

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

9 April 2013

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **MAIN HALL, CORRAN HALLS, THE ESPLANADE, OBAN** on **TUESDAY, 16 APRIL 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. WEST HIGHLAND HOUSING ASSOCIATION AND ARCADE BUILDING SERVICES LTD: FORMATION OF ROUNDABOUT TO SERVE FUTURE DEVELOPMENT LAND NORTH AND SOUTH OF THE A85, DUNBEG, OBAN: LAND SOUTH WEST OF PENNYFUIR COTTAGE, DUNBEG (REF: 12/01520/PP)**
Report by Head of Planning and Regulatory Services (Pages 1 - 34)

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor Gordon Blair
Councillor Robin Currie
Councillor George Freeman
Councillor David Kinniburgh
Councillor Alistair MacDougall
Councillor Donald MacMillan
Councillor James McQueen
Councillor Richard Trail

Councillor Rory Colville
Councillor Mary-Jean Devon
Councillor Fred Hall
Councillor Iain MacDonald
Councillor Robert Graham MacIntyre
Councillor Alex McNaughton
Councillor Sandy Taylor

Contact: Fiona McCallum

Tel. No. 01546 604392

This page is intentionally left blank

**Argyll & Bute Council
Development & Infrastructure**

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: 12/01520/PP

Planning Hierarchy: Local

Applicant: West Highland Housing Association and Arcade Building Services Ltd

Proposal: Formation of roundabout to serve future development land north and south of the A85, Dunbeg, Oban.

Site Address: Land South West Of Pennyfuir Cottage, Dunbeg, Oban

DECISION ROUTE

- (i) Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Formation of new vehicle roundabout on A85 Trunk Road;
- Alterations to existing footpaths, formation of new footpath and formation of cycle path on redundant carriageway

(ii) Other specified operations

- Connection to public drainage system.
-

(B) RECOMMENDATION:

This proposal is recommended for approval subject to:

- i) a discretionary Local Hearing being held in view of the number of representations which have been received;
 - ii) the conditions and reasons listed in this report
-

(C) HISTORY:

There is no planning history for this particular site. However, there is planning history for other sites of relevance to this proposal which are as follows:

08/00189/OUT – Application in principle for the formation of a Class 4 Business Park/Science Park development including improvements to the existing access road, Dunstaffnage Mains Farm, Dunbeg – Application Approved 28th July 2008.

10/01156/AMSC – Approval of conditions 1, 4, 5, 9, 10, 11, 18, 21, 22, 24, 25 and 26 in relation to Phase 1 of the development approved in principle by: outline planning permission reference 08/00189/OUT, Dunstaffnage Mains Farm, Dunbeg – Application Approved 29th September 2010.

11/02248/PP – Erection of 50 dwellings (comprising 14 houses and 36 flats), Land North of Dunstaffnage Mains Farm, Dunbeg – Application Approved 22nd August 2012.

12/00575/AMSC – Approval of conditions 1, 2, 3, 4, 5, 8, 9 and 24 in relation to Phase 2 and 3 of the development approved in principle by outline planning permission, Dunstaffnage Mains Farm, Dunbeg – Application Approved 27th September 2012.

12/01241/PPP - Site for the erection of dwellinghouse and removal of existing chalet and sheds on Garden Ground of Pennyfuir Cottage, Dunbeg, Oban, Argyll & Bute, PA37 1PX

(D) CONSULTATIONS:

Scottish Water (30th July 2012) – no objection

Area Roads (27th July 2012) – no objection

Transport Scotland (12th March 2013) – no objection subject to a condition requiring the roundabout to be constructed to a layout and type (and method) of construction which meets with the approval of Transport Scotland, as the Trunk Roads Authority.

Dunbeg Community Council (20th September 2012) – object further to a unanimous decision from those villagers present at a meeting on the 10th September 2012. The main concerns voiced were over road safety. Whilst they recognise that the Council will be taking advice on this matter, they would still wish their concerns to be formally noted.

Dunbeg Community Council also object on the basis that they were not consulted prior to the application being submitted by either of the applicants. They note that the proposed position of the roundabout is different from that shown on the local plan. Further, subsequent to the application being submitted WHHA have addressed Dunbeg Community Council and advised that the position of the proposed roundabout could yet be moved from that shown on the plans. Dunbeg Community Council is concerned that this could happen without consultation and would seek clarity on how the proposed roundabout would affect traffic management at the existing entry to the village and the current proposal for a second roundabout at the end of Kirk Road. Therefore, until Dunbeg Community Council has been consulted further they cannot support the application as it stands.

Economic Development (25th February 2013) – the Council's Transport Planner has no concerns with the proposed roundabout.

Environmental Health Officer (28th February 2013) - no objection, subject to a condition being attached to any grant of planning permission which secures a construction method statement and their approval of said document.

(E) PUBLICITY:

Regulation 20 Advert, Local Application which expired on 30th August 2012

(F) REPRESENTATIONS:

At time of writing, a total of 62 representations have been received against this proposal. Full details of representees are given at Appendix B. The grounds of objection may be summarised as follows:

Development Plan Policy

- The proposal is contrary to the approved/agreed development plan.

Comment: The proposal is located within Development Road Action 5/1 within the adopted Argyll & Bute Local Plan and is consistent with the provisions of the Development Plan.

Road Safety

- Is this road not dangerous enough without adding to it? If road safety is not to be compromised additional assessment by acknowledged experts in both traffic behaviour and traffic management should be undertaken.
- Tailbacks and the resulting congestion of the proposal, in such close proximity to Pennyfuir Cottage's ingress and egress, will compromise road safety.
- There are already hazards on the road; traffic turning into the garage, the dark coloured sign for Poppies, apparently invisible to some people, causing them to brake at the last minute. Is another hazard to be a roundabout near a bad bend? If the bad bend were straightened (slightly) as suggested, the visibility from Pennyfuir cottage would not be adequate for a safe exit.
- The Community Council meeting agreed that the preferred location for the roundabout should be at the junction at Dunbeg Road End. This has been an accident black spot for many years. With the possibility of a reduced speed limit extending to Dunstaffnage Marina this will help in preventing future accidents.

Comment: Transport Scotland have responsibility for this trunk road and are therefore a statutory consultee. In not raising objections to the proposal they will have had regard to both the traffic engineering and road safety aspects of the proposal.

Removal of Rock

- What is the method to facilitate the removal of rock? The owners of the Halfway Filling Station would be very concerned if any form of explosive blasting were to be employed. Their premises are based on in-filled area. Vibration caused by the blasting could cause disturbance to their foundations, buildings and more importantly the fuel tank farm and associated pipe work. Disturbance to the latter infrastructure is environmentally critical and they are very concerned about this aspect of the proposal.

Comment: No details of intended working methods are available at this stage. This is a matter which is proposed to be controlled by the construction method statement condition and in consultation with the Environmental Health Officer and Transport Scotland.

Location relative to Pennyfuir Cottage

- The location is unsafe so close to The Cottage Halfway House (Pennyfuir Cottage). We have lived in this cottage for over 20 years; this is the only dwelling on a 4 mile stretch of the A85 between Saulmore Farm and Oban on our side of the road. We do not understand the thinking behind this proposal and why our safety has been over looked by the West Highland Housing Association on submission of this proposal.
- At this time Pennyfuir Cottage has a clear view of the road from both the left and right and since the application of a non-skid surface at this location there have been no accidents at all. The safety of my family will be put at risk by the addition of the 1500 vehicles your report states will be added to this A85 intersection. Making the access to Pennyfuir Cottage a horrifying prospect, turning right/left going in/out by car or on foot will mean dodging around slow moving traffic on Pennyfuir Cottage's side of the road and accelerating traffic on the other side, traffic could be backed up from the roundabout preventing a car making a right turn into Pennyfuir Cottage's drive. Deliveries and pedestrian visitors to the Cottage will be put at risk and pedestrian access to the cottage would at best be extremely dangerous.
- The interests of the residents at Pennyfuir seem sacrificed for the big project. Apart from the lack of consultation, the arrogance of the developer, the loss of privacy, the noise and light pollution, it does seem that the gates of Pennyfuir Cottage would have to be permanently open for access to be possible, its potential as a family home will cease.
- A portion of ground included in applicants' plan, belongs to Pennyfuir Cottage.

Comment: Consultants on behalf the applicants have undertaken a 'Stage 1 Road Safety Audit' which has been reviewed and accepted by Transport Scotland. The relationship of the roundabout to the cottage in terms of road safety and residential amenity has not attracted an adverse response from relevant consultees. The applicants have stated in the ownership certificate accompanying this application that they are the sole owners of all the land. Any dispute over land ownership between the applicants and the owner of Pennyfuir Cottage would be a civil legal matter and not a material planning consideration. .

Light Pollution

- Headlights from vehicles driving around the roundabout will flood Pennyfuir Cottage and its garden with unwelcome light create flashing even strobe light effects across the lounge and conservatory windows;
- The street lighting on the roundabout will also illuminate Pennyfuir Cottage and its garden as they will be less than 80yds away;

Comment: The Environmental Health Officer has no concerns regarding the effects of street lighting or vehicle lights upon residential amenity.

Noise Pollution

- Noise will be increased, large vehicles breaking as they slow down for the roundabout with trailer wheels locking and accelerating vehicles on the other side of the road.

Comment: The Environmental Health Officer has no concerns regarding noise upon residential amenity.

Air Pollution

- The smell of diesel fumes from queuing vehicles will be prevalent and a health hazard.

Comment: The Environmental Health Officer has no concerns regarding air pollution or the effect of odours upon residential amenity..

Visual Impact

- There will be visual intrusion

Comment: There will be a degree of visual impact as a result of rock removal, the roundabout itself and associated signage and lighting, however, taking into account the fact that the proposal is to be located in the context of the existing trunk road corridor, and the Environmental Health Officer has no concerns regarding light pollution, it is considered that the visual impact will not be adverse.

Environmental Impact

- If the proposed roundabout is in relation to a proposed development of a hotel and chalet complex, the environmental impact of both the hotel and chalets along with the new roads and a roundabout would be too great for the area.

Comment: The proposed site for the hotel and chalet complex is contained within a Potential Development Area designated by the adopted Local Plan. Furthermore, the environmental impact of any future proposals will be assessed through the planning process. It is only the roundabout proposal which is currently being considered, albeit it that it will facilitate a means of access to the Potential Development Area.

Alternative Location

- Most people think the community will be best served with a roundabout at Dunbeg road end which would be an alternative, more viable and probably cheaper location,

and would serve the developments that have already taken place at Dunstaffnage without the need to cross a cycle path, rather than to provide a roundabout at this location to serve “future developments” which are not even at the planning stage.

Comment: The current location of the roundabout, as well as the existing access to Dunbeg are both contained within the local plan designated Development Road Action Area. However, in order to facilitate the development of land designated in the Local Plan, the requirement for a second means of access has been identified by the Transport Scotland and the Council's Roads Engineers in order to cater for the scale of development proposed at Dunbeg without adding inappropriate traffic volumes to Kirk Road and in order to be able to ensure the availability of an alternative means of access for emergency vehicles.

Adverse Impact on Local Businesses

- The additional access road for Dunbeg off the proposed roundabout development will significantly reduce the volume of traffic passing the Halfway Filling Station. Any reduction in passing traffic volumes will result in a reduction in business levels at these premises, with the attendant loss of local employment.
- If customers feel or experience a negative aspect to accessing or leaving the Halfway Filling Station it will deter their future patronage.
- Business will be affected by the proposed roundabout diverting traffic. The shop/post office and hairdressers are essential to the village.

Comment: Transport Scotland have not raised any concerns in terms of road safety implications for vehicles accessing or leaving the garage. There are no policies within the local plan which address the issue of the potential diversion of custom from established businesses. Through traffic and persons not familiar with the area will still continue to use the same route as they do at present. Local people will be familiar with the location of established businesses and it is reasonable to expect that they will route their journeys accordingly.

Impact on Core Path/Cycle path

- The work carried out to the Core Path was tremendous and added an asset to the community. We do not want our cycling path interfered with; this proposal will be dangerous for the people using it. The cycle path away as that is the only place for Dunbeg children and parents have to have a safe walk.
- The road is the only development visible from the newly created Core cycle path. A roundabout in the vicinity would not improve the character of the area and should not be accepted. *the Land Reform Scotland Act 2003 requires every Scottish Local Authority to produce a Core Paths Plan, which identify the most popular existing routes in the area and will help to ensure the paths are protected from development and obstruction in the future. If this is to be honoured then surely we cannot build a roundabout, with the intent of connecting a double lane access road straight through a very popular Core Path between Ganavan and Dunbeg. The overall impact on the Core Path would be disastrous. This would totally distract from the relationship to the surroundings encountered while enjoying the Core Path at the moment.

Comment: The local plan provides for the establishment of a second means of vehicular access to Dunbeg in order to serve the land identified for future residential development at Dunbeg. Wherever this is routed it will involve need the existing cycle path to cross the carriageway and appropriate safety measures will need to be identified and put in place at that time. This application is purely for the roundabout and implications for the cycle path will need to be assessed at the time of a subsequent application for the finalised road alignment.

Prematurity

- We are some way off from requiring this roundabout. Why should we have a white elephant sitting on the main route in and out of Oban? Invest more money at the main entrance to the village of Dunbeg, and the developers Kirk road access to the Science Park and houses.
- The future WHHA development is on the opposite side of the A85. Why consider such a major road construction which may not take place for many years, on the wrong side of A85.

Comment: The roundabout is part of a key Development Road Action Area, which is designated in the Local Plan and its provision is necessary to facilitate development allocations on either side of the trunk road.

Related Development

- Planning and approval for a family house in the grounds of the existing home Pennyfuir Cottage has been granted;
- The proposal for the developer is speculative, should Mr McCort get access to the A85, it seems the woodland would be put on the market in the hope of selling as a development for a future hotel;
- The plans show sketches of a development for which no plans have been submitted. The reality is a Mr Bill McCourt owns forestry, where a road has been allowed without Planning removing tons of rock, to retrieve fallen trees. WHHA fail to show where their road is to lead to, but choose to show a non-existing road with sketches to "fantasy land";
- *Recent changes to the village are of no advantage to its occupants. What may seem advantageous on plans is actually of none to the villagers.*

Comment: Recent development has been, and the future development at Dunbeg will be, guided by the provisions of the approved development plan which provides for significant residential development and a hotel/leisure element on either side of the trunk road, which in turn, warrants the provision of a new junction in order to be able to service the scale of development envisaged. The ownership of land and the motives of the applicants' are not material planning considerations. The details of any development to be served by this junction will require to be the subject of separate planning applications, which would need to be assessed on their respective merits.

Procedural matters

- Mr & Mrs Garside of Pennyfuir Cottage have stated that they have not received any neighbourhood notification from Oban Council;
- There has been insufficient consultation with the local community;
- A public inquiry should be considered in order to discuss this along with other issues.

Comment: Neighbour notification was sent to: Pennyfuir Cottage, Dunbeg, Oban, PA37 1PX by the Central Validation Team on the 27th July 2012. There is no record of this notice having been returned 'undelivered'. The purpose of neighbour notification is to alert those who will be most affected by the proposed development of their opportunity to make representations to the planning authority regarding the application. Mr & Mrs Garside have presented their case in writing in respect of this proposal, which has been taken into account in determination of the application.

Given that the proposal does not amount to a 'major application' in terms of the government's planning hierarchy there is no requirement for formal community consultation at the pre-application stage. Any consultation would be at the applicants' discretion and the lack of consultation does not amount to a material planning consideration.

Due to the level of representation which has been received it is recommended that a Public Hearing be held.

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in this report, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

(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:**
 - Independent Stage 1 Road Safety Audit, November 2012

(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 & Bute Structure Plan' (2002)

Policy STRAT DC 2 – Development within the Countryside around Settlements
Policy STRAT SI 1 – Sustainable Development

'Argyll & Bute Local Plan' (2009)

Policy LP ENV 1 - Development Impact on the General Environment
Policy LP ENV 19 - Development Setting, Layout and Design
Policy LP SERV 2 - Sustainable Drainage Systems (SuDs)
Policy LP TRAN 1 - Public Access and Rights of Way
Policy LP TRAN 2 - Development and Public Transport Accessibility
Policy LP TRAN 3 - Special Needs Access Provision
Policy LP TRAN 4 New and Existing, Public Roads and Private Access Regimes
APPENDIX A Sustainable Siting and Design Principles
APPENDIX F Allocations, Potential Development Area Schedules and Areas for Action Schedules
Development Road Action 5/1 – strategic development road

Forthcoming Local Development Plan

As an emergent plan currently out to public consultation, the draft LDP has very little material weight at this time. It should be noted however, that allocation of the land for strategic road improvements (DRA 5/1) is proposed to be continued in this plan in order to serve development land at Dunbeg.

(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, advice and circulars;
- 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 and its surroundings;
- views of statutory and other consultees;
- legitimate public concern or support expressed on relevant planning matters.

-
- (K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** Yes, in terms of Schedule 2 of the Environmental Impact Assessment (Scotland) Regulations 2011 the proposal falls under category 10 (f) - Construction of roads (unless included in Schedule 1), where the threshold for consideration of EIA is for proposals where the area of work exceeds 1 hectare.

Where development might be schedule 2 development, the planning authority must make a screening opinion, which is a decision whether or not EIA is required. In this case, it has been concluded that no EIA is required.

This site an allocation in the current adopted Argyll & Bute Local Plan, which would have been the subject of Strategic Environmental Assessment prior to its adoption; by virtue of its nature, size and location the development is not likely to have any significant effects on the environment; and, no part of the development is to be carried out in a “sensitive area”

-
- (L) Has the application been the subject of statutory pre-application consultation (PAC):** Not required.

-
- (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):** Despite the local plan position, in view of the number of representations which have been received and the range of issues raised, which include matters of detail beyond matters of principle, it is recommended that consideration is given to holding a discretionary local hearing prior to the determination of the application.

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

The proposal seeks permission for a roundabout on the A85 (T) at Dunbeg. The application is submitted jointly by the prospective developers of land on either side of the road which is identified in the plan for housing at Dunbeg and hotel/leisure development at Tom Liath respectively (which will require to be the subject of separate planning applications). The proposal comprises a four arm roundabout: a Westbound Arm (from Connel); an Eastbound Arm (from Oban); a Northbound Arm (from Tom Liath); and a Southbound Arm (from HIE Development). It also includes alterations to existing footpaths and cycle path. The roundabout is part of a key Development Road Action Area, which is designated in the Local Plan Development Road Action 5/1. Whilst the site lies within this allocation it is also partially located within ‘Countryside Around Settlements’ where in special cases, development of this nature, which will improve road safety, provide economic benefits by facilitating access to adjoining allocations and potential development areas, with a locational need and exceptional circumstances is justified.

With the exception of Dunbeg Community Council all Consultees are satisfied with the proposal subject to the application of relevant planning conditions.

A total of 62 letters of representation have been received against this proposal along with an objection by Dunbeg Community Council. A significant number of these relate to the desirability or otherwise of establishing a second junction on the A85(T) at Dunbeg (as making the existing Kirk Road junction the location for a roundabout), whilst more localised concerns are raised by the occupiers of the closest dwelling to the proposed site and the proprietors of the nearby filling station.

The principle of significant development at Dunbeg has already been established by the current local plan and it is intended that these development aspirations will be rolled forward into the emergent Local Development Plan, the draft of which is currently out to public consultation. The identification of allocations and potential development areas at Dunbeg have brought with them the expectation that a second means of access will require to be established to serve prospective development on either side of the road, in addition to the continued use of the existing junction at Kirk Road. Local Plan Development Road Action 5/1 provides for such an approach.

Given its status as a trunk road, Transport Scotland are key in identifying the appropriate location, layout and geometry of a roundabout to meet the identified needs. They are content with the proposal in terms of its desirability, its positioning, its design and its implication for traffic flow and road safety. The consenting of an appropriate roundabout junction would be a key milestone in the bringing forth of associated proposals and enabling the development of land on either side of the trunk road at Dunbeg.

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

(R) Reasons why Planning Permission should be granted:

This site is allocated for strategic road improvements in the adopted 'Argyll & Bute Local Plan'. Whilst the site lies within this allocation it is also partially located within 'Countryside Around Settlements' where in special cases, development of this nature, which will improve road safety, provide economic benefits by facilitating access to adjoining allocations and potential development areas, with a locational need and exceptional circumstances is justified. The detail of the development as proposed is acceptable to the Trunk Roads Authority. All other material considerations have been taken into account, including representations made by third parties, but these are not of such weight as to indicate that the development plan should not be given the priority which is accorded to it by statute.

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

This proposal does not constitute a departure from the Development Plan.

(T) Need for notification to Scottish Ministers or Historic Scotland: None.

Author of Report: Arlene H Knox

Date: 07.03.2013

Reviewing Officer: Richard Kerr

Date: 10.03.2013

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 12/01520/PP

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 11th July 2012; and the approved drawings numbered: 1414-001 – Site Location Plan; 23A – Proposed Roundabout Planning Boundary; 15B – Roundabout General Arrangement – Existing; 17D – Roundabout General Arrangement – Proposed; and, 18D – Proposed Roundabout Capacity Assessment; and stamped approved by Argyll and Bute Council.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

2. The proposed new roundabout junction on the A85 trunk road shall be constructed to a layout and type (and method) of construction to be approved by Transport Scotland, as the Trunk Roads Authority. (Note: The junction modifications will be generally as detailed in RDA Construction Ltd drawing number 17 Revision D and titled Roundabout GA - Proposed).

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished

3. The angle of repose of the finished rock face shall be as shown in the section on drawing 17D and prior to the completion of the rock extraction operations details of the treatment of the newly exposed rock face, including the approach to and the means of dressing the rock face following primary rock modelling and measures to establish vegetation, shall be submitted to and be approved in writing by the Planning Authority, along with details of a mitigation monitoring plan relative to the establishment of vegetation on the rock cut. The rock face shall be formed and the vegetation established in accordance with the duly approved details.

Reason: In the interests of visual amenity in order to ensure that the finished rock cut appears as natural as possible and allows colonisation by vegetation.

4. That no works in connection with this permission hereby approved shall commence unless a detailed site-specific construction method statement has been submitted to and approved in writing by the planning authority in consultation with Transport Scotland and the Environmental Health Officer. The construction method statement shall include details of the measures proposed to deal with the removal of rock, and reuse of rock on site. Once agreed, all construction works on site shall comply with the approved construction method statement.

Reason: In the interests of public safety and the amenity of the area.

5. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Planning Authority in consultation with Transport Scotland. The landscaping scheme, which shall comply with the Landscaping recommendations of the Independent Stage 1 Road Safety Audit (November 2012) shall include: a plan (at a scale of 1:500 or greater) showing a site appraisal including contours (at 0.5 metre intervals), drainage characteristics, vegetation patterns, significant site features, area of existing landscaping within the site, and details of any to be retained, together with measures for their protection in the course of development and shall indicate the siting, numbers, species and heights (at the time of planting) of all trees, shrubs and hedges to be planted and to the extent of any areas of earth mounding, cross sections and relationship to existing

land form and the location of the site in its wider landscape context. The development shall be landscaped and maintained in accordance with the approved scheme as follows: -

(a) Completion of the scheme during the first planting season prior to the completion of the development, or such other date as may be approved in writing with the Planning Authority.

(b) The maintenance of the landscaped areas in perpetuity in accordance with the detailed maintenance schedule/table. Any trees or shrubs removed, or which in the opinion of the Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: The proposed development and its location requires landscaping to fully integrate the proposal with its surroundings.

6. Prior to the commencement of development, the developer shall submit full working details of the method of on-site disposal of surface water drainage. This shall be in accordance with the CIRIA SUDS Manual for Scotland and Northern Ireland, to the satisfaction of the Planning Authority in consultation with Transport Scotland.

Reason: To ensure the site is adequately drained to meet Best Management Practice and to prevent pollution of watercourses.

NOTE TO APPLICANT

1. The development hereby granted shall be begun on or before the expiration of **three years** beginning with the date on which the planning permission is granted or deemed to have been granted as provided for by Section 58 of the Town and Country Planning (Scotland) Act 1997.
2. Note: In terms of condition 2 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non-material amendment (NMA) should be made in writing to Planning Services, Whitegates Offices, Whitegates Road, Lochgilphead, PA31 8ST. It should be noted that only the original applicant can apply for an NMA under the terms of Section 64 of the Town and Country Planning (Scotland) Act 1997. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.
3. Whilst this permission authorises the removal of rock and other material required for the formation of the roundabout in accordance with the approved plans, this permission should not be taken to imply any consent for the deposition of material for the purposes of land-raising, access road formation or any other purpose, on land either within, or beyond the confines of, the application site. Dependent upon the intended use of any material extracted from the site in connection with the development hereby permitted, further planning permission is likely to be required, and the applicants are advised to establish whether such consent is needed before any engineering operations are commenced on this site.

4. The road will necessitate a Minute of Agreement between Transport Scotland and the Applicant prior to commencement. This Minute of Agreement contains details of the conditions that the Applicant will require to adhere to, as the completed works are to be incorporated as part of the trunk road. Applicants are advised to allow sufficient time for the drafting of the Minute of Agreement and Approval of the construction drawings, which require to be submitted to Transport Scotland well in advance of the start of works on site. Applicants should note that the Minute of Agreement contains a mechanism to allow the recovery of all reasonable costs incurred by Transport Scotland as a result of the works on the trunk road. It is a requirement that the works will meet the standards contained in the Design Manual for Roads and Bridges.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/01520/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

This site is allocated in the current 'Argyll & Bute Local Plan' as part of 'Development Road Action 5/1'. The nature of the action required is detailed as a 'strategic development road' to facilitate housing, business, and community facility development at Dunbeg. Whilst the site lies within this allocation it is also partially located within 'Countryside Around Settlements' where in special cases, development of this nature, which will improve road safety, provide economic benefits by facilitating access to adjoining allocations and potential development areas, with a locational need and exceptional circumstances is justified.

In accordance with the Town and Country Planning (Scotland) Act 1997 when determining a planning application the planning authority are required to make the determination in accordance with the provision of the Development Plan unless material considerations indicate otherwise. The adopted 'Argyll & Bute Local Plan' allocation is therefore the key material consideration in the determination of this case.

Having due regard to the above it is considered that the proposal is consistent with Policy STRAT DC 2 – Development Within Countryside Around Settlements of the Argyll & Bute Structure Plan (approved 2002) and Appendix F: Allocations, Potential Development Area Schedules and Areas for Action Schedules of the adopted 'Argyll & Bute Local Plan' (2009)

B. Location, Nature and Design of Proposed Development

The proposal is located on the A85 (T) to the south of the village of Dunbeg. The closest properties are the dwellinghouse Pennyfuir Cottage, which is located immediately adjacent to the north eastern part of the red line site boundary and the Halfway Filling Station, which is located approximately 40 metres beyond the north eastern part of the red line site boundary. The A85 trunk road is the strategic link between Perth and Oban and is subject to the national speed limit. At present the road presently skirts round a rocky knoll and is the subject of quite a bad bend.

The proposed roundabout is part of the way forward to being able to release long-term development land to the west of the A85 (T) at Dunbeg by providing a secondary means of access to the village of Dunbeg; and also access a Potential Development Area to the east of the A85. Transport Scotland have indicated that in order for the roundabout to be acceptable to them they would also require a 'gateway feature' in the form of signage/pillars constructed to the north end of Dunbeg in advance of the Kirk Road junction, to compliment the new roundabout.

The proposal comprises a four arm roundabout providing access to land on either side of the road and entails the slewing of the existing road alignment in order to improve the alignment of the main carriageway.

A rock face to a height of approximately 18 metres above road level, with an angle of repose of 55 degrees is required to be excavated to the south. There will be a drainage ditch at the base of the excavated rock face. There will be a footpath running along the eastern side of the site. There is no change in level indicated to the north and west of the proposed roundabout. To the west of the roundabout the existing footway is to be

retained, and the area of the existing carriageway which is to become redundant is proposed to be denoted as a cycleway. Post and wire fencing is proposed to enclose the site

Several areas around the new roundabout are to be landscaped. Some of these areas are located within the visibility envelopes of the approaches and also on the central hub. No details of the type of landscaping proposed have been provided. All that is delineated on the plans at present are the proposed grassed areas. It is recommended in the Stage 1 Safety Audit that, preferably the areas within the visibility envelopes should be hard surfaced; if this is not desirable or possible then the choice of landscaping should be grass with low maintenance characteristics or a species with a low mature height and low maintenance characteristics. A landscaping condition is recommended to address this issue.

The redundant section of the carriageway of the current alignment of the A85 (T) is to be retained and used as a cycleway. There is potential for drivers on the trunk road, who will be able to see the redundant carriageway, may be confused about the route they should follow. The Stage 1 Safety Audit recommends that some form of landscape bund/grassed area and planting be provided at the end of the existing carriageways which are to become disused in order to mask the see through from the approaches onto the redundant carriageway from the new carriageway. A landscaping condition is recommended to address this issue.

To ensure the newly exposed rock face has as natural an appearance as possible, care will need to be taken with its treatment. A condition is therefore recommended to ensure that the exposed rock face is modelled and dressed as sensitively as possible.

It has been confirmed that all drainage shall be designed in accordance with the CIRIA SUDS Manual and is to drain to the existing watercourse adjacent to the A85. A condition has been recommended in this regard.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policies LP ENV 1 - Development Impact on the General Environment; LP ENV 19 - Development Setting, Layout and Design; LP SERV 2 - Sustainable Drainage Systems (SuDs) and APPENDIX A - Sustainable Siting and Design Principles of the Argyll & Bute Local Plan (adopted 2009)

C. Landscape Character and Visual Amenity

As this proposal will be located within an existing Trunk Road Corridor, outwith any landscape designations within a Development Road Action Area, and given that the works are relatively localised in nature, it is considered that it will not have any significant adverse impact on landscape character or visual amenity.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy ENV 1 – Development Impact on the General Environment of the Argyll & Bute Local Plan (adopted 2009).

D. Impact on Access to Countryside.

The Council's Transport Planner and Access Manager have confirmed that there are no Core Paths in this area; consequently the proposal will not have any adverse impact on access to the countryside.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy LP ENV 1 (B) - Development Impact on the General Environment

E. Road Network, Parking and Associated Transport Matters.

The Council's Transport Planner has no concerns with this proposal, and has confirmed that: the off-road cycle track linking Ganavan and Dunbeg which forms part of the National Cycle Network route 78, is set well back from the road corridor and, as such, would not be affected by this proposal.

The Council's Transport Planner further advises that the footway along the A85 is not designated as shared use and, as such, should not be used by cyclists however he understands that some cyclists do currently use the pavement and the police think that this is favourable to the road due to traffic volumes, speeds and visibility. Furthermore, that Transport Scotland have recently confirmed that they will not re-designate the footway as shared use as it is too narrow.

Transport Scotland have confirmed that they have no objections to the proposal subject to a condition which ensures that the proposed new roundabout junction on the A85 trunk road is constructed to a layout and type (and method) of construction to be approved by Transport Scotland, as the Trunk Roads Authority. Transport Scotland also wish it to be noted that the junction modifications will be generally as detailed in RDA Construction Ltd drawing number 17 Revision D and titled Roundabout GA - Proposed). The reason for the condition recommended by Transport Scotland is to ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policies LP TRAN 1 - Public Access and Rights of Way; LP TRAN 2 - Development and Public Transport Accessibility; LP TRAN 3 - Special Needs Access Provision, and LP TRAN 4 New and Existing, Public Roads and Private Access Regimes of the Argyll & Bute Local Plan (adopted 2009).

F. Noise, Light & Air Pollution

The existing road network is unlit. The Design Manual for Roads and Bridges provides the mandatory requirement that the new roundabout must be provided with a system of street lights in the interests of road safety.

Noise, light and air pollution have been raised as matters of concern for the occupiers of Pennyfuir Cottage, which is the closest property to the proposed roundabout.

Environmental Health officers have taken these concerns into account and have advised that they do not have concerns about the impact of the proposal on residential amenity.

Having due regard to the above it is considered that the proposal is acceptable.

G. Blasting & Rock Face Protection

Rock excavation is required to allow construction of the roundabout and access road. As such, steep exposed rock faces will most probably be constructed adjacent to the carriageway. Whilst the manner in which rock will be excavated and the condition of the excavated rock face is as yet unknown, the risks arising from future rock falls must be

considered. Consideration requires to be given to the long term stability of the exposed rock face and the need to provide widened verges, rock ditches, berms or rock fences to minimise the risks arising to road users from rock falls. Agreement in respect of these works will require to be obtained in advance from Transport Scotland given the proximity of the works required to the trunk road. The method of rock removal will be dictated by local conditions and there is no certainty that rock blasting will be necessary.

In light of the concerns raised by the Halfway Filling Station regarding 'blasting' and the proximity of Pennyfuir Cottage, Development and Infrastructure has sought clarification from the applicant.

If required, rock excavation works would be carried out by a combination of excavator mounted hydraulic breakers and blasting. All blasting would be carried out by specialist drilling and blasting contractors, qualified and experienced in blast design. All blasts would be designed in order to minimise ground vibration with delays being introduced between each charge, 95% of blasts will require to conform to a maximum vibration limit of 6mm/second measured at the nearest property approximately 100m distant, with an absolute maximum level of 12mm/second. The limit at which structural damage may occur is normally in the 25-30mm/second range.

It is recognised that specific concerns have been expressed in relation to the effect of blasting on underground fuel storage tanks. In the opinion of advisors to the applicant, provided that blasts are designed to maintain vibration limits at the nearest property as specified above, and given that the tanks are approximately three times the distance from the closest rock excavation area, they would not anticipate vibration of any significance at the filling station. Using the reduction over distance expected as above, even if there was an occasion where the absolute maximum 12mm/sec. limit was reached at the nearest property, the vibration at the filling station could be expected to be in the region of 4mm/sec.

In light of recent experience in relation to blasting close to properties it can reasonably be expected that by careful planning and blast design, vibration levels can be controlled to an acceptable level which will not have a detrimental effect either on Pennyfuir Cottage or the filling station. In addition a small test blast would be carried out and monitored to make certain that the mitigation measures described are producing the desired effect.

It is recommended that a condition is attached to any grant of planning permission to secure and approve the exact method of dealing with the rock.

Having due to the above it is considered that the proposal is acceptable in this regard.

H. Infrastructure

It is proposed to connect the development to the public drainage network. Scottish Water has confirmed that they have no objection to the proposal. A detailed drainage layout is not available at this stage. It is noted that all drainage is to drain to the existing watercourse at the side of the A85 (T).

Having due regard to the above it is considered that the proposal consistent with the provisions of Policy LP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e. drainage) Systems.

**APPENDIX B – REPRESENTATIONS RELATIVE TO APPLICATION NUMBER: 12/01520/PP
AGAINST THE PROPOSAL**

Grace Forbes	1 Campbell Street Oban PA34 4BQ	27/09/2012	O
Glenda Critchley	1 Iola Cottages Appin Argyll PA38 4BA	19/09/2012	O
Jean McIver	1 Kilchurn Place Oban Argyll	24/08/2012	O
Alison Lamont	11 Camus Road Dunbeg PA37 1QD	24/08/2012	O
S MacDonald	11 Meadow Road Dunbeg Oban PA37 1QB	19/09/2012	O
Mrs Carol Francis	12 Polvinister Gardens Oban Argyll PA34 5TA	19/09/2012	O
A Black	13 Etive Road Dunbeg Oban PA35 QF	19/09/2012	O
Ms Marie Archer	16 Camus Road Dunbeg Oban PA37 1PD	27/09/2012	O
C M G Hunter	17 Castle Road Dunbeg Oban Argyll And Bute PA37 1QH	20/09/2012	O

Charlie Hunter	17 Castle Road Dunbeg Oban Argyll And Bute PA37 1QH	19/09/2012	O
H Morrison	18 Lochnell Road Dunbeg Oban PA37 1QJ	24/08/2012	O
Mrs Jean Morrison	18 Lochnell Road Dunbeg Oban PA37 1QJ	24/08/2012	O
D Porter	19 Longsdale Crescent Oban Argyll And Bute PA34 5JP	19/09/2012	O
Frances Grant	2 Adelphi Villa Nursery Lane Oban Argyll PA34 5JA	19/09/2012	O
F Twort	2 Keil Gardens Benderloch By Oban PA37 1JY	20/09/2012	O
M MacKinnon	2 Meadow Road Dunbeg Oban PA37 1QB	20/09/2012	O
Glynis Dewar	2 Underwood Longistan Road Oban PA34 5JW	27/09/2012	O
Mr W MacDougall	27 Camus Road Dunbeg Oban PA37 1QD	19/09/2012	O
The Owner/Occupier	3 Moss Park North Connel PA37 1TD	20/09/2012	O
Kim Miller	34 Lochnell Road Dunbeg	19/09/2012	O

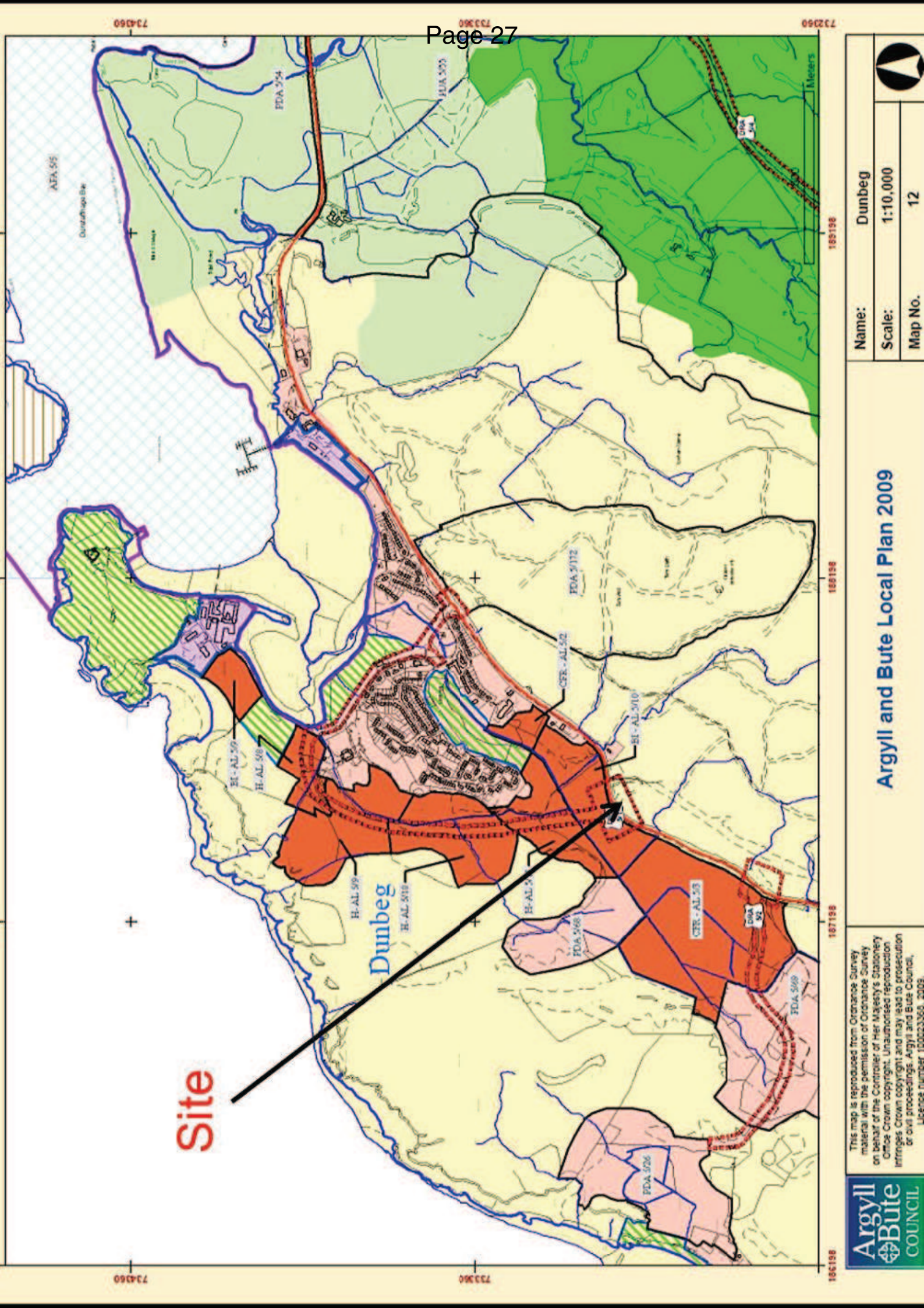
	Oban PA37 1QJ		
Margaret MacDonald	46 Lochnell Road Dunbeg Oban Argyll	19/09/2012	O
Mr Neil MacEachan	48 Lochnell Road Dunbeg Oban PA37 1QJ	17/09/2012	O
Mr Neil MacEachan	48 Lochnell Road Dunbeg Oban Argyll	23/08/2012	O
Mrs Lesley Fraser	49 Lochnell Road Dunbeg Oban PA37 1QJ	23/08/2012	O
K Lang	5 Kirk Road Dunbeg Oban PA37 1TP	17/09/2012	O
Allan Lockhart	53 Lochnell Road Oban Argyll	19/09/2012	O
Carolyn Seggie	54 Lochnell Road Dunbeg Oban Argyll PA37 1QS	19/09/2012	O
R Morrison	6 Nelson Road Oban Argyll PA34 4DQ	24/08/2012	O
Jenny McLeod	63 Lorn Road Dubeg Oban PA31 1QQ	20/09/2012	O
Susan McKinlay	7 Breadalbane Mews Breadalbane Street Oban Argyll PA34 5PD	19/09/2012	O

Avril Lamont	9 Hillside Dunbeg Oban PA37 1QL	17/09/2012	O
Wilma MacLean	9A Millpark Terrace Oban Argyll PA34 4JH	19/09/2012	O
Mrs K T MacLean	Achuil Barcaldine Oban Argyll PA37 1SG	19/09/2012	O
W Sharples	Ardgorm North Connel PA37 1RW	27/09/2012	O
L Smtih	Aureol Main Street Connel PA37 1PA	20/09/2012	O
Mr And Mrs Derek Garside	C/o Mr Allan MacAskill 5 Ferryfield Road Connel PA37 1SR	27/08/2012	O
Val J Brown	Carraigmhor Benderloch PA37 1RT	24/08/2012	O
K F Eaton	Dalfuar Barcaldine By Oban PA37 1SF	27/09/2012	O
Mrs M J Eaton	Dalfuar Barcaldine By Oban PA37 1SF	27/09/2012	O
I Henry	Dun Fraoich Pulpit Hill Oban PA34 4LZ	19/09/2012	O
Susan Henry	Dun Fraoich Pulpit Rock Oban	19/09/2012	O

	PA34 4LZ		
Alison Dawson	Dunaltsa Main Street Connel PA37 1PA	27/09/2012	O
Angela McDougall	Etive Awe Lochandhu Road Taynuilt Argyll PA35 1JQ	19/09/2012	O
A Black (Benderloch) Ltd	Halfway Filling Station Dunbeg Oban Argyll And Bute PA37 1PX	02/10/2012	O
Colin Paterson	Innishewen Connel By Oban PA37 1PT	20/09/2012	O
A J Summers	Jane Road Dunbeg Oban	19/09/2012	O
L MacDonald	Lairfad Ardfern By Oban Argyll PA31 8JA	24/08/2012	O
J Hamilton	Loch Na Beithe North Connel Argyll PA37 1QX	20/09/2012	O
Gillian Glasgow	Lochnell Road Dunbeg Oban Argyll	19/09/2012	O
Mrs W Lewis	Mo Dhaichaidh Airds Taynuilt PA35 1JW	19/09/2012	O
J Garside	Pennyfuir Cottage Halfway House Dunbeg	19/09/2012	O

	Oban		
Derek Garside	Pennyfuir Cottage Halfway House Dunbeg Oban PA37 1PX	19/09/2012	O
Carol Garside	Pennyfuir Cottage Halfway House Oban PA37 1PX	19/09/2012	O
Fiona Hunter	Rosebank Appin Argyll PA38 4BL	15/08/2012	O
Jan Smith	Stable Cottage Benderloch By Oban PA37 1QU	20/09/2012	O
The Owner/Occupier	The Bungalow Tynribbie Appin Argyll PA38 4DB	20/09/2012	O
Mrs C M Webster	The Falls Of Lora Hotel Connel By Oban PA37 1PB	19/09/2012	O
D H Brown	The Machair Lower Vaul Scarnish Isle Of Tiree	20/09/2012	O
Donalda Henderson	Tigh Na Fuaran Taynuilt Argyll	19/09/2012	O
S Coates	Tigh Na Sith Barran Kilmore Oban PA34 4XR	24/08/2012	O
L McNiven	Toriskay Rowan Road Oban PA35 5TY	19/09/2012	O

The Owner/Occupier	Walden Glenmore Road Oban Argyll PA34 4PG	20/09/2012	O



Site

Dunbeg

Name:	Dunbeg
Scale:	1:10,000
Map No.	12

Argyll and Bute Local Plan 2009

This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Argyll and Bute Council, Licence number 100023365, 2009.



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.