encouragement to small scale development which is compatible with an essentially rural settlement location on appropriate infill, rounding off and redevelopment sites, subject to compliance with other relevant local plan policies.

The provisions of policy LP REN 3 seek to support non-wind renewable energy development, including biomass, in forms, scales and locations where it will promote the aim of sustainable development, where servicing, electricity distribution and access impacts are acceptable, and all other material considerations, including the Council's international and national obligations, are satisfactorily addressed.

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

Planning permission is sought for a Biomass Heating Plant to serve the offices and nursery, comprising of a boiler-room, fuel storage silo, underground pipework connections, access improvements and enabling works at Kilmory Castle, Lochgilphead. The purpose of the development is to provide hot water to feed into the heating system serving the adjacent Council offices contained within Kilmory Castle.

The site as existing is currently an established nursery, comprising various polytunnels and an office and is located within a walled garden area to the north of Kilmory Castle, which is a Category 'B' Listed Building. The site itself is within the setting of a listed building and is relatively well-contained from a visual perspective. Ten or so trees and shrubs require to be removed to accommodate the development along with the removal of an adjacent canvas tunnel in order to allow fuel delivery vehicles to access the underground fuel silo. It is however noted that the south-eastern boundary of the site is formed by mature deciduous woodland and the loss of a small number of trees/shrubs will not impact upon the character of the locale and as such is considered to be consistent with the provisions of policy LP ENV 7. In these circumstances, no replanting is necessary to compensate for the removal of trees.

The proposed boiler-room will be a single storey building with a mono-pitched corrugated grey steel roof with a height of 6.5m on the north facing elevation and 3m on the south elevation. The external walls shall be finished in a combination of vertically boarded, natural cedar cladding and grey facing blockwork. The submitted details also specify the inclusion of a louvered metal door and panels to provide access and ventilation and installation of 2no. 9m high, galvanised steel boiler flues (although this height may be subject to some variation to meet environmental requirements). The boilerhouse will primarily accommodate a 400kw woodchip boiler, a 600kw back up oil boiler and 2no, 8,000 litre thermal stores and a control panel. An underground fuel silo will be formed adjoining the western elevation of the boilerhouse with a 500mm blockwork surround and waterproof access lids with a mesh screen below and an adjacent hardstanding area to allow service vehicle movements.

The proposals are considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates well into its surroundings and will not detract from the character and appearance of the area and as such are considered consistent with the provisions of LP ENV 19.

The operation of the proposed biomass heating system has potential to give rise to air pollution and noise nuisance within the immediate locale. The Council's Environmental Health Officer has advised that biomass boilers have the potential to give rise to intermittent smoke problems and both proposed boilers emit atmospheric pollutants which need to be dispersed from the immediate surroundings to avoid causing nuisance

or other problems to the nearby staff accommodation. In addition, the proposal to tip woodchips from a tipper wagon into an underground silo has the potential to give rise to localised dust problems if the woodchips are particularly dry and/or contain significant amounts of dust. It is also noted that the application as submitted does not contain any data on the likely noise emissions from the boilers and associated plant; it is however advised that sufficient mitigation against the potential effects of air and noise pollution can be secured by planning conditions, in order to secure compliance with policy LP BAD 1.

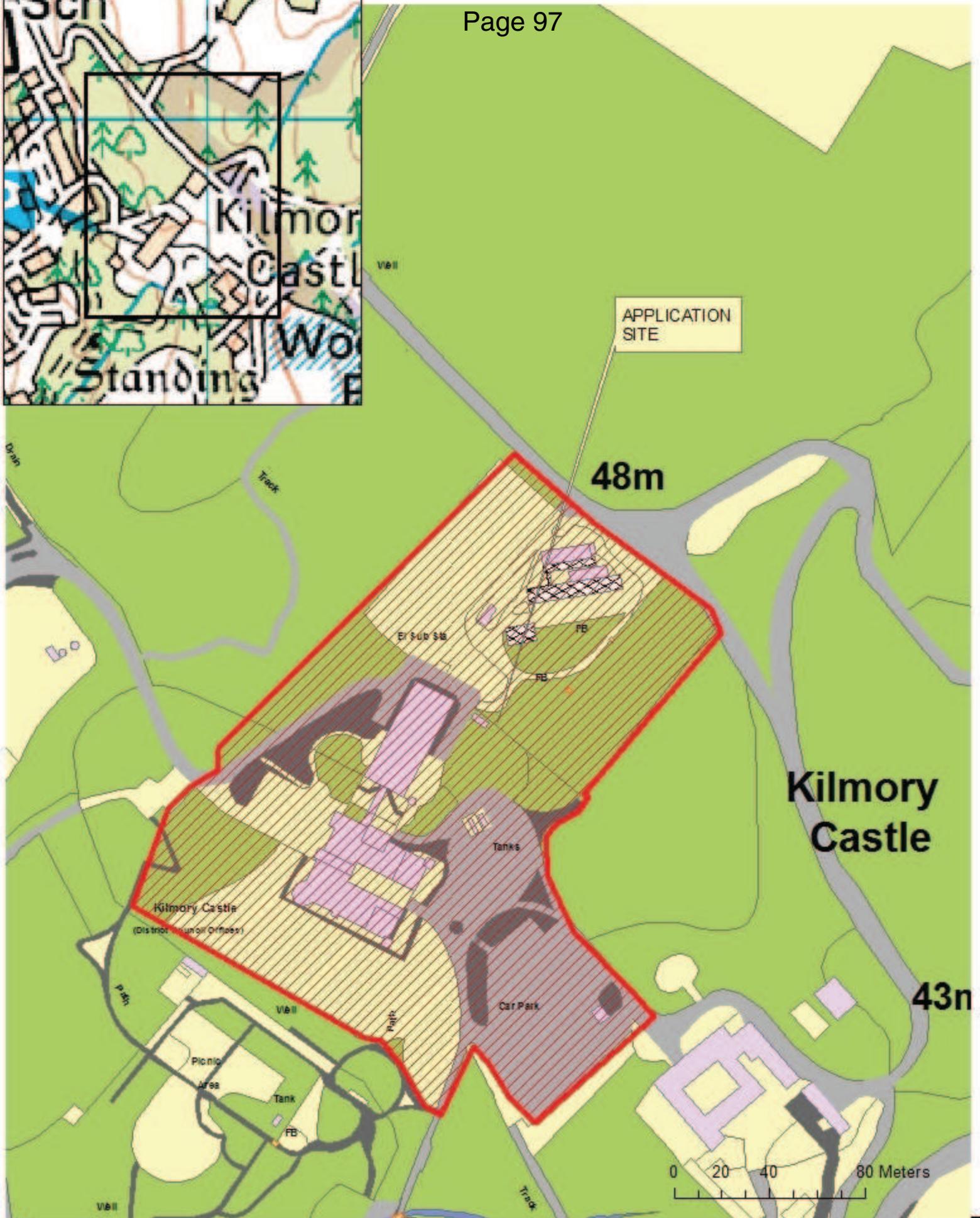
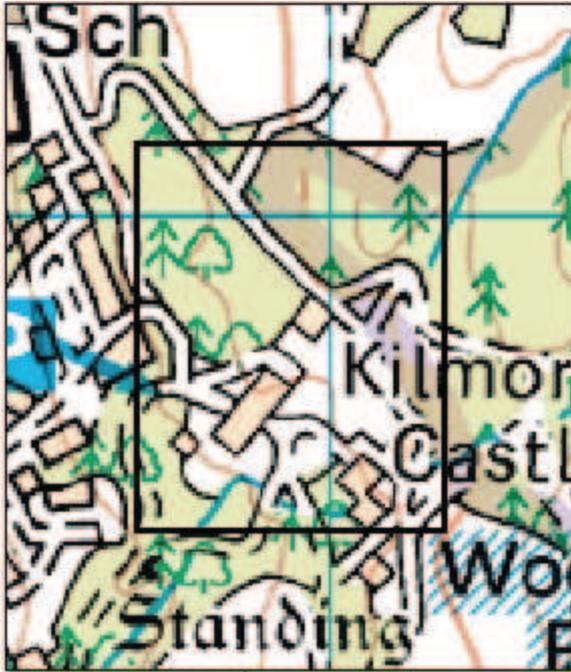
Access to the site will be via an existing private road which connects to the public highway via the elected Members car park at the front of the castle. The proposal includes for removal of a small section of the existing stone wall to allow the existing vehicular access to be widened for fuel delivery vehicles leading to an area of hard standing for turning. A condition will be attached for the existing stone to be reused to rebuild the retaining wall. A steel gate with keyed mortice gatelock operation is proposed at the access. The Area Roads Manager has not raised objection to the proposal but does make an advisory comment in respect of the provision of additional signage to warn road users that pedestrians may be on the road ahead where there is restricted forward visibility. The proposal is consistent with the provisions of LP TRAN 4.

Furthermore to the above, there are no infrastructure constraints which would preclude the development of this site and the proposal is consequently considered to be consistent with the provisions of LP REN 3.

### **C. Built Environment**

The site is situated adjacent to Kilmory Castle which is a Category 'B' Listed Building and which primarily comprises a much altered 3 storey castle with a modern glazed extension which are presently utilised as the headquarters office of Argyll and Bute Council, although previous uses have included a youth hostel and a hotel.

The proposed boilerhouse is to be located to the north of the castle, adjacent to the modern glazed extension and well removed and screened from the immediate vicinity and setting of the original, historic elements of castle. The proposal also includes for the down taking of a small section of the boundary wall to the nursery; it is however evident that the wall in question is a modern addition within the grounds of the property which is similarly removed from the historic fabric of the building – on this basis it is considered that listed building consent is not required for these works. The details submitted do not specify whether any material alterations are required to the listed building to accommodate connecting pipework from the boilerhouse or provision of a new/improved heating system – these elements would not require the benefit of express planning permission, however the applicant should be advised that listed building consent could potentially be required, dependent on the exact specification of such associated works. The proposal for the provision of the biomass plant shall not adversely impact upon the setting or fabric of the listed building and as such is considered to be consistent with the provisions of Policies STRAT DC 9 and LP ENV 13a.



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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:** 11/01543/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr D McCheyne and Ms A MacLean

**Proposal:** Alterations and change of use of offices to dwellinghouse

**Site Address:** Former Council Offices, Dell Road, Campbeltown, PA28 6JQ

---

## **DECISION ROUTE**

### **(i) Local Government Scotland Act 1973**

---

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

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

- Alterations and change of use of office to dwellinghouse

##### **(ii) Other specified operations**

- Demolition of portacabin
- 

#### **(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 and reasons appended to this report.

---

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

No history relevant for this particular site

---

#### **(D) CONSULTATIONS:**

Area Roads Manager - No objections subject to provision of a minimum of 3 parking spaces on site. Report dated 31<sup>st</sup> August 2011

Scottish Water - No objections. Letter dated 3<sup>rd</sup> September 2011

Environmental Health - No objections. Memo dated 16<sup>th</sup> September 2011

Health and Safety Executive - No objections. Letter dated 29<sup>th</sup> August 2011

---

**(E) PUBLICITY:**

The proposal has been advertised in the local press with a closing date of 23<sup>rd</sup> September 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 e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
- 

**(H) PLANNING OBLIGATIONS**

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

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements  
STRAT DC 9 – Historic Environment and Development Control

Full details of the approved structure plan, including proposal maps and full policy wording can be viewed on the Council's website by clicking on the following link <http://www.argyll-bute.gov.uk/planning-and-environment/argyll-and-bute-structure-plan>

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment  
LP ENV 13a – Development Impact on Listed Buildings  
LP ENV 14 – Conservation Areas and Special Built Environment Areas  
LP ENV 18 – Protection and Enhancement of Buildings  
LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP SERV 9 – Development in the Vicinity of Notifiable Installations

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes  
LP TRAN 6 – Vehicle Parking Provision

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

Full details of the adopted local plan, including proposal maps and full policy wording can be viewed on the Council's website by clicking on the following link <http://www.argyll-bute.gov.uk/planning-and-environment/local-plan>

- (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  
Scottish Historic Environment Policy (SHEP)  
Consultation Responses

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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:** Yes –

as owner and prospective vendor

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

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

This application seeks permission for the change of use of former council offices at Dell Road, Campbeltown, which fall within Use Class 4, to a dwellinghouse which falls within Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The building is category C(s) listed as being of historic or architectural importance and is located within the Campbeltown Conservation Area.

Having regard to the policies within the development plan, national guidance and consultee responses, the proposal has been assessed in terms of its acceptability of with regard to:

- the scale, proportions, design and materials of the proposed alterations including its impact on the locality, the conservation area and the special architectural character of the listed building
- any impact caused in terms of affecting the amenity and privacy of neighbours
- the effect of the development on services
- the effect of the development on traffic and parking

The proposal has been found consistent with the relevant development plan policies and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

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**(R) Reasons why planning permission should be granted:**

The proposal involves the reinstatement of a former Council office building to its original use as a single dwellinghouse. The proposal does not give rise to amenity, access or infrastructure implications and will give rise to the positive enhancement of a category C(s) listed building and the wider Campbeltown Conservation Area within which it is situated.

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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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**Reviewing Officer: Peter Bain**

**Date: 30<sup>th</sup> September 2011**

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO 11/01543/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 17<sup>th</sup> August 2011 and the approved drawing reference numbers:

Plan 1 of 8 (Drawing Number 1/6W811)  
Plan 2 of 8 (Drawing Number 2/6W811)  
Plan 3 of 8 (Drawing Number 3/6W811)  
Plan 4 of 8 (Drawing Number 4/6W811)  
Plan 5 of 8 (Drawing Number 5/6W811)  
Plan 6 of 8 (Drawing Number 6/6W811)  
Plan 7 of 8 (Drawing Number 6A/6W811)  
Plan 8 of 8 (Conservation roof window specification)

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. No development shall commence on site or is hereby authorised until full details of the proposed timber door and French doors have been submitted to and agreed in writing by the Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details.

*Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings and that the architectural character of the building is maintained.*

**NOTE TO APPLICANT**

- **The length of the 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.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.
- Please note that this consent is for the purposes of the Town and Country Planning (Scotland) Act 1997 only. No works shall commence on site until such time as Listed Building Consent has been approved and the decision issued in writing by the Planning Authority.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/01543/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The proposal relates to the change of use and alteration of a former Council office building to form a single dwellinghouse.

In terms of the adopted 'Argyll and Bute Local Plan' the site is situated within the Settlement Zone of Campbeltown, where Policy STRAT DC 1 of the approved structure plan gives a presumption in favour of development on appropriate infill, rounding off and redevelopment sites subject to compliance with other relevant local plan policies.

Policy LP HOU 1 of the adopted local plan states that there is a general presumption in favour of housing unless there is an unacceptable environmental, servicing or access impact. More specifically, the provisions of policy LP ENV 18 encourage the enhancement and reuse of existing buildings through proposals which include the change of use. New uses will be supported where these are compatible with existing surrounding land uses, access and parking complies with the Council's minimum standards, and that any physical alteration of the property respects the appearance, scale and character of the original building and surrounding area.

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

The application site relates to some 0.18ha and in effect half of the grounds which was until recently utilised as a Council office and is situated to the west of Dell Road and north of Witchburn Road in an elevated position above mature gardens (these form the foreground to the site and for the present time have been retained by the Council as a public recreational space which the local community have come to value). The site is located within a predominantly residential area and therefore the reuse of the property as a single dwellinghouse is entirely compatible with the general amenity of the locale.

The existing 2 storey building is constructed of stone with a slate roof. The building incorporates many attractive and original features such as bay windows, timber sash and case window units, a 23 pane stair window containing stained glass, timber boarded doors, chimney stacks, and cast iron downpipes and guttering – it is however acknowledged that the fabric and layout of the building, in particular its interior, has been much altered during its occupation as a local authority office.

The proposal essentially involves reinstating the building from its most recent use as a Council office to its original status as a dwellinghouse. The details submitted propose minimal external interventions to the fabric of the building, the most notable being the removal of modern 'temporary' portacabin office accommodation and a boiler-house, which will greatly enhance the overall appearance and setting of the property, the formation of a new French door opening on the south-west elevation of the property and, the installation of 6 new conservation standard velux rooflights within the hipped roof of the single storey wing to the rear of the building. No details have been submitted regarding finishing materials for the proposed external door and French doors, thus it is intended to secure this via condition.

The proposal does not give rise to concern with regard to the privacy or amenity of existing residential properties or the wider locale. The proposed removal of modern, unsympathetic portacabin structures will result in an enhancement of the property and its setting with the remaining alterations considered to be sympathetic to the appearance and character of the original building. The proposal is consequently considered to be consistent with the relevant provisions of policies LP ENV 18 and LP ENV 19.

**C. Built Environment**

The subject property is a category C(s) listed building and is located within the Campbeltown Conservation Area; the provisions of policies STRAT DC 9, LP ENV 13a and LP ENV 14 all seek to resist development which has an adverse impact upon the historic environment or its setting.

As set out in section B above, the current proposal includes only for minor intervention to the fabric of the existing building. The proposed removal of unsympathetic modern additions to the property will enhance not only the setting of the listed building but also that of the conservation area within which it lies. The proposed new French windows and conservation roof lights will not substantially alter the appearance, character or fabric of the building and are considered acceptable subject to conditions requiring further details of their finishes.

It should be noted that the physical alterations to the property, both internally and externally shall require the benefit of listed building consent – no such application has been submitted for consideration to date and there is no obligation for both planning permission and listed building consent to be sought at the same time. However, on the basis of the details submitted, it is considered that the current application for planning permission may be viewed as consistent with the requirements of policies STRAT DC 9, LP ENV 13a and LP ENV 14.

**D. Road Network, Parking and Associated Transport Matters.**

The site is served by an existing vehicular access onto Dell Road and as the Area Roads Engineer has raised no objections to this part of the proposal, it is considered that the existing access is adequate.

The proposal involves the reduction of car parking spaces from 8 to 4; this is considered acceptable as the Area Roads Manager has raised no objection subject to the provision of parking and turning for at least 3 vehicles.

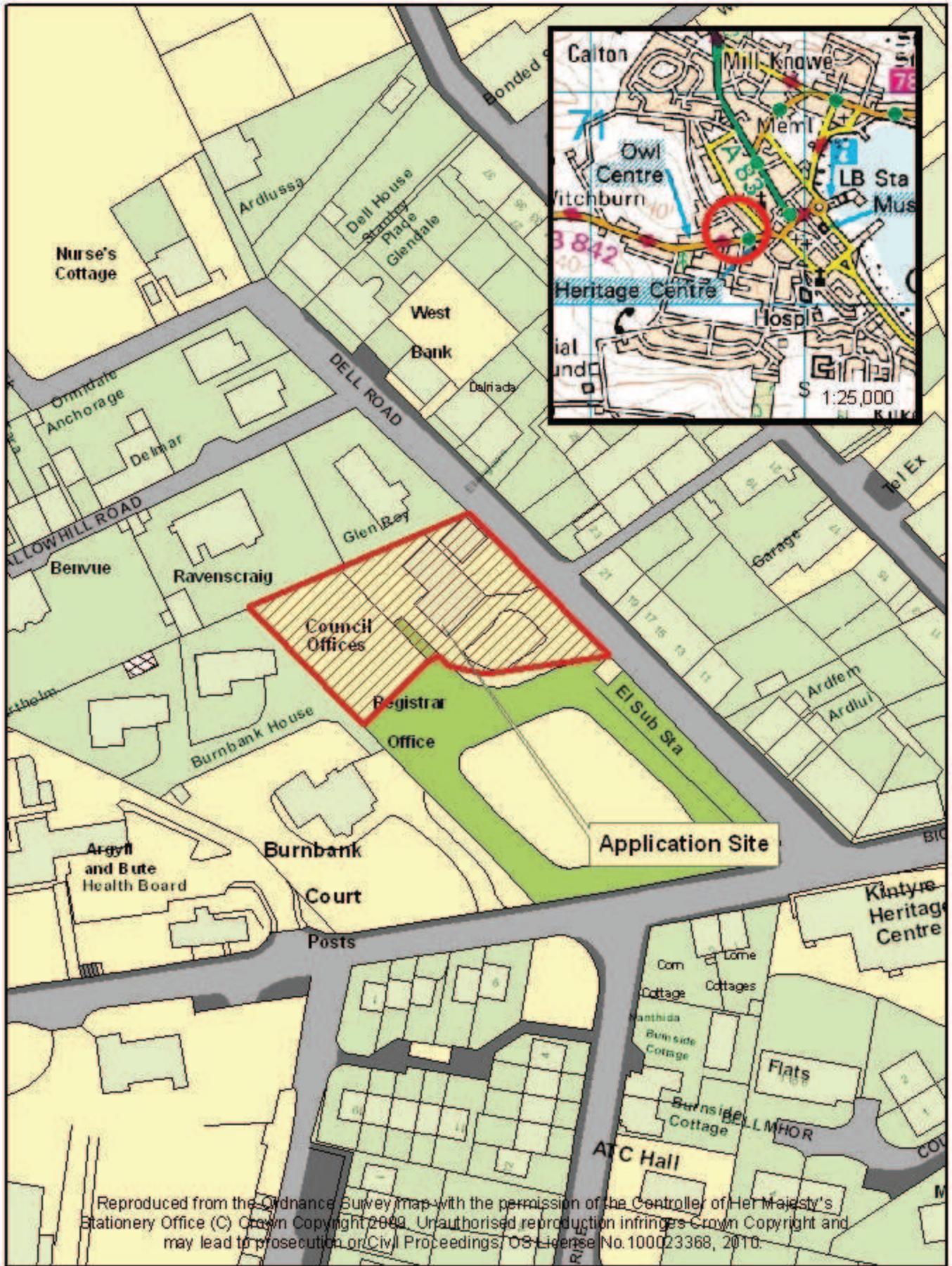
In this regard it is considered that the proposal complies with Policies LP TRAN 4, LP TRAN 6 and Appendix C of the adopted local plan which seek to ensure that developments are served by an appropriate means of vehicular access and have a sufficient parking and turning area within the site.

**E. Servicing**

No changes are proposed to the existing drainage and water supply arrangements to serve the proposed dwellinghouse which are to the public water main and drainage network. Scottish Water were consulted on the proposed development and have raised no objections.

Policy LP SERV 9 – Development in the Vicinity of Notifiable Installations states that, “Proposed developments that are to be located within the Safeguarding Zones of Notifiable Installations will require the Planning Authority to formally consult the Health & Safety Executive to assess the risk to the proposed development. Dependent upon the nature, scale and location of development relative to the Notifiable Installation, the Council may seek to refuse applications for development based on advice given by the Health & Safety Executive.”

The site falls within the buffer zone of the Campbeltown LNG storage facility and as such the Health and Safety Executive have been consulted as statutory consultees. No objections have been received and thus the proposal satisfies Policy LP SERV 9.



### Location Plan relative to Application Ref: 11/01543/PP

Date: 23.02.2011

Scale: 1:1,250



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

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE  
19<sup>th</sup> OCTOBER 2011**

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**PROPOSED CLOSURE/DIVERSION OF PUBLIC PATH  
ROUTE BETWEEN CORRAN ESPLANADE AND CHARLES STREET AND GEORGE  
STREET, OBAN**

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**A) INTRODUCTION**

This report advises of the requirement to close/divert pedestrian rights of way crossing the site of the Argyll Hotel, Oban in connection with permitted works of demolition and redevelopment of the site for a new hotel building.

**B) RECOMMENDATION**

It is recommended that:

- 1) The Director of Customer Services be authorised to make a public path extinguishment or diversion order under Sections 34 and 35 of the Countryside (Scotland) Act 1967, as appropriate, in respect of the rights of way indicated on the attached plan, on securing from the owner/prospective developer of the site in question agreement to meet the Council's full costs in promoting such an order;
- 2) In the event, following advertisement, that representations are made by the public against such an order, that the matter be remitted to the Committee for further consideration;
- 3) In the event that the order is unopposed, that it be referred to Scottish Ministers for confirmation.

**C) BACKGROUND**

Members will recall listed building consent having been granted for the demolition of the derelict Argyll Hotel and planning permission having been given for the redevelopment of the site for a replacement hotel building. One of the complications with the redevelopment of the site is the existence of a pend through the building to be demolished, which could not be readily incorporated into the replacement building without separating the ground floor of the new building into two unconnected sections, which would be most undesirable in the context of a modern hotel. Whilst a pend is still required to provide service access to the rear of the new hotel, the adjacent Oban Inn and existing property to the rear on Charles Street, this is to be situated in an alternative position at one end of the building (adjacent to the Oban Inn) where it would not impinge to the same degree on the functionality of the new hotel.

Planning permission 10/01831/PP gave cognisance to this situation via the requirements of condition 8, which states:

*Prior to work starting on site, the applicant shall secure either the diversion or extinguishment of any public access rights through the development site by way of a Stopping up or Diversion Order in accordance with the appropriate statutory process. No obstruction of the route afforded by the Pend (notwithstanding the demolition of the building incorporating that Pend) should take place until the required Stopping up or Diversion Order has been sought and has taken effect. For the avoidance of doubt, such works shall be undertaken at the expense of the developer.*

The applicant has now approached the Director of Customer Services requesting that the statutory process be commenced on his behalf.

#### **D) PROCEDURE**

The Countryside (Scotland) Act 1967 provides that a Planning Authority may promote public path extinguishment or diversion orders, as appropriate, when it appears expedient to them on the grounds that either a path is not needed, or that it should be diverted in order to secure the efficient use of land.

In this case, the Pend forms an integral part of the building to be demolished, and provides a means of access for servicing and access to areas of backland to the rear of the hotel. By virtue of its connection with other passages, it also affords the opportunity of a through pedestrian route from the Corran Esplanade to George Street via a passage linking to the top of the public staircase at the side of the Regent Hotel; that staircase also providing an alternative pedestrian link between the two roads. Whilst there is no evidence that this route though the backland at the rear of the hotel is widely used, if indeed it is used at all, it is prudent to seek its closure/diversion as part of the redevelopment of the site, not least to avoid the eventuality that some party might seek to establish public rights following the demolition of the existing building, which would be an impediment to the implementation of the consent for the new building.

Whilst the permitted redevelopment proposals secure alternative rear service access to the new hotel and other existing buildings, and if necessary could secure a continued through route for pedestrians to George Street, in the interests of the future safety of users and the security of premises, it would be preferable to take the opportunity stop-up the through route rather than to divert it if a stopping-up order were to prove uncontested. However, in the event that a stopping-up order were to be contested, there would be the opportunity to fall back on a diversion order incorporating the new pend and the service access route to the rear of the hotel. In the event of objections, Committee would have the opportunity to consider the substance of those, and the alternative routes already available, to decide whether to seek Scottish Ministers' confirmation of such an order, or whether, in the circumstances, to seek to pursue the alternative of a diversion order.

The process is one which requires advertisement by way of newspaper and site notices so there is opportunity for interested parties to make representation to the process. In the event that representations are received the matter would be subject to further consideration by Members. In the event of an uncontested order it would be referred onto Scottish Ministers for confirmation.

As the order is required to enable the implementation of a planning permission the landowner/prospective developer would be expected to meet the Council's full costs in promoting such an order.

**E) IMPLICATIONS**

Policy: None Financial: None Personnel: None Equal Opportunities: None

**Authors and contact officer: Richard Kerr 01546 604845**

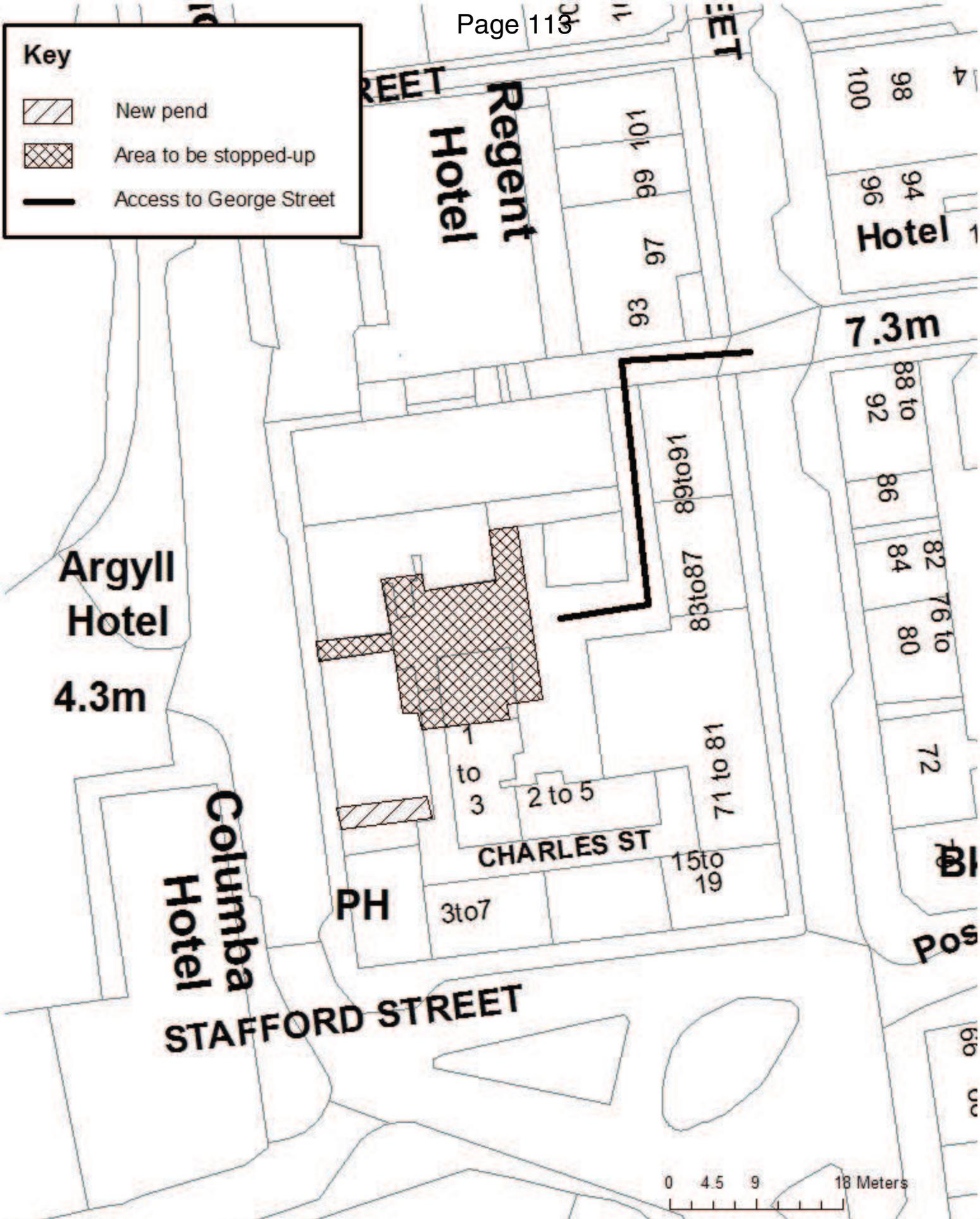
**Angus J Gilmour  
Head of Planning & Regulatory Service**

23<sup>rd</sup> September 2011

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**Key**

-  New pend
-  Area to be stopped-up
-  Access to George Street



**Proposed Stopping up/Diversion of Right of Way  
Argyll Hotel, Oban**



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