

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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16 November 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, 23 NOVEMBER 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 10 October 2011 (11.00 am) (Pages 1 - 20)
 - (b) Planning, Protective Services and Licensing Committee 10 October 2011 (2.00 pm) (Pages 21 - 30)
 - (c) Planning, Protective Services and Licensing Committee 19 October 2011 (9.30 am) (Pages 31 - 34)
 - (d) Planning, Protective Services and Licensing Committee 19 October 2011 (10.00 am) (Pages 35 - 40)
 - (e) Planning, Protective Services and Licensing Committee 19 October 2011 (10.30 am) (Pages 41 - 48)

- (f) Planning, Protective Services and Licensing Committee 21 October 2011
(Pages 49 - 66)
- (g) Planning, Protective Services and Licensing Committee 9 November 2011
(Pages 67 - 84)
4. **ARDKINGLAS ESTATE: ERECTION OF MIXED DEVELOPMENT COMPRISING 16 DWELLINGHOUSES, 7 COMMERCIAL UNITS, CHILDCARE CENTRE, INSTALLATION OF SEWAGE TREATMENT SYSTEMS AND ACCESS IMPROVEMENTS: LAND ADJACENT TO ARDKINGLAS SAWMILL, CLACHAN, CAIRNDOW (REF: 09/00385/OUT)**
Report by Head of Planning and Regulatory Services (Pages 85 - 122)
 5. **MR DUNCAN CAMPBELL: SUB-DIVISION OF GARDEN GROUND, ERECTION OF DWELLINGHOUSE AND DETACHED GARAGE AND FORMATION OF NEW ACCESS: 7 LAGGARY PARK, RHU, HELENSBURGH (REF: 11/00784/PP)**
Report by Head of Planning and Regulatory Services (Pages 123 - 140)
 6. **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)**
Report by Head of Planning and Regulatory Services (Pages 141 - 160)
 7. **BUTE COUNTY CRICKET CLUB: CHANGE OF USE OF LAND FOR SITING OF STORAGE CONTAINER: CAR PARK TO NORTH OF SWIMMING POOL 118 HIGH STREET, ROTHESAY (REF: 11/01453/PP)**
Report by Head of Planning and Regulatory Services (Pages 161 - 168)
 8. **DAVID MOONEY: ERECTION OF DWELLINGHOUSE AND FORMATION OF NEW ACCESS: PLOT 3, LAND TO THE REAR OF LIMEKILN COTTAGE, FERRY ROAD, ROSNEATH (REF: 11/01550/PP)**
Report by Head of Planning and Regulatory Services (report to follow – plan attached) (Pages 169 - 170)
 9. **REPORT ON TIMESCALES FOR CONSIDERATION OF FURTHER INFORMATION REQUESTED IN RESPECT TO OF PLANNING APPLICATION FROM NATIONAL GRID PROPERTY: SITE FOR THE ERECTION OF RETAIL STORE (CLASS 1) WITH ASSOCIATED DEVELOPMENT INCLUDING ACCESS, CAR PARKING AND LANDSCAPING: LAND AT FORMER GASWORKS, ARGYLL STREET/HAMILTON STREET, DUNOON (REF: 11/00689/PPP)**
Report by Head of Planning and Regulatory Services (to follow)
 10. **DEVELOPMENT CONSENT FOR MARINE ALGAL FARMS**
Report by Head of Planning and Regulatory Services (Pages 171 - 174)
 11. **UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISION**
Report by Head of Planning and Regulatory Services (Pages 175 - 176)

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

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

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the PILLAR HALL, VICTORIA HALLS, HELENSBURGH
on MONDAY, 10 OCTOBER 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Rory Colville	Councillor Neil Mackay
Councillor Gordon Chalmers	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	

Also Present: Charles Reppke – Head of Governance and Law
Belinda Ruthven – Area Governance Assistant
Howard Young – Area Team Leader, Development Management
Stephen Black – Jones Lang LaSalle – Applicant’s Representative
Lawrence Hill – Architect for Applicant
Tony Dance – Applicant’s Representative
Kathleen Siddle – Helensburgh Community Council - Statutory Consultee
David McKell – Supporter
Gary Mulvaney – Supporter
Colin Gardiner – Supporter
Catriona Malan – Objector
Rosemary Stevenson - Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from :-

Councillor Robin Currie
Councillor Alister McAlister
Councillor Alex McNaughton
Marina Curran-Colthart – Local Biodiversity Officer

2. DECLARATIONS OF INTEREST

Councillor Vivien Dance declared a financial interest in relation to Planning Application Reference (11/00887/PP) on the basis that she was the Co Director of a Company which provides consultancy services to the applicant. She left the room during discussion of the item and accordingly took no part in the decision making process.

Councillor David Kinniburgh declared a non-financial interest in relation to Planning Application Reference (11/00887/PP) on the basis that he had previously indicated his support for the application. He left the room during discussion of the item and accordingly took no part in the decision making process.

It was also noted that neither Councillor Dance or Councillor Kinniburgh had attended the site visit which had taken place prior to the meeting.

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

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

Charles Reppke, Head of Governance and Law outlined the hearing procedure that would follow and the Chair invited anyone who wished to speak at the meeting to identify themselves.

Planning Officer

Howard Young, Area Team Leader, gave a brief outline of the application which was for the erection of three dwellinghouses and provided a short history of the application informing that this site had been the subject of three previous refusals of planning permission for residential development. The key material reasons for refusal of those first two applications had been the presence of trees on the application site. The site was also subsequently designated an Open Space Protection Area (OSPA). Mr Young provided a PowerPoint presentation showing the application site in the wider context of the Helensburgh settlement pattern and various aspects were shown of the site location together with a block plan of the proposed development. The development would not enhance or contribute to the amenity of the area. Mr Young felt that the mitigation being offered was insufficient to overcome the policy restrictions and that he would recommend refusal of the application based on development plan policy and the material considerations already stated.

Representatives for Applicant

Steven Black – Associate Director -Jones Lang LaSalle

Mr Black introduced himself and added that he is a Chartered Town Planner and Associate Director with the firm Jones Lang LaSalle. He had also served as a Local Authority Planning Officer with Fife Council and Edinburgh Council over a period of 15 years before moving into private practice in 2007 and was familiar with the nature of the type of application in front of us today.

Mr Black said that he would like to explain his understanding of the Case and those material considerations which should be most relevant to members in reaching their determination.

Mr Black noted that the applicant was also represented by Mr Lawrence Hill, the project architect who would give a brief commentary on the design of the proposed development and Mr Tony Dance who would give a brief explanation of the applicant's development interests and potential planning gain.

He had examined the Committee Report referred to and in particular the reasons behind the recommendation for refusal. This balance between the retention of open space and the growth of a community was one which faces Committees on a regular basis.

The designation of the site as open space was not in dispute, nor was the previous refusals nor the raft of policies that the Council have at their disposal to protect such space from development should they see fit.

Acknowledging this policy context in order to reach a determination on this specific proposal it was Mr Black's view that members would require firstly to consider what amenity this site currently has and secondly whether its use for the development of three dwelling houses would have such a detrimental impact on the locality such that it should be refused.

From Mr Black's familiarity with the site he noted that the site was naturally regenerating with weeds and brambles and there was no evidence of the land being used for any recreational purpose and indeed the Report from the council's Professional Officers did not seek to argue any recreational purpose.

It was Mr Black's view that the lands amenity value was therefore limited to its appearance and its function as a gap between housing again as identified in the Committee Report.

Mr Black added that they would not seek to argue that open space has no value, but would wish Members to consider the current contribution of the space against that which might be achieved through development.

Helensburgh as with all towns had historically expanded into its rural hinterland.

The surrounding greenbelt and the restrictions upon further greenbelt release, put increased importance on using available land assets wisely.

The detached dwellings and well maintained generous gardens had come to form an essential part of Helensburgh's established character. The local plan map might suggest that the green space is limited and that gardens of dwellings make no contribution to the green character of the settlement. The satellite photo perhaps gives an idea of the contribution that appropriate residential development can make.

There appeared to be little to no recognition of the fact that appropriate development could add amenity value and indeed Mr Black said he would argue that well designed residential development was very capable of improving amenity.

There was reference to the applicant's proposed planting to the rear of the development providing only 17% of the site but is notable from the applicant's indicative layout that only 24 % was taken up by the proposed foot print of houses. There was also reference to the majority of this planting being to the rear of the site which was true but equally small pockets of carefully maintained planting to the front of the site would be capable of contributing to the amenity value.

This was evident in the history and development of Helensburgh itself. Its character and its visual amenity were largely defined by the character of the streets and homes that had been developed through the years.

Undoubtedly the development of 3 houses in this location would take up an area of previously undeveloped land but it was Mr Black's view that the nature of the development being proposed when considered against the very limited amenity provided by the currently vacant site would not result in any significant loss of amenity and indeed to the contrary would provide a well-considered development which was fully capable of contributing to the outstanding character of streets and spaces within Helensburgh.

Even setting aside the very real practical prospects of losing a valued and long established Helensburgh building company with all of the associated economic consequences, and the potential of Planning Gain, which Mr Dance would explain, it was in Mr Black's professional opinion that in Planning terms alone the proposed development was capable of making a valuable contribution to amenity and that this outweighed its current amenity value and limited function.

In this context Mr Black respectfully requested on behalf of the applicant that members consider the likely scenario that the site remained vacant and unmanaged for years to come against the prospects of achieving a well-designed and appropriate scale of development which would seek to mirror the character of the surrounding street scene with purposely designed landscaping to compliment this arrangement.

Mr Black respectfully requested that members consider these factors in balance, find favour with the proposed development and grant planning permission on behalf of Osborne Interiors Ltd.

Lawrence Hill – Architect

Mr Hill referred to the site which the current owners had identified as a gap site and stated that this particular site was land essentially left over from MOD housing which had probably not been developed during 1954 – 1960 due to the site levels. The site was on varying levels and the design solution for the proposed dwellings would be to construct them on a split-level design, with a discreet two levels to the rear of the property. This would ensure that they would integrate into the landscape and comply with ridge height restrictions.

Mr Hill said that as the area of each plot was significantly larger than any of the houses nearby, this would ensure a lower density development with more space for the proposed 110 trees around the site boundaries including specimen trees on the street frontage. He added that the house designs had been presented at a pre-application meeting with the planners. Alterations had been made accordingly at that time to satisfy the planners. He noted that infilling of former larch woodland sites with little amenity and owned by the MOD was not unique in the area and referred to the 2005 application for the construction of eight dwelling houses on Rhu Rd Higher, only 200m from the present application site, which were now complete and occupied.

Mr Hill advised that planning consent was granted at a local hearing on an occasion similar to today's and he hoped that this one would yield a similar result for the benefit of the applicant, their employees and the streetscape of Cumberland Avenue.

Tony Dance – Advisor to Applicant

Mr Dance began by thanking the members of PPSL Committee for coming to Helensburgh today to listen to the merits of this application. Mr Dance then introduced himself and advised that his role here was to present on behalf of the applicant and the workforce, a case for the grant of consent in the context of mitigation.

Mr Dance respectfully suggested to Members that they should address the very simple question which was, 'What is wrong with building three houses on this OSPA site in the middle of a spacious housing estate in Helensburgh?'

Mr Dance indicated that members would be joined today by the applicant's workforce. The majority of this workforce have been with for Osbornes for over a decade - some for thirty years plus. The longest serving member of the non-managerial staff had seventeen years service as a labourer. Mr Dance asked for members' indulgence while he gave them their names and the number of dependants at home which he then proceeded to do.

He indicated that the twenty two men and women sitting here today had forty dependants living at home, made up of fifteen wives and twenty five children. In total then, sixty two people were dependent on Osbornes for their income and the family life they enjoy from that income.

During recent years these men and women had contributed greatly to the economy of Argyll and Bute and in particular, the streetscapes of Helensburgh and Lomond.

Mr Dance then showed slides representing a very small sample of the homes created by Osborne's in the town of Helensburgh.

This last slide he said, would allow members to answer the question he had asked earlier, which was, 'What is wrong with building three houses on this site in the middle of a spacious housing estate in Helensburgh? What is wrong with providing the type of quality homes built by these men and women on a site which has little or no amenity?'

Mr Dance then went on to indicate what the consequences would be from their not securing consent today. He acknowledged that currently times were tough out there for the construction industry and as was already known. Osbornes had, for the first time in their history, six homes unsold but in spite of this, they were still building homes and employing their workforce when other developers had pulled out or were simply sitting on their consents.

Mr Dance cautioned that when the last house is completed in December and the order book is empty, the weekly wages bill of £8000 will be unsustainable and the workforce will be paid off before Christmas and after forty five years working in Helensburgh, J Allan Osborne Limited will close its doors.

Apart from the fact that fifteen mums and twenty five kids would lose their income and twenty men and two women would be out of work, the wider economy of Argyll and Bute would suffer. The build costs of these three homes would be £600,000. 70% of this would go into local suppliers and sub contractors and Mr Dance gave a few examples of these.

Subcontractors

CPR	Paving	WestCoastCutters	
Landscaping			
Croft	Painter	Ralph Smith	Plant Hire
Donny Shearer	Electrical	Gary Higham	Plasterer
Brown&Cordner	Plumber	Gregor Angus	Tiler
Helensburgh Floorplan	Flooring	Helensb.Meta	Metalworks
George Brolly	Flat Roof	Preston Fleming	Plumbers

John Devine

Leadworks

Local Suppliers Only

M&T

Mather Hire

Speedy Hire

Raymond Grieve

Macarthur Stanton

Rowatts

Helensburgh Toyota

Hoods Skips

Wright Hardware

Clyde Property.

Osbornes adopt a local-supplier policy wherever possible and an example of this is in their annual turnover with M&T Builders Merchants which is in excess of £100,000. The owner of M&T's was here today, as are a number of other suppliers and sub contractors. If consent is not granted, all this income will be lost and the knock on loss to the community will be considerable. Mr Dance said that he could not calculate the exact figure on top of the direct loss of build costs but twenty two men and women would be out of work and the resultant social and economic problems that this would generate would be considerable. There was no other construction work. Osbornes were currently the only builders left in Helensburgh still actually building houses.

Much had been said about OSPA, the policy on OSPA allows you to consider mitigation in order to grant consent. Although this application was validated in June 2011, for many months prior to that time, the applicant had discussions with planning officers in respect of mitigation.

The first offer of a £10,000 donation to the Helensburgh Trees Trust towards their replanting programme was declined as not being enough. The second offer was the donation of an alternative piece of ground valued at £70,000 to replace the loss of the open space. This too was declined as it meant some members of the community would have to cross a road. The third offer was the formation of community woodland nearby but the planning conditions on that were undeliverable. The fourth suggestion was to replace the Victorian bandstand at Kidston Park which would cost in excess of £50,000. Mr Dance then showed slides of the current state of the bandstand area.

He added that once again this had not been acceptable to planners, due to the fact that Kidston Park was on the other side of the A814 and yes, some members of the community would have to cross a road. Their fifth suggestion, if the bandstand was unacceptable, was the provision of play equipment to refurbish the existing Kidston Park play area. The reason for refusal this time was "no economic benefit"

Kidston Park has been identified by local Area Members as a priority for investment and economic regeneration and Osbornes could help to contribute to that regeneration. Mr Dance informed that Osbornes had even secured teak from the old Hermitage Academy to recycle into the bandstand roof. The planners had said that this was not enough mitigation for three houses, yet in Dunoon a multi-million pound supermarket investment offered £250,000 and this was considered to be enough.

The planners will not tell us what they want in mitigation and just keep saying all

offers are unacceptable. Mr Dance said that you may now be wondering why his client was so generous in his offers of mitigation just for three houses in Helensburgh.

Mr Dance went on to explain that Mr. Paterson recognised that he could afford to retire tomorrow; and had done well from being a lad who had gone to work at the tools with Allan Osborne when he was sixteen. He had run the company successfully for many years and was a builder with a strong bond with his loyal workforce.

The thought of having to give P45s to men and women who have been with Osbornes for much of their working life was hard to think about and he is doing everything possible to secure work for them in the current climate. Had he not spent so much money fighting the Planning Department of Argyll and Bute Council over sites he owned in the local area, then he may have been able to secure other sites on which to build, but sadly that had not been the case and his men would now pay the ultimate price for this stand-off.

Since Osbornes could not give enough to satisfy the planners, it may be that Members would today consider the economic benefit from the securing the jobs of twenty two men and women would be mitigation enough and that the £50,000 would be better spent in the planning system to keep the workforce employed beyond 2012.

Members of the PPSL Committee will be familiar with the approved Corporate Plan of Argyll and Bute Council which detailed the Corporate Strategy of the council. At least three of those corporate objectives would support the grant of consent for this application and Mr Dance went on to reiterate what they stated.

Corporate Objective 1. 'Working together to improve the potential of our people' which states that one of the outcomes must be that Argyll and Bute has 'more new businesses operating in the area, creating more jobs'. Why would planners want to lose twenty two current jobs, for the Council to have to replace them with new ones?

Corporate objective 2 . 'Working together to improve the potential of our communities' which states that we must have a 'skilled and competitive workforce capable of attracting employment to Argyll and Bute'. He said that the men and women sitting behind him today in Hi Vis vests were that skilled workforce.

Corporate objective 3, 'Working together to improve the potential of our area' which requires the council to have contributed to an environment where 'new and existing businesses can succeed'. Mr. Paterson and his workforce had succeeded and wanted to go on doing just that. Mr Dance asked that if members were minded to grant consent then the Corporate Policy of the council would support them to do just that.

Mr Dance said that they were all well aware that if there is a will by elected members to grant consent, the planners tell us there is always the consenting policy. He believed that members had the ability and the expertise to find that policy and craft the resultant competent motion to give consent. He then urged them to do just that and give these men, women and their families a chance.

Statutory Consultee

Kathleen Siddle – Helensburgh Community Council

Mrs Siddle commented that this site was not the only site in the locality available for building houses on and she listed Hermitage Academy (166 houses) the former Dobbie's site (14 houses) and an area of the Helensburgh Golf Club which was now designated for development under the Local Plan. Mrs Siddle explained why Helensburgh CC were supporting the objection to the proposals and in accordance with the Town and Country Planning (Scotland) Act 1997, there should be regard to the provisions of the development plan so far as material to the application. Mrs Siddle stated that when considering the designation of the site as an OSPA, the material considerations were very important. She highlighted that there should be no confusion in the designation and that TPOs and OSPAs were very different and separate issues and that Argyll and Bute Council had confirmed the value of the site by the imposing of the OSPA.

The second material consideration was the derelict and overgrown nature of the site. Mrs Siddle suggested that this was the owner's responsibility and that the site should function as an OSPA, forming a softening balance between the two different types of development in the area. If regeneration were allowed to continue on the site, a rich habitat would develop accordingly.

LP REC2, she said, was primarily concerned with protection of open spaces and that the result of this development a large part of the open space would be taken up by three large detached dwelling houses setting a dangerous precedent to other OSPA sites Argyll and Bute wide.

Mrs Siddle then outlined the three material considerations that would be important to uphold within the OSPA

1. That the three previous applications had been declined.
2. That in the report of the Public Local Objections to the Local Plan, modification of these areas such as at Rhu Road Higher had been supported and that this change should be considered to ensure no further changes to the Plan. The designation of all four of the identified sites had been thoroughly tested at the Local Inquiry.
3. There was huge importance to the amenity of the site. The potential acquisition of the site by Helensburgh Community Woodlands Group would be supported by the Helensburgh Community Council who commend the idea as the way forward.

Supporters

David McKell – Employee

Mr McKell wanted to speak today to let those present know how the today's decision would affect me and my family.

He had worked for Osborne's for six years and wanted this to continue but the realistic truth of it all would depend on decision was made today.

He said that we all appreciate that we are deep in recession and that there was a long hard time ahead adding that he had 2 children at 2 & 5 who had everything they needed at the moment - a good home, and a father that could provide. However, he added, that could all change today and not for the good.

Mr McKell went on to say that the Osbornes had continued to build even though there was no promise of selling houses and this purely on their own resources. Mr McKell saw this as a very defiant and bold stand against the recession and in addition he firmly believed at the forefront of his employers' mind was the future welfare of the 20 men they employed and he commend their ethos in every way.

Given the opportunity to build would not only keep Mr McKell in work for the next year, it would give him a very safe path through this very difficult time and Osbornes could continue to be a local company serving local people and keeping local people in work.

Mr McKell said that he hadn't come here today to start picking at the objectors' views, but had come to tell them how adverse an effect the wrong decision today would have on him and his family.

In summing up, he asked members to give Osborne's a chance, not just to develop houses but to develop his family's future as well as this community in Argyll & Bute.

On behalf of himself and his family, he thanked everyone for their time.

Colin Gardiner – Local Resident

Mr Gardiner stated that he fully supported the application and that his views were similar to his neighbour Stuart Aitken. Mr Gardener informed that he had lived in Helensburgh since he was five and that Mr Aitken, who was now 60 had lived here all of his life. Mr Gardiner advised that when he had seen the notice of the application in the local paper, he hadn't taken much notice of it but went on the website to review the plans at a later date. He felt that if the application had been for some twenty storey high rise, he would have felt that refusal would be justified, however in this case he felt that the development would fit in very well with the existing topography, adding that with appropriate landscaping and tree planting, the area could only be enhanced. Mr Gardiner said that what was being discussed today was not 'the destruction of a tropical rainforest', but a small piece of land planted with trees to provide separation between service married quarters and the detached houses further down Cumberland Ave. He added that things have moved on and that in their time, the MOD houses in the area now provided good quality, affordable houses and could see no reason why the two housing areas could now not be integrated. As to the amenity value of the site, Mr Gardiner said that by no stretch of the imagination could this be the case and that until the trees were felled, he had seen no one in the woodland. In this current financial climate, Mr Gardiner felt that the committee should back the local builders who were in turn providing a contribution to the local economy and employment and not pull the rug from under their feet.

Councillor Gary Mulvaney

Councillor Mulvaney had a couple of issues with certain aspects of the report he

wanted to address. Referring to earlier comments about the site creating a 'buffer' effect between the different housing types and that Mr Gardiner had been correct to set out the historical aspects of the site and that although the trees had been planted to separate at that time, the site should now have provide the opposite effect and integrate with the surrounding landscape. Cllr Mulvaney referred to the comments on page 11 of the agenda pack, which contained commentary about the events leading to the removal of the TPO and designation of the site as an OSPA. It was his recollection that due to the creation of the Local Plan, constraints prevented the removal of the OSPA. Cllr Mulvaney referred to Mr Dance and Mr Hill's references to the amenity value of the site which in his opinion was subjective. The Planning Officers, he noted, held a different view on this and he urged members to take on their own view on what benefits there were to the local community and if they actually used the facility as it currently stood. He suggested that there was very little amenity at present and that there was sufficient managed woodland in the nearby vicinity.

Regarding the mitigation schemes currently on offer, Cllr Mulvaney felt that the value of this was considerably higher than the overgrown scrubland that formed the application site. The £50,000 towards the improvement of the bandstand or play area would ensure greater community value and that the argument of inaccessibility to Kidston Park area would apply almost everywhere else in the town and was therefore not valid. He suggested to members that there was a clear economic case here, with the mitigation on offer giving potential to the area. He hoped that the PPSL would give consent and that every site should be considered individually and urged members to come to their own views.

Objectors

Catriona Malan

Mrs Malan reminded everyone that this land had never been intended for building on and that this had been reflected in the price paid for the ground at the time. There had been three refusals already which would indicate the will of the council's planning department as being opposed to any development of the site. Mrs Malan felt that no should mean no. As the site was OSPA designated, the amenity it provided should be retained and that the Planning Officer was obviously in agreement with this. Mrs Malan advised that the inaccessibility of the site was due to poor management by the current owner and that this should not be used as an argument for them to develop the site which had now been destroyed due to the screening of the visual amenity it could potentially provide and that this development would result in the loss of this green space forever.

In reference to the recent Main Issues Report (MIR) which had indicated a projected fall in population, Mrs Malan could see no real need to use green space, especially those with an OSPA designation and in this case, hoped that the application would be refused.

Mrs Rosemary Stevenson – Helensburgh Community Woodland Group (HCWG)

Mrs Stevenson, local resident and convenor of the HCWG said the that Trust

had been interested in the plots of land with a view to retaining as an OSPAs designated woodland to be enjoyed by everyone in the community and that the Community Woodlands Association (CWA), the representative body of Scotland's community woodland groups, had offered guidance and support on funding options. Mrs Stevenson said that a consistent stance had been taken by the HCWG who had made a recent offer to the owners of the site. She handed round photographs showing the area around the site and the other two wooded areas in Rhu Road Higher, and at Lomond Playing Fields. These three plots had all had TPOs on them and Mrs Stevenson indicated that it would be the intention of HCWG to re-establish tree cover on the application site.

Mrs Stevenson said that she was in agreement with the Planning Officer's recommendation and asked members to consider the history of the site and that the most recent refusal had been made after the trees had been removed. She appreciated Cllr Mulvaney's comments but in her opinion, there was no basis for granting the consent or to suggest that trees were the key issue.

Mrs Stevenson felt that the previous reasons for refusal still applied and that the only change was the financial incentive now on offer and that this should not be used to influence the decision today. She had concerns that the site would be lost as an open space and that it currently provided a necessary physical break between the different types of housing in the locality. She suggested that its original intention was as a shelter belt providing protection from exposure to nearby houses and that the softening of the landscape was of importance. Mrs Stevenson referred to the decisions on the Local Plan and the site opposite which had been referred to as part of Helensburgh's character of open spaces and that she couldn't see how the council could now set aside such assessments at this stage as once lost, they can never be replaced.

Mrs Stevenson suggested, it had been recently noted that the height of the tree regeneration was above the brambles but that this regeneration had subsequently been removed as part of a deliberate act by the owners to maintain the current poor condition of the site and that she was somewhat concerned that this should now be used as an argument to seek permission to develop and suggested that this should be one of the reasons to refuse the application.

The offer to purchase had been refused with no reasons given and she urged the committee to refuse the application as the community needed to support and protect this area.

Members' Questions

Councillor McKay asked the Planning Officer about the history of the previous applications and if there was now a new Local Plan. Mr Young replied that the updated Local Plan 2009 was used during the current assessment and in the last application.

In reference to the off-site mitigation on offer, Councillor McKay asked if the Planning Officer deemed the £50,000 as a material consideration. Mr Young responded by stating that he had referred to this in his assessment and had given reasons for this and noted that he had made suggestions as to how it could be modified.

As Policy REC2 had been taken into account during consideration of the previous three applications, Councillor McKay suggested that it could now not be ignored in this instance.

Councillor McKay stated that Mrs Stevenson had mentioned that Policy LP REC2 had been used during consideration of the larger playing fields site and asked Mr Young what his interpretation of it had been in that particular case.

Mr Young said that in the case of the Lomond School Playing Fields, there had been the provision of a new gym complex which did have public access and that it had been allowed as it did meet certain aspects of Policy LP REC2 whereas everybody accepted that today's application did not.

Mr McKay asked Mr Hill that when he had referred to available gap sites in Helensburgh, why this one had been chosen. Mr Hill responded that they had been looking for sites which were free of any building within the settlement boundaries in the town and that such sites were in short supply in Helensburgh. In his opinion, this particular site was very appropriate for the proposed development.

Councillor McCuish asked Mr Young whether economic impact was considered when assessing the application. Mr Young replied that economic and environmental impact together with sustainability was always considered. .

Mr McCuish said that he appreciated that environmental impact was now more relevant than it had been in 2008. Mr Young felt that although he acknowledged the current financial recession, it was important to try and get the balance right.

Cllr McCuish asked Mrs Siddle (HCC) what the current amenities of the site were.

Mrs Siddle said that the green space currently provided a softening of the streetscape but that she was concerned that the site was not being maintained by the current owners

Councillor McCuish asked Mrs Stevenson when her photographs had been taken, to which she responded that she thought it would be around 2002.

Councillor Reay asked Mr Black if he felt that it was important to retain the visual amenity of the site to which Mr Black responded that each site should be viewed on its own merits and that the key here is that the original plan did not have specific plans of separating or retaining space and that he did not feel that there had been a ploy by the MOD to do so judging by the scale of the site.

Councillor Reay asked Mr Black if he was aware of the number of sites that had been designated in the Local Plan and Mr Black said that he had looked at them all.

Councillor Reay asked Mr Young what advice had been given to the planners at the time that the TPO had been revoked. Mr Young responded by saying that he had recommended not to remove the TPO.

Councillor Reay asked if Mr Young felt that these wooded areas should form part

of the natural setting in the area. Mr Young replied that during a recent Public Inquiry on an area of ground opposite the application site, the trees had been assessed as being part of the wider landscape and that there had been material value in this.

Councillor Reay asked Councillor Mulvaney if he had seconded the motion to impose a TPO on the application site. Councillor Mulvaney said that the time the sites were being acquired he recognised that there needed to be some sort of control and that the TPO route had been gone down. Subsequently unenvisioned consequences had arisen which had resulted in the TPO being removed and an OSPA being designated. He gave a brief history of the measure that had followed and that measures to revoke the OSPA had been unsuccessful.

Councillor Reay asked the applicant why the offer from HCWG had been refused.

Mr Dance responded to this by advising that the sum offered had been only £11500, which was not enough recompense for the job losses that would result.

Councillor Devon asked Mr Young how he felt that the area contributed to the amenity and character of the area. Mr Young said that the Reporter had commented during the assessment that these areas speak for themselves. He felt that these open spaces should not be allowed to deteriorate through bad management and that as Mr Hill had previously acknowledged, these green spaces were in short supply. Mr Young felt that the open spaces were an important feature, something which had been recognised by local members since 1998.

Councillor Devon asked Mr Young how the site had been valued in terms of high density and whether he felt that the proposed development would constitute rounding off or filling in. Mr Young felt that it could be seen as infill but for the OSPA.

The meeting was then adjourned for a short break at 12.45pm and reconvened at 12.55pm.

Councillor Marshall said that he felt that the economic argument did not stack up due to the jobs that would be lost and stated that the council's own Corporate Plan was to ensure prosperity. He asked Mr Young if this would constitute a material consideration. Mr Young said that it did.

Councillor Marshall asked if the unmanaged woodland was a serious eyesore to which Mr Young responded that if he felt that it was he would have served the owners with an amenity notice. However, in Mr Young's current judgement, he did not feel that it was.

Councillor Marshall asked Mrs Stevenson where she would expect a path to lead. Mrs Stevenson said that she had taken advice from a forester who had looked into this and suggested the possibility of a u-shaped path around the site. He had addressed the topological nature of the site and had not found it to be problematic.

Councillor Marshall suggested that such facilities already existed in the nearby Duchess Wood.

Councillor Colville asked the applicants for clarity on the 110 trees and shrubs which they proposed to plant and asked the exact number of trees and who would maintain these. He also asked if it would be possible to impose a TPO on these trees.

Mr Hill responded by confirming that there would be 110 trees of various sizes and that they would be initially the applicant's responsibility although once the houses were sold, this would fall to the home owner. He added that 6 cherry trees would be planted to the front of the properties to reflect the other properties in the street.

Mr Black confirmed that several options were available regarding conditions to retain the trees and that a clause could be inserted into the title or factoring.

Councillor Colville asked Mr Young if the applicants would be under any obligation to plant trees, to which Mr Young answered that they would not. Councillor Colville suggested that if the developer was offering to plant trees, that this would be seen as an improvement. Mr Young said that he would refer to the reasons contained in the other applications and putting trees up on the site would certainly improve it, but not housing.

Councillor Chalmers said that during his brief visit to the site he had seen no sign of a path.

Mr Gardiner also confirmed that he had never seen anyone in there and that he had lived in this area for 30 years. He added that Cumberland Avenue had not originally gone up to Rhu Road Higher.

Councillor Chalmers asked if this meant that there was no established path.

Mrs Stevenson said that it wasn't that kind of site as it was tightly packed woodland and therefore inaccessible. However, if the community were in favour of this, it could be implemented.

Councillor Chalmers, in reference to Policy LP REC2 and the mitigation offer, asked Mr Young whether the community benefit with the construction of the bandstand would be set against the presumption against building and what part of the offer he had an issue with. Mr Young felt that it did not have equal community benefit.

Councillor McCuish asked about the fall in population as noted in the MIR and asked if this was due to not enough work or houses in the area.

Mrs Malan said that she didn't agree and that the reasons for the downturn were not known. She felt that the existing housing stock was sufficient and that there was no immediate requirement for more housing. She referred to the 500 homes already in the pipeline.

Councillor McCuish asked if Mrs Malan found the drop in employment worrying.

Mrs Malan said that this factor should not be used to blackmail the committee into approving applications.

Councillor McCuish asked the Planning Officer if he agreed that if the three houses were to go ahead, that this would not constitute overdevelopment of the area. Mr Young agreed that if it weren't for the OSPA it would not.

Councillor Reay asked Mr Young about his concerns regarding the mitigation proposals and asked him to confirm that there were existing proposals to improve the Kidston area. Mr Young agreed that the council's estates department were in consultations regarding this but that the two proposals should be kept separate for the purposes of this application. Councillor Reay asked if the process was currently in place to improve Kidston, to which Mr Young confirmed that it was as far as he was aware.

Councillor MacKay asked Mr Black for clarity re the mitigation offer and asked whether it was one or both. Mr Black confirmed that it would be one or the other.

Councillor MacKay asked whether there was potential here for a community benefit to be unlocked and cited that the development plan promoted economic competitiveness.

Mr Young responded that many policies must be taken into account and that this was what he had done.

Councillor Colville asked Mr Young to comment on the Biodiversity issue and whether it was of local importance. Mr Young said that although it wasn't a designated site, it did have value as indicated by the Biodiversity Officer.

Councillor Colville asked the applicant whether he would intend getting into discussion with the Local Biodiversity Officer. Mr Black replied that he would be more than willing and that the planting at the rear had been agreed by the BDO. The cherry trees to the front were being planted to fit in aesthetically with the existing streetscape.

The Chair then asked that the summing up process should now begin and ascertained that no new information could be introduced at this point.

Planning Officer

Mr Young stated that local members had place an instruction upon both himself and the previous manager to impose a TPO on the site from as early as 1998. Members had also agreed to protect this and other sites through the OSPA designation. He reiterated his earlier comments that his application should be assessed against the Development Plan and other material considerations and that the slides shown by the applicant had indicated a variety of developments in Helensburgh that he had signed off as suitable. He did not feel that the site in question today was acceptable. Under Policy LP REC2 the site did add value and contribute to the local area, something previously recognised by local members and three separate Scottish Government Reporters. In his opinion, the building of these three houses would undermine the current amenity to the area and in these respects he would recommend refusal of the application.

Applicant

Mr Black said that he heard a little today on precedents and that the merits of each application must be concentrated on. He asked members to note that the application in front of them today had not gone to Scottish Government and that there were no disputes regarding the design of the proposed development which he felt would meet with the high value of amenity set by the neighbouring dwellings and gardens that contribute to Helensburgh's established character and would result in a significant improvement in terms of amenity when compared to the site's current underdeveloped state.

Furthermore, the granting of Planning Permission would allow the continued operation of a local business which had survived 47 years and had contributed to the growth of the town, providing employment for local people and had contributed to the town's economy in terms of direct and indirect trade.

Mr Black stated that in the Council's most recent Corporate Plan, the first aim of the first three of the four objectives quoted, relate to:- 'Job Creation', 'Developing a skilled and competitive workforce', and 'Contributing to an environment where existing and new business can succeed.' He continued that this long established Helensburgh business which was on the brink of potential administration was seeking a modest proposal for three houses, fitting in with the established pattern of development and which would be capable of making a valuable contribution to the street's established character.

He urged the committee to find that the value of this open space, when balanced against the contribution that the development could make would be such that it would merit the refusal of the development and he asked that the members consider a motion to find that the development would not conflict with the overarching theme of policy to protect amenity and which at worst, would constitute only a minor departure from policy and resolve to grant Planning Permission.

Statutory Consultee

Mrs Siddle – HCC, reiterated her previous comments in that this small site was not the only one available to the applicant within the Helensburgh boundary. In reference to the jobs, she felt that there would be others to be had. This site had already had three applications refused and that it had been exhaustively tested. She felt that there should be some condition to prevent continued applications such as these and that a dangerous precedent would be set if the OSPA sites within Argyll and Bute were to be lost in such a manner.

Supporters

David McKell said that many of the other companies operating in the area were not local.

Colin Gardiner said that he had no axe to grind and that this was not about the TPOs. He felt that the amenity value complied with local policies but that in

reality in this case it did not contribute. He felt that the benefits of the development going ahead would outweigh those in the event that it did not and that a pragmatic and common sense approach should be adopted in this case.

Councillor Mulvaney said that as the Planning Officer had already confirmed, there would be no overdevelopment if the application were to go ahead and that a rounding off effect would be the result and that the degree of separation between the existing boundaries would be removed. He felt that there was at present only a negligible visual amenity. Regarding the comments about the bandstand site being inaccessible, Councillor Mulvaney felt that this was not evident and that the bandstand area was accessible to all of the community. He said that members should be minded to look at the corporate plan which requires a wider economic benefit and hoped that members would support the application.

Objectors

Catriona Malan said that she was saddened by the fact that a developer could buy a wood, hack it down and then gain consent.

Rosemary Stevenson said that if consent was not granted, the wood would be left unmanaged. She confirmed that HCWGs offer had been based on the land having no development potential and took a dim view that the current condition of the site could be used as justification for the granting of consent. She mirrored Mrs Siddle's comments that alternative sites were available to the applicant and that if the development went ahead, that public confidence would be reduced if their views to the Local Plan were set aside. Mrs Stevenson felt that the current condition of the site was a red-herring and that the site had the potential to be managed and the habitat to regenerate.

The Chair then ascertained that all parties had received a fair hearing to which they confirmed that they had. He reminded everyone that the only application being considered was that which was in front of them today.

Debate

Councillor McKay said that he had listened to all the various points from the planners and felt that the density of the application was acceptable. He noted that in the report, the title of the application referred to 'land between'. However, Councillor McKay now felt that after seeing it, he felt that it was a gap site. He acknowledged that the site history should be considered but that things had moved on and that there were now major changes in Scottish planning. He felt that the mitigation was a key consideration and that he would try to put together a competent amendment to the Planning Officer's recommendation.

Councillor McCuish advised that he would not be supporting the Planning Officer's recommendation as he didn't feel that the erection of these three houses would constitute an environmental disaster and that they would fit in well with the streetscape. He acknowledged that these were difficult times and that must be taken into consideration. Councillor McCuish also felt that the Council's own Corporate Plan should be considered.

Councillor Marshall indicated that he would not be supporting the Planning

Officer's recommendation as he regarded this as a gap site which was an eyesore at present. He supported the building of the three houses and voiced his concerns regarding the potential loss of employment if the development should not go ahead.

Councillor Devon said that she could not justify accepting the Planning Officer's recommendation and that she agreed that the site was currently an eyesore and could not see how it would be a benefit to the community.

Councillor Reay indicated his support for the Planning Officer and said that the historical perspective should be considered. He felt that it was important to look at why these green spaces were where they were. This was, he felt, as a softening effect to the landscape and also as a visual amenity. When the MOD had originally applied for permission to fell the trees, they had been refused and that during the final summation, the Reporter had recognised this site as an OSPA. He appreciated that we were in difficult times but that there was still a responsibility as Councillors to represent the constituents. He said that it had been a clever and optimistic purchase by the applicants but that they were well aware of the constraints of the site. In his view, Councillor Reay felt that these woods were important for this area of Helensburgh and that it would be a pity if they were lost. Councillor Reay also felt that there was a lack of high quality social housing in the area.

Councillor Colville advised that he had not been involved in the previous applications and that the key matter is that there was now no TPO in place. He had listened to all of the arguments and was now left to consider the OSPA. When looking at LP REC2, this area could not be considered biodiversitically important as it did not currently make any contribution to the area. He was minded to agree with an amendment but must be sure whether a Section 75 would be imposed to protect any proposed trees in the development. Councillor McQueen indicated his support for an amendment due to the employment issue.

Councillor McMillan also indicated his support for an amendment due to the employment issue.

Councillor Chalmers indicated that if his colleagues could come up with a suitable amendment to the Planning Officer's recommendation, he would support it.

Decision

The committee unanimously agreed that the application be granted subject to the completion of a Section 75 Agreement to make a contribution of £50,000 towards either an improved play area or a new bandstand as may be determined by the Head of Planning and Regulatory Services and to delegate to the Head of Planning and Regulatory Services, in consultation with the Chair and Vice Chair, appropriate conditions to allow the development to proceed and that the justification for the approval be as undernoted namely:-

The proposed development which has an almost central location in this fairly large residential area demonstrates adequately that it sufficiently integrates with the urban setting of the development with regard to layout and density.

The application is compatible with its existing surroundings with regard to the design of the proposed development whereby the proposed dwellings are firmly attuned to the existing built environment.

The proposal of 3 dwellings on this comfortably sized site will sit appropriately in its setting which can be judged as a gap site. Cognisance should be afforded to the description of the site which on the application is titled "land between 19 & 37 Cumberland avenue" therefore the setting of 3 more dwellings between the established rows of properties is entirely appropriate, taking account of the 3 factors above this development conforms with Policy LP ENV 19 of the Local Plan.

The history of the site should be noted however it must be acknowledged that there we have a new Planning Act. Argyll & Bute like many other areas of Scotland requires as many homes as possible and the provision of 3 residential dwellings will enable at least 3 families to move up or on to the housing chain. The mitigation proposed together with the new planning act means there has been a material change of circumstances since the previous applications were considered it also must be acknowledged that the redevelopment of the site and proposed new planting will improve the amenity of the site

Whilst the policy presumption is against development the applicant's proposal to provide a Bandstand and /or upgrade the existing play facility to the value of £50,000 will more than adequately mitigate the development of this site. Policy LP REC 2 states there should be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available that there is clear long term excess of pitches, playing fields, and public open space in the wider area. - the amenity of this inaccessible site of scrub & gorse is not only questionable but is more than adequately provided by the nearby Rugby, Football and Cricket areas.

The close proximity of the proposed Bandstand or equipment upgrade in the nearby Kidston Park will provide an excellent focal point to provide various forms of arts and culture for the immediate and indeed the wider community and should be acknowledged as a very valuable & sought after asset with acceptable community benefit. The accessibility of the considerable open space available in the wider area as mentioned above together with the suggested mitigation does take into account the long term strategy and recreational and amenity value therefore conforms to Section B ii of Policy LP REC 2 of the Argyll & Bute Development Plan.

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MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the PILLAR HALL, VICTORIA HALLS, HELENSBURGH
on MONDAY, 10 OCTOBER 2011

Present: Councillor Daniel Kelly (Chair)

Councillor Rory Colville	Councillor Al Reay
Councillor Gordon Chalmers	Councillor Neil Mackay
Councillor Vivien Dance	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor James McQueen

Attending: Charles Reppke – Head of Governance and Law
 Belinda Ruthven – Area Governance Assistant
 Howard Young – Area Team Leader, Development Management
 Nigel Millar – Helensburgh Community Council Statutory Consultee
 James Adamson – Agent for Applicant
 Alastair Mcbeth – Objector
 Charles Carver - Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from:-

Councillor Bruce Marshall
 Councillor Robin Currie
 Councillor Alex McNaughton
 Councillor Alister McAlister

2. DECLARATIONS OF INTEREST

There were no Declarations of Interest

3. 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 Chair welcomed everyone to the meeting and general introductions were made.

Charles Reppke, Head of Governance and Law, outlined the hearing procedure that would follow and the Chair invited anyone who wished to speak at the meeting to identify themselves.

Planning Officer

Howard Young, Area Team Leader, gave a brief outline of the application and gave a short PowerPoint presentation showing various aspects of the application site.

He indicated that there were two now redundant lambing sheds and that the proposal was to utilise these sheds for the processing of firewood for local distribution. Mr Young advised that this was a finely balanced proposal and that the key policy for determining this application was STRAT DC3 and noted that Green Belt policies were more restrictive than other countryside policies.

Mr Young explained that the application had been delayed because of issues relating to road safety. This development was not supported as an appropriate use under Green Belt. The only other issue the Planning Officer had was that Environmental Health had indicated their concerns regarding noise and dust. He had asked them to be specific about this and they had requested that more information be brought up prior to consideration of the application which had not yet been forthcoming as of the Hearing. Mr Young advised that if Members were minded to approve the application they could attach a suspensive condition regarding the noise and dust. However this could mean that if both issues could not be resolved, then the applicant would have a planning permission that couldn't be implemented. Mr Young said that, on policy grounds, he could not support the application and recommended refusal.

Applicant's Agent

Mr James Adamson – Scottish Woodlands Ltd – informed that he plans were set out in detail and that additional information had been produced when requested. He felt that there were a few key points to address and that it was important to highlight the context and background of the application and he went on to give a brief outline of this.

In May 2009 the site and the farm were sold. The sale of the land to the current owner did not include farmhouse and outbuildings, only the two existing lambing sheds and that there had been little interest from neighbouring farmers at that time. A grant application, subsequently approved, for the Woodland Grant Scheme for Forestry was submitted and the acquisition was completed in 2009. In 2010, a short term grazing agreement was permitted to allow the movement of cattle. The lambing sheds were no longer in use for their original purpose and had been empty for the last ten months. Mr Adamson advised that the owner had looked at various options for alternative use and did not wish to sell and was concerned that the sheds would become a focus for anti social behaviour. Mr Adamson said that as the owner did not live in the area, he would require to employ a local workforce and wanted any diversification to be compatible with his forestry business,

In 2010, discussions with the Planning Officer had taken place to discuss various options for the site and under existing consent, the current proposal was suitable. Further to requests, additional information was submitted and the applicants had now been waiting since April 2011.

Mr Adamson advised that there had been a change in focus from farming to forestry and that there was little scope for seasonal use. Local farmers had not been interested in renting the land and the owner was keen to see the site maintained. It was in their opinion that this application would fall within the scope of farming/forestry and that it had excellent environmental credentials in producing wood fuel for the domestic market.

Mr Adamson explained that the process of seasoning wood for burning was lengthy and that only 5 – 6 cubic metres per hour would be processed. This was in comparison to 120 -130 cubic metres per hour in a modern processing facility. Mr Adamson accepted that there would be some resultant noise but that the frequency of this would be limited to working hours only and that the use of the site would be fairly low key.

Statutory Consultee

Nigel Millar – Helensburgh Community Council (HCC) wished to register objection to the proposal and cited STRAT DC3 which permits only “very limited and specific categories of countryside based development”. Mr Millar explained that it was the view of the HCC that this development was of an industrial nature there were concerns regarding the delivery and removal of heavy timber to and from the site.

Mr Millar referred to the change of use for the existing buildings and again referred to STRAT DC3 which lists that only in exceptional cases where it could be successfully demonstrated that the buildings were part of the vital infrastructure, which Mr Millar felt that in this case it did not.

In general, he said, HCC was pro-business in the town and whilst they appreciated that this was an economic development, they felt that the location was unsuitable and in these respects, they had no alternative but to oppose the development but that everything should be done to facilitate such developments in suitable locations in the area.

Objectors

Alastair Mcbeth, Helensburgh Green Belt Group, said that he would like to focus only on planning rules and that the new planning legislation emphasises support of the Council’s development plans. He advised that the Scottish Planning Policy states that the system should be ‘genuinely plan-led’

In his opinion, Mr Mcbeth felt that the application was contrary to Argyll & Bute’s Structure Plan STRAT DC3 (Green Belt) and Local Plan Policies LP ENV1 and LP BUS2 and that Mr Young had already pointed out several aspects these.

Mr Mcbeth felt that he would like to add two points which were that this application also contravened Scottish Planning Policy 2010, sections 159 – 164 on Green Belts and that none of the 14 material considerations listed in Scottish Government Circular 4, 2009 supported such developments and that several of them were contrary to it.

Mr Mcbeth noted that permission for ‘agricultural’ sheds had been given in 2010 but felt that the new application was not agricultural but was industrialisation of the countryside.

Mr Mcbeth pointed out that what was done with timber following the felling process was not forestry, and that it was industrial. He gave examples of this.

Other attempts to industrialise parts of Green Belt had been rejected by Scottish

Government reporters. He referred to the Reporter's comments following the public local inquiry for current Local Plan, 2008 vol. 3, page 29 as stating "we consider that such uses should be relocated on land designated for the purpose as such industrial estates" and in summing up, Mr Mcbeth urged members not to approve this development.

Mr Charles Carver, local resident, said that he had been appalled at the prospect of an industrial process being located 200 yards from the existing properties. There was approved planning for housing adjacent to the proposed site which had not been listed in the report and Mr Carver had concerns that this would be jeopardised as it would be untenable to live beside such a business.

Mr Carver had taken issue as to why the Road Department had retracted their concerns and noted that this was now not a farm and had an absentee landlord who was only interested in the site as an investment. Mr Carver noted that that the development would necessitate about 56, 30 tonne articulated trucks going through housing estates where naval families lived with small children and that this was a time bomb and that there would also be associated traffic with the sale of the wood. He noted also that the timber used for the firewood was not coming off the Camis Eskan forest and that if it had, things would be very different. Mr Carver stated that in his opinion this was not an agricultural development, but was industrial and that the wrong equipment would be used. He had concerns that there was no provision for dust extraction or ventilation of the diesel fumes that would result if equipment were to be used within the sheds.

Regarding the anticipated noise level of 102 decibels, Mr Carver said that this did not include associated noise which could bring the level up to a potential 300 decibels which would be outwith the permissible Health and Safety limit. Scottish Woodlands had allowed the Three Lochs Way to run through the farm and Mr Carver wondered how the public would get through the sheds and the locked farm gate. He also noted that there was no 3-phase power supply or sanitation provision.

Mr Carver advised that the sheds had been erected without any notification to neighbouring properties and that the developers of the new houses had received no such notification. He added that the barn was currently being used for storage of equipment.

Members' Questions

Councillor Reay asked the Mr Carver if the development on the planning application approved in 2002 had been build, to which Mr Carver said that it had. Mr Young explained that the omission of reference to this application had been an oversight and that he was happy to take this on board.

Councillor Reay suggested that if that were the case, how would it take STRAT DC3 into consideration.

Councillor Kinniburgh referred to the access which had been more accessible prior to the construction of the new Hermitage Academy and asked whether it would be possible to impose conditions restricting the movement of traffic to be outwith school hours only.

Mr Young responded by saying that it would require to meet the six tests of conditions and that any such condition would be difficult to enforce.

Councillor McKay asked Mr Young why there was no Roads Manager here to answer such important questions. Mr Young explained that the Roads Manager had given apologies due to a personal matter.

Mr Young explained that the Environmental Officer had requested further information in order that assessments could be carried out but that the problem with this was that if members chose to continue the application until this information was forthcoming, it might result in an application that could not be implemented were it to be granted.

Mr Young said that STRAT DC3 was the policy which was most relevant in determining this application and that there had been some difficulty in arguing for diversification of a farm business under this policy. He said that he must take a balanced judgement and that in his view as the site was Green Belt, the answer would have to be no. He agreed that there was no negative visual impact but that there were other issues to be considered.

Councillor Dance asked if there could be some reference as to where the approved new houses were to be and also as to why no notification of this development had been given to neighbours. She asked how it would be possible to support an application where there would be no electricity, no water and no response from Environmental Health.

Mr Adamson confirmed the distance of his home from the development as being 250m.

Mr Adamson said that he had never indicated that these facilities were required and that the machinery was not electrical and that there was a small water supply for sheep on site.

Councillor Dance said that this would suggest that the non-electrical equipment would be run outside and asked for clarification on this.

Mr Adamson could not confirm whether this would be the case but acknowledged that chainsaws would be in operation out of doors. Any equipment operated inside the shed would do so with the doors open and that this would only take place during sociable hours.

Mr Young explained that delay with Environmental had been due to the retirement of the previous Environmental Officer. Regarding the notification to neighbours, Mr Young advised that the sheds were normally permitted development and that the applicant had failed to notify the Council. As such, they required retrospective planning permission which had been subsequently obtained. As the land was in the applicant's ownership and due to the distance from the adjacent properties, there was no requirement to neighbour notify.

Councillor Devon asked Mr Adamson if Camis Eskin was an operating farm.

Mr Adamson said that it was difficult to determine as the boundaries between farming and forestry were vague. He did confirm that there was only a seasonal

grazing agreement in place and that this was due to expire. By May 2012 there would only be trees. Councillor Devon suggested that this would be more like a woodland. Mr Adamson advised that the current owners did operate a dairy business in Sussex.

Councillor Devon noted that Mr Carver had mentioned that the 3 Lochs Way dissected the site but noted that the gates were locked and asked why this was. Mr Adamson said that it was for security.

Councillor McCuish asked if the construction of three houses and two agricultural sheds compromised the Green Belt.

Mr Young stated that it had been a legitimate proposal and that following consultations he had found justification for it. As an agricultural use the sheds would have been permitted development if the correct procedure had been followed. The houses were also compatible as an occupational and locational need could be established.

Councillor McCuish suggested that if they were only 250m away, would this not constitute a Bad Neighbour in reverse.

Mr Young replied that they did have planning permission so the potential effect that the proposed development might have on them must be taken into consideration.

Councillor Colville asked Mr Adamson if the business was purely for the production of firewood, to which the applicant confirmed that it was.

Councillor Colville then asked Mr Young whether the Green Belt strategy was out of date and that under the Renewable Energy Action Plan, biomass had a huge importance in this area. He felt that the scale of this type of development was to be encouraged but that he needed clarification of the definition of allowing this in a Green Belt. He asked the planning officer to justify the definition of agriculture in this context.

Mr Young said that the policy only lists the allowance of 'tourism related' schemes and that this development could not be seen as such. He suggested that a competent motion could be put together to justify the proposal.

Councillor Reay said that he wished to clarify with the Planning Officer whether there was a specific definition that could apply to this proposal that was acceptable.

Mr Young replied that there were not many tourism related applications and quoted Ardardan as being an example of this.

Councillor Reay asked whether the application would be acceptable as a form of farming diversification and that whilst it was clear that this would be a well organised industrial operation, it would still require to comply with relevant regulations.

Councillor Kinniburgh asked Mr Adamson if the doors would be open during some of the processing works. Mr Adamson confirmed that they would and

asked that it be made clear that this was not an industrial operation and would only operate for around 200 hours in the whole year. He confirmed that according to his information, there would only be an increase in 10 decibels from machinery working outside.

Councillor Kinniburgh asked Mr Adamson how he proposed to address any conditions that would restrict access times. Mr Adamson said that there was in existence a highly developed process for the transporting of timber and that it was self regulated. He said that it would be possible to ensure specific time slots as the production of firewood was ad-hoc.

Councillor McKay asked what the trigger would be for a Traffic Impact Assessment to be carried out, to which Mr Young replied that there was no particular criteria and that it depended on local circumstances. Councillor McKay asked why this had not been requested by the Roads Manager. Mr Young said that the objection had been withdrawn and in that respect, the Roads Department clearly saw no problems.

Councillor Colville said that he would like clarity on STRAT DC3 and asked if it was up to date. Mr Young advised that the Structure Plan still formed part of the extant Development Plan and was still part of Council policy and was therefore up to date and viable. Mr Young suggested again that a competent motion could be argued but that it would need to take in the specific policy which would only take in tourism related development in relation to farm diversification.

Councillor Dance asked Mr Young that if he could confirm that if permission was granted that the council would have little control of what would happen in the future and that it would be in effect open ended.

Mr Young replied that this would largely be the case but that if use intensified, further application may be necessary.

Councillor Devon asked Mr Adamson if he could confirm if some of the wood would be processed elsewhere to which Mr Adamson responded that it would not. He added that the operator was a tree surgeon and only took home the surplus wood for processing. It was now necessary for him to look for bigger premises as he had difficulty storing the wood. He would also be looking to employ the current squad more fully and would buy in any surplus wood.

Councillor Devon referred to timber operations on the island of Mull and said that in her experience, timber lorries were dependent on ferry times. Mr Adamson said that in this instance this would not be the case as the applicant could suit himself and was flexible.

The Chair then asked that the summing up process would now begin and ascertained that no new information could be introduced at this point.

Planning Officer

Mr Young said that this was not a straightforward application and that if the new business could not meet the requirement of Policy STRAT DC3 it would have to be refused.

Statutory Consultee

Mr Millar reiterated his previous comments in that their objection focused around STRAT DC3. He had listened to the discussion today and was now clear that the figures given were what had been envisaged and that this would be an open ended commitment and felt that it was a pity that more suitable land could not be identified.

Mr Mcbeth agreed that this was an important point and that while STRAT DC3 was important, there had been indication that the Structure Plan could be slightly out of date. He advised that Scottish Planning Policy had a section on Green Belts part of which particularly stated what could be allowed in Green Belt and it also stated that:-

1. The designation of development in Green Belt should be of the highest quality and
2. The cumulative erosion of a Green Belt integrity through individual development should be avoided.

Mr Carver said that he was disappointed that the Roads Officers were not in attendance. He reminded members that there was no sanitation on the site and that this would necessitate the provision of portaloos which were unsightly. He was also concerned that the machinery was not fit for purpose and adequate for mass production and that it would be running inside a building. Mr Carver had not been convinced that this was a small scale operation. He also reminded members that the noise levels would be in the region of an unacceptable 200 decibels.

The Chair then ascertained that all parties had received a fair hearing to which they confirmed that they had.

Debate

Councillor Dance said that she had initially been sympathetic to the potential of farm diversification when the application had come to the September PPSL especially in the current climate. However, she was now surprised as to why a farm in Sussex should wish to diversify in Helensburgh. She agreed with the Planning Officer's recommendation and was disappointed at the non attendance of the Roads or Environmental Officer.

Councillor Kinniburgh said that he had given the application careful consideration and that he too was disappointed that there were no officers from Roads or Environment present today especially as there was an issue with noise levels. He felt that a dangerous precedent under STRAT DC3 would be set if the application were granted and was accordingly minded to support the Planning Officer's recommendation.

Councillor McKay also expressed his concern about the lack of relevant council officers as he felt that their expertise was relevant in addressing the potential traffic and safety issues which would result in the area. He was minded to support the Planning Officer's recommendation.

Councillor Devon indicated her support for the Planning Officer's recommendation.

Councillor Chalmers agreed with Mr Mcbeth's comments regarding the system being plan-led and that Mr Adamson had put a good case forward. However, he felt that there was potential for too many variables and unanswerable questions. He would therefore be supporting the Planning Officer's recommendation.

Councillor McMillan felt that due to the breach of Green Belt policy, he would support the Planning Officer's recommendation.

Councillor McQueen indicated support for the Planning Officer's recommendation.

Councillor Colville indicated that had it not been for the Green Belt element, he would have been supportive of the application and that a competent motion could be put up. He was minded to continue the application until further information was forthcoming and that a condition could be added to indicate what would be required. He wanted clear instruction on noise levels and conditions that could be applied. Councillor Colville had concerns that clarification would need to be had on the farm diversification aspect.

Councillor Reay agreed that the Green Belt and visual impact were the main issues. He felt that the importing of this industrial opportunity had been opportunistic and that the precedent of setting and industrial process in the Green Belt must be avoided. He stated that the blocking off of the 3 Lochs Way path was unacceptable. Councillor Reay indicated his strong support for the Planning Officer's recommendation.

Councillor McCuish said that whilst he sympathised in some respects with the applicant, he did not feel that this was diversification and indicated his support for the Planning Officer's recommendation.

Councillor Kelly said that he had also some reservations regarding the location of the application and that he had concerns regarding the lack of officers at today's hearing.

Decision

To refuse planning permission for the following reasons:-

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

Greenbelt at this location. As such, the proposal is contrary to Structure Plan Policy STRAT DC3, which only gives encouragement to very limited and specific categories of countryside based development.

Councillor Colville having failed to find a seconder for an amendment asked that his dissent be recorded.

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 19 OCTOBER 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Vivien Dance Councillor Roderick McCuish
Councillor David Kinniburgh Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law
Graeme Forrester, Trainee Solicitor
R Didcock, Applicant
Inspector A Davidson, Strathclyde Police

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

None declared.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF A TEMPORARY STREET TRADER'S LICENCE - R DIDCOCK (ARDRISHAIG)

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

Applicant

The Chair invited the Applicant to speak in support of his application. Mr Didcock advised that he, operating as Argyll Services Company, had taken on the old Lorne garage at Ardrishaig in January 2011 and had gone through planning in respect of change of use of the site and bringing the yard up to a suitable standard required by Roads and Planning. He advised that he was not aware that he required to have a licence to operate a car wash facility and that he was only made aware of this when the Police approached him and told him to shut the business down. He queried why the requirement for a Street Trader's Licence was not drawn to his attention by Planner's when he was in discussion with them regarding the change of use planning application. He made reference to the letter dated 22 September 2011 submitted by Strathclyde Police objecting to his application in which they had stated that he was not a fit and proper person due to previous convictions. He referred to a conviction of Breach of Probation on 16 February 2010 and advised that he had information that confirmed otherwise. He also referred to the Breach of the Peace Fixed Penalty Notice relating to an incident in Lochgilphead on 8 July 2011 and advised that there were other people involved in this incident and queried why they were not also charged with Breach of the Peace. He advised that it was he who had contacted the Police to report the incident and that he was acting in self defence.

Mr Didcock then circulated to the Committee a letter from the Supervising Officer for the Probation Order dated 11 October 2011 which he believed supported his view that there was no breach report submitted in the course of his Probation Order.

Questions to Applicant

The Chair then invited the Police to ask questions. Inspector Davidson referred to the Fixed Penalty Notice issued to the Applicant and asked Mr Didcock if he was aware of the conditions of the Fixed Penalty Notice. Mr Didcock asked what these conditions were and Inspector Davidson explained these to him.

Mr Didcock advised that there were no witnesses present as everyone and left the scene and that he paid the fine.

Inspector Davidson advised Mr Didcock that by paying the fine he was admitting that he was guilty of the charge.

Police

The Chair then invited the Police to speak in support of their objection. Inspector Davidson advised that in the main their objections were in relation to the Applicant's previous convictions which were detailed in the letter dated 22 September 2011 from the Area Commander. He advised that the incident on 8 July 2011 was a stand up fight outside the Argyll Hotel, Lochgilphead and that a Fixed Penalty Notice had been issued in lieu of appearing in court for breach of the peace which the Applicant accepted. He stated that one conviction was in relation to violence and the other was in relation to behaviour towards a child and it was felt that the Applicant was not a fit and proper person to hold a Street Traders Licence as this would bring him into regular contact with people, including children.

Questions to Police

The Chair then invited the Applicant to ask the Police questions. Mr Didcock asked if paying a fine meant a conviction was disposed of and Inspector Davidson replied yes.

Members' Questions

The Chair then invited Members to ask the Applicant and the Police questions.

Councillor McCuish referred to the three convictions listed in the letter submitted by the Police, and asked Mr Didcock why he had only referred to one conviction in his application form. Mr Didcock did not provide a reason for this.

Councillor Kinniburgh asked Mr Didcock if he had appeared at Oban Sheriff Court on 16 February 2010. Mr Didcock advised that he did not.

Councillor Kinniburgh asked Mr Didcock if he was aware of the court proceedings on 16 February 2010. Mr Didcock advised that he was not aware of the proceedings.

Councillor Kinniburgh asked Mr Didcock if his business would be just valeting cars. Mr Didcock advised that he would also be offering laser blasting and would operate welding machinery.

Councillor Dance referred to the Applicant's opening statement when he referred to "we" and asked who "we" were. Mr Didcock advised that he meant to see I and that he was the sole trader in his private business.

Councillor Dance referred to Police concerns about the Applicant's contact with the public and to behavioural issues in respect of his previous conviction and also referred to the Applicant's behaviour at the hearing and that he appeared to be in denial, and asked Mr Didcock if this was the type of behaviour the Police were highlighting. Mr Didcock replied no.

Councillor Dance advised the Applicant that there were ways to behave and conduct himself and that he appeared still to be in denial of his guilt in respect of the conviction made in July 2011. She asked if Mr Didcock accepted he was accepting he was guilty as charged. Mr Didcock advised that he was acting in self defence.

Summing Up

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

Inspector Davidson advised that the Police position remained as was stated in their letter of 20 September 2011.

Mr Didcock advised that he had nothing more to say.

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

Debate

Councillor Kelly advised that from what he had heard today and read in the paperwork it was his opinion that the application should be refused and there was no one otherwise minded.

Decision

It was unanimously agreed to refuse Mr Didcock's request for a Temporary Street Trader's Licence on the basis that he was not a fit and proper person to hold such a licence given his previous convictions and that Mr Didcock would be notified in writing within 7 days.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 19 OCTOBER 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Vivien Dance	Councillor Donald MacMillan
Councillor David Kinniburgh	Councillor Roderick McCuish
Councillor Bruce Marshall	Councillor James McQueen

Attending: Mr Charles Reppke, Head of Governance and Law
Mr Graeme Forrester, Trainee Solicitor
Mr D MacPherson, Applicant
Mrs E Munro, Objector
Mr I Ferguson, Objector's Agent

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

None declared.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION TO AMEND STREET TRADER'S LICENCE - D MACPHERSON (CAMPBELTOWN)

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

Applicant

The Chair invited the Applicant to speak in support of his application. Mr MacPherson advised that he was changing the current vehicle he used for a larger vehicle. He explained that his business was affected when the weather was bad and especially when windy and that the new vehicle would be far safer to work in and that it would also be beneficial to customers as it would allow them to come off the street and into the van to place their orders. He confirmed that no other changes would be made and that he would continue to sell the same types of food and site his vehicle in the same places as the current vehicle.

Questions to Applicant

The Chair then invited the Objector to ask the Applicant questions. Mr Ferguson, on behalf of his client, Mrs Munro, asked why the present vehicle was not safe. Mr MacPherson advised that he lost up to 17 days business per year due to the weather and he was worried his present trailer would get blown away in the wind.

Mr Ferguson asked Mr MacPherson if he was creating a situation where the public could enter his vehicle rather than stand outside and Mr MacPherson confirmed that this was correct.

Mr Ferguson referred to the size of the new vehicle and asked if this would be the size of a Royal Mail truck and asked if the public would be able to sit in to eat in the new vehicle. Mr MacPherson advised that this would not be the case.

Mr Ferguson asked if Mr MacPherson could give an indication as to the size of the vehicle and if this would be the same size as a West Coast Motors mail van. Mr MacPherson advised that the vehicle was 18 feet x 7.5 feet.

Mr Ferguson asked what the tonnage of the vehicle would be. Mr MacPherson advised that it had been downgraded to a van and was not a lorry.

Mr Ferguson asked if the vehicle would be the size of a 7 tonne truck like a West Coast Motors mail van. Mr MacPherson advised that the vehicle was 18 feet x 7.5 feet and would allow people to enter the van and that this would be safer for the public and that was the reason for requiring a bigger van.

Mr Ferguson asked if fuel would be carried and if it was diesel van. Mr MacPherson confirmed that the vehicle ran on diesel.

Mr Ferguson asked if the same products would be served as before and Mr MacPherson confirmed that this would be the case.

Mr Ferguson asked for confirmation that no food would be consumed in the vehicle and Mr MacPherson confirmed that this would be the case.

Mr Ferguson asked what type of fuel would be used to cook food and Mr MacPherson confirmed that he would use LPG Gas and electricity and that a generator would be used for the fridge.

Mr Ferguson queried again the size of the vehicle and Mr MacPherson advised that it was an 18 foot lorry.

Mr Ferguson then queried the ownership of the vehicle and who it was registered with. Mr MacPherson advised that he had the vehicle but it was registered in the name of Mr Charles MacLean.

Mr Ferguson asked if Mr MacPherson paid for the vehicle and referred to the contents of his letter of objection dated 9 September 2011 and the circumstances surrounding ownership of the vehicle. Mr MacPherson confirmed that he had paid for the vehicle and that he had not got round to registering it in his name. Mr MacPherson said the registered keeper did not need to be the same person as the owner.

Mr Ferguson asked if Mr MacLean was his business partner and Mr MacPherson confirmed that Mr MacLean worked for him.

Mr Ferguson asked if the new vehicle had been paid for by Mr MacLean and Mr MacPherson replied no.

Objector

The Chair invited the Objector to speak in support of their objection. Mr Ferguson referred to the contents of his letter dated 9 September 2011 and stated that there were two issues of concern for his client who was a street trader herself. He advised that there were two Street Trader's Licences in Campbeltown, one in the name of Mr MacPherson and one the name of his client, Mrs Munro, and that both traders operated in the same locations and at similar times. He also advised that there were four fast food outlets in Campbeltown and any expansion of this type of trade was not good in the current economic climate. He advised that the size of Mr MacPherson's new vehicle, which would allow for people to enter and arguably eat in, put it in a different category to the current vehicle and it appeared that Mr MacPherson's change of vehicle would significantly expand his business and would lead to consumption of food on the vehicle. He advised that Mr MacPherson did not answer well his questions regarding the size of the vehicle and stated that if pictures of the vehicle could have been provided this would have been beneficial. Mr Ferguson also referred to the background of Mr MacPherson's existing Street Trader's Licence and his proposed new one. He advised that the current vehicle was in the ownership of Mr MacLean and not Mr MacPherson and that the new vehicle was registered to Mr MacLean. He stated that it was he and his client's belief that the new vehicle was bought and paid for by Mr MacLean and that it is Mr MacLean that runs the business not Mr MacPherson.

Questions to Objector

The Chair invited the Applicant to ask the Objector questions and Mr MacPherson confirmed that he had no questions for the Objector.

Members' Questions

The Chair then invited Members to ask the Applicant and Objector questions.

Councillor MacMillan asked if Health and Safety checks had been carried out to allow the public to enter the new vehicle to place orders and Mr MacPherson confirmed that Health and Safety checks had been carried out and that he had a certificate for this.

Councillor Kinniburgh asked Mr Ferguson for clarification on the different types of Ford IVECO vehicles. Mr Ferguson advised that his client's vehicle was a transit size van with a window on the side which opened up to reveal a serving counter and that the existing vehicle used by the Applicant was similar. He advised that there were different sizes of Ford IVECO vehicles and that the Applicant's new vehicle would be a different type and size.

Councillor Kinniburgh asked Mr MacPherson if his new vehicle would be of greater size and he replied yes.

Councillor Kinniburgh asked Mr MacPherson if the vehicle would have a single or double axle and Mr MacPherson confirmed that it would have a double axle.

Councillor Kinniburgh asked how customers would enter the new vehicle and Mr MacPherson advised that the entrance would be at the rear of the vehicle.

Councillor Kinniburgh asked how many customers could enter the vehicle at the same time and Mr MacPherson advised that there would be room for up to three customers.

Councillor Kinniburgh asked how much space would be allocated to cookers and equipment and Mr MacPherson advised that $\frac{3}{4}$ of the space would be allocated for equipment and cookers.

Councillor Dance advised that she had calculated that the new vehicle would be 33% bigger than the old vehicle and asked Mr MacPherson what his motive was for expanding his business in the current economic climate when most businesses were cutting back and asked how much his overheads would increase by. Mr MacPherson advised that his new vehicle would allow for more room inside for cooking facilities and that there would be no increase to his overheads.

Councillor Dance asked Mr Ferguson if his client's van was 6 feet by 11 feet and Mr Ferguson replied yes.

Councillor Dance asked Mr Ferguson to expand on the statement made in his letter that the Applicant was not a fit and proper person to hold a Street Trader's Licence. Mr Ferguson advised that this may be seen as a separate issue and that there was significant history to this application. He stated that the whole set up was a sham and that it was not Mr MacPherson's vehicle or business and that the vehicle and business belonged to Mr MacLean.

Councillor McCuish referred to the new vehicle being required to allow customer protection from the weather and how this would be possible if only 2 or 3 people at a time would be able to enter the vehicle and they would not be able to stay in it. Mr MacPherson advised that most of his customers were lorry drivers who returned to their vehicles once they had received their food.

Councillor McCuish asked for clarification that it was about safety and Mr MacPherson replied yes for staff and for customers.

Councillor McCuish asked if it was Mr MacLean who ran the business. Mr MacPherson advised that Mr MacLean worked for him and that he did not have a Street Trader's Licence.

Councillor MacMillan referred to most of the Applicant's trading being done on the Esplanade and asked if he traded elsewhere. Mr MacPherson confirmed that he also traded at Kinloch Road and occasionally the Main Street.

Councillor MacMillan asked if the new vehicle would trade at these places and Mr MacPherson replied yes.

Councillor Marshall asked for clarification on whether or not Mr MacPherson had any involvement in the preparation and sale of food in Campbeltown. Mr MacPherson advised that yes he did have some involvement. He confirmed that Mr MacLean ran the business for him and was employed by him and received a wage. He advised that Mr MacLean managed the business for him as he had other employment.

Councillor Kinniburgh asked how many days trade Mrs Munro lost due to the weather. Mrs Munro advised that last year she lost one morning and to date this year no days had been lost. She advised that she worked 6 days per week and sometimes Sundays.

Councillor Dance asked Mr MacPherson to expand on the other employment he had and how many hours he spent in the preparation and sale of food. Mr MacPherson advised that he currently worked on the trailer two days per week and that four days per week he worked as a security guard.

Councillor McCuish referred to the size of the new vehicle and asked how far from the back wall of the Council Chamber would the vehicle come out to. Mr MacPherson guessed it would come out as far as three rows of chairs but that it was hard to say.

Summing Up

The Chair invited the Objector and Applicant to sum up.

Mr Ferguson advised that the 18 foot length referred to the length of the trailer part of the vehicle and that the vehicle itself would be far longer. He advised that it was unfortunate that Mr MacPherson had not provided better evidence of the size of the vehicle and that photographs would have been useful. He referred to Councillor MacMillan's question about Health and Safety and suspected that the certificate Mr MacPherson was referring to would be an Environmental rather than Health and Safety certificate and that it would have been useful to see this. He advised that it was his client's view that this was not Mr MacPherson's business at all and that it was Mr MacLean's business and that Mr MacPherson only worked there on the very odd occasion. He referred to Mr MacPherson's claim that Mr MacLean ran the business for him and Mr Ferguson stated that it would have been useful to see evidence of payslips and contracts in this respect. He confirmed that he had evidence that the vehicles were registered in Mr MacLean's name and advised that this application was not truly the Applicant's application.

Mr MacPherson advised that the vehicle was 18 feet in length from the front bumper to the rear of the vehicle and included everything. He stated that he did not think it was right that Mr Ferguson could refer to him being not a fit and proper person and that it was for the Committee to make this decision.

The Chair invited the Applicant and the Objector to confirm they had received a fair hearing and this was confirmed.

Mr Reppke advised, that before the Committee went onto debate, Mr Forrester would be able to clarify the position regarding the holding of Street Trader's Licences.

Mr Forrester confirmed that Mr MacLean did hold a Street Trader's Licence which applied to the current vehicle operated by the Applicant. He also confirmed that a Street Trader's Licence is required by any person undertaking street trading whether on his own account or as an employee. Where there is more than one person trading from one van both or all shall require a licence permitting trade from that van. There is no distinction within the legislation

between those working a large number of hours or a small number of hours.

Debate

Councillor Kelly advised that from what he had heard today and read in the paperwork it was his opinion that it was not necessary for the Applicant to operate from a larger vehicle which would not be suitable for the proposed locations and recommended refusal of the application.

Councillor Dance agreed with Councillor Kelly's comments and asked that the matter regarding who was operating the business should be investigated and Mr Reppke confirmed that an investigation was currently underway.

Decision

It was unanimously agreed to refuse Mr MacPherson's application to amend his Street Trader's Licence on the basis that it was not a suitable vehicle for the licensed locations and that Mr MacPherson would be notified in writing within 7 days.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 19 OCTOBER 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Rory Colville	Councillor Bruce Marshal
Councillor Gordon Chalmers	Councillor Donald MacMillan
Councillor Vivien Dance	Councillor Roderick McCuish
Councillor David Kinniburgh	Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law
Angus Gilmour, Head of Planning and Regulatory Services
Alan Morrison, Regulatory Services Manager
Sandra Davies, Planning Officer

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

None declared.

3. MINUTES

- (a) The Minutes of the Planning, Protective Services and Licensing Committee of 13 September 2011 were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing Committee of 21 September 2011 (10.00 am) were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee of 21 September 2011 (2.00 pm) were approved as a correct record subject to the following amendment:

Under Item 2 - Declarations of Interest, Councillor Gordon Chalmers had intimated in advance of the meeting the need to declare a non financial interest in respect of item 3 of the Minutes as he was a close personal friend of one of the Objectors. Councillor Chalmers did not attend the meeting and took no part in the discussion of this item.

- (d) The Minutes of the Planning, Protective Services and Licensing Committee of 21 September 2011 (2.30 pm) were approved as a correct record subject to the following amendment.

Under Item 2 - Declarations of Interest, Councillor Gordon Chalmers had intimated in advance of the meeting the need to declare a non financial interest in respect of item 3 of the Minutes as he was a close personal friend of one of the Objectors. Councillors Chalmers did not attend the

meeting and took no part in the discussion of this item.

4. FOOD SAFETY ENFORCEMENT IN ARGYLL AND BUTE: OUTCOME OF FOOD STANDARDS AGENCY AUDIT

A report advising of the positive audit report received from the Food Standards Agency (Scotland) (FSAS) was considered. The purpose of the audit, which was carried out on 13 – 15 September 2011, 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.

Decision

1. Recognised the findings of the FSAS audit and the excellent work undertaken by Environmental Health staff within Regulatory Services to protect food safety;
2. Approved the action plan, which addresses minor issues raised by the audit, and requires the Regulatory Services Manager, at the Council's Head of Food Safety, to respond fully to the FSAS on this matter; and
3. Agreed that a progress report be submitted to the PPSL Committee on the action plan at the March 2012 Committee meeting.

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

5. REVIEW OF THE CONSUMER LANDSCAPE

A report highlighting the implications of the Government consultation dated June 2011 which proposes radical changes in the way in which Councils' Trading Standards deliver consumer protection across the UK was considered. These proposals arise from the decision to abolish the Office of Fair Trading.

Decision

1. Noted the consultation paper and supported the view that it is essential that any proposals will not diminish the delivery of consumer protection at a local level; and
2. Noted that the Regulatory Services Manager will bring a report to a future meeting of the PPSL Committee once the outcome of the review is known.

(Reference: Report by Head of Planning and Regulatory Services, submitted)

6. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI FARE SCALE REVIEW

In terms of the Civic Government (Scotland) Act 1982, Section 17, the Council 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. At its meeting on 19 January 2011, the PPSL Committee agreed to increase the fare structure; make no change to the charges in respect of soiling, waiting and telephone bookings; to make no change to the

yardage distances; and to undertake a further review of the fare structure in 12 months times rather than 18 months as required by the Civic Government (Scotland) Act 1982. A report advising of new procedures to be followed for the forthcoming review of fares was considered including the option, which was not mandatory, to advertise the initial consultation phase.

Decision

1. Agreed the procedure for reviewing taxi fares and that, in the first instance, notification will be given in writing to all Taxi Operators within the local authority area of the review inviting them and their representatives to make written representations by 28 November 2011; and
2. Agreed that a report be submitted to the PPSL Committee early in the new year for a decision on what the fare scale will be from February/March 2012.

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

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)

The PPSL Committee, at its meeting on 21 September 2011, agreed to continue consideration of this application until a site inspection took place and this was subsequently carried out on 10 October 2011. The Planning Officer spoke to the terms of the report and to supplementary report 1 which was before the Committee at the meeting on 21 September 2011. The Planning Officer also spoke to the terms of a further supplementary report 2 which summarised and assessed key points raised and submitted to Members by the Applicant prior to the meeting on 21 September 2011. She advised that this submission by the Applicant included photo montages which reflected an amended plan which was not the subject of this application. The Applicant had been advised that if he wished the Committee to consider the amended plan a new planning application would have to be submitted as the amended plan was considered a material change to the original application. The Planning Officer advised that the contents of supplementary report 2 did not change the recommendation contained in supplementary report 1 and recommended that planning permission be refused.

Decision

1. Agreed to continue consideration of this application to the next meeting to allow Planners to clarify with the Applicant which set of plans he wished to put forward for consideration and whether or not he wished to withdraw his current application and submit a new application; and
2. Noted that the Applicant had not made a request to have the TPO modified to exclude this area of ground.

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

Supplementary Report 2 dated 3 October 2011, submitted)

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)

The Head of Planning and Regulatory Services spoke to the terms of his report advising that the removal of condition 4 would not satisfy the requirements of development plan policies STRAT DC 9 or LP ENV 13(b) and associated government advice and recommended that Listed Building Consent be refused.

Decision

Agreed to continue consideration of this application to the next meeting to allow Planners to liaise with the Applicant, in consultation with Historic Scotland, to see if an appropriate legal agreement could be negotiated as an alternative solution to assist the Applicant and which would satisfy the requirements of Historic Scotland.

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

9. ARGYLL AND BUTE COUNCIL: ERECTION OF EXTENSION TO PROVIDE ADDITIONAL CLASSROOM AND STORE: TAYNUILT PRIMARY SCHOOL (REF: 11/01104/PP)

The Planning Officer spoke to the terms of the report advising that this was a Council interest application and that the proposed extension was of a suitable design and in keeping with the existing building. She advised that the proposal complied with policies LP ENV 1 and LP EN 19 of the adopted 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 details specified on the application form dated 21st 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.

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

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)

The Planning Officer spoke to the terms of the report advising that this was a Council interest application and that the proposal was 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. She further advised that 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 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 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

(Reference: Report by Head of Planning and Regulatory Services dated 27 September 2011, submitted)

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)

The Planning Officer spoke to the terms of the report advising that this was a Council interest application and that the proposal was for the reinstatement of a former Council office building to its original use as a single dwellinghouse. She advised that the proposal did 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 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 application form dated 17th 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.

(Reference: Report by Head of Planning and Regulatory Services dated 28 September 2011, submitted)

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

A report advising 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 was considered.

Decision

The Committee agreed:-

1. To authorise the Executive Director – Customer Services to make a public path extinguishment or diversion order under Sections 34 and 35 of the Countryside (Scotland) Act 1967, in respect of the rights of way indicated in the plan attached to the report, on securing from the owner/prospective development 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; and
3. In the event that the Order is unopposed, that it be referred to Scottish Ministers for confirmation.

(Reference: Report by Head of Planning and Regulatory Services dated 23 September 2011, submitted)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the STRACHUR MEMORIAL HALL (NEW HALL), STRACHUR
on FRIDAY, 21 OCTOBER 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Gordon Chalmers	Councillor Roderick McCuish
Councillor Vivien Dance	Councillor Alex McNaughton
Councillor Bruce Marshall	Councillor James McQueen
Councillor Donald MacMillan	

Attending: Charles Reppke, Head of Governance and Law
David Sumsion, Applicant
Suzanne McIntosh, Applicant's Agent
Ross McLaughlin, Development Manager
Brian Close, Planning Officer
Ben Tustin, SEPA
Jo Rains, Environmental Health Manager
Frances Bremner, Supporter
Alison Hutcheons, Supporter
Elaine Pound, Objector
Kenneth Pound, Objector
Tuggy Delap, Objector
Pauline Hammond, Objector

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

None declared.

3. 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 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.

PLANNING AUTHORITY

Mr Ross McLaughlin, Development Manager, spoke to the terms of his report

and referred to a supplementary planning report number 3 which had been tabled at the meeting and highlighted late representations received and also the fact that Transport Scotland would not be attending the hearing today and that they felt their letter and submissions provided a full explanation to their earlier response dated 25 August 2011.

Mr McLaughlin advised that the Committee were being asked to consider an application for development of a site which was, in the Argyll and Bute Local Plan, located within sensitive countryside but forms part of Potential Area for Development PDA 9/13 'Cairndow-Inverfyne' where a mixed used business/housing/recreation use is supported and Area for Action AFA 9/14 where strategic business and environmental improvements are encouraged. He referred to a number of slides which showed the red line boundary of the site and outlined what the indicative development would include. He pointed out the existing workshops and the location of the Bonnar Weighbridge and the conifer plantation which was proposed to be felled. He advised that the conifers were ready for harvesting and that the applicant would need to obtain a felling licence before cutting down the trees. The slides also showed the layout of the proposed development and the proposed pedestrian access to Lochfyne Oysters although this was not part of the application. The slides also highlighted the existing landscaping, tree planting and shelter belts at the site and the existing native planting at the shelter belt and the proposed new planting. He advised that the application sought to include at least 25% affordable housing though it was not clear at this stage the delivery mechanism for these. The slides also included a photo montage provided by the Applicant which showed what the view of the site would be from the A83 once the trees were felled and also gave an indication of the roof line which was comparable with the existing commercial sheds. Mr McLaughlin advised that the site covered 2 hectares and was phase 1 of PDA 9/13. He referred to representations made by the Statutory Consultees which were summarised in the Planning report. He advised that SEPA had raised objections to the Masterplan submitted for PDA 9/13 (which was for indicative purposes only and currently had no planning status) and that they had raised an issue regarding the location of discharged treated sewage which appeared to be different on the submitted planning application drawings from their records in respect of the CARS licence issued to the Applicant. Mr McLaughlin also referred to the public representations received which were divided in opinion and confirmed that multiple letters had been received from both Supporters and Objectors. He confirmed that there were 11 separate Objectors and 19 Supporters. He advised that the main issues raised by the Supporters included the need for housing in the area; securing jobs for the area; the childcare centre; affordable housing for existing workers; and that some of the Objectors did not live in the area. He advised that the issues raised by Objectors included scale of the development out of keeping with the surrounding area; poor design; loss of tranquillity; focus of development should be Cairndow Village itself; no more housing needed and Pheasant Field development should be sufficient; this is Phase 1 of a much bigger development and no consultation process had taken place; road safety issues on A83; and visibility splays on a very fast road.

Mr McLaughlin confirmed that Planners were supportive of a mixed used development but that there were 3 main areas of concern and that these related to the specific density of the site which was excessive in a rural location. He also advised that there was the potential for bad neighbour conflicts from existing

operations and bad neighbour conflicts with the new industrial units proposed which would be close to the proposed new housing. Thirdly, he advised that an acceptable Masterplan for the site had not been submitted and that this was Phase 1 of a larger scheme. He advised that a Masterplan approach was advocated in devising proposals for the development of all PDAs identified by the Argyll and Bute Local Plan in order to ensure that development is planned for on a comprehensive basis and that phased development, where required, is able to proceed in the knowledge that it will not conflict with, or compromise, the future development of the remainder of the PDA and therefore recommended refusal of the application for reasons 1 and 2 detailed in his original report and for reason 3 detailed in supplementary report 1.

APPLICANT

Ms Suzanne McIntosh, a planning consultant, urban designer and mediator acting for the Applicant, Mr Sumsion, spoke in support of his application. She stressed to the Committee that they were considering a application for planning in principle and not a detailed worked up design. She confirmed that extensive work has been carried out by all parties to resolve issues at the application in principle stage though the process was not without frustrations and at times seemed to stall. She advised that substantial representations have been received in support of bringing forward this development which would bring positive benefits for the local area. She advised the Applicant has worked hard to address the concerns expressed by objectors and asked the Committee to carefully consider the representations and where signatories are from, how they related to this site and what their interest is in objecting to the application. She advised that over the last 30 years Ardkinglas Estate has encouraged the start up and growth of a wide range of businesses and kept housing for local rent rather than as holiday lets. She referred to a report published in 2003 on a Community Action Plan programme in Cairndow which identified need for local housing, local childcare and diverse and sustainable employment. She advised that the Estate has invested considerable sums of money in environmental improvement schemes over the years, maintaining Ardkinglas Woodland Garden, opening new footpaths and creating new native woodlands and listed a number of businesses that have been supported by the Estate including Clachan Farm, Lochfyne Oysters Ltd, the Scottish Salmon Company, Lakeland Smolts, the Tree Shop, Bonnars Sand and Gravel, Here we Are, Our Power (woodchip production unit), Our Hydro (a hydro scheme in Glen Fyne currently under development), Clachan Flats Windfarm as well as a number of 1 and 2 person businesses. She advised that Ardkinglas Estate has successfully balanced the introduction of new developments with the maintenance of the important historical environment and that the Estate has recently been selected as a case study in the Sustainable Estates for the 21st Century project run by UHI. She referred to the Estate's successful Planning application for the Pheasant Field and also referred to a of number awards won by the Applicant. She referred to the PDA issue and the Planner's view of a Masterplan approach to be agreed before approval of the planning application. She advised that the PDA was an unusual concept and peculiar to Argyll. She referred to the lack of constraints on this site being important which meant that the site was 'effective' in planning terms or can come forward at any time in the short term. She advised that development of the planning application in principle can happen in isolation or alternatively as part of a comprehensive redevelopment of this PDA. She asked Members to note that no overall vision or further level of details for the PDA is

expressed in any of the Council's documents and advised that Mr Sumsion has provided a bespoke vision for the PDA. She asked if it was reasonable to be asking the Applicant for further development of the Masterplan for the whole PDA as part of this application and she asked if a detailed Masterplan drawn up now would be relevant in 2 or 5 years time. She noted that the development was broadly acceptable and in line with PDA 9/13 and AFA 9/4 in the Local Plan and asked the Committee to endorse a general principle for this part of the site. She advised that the Masterplan Mr Sumsion was asked to submit was indicative only and not worked up to the level of detail required for consultation. She advised that the application site is the redline boundary and was not the whole of the PDA. She referred to many Masterplans in other areas being now unworkable due to the current economic climate. She advised that PAN 83 was a pre application planning tool. She advised it was important to remember that the Local Plan did not state that PDAs must have a Masterplan approved before any detailed or outline applications are approved. She advised that this application should be considered as a stand alone application and that a funding and phasing strategy will be developed later. She advised that the Applicant controls and owns much of the surrounding land and gave an assurance that specific planning gains or planting will be provided and if there are any issues to be resolved with other landowners regarding landownership in order to achieve adequate visibility splays this will be done. She advised that the development satisfied the current need and should not be held up for a Masterplan. Approving the application as it stands gives the Council the flexibility to consult widely on a Masterplan for the PDA as part of the Local Development Plan process and that a future detailed application should be when consideration of design, layout etc should be made. She advised that in approving the application the Members were giving nothing away that the Planning Act or the Local Plan does not allow them to do and that the Committee would be taking a proactive approach. She advised that it was neither in the Applicant's interest or Council to adversely affect the effectiveness of the whole PDA. She referred to Objectors appearing to be misguided by the motivations and make mention of the new village of Clachan – an idea from a different time and place being used out of context now. She referred to Housing need and that the application sought to comply with local plan Policy LP HOU 2 and that Housing Need assessments undertaken showed a preference for housing in this area. She advised that the Rural Housing for Rent Scheme was parked at the moment but still being looked at. She referred to the CAR licence issued by SEPA and confirmed that Mr Sumsion has been in touch with SEPA and the appropriate process to adjust the Licence National Grid Reference location will be completed prior to a future detailed Application being submitted to the Council. She advised that the separate Registration NGR will require an Application for Variation which will be completed in due course. She also advised that she had asked Planner's to remove reference to discussions on mediation from the Committee report as this was a confidential process. She referred to density that 15 dwellings per hectare was the norm for a Housing Association development and that the number of units arrived at in this proposal has been done by examining Argyll densities and applying this. She referred to the reasons for refusal and the concerns with density and the plans submitted and advised that reason 1 relied on an indicative Plan. She advised that reason 2 talked about density in the light of the plan and advised that as an outline application this could easily be termed housing, care business and industry. She stated that Mr Sumsion thought it would be helpful to indicate numbers but if Members felt that this confused the issue then he would be agreeable to withdrawing those. With reference to

reason 3 she advised that it was their view that this was incorrect and that the Local Plan does not say that a Masterplan must be agreed before an application in principle is approved. She advised that it was their view that each reason for refusal was flawed and was based on an indicative concept which would indicate that if this application were to be refused and taken to appeal a Reporter would find very little in those reasons for refusal to substantiate and the Council would find itself in a difficult position of having to defend those. She advised that Mr Sumsion was keen to work collaboratively with the Planning Department and that she had demonstrated the need for the proposals and how in their view they were in line with the aspirations of the Scottish Government and the development plans and that she had also demonstrated why the reasons for refusal were incorrect. She asked the Committee to consider whether they agreed with the Head of Planning and that the proposal was not in accordance with the Local Plan and if they thought that then they would have to satisfy themselves that there was no other material considerations as to why the development should be approved. She advised that in this case the material considerations were the local need for the childcare unit, business units and low cost housing for local people; a need to meet Scottish Government objectives in proactive planning being the key to sustainable economic growth, especially in a rural area such as Argyll; supporting the endeavours of the Estate which has been proactive in creating economic growth in this area for many years; and the ability to mitigate any/all concerns through the use of conditions/legal agreements. She asked the Committee to take cognisance of the length of time the application process has taken. She advised that the Committee has the flexibility through Section 25 to look at other material considerations and whether on balance for other reasons this application should be approved. She also asked Members to take into the consideration the track record of the Applicant.

STATUTORY CONSULTEES

Mr Tustin of SEPA advised that he had nothing further to add to what was in his written representations contained within the Planner's report but could confirm that at the time SEPA were considering the application they were in receipt of an application to discharge affluent into Lochfyne and that the discrepancy with the grid reference was being addressed. He advised that Foul Drainage issues were being objected to on the basis of insufficient information provided to make an opinion and there was a need to clarify this with Scottish Water.

Ms Rains, Environmental Health Manager, advised that she has concerns regarding bad neighbour issues and that no information has been provided on noise levels on existing industrial uses and how these would impact on proposed housing development. She also has concerns about how the proposed new industrial businesses will impact on housing. She advised that this fairly substantial development will require a water supply and that she will require geological information and a risk assessment on how work will impact on the existing development and how water needs will be addressed.

SUPPORTERS

Mrs Bremner advised that she was a resident of Cairndow and has been for 25 years and that she has spoken to a lot of people in the village about this proposed development and that they can see potential in this development. She advised that she was a member of the Community Council but was not speaking

on their behalf today. She advised that there appeared to be a lot of input from people who did not live in the village and who did not visit the area very often. She advised that there was a lot of support in the village for what the Estate does. She advised that the Childcare centre was not run by the Applicant's family. She advised that every community will have a certain amount of people involved and some who will not be involved. She referred to the application just being for outline planning permission and that the proposed 16 houses and 7 commercial units may not get built due to the current economic climate. She advised that the application must be allowed as it was an opportunity to develop the community. She advised that she did not agree with Objectors' concerns that it will make 2 villages. She advised that in other parts of Argyll villages were spread over a distance. She advised that there was a lot of support for this development.

Mrs Hutcheons advised that her family were residents in the village and that she was involved in the Child Care Centre Committee. She advised that her husband worked in the village and that her children attended the Child Care facility. She advised that the proposed development will assist her husband's business and may also assist with her starting up her own business and she welcomed the proposed workshops units. She advised that her family would not have moved to this area if it had not been for the Child Care Centre as there was no other child care facilities for Cairndow and the surrounding area. She advised that the Child Care centre were looking to expand and that a purpose built facility will be a great improvement. She advised that she was disappointed that there was the need for a Masterplan.

OBJECTORS

Mrs Pound advised that she was not opposed to development of the rural craft workshops and extension of the Oyster Bar/Tree Shop which was originally proposed for PDA 9/13 or for housing including affordable where there is a need. However, she advised that she was opposed to a major industrial estate and major housing estate in this location with no justification, material considerations or special circumstances and a new village named Clachan and she stated that there was a difference between an Allocation Area and Potential Development Area and that a PDA had to comply with the Structure Plan, Local Plan, Policies and a mini-brief which PDA 9/13 did not. She advised that PDA 9/13 was in an area of Panoramic Quality and extends to an area of land known as Sensitive Countryside as defined in the Local Plan which states that small scale development on infill, rounding off and redevelopment may be absorbed but medium to large scale development may be permitted only in special circumstances and subject to being consistent with all other policies of the Structure and Local Plan and satisfying the requirements of an Area Capacity Evaluation (ACE). She advised that when this PDA was submitted by the Agent for the developer in 2005, it was designated as 'Estate development to consolidate existing business activity at the Oyster Bar/Tree shop, develop recreational activities within the reinstated gravel works, provide three workshops and environment improvements to the farm/sawmill buildings', ie an extension of the original hub and consequently PDA 9/13 was incorporated into the Local Plan on that basis. She said that the Agent at the time stated that Ardinglas Estate welcomed the proposed PDA subject to an ACE and compliance of all relevant Structure and Local Plan policies, in particular that linked to the existing Oyster Bar operation, and that the Estate were keen

to overcome the access and road safety constraints as well as providing a comprehensive Masterplan. She also advised that the Development Manager, Ross McLaughlin had advised the developer that it was on this basis that the PDA was incorporated into the Local Plan and that he had advised at no time was there any discussion over the removal of the woodland, significant recreational development, medium scale housing in multiple locations, childcare facility in close proximity to existing commercial buildings and the use of HGV's and given the variation in the submission for PDA 9/13 and what is now proposed, he had stated that there was even greater value in pursuing a Masterplan approach to allow the Council, Statutory Consultees and public to express their views and he had stated that he did not consider this approach to be flawed as it is a requirement of the mini-brief for PDA 9/13. Mrs Pound stated that the Scottish Government had confirmed that the Local Plan has to be considered as a whole - not cherry pick sections of it - and therefore the Masterplan for this 30 hectare PDA was not for "indicative purposes only" and she stated that Brian Close had advised the developer by letter that a Masterplan was a requirement and would be considered as "additional information to inform their decision on the consent and then be viewed as supplementary planning guidance to inform the future development of the site and any future review of the local development plan". She advised that Planning requested a more diagrammatic Masterplan which was provided under CDA 06 which confirmed further commercial development, a hotel and further 50/70 houses and tourist accommodation within this PDA. She advised that this is clearly a major application and that the application cannot be considered in isolation and the development has to be looked at as a whole and have full consultation with the community, statutory consultees and neighbours. She stated that the 'mixed use' for PDA 9/13 did not originally include 'housing' as it stated Business/Recreation/Tourism. She also commented that there were anomalies within the application and that a Sustainability Checklist had not been provided and within the red line boundary of the application, the footpath to the Oyster Bar and the access visibility splays had been omitted and that the visibility splays were within land owned by Achadunan Estate. She stated that Planning had requested an up-dated statement in respect of the mechanism to provide affordable housing which had not been provided and that this was a private development not an affordable housing development. She stated that the Government had ceased RHOG and RHfR which had been provided for Pheasant Field which was currently being built providing 15 houses, 10 under RHfR and 5 plots under RHOG and satisfied the Housing Needs and Demands Assessment (HNDA) which confirmed that the maximum requirement for Cairndow going forward was 12 houses and she stated that the developer had confirmed in a letter to Fergus Murray in March 2010 that Pheasant Field would also be expanded for further housing, The Square would be converted into holiday home accommodation and apart from four other sites, she said the letter stated it also confirmed that this application is Phase 1 of a new village called 'Clachan'. She advised that this application was endeavouring to be achieved in a piecemeal approach contravening endless policies, the Local Development Plan, Sustainable Siting and Design Principles and Sustainable Design Guidance all of which presume against the proposed development and the Written Statement of the 2009 Plan and Government Advice Planning No 83 – Masterplanning. She stated that this proposal had been going on for some years and the Development Manager had requested that this application be withdrawn and resubmitted and she said it was clear that this application should be classed as a major application with attaching Masterplan and required proper

consultation and was a major departure from the Development Plan. She also said that politically driven economic growth does not override the Local Development Plan, policies or Planning Acts which have been put in place to protect the public and environment and requested the Committee to support the recommendations of the Planning Department and not create a new village, major housing estate and major industrial estate in an area of Panoramic Quality and Sensitive Countryside under the illusion that it is about affordable housing when it is not and when there are no material considerations or special circumstances to support this application.

Mr Pound advised that he did not have much more to add but referred to a lot of emphasis being put on the Child Care Centre and that under the proposed plan this was for indicative purposes only and that if it was to go ahead will need funded privately or by Argyll and Bute Council. He also advised that there were a number of omissions within the red line boundary area including the footpath to Loch Fyne Oysters and advised if it had been included it would bring the site to over 2 hectares which would mean it was a major application rather than a local application.

Ms Delap advised that this development was extremely inappropriate for this part of the world it was sited in. She referred to access onto the fast stretch of road on the A83 and referred to separation of the community. She advised that the community in the new development will not have easy access to Cairndow Village and that families will need 2 cars as public transport was extremely dodgy. She referred to the community living next door to the industrial site and that noise from the quarry and wood chip plant was significant and that she would not recommend the Child Care Centre being sited next to it. She believed the quarry will operate until 2015 but that the woodchip plant has the potential to expand rather than shrink. She advised that the proposed development was too crowded and that Kilmorich does not have as many houses per hectare as this proposal. She also advised that it will not be possible for this housing development to have a vegetable patch. She stated that this was Phase 1 of a much bigger development. She advised that she believed the Applicant had plans for the whole PDA area up to Lochan. She stated that the proposal was totally inappropriate for the top of Lochfyne and that Cairndow Village still has space for development.

Mrs Hammond advised that she believed she lived closest to the development and that the chipper and quarry operations were very noisy and that the area was not suitable for housing just suitable for business units. She referred to the development being isolated from the village and the lack of public transport. She advised that she does not believe there is work in the area as she has to commute to Dunoon for employment and has been unable to access employment in Cairndow.

MEMBERS' QUESTIONS

Councillor Marshall asked Mr McLaughlin if he considered the site suitable for development and he replied yes.

Councillor Marshall asked Mr McLaughlin to comment on the potential for further development at Cairndow Village. Mr McLaughlin advised that he was aware of concerns raised by Transport Scotland in respect of the junctions to the north

and south of the village and advised that less than 5 houses could be developed without major reconstruction of the junctions.

Councillor Marshall asked, if Transport Scotland were to relax their viewpoint, how many houses could be developed in the existing PDA. Mr McLaughlin advised that in respect of the PDA behind Cairndow Inn maybe a maximum of 15 houses.

Councillor Marshall referred to the site visit earlier in the day and asked the Mr McLaughlin for his viewpoint on the agricultural shed, caravans and rubbish and asked if development would improve this. Mr McLaughlin advised that the present site was quite organic and there was a need for environmental improvements before development took place.

Councillor Marshall asked Mrs Pound to confirm where her main abode was and if her home was somewhere other than Cairndow. Mrs Pound advised that she did not think that was relevant.

Councillor Marshall advised that this information was relevant looking at it in the context of local people and the impact a development might have. Mrs Pound advised that she did not think it was relevant and confirmed that she was a stakeholder in the village.

Councillor Marshall advised that Mrs Pound had stated that the countryside would suffer if this development went ahead and asked did she not think that the local indigenous population who actually live and work in Cairndow should know better than Mrs Pound what is good for them. Mrs Pound said that everyone had a right to express a view in this matter and she reiterated that she was a stakeholder in the village.

Councillor Marshall also asked Mrs Pound if she had ever carried out any development in Argyll and Mrs Pound advised that other than reconstruction of the cottage on the shore, no.

Councillor McCuish referred to SEPA's main objection being to the Masterplan and asked if they had any objections to the application which was being dealt with today. Mr Tustin replied he had no issues with this application.

Councillor McCuish asked Environmental Health to confirm if the information they required was needed at this time or did they have the opportunity to receive this at a later time. Ms Rains advised she would need information in respect of the existing industrial development to determine if it would have a major or minor impact on the proposal.

Councillor Chalmers referred to Mrs Bremner being a member of the Community Council and acknowledged that she was not representing the Community Council at the meeting today. He asked if this application had ever been debated at the Community Council and was this the type of thing the Community Council got involved with. Mrs Bremner advised probably not as much as it should and that there were quite a lot of new Members on the Community Council.

Councillor Chalmers referred to Mr Pound's comment about appearing to

suggest that the application went beyond 2 hectares and asked the Development Manager to provide information on different processes for major and local applications. Mr. McLaughlin advised that the current application came in before major and local applications were defined. He advised that the main difference with a major application was that public engagement was required at the pre application stage and that a public event required to be held before an application was submitted. He confirmed that the physical size of the site was less than 2 hectares.

Councillor Chalmers referred to the Masterplan issue and that this development was 2 hectares out of 30 hectares and asked the Development Manager if he envisaged that this 1st Phase would impact on infrastructure for the 30 hectares. Mr McLaughlin advised that with any development in a sensitive area it was imperative to lay down foundations. He advised that this was the gateway to a larger site and that issues in respect of sewage, access requirements, landscaping, noise levels required to be addressed as potentially a residential area may not be possible in this area.

Councillor Chalmers asked if there was anything present in principle specific to the application objecting to further development. Mr McLaughlin referred to structural planting at this stage and also advised that it was important to obtain information about the water supply as this is an unknown.

Councillor Dance asked when the application was validated. Mr McLaughlin confirmed this to be 12 March 2009.

Councillor Dance advised that Ms McIntosh suggested the Masterplan was perhaps an outmoded institution and referred to the time taken for other Masterplans to be put together and also referred to the Helensburgh one which was now back to the drawing board. Councillor Dance asked the Development Manager what his response was to the suggestion that a Masterplan was not required at outline planning stage and how did his rejection of the application sit with the need to support the Argyll and Bute Corporate Plan which aspires to unlocking our potential to create jobs and a sustainable future.

Mr McLaughlin advised that the Masterplan in Helensburgh was a Council Masterplan and that this Masterplan was required from the developer and, in terms of timescales, it would depend on the length of time the developer took to produce the Masterplan and on production of this there would be a 6 week consultation period with submissions to this coming before the PPSL Committee for consideration. He advised that the Scottish Government were not moving away from the Masterplan approach and that PAN 83 recognised the importance of laying down the framework for development. He referred to page 99 of the Local Plan and paragraph 11.4 advising that potential development which form obstacles in mini-briefs which include Masterplans must be overcome.

Councillor Dance asked the Applicant if any of the issues raised by Ms Rains had been discussed with him and if any of the objections raised could not be addressed. She also asked how long it took to develop Pheasant Field and finally asked for comments on what Mr McLaughlin said about the Masterplan and what, in his opinion, was insensitive about the development. Mr Sumsion advised that he had seen the consultation response submitted by Environmental Health but had not direct discussion with them on this subject. With regards the

Pheasant Field, Mr Sumsion confirmed that the detailed application was submitted in 2009 and that pre application discussions took place as far back as 2003/4 and that this was the same for the outline application before the Committee for consideration today.

Ms McIntosh advised that she agreed with Councillor Dance's views about the Masterplan. She stated that the Masterplan approach was still used and was an effective toolkit in some cases. However, as a result of 3 or 4 years of recession in the building industry, a lot of Masterplans were being rewritten.

Councillor Dance asked what the cost would be to the developer to produce a Masterplan and Ms McIntosh estimated £50,000 as consultation with professionals in different fields would be required.

Ms McIntosh addressed the insensitive issue and confirmed that a lot of the detail of the application could be worked on and changes could be made to make sure care and sensitivity was applied and that a lot of the concerns raised could be addressed through conditions or section 75 legal agreement and that the Applicant was happy to comply with this.

Councillor McCuish asked the Development Manager was it not a fact that any development could be described as out of context and existing development could be out of context and that this was okay as long as you could not see it. Mr McLaughlin advised that the current industrial block was very well screened by existing conifers and that a development of this nature could be accommodated with softening and screening but that was only one of a number of issues that needed to be addressed.

Councillor McCuish asked if the trees would be removed regardless of whether or not the development went ahead. Mr McLaughlin advised that the trees were ready for harvesting and that the Applicant required a felling licence before removing trees.

Councillor McCuish asked the Development Manager to confirm if he thought this development was not suitable in an area of sensitive countryside and Mr McLaughlin advised that in his opinion the development was not suitable.

Councillor Marshall asked Mrs Hammond to confirm that she was unable to get work locally and she confirmed that this was the case.

Councillor Marshall asked the Supporters to comment on this. Mrs Bremner advised that it was a bit harder now than it was a couple of years ago but there were jobs around it just depended on what type of job you were looking for and what you were qualified to do. She advised that people from as far away as Glasgow commuted to work in the area.

Mrs Hutcheons referred to her husband's business having a job vacancy and there was also a position available in the Child Care facility.

Councillor MacMillan referred to the details of Local Plan Policy LP Bad 1 and asked if the proposal met the requirements of this Policy. Mr McLaughlin advised that he was presently concerned with the development going against the requirements of Local Plan Policy LP BAD 2 and that he was more conscious of

a bad neighbour in reverse situation arising.

Councillor MacMillan asked if the application was a minor departure from STRAT DC 1 and Mr McLaughlin advised that you could not treat this application as a minor departure from Policy.

Councillor Dance asked and received clarification from Mrs Hutcheons that her reasons for moving to the area were because of the Child Care facilities available and that it would not have been possible if they had not been there.

Councillor Dance asked the Applicant if he envisaged expansion of the Child Care centre at the proposed development or was it just a case of moving to a more modern and dedicated building. Mr Sumsion advised that the Child Care centre had been included in the proposal at the request of the Child Care Committee. He advised that more than one site had been offered to the Committee and that they favoured this one.

Councillor Dance referred to Mrs Pound's comment about PDA standing for "Please Develop Argyll" and asked what was wrong with development in Argyll. Mrs Pound advised that she had nothing against development in Argyll but it should not go against Planning Policies.

Councillor Chalmers referred to Policy LP BAD 2 and asked the Applicant to comment on this. Mr Sumsion referred to the proposed layout of the site and where the industrial units would be in relation to the housing units and also referred to the separate access arrangements for the proposed housing development, Child Care centre and industrial units to address this.

Councillor Kelly asked why the pedestrian access to Loch Fyne Oysters had not been included in application. Mr Sumsion advised that this was a footpath and not a development and if it was required could be enforced through a section 75 agreement.

Councillor Kelly asked the Applicant if it was his intention to put a footpath in, advising that the road was a very busy road and that he was disappointed that Transport Scotland had not attended the meeting today as he thought it was important that they be present for this very important application. Mr Sumsion advised that he believed a condition could be worded to ensure a footpath was in place before any housing development took place and that development of commercial units could progress before installation of a footpath. He advised that it was his opinion that the existing junction had good visibility splays compared to other areas.

Councillor Kelly advised that he had seen a lot of accidents happen at the junction into Lochfyne Oysters and that there was a need to get the junction at the access into the proposed development right and that a section 75 agreement would be required here also.

Councillor Kelly referred to the invitation by the Scottish Government to the Applicant to discuss the application along with Council representatives and asked why the Applicant had not taken this invitation up. Ms MacIntosh advised that the offer from the Scottish Government was to take part in one of many case studies and that the Scottish Government took up to 18 months to report on

these case studies. She confirmed that she had advised Mr Sumsion that it was not the right thing to do at this stage in the process to be a guinea pig in part of the study.

Councillor McCuish asked the Development Manager to confirm that the application site related to 2 hectares out of a 30 hectare PDA site and Mr McLaughlin confirmed this to be the case.

SUMMING UP

Planning Authority

Mr McLaughlin advised that this was a very generous PDA within the Argyll and Bute Local Plan. He referred to the Supporters comments about the economic benefits this would bring to the community and also to the comments from the Objectors. He advised that the Planning Department do want to see a mixed use development in this PDA site but there was a need to build firm foundations, a strategy and design ethos. He advised that economic development was of paramount importance in Argyll and Bute but so was protecting the environment. He expressed the need to work with the Applicant to produce a Masterplan.

Applicant

Mr Sumsion advised that RHfR and ROG have not ceased they were just on the back burner. He referred to the suggestion that there was a lack of consultation with the community and advised that this outline application has been discussed at community council meetings pre and post application stage. He stated there was an overemphasis on an indicative Masterplan and that the proposed current application was independent of any future discussions and was not dependent on any requirements for further development in the future. He advised that the scale of the development would be easily absorbed by the landscape and that careful thought had been given to commercial and residential developments. He advised that he was fully committed to achieving at least 25% affordable housing and that it would be many years, if any, before returns of investments would be achieved. He advised that it was in his interest to see continued growth for the local economy and that it was in everyone's interest.

Statutory Consultees

Mr Tustin of SEPA advised that impacts have been assessed and there was a need to make sure the Masterplan put forward addressed sewage treatments and the water supply.

Ms Rains, Environmental Health Manager, advised that she had nothing further to add.

Supporters

Mrs Bremner stated that this was just an outline planning application and should go ahead and that the Applicant, villagers and local Community will ensure the site is developed sensitively and will not impact on the surrounding area as a whole.

Mrs Hutcheons advised that it would be nice to see a development like this come to fruition in respect of her business and for her children.

Objectors

Mrs Pound stated that she was not opposed to housing and affordable housing where there was a need but this application which is a major application cannot be considered in isolation as part of PDA 9/13 when a Masterplan is a requirement of that PDA.

Mr Pound referred to the process taking 2.5 years with differing opinions of the Applicant and Planners. He felt that there was plenty of housing at the Pheasant field site and that this was a most inappropriate development in an inappropriate location within sensitive countryside.

Ms Delap referred to there being lots of new housing developments in Strachur and Inveraray which were 12 and 8 miles away from the site plus there were 15 houses being developed at the Pheasant field and therefore the housing need was being met nearby and that you did not need to live next door to where you worked.

Mrs Hammond advised that she had nothing further to add.

The Chair asked all parties to confirm if they had received a fair hearing and they all replied that they had.

Debate

Councillor Marshall advised that the Committee should be supportive of the application and that he had a motion which he would put forward in due course. He referred to Mrs Bremner's point about housing being a local need and also referred to Ms Delap's comments about housing in Strachur and Inveraray. He referred to the elderly in the village and that there was a lack of housing for them. He stated that there was a need to follow Scottish Government guidelines regarding the need for affordable housing and sustainable development. He advised that he did not think it was an exceptionally dense development. He expressed concern about the economy of the country as a whole and the economy of Argyll and Bute that this was important to him and his fellow Councillors. He advised that the Cairndow and Clachan area had been successful and strong over the last 20 years and he applauded the developments by Ardkinglas Estate. He referred to the farming operations, caravan and rubbish at the site which was viewed today and that if this site was cleared up by the development taking place then this would be an improvement.

Councillor McCuish agreed with Councillor Marshall's comments and referred to no objections from Statutory Consultees though SEPA was still opposed to the rest of the 30 hectare site. He advised that social and economic benefits outweighed any reasons for refusal.

Councillor Chalmers advised that the Masterplan was the key issue here and was an aspirational document at this stage. He confirmed that he had heard of the difficulties from Ms McIntosh about this and the concerns expressed that could be covered by conditions and advised that he supported Councillor

Marshall.

Councillor Dance agreed with Mr McLaughlin that this was a very generous PDA and advised that the Committee were only looking at 2 hectares and that the rest of the PDA could be dealt with at a later date and that Members were only interested in the application before them today. She advised that a local need was being met with housing, economic activity and a child care centre and that the developer has a very good track record of doing what is best for the area. She referred to unlocking our potential here to develop further in the future. She stated that the local support from people was tangible and that it was a very reasonable development which would deliver local and community needs.

Councillor MacMillan advised he was born and bred in Argyll and would support this application.

Councillor McQueen advised that the biggest export from Argyll was young people and for the first time in 12 years he would be supporting Councillor Marshall.

Councillor McNaughton advised that across Argyll and Bute there was an aging population and that young people were required to boost the area and that there was a need for accommodation and employment for them. He stated that Cairndow was a good place for employment and that it had a very active and very ambitious social enterprise as well as a very active community and that he supported the application.

Councillor Kelly advised that as Chair he would be moving the recommendation of the Planner's to refuse the application and asked if there was a seconder.

There was no seconder.

Motion

As set out in the report of the Head of Planning and Regulatory Services "in the Argyll and Bute Local Plan, the application site is located within Sensitive Countryside but forms part of Potential Development Area PDA 9/13 'Cairndow-Inverfyne' where a mixed use business/housing/recreation use is supported, and Area for Action AFA 9/4 'Inverfyne' where strategic, business and environmental improvements are encouraged." I consider that the mix of development proposed in this application for planning permission in principle is wholly consistent with those objectives.

By designating the Potential Development Area, the Council has accepted that the settlement pattern in this part of Glen Fyne will change. In that context, the development of 16 dwellinghouses, 7 commercial units and a childcare community building within a 2ha site need not be regarded as excessive. Most of the land surrounding the actual application site is within the Applicant's control, so there would be no difficulty in imposing conditions requiring the submission and implementation of a strategic landscape plan to assist the development's assimilation into the countryside.

Furthermore, regardless of any shortcomings of the Applicant's Masterplan for the wider PDA, which extends to almost 30ha, the development of this site of

less than 2ha need not prejudice the satisfactory development of the PDA in the longer term.

Any other issues raised by consultees, such as water supply or access, can be adequately addressed by planning conditions.

I therefore move that the application be approved as being consistent with Potential Development Area PDA 9/13 and relevant policies of the adopted Argyll and Bute Local Plan, subject to appropriate conditions to be remitted to Officers in consultation with the Chair and Vice Chair of the Committee.

Moved by Councillor Bruce Marshall, seconded by Councillor Vivien Dance.

Mr Reppke confirmed that the Motion as it stood was not competent as it did not address all the policies which included the need for a Masterplan as required by the Local Plan and that the Committee needed to take this into consideration if they were minded to grant the application.

Mr McLaughlin advised that Planning were not looking for an overly elaborate Masterplan just one with more detail than the indicative one produced by the Applicant which was not part of the application for consideration today.

Councillor Dance asked, if to overcome the impediment for the need for a Masterplan, could the Committee not simply refer to the current economic climate and what Members had heard today and that this was a reason for it not being considered necessary that the Masterplan route be taken.

Mr Reppke advised that there was a need to assess the application in conjunction with a Masterplan and that this was a material consideration. He also referred to Bad neighbour and Environment policies not being addressed fully in the Motion either.

Councillor McCuish advised that some of the policies could be addressed through a competent motion today but there was a need to clarify if the Masterplan prepared by the Applicant had been withdrawn in part or full.

Mr Reppke advised that a Masterplan ought to be the subject of public consultation.

Councillor Dance asked why Members were here today if they were not able to go against the Planners.

Mr Reppke advised that Members, in the first instance, needed to go through procedural steps if they were minded to approve the application.

Councillor Dance moved that the Committee adjourn for 30 minutes to allow for the competency of the Motion to be addressed and this was agreed.

The Committee reconvened at 2.05 pm.

As his first motion was advised to be incompetent Councillor Marshall presented an amended Motion.

Motion

I would like to move that the application be continued to the next PPSL Committee on 23 November 2011 and that in the meantime the Applicant should submit to Planning Officers an amended Masterplan for approval of this Committee.

Moved by Councillor Marshall, seconded by Councillor Dance.

Mr Reppke confirmed that the contents of this Motion were competent.

Decision

The Committee unanimously approved the amended Motion and this became the decision of the Committee.

(Reference: Report by Head of Planning and Regulatory Services dated 14 September 2011, Supplementary Report 1 dated 20 September 2011, Supplementary Report 2 dated 13 October 2011, issued and Supplementary Report 3 dated 20 October 2011, tabled)

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the QUEENS HALL, DUNOON
on WEDNESDAY, 9 NOVEMBER 2011**

Present: Councillor Daniel Kelly (Chair)

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

Attending: Charles Reppke, Head of Governance and Law
Fraser Littlejohn, Montagu Evans, Applicant's Agent
Fergus Adams, Dougal Baillie Associates, on behalf of Applicant
Andrew Carrie, Dougal Baillie Associates, on behalf of Applicant
Gregor Muirhead, SLR, on behalf of Applicant
Andrew Kennedy, Kennedy and Co, on behalf of Applicant
Ann Convery, PR Consultant, on behalf of Applicant
Ross McLaughlin, Development Manager
Brian Close, Planning Officer
Mark Lodge, Senior Forward Planning Officer
Grant Whyte, Technical Officer (Flooding Alleviation)
Bill Weston, Traffic and Development Manager
George Johnstone, Objector
Bruce Weir, Director of CWP, Objector
Alex Mitchell, James Barr Planning, on behalf of CWP
Michael Stewart, Kaya Consulting, on behalf of CWP
Bob Fisher, Colliers International, on behalf of CWP
Dawn Miller, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors David Kinniburgh and Alister MacAlister.

2. DECLARATIONS OF INTEREST

Councillor James McQueen declared a financial interest in the planning application dealt with at item 3 of this Minute as he is a shareholder and retired employee of Scottish Gas.

Councillor Bruce Marshall declared a non financial interest in the planning application dealt with at item 3 of this Minute as he has previously made his feelings know on a related planning application.

Councillor McQueen left the room and took no part in the discussion of this planning application.

3. PAN 41 HEARING: 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 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. It was noted that there were no Supporters or Statutory Consultees wishing to speak.

Members queried the late supplementary report issued by Planning Officers and expressed their concerns about receiving it so late. Mr Ross McLaughlin, Development Manager, explained the reasons for this, advising that the submission of a recent application made by Morrison's had only been received on Friday and, as this may have a bearing on the proposal from National Grid, Officers needed time to review the submission and draw up a report for Members.

The Chair ruled and the Committee agreed to adjourn the Hearing at 10.15 am to allow Members the opportunity to read the tabled supplementary report number 2.

The Hearing reconvened at 10.30 am and the Chair invited the Planning Department to set out their recommendations.

PLANNING AUTHORITY

Mr McLaughlin spoke to the terms of his report and referred to supplementary planning report number 2 which had been tabled at the meeting. This report referred to a late letter of objection, suggested amended conditions, confirmed submission of a marginally altered layout plan following a pre hearing meeting and updated the Committee on the submission of a recent application made by Morrison's that may have a bearing on the proposal.

Mr McLaughlin advised that the Committee were being asked to consider an application for development of a site which lies within the 'Main Town' settlement of Dunoon and within the 'Edge of Town Centre' zone as defined in the 'Argyll and Bute Local Plan', August 2009. The application site also lies within Area for Action AFA 2/2 as identified in the 'Argyll and Bute Local Plan'. While this '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, it is the next sequentially preferred location for retail development. He referred to various slides showing the layout of the site, the Milton Burn, residential properties and the Council depot. He made reference to the earlier site visit and showed photographs of the site indicating the proposed location of traffic lights at the Hamilton Street/Argyll Street junction, the existing access to the site, the proposed new access to the site, and the vacant 'brownfield' site with limited vegetation and interest on it. He advised that the application was for planning permission in principle but that a degree of detail had been supplied by

the Applicant. He referred to the site plan and highlighted the proposed access to the site, car parking area, landscaping, service lay-by and bus lay-by. He referred to the gross floor area of the proposed food store being 3,200 m sq. He referred to there being no objections being raised by statutory consultees and that any issues of concern were being addressed through planning conditions. He advised that 1 letter of support had been received along with 73 objections. He advised that the substantial majority of objection was from CWP. He advised that no traders within Dunoon had submitted a unified objection to the proposal. He referred to the table contained within supplementary planning report no 2 and advised that the convenience impact on town centre for National Grid should read 15.2% and not 20.5%. He advised that in principle National Grid have confirmed that they shall provide planning gain for the town centre but that a figure had still to be agreed. It was expected to be a least £100,000 and that this had still to be considered at a National Grid Board meeting. He advised that the sequential test favoured the National Grid site and that SEPA and Planners had no reason to refuse the application. He advised that Officers retained the position that approval of the National Grid application would promote the use of a prominent vacant 'brownfield' site within a sequentially preferable site within an 'Edge of Town Centre' location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be in the order of 9.5% this would be offset by its edge of centre location within walking distance of the town centre and the potential to create more linked trips. This and a developer contribution to fund improvements in the Dunoon Town Centre would mitigate any perceived impact on the existing town centre and recommended approval of the application as a 'minor departure' to development plan policy subject to the planning conditions listed in the supplementary planning report number 2 and a section 75 agreement to address an appropriate developer contribution to mitigate a potential adverse impact on Dunoon town centre.

APPLICANT

Mr Fraser Littlejohn of Montagu Evans, Planning Consultants, spoke on behalf of the Applicant and introduced other consultants who would provide further information on transportation matters, flooding matters and the retail food store proposal.

Mr Littlejohn advised that his client fully supported the recommendations of the Planners and advised that all issues that have been raised have been resolved and referred to a suite of documentation that has been submitted along with the application. He advised that the Council and statutory consultees have responded favourably to the proposal and that the development was considered a 'minor departure' to part D of Policy LP RET 1 of the Argyll and Bute Local Plan. He advised that the proposal was for a modern, medium sized supermarket and that the range of food offered would be similar to that proposed by CWP and advised that the non food floor area size was the only difference in floor area size to the proposal by CWP. He made reference to the potential for linked trips into the town centre and advised that 2 out of 4 major supermarkets had expressed an interest in the site. He advised that operators have noted that this is the preferred site and that the application was recommended for approval and that he did not agree with the CWP argument that the National Grid proposal was not suitable in terms of its size, the location, car parking available and the absence of a petrol filling station. He advised that the potential impact on the

residential amenity in respect of services and lighting would be addressed by planning conditions. He advised that there was a need for a modern retail store in Dunoon and that it would not impact on the retailers currently in Dunoon and that the site was suitable for development of a supermarket and listed the following benefits of the proposal: - the potential for 250 – 300 sustainable jobs; improved retail offering in the town; improvement of a vacant site to the benefit of homeowners in the vicinity; the potential for the community to benefit from planning obligations; the retention of both independently and locally operated fuel service stations; improving opportunities to combine shopping trips to town centre businesses; the provision of additional car parking facilities; and improved management and pedestrian/crossing options at a busy junction and bus access. He advised that the development would complement and enhance the town centre and asked Members to support the Planner's recommendation.

Mr Andrew Carrie of Dougal Baillie Associates referred to Transportation matters stating that the national standards laid down by Scottish Planning Policy were Maximum standards and that Argyll and Bute Council's standards set out in the Local Plan were again Maximum standards. He advised that the need for parking was taken into consideration by the Applicant with various issues looked at including walking distances to town centre, the site being well served by public transport, lower parking appropriate to encourage other transport modes in line with policy, and similar parking provisions elsewhere and advised that he felt sure that the Applicant has a suitably workable scheme which is supported by Council Officials. Mr Carrie also referred to the relocation of the access into the site further from the Hamilton street junction and that visibility splays were now 45 metres. He referred to the siting of a new bus lay-by at Hamilton Street and traffic signals at the Hamilton Street/Argyll Street junction which will improve road safety and minimise traffic delays.

Mr Gregor Muirhead of SLR referred to Flooding and Drainage matters and advised that no objections had been raised by Planners or SEPA. He referred to both the 2003 Carl Bro (CB) report commissioned by the Council and the 2011 Dougal Baillie Associates (DBA) report commissioned by National Grid and advised that these flood risk assessments outlined separate solutions which mitigate flooding at the site without increasing the risk of flooding elsewhere. He referred to objectors concerns regarding the difference between the two flood risk assessments and with the use of maps showed the pre development flood mapping in respect of both assessments and the post development flood mapping in respect of both assessments. He advised that there were 2 options for flood risk mitigation either of which would meet the requirements of Planning Policy and were supported by Planners and SEPA and the details of this would be dealt with by condition 14 detailed in the Planner's report. Finally, Mr Muirhead referred to surface water drainage and advised that the sustainable drainage system proposed was in line with current best practice and a requirement of Argyll and Bute Council, Scottish Water and SEPA. He also advised that SUDS measures would ensure no decrease in Milton Burn water quality and offer the potential to reduce downstream flood risk.

Prior to hearing from Objectors Mr Reppke asked Mr McLaughlin to clarify the error in supplementary planning report number 2 regarding the convenience impact on Town Centres. Mr McLaughlin confirmed that for National Grid this was 20.5% and for CWP this was 15.2%, and apologised for his earlier comments correcting his report during his presentation. Mr Littlejohn indicated

that he had nothing to add to his presentation following this clarification.

OBJECTORS

Mr George Johnstone advised that he spoke on behalf of his family, who own the field behind Walker's Garage, which forms part of the application site for the original CWP supermarket proposal and that he objected to this second application. He referred to speaking at the previous Hearing and that his principal aim today was to remind Members of the points he made at that time. He advised that he was slightly confused by all the events that have taken place during the past 7 months and that he distinctly remembered the Chair's instructions to Members on 8 April 2011 that the purpose of that meeting was to determine the specific CWP application and that they should not be distracted by the possibilities of any other applications. He advised that he left the meeting with the impression that the CWP application had received majority approval but there was a legal technicality to be researched to enable a suitably worded amendment which was necessary because the decision had effectively gone against the Planning Officer's recommendations. He advised that clearly all of the people who echoed his support for the CWP application would be disappointed by subsequent events not least the coincidence of Morrison's announcing their intention to build an extension as reported in the Dunoon Observer. He advised that, as stated in his letter of objection, he and his family found it morally offensive that National Grid were attempting to steal the commercial research and concept of CWP and that Planners appeared to be bending over backwards to allow this to happen, effectively giving this application priority and preferential status. He referred to the Gas Works site lying empty for 15 years and if National Grid have not stolen CWP's idea asked why they haven't sought planning permission until after the hearing on 8 April 2011 and on the back of research work carried out at CWP's expense. He advised that it was his view that the old gas works simply did not pass the sequential test. It doesn't provide sufficient space to accommodate the size and character of the supermarket as proposed by CWP and as deemed appropriate from their research. Nor can it accommodate a petrol filling station, a key element to reducing the pricing disadvantage faced by our townsfolk. He referred to the National Grid application not being submitted until four weeks after the previous Hearing and couldn't understand why it should be allowed to reverse the will of Councillors as expressed in the vote on 8 April 2011. Mr Johnstone further elaborated on why his family hoped elected Members would uphold the original vote. As owners of Dunloskin Farm, he referred to a vested interest in not only this but another planning application (Ref 07/01904/DET) submitted by Kier Homes to build houses on that part of the farm which represented PDA 2/5 on the Council's Local Plan. He advised that the Kier housing application was submitted in 2007 but it was not until June of this year after the Hearing on 8 April 2011 that their application finally received approval with a Section 75 condition relating to affordable housing. Permission was granted under delegated powers after four years without the need to go to Committee. He advised that when the concept of building a new supermarket in Dunoon was first mooted by CWP in 2009 and after they had rejected the old gas works site as unsuitable, he and his late brother met with representatives of CWP and Kier. Whereas the ongoing delay in receiving planning consent had seen a national downturn in housing building, Kier were none the less happy to stick with their application. The prospect of a mixed development with the supermarket was attractive to Kier as it would offer lower development costs

through the provision of bridge access over the Milton Burn and other major services to the site. Also the arrival of a new supermarket should surely boost the local economy and prove an attraction to potential house buyers being within walking distance for some of their shopping. He advised that Kier Homes wrote to the Planners in support of the CWP application. He suggested that both these developments would undoubtedly boost the local economy and provide much needed work for local tradesmen. He advised that he was not here to speak for Kier but believed that there was a greater certainty of the houses, which would include 25% affordable housing, being delivered in conjunction with the CWP supermarket because that development would offer Kier Homes low cost road access and major services. He advised that for 15 years National Grid have done little or nothing to stimulate the Cowal economy and that they haven't sought planning permission for anything that he was aware of. He advised that CWP by comparison, like Kier homes, have put their time and a substantial amount of money into their planning proposals and asked Members to think which plan best serves the community.

Mr Bruce Weir, Director of CWP, spoke to CWP's objection and advised that they did not object to a food store in Dunoon but did object to a food store being located on this site. He advised that there were four different aspects to their objection and that this was in relation to flooding issues, retail planning issues, parking and transport issues and operators requirements and advised that experts in each of these fields would speak in turn on these.

Dr Michael Stewart of Kaya Consulting referred to the flooding issues advising that part of the site was at risk of flooding from Milton Burn for 1 in 200 year flood event and that the area of site at risk of flooding was not protected by the Milton Burn Flood Prevention Scheme. He referred to the Carl Bro report and the Milton Burn Flood Prevention scheme undertaken for Argyll and Bute Council and the Dougal Baillie Associates report undertaken for National Grid. He advised that at the down stream end of the site the Carl Bro model predicts flood levels of around 0.5m higher than the Dougal Baillie model. He advised that Kaya Consulting had developed its own model and the results of this were consistent with the Carl Bro flood levels. He advised that there were uncertainties and a need for a more detailed site specific modelling study that includes downstream effects. He advised that at present the proposed flood management measures for the National Grid site were based on (lower) Dougal Baillie flood levels and that at the detailed design stage the Council require flood management measures to be developed based on the Carl Bro flood levels and that SEPA require flood management measures to be developed (compensatory storage) for 200 year flow + 50% bridge blockage and that the Council require the blockage scenario to use Carl Bro levels. He advised that when the Carl Bro levels and bridge blockage scenarios are used at the detailed design stage there is unlikely to be sufficient space on site to provide effective flood management measures and that there was unlikely to be safe site access during flooding. He advised that Scottish Planning Policy normally does not permit development on the functional floodplain of a water course but in some cases raising of a floodplain is allowed as long as compensatory flood storage is provided and that there has to be like for like replacement with storage provided at the same level as land that is lost. In practice, to satisfy requirement for like for like storage, the footprint of compensatory storage area is often larger than the floodplain area lost to development. With the use of slides he showed the current flood management proposals compared to the Carl Bro levels. He advised that

storage may be available for the lower Douglas Baillie flood levels but that space would be tight and with the Carl Bro levels compensatory storage will not be able to be provided for this scale of development for scenarios that need to be considered at the detailed design stage. He also raised the issue of access to the site during flooding for emergency vehicles and the evacuation of staff and customers. He raised the issue of the impact of development on flow pathways advising that development would create pinch point with risk of increase in upstream flood levels. To summarise he advised that there were contradictory flood level predictions for the site; at the detailed design stage the Council and SEPA have set conditions that require the developer to consider higher flood levels than have been used in the current site design; at the detailed design stage CWP believe it will be impossible to provide the required sustainable flood management measures for a development of this size; no safe dry access to site during flooding appears to be available; information and modelling to date is not sufficient to make an informed decision about this site; that there was numerous flood related issues at the site which should have been addressed already; issues should not be passed to detailed design stage; flood risk within Dunoon is well known; the development needs to consider in detail whether there is a risk of increasing downstream flood risk to others; current proposals suggest flooding risk downstream will be increased and that this will reduce the benefits provided by the Council Flood Prevention Scheme.

Mr Alex Mitchell of James Barr Planning referred to CWP's case on retail planning, parking and transport issues. He advised that Dunoon could accommodate a third food store and referred to a 33% loss of money out of the area to Inverclyde and beyond in respect of expenditure on food and 48% loss of money out of the area in respect of expenditure on non food items and that this was a key target of CWP. He advised that the town needed the largest store possible whilst being sympathetic to town centre shops. He advised that the National Grid proposal did not strike this balance or make the best offer. He advised that what was required was a medium size store with ample car parking, reasonable floor space for comparable shopping and a petrol outlet. In terms of car parking, he compared the existing Morrison's food store to that of the proposed National Grid store and the proposed CWP store. He also referred to the difference of convenience and comparison impacts in respect of the National Grid and CWP proposals. He advised that the National Grid proposal had a higher impact on the town centre (9.5%) with less claw back of leakages compared to the CWP proposal which had a lower impact on the town centre (7.9%) and a larger claw back of leakages. He referred to the compensatory flood storage required which would impact on the size of the store making it even less than what was currently proposed. He referred to both proposals offering planning gain to mitigate impact on the town centre. He referred to the concept of linked trips advising that to achieve this it was necessary to claw back leaked expenditure. He advised that the store that clawed back most expenditure had the most ability to encourage linked trips. He advised that the National Grid location was not right for a food store and that Dunoon did not need another small store. He advised that the ability to claw back leaked expenditure out of the area was a key consideration.

Mr Bob Fisher of Colliers International spoke on Operators requirements and referred to CWP's approach to site selection. He advised that it was not an option to progress with a store that was too small to attract major retailers. He advised that the National Grid site was less than ½ the size of the CWP site. He

advised that operators want 40,000 sq ft of floor space, five – six car parking spaces per 1,000 sq ft and inclusion of a petrol filling station. He advised that the National Grid proposal was 34,700 sq feet with 125 car parking spaces and no petrol filling station which does not satisfy Operators requirements. He advised that CWP offered the only viable alternative and if the CWP proposal was rejected major retailers would go elsewhere which would be a loss to Dunoon. He asked Members to reject the National Grid application and commend the CWP solution to Dunoon.

Mr Weir summarised the comments by his colleagues and urged the Council to see through National Grid's attempts to derail CWP plans and reject the application.

Mrs Dawn Miller advised that she was a mum of two from Dunoon, that she had a business in Dunoon and was a shopper in the town trying to cater for a family of four. She advised that she was here to speak on behalf of very many people and to try and tell everything her friends and customers tell her and to tell Members what Dunoon shoppers really want and need and just importantly what the really don't want. She advised that she personally shopped in Dunoon town centre and went to the Co-op and Morrison's on a daily basis for top up shopping as she still preferred to go up to Asda in Govan for a better choice and price. She advised that it was still cheaper to do this, even with the ferry fare and petrol and that she had even started travelling by road round to Dumbarton as it still worked out cheaper and that there was by far a better choice and variety in larger stores and that she was a very typical shopper that these supermarkets were aiming at. She advised that Dunoon did not need a smaller basket store supermarket despite everything that's been heard from National Grid and advised that she has been to a few meetings listening and hoping it would change her opinion. She advised that the gas works site cannot give us the right supermarket with the choice and variety to stop her and many others heading for Govan or Dumbarton. She queried how a car park the same size as Morrison's could cater for a store twice the size. She also advised that she was struggling to understand how the extra traffic flow around the National Grid site will cope as it has been horrendous lately with the road works and to add in the supermarket traffic as well, where are they all to go? She advised that she has objected to the National Grid proposals from day one as she does not believe it will happen. Tesco were supposed to have been interested 10 years ago and nothing came of that. She advised that what Dunoon shoppers really want is a proper supermarket that does not sell out of weekly specials and has more than 3 people on the checkouts at busy times and at lunch times. She advised that is why she and many others have supported the CWP plans since 2009 and she honestly believed that they can deliver their promises to bring competition, choice and lower prices including fuel to Dunoon. She asked Members to say no to National Grid and fully support the CWP proposal.

MEMBERS' QUESTIONS

Councillor McCuish referred to objections about the site being too small and asked the Applicant if they had a retailer ready to go on site and if so when they would start. Mr Weir advised that detailed discussions had taken place with two out of four major supermarkets. Mr Andrew Kennedy of Kennedy and Co advised that the steer from these discussions was that a store of this size was probably acceptable to them and that a petrol filling station was not required. Mr

Kennedy advised that the site was in a central and prominent location and confirmed that two out of four major supermarkets plus an existing Operator had expressed an interest and that they were awaiting the outcome of the Planning Hearing and were keen to meet next week to progress matters.

Councillor McCuish referred to SEPA's comments about the neutral effect of flood risk and asked Mr McLaughlin what this neutral effect would be. Mr McLaughlin confirmed that a neutral effect would mean no further increase in flooding, that it would not be made any worse.

Councillor Devon referred to the 28 planning conditions and a 'minor departure' and asked Mr McLaughlin if this was not unusually high. Mr McLaughlin advised that they always try to minimise conditions but with larger applications there were always technical issues that needed to be resolved.

Councillor Devon referred to the four conditions regarding contamination and asked why these were necessary. Mr McLaughlin advised that Environmental Health put these conditions on to ensure tests are undertaken.

Councillor McNaughton sought and received clarification on the flooding issue from Dr Stewart and referred to the Flood Prevention Scheme at John Street. Mr Grant Whyte advised that the Carl Bro flooding report was used as this presented the worst case scenario.

Councillor Reay asked if there was a flooding history on the site. Mr Whyte advised that the Carl Bro report detailed what should be done to alleviate flooding which was being put in place at the moment at John Street.

Councillor Reay asked if the training wall was one condition to alleviate flooding and Mr Whyte confirmed that this was a recommendation of Carl Bro.

Councillor Reay referred to the sewage pipe problem. Mr Whyte confirmed that the Council would work with the developer to alleviate flooding issues.

Councillor Reay asked the Applicant to confirm why they did not include a fuel outlet in their application and also referred to car park and floor space ratio. Mr Littlejohn referred to discussions with retail operators who did not request a petrol filling station. Mr Carrie advised that the proposal lies in middle of range and referred to the car parking at Morrison's and that not everyone parking there were using the Morrison's store. Ms Ann Convery, PR Consultant, advised that one of National Grid's key points was what the impact of what they sold would be on the local community and that there were already two businesses nearby selling fuel and that they would not want to put them out of business.

Councillor Colville referred to the three changes that had been made to condition 14. He also referred to the request that a detailed scheme should investigate fully the responsibility of riparian owners to maintain the adjacent watercourse to reduce possibilities of culvert blockage at Argyll Street and access to the watercourse to allow the Council to carry out its duties under the Flood Risk Management Act 2009 and asked for assurance on this. Mr McLaughlin advised they had still to receive this information.

Councillor Colville asked how Members could determine the application without

the information that had been asked for. Mr Whyte advised that this information was required at the detailed design stage.

Councillor Colville referred to condition 14 detailed in supplementary planning report number 2 and also to Dr Stewart's presentation regarding the pinching of the water flow through the site with a supermarket on it. Mr Whyte referred to the recommendations of the Carl Bro report and the different options to carry out flood mitigation measures. Mr McLaughlin advised that the pinch point would be looked at during the detailed design stage.

Dr Stewart advised that the extent the of training wall had not been looked at and had not been considered by SEPA. The Carl Bro study had a wall with no compensatory flood storage. Any land raising has to have flood storage and he couldn't see how planning conditions could be met. He advised that SEPA will require flood storage.

Councillor Colville asked who was responsible for stopping the culvert blockage at Argyll Street. Mr Whyte confirmed that it was the Council's responsibility under the Flood Risk Management Act 2009.

Councillor Colville asked the Applicant to confirm if they owned both sides of the bridge wall at the application site. Mr Littlejohn replied no and that they supported Council view that they (the Council) would be responsible.

Councillor Chalmers referred to trading loss and asked Mr Mitchell how he measured this and where he thought leaks would come back into Dunoon. Mr Mitchell advised their sources were two fold. Information questionnaires distributed at a public consultation event which indicated 20 – 25% shopped elsewhere and data shopping survey information which indicated £11m was spent outwith the catchment area to Inverclyde, Dumbarton and Braehead. He advised that the Applicant referred to national average figures. He advised that to try and claw back money into the area you needed a store as large as possible whilst being sympathetic to local retailers. He advised that retailers have their own view about car parking and that car parking was key to attracting shoppers and that National Grid were under providing in CWP's view.

Councillor Chalmers asked what the catchment area was for a retail proposal and Mr Mitchell replied the Cowal peninsula.

Mr Littlejohn referred to the catchment detail in the CWP proposal and spoke about leakage out of Cowal. He advised that this leakage will continue even if a new medium size store is provided. He advised that the store needs to be located in the right place and that the site should be as close as possible to the town centre. He advised that National Grid had a smaller amount of floor space and that this was more agreeable to retailers in the town centre and that no objections had been made by the retailers or the Co-op.

Councillor Mackay referred to Dr Stewart's presentation on possible flooding at access to site and asked Planning if they agreed with this assessment. Mr Whyte advised that Hamilton Street floods when the bridge is blocked. Alleviating this by providing adequate flood routes including the access will be considered at the detail design stage(see condition 17) and will involve cooperation between National Grid and the Council. The Council has

responsibility in this matter as it is a council bridge and we also have duties under the Flood Risk Management Act. The flood was not deemed high enough to recommend refusal of the application as there are relief options available.

Councillor Mackay referred to a flooding solution being required and asked why a detailed flooding solution was not available at this time. Mr Whyte advised that flooding at Hamilton Street was an ongoing problem and would be looked at during the detailed design stage.

Councillor Mackay asked the Applicant why a detailed flooding solution was not available at this time. Mr Littlejohn confirmed that flood risk had been looked at in considerable detail with the Council and SEPA and that they have come up with a proposal that is acceptable to the Council officials and SEPA. Mr Muirhead confirmed that a significant amount of work has been undertaken to date and that flooding compensatory storage will be provided and believes conditions will be satisfied at the detailed design stage.

Councillor Mackay referred to the 'minor departure' of LP RET 1 Section D and also referred to the proposed extension to the Morrison's store and asked how this extension would affect this application. Mr McLaughlin advised that Dunoon would still be able to accommodate a medium sized supermarket even if the Morrison's extension is approved.

Councillor Mackay referred to the major difference in planning gain offered by CWP compared to National Grid and asked Mr McLaughlin how this was gauged. Mr McLaughlin advised that discussions had been limited regarding the issue of planning gain with National Grid and confirmed that a decision on this required Board approval and that this was a more suitable question for the Applicant. He advised that no less than £100,000 would take cognisance of the location of site at edge of town centre along with potential for linked trips and site being sequentially preferable. He advised that £276,000 offered by CWP was generous and had been put on the table without any negotiations with Officers.

Councillor Mackay repeated his question to the Applicant. Mr Littlejohn confirmed he could not give an exact figure but expected it would be in the region of £100,000 and that this still required Board approval and would be negotiated with the Council and that the Section 75 legal agreement would include a planning gain figure.

Councillor Dance referred to housing development and asked Mr McLaughlin to clarify where in the main Planning report the 74 housings units linked to CWP were. She also referred to public credibility about lines on maps. She also asked if Mr McLaughlin was aware of any homes near the CWP site or near to the National Grid site.

Mr McLaughlin advised that new homes were not referred to in the National Grid application. He referred to the proposal by Kier Homes which pre dated the submission of the CWP application. The CWP site was part of PDA. The CWP application was not intrinsically linked to Kier homes but shared boundary on site. Mr McLaughlin advised he did not know how many homes were in the area and referred to the aerial view photograph in his presentation slides pointing out the brownfield and part Greenfield nature of the National Grid and CWP sites respectively. He advised that there was a need to take cognisance of the Local

Plan and the 'Town Centre', 'Edge of Town Centre' and 'Out of Town Centre' areas.

The Chair ruled and the Committee agreed to adjourn at 1 pm for lunch.

The Hearing reconvened at 1.45 pm.

Councillor Dance referred to the salient points brought up by Mrs Miller and that people seemed to say they want a petrol station and to Mr McLaughlin's take that this was not a major issue and asked him to comment. Mr McLaughlin referred to there being a petrol station at the Walker's Garden centre and that petrol station applications rarely came forward in isolation. He advised that he was not looking to deter applications for petrol filling stations and that this application does not have this proposal.

Councillor Dance referred to flooding, long term plans and Council involvement and asked if this would involved capital expenditure and if this had been allocated or determined and would this be the case for CWP. Mr Whyte referred to the Carl Bro report commissioned by the Council which identified various locations where work was required. He advised that the Hamilton street works would be added to Capital list proposals but he was not sure where on the list this would feature and that funding would require to be identified.

Councillor Dance asked did this mean a plan was in place with no resource allocated to carry out the plan and Mr Whyte replied yes. He advised that the Council have a duty to inspect, assess and carry out a maintenance schedule and if riparian owners don't do anything the Council would do it provided funds were available. He advised that he had no knowledge of the CWP site as this was before his time with the Council.

Mr Weir advised that a flood risk assessment was undertaken through planning application and that nothing on their site was a possible flood risk.

Councillor Dance asked how £100,000 would be used to mitigate impact on the town centre. Mr McLaughlin advised that this would be used for schemes to improve vitality and vibrancy of the town centre such as the CHORD improvements and public realm projects to increase draw to area and the view of shoppers who chose to shop in the town centre.

Councillor Dance referred to comments about the Applicant pinching CWP's idea and scuppering their development. She asked if the National Grid development could not go ahead because of the flooding issue Dunoon was in danger of securing nothing and all National Grid will have succeeded in doing is scuppering the CWP application. Mr Littlejohn confirmed that it was not National Grid's intention to scupper Dunoon and prevent a food store. He advised that National Grid have a workable solution to provide a food store and all issues raised have been addressed. He advised he was extremely confident a food store can be delivered on the site and that two retailers were keen to come to Dunoon.

Councillor Currie advised that he was disappointed with the National Grid application. He thought it was premature and had no questions at this time.

Councillor Devon referred to the difference between the Carl Bro and Dougal Baillie Associates model and sought clarification that she was right to think that we go with higher readings until proven otherwise. Mr Whyte confirmed this to be the case.

Councillor McCuish referred to DTZ comments in the planning report about National Grid and their agents receiving notes of interest from a number of retailers, developers and property companies including CWP over a number of years and asked why National Grid's application had not been brought forward before now. Mr Littlejohn advised that it takes a period of time for a site to come on the market and that National Grid receive expressions of interest on a daily basis and that National Grid only consider sites once they are available for market. He referred to the site being vacant for 15 years and that during that time the site was cleared, infrastructure came down and the site was remediated.

Councillor Colville asked if riparian owners would have an opportunity to comment at the detailed design stage on what the Council would do in carrying out its duties in this respect under the Flood Risk Management Act 2009. Mr McLaughlin advised that this application was for planning permission in principle and that the detail would be provided at the detailed design stage and would form part of a planning application which the public could comment on.

Councillor Mackay referred to Councillor McCuish's comment about DTZ support for the application and their comment that CWP had shown interest in the National Grid site and asked if this would be a suitable site to rebuild the Walker's Garden Centre. Mr Weir advised that his position was not that the National Grid site could not be developed but that it could not accommodate a store of the required size.

SUMMING UP

Planning Authority

Mr McLaughlin advised that this application was for a medium sized supermarket on a 'brownfield' site on the 'Edge of Town Centre' which hoped to claw back 50% of local expenditure. The assessment will be predicated with what Operator comes to the table. He referred to hearing about parking and flooding issues from technical officers and confirmed that SEPA were happy with the proposal. He referred to the 9.5% impact being offset by linked trips and planning gain and confirmed that this was an application that can be supported by Planning subject to the conditions detailed in supplementary planning report number 2.

Applicant

Mr Littlejohn advised that he had heard a lot from Objectors who had a clear competing interest in their proposal. He advised that the Montagu Evans team have also had experience of work with CWP. He advised that the issues raised were not new and that they have worked with the Council to resolve these and that they have worked with the Council to find suitable solutions re flooding, transport and retail matters. He referred to the application being for planning permission in principle and that some matters have already been looked at in detail. He referred to the support they have from Council Officers and Statutory

Consultees and that the application supports Planning Policy locally and nationally. He advised that Members can be satisfied that all issues raised have been addressed. He advised that the difference between the two proposals amounted to floor space, a petrol filling station and car parking and that this was not as significant as was being suggested and that the view of Consultees needed to be given credence. He advised that only National Grid can deliver the need for a bigger store in Dunoon. He confirmed that there was strong retail interest in the site and meetings with interest parties could take place in the next week so would see development of the site fairly quickly. He referred to car parking and to the incorporation of bus lay-by to enhance links to the site. He referred to the flood risk and that this issue has been looked at in detail and that Council Officials and SEPA have raised no objection. He referred to the Section 75 agreement which will be drawn up in respect of planning gain and asked Members to support this proposal, as it was sequentially preferable.

Objectors

Mr Johnstone advised that he had nothing further to add.

Mr Weir referred to the flooding issue and that they were not raising concerns about the Dougal Baillie report just that things had moved on since then and that the Carl Bro report should be referred to and that Members did not have anything based on the Carl Bro report in front of them. He advised that if Members accept that this information is not in front of them how can they know how much the site will flood and so how can a food store, car park etc be put on this site. He referred to car parking numbers and that link trips seemed to be key to this application. He advised that the proposal was 100 car parking spaces short and asked how shoppers would be able to park at food store and then walk to town if there was not enough car parking spaces. He referred to Operator interest and that Sainsbury's and Tesco were the two interested parties in Dunoon. He advised that the clear line from Tesco was they wished to wait and see if an application was granted before going forward and that the CWP proposal is what they are looking for. He advised that they had received misinformation from National Grid regarding Sainsbury's. He confirmed that Sainsbury's were not going forward with the National Grid proposal (he referred to a Sainsbury's agent being on the CWP team). He referred to the reason National Grid gave for not having a petrol filling station on site and advised that the real reason was they did not have the space to accommodate a petrol filling station and it had nothing to do with the impact on other retailers. He referred to CWP's 1,300 letters of support for their application and that they had seen no support for the National Grid proposal. He referred to the planning gain figure still to be determined. He advised that it seemed to him the Council were being asked to approve a compromised site with greater impact on the town centre because it was 400 metres closer to the town centre and urged Members to refuse the application.

Mrs Miller advised she had nothing further to say.

The Chair asked all parties to confirm if they had received a fair hearing and they all replied that they had.

DEBATE

Councillor Mackay advised that he had heard a lot today and had been confused. He referred to a planning application considered 2.5 years ago for 6 caravans which required a full flood risk assessment to be undertaken and he failed to understand why Members did not have a full flood risk assessment before them today. He was worried about the proposal going ahead due to flooding and felt that the application was premature with too many assumptions. He advised there was a need to continue consideration of this proposal until a full flood risk assessment was received.

Councillor McCuish congratulated the Planning department in trying to get this off their books and despite 28 conditions and a 'minor departure'. He advised that flooding and parking issues had not been addressed. He referred to supplementary planning report number 2 and advised that the Morrison's proposal for an extension to their current store in Dunoon could have an effect on this application. He advised that he was grateful to the experts for giving their opinions today but the best submission came from Dawn Miller, a young mother shopping and living locally. He advised he could not support the planning application today.

Councillor Currie advised that he was disappointed with the planning application and that the recommendation from Planners with 28 conditions and a 'minor departure' was not on. He advised that the application was premature and needed a lot more information and agreed that this application should be continued.

Councillor Devon also referred to the 28 planning conditions, the 'minor departure' and the section 75 legal agreement. She advised there was conflicting advice about flooding and contamination.

Councillor Chalmers acknowledged that you would expect a lesser amount of detail for a planning permission in principle but that he was left with more questions than answers. He advised that the site was cramped. He referred to the pinch point and conflicting flood reports. He advised he could not support the application at this time.

Councillor Dance shared colleagues concerns about the 'minor departure' and 28 conditions. She advised that flooding was a major issue and that this was a premature application and did not believe flooding issues could be satisfied on this site by conditions 14, 16 and 17. She advised she was also not satisfied that the car parking spaces were adequate. The most salient points were from Mrs Miller and that the proposal did not meet retailers' needs. She also advised she was concerned about the condition in respect of contamination.

Councillor Colville advised that it was difficult to come to a conclusion and he was concerned that the Committee were going round in circles and referred to all the supplementary reports which had been provided for both this application and the CWP application and that there was a need to make a decision. He advised that he did not think there would be a competent motion to get around the sequential test. He referred to the flooding concern and stated that this was a planning permission in principle and that a detailed application had still to be considered.

Councillor Currie raised a Point of Order and asked if what Councillor Colville

said was correct.

Mr Reppke advised that if the Committee approved the outline application this was approving the principle of development of the site and all that would be left would be to approve detailed conditions. It would not be possible to revisit the approval of the principle at a later date.

Councillor McNaughton advised that he had worked for the Council for years at the depot across from the site and he knew that the site flooded and that there was a need to get more information on this before going forward and that he could not support the Planner's recommendation.

Councillor Reay advised he was finding this difficult. There was a competent application before them and that all conditions by and large related to flooding. He advised that the application will not meet the expectations of the public and will not achieve what they desire. He advised that there was a need for a petrol outlet for a variety of reasons and the imbalance of floor space area and car parking was significant.

Councillor MacMillan agreed with the comments made by Councillor McNaughton. There was still a lot of questions to be answered and that he could not support the application at this time.

Councillor Kelly advised that there was need to make some sort of decision and that the main issue of concern was flooding and that most Members were looking for more information before taking a decision.

Motion

That the application should be continued to obtain now receipt of the flooding information referred to in proposed condition 14 as detailed below:-

Prior to the commencement of any works, full details of all flood mitigation measures shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA and the Council's Flood Risk Management. The compensatory flood storage scheme shall be designed to include the 200 year plus 50% culvert blockage scenario. The detail design peak water levels shall be based on the 0.5% annual exceedence probability (AEP) event given in Carl Bro Report December 2006 and, in particular, the design shall take heed of the report's recommendations for the gas works site particularly the training wall at Hamilton Street bridge. The storage requirements for 50% culvert blockage shall also be based upon the Carl Bro report figures. All works shall be carried out in accordance with the approved scheme.

Moved by Councillor Daniel Kelly, seconded by Councillor Neil Mackay

Councillor Kelly asked if there were any amendments.

Amendment

Councillor Dance advised that she was not prepared to support the Planning recommendation but that it was important to make a decision. She advised that she did not believe the proposal was a minor departure when it relied on 28

conditions. She referred to policies LP SERV7 and LP SERV8 and that conditions will not ensure requirements of these policies. She advised that the proposal did not meet local need and that 125 car parking spaces was not adequate.

It was suggested that the meeting be adjourned for 15 minutes to allow Councillor Dance to establish where or not her amendment would be competent.

Councillor Dance advised that if she did not have a seconder to her amendment there would be no point in adjourning the meeting to establish the competency of the amendment.

Councillor Chalmers confirmed that he would be happy to support an amendment.

Councillor Currie raised a Point of Order and asked was it not unusual to be postponing a meeting to consider possible conditions and was it not more common to only consider the application put forward.

Mr Reppke confirmed that the Committee were entitled to adjourn a meeting to allow for further information to be provided.

Councillor Devon asked for clarification on whether it was the Council's job to put in flood assessment.

Mr Reppke advised that the Council had obligations under the Act referred to earlier but that it was the responsibility of the Applicant to address flooding concerns within the development site.

The Chair ruled and the Committee agreed to adjourn the Hearing at 2.55 pm.

The Hearing reconvened at 3.10 pm.

Councillor Dance advised that she would not be able to go down the route of her amendment as this could lead to a legal challenge and asked that the Motion include a request that Planner's bring a report back to the PPSL Committee meeting on 23 November 2011 advising on progress with production of the information requested and the timescale for bringing this information back to the Committee for consideration.

Decision

1. Agreed to continue consideration of this application in order to obtain now the information requested in proposed condition 14 detailed in the Planning Officer's supplementary planning report number 2 and as detailed below:-

Prior to the commencement of any works, full details of all flood mitigation measures shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA and the Council's Flood Risk Management. The compensatory flood storage scheme shall be designed to include the 200 year plus 50% culvert blockage scenario. The detail design peak water levels shall be based on the 0.5% annual exceedence probability (AEP) event given in Carl Bro Report December 2006 and, in

particular, the design shall take heed of the report's recommendations for the gas works site particularly the training wall at Hamilton Street bridge. The storage requirements for 50% culvert blockage shall also be based upon the Carl Bro report figures. All works shall be carried out in accordance with the approved scheme.

2. Agreed that a report should be submitted to the next meeting of the PPSL Committee on 23 November 2011 advising on progress with production of the information detailed at 1 above and a timescale for when the application would be brought back to the Committee for consideration.

(Reference: Report by Head of Planning and Regulatory services dated 7 September 2011, supplementary planning report number 1 dated 20 September 2011, issued and supplementary planning report number 2 dated 8 November 2011, tabled)

Councillors McNaughton, Reay, Dance and Chalmers left the meeting. Councillor McQueen joined the meeting.

4. 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)

Agreed to continue consideration of this application due to the decision reached on the National Grid application and that this would be dealt with again when considering the National Grid application.

(Reference: Report by Head of Planning and Regulatory Services dated 4 March 2011, supplementary planning 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, supplementary report 6 dated 19 September 2011, issued and supplementary report 7 dated 8 November 2011, tabled)

**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: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

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

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

SUPPLEMENTARY REPORT No 4

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of additional documentation from the applicant and a further third party further representation, in the light of the Committee's decision to continue consideration of the application at the Hearing held on 21st October 2011.

2.0 OUTCOME OF LOCAL HEARING

The PPSL Committee convened a discretionary Hearing on 21st October 2011 in Strachur Village Hall in order to assess the above application.

During deliberation at the hearing, Cllr Kelly moved the Officer's recommendation for refusal of the application as Chairman; however there was no seconder. An amendment was suggested by Cllr Marshall and seconded by Cllr Dance. The Head of Governance and Law, Charles Reppke confirmed that, in his view, the motion as it stood was not competent as it did not address all the development plan policies which were material to the assessment of the application, including the need for a Masterplan as required by the Local Plan in respect of Potential Development Areas, and that the Committee needed to take this into consideration if they were minded to grant the application.

Following a recess, the Committee agreed to continue the application to the next PPSL Committee on 23rd November 2011, subject to the submission of a revised masterplan document for PDA 9/13 'Cairndow-Inverfyne' in support of the proposed development.

Given the content of debate and the motion that was moved by Cllr Marshall, some preliminary consideration has been given as to the means by which issues discussed thus far could be addressed in the event that Members resolve to approve the application. It is considered that the imposition of planning conditions could address such specific matters as affordable housing, provision of a footpath between the development site and Loch Fyne Oysters complex, tree planting and the provision of sightlines onto the A83(T) which would, in the event of an approval, preclude the requirement for a Section 75 Agreement.

3.0 FURTHER THIRD PARTY REPRESENTATION

One further emails of representation has been received from:

Mr. Alexander Miles, Rubha Beag, Cairndow (email dated 20th October 2011);

The points raised in the email are summarised below:

- Mr. Miles comments that he was listed in the documentation as an objector to this application which he stresses he is not. His intention was to convey that this development would be likely to increase the pedestrian/cycle traffic between the existing village and the head of the loch and that adequate provision should be made for this by the creation of a footpath/cyclepath between the two.

Comment: Points noted and a footpath is proposed to serve the residential phase of the development. Refer to conditions below.

4.0 FURTHER DOCUMENTATION

As requested, the applicant submitted a 'masterplan/comprehensive approach' on 27th October 2011.

The masterplan drawing is supported by a letter and supporting text which draws together the various documents submitted in the course of this application and provides site analysis, constraints, general design principles, layout and a phasing plan.

The supporting text outlines a number of development zones that could come forward as applications for permission in principle, which are likely to be split into phases.

In essence they comprise a first phase of the mixed use residential, commercial and childcare use at the centre/ entrance to the PDA, the subject of the current application. Beyond that there is limited expansion potential for commercial uses. Holiday accommodation and recreational uses could form future phases clustered around the lochan. Further longer term residential units could be provided adjacent to the lochan and there is potential for a hotel or holiday accommodation along the north western boundary of the PDA.

The Statement goes onto provide:-

- In essence buildings will be within a restricted development footprint, single, 1.5 and 2 storeys in height, clustered around a loose courtyard arrangement, orientated to achieve maximum solar gain, planting undertaken will be native species.

- Architectural design will be characteristic of Argyll, linear buildings with pitched roofs, designed as a cohesive group.
- The palette of materials will comprise:
 - Roofs - corrugated steel (colour coated), standing seam metal sheeting or natural slate.
 - Wall finishes - timber cladding (larch or oak) or acrylic render in different shades.
 - Windows and Doors - high performance redwood - painted different colours.
- The council's 25% affordable housing policy will be met on site. The buildings shall be designed to have a high performance in terms of sustainability.

Comment: Whilst the planning department broadly welcomes the submission of this documentation, it is still considered to fall short of a masterplan / comprehensive approach as outlined in the Local Plan. The submission would be better described as a spatial layout drawing which shows in shading terms broad areas of land use. There is no landscape assessment, density, massing or population equivalent estimations which would be required in order to constitute a truly comprehensive approach. In addition, in order that any masterplan can be given meaningful weight in the consideration of associated proposals it is considered that it ought to be available in the public domain and be the subject of consultation in order that interested parties have the opportunity to comment upon the contents before it is weighed in the balance as a material consideration.

Members might like to note that this matter is to be the subject of a future report to Committee suggesting a protocol for the handling of cases where masterplans are required but they have not been submitted at the time the related application was submitted and advertised, on the basis that consultation ought to be carried out in respect of any such plans received during the time an application is under consideration. In this way matters advanced in support of a proposal can be the subject of scrutiny and comment by third parties prior to Members according weight to them as material considerations in decision-making.

5.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report, but that planning permission be refused as per the original report. The planning department considers the newly submitted documentation from the applicant does not constitute a 'masterplan' as required by Local Plan policy, and therefore all three recommendations for refusal should be retained.

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Angus J Gilmour
Head of Planning & Regulatory Services

2nd November 2011

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

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

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

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

SUPPLEMENTARY REPORT 3

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of further representations and to note the absence of Transport Scotland at the Hearing.

2.0 FURTHER REPRESENTATION

Three further emails of objection have been received from:

Mr. Douglas Fraser, Stagecoach Inn, Cairndow (email dated 15th October 2011);
Mr. Ken Pound, Cairndow (email dated 18th October 2011);
Mr. J.B. Rowlands, Old School, Cairndow (email dated 18th October 2011);

The points raised in the letters of support are summarised below:

- *Mr. Fraser suggests that it has always been the "Common Sensical" view that any development would be within the confines of Cairndow village. A recent application for 12 houses and Childcare facility within the village was acceptable to planning and seemed promising – "the sensible option" until Transport Scotland objected on the village access. It has since transpired that even 3 plots will overload the access roads. So, is the sensible option to create a new village ? Especially when the access on a long fast bend on the A83 which will involve substantially more traffic. Yet it is the 'sensible option' to locate the industrial units at the proposed site. Just now the childcare facility is based in the village hall where children can walk to safely. Is it prudent to place a crèche at the Old Sawmill with commercial traffic from the Hydro Board, Bonnar Sand and Gravel and proposed industrial units ? Also has a concern over the River Fyne as there has been a noticeable lack of salmon.*

Comment: The proposals for the Kilmorich PDA 9/6 which Mr. Fraser refers to had unresolved siting and design issues in addition to junction improvements required by Transport Scotland. It would be inaccurate to state that the proposals were acceptable to planning in that form at that stage. Other proposals within the existing village of Cairndow will be assessed on their individual merits.

- *Mr. Rowlands comments that the development as indicated by the masterplan would create a new village some two miles away from the existing traditional and historic village of Cairndow thereby dividing the community into two separate entities.*
- *The proposed development which includes the masterplan is a major development in sensitive rural area and is in contravention of many of the requirements of both area and local plans.*
- *Supporters of the scheme have cited affordable housing in support of the scheme. They may have overlooked the fact that the applicants other site currently under construction on Pheasant Field has provision for affordable housing and homes to rent, whereas I can see no defined affordable housing in this scheme.*
- *I would add further that there is currently one empty house available for rent within walking distance of the fish farm and hatchery and there is further empty house for sale/rent within walking distance of Loch Fyne Oysters*

The further email received from Ken Pound (email dated 18th October 2011) concerning his original email of 12th October 2011 makes the following comments:

- *You have not advised why the footpath has not been included within the red line boundary on this application? The footpath must be delineated by the red line which takes the site application well in excess of the 2 hectares. The footpath is referred to in your summarised report - Supplementary Report 2. Please advise.*
- *You have stated that Scottish & Southern have been notified as owner of part of the application site - hence the red line is shown on the road owned by Scottish & Southern. I presume the Council has confirmation that the developer has permission from Scottish and Southern to up-grade the private road and access as there is a difference between applying for planning permission on land which you do not own and having permission to change/upgrade that land.*
- *The red line has not been shown on the visibility splays for either the private access (old A83) or the access on the A83 which I understood was a requirement? I would refer you to the access arrangements, Note 11 (page 7) of the Guidance Notes relevant at the time the application was submitted which stated:*
- *"Access Arrangements - If it is intended as part of the application to construct or alter a vehicular access or to use an existing access this section should be completed as appropriate. When a change is proposed to the access arrangements, full details of width, type of bellmouth and available visibility splays should be given on the application drawings".*
- *Also, in your Supplementary Report 2, you state under 'Comment' that "The visibility splays and the improvements to the junction of the access road onto the A83 required by Transport Scotland are on land either controlled by the applicant or by Transport Scotland".*
- *Firstly, the red line boundary and visibility splays have been omitted from the drawings. Can you please explain why and, secondly, I do not believe the visibility splays are "on land either controlled by the applicant or Transport Scotland".*
- *Transport Scotland have confirmed that they have control over the land on the road from parapet/fence to parapet/fence on the bridge; the applicant's blue line is to the edge of the river only (see CDA 02A dated 3 March 2009 & CDA 02B revised 26 April 2010) and the land within the visibility splays - including the island in the middle of the river - is owned by the estate of Achadunan, an objector to this application so perhaps you could clarify.*

- *With regards to the recent letter of support from The Tree Shop, you should note that The Tree Shop is owned by the developer so it is tantamount to sending a letter of support for your own development.*

Comment: The footpath adjacent to the access road and internal development is included within this application. The footpath connecting the LFO site and application site is not. Whilst it is shown on CDA04B it is clearly outside the redline boundary and therefore is not considered part of the application. The applicant has stated that a Deed of Servitude is in place between SSE and Ardkinglas Estate providing unrestricted access rights and right to carry out any necessary improvements to road. The creation of visibility splays are not usually classed as development and therefore do not require to be within the redline area. They can be secured via Section 75 agreement or suspensive condition if the land is within the applicants control – as in this case. If the visibility splay does constitute development as an engineering operation then a separate application must be submitted for the splay itself. The applicant has confirmed that he, SSE and trunk roads possess title over all the land required to obtain appropriate visibility splays.

Whilst the content of these letters does not alter the department's recommendation, the planning related views made by the objectors are material considerations in a determination of the proposal.

3.0 Consultees

It should be noted that the department invited Transport Scotland to attend the Hearing but they have declined owing to staff shortages but feel that their letter and submissions dated 6th October 2011 provides a full explanation to their earlier response dated 25th August 2011.

4.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused.

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Angus J Gilmour
Head of Planning & Regulatory Services

20 October 2011

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

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

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

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

SUPPLEMENTARY REPORT 2

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of updated consultation responses and further representations.

2.0 CONSULTATIONS

A letter from **Transport Scotland** (dated 6th October 2011) clarifies the wording of conditions recommended in their revised consultation response dated 25th August 2011 (not 25th August 2009 as originally reported). Transport Scotland considers that an explanation of their suggested conditions would avoid the need a representative being present at the Hearing.

The first two conditions relate to visibility from the junction and forward visibility on the trunk road on the approach to the junction. To ensure that these visibility splays can be obtained then maintained in perpetuity, it will be necessary for the applicant to demonstrate that these can be achieved without any interference from obstructions and also gain assurance that nothing would be built or allowed to grow in the future which may impede the required visibility. Transport Scotland considers the only means of ensuring this is via a suspensive condition as detailed in the response dated 25th August 2011.

The third condition relates to the layout of the junction to ensure that it complies with the appropriate standards within the Design Manual for Roads and Bridges. Transport Scotland considers that the current layout does not comply with these standards as defined by Layout 3 of TA 41/95 (Vehicular Access to All-Purpose Trunk Roads) and therefore this condition is required to bring the junction up to the necessary standard.

The additional traffic which would be generated if all the development in the masterplan was implemented would be in excess of the level of traffic required for a right turn lane.. As a result, a condition was recommended to highlight that a right turn lane would be required.

Comment: The visibility splays and the improvements to the junction of the access road onto the A83(T) required by Transport Scotland are on land either controlled by the applicant or by Transport Scotland. Therefore suspensive planning conditions could be used to achieve required sightlines.

In terms of the requirement for the right hand turning lane, this would only be applicable if the greater masterplan scheme was to be developed and not for the development proposed within the scope of the current planning application.

3.0 FURTHER REPRESENTATION

Six further letters of support have been received from:

Alexander Pettit, formerly of Ballure, Cairndow (letter received 23rd September 2011);
Mrs Frances Bremner, 11 Kilmorich, Cairndow (email dated 26th September 2011);
Mr Bruce Davidson, Loch Fyne Oysters Ltd, Clachan Cairndow (email dated 29th September 2011);
Mr Neil Colburn, The Tree Shop Clachan Cairndow (email dated 4th October 2011);
Mr Neil Colburn 4 Hydro Houses Cairndow (email dated 4th October 2011);
Mrs. Alison Hutchins, 12 Kilmorich, Cairndow (email dated 5th October 2011).

The points raised in the letters of support are summarised below:

- *Proposed development is desperately needed in our village. There has been no new housing for about 18years since Kilmorich was built and that was very successful. We have a thriving community with many businesses but not enough housing meaning many people have to travel many miles from far away as Glasgow to work in Cairndow. A purpose built child care facility would be fantastic. For the past few years they have had to do with the village hall which has been fine but a purpose built building would be much better for all. Also, some people are setting up their own new businesses and a few units here would be fantastic to keep employment local. There is a growing community of elderly and young people in the village whose accommodation may not be suitable for them after a time, the choice of different housing would be greatly sought after.*
- *The Tree Shop supports this development and believes the proposed development will not have an adverse impact on the landscape at the head of Loch Fyne due to existing trees and shrubs providing adequate screening from the A83. The Tree Shop would welcome additional small businesses in the area. The Planning Department's emphasis on a formal masterplan for the whole of PDA 9/13 as a policy stipulation prior to the development of this small part of the PDA is unnecessary and impracticable. The density and scale of development proposed in the Outline Application is appropriate for the context and consistent with the aim of providing affordable residential and commercial accommodation.*
- *Loch Fyne Oysters support the application. Staff accommodation near their site is an ongoing problem for our staff and feels that the proposal is appropriate to the existing environment and infrastructure. Keen to support more affordable residential accommodation and recognise the need for small commercial units in the area. We do not feel that there will be any adverse visual impact from the development for visitors to our site. Continued support for the childcare facility and if it moves to the new site may strengthen ties between us and be of added benefit to our staff. The planned footpath would also be an added benefit.*
- *Support for the proposed development where the extra housing is needed due to the continuing expansion of the local businesses.*
- *Letter from Alexander Pettit explains why the lack of suitable residential accommodation and office space resulted in his family leaving the Cairndow area. Finds it frustrating that so many homes in the area are holiday or second homes and that the daily lives of Cairndow residents and workers can be impacted upon by non or partial residents. Cairndow and villages like it must move with the times in an attempt to retain, improve and encourage economic growth.*
- *Without housing, childcare and the ability to create business opportunities could turn Cairndow into a retirement village.*

A further objection has been received from Ken Pound (email dated 12th October 2011) making the following points:

- *Within the proposed site plan, the red line boundary embraces the access road but the road is owned by Scottish and Southern Electricity - not the developer - CDA 02A dated 30 March 2009 & CDA 02B revised 26 April 2010 refers - and therefore this application is invalid. I further note that the footpath between the proposed development and Loch Fyne Oysters should be within the red line boundary. Whether this is an oversight by planners or the developer matters not, the red line must incorporate the footpath and I trust this will be corrected as this would automatically render this application invalid.*
- *I note from recent correspondence that letters of support appear totally obsessed by "housing need" in Cairndow yet the supporters choose appropriately to ignore the fact that the developer has already secured approval under application 09/00463/DET (Pheasant Field) for 15 houses delivering the "housing need". The houses are currently being built. This development was approved sighting special circumstances, the first being the Government grant secured under RHfR which contributed GBP 650,000 of tax payers money to the development and secondly that it delivered 100% affordability. In accordance with the Argyll and Bute's Housing Need and Demand Assessment (HNDA) report this development well exceeds the 12 houses deemed needed in Cairndow. There are no such special circumstances or material considerations in relation to the above development at Clachan and the Council's statistics are quite clear.*
- *It is of significant note that the developer, Councillors Marshall, Simon, Messrs Murray, Lodge, Convery and Close from the Planning Department and importantly Alan Brandie, who was responsible for publishing the findings of HNDA report, all attended the Local Plan Workshop for Bute and Cowal held on the 24th May 2010 at Dunoon as Consultees and following these consultations determined where and to what extent housing was needed throughout A&B. The conclusion of those consultations was that Cairndow need 12.*
- *The above application has from the outset failed to deliver even the minimum 25% affordability requirement and it is only now, following the planners supplementary statement to the PPSL, that this failure has been acknowledged but clearly there is no agreement in place with the developer on how the 25% affordable housing can be delivered. ... Notwithstanding the many quoted reasons for refusal by the Head of Planning and without a clear agreement with A&B in place, this is a fundamental flaw in the planning process and the committee must recommend refusal.*
- *The developer has clearly stated this application is the first stage of what is intended to be the new village of Clachan - letter to Fergus Murray dated 30 March 2010 refers (attached), with further staged development covering an area of 30 hectares in total. This application for 16 houses, 7 industrial units and childcare centre cannot possibly be considered by the PPSL in isolation - which has been confirmed by the Scottish Government - as the A&B Local Plan must be looked at and considered as a whole which means that the Masterplan is a fundamental requirement of PDA 9/13 and that the mini-brief relating to this PDA has to be complied with. As confirmed by the developer, this application is Phase 1 of a proposed new village - it should therefore have proper consultation with the community, consultees and neighbours, and comply with the Local Plan, Structure Plan and Policies which have been put in place to protect the public and to which Councillors have been elected to uphold.*
- *Regarding the childcare centre, the developer has maintained throughout that this is for "indicative purposes only", with no certainty or commitment whatsoever of it ever being retained or completed. Interest has been shown by Cairndow Community Childcare which is run by a family member of the developer, but this is only one of a number of alternative locations being considered for re-location. Any proposal to build the childcare would have to be funded by private investors or funded by A&B.*
- *I am in support of planners decision to refuse this application. There is not a "housing need" in Cairndow as this is more than satisfied by the Pheasant Field development currently under construction. I therefore object to this application and if the PPSL have read the Local Plan, Structure Plan and policies of Argyll and Bute and do not uphold the refusal by Head of Planning, I would expect and request that this application be called in by Ministers to avoid making a mockery of A&B planning policy, Planning Department and Council.*
- *Lastly, I would reiterate Ross McLaughlin's letter of 18 February 2011 to the developer requesting that "a revised application is submitted with a new larger red line boundary to ensure strategic planting is included along with a reduction in density. Finally, greater detail is afforded to the Masterplan to allow a meaningful consultation with stakeholders, consultees and community. Due to the elongated timescales in processing this application there shall be no fee payable on this revised application but it is likely to be treated as a 'major application' under 26A of the Town & Country Planning (Scotland) Act 1997 if the application site exceeds 2 hectares" which it clearly does.*

Whilst the content of these letters does not alter the department's recommendation, the views made by the supporters and objector are material considerations in a determination of the proposal.

4.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused.

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Angus J Gilmour
Head of Planning & Regulatory Services

13 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

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

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

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

SUPPLEMENTARY REPORT

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of updated consultation responses and further representations

2.0 CONSULTATIONS

A revised response from **Transport Scotland** (dated 25 August 2009, received 14 September 2011) taking account of the submitted Masterplan now requires forward visibility splays to be provided and a new (upgraded) junction to be constructed to the Trunk Road. A greater improvement would be required if the development was extended to include the masterplan proposals.

My original report omitted a response from **Public Protection** (dated 14 May 2009). However, a revised response (dated 19 September 2011) raises no objections in principle to the application. However, further information is required regarding the proposed Private Water Supply and the impact of existing ambient noise levels on the proposed development.

3.0 FURTHER REPRESENTATION

A further representation from Elaine Pound, Shore Cottage, Cairndow (e.mail dated 20 September 2011) raises the following points:

- This application is currently unlawful due to the incorrect status reported on the PDA re: housing - which suggests the PDA is flawed - and the red line boundary
- The Report to the Committee omits Transport Scotland's report dated 25 August 2011 which requires access improvement on the A83 and visibility splays, neither of which are included within the red line boundary
- PDA 9/13 'mixed use' never included housing - it was an extension of the original hub, ie the Oyster Bar & Tree Shop, has no modification number and was not amended in the Reporter's Written Report for the Local Plan 2009 to include housing - hence housing density was shown as 'not applicable' ; there was no consultation to include housing for PDA 9/13 - this has to be unlawful.
- A Green Transport Plan has not been provided
- Landscape & Visual Assessment and Sustainability Checklist have not been provided
- An Area Capacity Evaluation (ACE) has not been provided in an area of Sensitive Countryside/Panoramic Quality and an Environmental Statement has not been provided

- The developer's consultant/mediator's letter of 16 June 2011 requested the Council to supply to the PPSL the location of the 'objectors'. If this is to be provided, please also provide to the PPSL the location of the 'supporters' - all of which are either related or connected by either tenancy or employ. The 'objectors' are all independent from the developer - some of which are aware that this PDA was not designated for housing - and the 'objectors' either have adjoining Estates/land and/or businesses - stakeholders within the community - who employ local staff.
- the Report states that the 'affordable housing' mechanism will be under RHOG - RHOG was withdrawn by the Government in the budget of April 2011 - and therefore no longer exists - and RHfR was a pilot scheme by the Government (which provided + £650k for development at Pheasant Field) and does not apply to this application. There are also no special circumstances for this application.

A further supportive representation from John Smart, Stalkers Cottage, Glen Fyne, Cairndow (e.mail dated 20 September 2011) reports that two families have left the area because of the lack of suitable accommodation and advises that the proposed development will make a small but significant contribution to keeping Cairndow as an alive and vibrant community.

One further objecting representation was received (dated 20th September 2011) from Jamie Delap as Director of Fyne Ales limited which operate on the other side of the Fyne Valley to the proposed development. He is supportive of small number of commercial units but opposes strongly to new residential dwellings and a whole new village (masterplan) which is proposed. He considers this will seriously undermine the character of the area and also his business' provenance.

3.0 RESPONSE

- 3.1 The application was accepted as valid when submitted. The application boundary (red line) prepared by the applicant encompassed an appropriate area within which development was proposed. This area was less than 2 hectares and, in any event, there was no statutory definition of "major development" at the date of submission. Consequently, there is no lawful impediment to the Council determining the application.
- 3.2 The revised response from Transport Scotland taking account of the submitted Masterplan was only received after my original report had been prepared. The revised visibility splays now required may affect land outwith the applicant's control so a s.75 agreement may be required if Members were minded to approve the application.
- 3.3 Regardless of its derivation, PDA 9/13 in the adopted Local Plan is for "Mixed Use – Business/Housing/Recreation" as set out in the original report. In the Plan it is common for mixed use PDAs with a housing component not to specify densities.
- 3.4 The request for a Green Transport Plan was only included in an agenda for a meeting with the applicant prior to validation of the applicant.
- 3.5 The absence of a Landscape & Visual Assessment and Sustainability Checklist underline concerns in my report that a masterplan for the PDA needs to be better developed.
- 3.6 Although the site is within an Area of Panoramic Quality and the Sensitive Countryside development control zone, its inclusion within a PDA and AFA render the Area Capacity Evaluation (ACE) technique inappropriate. The application has not been screened as an EIA application so does not require an Environmental Assessment.
- 3.7 The addresses of all contributors, where available, are included in the original report.
- 3.8 Section D of the original report identified that the method for delivering affordable housing had not yet been secured. Despite the demise of schemes suggested in the report, an appropriate level of affordable housing could be secured by either a suspensive condition or section 75 agreement if the application was to be approved. It must be noted that whilst we are accepting of this flexible approach at this stage it is a significant weakness of the proposal especially in this climate where RSLs have significant funding reductions. A minimum of 4 affordable units must be constructed but as yet no clear mechanism for delivery has been afforded.

4.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused.

Based on the above representations from Transport Scotland and Public Protection we would also seek to insert the words:- '**Trunk Road Access, Private Water**' into Reason for Refusal 3 (contained on page 54 of PPSL Pack). The full reason for refusal shall now read:-

3. A Masterplan approach for is advocated for the development of PDA's within the Argyll and Bute Local Plan (August 2009) and progression with large scale and sensitive area development in general in National Guidance. The lack of a sufficiently detailed Masterplan in this instance has resulted in an objection from SEPA and inability for the planning department to fully assess this 2ha gateway / phase 1 application in the context of the wider > 30ha development site and relationship with future phases. It is therefore considered to be contrary to paragraphs 11.14 and 11.15 of the written statement of the Argyll and Bute Local Plan (August 2009) and Planning Advice Note 83 – 'Masterplanning'. There is an inability to plan for the future in a coordinated and comprehensive manner with the potential for adverse landscape biodiversity infrastructure **Trunk Road Access, Private Water** and servicing implications in this area of sensitive countryside and panoramic quality.

Author: David Eaglesham
Contact Point: David Eaglesham 01369 708608

Angus J Gilmour
Head of Planning & Regulatory Services

20 September 2011

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

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

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

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

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

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

(ii) Other specified operations

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

(B) RECOMMENDATION:

It is recommended that

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

(C) **HISTORY:**

No planning history for the application site.

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

(D) **CONSULTATIONS:**

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) PUBLICITY:

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

(F) REPRESENTATIONS:

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

Objectors

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

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

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

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

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

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

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

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

Supporters

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

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

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

Christine MacCallum, Clachan Farm (letter dated 28th April 2009);

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

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

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

Stewart MacCallum, Cairndow (e-mail dated 24th February 2010);

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

Cllr Ron Simon, (e mail dated 29th August 2011)

(i) Summary of issues raised

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

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

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

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

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

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

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes

Protected Species Survey by Quadrat May 2009

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

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

Supporting Statement by Ardkinglas Estate 10 March 2009

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

Revised Supporting Statement by Ardkinglas Estate 19 October 2010

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

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

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

Drainage Impact Assessment JIG Ltd. February 2009

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

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

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

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

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

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

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

'Argyll and Bute Local Plan' (August 2009)

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

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

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

Note :The Full Policies are available to view on the Council’s Web Site at www.argyll-bute.gov.uk

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

The following advice and guidance from Central Government includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

n/a

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

Author of Report: Ross McLaughlin

Date: 13th September 2011

Reviewing Officer: Richard Kerr

Date: 14th September 2011

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

1.

REASONS FOR REFUSAL RELATIVE TO APPLICATION 09/00385/OUT

1. Having regard to the siting and design of the proposed mixed use development, the concentration and proximity of the proposed buildings to each other and existing commercial/agricultural uses is considered too dense and inconsistent with the character of the surrounding rural settlement pattern. This would detract from the designated area of sensitive countryside and the area of panoramic quality within which the development would be located. Additionally, the lack significant structural planting on-site will result in a development that would be out of context, incongruous and exposed in its rural surroundings. Such a development would therefore be contrary to Scottish Planning Policy (February 2010); to Policies STRAT SI 1, STRAT DC 1, STRAT HO 1 of the 'Argyll and Bute Structure Plan' 2002; and to Policies LP ENV 1, LP ENV 10 and LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4); and, LP HOU 1 of the 'Argyll and Bute Local Plan' (August 2009), all of which presume against the nature of the development proposed.
2. Having regard to the density of the proposed development in terms of the inclusion of 16 homes and 7 commercial units within a 2ha site and also the positioning of existing commercial activities and quarry access road adjacent to the site, it is considered that the development would give rise to 'bad neighbour' and 'bad neighbour in reverse' tensions between incompatible uses. Additionally, the lack significant structural planting on-site would result in a development that may expose the proposed new residential units to noise, dust and vibration from both on-site and external commercial activities. Such a development would therefore be contrary to Policies LP BAD 1 and BAD 2 of the 'Argyll and Bute Local Plan' (August 2009), both of which presume against the nature of the development proposed.
3. A Masterplan approach is advocated in devising proposals for the development of all PDA's identified by the 'Argyll and Bute Local Plan' (August 2009), in order to ensure that development is planned for on a comprehensive basis and that phased development, where required, is able to proceed in the knowledge that it will not conflict with, or compromise, the future development of the remainder of a PDA. The lack of a sufficiently detailed Masterplan in this instance has resulted in an objection from SEPA and has prevented the planning department from being able to assess fully this 2ha gateway / phase 1 application in the overall context of the wider > 30ha development site designated as a PDA, and has not enabled a proper assessment of its acceptability in terms of its relationship with future phases. The proposals are therefore considered to be contrary to paragraphs 11.14 and 11.15 of the Written Statement of the 'Argyll and Bute Local Plan' (August 2009) and to government advice given in Planning Advice Note 83 – 'Masterplanning'. The inability to plan for the future in a co-ordinated and comprehensive manner gives rise to potentially adverse landscape, biodiversity, infrastructure and servicing implications in this the designated area of sensitive countryside and area of panoramic quality.

Note to Applicant

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

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

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

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

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

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

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

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

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

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

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

B. Location, Nature and Design of Proposed Development

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Natural Environment

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

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

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

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

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

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

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

D. Affordable Housing

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

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

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

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

E. Archaeological Matters

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

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

F. Flooding

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

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

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

G. Road Network, Parking and Associated Transport Matters

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

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

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

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

H. Infrastructure

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

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

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

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

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

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

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

I. Master planning

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

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

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

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

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

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

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

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

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

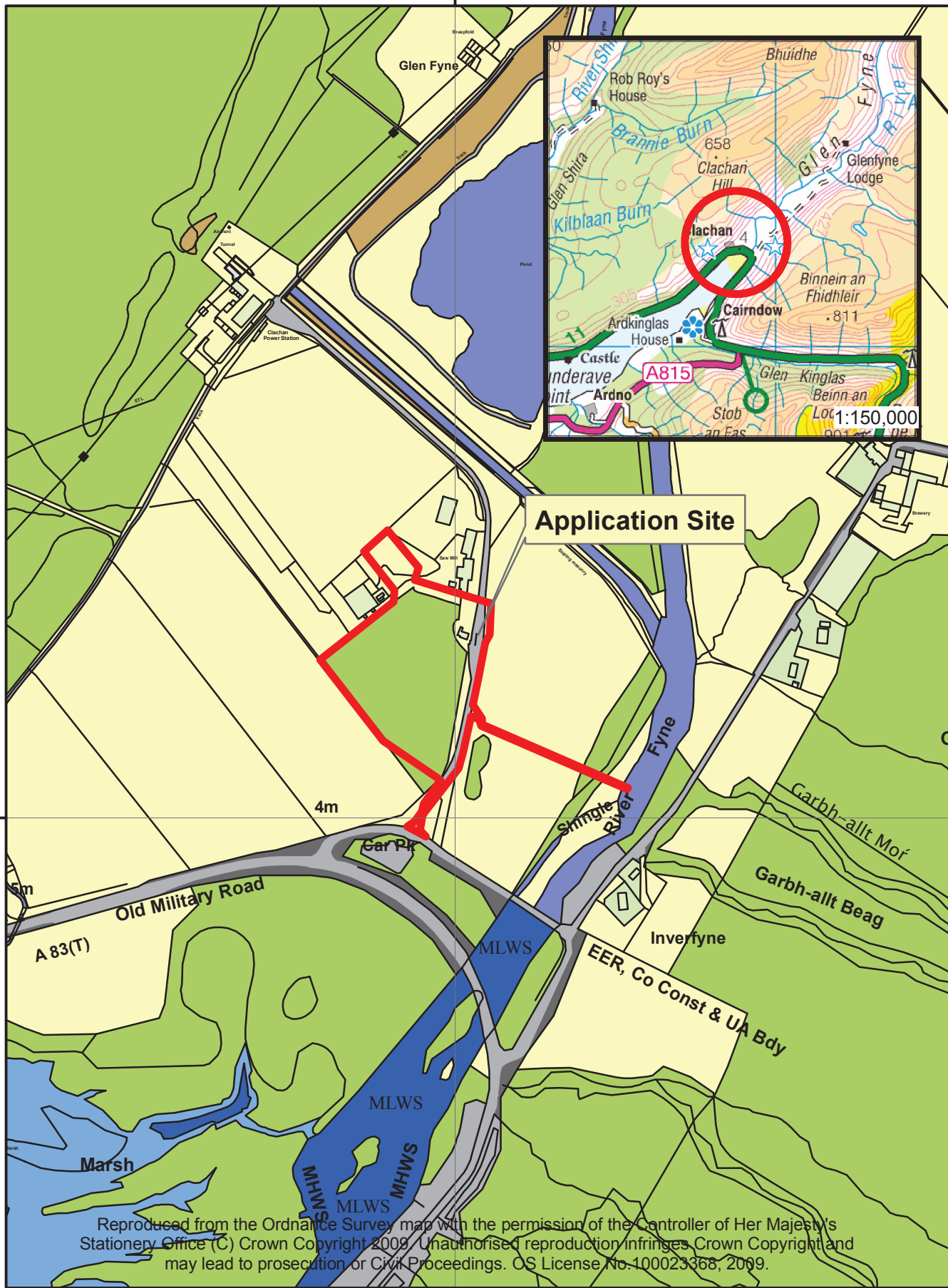
It is therefore considered to be contrary to paragraphs 11.14 and 11.15 of the written statement of the Argyll and Bute Local Plan (August 2009) and Planning Advice Note 83 – 'Masterplanning'. There is an inability to plan for the future in a coordinated and comprehensive manner with the potential for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

J. Conclusions

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

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

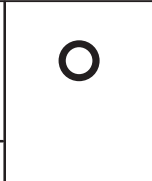
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**Location Plan relative to
Application Ref: 09/00385/OUT**



Date: 26.11.10

Scale: 1:5,000

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**Argyll and Bute Council
Development 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: 11/00784/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

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

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

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

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: 11/00784/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

DECISION ROUTE

(i) Local Government Scotland Act 1973

(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.

(C) HISTORY: C9209 – Erection of dwellinghouse (outline) – Refused 25/11/1992

(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

(E) PUBLICITY: Listed Building/Conservation Advert (expiry date 24.06.2011)

(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.

(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.

(H) PLANNING OBLIGATIONS

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

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

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

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control
STRAT FW 2 – Development Impact on Woodland

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 7 – Impact on Tree/Woodland
LP ENV 14 – Conservation Areas and Special Built Environment Areas
LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

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

Appendix A – Sustainable Siting and Design Principles

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

Argyll & Bute Sustainable Design Guidance (2006)

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

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

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

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

-
- (O) **Requirement for a hearing (PAN41 or other):** Although 13 letters of representation have been submitted permission for the development of this site has previously been refused and is recommended for refusal again. As such it is not considered that a hearing is required in this instance.

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

Planning permission is sought for the erection of a dwellinghouse and garage within the lower garden area of 7 Laggary Park, Rhu. This is a detached dwellinghouse within the Rhu Article 4 Conservation Area and the site also has a Tree Preservation Order in place. The proposal is to subdivide the plot with the northern part being used for the new dwellinghouse. This would give the proposed new dwellinghouse a direct road frontage onto Station Road. The formation of the access would involve the reduction in height of the existing stone boundary wall in order to allow the required sightlines.

The plot is large enough to accommodate a new dwellinghouse and the design is considered acceptable. However, the proposal would result in the loss of seven mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. As originally submitted, the proposal would also have resulted in the loss of two other mature trees. Although amended plans have indicated that the trees will remain on site, the proximity of the proposed dwellinghouse to these trees could mean that they might become a nuisance, could have their root system undermined and could potentially result in their loss as well. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. Moreover, sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north, would undermine the established character and settlement pattern of this area.

An application for the same plot (although for outline consent) was refused in 1992. The reasons for refusal were that the development would have a detrimental impact on the amenity and landscape quality of Rhu Conservation Area as it would intrude on the area of woodland which is an important aspect of Laggary Park and establishes the character and amenity of this part of the village; that a structure in this area would significantly detract from the streetscape of the area; and that the development could set a precedent. While this refusal was a number of years ago, it is still considered a material consideration in the determination of this application and that the underlying principle against development remains.

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

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

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

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

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 downtakings 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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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**

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

SUPPLEMENTARY REPORT No 1**(A) INTRODUCTION**

This application was continued from the meeting of 19th October 2011 in order to invite the applicants to meet with officers to establish whether the suggestion of a legal agreement between the applicants and the Council could safeguard the positions of both parties and potentially enable the condition in question to be removed. This report is to acquaint Members with the applicants' response and with the outcome of a recent structural survey commissioned by them.

(B) ADDITIONAL INFORMATION

At Members' request, officers have on three occasions contacted the applicants indicating Committee's wish that they should enter into further dialogue with planning and/or legal officers of the Council, firstly, to explore the circumstances which have prompted the applicants to content that the condition is an impediment to the financing of the redevelopment of the site once the listed building has been demolished, and secondly, whether a Section 75 agreement to the satisfaction of both parties could be tailored to the particular circumstances, thereby enabling the removal of the condition.

The applicants' response has been to suggest that the Council's legal officers should propose a suggested legal agreement and they have not indicated willingness to attend a meeting to discuss the circumstances prompting the need to consider such a course of action. In the circumstances of the application, it is incumbent on the applicants to propose an alternative course of action in order to support their request to remove a condition. Officers are not party to the reasons why development is inhibited by the effect of the condition and it would be difficult to frame terms of a suggested agreement in the absence of a proper understanding of the applicant's concerns and what they consider would be a practical way forward in terms of securing development finance for the project.

In the absence of a meeting, the applicant's have asked that I should bring Members attention to the fact that their solicitor was asked to come up with a form of words which might satisfy the Council, but it was his suggestion that the Council should draft an agreement which was the least onerous it was able to accept. They have also asked me

to remind Committee that they have been in business in Argyll for 25 years and employ 68 people, and have operated every business they have had planning permission for.

The applicants have recently commissioned a new survey of the building by a chartered structural engineer, the contents of which have been supplied to the Council. This concludes that:

1. The building is in a dangerous condition to any unwitting trespassers or children gaining illegal entry.
2. The mechanics of the structural form of the building rely on the walls supporting the floors but also the floors (and roof) restraining the walls. Prolonged periods of water ingress have affected the integrity of the timber floor and roof structural members and thus have compromised the stability of the main front and rear walls due to the effective removal of the bracing at each floor level. Hence, the front and rear walls are vulnerable to collapse under unfavourable wind loads causing suction thereto. Consequently, the building should be considered dangerous from this aspect also, and appropriate bracing should be applied to at least part of the front wall as soon as possible.
3. The building is unlikely to survive the effects of a severe winter subjecting deep snow loading to the defective roof and floor structures. Collapse of the roof will undoubtedly lead to collapse of the 3rd and 2nd floors, thus leading to probable collapse of the front wall.
4. The link building to the rear wall should be subject to controlled collapse and a system of bracing installed to replace the effective buttressing removed on demolition.
5. Access to the building should be prevented in order to protect would be trespassers from serious injury by falling through floors.
6. The safest solution to deal with the various dangers posed by the current condition of the building is to bring forward the impending demolition.

In response, the Council's Building Standards Manager has instructed our own consultant engineers to further inspect the property and has asked for their opinion of the report's recommendations and timescales. The outcome of this is not available at the time of writing, but will be reported at the meeting.

The Council does, of course, have responsibilities under Building Standards legislation in respect of structures which pose an imminent risk of collapse or otherwise endanger public safety, and Notice may be served requiring partial or total demolition, propping or some other appropriate remedial measures to remedy apprehended danger. Additionally, the owner has a statutory defence against prosecution under listed building legislation where works become '*urgently necessary in the interests of safety or health*' in circumstances where works of repair or works affording temporary support or shelter would not suffice, and where the works carried out are the minimum immediately necessary.

In both cases, listed building consent is not required provided that notice in writing is given to the Council as Planning Authority and Historic Scotland before such urgent works are carried out if possible, or failing that, as soon as practicable following the execution of those works. Should the need for such urgent action on grounds of immediate danger be agreed in the light of the Council's consideration of the findings of the recent structural survey, then public safety would prevail over historic environment considerations and compliance with the condition in question would not be an issue.

Members might like to note that the applicants have arranged to meet with the Chief Executive and the Director of Development and Infrastructure Services on 16th November 2011 to discuss the overall circumstances of the redevelopment of the Argyll Hotel. It is possible that some further progress in the matter at hand may ensue from this, in which case it would be reported to Committee verbally.

However, the position at the time of writing, given the lack of corroboration as to the recommendations of the consultant structural engineer, and in the absence of any meaningful progress as to any suggested alternative to the continued effect of the condition, is that it remains inappropriate that the condition should be removed for the reasons given in the original report.

(B) RECOMMENDATION:

It is recommended that Listed Building Consent be refused for the reason given in the report to Committee of 19th October 2011.

Author of Report and contact officer: Richard Kerr

Date: 7th November 2011

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

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

Reference No: 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

DECISION ROUTE

(i) Local Government Scotland Act 1973

(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
-

(B) RECOMMENDATION:

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

(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 - 27th 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 - 27th January 2004

04/02426/DET Erection of Three Flats (formerly staff housing) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Approved - 5th 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 - 3rd 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 - 3rd 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 - 1st 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 - 1st 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 - 5th 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 - 5th April 2004

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

05/00485/DET - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 12th 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 – 16th 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 – 25th July 2005

05/01547/DET - Erection of Six Flats (rear of Argyll Hotel) Argyll Hotel, Corran Esplanade, Oban, Argyll, PA34 5PZ - Application Refused - 9th 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 - 6th July 2005

06/00145/ENFLB - Poor State of Repair of C(S) Listed Building. ENF001 - Amenity Notice Served - 20th 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 - 3rd 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 - 3rd January 2008

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

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

10/01817/LIB – Listed building consent granted for demolition of hotel 31st 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

(D) CONSULTATIONS:

Historic Scotland (4th 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.

(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 21st July 2011.

(F) REPRESENTATIONS:

None

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

'Argyll & Bute Structure Plan' (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
-

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

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

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

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

(O) Requirement for a hearing: No

(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. .

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

(R) Reasons why listed building consent should be refused

See reason stated elsewhere in this report.

(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:

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.

Author of Report: Richard Kerr

Date: 1st 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 19th 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 27th 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.

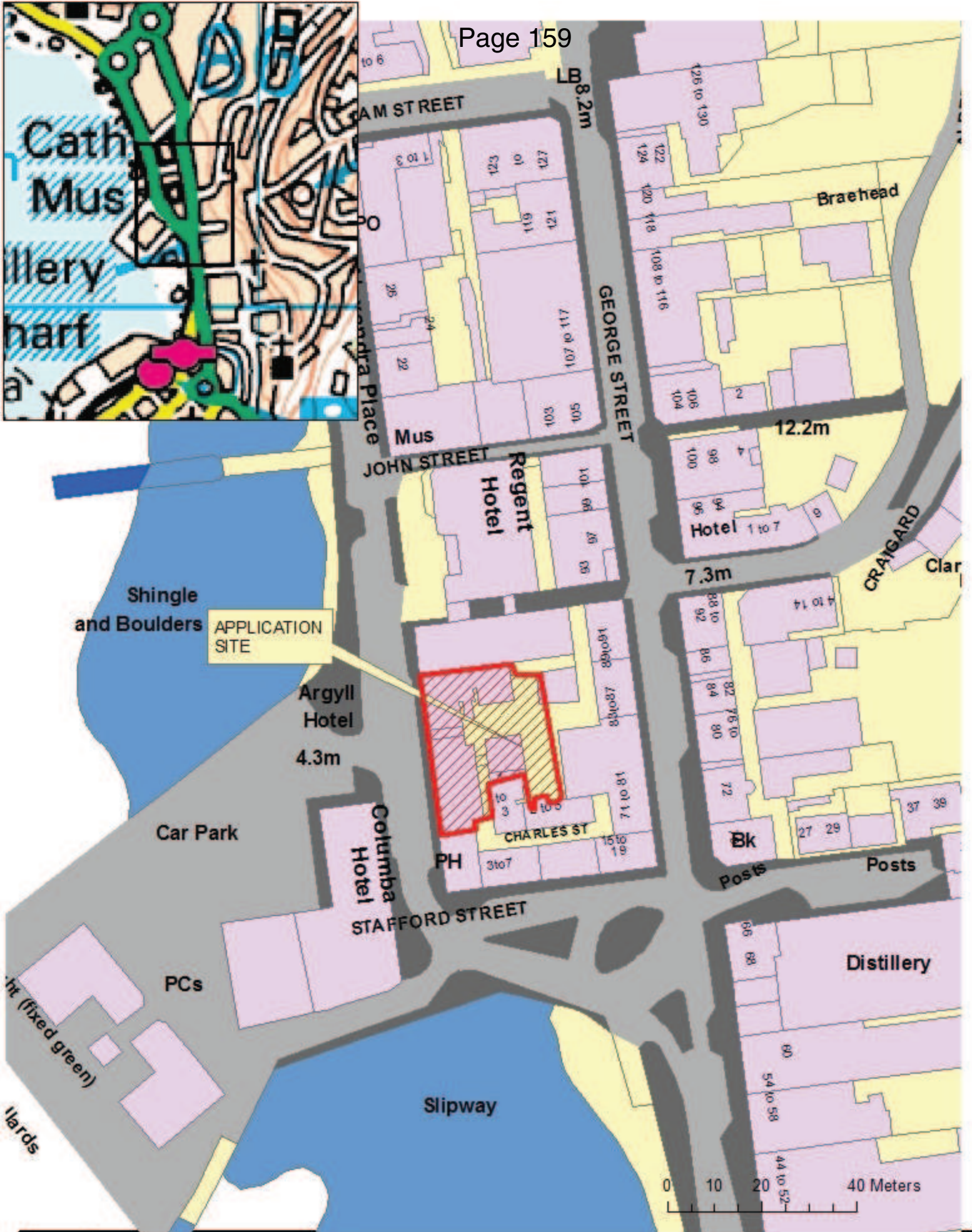
In the case of the current application, the prospective developer is effectively asking Members to proceed on the basis of trust and that he should be allowed to demolish the building forthwith, on the basis that he will proceed with redevelopment thereafter. Whilst there is no reason necessarily to 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 & 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: 11/01453/PP
Planning Hierarchy: Local
Applicant: Mr Guy Crichton
Proposal: Change of Use of Land for Siting of Storage Container
Site Address: Car Park, Swimming Pool, Rothesay, Isle of Bute

DECISION ROUTE

(i) Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Use of land for the siting of a storage container

(ii) Other specified operations

None

(B) RECOMMENDATION:

It is recommended Planning Permission be granted subject to the conditions, reasons and informative notes attached to the end of this report.

(C) HISTORY:

None.

(D) CONSULTATIONS:

Area Roads Manager (report dated 5th September 2011 and e-mail dated 2nd November 2011)

Initial concern over impact of storage container upon car parking but further information has been provided which has removed these concerns.

(E) PUBLICITY:

Neighbour Notification (closing date 20th September 2011) and Regulation 20 Advert (closing date 30th September 2011).

(F) REPRESENTATIONS:

No letters of representation have been received.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

The applicant (letter dated 1st August 2011) has explained the background to the proposal as follows:

- In 2010, Bute County Cricket Club won Division 5 of the Western District Cricket Union cricket league and were then actually promoted to the Championship (Third Division) due to the league being restructured. For the first season, the league is being lenient but each club in the Championship is obliged to have certain extra equipment, such as sight screens, a roller, etc.
 - Bute CCC were given a grant from Awards for All to help pay for the equipment and it is now seeking storage facilities in the vicinity of its wicket at the Lade Recreation Ground. Without the storage space, it will be very hard for the club to continue in the third division.
-

(H) PLANNING OBLIGATIONS

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

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

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

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

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within Settlements

Argyll and Bute Local Plan 2009

LP ENV 10 – Development Impact on Areas of Panoramic Quality

LP ENV 19 – Development Setting, Layout and Design

LP REC 1 – Sport, Leisure and Recreation

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

N/A

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

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

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

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

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

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

It is proposed to site a storage container within the confines of the Car Park at the Rothesay Swimming Pool. The container will store equipment in association with Bute County Cricket Club, who play their home matches at The Lade recreation ground adjacent to the car park.

Based upon information provided by the applicant, there is a clear locational and operational need for equipment storage in the near vicinity of the cricket ground. The application site fulfils that locational and operational need.

There is an existing storage container immediately adjacent to the application site – this was left over from public utility works and is currently used by the Council in association with the operation of the Swimming Pool. This container has been on the site for approximately four years. It is understood that the firm who owned the container have gone into liquidation and, if the Council take ownership of the container, it will be moved into the application site and used by the Cricket Club. If the Council does not take ownership, the existing container will be removed from the site and the Cricket Club will put its own container on the application site. Ultimately, the *status quo* will be maintained

as there will only be one container within the car park. On this basis, there will be no change to the visual amenity of the area.

In terms of impact upon car parking, there will be no change to the existing situation as two parking spaces will be taken up by a storage container. Anecdotal evidence from Swimming Pool staff suggests that the presence of a container does not result in pressure for parking on the street.

In the specific circumstances of this proposal, the scheme is considered to be worthy of support and to accord with the relevant Development Plan policies.

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

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

The proposal accords with policies STRAT DC 1 of the Argyll and Bute Structure Plan 2002 and LP REC 1, LP ENV 10 and LP ENV 19 of the Argyll and Bute Local Plan 2009 and the proposal raises no other material consideration which would justify refusal of permission.

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

N/A

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

Author of Report: Steven Gove

Date: 3/11/2011

Reviewing Officer: David Eaglesham

Date: 3/11/2011

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

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF: 11/01453/PP

1. The development shall be implemented in accordance with the approved drawings: Location Plan (scale 1:2500); Site Plan (scale 1: 500); and Elevation Details (scale 1:50) unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. Unless the further written consent of the Planning Authority is obtained, the storage container hereby approved shall be removed from the site within five years of the date of the container being sited on the land.

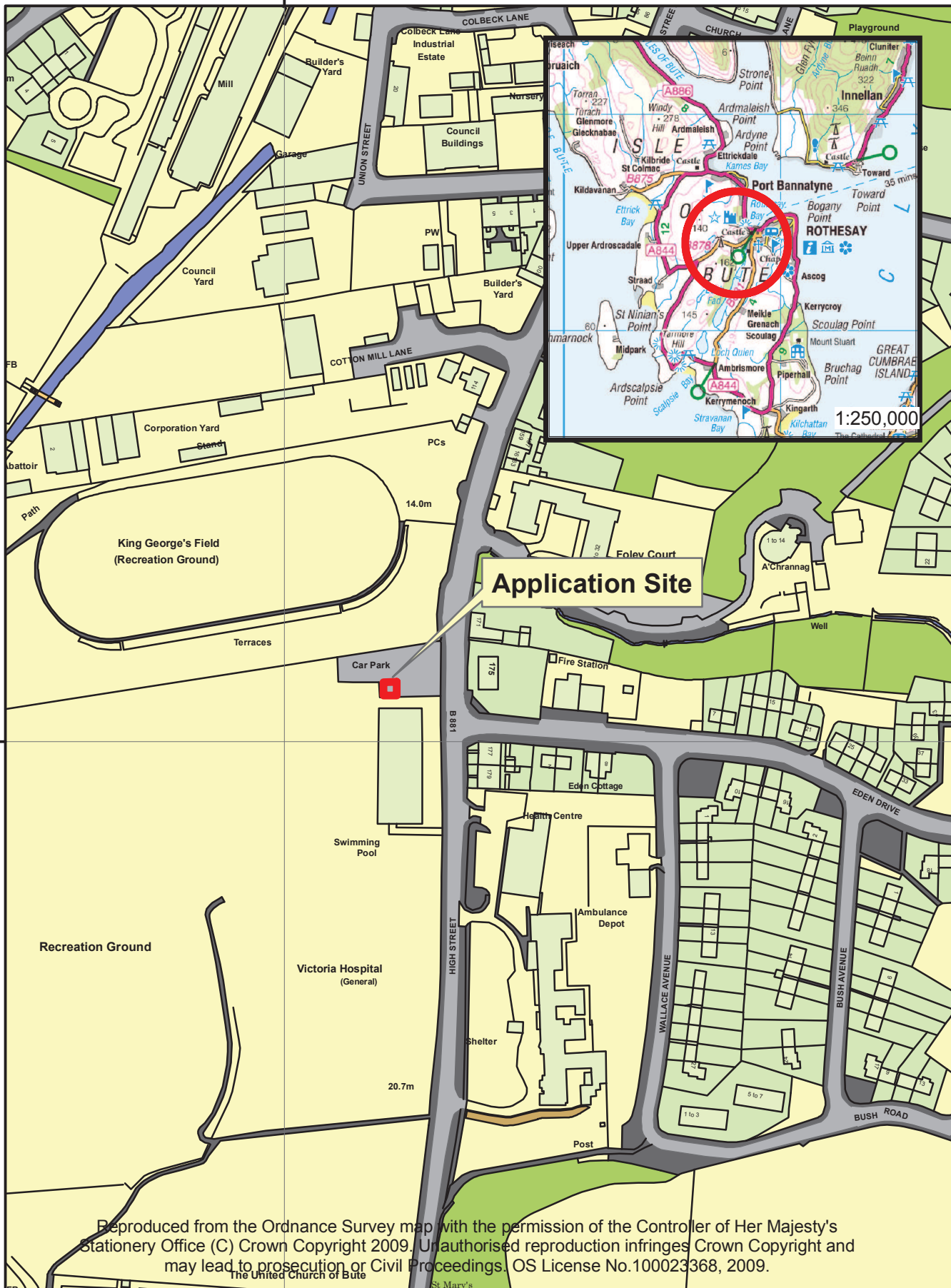
Reason: In the interests of visual amenity and parking having regard to the essentially temporary nature and appearance of the container.

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.

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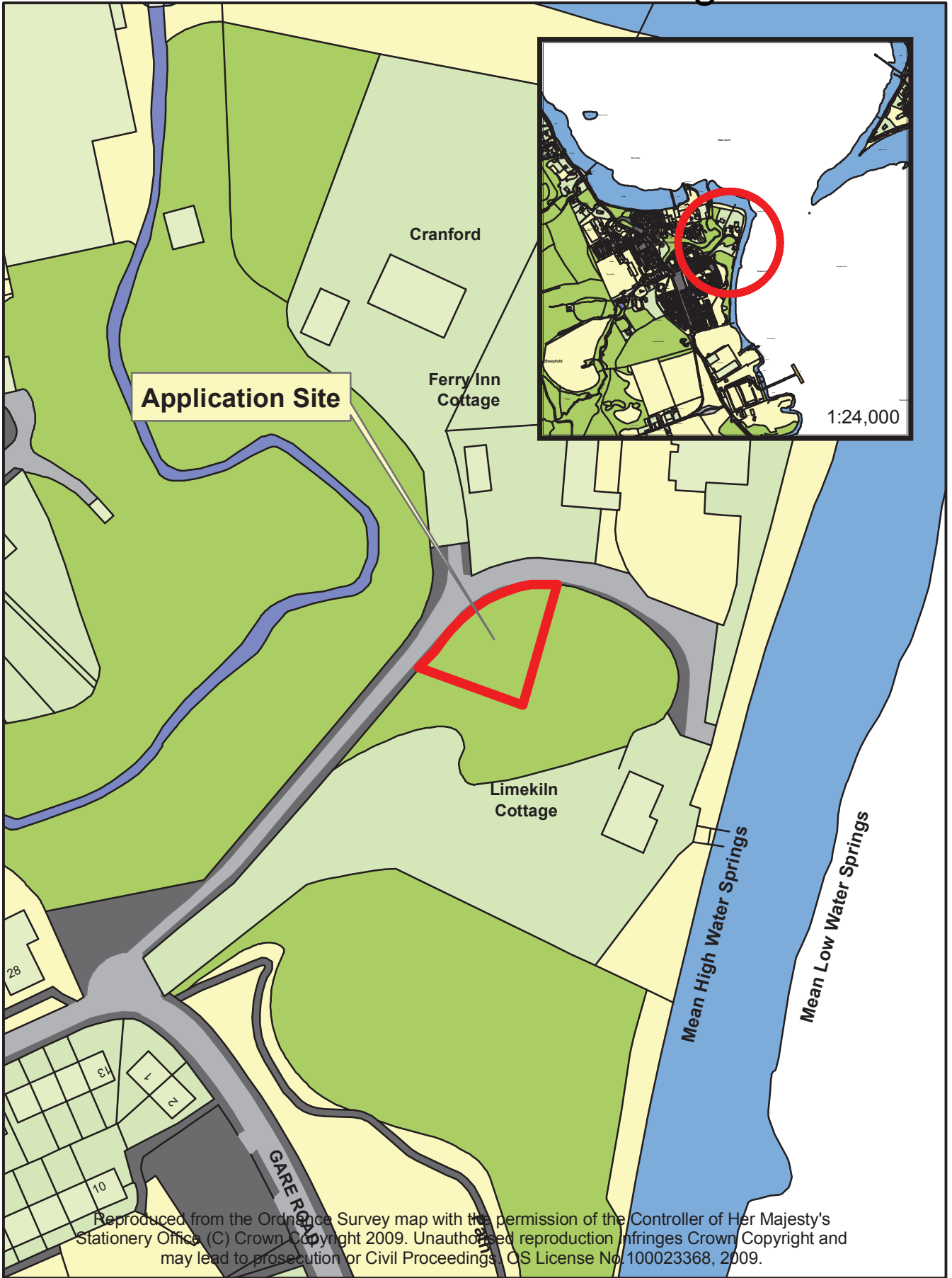
Location Plan relative to Application Ref: 11/01453/PP



Date: 03.11.11

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**Location Plan relative to
Application Ref: 11/01550/PP**

Date: 09.11.2011

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ARGYLL AND BUTE COUNCIL**PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE****DEVELOPMENT AND INFRASTRUCTURE****DATE: 23 November 2011**

TITLE: DEVELOPMENT CONSENT FOR MARINE ALGAL FARMS

1. BACKGROUND

- 1.1 Since April 2007, new aquaculture sites and modifications to existing aquaculture developments have required planning consent from Argyll and Bute Council under the provisions of the Town and Country Planning Marine Fish Farming (Scotland) Order 2007. It applies to the placement of equipment in the sea, on the seabed or on the foreshore below MWHS out to 12 nautical miles.
- 1.2 The original definition of “fish farming” in the Town and Country Planning (Scotland) Act 1997 was restricted to the breeding, rearing or keeping of fish or shellfish (including any kind of crustacean or mollusc). Article 8(2) of the 2007 Order amended this definition to include the farming of sea urchins. Given the potential interest in marine farming of seaweed at the time, a number of local authorities requested seaweed to be included in the amendment of the definition which was ignored. This effectively means that development proposals for seaweed farming in coastal waters do not require planning consent, even though the type and scale of equipment is very similar to that of mussel farm developments.
- 1.3 There is significant national, international and now local interest in the culture of seaweed species to produce human food, agricultural feed stuffs, biofuel, pharmaceutical products and energy through anerobic digestion plants. Quantities of seaweed needed for these products/markets are substantial and it is likely that individual seaweed farms will need to be significantly larger in size than existing shellfish or finfish farms.
- 1.4 The likely method of culture is to grow juvenile plants on seeded ropes within longline systems very similar to mussel farm longlines. The interactions between this kind of development and the environment and other interests are essentially the same as shellfish development, the main issues of landscape impacts and conflict over use of space with other marine users.
- 1.5 As seaweed farming developments do not come under planning control they are caught by the new marine licensing system, operated by Marine Scotland. It is proposed that marine policy and spatial guidance will be developed to inform the marine licensing process in the form of a National Marine Plan and subsequent regional marine plans. As the national marine plan is in preparation and regional marine planning has not started, the marine licensing process is not currently plan led.
- 1.6 Argyll and Bute Council have an existing policy framework (Local Plan policy for aquaculture & other relevant development policies) and additional guidance (ICZM Plans for Loch Etive, Loch Fyne and Sound of Mull) that is appropriate to guide future seaweed farm development in Argyll and Bute. Council planning officers are also experienced in considering applications for shellfish farming developments which are similar to seaweed developments in terms of environmental effects, interactions with other users and local interest.

2 ISSUES

- 2.1 A local mussel farm company was recently granted a marine licence for a small seaweed farm in Loch Scridain. A second application for a large farm is currently being considered by Marine Scotland and has led to confusion amongst the local community and local marine users as to why this type of development does come under planning control. These applications in combination with existing mussel farms and a proposed salmon farm may lead to cumulative

impacts on landscape and other interests and the different consenting regimes present difficulties in assessing this cumulative impact.

- 2.2 Given that seaweed farming is so similar to other types of aquaculture development currently under planning control, local communities and marine users are concerned that these similar development types are considered by two different consenting regimes. This anomaly presents difficulties for developers and those with an interest in the seaweed application in understanding the differences in policy and process of the two consenting regimes. The planning process and marine licence process are very different and these differences are detailed in Annex 1 of this report.
- 2.3 While the Marine Licensing process will consider the same potential issues and conflicts as planning the main difference is the level of transparency in the process for the developer and stakeholders with an interest in the application. Online planning has made the planning application process very transparent with the application form and all supporting information available for anyone to view online. In addition all representations and a final planning report detailing how the application had been determined are also available. This is not the case for marine licensing. Marine licensing has significantly more public interest than the FEPA consenting regime that it replaced and the level of public interest is likely to increase once marine licensing becomes plan led.

3. CONCLUSION

- 3.1 While the marine licensing process will consider similar aspects in the determination development applications, the application process is not as transparent as the planning process and there is currently no policy framework to guide decision making for the marine licensing process. Given that all aquaculture development other than seaweed farming is under planning control and the Council has the appropriate experience and policy framework to deal with this type of development it is considered that seaweed farming should be brought under planning control as a matter of urgency. Over the coming months Marine Scotland will be consulting on proposals to introduce new legislation on improving management measures for farmed fish. This is an opportunity for the Scottish Government to consider bringing seaweed farming under local authority planning control by amending the definition of "fish farming" to include seaweed.

4. RECOMMENDATION

- 4.1 That members support the view that marine algal farm developments should be brought under local authority planning control and agree to the Head of Planning and Regulatory Services making representation to the Scottish Government for this option to be considered in the current development of the new Aquaculture Bill.

5. IMPLICATIONS

- Legal:** None.
- Policy:** The current Local Plan and supporting ICZM plans provide a sufficient policy framework to guide seaweed farming development to appropriate locations.
- Personnel:** None.
- Financial:** If seaweed development was brought under planning control the Council would receive planning applications fees for these developments.
- Equal Opportunities:** None.

For further information contact: Mark Steward
Marine & Coastal Development Manager
Tel. 01631 567 972 Email mark.steward@argyll-bute.gov.uk

Annex 1 – Differences between planning application and marine licence processes

	Planning application	Marine Licence
Advertising of application	<ul style="list-style-type: none"> • Advert in Local Paper 	<ul style="list-style-type: none"> • Advert in Local Paper
Statutory consultees	<ul style="list-style-type: none"> • SNH • SEPA • Marine Scotland Science • Bidwell's (Agents for The Crown Estate) • Historic Scotland • Argyll District Salmon Fisheries Board 	<ul style="list-style-type: none"> • SNH • SEPA • Northern Lighthouse Board • Maritime & Coastguard Agency
Non-statutory consultees	<ul style="list-style-type: none"> • Community Council • Inshore Fisheries Group • Royal Yachting Association • Northern Lighthouse Board • RSPB 	<ul style="list-style-type: none"> • Community Council
Main issues considered in determination of application	<ul style="list-style-type: none"> • Environment (biodiversity and landscape) • Economic benefit • Impacts on other users & communities • Navigation 	<ul style="list-style-type: none"> • Environment (biodiversity and landscape) • Economic benefit • Impacts on other users & communities • Navigation
Information available online	<ul style="list-style-type: none"> • Application form • Supporting information • Individual representations • Planning report • Decision notice 	<ul style="list-style-type: none"> • Electronic register (list of applications submitted & those granted)
Policy framework	<ul style="list-style-type: none"> • Local Plan policies • ICZM Plans 	<ul style="list-style-type: none"> • National Marine Policy Statement • National Marine Plan and Regional Marine Plans still to be developed.
Determination of application	<ul style="list-style-type: none"> • Detailed planning report showing how application was determined • Decision notice 	<ul style="list-style-type: none"> • No report • Electronic register lists only applications granted, but not those refused.
Fees	<ul style="list-style-type: none"> • Based on seabed and surface area of development 	<ul style="list-style-type: none"> • Based on value of construction work

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Argyll and Bute Council
Development and Infrastructure Services

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
23rd NOVEMBER 2011

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISION

A) INTRODUCTION

This report advises of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to the case set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

PLANNING APPEAL DECISION – PPA-130-2022 – Dismissed
Erection of 15 metre high (to hub) 6 kilowatt wind turbine on land southeast of
Easdale Museum, Easdale Island, PA34 4TB

Application for Planning Permission 10/02000/PP was refused on 28 April 2011 by the Planning, Protective Services and Licensing Committee on the following grounds:

1. The proposed site is situated within Easdale Conservation Area which is characterised by a low lying built form of small terraced cottages of simple lines and finishing materials many of which have been listed by Historic Scotland as Buildings of Special Architectural or Historic Interest.

The proposed site is an open exposed area of land, currently free from development, which is afforded no screening or backdrop and which does not lend itself to the installation of a wind turbine which would tower above the low lying built form of the village, and, by virtue of its verticality, motion, height and modern appearance, would introduce an incongruous feature which would detract from the special and historic character of the island and Conservation Area, its setting and have an adverse impact on the visual amenity of the rural settlement of Easdale village.

The proposal is therefore contrary to Policies STRAT DC 2, STRAT DC 8, STRAT DC 9 and STRAT RE 1 of the approved Argyll and Bute Structure Plan and Policies LP CST 1, LP ENV 1, LP ENV 10, LP ENV 13(a), LP ENV 14 and LP REN 1 of the adopted Argyll and Bute Local Plan, and there are no other material considerations of sufficient weight, including the contribution which the development could make to renewable energy generation and to addressing the consequences of climate change, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

An appeal against the refusal was submitted to Scottish Ministers on 15 July 2011.

In her response, the Reporter stated that the determining issues were:

- § whether the turbine would adversely affect the character or appearance of the Easdale Conservation Area or its setting;
- § whether it would have an adverse effect on the settings of listed buildings in the vicinity of the site;
- § whether it would adversely affect the character or quality of the wider landscape in this area;
- § whether it would detract from residential amenity; and
- § if so, whether the benefits of the proposal would outweigh its likely adverse effects.

The Reporter considered all relevant matters, but found none that outweighed those that led her to conclude that the proposal would be unacceptable and would detract significantly from the character and appearance of the Conservation Area, the wider landscape and the setting of the closest Listed Buildings, and therefore the appeal was dismissed.

D) IMPLICATIONS

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

Author and contact officers: Fiona Scott (01631 567968)

Angus J Gilmour
Head of Planning & Regulatory Services 7th November 2011