

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 21 MARCH 2012**

Present: Councillor Daniel Kelly (Chair)

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

Attending: Charles Reppke, Head of Governance and Law
Angus Gilmour, Head of Planning and Regulatory Services
Richard Kerr, Principal Planning Officer
Alan Morrison, Regulatory Services Manager
Sheila MacFadyen, Senior Solicitor
Graeme Forrester, Solicitor

The Chair referred to the sudden and sad passing of Councillor Al Reay advising that his death had been a loss to Helensburgh and the Council as Councillor Reay had taken his role as a Councillor very seriously and was always very willing to take an active part when decisions had to be made.

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

None declared.

3. MINUTES

- (a) The Minutes of the Planning, Protective Services and Licensing Committee of 21 February 2012 were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing Committee of 22 February 2012 (9.30 am) were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee of 21 February 2012 (10.15 am) were approved as a correct record.
- (d) The Minutes of the Planning, Protective Services and Licensing Committee of 21 February 2012 (11.00 am) were approved as a correct record.
- (e) The Minutes of the Planning, Protective Services and Licensing Committee of 21 February 2012 (11.45 am) were approved as a correct record.

4. CONTAMINATED LAND INSPECTION STRATEGY

The Council, through its Environmental Health Service, undertakes its statutory duties in terms of the identification of contaminated land, and its remediation, as required. The principal purpose of the duties is to protect against contamination of human health, watercourses and ecological damage by contaminated land. The Council is required to produce a written strategy on how it proposes to undertake these duties and undertake a periodic review of its strategy. A report presenting the Contaminated Land Inspection Strategy for Committee approval was considered.

Decision

1. Noted the work undertaken to date and approved the Contaminated Land Inspection Strategy to be implemented by the Regulatory Services Manager; and
2. Agreed to cease the programme of site assessments and to focus on sites identified through development management applications, liaison with other regulators (eg SEPA), developers and intelligence on sites where contamination is suspected or has been found.

(Reference: Report by Regulatory Services Manager and Contaminated Land Inspection Strategy dated February 2012, submitted)

5. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: LICENSING FEES AND PREPARATION FOR LICENCE RENEWALS

Section 12 of the Civic Government (Scotland) Act 1982 provides that a council must seek to ensure that fees it charges in respect of taxi and private car hire licences and applications are sufficient to meet expenses it incurs in carrying out its functions in relation to these licences. The Council agreed at their meeting on 16 February 2012 that fees are increased to those specified in Appendix 1 of a report detailing the position in relation to the renewals of these licences and accessibility and security issues in relation to taxi and private hire cars.

Decision

1. Noted the position in relation to the licence fees;
2. Agreed that licences continue to be granted for a three year period for the licences due for renewal in June 2012; and
3. Agreed that consultation take place with the Fleet Management Service of the Council in relation to accessibility issues.

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

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

In terms of the Civic Government (Scotland) Act 1982, Section 17, the local authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for these fares and

other charges on a regular basis. At its meeting on 18 January 2012 the Planning, Protective Services and Licensing Committee agreed the present fare structure should remain the same including the charges in respect of soiling, waiting and telephone bookings and yardage distances. It was also agreed that further review of the fare structure should be undertaken in 18 months as required in terms of the Act. An advert was placed in the local press during week ending 27 January 2012 detailing the proposals that there would be no amendments to fares for taxis operating within the jurisdiction of Argyll and Bute. A report advising of representations received regarding these proposals was before the Committee for consideration.

Decision

1. Agreed to confirm the Committee's proposal as agreed on 18 January 2012 that no fare increase will take place and that a review will be undertaken in 18 months time; and
2. Agreed that a report should come back to the PPSL Committee in January 2013 advising on the economic situation at that time so that the Committee can determine whether or not a review of the taxi fares should be undertaken sooner than previously determined.

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

7. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI AND PRIVATE HIRE CAR LICENSING, MODIFICATION OF LIST OF APPROVED VEHICLES

Consideration was given to a report advising that the Council's licensing section have received requests to consider including tuk tuk vehicles and trikes on the list of vehicles approved for use as taxi and private car hires licensed by Argyll and Bute Council.

Decision

Agreed that no change should be made to the list of Approved Vehicles.

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

8. SIR ROBERT MCALPINE: ERECTION OF MIXED USED DEVELOPMENT: ARDYNE POINT, TOWARD (REF: 07/00952/OUT)

The Committee, on 29 October 2009, agreed to approve this application subject to a Section 75 Agreement. The Principal Planning Officer spoke to the terms of supplementary planning report number 2 advising of a proposed change to the terms of the Section 75 Agreement associated with this proposal and to further clarify the proposed Heads of Terms of the Section 75 Agreement. The Applicant has requested that the phasing of points 1 and 2 of the Section 75 Agreement be amended to allow commencement following the development of 20 residential units on the site, or the completion of the ferry terminal whichever is sooner. The Principal Planning Officer also referred to Scottish Government advice about Section 75 Agreements and to a further supplementary report number 3 which advises of the Roads Officer's response to a representation received from Councillor Walsh which is referred to in supplementary report

number 2. In light of the Roads Officer's revised response it is proposed that the recommendation contained in supplementary report number 2 be revised to require the works to be in place prior to the completion of the 11th unit, or the completion of the ferry terminal, whichever is the sooner rather than the 21st unit as originally suggested. It is considered that the proposed change to the phasing is acceptable in terms of road safety and the Road Improvement Plan further provides clarity on the road widening, footpath and extension to 40 mph limit and this should be used to assist the drafting of the legal agreement. It is recommended that Members agree to the revised Heads of Terms for the Section 75 Agreement as detailed in supplementary report number 3.

Motion

1. To agree to the revised Heads of Terms for the Section 75 Agreement as detailed below:-
 1. Improvements to the C10 Glen Striven Road between the limit of the A815 at Toward and the entrance to the site at the Memorial Hall, in accordance with the Road Improvement Plan in Appendix 1 of this report. These works to be completed to adoption standard before the completion of the 21st residential unit on site, or the completion of the ferry terminal, whichever is sooner;
 2. The formation of a footway to an adoptable standard between Toward Primary School and the entrance to the site at the Memorial Hall as detailed in the Road Improvement Plan in Appendix 1 of this report. These works to be completed to an adoptable standard before the completion of the 21st residential unit on site, or the completion of the ferry terminal, whichever is sooner;
 3. Extension of the 40 mph speed restriction to a point beyond the entrance to the development as detailed in the Road Improvement Plan in Appendix 1 of this report. To be completed before the 50th house is occupied and / or the ferry terminal is operational.
2. In the event that the Section 75 is not concluded the application should be refused for the reason given in point H (ii) of the original report of handling dated 31 August 2009.

Moved by Councillor Bruce Marshall, seconded by Councillor Vivien Dance

Amendment

1. To agree to the revised Heads of Terms for the Section 75 Agreement as detailed below:-
 1. Improvements to the C10 Glen Striven Road between the limit of the A815 at Toward and the entrance to the site at the Memorial Hall, in accordance with the Road Improvement Plan in Appendix 1 of this report. These works to be completed to adoption standard before the completion of the 11th residential unit on site, or the completion of the ferry terminal, whichever is sooner;

2. The formation of a footway to an adoptable standard between Toward Primary School and the entrance to the site at the Memorial Hall as detailed in the Road Improvement Plan in Appendix 1 of this report. These works to be completed to an adoptable standard before the completion of the 11th residential unit on site, or the completion of the ferry terminal, whichever is sooner;
 3. Extension of the 40 mph speed restriction to a point beyond the entrance to the development as detailed in the Road Improvement Plan in Appendix 1 of this report. To be completed before the 50th house is occupied and / or the ferry terminal is operational.
2. In the event that the Section 75 is not concluded the application should be refused for the reason given in point H (ii) of the original report of handling dated 31 August 2009.

Moved by Councillor Alex McNaughton, seconded by Councillor James McQueen.

Decision

On there being an equality of votes the Chair gave his casting vote for the Motion and the Committee resolved accordingly.

(Reference: Report by Head of Planning and Regulatory Services dated 31 August 2009, supplementary report no 1, supplementary report no 2 dated 7 March 2012, submitted and supplementary report no 3 dated 19 March 2012, tabled)

9. MR AND MRS E AND H HOWARTH: ERECTION OF DWELLINGHOUSE, INSTALLATION OF SEPTIC TANK AND FORMATION OF NEW ACCESS: CROFT HOUSE, CUL A MHILL, ARDTUN, BUNESSAN (REF: 11/00847/PP)

At its meeting on 22 February 2012 the Planning, Protective Services and Licensing Committee agreed to continue consideration of this application to allow Councillor Devon to prepare an alternative Area Capacity Evaluation (ACE). The Head of Planning and Regulatory Services spoke to the terms of supplementary report number 1 which advised of corrections to errors made in the original report and of a response received from the Crofters Commission after the initial report was finalised, along with a statement on subsequent queries posed to them. He also referred to supplementary report number 2 which advised of an additional response received from the Crofters Commission. The Head of Planning and Regulatory Services also advised of a further supplementary report number 3 which confirmed that the Crofter's Commission have accepted the Applicant's Croft Development Plan (CDP). With this in mind the CDP can amount to a suitable locational justification for development and satisfies Structure Plan policy STRAT AC1 and that the original grounds of refusal number 2 no longer applied. The Head of Planning and Regulatory Services advised that the first task for the Committee was to determine the details of the ACE prepared by Planning.

Motion

To agree that the Area Capacity Evaluation (ACE) appended to the Planning report be adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character.

Moved by Councillor Daniel Kelly, seconded by Councillor Rory Colville.

Amendment

To agree that the Area Capacity Evaluation (ACE) prepared by Councillor Mary-Jean Devon be adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character.

Moved by Councillor Mary-Jean Devon, seconded by Councillor Roderick McCuish.

The Amendment was carried by 8 votes to 3 and the Committee resolved accordingly.

The Committee then went on to discuss the design of the house. The Head of Planning and Regulatory Services advised that this application was for a contemporary, split level house with a large hipped roof which lends itself to a more suburban setting. He advised that as the ACE prepared by Councillor Devon has been adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character he recommended refusal of this application on the grounds of design.

Decision

1. Agreed that the Area Capacity Evaluation (ACE) appended to this Minute be adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character; and
2. Agreed to refuse planning permission for the following reason:-

Whilst it has been submitted that the design is dictated by the landscape and integrates well with the site, being set partially into the land, the design fails to take cognisance of the character of the existing development at the settlement, with which the proposed house would be readily inter-visible. The existing character of housing around the site is for symmetrically pitched roofs, gable end walls and a maximum height of 1¾ storeys in scale. The submitted design varies from the established character of the settlement and would be visually perceived within the same visual envelope as the rest of the settlement, which would create a lack of design cohesion within the settlement, contrary to the aims of the Development Plan. The screen planting proposed in association with the development may in time contain the visibility of the building, but this in itself is not considered to justify allowing the design as submitted, nor is it considered to represent good planning practice. Provision of so much screen planting would in itself be a variance with the open characteristics of the settlement and as such, is also

considered to be undesirable in this location.

(Reference: Supplementary Report No 1 dated 7 March 2012 and supplementary report no 2 dated 14 March 2012, submitted and supplementary report no 3 dated 20 March 2012, and ACE prepared by Councillor Mary-Jean Devon, tabled)

10. MR AND MRS E AND H HOWARTH: ERECTION OF DWELLINGHOUSE, INSTALLATION OF SEPTIC TANK AND FORMATION OF NEW ACCESS: CROFT HOUSE, CUL A MHILL, ARDTUN, BUNESSAN (ALTERNATIVE DESIGN) (REF: 11/00851/PP)

At its meeting on 22 February 2012 the Planning, Protective Services and Licensing Committee agreed to continue consideration of this application to allow Councillor Devon to prepare an alternative Area Capacity Evaluation (ACE). The Head of Planning and Regulatory Services advised that in view of the decision made by the Committee in respect of planning application 11/00847/PP he recommended approval of this application subject to a section 75 legal agreement and appropriate conditions and reasons to be determined by the Head of Planning and Regulatory Services in consultation with the Chair and Vice Chair of the Planning, Protective Services and Licensing Committee.

Decision

Agreed to grant planning permission subject to:-

1. A Section 75 Agreement being concluded to prevent the house being sold separately from the croft holding and to resist any further croft sub-division in order to help underpin the locational/operational need for the croft house in a sensitive countryside zone (where open countryside development would not normally be supported); and
2. Appropriate conditions and reasons being drawn up by the Head of Planning and Regulatory Services in consultation with the Chair and Vice Chair of the Planning, Protective Services and Licensing Committee.

(Reference: Reference: Supplementary Report No 1 dated 7 March 2012 and supplementary report no 2 dated 14 March 2012, submitted and supplementary report no 3 dated 20 March 2012, tabled)

The Chair ruled and the Committee agreed to adjourn at 1.15 pm for lunch.

The Committee reconvened at 1.50 pm.

11. ARGYLL AND BUTE COUNCIL: ALTERATIONS TO ANNEXE BUILDING, JANITORS HOUSE, ALTERATIONS AND EXTENSION TO SCHOOL TO FORM COUNCIL OFFICE SPACE, A CAFE, GALLERY, COMMUNITY ROOMS AND A MARRIAGE/CONFERENCE SUITE ALONG WITH ASSOCIATED CAR PARKING AND LANDSCAPED GROUNDS: COMMUNITY CENTRE, EAST CLYDE STREET, HELENSBURGH (REF: 11/02485/PP)

The Head of Planning and Regulatory Services spoke to the terms of the report advising that this was a Council interest application seeking permission for the

renovation of and the extension to the listed former Clyde Street school to provide offices for the Council as well as incorporating both indoor and outdoor space for community purposes and a café. Parking would be provided on site with additional spaces located remotely at Grant Street. In order to protect the development from coastal flooding, enhanced sea defences are also proposed. Two letters of support and 4 letters of objection were received along with an objection from the Helensburgh Community Council. He also referred to supplementary report number 1 tabled at the meeting which advised of the withdrawal of SEPA's objection to the proposal. All elements of this proposal accord with the Development Plan and there are no adverse material considerations which would indicate otherwise and it is recommended that planning permission be granted subject to conditions listed in the report.

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 9/12/11 and the approved drawing reference numbers P0-AL(0-) 001A, P1-AL(0-)001, P1-AL(0-)002, P1-AL(0-) 003, P3-AL (0-)001, P4-AL(0)001, P0-AL(--)001A, P0-AL(--)002B, P0-AL(--) 003, P0-AL(--) 004, P0-AE(--) 001A, P2-AS(--) 001, P2-AS(--)002, P1-AS(--)001, P0-AS(--)001, P3-AL(--)001, P4-AL(--)001, L001D, L002A, P1-AD(--)001, P1-S(--)001, P3/4-S (--)001 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 works shall commence on site until the detailed design of the vehicular access and improvements on Grant Street including the street lighting are submitted to and approved in writing by the Planning Authority in consultation with the Roads Network Manager. The development shall be implemented in accordance with the duly approved details unless any variation thereof is agreed in advance in writing.

Reason: In the interests of road safety.

3. The car parking and signalised junction as detailed on the approved plans shall be fully operational prior to the development hereby approved being brought into use.

Reason: In the interests of road safety.

4. Prior to the commencement of development, full details of the proposed sea defences shall be submitted to and approved in writing by the planning authority. Thereafter these sea defences shall be constructed in accordance with these details unless otherwise agreed in writing with the planning authority and these shall be fully completed prior to the development hereby approved being brought into use.

Reason: In order to ensure that the site is adequately protected against

coastal flooding.

5. A repeat bat survey shall be undertaken prior to the commencement of development. If bats are found prior to commencement or during the course of works, all works must stop and Scottish Natural Heritage should be contacted for advice on how to proceed, prior to any further work taking place.

Reason: In the interests of protecting this European Protected Species

6. That a minimum of 20 bat slates and access points must be incorporated into the roof space of the property and made available to roosting bats no later than 1 December 2013. The completed provision of these features must be signed-off, in writing, by a licensed bat worker.

Reason: To compensate for the loss of any roosts when carrying out the roof repair works under EPS license (Ref: DEROG 063/2011)

7. Development shall not begin until samples of materials to be used (on external surfaces of the buildings) and/or in construction of hard standings/walls/fences) have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing, with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

8. All landscaping shall be in accordance with drawing nos. L001D and L002A. The landscaping scheme shall be completed during the first planting season following the first occupation of the development. Any trees or shrubs which fail to become established, which die, are removed or become seriously diseased within 10 years of the implementation of the scheme shall be replaced in the following planting season by equivalent size and species of trees or shrubs as those originally required to be planted.

Reason: In the interests of visual amenity and to ensure that adequate measures are put in place to protect the landscaping and planting in the long term.

9. That the existing “boys” and “girls” railings shall be retained and reused within the proposed open space. Full details including the proposed removal, storage, treatment and final location of these railings shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development.

Reason: In the interests of retaining a portion of the railings which is of historic interest and will function as a reminder of the past use of the building whilst also providing an attractive feature in the open space.

10. That prior to the commencement of development a full drainage assessment shall be submitted to and approved in writing by the planning authority. This should identify:
 - Overland flow paths on site due to culvert blockages or extreme event

- runoff;
- Design calculations for the surface water drainage proposals. The level of flood management required is for the 1 in 200 year event with an allowance for climate change. If this level is not contained on site, a flow path diagram should be provided showing overland routes;
- Details and proposals for any existing drainage infrastructure on the site;
- A method statement for surface water containment during construction;
- Design / calculations for SUDS covering levels and attenuation;
- The proposed maintenance regime for any SUDS;
- Details / calculations of the permeability of the bound gravel area including details of how quickly this will drain after the 1 in 200 overtopping inundation.

Thereafter the proposal will be implemented in accordance with these details unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that there is an effective drainage system in place for the site.

11. At least two months prior to the commencement of development, a site specific environmental management plan (EMP) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA (and other agencies such as SNH as appropriate). Thereafter, all work shall be carried out in accordance with the approved plan unless otherwise agreed with the Planning Authority in consultation with SEPA.

Reason: In order to control the pollution of air, land and water.

12. Prior to the commencement of any works, a site waste management plan shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. Thereafter, all work shall be carried out in accordance with the approved plan unless otherwise agreed with the Planning Authority in consultation with SEPA.

Reason: To ensure that waste on the site is managed in a sustainable manner.

(Reference: Report by Head of Planning and Regulatory Services dated 2 March 2012, submitted and supplementary report no 1 dated 19 March 2012, tabled)

12. MRS P MACKAY: SITE FOR THE ERECTION OF 2 DWELLINGHOUSES: LAND WEST OF LOCHVIEW, ARDFERN (REF: 11/02560/PPP)

The Principal Planning Officer spoke to the terms of the report advising that this was for planning permission in principle for a site for the erection of two dwellinghouses. Whilst the site is predominantly located within a 'rural opportunity area' the identified site straddles the boundary with adjoining 'countryside around settlement' and in this respect the proposal is considered to be 'open countryside' development. The portion of the application site which is located within 'rural opportunity area' is also not without issue as the development is situated within the wider Knapdale/Melfort 'Area of Panoramic Quality' and as such the proposal requires to be considered against the recommendations of the Council's Landscape Capacity Study for Mid Argyll and

Inveraray. The Applicant has submitted their own Landscape Capacity Study in support of the proposal. An Area Capacity Evaluation has been triggered to look more closely at the issue of capacity in light of the previous grants of planning permission and it is recommended that this be adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character. Whilst the ACE does identify very limited potential for an additional dwelling, it does not concur with the recommendations of the Applicant's Landscape Capacity Study and finds that the current proposal would not only result in the overdevelopment to this loose cluster of development in the countryside, but is also likely to intrude significantly and incongruously within the identified key views both into and out of the ACE compartment. In this respect it is considered that the proposal will have a significant adverse impact upon the Knapdale/Melfort Area of Panoramic Quality and as such is contrary to the provisions of STRAT DC 4, STRAT DC 8, LP ENV 10 and LP ENV 1 and it is recommended that this application for planning permission in principle be refused for the reasons set out in the report.

Decision

1. Agreed to continue consideration of this application to the next meeting and to ask the Applicant to investigate the possibility of amending the layout to bring all the physical elements of the proposal into the 'rural opportunity area' boundary; and
2. Agreed that Members how they might justify that more than one additional house could be accommodated within the boundary of the Area Capacity Evaluation (ACE) and to amend the ACE accordingly.

(Reference: Report by Head of Planning and Regulatory Services dated 6 March 2012, submitted)

Councillors James McQueen, Donald MacMillan and Bruce Marshall left the meeting.

13. MR JOSEPH READE: REMOVAL OF SECTION 75 RELATIVE TO PLANNING PERMISSION 98/01377/REM AND 99/00886/VARCON: LEPHAIN, TOBERMORY, ISLE OF MULL (REF: 12/00053/PP)

The Principal Planning Officer spoke to the terms of the report advising that this application seeks permission to amend a Section 75 Agreement linked to planning permission 98/01377/REM and 99/00886/VARCON which restricts the occupation of the dwellinghouse to a person(s) employed or last employed in the management and/or operation of the Island Bakery, Lephain, Tobermory, Isle of Mull and their dependent(s) or the widow(er) of such a person in all time coming and in accordance with the conditions laid down in Planning Permission 90/01377/REM. The Applicant has stated that during the process of re-mortgaging the dwellinghouse with a new lender, the legal agreement was noted which prevented him from moving his mortgage. Accordingly, this application seeks to have the Section 75 Agreement amended to allow any mortgage lender to sell the property on the open market in the event of re-possession. Such an amendment to the Section 75 Agreement would allow the owner of the land to exercise a power of sale in terms of the standard security by reasons of the granters being in default but would still ensure that the occupancy of the dwellinghouse be limited as previously intended, in all other circumstances. This

provision was not built into the Agreement in 1999 but is now routinely included in the terms of Section 75 Agreements within the Council area and accordingly it was recommended that the Section 75 Agreement be amended as per the detail in the report.

Decision

Agreed that the Section 75 Agreement be amended to provide:-

“The occupation of the dwellinghouse to which planning permission relates, shall be limited to a person(s) employed, or last employed in the management and/or operation of the Island Bakery, Lephain, Tobermory, Isle of Mull. In the event that any person, company or organisation; in whose favour the owner of the land on which the dwellinghouse is built grants a Standard Security over that said land; exercises a power of sale in terms of the said Standard Security by reason of the granters [applicants] being in default, then this Section 75 Legal Agreement shall cease to apply”.

(Reference: Report by Head of Planning and Regulatory Services dated 6 March 2012, submitted)

14. W D CODONA: CHANGE OF USE OF CAR PARK TO AMUSEMENT PARK (RENEWAL OF PLANNING PERMISSION 08/02219/COU): HELENSBURGH PIER, WEST CLYDE STREET, HELENSBURGH (REF: 12/00191/PP)

The Head of Planning and Regulatory Services spoke to the terms of the report advising that planning permission was sought for the siting of an amusement park on Helensburgh Pier which is owned by the Council. A series of planning permissions have been granted on a temporary basis for the siting of the fair in its present location since 1976, with no identified adverse impact on the amenity of the surrounding area or residents and it is therefore considered that the proposal is acceptable and accords with Policies LP ENV 1 and LP BAD 1 of the Argyll and Bute Local Plan, subject to the imposition of operating conditions. In approving previous applications, the permission has been time limited to a year, apart from the last consent which was granted temporary consent for three years on the basis that a longer permission may prejudice the future redevelopment of the pier head area which is seen as a key component in the regeneration of the waterfront. A masterplan for the pier head is ongoing and commitments have been made in the capital programme for a new swimming pool and flood defences. Given these issues, it is considered that a temporary permission of three years could impact on these proposals and it is therefore recommended that temporary permission of one year be granted subject to conditions and reasons detailed in the report.

Decision

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

1. Permission shall enure for a period of 1 year from the date of this consent.

Reason: Imposed in order not to prejudice the provisions of appropriate future levels of parking provision for Helensburgh in the longer term and not

to prejudice the provisions of the current development plan for the area.

2. The development shall be implemented in accordance with the details specified on the application form dated 23/01/2012 and the approved drawing reference number 1/1 unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. At the end of the period of permission the use authorised by the permission shall be discontinued unless an application for an extension of the period is approved by the Council.

Reason: Imposed in order not to prejudice the provisions of appropriate future levels of parking provision for Helensburgh in the longer term and not to prejudice the provisions of the current development plan for the area.

4. No engine, generator, public address system or music amplification system shall be used after 11.00pm on any evening.

Reason: Imposed in order to provide control over the timing and volume of noise from the fair in the interests of maintaining appropriate levels of residential and public amenity.

5. The noise level attributable to the amusement fair measured within a dwelling, hospital or school shall not exceed 50 dB(A) for more than 10% of the time, as measured over any 15 minute period.

Reason: Imposed in order to provide control over the timing and volume of noise from the fair in the interests of maintaining appropriate levels of residential and public amenity.

6. Any fencing to be erected towards the northern edge of the application site (to the rear of the swimming pool and play areas) shall be positioned so as to allow a 2m gap to be maintained as a pedestrian / disabled access route to connect with the ramp to the pier.

Reason: In order that uninhibited pedestrian and disabled access may be maintained to the pier ramps.

(Reference: Report by Head of Planning and Regulatory Services dated 1 March 2012, submitted)

15. ARGYLL AND BUTE COUNCIL: VARIATION OF CONDITION 1 RELATIVE TO PLANNING PERMISSION REF: 10/00781/PP - EXTENSION OF TEMPORARY PERIOD FOR A FURTHER 2 YEARS: .DEFENCE ESTATES, CAMPBELTOWN (REF: 12/00220/PP)

Consideration was given to a report advising that planning permission (ref 10/00781/PP) was approved in August 2010 providing a two year temporary planning permission for the use of land at the Machrihanish Airbase as a Roads Depot by the Council for period of two years expiring on 18 August 2012. The

current submission seeks a variation to the provisions of condition 1 to allow an extension of the temporary time period of the permission for an additional two year period to allow the Council to produce and, if appropriate, implement proposals to provide a combined Roads, Amenity and Fleet Services Depot on an extended site at the airbase. Development of these proposals relies upon the preparation of a masterplan for the wider development of the airbase by the site operator; at present the airbase is in the process of being disposed of by Defence Estates with the Machrihanish Airbase Community Company identified as the preferred bidder, however development of the masterplan will not be undertaken until such time as transfer of land has been completed. The current application seeks to secure the ongoing retention of the Roads Depot during this period of uncertainty and to avoid any planning enforcement liability in the short term. Other than the successful implementation of the previously approved details, there has been no material change in the circumstances of the site and as such it would be appropriate to allow retention of the facility for a further short term, temporary period.

Decision

Agreed that condition 1 relative to 10/00781/PP be varied to allow a further period of temporary planning permission subject to the following conditions and reasons:-

1. This permission shall cease on or before 18th August 2014 and immediately thereafter the buildings hereby permitted shall be removed from site and the land restored to its former condition.

Reason: In accordance with the details applied for, this permission being a temporary use only.

2. The development shall be implemented in accordance with the details specified on the application form dated 23rd January 2012 and the approved drawing reference numbers 1/11 – 11/11 relative to planning permission ref. 10/00781/PP unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. The site shall solely be utilised as a Local Authority Roads Depot and shall not be used for any other purpose without the benefit of express planning permission.

Reason: To accord with the use applied for, and in order to allow the Planning Authority to control any subsequent change of use which might otherwise be permissible in order to protect the amenities of the area.

(Reference: Report by Head of Planning and Regulatory Services dated 2March 2012, submitted)

Councillors Rory Colville and Vivien Dance left the meeting.

16. OCCUPANCY RESTRICTIONS AND RURAL HOUSING

Consideration was given to a report prepared in response to a letter from Scotland's Chief Planner which was issued to all planning authorities, dated 4 November 2011, and clarifies the Council's procedure for dealing with rural housing and occupancy conditions.

Decision

1. Noted the contents of the letter from the Government's Chief Planner and confirmed that the current use of occupancy restrictions in certain specific situations (Green Belt & Open Sensitive Countryside) currently applied in Argyll and Bute is necessary, proportionate and is in accordance with Scottish Planning and Local Plan Policy as well as spirit of said letter; and
2. Agreed to respond to the Chief Planner's letter by providing a copy of the minute and report to him.

(Reference: Report by Head of Planning and Regulatory Services and letter from Scotland's Chief Planner, submitted)

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for the following 2 items of business on the grounds that they were likely to involve the disclosure of exempt information as defined in Paragraphs 13 and 13 respectively of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

17. ENFORCEMENT UPDATE: 10/00210/ENOTH 2

Consideration was given to an update on enforcement case 10/00201 ENOTH 2.

Decision

Agreed the recommendation detailed in the report.

(Reference: Report by Head of Planning and Regulatory Services dated 5 March 2012)

18. ENFORCEMENT UPDATE: 10/00319/ENAMEN

Consideration was given to an update on enforcement case 10/00319/ENAMEN.

Decision

Agreed the recommendation detailed in the report.

(Reference: Report by Head of Planning and Regulatory Services dated 20 March 2012, tabled)

AREA CAPACITY EVALUATION RELATIVE TO ARDTUN, ISLE OF MULL

Area Capacity Evaluation in respect of Cul A Mhill, Ardtun, Buessan, Isle of Mull

a) Purpose of the assessment

This assessment has been undertaken in accordance with the Supplementary Planning Guidance approved by the Council on 19th February 2009.

In this case, the evaluation is triggered on the basis of a house for a bareland croft, on land that has been subdivided with four house plots having been separated from a larger croft in the past (formerly known as Torr Na Locha Croft). Plots subdivided off have references 02/01478/OUT, 03/01460/OUT, 05/00564/OUT, and 05/00567/OUT. All of those plots have been subject to subsequent detailed applications running between 2005 and 2009. None of those plots were submitted with a claim of locational or operational need, nor was such justification sought prior to granting the initial outline applications.

Two different designs have been submitted for a house on the same proposed site, because the applicants seek a decision on both prospective designs. The site lies within a 'rural opportunity area', refined by the adopted Landscape Capacity Study of December 2009 (LCS), which identifies the site within a 'Red Area' not recommended for development. On such land, the Planning Authority assesses applications on the basis of the land being 'sensitive countryside'. Although single croft houses, and single additional houses on crofts, are supported in principle by Argyll and Bute Structure Plan 2002 Policy STRAT DC5 part (A) (subject also to compliance with STRAT AC1), the existence of more than one previous additional house on croft land necessitates assessment of the current proposal as a 'special case' under STRAT DC5 part (B) which includes a requirement for a formal area capacity evaluation (ACE).

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

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

b) Area of Common Landscape Character

The application site and bareland croft lie within the northern section of an expansive 'rural opportunity area' (ROA), encompassing Ardtun in the centre and north, Knockan to the east, Loch Assapol to the south, and almost reaching Eorabus to the west. The Landscape Capacity Study recognises that the settlement pattern forms distinct clusters of development that are separated from each other within the wider ROA. The ACE compartment to be reviewed through this process may legitimately be restricted to the land spurring north from the Knockan to Lower Ardtun public road. The compartment straddles land rising from the foreshore in the east, crossing the settled area and includes improved fields and contained grazing fields as far as their boundary with open moorland to the west. The eastern and western boundaries follow existing mapped fence lines. The north of the compartment is defined by a raised knoll. The entire site and croft are visually perceived within this northern settled part of the ROA.

The ROA was identified through the local plan as a generally homogenous and relatively low lying area with some potential to absorb small scale development which would be capable of reinforcing the established settlement pattern in the locality and which could be accommodated without compromising the landscape character of the area. Its character is distinct from the lower lying shore to the east and from the slightly more elevated undeveloped land which bounds the ROA to the north and west, which is included within the 'sensitive countryside' zone. The public road forms the southern compartment boundary.

The local plan allocation was refined by the 2009 LCS, because the ROA also lies within an Area of Panoramic Quality. The study identifies large areas of the ROA which are not considered appropriate for development (Red Areas), whilst identifying a number of opportunities for strengthening the established clusters of development spread throughout the ROA (Orange Areas).

The ACE compartment is in an area categorised by the Scottish Natural Heritage *Landscape Assessment of Argyll and the Firth of Clyde 1996* as 'Basalt Lowlands', characterised by:

- Indented coastline – low headlands with a distinctive stepped profile
- Open moorland broken by rocky outcrops and ledges
- Scattered small-holdings and cottages on the edge of the moor
- Gently undulating landform, between 20m and 60m AOD, with numerous rocky outcrops of varying height and size.

Within the ACE compartment, there are different areas of common landscape character as illustrated on the plans attached to this evaluation, and detailed in the matrix below. The application site lies beyond the northern edge of the gently sloping grazed fields that constitute the majority of the croft, and occupies a slightly steeper, more rugged landscape with bracken vegetation cover, leading into scrub vegetation across the raised rocky knoll further north.

c) Key Environmental Features

Most of the ACE compartment is open moorland comprising rough grazing and areas of bracken and heather, along with substantial areas of grazed fields on similar, gently sloping low lying land. There is very little tree cover. Existing housing development is made up of two patterns of development. The main development has a linear form, staggered on both sides of the private track that runs from the end of the public road and bounds the west of the croft. Housing here is a mixture of ages with orientations running both parallel with and perpendicular to the private track which gives visual interest. 'Achnahard Mobile Home' marks the start of the linear development, which then comprises three modern houses (2006, 2008 and 2009) and a barn within the croft boundary, before terminating at 'Highfields' at the northern end of the settlement. A second arc of three houses occupies lower lying land around the eastern fringe of the croft. Two of these houses are fairly recent (2006 – 2008) and one appears to be much older. Of the housing within the compartment, four units all dating since 2006, have been separated from the former Torr Na Lochs croft and the remaining croft has a significantly reduced boundary.

The key environmental features comprise open moorland, improved fields and fenced rough grazing fields throughout the majority of the ACE compartment. The shoreline and foreshore strip is a smaller key environmental feature to the east, and a slightly raised knoll to the north acts as a containing feature. Open views exist across much of the site toward the Treshnish Isles and Ardmeanach to the north and north-east. Existing housing is collectively perceived as a settlement.

The overall character of development in this area of Ardtun is one of scattered housing, but it is made up of the distinctive elements of staggered linear development along a private track running north south through the compartment, where the varied orientation of the houses disguises the linear arrangement; and the lower lying arc of three houses occupying a less prominent part of the landscape when viewed from the east. Perception of these three houses changes to one of greater isolation from the rest of the settlement as you approach the site from the south. Housing is generally well spaced out, traditionally styled and finished, set within a loose cluster that gives a cohesive appearance at present.

d) Capacity to Absorb Development Successfully

The character of this rural area is one of a moorland with rough grazing and grazed fields and a low density settlement. Development historically has been laid out in a linear fashion along two parallel access tracks, one relatively close to the coast, and the other further inland terminating at the property known as Highfields. In both cases, buildings have been sited close to the linear means of access serving the buildings. Better agricultural land has been avoided, including the fields separating the development along each of the two access tracks. This has led to the maintenance of open views out over the sea across this undeveloped land on the approach to the buildings at Ardtun from the south.

Of the five houses approved in the area since 2006, three follow the line

of the track running to 'Highfields' and two occupy lower lying land closer to the shore. Four of these houses have been segregated from the former Torr Na Locha croft and the remaining 'bareland croft' is considerably smaller than previously existed.

The largely linear north – south alignment of property has, however, been disrupted latterly by the permission and construction of a substantial dwelling known as Tigh Aigan Oir. This breaks away from the established pattern of settlement, being located out in the open, orientated to take advantage of commanding sea views, and accessed by a long driveway from the track which serves other property. It is a prominent and discordant feature in the landscape which attracts disproportionate attention by the manner in which it intrudes into the openness of the intervening fields separating the two fingers of development at Ardtun, and by the way in which it interrupts views available out over the sea. This house has disrupted the established predominantly north – south alignment of buildings and has created a horseshoe shaped loose grouping of properties. Whilst spacing between buildings has been maintained, it has resulted in a less rigid and more organic grouping of dwellings which lends itself to the consideration of further opportunities to be able insert additional buildings without compromising the current pattern of settlement.

e) Alternative Development Opportunities

Having regard to the current layout of buildings in a loose horseshoe shaped arrangement with relatively even spacing, it is evident that there is opportunity to site an additional house in the above average spacing remaining between Tigh Aigan Oir, Highfields to the north-west and the remaining buildings along the track leading to Highfields. This would replicate the existing settlement pattern by consolidating the horseshoe shaped form of development and would allow for the siting of a further house without breaking out into areas hitherto undeveloped, and without locating buildings uncharacteristically close together. Whilst a dwelling in this location would impinge upon views out over the sea, this aspect across the settlement of Ardtun has already been compromised by the presence of Tigh Aigan Oir and accordingly the introduction of a further dwelling, particularly if it were to be of a lesser scale and less imposing upon its surroundings, would not seriously worsen the situation which already exists, and which has been compromised by the siting of a prominent building out in the open fields away from the two historic access tracks..

The development of a property in this location would respect and reinforce the current settlement pattern as influenced by the building of Tigh Aigan Oir, and would maintain an appropriate distribution and spacing of properties, thereby maintaining and reinforcing the loose cluster of development at Ardtun. Were it to be built, it would however represent the limit of the development potential of the croft, and there would be no remaining development potential within the ACE compartment to the east of the road leading to Highfields. Any other potential for development within the ACE compartment would be confined to the west of the road leading to Highfields, within the orange area identified by the Mull

Landscape Capacity Study, being limited to one or two further dwellings, at which point the development capacity of Ardtun would then have been reached.