

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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11 April 2012

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 18 APRIL 2012** at **10:30 AM** or at the conclusion of the PPSL Committee at 10.00 am, whichever is the later, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **MINUTES**
 - (a) Planning, Protective Services and Licensing Committee 13 March 2012 (Pages 1 - 10)
 - (b) Planning, Protective Services and Licensing Committee 21 March 2012 (10.00 am) (Pages 11 - 14)
 - (c) Planning, Protective Services and Licensing Committee 21 March 2012 (10.30 am) (Pages 15 - 34)
4. **CHANGE TO THE PROVISION OF CONSUMER ADVICE IN SCOTLAND**
Report by Regulatory Services Manager (Pages 35 - 38)
5. **JOINT HEALTH PROTECTION PLAN 2012 - 2014**
Report by Regulatory Services Manager (Pages 39 - 68)
6. **OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2012 - 2013**
Report by Regulatory Services Manager (Pages 69 - 92)
7. **ANIMAL HEALTH SERVICE PLAN 2012 - 2013**
Report by Regulatory Services Manager (Pages 93 - 96)

8. **FOOD SAFETY LAW ENFORCEMENT WORK PLAN 2012 - 2014**
Report by Regulatory Services Manager (Pages 97 - 220)
9. **MRS LYNN CLARK: SITE FOR ERECTION OF DWELLINGHOUSE AND ALTERATION TO ACCESS: LAND SOUTH WEST OF MUDHEIREADH, BALUACHRACH, TARBERT (REF: 09/00564/OUT)**
Report by Head of Planning and Regulatory Services (Pages 221 - 234)
10. **MRS P MACKAY: SITE FOR THE ERECTION OF 2 DWELLINGHOUSES: LAND WEST OF LOCHVIEW, ARDFERN (REF: 11/02560/PPP)**
Report by Head of Planning and Regulatory Services (Pages 235 - 262)
11. **DUNBRITTON HOUSING ASSOCIATION: FORMATION OF ROUNDABOUT ON A814 TO PROVIDE ACCESS TO NEW HOUSING DEVELOPMENT: HERMITAGE ACADEMY, CAMPBELL DRIVE, HELENSBURGH (REF: 12/00417/PP)**
Report by Head of Planning and Regulatory Services (Pages 263 - 270)
12. **MR J WALSH: ALTERATIONS AND EXTENSION TO DWELLINGHOUSE: VICTORIA VILLA, 34 ROYAL CRESCENT, DUNOON (REF: 12/00628/PP)**
Report by Head of Planning and Regulatory Services (Pages 271 - 278)
- E1 13. **ENFORCEMENT UPDATE: 10/00319/ENAMEN**
Report by Head of Planning and Regulatory Services (to follow)

The Committee will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an "E" on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part 1 of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

- E1 Paragraph 13** Information which, if disclosed to the public, would reveal that the authority proposes-
- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor Gordon Chalmers
Councillor Robin Currie
Councillor Mary-Jean Devon
Councillor David Kinniburgh
Councillor Donald MacMillan
Councillor Roderick McCuish
Councillor James McQueen

Councillor Rory Colville
Councillor Vivien Dance
Councillor Daniel Kelly
Councillor Neil Mackay
Councillor Bruce Marshall
Councillor Alex McNaughton

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in THE PAVILION CAFE, ROTHESAY, ISLE OF BUTE
on TUESDAY, 13 MARCH 2012**

Present: Councillor Roderick McCuish (Chair)

Councillor David Kinniburgh Councillor Alex McNaughton
Councillor Neil Mackay Councillor James McQueen
Councillor Donald MacMillan

Attending: Charles Reppke, Head of Governance and Law
Brian Stewart, Stewart Associates – Applicant's Agent
Nicola Dominick, Stewart Associates – Applicant's Agent
Steven Gove, Senior Planning Officer
Paul Farrell, Roads Engineer
Councillor Robert Macintyre, Supporter
Mr Peter Beedles, Mr Markov's representative – Objector
Mrs J Williamson, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Gordon Chalmers, Rory Colville, Robin Currie, Vivien Dance, Mary-Jean Devon, Daniel Kelly, Alister MacAlister and Bruce Marshall.

2. EXCEL: ERECTION OF 3 TWO STOREY DWELLINGHOUSES: LAND TO WEST OF ANNIESLEA, HYDRO ROAD, PORT BANNATYNE, ISLE OF BUTE (REF: 11/00626/PP)

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

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

PLANNING AUTHORITY

Mr Gove, Senior Planning Officer, spoke to the terms of the report, referring to a number of presentation slides showing the location of the development site, including the masterplan for the overall Housing Allocation. Scottish Water had no objections to this proposal and the Area Roads Manager had no objections subject to conditions detailed in the report. West of Scotland Archaeology Service had no substantive archaeological issues and Historic Scotland had no comments to make. Two letters of objection had been received and a petition with 75 names opposing the proposal and Mr Gove summarised the issues that had been raised. One letter of support had also been submitted by Councillor Robert Macintyre since the report had been published.

The application site is located within the settlement of Port Bannatyne and is part of Housing Allocation (ref: H/AL 1/5). At the Planning, Protective Services and

Licensing Committee in November 2011, Members decided to introduce a protocol for dealing with applications proposing the development of part(s) of a Potential Development Area or Housing Allocation. This has resulted in a masterplan being produced by Stewart Associates for the whole of the housing allocation, which has been subsequently advertised for public consultation purposes. There were no representations received in respect of this public consultation. It is considered that the submitted masterplan demonstrates how the allocated site could be developed in the future in a satisfactory manner and that the current application for three dwellings would not interfere negatively with the overall vision for the site.

The proposed development relates to the erection of three detached dwellinghouses in an area of land covering 0.38 hectares. The site is located to the west of the property known as 'Annieslea' and is presently wooded. The proposal would involve the formation of a separate access for each plot onto an existing private access road. The dwellinghouses would be two storey in height and would have a self-coloured white and light grey contrast acrylic render with translucent grey timber cladding. The roofs would be natural slate whilst the fenestration would be dark grey timber. Connection is proposed to public services. The application site is part of a larger housing allocation with the consequence that the principle of residential development is supported. The site itself is somewhat divorced from the built-up part of the Conservation Area and has two existing dwellinghouses located to the east. The High Road through Port Bannatyne runs parallel to the northern boundary of the site; however, as noted at the site inspection, there is a bank of woodland between the site and High Road which means that the development would only be glimpsed through the trees. It is considered that the detached nature of the dwellinghouses and their two-storey scale would not be out of place having regard to the neighbouring properties. The use of render, timber cladding and natural slate is also considered to be appropriate.

There will be an inevitable loss of some trees on the site (a total of 27). However, the trees to be lost are poorly formed, self-sown specimens of mainly birch and sycamore which have become established in the formerly more open, landscaped grounds of the hotel following its demolition. Although the wooded character of the site will be affected when immediately passing the site, the site is well screened on the lower (northern) side by more established woodland, while the submitted masterplan indicates that the bulk of the more extensive woodland above the development will be retained. Consequently, the impact of the development on the woodland cover will be much reduced from wider and more public viewpoints, such as across Kames Bay. Furthermore, the development proposes the planting of 13 heavy standard trees with a mixture of Birch, Ash and Beech which will help assimilate the proposed dwellings into the landscape.

The site forms part of housing allocation H/AL 1/5 which has an indicative capacity of 17 units with 25% affordability. The submitted masterplan shows an increase to 19 units with four units of affordable housing being identified at the western edge of the allocated site. In this respect, and having regard to the contents of the masterplan, the current proposal for 3 units need not prejudice the eventual contribution of affordable housing within the wider allocated site. Furthermore, the Council's Housing Needs & Demand Assessment has demonstrated a significant surplus of social housing on the Isle of Bute. Under

these circumstances, the insistence of a contribution towards affordable housing from this small development would only serve to inhibit a welcome private sector housing development in the current economic climate.

The site is served by a 300m road that leads from Gortans Road and which serves three existing dwellinghouses. The access road will require upgrading due to its poor surface and it is likely that a number of passing places will require to be formalised. In this regard, it is proposed to attach a suspensive condition that requires a programme of works to be agreed and undertaken prior to the commencement of development on the site. The Area Roads Manager has also mentioned that a 'Twenty's Plenty' scheme should be introduced for the complete length of Gortans Road with signage defining the extent of the adopted carriageway. The developer would be responsible for the fees and costs relative to this traffic calming scheme.

Having due regard to the Development Plan and all other material considerations, it is recommended that, subject to the outcome of this discretionary hearing, planning permission be granted subject to the conditions, reasons and informative notes detailed in the report.

APPLICANT

Mr Brian Stewart of Stewart's Associates presented his case of behalf of the Applicant. He referred to a number of slides showing the location of the site and the proposed development which would be to the east of the old Kyles of Bute Hydro and would be covered by trees growing on land in front of the site which was in the ownership of the Applicant. He advised that land behind the site was also in the ownership of the Applicant and that the trees on this land would also be retained. He advised that he had been involved with this project since 2009 and that extensive pre application consultation had been undertaken with Planning and Roads Officers. Recognising that access to the site was from a private road the first thing was to address this matter and he illustrated with a number of slides the access to the site and the location of the proposed dwellings which would be on former tennis courts. He advised that the track running in front of the development site was heavily wooded with no management. On the slides he showed a view looking towards the old Hydro which was a series of terraces. He advised that there would be no change to the topography of the area and that the proposed development was on the lower level of these terraces. He referred to the overall masterplan developed for the whole of the Housing Allocation and pointed out on slides the 3 sites owned by the Applicant. He advised that the proposed development of 3 dwelling houses would be located on site 1 and that site 2 was a raised wooded area behind site 1 and that site 4 was also a wooded area located in front of site 1. He advised that the masterplan also recommended a new adopted road rising parallel to the existing track. He advised that the proposal included improvements to the existing surface of the Hydro Road with 3 separate wide accesses to each of the 3 dwellinghouses. It's also the intention to retain the wall in front of the houses and that it would become a feature of the accesses to the houses. He advised that each house would be at least 18 metres apart from each other and that woodland cover would be retained to the rear of the houses. He referred to the design of the houses which were in keeping with the Argyll and Bute Planning Design Guide. He advised that there were not many other sites in Port Bannatyne with the opportunity of developing family homes and that the

Applicant had been approached by a number of families interested in moving to this area.

STATUTORY CONSULTEES

Mr Paul Farrell, Roads Engineer, advised that the proposed development of 3 detached houses would be accessed from U22 Gortans Road. The adopted section serves adjacent properties including Mount Claire, a development of 18 units. Access to properties is via a farm track to the south. The 3 existing properties are served by a private road that runs between Gortans Road and Bannatyne Mains. Improvements to the section between the end of Gortans Road and the development site have been proposed. These include improvements to the surface, the addition of passing places and carriageway widening. Each property is to have its own vehicular access and sightlines of a minimum of 20m x 2 m and surface water has to be dealt with. Parking has to be provided for 3 vehicles per unit. The design and construction of the access, parking etc will be as per the "Roads Guidance for Developers" dated October 2008. The implementation of a Twenty's Plenty traffic calming scheme will afford a higher level of safety for all road users and the cost of raising this order and installation of signage is to be met by the Applicant.

SUPPORTERS

Councillor Robert Macintyre advised that he has represented this part of the island since 1995. He referred to the history of the site and that planning permission had been granted for 41 chalets in 1981 and 11 dwellinghouses in 1991 and that this application was of a smaller scale compared to what had previously been approved. He advised that Port Bannatyne had a thriving primary school and rising school roll and that this proposal was for 3 family houses. He referred to the expressions of interest the Applicant had received for housing in the area and that this bode well for the area and the businesses operating around Port Bannatyne. He advised that the development could be easily accessed for housing for people to live in and enjoy and that he fully supported this proposed development.

OBJECTORS

Mr Peter Beedles advised that he was here to speak on behalf of Mr Markov and that Mr Markov's original reason for objecting to this proposal still stood. He advised that this was a unique amenity on the island and that there was no other site like it. He advised that the people of Ardbeg and Port Bannatyne had access to the woods which were filled with kids playing there in the summer. He advised that people visited the island because this amenity is there. He advised that the wooded area was teeming with wildlife eg buzzards, owls, bats and a fantastic variety of insects which would suffer if this amenity was lost. He advised that Mr Markov was aware of the need for development on the island but that it should be sympathetic to the island. Mr Markov moved to Bute 5 years ago and in that time has seen the downturn in the area with businesses closing down. He advised that development on Bute should be an eco development. He advised that the 3 proposed properties were not suitable for a woodland area and that there was a need for something more rugged and in keeping with the area. He advised that the 3 proposed properties would be right on the edge of the road and would be easily viewed by passers by. Mr Markov believed

upgrading the road in front of the houses would lead to an increase in traffic and that it would be impossible to say what the impact on the wildlife would be in this respect. He advised that the Applicant had previously submitted a retrospective planning application to remove trees and for replanting to be done and that there was no evidence that this replanting of trees had ever taken place. He referred to the promise that the upgrading of the road and replanting of trees would be part of the proposal and that there was a need for a few more promises to be kept by the Applicant in respect of previous applications which were yet to be met. He advised that this proposal would change the whole nature of the area. He referred to the wider development of the area and that there had been a problem with asbestos in the area some time ago. He advised that on speaking to local business people, residents and visitors there was negative feedback about this development and asked that this planning application be refused.

Mrs Williamson advised that she agreed with all that her colleague had said. She referred to the promise of replacing trees and that there was no sign that this had been done. She advised that this proposed development would have a great bearing on the habitat and that it should be preserved. She referred to the 75 names on the submitted petition and asked whether any of the people on the petition were advised of today's hearing and that they would have been in attendance at the hearing if that had been the case.

MEMBERS' QUESTIONS

Councillor McNaughton asked what the plans were for the upgrading of the road. Mr Farrell advised that surface type 1 would be used. He also advised of drainage measures to be put in place to prevent run off from the 3 properties onto the road.

Councillor Mackay referred to Annieslea being 1.5 storeys and the 3 proposed dwellings being 2 storeys and asked if this conformed with policy LP ENV 19 – Development, Layout and Design. Mr Gove replied yes. He advised that there were a variety of different styles of houses in Port Bannatyne and that the design of the houses did not need to be an exact copy of others in the vicinity.

Councillor Mackay referred to site 1 being for the development of 3 houses and asked if this site would extend on to site 4. Mr Gove advised this was not part of the masterplan. He advised that there was the potential for a 4th house to be developed by the Applicant in another part of the masterplan site.

Councillor Kinniburgh referred to the road to be formed having a type 1 surface and asked for clarification on how far this would extend and if this was from Gortan Road to the end of the development site. Mr Gove confirmed this to be the case and referred to the detail of condition 4 within the Planning report.

Councillor Kinniburgh asked if the Applicant had any plans to extend the road. Mr Stewart advised that the road was not owned by the Applicant and that it was owned by Mountstuart. He advised that the road would be scraped and type 1 applied and improvements to drainage of the road would be made as the land north of the road belonged to the Applicant and that drainage of surface water would be made onto this land.

Councillor Kinniburgh asked if it was feasible that cars would be driving down

this road every day. Mr Stewart advised probably not.

Councillor MacMillan asked for clarification on the road being widened to 5.5 metres. Mr Stewart advised that most of the road was already 5.5 metres though this was hard to see due to the condition of the track at the moment. He advised that 2 passing places would be made and that the road would be widened at the frontage of the development site to 5.5 metres.

Councillor Mackay referred to the road being upgraded with type 1 surface and asked if this would be adequate to accommodate 9 cars for the houses and service vehicles such as refuse lorries. Mr Farrell advised that the refuse collections were made at a communal bin at a pick up point on Gortan Road and that householders were required to take their rubbish to the communal bins for uplift.

Councillor Mackay asked if improvements to the road would be made prior to commencement of construction and Mr Stewart confirmed this to be the case and referred to planning condition 4 which stated that no development shall commence until the road works have been undertaken.

Councillor McCuish asked if any of the 27 trees proposed to be removed were protected. Mr Gove advised that they were protected as part of the conservation area and that authority was required for these to be removed and that this was part of the planning application.

Councillor McCuish referred to objectors' comments about a loss of amenity to the area and asked for further comment on this. Mr Beedles referred to the current nature of the track and that to widen this and add passing places would change the nature of the area and affect the wildlife and people who used it. He referred to walkers and bird watchers using the woods during the summer and the ringing voices of children and that this was a safe environment for them to use. He advised that people came to this area for peace and quiet away from urban noise. He advised that this area was wilderness and that this was part of its beauty. He advised that the amenity of this area was rare and that there was nowhere else like it on the island and that the amenity as it is should be used to promote the area not 3 houses which would not be affordable.

Councillor McCuish asked the Applicant the same question. Mr Stewart advised that development of this area would not prevent people from using the woods. He advised that the road would be improved but would not change in any great way and that there used to be passing places located on this road. He referred to the size of the houses compared to the size of the site and that they were very small in proportion to the size of the site. He advised that only trees on the level areas would be removed and that extensive heavy trees indigenous to the area would be replanted in order to meld into the environment. He advised that the wooded area was large enough to accommodate 3 houses and that the whole ethos of his client was to support and manage the wooded area.

Councillor Kinniburgh referred to the petition signed by 75 people and asked if all these people had been written to advising of the hearing. Mr Gove advised no and that only Mr Markov, who had submitted the petition, had been advised of the hearing. Mr Reppke explained the procedure that was followed and that it was the responsibility of the person who submitted the petition to inform those

who signed it of the hearing if they so wished.

Councillor Mackay referred to the concerns of the objectors regarding the wildlife habitat and asked Planning to clarify if policy LP ENV 7 took account of this and, if so, did this prejudice the policy. Mr Gove advised that this site had no nature conservation designation or protected species interests. He referred to separate legislation linked to European protected species and if found during development it was the responsibility of the developer to advise the relevant bodies if this was established. He advised there was no foundation to prejudice development.

Councillor McCuish referred to consultation on the masterplan and asked if there had been any objection to it. Mr Gove advised that no representations were received regarding the consultation on the masterplan.

Councillor McCuish asked the objectors if they were aware of the consultation on the masterplan. Mr Beedles advised that he was not aware of the opportunity to object to the masterplan and that adverts placed in the Buteman were usually very small and that he had not seen the advert about this consultation.

SUMMING UP

Planning Authority

Mr Gove referred to the amenity of the area and that the wider area included the application site which was first zoned for housing in 1991. He referred to the previous application for 11 houses and that this was for 3 houses with the potential for a possible 4th house which would be the subject of a separate application. He advised that the Local Plan has encouraged development in this area and that there has been no real objection to this and that it has always been expected that there would be development in this area.

Applicant

Mr Stewart advised that the Applicant was a botanist. He referred to the replacement of trees and that work on this had started but had been affected by the storm on 3 January 2012. He advised that his client was in the process of planting Scot Pines. He referred to the development being relatively small in context with the size of the site and that it was entirely appropriate.

Statutory Consultees

Mr Farrell advised that he had nothing further to add.

Supporters

Councillor Macintyre advised that he had nothing further to add.

Objectors

Mr Beedles referred to the upgrade of the road which was privately owned by Mountstuart and queried who would take responsibility for its upkeep. He advised that Mr Markov was a Biochemist and aware of the habitat of the area and stressed the importance of this amenity for the island.

Mrs Williamson 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 Mackay advised that like every hearing this Committee has attended the site visit has been invaluable and that the former Hydro at the top of the hill was similar to many towns including Oban where development has since taken place and advised that this development was well thought out. He acknowledged that the size of the dwellings did fit in and that they would not be very prominent and that he thought that the design was good. He advised that the presentation by the Applicant's Agent had been valuable and that improvements to the track would be appreciated by all that may use it. In respect of maintenance of the track he took comfort from the fact that users of the road would make sure their vehicles did not bottom out on it. He advised that he was happy with the answers to his questions regarding planning policies and that he was happy to support the Planner's recommendation.

Councillor McNaughton advised that he had listened to the objectors and could understand their concerns about the wildlife. However he did not think this development would impinge on the wildlife and that there was a lot of other similar habitats around the area. He referred to the Local Plan duly encouraging development in this area. He advised that 3 houses was not a big development but would be big for Port Bannatyne and supported the Planning recommendation.

Councillor McQueen advised that he was more than happy with the proposed development.

Councillor MacMillan advised that this was a modest application considering previous applications before it and that he supported it.

Councillor Kinniburgh referred to the planning history of site and that this development accorded with planning policy. He advised that the track was a track and not a road and that upgrade of this would improve access to the site. He advised that he had no concerns whatsoever and would support the application.

Councillor McCuish advised that having listened to everything that had been said today and having visited the site it was his opinion that the application would not have a detrimental impact on the area. He advised that the development conformed with 7 Local Plan policies and 2 Structure Plan policies. He congratulated the Applicant on engaging in the pre application planning process and referred to development of this area being in the Local Plan since 1991 and moved the recommendation contained within the Planning report.

DECISION

Agreed unanimously to approve the planning application subject to the following conditions, reasons and notes to the applicant:

1. The development shall be implemented in accordance with the details specified on the approved drawings numbers: Drawing No. 0918/P01; Drawing No. 0918/P02; Drawing No. 0918/P03; Drawing No. 0918/P04; Drawing No. 0918/P05; and Drawing No. 0918/P08 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. The landscaping scheme shown on the plan titled 'Site Plan as Proposed' (Drawing Number 0918/P03) shall be implemented no later than the first planting and seeding season following the commencement of the development (or such other timescale agreed with the Planning Authority prior to the commencement of the development) and, thereafter, shall be maintained to the satisfaction of the Planning Authority for a period of ten years. No trees shall be felled or lopped within the landscaping scheme without the prior written consent of the Planning Authority and any losses of plant species through disease, weather exposure, neglect or damage shall be replaced with equivalent species within one growing season.

Reason: In the interests of visual amenity in order to successfully integrate the proposal into its surrounding townscape setting and having due regard to Policies LP ENV 7 and LP ENV 14 of the Argyll and Bute Local Plan 2009.

3. The root system of the trees to be retained within the site shall be suitably protected in accordance with BS 5837 'Trees in Relation to Construction' (2005) prior to the commencement of the development and during the course of the development. Prior to works commencing on site, fences shall be erected below the canopy edge of the trees to prevent encroachment by machinery and vehicles and these fences shall be maintained during building works on site.

Reason: In the interests of visual amenity in order to ensure that reasonable and appropriate measures are taken to secure the viability of the trees within the site.

4. Prior to the commencement of the development, a programme of works to improve the road between the site and Ardbeg Road shall be submitted to and approved in writing by the Planning Authority. Such a programme shall, at a minimum, include the following:
 - i. The surfacing and drainage of the private road between Gortans Road and the site frontage;
 - ii. The provision of two passing places along the section of the private road between Gortans Road and the site frontage;
 - iii. The widening of the carriageway along the frontage of the site to 5.5 metres;
 - iv. The implementation of a 'Twenty's Plenty' traffic calming scheme for the entire length of Gortans Road with signage defining the extent of the adopted road.

No development shall commence until the works have been undertaken in accordance with the approved programme unless the prior written consent of the Planning Authority is obtained for variation.

Reason: In the interests of road safety having regard to policy LP TRAN 4 of the Argyll and Bute Local Plan 2009.

NOTES TO APPLICANT

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town & Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town & Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was complete.
4. The Area Roads Manager has advised that a Road Opening Permit will be required for the signage associated with the "Twenty's Plenty" scheme.

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

**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 Donald MacMillan
Councillor Vivien Dance	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor Neil Mackay	Councillor James McQueen

Attending: Charles Reppke, Head of Governance and Law
Sheila MacFadyen, Senior Solicitor
Graeme Forrester, Solicitor
Mr James Hunter, Licence Holder
Mrs Jane MacLeod, Solicitor, Licence Holder's Representative
Ms Jane Thomson, Trainee Solicitor, Stevenson and Kennedy
Solicitors
Inspector Alistair Davidson, Strathclyde Police

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. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING - TAXI DRIVER LICENCE

The Chair welcomed everyone to the Hearing and asked that the participants introduce themselves. Thereafter he outlined the procedure that would be followed.

Mr Reppke advised that the complainer, Mrs Low, was unable to attend the Hearing.

The Chair invited the Police to speak in support of their comments.

Inspector Davidson of Strathclyde Police spoke to the terms of the letter lodged by Strathclyde Police and advised that when the Police were made aware of the complaint letter on 15 July 2011 regarding Mr Hunter they had carried out checks with the DVLA Liaison Officer at Govan Road Policing Complex who confirmed that Mr Hunter was driving on an expired licence and due to this information he was stopped driving his taxi on 12 August 2011. Mr Hunter was cautioned and charged with the offence and his vehicle seized. Mr Hunter was also charged with not holding valid car insurance and a report was sent to the Procurator Fiscal.

The Chair invited the Licence Holder's representative to ask the Police questions.

Mrs MacLeod asked Inspector Davidson if he was aware that the charges he referred to had been dropped by the Procurator Fiscal. Inspector Davidson advised he was not aware of this.

The Chair invited the Licence Holder's representative to speak on behalf of her client.

Mrs MacLeod thanked the Committee for the opportunity to present the case and referred to the contents of the following correspondence which she circulated to the Committee:-

Correspondence dated 6 January 2012 sent to the Procurator Fiscal from Stevenson and Kennedy Solicitors requesting that the charges against Mr Hunter be dropped and the reasons for this request;

Correspondence dated 16 January 2012 received by Mr Hunter from the DVLA confirming that a new licence would be issued to him within 14 days;

Correspondence dated 25 January 2012 from the Lorn Medical Centre received by Stevenson and Kennedy Solicitors confirming that a full medical report had been sent to the DVLA making it clear there was no reason why Mr Hunter should not continue driving; and

Correspondence dated 12 March 2012 from Mrs MacIntyre of Lorn Taxis making comments on the contents of the complainant's letter and confirming that she had not received any complaints from the public regarding Mr Hunter.

Mrs MacLeod went on to vouch for the good character of Mr Hunter and confirmed that Mr Hunter agreed that he should have been more vigilant about renewing his driving licence and that due to moving house he had not received a reminder letter from the DVLA which would have prompted him to renew his licence on time. Mrs MacLeod then referred to the contents of the complainant's letter and asked as a preliminary matter that the Committee consider disregarding this letter given the absence of the complainant at the Hearing today.

Mr Forrester advised that Mrs Low had been in touch with the Council to advise that she would be unable to attend the Hearing today. She asked that the Committee take her letter into consideration as she stood by the comments she had made.

Mr Reppke advised the Committee that they should take into consideration Mrs Low's letter of complaint and confirmed that there was nothing in the Act to say that a complainant has to attend a Hearing. The Committee agreed to take Mrs Low's letter of complaint into consideration.

Mrs MacLeod referred to all the comments made by Mrs Low in her letter. She confirmed that Mr Hunter had rented a room from Mrs Low and that there had been a clash of personalities. She asked that the Committee disregard the contents of paragraph 4 of Mrs Low's letter which was hearsay. She confirmed

that Mr Hunter paid £70 rent per week and that he always paid this and that, in fact, Mrs Low had borrowed £100 from Mr Hunter. Mrs MacLeod confirmed that Mr Hunter had a girlfriend and with regard to the comments made about parking, Mrs MacLeod confirmed that Mr Hunter parked his car on the main street which he was entitled to do. She advised that when Mr Hunter moved out of Mrs Low's house he had left a TV stand and that it was gone when he went back to collect it. She advised that Mr Hunter had rent money stolen from him and that he did not receive his deposit back and that Mr Hunter had reported Mrs Low to the Police. She referred to the comments made by Mrs Low about young girls. She advised that Mr Hunter was a father of 3 girls and that he held 'old fashioned values' and did not like to see young girls out at night inebriated with no means of getting home and even if they did not have enough money to pay their taxi fare he would always take them home. She referred to one occasion when he had seen a young girl at 4 am. It was hail stoning and the girl was very inebriated, had no shoes on and was crying. He spotted the girl many times and eventually he stopped and took her home. Mrs MacLeod advised that Mr Hunter had never claimed job seekers allowance when working and had only claimed it when he was unemployed. She advised that, in fact, Mrs Low had asked Mr Hunter how her daughter could claim benefits she was not entitled to and confirmed that Mr Hunter did not take any part in this. Mrs MacLeod confirmed that Mr Hunter worked in partnership with Mr Wardrop and that this partnership worked well with Mr Wardrop taking the day shift and Mr Hunter working the night shift and that there have been no complaints made to Lorn Taxis. She advised that before Mr Hunter moved to Oban he worked on various large cruise ships including the QE2 and the Canberra and on one occasion was part of a team looking after Jackie Kennedy Onassis and felt sure that appropriate checks would have been carried out on Mr Hunter before being asked to be part of this team. She also advised that he was part of a team looking after the Princess Royal when she was on the MV Isle of Mull and again felt sure appropriate background checks would have been carried out on Mr Hunter.

Mrs MacLeod advised that there appeared to be a clash of personalities between Mr Hunter and Mrs Low and that Mrs Low's comments called into question Mr Hunter's good character. It spoke volumes that Mrs Low was not here today to speak up about her claims which should be disregarded and that the hearsay within Mrs Low's letter should be totally disregarded.

The Chair invited the Police to ask Mrs MacLeod questions and Inspector Davidson confirmed he had no questions.

The Chair invited Members to ask Mrs MacLeod and Inspector Davidson questions and there were no questions asked.

The Chair invited Inspector Davidson and Mrs MacLeod to sum up.

Inspector Davidson advised that Strathclyde Police had been made aware of the complaint about Mr Hunter on 15 July 2011 and that an investigation had been carried out. He advised that it was a matter for the Procurator Fiscal to decide whether or not to proceed with the charges brought against Mr Hunter.

Mrs MacLeod referred to the Procurator Fiscal's comments that the risk of punishment and its effects could be disproportionate to the offences charged which could be applied to today's proceedings. She referred to the Medical letter

from Mr Boyle and advised that Mr Hunter's job played a significant role in his mental health and that he has a good working partnership in his job. She referred to the clash of personalities with Mrs Low and that Mr Hunter has moved on. She referred to the charges against Mr Hunter being dropped and that Mr Hunter will make sure in future to get his licence renewed on time and that this had been an oversight on his part. She advised that Mrs Low's letter of complaint should be disregarded and that many of her comments were hearsay. She asked that Mr Hunter's taxi licence not be suspended as this would affect his career.

The Chair asked both parties to confirm they had received a fair hearing and they both confirmed this to be the case.

Councillor Vivien Dance advised that no action should be taken and that Mr Hunter's taxi licence should not be suspended.

Councillor Neil MacKay supported Councillor Dance's view. He advised that it had been remiss of Mr Hunter not to make sure that his driving licence was renewed and that the Procurator Fiscal had acted wisely in acknowledging that. He also referred to the letter of support received from Mrs MacIntyre.

Councillor Rory Colville agreed with his fellow Councillors and advised that as Mr Hunter already had 9 points on his driving licence he was sure Mr Hunter would be a safe driver.

The Chair confirmed that no action should be taken.

Decision

It was unanimously agreed that no action be taken and that Mr Hunter's taxi driver licence not be suspended.

(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, 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)

Appendix

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.

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

**PLANNING, PROTECTIVE SERVICES AND
LICENSING COMMITTEE
18TH APRIL 2012**

**CHANGE TO THE PROVISION OF
CONSUMER ADVICE IN SCOTLAND**

1. PURPOSE

- 1.1** This Report advises Members of the changes to the provision of consumer advice which, as a result of UK government changes, has resulted in the consumer advice services being transferred from Consumer Direct's Hotline to the new Citizens Advice consumer service.
- 1.2** This service commenced on 22 February 2012, with all calls previously made to Consumer Direct now being answered either at one of two Call Centres – either at Citizens Advice Scotland's Centre in Glasgow or at the previous Consumer Direct centre near Stornaway - which has been retained under the new arrangements. The full transfer and rebranding as Citizens Advice Direct (CAD) took place on 2 April 2012.
- 1.3** As Argyll and Bute Council previously agreed to utilise the services of Consumer Direct, any consumer advice request will now be responded to by the new service.

2. RECOMMENDATIONS

- 2.1** That Members note the changes to the provision of consumer advice, and affirm the decision made to enter into the new data sharing arrangements with Citizens Advice nationally. These are required to facilitate an effective service to consumers within Argyll and Bute who will still be able to access the service unchanged.

3. BACKGROUND

- 3.1** The Consumer Direct Hotline has operated since 2004 and has provided consumer advice across Scotland, including consumers in Argyll and Bute. This service has been operated and managed by Comhairle nan Eilean Sair.
- 3.2** /....

- 3.2** Argyll and Bute Council benefits from the consumer advice hotline, with all front-line consumer protection enquiries being directed to Consumer Direct. Effective liaison arrangements are in place to monitor usage levels and response times.
- 3.3** The more complex cases are referred to the Council's Trading Standards team for further investigation and more detailed advice and action. In 2010/2011 a total of 255 complex cases were forwarded to the Council by Consumer Direct out of a total of 1,526 enquiries relating to Argyll and Bute
- 3.4** The new arrangements, with Citizens Advice taking responsibility for the provision of consumer advice, was part of the proposals agreed by the UK Government Department of Business Innovation and Skills (BIS) for the reform of the Office of Fair Trading. This was detailed to Members in the Paper submitted to the Planning, Protective Services & Licensing Committee on the Changing Consumer Landscape (19 October 2011).
- 3.5** To support the new service provided by Citizens Advice Direct (CAD), which is part of Citizens Advice Scotland, it is necessary to have effective data sharing arrangements in place between CAD and Local Authorities. Similar arrangements have worked well with Consumer Direct and, to enable a smooth transfer to the new service, Data Sharing Arrangements with Citizens Advice have been agreed by the Regulatory Services Manager on behalf of the Council.
- 3.6** From a consumer perspective, the transition to the new service is designed to be unchanged as they will access it via the existing consumer hotline number, 08454 04 05 06.

4. CONCLUSIONS

- 4.1** The provision of a front-line consumer advice service offers a response to all consumers and also redirects work previously undertaken by Councils' Trading Standards services, allowing them to focus on other priorities. It is important that these arrangements continue as the Council would not wish to redirect our Trading Standards resources to deal with such enquiries other than the more complex cases.
- 4.2** However, it is envisaged that, in the short term, Trading Standards will have to devote resources to increased monitoring of notifications and referrals received via this new arrangement as it is recognised that the new arrangements may take some time to bed in. This increased monitoring is unlikely to be required for more than 2 months.
- 4.3** Members should note these new arrangements.

5. /....

5. IMPLICATIONS

Policy :	None
Finance :	Funded by UK Government
Legal :	None
Personnel :	None
Equal Opportunity :	All consumers will receive access to the Service Advice Centre

**ALAN MORRISON
REGULATORY SERVICES MANAGER**

AM/KT/ 7080 Mar 2012

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

**PLANNING, PROTECTIVE SERVICES AND
LICENSING COMMITTEE
18TH APRIL 2012**

JOINT HEALTH PROTECTION PLAN 2012 - 2014

1. PURPOSE

- 1.1** The Public Health, etc (Scotland) Act 2008 requires each NHS Health Board to prepare a Joint Health Protection Plan (JHPP) every 2 years in consultation with their Local Authorities within their area. The Plan requires to be approved by each Local Authority and the NHS Board. The inaugural Plan was developed for 2010 - 2012, and approved by Members at the PPSL Committee on 21st April 2010.
- 1.2** The 2012 – 2014 Plan outlines national and local priorities and the health protection arrangements between NHS Highland, Argyll and Bute Council and Highland Council. This principally involves Environmental Health departments and the Consultant in Public Health Medicine working in partnership and with other agencies, including other internal Council services.
- 1.3** The JHPP has strengthened working arrangements between the three agencies in respect of health protection, and is consistent with wider Government health and wellbeing agendas, and corporate outcomes of CO8 (engagement with Partners), CO9 (impact of alcohol and drugs), CO11 (safe communities) and CO13 (sustainable environment).

2. RECOMMENDATIONS

- 2.1** That Members note the work being undertaken across the health protection agenda which goes largely unrecognised until there is a significant incident where the measures come to the fore; and approve the Joint Health Protection Plan 2012 – 2014.
- 2.2** Place a requirement on the Regulatory Services Manager, as the Councils Designated Competent Person under the Act, to sign the plan on behalf of the Council and to implement the necessary measures to meet this plan; and provide an interim progress report for the April 2013 Committee.

3. JOINT HEALTH PROTECTION PLAN

3.1 The health protection activities within the Council and the joint working arrangements with NHS Highland, other Local Authorities and agencies (Scottish Environment Agency, Scottish Water, Health Protection Scotland, etc) are integral to the delivery of core environmental health but largely go unnoticed unless there is a significant incident.

3.2 The Joint Health Protection Plan provided a formal means by which to agree priorities, formalise existing arrangements and to highlight the important work that is being undertaken to protect public health nationally, across NHS Highland, and locally within Argyll and Bute. Of significance are :-

- (i) The implementation of the smoking ban has been very successful in Argyll and Bute, and in Scotland generally, with national statistics identifying clear improvements to the health
- (ii) The increasing occurrence of *Norovirus* in the tourism industry (hotels, etc) and the hospital environment has been mitigated by the implementation of *Norovirus* Guidance across those sectors and management systems within businesses, supported by Environmental Health staff.
- (iii) We responded effectively to an outbreak of *E.coli* in a private water supply in Argyll and Bute which affected 14 people and is believed to be the largest confirmed outbreak of *E.coli* 0157 in the holiday accommodation sector in Scotland. Through the work of Environmental Health staff, working with NHS Highland and the businesses, the impact of this outbreak on the general public was mitigated.

3.3 The Joint Health Protection Plan 2012 – 2014 builds on the successes and experiences of the 2010 – 2012 Plan, focusing on national and local priorities. These are details in 10 to 15 of the JHPP which is Appendix I of this report. Of significance is the commitment to develop and implement an *E.coli* 0157 Strategy within NHS Highland area, designed to minimise the risks of the public being adversely affected by *E.coli* 0157. This is a pathogen which has a high rate of infection in Scotland and can have significant health implications, particularly to the young and elderly.

4. CONCLUSIONS

4.1 The Joint Health Protection Plan 2012 – 2014 has been formally

approved by Highland Council and is awaiting approval by NHS Highland Board.

- 4.2** It provides an excellent opportunity to bring together local and national priorities across a wide range of activities; raise the profile of health protection work; and builds upon the partnership arrangements between Argyll and Bute Council, Highland Council and NHS Highland.

5. IMPLICATIONS

Policy :	None. Consistent with Corporate Priorities and National Health Agenda
Finance :	None
Resources :	This work will be undertaken within current resources. However, there is a requirement to ensure that we maintain suitably competent staff within Regulatory Services at current service levels, together with the provision of training and professional development.
Legal :	None
Equal Opportunity :	None

**ALAN MORRISON
REGULATORY SERVICES MANAGER**

AM/KT/ 7081 Mar 2012

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NHS HIGHLAND AREA
JOINT HEALTH PROTECTION PLAN

APRIL 2012 – MARCH 2014

SGÌRE NHS GÀIDHEALTACHD
CO-PHLANA DÌON SLÀINTE

GIBLEAN 2012 – MÀRT 2014

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Introduction

The Public Health etc. (Scotland) Act 2008 requires NHS Boards, in consultation with Local Authorities, to produce a Joint Health Protection Plan which provides an overview of health protection (communicable disease and environmental health) priorities, provision and preparedness for the NHS Board area. Guidance on the content of joint health protection plans has been published by the Scottish Government.¹

This is the second Highland Joint Health Protection Plan and covers the period from 1 April 2012 to 31 March 2014.

It is a public document and is available to members of the public on the NHS Highland website (www.nhshighland.co.uk) and on request. We hope that you will find this plan to be of interest, and of value, and that its production will contribute to protecting the health of the people who visit, work and live in the Highlands and Argyll & Bute.

Signed

.....
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SECTION 1 – OVERVIEW

¹ www.scotland.gov.uk/Resource/Doc/924/0079967.doc

1. The Joint Health Protection Plan

- 1.1 This plan has been created following the requirements set out in the Public Health etc (Scotland) Act 2008. NHS Highland has prepared this plan in collaboration and consultation with its two local authorities; Argyll and Bute Council and Highland Council. This plan is herewith referred to as the Joint Health Protection Plan.
- 1.2 The plan relates to the period 1st April 2012 to the 31st March 2014.
- 1.3 The plan requires to be formally approved by the NHS Highland Board and the Executive Councils of the local authorities.
- 1.4 The format of the plan meets the details of Annex D of the Scottish Government Guidance “Joint Health Protection Plans”.
- 1.5 The purposes of the plan are:-
 - i. To provide an overview of health protection priorities, provision and preparedness for NHS Highland, Highland Council and Argyll & Bute Council.
 - ii. To outline the joint arrangements which Argyll and Bute Council, Highland Council and NHS Highland, have in place for the protection of public health.
 - iii. To improve the level of “preparedness” to respond effectively to a health protection incident and emergency.
 - iv. To clarify the priorities for the period of the plan 2012 – 2014.
 - v. To identify and subsequently secure the resources which are required to meet the plan.
 - vi. To detail the liaison arrangements between NHS Highland, the 2 Local Authorities and other Agencies (e.g. Scottish Water, SEPA etc).
 - vii. To develop “learning” across the agencies.
 - viii. To provide a mechanism for reviewing and recording outcomes and achievements.
- 1.6 The plan will be reviewed annually by the multi-agency Environmental Health Liaison Committee and any necessary changes made. However the plan will only be formally changed and updated in accordance with the legislation which requires this every 2 years.

2. Health Protection Planning

- 2.1 The prevention, investigation and control of communicable diseases and environmental hazards require specialist knowledge and skills. These include risk assessment, risk management and risk communication amongst others. These specialist skills and knowledge are applicable to a wide range of potential incidents or scenarios and are often facilitated by the existence of agreed plans and procedures for specific disease or situations. There are many such national and local plans.
- 2.2 Effective working arrangements are in place to support partnership working between NHS Highland and the environmental health services within Argyll and Bute Council and Highland Council. This is evidenced through the work undertaken to develop common plans to ensure a systematic and consistent approach to tackling common public health issues, learning from best practice in both local authority areas.
- 2.3 A list of the plans which are common to all 3 agencies are in [Appendix 1](#).

3. Risks and Challenges

- 3.1 The geographical profile of the area presents several challenges to effective and timely management of a health protection incident. This poses a significant risk to the delivery of the service. The area covered by the health board is vast; travelling arrangements must be factored into the planning of a response to an incident. This is especially the case for island communities where access is dependent on ferries. Many communities, within the NHS Highland area, are remote and can be isolated, particularly during periods of adverse weather. Maps of the areas are provided in [Appendix 2](#).
- 3.2 All three agencies are heavily dependent on effective telecommunications systems. Lack of mobile telephone networks is a common problem in remote areas and some island communities. The response to a public health incident would be compromised in the event of a significant failure of the telecommunications system.
- 3.3 Staff from all three agencies may be required to travel to the site of a public health incident. This may necessitate several hours of journey time, increased by the need for specific transport or adverse weather conditions. As such the duration of deployment is increased. It is accepted that any reduction in staffing for either agency would impact even further on capacity to respond appropriately and timeously to health protection incidents.
- 3.4 Collection and analysis of samples forms the first step in the management of a disease outbreak. The specimens are delivered to the regional laboratories by road. There may be a longer turnaround time from submitting the sample to receiving a result depending on the analysis required. A recommendation from

reviews of several previous outbreaks is that couriers and specialist transport should be used in order to reduce sample transit time.

- 3.5 NHS Highland collates the surveillance data and information relating to disease outbreaks and environmental incidents. Local Authorities have systems in place for the recording of investigative and monitoring work associated with health protection. These systems include in-house systems and also include the use of the national Food Surveillance System, supported by Health Protection Scotland. These systems may also utilise Geographical Information Management Systems (GIS). Argyll and Bute Council found GIS technology useful at the Radionuclide exercises associated with HMNB Faslane. However, there is still no recognised and widely used national outbreak management system.
- 3.6 Both Highland Council and Argyll and Bute Council have published local risk registers. These highlight specific high risk facilities, events or scenarios within each area and are available through the regional Strategic Coordinating Groups – Strathclyde Emergency Coordinating Group and Highlands and Islands Strategic Coordinating Group.:

4. Capacity and Resilience

- 4.1 Review of capacity and resilience is on-going, particularly in response to the current pressure on all services to reduce expenditure.
- 4.2 Human resource capacity of specialist health protection skills in NHS, Argyll and Bute Council and Highland Council is limited. [Appendix 3](#) lists designated competent persons in terms of the Act. NHS services are located in Inverness. The local authorities deliver their services from a number of geographical centres. This approach is an efficient use of limited human resources. However this also creates small teams where the absence of an individual staff member stretches the resources available to respond to an incident. The occurrence of two or more simultaneous incidents in different parts of the board area would present significant challenges. Capacity has been stretched further for the past 3-4 years as NHS Highland public health staff have provided cover for NHS Western Isles through a very long period of sick leave absence and job vacancies.
- 4.3 As a consequence of small team size, individuals may be required to take on both strategic and operational roles during a large incident. Regular multi agency training exercises and debriefs give strategic leads flexibility in the roles taken during an outbreak.
- 4.4 Staff from the wider department of public health will be utilised as required on a large incident and beyond that staff from other teams/departments in NHS Highland. Formal arrangements for mutual aid with other NHS Boards are

recorded and reviewed through the emergency planning procedures. Informal arrangements for mutual aid exist within the local authorities and act to support the provision of the service in remote and isolated areas.

5. Supporting information

5.1 [Appendix 4](#) provides the following background information in support of the plan:

1. Health Protection definitions
2. Overview of NHS Highland and its local authority partners
3. Resources and operational arrangements for Health Protection
4. Information and Communication Technology
5. Emergency Planning and Business Continuity
6. Inter-organisation collaboration
7. Mutual Aid
8. Out-of Hours arrangements
9. Maintenance of competencies for Health Protection staff
10. Public Feedback

SECTION 2 - HEALTH PROTECTION: NATIONAL AND LOCAL PRIORITIES

6. National Priorities

- 6.1 The Chief Medical Officer and the Scottish Health Protection Advisory Group have previously identified various national priorities (see table 1 below). NHS Highland commits to meeting these in the term of this plan.
- 6.2 Further national priorities may arise out of the work of the Scottish Government Health Protection Stocktake Group whose final report is due to be published around Easter 2012..
- 6.3 Developing areas that will require further work in future years includes:
- improving health in early years (especially in reducing respiratory infections);
 - ensuring the effective implementation of the Sexual Health and Blood Borne Virus Framework; and the Scottish TB Action Plan;
 - enhancing the prevention and management of life threatening or life long conditions (as is already occurring with HPV (vaccine for cervical cancer) and the Hepatitis C Action Plan);
 - further developing a coherent, measurable strategy to reduce the risks to health from environmental risk factors;
 - improving food and environmental safety;
 - protecting vulnerable groups, especially older people in health and social care, against exposure to hazards and their adverse effects.

7. Local Priorities

- 7.1 Health Protection is core to the services delivered by NHS Highland, and Argyll & Bute Council and Highland Council, particularly through protective services remits (environmental health, trading standards and animal health and welfare). The plan recognises that work is undertaken on a daily basis relating to areas of responsibility and service delivery:
- Preventing the spread of communicable diseases in the community
 - Improving standards of food safety
 - Ensuring safe and potable drinking water supplies
 - Improving standards of workplace health and safety standards
 - Ensuring adequate plans are in place to respond to incidents and emergencies.
- 7.2 In addition, a number of local health protection priorities requiring joint action have been identified through a variety of mechanisms including regular review of surveillance data, and joint meetings.
- 7.3 Highland Council and NHS Highland are entering a new period of joint working through the integration of social services. This has an impact on arrangements for

the welfare of the public during or after a major incident such as flooding or fire and how national guidance such as “Care for People” is implemented. Existing plans are being reviewed and future arrangements have been outlined in the partnership agreement agreed for specific types of response such as establishing emergency centres or rest centres and these will be further clarified and exercised in the near future.

7.4 These local priorities which each Local Authority and the NHS is seeking to deliver either using their own resources or through joint working in accordance with this plan are detailed in table 2 below:

TABLE 1 - NATIONAL PRIORITIES

National priorities	How they are being addressed		Agencies involved	Intended Actions 2012-2014
	Current Arrangements	Examples of Joint Working		
A potential pandemic of influenza	The NHSH pandemic influenza plan informed the management of the H1N1 epidemic.	Joint working with Argyll and Bute Council and Highland Council in the control of the pandemic	ABC/ HC/ NHSH	Audit and evaluation to identify further opportunities to improve preparedness and learn lessons for other health protection issues
	Resources have been developed and systems evolved as a result of the experience of the H1N1 swine flu situation and the subsequent vaccination campaign	Joint working with Argyll and Bute Council and Highland Council implementing the vaccination campaign		Revise pandemic flu plans for future emergent strains.
Healthcare associated infections and antimicrobial resistance	Guidance for the management of viral outbreaks in care homes. For more detail on the HAI agenda see workplan of NHSH Infection Control Committee		ABC/ HC/ NHSH	Promoting effective infection control practices in care homes
Vaccine Preventable Diseases and the impact of them on current and planned immunisation programs	Continuation of routine vaccination programs (Childhood, seasonal influenza)	Collaboration with both local authorities to ensure effective delivery of the HPV vaccine in schools, in addition to provision of dT/IPV and measles boosters	ABC/ HC/ NHSH	Embedding annual HPV vaccination of S2 pupils in routine service. Introduce measles vaccination into school leaving booster programme
	Continuation of HPV vaccination program			

TABLE 1 – NATIONAL PRIORITIES continued

National priorities	How they are being addressed		Agencies involved	Intended Actions 2012-2014
	Current Arrangements	Examples of Joint Working		
Environmental exposures which have an adverse impact on health		NHSH is working with both ABC and HC in relation to contaminated land strategies	ABC/ HC/ NHSH	To consider and prevent specific environmental exposures associated with public and private water supplies, contaminated land, air quality and radioactive materials.
		The local air quality reports for each area and general work relating to radon.		
	Major incident planning, training and exercising for the nuclear establishments at Dounreay and Faslane			
	Collaboration between all 3 agencies and Scottish Water in the monitoring and improvement of public and private water supplies			
		Tackling the effects of antisocial or excessive noise in the communities	ABC/HC	The investigation and resolution of noise related complaints Ensuring that noise attenuation measures are integrated into new developments Increase awareness in the community and promotion of a good neighbourhood noise guide

National priorities	How they are being addressed		Agencies involved	Intended Actions 2012-2014
	Current Arrangements	Examples of Joint Working		
Gastrointestinal and Zoonotic Infections	Joint protocols are available for the management of specified infections	Joint working to ensure the control of instances of infection through proactive risk management and the investigation of suspected or confirmed infections	ABC/ HC/ NHSH	Review of relevant joint plans and procedures
Scottish Hepatitis C and HIV Action Plans and Sexual Health and BBV Framework		More of an NHS issue. Local authorities represented on BBV Steering Group.	NHSH	Implementation of the plans and HIS Standards
Improving communications with the public on risks to health	Information leaflets available for all major infectious diseases and on website.	Common leaflets have been developed	ABC/ HC/ NHSH	Joint training in managing incidents/outbreaks and chairing these meetings

TABLE 2 - LOCAL PRIORITIES

Outcome	Proposed actions	Agencies involved	Timescale to be achieved by
Resilience to response to a Pandemic Flu outbreak through effective multi-agency response	<ol style="list-style-type: none"> 1. Review pandemic flu plans 2. Liaison to ensure effective multi-agency response 	ABC/ HC/ NHS	<ol style="list-style-type: none"> 1. 31 October 2012. 2. Ongoing throughout 2012-2014
Effective sea and airport health plans to provide adequate disease control measures	<ol style="list-style-type: none"> 1. Review existing sea and airport health plans across Argyll and Bute Council and Highland Council 2. Develop a generic approach to sea and airport plans to ensure compliance with International Health Regulations 	ABC/ HC/ NHS	<ol style="list-style-type: none"> 1. 31 October 2012. 2. 31 March 2014
Enhance recovery planning for a major incident	<ol style="list-style-type: none"> 1. Further develop a generic Recovery Plan outlining multi-agency responses 2. Review and update specific incident plans relating to the recovery of an incident 3. Review and update procedures on rest/reception centres 4. Review and update procedures for radiation monitoring units 	ABC/ HC/ NHS	<ol style="list-style-type: none"> 1. 31 March 2013 2. 31 March 2014 3. 31 March 2013 4. 31 March 2013
To minimise the risk to the public from <i>E.coli</i> contamination and protect public health	<ol style="list-style-type: none"> 1. Further develop a local <i>E.coli</i> O157 strategy and action plan based on the national VTEC action plan to provide a holistic approach for reducing the risks of <i>E.coli</i> O157 cases in the community 2. Implement the action plan across food safety, environmental health, public health and through enhanced public and professional education 	ABC/ HC/ NHS	<ol style="list-style-type: none"> 1. 30 September 2012 2. 31 March 2014
Minimise impact of Radon on affected areas	<ol style="list-style-type: none"> 1. Ensure that the public in radon affected areas are provided with adequate information relating to the risks of radon and the mitigation measures which can be taken to reduce the risk 	HC/ NHS	<ol style="list-style-type: none"> 1. Ongoing throughout 2012-2014

TABLE 2 - LOCAL PRIORITIES continued

Outcome	Details	Agencies involved	Timescale to be achieved by
Control of Norovirus and biotoxins in the shellfish industry	<ol style="list-style-type: none">1. Through food safety enforcement and regulation, ensure that adequate steps are taken to minimise risks from norovirus2. Working with the FSAS and the industry to develop standards and controls to minimise norovirus risks3. Investigate suspected or confirmed cases, taking appropriate controls4. Liaison with Scottish Water regarding wastewater treatment processes and their investment programme for public sewer systems adjacent to shellfish harvesting sites and SEPA for private sewage schemes	ABC/ HC	1-4. Ongoing throughout 2012-2014
Effective and proportionate arrangements in place to protect public health	<ol style="list-style-type: none">1. Review and update joint local plans and procedures2. Exercise emergency incident plans in accordance with programme3. Joint training exercise on foodborne outbreak4. Review service arrangements following publication of the Health Protection Stocktake Report from the Scottish Government5. Develop key performance standards for the response, investigation and actions for public health incidents	ABC/ HC/ NHSH	<ol style="list-style-type: none">1. Ongoing as per review dates2. One per year3. 31 March 20134. 31 March 20135. Ongoing throughout 2012-2014

TABLE 2 - LOCAL PRIORITIES continued

Outcome	Details	Agencies involved	Timescale to be achieved by
To minimise the risk to the public from Lyme Disease	<ol style="list-style-type: none"> 1. To assist with on-going research and reviews 2. To consider joint work to minimise risks 	ABC/ HC/ NHHSH	<ol style="list-style-type: none"> 1. 31 March 2014 2. 31 March 2014
Protecting the vulnerable in our community	<ol style="list-style-type: none"> 1. Under-age sales regulation relating to alcohol, tobacco, sunbeds and regulation of tattooing/skin piercing 	ABC/ HC	<ol style="list-style-type: none"> 1. Ongoing throughout 2012-2014
Protecting the vulnerable in our community	<ol style="list-style-type: none"> 1. Implement Care for People – welfare and guidance including recovery planning for major incidents 2. Facilitate good infection prevention practice in the community and care homes and work to prevent and manage C. Difficile infection 	ABC/ HC/ NHHSH	<ol style="list-style-type: none"> 1 and 2. Ongoing throughout 2012-2014
Education and advice programme	<ol style="list-style-type: none"> 1. Reducing teenage pregnancy and improving standards of sexual health 2. Raising awareness of communicable disease and controls through improved public information 3. Extend use of Food Hygiene Information System and EatSafe awards in the food sector 	<p>NHHSH</p> <p>ABC/ HC/ NHHSH</p> <p>ABC/ HC</p>	<ol style="list-style-type: none"> 1, 2 and 3 . Ongoing throughout 2012 - 2014
Preventing and minimising the spread of infection	<ol style="list-style-type: none"> 1. Investigation of suspected and confirmed cases of communicable disease and implementation of appropriate controls 2. Implement the Scottish Public Health Information Management System when it becomes available 3. Monitoring trends by surveillance and reporting 4. Delivering vaccination programmes 	<p>ABC/ HC/ NHHSH</p> <p>NHHSH</p> <p>NHHSH</p> <p>NHHSH</p>	<ol style="list-style-type: none"> 1. Ongoing throughout 2012-2014 2. Within 3 months of it becoming available 3. Ongoing 4. Ongoing

SECTION 3 – REVIEW

8. Review of Joint Health Protection Plan 2010-2012

8.1 A review document of the 2010-2012 plan will be produced later in 2012. The review will cover:

- Progress against national and local priorities
- Significant Incidents that occurred in 2010-12 and any identified learning outcomes.

9. Review of Health Protection Standard Operating Procedures, Protocols and Plans

9.1 NHS Highland and its two local authorities have a number of standard operating procedures and policies. These concern a variety of health protection issues including food safety.

9.2 Each policy held by NHS Highland has a scheduled date of review.

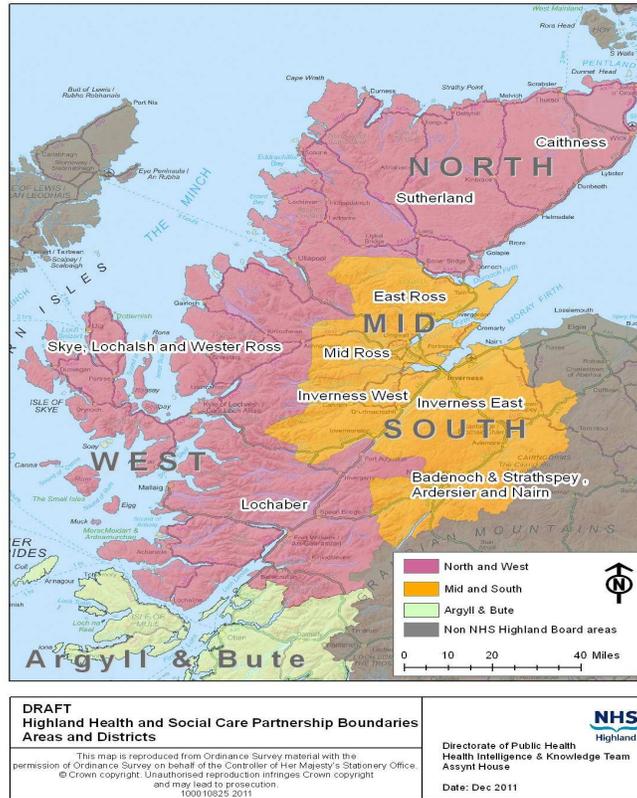
9.3 The Environmental Health Liaison Group provides an opportunity for members to highlight policies that may require revision in light of new evidence or legislation.

APPENDIX 1**List of joint NHS/Council Plans**

	Title	Protocol / Procedures / Plans
1	Investigation of enteric disease	Local
2	Investigation of foodborne and waterborne diseases	Local
3	Protocol for failures of prescribed concentrations and serious or gross contamination of Private Water Supplies	Local
4	Lead in Water Supplies	Local
5	Blue Green Algae in Inland and Inshore Waters: Assessment and Control of Risk	Local
6	Care Homes (Outbreaks of Illness)	Local
7	Protocol for the investigation and management of viral outbreaks in the Tourist and leisure Industry	Local
8	Pre-School – Infection Control	National
9	Procedure for cases of illness arriving at a port / airport	Local
10	Legionella	National
11	VTEC (inc E coli O157)	Local
12	Highlands & Western Isles Notifiable (Animal) Disease Plan	Regional
13	Argyll & Bute Council Generic Animal Disease Plan	Local
14	Protocol for notifications of Psittacosis	Local
15	Pandemic Influenza	Local
16	Rabies Contingency Plan	National Guidance and Local procedures
17	Smallpox	National
18	Scottish Waterborne Hazard Plan	National
19	Scottish Water Wastewater Pollution Incidents Plan	National

Appendix 2

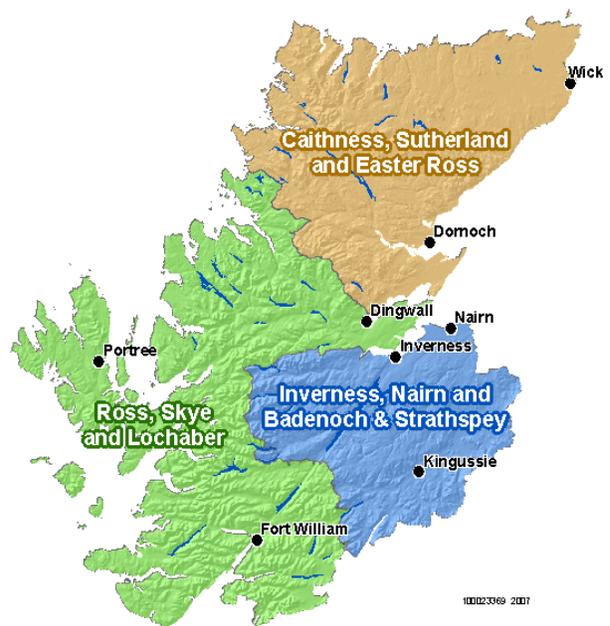
NHS Highland Area Map



Argyll and Bute Council Area Map



Highland Council Area Map



Appendix 3

Designated Competent Persons under the Public Health etc. (Scotland) Act 2008

NHS Highland

Dr Margaret Somerville
Dr Ken Oates
Dr Cameron Stark
Dr Rob Henderson
Abhayadevi Tissington
Lorraine McKee

Highland Council EH

Archie Lang
John Lee
Chris Ratter
Alan Yates
Angus Hogg
Helen Gordon
Andy Hurst
Clifford Smith
Robin Fraser
Fiona Yates
Carol Rattenbury
Gregor MacCormick
Zoe Skinner
Patricia Sheldon
Karen Johnstone
Robert Murdoch
David Proudfoot
Stephen Cox
Mark Phillips
Sharon Mitchell
Coila Hunter
Graeme Corner

Argyll & Bute Council EH

Lead Local authority competent person: Alan Morrison,
Depute Local authority competent persons: Iain MacKinnon,
Depute Local authority competent persons: Jo Rains

The Council policy is that professional staff are authorised by the Regulatory Services Manager according to competency, and experience

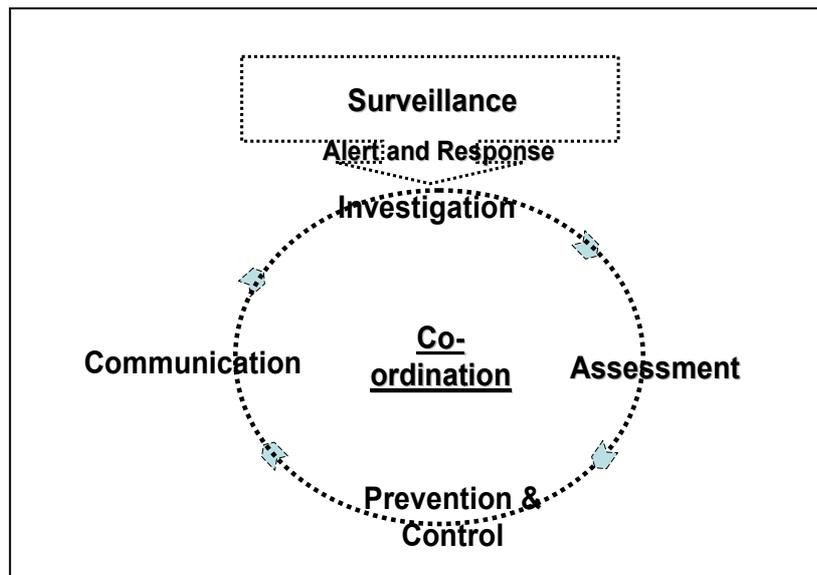
Appendix 4 Supporting information

1. Health Protection - Definitions

- 1.1 **Health Protection** is the branch of public health which seeks to protect the public from being exposed to hazards which damage their health and to limit any impact on health when such exposures cannot be avoided. The hazards are categorised as biological (bacteria, viruses), chemical and radiological.

Health Protection historically was known as Communicable Disease and Environmental Health (CD&EH)

Health Protection services carry out a range of functions as indicated in the figure below.



- 1.2 **Environmental Health** is the branch of Public Health that is concerned with all aspects of the natural and built environment that may affect human health. This remit is delivered within local authorities.

The Environmental Health Service has a lead role in Health Protection through its regulatory core functions of Food Safety, Health and Safety at Work, Communicable Disease control, Public and Private Water Supplies, Monitoring bathing water quality, Contaminated Land, Air Quality, Noise control, Nuisance abatement, Smoking Enforcement, and prevention and control of Zoonotic diseases.

- 1.3 The **Trading Standards** Service performs the Council's Consumer protection function, which includes tobacco controls; product and consumer safety; licensing of persons, explosive and petroleum; feeding stuffs and fertilisers; age related sales and weights and measures.

2. Overview of NHS Highland and its Local Authority partners

NHS Highland's territorial area is shared between two local authorities, Highland Council and Argyll and Bute Council. The resident population is estimated to be 304,000. The population is ageing, this profile is increased by the large number of young people leaving to continue education or seek employment in other urban settlements. Immigration, from outside of and within the European Union has increased in recent years, but remains lower than other parts of Scotland.

The territorial area covers 32,518 km² (12,507 square miles), which represents approximately 41% of the Scottish land surface. It extends across the most northerly and westerly fringes of the Scottish mainland and includes 29 inhabited islands. A large proportion of the population lives in remote rural towns and settlements.

Transport infrastructure across much of the Highlands and Argyll and Bute consists of single road or rail networks. Island communities are reliant on ferries with few inter island connections.

Due to the geographical profile of the region, a higher than average proportion of people have a private water supply.

A large number of tourists visit the area throughout the year pursuing a variety of activities. This influx, particularly to remote and rural areas increases demands on both health and local authority services. In order to facilitate trade and tourism, the area contains several air and sea ports providing local and international connections.

3. Resources and Operational Arrangements for Health Protection

The human resources available for delivering health protection services are outlined in the table below.

3.1 NHS Highland – Health Protection Team

Job Title	Role and Responsibility	WTE
Director of Public Health	Strategic and Operational Lead for Public Health activities in NHS Highland.	1
Consultant in Public Health Medicine	Provide leadership for health protection development and implementation in NHS Highland. To co-ordinate the provision of an effective service for the control of communicable disease, and environmental health hazards 24/7.	1
Health Protection Nurse Specialist	Coordinate, lead and support activities surrounding the prevention, investigation and control of communicable disease and immunisation programmes.	2
TB Liaison Nurse	Co-ordinate the contact tracing for TB cases/contacts	0.2
Public Health Surveillance Officer	Responsible for disease surveillance records and reports.	0.2
Emergency Planning Officer	Ensuring NHS Highland is prepared for a major incident.	1
Administration	Provision of administrative support.	1.4

3.2 Argyll and Bute Council

Job Title	Role and Responsibility	WTE
Regulatory Services Manager	Strategic and operational management of environmental health, animal health and trading standards, including debt counselling within the Council. Delivery of effective health protection interventions. Lead and support the development of staff. Effective management of resources. Council's Head of Food Safety.	1
Environmental Health Managers	Management and delivery of the environmental health service within a geographical area of Argyll and Bute – east and west regions	2
Environmental Health Officer (Food Control and Service Support)	Provide specialist food safety advice and expertise within Argyll and Bute Council. Provides specific advice and supports the development of protocols, service plans and ensure that they are in line with current legislation.	1

	The inspection of high risk and EC approved food premises.	
Environmental Health Officer Health and Safety and Service Support)	Provide specialist health and safety advice and expertise within Argyll and Bute Council. Provides specific advice and supports the development of protocols, service plans and ensure that they are in line with current legislation.	1
Environmental Health Officers	Full range of environmental health duties including public health, food safety, environmental protection and health and safety.	10
Environmental Protection Officer	Carrying out the Council's statutory duty to identify contaminated land and local air quality. To deal with historic contamination under the planning process and by programmed inspection; to carry out risk assessments in accordance with legislation, statutory guidance and the Council's published Strategy.	1
Regulatory Services Officers	To undertake a specific range of environmental health duties principally in food safety.	4.6
Technical Assistants/Sampling Officers	To support the environmental health service and undertake environmental sampling and monitoring programmes.	5.2
Senior Animal Health and Welfare	To supervise the delivery of animal health and welfare service. To undertake programmed visits relating to animal health and welfare and primary food production. Investigate all cases of notifiable animal disease including zoonotic diseases.	1
Animal Health and Welfare	To undertake programmed visits relating to animal health, welfare and primary food production. Investigate all cases of notifiable animal disease including zoonotic diseases	1
Civil Contingencies Manager	Ensuring Argyll & Bute Council is prepared for a major incident.	1
Civil Contingencies Officer	Ensuring Argyll & Bute Council is prepared for a major incident.	1
Trading Standards Manager	Manage, co-ordinate, lead and support activities surrounding Trading Standards. Develop protocols, service plans in line with current legislation.	1
Trading Standards Officers and Regulatory Services Officers	Carry out Trading Standards interventions in accordance with current plans, protocols and legislation	7.6

3.3 Highland Council

Job Title	Role and Responsibility	WTE
Environmental Health Manager	Strategic and Operational Lead for Environmental Health and Public Health activities in Highland Council.	1
Area Environmental Health Managers	Operational Lead in respective areas for Environmental Health and Public Health activities.	3
Principal Environmental Health Officer (Food)	Coordinate, lead and support activities surrounding Environmental Health and Public Health.	1
Principal Environmental Health Officer	Coordinate, lead and support activities surrounding Environmental Health and Public Health.	1
Environmental Health Officers	Carry out Environmental Health and Public Health interventions and inspections in accordance with current plans, protocols and legislation.	17.6
Environmental Health Technical Officers	To undertake a specific range of environmental health duties principally in food safety and Health & Safety.	7.6
Environmental Health Technical	To support the environmental health service and undertake environmental sampling and monitoring	7.7

Officers – sampling	programmes.	
Principal Officer (Contaminated Land)	Management of the Council’s statutory duty to identify contaminated land.	1
Scientific Officer (Contaminated Land)	Carrying out the Council’s statutory duty to identify contaminated land.	4.6
Information Technician (Contaminated Land)	Maintenance of the Council’s contaminated land information records. .	1
Senior Animal Health & Welfare Officer	Management of Council’s statutory duties in relation to Animal Health & Welfare including management of Animal Health & Welfare Officers.	1
Animal Health & Welfare Officer	Carry out Council’s statutory duty in relation to Animal Health and Welfare.	3
Emergency Planning and Business Continuity Manager	Strategic and Operational Lead for Emergency Planning and Business Continuity	1
Emergency Planning Officer	Ensuring Highland Council is prepared for a major incident.	2
Administration	Provision of administrative support.	
Trading Standards Manager	Strategic and Operational Lead for Trading Standards.	1
Trading Standards Team Leader	Coordinate, lead and support activities surrounding Trading Standards.	2
Trading Standards Officers & Assistant Trading Standards Officers	Carry out Trading Standards interventions in accordance with current plans, protocols and legislation.	16

3.4 Laboratory Services

Arrangements to access laboratory facilities vary across the two local authorities. Argyll and Bute services tend to be provided by laboratories located in Central Scotland for logistical and practical convenience. Further details on laboratory services are detailed below.

Sample type	Argyll and Bute Council	Highland Council	NHS Highland
Public Analyst services including food examination	Glasgow Scientific Services	Edinburgh Scientific Services	n/a
Environmental monitoring including drinking water analysis	Glasgow Scientific Services	Scottish Water, Inverness	n/a
Faeces and blood samples etc	Royal Alexandra Hospital Paisley	Raigmore Hospital, Inverness	Raigmore Hospital, Inverness
	Inverclyde Royal		National reference laboratories
Shellfish Biotoxin analysis	Weymouth	Weymouth	n/a
Chemical and Biological Toxins e.g. anthrax			Porton Down

4. Information, Communication Technology

- NHS Highland and its local authority partners have access to a wide range of ICT hardware. In the event of an emergency, the agencies have demonstrated the capacity to source extra equipment.
- Interagency collaboration encourages pooling of some ICT resources and tasks in order to achieve a 'best fit' solution.
- The majority of incidents are remotely managed due to the geographical constraints of the area. Reliable network coverage is essential to remote management.
- Video conferencing and tele-conferencing is widely used for communication across the health board and within the local authorities. A number of VC points exist that can bridge into the NHS Highland system.
- NHSH is responsible for disease surveillance. Information collected is entered into a database to allow for further analysis of trends. Routinely collected data and reports are fed back to the local authority. Databases can be adapted to suit the needs of individual outbreaks. The software required is widely available and there are a number of staff across the agencies with data entry skills. The limitation on this service is the few individuals available who can create or manipulate databases as information requirements change. This limitation could significantly delay the collection and dissemination of essential data during a large outbreak.
- Adequate arrangements are in place for the reporting and recording of work electronically within local authorities. However, these systems, with the exception of the Food Surveillance system, are not compatible with the NHS systems or between local authorities.

5. Emergency Planning and Service Continuity

The NHS Highland Emergency Planning & Business Continuity Group (EPBCG) convenes as a strategic forum to shape and inform the emergency planning and business continuity agenda. The Group meets on a quarterly basis and the work programme consists of reviewing and updating all Major Incident Plans and Business Continuity Plans for operational units, overseeing a programme of training and exercising, and ensuring arrangements are in place to warn and inform the public.

The Group links with the work carried out by the Emergency Planning Groups located within each of the Community Health Partnerships and Raigmore Hospital, ensuring a co-ordinated and integrated response to any emergency or crisis that might arise.

6. Inter-organisational collaboration

- Feedback on disease surveillance collected as part of routine and statutory monitoring is given from NHSH to both Highland Council and Argyll and Bute Council.
- The Environmental Health Liaison Group which meets twice per year provides an opportunity to evaluate the management of significant incidents. Lessons learnt can be shared and disseminated within each partner agency.

Meeting / Group	Membership	Frequency
Environmental Health Liaison Group	NHSH, ABC, HC, Scottish Water, SEPA, Animal Health, SAC, FSA, HPS	6 monthly
Scottish Water Liaison Group	Scottish Water, NHSH ABC, HC	6 monthly

- Following a significant incident, debriefing is organised routinely for the involved agencies. This provides an opportunity for those involved operationally and strategically to evaluate the management of the incident and provides a forum for critical reflection. A final incident report should be produced within 6 weeks of the debrief.

NHS Highland is fully committed to the principles of co-operation for planning and preparing for emergencies. Much of this work is carried out under the auspices of the Highlands & Islands Strategic Co-ordinating Group, and the Strathclyde Emergencies Co-ordinating Group in respect of Argyll & Bute CHP. NHS Highland has appropriate representation at strategic and tactical levels within both Co-ordinating Groups, ensuring the obligations as a Category 1 responder under the Civil Contingencies Act are met. This work has led to the creation of a number of multi-agency contingency plans, many of them site specific, detailing NHS Highland's role during the response and recovery phases of an incident or emergency.

7. **Mutual Aid**

Due to the vast geography of NHS Highland, it has been necessary to develop arrangements with NHS Greater Glasgow and Clyde in relation to the initial response to major incidents occurring within Argyll and Bute. In particular, there are specific arrangements written into the HM Naval Base, Clyde, Off Site Contingency Plan, which is designed to cover radiation emergencies at HM Naval Base, Clyde and the Faslane, Coulport and Lochgoil berths. While NHS Highland retains overall responsibility for the NHS response, they would be assisted, particularly in the initial stages, by personnel from NHS Greater Glasgow and Clyde, with staff from both boards being deployed to manage the incident from the Clyde Off-Site Centre. Additionally, depending on the extent and volume of casualties, designated receiving hospitals would be nominated within NHS Greater Glasgow and Clyde for the reception of casualties.

Across the North of Scotland Public Health Network all 5 participating public health departments have signed a mutual aid agreement which states that each Board will assist any of the others which has pressures it cannot meet on its own. For example, in a large outbreak or incident.

There is also an informal mutual local authority support arrangement in place with neighbouring authorities.

8. **Out-of-hours arrangements**

NHS Highland

A senior member of public health staff is available 24 hours a day 7 days a week. Outside of office hours, this service is provided by health board competent persons which comprise medical public health consultants, health protection nurses, public health specialists, as well as training grade public health doctors. The service can be accessed through the Raigmore hospital switchboard on 01463 704000. Raigmore laboratory provides a limited bacteriology service out of hours; virology and parasitology services are significantly restricted. Urgent sample requests can be performed following discussion with the on call microbiology team. National Reference laboratories will perform analysis of urgent specimens following discussion of their appropriateness.

Highland Council

No on-call service is provided by the Council, however there are out-of-hours arrangements in place to access the service in case of emergency. [This can be accessed through the following number: 01349 886690](#) Arrangements are in place to access laboratory services outwith normal hours.

Argyll and Bute Council

No on-call service is provided by the council, however there are out-of-hours arrangements in place to access the service in case of emergency. This can be done through the Regulatory Services Manager or the Civil Contingencies Manager (Telephone no 01389 753667 or 01436 676018). Similar arrangements are in place to access laboratory services outwith normal hours.

9. Maintenance of Competencies for Health Protection Staff

NHS Highland

NHS Highland staff undergo an annual appraisal to ensure that their knowledge and skills remain up to date. Staff are encouraged to identify their own learning needs and attend external conferences and meetings as part of continuing professional development (CPD) activities. Nursing staff meet the requirements of the Knowledge and Skills Framework. The internal procedures for continuous professional development require further development in order to comply with recommendations made in the Framework for Workforce Education Development for Health Protection in Scotland.

Highland Council

Highland Council has a corporate performance and development review process. Actions and competencies are identified periodically and objectives set for CPD. Details of this are held centrally on a register which managers review at regular intervals and as part of the employee appraisal process. The individual learning needs of each member of staff can be identified and targeted through this mechanism.

Argyll and Bute Council

Argyll and Bute Council has a corporate performance and development review process with its entire staff. Appraisals are carried out on an annual basis. Details of this are held centrally on a register which managers review at regular intervals and as part of the employee appraisal process. The individual learning needs of each member of staff can be identified and targeted through this mechanism. Within Regulatory Services, professional and technical officers are required to meet the continued development requirements in the Royal Environmental Health Institute of Scotland's CPD scheme.

10. Public Feedback

NHS Highland

Information is provided to the public through the use of local media and the NHS Highland website along with written information where required. NHS Highland Health Protection Team does not have any formal processes for obtaining feedback from the public.

Argyll and Bute Council

Customer and business surveys are regularly undertaken as part of the customer engagement strategy. Whilst not specific to health protection, these surveys provide useful information about the service provided and are used to inform improvements and developments. Recent surveys have indicated that on average 94% of customers are satisfied with the service provided to them

Highland Council

Information is provided to the public through the use of local media and the Highland Council website along with written information where required. Business surveys are regularly undertaken.

**ARGYLL AND BUTE COUNCIL
DEVELOPMENT AND
INFRASTRUCTURE**

**PLANNING, PROTECTIVE SERVICES
& LICENSING COMMITTEE
18TH APRIL 2012**

OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2012-13

1. SUMMARY

- 1.1** The Council provides a statutory workplace safety law enforcement service in terms of the Health and Safety at Work etc Act 1974, undertaking similar work to that of the Health and Safety Executive, albeit with different business sectors. The enforcement duty of the local authority is undertaken by environmental health staff within Regulatory Services.
- 1.2** The Council is required in terms of the Section 18 Guidance issued by the Health and Safety Executive to formally approve a occupational health and safety law enforcement plan annually This report presents the Occupational Health and Safety Law Enforcement Plan 2012-13 and the Enforcement Policy, for approval by the Committee.

2. RECOMMENDATIONS

- 2.1** Members approve the attached plan and the enforcement policy relating to Occupational Health and Safety Law Enforcement which details the service priorities for 2012-13 and note the drive to revitalise health and safety enforcement in Argyll and Bute Council.
- 2.2** Members note the significant changes to how health and safety enforcement is delivered in the United Kingdom and that we are currently reviewing our arrangements in line with these requirements, to ensure that we meet local and national priorities. The plan reflects this position but should Members wish, a further report can be brought to Committee in October confirming these new arrangements

3. WORKPLACE SAFETY LAW ENFORCEMENT

- 3.1** The work undertaken to assess and regulate standards of health and safety and welfare in the workplace is an important element of the work of the environmental health service as it provides for the protection not only of employees but of self-employed persons and members of the public.

- 3.2** Enforcement activity is expected of an enforcement service. Our service ethos seeks to attain compliance through working with businesses, self employed or the public, and that enforcement action is proportional to the risk, statutory compliance; and previous interactions with the Council. Formal enforcement is undertaken where there are significant risks to health, safety and welfare, failure to comply with formal enforcement notices or where the informal approach has failed.
- 3.3** A risk-based approach is in place with resources being focused on the areas of greatest risk. This work is detailed in the workplan and includes the inspection/audit of businesses against the national risk assessment scheme in the section 18 guidance; the investigation of accidents or reported incidents and through our alternative enforcement plan (e.g. specific projects, information and advice etc.)
- 3.4** The Occupational Health and Safety Law Enforcement Policy has been reviewed and there are only minor changes from the Policies agreed by Members in April 2011. These relate principally to reflect the new management arrangements within Regulatory Services; make reference to the Enforcement Management Model which local authority must adopt; and introduces a business's right to challenge the health and safety advice which is offered to it through the Councils service complaint process or through the Independent Regulatory Challenge Panel. It should be noted that this does not change the enforcement ethos detailed in 3.2 above, which has been successful in Argyll and Bute. The policy also makes explicit the arrangements for indemnification of inspectors acting in good faith and within their authorisation level.

4. CHALLENGES

- 4.1** The health and safety landscape has changed considerably in recent years with the Government's review of health and safety and the work of the Better Regulation Office. There is an agenda to modernise how health and safety enforcement is delivered with drive away from programmed inspections to projected related work focussing on health and safety risk derived from accident data and local or national trends. To illustrate this change, the Health and Safety Executive are ceasing programmed inspections for all but the highest-risk sites and are considering charging businesses for any enforcement work they undertake.
- 4.2** Last year we had the challenge of reviewing our service delivery arrangement to ensure that were compliant with the Section 18 guidance. This work was not completed as a result of resources being redeployed to delivering the service review and an electronic document management service, although this was fortunate, as we would have had to review these again in light of the recent LAC circular removing the programmed inspection regime of all premises other than high risk category A (these are premise which are high risk due to the inherent risks of their activities or where standards of health and safety management are unsatisfactory).

Notwithstanding this, achievements in 2011-12 were:

- We have formally endorsed the Health and Safety Executive's strategy: "The Health and Safety of Great Britain \ \ Be Part of the Solution"
- We achieved the targets for high and medium risk inspections and investigated accidents reported to us, as the enforcing authority. These included a swimming pool fatality and a case of extensive burns to a young adult at a care home, which is subject to a report to the Procurator Fiscal.
- We implemented the new service review arrangements and recruited to the post of Environmental Health Officer (Health and Safety and Service Support), which is designed to take this health and safety agenda forward in Argyll and Bute, working in partnership with the Health and safety Executive, other local authorities and business sectors
- We completed a gas safety project which identified the following issues
 - Gas safety records were available in 40% of the premises visited. 60% of premises had no record of inspection of appliances or ventilation systems.
 - 33% of gas safety records were out of date.
 - Where recorded, 50% of the records showed outstanding defects
 - Only 4 out of 15 premises using gas had both in date and satisfactory gas certificates. "Satisfactory" in this case means having no outstanding defects. This is a 27% level of compliance in the catering sector.
 - Several gas engineers were discovered to be working in areas where they were not competent; these have all been reported to Gas Safe Register for investigation and potential enforcement action.
- We reviewed our system in terms of the Section 18 Guidance and have a workplan in place for meeting these challenges over 2012-13
- A greater level of advice is available on the service website to support businesses, employees and consumers in the wide range of issues relating to health and safety
- A customer survey was undertaken of businesses where we had undertaken enforcement visits and 94% were satisfied with the service provided to them, with 85% rating the advice/information given to them as good or excellent
- A safety alert was issued to registered care homes for which the Council is the health and safety enforcing authority in relation to the danger of failure of window stays; a similar failure resulted in a fatality to a vulnerable person in England

4.3 The workplan before members is for the period 2012-13 and will be reviewed annually. The priorities are identified in the workplan but the key elements to note are:

- We will be operating in a transitional period to the 1st October 2012 where we will continue to inspect high risk premises and our reactive work (e.g. accident reports etc). In this period we will seek the views of businesses on the impact of the changes

to enforcement to identify additional support that we may need to build into our new service design.

- We will undertake project related work focussing on national and local priorities, which will enhance the number of businesses which we will work with (rather than the same ones) and improve the awareness of employees and consumers
- All policies and procedures will be reviewed in light of standards and updated to ensure that the Councils health and safety enforcement service meets the new emerging requirements and protects health and safety.

5. CONCLUSIONS

5.1 Our priority is to modernise our health and safety enforcement role in line with national guidance and this will involve a change in our culture from the current programmed risk-based system which has been in place for approximately 15 years in all local authorities. As we embark on this, we will seek the view of business to ensure that small and medium sized businesses have access to appropriate information and advice to enable them to meet their health and safety obligations.

5.1 The Council is required to formally approve its Workplace Safety Law Enforcement Plan each year. The attached Plan provides the basis of the work of Environmental Health function for 2012-13.

6. IMPLICATIONS

Policy :	None
Financial :	None
Personnel :	Additional training will be required for professional staff and this will be within the current service budget
Equal Opportunities	None

ALAN MORRISON

REGULATORY SERVICES MANAGER

AM/KT/ 7085 Mar 2012

For further information
contact:

Alan Morrison

Tel: 01546 604292

LIST OF BACKGROUND PAPERS :

Argyll and Bute Council's Occupational Health and Safety Law Enforcement Plan
2012-13

Argyll and Bute Council's Occupational Health and Safety Law Enforcement Policy

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OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2012/13

**ARGYLL & BUTE COUNCIL
OCCUPATIONAL HEALTH AND SAFETY SERVICE PLAN 2012-13**

1. SERVICE AIMS AND OBJECTIVES

1.1. Aims and Objectives

1.1.1. The aims and objectives of Argyll and Bute Council with respect to Occupational Health and Safety are:

Argyll and Bute Council is committed to the protection of the public. As an enforcing authority for occupational health and safety within specific workplaces, the service seeks to attain adequate standards within these premises to protect the health and safety of employees and members of the public and the welfare of employees.

1.1.2. Service Commitments

Regulatory Services will:

- Promote sensible health and safety management based upon risk
- Exercise the Council's statutory enforcement role
- Operate a risk-based approach to the enforcement of health and safety law in line with the Service's Health and Safety Enforcement Policy and the Health and Safety Executive's Section 18 guidance
- Work to support business to ensure that they are aware of their responsibilities and of new challenges or requirements introduced from legislative changes,
- Work in an open and transparent manner, with fair and proportionate enforcement.
- Identify and develop opportunities for joint working with the Health and Safety Executive and other local authorities, including the West of Scotland Health and Safety Liaison Group and similar forums.
- Manage and provide an effective service for occupational health and safety, based on a culture of service planning and performance management.
- Ensure that enforcement staff are competent and proficient

1.2. Links to Corporate Objectives and Plans

1.2.1. This service remit is consistent with the Council's Single Outcome Agreement and Corporate outcomes as it seeks to protect the public, and to support the economy of Argyll and Bute by supporting business, organisations and the public to provide workplaces which are safe, so far as is reasonably practicable, for employees and the public

2. BACKGROUND

2.1. Profile of the Local Authority

- 2.1.1. Argyll and Bute Council is a unitary authority, with a resident population of 90,550¹ and a geographical area of 690,899 hectares, including 25 inhabited islands, located within the west highlands of Scotland.
- 2.1.2. The Occupational Health and Safety Enforcement role of the Council is delivered through Regulatory Services, which embraces the animal health, environmental health and trading standards functions of local government. Health and safety regulatory work is principally undertaken by environmental health and trading standards professionals including environmental health officers (EHOs), trading standards officers (TSOs) and public protection officers (PPOs). Authorised officers are appointed as Inspectors under the Health and Safety at Work etc. Act 1974 (“the Act”).
- 2.1.3. The service reports to the Planning, Regulatory Services and Licensing Committee where items can be referred to either the Executive as determined by the nature of the report. The approval of the Service Plan falls to be approved by the Planning, Regulatory Services and Licensing Committee.

2.2. **Organisational Structure**

- 2.2.1. Further to the reconfiguration of the Service after the Service Review, a Lead EHO (Health and Safety and Service Support) has been appointed to provide a focus for health and safety regulatory activity. Two new EHO appointments have been made in front-line positions to improve our capacity to deliver the service. Authorised inspectors are located in the Service’s five local offices – details at Appendix I. All authorised inspectors report to the one of the two Area Environmental Health Managers. The Area Environmental Health Managers and the Regulatory Services Manager are themselves authorised inspectors.
- 2.2.2. Within our Trading Standards section, inspectors use powers contained within the Health & Safety at Work Act to facilitate enforcement of various pieces of Trading Standards legislation (including, but not limited to legislation relating to storage of explosives, fireworks and petroleum spirit). Trading Standards follow national guidance as set out by various regulatory and trade agencies. This guidance is similar to but not entirely identical to the EH Health & Safety Enforcement Policy. Authorised Inspectors are located in the four main local offices (not Rothesay) – details in Appendix 1. All authorised inspectors report to the Trading Standards Manager who, in turn, reports to the Regulatory Services Manager. The Trading Standards Manager is also an authorised inspector.

2.3. **The Scope of the Service**

- 2.3.1. Authorised Inspectors undertake the health and safety enforcement work. This work includes specific health and safety audits to high and medium risk premises. In addition to other interventions are undertaken to low risk premises where health and safety issues are considered in conjunction with other related work including food hygiene and standards inspections, smoking enforcement and licensing, depending on the authorisation of the officers.

¹ 2008 MYE, Argyll and Bute Council’s Intranet

2.4. Occupational Health & Safety Enforcement Policy

- 2.4.1. The Service seeks to support business and work with employees, and other agencies to protect health and safety in the workplace. The Occupational Health and Safety Enforcement Policy has regard to the Health and Safety Executive's *Enforcement Management Model*¹, which is a logical system that helps inspectors to make enforcement decisions in line with the HSE's Enforcement Policy Statement (EPS). The EPS sets out the principles inspectors should apply when determining what enforcement action to take in response to breaches of health and safety legislation. Fundamental to this is the principle that enforcement action should be proportional to the health and safety risks and the seriousness of the breach.
- 2.4.2. This Service's policy is presented with this plan for approval by Committee (Appendix II).
- 2.4.3. In addition to the enforcement policy, the Service is reviewing all existing policies and procedures as part of its assessment against the Section 18 standard².

3. SERVICE DELIVERY

3.1. Health and Safety in Argyll and Bute

- 3.1.1. Work is categorised as proactive and reactive. **Proactive** work includes the routine inspection of premises, appraisal of licensing applications and renewals, sampling and monitoring of the environment, food and water. **Reactive** work includes the investigation of accidents at work and reports of communicable diseases etc.
- 3.1.2. The design of this service is based on the Council's statutory duty under the Act to monitor and ensure minimum standards of health and safety within Argyll and Bute.
- 3.1.3. More detailed guidance on targeting interventions has been issued by the Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA) as LAC67/2 (rev3). The latest edition of this statutory guidance was issued in November 2011 and is designed to implement the Government's lighter-touch health and safety regime which aims to concentrate enforcement activity on higher-risk sites and on tackling serious breaches of the rules. The LAC advises that local authorities should decide, plan and target their health and safety interventions by considering the risks that they are trying to address and having regard to the range of interventions available, the risk profile of the business/sector, national information (accident statistics, national priorities, Primary Authority inspection plans) and local knowledge and priorities.
- 3.1.4. Significant changes introduced by LAC67/2 (rev3) are:
- Severe restrictions on the use of *proactive inspection* as an intervention
 - Removal of *intervention frequencies* from the intervention priority planning scheme
- 3.1.5. The LAC sets out a wide range of available interventions for health and safety regulators:
- a. Proactive interventions:

¹ *Enforcement Management Model, Operational version 3.1*, HSE, January 2012

² *Making a Difference – The Standard for Health and Safety Enforcing Authorities v0.2*, HSE, 2008

1. Partnership
 2. Motivating senior managers
 3. Supply chain
 4. Design and supply
 5. Sector and industry-wide initiatives
 6. Working with those at risk
 7. Education and awareness
 8. Inspection (restricted to category A premises only)
 9. Intermediaries
 10. Best practice
 11. Recognising good performance
- b. Reactive interventions
1. Incident and ill-health investigation
 2. Dealing with issues of concern that are raised and complaints
- 3.1.6. The Interventions Plan will therefore have more emphasis on partnership working, specific projects, education and advice than on the proactive inspections which have characterised health and safety regulation to date.
- 3.1.7. Reactive interventions remain essential for investigating incidents such as accidents and for complaints and other matters of evident concern.
- 3.1.8. Fundamental to the selection of the appropriate intervention is a review of the site's actual or likely performance. It is to be noted that, even for a Category A site, proactive inspection is not necessarily indicated without a review of all the available information and determining whether or not another intervention might not achieve the desired outcomes. Part of the review process will also require an assessment of unrated sites.
- 3.1.9. Although the LAC no longer prescribes intervention frequencies, the service will use the existing risk-based programme to inform the site review cycle, ensuring that all sites are reviewed and appropriate interventions identified and delivered according to risk and safety performance.
- 3.1.10. The changes introduced to the health and safety system in Great Britain over the last year will require time and resources to be devoted to refresher training of inspectors and refocusing our objectives.
- 3.2. **Categorisation of Regulated Sites**
- 3.2.1. Regulated sites are divided into risk categories. The risk rating is based upon an assessment of the performance of management on the site to secure health and safety, rather than the inherent site hazards. The numbers in each category are:

Category	Available Interventions ¹	Number of sites ²
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¹ LAC67/2 (rev3)

² Service data at 15th March 2012

A	Suitable for proactive inspection Identify the risk and consider the use of all interventions to address that risk	11
B (B1 + B2)	Not suitable for proactive inspection Identify the risk and consider how you might address it using the remaining 12 interventions	275
C	Use reactive interventions only	834
Unrated	Conduct site review to identify appropriate interventions	1100 ¹

3.3. LBRO Primary Authority Scheme

3.3.1. The Primary Authority Scheme was launched by the Local Better Regulation Office (LBRO) in April 2009 under powers in the Regulatory Enforcement and Sanctions Act 2008, which is legislation that applies to England and Wales. The Primary Authority Scheme, however, is national and gives companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance.

3.3.2. Primary Authority partnerships have now been established which cover:

- 438 businesses
- 78 local authorities
- 46,400+ premises
- 1,190,000+ employees²

3.3.3. Each business agrees with its primary authority inspection plans for particular regulatory domains such as food safety, weights and measures and, for the purpose of this plan, health and safety. Inspecting local authorities are required to take agreed inspection plans into account when planning interventions in these companies and to consult with the primary authority before taking enforcement action. A number of the larger business chains in Argyll and Bute have primary authority agreements and Regulatory Services will have regard to agreed inspection plans in order to plan more efficient and targeted interventions in these businesses.

3.4. Promoting Sensible Risk Management

3.4.1. In June 2009 the Board of the Health and Safety Executive published its strategy for the national health and safety system³. The document sets out a number of key strategic goals for the national system, which includes government, regulators, industry and other stakeholders.

3.4.2. Local authority regulators have been invited to sign up – pledge – to the strategy and Argyll and Bute Council have done so. We have therefore committed ourselves that we shall:

- Agree to play our part in reducing the numbers of work-related deaths, injuries and ill-health in Great Britain.

¹ Service estimate at 15th March 2012

² *Primary Authority News*, LBRO, 09/01/2012

³ *The Health and Safety of Great Britain \\ Be part of the solution*, HSE 2009

- Call on employers to put health and safety at the heart of what they do and to take a common-sense approach to health and safety.
- Commit to debunking myths around health and safety that trivialise the impact of injuries, ill health and deaths on individuals and their families.
- Recognise the importance of health and safety in difficult economic times and the dangers of complacency.
- Pledge to work with the Health and Safety Executive to Be part of the solution.

3.4.3. Inspections and other interventions provide an ideal opportunity for businesses to discuss health and safety. There is also the ability to contact Council offices at other times for specific advice and guidance on occupational health and safety issues. All correspondence issued by the Service invites the recipient to contact the author's line manager, should they wish for advice or to raise specific issues or concerns regarding the inspection.

4. REVIEW OF SERVICES OBJECTIVES AND PRIORITIES FOR 2011-12

4.1. In reviewing performance against the Occupational Health and Safety Plan approved for 2011/12, the following should be noted:

2011/2012 Objective	Target	Outcome
To meet the service's intervention programme of programmed audits to premises	100% of category A and B1 75% of Category B2	97%* (1 premises inspected late due to resource issues) 81%
To investigate all formal reports of injuries, diseases and dangerous occurrences which require a formal service intervention	100%	100%
To deliver the alternative enforcement workplan relating to Occupational health and safety	70%	44%
To promote Sensible Risk Management in Argyll & Bute by committing to the Strategy, Health & Safety of Great Britain – Be Part of the Solution campaign		The Service has signed up to the campaign
To participate in the programme of Joint National Priorities focussing on those with a local dimension (i.e. storage and sale of LPG; asbestos and duty holders management of risk)	Identify projects of particular significance to the local/national priorities	The Service has continued to inspect sites with underground LPG pipework as part of the HSE's national LLARD project. National and local priorities have been identified to inform the interventions plan for 2012-2015.

2011/2012 Objective	Target	Outcome
To deliver the Section 18 Action plan which has been developed by the service to attain a level of compliance with the Section 18 audit standards	Achieve Audit level 3	Development work on the Section 18 standard has commenced.
The Service will ensure that Officers undertaking occupational health and safety enforcement activities are competent and aware of developing issues in that field of environmental health	REHIS CPD scheme	Officers now receive regular information on technical and legal matters relating to health and safety at work. A programme of CPD activities is designed into the interventions plan for 2012-2015.
Partnership working. Promote improved standard and awareness of health and safety through partnership working with other Local Authorities and the Health and Safety Executive through the West of Scotland Health and Safety Liaison Group		The Service is represented at the West of Scotland Health and Safety Liaison Group by the Lead EHO (Health and Safety).
Review the appropriateness of the RDNA (Regulators Development Needs Assessment) tool and its applicability within Argyll and Bute	Produce evaluation report	Not completed.
Customer management. Review the content of the inspection reports and correspondence to make them simpler to understand	Improve customer feedback from 94% to 97%	See commentary below.
Review the unrated premises and identify their risk rating category		Work has commenced on this item. Included in the interventions plan for 2012-2105 as part of the site review procedure.

4.2. Commentary on Performance

4.2.1. In reviewing the 2011/12 priorities, achievements of note are:

- The Lead EHO (Health and Safety) was appointed in April 2011 and the work on revitalising the health and safety regulatory function is now under way.
- Information on the Council's website about health and safety has been revised.
- A pilot project assessing gas safety in caterers has identified a high rate of non-compliance with the requirement for annual gas safety inspections and that a number of gas engineers in Argyll and Bute have been working outwith the scope of their registrations.

- A safety alert was issued to registered care homes for which the Council is the health and safety enforcing authority in relation to the danger of failure of window stays; a similar failure resulted in a fatality to a vulnerable person in England

4.2.2. A customer satisfaction survey conducted in October 2011 for businesses receiving environmental health inspections identified the following levels of satisfaction with inspection reports and correspondence:¹

Question	Satisfied	Dissatisfied	Not applicable/ Prefer not to say
Quality of information received	94%		6%
Information was easy to understand	78%	6%	6%
Information that was relevant to the business	94%		6%
Information in relation to new legislation	89%		11%
Given all information needed	78%	6%	6%
Being given accurate information	94%		6%
Officer explained how to meet legal requirements	89%		11%
Correspondence confirmed outcome of the inspection	92%		8%
Quality of advice	85% Good or Excellent		15%
Differentiation between requirements and recommendations	85% Good or Excellent		15%

4.2.3. A number of objectives relating to service development were not met. The officer resource required for these tasks was diverted to support the introduction of electronic document management systems for the service, which are now largely in place.

5. INTERVENTION PRIORITIES AND OBJECTIVES

5.1. The following priorities have been identified for the next three planning years.

5.1.1. National priorities identified in LAC67/2 (rev3):

- Prevent and control ill-health from animal contact at visitor attractions
- Asbestos duty to manage and awareness-raising
- London 2012 Olympic Games

5.1.2. Local priorities:

- Engaging with new businesses
- Gas safety in catering premises

¹ Survey data are based on a sample set of 18 responses. Percentages are rounded to nearest whole number.

- Investigation of reportable incidents under RIDDOR
- Legionella
- Licensed petroleum sites
- LLARD (underground LPG pipework)
- Microbiological safety of hot tubs
- Occupational noise exposure in the entertainment sector
- Review of unrated sites
- Safety at unsupervised swimming pools
- Safety in the beauty sector
- Slips, trips and falls in the catering sector

5.2. In addition to the above, the workplan includes objectives relating to:

- The Section 18 standard¹
- Officer competence and development
- Partnership working
- Customer management

5.3. Objectives and Targets for 2012-2013

ID	2012/2013 Objective	Target
HS.01	To meet the service's intervention programme of proactive inspections	100% of category A
HS.02	To meet the service's intervention programme of proactive inspections of licensed petroleum sites and other premises licensed for fireworks and explosives undertaken by Trading Standards Service	100% of licensed petroleum sites
HS.03	To meet the service's programme of site reviews of category B and category C sites arising in the year	100% of category B 75% of category C
HS.04	To investigate all reportable incidents under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR)	100%
HS.05	To review unrated sites	300 sites to be reviewed by 31/03/2013
HS.06	To deal with issues of concern that are raised and complaints	100% of health and safety service requests to be investigated
HS.07	To develop and deliver intervention projects relating to the following national priorities: <ul style="list-style-type: none"> • Prevent and control ill-health from animal contact at visitor attractions • Asbestos duty to manage and awareness-raising • London 2012 Olympic Games 	

¹ Making a Difference – The Standard for Health and Safety Enforcing Authorities v0.2, HSE, 2008

ID	2012/2013 Objective	Target
HS.08	To develop and deliver intervention projects relating to the following local priorities: <ul style="list-style-type: none"> • Engaging with new businesses • Gas safety in catering premises • LLARD (underground LPG pipework) • Microbiological safety of hot tubs • Safety at unsupervised swimming pools 	
HS.09	To deliver the Section 18 Action plan which has been developed by the service to attain a level of compliance with the Section 18 audit standards	Achieve Audit level 3
HS.10	The Service will ensure that Officers undertaking occupational health and safety enforcement activities are competent and aware of developing issues in that field of environmental health	Deliver a minimum of 10 hours professional development for inspectors
HS.11	Review the appropriateness of the RDNA (Regulators Development Needs Assessment) tool and its applicability within Argyll and Bute	Produce evaluation report
HS.12	Partnership working. Promote improved standard and awareness of health and safety through partnership working with other Local Authorities and the Health and Safety Executive through the West of Scotland Health and Safety Liaison Group	Attend and participate in the West of Scotland Health and Safety Liaison Group and other partnership activities as arise.
HS.13	Customer management. Review the content of the inspection reports and correspondence to make them simpler to understand	Implement new document standards by 31/03/2013.

5.4. Planned activities in 2012-2013 will be in two phases. The first phase, between April and September, will focus on the following activities:

- Proactive inspection of Category A sites
- Investigation of health and safety complaints
- Investigation of reportable accidents and other incidents
- Advise and prepare businesses in Argyll and Bute for the changes in the Council's regulatory approach and signposting them to advice services such as Health Working Lives
- Detailed project design for intervention projects
- Training inspectors in the new arrangements
- Programmed site reviews

5.5. The second phase, from October onwards, will be the delivery of the intervention projects identified and designed in the first six months of the year and continuing the programmed work from the first six months.

5.6. Trading Standards will continue with their ongoing program of visits to licensed petroleum, fireworks and explosives sites throughout the year

6. RESOURCES

6.1. Financial Allocation

6.1.1. Health and Safety Enforcement Budget

Employee costs	£95,000
Training & Resource Materials	£500
Furniture, Materials & Equipment	£300
IT & communications	£1000
Total Costs	£96,800

Note: No element has been included at this time to represent corporate support, including office services, finance, IT or legal.

6.2. Staffing Allocation

- 6.2.1. Section 2.2 details the status and deployment of the Service's staffing resource.
- 6.2.2. Environmental Health Officers and a Public Protection Officer are authorised to undertake occupational health and safety enforcement activities. 14 officers are authorised to carry out occupational health and safety work in addition to their other general environmental health duties.
- 6.2.3. Trading Standards Officers will utilise powers under the Health & Safety at Work Act when appropriate whilst they are carrying out their duties. Five officers are authorised to use Health & Safety at Work Act powers to facilitate enforcement of various pieces of Trading Standards legislation.
- 6.2.4. All enforcement officers are competent and meet the requirements set by the Health and Safety Executive for “authorised inspectors” under the Act. The Service has an established procedure for the Authorisation of Enforcement Officers and this is an on-going process which is delegated to the service under the Council’s Scheme of Delegation. The inspectors authorised under the Act as of the date of this report are detailed in Appendix IV and these will be reviewed and amended as appropriate by the Regulatory Services Manager.

6.3. Staff Development Plan

- 6.3.1. The Council operates a Performance Development and Review scheme, which is designed to identify and deliver required training and development opportunities for its employees.

7. QUALITY ASSESSMENT

7.1. Quality Assessment

- 7.1.1. The service is committed to the concept of quality systems and to the auditing of these in accordance with HSE’s Section 18 Guidance. We will undertake a review against these standards.
- 7.1.2. Internal monitoring systems to review our occupational health and safety work will be developed during Year 1 of this Plan. This will build upon professional training in policies and procedures to be delivered as part of the competence and development programme.

7.2. Equality

- 7.2.1. The service seeks to engage with and communicate with all businesses in an effective manner which promotes and secures occupational health and safety and meets statutory requirements. There are many levels of communication from face-to-face to written correspondence and formal statutory notices.
- 7.2.2. The Service will undertake monitoring of the effectiveness of our communications with businesses and other stakeholders and review and implement learning from these exercises.

8. REVIEW

8.1. Review of this Plan

- 8.1.1. The Service Plan will be reviewed annually and more frequently if required. The Service Plan will be subject to specific approval by the Planning, Protective Services and Licensing Committee.

APPENDIX I**Contact arrangements and details**

The Environmental Health service is accessible at offices of the Council located in all larger towns within the Council area. Service requests can be initiated by telephone, fax, video conference, e-mail or in person. The various office locations are as follows:

Offices where environmental health staff are based

EAST	Dunoon Service Point, Hill Street, Dunoon Tel: 01369 707120 Fax: 01369 705948
	Blairvadach, Shandon, Helensburgh Tel: 01436 658918 Fax: 01436 658919
	Eaglesham House, Mount Pleasant Road, Rothesay Tel: 01700 501350 Fax: 01700 503095
WEST	Municipal Buildings, Albany Street, Oban Tel: 01631 567947 Fax: 01631 567988
	Area Office, Manse Brae, Lochgilphead Tel: 01546 604776 Fax: 01546 604758

Environmental health staff can also be seen by appointment at any location within Argyll and Bute or at the Council's other customer service points:

Islay Service Point, Jamieson Street, **Bowmore**, Isle of Islay, PA43 7HL

Campbeltown Service Point, Burnet Building, St John Street, **Campbeltown**, PA28 6BJ

Mull Service Point, Breadalbane Street, **Tobermory**, Isle of Mull, PA72 6NZ

Tiree Service Point, The Business Centre, **Crossapol**, Isle of Tiree, PA77 6UP

Colonsay Service Point, **Scalasaig**, Isle of Colonsay, PA61 7YW

Jura Service Point, Schoolhouse, **Craighouse**, Isle of Jura, PA60 7XG

Regulatory Services management can be contacted at Kilmory, **Lochgilphead**, PA31 8RT, telephone 01546 604131, fax 01546 604410.

The service can be contacted by email at env.health@argyll-bute.gov.uk.

Advice and information on occupational health and safety is published on the Council's website www.argyll-bute.gov.uk.

APPENDIX II

**ARGYLL AND BUTE COUNCIL
PLANNING AND REGULATORY SERVICES
OCCUPATIONAL HEALTH & SAFETY
ENFORCEMENT POLICY**

APPENDIX III

Details of Internal Policies

The Service have implemented policies to meet the requirements of the Health and Safety Executive's Section 18 Guidance to Local Authorities¹.

The policies and procedures currently in place are:

- Enforcement Policy
- Determination of Enforcement action and Prosecution
- Inspection procedures
- Procedures for the investigation of accidents and incidents
- Procedures for the investigation of Service Requests
- Council procedures relating to the right to make complaints about the service ("Your Rights to Complain")

¹ *Making a Difference – The Standard for Health and Safety Enforcing Authorities v0.2*, HSE, 2008

APPENDIX IV**Authorised Officers under the Health and Safety at Work etc. Act 1974
as of the 31st March 2012**

Officer	Position
Alan Morrison	Regulatory Services Manager
Iain MacKinnon	Environmental Health Manager (West)
Jo Rains	Environmental Health Manager (East)
Patrick Mackie	Lead Environmental Health Officer (Health and Safety and Service Support)
David Chapman	Public Protection Officer (Environmental Health)
Richard Gorman	Environmental Health Officer
Russell Green	Environmental Health Officer
Andrew Hill	Environmental Health Officer
Wendy Lilico	Environmental Health Officer
Paula Monaghan	Environmental Health Officer
Jim Rennie	Environmental Health Officer
Paul Reynolds	Environmental Health Officer
Sue Stefek	Environmental Health Officer
Mary Frances Watt	Environmental Health Officer
Lee Roberts	Trading Standards Manager
Matthew Corns	Trading Standards Officer
John Scott	Trading Standards Officer
James Howard	Trading Standards Officer
Kathleen Munro	Public Protection Officer

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ANIMAL HEALTH SERVICE PLAN 2012-13

1. PURPOSE

- 1.1** The Council's Animal Health & Welfare Strategy duties are provided by qualified and competent authorised inspectors located within the Council's Regulatory Services unit.
- 1.2** As a requirement of the new Framework Document issued by the Scottish Government, the Service Plan requires to be formally approved by the Council. This Report details the Animal Health & Welfare Service Plan for 2012/2013 and outlines the challenges to be met in delivering the service.

2. RECOMMENDATIONS

- 2.1** That Members formally approve the Service Plan and recognise that the Animal Health & Welfare Service meets the standards defined in the Framework Agreement for Local Authorities.

3. BACKGROUND

- 3.1** Animal Health & Welfare responsibilities are wide-ranging and cover inspections of farms, market inspections, control or investigation of animal disease notifications, and disposal of animal by-products (including carcasses). In addition, a significant extent of the workload involves providing advice and information to the agricultural community and working with other agencies (eg, Rural Payments, Inspectorate, SSPCA, Police, etc).
- 3.2** Over the last two years the service has been modernised, with the introduction of a risk-rating system for programming work, computer systems for monitoring workload, and being performance-focused through the delivery of Service Plans and key indicators. This has brought the Council to the forefront of animal health in Scotland, and this is reflected by the new Framework Document which does not present the same challenges to us as it does to other Local Authorities.
- 3.3** One of the difficulties posed by the Framework minimum standard is the need to attend 75% of all markets. This has significant resource issues for Argyll and Bute Council as to do so would tie up 1.2FTE of our 2 FTE resource and remove our ability to undertake other core

activities (e.g. farms visits, responding to service requests etc) . A novel risk-based market strategy has been developed to reflect market activity in Argyll and Bute and focus our resources to those markets and issues which require greater input and utilising other agency visits where possible. This approach has been agreed with the Divisional Veterinary Manager.

3.4 In terms of performance in 2011-2, we achieved 100% of all high risk visits and exceeded the 90% target to resolve service requests within 20 working days. A recent customer survey of users of the service in January 2012 identified a satisfaction level of 93%, with 100% believing that they were being treated fairly. Areas for improvement have been incorporated into the Plan for 2012/2013.

3.4 The Government has introduced a Framework Document by which Councils will be measured, and intends to implement an electronic reporting system (AMES). There are issues relating to both proposals and agreement has been reached that :-

(i) The minimum standards in the Framework may not be met, provided agreement is reached with the Divisional Veterinary Manager and the Local Authority.

(ii) The AMES System (which was found to be unsatisfactory in a pilot) will not be implemented as a minimum standard, and that further work will be undertaken nationally to assess its appropriateness for Local Authorities.

3.5 This agreement was put in place by the Council's Regulatory Services Manager, representing Scottish Local Authorities.

4. CONCLUSIONS

4.1 The Service Plan outlines the service priorities for 2012/2013 and the requirements of the Framework Agreement A novel risk-based market strategy has been agreed with the Divisional Veterinary Manager, who is very interested in this approach.

5. IMPLICATIONS

Policy :	None
Personnel :	None
Legal :	Meets our legal requirements
Equal Opportunity :	None
Financial :	None

ALAN MORRISON, REGULATORY SERVICES MANAGER
AM/KT/ 7082 Mar 2012

For further information contact: Alan Morrison (01546 604292 alan.morrison@argyll-bute.gov.uk.

ANIMAL HEALTH AND WELFARE: OPERATIONAL PLAN AND PRIORITIES 2012-13

Outcome	Details	2012-13 work plan	Target
To deliver a regulatory service focussed on a risk-based approach, working with business to ensure appropriate standards of animal health and welfare are attained	Complete programme interventions to farms for the purposes of auditing and ensuring compliance with standards	AA High Risk visits	100% of high risk
		BB Medium Risk visits	60% of medium risk
		Complete the programme for alternative enforcement to low risk	50%
	Investigation of service requests	Service request to be resolved within 20 working days	90% within 20 working days
	Market visits	Undertake interventions in accordance with the agreed market strategy	100%
	Undertake primary production inspections encompassing an assessment of animal health, food and feed hygiene requirements.	Programmed inspection programme of 59 premises to be completed Integrated approach to feed within visits	100%
Effective liaison arrangements and joint working	Work with the national Animal Health Service to develop improved working relationship and liaison meetings	Establish liaison arrangements with Divisional Veterinary Manager Agree programme for exercising plans	Once yearly meetings
		Joint working arrangement with police and other local authorities	To undertake a programme of roadside transportation checks
		Attendance at liaison groups with other local authorities and agencies to promote consistency and support in common issues	2 AHWLG
Preparedness to respond to an emerging or confirmed animal disease outbreak	Exercise the Argyll and Bute Council Generic Disease Plan	Exercise the local management arrangement and in particular the multi-agency forward operating centre	
	Review the Animal Health Generic Disease plan	Review the Animal Health Generic Disease plan to reflect changes in Scottish Government guidance	Service + EPO
	Maintain the mobile anthrax incinerator and ensure that it is available for use by other partner local authorities	Introduce service level agreements for shared incinerator amongst partner local authorities Ensure that incinerator is in good working order, maintained and available for use Deliver a training exercise for existing staff and staff from other	Service and partners

		partner local authorities	
Service User engagement	To engage with service users to obtain information relating to service delivery to facilitate ongoing improvement	Undertake random service satisfaction surveys.	Two service user surveys in the year
		Engage to users to identify areas for briefing notes/alternative enforcement	
Improved use of Information technology and systems	Extended use of UNIFORM	Extend use of UNIFORM information management system for animal health and welfare to include service requests and performance management	
	Enforcement data	Consider whether UNIFORM can provide appropriate enforcement data and consider implementation of AMES system	
Service management and delivery	A service which meets the Animal Health Framework Standard	Review service delivery against the draft Framework and participate in its review in its "transitional year"	
	A quality systems approach	The development of written procedures in accordance with the action plan	
	Implement new service working arrangements and to deliver areas of integrated enforcement	Review existing risk rating system, implement Internal monitoring with an Improved focus on performance management focus	Implementation of improved management arrangements
	A competent workforce	PDR development and skilling of staff	Minimum of 10 hours CPD
	A statutory service that meets statutory duties	Review existing procedures against changes in legislation and implement changes Review procedures implement document management system	
	Integration into customer management centre	Integrate general service enquiries to the Councils customer management centre	30 th May 2012
	An informative website	Improve information on website (e.g. licensing registers, business information etc)	

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

**PLANNING, PROTECTIVE SERVICES AND
LICENSING COMMITTEE
18TH APRIL 2012**

FOOD SAFETY LAW ENFORCEMENT SERVICE PLAN 2012 - 2013

1. PURPOSE

- 1.1** The Food Standards Agency Framework Agreement on Local Authority Food Law Enforcement requires the Council to produce and review an annual Food Safety Service Plan for consideration and approval by elected Members.
- 1.2** This Report presents the Food Safety Law Enforcement Service Plan for 2012 - 2013 for Members' approval.

2. RECOMMENDATIONS

- 2.1** That Members recognise the work being undertaken by Environmental Health staff in respect of food safety, and note the achievements in 2011/2012 in protecting food safety and supporting business. Of significance is the success in two major audits of the Service; winning the shellfish biotoxin project contract and our support to businesses in exporting salmon to the new United States and Chinese markets.
- 2.2** That Members formally approve the Food Safety Law Enforcement Service Plan for 2012 - 2013; the appointment of the statutory Public Analysts, Agricultural Analyst and Food Examiners, and revisions to our Enforcement Policy.

3. FOOD SAFETY ENFORCEMENT IN ARGYLL AND BUTE

- 3.1** The strategic objectives of Regulatory Services in terms of food safety are to protect public health and promote the production and sale of safe food. This work is undertaken by the Council's Environmental Health team and the objective is to improve the hygiene standards of food businesses through working with businesses, and general enforcement.
- 3.2** The Food Safety Service Plan details the arrangements and the service priorities and targets for 2012 – 2013. Of significance and worthy of noting are :
- (i) The programmed risk-rating system which generates our interventions programme for high, medium and low-risk business continues.

- (ii) The implementation of the *E.coli 0157* guidance will have significant implications for the delivery of the food safety enforcement service, and to business. This introduces very stringent requirements, principally the designation of 'clean areas', which will have to be maintained by spatial separation and/or scientifically validated cleaning and disinfection regimes. Also noteworthy is an effective ban, on the dual use of equipment for raw and ready to eat products, where the equipment is determined in accordance with the Guidance to be difficult to clean. These measures will have to be implemented in the 2012-14 workplan through our strategy which proposes an approach focusing on premises which have an inherent *E.coli 0157* risk, and identifying significant resource issues.
- (iii) The Food Standards Agency (FSA) is considering a Paper proposing that medium-risk interventions be "postponed" to allow Local Authorities to implement the *E.coli* guidance with business. This, should it be approved, will amend the Service Plan and we will revise our priorities accordingly.

3.3 In 2011 – 2012 we achieved the majority of the Service Plan, although some work was delayed as a result of the *E.coli* guidance and the FSA Audit in September 2011. Achievements of note were :

- (i) The FSA Audit of our approved business (ie, local manufactures and processors of 'higher risk foods including those exporting foods) identified three highly significant examples of best practice in Scotland and was very positive.
- (ii) Two audits conducted by the United States Food and Drug administration (USFDA, which looked at the Official Controls, carried out by the Council and also looked at standards within local manufactures exporting to the USA. The results were also very positive and assisted local businesses attain export status with the USFDA.
- (iii) We achieved the targets of 100% for high-risk and met 94% of medium-risk inspections (target 70%).
- (iii) We successfully secured the shellfish biotoxin contract from the FSA for the period 2012 – 2015, which enables us to protect public safety and support the shellfish sector in Argyll and Bute.
- (iv) We have supported local business to develop into the Chinese market for export of salmon, through the inspection of, and issue of, export certificates, which have resulted in excess of \$6 million in 2011-2012.
- (v) We continue to support the concept of the "informed consumer" through the Food Hygiene Information Scheme and EatSafe Awards.

- (vi) We continue to ensure that enforcement officers are competent and have undergone their statutory continued professional development. We also have a development plan in place which supports those officers progressing toward further authorisation, in accordance with the Service's authorisation procedures and in accordance with the council's 'Grow you Own' policy . This will provide additional flexibility in our operational resource management.

4. ENFORCEMENT POLICY

- 4.1** The service ethos, to secure compliance with statutory duties on a risk-based approach with proportionate enforcement, remains in place. We continue to seek to do work with, and support, business and formal enforcement is only initiated where there are inherent risks to food safety, or reluctance on behalf of the business to co-operate.
- 4.2** It is my considered opinion, as the Council's Head of Food Safety, that the only major changes required to the Food Safety Enforcement Policy, relate to the endorsement of the FSA's Guidance on Cross Contamination and the extended application of Remedial Action Notices to all food businesses. It also my considered opinion, that no changes are required to the Food Standards Enforcement Policy.

Elected Members are asked to formally endorse these policies.

5. CONCLUSIONS

- 5.1** The Report satisfies the requirement to review annually the Food Safety Law Enforcement Service Plan and the Enforcement Policies in relation to Food Safety and Food Standards. This will ensure that the Council's statutory obligations as a Competent Authority, under EU Food Law and as a statutory food authority, under the Food Safety Act 1990 are met, and that we have adequate arrangements to protect food safety.

6. IMPLICATIONS

- Policy :** None
- Resources :** None
- Legal :** Meets the Council's legal food authority obligations
- Equal Opportunity;** None
- Financial :** Will be delivered from existing budget

**ALAN MORRISON
REGULATORY SERVICES MANAGER**

AM/KT/ 7086 Mar 2012

For further information contact: Alan Morrison Tel: 01546 604292

LIST OF BACKGROUND PAPERS :



Food Safety Law Enforcement Plan 2012/13

1. SERVICE AIMS AND OBJECTIVES

1.1 Aims and Objectives

The Council's Regulatory Services is **committed to the protection of the public.**

As a competent Authority under Regulation (EC) 882/2004 and a statutory Food Authority under the Food Safety Act 1990, the Council seeks to ensure that all food and drink intended for sale for human consumption which is produced, stored, distributed, handled or consumed within Argyll and Bute is without risk to the health or safety of the consumer

Regulatory Services achieve this through the following aims and objectives:-

Undertaking the statutory enforcement role of the "Food Authority", working with and in accordance with Service standards and specific requirements and guidance from the Food Standards Agency Scotland. This includes the Framework Agreement which outlines the responsibilities of the "food authority" and the Food Law Code of Practice.

Provision of an effective, quality food service focusing resources on a risk-based approach and ensuring that all enforcement activity is proportionate, consistent and undertaken by competent and authorised officers.

Developing, and working to a service plan, which will describe the work to be undertaken and identify the resources available to the Service.

Provision of food safety advice and respond appropriately to requests from the public, voluntary groups and businesses and provide advice on food safety issues.

Working with local businesses in an open and transparent manner, to improve the safety of food and the level of compliance with relevant legislation, in line with the Service's Food Safety Enforcement Policy, the Enforcement Concordat and the principles of Hampton and better regulation. Included in this work is the support for businesses seeking to export to overseas markets.

Ensuring the effective ongoing performance appraisal of the Council's food safety law enforcement service, and through effective management

Contributing as a participant where it is relevant and appropriate having regards to local and national food safety issue as a member of the West of Scotland Food Liaison Group, the Scottish Fish Hygiene Working Group and similar fora, recognising their role in the promotion of consistency and best practice among local authorities.

Maintaining adequate systems including a computer-based inspection and reporting system, designed to improve the quality of food law enforcement activity data, management information and reporting

1.2 /...

1.2 Links to Corporate Objectives

This plan links to the wider Council's Corporate policies and the Single Outcome Agreement in terms of protecting the environment, the economy through supporting new and existing business (where noteworthy is the assistance that is being provided to food businesses to export to new foreign markets) and protecting health. In addition, it allows the Council to meet its regulatory duties as a food authority.

2. BACKGROUND

2.1 Profile of the Local Authority

Argyll and Bute Council is a unitary authority, with a resident population of 90,550 and a geographical area of 693,500 hectares, including 26 inhabited islands, located within the west highlands of Scotland.

The Food Safety Law Enforcement role of the Council is delivered through the Regulatory Services, which embraces the Animal Health, Environmental Health and Trading Standards functions of local government. The service is incorporated within the Planning and Regulatory Services remit.

2.2 Organisational Structure

We have implemented a service review, which was approved by Council on 10th February 2011 which was designed to achieve corporate savings targets and modernise service delivery. As a result we have rationalised our management arrangements, implemented alternative means of service delivery and sought to protect front-line resources. The Council continues to meet the statutory duties through the appointment of the Head of Food Safety, the Lead Officer(s) for food hygiene, food standards and feed stuffs; supported by the necessary specialist services (i.e. public analysts etc)

The work of Regulatory Services can be directed to the Council's Executive Committee or the Planning, Regulatory Services and Licensing Committee, as determined by the nature of the report. In addition, the Service has access to the Area Committees and the Argyll and Bute Licensing Boards.

The statutory appointments required under Regulation (EC) 882 2004 the Food Safety Act 1990 are:-

Head of Food Safety	Regulatory Services Manager
Lead Officer Food Hygiene and Standards	Environmental Health Officer (Food Control and Service Support)
Lead Officer- Feed	Trading Standards Manager

2.3 /....

2.3 The Scope of the Food Service

Food Safety law enforcement is undertaken principally by authorised Environmental Health staff, although some work is undertaken by Animal Health and Trading Standards professionals. The current design of the service is detailed below and in the course of this plan, we will be striving for integration of activities where resources and the Code allows.

- Environmental Health professionals are responsible for the Council's Food Safety law enforcement work, which encompasses food hygiene, food standards and control, (which includes food premises inspection, food quality, composition and labelling inspection and certification). In the event of systems failures, the team will respond by investigating and controlling communicable disease, investigating complaints and reports and withdrawing unsafe/unsound food.
- Trading Standards staff undertakes work in relation to animal feeding-stuffs controls.
- Animal Health Officers undertake primary production activities.

Service priorities are detailed in the Food Law Service Plan and are determined through statutory activities; the Food Law Code of practice; national, local and service priorities. The Council's Enforcement Policies, food safety procedures and internal monitoring and standards inform the standards for this work.

2.4 Laboratory Arrangements

The Council has a formal Service Level Agreement with Glasgow Scientific Services (GSS) for the provision of laboratory services, including the microbiological examination of foodstuffs. We are required to provide specialist support services and this plan seeks approval of Glasgow Scientific services and named staff to meet the requirements for a public analyst; food examiner and agricultural analyst.. These arrangements will continue for 2012-13 and these appointments (detailed in Appendix 2) are reaffirmed by the approval of this Service Plan.

2.5 Professional Support Network

The Service works closely with the Food Standards Agency Scotland, the Scottish Food Law Enforcement Liaison Committee, the Crown Office (Procurators Fiscal) and NHS Highland. The Service benefits from the support of the Royal Environmental Health Institute of Scotland, the Society of Chief Officers of Environmental Health, LACORS and the Trading Standards Institute.

The Service values and participates as is appropriate and relevant to do so, within established inter-authority liaison and professional network mechanisms operating within Environmental Health and Trading Standards in Scotland. Of specific note are the FSA Shellfish Enforcement Group, the SFELC Approved business Inspection Working Group, the Food Hygiene Information Scheme Working Group, West of Scotland Food Liaison Group; Environmental Health/ NHS Highland Liaison Group; the Scottish Fish and Shellfish Hygiene Working Group and SCOTSS Animal Feedstuff Group. The Service is also a subscribing member of Camden BRI.

2.6 /....

2.6 Food Safety in Argyll and Bute

The nature, type and scale of food businesses in Argyll and Bute are influenced by its geography and infrastructure and these factors can create some difficulties in delivering the Environmental Health service. Examples of these are:-

A high number of incidents and trade withdrawals with a regional and international scope. This also has a significant impact on the work of the Service.

A high number of approved manufacturing and processing food establishments, utilising specialist processing techniques and technology and Home Authority requests for assistance and advice.

A significant seafood industry which has a significant impact on the work of the Service and includes a separate shellfish team which delivers the biotoxin and classification of shellfish harvesting waters.

Decentralised Area offices pose specific challenges to ensure that there is adequate support provided to field staff and to ensure and promote consistency. This support includes training, specialist support, quality auditing and the management and direction of staff within the decentralised Area offices.

Travelling accounts for approximately 20% of officer resource. The Service is seeking to reduce this through the mobile working project and issues are being considered to improve productivity.

2.7 Uniqueness of Argyll and Bute Council as a “food authority”

2.7.1 The Service has responsibility for 1556 food premises in Argyll and Bute excluding the businesses which operate on a temporary or ad-hoc basis. The premises are divided into risk inspection bands.

The premises which will be subject to a formal intervention in 2012-13 are:-

Category	Minimum Inspection Frequency	Number of premises to be inspected 2012-13
A	Every 6 months	6
B	Every 12 months	109
C	Every 18 months	382
D	Every 2 years	102
E	Use other intervention strategies	73

2.7.2 We have identified that the implementation of the *E.coli* guidance from the Food Standards Agency cannot be achieved in a managed timescale unless there are allowances made by the FSA to relax the burden for the programmed inspection frequency for medium risk premises. This view has been supported by the Society of Chief Officers of Environmental Health /....

Health in Scotland and also the Scottish Food Safety Liaison Committee. A paper has been submitted to the FSA seeking a moratorium on full inspections in category C (the so called ‘FSA PI – holiday’) for a period of three years. We await the outcome of the FSA decision in this regard, and in the meantime, we will continue to deliver our planned interventions in accordance with the Code of Practice. Should any changes be made, our strategy will be reviewed to have regard to the challenges of the E.coli guidance and implemented, once approved by the Regulatory Services Manager

There are 67 approved establishments (shellfish processors, harvesters etc) compared to other Scottish Local Authorities, this amounts to the third highest number in Scotland. These operate processes that potentially pose a higher risk to food safety and fall to be inspected by the Service more frequently and in greater depth.

Fish processing	Shellfish Processing	Dairy	Meat / meat products	Egg Products
28	23	7	6	3

Consistent with the industry in Argyll and Bute, the Service will continue to work with these businesses to promote food safety standards.

- 2.7.3 Argyll and Bute Council has 52 classified shellfish harvesting sites (the highest in Scotland, with Shetland Islands with 48). These waters are classified for the growing and harvesting of shellfish and there may be restriction in their use due to the micro-biological quality of water or shellfish flesh. The Service undertakes a monitoring programme which is designed to ensure that shellfish being harvested are safe in food safety terms. These also require businesses to continue trading as there is a requirement for all waters to have a minimum of six samples annually to maintain their classification. This work is undertaken by a dedicated team of four Officers who also carry out the shellfish biotoxin sampling work which is funded directly by the Food Standards Agency Scotland.

3. SERVICE PLANNING PROCESS

3.1 Service Plan

The Food Safety Service Plan is submitted to the Planning, Regulatory Services and Licensing Committee for approval. The Plan represents the recommendations of the Regulatory Services Manager as to the level of service and scope of work required to meet the statutory obligations placed on the Council.

3.2 Review

The Service Plan is reviewed annually and otherwise in light of indicated need having regard to many issues including performance standards, service management and auditing; areas identified for improvement and emerging or new demands specific tasks and targets.

4. /....

4. SERVICE REVIEW – PAST YEAR (2011-12)

4.1 Summary Service Review 2010-11

The main achievements delivered by the service in 2011-12 against the Service Plan are:-

1. The Service has met its targets for programmed workload of 100% for high risk premises and 70% for medium risk premises in respect of food hygiene. We have achieved 100% and 76% respectively
2. We have successfully implemented the Food Hygiene Information Scheme to all caterers across Argyll and Bute. Of the 830 premises, 96% had sufficient standards of food hygiene to be issued with a “PASS” certificate.
3. We have delivered the service review of Regulatory Services in accordance with corporate standards and identified the required savings target.
4. We have supported the economy of Argyll and Bute through our regulatory work and in particular:-
 - The export of salmon to the new market of China through fish inspection and the issue of export certificates. This resulted in the first exports to China from Scotland originating from Argyll and Bute.
 - The broadly compliant food businesses (i.e. those who have adequate standards of food hygiene and management) have increased from 88% to 90.3% for food premises risk rated by the service. This indicates increasing standards of food hygiene

4.2 The Service achievements in 2010-11 against the Service priorities are as following table.

Activity	Achieved 2010-11
Successes	
Programmed inspection and audit of premises Target High 100% Medium 80%	High 100% Medium 89%
Promoting the concept of the <i>“informed consumer”</i> through - Eat Safe award scheme Implement the Food Hygiene Information Scheme).	We have ??? EatSafe awards, the third highest of all authorities in Scotland The FHIS has been introduced to all caterers in Argyll and Bute
Ensure the Council have adequate regard to the outcomes in the second Pennington report on <i>E.coli</i> 0157.	Completed
Continue to deliver the shellfish monitoring programme and to develop working relationships with the sector,	Met the contracted performance targets
Implemented the interventions strategy which has provided efficiencies within the service without any reduction in food safety enforcement standards	Completed
Greater focus on performance management arrangements across the service	Achieved and new internal monitoring system developed
Support “Food from Argyll” initiative	This is integral to the work of the service

Unplanned work /....	
Unplanned work	
Participated in the USFDA Audit of Official Controls in the Shellfish sector.	Significant time allocation. The audit was a success.
Subject of an FAST Audit Focussed Audit of Official Controls in the Approved business sector.	Significant time allocation. The audit was a success
Participated in the USFDA Audit of exporting manufactures	Significant time allocation. The audit was a success
Progressed the authorisation of 3 newly recruited EHO's who have successfully passed in house externally accredited Level 3 course in HACCP.	
Supported business in the export of salmon to China through the inspection and issuing of expert certificates	Unplanned but significant benefits to economy.
Successfully bid for and won the shellfish monitoring contract for Argyll and Bute on an external contract tendering basis.	Contract secured to 31 st March 2015
Partially Achieved	
Investigation and report into non-compliance and food fraud in the wild shellfish sector.	Overtaken by events, which requires significant enforcement to address discovered non-compliance. This was acknowledged by the FSA as appropriate and proportionate. And also achieved its objectives.
Introduce mobile workforce in environmental health and documented management systems	System evaluated but not implemented as its not been proven in Fife Council
Not achieved	
Exercise current emergency Outbreak Control Procedures in conjunction with NHS Highland	Arranged for 2012
Integrate to produce a comprehensive and overarching 'Farm to Fork' approach to the Enforcement Policies and practices of Food Safety, Food Standards, Feeding stuffs and Primary Production	Delay due to service review
Provided CPD for Food Standards	Due to the advent of a major overhaul of Food Standards law under the forthcoming EU Food information regulations, which will take effect through 2014-16. This current Service plan and ensuing plans will address this development.

4.3 Food Monitoring

The focus of the monitoring was on locally produced high risk produce. This includes smoked produce and dairy produce manufactured locally and sold to national and international markets. Formal action, as appropriate, was initiated where the results were unsatisfactory. The table indicates that there was an increase in the quality of the food sampled than in 2011-12

FOOD SAMPLES	2008/09		2009/10		2010/11	
	No. Taken	No satisfactory	No. Taken	No satisfactory	No. Taken	No satisfactory
Food – Composition	68	64	40	27	21	18
Food- Microbiological	199	187	121	91	65	52

Shellfish

The shellfish biotoxin and classification of shellfish harvesting areas continues. This work has been funded by the Food Standards Agency Scotland and there is a team of four dedicated staff which has implemented and deliver this programme working in conjunction with the shellfish industry. The work undertaken in 2011-2012 was as follows:-

	Number of sampling sites	Number of samples taken	Number of satisfactory samples
Shellfish Biotoxins	18	769	705
Classification of shellfish waters	57	569	520
<p>Narrative</p> <p>Shellfish is an important sector in the food industry in Argyll and Bute Council. Of the samples taken, 91.5% met the required standards for biotoxins and water classification. Of the samples which failed to meet the standards, action was taken by the service in conjunction with the harvesters or operators to ensure that the shellfish did not enter the food chain. This resulted in the service of 11 Temporary Closure Notices (biotoxins) and 12 voluntary closure agreements. These sites remained closed until standards had been met and the shellfish did not pose a risk to food safety.</p>			

4.4 Food Complaints Investigations

The Service received a 22% increase to 82 food related complaints which required action. By comparison previous figures have been 64 (2007-08); 52 (2008-09) and 66 (2009-10). These complaints range for the sale of out of date food to foreign bodies in food.

4.5 Communicable Disease Investigations/Food Alerts

The Service continued to respond to suspected or confirmed cases of food-borne disease and also to the formal Food Alerts issued by the Food Standards Agency.

4.6 External Audit and Internal Monitoring

No external audits of the service was undertaken in 2010-11

Monitoring against our own internal monitoring plan has been undertaken. This established an inadequate level of compliance. Subsequent monitoring continues to show growing improvement. The internal monitoring procedures have been reviewed and re-invigorated for 2011-12

4.7 Enforcement Action

The Service seeks to achieve statutory compliance and protect food safety through the ethos of supporting business. In the period 2009-10, this work entailed –

/....

	2008/09	2009/10	2010-11	2011-12
Total number of visits:-				
Programmed inspections	727	515	794	779
Other inspections	76	197	64	742
Revisits	95	61	47	44
% of premises broadly complaint	83%	88%	90.3%	90.7%
Number of Hygiene Improvement Notices served	58	39	34	13
Number of Hygiene Prohibition Notices served	0	0	0	0
Number of Remedial Action Notices served	6	0	1	3
Number of prosecutions	0	0	1	0

Of note is the increase in the premises which are broadly complaint which indicates good standards of food safety and management in the premises which were investigated in 2010-11. We increased the number of inspections undertaken and secured a successful prosecution for poor food hygiene practices and conditions within a food business

5. SERVICE PRIORITIES AND WORKPLAN 2012-13

- 5.1 The service plan details the planned activities and priorities for 2012-13 but cannot identify the reactive work which may arise which may include communicable disease and food related illness, significant enforcement activity; national and local; food withdrawals and emerging issues.

It should be noted that these reactive demands will be assessed based on risk, and adequately resourced. In certain circumstances, this work will be undertaken at the expenses of planned activity

- 5.2 The design of this Service is based on the Council's statutory duties that devolve from Regulation (EC) 882/2004, and the Food Safety Act, 1990, to monitor and ensure minimum standards of food safety within Argyll and Bute. The principal food safety enforcement activity undertaken by the Council is that done by Officers in carrying out planned food hygiene and food standards inspections.
- 5.3 It is our intention to meet the requirements of the Code of Practice for food safety and that low risk premises will be subject to an alternative enforcement strategy. The implications of the E.coli guidance are likely to increase our workload although the implications of this are still to be determined.

Where we have limited resources, we aim to deliver this service plan and to take a risk-based approach focussing resources of the higher risk priorities.

This approach does not, however, meet the requirements of the Food Law Code of Practice from the Food Standards Agency. The targets set by the service for Members approval are:-

- High risk visits 100%
- Medium risk visits 90%
- 70% completion of the alternative enforcement workplan

- 5.4 /....

5.4 The priorities for the food service plan for 2012-13, including 5.3 above, are:-

1	Implement an integrated programme, in order to deliver enhanced protection of the Public from pathogenic E.coli including E.coli 0157H relevant to the operating context of Argyll and Bute; applying the FSA's Guidance " <i>E.coli 0157 Control of Cross Contamination Guidance for Food Business Operators and Enforcement Authorities</i> ", embracing fresh produce production and private water supplies that serve food businesses..
2.	Undertake the interventions programme for food hygiene, food standards and primary productions, with the target of 100% of high-risk premises and undertake Official Controls within the Broadly Complaint and medium Risk sectors according the Interventions Strategy.
3.	In relation to the High-risk manufacturing and Processing sectors. Develop an operational plan in order to deliver the Service's duties and objectives and establish a working Group to provide ongoing support for Officers delivering Official Controls in the sector.
4.	In relation to the Butchers shops sector, develop an operational plan in order to operationally deliver the E. coli Strategy and establish a working Group to provide ongoing support for Officers delivering Official Controls in the sector
5.	In relation to the fresh produce sector, develop an operational plan in order to operationally deliver the E. coli Strategy and establish a working Group to provide ongoing support for Officers delivering Official Controls in the sector.
6.	Build upon the work undertaken in 2011, by continuing an investigation into the wider extent of non-compliance and Food Fraud within the wild shellfish sector, with the intention of reporting to the Food Fraud unit of the Food Standards Agency in 2013 and with the intention of developing an operational plan to address none compliance in the ensuing Food Service Plans
7.	Review policies and procedures to reflect emerging operational realities, new service delivery arrangement and changes to the Food Law Code of Practice or internal service issues
8.	Provide for the authorisation of all officers in relation to the Service of Remedial Action Notices within food businesses subject to Regulation EC (852) 2004.
9.	Undertake research to determine the impact in Argyll and Bute of Regulation (EU) 1169/2011 on the Provision of Food Information to Consumers, and produce a plan for the authorisation of all Officers within the subsequent Food Service plan. of 2013
10.	Meet the requirements of the contract with the FSA and continue to deliver the shellfish monitoring programme , developing working relationships with the sector,
11.	Integrate to produce a comprehensive and overarching 'Farm to Fork' approach to the Enforcement Policies and practices of Food Safety, Food Standards, Feeding stuffs and Primary Production on the basis of scientific Risk Assessment.
12.	Introduce measures to provide and support a mobile workforce in environmental health and documented management systems
13.	Exercise current emergency Outbreak Control Procedures in conjunction with NHS Highland
14.	/....

14.	Implement our alternative enforcement strategy which is aimed at supporting businesses through the provision of advice, and support other than through inspections where it is appropriate to do so.
15.	Partnership working for Argyll and Bute Working with SEPA, prioritise the published sanitary surveys for the Argyll and Bute, and consider what measures can be taken to address any identified pollutant risks. Working with the Marine Coastal Development unit to integrate Food Safety into Planning and ICMZ activities. Working with Business Gateway
16	Engage with stakeholders to identify improvements to service delivery
17	Ongoing commitment to staff training to ensure a competent and authorised workforce

5.5 Other service issues

We will continue to:-

- i. Works in partnership with NHS Highland in the investigation of reports of food communicable disease, and more specifically food-borne illness
- ii. Focus our sampling activity on high-risk locally produced goods
- iii. Work with partners including other local authorities, the business sector and the Food Standards Agency
- iv. Provide for an effective and appropriate response to Food Alerts issued by the Food Standards Agency Scotland where all alerts are considered immediately and appropriate action is taken.

6. RESOURCES

6.1 Financial Resources

The table below provides an indication of the Food Safety Law Enforcement budget for 2011-12 and illustrates a reduction in 10%. This excludes the shellfish biotoxin project which is wholly funded through a contract with the FSAS for a further year

Employee costs	355,000
Training & Resource Materials	2000
Transport & Carriage Costs	10000
IT & communications	1,000
Laboratory costs	30,000
Total Costs	£398000.00

6.2 Staffing Allocation

All Enforcement Officers hold the qualifications described in the Food Safety Codes of Practice for Food Safety and Food Standards. The Service has an established procedure for the Authorisation of Enforcement Officers and Appendix III details the specific authorisations for Officers. These fall to be reviewed on a regular basis depending, and may change in the course of the period of the Service Plan. The specific authorisation of Officers is delegated under the Council's Scheme of Delegation.

6.3 Staff Development Plan

The Council operates a Performance Development and Review scheme, which is designed to identify and progress required training and development opportunities for its employees. The Council welcomes the requirements within the COP in relation to Food specific CPD and undertakes to maintain the currency of all Officers accordingly i.e. by providing at least 10 hours of Food Specific CPD over the ensuing 12 months.

7. MANAGEMENT

7.1 Quality Management

The Regulatory Services service is committed to the provision of a quality service founded upon policies, procedures, performance management and auditing.

8. SUMMARY

8.1 Targets for Year 2012-2013

The targets are.

1. The Service aims to meet the following inspection targets for food hygiene and food standards

High risk premises (category A and B)	100%
Medium Risk (category C and D)	90%
Alternative enforcement strategy	75%
2. The Service will respond to 100% reported food complaints.
3. The Service will undertake to investigate 100% cases of infectious disease as notified by the Consultant in Public Health Medicine and any other suspected cases where food safety or the public may be at risk
4. The Service will meet 80% of its sampling programme
5. The Service will respond to 100% “for action” Food Alerts
6. Respond to 90% of service requests within 20 working days

**REGULATORY SERVICES
SERVICE CONTACT ARRANGEMENTS**

The Service operates a decentralised model with two geographical area teams which provide the front-line food safety enforcement activities supported by the service management and specialised resource based within the Headquarters team. The Offices are at:-

HEADQUARTERS	Kilmory Lochgilphead Tel 01546604131/ fax 01546 604410 Email envhealth@argyll-bute.gov.uk
EAST	Hill Street, Dunoon Tel: 01369-707120/ Fax: 01369-705948 Blairvadach, Shandon, By Helensburgh G84 8ND Tel: 01436-658918/ Fax: 01436-658919 Eaglesham House, Rothesay Tel: 01700-501350/ Fax: 01700-503095
WEST	Manse Brae, Lochgilphead PA31 8QU Tel: 01546-604776 Fax: 01546-604769/604758 Municipal Buildings, Albany Street, Oban Tel: 01631-567947/Fax : 01631-567988

The Service can be contacted through the Council's website at, or by emailing envhealth@argyll-bute.gov.uk

All Council Offices are open 09 00-17 00 hours, Monday to Friday, with the exception of local and public holidays. Some of the smaller Offices may, from time to time be closed to the public over the lunch period, which is normally 13 00-14 00 hours.

APPOINTMENT OF FOOD EXAMINERS

In terms of the Food Safety (Sampling and Qualifications) Regulations 1990, the following staff members hold the Mastership in Chemical Analysis qualifications awarded by the Royal Society of Chemistry and are eligible for appointment as Public Analysts:

Gary Walker Scientific Services Manager
Jane White Public Analyst

4.3 Food Examiners

In terms of the Food Safety (Sampling and Qualifications) Regulations 1990, the following staff members hold academic qualifications listed in Part 1 of Schedule 2 and have attained the minimum three year experience requirement in the laboratory listed in Part II of the Schedule:

Gary Walker Scientific Services Manager
Jane White Public Analyst
John Waddell Microbiology and LIMS Group Manager
Karen Platt Microbiologist
Dawn Neeson Microbiologist
Alison Laird Microbiologist

4.4 Agricultural Analyst

Under the terms of the Feeding Stuffs (Sampling and Analysis) Regulations 1999, the following staff members, holding the Mastership in Chemical Analysis awarded by the Royal Society of Chemistry and whose practical experience as agricultural analyst, has been attested, are eligible for appointment as Agricultural Analyst or Deputy Agricultural Analyst.

Gary Walker (Agricultural Analyst) Scientific Services Manager
Jane White (Deputy Agricultural Analyst) Public Analyst

4.5 Continuing Professional Competence

For information. In keeping with the requirement that these appointees meet all relevant legal requirements and Food Safety Act Codes of Practice shall be satisfied, the Scientific Services Manager, Gary Walker, reports that the following holders of the Mastership in Chemical Analysis qualification have successfully satisfied the audits of the scheme operated by the Association of Public Analysts during the calendar year to December 2010.

Gary Walker Scientific Services Manager
Jane White Public Analyst

4.6 Approved Signatories

Under the laboratory UKAS quality system the following staff members through qualification and experience are documented authorised signatories for specific sample types:

Gary Walker Scientific Services Manager
Jane White Public Analyst
Duncan Scott Consumer Group Manager

APPENDIX III

Authorisation of Officers

The following Officers are appointed under the Food Safety Act 1990 as “authorised food officer”. Their powers of authorisation vary depending upon qualifications, experience, post and competency. The undernoted details the specific authorisation levels for Authorised Officers.

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice		Approval of Businesses Regulation (EC) 853/2004
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene		Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	
Alan Morrison	Regulatory Services Manager	√	√	√	√	√	√							√	√	
Andy MacLeod	Lead Officer Food Control	√	√	√	√	√	√	√		√	√		√	√	√	√
Jo Rains	Environmental Health Manager - East	√	√	√	√	√	√	√		√	√					
Jim Rennie	Environmental Health Officer	√	√	√	√	√	√	√		√	√					
Richard Gorman	Environmental Health Officer	√	√	√	√	√	√	√		√	√		√			
Jacqui Middleton	Environmental Health Officer	√	√	√	√											

APPENDIX III (Cont'd)

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Christine McLachlan	Regulatory Services Officer	√	√	√	√					√					
Marci Gillan	Regulatory Services Officer	√	√	√		√	√	√		√					
Mary Watt	Environmental Health Officer	√	√	√	√	√	√	√	√	√		√			
Dave Chapman	Regulatory Services Officer	√	√	√	√	√	√	√		√					
Patrick Mackie	Area Environmental Health Manager	√	√	√	√	√	√	√	√	√					
Andrew Hill	Environmental Health Officer	√	√	√	√	√	√	√*	√*	√*					
Paula Monaghan	Environmental Health Officer	√	√	√	√			√	√	√					
Russell Green	Environmental Health Officer	√	√	√	√			√	√	√					
Wendy Lilico	Environmental Health Officer	√	√	√	√	√	√	√	√	√		√			
Iain MacKinnon	Environmental Health Manager - West	√	√	√	√	√	√	√	√	√					
Paul Reynolds	Environmental Health Officer	√	√	√	√	√	√	√	√	√		√			
Sue Stefek	Environmental Health Officer	√	√	√	√	√	√	√	√	√					

APPENDIX III (Cont'd)

Powers		Visit, access and inspection		Sampling		Seizure and detention		Service of Hygiene Improvement Notice		Service of Temporary Closure Notice		Service of Remedial Action Notice		Service of Emergency Prohibition Notice	
		Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards	Hygiene	Standards
Karen MacLeod	Regulatory Services Officer	√	√	√	√	√	√	√		√		√			
Ian Campbell	Technical Officer	√	√	√	√										
Willie Macquarrie	Shellfish Sampling Officer	√	√	√	√										
Ewan McDougall	Shellfish Sampling Officer	√	√	√	√										
VACANT	Shellfish Sampling Officer														
Karen Goodchild	Technical Officer	√	√	√	√										
David Kerr	Senior Animal Health and Welfare Officer	√	√	√	√										
William Young	Animal Health and Welfare Officer	√	√	√	√										

Alan Morrison:- √* In discussion with advice from the lead EHO (Food Control and Service Support) and other authorised officers Paula Moynihan and Russell Green:- √** Under direct supervision of the Environmental Health Manager and Lead EHO (Food Control and Service Support) in relation to the drafting of HIN's and/or the Regulatory Services Officer (Shellfish) in relation to TCN's for a period of 6 months from 1st April 2012 (and for the first 3 HIN's in relation to Article 5 of Regulation (EC) 853/2004 whichever is the longer in relation these notices).

All operational Officers will be provided with the appropriate training-underpinning Authorisation to serve RAN's for non-approved businesses in 2012/13



Food Safety Enforcement Manual 2012/13

**Including Policy in Respect to
Food Safety Law Enforcement
& Enforcement Policy
Guidelines for Officers**

**Controlled Document
Version of 1/April 2012**

**Decontrolled if Printed
Please check Public folders for currency**

April 2010

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<p style="text-align: center;">SECTION 1</p> <p style="text-align: center;">AUTHORISATION OF THE POLICY AND STATUS AS A WORK INSTRUCTION</p>
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Section 1		
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Chapter One

AUTHORISATION

The contents of this document have been adopted as the policy of Argyll and Bute Council in relation to the enforcement of food safety legislation by the Protective Services and Licensing Committee on the ??? of ??? 2009.

Section 1	Chapter One	Page 1
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Chapter Two

STATUS OF THE POLICY AS A WORK INSTRUCTION

All enforcement in relation to food hygiene and safety legislation shall comply with this Manual.

Compliance with the policy represents an instruction binding upon the conduct of Authorised Officers in relation to food safety legislation.

Signed :

Regulatory Services Manager

Section 1	Chapter Two	Page 1
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<p style="text-align: center;">SECTION 2</p> <p style="text-align: center;">FUNDAMENTAL PRINCIPLES</p>
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Section 2		
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Chapter One

DEFINITIVE STATEMENT OF PRINCIPLES

1.0.0 The Argyll and Bute Council will enforce Food Safety legislation according to the following fundamental principles :-

- (i) Enforcement action will only be initiated where it accords with the Council's general policy on Food Safety.
- (ii) Enforcement shall be based upon a comprehensive assessment of risk to public health. (In this context, risk is defined as the probability of harm to health.). Where risk cannot be confirmed by evidence but it is apparent that protection of the public health requires exercise of a power, then the Service will exercise its best endeavours to act according to the precautionary principle and will exercise a power with the intention of safeguarding public health.
- (iii) Enforcement shall be consistent, fair and proportionate to the risk(s), based upon objective evidence, and in accordance with the Service's published standards, the Service's Enforcement Policy and the Enforcement Concordat and its successors which to date constitutes the Regulators Compliance Code.
- (iv) Enforcement action shall comply with Food Law Codes of Practice issued by the Food Standards Agency.
- (v) Enforcement action shall accord with enforcement guidance, issued by the Local Authority Committee on Food and Trading Standards (LACOTS/LACORS) and the Scottish Food Enforcement Liaison Committee and its antecedents.

1.0.1 The remainder of this Manual defines in more specific detail the application of the above principles to the enforcement of Food Safety Legislation.

Fundamental Principles

1.1.0 The rationale underpinning the policy is foremost the protection of the public through the selection of appropriate interventions and reasonable enforcement action, be it verbal warnings, the issue of written warnings or statutory notices or prosecution, which is primarily based upon an assessment of risk to public health. This will be achieved through the enforcement of Food Safety legislation, appropriate to the risk to public health. Enforcement action will **not**, therefore, constitute a punitive response to a minor technical contravention of legislation. Where risks cannot be confirmed in an absolute sense then the Service will adopt a precautionary approach.

Section 2	Chapter One	Page 1
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Chapter One (Cont'd)

DEFINITIVE STATEMENT OF PRINCIPLES

- 1.1.1 This Manual has been prepared with reference to the relevant Food Law Code of Practice, and to LACOTS/LACORS and SFELC guidance.
- 1.1.2 In the absence of a specific statement of policy within This Manual, then the Departmental Enforcement Policy Service Policy will prevail.
- 1.1.3 In February 1994, LACOTS/LACORS published guidance entitled “Guidance on Food Safety Enforcement Policies” on the adoption of enforcement policies by Local Authorities, for the purpose of achieving greater consistency between Local Authorities in their approach to the enforcement of Food Safety legislation.
 - 1.1.3.1 This Manual has been developed with reference to the guidance provided by LACOTS/LACORS.
- 1.1.4 The operation of this Manual is intended to support the many food businesses which wish to comply with the law, whilst focusing formal enforcement action on those which are negligent or reckless, or unwilling to provide minimum standards of Food Safety.

Chapter Two

GENERAL POLICY OF ARGYLL AND BUTE COUNCIL IN RELATION TO FOOD SAFETY

- 1.1.0** The Argyll and Bute Council is committed to its role in the protection of the public, and as a statutory Food Authority will seek to ensure that food and drink intended for human consumption which is produced, stored, distributed, handled or consumed within Argyll and Bute is without risk to the health or safety of the consumer and also complies with the relevant legislation.
- 1.1.1** The Argyll and Bute Council recognises that a key element of its activity will be to allow and encourage economic progress and to intervene when there is a clear case for protection of the public. Therefore, the Argyll and Bute Council will, in addition to the exercise of its statutory enforcement role, work to support all food businesses in a sense of partnership, helping to meet emergent challenges.

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Chapter Three

PROMOTION OF THE HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) SYSTEM

1.0.0 The Argyll and Bute Council is committed to the promotion of the Food Safety Management Systems within Food Businesses based upon the following:-

- Guidelines for the application of the Hazard Analysis Critical Control Point (HACCP) System published by the joint Food and Agriculture/World Health Organisation Codex Alimentarius Commission
- Revised recommended International Code of Practice General Principles of Food Hygiene Published by the World Health Organisation Codex Alimentarius Commission.
- **Guidelines For The Validation Of Food Safety Control Measures' CAC/GI 69 – 2008, published by the World Health Organisation, Codex Alimentarius Commission**
- **'E.coli 0157 Control of Cross Contamination Guidance for Food Business Operators and Enforcement Authorities' and associated Guidance published by the Food Standard Agency.**

It is the policy of the Council to recognise Article 5 of Regulation (EC) 852/2004 on the Hygiene of Foodstuffs as the overarching key legal requirement to ensuring the sale of safe food. The Council will therefore endeavour to achieve the implementation of Article 5 as appropriate throughout the food sector.

In so doing, it is also the policy of the Council to recognise and be informed by the principles of flexibility contained within paragraphs 15, 16 and 17 of Regulation (EC) 852/2004. In particular it is the policy of the Council to recognise that :-

- In certain food businesses it is not possible to identify critical control points and that, in some cases, good hygiene practices can replace the monitoring of critical control points.
- The requirement of establishing critical limits does not imply that it is necessary to fix a numerical limit in every case.
- The requirement of retaining documents needs to be flexible in order to avoid undue burdens for very small businesses.
- Flexibility is also appropriate to enable the continued use of traditional methods at any of the stages of production, processing or distribution.

It /....

Section 2	Chapter Three	Page 1
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Chapter Three (Cont'd)

**PROMOTION OF THE HAZARD ANALYSIS
CRITICAL CONTROL POINT (HACCP) SYSTEM**

It is the policy of the Council to fully recognise and be informed by guides for the application of HACCP Principles developed in accordance with Article 8 and Article 9 of Regulation (EC) 852/2004, including the Guidance Document entitled “Implementation of Procedures Based Upon the HACCP Principles, and Facilitation of the Implementation of the HACCP Principles in Certain Food Businesses” published by the Health and Consumer Protection Directorate General of the European Commission.

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Chapter Four

POLICY ON FOOD SAFETY INTERVENTIONS

1.0.0 It is the policy of the Argyll and Bute Council in its role as a Statutory Food Authority to utilise interventions flexibly, so far as it is provided for within the Food Law Code of Practice and informed by a process of risk assessment.

It is therefore also the policy of the Argyll and Bute Council that those food businesses that are compliant with Food Law should be subject to interventions that reflect the level of compliance that has been achieved by the Food Business Operator. Consistent with this approach it is, furthermore, the policy of the Argyll and Bute Council that more intensive interventions should only be directed at those Food Businesses that present the greatest risk to Public Health.

It is the policy of the Argyll and Bute Council to review on an annual basis its strategy on interventions and in so doing to be guided by the Food Law Code of Practice and the principle of risk assessment.

Section 2	Chapter Four	Page 1
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SECTION 3
ENFORCEMENT -
GENERAL CRITERIA

Section 3		
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Chapter One

STATEMENT OF POLICY IN RELATION TO

SELECTING INTERVENTIONS AND DECISION MAKING IN ENFORCEMENT

- 1.0.0** The Regulatory Services Manager in consultation with the Lead Environmental Health Officer, Food Control, will authorise Officers to select interventions and to take enforcement action appropriate to their qualifications and experience
- 1.0.1** In deciding whether an Officer should be authorised to select interventions, or initiate enforcement action, consideration will be given to the qualifications of the Officer and his/her level of experience in Food Safety enforcement. Decisions will be made following reference to the guidance given in the Food Law Code of Practice and to **Competency Matrix published by the Scottish Food Enforcement Liaison Committee. GET TITLE ???**
- 1.0.2** All precognitions must be submitted timeously (having regard to Human Rights legislation and any time bar) to the Lead Environmental Health Officer, Food Control, who will provide advice to the Officers and the Regulatory Services Manager.
- 1.0.3** The decision to submit a Report to the Procurator Fiscal will be made by the Regulatory Services Manager in consultation with the Lead Environmental Health Officer, Food Control.
- 1.0.4** It is the policy of the Argyll and Bute Council to require that authorised Officers select interventions in accordance with the Food Law Code of Practice and in accordance with the following criteria, although not exclusively so:-
- (i) Where to do so would comply with the General Policy of the Argyll and Bute Council in relation to Food Safety, and with this policy, particularly Section 3, Chapter 2.

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Chapter Two

STATEMENT OF POLICY IN RELATION TO

SCOPE OF ENFORCEMENT OPTIONS

1.0.0 This Authority recognises the importance of ensuring that enforcement decisions are consistent, fair, proportional to risk(s) and based on published standards. The Argyll and Bute Council will adopt and comply with the guidance contained in the Food Law Code of Practice, and in the circulars and other guidance issued by the FSA/SFELC/LACOTS/LACORS, including advice relating to the Home Authority Principle, where appropriate.

1.0.1 Before making a decision on the selection of an intervention or need for any enforcement action, Officers are required to consider :-

- (i) the identification of a food safety hazard(s) and an evaluation of the risk(s) to Public Health
- (ii) the seriousness of any offence
- (iii) the past history of the food business
- (iv) confidence in management
- (v) the consequences of non-compliance, and
- (vi) the factors influencing non-compliance
- (vii) the likely effectiveness of available interventions and enforcement options
- (viii) statutory and non-statutory microbiological and other criteria and standards
- (ix) the economic impact of an intervention or an enforcement action, although it is the policy of the Argyll and Bute Council that the priority consideration is one of protection of public health and that consideration of the economic impact is subordinate to (i) to (viii) above.

1.0.2 Once all the criteria described above have been considered, together with other relevant information, the Officer shall determine:-

- (a) the most appropriate intervention in accordance with the Food Law Code of Practice
- (b) that there is no need for action
- (c) /....

Chapter Two (Cont'd)**SCOPE OF ENFORCEMENT OPTIONS**

- (c) to take informal action
- (d) to use statutory notices
- (e) that a report should be submitted to the Procurator Fiscal

1.0.3 Authorised Officers will not select any intervention nor take any enforcement action which is inconsistent with the Food Law Code of Practice or with the advice issued by the SFELC/LACORS or Enforcement Service Policies without raising the issue with the Council's Lead Environmental Health Officer, Food Control, or the Regulatory Services Manager. Where indicated, including where the issue appears to be of national significance, the matter will be referred to the SFELC for consideration by the LACORS National Food Safety Panel, if appropriate.

1.0.3.1 Where appropriate, the Home or originating Authority will be appraised of any proposed enforcement actions against a business in which they have an interest, in accordance with the guidance issued by LACOTS/LACORS on the Home Authority Principle. (Chief Officer Circular FS 3 94 of 21 February 1994 and subsequent Circular FS 4 94 of March 1994).

Note: This practice accords with the Food Law Code of Practice.

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Chapter Three

STATEMENT OF POLICY IN RELATION TO

ENFORCEMENT DECISIONS - RISK TO PUBLIC HEALTH AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE

It is the policy of the Argyll and Bute Council to require that Authorised Officers, in making enforcement decisions, have regard to, but not exclusively, the criteria specified below. Where all the information is not available to inform an enforcement decision based upon protection of public health, Officers are required to exercise a precautionary approach with the intention of protecting public health.

1.0.0 Officers must have regard to the following criteria, albeit not exclusively, when determining the choice of enforcement options:-

1.0.1 **The risk arising from any contravention of legislation.** This consideration will include the following:-

- (a) the possibility of contamination by a hazardous agent with reference as appropriate to statutory and non-statutory microbiological and other standards and criteria.
- (b) the method of processing
- (c) the efficacy of control measures
- (d) the potential number of consumers at risk
- (e) the possibility of consumption by vulnerable groups

1.0.2 **The nature of the food business.** This consideration will include the following:-

- (a) the size of the business
- (b) the amount of food produced (ie, throughput)
- (c) the extent of supply

1.0.3 /....

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Chapter Three (Cont'd)

ENFORCEMENT DECISIONS – RISK TO PUBLIC HEALTH AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE

1.0.3 The nature and type of the food being handled. This will include the following:-

- (a) intrinsic factors associated with the food
- (b) extrinsic factors associated with the food
- © the likely effect of any further processing

1.0.4 The relevant Guides and ‘Models’ given effect by EC Regulations and Directives

1.0.5 Official expert advice. This will include the following (although not exclusively so):-

- (a) The Food Standards Agency
- (b) The Advisory Committee on the Microbiological Safety of Food
- © Fisheries Research Services of the Marine Laboratory in Aberdeen
- (d) The Centre for Environment, Fisheries and Aquaculture Science of the Department of Environment and Rural Affairs

1.0.6 Officers **must** ensure that they comply with this requirement in making enforcement decisions and in exercising the precautionary principle as appropriate.

1.0.7 **Criteria in Enforcement Decision Making Based Upon Risk to Public Health**

It is not the policy of the Argyll and Bute Council to prescribe absolute requirements for criteria to be considered by Officers in making an enforcement decision based upon risk to public health. Rather it is the policy of the Service to recognise that to do so would be highly problematic, restrictive and, in some situations, this may lead to decisions being made which in fact do not comply with the general and overarching principles of the policy. The Officer must consider the above criteria but not exclusively. Each case must be assessed according to all the information available.

1.0.8 /....

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Chapter Three (Cont'd)

**ENFORCEMENT DECISIONS – RISK TO PUBLIC HEALTH
AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE**

1.0.8 The Precautionary Approach

It is also the policy of the Service to fully recognise the fact that sufficient information may not be available to inform consideration of all the criteria necessary to make a fully informed enforcement decision based upon the risk to public health. In such situations it is the policy of the Argyll and Bute Council to exercise a precautionary approach with the objective of protecting public health – ie, to act as if a hazard or a risk has been confirmed, based upon the available objective evidence. This is in recognition of the fact that to await the absolute evidence may actually endanger public health in some situations.

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Chapter Four

STATEMENT OF POLICY IN RELATION TO

EVIDENTIAL REQUIREMENTS IN ENFORCEMENT DECISION MAKING AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE

It is the policy of the Argyll and Bute Council to require that Authorised Officers - prior to making any enforcement decision - obtain sufficient evidence to validate this decision. Before making any enforcement decision Officers **must** ensure that they comply with this requirement.

1.0.0 It is the policy of the Argyll and Bute Council to consider evidence as according to the definition made within BS EN ISO 8402 : 1995 Quality Management and Quality Assurance – Vocabulary

“Information that can be proved true, based upon facts obtained through observation, measurement, test or other means”

1.0.1 **It is the policy of the Argyll and Bute Council to recognise the potential value of information received from members of the public, businesses and other agencies. It also the policy of the Council to evaluate such information, according to the Guidelines contained within the National Intelligence Model (5X5X5), published by the National Policing Improvement Agency (NPIA) and associated Guidance published by the Food Standards Agency and its agents such as the National Food Fraud Database: Short Guide To Intelligence Reports Using The ‘5 X 5 X 5’ System**

1.0.2 It is the policy of the Argyll and Bute Council to recognise that sufficient objective evidence is not always available to inform an enforcement decision, but that exercise of the precautionary principle is required to safeguard public health. In such situations it is then the policy of the Argyll and Bute Council to exercise the precautionary principle and Officers **must** act accordingly.

1.0.3 **The Precautionary Approach**

It is also the policy of the Council to fully recognise the fact that sufficient evidence may not be available although it is apparent that safeguard of public health requires the exercise of a statutory power. In such situations it is the policy of the Argyll and Bute Council to exercise a precautionary approach with the objective of protecting public health - ie to act as if a hazard or a risk has been confirmed based upon the objective evidence that is available. This is in recognition of the fact that to await the absolute evidence may actually endanger public health in some situations.

Officers must ensure that they do so in such situations and must also act reasonably at all times.

Chapter Five

STATEMENT OF POLICY IN RELATION TO

INTERPRETATION OF LAW AND STANDARDS OF GOOD HYGIENE PRACTICE

- 1.0.0** It is the policy of the Argyll and Bute Council to interpret food safety legislation accurately and consistently.
- 1.0.1** It is the policy of the Argyll and Bute Council to interpret food safety legislation with regard to applicable Guides and “Models” given effect by European Commission Regulations and Directives.
- 1.0.2** The Service acknowledges the legal duty binding upon it.
- 1.0.3** Authorised Officers **must** have regard to any such relevant industry guide when interpreting and enforcing food safety legislation.

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Chapter Six

STATEMENT OF POLICY IN RELATION TO

TRIGGER VALUES FOR ENFORCEMENT AND SECONDARY INSPECTIONS

- 1.0.0** It is the policy of the Argyll and Bute Council to initiate the appropriate enforcement when a Food Businesses is confirmed to be failing to comply with significant statutory requirements and when an Authorised Officer gives a score of 15 or more in either of the compliance rating elements within the inspection-rating scheme. Significant contravention shall be determined by reference to Section 2, Chapters 1 and 2 and Section 3, Chapters 2, 3 and 4 of this Manual .
- 1.1.0** The appropriate enforcement action shall accord with the Fundamental Principles, with the Enforcement General Criteria stated with Sections 2 and 3 of this Manual respectively and with the relevant requirements stated elsewhere within this Manual.
- 1.2.0** Secondary inspections for Food Safety purposes will be carried out when a Food Business is confirmed to be failing to comply with significant statutory requirements. When an Authorised Officer provides a score of 15 or more in either of the compliance elements of the Inspection Rating scheme, this will act as a ‘trigger’ for a secondary inspection to be scheduled.
- 1.3.0** The timing of the secondary inspection will be determined by the nature of the contravention and the action required to secure the compliance. It is the policy of the Argyll and Bute Council that, in any case, the secondary inspection will take place no longer than 3 months after the primary inspection unless a statutory notice has been served which specified a longer time.
- 1.4.0** It is the policy of the Argyll and Bute Council to take the appropriate enforcement action when Food Businesses have failed to remedy the significant contraventions, which initiated the secondary inspection

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SECTION 4

**EXERCISE OF GENERAL POWERS
OF ENFORCEMENT CONFERRED UNDER
THE FOOD HYGIENE (SCOTLAND)
REGULATIONS 2006**

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Chapter One

STATEMENT OF POLICY IN RELATION TO INFORMAL ACTION

1.0.0 It is the policy of the Argyll and Bute Council that informal action used to secure compliance with legislation includes verbal cautionary advice, the use of letters, and written inspection reports.

1.0.1 It is the policy of the Argyll and Bute Council that informal action also includes verbal advice as to recognised good Food Safety practice.

1.0.2 It is the policy of the Argyll and Bute Council to take informal action where one or more of the following circumstances pertain :-

- (a) the act or omission is not serious enough to warrant formal action.
- (b) That, having had regard to the past history of an individual's/enterprise, the Officer concludes that informal action will achieve compliance.
- (c) the Officer has adequate confidence in the individual's/enterprise's management.
- (d) the consequence of non-compliance will not pose a significant risk to public health.

Note: This approach is consistent with the Food Law Code of Practice together with LACOTS/LACORS Chief Officer Circulars FS 5 92 (30 September 1992) and FS 7 92 (16 December 1992).

1.0.3 If any risk is identified as an imminent risk to public health, then the Officer must consider the use of formal powers of prohibition, seizure and Remedial Action. Therefore, reference must be made to Section 4, Chapters 3, 4 and 5 of this Manual.

1.0.4 /....

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Chapter One (Cont'd)

INFORMAL ACTION

- 1.0.4** Immediately following all programmed inspections, an inspection report will be issued. This will be done on each occasion, including where conditions at the time of inspection are found to be satisfactory. The report will follow the format within the Food Law Code of Practice.
- 1.0.5** When an informal approach is determined, written documentation issued to proprietors to secure compliance with legislation will contain the following:-
- (a) an appropriate heading making reference to the risk to public health identified by the Officer during the inspection.
 - (b) all the information necessary to understand why any work is required. This information will be a description of the risk to public health.
 - (c) a specification of the legislation contravened.
 - (d) an accurate indication of the requirements of the legislation.
 - (e) a statement of the measures which will enable compliance with the legal requirements **and** that other measures which will have the same effect may be chosen.
 - (f) a clear and unambiguous indication of any recommendations of good hygiene practice under an appropriate heading, to show that they are not a legal requirement.
 - (g) recommendations of good hygiene practice, which relate to the risk to public health described above.

Note: This format is consistent with the guidance given in the Food Law Code of Practice

- 1.0.6** In communicating required actions, especially in the giving of verbal or written advice, Officers will clearly differentiate between legal requirements and the recommendation of good practice.

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Chapter Two

STATEMENT OF POLICY IN RELATION TO

THE ISSUE OF HYGIENE IMPROVEMENT NOTICES

1.0.0 Hygiene Improvement Notices **will be issued** where the following circumstances pertain :-

- (a) A significant contravention of a legislative requirement is construed as being likely to endanger the public health.
- (b) Formal action is deemed proportionate to the risk to public health.
- (c) There is a lack of confidence in the proprietor or enterprise to respond to an informal approach, and the Officer believes that an informal approach will not be successful.
- (d) Standards are generally poor with little management awareness of statutory requirements
- (e) There is a record of non-compliance with Food Hygiene or food processing legislative requirements.
- (f) An informal approach has previously failed
- (g) This Manual otherwise directs that an Improvement Notice shall be served. Reference should be made to Section 5, Chapter 1, page 2.

1.0.1 Hygiene Improvement Notices **will not be issued** when the following circumstances pertain:-

- (a) In the case of a minor technical contravention, without relevance to any potential risk to public health
- (b) Where the contravention is a continuing one, such as personal cleanliness of staff or general cleaning matters or the sale of raw milk, for example, and a Notice would only secure an improvement at one point in time. (In these circumstances a report to the Procurator Fiscal is indicated.)
- (c) In transient situations, where there is imminent risk of injury to health and swift enforcement action is needed. (In these circumstances service of a Hygiene Emergency Prohibition Notice is indicated).

1.0.2 /....

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Chapter Two (Cont'd)

THE ISSUE OF HYGIENE IMPROVEMENT NOTICES

- 1.0.2** The Food Law Code of Practice gives detailed guidance on when and how Hygiene Improvement Notices should be used. Officers must ensure that they comply with the Food Law Code of Practice. LACOTS/LACORS have also published a number of circulars: - FS 3 92 1, FG 1 92 2, FG 4 95 1 and FS 9 94 4. Authorised Officers must ensure that they have regard to this guidance.
- 1.0.3** Officers drafting Hygiene Improvement Notices must comply with Food Law Code of Practice, and have regard to LACOTS/LACORS Circulars FS 3 92 1, FG 1 92 2, FG 4 95 1 and FS 9 94 4.
- 1.0.4** Hygiene Improvement Notices may be signed only by Officers authorised to do so. The following Officers will be authorised to sign Hygiene Improvement Notices :-
- (a) Qualified Environmental Health Officers, and
 - (b) Officers holding the Higher Certificate of Scottish Food Safety Officers Registration Board (R.E.H.I.S.) or equivalent qualification issued by the C.I.E.H. and the I.F.S.T.
- 1.0.5** Where an Officer who is not authorised to sign Hygiene Improvement Notices carries out an inspection, the outcome of which is that the service of a Hygiene Improvement Notice is required, the Notices may be signed only by an authorised Officer who has witnessed the contravention(s).
- 1.0.6** Hygiene Improvement Notices must be served on the proprietor of the business. If the name and address of the proprietor is not known, the Notice will be addressed to the “owner” of the property and left at the premises. This is in accordance with provisions of the Food Hygiene (Scotland) Regulations 2006.
- 1.0.7** The time specified for compliance with the Hygiene Improvement Notice must be reasonable and be subject to discussion with the proprietor of the food business, and in no circumstances be less than 14 days. ***Officers will acknowledge that it should not, therefore, be necessary for appeals to be lodged against the Notice, because insufficient time has been allowed.***
- 1.0.8** /....

Chapter Two (Cont'd)

THE ISSUE OF HYGIENE IMPROVEMENT NOTICES

- 1.0.8** Where Hygiene Improvement Notices are served on a national company, the authorised Officer must ensure that the Home Authority is notified.
- 1.1.0** The authorised Officer responsible for the service of a Hygiene Improvement Notice shall, on the date specified for compliance with the Notice, re-visit the premises subject to the Notice in order to determine compliance.
- 1.2.0** It is the policy of the Argyll and Bute Council to report all instances of failure to comply with a Hygiene Improvement Notice subject to Section 4, Chapter 7 below. *Officers will recognise the need to establish all necessary evidence at the time of determining the need for formal enforcement action and will have reference to Section 3, Chapter 4 within this Manual.*

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Chapter Three

STATEMENT OF POLICY IN RELATION TO

INSPECTION, DETENTION AND SEIZURE OF SUSPECTED FOOD

1.0.0 It is the Policy of the Argyll and Bute Council to detain or seize food where Authorised Officers have reason to believe that the food fails to comply with Article 14 of Regulation (EC) 178/2002.

1.1.0 Detention

1.1.1 An Authorised Officer exercising powers of detention shall serve upon the person in charge of the food a Notice of Detention which shall specify a description of the food, and shall specify the quantity of food, and any identification marks. The Notice of Detention shall also direct that the food shall not be used for human consumption and that the food shall not be removed unless it is to a place specified by the Officer. If the Officer has any doubt about the security or physical condition of the food, then the Notice must specify a secure place to which the food must be removed.

1.1.2 The Authorised Officer shall exercise his/her best endeavours to ensure that the owner of the Food is also so notified.

1.1.3 A reasonable period of time shall be allowed for the owner of the food or the person in charge of the food to contact witnesses before having the food dealt with by a Sheriff, no later than 48 hours and, in the case of highly perishable foods, as soon as possible, but in any event within 21 days.

1.2.0 Seizure

1.2.1 It is the policy of the Argyll and Bute Council to seize food where the Authorised Officer is in possession of evidence or of adverse information concerning food.

1.2.2 A reasonable period of time shall be allowed for the owner of the food or the person in charge of the food to contact witnesses before having the food dealt with by a Sherriff, no later than 48 hours and, in the case of highly perishable foods, as soon as possible, but in any event within 21 days.

1.2.3 /....

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Chapter Three (Cont'd)

INSPECTION, DETENTION AND SEIZURE OF SUSPECTED FOOD

- 1.2.3** It is the policy of the Argyll and Bute Council to seize food that has been detained and is considered by the Authorised Officer to fail to comply with the Article 14 of Regulation (EC) 178/2002.
- 1.3.0** The Food Law Code of Practice provides detailed guidance on when and how the powers of detention and seizure are to be used. Officers **must** ensure that they comply with the Food Law Code of Practice.
- 1.4.0** It is the policy of the Argyll and Bute Council that Authorised Officers liaise with the Lead Environmental Health Officer, Food Control, in the event of any uncertainty, who shall, if indicated, seek external expert advice.
- 1.5.0** Authorised Officers investigating outbreaks of food-borne illness must at the earliest opportunity appraise the Lead Environmental Health Officer, Food Control, of the circumstances relating to any report, outbreak etc.
- 1.6.0** It is the policy of the Argyll and Bute Council, in the event of an outbreak of food-borne illness and prior to taking any action in relation to detention or seizure of suspect food, an Officer shall seek the support and advice of the Lead Environmental Health Officer, Food Control.
- 1.7.0** It is the policy of the Argyll and Bute Council to instigate prosecution proceedings for failure to comply with a Notice served under Section 9 of the Food Hygiene (Scotland) Regulations 2006. ***Officers will recognise the need to ensure that there is sufficient evidence to justify the issue and subsequent Court proceedings and will have reference to Section 3, Chapter 4 within this Manual.***

Chapter Four

STATEMENT OF POLICY IN RELATION TO

CONFIRMATION OF IMMINENT RISK OF INJURY TO HEALTH - HYGIENE EMERGENCY PROHIBITION NOTICES

1.0.0 It is the policy of the Argyll and Bute Council to serve Hygiene Emergency Prohibition Notices where the following circumstances pertain :-

- (a) Immediate and decisive action to protect public health is needed.
- (b) An imminent risk of injury to health is foreseeable
- (c) The criteria specified for the service of a Hygiene Emergency Prohibition Notice within the Food Law Code are confirmed.
- (d) The Officer has no confidence in the realisation of actions declared in an **unprompted** offer of voluntary closure, or where a proprietor is unwilling to confirm in writing an offer of voluntary prohibition.

1.0.1 The Food Law Code of Practice gives guidance on the use of Hygiene Emergency Prohibition Notices. The SFCC have published Training Module Two : Emergency Prohibition Procedures. Officers must ensure that they comply with the Food Law Code of Practice and have regard to the SFCC guidance.

1.0.2 Before considering Hygiene Emergency Prohibition Notice procedures, an Officer must obtain the corroboration of a second Authorised Officer to provide corroborative evidence.

1.0.3 The issue of Hygiene Emergency Prohibition Notices shall be done only by the Lead Environmental Health Officer, Food Control, or the Regulatory Services Manager, or other Officers under their explicit direction.

1.0.4 Where the process or treatment under consideration requires the specialist knowledge of a technical expert, Authorised Officers **must** seek the opinion of the Lead Environmental Health Officer, Food Control, who will seek an expert opinion as is necessary, and will determine the final enforcement decision to be made.

1.0.5 /....

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Chapter Four (Cont'd)

CONFIRMATION OF IMMINENT RISK OF INJURY TO HEALTH - HYGIENE EMERGENCY PROHIBITION NOTICES

- 1.0.5** Once the Hygiene Emergency Prohibition Notice has been served, an application for a Hygiene Emergency Prohibition Order must be made to the Court within 3 days. *Officers will recognise the importance of ensuring that this requirement is met to avoid involving the Authority in compensation action by the proprietor.*
- 1.0.6** The Authorised Officer serving the Notice **must** notify the Home Authority of a national company of the service of a Hygiene Emergency Prohibition Notice.
- 1.0.7** It is the policy of the Argyll and Bute Council to institute Prosecution proceedings for failure to comply with a Hygiene Emergency Prohibition Notice subject to Section 4, Chapter 7 below. *Officers **must** therefore be sure that there is sufficient evidence to justify the issue and result in a successful outcome in Court and will have reference to Section 3, Chapter 4 within this Manual.*

Chapter Five

REMEDIAL ACTION NOTICES

1.0.0 Remedial Actions Notices **will be issued** where the following circumstances pertain :-

- (a) A food business is subject to Regulation (EC) 852/2004 **and** one or more of the following circumstances pertains:-
- (b) The inspection process is being hampered
- (c) There is a significant contravention of relevant EC Regulations and an informal approach has previously failed or is deemed likely to fail. Significant contravention shall be determined by reference to Section 2, Chapters 1 and 2 and Section 3, Chapter 3 of this Manual.
- (d) Where there is a failure to comply with statutory microbiological criteria defined under EC Regulations and an informal approach has previously failed or is deemed likely to fail.
- (e) As directed by the Food Standards Agency
- (f) This Manual otherwise directs that a Remedial Action Notice shall be served. Reference should be made to Section 5, Chapter 1, page 2.

1.0.1 Remedial Action Notices **will not be issued** when the following circumstances pertain:-

- (a) In the case of a minor technical contravention, without relevance to any potential risk to public health.
- (b) It is the policy of the Argyll and Bute Council that a Remedial Action Notice can only be served by an Authorised Officer who has first gained the consent of the Lead Environmental Health Officer Food Control to do so. Following the Service of a Remedial Action Notice, the Lead Environmental Health Officer, Food Control, shall take the lead in relation to the Notice. ***Officers will recognise the need to establish all necessary evidence at the time of determining the need for the service of a Remedial Action Notice and will have reference to Section 3, Chapter 4 within this Manual.***

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Chapter Six

SPECIAL STATEMENT OF POLICY IN RELATION TO

VOLUNTARY UNDERTAKINGS IN RELATION TO IMMINENT RISK OF INJURY TO HEALTH

- 1.0.0** It is the policy of the Argyll and Bute Council to accept voluntary undertakings to close a premises, cease using a process or equipment **only** where the following specific circumstances pertain :-
- (i) There is **no** risk of the premises being re-opened or the process or equipment being re-used without the specific permission of the Council.
- 1.0.1** The proprietor of a Food Business or other person associated with that business must **never** be prompted to voluntarily close their business or to cease using a process or equipment.
- 1.0.2** The Food Law Code of Practice gives guidance on the acceptance of voluntary undertakings in relation to situations where there is imminent risk to public health. Authorised Officers **must** ensure that they comply with the Food Law Code of Practice. Authorised Officers **must also** ensure that they have regard to the guidance the S.F.C.C. have published entitled Training Module Two Emergency Prohibition Procedures which contains relevant guidance.
- 1.0.3** Authorised Officers accepting voluntary undertakings to close premises or to cease using a process or equipment **must** obtain the written confirmation of the voluntary undertaking to close the premises or to cease using a process or equipment. This undertaking must include written confirmation that the premises will not be re-opened or the process or equipment re-used without the specific permission of the Council.
- 1.0.4** Authorised Officers **must** ensure that both written undertakings are signed and dated by the proprietor of the Food Business or other person associated with the business, holding sufficient authority of office with the business to secure and sustain the closure of the premises or disuse of the process or equipment.
- 1.0.5** /....

Chapter Six (Cont'd)

VOLUNTARY UNDERTAKINGS IN RELATION TO IMMINENT RISK OF INJURY TO HEALTH

- 1.0.5** If the Authorised Officer has any doubt as the capability of the person signing the undertakings to sustain them, then a Hygiene Emergency Prohibition notice **must** be served.
- 1.0.6** Authorised Officers accepting such undertakings **must** explain to the person giving the undertaking, that by giving the undertaking they are relinquishing their rights to compensation if a Court subsequently declines to make an Emergency Prohibition Order. The Authorised Officer **must** also confirm this in writing before the giving of the undertaking, and repeat the basis of this in subsequent correspondence.
- 1.0.7** It is the policy of the Argyll and Bute Council to institute Prosecution proceedings for offences identified when a voluntary undertaking to close premises or to cease using a process or equipment is breached subject to Section 4, Chapter 7 below. *Officers will recognise the need to establish all necessary evidence at the time of determining the need for formal enforcement action and will have reference to Section 3, Chapter 4 within this Manual.*

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Chapter Seven

STATEMENT OF POLICY IN RELATION TO

PROSECUTION PROCEEDINGS

1.0.0 It is the policy of the Argyll and Bute Council to institute prosecution proceedings by the submission of a report to the Procurator Fiscal where the following circumstances pertain :-

- (a) The alleged offence involves a flagrant breach of the law, such that health, safety or well being of the public is or has been put at risk.
- (b) The alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to food safety, having been given a reasonable opportunity to comply with the lawful requirements of an Authorised Officer.
- (c) The offence involves a failure to comply in full or in part with the requirements of a statutory Notice.
- (d) There is a history of similar offences relating to risk to public health.
- (e) The criteria for prosecution are fulfilled according to the criteria specified below.

1.0.1 It is the policy of the Argyll and Bute Council that the decision to take evidence with a view to prosecution is to be made by the Authorised Officer(s) during their inspection of the premises. Consideration of submission for prosecution **must** be made in consultation with the Lead Environmental Health Officer, Food Control. ***Officers must be sure that there is sufficient evidence to justify the issue and a successful outcome in Court and will have reference to Section 3, Chapter 4 within this Manual.***

1.0.2 All Authorised Officers are authorised to take evidence for prosecution.

1.0.3 The final decision to prosecute must be made in light of the guidance for Crown Prosecutors (January 1992). Reference will also be made to Food Law Code of Practice.

1.0.4 /....

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Chapter Seven (Cont'd)

PROSECUTION PROCEEDINGS

- 1.0.4** In deciding to prosecute, consideration will be given to the ability of the defendant to sustain a defence under Regulation 7 of the Food Hygiene (Scotland) Regulations 2006 and the standard of Due Diligence etc will be considered against the guidelines published within the guidance entitled “The Food Safety Act 1990, Guidelines on the Statutory Defence of Due Diligence”, published in 1991 by LACOTS/LACORS *et al.*
- 1.0.5** In deciding to prosecute, consideration will be given to binding precedents of relevant case law.
- 1.0.6** All parties against whom prosecution proceedings are being considered shall be informed in writing at the earliest opportunity of the Service’s intention to report the matter to the Procurator Fiscal.
- 1.0.7** *Officers will note that, notwithstanding the time limits prescribed for prosecution within Regulation 16 of the Food Hygiene (Scotland) Regulations 2006, regard will be had to the judgement in Daventry Borough Council Vs Olins - i.e. Prosecution proceedings shall be brought to the Court without any undue delay.*
- 1.0.8** When evidence is under preparation, the Authorised Officer must give consideration to the possibility of an application for a Prohibition Order following conviction. It will be necessary to demonstrate that a risk of injury to health exists at the premises and the evidence should be set out in a manner, which addresses this issue.
- 1.0.9** Following conviction, the Lead Environmental Health Officer, Food Control, will notify the Office of Fair Trading and the Home Authority of a national company.

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SECTION 5

**SPECIAL STATEMENT OF POLICY
IN RELATION TO
ENFORCEMENT IN RELATION TO
PARTICULAR LEGISLATION
SUBORDINATE TO
THE FOOD HYGIENE (SCOTLAND)
REGULATIONS 2006**

Section 5		
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Chapter One

SPECIAL STATEMENT OF POLICY IN RELATION TO

ARTICLE 5 OF REGULATION (EC) 852/2004

1.0.0 It is the policy of the Argyll and Bute Council to recognise the particular difficulties associated with compliance with Article 5 of Regulation EC 852 (2004) and to also recognise the principles of flexibility contained within paragraphs 15, 16 and 17 of Regulation (EC) 852/2004. Therefore it is also the policy of the Service to work as closely as possible with food business proprietors, giving as much advice and information to them as resources allow, to facilitate their compliance with Article 5 of Regulation (EC) 852/2004. It is also the policy of the Council to recognise and to be informed by the Guidance Document entitled “Implementation of Procedures Based Upon the HACCP Principles, and Facilitation of the Implementation of the HACCP Principles in Certain Food Businesses” published by the Health and Consumer Protection Directorate General of the European Commission.

1.0.1 It is also the policy of the Argyll and Bute Council, where proprietors do not actively seek to comply or demonstrate a commitment to comply with Article 5 of Regulation EC 852/2004, to initiate formal enforcement action against the proprietor, as provided for within this Manual, as is appropriate.

1.0.2 It is the policy of the Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/2004 following and during the course of inspections scheduled according to Food Law Code of Practice. It is also the policy of the Argyll and Bute Council to recognise that the general principles contained within the following guidance :-

- (a) **Guidance on the Regulatory Assessment of HACCP – Report of a Joint FAO/WHO Consultation on the Role of Government Agencies in Addressing H**
- (b) Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Compliance with Regulation 4 (3) SFCC 1999

1.0.3 Officers **must** implement or as appropriate consider this guidance whilst assessing compliance with Article 5 of Regulation EC 852/2004 and whilst undertaking routine scheduled Food Safety inspections.

It /....

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Chapter One (Cont'd)

ARTICLE 5 OF REGULATION (EC) 852/2004

It is also the policy of the Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/2004 in relation to the validity of Control Measures, in accordance with the general principles of 'Guidelines For The Validation Of Food Safety Control Measures' CAC/GI 69 – 2008, published by the World Health Organisation, Codex Alimentarius Commission

1.0.4 It is also the policy of Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/200 in relation to risks of cross contamination, by reference to 'E.coli 0157 Control of Cross Contamination Guidance for Food Business Operators and Enforcement Authorities' and associated Guidance published by the Food Standard Agency.

1.0.5 It is also the policy of the Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/2004 in relation to vacuum packaged processes by reference to the Current Guidance published by the Food Standards Agency and to the Report on Vacuum Packaging and Associated Processes Published by the Advisory Committee and the Microbiological Safety of Food and to assess compliance with Article 5 of Regulation (EC) 852/2004 in relation to and to shellfish depuration processes, by reference to any Operating Protocol and Guidance issued by the Food Standards Agency

1.0.6 It is the policy of the Argyll and Bute Council to recognise the currency of the general principles contained within Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4(3) Compliance, published by the SFCC and to therefore identify the level of compliance according to the guidance published by the SFCC within Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4 (3) Compliance. Officers **must** ensure that they comply with this guidance and with any procedures and work instructions issued under this Manual

1.0.7 It is the Policy of the Argyll and Bute Council to recognise the general currency of the Risk Based principles contained within Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4(3) Compliance, published by the SFCC, and to consider compliance levels in accordance with the general principles of the guidance. Officers **must** ensure that they consider the general principles within this guidance.

1.0.8 /....

Section 5	Chapter One	Page 2
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Chapter One (Cont'd)

ARTICLE 5 OF REGULATION (EC) 852/2004

1.0.8 Without prejudice to the generality of the above. It is the policy of the Argyll and Bute Council to consider business compliance as follows, relative to their level of compliance with Article 5 of Regulation EC 852 (2004):-

- (a) Rating 1: Unacceptable/No progress
- (b) Rating 2: Not Acceptable/Some progress
- (c) Rating 3: Acceptable level of compliance/Good progress
- (d) Rating 4: Acceptable/full compliance

1.0.9 It is the policy of the Argyll and Bute Council to serve Hygiene Improvement Notices in relation to businesses classified as rating 1 or 2 and to confirm in an inspection report in writing, the deficiencies that lead to the Rating, at level 3. Officers **must** act accordingly and must comply with any procedure and work instruction issued under this Manual.

2.0.0 It is the Policy of the Argyll and Bute Council to serve Remedial Action Notices in relation to businesses which are subject to Regulation (EC) 852/2004 and who are classified as rating 1 or 2 and to confirm in an inspection report in writing, the deficiencies that lead to the Rating, at level 3. Officers **must** act accordingly and must comply with any procedure and work instruction issued under this Manual.

2.1.0 It is the policy of the Argyll and Bute Council to address instances of imminent risk to Public Health associated with non-compliance with Article 5 of Regulation (EC) 852/2004 through the service of Hygiene Emergency Prohibition Notices. Officers **must** act accordingly.

2.2.0 **Statement of Policy in relation to Article 5 of Regulation EC 852 (2004)**
Applicable to New Businesses

2.2.1 **The Argyll and Bute Council recognise that from time to time new businesses will be established and that existing businesses will change ownership. In such situations it is the policy of the Service to recognise the particular difficulties associated with compliance with Article 5 of Regulation (EC) 852/2004. Therefore, it is also the policy of the Service to work as closely as possible with food business proprietors, giving as much advice and information to them as resources allow.**

2.2.2 /....

Section 5	Chapter One	Page 3
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Chapter One (Cont'd)

ARTICLE 5 OF REGULATION (EC) 852/2004

2.2.2 The following is also the policy of the Argyll and Bute Council:-

- (a) new Owners will be made aware of their legal responsibilities in respect of Article 5 of Regulation EC 852/2004.
- (b) new owners will be made aware of this Manual and the implications where non-compliance is established.
- (c) the Service will establish at the initial inspection whether the business does not represent a significant risk to public health. This inspection will be carried out at the earliest opportunity following the Service being notified.
- (d) where a significant risk is established, that the Service will apply the enforcement procedures described within Section 4, Chapters 3, 4, 5 and 6 of this Manual.
- (e) where it is confirmed that the new business does not comply with Article 5 of Regulation (EC) 852/2004, the Service will serve a Hygiene Improvement Notice under the Food Hygiene (Scotland) Regulations 2006 and will confirm in an inspection report in writing the deficiencies that lead to the non-compliance.

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Chapter Two

SPECIAL STATEMENT OF POLICY IN RELATION TO

THE REQUIREMENTS OF FOOD SAFETY LEGISLATION FOR INSTRUCTION, TRAINING AND SUPERVISION OF FOOD HANDLERS

- 1.0.0** It is the policy of the Argyll and Bute Council to make requirements in relation to the requirements of Food Safety legislation relating to the instruction, training and supervision of Food Handlers in accordance with applicable Guides and ‘Models’ given affect by EC Regulations and Directives.
- 1.1.0** In the absence of, or in addition to, a relevant Guide or “Model”, reference will be made to “Food Hygiene Training: A guide to it’s Responsible Management”. Published by The Institute of Food Science and Technology.
- 1.2.0** Officers **must** act accordingly.
- 1.3.0** It is also the policy of the Argyll and Bute Council to serve Hygiene Improvement Notices in relation to the instruction, training and supervision of Food Handlers under the Food Hygiene (Scotland) Regulations 2006 where it is determined in accordance with Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4 (3) Compliance published by the SFCC, that hazards have not been identified and that the requirements specified within the references within paragraph 1.0 and 1.1 above have not been complied with.

Chapter Three

SPECIAL STATEMENT OF POLICY IN RELATION TO

APPROVAL UNDER, AND REVOCATION OF APPROVAL UNDER, REGULATION (EC) 853/2004

- 1.0.0** It is the policy of the Argyll and Bute Council to Approve premises subject to Regulation (EC) 852/2004 where such premises comply with all the applicable requirements upon which Approval is contingent.
- 1.1.0** It is the policy of the Argyll and Bute Council to withdraw approval/revoke approval previously made under the applicable product specific legislation where the applicable requirements of revocation are met
- 1.2.0** By reference to Report on Vacuum Packaging and Associated Processes Published by the Advisory Committee and the Microbiological Safety of Food.
- 1.3.0** Approval shall not be granted, suspended or revoked without reference to the Specialist Environmental Health Officer (Food Safety).
- 1.4.0** *Officers will recognise the need to establish all necessary evidence at the time of determining the need for formal approval or revocation/suspension of approval and will have reference to Section 3, Chapter 4 within this Manual.*

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SECTION 6

**INTERPRETATION OF
SAMPLE ASSAY RESULTS AND
REFERENCE TO MICROBIOLOGICAL
AND OTHER CRITERIA**

Section 6		
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Chapter One

STATEMENT OF POLICY IN RELATION TO

INTERPRETATION OF SAMPLE ASSAY RESULTS AND REFERENCE TO MICROBIOLOGICAL AND OTHER CRITERIA

1.0.0 It is the policy of the Argyll and Bute Council to compare the results of sample assays to and interpret in accordance with the following: -

- *“Statutory Standards and Criteria as defined by legislation.”*
- *“Guidelines For the Microbiological Quality of Some Ready To Eat Foods Sampled at the Point of Sale”??? – To Be revised.*
published jointly by
The Public Health Laboratory Service and
The Scottish Centre for Infection and Environmental Health
- *“Development and Use of Microbiological Criteria for Foods”*
published by
The Institute of Food Science and Technology
- *“Harmonization of Safety Criteria for Minimally processed Foods”*
published by
Food Linked Agro-Industrial Research European Commission
- *“Report on Vacuum Packaging and Associated Processes”*
published by
The Advisory Committee and the Microbiological Safety of Food

1.1.0 Officers **must** therefore have regard to the references specified within paragraph 1.0.0 above when interpreting the results of food assays.

1.2.0 Officers **must** report every failure or suspected failure to meet the criteria specified within the references specified within paragraph 1.1.0 above to the Lead Environmental Health Officer, Food Control.

1.3.0 The Lead Environmental Health Officer, Food Control shall consider and direct in relation to the most appropriate course of action and, in doing so, shall have shall have regard to Section 3 and Section 4 of this Manual.

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SECTION 7

**RECOMMENDATIONS AND ADVICE
OVER AND ABOVE THE STANDARD
REQUIRED BY LAW**

Section 7		
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ANDY/QA2010/Food Safety Law Enforcement Manual April 12

Version 6 : 1st April 2012

Last Date of Revision: 1st April. Reasons:- Cross Contam Guidance/RAN's ?WHO-Codex Val paper

Author:- A J MacLeod: Lead Officer

Chapter One

STATEMENT OF POLICY IN RELATION TO

MAKING RECOMMENDATIONS IN RELATION TO GOOD HYGIENE PRACTICE OVER AND ABOVE THE STANDARDS REQUIRED BY LAW AND IN RELATION TO RISKS TO FOOD SAFETY NOT ADDRESSED BY LEGISLATION

- 1.0.0** It is the policy of the Argyll and Bute Council, in making recommendations in relation to good hygiene practice over and above the standards required by law or in relation to risks to food safety that are not addressed by law, to have regard to established sources of guidance produced by governmental organisations, international governmental organisations where the United Kingdom is a member, by recognised trade associations and by established research associations.
- 1.0.1** Officers **must** therefore have regard to such guidance when making such recommendations.
- 1.0.2** Officers **must** acknowledge the source of such guidance.

SECTION 8
LACOTS/LACORS
HOME AUTHORITY PRINCIPLE

Section 8		
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Chapter One

STATEMENT OF POLICY IN RELATION TO

THE LACOTS/LACORS PRINCIPLE OF THE HOME AUTHORITY

- 1.0.0** It is the policy of the Argyll and Bute Council to fully recognise, acknowledge and support the LACOTS/LACORS Principle of the Home Authority.
- 1.0.1** In considering enforcement action against a national company, the Council will act in accordance with the LACOTS/LACORS Principle of the Home Authority.
- 1.0.2** Authorised Officers, in considering enforcement action against a national company, **must** act in accordance with the LACOTS/LACORS Principle of the Home Authority and must liaise with the Lead Environmental Health Officer, Food Control, and any Home or Originating Authority.

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<p style="text-align: center;">SECTION 9</p> <p style="text-align: center;">TIME LIMITS FOR COMPLIANCE</p>
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Section 9		
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Chapter One

STATEMENT OF POLICY IN RELATION TO

SPECIFICATION OF TIME LIMITS FOR COMPLIANCE

- 1.0.0** It is the policy of the Argyll and Bute Council to specify realistic time limits for compliance arising from both formal and informal enforcement action.
- 1.0.1** It is also the policy of the Argyll and Bute Council to take into consideration the following factors before a time limit is specified :-
- The risk to public health
 - The nature of the problem
 - Practicability of available solutions
- 1.0.2** Officers will have regard to genuine difficulties which may occur for proprietors attempting to comply – ie, regard will be had to the complexity, difficulty, expense and other resource burdens attendant with compliance.
- 1.0.2.1** In particular it is also the policy of the Council to account for the problems of remoteness and peripherality attendant within the Council’s area in specifying time limits for compliance.
- 1.0.3** It is the policy of the Argyll and Bute Council, wherever possible, to agree the time limit with the proprietor before it is specified in any Notice.
- 1.0.4** It is the policy of the Argyll and Bute Council to issue guidance to which Authorised Officers **must** have regard when specifying time limits for compliance.

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SECTION 10
NEW BUSINESSES

Chapter One

STATEMENT OF POLICY IN RELATION TO

NEW BUSINESSES

1.0.0 The Argyll and Bute Council recognise that, from time to time, new businesses will be established and that existing businesses will change ownership. In such situations, it is the policy of the Argyll and Bute Council to work as closely with food business proprietors as possible, giving as much information and advice to them as resources allow.

1.0.1 The Argyll and Bute Council will :-

- (a) make new owners aware of their legal responsibilities.
- (b) make new owners aware of the existence of this Manual and the implications to their business where non-compliance is established.
- (c) endeavour for an Officer to undertake an inspection and effect a risk assessment/Business profile, at the earliest opportunity following the Council being notified. In so doing, the Lead Environmental Health Officer, Food Control, and Service Managers have the discretion to direct this activity in consideration of available resources and in accordance with the principles within Section 2 and Section 3 of this Manual, specifically Section 3, Chapter 2 paragraph 1.0.1 and Section 3, Chapter 3 paragraphs 1.0.1 to 1.0.8.
- (d) where it is determined that the new businesses do not comply with Article 5 of Regulation (EC) 852/2004, serve a Hygiene Improvement Notice under the Food Hygiene (Scotland) Regulations 2006 and to confirm in an inspection report in writing the deficiencies that lead to the non-compliance.
- (e) provided that no significant risk to public health exists, agree in writing a programme of compliance with the proprietor.
- (f) where imminent risk to health is established, apply the enforcement procedures described within Section 4, Chapters 3, 4 and 5 of this Manual.

SECTION 11
LANGUAGE

Section 11		
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Chapter One

STATEMENT OF POLICY IN RELATION TO

ENFORCEMENT WHERE ENGLISH IS NOT THE FIRST LANGUAGE

- 1.0.0** It is the policy of the Argyll and Bute Council to recognise Gaelic and ethnic minority languages. A covering letter must accompany Improvement Notices. If English is not the first language of the proprietor, a copy of the Warning Notice “Untranslated Food Safety Act Material – Legal Implications” must be included.
- 1.1.0** It is the policy of the Argyll and Bute Council to periodically review and to keep under review its provision of Food Law Enforcement in languages other than English.

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<p style="text-align: center;">SECTION 12</p> <p style="text-align: center;">CONSISTENCY AND REVIEW</p>

Section 12		
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Chapter One

STATEMENT OF POLICY ON

SECURING CONSISTENCY OF ENFORCEMENT WITH THIS MANUAL

- 1.0.0** All enforcement decisions taken by all Authorised Officers **must** be made in compliance with this Manual. Any departure from the Policy will be **exceptional**, capable of being justified by reference to this Manual and be fully considered in consultation with the Lead Environmental Health Officer, Food Control, and afterward, as is necessary, the Regulatory Services Manager.
- 1.0.1** It is the policy of the Argyll and Bute Council to issue procedures, work instructions and prescriptive standards as is necessary. These are deemed binding as an instruction which Enforcement Officers must comply with when carrying out Food Safety Enforcement. Similarly it is also the policy of the Argyll and Bute Council to issue guidance as is necessary, to which Enforcement Officers must have regard in carrying out Food Safety enforcement.
- 1.0.2** In order to ensure that the Policy is consistently applied, an introduction to the Policy will be included as part of the induction training received by all Authorised Officers at commencement of employment with the Council.
- 1.0.3** The review of enforcement activity will form part of the routine performance monitoring carried out within the Argyll and Bute Council. Where indicated, additional training, refresher courses, etc, will be given to all Officers.

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Chapter Two

STATEMENT OF POLICY IN RELATION TO

POLICY REVIEW

1.0.0 This Enforcement Policy will be kept continually under review by the Lead Environmental Health Officer, Food Control, and reviewed at least once per year by the Regulatory Services Manager, in light of developments, and in conjunction with other operational policies of the Service, by the Regulatory Services Manager.

1.0.1 The review will have regard to all new legislation, Codes of Practice or Food Standards Agency/SFELC/LACORS guidance, which concern food safety enforcement action.



Food Standards Law Enforcement Manual 2012

**Including Policy in Respect to
Food Standards Law
Enforcement & **Upon the
Informed Consumer** in terms of
Food, including Enforcement
Guidelines for Officers**

**Controlled Document
Version 1/April 2012
Decontrolled if Printed.
Please check Public folders for currency**

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SECTION 1

**STATUS OF THE POLICY
AS A WORK INSTRUCTION**

Section 1		
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Andy/QA2010/FOODSTANDARDSMANUAL01APRIL2012

Version 2 of 2: 03 April 2010

Last date of Revision: 27 March 2010. Reason:- COP/LABRO/HAMPTON/IINTERVENTIONS/NEW BUSINESS

Author:- AJ MacLeod: Lead Environmental Health Officer, Food Control

Chapter One

STATUS OF THE POLICY AS A WORK INSTRUCTION

- 1.0.0** All enforcement in relation to Food Standards legislation shall comply with this Policy.
- 1.1.0** Compliance with the Policy represents an instruction binding upon the conduct of Authorised Officers in relation to Food Standards legislation.

Signed : _____
Regulatory Services Manager

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SECTION 2
INTRODUCTION

Section 2		
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Last date of Revision: 27 March 2010. Reason:- COP/LABRO/HAMPTON/IINTERVENTIONS/NEW BUSINESS

Author:- AJ MacLeod: Lead Environmental Health Officer, Food Control

Chapter One

DEFINITION OF TERMS

1.0.0 For the purposes of this policy the following definitions are applicable:-

(a) 'Food Standards' means, "Legal requirements covering the

Quality with particular emphasis upon composition as it may lead to nutritional issue including long-term chronic exposure by the consuming public.

Composition with particular emphasis upon composition as it may lead to a Food Safety risk or a nutritional issue including long-term chronic exposure by the consuming public.

Labelling with particular emphasis upon how labelling informs the consumer in making positive decisions in relation to food consumption.

Presentation

Advertising of food, and

Of materials or articles in contact with food."

(b) 'Food standards intervention' means, "An intervention carried out in order to establish whether food standards are being met."

(c) 'Programmed Inspection' means, "An inspection carried out as part of a planned programme."

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Chapter Two

FUNDAMENTAL PRINCIPLES

1.0.0 The Argyll and Bute Council will enforce Food Standards legislation where it accords with the Council's General Policy on Food Standards.

1.1.0 The Council's General Policy On Food Standards is as follows:-

“The Argyll and Bute Council is committed to its role as a statutory food authority and will seek to ensure foods and food packaging meet relevant standards for quality, composition and labelling and that reputable food business are not prejudiced by unfair competition. This will be achieved by providing consistent, effective and efficient enforcement, appropriately resourced with an emphasis placed on prevention through advice.”

The Argyll and Bute Council will, in addition to the exercise of its statutory enforcement role, work to support all food businesses in a sense of partnership, helping to meet emergent challenges.

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Chapter Three

ESTABLISHMENT OF POLICY

1.0.0 Argyll and Bute Council, in establishing their Food Standards Enforcement Policy, has had regard to, and will continue to have regard to:-

- the Food Law Code of Practice
- **the needs and views of consumers, particularly in terms of nutritional issues where this is based upon sound and rigorous scientific advice.**
- the needs and views of businesses;
- the profile of locally and non-locally produced food and packaging materials; and
- the need for proportionate enforcement action

in order to assist the Authority to ensure that consumers and businesses have a reliable, competent and effective local Food Standards Enforcement service.

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<p style="text-align: center;">SECTION 3</p> <p style="text-align: center;">ENFORCEMENT – GENERAL CRITERIA</p>
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Andy/QA2010/FOODSTANDARDSMANUAL01APRIL2012

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Last date of Revision: 27 March 2010. Reason:- COP/LABRO/HAMPTON/IINTERVENTIONS/NEW BUSINESS

Author:- AJ MacLeod: Lead Environmental Health Officer, Food Control

Chapter One

POLICY ON FOOD STANDARDS INTERVENTIONS

- 1.0.0** It is the policy of the Argyll and Bute Council in its role as a Statutory Food Authority to utilise interventions flexibly as provided for within the Food Law Code of Practice and informed by a process of risk assessment. **It is also the Policy of Argyll and Bute Council to recognise the limitations of its available resources and therefore whilst selecting and applying interventions and whilst making this risk assessment to give prominence to considerations of Food Safety and to considerations of nutrition.**
- 1.1.0** It is therefore also the policy of the Argyll and Bute Council that those food businesses that are compliant with Food Law should be subject to interventions that reflect the level of compliance that has been achieved by the Food Business Operator. Consistent with this approach it is, furthermore, the policy of the Argyll and Bute Council that more intensive interventions should only be directed at those Food Businesses that present the greatest risk to Public Health. **in terms of Food Safety and in terms of nutrition.**
- 1.2.0** It is the policy of the Argyll and Bute Council to review on an annual basis its strategy on interventions and in so doing to be guided by the Food Law Code of Practice and the principle of risk assessment.

Chapter Two

STATEMENT OF POLICY IN RELATION TO

DECISION MAKING IN ENFORCEMENT AND INTERVENTIONS

- 1.0.0** The Regulatory Services Manager, following the advice of the Lead Environmental Health Officer, Food Control, will authorise Officers to select interventions and to take enforcement action appropriate to their qualifications and experience
- 1.0.1** In deciding whether an Officer should be authorised to select interventions, and initiate enforcement action, consideration will be given to the qualifications of the Officer and his/her level of experience in Food Safety enforcement. Decisions will be made following reference to the guidance given in the Food Law Code of Practice.
- 1.0.2** All precognitions must be submitted timeously (having regard to Human Rights legislation and any time bar) to the Lead Environmental Health Officer, Food Control.
- 1.0.3** The decision to submit a Report to the Procurator Fiscal will be made by the Regulatory Services Manager, in consultation with the Lead Environmental Health Officer, Food Control.

It is the policy of the Argyll and Bute Council to require that Authorised Officers select interventions in accordance with the Food Law Code of Practice and in accordance with the following criteria, although not exclusively so:-

- (i) Where to do so would comply with the General Policy of the Argyll and Bute Council in relation to Food Safety, and with this Policy, particularly Section 3, Chapter 3.

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Chapter Three

STATEMENT OF POLICY IN RELATION TO

SCOPE OF INTERVENTIONS AND ENFORCEMENT OPTIONS

1.0.0 This Authority recognises the importance of ensuring that enforcement decisions are consistent, fair, proportional to risk(s) and based on published standards. The Argyll and Bute Council will adopt and comply with the guidance contained in the Food Law Code of Practice, and in the circulars and other guidance issued by the SFCC/LACOTS, including advice relating to the Home Authority Principle, where appropriate.

1.0.1 Before making a decision on the form of intervention or need for any enforcement action, Officers are required to consider:-

- (i) The identification of a food safety hazard and an evaluation of the risks to public health, so far as this is possible and relevant to do so.
- (ii) **The importance of an issue in terms of nutrition and nutritional claims, taking into account the possibility of chronic and long-term exposure of the consuming public where it is possible and appropriate to do so.**
- (iii) The seriousness of any offence
- (iv) The past history of the food business
- (v) Confidence in management
- (vi) The consequences of non-compliance, and
- (vii) The likely effectiveness of available enforcement options
- (viii) The causes of non-compliance
- (ix) The economic impact of an intervention or an enforcement action, although the priority criteria shall be (i) to (vii) above

1.0.2 /....

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Chapter Three (Cont'd)

SCOPE OF INTERVENTIONS AND ENFORCEMENT OPTIONS

- 1.0.2** Once all the criteria described above have been considered, together with other relevant information, the Officer shall determine:-
- (a) The most appropriate intervention in accordance with the Food Law Code of Practice.
 - (b) That there is no need for action
 - (c) To take informal action
 - (d) That a report should be submitted to the Procurator Fiscal
- 1.0.3** Authorised Officers will not select an intervention, nor take any enforcement action which is inconsistent with the advice issued by the SFCC/LACOTS or Enforcement Service Policies without raising the issue with the Council's Lead Environmental Health Officer, Food Control. Where indicated, including where the issue appears to be of national significance, the matter will be referred to the SFCC for consideration by the LACOTS National Food Safety Panel if appropriate.
- 1.0.4** It is the policy of Argyll and Bute Council to recognise that in most instances prosecution should not be the first option although there will be circumstances, such as a deliberate action or where action has been ignored, when a prosecution may be regarded as the most effective action.

Chapter Four

STATEMENT OF POLICY IN RELATION TO

EVIDENTIAL REQUIREMENTS IN ENFORCEMENT DECISION MAKING

It is the policy of the Argyll and Bute Council to require that Authorised Officers - prior to making any enforcement decision - obtain sufficient evidence to validate this decision. Before making any enforcement decision an Officer **must** ensure that they comply with this requirement.

1.0.0 It is the policy of the Argyll and Bute Council to consider evidence as according to the definition made within BS EN ISO 8402: 1995 Quality Management and Quality Assurance – Vocabulary (as amended):-

"Information that can be proved true, based upon facts obtained through observation, measurement, test or other means"

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SECTION 4

INTERVENTIONS, INSPECTIONS AND FOLLOW-UP VISITS

Section 4		
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Andy/QA2010/FOODSTANDARDSMANUAL01APRIL2012

Version 2 of 2: 03 April 2010

Last date of Revision: 27 March 2010. Reason:- COP/LABRO/HAMPTON/IINTERVENTIONS/NEW BUSINESS

Author:- AJ MacLeod: Lead Environmental Health Officer, Food Control

Chapter One

PURPOSES OF FOOD STANDARDS INTERVENTIONS

1.0.0 Food Standards interventions throughout the area of Argyll and Bute Council will be carried out to ensure that food standards requirements are met, consumers are provided with food that is properly presented, labelled and advertised, and that, so far as resources allow, taking into account competing priorities, fair trading conditions are maintained in the food sector. In particular, Food Standards interventions will include:-

- An assessment of the risk of the enterprise failing to meet food standards requirements, in particular those standards that most directly affect Food Safety and Public Health in terms of nutrition and nutritional claims.
- A consideration of the existence and effectiveness of management systems designed to ensure that food standards requirements are met and, where they exist, verifying their effectiveness.
- An assessment of compliance with food standards requirements by examining and assessing Food Safety Management Systems, labels, descriptions, menus, claims, recipes, other records and, if appropriate, taking samples;
- Offering advice on legal requirements and good practice;
- Initiating effective enforcement action in accordance with Argyll and Bute Council's enforcement policy including, if appropriate, agreeing remedial action by the enterprise within a specified timescale.

1.0.1 In relation to Food Standards interventions, Argyll and Bute Council had regard to the Food Law Code of Practice in designing and implementing their intervention programmes. Inspections are designed to cover all stages of production, manufacture, and import into the community, processing, storage, transport, distribution and trade.

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Chapter Two

OBJECTIVES OF FOOD STANDARDS INTERVENTIONS

1.0.0 Food Standards interventions throughout the area of Argyll and Bute Council will be carried out so as to meet the following four objections:-

- To assess compliance with composition and labelling requirements, product presentation and advertising requirements **on the basis of particular consideration and emphasis being given to issues relevant to Food Safety, nutrition and nutritional claims**
- Determine if any preventative action can be recommended which may reduce the likelihood of an infringement;
- Detect breaches of legal requirements and, where appropriate, gather evidence to support formal action;
- Assess the risk presented by the premises to determine the next intervention date.

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Chapter Three

REQUIREMENTS DURING INTERVENTIONS AND INSPECTIONS

1.0.0 All Authorised Officers must be aware that:-

- Formal action may result from interventions, and as such the inspection must also include the gathering of evidence in support of any legal action which may result in infringements detected during the inspection;
- The completion of a Food Standards risk assessment is to establish a risk profile for businesses in Argyll and Bute Council's area and enable the Authority's planned inspection programme to be targeted to risk, and
- All inspections must cover all aspects of production from field to table excluding livestock farms. All inspections offer an opportunity for finished foods and ingredients to be sampled out in terms of the Food Law Code of Practice.

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Chapter Four

STATEMENT OF POLICY IN RELATION TO

TRIGGER VALUES FOR ENFORCEMENT AND SECONDARY INSPECTIONS

- 1.0.0** It is the policy of Argyll and Bute Council to initiate the appropriate enforcement when a Food Businesses is confirmed to be failing to comply with significant statutory requirements and when an Authorised Officer gives a score of 15 or more in either of the compliance rating elements within the inspection-rating scheme. Significant contravention shall be determined by reference to Section 2, Chapters 1 and 2 and Section 3, Chapter 3 of this Manual
- 1.1.0** The appropriate enforcement action shall accord with the Fundamental Principles, with the Enforcement General Criteria stated with Sections 2 and 3 of this Manual respectively and with the relevant requirements stated elsewhere within this Manual.
- 1.2.0** Secondary interventions for Food Safety purposes will be carried out when a Food Business is confirmed to be failing to comply with significant statutory requirements. When an Authorised Officer provides a score of 15 or more in either of the compliance elements of the Inspection Rating scheme, this will act as a ‘trigger’ for a secondary inspection to be scheduled.
- 1.3.0** The timing of the secondary inspection will be determined by the nature of the contravention and the action required to secure the compliance. It is the policy of Argyll and Bute Council that, in any case, the secondary inspection will take place no longer than 3 months after the primary inspection unless a statutory Notice has been served which specified a longer time.
- 1.4.0** It is the policy of Argyll and Bute Council to take the appropriate enforcement action when Food Businesses have failed to remedy the significant contraventions, which initiated the secondary inspection.

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SECTION 5

**DEVELOPMENT OF
AN INTERVENTIONS PROGRAMME**

Section 5		
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Andy/QA2010/FOODSTANDARDSMANUAL01APRIL2012

Version 2 of 2: 03 April 2010

Last date of Revision: 27 March 2010. Reason:- COP/LABRO/HAMPTON/IINTERVENTIONS/NEW BUSINESS

Author:- AJ MacLeod: Lead Environmental Health Officer, Food Control

Chapter One

PRIORITY PLANNING IN THE DEVELOPMENT OF AN INTERVENTION PROGRAMME

- 1.0.0** In designing and implementing the intervention programme for Food Standards interventions, Argyll and Bute Council has taken full regard of the Food Law Code of Practice in respect of the interventions and inspection procedures and will continue to do so.
- 1.0.1** The requirement to carry out “regular” intervention is in terms of the relevant EU Regulations.
- 1.0.2** The record of premises for interventions is based on the food business database kept by the Environmental Health Section to meet the requirements of the Food Law Code of Practice.
- 1.0.3** The documented programme for food safety interventions has been based on risk frequency and the minimum inspection frequencies have been calculated in accordance with the recommendations in the Food Law Code of Practice and this will be continued.
- 1.0.4** The highest risk premises are subject to intervention in accordance with the Food Law Code of Practice.
- 1.0.4.1** These frequencies can and are subject to alteration based on the following examples:-
- (a) Home Authority;
 - (b) Originating authority for a manufacturer, whose products are to be distributed outside the UK.
- 1.1.0** /....

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Chapter One (Cont'd)**PRIORITY PLANNING IN THE DEVELOPMENT OF AN INSPECTION PROGRAMME****1.1.0 Requirements of the Priority Programme**

The priority programme takes account of the following:-

1.1.1 Argyll and Bute Council's Sampling Strategy

Argyll and Bute Council's sampling strategy, in terms of Food Law Code of Practice, sets out the consumer protection factors, which are used to determine the desired level of sampling to be undertaken during or following inspections of food premises.

1.1.2 Exemptions from Food Standards Intervention Programmes

It has been considered that there are some premises where the risks of infringement of food law are minimal but nonetheless the premises are used as food businesses. It is considered that such premises would require very infrequent interventions.

1.1.2.1 Based on the merits of each case, Argyll and Bute Council will decide whether these premises should be included in their 5 year intervention programme or whether it should be put on a separate or less frequent schedule of visits. However, in all cases if the premises are subject to a justified consumer complaint or adverse sampling results, the premises **will** be placed in the 5-year programme for monitoring.

1.1.3 Exceptions from Food Standards programmes have been agreed and include:-

- (a) Childminders based in private accommodation with facilities for no more than four children; and
- (b) Bed and breakfast accommodation with no bar or restaurant facilities for non-residents and with no more than four letting rooms.

1.1.4 /....

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Chapter One (Cont'd)**PRIORITY PLANNING IN THE DEVELOPMENT OF AN INSPECTION PROGRAMME**

1.1.4 It has been agreed that non-manufacturing and non-processing premises dealing with food, where labelling requirements are applicable, will not be excluded from the Food Standard intervention programme. These types of premises include:-

- (a) Premises handling non pre-packed foods
- (b) Premises handling foods pre-packed for direct sale
- (c) Premises handling alcoholic drinks sold otherwise than pre-packed
- (d) Premises selling food subject to “Use By” dates, or
- (e) Premises handling foods labelled with nutritional information

1.1.5 Intervention Rating Programme

The intervention-rating programme is based on an assessment of the risk that premises may fail to meet food standards, such as composition and labelling. The inspection-rating programme gives a higher priority to premises, which present a high risk to food standards.

1.1.5.1 The intervention rating programme gives a priority classification to all food premises in Argyll and Bute using the inspection rating system as to whether premises are likely to present a high, medium or low risk to food standards.

1.1.5.2 The intervention-rating programme is not based on a category system but it recognises that some food premises and some food businesses may present a greater food standards risk than others. This variation can take place in any of the areas of potential risk (see Appendix 1 - Inspection Rating Programme - Premises Inspection Rating Guide)

1.2.0 /....

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Chapter One (Cont'd)**PRIORITY PLANNING IN THE DEVELOPMENT OF AN INSPECTION PROGRAMME****1.2.0 Frequency of Interventions**

It is the policy of Argyll and Bute Council, once the relevant extent of risk, as set out in Annex A, has been determined, premises should be inspected within the following minimum frequencies:-

1.2.1 Band Minimum Frequency of Inspection

- High High-risk premises will receive a minimum of one intervention during the calendar year. The inspection frequency should be a minimum of 10 months from the previous inspection and maximum of 14 months.
- Medium Every 2 years.
- Low Every 5 years.

1.2.1.1 It is the policy of Argyll and Bute Council to regard these intervention frequencies as the minimum and will provide for more frequent inspections where they consider this appropriate especially, for example, where Argyll and Bute Council act as “Home Authority” or is the originating authority for a manufacturer, whose produces are to be distributed outside the UK.

Chapter Two

STATEMENT OF POLICY IN RELATION TO

THE LACOTS PRINCIPLE OF THE HOME AUTHORITY AND IN RELATION TO CO-ORDINATION OF ADVICE AND ENFORCEMENT

- 1.0.0** It is the policy of Argyll and Bute Council to fully recognise that:-
- 1.0.1** - The co-ordination of food authority advice and enforcement is essential to ensure uniformity of treatment and consistency in dealing with food businesses, especially those that have more than one branch or unit and these are situated in different food authority areas.
- 1.0.2** - It is the policy of Regulatory Services to fully recognise, acknowledge and support the LACOTS Principle of the Home Authority.
- 1.0.3** - In considering enforcement action against a national company, the Council will act in accordance with the LACOTS Principle of the Home Authority.
- Authorised Officers, in considering enforcement action against a national company, **must** act in accordance with the LACOTS Principle of the Home Authority and must liaise with the Lead Environmental Health Officer, Food Control and any Home or Originating Authority.
- 1.2.0** The Council will be guided by the LACOTS Principle of the Home Authority where the Council is unable to adhere to this principle. The Council will consult with LACOTS and, should the matter not be resolved, the Food Standards Agency will be consulted.
- 1.3.0** The Council will be guided by LACOTS Home Authority Principle in determining which Food Authority should take the lead. The Home Authority should take responsibility for giving advice to food businesses which have more than one branch or unit situated in different food authority areas on matters relating to food standards legislation.
- 1.4.0** /....

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Chapter Two (Cont'd)

THE LACOTS PRINCIPLE OF THE HOME AUTHORITY AND IN RELATION TO CO-ORDINATION OF ADVICE AND ENFORCEMENT

1.4.0 It is the policy of Argyll and Bute Council in considering whether to give detailed advice or taking any enforcement action in relation to food businesses which have branches or units situation within other Food Authority areas to also consider whether there is a need to contact and liaise with the Home Authority before doing so.

1.5.0 It is also the policy of the Council to recognise that this liaison will be necessary for example:-

Where the advice or enforcement action related to centrally agreed policies or procedures of a food business. It would not be necessary, however, where such action relates to matters of an exclusively local nature.

1.6.0 It is the policy of Argyll and Bute Council to recognise that, when acting as the Home Authority, it will be providing advice to a particular food business, whose decision making base is located in their area. There will be other similar food businesses in the same sector of the industry who have other food authorities acting as Home Authority, e.g. the different national chains of pizza houses.

1.6.1 In such situations it is also the policy of the Council to liaise closely with LACOTS.

SECTION 6
NEW BUSINESSES

Section 6		
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Chapter One

STATEMENT OF POLICY IN RELATION TO

NEW BUSINESSES

1.0.0 The Argyll and Bute Council recognises that, from time to time, new businesses will be established and that existing businesses will change ownership. In such situations, it is the policy of the Argyll and Bute Council to work as closely with food business proprietors as possible, giving as much information and advice to them as resources allow.

1.0.1 The Argyll and Bute Council will:-

- (a) make new owners aware of their legal responsibilities.
- (b) make new owners aware of the existence of this Policy and the implications to their business where non-compliance is established.
- (c) endeavour for an Officer to undertake an inspection and effect a risk assessment/appraisal, at the earliest opportunity following the Council being notified. In so doing the Lead Environmental Health Officer, Food Control and Service Managers have the discretion to direct this activity in consideration of available resources and in accordance with the principles within Section 3, Chapter 3, paragraph 1.0.1.
- (d) provided that no significant risk to public health exists, agree a programme of compliance with the proprietor.
- (e) where imminent risk to health is established, apply the enforcement procedures described within Section 4, Chapters 3, 4 and 5 of this Policy.

<p style="text-align: center;">SECTION 7</p> <p style="text-align: center;">LANGUAGE</p>
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Section 7		
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Chapter One

STATEMENT OF POLICY IN RELATION TO

**ENFORCEMENT WHERE ENGLISH IS
NOT THE FIRST LANGUAGE**

1.0.0 It is the policy of the Argyll and Bute Council to recognise Gaelic and ethnic minority languages. A covering letter must accompany Improvement Notices. If English is not the first language of the proprietor, a copy of the Warning Notice “Untranslated Food Safety Act Material - Legal Implications” must be included.

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<p style="text-align: center;">SECTION 8</p> <p style="text-align: center;">CONSISTENCY AND REVIEW</p>
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Section 8		
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Chapter One

STATEMENT OF POLICY ON

SECURING CONSISTENCY OF ENFORCEMENT WITH THIS POLICY

- 1.0.0** All enforcement decisions taken by all Authorised Officers **must** be made in compliance with this Policy. Any departure from the Policy will be **exceptional**, capable of being justified and be fully considered in consultation with the Lead Environmental Health Officer, Food Control.
- 1.0.1** It is the policy of Argyll and Bute Council to issue procedures, work instructions and prescriptive standards as is necessary. These are deemed binding as an instruction, which Enforcement Officers must comply with when carrying out Food Standards enforcement. Similarly it is also the policy of Argyll and Bute Council to issue guidance as is necessary, to which Enforcement Officers must have regard in carrying out Food Safety enforcement.
- 1.0.2** In order to ensure that the Policy is consistently applied, an introduction to the Policy will be included as part of the induction training received by all Authorised Officers at commencement of employment with the Council.
- 1.0.3** The review of enforcement activity will form part of the routine performance monitoring carried out within Argyll and Bute Council. Where indicated, additional training, refresher courses etc, will be given to all Officers.

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Chapter Two

STATEMENT OF POLICY IN RELATION TO

POLICY REVIEW

1.0.0 This Enforcement Policy will be kept continually under review by the Lead Environmental Health Officer, Food Control, and reviewed at least once per year by the Head of Service in light of developments, and in conjunction with other operational policies of the Service, by the Head of Service.

1.0.1 The review will have regard to all new legislation Codes of Practice or LACOTS guidance, which concern food safety enforcement action.

1.1.0 Enforcement Policy and Practice

Argyll and Bute Council has taken the view that enforcement policy and practice should concentrate on achieving the aims of food standards requirements:-

Through the prevention of infringements;

Recognising the complementary roles of advice, education, and partnership;
and

Formal enforcement action including surveillance and monitoring

in order to meet performance data set down by Central Government, take account of best enforcement practice, but remain responsive to local circumstances and priorities.

1.2.0 The initial inspection of any unregistered food business of which the Environmental Health Section becomes aware will be carried out as soon as possible and, to coincide with discussions, to require the proprietor of the premises to register those premises as a food business.

1.3.0 If Argyll and Bute Council find that their Food Standards enforcement service or their Policy is inconsistent with advice offered centrally, all discussions regarding the approach will be discussed with colleagues within those bodies and/or local liaison groups.

1.4.0 Argyll and Bute Council actively participate in their local and regional food liaison groups and in the past have given, and in the future will continue to give, consideration to sharing information collated with other members of the group and other groups.

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Chapter Three

STATEMENT OF POLICY IN RELATION TO

PRIORITY PLANNING AND PROGRAMMES FOR FOOD STANDARDS INSPECTIONS

1.0.0 Timing of Interventions

To determine the timing of interventions, Argyll and Bute Council will have regard to all relevant and available information, including:-

- (a) The factors used in risk assessment (listed in Annex A); Seasonal factors (particularly relevant tourist centred businesses - i.e. Island communities);
- (b) The need to check compliance with new legislative requirements;
- (c) The time which has elapsed since the previous inspection.

1.0.1 In view of the fact that some food premises only operate in the early hours of the morning, late at night or at weekends, any interventions programme, to be effective, will need to recognise that such food businesses should be visited outside core hours of work..

1.0.2 Argyll and Bute council will endeavour to undertake an inspection of any newly registered food business within a period of 28 days, following receipt of the application for registration.

1.1.0 Urgent Action Outside the Interventions Programme

1.1.0.1 Where necessary, and when required by central government Departments, urgent action outside the interventions programme may be required.

1.1.0.2 /....

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Chapter Three (Cont'd)

**PRIORITY PLANNING AND PROGRAMMES FOR
FOOD STANDARDS INTERVENTIONS**

1.1.0.2 The Food Alert System and the Allergen Alerts will be such communications. However, others may be necessary in terms of the following:-

- (a) A food related problem arises which requires urgent action to be taken to protect public health;
- (b) Evidence emerges that an unsafe practice, which represents a significant hazard to public health, is occurring in certain settings;
- (c) A particular food handling or food preparation practice, previously thought to be safe, is found to entail a previously unsuspected hazard to public health.
- (d) A foodstuff previously thought to be safe is found, for whatever reason, to be hazardous to public health;
- (e) A particular food or foods, with national distribution, is/are found to be contaminated and thereby to present an imminent risk of injury to health.

1.1.0.3 Any urgent action deemed necessary by food authorities will be documented with any returns necessary being made to central Government Departments.

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Chapter Four

STATEMENT OF POLICY IN RELATION TO

PUBLIC AWARENESS OF ENFORCEMENT REQUIREMENTS

1.0.0 Argyll and Bute Council intends to:-

- (a) Publish their Enforcement Policies;
- (b) Communicate their Enforcement Policies to local food businesses and the wider local community;
- (c) Identify in their Enforcement Policies the factors that will be taken into account in deciding upon the level of enforcement action to be taken;
- (d) Consider the role of internal Local Authority appeal procedures in relation to enforcement policies; and
- (e) Publish the ways in which advice will be provided to businesses.

1.0.1 The Council's plan for enforcement will include all of the following inter-related elements:-

Interventions and visits
Sampling and testing
Advice and education

1.0.2 All Authorised Officers, when making enforcement decisions, must abide by the Council's' documented Enforcement Policy. Departures from the Policy should be exceptional, and the reasons for the departure must be documented in the premises file.

1.0.3 A clear distinction between matters which are necessary to meet statutory requirements, and those which are recommended as good practice must always be made when Officers provide advice. They should also ensure that advice or interpretation of requirements contained in any word-processed document or pre-printed letter, circular or advisory booklet, whether or not issued as part of the inspection, is accurate and reflects current practice. Officers shall be prepared to discuss the requirements of any letter, circular or advisory booklet with the proprietor.

1.0.4 /....

Section 8	Chapter Four	Page 1
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Chapter Four (Cont'd)**PUBLIC AWARENESS OF ENFORCEMENT REQUIREMENTS**

- 1.0.4** Officers shall ensure, whenever possible, that informal written advice which is considered appropriate following an inspection is sent to the proprietor with the inspection report. Food authorities should ensure that copies of any inspection report, letters and notices are sent to the Registered or Head Office where this is not the premises visited.
- 1.0.5** The Argyll and Bute Council shall have regard to guidance issued by central Government. Where no central Government guidance has been issued, the Food Authority should have been guided by any advice given by LACOTS. Where the Food Authority wishes to adopt an approach which is not consistent with that expressed by LACOTS (or SFCC), they should discuss their approach with that body.
- 1.0.6** Where issues of interpretation and inconsistency arise, Authorised Offices should discuss areas of difficulty with colleagues in other Authorities including the relevant Home Authority. Whatever problems are encountered, Food Authorities should avoid taking a unilateral decision on interpretation without seeking the views of other Authorities or of a national co-ordinating body, e.g. LACOTS.

Chapter Five

CO-ORDINATION OF ADVICE AND ENFORCEMENT

1.0.0 Access to Information

Argyll and Bute Council has ensured that Officers have convenient access to suitable, sufficient and up-to-date information to enable them to carry out competent inspections. Access has been provided to all relevant legislation, all Codes of Practice prepared under Section 40 of the Food safety Act, copies of Government and LACOTS guidance and appropriate technical literature.

1.1.0 Qualifications of Inspectors

In order to carry out an effective Food Standards Enforcement Service, Argyll and Bute Council have employed, and will employ, staff with the appropriate qualifications, skills, experience and therefore competency.

This is achieved having regard to:-

- (a) The Food Law Code of Practice on the qualifications and experience of Authorised Officers and experts.
- (b) The requirements of the Food Safety (Sampling and Qualifications) Regulations 1990, and
- (c) Any other requirements detailed in relevant Codes of Practice.

1.2.0 Officers involved in the Food Standards enforcement process will be trained or will undergo training and refresher training, as required, to ensure their knowledge of general principles of criminal law and practice, food (including its nature, composition, potential contaminants, etc.) food standards law, quality assurance and auditing, food processing and food analysis.

1.3.0 All necessary training requirements will be ascertained and a systematic approach will be undertaken to ensure that these will be recorded, identified and reviewed in order that they have a staff of competent and knowledgeable Officers.

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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: 09/00564/OUT
Planning Hierarchy: Local
Applicant: Mrs. Lynne Clark
Proposal: Erection of dwelling-house and alteration of access
Site Address: Land south west of Mudheireadh, Baluachrach, Tarbert

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwelling house
- Alteration and upgrading of access

(ii) Other specified operations

- Connection to public sewer
 - Connection to public water main
 - Provision of revised access to Mudheireadh
-

(B) RECOMMENDATION:

It is recommended that the application be refused for the reason stated in this report.

(C) CONSULTATIONS:

Area Roads Manager (responses dated 25.05.2009, 6.3.2012 and 10.4.2012): The geometry of the existing access makes it unsuitable to sustain further development. The public roads in the vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development.

Scottish Water (response dated 5.6.2009): No objections subject to condition; also advice note.

Paths Officer (response dated 12.3.2012): No objection.

Strathclyde Fire Brigade: No response to date

(D) HISTORY:

94/00463/DET001: Erection of dwelling - granted 1994 (being the dwelling, Mudheireadh, as built; this new proposal being sought within part of the garden ground of that dwelling).

09/00912/DET: Erection of two dwelling-houses north of Mudheireadh - granted 7 September 2009. Both now substantially complete and occupied.

(E) PUBLICITY:

Article 9 (Vacant Land): period for representations expired on 29.05.09

(F) REPRESENTATIONS:

(i) Representations received from:

- Ron and Anne Fraser, Uppertown Cottage, Baluachrach, Tarbert on 06.05.09;
- Stuart Allen and Judith Drewery, Ladysmith Cottage, Baluachrach, Tarbert on 07.05.09 & 12.05.09;
- Rose Rivendale, South Cottage, Baluachrach, Tarbert on 28 February 2012 and 7 March 2012 (13 e-mails)
- Carol Higgins 7 Viewbank Avenue Calderbank Airdrie Lanarkshire ML6 9TJ on 6 March 2012.
- Dr Richard Burton 15 Lansdowne Crescent Glasgow G20 6NQ on 5 March 2012
- Mr Paul McCabe on 5 March 2012
- Mary C Baxter Strathord Cottage Tullybleton Perthshire PH1 4PT on 6 March 2012
- Dr J Wallace Hinton 19 Maple Avenue Milton Of Campsie G66 8BB on 5 March 2012
- Fiona Sinclair on 13 March 2012

(ii) Summary of issues raised:

- The neighbour notification undertaken by the applicant (as relevant in the Spring 09) did not reveal the details of the access arrangements.

Comment: Procedurally this was correct.

- Further courtesy neighbour notification to other properties would be helpful.

Comment: Procedurally this was not necessary.

- Access is inadequate with vehicles having to undertake a 170 degree turn outside 1 Brucehill, and as emergency vehicles cannot undertake that manoeuvre they will have to undertake a further 400 yards (vital minutes) to undertake the required turn.
- Fire service vehicles cannot access Ladysmith Cottage, South Cottage and the land beyond it, and this development would also jeopardise the accessibility of Mudheireadh (the applicant's dwelling) to emergency access

- The proposal will add to the congestion in this area of single track roads serving over 50 dwellings and the Tarbert Academy.
- The proposed development, taken together with other proposed developments in the area (planning permission has previously been given to the same applicant for two other dwellings nearby served off the same shared access) increases the risk posed to any emergency access, no turning circle being available for a fire engine.

Comment: The Area Roads Engineer's latest response is that the geometry of the existing access makes it unsuitable to sustain further development. No response has been received from Strathclyde Fire Brigade

- The lack of detail (height of dwelling, its specific location, orientation and footprint) do not enable proper assessment.
- Whilst it is an Outline application, and in the absence of detail, there are concerns about overlooking, privacy, loss of amenity, and loss of light in relation to up to 4 properties and which may adversely impact on value of property.

Comment: The original objectors have been advised of illustrative details but no further comment has been received

- The proposed dwelling would be surrounded by properties on all four sides which would have a direct view of the property.

Comment: The garden of the proposed dwelling will be overlooked. See assessment below

- The development will overlook the primary school playground.

Comment: This is not a relevant planning concern.

- The development is in the vicinity of a scheduled monument – Tarbert, mediaeval Burgh and environs – and the proposal occupies what would have been the central common area of the clachan of Baluachrach, or Uppertown as it became known. This is a historic landscape and whilst some modern development has taken place on the periphery, a new property proposed within the middle of the landscape will destroy what little remains of Tarbert's history.

Comment: There is merit in retaining an open area within this group of buildings. See assessment below.

- The developer has already carried out the culverting of the earlier open watercourse to enable the proposed access but we are not aware of these works being registered with SEPA under the Water Environment (Control Activities)(Scotland) Regs 2005.

Comment: SEPA were made aware of these works during the consideration of the application for the neighbouring two dwellings and had no objections to planning permission in respect of the culverting / road works. Any additional requirements / compliance with regulations as may be required by SEPA are SEPA's responsibility.

- There is no reference to a SuDS drainage system in the application and concern in this regard particularly relates to the proposed access.

Comments: If permission were granted, it would need to be subject to a condition requiring the submission and implementation of an appropriate SuDS scheme.

- There is ongoing dispute over land ownership in front of South Cottage which would impair the proposed revised access to Mudheireadh.

Comments: Even if ownership was decided in the objector's favour, it would still be open to the applicant to negotiate such servitude rights of access to Mudheireadh as may be necessary to implement any permission.

- The proposal is totally out of character with the proposed site and area.

Comments: See assessment below

- There is a limit of 10 dwellings at Baluachrach which has already been reached.

Comments: There is no prescribed limit on development in this locality.

- The amount of land shown to build the development is false.

Comments: This concern is inadequately specified so cannot be addressed.

- Noise pollution and light pollution would be detrimental to health.

Comments: It is not credible that noise and light associated with a single residential property could be harmful to health.

- The access to Tarbert Castle and Kintyre Way has been blocked.

Comments: Any claimed access to Tarbert Castle and Kintyre Way has already been obstructed by previously constructed dwellings.

- Baluachrach is a croft area so development cannot be considered.

Comments: The property is not a registered croft.

- The plot is bedrock and will take a high degree of drilling. As the surrounding cottages have no modern foundations, there will be a high likelihood of further structural damage.

Comments: The submitted indicative layout suggests an excavation of 1-2m to achieve a finished floor level. Rock removal in close proximity to existing dwellings served by a sub-standard means of access could prove problematic and a source of nuisance for the duration of the extraction and disposal of the rock. In the event of permission being granted, a condition requiring a construction method statement would be required.

(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 and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 8 – Landscape and Development Control
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design
LP HOU 1 – General Housing Development
LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 5 – Off-site Highway Improvements
LP TRAN 6 – Vehicle Parking Provision

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

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

- Planning Advice Note PAN 52 : Planning in Small Towns
-

(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): No

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

The proposal seeks the development (in principle) of a new dwelling within the curtilage of Mudheireadh, a relatively modern dwelling in a group of properties in the vicinity of Baluachrach, on the southern fringe of Tarbert. The plot lies within the Settlement Zone of Tarbert where the proposal is to be assessed in the context of Structure Plan Policy STRAT DC 1 and Local Plan Policy LP HOU 1. These support infill development provided that there are no layout, density, amenity, servicing or access constraints.

The application has been accompanied by an illustrative layout which shows a dwelling to be located at right angles to the host property and presenting a gable to the adjacent terraced cottages. Such orientation would be necessary to overcome overlooking of those existing dwellings. The design is shown to be a small single storey dwelling. Access is to be repositioned from its existing location at the south end of the garden to a second arm of the private access to the west of the site opposite the terraced cottages, where it would comprise separate access points to serve the existing and the proposed dwellings.

This cluster of buildings is the remnant of a former small crofting community on the outskirts of Tarbert, which has over the years been subsumed within the village by the encroachment of more recent development. It does, however, still retain small dwellings and an informal clustering of buildings, including some undeveloped land and narrow unmade access tracks, which is untypical of the more recent planned development in the surrounding area.

Planning permission has previously been granted for two dwellings to replace a derelict dwelling on the edge of this cluster and these have recently been completed. Permission is now sought to insert a further building within the cluster within the garden ground of the applicant's home. Whilst the site is of a size that could potentially accommodate a small dwelling whilst maintaining a curtilage for the existing property which would not be untypical of those nearby, this could only be achieved by setting the new building at right angles to the applicant's property and to neighbouring dwellings, and by the use of a narrow access immediately adjacent to existing cottages, which already serves 5 dwellings and which would be required to serve 2 more properties as a result of this proposal. The Area Roads Engineer finds the geometry of the existing access makes it unsuitable to sustain further development. The existing public roads in the immediate vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development. Furthermore, additional use of the private access would cause increased disturbance and have adverse amenity consequences for the occupiers of those existing cottages which front immediately onto that track.

Although the application site forms a side garden to a dwelling, it performs an additional function in maintaining an element of open land and spacing between buildings, which is an important characteristic of this cluster of cottages and small dwellings, and a remnant of their origins. To develop this garden as proposed would result in the infilling of the last remaining space of any consequence within this group

of buildings and would erode the residential amenity of the surrounding dwellings overlooking this area in the process. The site itself largely comprises a rock outcrop, which historically probably dictated that it remained undeveloped. It would require rock extraction to bring the site down to a level suitable to accommodate a dwelling. Given the proximity of adjoining dwellings and the sub-standard approach roads to the site, such operations in a confined location would, in themselves, be likely to give rise to adverse amenity considerations, albeit over a limited period.

Overall, the fact that the dwelling has to be orientated at right angles to the existing dwelling in order secure an acceptable level of privacy for existing residents, the shortcomings of the convoluted and sub-standard access, and the loss of the last open area of any significance within this cluster, conspire to produce a form of development which, when all these factors are considered together, would have adverse consequences for the residential amenity of surrounding properties and would not secure a form of infill development which is sympathetic to its surroundings.

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

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

Not applicable

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

Author of Report: David Eaglesham **Date:** 11.04.2012

Reviewing Officer: Richard Kerr **Date:** 11.04.2012

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION 09/00564/OUT

1. This application relates to land within a cluster of dwellings originally forming part of a smallcrofting community on the outskirts of Tarbert. Whilst this has now been subsumed within the settlement due to the encroachment of adjoining development, it does, however, still retain small dwellings and an informal clustering of buildings, including some undeveloped land and narrow unmade access tracks, which is untypical of more recent planned development in the surrounding area. Whilst some development has recently been completed on the margins of this cluster, further development as proposed would infill the last remaining open area of any significance within this cluster and would involve additional vehicles using sub-standard single width access tracks, involving in particular, additional use of the access passing immediately in front of adjacent terraced cottages by vehicles associated with the applicant's existing dwelling and the proposed dwelling, and increasing the number of properties served by that access to seven. Such level of usage at close quarters and having regard to the sub-standard width and geometry of the access and the lack of off-street parking to serve the existing dwellings would be to the detriment of the residential amenity of the occupiers of those dwellings. The shortcomings of the access regime, together with the loss of this open area to infill development, which would necessarily have to be sited uncharacteristically at right angles to adjacent buildings so as not to compromise privacy, would conspire to produce a form of development which, when these factors are considered together, would have adverse consequences for the residential amenity of adjacent properties. The development does not secure an acceptable relationship with adjacent properties and does not constitute a form of infill development which is sympathetic to its surroundings, and therefore fails to satisfy development plan policies STRAT DC 1, LP HOU 1 or LP ENV 19.
2. The geometry of the existing access makes it unsuitable to sustain further development. The existing public roads in the immediate vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development. The proposed development would therefore represent an unacceptable intensification of use of a substandard private access regime, contrary to policy LP TRAN 4 of the Argyll and Bute Local Plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00564/OUT

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The proposal lies within the 'settlement' zone of the local plan classified 'small town' of Tarbert, where appropriate infill development may be supported under Local Plan Policy LP HOU 1 unless there is an unacceptable environmental impact. Such development has to be "appropriate", which includes, amongst other factors, the need to be satisfied that the proposal does not result in 'settlement cramming' and satisfies all other material aspects of the Development Plan. (Structure Plan Policy STRAT DC 1 (B) (D) and (E)).

Having regard to the site specific considerations reviewed below, the proposal is considered inappropriate unsympathetic infill development which is not consistent with the provisions of Policy STRAT DC 1 of the Structure Plan or LP HOU 1 of the Argyll and Bute Local Plan

B. Location, Nature and Design of Proposed Development

The proposal seeks the development (in principle) of a new dwelling within the existing side garden of Mudheireadh, a relatively modern property in a cluster of predominantly small scale single and one and a half storey dwellings in the vicinity of Baluachrach, on the southern fringe of Tarbert. The proposed site area for the intended dwelling and its curtilage is some 0.05 ha. Sketch plans submitted for illustrative purposes show a single storey, two-bedroom property of traditional appearance. The proposed access arrangements (existing and proposed) are described and discussed in section "1" below.

The southern garden area of Mudheireadh forms part of a curtilage which is notably larger than that of surrounding properties (some 37 metres x 17 - 25 metres). Much of it is elevated by reason of bedrock outcropping on the site, which rises by approx 3m from west to east. The proposal is to divide this garden area so that the northern portion of it (averaging some 12 x 17 metres) would be retained as garden ground to Mudheireadh, whilst the remainder (approx. 25 x 22 metres) would become the curtilage of the proposed dwelling.

Whilst the balance of the site area that would be retained for Mudheireadh is adequate in terms of private amenity space for that dwelling, and whilst a 0.05 hectare site is not uncharacteristic of the generally small curtilages roundabout, its relationship with neighbouring development does present a constraint in terms of privacy standards. This is due to the fact that the adjacent dwellings of Uppertown Cottage, Ladysmith Cottage and South Cottage all have elevations looking south across the plot at relatively close quarters. Accordingly, the applicant has had to propose a building sited uncharacteristically at right angle to her own property and the facing cottages in order to avoid conflict between facing windows.

The indicative floor plan suggests a finished floor level slightly higher than the cottages to the west, which would entail reducing the ground level by up to 2m in the centre of the site. This would clearly entail rock excavation to achieve a developable platform. Whilst, with some contrivance in terms of layout and some excavation of rock, it could be possible to infill this site with a small dwelling, such development would be at the expense of the amenity of the adjacent cottages and the cluster of buildings as a whole, given that this rocky open area is a key environmental feature of this group of buildings. To develop it would not be consistent with the provisions of Policy LP ENV 19 of the Argyll and Bute Local Plan, insofar as it would not secure an appropriate relationship with its surroundings.

C. Natural Environment

Given that this is garden land, there is nothing of note within the site or in the immediate area in terms of natural environment interests.

D. Built Environment

This small enclave in the vicinity of Baluachrach constitutes what was originally a small clachan sitting above and to the south of Tarbert harbour, relatively close to the Castle. It would have comprised a former crofting community. The original development pattern is still evident, although most of the original croft houses have now been replaced with more recent or adapted homes. However, the layout of the buildings and the predominantly small scale of the dwellings reflect historic land ownership, and the ad hoc loosely knit character is one of a grouping of buildings around a central open area. That area presently forms the side garden of the applicant's dwelling, Mudheireadh, and is likely to have remained free from development hitherto due to the outcropping of bedrock across the site.

Whilst an undeveloped side garden can present an opportunity for infill development capable of reinforcing the established density and pattern of development, and is supported in principle by development plan policy, there are circumstances where it is important to maintain open areas in the interests of the character and amenity of the surrounding area, and this is one of those instances. Any dwelling sited on this plot would need to be small and necessarily be located at right angles to the applicant's dwelling and the terrace of cottages adjacent to the site (as the applicant's illustrative scheme shows). The development of a dwelling utilising this central undeveloped portion of the former clachan would remove the existing open space which provides relief to the surrounding buildings and would be to the detriment of the amenity of this loose cluster of buildings in general, and that of the immediately adjacent dwellings in particular.

It would fail to secure a form of development which satisfies the requirements of local plan policies LP HOU 1 or LP ENV 19.

E. Road Network, Parking and Associated Transport Matters.

The vicinity of the site is accessed via the public road past Tarbert Academy and then along the somewhat contrived and congested road access serving flats and houses to the south of the site (and then on towards the castle), before leaving the public road via a difficult to negotiate hairpin onto a private unmade and unadopted single vehicle width access track, currently serving 9 properties in total. This then splits in the vicinity of the current access point into the site, to serve 5 properties and 4 properties respectively.

The current entrance to Mudheireadh is from the arm of unmade track passing along the southern boundary. The proposed entrance to the plot and the necessarily repositioned access to Mudheireadh would be formed from the second arm of the track running up the western boundary of the plot. This access already serves 5 dwellings, including the 2 recently completed properties. It runs immediately in front of 3 existing cottages and the margin of the track is required for parking in connection with those cottages without off-street parking space. Adequate on-site parking and turning space for both the proposed plot and Mudheireadh are shown in the illustrative sketch scheme.

The Roads Engineer is of the view that the geometry of the existing access makes it unsuitable to sustain further development. The existing public roads in the immediate vicinity are narrow and heavily parked with resident's vehicles. This also restricts the ability of this area to sustain further development. While the condition of the access could be improved by surfacing, this would not benefit the usability of the hairpin entrance into the private access system from the public road. Furthermore, it would not overcome any conflict with existing parking along the margins of the private access, and would lead to additional traffic passing at close quarters to the terraced properties adjacent to the plot, as this arm of the access would then come into use for both Mudheireadh and the proposed additional dwelling, bringing the total number of dwellings using this access to 7 which, given its proximity to the buildings, would lead to disturbance and be to the detriment of the residential amenity of the existing occupiers.

It is noted that a representation mentions fire safety because of the inadequate access arrangements. However, despite consultation, no response has been received from Strathclyde Fire and Rescue on this point.

As the proposed intensification of use of the existing sub-standard access regime is considered to present adverse consequences for residential amenity, the legalities of the applicant being in a position to surface the existing unmade access have not been explored. Nonetheless, its additional usage would present unacceptable road safety and amenity consequences for the occupiers of neighbouring properties contrary to local plan policy LP TRAN 4.

F. Infrastructure

The proposal would be connected into the adopted foul drainage and public water main systems, to which no objections have been raised by Scottish Water.

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**Location Plan relative to
Application Ref: 09/00564/OUT**



Date: 28.03.12

Scale: 1:1,250

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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: 11/02560/PPP
Planning Hierarchy: Local
Applicant: Mrs P. MacKay
Proposal: Site for erection of two dwellinghouses
Site Address: Land West of Lochview, Ardfern

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for the erection of two dwellinghouses (no details submitted for approval);
- Installation of private foul drainage system;
- Improvement of private vehicular access and connection to B8002

(ii) Other specified operations

- Connection to public water supply;
 - Landscape planting (no details submitted for approval).
-

(B) RECOMMENDATION:

It is recommended that:

- i) The appended Area Capacity Evaluation (ACE) 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
 - ii) This application for planning permission in principle be refused for the reasons set out in this report.
-

(C) CONSULTATIONS:

- Cragnish Community Council (06.02.12) – Object to the proposal as development which is contrary to the provisions of the Local Plan and against

the wishes of the community as expressed in the recently completed Community Plan. The Community Council also notes that whilst there is sympathy for the intention to provide a home for a disabled relative, that this does not balance against their concern that approval of the current application would set a precedent for further departures from approved planning policy.

- Development Policy (01.02.12, 09.02.12 & 05.03.12) – Advises that the proposal will result in a change to the rural character of the area in and around Corranmor with overdevelopment occurring contrary to the recommendations of the Council's Landscape Capacity Study.
- Area Roads Manager (09.01.12 & 24.02.12) – No objections subject to conditions with the provision of additional road improvements, passing places and junction realignment as specified in the amended plan ref. J233/12/02/02C. It is further noted that the Area Roads Manager has expressed in his response a requirement for any additional development, beyond the two sites currently propose, to require the upgrade of this private access road to adoptable standard.
- Scottish Water (28.12.11) – No objections subject to note to applicant.

(D) HISTORY:

There is no planning history directly pertaining to the current application site; it is however noted that planning permission in principle has previously been granted for three house sites within the ACE compartment relevant to the current proposal. Permission ref. 10/01799/PPP relates to plots B & C Corranmor Farm; permission ref. 11/00138/PPP relates to plot A Corranmor Farm. Both permissions were issued on 24th March 2011.

(E) PUBLICITY:

The proposal has been advertised in the local press under the provisions of Reg. 20 – expiry 27th January 2012.

(F) REPRESENTATIONS:

(i) Representations received from:

One letter of representation has been received from the owner of Corranmor Farm, Mr H. Service, advising that following discussions with the Applicant and her Agent he does not wish to make any specific objection to the current proposals.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|---|--|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations | 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: | Yes – Landscape Capacity Study & a Social Report |

(All supporting documentation is available to view in its entirety via the public access section of the Council website).

Summary conclusions from Landscape Capacity Study – Undertaken by Grontmij dated Nov. 2011

Report seeks to demonstrate that the proposed two additional plots:

- Will have no negative visual impact due to the screening effect of the landform and existing planting.
- Can be serviced in exactly the same way as plots already granted permission.
- Will improve the sense of place, a key driver for PAN 44 Fitting New Housing into the Landscape, by densifying (*sic*) the cluster.
- Will create a settlement cluster in keeping in both layout and density with other local examples.
- When designed in accordance with Argyll and Bute Council's Sustainable Design Guidance and in tandem with the existing plots will create a real identity without compromising development potential.
- Can be designed with an appropriate landscape framework that will add to this identity, fitting the development successfully into the landscape.

In light of the above, it is argued that the Council's Landscape Capacity Study may have erred on the side of caution and assessed the sensitivity of the development by views from it. It is suggested that the further assessment demonstrates that conversely, views of the development itself from outside are mitigated by:

- The screening effect of landform;
 - The existing planting along ridge lines;
 - The winding nature of the road;
 - The fact the track is single tracked;
 - The distraction of the fantastic views to the islands and out to sea.
-

In light of the above, the submitted landscape assessment concludes that increasing the number of properties from three to five for MA25 Corranmor does not represent overdevelopment. It would have no impact on landscape and would improve the viability and sustainability of the development. It is further stated that it would align more successfully with the existing published guidance documents and the original intention of the Rural Opportunity Areas which positively supports the appropriate development of groups of up to five properties.

Comment: Whilst it is considered that the applicant's LCS accurately identifies the key landscape characteristics, it is noted that officers have found issue with the following matters:

- i) The applicant's LCS states that "There are few receptors affected by any potential development" (p4, para 3). In this respect it is considered that the applicant's LCS does not adequately address the issue of the visual receptor at the Key Viewpoint as identified in the Council's LCS. It is considered that this proposal for 2 houses of this scale would result in a significant detrimental impact on the key view point which is situated on a path identified on the Scottish Paths Record making it more important to the wider population.*
 - ii) Whilst the applicant's LCS correctly identifies that the predominant views for users of the B8002 are out over Loch Craignish, it is considered inaccurate to state that users of the B8002 will be sufficiently distracted by these coastal views to ignore the landscape impact of buildings which would be prominently and dominantly sited against the skyline on the ridge immediately above the road. The recommendations of the applicant's LCS advocate use of 1½ storey design, the additional height of which would exacerbate the prominence of any building against the skyline in views from the B8002.*
 - iii) The recommendations of the Council's LCS set out that development in the vicinity of Corranmor should be limited to two or three new properties to prevent overdevelopment, this recommendation being considered a fit with the settlement strategy set out in the local plan. The applicant's LCS seeks to challenge this position by examining the settlement pattern at Corranmor and drawing comparison with other examples throughout Argyll and Bute. It is noted that the identifiable examples at Barfad, West Loch Tarbert and Clachan (Seil) all relate to land which is identified in the Local Plan as 'settlement area' and are therefore not considered to suitable comparators to the development at Corranmor which is located in the countryside straddling the boundary between 'sensitive countryside' and a 'rural opportunity area' (ROA). It is further noted that the Council's LCS does not contradict the original intention of the ROA designation as implied in the "Context" section of the applicants LCS (p3 para4). The aim of the ROA designation is to identify areas within which there is a general capacity to successfully absorb "small scale" housing development, which is defined as not exceeding 5 dwelling units. The capacity within all of the ROAs is subject to on-going capacity evaluation and designation. It is considered that adoption of the approach advocated within the applicant's LCS with approval of the current application for two dwellings in the identified site, will result in over development with the loss of important spacing between buildings/groupings which contribute to the essential*
-

rural characteristics of this loose cluster of development.

Summary of Issues Raised in the Supporting Social Statement submitted by Applicant's Representatives 02.03.12

It is stated that the applicant, Pat Mackay is seeking to develop a property for her cousin, Ms Joanna Martin. Ms Martin has been a regular visitor to Ardfern for almost 50 years, spending school holidays with the applicant and later having spent time employed at the Argyll and Bute Hospital in Lochgilphead. It is asserted that Ms Martin has always desired to live in Ardfern but has been unable to do so as a result of work commitments however she feels part of the community and knows many of the local people.

It is further stated that in 2005 Ms Martin suffered spinal injuries which have resulted in paralysis from the chest down and confinement to wheel chair. Despite this tragic turn of events Ms Martin still retains a desire to live in Ardfern but has found buildings plots which have become available to be prohibitively expensive. It is the intention of the applicant to gift plot 1 within the current proposal to Ms Martin this would allow the construction of a purpose built bungalow which is level and accessible with wider doors to accommodate wheelchair access, a specially adapted kitchen, a wet room and, an accessible garden with the support of the applicant living next door in Lochview.

It is argued that planning permission for two plots is required to ensure the viability of the project with the development of plot 2 providing the capital income to put toward the cost of building the dwelling for Ms Martin on plot 1 and the upgrade of the road to meet Council standards.

Comment: Whilst the applicant's intentions for the provision of accommodation for Ms Martin are undoubtedly well intended, these claims relate to the personal and financial circumstances of the applicant and their relative, and as such do not provide any grounds which would justify the need for the development on a locational/operational basis contrary to policy, excepting the issue of land ownership.

(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 and Bute Structure Plan' 2002

STRAT DC 4 – Development in Rural Opportunity Areas

STRAT DC 5 – Development in Sensitive Countryside

STRAT DC 8 – Landscape and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems

LP SERV 2 – Sustainable Drainage Systems

LP TRAN 1 – Public Access and Rights of Way

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

LP TRAN 6 – Vehicle Parking Provision

P/DCZ 4 – Rural Opportunity - Areas and Boundaries

P/DCZ 5 – Sensitive Countryside – Areas and Boundaries

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.

- Scottish Planning Policy Feb. 2010
- Planning Advice Note (PAN) 44 – Fitting New Housing into the Landscape
- Planning Advice Note (PAN) 72 – Housing in the Countryside
- Argyll and Bute Council Sustainable Design Guidance – Small Scale Housing Development – Sept. 2006
- Argyll and Bute Council – Landscape Capacity Study for Mid Argyll and Inveraray – March 2010.
- Interim Supplementary Planning Guidance: Area Capacity Evaluation – approved by Council Executive Committee 19th February 2009
- Area Capacity Evaluation (appended to this report and subject to Committee consideration before determining this application).

(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): No

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

The proposal seeks planning permission in principle for a site for the erection of two dwellinghouses; details of siting, design and finishes are not included, although the current submission does include for a detailed plot layout showing the indicative footprint of the proposed development.

Whilst the application site is predominantly located within a 'rural opportunity area' the identified site straddles the boundary with adjoining 'sensitive countryside'; in this respect the proposal is considered to be 'open countryside' development having regard to the definitions set out in the adopted Local Plan, and as such is to be resisted having regard to the provisions of STRAT DC 5 and LP HOU 1. The applicant has submitted a 'social report' in support of the proposal, however this simply sets out an argument based solely upon the financial and personal circumstances of the applicant and a relative for whom one of the proposed dwellings is intended, rather than matters pertaining to a locational or operational necessity for the provision of a dwelling at this particular location.

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 such the proposal requires to be considered against the recommendations of the Council's Landscape Capacity Study for Mid Argyll and Inveraray. The application site is located within a portion of the wider 'rural opportunity area' which is identified as having limited capacity to accommodate a maximum of two or three new dwellings sited to form a loose cluster around Corranmor; however, planning permission in principle has already been granted for three new dwellings on the neighbouring land holding, therefore the current proposal is viewed as contrary to these recommendations.

The applicant has submitted their own Landscape Capacity Study in support of the proposal, which seeks to make a case that the current proposal can be accommodated successfully. 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. 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 of this loose cluster of development in the countryside, but is also likely to result intrude significantly and incongruously within 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 HOU 1.

In other respects the proposal is capable of being adequately serviced having regard to the requirement for a suitable standard of access, parking, turning, water and foul drainage provision.

Craignish Community Council have raised objection to the proposal on the basis that the proposal is contrary to the recommendations of the Council's Landscape Study. One other third party representation has been received from an immediate neighbour although this simply provides commentary on their interaction with the applicant rather than expressing either objection or support for the proposal.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:

See P above.

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

Not applicable

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

Author of Report: Peter Bain **Date:** 6th March 2012

Reviewing Officer: Richard Kerr **Date:** 6th March 2012

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 11/02560/PPP

1. A small but nonetheless materially significant portion of the application site relates to land which is both designated as 'sensitive countryside' in the adopted Argyll and Bute Local Plan 2009 and which is essential to be able to accommodate built elements of the development. The proposal does not conform with the definition of 'infill', 'rounding-off' or 're-development' of the existing built form having regard to the definitions set out in the adopted Local Plan, and there is no over-riding locational or operational justification associated with the development. Consequently, the proposal is contrary to the provisions of STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the Argyll and Bute Local Plan 2009 which seek to presume against development which does not meet these requirements.

2. The majority of the application site is located within an area of land identified in the Council's Mid Argyll and Inveraray Landscape Capacity Study where the capacity for additional development is limited. The current proposal exceeds the recommendations in the Council's Landscape Capacity Study in respect of the identified capacity of the landscape to absorb additional development satisfactorily. Whilst the Area Capacity Evaluation undertaken in response to this application does identify some additional limited capacity for development beyond the recommendations of the Council's Landscape Study, its conclusions would not support development of the form and location which is currently proposed. In this respect it is considered that the current proposal by virtue of its location and proximity to existing built development, and its position within the wider landscape setting, would not only give rise to an over development of the existing loose cluster of development in the countryside when viewed cumulatively with extant planning permissions, but would also intrude prominently and incongruously upon key views into and out of the site. The proposal is consequently considered to give rise to a significant adverse impact upon the key landscape characteristics of the Knapdale/Melfort Area of Panoramic Quality, and as such, is contrary to the provisions of policies STRAT DC 4 and STRAT DC 8 of the Argyll and Bute Structure Plan 2002 and LP ENV 10, LP HOU 1 and P/DCZ 4 of the Argyll and Bute Local Plan 2009.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/02560/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application relates to 'small scale' housing development, the site area for which encompasses both 'Rural Opportunity Area' and 'Sensitive Countryside' designations as defined by the Argyll and Bute Local Plan 2009. The application site is also located within the Knapdale/Melfort Area of Panoramic Quality. The proposed sites do not involve sufficient proximity to existing buildings and landscape containment to be considered as 'infill', 'rounding-off' or 're-development' as defined in the Local Plan Glossary, and as such, are considered to be 'open countryside development'.

Within 'Rural Opportunity Area' (ROA) policy STRAT DC 4 of the Argyll and Bute Structure Plan 2002 sets out encouragement for 'small scale' developments on suitable sites, including development in the open countryside as well as small scale, infill, rounding-off and re-development. However, within an Area of Panoramic Quality, the provisions of policies LP HOU 1 and P/DCZ 4 requires new development within open countryside sites to be consistent with the recommendations of the Council's Landscape Capacity Study (LCS).

The application site is located within ROA MA 25: Corranmor in the Mid Argyll and Inveraray Landscape Capacity Study March 2010; more specifically the portion of the site area within ROA is located within a wider 'orange' area which is identified as having potential to absorb new development. In this instance however the LCS recommendations also stipulate that new development within the 'orange' area should be limited to two or three new properties to prevent over-development. Planning permission in principle has previously been granted for sites for three additional dwellings within the 'orange' area. These permissions were granted having regard to the recommendations of the LCS and any further development, including the current proposal, is therefore considered to be contrary to the recommendations of the Council's LCS in this respect. The applicants have, however, sought to challenge the recommendations of the Council's LCS by undertaking their own detailed study of landscape capacity which seeks to make the case that there is sufficient ability to accommodate the proposed development without material harm to the landscape setting or its key characteristics. In response, officers have undertaken an Area Capacity Evaluation (ACE) which seeks to address the cumulative issues raised by the proposal having regard to previous permissions and provide a more detailed assessment of landscape issues and remaining capacity for development – the ACE is set out in Appendix B attached to this report. In summary, the ACE identifies capacity for one additional dwellinghouse within this immediate locality. In this context the current proposal for two dwellings does not accord with the ACE and as such is considered contrary to the provisions of STRAT DC 4, LP HOU 1 and P/DCZ 4.

A portion of the application site, including some 35% of the site area of plot 2, land required for provision of a private foul drainage system and road improvements relating to the private access, are located within 'sensitive countryside' wherein the provisions of policies STRAT DC 5 and LP HOU 1 set out a presumption against the development of open countryside sites except where these are supported by a valid locational/operational requirement and, are supported by the findings of an Area Capacity Evaluation (ACE).

Whilst the applicant has submitted a social statement setting out a well-intentioned desire that the development not only provide a purpose-built residence on plot 1 to meet the needs of a disabled relative, but also the means of financing the build and necessary roads improvements through the sale of plot 2, it is noted that these in themselves amount to the personal and financial circumstances of the applicant and their relative rather than providing any valid locational or operational grounds based upon material planning considerations justifying a development at this specific site within the 'sensitive countryside'. In the absence of any such overriding locational/operational justification, the proposal is, by virtue of the inclusion of a substantial portion of plot 2 within the 'sensitive countryside', considered to be contrary to the provisions of STRAT DC 5 and LP HOU 1.

B. Location, Nature and Design of Proposed Development

The proposal seeks planning permission in principle for a site for the erection of two dwellinghouses; whilst no details of the siting, design or finishes of the proposed dwellinghouses have been submitted for approval it is noted that the submission sets out a proposed plot layout for approval within which the indicative footprint of development is shown. The proposal also provides details of proposed access improvements to be undertaken on the private road serving the site.

The application site relates to an area of some 0.3ha of semi-improved rough grazing located to the north and west of an existing single storey bungalow, Lochview. Plot 1 lies immediately to the south west of Lochview, Plot 2 lies to the north and is separated from the curtilage boundary by a proposed access route serving the field to the southwest and plot 1. The site is located on an elevated ridge at approximately 18-20m AOD which sits above the level of the B8002 public highway between Ardfern and Craignish Point, which runs at a significantly lower level along the loch shore to the east. The application site, for the main part, lies within the southern portion of a relatively compact 'rural opportunity area' (ROA) which encompasses Corranmor Farm and the semi-improved grazing in its immediate surrounds and stretches inland across an undulating area of open rough grazing, where it terminates in the north where this meets commercial forestry plantation on the lower slopes of more steeply rising land which forms the central ridge of the Craignish peninsula. The application site also encompasses nearly 500sqm of land on its western boundary (approximately 35% of the proposed Plot 2 site area) and 180 sqm of land at the southern boundary (soakaway for private foul drainage system) which lies outwith the ROA within an adjoining designation of 'sensitive countryside'.

The existing setting to Corranmor is essentially rural in its appearance and nature. At present, built development comprises the significant grouping of a farmhouse and agricultural buildings and the individual subservient dwelling of Lochview, with Herron's Cottage lying further to the south at a lower level. Having regard to the recommendations of the Council's Landscape Capacity Study planning permission in principle has been granted for sites for three additional dwellings located to the north and west of Corranmor Farm, with an irregular element of space to be retained between the various built elements to allow for provision of additional landscape planting to provide setting and to preserve the low density nature of the overall grouping.

The current proposal essentially seeks to create a concentrated grouping of three dwellings within the southern portion of the ROA, creating a more defined settlement grouping than presently exists, even taking into account the extant permissions in principle. The argument advanced by the applicant's own landscape study is that the proposed settlement pattern is similar or less dense in nature to that of other groupings

in the wider locality. It is however noted that the identifiable examples contained within the applicant's LCS report at Barfad, West Loch Tarbert and Clachan (Seil) are all groupings which are located within 'settlement area' and therefore not directly comparable with Corranmor which lies within an ROA and where the Council's LCS recommendations seek to retain the rural characteristics of the setting by avoiding over-development. In this respect it is noted that the recommendations of the Council's LCS are consistent with the settlement strategy set out in the Local Plan, the approach advocated within the applicant's LCS seeks to demonstrate that higher density configurations of buildings have been accepted elsewhere within Argyll and Bute – the identifiable examples offered, however, are not considered to be appropriate comparators with higher density development more likely to be acceptable within 'settlement area' where the Local Plan advocates higher concentrations of development. Furthermore, it is noted that the comparison offered within the applicant's LCS omits any consideration of the context of pressures and constraints defining and shaping settlement layout in those particular instances, or the landscape context within which they sit, and as such direct comparison is considered wholly inappropriate, when it is necessary to consider the current application on its own merits and having regard to the constraints and opportunities which exist at this particular site and its surrounds.

C. Access to Countryside.

The private access serving the site and property beyond is identified within the Scottish Paths Records as a public walking route. The proposed development would not directly impinge on public access rights relating to the use of the designated path route and as such would be considered acceptable having regard to policy LP TRAN 1.

D. Landscape Character

The application site lies within the Knapdale/Melfort Area of Panoramic Quality (APQ) wherein the provisions of policies STRAT DC 8 and LP ENV 10 would seek to resist development which would have a significant adverse impact upon the character of the landscape, except where it is demonstrated that such effects are clearly outweighed by social and economic benefits which are of National or regional importance.

This particular application is largely contained within a 'rural opportunity area' which is subject to a Landscape Capacity Study which has been approved by the Council and, in line with these recommendations, has already been the subject of planning permission in principle for three additional dwellinghouses which utilises the remainder of the capacity identified in the Council's LCS. In this instance, an Area Capacity Evaluation has been triggered in response to the already significant small scale housing development which has been approved within the ROA, in order to ascertain whether there is any remaining capacity to absorb new development successfully within the landscape setting. The ACE has been undertaken in accordance with the Interim Supplementary Planning Guidance approved by the Council on 19th February 2009 and is appended to this report as Appendix B for reference.

Whilst the current proposal seeks planning permission in principle and as such does not include for the provision of a detailed design solution for assessment the conclusions of the ACE establish that:

- i) Development of two sites on the lower tier of the ACE compartment (i.e. the current application site) is not desirable, as this would result in relatively compact development pattern of three detached dwellings with the absence of

the element of undeveloped space and tree cover which forms an essential characteristic of the existing loose cluster and the permissions in principle which have previously been granted.

- ii) That in particular, development located on plot 1 will impinge significantly on views out of the ACE compartment from a Key Viewpoint on a designated path route and which is identified as being of note in the Council's LCS. Development of plot 1 is also identified as having potential to appear prominently and dominantly above the ridge on the skyline within views into the site from the B8002, where the receptor is within a more intimate landscape setting with the ridge upon which the development would be located forming the visual limits of the contained landscape setting, although the full extent of any such impact cannot be established on the basis of the information currently submitted for consideration.
- iii) That capacity exists for a site for the erection of a modest, single storey dwelling located to the north of Lochview within the field corner (i.e. this largely equates with the location of plot 2 in the current application). This site has potential to allow a new development set back on the ridge largely to be screened from view by the existing topography although it would be essential to ensure that any development is appropriately sited and designed to ensure that it does not intrude on views out of the ACE compartment from the identified Key Viewpoint. It is however noted for clarity, that the requirement to set a new building back from this Key Viewpoint may preclude the opportunity for such development to be entirely contained within the boundary of the 'rural opportunity area'; in the event that a new development required to utilise a substantial area of 'sensitive countryside' then any such proposal would require to be underpinned by an overriding locational/operational justification to be considered compliant with the provisions of STRAT DC 5.

It is noted for reference that following completion of the ACE the applicant has been invited to consider the likelihood of being able to site a new dwelling within a reduced plot 2 boundary which does not rely on the release of 'sensitive countryside' to satisfactorily accommodate the built elements of the development. Officers have advised that they would be supportive of an amended proposal which deleted plot 1 and could demonstrate the ability to site a dwelling within a reduced plot 2, which also avoids unacceptably interrupting views out of the ACE compartment from the identified Key Viewpoint. The applicant has declined this opportunity and has instead advised that given the background to the proposal, which is set out in their social report submission, it remains their continued intention to seek planning permission in principle for two dwellings.

Having regard to the above, and notwithstanding the recommendations of the applicant's LCS, it is the consideration of officers that the current proposal will give rise to unacceptable and significant adverse impacts upon the key landscape characteristics of the Knapdale/Melfort APQ as an over development of the established settlement pattern, and in terms of the undesirable impact of the proposed development on views into and out of the landscape compartment, and as such is viewed to be contrary to the provisions of STRAT DC 8 and LP ENV 10 in this respect.

E. Road Network, Parking and Associated Transport Matters.

The application site is served by a private access which serves Lochview, Corranmor Farm and existing and proposed properties which lies further to the west. It is noted that previous permissions granted off of this road are subject to conditions relating to the

improvement of the junction with the B8002; the current submission has been amended to include these requirements with additional passing places in discussion with Roads Officers. The Area Roads Manager has not raised objection to the current application subject to conditions requiring implementation of the proposed road improvements but has noted that cumulatively between the current proposal, existing development and extant permissions, this private access is considered to be at capacity and would require to be upgraded to adoptable standard to accommodate any further development.

The current proposal is for permission in principle, and as such, does not detail the proposed parking or turning arrangements; it is however noted that the proposal is considered to be consistent with the provisions of policies LP TRAN 4 and LP TRAN 6 although this would be subject to the imposition of conditions ensuring the timely provision of access improvements, the standard of access into the site from the private access and, provision of adequate parking and turning facilities within the curtilage of each dwelling. It is noted that the proposed access improvements include for road widening which will affect the slope to the north of the private access road although no sectional details have been provided to allow an assessment of the visual impact of this element of the proposal, again however this element could be satisfactorily addressed if required by condition.

F. Infrastructure

The submitted details shows provision of a shared private foul drainage system to serve the development comprising a biodisc and a soakaway located within the open field and 'sensitive countryside' designation to the east of plot 1. Scottish Water have confirmed that mains sewerage is not available in this locality and as such this element of the proposal is considered to be consistent with the provisions of LP SERV 1. The current submission does not include details of surface water drainage proposals although it is acknowledged that consistency with LP SERV 2 could be achieved by planning condition should the planning authority be minded to grant permission in principle.

Water supply would be by connection to the public water main; Scottish Water have confirmed that the Ardfern Water Treatment Works may have capacity to serve the proposed development.

APPENDIX B - AREA CAPACITY EVALUATION

CORRANMOR, ARDFERN – ROA MA25

a) Purpose of the assessment

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

In this instance, the Area Capacity Evaluation (ACE) is triggered in respect of current application reference 11/02560/PPP which seeks planning permission in principle for a site for the erection of two dwellinghouses within a rural opportunity area (ROA) where there has already been a significant amount of small scale development permitted. The ROA lies within the Knapdale/Melfort Area of Panoramic Quality (APQ) and as such has previously been the subject of a Landscape Capacity Study (LCS) commissioned by the Council and undertaken by Gillespies; in this instance the proposed development considered cumulatively with previous approvals would exceed the capacity recommendations contained in the Council's LCS for ROA compartment MA25.

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, for the main part, lies within the southern portion of a relatively compact 'rural opportunity area' (ROA) which encompasses Corranmor Farm and the semi-improved grazing in its immediate surrounds and stretches inland across an undulating area of open rough grazing where it terminates in the north where this meets commercial forestry plantation on the lower slopes of more steeply rising land which forms the central ridge of the Craignish peninsula. The application site also encompasses nearly 500sqm of land on its western boundary (approximately 35% of the proposed Plot 2 site area) and 180 sqm of land at the southern boundary (soakaway for private foul drainage system) which lies outwith the ROA within an adjoining designation of 'sensitive countryside'.

The Council's LCS identifies that any capacity for additional development within the ROA is located in and around the immediate vicinity of Corranmor Farm, where development would be perceived as a loose cluster; these recommendations also stipulate that development should be limited to two or three new properties to prevent over-development. In this respect it is noted that the application site is located to the south of Corranmor Farm within an area identified by the Council's LCS as having capacity to absorb development, the exception to this being the western portion of Plot 2 and, site for a foul drainage soakaway which both lie within the adjoining 'sensitive countryside'.

Planning permission in principle has previously been granted and remains extant for sites for three dwellinghouses (refs. 10/01799/PPP – Plots B & C and, 11/000138/PPP – Plot A) which lie to the west and north of Corranmor Farm. These permissions have been granted

having regard to the recommendations contained in the LCS, the sites having been chosen to minimise their intrusion upon the wider landscape setting, and to ensure that Corranmor Farm remains the focus of what will be a loose cluster of buildings which builds upon the existing development pattern. The conditional restrictions upon these permissions should ensure some variety in the scale and mass of buildings, which will be underpinned by a requirement for a relatively traditional approach in terms of building design and finishes and reinforcement of the development pattern with the provision of significant landscape planting which will create an immediate setting and backdrop to the new development, whilst creating a visual link between the various built elements and introducing land cover which should prevent the future infilling of important gaps in the development pattern.

Given that the Council's LCS recommendations set out that capacity for additional development is restricted to the immediate surrounds of Corranmore Farm, it is legitimate to confine the extent of the ACE compartment to be reviewed to the area identified in orange in the Council's LCS recommendations. In addition to this, it is noted that the current application site includes land within the adjoining 'sensitive countryside'; whilst no locational or operational grounds have been given to support the inclusion of this land it is also recognised that the ROA boundary follows an OS contour line. However, there is no clear demarcation on the ground in terms of either a boundary marker or change in land cover between the ROA and 'sensitive countryside' as such it is considered appropriate to include the extent of 'sensitive countryside' which shares the same land cover, elevation and visual containment as the southern portion of the ROA within the ACE compartment.

Having regard to the above, the ACE compartment's northern, and eastern boundaries are defined by the 'orange' area identified within ROA compartment MA25; the southern limit of the compartment is defined by the top of the escarpment which defines southern edge of the shelf upon which the existing dwellinghouse Lochview is located, and beyond which the land falls off steeply towards the B8002. The western limit of the compartment is defined by a visible change in land cover as a result of drainage conditions approximately 80m south west of Lochview which cuts SE to NW across a field.

The ACE compartment is within an area categorised by the Scottish Natural Heritage Landscape Assessment of Argyll and the Firth of Clyde 1996 as "Coastal Parallel Ridges" which are generally characterised by:

- Narrow rocky ridges with a strong SW-NE alignment, which break down to form chains of rocky islands at the coast;
- Horseshoe-shaped, narrow sandy bays and extensive mudflats;
- Stunted oak-birch woodlands on the rocky ridges separating narrow marginal pastures, marsh or lochs;
- Small blocks of conifers;
- Stone walls enclosing fields and along lanes;
- Small settlements, concentrated at coves;
- Rich variety of archaeological sites;
- Small estates.

In general, the main landscape issues that need to be considered, with regards to the proposed type of development, within this landscape type are:

- Rocky ridges and patchy woodland provide the potential for screening small built developments;
- There is a risk of linear built development along coastal roads and it is important that the traditional pattern of small clustered development is maintained;
- The landscape has a small scale and can only accommodate relatively small developments, which can be partially screened by native woodland and stands of Scots pine;
- Some of the small coves have no scope for further development and in many areas the narrow lanes represent a limit to traffic.
- Conserve sites and setting of archaeology.

Within the ACE compartment it is considered that there is essentially a single area of common landscape character as illustrated on the plans attached to this evaluation and detailed in the matrix below.

c) **Key Environmental Features**

The ACE compartment contains a number of the key characteristics associated with the Coastal Parallel Ridges landscape type. The compartment is physically subdivided into three distinct tiers primarily these comprise two ridges running SW-NE which are separated by small but relatively steep escarpment which is of poorer quality rough grazing and also by a small hill which sits to the immediate north of Corranmor Farm on the south west face of which there is a small saddle which sits slightly above the upper ridge.

The lowest tier is a ridge at approximately 18-20m AOD which contains the significant grouping of buildings of Corranmor Farm tucked back against the rear of the platform; Lochview sits to the front of the platform where this protrudes southward toward the coastline forming a small promontory which visually defines views looking both north and south along the coastline from the B8002 public highway below. The existing buildings are anchored in the landscape with the presence of tree cover in their immediate confines; Corranmor Farm and its associated buildings and stone boundary walls are hidden from the views looking north from the B8002 by virtue of the topography of the site, with the steep escarpment which marks the southern boundary of the ACE compartment effectively screening these elements. Corranmor Farm is however readily visible in views approaching the site from the B8002 looking south as the promontory recedes at this point leaving the farm cluster sat just above its edge. Lochview, by contrast, is visible on the skyline in views from the B8002 into the site from both north and south; this effect is most prominent in views from the north where the promontory interrupts views looking south west along the coast. The remainder of the lower tier is comprised of open, semi-improved rough grazing which lies to the south and south west of Loch View, with some birch woodland adjoining the private road at the rear of the platform and on parts of the transition slopes to the upper ridge.

The front of the upper ridge sits at approximately 25m AOD above a steep escarpment which starts from the hill immediately south of the private road as it passes the Corranmor Farm buildings. The front edge of the ridge is comprised of poorer quality grazing, rocky

outcrops and spoil heaps from adjacent improved grazing; moving northwards the elevation of the platform gently decreases and opens up into an undulating plateau of rough and semi-improved grazing – this edge of the ACE compartment is defined not so much by a change in landcover but by the desire in the Council's LCS recommendations that new development be situated within the immediate vicinity of Corranmor Farm in order that it may be viewed as part of this loose cluster of existing development. There are no existing buildings within what is effectively the middle tier of the ACE compartment. Planning permission in principle has been granted for sites for two dwellinghouses off of a shared private drive (11/00138/PPP - Plot A and 10/01799/PPP - Plot B) set just back from the front of this ridge, where development will be hidden from view from the B8002 public highway. These permissions allow for a single storey dwelling on Plot A and a dwelling of up to 1¾ storeys on Plot B. These proposals also include for planting of native tree species along the proposed access route and eastern site boundaries which will adjoin and reinforce the existing birch woodland on the lower slopes of the escarpment.

The highest portion of the ACE compartment is the hill (approx. 30m AOD) immediately to the north of Corranmor Farm which has a small commercial forestry compartment on its southern slope. The ACE compartment includes both the commercial forestry and the semi-improved grazing on the south western slope of the hill where this breaks into a small saddle which is framed to the north west by a further hillock (again approx. 30m AOD). There are no existing buildings within this portion of the ACE compartment at present; however, planning permission in principle has previously been granted for a site for a modest single storey dwellinghouse at approximately 28m AOD, which would again be largely hidden from view from the B8002 by the intervening topography, with the exception perhaps of the upper roof slopes which, if visible, would be viewed against the adjacent forestry plantation. The proposal includes for additional native broadleaf planting to assist in the integration of the private drive and to provide a backdrop to the development in the event of the commercial forestry block being felled at some point in the future.

Access to the compartment is via an existing private road which serves Lochview, Corranmore Farm and other existing developments located further inland to the north (outwith the ACE compartment). The private road is identified on the Scottish Paths Record and forms part of a path network which connects in with a Core Path and can be utilised to access the central ridge of the Craignish Peninsula and beyond to the Loch Melfort coast. The Council's LCS identifies that there are key views from the path route looking out of the lower tier of the compartment from the entrance into Corranmor Farm where, by virtue of the promontory type characteristic of the landform, the viewer is afforded near panoramic views looking both north(east) toward Ardfern and south(west) toward open water along the coastscape of the Knapdale/Melfort APQ. These views should be preserved as they are not readily achieved from any other elevated location in the immediate vicinity which is readily accessible to the public, as the immediate relationship with the coast is lost upon leaving the lower tier and proceeding inland with the undulating topography effectively creating a bowl thereafter, within which views out to the coast are limited.

d) Capacity to Absorb Development Successfully

The character of this rural area is essentially of undulating rough and semi-improved rough grazing set on a series of plateau which step back from the coastscape. Existing development is concentrated in a loose cluster around the Corranmor Farm and the recommendation of the Council's LCS seeks to reinforce this pattern.

The Council's LCS allows a restricted area of land for further small scale development, the extent of this apparently being defined by the southern boundaries of the ROA and by a desire that development visually coalesce within a loose cluster around Corranmor and that

development be restricted to two or three new buildings so as to avoid overdevelopment at this location.

The planning permissions in principle for three dwellings which have been granted within the ACE compartment during early 2011 have been arrived with officers having satisfied themselves that development in the middle and upper tiers of the compartment would largely be screened from view from the B8002, and in the knowledge that although open to view from Loch Criagnish, buildings at these location would appear as part of a grouping around Corranmor, as relatively small elements set against the backdrop of higher land to the north which frames a panoramic landscape/coastscape setting. The permissions previously granted relate specifically to locations on the edge of the ACE compartment where development can be set against points of transition in the immediate landscape setting, with additional planting to reinforce these features. It is considered that the upper portion of the ACE compartment does not hold any further capacity for development, as this would involve breaking into the open areas of rough and semi-improved grazing where new development would appear isolated from existing built development around Corranmor. It is also recognised that it would be desirable to preserve elements of space between buildings to retain the essentially rural, low density, informal characteristics of the existing development pattern and such it is considered that future proposals for the infilling of essential spaces between buildings would be resisted.

Turning to the lower portion of the ACE compartment, it is considered that the ability of the landscape to accommodate additional development successfully is significantly restricted by a requirement to avoid new developments sitting prominently on the skyline where they would appear as dominant features in the relatively contained views afforded from the B8002 in both directions. Development on the lower tier would also require to avoid intruding upon the identified key view as identified in the Council's LCS, out from the entrance to Corranmor Farm, and should avoid sitting directly below the sites of previous permissions on the upper ridge as any element of spacing and set back between buildings would be lost in views back from Loch Craignish and would potentially give the incongruous appearance of one building sitting atop another, given the relatively small differences in height between levels. These constraints effectively rule out the potential for additional development on the lower tier of the ACE compartment with the exception of the northern field corner where this adjoins the private road, where it would be possible to accommodate one, modest single storey building of relatively traditional design emphasis with minimal interference upon the skyline in views in from the B8002, and also set back to avoid impinging on the key views out from the path route at the entrance to Corranmor Farm. Development at this location would also be offset from that of previous approvals on higher ground and would retain a necessary element of spacing between existing/proposed buildings which is required to reinforce the informal nature of this loose cluster of buildings. *(Note for the avoidance of doubt that in the event that development could not be contained within the extent of the ROA boundary then a valid location/operational requirement would be required to support a development which encompasses 'sensitive countryside' having regard to policies STRAT DC 5 and LP HOU 1).*

In summary, and having due regard to the constraints relative to this location, it is considered that the ACE compartment holds no further capacity for additional built development, with the exception of the site identified at the back of the lower tier for a modest scale single storey dwellinghouse. Any additional development, beyond that of the identified site on the lower tier, would result in the loss of important spaces between built development, which are considered fundamental to the low density and informal characteristics of this loose grouping of buildings, and as such would be to the significant detriment of the wider Knapdale/Melfort Area of Panoramic Quality.

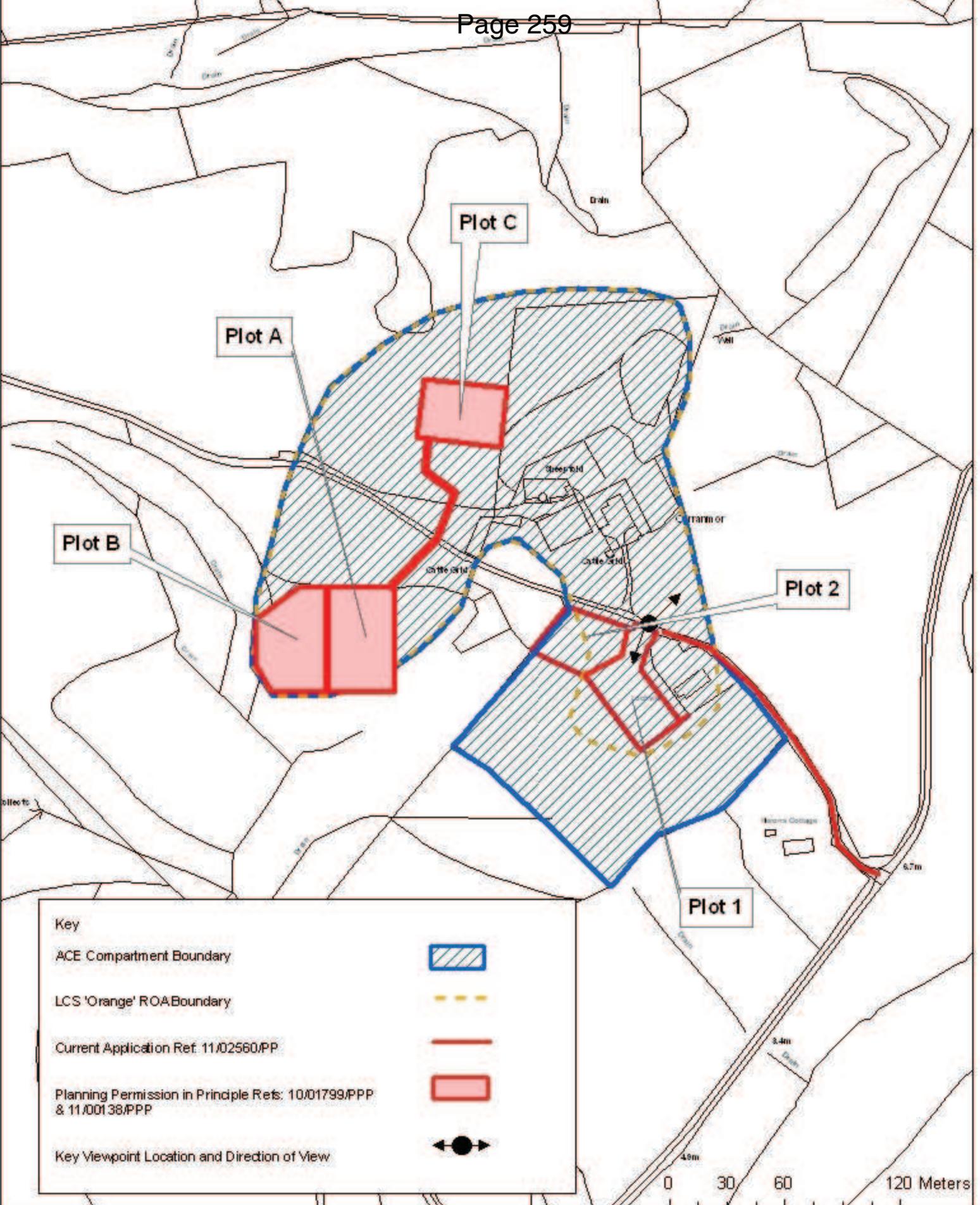
AREA CAPACITY EVALUATION MATRIX			
ACE Title		Corranmor, Ardfern	
Date	24.02.12	Location	Land adjoining Corranmor Farm on a raised beach to the north of the B8002 public highway.
Surrounding Strategic Planning Zones			
Town Village:		N/A	
Minor Settlement:		N/A	
Green Belt:		N/A	
Countryside Around Settlements :		N/A	
Rural Opportunity Area / Coast :		The site is situated within the Rural Opportunity Area designation and is subject to a LCS.	
Sensitive Countryside / Coast :		The site is situated within the Sensitive Countryside designation.	
Very Sensitive Countryside / Coast:		N/A	
Landscape Character			
Landform		Two parallel ridges running approximately on a SW-NE alignment set between the 10m and 20m contours and a small hill to north of Corranmor Farm which rises to 30m creating a tiered landform with areas of flatter ground interspersed with small escarpments and the lower tier protruding southwards towards the coast creating a small slight promontory.	
Land Cover		The majority of the area comprises open semi-improved grazing land with rough grazing land on the margins and the intervening escarpments which provide a transition in levels within the compartment. A commercial forestry stand is located within the north east of the area.	
Development Pattern		<p>The area contains a farmstead at Corranmor set back against the foot of an escarpment on the lower tier. The detached, single storey property Lochview is also located on the lower tier but sits on its own and is set forward on the promontory feature. Buildings are visually anchored in the landscape setting by the presence of adjacent tree cover.</p> <p>Planning permission in principle has been granted for a further three dwellings within the area of common landscape character; permission for two dwellings located on the middle tier (upper ridge) to the west of Corranmor Farm with a variety of scale allowing for a single storey building and a 1¾ storey property on adjoining sites. The remaining permission relates to a dwelling of no greater than</p>	

	<p>single storey behind the saddle of the hill to the north of Corranmor Farm and adjacent to the stand of commercial forestry. These permissions are underpinned by a detailed landscape planting scheme with additional tree planting to provide immediate backdrop and setting to each of the new developments, to create an element of physical separation between buildings whilst visually creating a loose grouping of buildings around the Corranmor farmstead and providing land cover which will guard against the future infilling of these gaps.</p> <p>There is significant visual evidence of mans impact on this landscape.</p>	
Notable Key Environmental Features		
Significant Historical Interest and Important Cultural Associations	Scheduled Monuments Unscheduled Monuments etc	None
	Gardens & Designed Landscapes	None
	Locations associated with people, events, art, literature, music culture	None
Built Heritage Importance	Important individual buildings inc. Listed and other locally important buildings	None
	Important groups or areas of buildings including Conservation Areas	None
	Other important examples of built heritage including transport / industrial heritage	None
Nature Conservation Importance	Internationally important wildlife sites including SPAs and SPAs SACs Ramsar Sites	None
	Nationally important wildlife sites including NNRs, SSSI, Marine Consultation Zones	None
	Locally important habitats, -SINC, SNW	None
	Nationally and regionally important Geological / Geomorphological Sites	None
Access and Amenity Importance	Long distance routes trails, mountain routes and other designated paths and their immediate corridors	None

	Important local paths / networks and their immediate corridors	Existing route on Scottish Paths Record which runs through the area of common character past the northern boundary of the application site.
	Important views and prospects	<p>Key views looking out from path route on lower tier looking north east and south west along coastscape as identified in the Council's LCS – note that Lochview intrudes on what would otherwise be a panoramic viewpoint and, that the immediate relationship with coastscape is lost upon leaving lower tier heading inland.</p> <p>Lower portion of the ACE compartment features prominently in views looking both north and south on B8002 where the promontory feature interrupts views along the coast and forms the backdrop to a more intimate landscape setting.</p>
	Named and other waterfalls shown on OS	None
	Important car parks lay byes etc	None
	Valued landscapes including NSAs RSAs & LSAs	Site located within the Knapdale and Melfort Area of Panoramic Quality
Health and Safety Constraints	Water catchment zones	None
	MoD Zones	N/A
	Air Safety - Airfield Safeguarding and CAA Consultation Zones	N/A

	Safety - Health and Safety Executive Consultation Zone	N/A
INFRASTRUCTURE		
Road Access	The area is accessed off by a private road which connects to the single track B8002 public highway. Access to the site requires commensurate improvement of the junction with the public highway and private road with re-profiling of lower slopes to accommodate increased road width/passing places.	
Water	Water is by connection to the public water main.	
Sewerage	Private drainage arrangements	
Electricity	No known constraints	
DEVELOPMENT		
Proposed Development	Site for the erection of two dwellinghouses (Class 9)	
Other Issues/Notes	None	

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Key

- ACE Compartment Boundary
- LCS 'Orange' ROA Boundary
- Current Application Ref. 11/02560/PP
- Planning Permission in Principle Refs: 10/01799/PPP & 11/00138/PPP
- Key Viewpoint Location and Direction of View



ACE Plan relative to 11/02560/PPP - Site for the erection of 2 dwellinghouses, Land West Of Lochview, Ardfern, Lochgilphead, PA31 8QN



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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: 12/00417/PP

Planning Hierarchy: Local Application

Applicant: Dunbritton Housing Association

Proposal: Formation of roundabout on A814 to provide access to new housing development

Site Address: Hermitage Academy, Campbell Drive, Helensburgh

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Formation of roundabout on A814 to provide access to new housing development

(ii) Other specified operations

None

(B) RECOMMENDATION:

It is recommended that planning permission be approved subject to the conditions and reasons given overleaf.

(C) HISTORY:

97/00950/DET – Erection of sports changing facility and club house on Land at Hermitage Academy, Campbell Drive, Helensburgh was granted planning permission on the 6 October 1997.

00/01220/DET – Formation of ramp on Land at Hermitage Academy, Campbell Drive, Helensburgh was granted planning permission on the 11 October 2000.

00/01626/NID – Notification for Intention to Develop in the form of Upgrading of existing playing fields including perimeter fencing & floodlighting on Land at Hermitage Academy, Campbell Drive, Helensburgh was approved on the 7 December 2000.

06/02411/DET – Demolition of existing school buildings and construction of mixed residential development with associated roundabout access from the A814 on Land at

Hermitage Academy, Campbell Drive, Helensburgh is pending consideration. This is an earlier proposal for this site, by the same applicant and is currently awaiting withdrawal.

07/01955/DET - Demolition of the existing school and construction of a mixed residential development of 166 dwellings, including 43 affordable homes, with roundabout access from A814 was approved, subject to conditions, on 20 July 2008.

08/02182/VARCON - Variation to condition no.16 of 07/01955/DET to allow for phased introduction of affordable housing was approved on 4 February 2009.

12/00319/PP - Erection of residential development comprising of 49 units for affordable housing (2 three storey flats - blocks incorporating 36 units and 13 two storey semi-detached houses) is pending decision.

(D) CONSULTATIONS:

Roads Helensburgh and Lomond (23.03.12) – no objection

Helensburgh Community Council (4.04 12) - The roundabout is at a main entry point at Helensburgh which HCC defines as a Key Environmental Feature. Consequently, its design is a material consideration in the assessment of this application. HCC recommends strongly that the design does more than merely sustain the adjacent urban landscape. It should look to enhancing the landscape. To this end HCC is looking for a roundabout which stands out and is distinctive.

Throughout Scotland and abroad there are many examples of roundabouts as design features in their own right and/or with landscaping and not simply a traffic management tool. As such we are recommending that the Council seize the opportunity and build a roundabout which recognizes that it merits special attention.

Rather than make its own proposal or rely on the good taste of local Councillors or Planners the HCC recommends strongly that any design is selected on the basis of a competition targeted at the skills, commitment and creativity of local residents and organisations. A competition should be organised by the Council but which engages with local residents in setting design criteria.

(E) PUBLICITY: Regulation 20 Advert Local Application (expiry date 30.03.2012)

(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:** Yes
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

A Site Access Statement has been submitted which confirms that the existing road network within the surrounding area has the capacity to accept the potential increased levels of traffic and that the roundabout is a safe and satisfactory junction layout at this location.

(H) PLANNING OBLIGATIONS

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

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

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

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

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

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

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

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

Argyll & Bute Sustainable Design Guidance (2006)

(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, as landowner.

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

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

Planning permission is sought for the formation of a roundabout on the A814 to provide access to new housing development on part the former Hermitage Academy site. A separate application for the development of part of this site has been submitted by the same applicant under reference 12/00319/PP and is pending determination. The application site is located within the settlement boundary of Helensburgh were there is a presumption in favour of development subject to a number of site specific criteria being met.

The former school site is allocated for redevelopment for residential purposes by virtue of housing allocation H-AL 3/1 in the adopted local plan, which provides for 160 units with 25% affordability. The site was the subject of a detailed planning permission for a 166 dwelling development served by a roundabout access in April 2008 (07/01955/DET). That permission has not been implemented due the applicant company having gone into receivership. Although the roundabout was approved as part of that consent which remains valid, it cannot be implemented independently of the approved development due to the effect of pre-commencement conditions associated with the development as a whole. Accordingly this separate application has been submitted which would enable construction of the roundabout without the complication of it being tied into a detailed consent for residential development which is not be pursued, but which is now intended to be the subject of a revised scheme. The extant permission is a material consideration in the determination of this application.

As it is proposed to construct a new roundabout on an existing road, the key issue relates to road safety with any impact on amenity considered minimal. In policy terms Policy LP TRAN 4 is applicable. Policy LP TRAN 4 deals with development utilising new and existing public roads and refers to standards appropriate for road construction consent. A Site Access Statement has been submitted which confirms that the existing road network within the surrounding area has the capacity to accept the potential increased levels of traffic and that the roundabout is a safe and satisfactory junction layout at this location to serve the scale of development envisaged in the housing allocation of the adjoining land.

As indicated above, the new roundabout is to provide access to the whole of the housing development on the former Hermitage Academy site, the applicants' intention being to develop part of the site to provide social housing. The Area Roads Manager has indicated no objections although he has advised that, in the interests of road safety, the construction of the roundabout should be complete and operational as part of the public road network prior to the occupation of the first house on the development for which the roundabout is proposed.

Application 12/00319/PP for the first phase of that associated housing development has been submitted and is currently being assessed. There are a number of concerns regarding design and it may be withdrawn and not resubmitted or determined prior to a decision being taken on this proposal. As such, it is considered that the most appropriate way to deal with the advice from the Area Roads Manager is to ensure that a condition is attached to any subsequent housing proposal to be served by the roundabout, requiring the roundabout to be complete and operational prior to the occupation of the first dwellinghouse. Given this, it is considered that the proposal may be assessed as a stand-alone development, in which case it accords with Local Plan policy, does not prejudice the assessment of any related housing development, and is recommended for approval.

Given the valid points raised by Helensburgh Community Council about the appearance of the roundabout, it would be appropriate for it to have a specific design feature, art work or landscaping provided it does not constitute a road safety hazard. The suggestion of a design competition could be problematic as the applicant has time constraints in

terms of funding, but a condition requiring the submission and implementation of a scheme would be appropriate.

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

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

As it is proposed to construct a new roundabout on an existing road, the key issue relates to road safety with any impact on amenity considered minimal. In policy terms Policy LP TRAN 4 is applicable. Policy LP TRAN 4 refers to standards appropriate for road construction consent. A Site Access Statement has been submitted which confirms that the existing road network within the surrounding area has the capacity to accept the potential increased levels of traffic and that the roundabout is a safe and satisfactory junction layout at this location to serve the scale of development envisaged in the housing allocation of the adjoining land. It is considered that the proposal is acceptable and accords with Local Plan policies.

(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: Howard Young

Date: 29/03/2012

Reviewing Officer: Richard Kerr

Date: 30/03/2012

Angus Gilmour Head of Planning and Regulatory Services

CONDITION AND REASON RELATIVE TO APPLICATION REF. NO. 12/00417/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 15/02/12 and the approved drawing reference numbers L(20) 008 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.

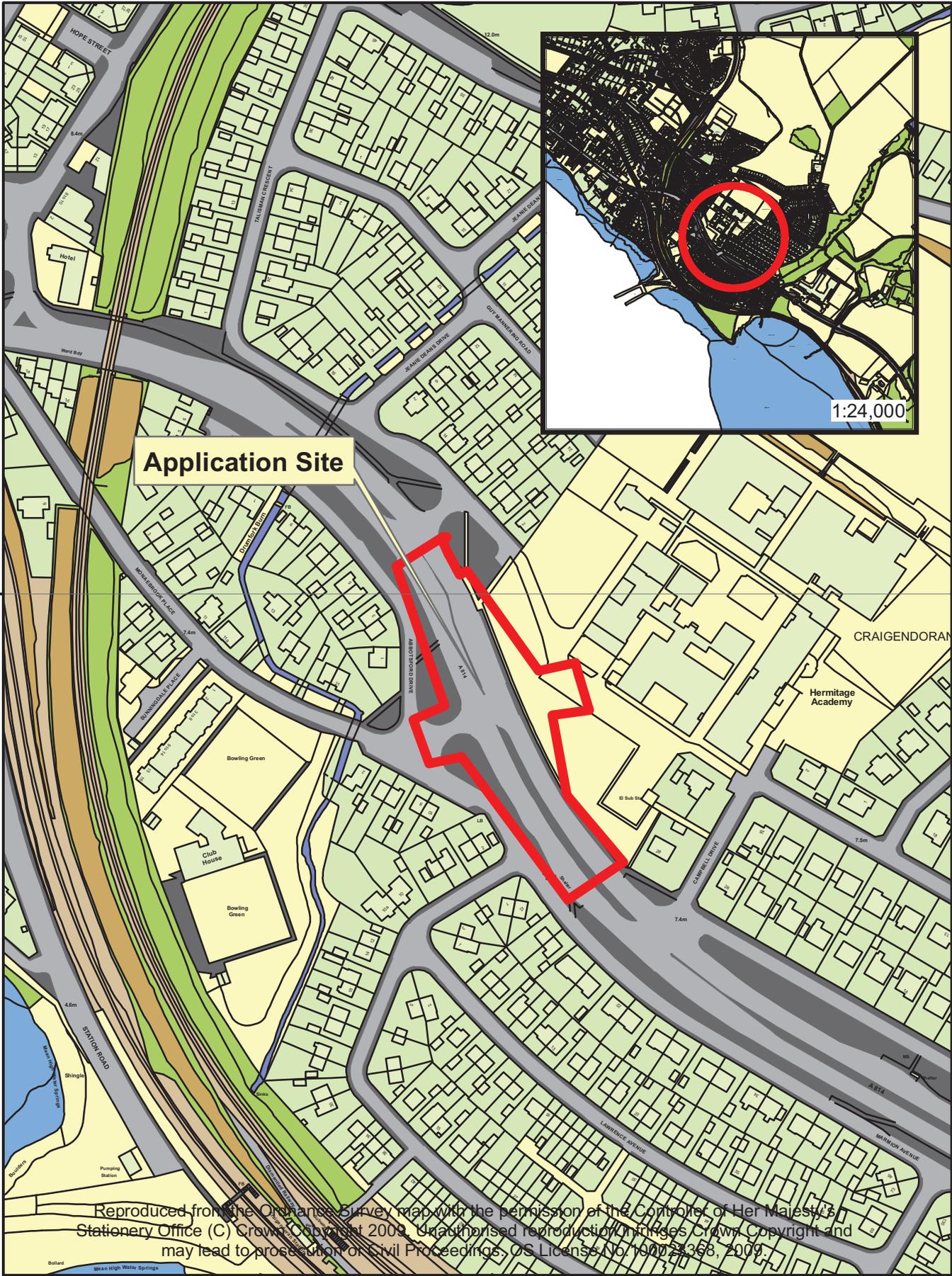
Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. Within 4 months of the roundabout being first brought into use, it shall be completed by means of a scheme of surface treatment, landscaping and/or artwork in accordance with a scheme which shall be submitted in advance and approved in writing by the Council as Planning Authority.

Reason: In order to secure an appearance appropriate to the locality in the interests of visual amenity.

NOTES TO APPLICANT

1. The length of the permission: This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
4. The Area Roads Manager advises that a Roads Construction Consent will be required prior to the commencement of any construction works.



Application Site

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Location Plan relative to Application Ref: 12/00417/PP

Date: 18.04.2012

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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: 12/00628/PP
Planning Hierarchy: Local
Applicant: Mr J Walsh
Proposal: Alterations and extension to dwellinghouse.
Site Address: Victoria Villa, 34 Royal Crescent, Dunoon

DECISION ROUTE

Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Alterations and extension to dwellinghouse.

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

It is recommended planning permission be granted subject to conditions and reasons.

(C) CONSULTATIONS:

None

(D) HISTORY:

There is no relevant planning history.

(E) PUBLICITY:

Neighbour Notification (expiry 11th April 2012)

(F) REPRESENTATIONS:

No letters of representation have been received at the time of writing.

(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 | 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 and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV14 Development in Conservation Areas and Special Built Environment Areas

LP ENV 19 – Development Setting, Layout and Design

LP HOU 5 – House Extensions

- (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: No. However, the applicant is the Leader of the Council.

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

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

Victoria Villa, 34 Royal Crescent is a semi-detached dwellinghouse which lies within a Special Built Environment Area adjacent to Dunoon Conservation Area.

The proposal involves the removal of the existing utility room, storage room, greenhouse, canopy and timber deck and the erection of a two storey extension which will include a kitchen, utility room and shower room on the ground floor and an en suite/dressing area on the upper floor. A sun lounge is to be erected to the south west elevation with a timber deck with associated steps leading onto the grassed area of the rear garden. The extensions will be finished with a wet dash render, slated roof and upvc windows to match the existing dwellinghouse.

Policy LP HOU 5 of the Local Plan specifically deals with proposals to extend dwellinghouses. The main requirements are as follows:

- Extensions should not dominate the original building by way of size, scale, proportion or design;
- External materials should be complementary to the existing property;
- Extensions should not have a significant adverse impact on the privacy of neighbours;
- Flat-roofed extensions will not be permitted where they do not complement the existing house style and design.

The proposed extensions fulfil all the above criteria. Whilst the sun lounge on the southwest elevation will have a partially flat roof, it is considered to be inconspicuous and complements the existing house style and design.

This proposal is not considered to have any detrimental impact on neighbouring properties or the Special Built Environment Area and, on the basis of all of the foregoing, the proposal is considered to be acceptable.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The proposal accords with policies LP ENV 1, LP ENV 14, LP ENV 19 and LP HOU 5 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: Lucy Mansey **Date:** 29 March 2012

Reviewing Officer: David Eaglesham **Date:** 29 March 2012

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 12/00628/PP

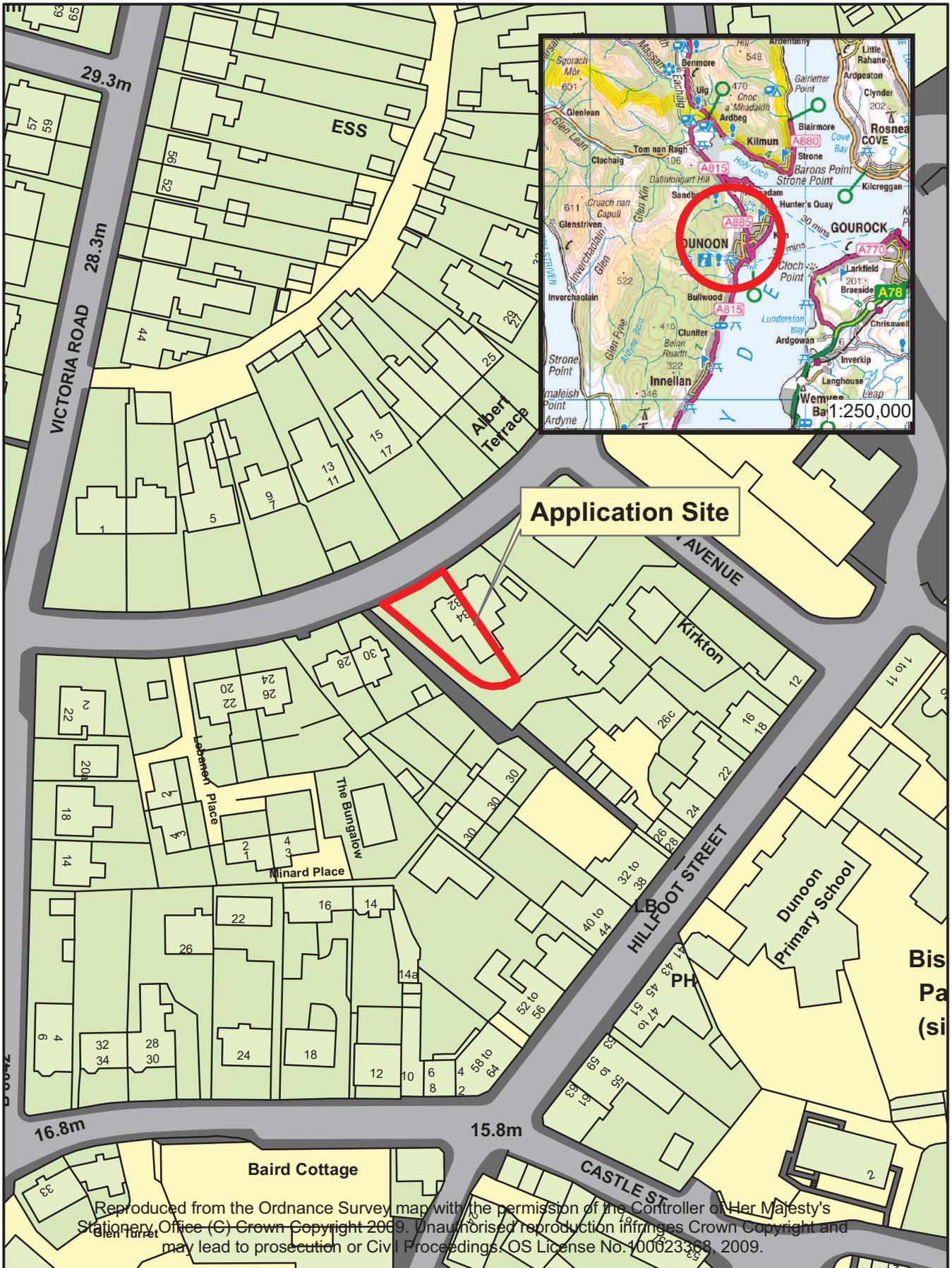
1. The development shall be implemented in accordance with the approved drawings as follows: Drawing Number 305-01 and Drawing Number 305-02 unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of 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.

NOTES TO APPLICANT

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

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**Location Plan relative to
Application Ref: 12/00628/PP**



Date: 27.03.12

Scale: 1:1,250

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