

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD
e.mail –douglas.hendry@argyll-bute.gov.uk

18 March 2013

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **NORTH CONNELL VILLAGE HALL, NORTH CONNELL, ARGYLL** on **MONDAY, 25 MARCH 2013 at 11:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. MELFORT CARE LIMITED: SITE FOR THE ERECTION OF 24 FLATS: OSSIANS RETIREMENT HOME, NORTH CONNELL, PA37 1QZ**
Report by Head of Planning and Regulatory Services (Pages 1 - 32)

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor Gordon Blair	Councillor Rory Colville
Councillor Robin Currie	Councillor Mary-Jean Devon
Councillor George Freeman	Councillor Fred Hall
Councillor David Kinniburgh	Councillor Alistair MacDougall
Councillor Robert Graham MacIntyre	Councillor Donald MacMillan
Councillor Alex McNaughton	Councillor James McQueen
Councillor Sandy Taylor	Councillor Richard Trail

Contact: Fiona McCallum

Tel. No. 01546 604392

This page is intentionally left blank

Argyll and Bute Council
Development Services

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

Reference No:	12/01854/PPP
Planning Hierarchy:	Local Development
Applicant:	Melfort Care Limited
Proposal:	Site for the erection of 24 flats
Site Address:	Ossians Retirement Home, North Connel, Oban

SUPPLEMENTARY REPORT No 1**A) INTRODUCTION**

This report advises Members of a late representation received from a third party in respect of this proposal

B) ADDITIONAL INFORMATION

A further representation has been received from one of the original objectors to the application – Mr I. S. MacLean 4 Falls View Apartments, North Connel (e-mail 20/02/13).

The matters raised are as follows:

- As the applicants own a field adjacent to the application site, in conformity with the usual convention, this land should be outlined in blue on the plans to indicate such. The attention of the committee should be drawn to this, as an incomplete application should be debarred from determination.

Comment: Land outwith application sites but within the same ownership as that of the applicant may be indicated in blue to show such a relationship, as this can be important where planning conditions might necessitate control over adjacent land to fulfil obligations outwith the application site edged red (such as the maintenance of visibility splays, for example). As there is no requirement for such in this case, the fact that there may be additional land in the applicant's ownership is irrelevant to the merits of this application.

- Further reference is made over disputed land ownership and the extent to which the application correctly represents the actual ownership situation.

Comment: Ownership notification was served by the applicants on Mr MacLean in December last year and this fulfils their procedural responsibilities relative to any land within the site edged red which Mr MacLean may own. Landowner rights are not

affected by planning decisions and any dispute over boundaries would be a civil legal matter rather than a material planning consideration.

- The application has been the subject of changes which ought to be regarded as being material in nature prompting resubmission and further opportunity for public comment.

Comment: This is an application for permission in principle rather than for the details of development. The site layout and section plans provided for the initial and the final suggested forms of development are for illustrative purposes only, and therefore the replacement of an initial layout with a revised layout to satisfy concerns expressed by officers does not amount to a material change in the development proposed. In actual fact, the amended illustrative layout has reduced the overall number of units from 27 to 24 which represents a reduction in the development. In the event of Permission in Principle being granted, final details of the precise form of development will be required by condition, and any application for Approval of Matters Specified in Condition will be the subject of further opportunity for comment by interested parties.

C) RECOMMENDATION

It is recommended that the application be granted subject to the conditions and reasons set out in the original report to the Committee of 20th February 2013.

Author of Report: Richard Kerr

Date: 21st February 2013

Angus Gilmour
Head of Planning and Regulatory Services

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

Reference No: 12/01854/PPP
Planning Hierarchy: Local Development
Applicant: Melfort Care Limited
Proposal: Site for the erection of 24 flats
Site Address: Ossians Retirement Home, North Connel, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Demolition of former care home;
- Site for the erection of 24 flats;
- Alterations/improvements to an existing shared private vehicular access to provide a new road to adoptable standard;
- Construction of parking and turning areas;
- Private surface water drainage arrangements;
- Private foul drainage arrangements (only if public sewer connection proves uneconomic and is accepted as such by SEPA).

(ii) Other specified operations

- Connection to an existing public water main.
-

(B) RECOMMENDATION:

It is recommended that planning permission in principle be granted subject to:

- 1) A discretionary local hearing being held in view of the number of objections received in the context of a small community;
 - 2) The conditions and reasons appended to this report.
-

(C) HISTORY:

On-site:

00/01300/DET - Extension to retirement home – *application approved 18th October 2000*

07/01513/DET - Extension to nursing home to provide 14 additional bed spaces and ancillary accommodation – *application approved 20th February 2008*

08/01557/DET - Demolish existing care home and erect a new care home – *application approved 31st October 2008*

09/00826/DET - Demolition of existing care home and erection of a new care home (61 bedrooms) – *application approved 16th November 2009*

12/00336/PREAPP – Redevelopment of site to form 24 flats. *Relevant policies highlighted in a qualified generally positive response to enquirer on 19th March 2012.*

On-land immediately adjacent to the application site:

03/00426/DET - Erection of 3 dwellinghouses – *application approved 16th May 2003*

07/01805/DET - Erection of a dwellinghouse – *application approved 20th February 2008*

07/01816/OUT - Site for the erection of a dwellinghouse – amended position to permission 03/00426/DET (Plot 5) – *application approved 15th November 2007*

07/01819/OUT - Site for the erection of a dwellinghouse – amended position to permission 03/00426/DET (Plot 6) – *application approved 15th November 2007*

07/01820/OUT - Site for the erection of a dwellinghouse – amended position to permission 03/00426/DET (Plot 7) – *application approved 15th November 2007*

07/02267/DET - Erection of 2 dwellinghouses and attached garages – *application approved 18th January 2008*

(D) CONSULTATIONS:

Ardchattan Community Council

Response submitted 16th October 2012 – when taking into consideration the scale of the proposal, the submitted plans accompanying the planning application contain very little detail ensuring that it is very difficult to assess the impacts which the proposal will have upon the surrounding area and the wider community. Concerns have also been expressed in relation to whether the existing public sewers and public water mains have the capacity to accommodate the proposed development and whether the existing C25 Bonawe public road is suitable for such an increase in vehicular traffic. Seek more detail of intended occupancy of buildings.

Area Roads Officer

Initial response received 28th September 2012 – deferred decision due to a lack of information regarding access, on-site vehicular parking and associated vehicular turning arrangements.

Further response received 6th December 2012 – following discussions between the agent and the Area Roads Officer the recommendation was updated ‘no objection subject to conditions’ and advisory comments which can be viewed within section ‘Note to Applicant’ below. Indicative roads and parking layouts have been submitted.

Local Biodiversity Officer

Response received 2nd October 2012 – no objection subject to a condition and advisory comments which can be viewed within section ‘Note to Applicant’ below.

Outdoor Access Team

Response received 4th December 2012 – no objection subject to advisory comments.

Scottish Environment Protection Agency

Initial response received 2nd October 2012 – objection due to a lack of information in relation to the proposed foul drainage arrangements.

Further response received 16th November 2012 – after receiving further information on 30th October 2012, the objection was maintained due to a lack of information in relation to the proposed foul drainage arrangements.

Final response received 28th November 2012 – after receiving further information the objection was lifted and replaced with a recommended condition requiring that the development is connected to the public sewer unless it is evidenced to the Planning Authority that such a connection is not economically viable.

Scottish Water

Response received 18th September 2012 – no objection. Capacity exists for water supply and waste water connections at present.

West of Scotland Archaeology Service

Response received 4th October 2012 – no objection. Previous investigation has revealed no finds.

(E) PUBLICITY:

‘Regulation 20 – Advert Local Application’ from the 20th September to the 11th October 2012.

(F) REPRESENTATIONS:

14 letters of objection have been received from 11 different sources:

- Mr and Mrs J. Orr, 6 Falls View Apartments, North Connel, Oban, Argyll and Bute, PA37 1QX (letter dated 25.09.2012)
- Dr S. Chalmers, Fearnoch View, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail sent 27.09.2012)
- Mrs D. Kerr, Tigh-Nan-Raith, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail sent 01.10.2012)
- Mrs M. A. Leplar, 1 Falls View Apartments, North Connel, Oban, Argyll and Bute, PA37 1QX (letter dated 07.10.2012)
- Mr D. Mcphie Humphries, Plot 7 by Ossians, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail sent 09.10.2012)
- Mr I. S. MacLean, 4 Falls View Apartments, North Connel, Oban, Argyll and Bute, PA37 1QX (2 separate e-mails sent 10.10.2012, letter dated 04.01.2013)
- Mr S. Ross, 3 Falls View Apartments, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail sent 10.10.2012)
- Mr A. Jamieson, Torosay, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail sent 10.10.2012)
- Mrs J. Campbell, 5 Falls View Apartments, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail sent 10.10.2012)
- Mr and Mrs A. J. Mitchell-Jones, Taigh-A-Ghiuthais, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mails sent 19.10.2012 and 06.01.2013)
- Mr W. Black, 8 Falls View Apartments, North Connel, Oban, Argyll and Bute, PA37 1QX (e-mail sent 05.11.2012)

The concerns raised may be summarised as follows:

- The proposal does not conform with the character of the area, is too large, out of scale, contains a high density of development, and constitutes a form of overdevelopment. It is claimed the development is not compatible with STRAT DC 1 as North Connel (east) is more akin to a minor settlement where medium scale development would not be supported.

Comment: This concern was shared by planning officers, for the initial proposal of 3 houses (2 storey) and 24 flats (2 storey). In response to this concern, the applicant has voluntarily deleted the house plots, leaving the 24 flats across two storeys proposed for the entire site. The application is for planning permission in principle and as such, no detailed drawings require to be submitted. Indicative plans have however been supplied to assist in the assessment of the proposal.

North Connel is defined in the Local Plan as one of the 'Small Towns and Villages', wherein Policy STRAT DC1(B) confirms developments up to and including medium scale developments may be supported. The site lies within the allocated 'Settlement Zone' where there is a general presumption in favour of residential development. A 24 flat development is a form of 'medium scale' development (medium scale being defined in the Local Plan as between 6 and 30 units). The Local Plan does not distinguish between North Connel east and west and as such, medium scale developments can be supported provided they are deemed appropriate for a specific site following a site specific assessment.

The Planning Service is satisfied that proposal does not present an unacceptable over-development of the site and that the proposal will conform sufficiently with the character of the surrounding area, which is predominantly characterised by a mixture of 1½, 1¾ and 2 storey dwellings and flats.

- This planning application does not include the submission of any details such as the height of the proposed buildings, type of flats, composition, design, building materials, water supply, drainage arrangements etc.

Comment: The application is for planning permission in principle (PPP) only and as such, no detailed drawings require to be submitted. Indicative plans have however been supplied to assist in the assessment of the proposal. The application form also states that the proposal is to be 2 storeys high, that a public water supply is proposed, and that private surface and foul drainage arrangements are proposed. In the event that PPP were granted, a further detailed application would still be required before any development could proceed, and this would be subject to further public scrutiny as well as a further planning assessment. With a PPP application, the Planning Authority is only required to determine the principle of development.

- Traffic, access and road safety concerns - the C25 Bonawe public road and the existing access are not capable of any further increase in vehicular traffic and the proposed on-site vehicular parking and vehicular turning arrangements are unacceptable. Increased traffic would generate noise, fumes, and nuisance. Street lights will create light pollution.

Comment: The Area Roads Engineer has been consulted and has recommended no objection subject to conditions. The requirements include the detailed design of a road to adoptive standards and adequate parking to provide for the development. These items are appropriately addressed by planning conditions at this stage, and detailed assessment as part of the future detailed application.

The additional traffic for the proposed 24 flats is not considered to generate unacceptable levels of noise, fumes or disturbance for surrounding residential properties. Compared with the traffic associated with the lawful use of the site as a care home, or to serve the previously approved 61 bedroom care home on the site, it is considered that the increase in traffic will be acceptable.

The detailed design and consideration of streetlighting will be subject to the Road Construction Consent procedure, administered by the Roads Authority. This item is not therefore necessary to consider at this stage. Lighting from the proposed building will however legitimately be controlled by planning condition, as was the case for the previously approved care home at the site.

- The applicant does not own all the land within the application site. Site boundaries/land ownership certificate questioned.

Comment: In response to this issue being raised, the Planning Service queried the matter with the applicant. An initial response defended the ownership certification and site boundaries and submitted title deeds in support of their position. However, on inspection of the deeds, the Planning Service confirmed that the objections received were correct. To address this, Ownership Notification was served on Mr Iain S. MacLean, 4 Falls View Apartments, North Connel, Oban, Argyll and Bute, PA37 1QX on 17/12/12.

The third party owner has advised he expected amended site boundaries to be supplied showing amended red and blue line boundaries. This appears to be based on the misapprehension as to what those lines represent and has been the source of some confusion. The red line boundary represents the planning

application site and this must include all land containing elements related to the development as applied for, be they in the ownership of the applicant or not. Any applicant can apply on land either within or outwith their ownership. If land is not owned by the applicant, they require to serve Owner Notification on the affected landowner. Any area identified with a blue line represents other land, beyond the application site boundary, which is also owned by the applicant. The Planning Service is satisfied that the correct owner notification has now been served. Landowner rights are not affected by planning decisions. Any future dispute between affected parties is a civil matter. A developer can not implement a development unless and until they secure the necessary legal rights to the affected land.

- The applicant does not have right of access to utilise the existing shared private vehicular access.

Comment: This is a civil matter between the parties.

- Queries regarding the intended occupancy of the flats; including if they are to be rented then this could potentially lead to flats being empty for periods of time. If this is the case, who would be responsible for maintaining the building?

Comment: The flats are proposed as permanent residential units. It is not within the remit of the Planning Authority to control whether they are rented or owner occupied. Maintenance of the building lies outwith the control of the Planning Authority unless the appearance causes wider amenity damage, in which case enforcement powers become available.

- Impact upon views.

Comment: Loss of private views is not a material planning consideration. The proposal does not block any public views.

- Adequacy of water supply, surface water drainage and foul water drainage proposals are queried.

Comment: With regards to proposed foul drainage arrangements the application includes provision of private drainage arrangements discharging via an existing pipe to the sea loch. SEPA requires a condition obliging connection to the public sewer unless such connection is proven to be economically unviable. Scottish Water confirm that water supply and waste water capacity exist, but the sewer connection is understood to be a considerable distance away). In the event that a sewer connection is provided, this could be provided by Scottish Water as permitted development. In the event that the private drainage proposals come to fruition as applied for, sufficient undeveloped land exists for a private treatment system connecting to the existing private sewer line the developer has a servitude right to, and SEPA consent would be required for the proposed discharge. Surface water drainage is indicated as being SUDS compliant in the submitted form, but will be the subject of a planning condition for inclusion with the future detailed application.

- As existing, the application site features several trees and a variety of biodiversity interests. It is considered that the proposed development will have a detrimental impact upon the natural environment, including birds, wildlife and landscape.

Comment: The Biodiversity Officer recommends no objection subject to a condition. This is a brownfield site that is currently somewhat unattractive. There are no known protected species on the site. A landscape design and planting plan condition is sufficient to control these impacts in this instance. A condition is also recommended to safeguard existing trees within the application site until such details have been agreed.

- No provision for open space/play area(s) has been included within this planning application. No transformer has been shown.

Comment: This is an application for PPP only and as such, no detailed plans are necessary. The application site area is given as 5,975m² and the footprint of the indicative 24 flats measures approximately 1,184m². The communal private open space excluding the proposed shared private vehicular access, on-site vehicular parking and turning arrangements, pedestrian footpaths and verge strips, equates to approximately 3,000m². Local Plan Policy LP HOU 4 necessitates a minimum provision of 288m² of casual play space and 144m² of equipped play space for a development of this size. Sufficient undeveloped land would remain within the site to readily provide at least 432m² of communal open space to satisfy the policy. A condition is recommended in this regard. The location of a transformer will be identified later in the design process and sufficient space exists for its provision within the site.

- Precedent.

Comment: It is not considered that any precedent would be established by the determination of this application. It has been subject to a detailed site assessment, and lies immediately alongside an existing flatted development. Planning permission was previously granted for a 61 bedroom care home on the site, which would occupy a far larger portion of the site. The proposal fits the parameters of the Local Plan policies applicable to the site.

- Privacy and amenity impacts. An existing quiet area would be adversely affected.

Comment: The site has a lawful Class 8 use as a care home, and a previous planning permission (lapsed in November 2012) for a 61 bedroom care home. The site abuts existing residential developments on both sides, including secondary tier development set back from the public road frontage. Sufficient spacing exists between neighbouring residential houses and flats that an appropriately designed flatted development will not unduly affect privacy. The detailed design is to be the subject of a separate planning application including public scrutiny and further detailed planning assessment. Privacy levels will be protected at that stage. It is not accepted that a flatted development alongside existing housing and flatted developments will introduce any elements that will adversely affect amenity or create any new and unacceptable sources of disturbance that are not compatible with neighbouring land uses.

- Falls View Apartments would be overshadowed.

Comment: Sufficient space exists at the site to avoid overshadowing affects. This is properly considered at the later detailed design stage.

- Loss of a much needed care facility from the site.

Comment: The loss of the care home facility is regrettable, since it's closure a number of years ago. The lack of commencement on the approved replacement care home is similarly regrettable. This is however due to market forces and it is not considered appropriate for the Planning Authority to reject the proposed (Class 9) housing development in favour of an ongoing (Class 8) care home which is not being utilised. There is also great demand for housing including affordable housing and the development proposed will make a positive contribution towards both of these demands.

The above represents a summary of the issues raised. Full details in relation to the representations are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

(H) PLANNING OBLIGATIONS

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

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

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

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

'Argyll and Bute Structure Plan' 2002

Policy STRAT SI 1 – Sustainable Development

Policy STRAT DC 1 – Development within the Settlements

Policy STRAT DC 7 – Nature Conservation and Development Control

Policy STRAT DC 8 – Landscape and Development Control

Full details of the Argyll and Bute Structure Plan 2002, including proposal maps and full policy wording can be viewed on the Council's website by following the link below:

<http://www.argyll-bute.gov.uk/planning-and-environment/argyll-and-bute-structure-plan>

'Argyll and Bute Local Plan' 2009

Policy LP ENV 1 – Development Impact on the General Environment

Policy LP ENV 2 – Development Impact on Biodiversity

Policy LP ENV 7 – Development Impact on Trees/Woodland

Policy LP ENV 12 – Water Quality and Environment

Policy LP ENV 19 – Development Setting, Layout and Design

Policy LP HOU 1 – General Housing Development

Policy LP HOU 2 – Provision of Housing to meet Local Needs including Affordable Housing Provision

Policy LP HOU 4 – Housing Green-Space

Policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. Drainage) Systems

Policy LP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SUDS)

Policy LP SERV 4 – Water Supply

Policy LP TRAN 1 – Public Access and Rights of Way

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

Policy LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

Appendix C – Access and Parking Standards

Full details of the Argyll and Bute Local Plan 2009, including proposal maps and full policy wording can be viewed on the Council's website by following the link below:

<http://www.argyll-bute.gov.uk/planning-and-environment/local-plan>.

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

Argyll and Bute Council Sustainable Design Guidance (2006)

Scottish Planning Policy (2010)

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

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

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

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

(O) Requirement for a hearing: Yes

A discretionary local hearing is considered warranted in view of the number of objections received in the context of a small community, and the concerns which have been expressed on behalf of the community council.

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

This application seeks planning permission in principle (PPP) for the erection of 24 flats on the site of the former Ossians Retirement Home, North Connel, Oban.

With reference to the 'Argyll and Bute Local Plan' 2009 the application site is situated within the 'Settlement Zone' for North Connel, which is categorised as a Small Town/Village in the Local Plan. Structure Plan Policy STRAT DC 1 – Development within the Settlements states:

“Encouragement shall be given...to development...Within the Small Towns and Villages to development serving a local community of interest, up to and including medium scale development [medium scale corresponding to development of between 6 and 30 dwelling units], on appropriate infill, rounding-off and redevelopment sites; in exceptional cases large scale developments may be supported.”

The proposal constitutes an acceptable form of 'medium scale' redevelopment within the 'Settlement Zone' for North Connel within which there is a general presumption in favour of residential development. The proposal satisfies Policies STRAT DC 1 and LP HOU 1 of the development plan.

There are 11 objections, as well as concerns from the Community Council, however as outlined above each of the issues raised have been addressed as part of the determination process, or are appropriately handled as part of the later detailed application(s) for approval of matters specified in conditions, which must follow before any development can commence. There have been no objections or concerns raised by statutory consultees that cannot be adequately controlled through the imposition of planning conditions as recommended below.

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

(R) Reasons why planning permission in principle should be granted

The proposal constitutes an acceptable form of 'medium scale' redevelopment of a brownfield site within the 'Settlement Zone' for North Connel where there is a general presumption in favour of residential development. It is considered that the scale of the proposed development is sufficiently compatible with surrounding development. Subject to conditions, it is considered that the proposal will cause no unacceptable detrimental amenity, privacy, access or servicing issues within the immediately surrounding area.

The proposal satisfies Policies STRAT SI 1, STRAT DC 1, STRAT DC 7, STRAT DC 8, LP ENV 1, LP ENV 2, LP ENV 6, LP ENV 7, LP ENV 12, LP ENV 19, LP HOU 1, LP HOU 2, LP HOU 4, LP SERV 2, LP TRAN 1, LP TRAN 4 and LP TRAN 6. There are no other material considerations that would warrant the refusal of planning permission in principle.

(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: Walter Wyllie

Date: 4th February 2013

Reviewing Officer: Stephen Fair

Date: 5th February 2013

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION 12/01854/PPP

1. Except as amended to accord with the conditions attached to this planning permission in principle, this permission is granted in accordance with the details specified on the application form dated 27th August 2012 and the approved drawing reference numbers listed below:

- Plan 1 of 3 (Drawing No. 132-200-003) (Location Plan at a scale of 1:2500)
- Plan 2 of 3 (Drawing No. 132-200-001) (Location Plan at a scale of 1:1250)
- Plan 3 of 3 (Drawing No. 132-200-005 Rev D) (Indicative Site Plan as Proposed at a scale of 1:250)

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

2. No development shall commence on-site or is hereby authorised until the following information has been submitted by way of an application(s) for the approval of matters specified in conditions or planning permission, and then approved in writing by the Planning Authority:

- a) a statement addressing the Action Checklist for developing proposals contained within the Argyll and Bute Council Sustainable Design Guidance 2 (2006);
- b) a detailed method statement for the demolition of the existing building on the site;
- c) a detailed site layout plan at a scale of 1:500 illustrating the proposed 24 flats, which shall be generally compatible with the indicative plan 3 of 3 hereby approved;
- d) the proposed access details, internal site road layout, rationalisation and closure of any existing road access no longer required, on-site vehicular parking and associated vehicular turning, water supply, foul drainage and surface water run-off drainage arrangements;
- e) details of any existing paths that cross the site, along with measures to ensure that any path connections are retained and enhanced through the development of the site;
- f) details of the proposed finished ground floor levels of the development relative to an identifiable fixed datum located outwith the application site, along with details of the existing and proposed site levels shown in the form of sectional drawings/contour plans/site level survey;
- g) proposed elevations and floor plans of the proposed 24 flats which shall illustrate a building:
 - to a maximum of 2 storeys and no higher than that shown on the indicative details accompanying the application;
 - predominantly finished in wet dash roughcast, smooth masonry render, natural stone, or a mixture of these finishes;
 - a roof covering of natural slate or good quality slate substitute;
 - windows with a strong vertical emphasis;
 - a roof pitch of not less than 35° and not greater than 42°; and
 - buildings which are positioned generally in the position shown in the approved indicative site plan 3 of 3 attached hereto.

Reason: In the interests of visual amenity and in order to maintain the character of the area and integrate the proposal with its surroundings.

3. No development shall commence on-site or is hereby authorised until full details of the proposed means of affordable housing provision (as defined below) has been submitted to and has been approved in writing by the Planning Authority. This shall comprise either, a commuted sum payable to the Planning Authority in advance of construction being commenced, or alternatively, a scheme for on-site provision.

In the event of the latter the required scheme shall:

- a) provide a minimum of 25% of the approved residential units as affordable homes;
- b) identify those residential units which are to be utilised as affordable homes;
- c) establish the timing of the provision of affordable homes relative to the phasing of the development; and
- d) establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below).

In the event of a scheme being submitted and approved by the Planning Authority for the provision of affordable homes on site, the development shall be implemented and occupied thereafter in accordance with the duly approved scheme.

For the purposes of this condition 'affordable homes' are defined as being either:

- i) social housing (rented or shared ownership or shared equity) managed by a registered social landlord (a body registered under part 3, chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification);
- ii) discounted low cost sale housing (subject to a burden under the Title Conditions (Scotland) Act 2003), or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification); and
- ii) housing for sale or rent without subsidy, which is designed to be affordable and to meet the housing needs of the majority of those households identified as in housing need in the Local Housing Strategy or Housing Market Study i.e. one or two person households on average income, with conditions attached to their missives to prevent further extension, thereby helping to ensure that they are likely to remain affordable to subsequent purchasers.

For the purpose of this condition a 'commuted sum' is a one-off payment, calculated by the District Valuer, for the purposes of contributing towards the cost of off-site provision of affordable homes, in lieu of any affordability component being provided on-site as part of the development.

Reason: To accord with the provisions of Policy LP HOU 2 of the 'Argyll and Bute Local Plan' 2009 and the Council approved Development Plan Policy Guidance – Affordable Housing.

4. Any application for the approval of matters specified in conditions or planning permission in respect of the flatted development hereby approved, shall include

details of a scheme for the provision and ongoing maintenance of communal open space comprising a minimum provision of 12m² per unit (total 288m²) of informal open space plus 6m² per unit (total 144m²) of equipped play space within the site. Prior to occupation of any of the flatted units hereby approved, the duly approved scheme shall be completed and made available for use, and the approved maintenance arrangements shall have been invoked. Thereafter the open space and play equipment shall be maintained in strict accordance with the approved details in perpetuity.

Reason: To accord with the provisions of Policy LP HOU 4 of the 'Argyll and Bute Local Plan' 2009.

5. Unless otherwise first agreed in writing by the Planning Authority, the development hereby approved shall be connected to the public sewer system for foul drainage disposal from the site. Only in the event that such connection is proven to be uneconomically viable to the satisfaction of the Planning Authority in consultation with SEPA, and this is confirmed in writing by the Planning Authority, shall the development be served by a private drainage system. All details required to assess the economic viability of a public sewer connection and all detailed foul drainage disposal arrangements that are proposed must be submitted as part of the application for approval of matters specified in conditions. All approved foul drainage details shall be fully implemented on site prior to the initial occupation of any of the residential units hereby approved.

Reason: To ensure that there is a satisfactory foul drainage system in place for the development, in the interests of health and amenity and environmental protection, to accord with Policy LP ENV 12 of the 'Argyll and Bute Local Plan' 2009, and to adhere to the stated position of the Scottish Environment Protection Agency.

6. As part of the application for approval of matters specified in conditions, details of a Sustainable Urban Drainage System (SUDS) compliant method of surface water drainage shall be submitted to the Planning Authority. Such details shall include a drainage layout plan which shall include any mitigation measures required to address surface water run-off from the development site. The development shall be completed in strict accordance with the approved details prior to the initial occupation of any of the residential units hereby approved.

Reason: To ensure that there is a satisfactory drainage system in place for the development, in the interests of health and amenity and environmental protection and to accord with Policies LP ENV 12 and LP SERV 2 of the 'Argyll and Bute Local Plan' 2009.

7. The access serving the development hereby approved shall be a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984, and shall be constructed to the satisfaction of the Planning Authority in consultation with the Roads Authority, complete with visibility splays measuring 42.0 metres x 2.4 metres in each direction formed from the centre line of the proposed access. Prior to any works commencing on-site these visibility splays shall be cleared of all obstructions measuring over 1.0 metre in height above the level of the adjoining C25 Bonawe public road and thereafter maintained to the satisfaction of the Planning Authority. No obstructions measuring over 1.0 metre in height will be permitted within 2.0 metres from the channel line of the C25 Bonawe public road.

The Road must be a minimum of 5.5 metres in width, incorporate a 2.0 metre wide pedestrian footpath along the western edge and a 1.5 metre wide verge along the eastern edge.

The Road shall be constructed to at least base course level prior to any building works commencing on the flats hereby approved in principle and the final wearing surface shall be applied prior to first occupation of any of the residential units hereby approved in principle.

Reason: In the interests of road safety and to ensure the proposed development is served by a suitably specified safe means of vehicular access for the size of development proposed, to accord with Policy LP TRAN 4 of the 'Argyll and Bute Local Plan' 2009.

8. Any application for the approval of matters specified in conditions in respect of the details of the development hereby approved must include a minimum provision of 1.5 parking spaces per 1 bedroom unit, 2 parking spaces per 2-3 bedroom unit, 3 parking spaces per 4 or more bedroom units. Associated on-site turning arrangements must be detailed in accordance with Fig 5.24 of 'Argyll and Bute Council's Guidelines for Development'. Prior to occupation of any of the flatted dwelling units hereby approved, the duly approved on-site parking and turning arrangements shall be completed and made available for use and shall be so retained thereafter for the parking and manoeuvring of vehicles in perpetuity.

Reason: In the interests of road safety and to accord with Policy LP TRAN 6 of the 'Argyll and Bute Local Plan' 2009.

9. Any application for the approval of matters specified in conditions or planning permission shall include a Landscape Design and Planting Plan which shall contain the following details:

- a) location and design, including materials of any walls, fences and gates;
- b) surface treatment of means of access and hard standing areas;
- c) soft and hard landscaping works, including the location, type and size of existing native species around the site perimeter to be retained including their height and spread of branches and their location within the site accurately plotted (any trees around the perimeter which over-hang onto the site shall also be included) and proposed trees to be planted within the site in terms of number, species, location, and height at time of planting. All trees which it is proposed to fell or remove shall be clearly identified; and
- d) a programme for completion and subsequent on-going maintenance for a period of at least 10 years.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority in consultation with the Local Biodiversity Officer. Any trees or plants which within a period of 10 years from the completion of the development die, or for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interests of biodiversity, visual amenity, to help integrate the proposed dwelling units with their surroundings and to satisfy Policies STRAT DC 7, STRAT DC 8, LP ENV 2, LP ENV 6 and LP ENV 7 of the development plan.

10. Notwithstanding the provisions of Class 4A of the Town and Country (General Permitted Development) (Scotland) Amendment Order 2011, no new windows or doors may be installed at any of the flats hereby approved in principle unless otherwise first agreed in writing by the Planning Authority.

Reason: To ensure that no adverse impacts on privacy arise from such developments that can otherwise proceed without explicit planning permission.

11. In order to eliminate the potential for light nuisance and glare beyond the boundary of the site, all external lighting provided for the site shall be of the minimum required and shall be so positioned, controlled and shrouded so as to prevent spillage of the light and glare beyond the site boundary. Guidance issued by the Institution of Lighting Engineers shall be followed in this respect.

Reason: To ensure that no adverse impacts on privacy arise from such developments that can otherwise proceed without explicit planning permission.

NOTE TO APPLICANT

- **Length of this planning permission in principle:** The application for approval of matters specified in conditions must be submitted within three years from the date of this decision notice, failing which this planning permission in principle shall lapse in accordance with Section 59 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.
- A Road Construction Consent (S21), Road Bond (S17) and a Road Opening Permit (S56) under the Roads (Scotland) Act 1984 will be required. The Council's Roads Engineers should be contacted in this regard prior to any works commencing on-site. The access should be formed so as not to discharge surface water onto the C25 Bonawe public road.
- Any proposals intended to address condition 5 above, relating to private foul drainage arrangements shall require the submission of sufficient information to demonstrate to SEPA that the cost of connection to the public sewer network will make the development economically unfeasible compared with the cost of providing a suitable private treatment system on site. The developer should be aware that implementation of a development served by way of private drainage arrangements is not authorised by this planning permission unless the terms of condition 5 are satisfied and the Planning Authority confirms in writing that a private foul drainage system can be provided. In that instance, full details of the private system would require to be contained within the application for approval of matters specified in conditions.

Local Biodiversity Officer has advised as follows:

Please see the consultee response received from the Local Biodiversity Officer which is attached along with the decision notice and approved plans.

Scottish Water have advised as follows:

Please see the consultee response received from Scottish Water which is attached along with the decision notice and approved plans.

APPENDIX B – RELATIVE TO APPLICATION NUMBER 12/01854/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

With reference to the 'Argyll and Bute Local Plan' 2009, the application site is situated within the 'Settlement Zone' for North Connel. North Connel is categorised in the Local Plan as one of the 'Small Towns and Villages'. With reference to the 'Argyll and Bute Structure Plan' 2002, Policy STRAT DC 1 – Development within the Settlements states:

“Encouragement shall be given...to development...Within the Small Towns and Villages to development serving a local community of interest, including medium scale development (medium scale corresponding to development of between 6 and 30 dwelling units), on appropriate infill, rounding-off and redevelopment sites...”

The proposal constitutes a form of 'medium scale' redevelopment which is situated within the 'Settlement Zone' for North Connel, where there is a general presumption in favour of residential development. The proposal satisfies Policy STRAT DC 1.

B. Location, Nature and Design of Proposed Development

The application site is located within the North Connel, north east of Connel Bridge and approximately 5 miles north east of Oban. Situated directly to the north of the application site there is predominantly open, improved grassland/agricultural grazing land, and situated directly to the south is the C25 Bonawe public road with open improved grassland/agricultural grazing land beyond leading down to the north shore Loch Etive at the Falls of Lora. Situated directly to the west of the application site there is a small cluster of detached private dwelling houses which are predominantly 1½ or 1¾ storeys in height, with larger buildings at the public road edge and slightly smaller units set behind. Situated directly to the east of the application site there are 2 detached blocks of flats which are 2 storey in height and are in turn adjoined by a small cluster of detached private dwelling houses of 1½ or 1¾ storeys in scale.

The application site is predominantly flat and has a stated area of 5,975m². The application site is occupied by a large vacant building which was previously used as a retirement home (Class 8). The existing building comprises a 2 storey frontage and a single storey rear projection, all of which is in a state of disrepair. It has been vacant for some time without apparent prospect of re-occupation for either its original use or any other alternative purpose, and consequently it presents an appropriate redevelopment opportunity. The existing building design is out of keeping with the surrounding developments and is unsightly at present.

The proposal is to demolish the existing retirement home and to redevelop the site for residential purposes comprising a 2 storey flatted development. The indicative plans show a generally L shaped building with a main frontage in line with the Falls View Apartments and a rear leg contained behind the main frontage. Access would be via a road along the western edge of the site and parking would be accommodated along the west and north (rear) of the site. The indicative layout and 2 storey scale of building proposed respects the pattern and character of development surrounding the site, and addressed the road in common with adjacent developments. A condition has been recommended to ensure that all 24 proposed flats should not exceed 2 storeys as

applied for. A detailed application remains to be submitted before any development can commence and this will be subject to further public participation and a further planning assessment. The Planning Authority is only being asked to determine the principle of development. It is considered that the site can accommodate a 24 flat, 2 storey development in a way that complies with Policies LP ENV 1, LP ENV 19 and LP HOU 1. The bulk and massing of the building currently proposed will be less than the 61 bedroom care home previously approved on the site. The siting and orientation currently indicated are more compatible with adjoining developments than could be said of the previously approved 61 bedroom care home.

Any new housing development proposing 8 or more dwelling units is required to contribute 25% of the total number of units as affordable housing. A planning condition is necessary to ensure that the proposal satisfies Policy LP HOU 2 of the 'Argyll and Bute Local Plan' 2009.

Furthermore, any new housing development proposing 20 or more residential units is required to provide both a minimum play space of:

- 12m² per dwelling unit of casual play space;
- 6m² per unit of equipped children's play space including provision for under 5 year olds and
- provision must be made by the applicant/developer(s) for the on-going maintenance of such play space.

The application site has a stated area of 5,975m² and the indicative building footprint is approximately 1,184m². The communal private open space, excluding the proposed shared private vehicular access, on-site vehicular parking and turning arrangements, pedestrian footpaths and verge strips, equates to approximately 3,000m². With reference to the 'Argyll and Bute Local Plan' 2009, Policy LP HOU 4 states that a scheme of this size must contain a minimum provision of 288m² of informal open space and 144m² of equipped play space. A minimum provision of 432m² open space can be accommodated within the site and this can be secured by planning condition to satisfy Policy LP HOU 4 of the 'Argyll and Bute Local Plan' 2009. Subtracting the required communal open space still leaves a private open space equivalent to 107m² per flat. The indicative plot ratio equates to 20.4%. The scale and density of development is considered acceptable for the site. The current application proposes to occupy far less of the site than the previously approved care home on the site (09/00826/PP).

C. Natural Environment

No special designations, landscapes or protected species have been identified in respect of this site. The Local Biodiversity Officer has been consulted and recommends no objection subject to a condition. The proposal satisfies Policies STRAT DC 7, LP ENV 2, LP ENV 6 and LP ENV 7.

D. Built Environment

Existing development to the west of the application site predominantly constitutes a number of 1½ or 1¾ storey detached dwelling houses in fairly large grounds, with substantial buildings along the public road edge. Together these form a linear form of development along C25 Bonawe public road overlooking the Falls of Lora. Existing development immediately to the east of the application site comprises a mixture of 2 storey blocks of flats adjoined by further 1½ or 1¾ storey detached dwelling houses.

There are no existing buildings situated directly to the north or south of the application site. The nursing home building within the site and the two adjacent apartment blocks are two storey in height. A number of properties sit behind the main road frontage properties in this part of North Connel. The current proposal is for an L shaped 2 storey block of flats with a frontage in line with Falls View apartments and a rear projection in a sensible position whereby neighbouring privacy and amenity can be maintained.

Situated in close proximity to the application site is the Moss of Achnacree which is known for its preserved prehistoric monuments and archaeological finds. West of Scotland Archaeology Service have been consulted and recommended no objection in this case given the circumstances at the site and the lack of finds from previous studies in the immediate area.

E. Landscape Character

The application site is predominantly flat and is currently occupied by a large vacant building in a state of disrepair. To the rear of the site and some distance way, there is an elevated backdrop whilst to the south of the application site lie the C25 Bonawe public road, and open land which drops down towards the foreshore of Loch Etive.

With reference to the Argyll and Bute Structure Plan 2002, Policy STRAT DC 8 – Landscape and Development Control states:

“Development which, by reason of location, siting, scale, form, design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as ‘non-sustainable’ and is contrary to this policy”

The proposed redevelopment of the site in the form proposed raises no adverse landscape issues. Indeed, the replacement of the current building would be of benefit to the immediate surroundings and a two storey building in the position shown will fit the streetscene well.

F. Road Network, Parking and Associated Transport Matters

In terms of vehicular access arrangements it is proposed to alter/improve an existing shared private vehicular access at the junction of the C25 Bonawe public road and to provide on-site vehicular parking to meet the Council’s standards. The Area Roads Officer has no objection subject to access and parking conditions, including the provision of an adoptive standard road. Subject to conditions the proposal will satisfy Policies LP TRAN 4 and LP TRAN 6

With regards to public access and rights of way the Outdoor Access Team have been consulted. No established public rights of way have been identified, although it is recommended that existing path connections are enhanced as part of the development. The proposal satisfies Policy LP TRAN 1.

G. Infrastructure

With regards to water supply arrangements it is proposed to utilise an existing public water main. Scottish Water has no objection.

With regards to foul drainage arrangements SEPA have recommend no objection subject to a condition requiring a public sewer connection other than in the case of such connection proving economically unviable. The application submitted is for private drainage arrangements discharging to sea via an existing private sewer line. If a public sewer connection was installed by Scottish Water this could be promoted under permitted development rights. In the event that the developer required to install a sewer beyond the current site boundary, that would require a further planning application.

With regards to surface water drainage arrangements a condition is recommended to secure full details at the design stage.

H. Affordable Housing

Policy LP HOU 2 imposes a 25% affordable housing obligation in respect of developments of 8 units or more, which is applicable in this case. As this planning permission in principle application is submitted by the current site owners in the expectation of disposing of the site to a developer, there is no confirmed means by which the affordability element is to be delivered.

Whilst there is a general preference for affordable homes provision to be on-site, as an alternative approach there is opportunity for this to be offset by a commuted sum payment utilised for the purpose of funding or subsidising provision elsewhere within the same housing market area. With that in mind, a condition providing flexibility either to address this obligation by way of a commuted sum, or by way of provision on-site (by an element of discounted sales or by making a proportion of flats available at affordable rents, for example) is appropriate in this case. The intended course of action to satisfy the requirements of Policy LP HOU 2 would become known at the time developer driven proposals emerge for the site, and they could then be addressed further at the 'approval of matters specified in conditions' stage.

This page is intentionally left blank

Drain

Drain

Drain

APPLICATION SITE

Tigh nan Raith

Moss of Achnacree

DRUMS HOUSE

MOIRACH MOOR

DRUM TROACH

FAIRACH WEA

GRAN VIEW

SEANAN

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

Tigh na Lochan

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH

DRUM TROACH



0 35 70 140 Meters



This page is intentionally left blank

ARGYLL AND BUTE COUNCIL

PROCEDURE NOTE FOR USE AT

- | | |
|--|--------------------------|
| (1) Statutory Pre Determination Hearing | <input type="checkbox"/> |
| (2) Pan 41 Hearing | <input type="checkbox"/> |
| (3) Council Interest Application | <input type="checkbox"/> |
| (4) Discretionary Hearing | X |

HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE

1. The Director of Customer Services will notify the applicant, all representees and objectors of the Council's decision to hold a Hearing and to indicate the date on which the hearing will take place. The hearing will proceed on that day, unless the Council otherwise decides, whether or not some or all of the parties are represented or not. Statutory consultees (including Community Councils) will be invited to attend the meeting to provide an oral presentation on their written submissions to the Committee, if they so wish.
2. The Director of Customer Services will give a minimum of 7 days notice of the date, time and venue for the proposed Hearing to all parties.
3. The hearing will proceed in the following order and as follows.
4. The Chair will introduce the Members of the Panel, ascertain the parties present who wish to speak and outline the procedure which will be followed.
5. The Director of Development and Infrastructure's representative will present their report and recommendations to the Committee on how the matter should be disposed of.
6. The applicant will be given an opportunity to present their case for approval of the proposal and may include in their submission any relevant points made by representees supporting the application or in relation to points contained in the written representations of objectors.
7. The consultees, supporters and objectors in that order (see notes 1 and 2), will be given the opportunity to state their case to the Council.
8. All parties to the proceedings will be given a period of time to state their case (see note 3). In exceptional circumstances and on good case shown the Panel may extend the time for a presentation by any of the parties at their sole discretion.

Ref: ABH1/2009

9. Members of the Panel only will have the opportunity to put questions to the Director of Development and Infrastructure's representative, the applicant, the consultees, the supporters and the objectors in that order.
10. At the conclusion of the question session the Director of Development and Infrastructure's representative, the applicant, any consultees present, the supporters and the objectors (in that order) will each be given an opportunity to comment on any particular information given by any other party after they had made their original submission and sum up their case.
11. The Chair will ascertain from the parties present that they have had a reasonable opportunity to state their case.
12. The Panel will then debate the merits of the application and will reach a decision on it. No new information can be introduced at this stage.
13. The Chair or the Committee Services Officer on his/her behalf will announce the decision.
14. A summary of the proceedings will be recorded by the Committee Services Officer.
15. If at any stage it appears to the Chair that any of the parties is speaking for an excessive length of time he will be entitled to invite them to conclude their presentation forthwith.

NOTE

- (1) Objectors who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all objectors.
- (2) Supporters who intend to be present and speak at a hearing are encouraged to appoint one or a small number of spokespersons to present their views to concentrate on the matters of main concern to them and to avoid repetition. To assist this process the Council will provide a full list of the names and addresses of all supporters.
- (3) Councillors (other than those on the Panel) who have made written representations and who wish to speak at the hearing will do so under category (1) or (2) above according to their representations but will be heard by the Panel individually.
- (4) Recognising the level of representation the following time periods have been allocated to the parties involved in the Hearing.

Ref: ABH1/2009

The Director of Development Services' representative – not more than half an hour

The Applicant - not more than half an hour.

The Consultees - not more than half an hour.

The Supporters - not more than half an hour.

The Objectors - not more than half an hour.

- (4) The purpose of the meeting is to ensure that all relevant information is before the Panel and this is best achieved when people with similar views co-operate in making their submissions.
- (5) Everyone properly qualified as a representee recorded on the application report who wishes to be given an opportunity to speak will be given such opportunity.
- (6) The Council has developed guidance for Councillors on the need to compose a competent motion if they consider that they do not support the recommendation from the Director of Development and Infrastructure which is attached hereto.

I:data/typing/planning/procedure note

COMPETENT MOTIONS

- Why is there a need for a competent motion?
 - Need to avoid challenge by “third party” to local authority decision which may result in award of expenses and/or decision being overturned.
 - Challenges may arise from: judicial review, planning appeal, ombudsman (maladministration) referral. All appeal/review processes have rights to award expenses against unreasonable/unlawful behaviour.
- Member/Officer protocol for agreeing competent motion:
 - The process that should be followed should Members be minded to go against an officer’s recommendation is set out below.
- The key elements involved in formulating a competent motion:
 - It is preferable to have discussed the component parts of a competent motion with the relevant Member in advance of the Committee (role of professional officers). This does not mean that a Member has prejudged the matter but rather will reflect discussions on whether opinions contrary to that of professional officers have a sound basis as material planning considerations.
 - A motion should relate to material considerations only.
 - A motion must address the issue as to whether proposals are considered consistent with Adopted Policy or justified as a departure to the Development Plan. Departure must be determined as being major or minor.
 - If a motion for approval is on the basis of being consistent with policy reasoned justification for considering why it is consistent with policy contrary to the Head of Planning’s recommendation must be clearly stated and minuted.
 - If a motion for approval is on the basis of a departure reasoned justification for that departure must be clearly stated and minuted. Consideration should be given to holding a PAN 41 Hearing (determined by policy grounds for objection, how up to date development plan policies are, volume and strength of representation/contention)
 - A motion should also address planning conditions and the need for a Section 75 Agreement.
 - Advice from the Scottish Government on what are material planning considerations is attached herewith. However, interested parties should always seek their own advice on matters relating to legal or planning considerations as the Council cannot be held liable for any error or omission in the said guidance.

DEFINING A MATERIAL CONSIDERATION

1. Legislation requires decisions on planning applications to be made in accordance with the development plan (and, in the case of national developments, any statement in the National Planning Framework made under section 3A(5) of the 1997 Act) unless material considerations indicate otherwise. The House of Lord's judgement on *City of Edinburgh Council v the Secretary of State for Scotland* (1998) provided the following interpretation. If a proposal accords with the development plan and there are no material considerations indicating that it should be refused, permission should be granted. If the proposal does not accord with the development plan, it should be refused unless there are material considerations indicating that it should be granted.
2. The House of Lord's judgement also set out the following approach to deciding an application:
 - Identify any provisions of the development plan which are relevant to the decision,
 - Interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies,
 - Consider whether or not the proposal accords with the development plan.
 - Identify and consider relevant material considerations for and against the proposal, and
 - Assess whether these considerations warrant a departure from the development plan.
3. There are two main tests in deciding whether a consideration is material and relevant:
 - It should serve or be related to the purpose of planning. It should therefore relate to the development and use of land, and
 - It should fairly and reasonably relate to the particular application.
4. It is for the decision maker to decide if a consideration is material and to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the development plan. Where development plan policies are not directly relevant to the development proposal, material considerations will be of particular importance.
5. The range of considerations which might be considered material in planning terms is very wide and can only be determined in the context of each case. Examples of possible material considerations include:
 - Scottish Government policy, and UK Government policy on reserved matters
 - The National Planning Framework
 - Scottish planning policy, advice and circulars
 - European policy
 - A proposed strategic development plan, a proposed local development plan, or proposed supplementary guidance

Ref: ABH1/2009

- Guidance adopted by a Strategic Development Plan Authority or a planning authority that is not supplementary guidance adopted under section 22(1) of the 1997 Act
 - A National Park Plan
 - The National Waste Management Plan
 - Community plans
 - The Environmental impact of the proposal
 - The design of the proposed development and its relationship to its surroundings
 - Access, provision of infrastructure and planning history of the site
 - Views of statutory and other consultees
 - Legitimate public concern or support expressed on relevant planning matters
6. The planning system operates in the long term public interest. It does not exist to protect the interests of one person or business against the activities of another. In distinguishing between public and private interest, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.