

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Customer Services
Executive Director: Douglas Hendry



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11 January 2017

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 18 JANUARY 2017** at **10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director of Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
- 3. MINUTES**
 - (a) Planning, Protective Services and Licensing Committee 13 December 2016 (Pages 1 - 18)
 - (b) Planning, Protective Services and Licensing Committee 14 December 2016 at 11.30 am (Pages 19 - 24)
 - (c) Planning, Protective Services and Licensing Committee 14 December 2016 at 2.00 pm (Pages 25 - 28)
 - (d) Planning, Protective Services and Licensing Committee 14 December 2016 at 2.20 pm (Pages 29 - 30)
 - (e) Planning, Protective Services and Licensing Committee 14 December 2016 at 2.40 pm (Pages 31 - 34)
 - (f) Planning, Protective Services and Licensing Committee 14 December 2016 at 3.00 pm (Pages 35 - 38)
- 4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: PUBLIC ENTERTAINMENT LICENCES**

Report by Executive Director – Customer Services (Pages 39 – 44)

5. **CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI FARE SCALE REVIEW**
Report by Executive Director – Customer Services (Pages 45 – 50)
6. **DRAFT SERVICE PLAN 2017 -20 - PLANNING AND REGULATORY SERVICES**
Report by Executive Director – Customer Services (Pages 51 – 60)
7. **DEVELOPMENT PLAN SCHEME ANNUAL UPDATE - LOCAL DEVELOPMENT PLAN 2**
Report by Executive Director – Development and Infrastructure Services (Pages 61 – 86)
8. **MRS IONA LARG: ERECTION OF BEACH HUT FOR BLACKHOUSE WATERSPORTS (RETROSPECTIVE): LAND NORTH-EAST OF BRAEHEAD, BALEVULLIN BEACH, BALEVULLIN, ISLE OF TIREE (REF: 15/03260/PP)**
Report by Head of Planning and Regulatory Services (Pages 87 – 144)
9. **MR FRANK PHIPPS: ERECTION OF 9 DWELLINGHOUSES, INSTALLATION OF SEWAGE TREATMENT PLANT AND FORMATION OF VEHICLE ACCESS: LAND NORTH OF WEST SHORE COTTAGE, FORT ROAD, KILCREGGAN (REF: 16/02218/PP)**
Report by Head of Planning and Regulatory Services (Pages 145 – 170)
10. **MR COLIN FINNIE: ERECTION OF DWELLINGHOUSE: LAND ADJACENT TO 21 VICTORIA ROAD, HELENSBURGH (REF: 16/02515/PP)**
Report by Head of Planning and Regulatory Services (Pages 171 – 186)
11. **OILFAST LIMITED: PROPOSED OIL DEPOT, COMPRISING THE ERECTION OF 2 PORTABLE BUILDINGS, INSTALLATION OF 4 OIL STORAGE TANKS, 3 ARM SKID AND SEPTIC TANK AND ERECTION OF METAL FENCE ENCLOSURE: YARD, OBAN AIRPORT, LEDAIG, OBAN (REF: 16/02835/PP)**
Report by Head of Planning and Regulatory Services (Pages 187 – 210)
12. **MR JONATHAN BARTON: ERECTION OF HOUSE IN MULTIPLE OCCUPATION, INSTALLATION OF SEWAGE TREATMENT PLANT, AIR SOURCE HEAT PUMP AND FORMATION OF VEHICULAR ACCESS: LAND EAST OF NANT FARM, ICHRACHAN, TAYNUILT (REF: 16/02861/PP)**
Report by Head of Planning and Regulatory Services (Pages 211 – 230)
- E1 13. **ENFORCEMENT REPORT - REFERENCE 15/00120/ENOTH2**
Report by Head of Planning and Regulatory Services (Pages 231 – 234)
- E1 14. **ENFORCEMENT REPORT - REFERENCE 15/00259/ENOTH2**
Report by Head of Planning and Regulatory Services (Pages 235 – 238)

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

The appropriate paragraph is:-

E1 Paragraph 13 Information which, if disclosed to the public, would reveal that the authority proposes-

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

Planning, Protective Services and Licensing Committee

Councillor David Kinniburgh (Chair)	Councillor Gordon Blair
Councillor Rory Colville	Councillor Robin Currie
Councillor George Freeman	Councillor Alistair MacDougall
Councillor Neil MacIntyre	Councillor Robert Graham MacIntyre
Councillor Donald MacMillan	Councillor Roderick McCuish
Councillor Alex McNaughton	Councillor James McQueen
Councillor Sandy Taylor	Councillor Richard Trail

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the TOWARD MEMORIAL HALL, TOWARD, ARGYLL
on TUESDAY, 13 DECEMBER 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Alex McNaughton
Councillor Rory Colville	Councillor James McQueen
Councillor George Freeman	Councillor Richard Trail
Councillor Robert G MacIntyre	

Attending: Charles Reppke, Head of Governance and Law
David Love, Area Applications Team Leader
Jolyon Gritten, Access Manager and Consultee
Matt Mulderrig, Development Policy Manager
Denise Punler, Applicant
Keith Punler, Applicant
Keith Vernon, Applicants' representative
Nigel Bird, Applicants' representative
Eleanor Stevenson, South Cowal Community Council – Consultee
Marilyn Norton, Supporter
Amanda Hampsey, Supporter
Alan Chapman, on behalf of Robert Trybis, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Robin Currie, Roderick McCuish, Neil MacIntyre, Donald MacMillan and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

**3. MRS DENICE PUNLER: MASTERPLAN IN RESPECT OF STRATEGIC
MASTERPLAN AREA 1/2 AND POTENTIAL DEVELOPMENT AREA 2/42
RELATING TO MIXED USE DEVELOPMENT (INCLUDING
TOURISM/LEISURE/HOUSING/BUSINESS): CASTLE TOWARD RESIDENTIAL
SCHOOL, TOWARD (REF: 16/02356/MPLAN)**

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and the Head of Governance and Law identified those present who wished to speak at the hearing.

PLANNING

David Love presented the application on behalf of the Head of Planning and Regulatory Services. He advised that there were two items before the Planning Committee today and that these both related to Castle Toward and the associated estate. He explained that the first item that would be heard would be the proposed Masterplan reference 16/02356/MPLAN. The second item would be the associated planning application for change of use from class 8 (residential institution) to class 9

(dwellinghouse), including ancillary housekeepers accommodation and Sui Generis use as a commercial/leisure events venue reference 16/00996/PP. He stated that procedure required the Committee to determine the Masterplan application prior to the planning application. Before proceeding he advised of a late representation received from the Isle of Bute Ramblers regarding the claimed right of way which has previously been addressed within the planning report.

Mr Love confirmed that this application sought the approval of a Masterplan which is required under the terms of the LDP schedule reference Strategic Masterplan 1/2 which seeks to achieve a mixed use development across the designation including tourism, business, leisure, housing and education. He confirmed that the site was also designated as a Potential Development Area (PDA) reference 2/42 which also seeks to achieve a mixed use development covering tourism, education, leisure, housing and business. He confirmed that Masterplans were a requirement of policies LDP STRAT 1 and LDP 8 and sites identified on the associated maps. He referred to a slide showing an extract from the LDP maps which showed the extent of the PDA boundary, the Masterplan boundary and the designated landscape designation. He advised that the majority of the PDA and SMA site (excluding the eastern part surrounding Castle Toward) lay within a designated Area of Panoramic Quality. He then ran through some slides showing photographs of the mansion house and the estate.

He advised that the first phase of the development related to works on the house and recent grant of Listed Building Consent by the Committee. The works that were continuing related to this consent and general repair and maintenance works. He explained that the tree works that have been undertaken were done so without a felling licence from Forestry Commission Scotland, however, he advised that it was understood that this has now been submitted and was under consideration. He confirmed that all the tree works have since ceased. He said that it was understood that all works have been carried out by professionals under the strict supervision of an Arboriculturist.

He advised that the existing Core Path began at Toward Memorial hall and entered Castle Toward estate from the existing western vehicular entrance. The Core Path C208 (c) then followed the entrance to Castle Toward just beyond the Nissan Huts at the rear, where the path turned left and northwards towards the junction to Ardyne Farm. The Core Path followed the track up to and past Strathclyde Cottage where it then split north-west to the Ardyne Car Park and west around the Chinese lakes where it split again with a western and eastern route around the Corlarach Forest.

He said that a Supplementary Access Plan (in conjunction with plan 1544_L (MP) 005 dated September 2016) has been submitted in support of the masterplan proposals. He advised that the Applicants comment that the proposals will protect the existing Core Path that runs through the western boundary of the estate, and will embrace the requirements of the Land Reform (Scotland) Act by enhancing public access to the majority of the estate. He said that the Applicants wish to create a private area within the immediate grounds of the mansion house that covers the lawn areas to the front. He explained that these would be turned into a formal garden area with paid entrance for the public on days when there were no events on at the house. He said that this would protect and enhance the setting of the historic mansion house whilst defining a private area, within which the important gardens and buildings can be restored and operated on a successful and sustainable basis. He confirmed that there were provisions within the Land Reform (Scotland) Act that

allow an area to be out with the right of access so that the public can be admitted only on payment.

He stated that the public have submitted evidence in support of a claimed Public Right of Way through the estate leading from the former eastern driveway to the Chinese Lakes, passing close to the mansion house entrance (approximately 30 metres away) and cutting between the mansion house and the listed walled flower garden and loggia etc. He advised that Scotways have recorded the route as a "claimed" Public right of way, but their record was not definitive. He advised that the Council's Legal Services did not believe that the evidence of use supported the claim for a Public right of Way.

He confirmed that the Council were satisfied that there were no public rights of way passing through the estate (following external legal advice) other than the Core Path on the western part of the estate. He advised that the Land Reform (Scotland) Act gave the public a legal right of responsible, non-motorised access to most land and inland water for recreation and passage. He said that the Applicants have commented that they were keen to support this. He advised that the Land Reform (Scotland) Act excluded the public from the immediate area around any house in order to provide reasonable privacy for the occupants. He stated that a land manager may temporarily close off areas of land in order to allow them to manage the land ie tree felling. He explained that this right was also used elsewhere to hold outdoor weddings. He advised that it was also possible to apply to the Council for an order to exclude the public to allow larger outdoor events to be held.

He advised that consistent with the aims of the Masterplan to encourage public access, the Applicants have specified that they intend to construct a new path on the eastern side of the Himalayan Glen which would effectively replace the path that some claim is a right of way as well as the existing path immediately to the west of the burn. He advised that providing such a route would supplement the existing Core Path to the west.

Mr Love advised that the Applicants have provided an indicative 5 year plan for the development of the estate and that delivery of the Masterplan would be controlled through the submission of various applications for planning permission.

He stated that should the current applications be permitted, the Applicants intend to undertake works to the house and grounds immediately. This work is anticipated to allow for the mansion house to be available for events during 2017. Further works on the house would continue through to 2018 including the installation of the basement spa facilities. He advised that these works were all covered by the current applications for planning permission and listed building consent.

He said that the Applicants intend to create a formal designed garden area to the front of Castle Toward. He pointed out that this would generally be a private garden but there would be days when it would be open to members of the public for a small fee. He advised that this was common to large estate houses across Scotland including Inveraray. He advised that this would involve the reinstatement of the ha-ha and the planting of formal areas and that an application for this was expected early in 2017. The initial phase will include the path to the east of the Himalayan Glen so that public access would be improved at an early stage and most of these areas would be complete by summer 2017. He said that the Applicants have advised that they have issued tender requirements to contractors for this work. The

woodland improvements will be an ongoing element throughout the lifespan of the estate and although these elements do not require the benefit of planning permission he advised that the Applicant has demonstrated a willingness to provide access for the public. He stated that should the access works not be undertaken then the planning authority can seek to attach planning conditions to subsequent applications to ensure its construction, specifically when the Applicant submits an application for the re-opening of the eastern driveway which is expected early 2017. He added that there would need to be an application for fencing around the formal gardens and this would also be expected early 2017.

He advised that whilst Castle Toward and the driveway were being restored, much needed maintenance and land management of the grounds would be carried out including clearing gullies and dead trees as well as re-establishing the old Ha-ha, Chinese Fountain Garden, northern garden as well as the path garden on the eastern side. There were also the areas most needed for events which it was hoped would take place in and around Castle Toward.

He advised that the proposed fishing lake was scheduled for completion for late 2017/early 2018 and with this in mind a planning application would need to be submitted in the first half of 2017 to allow sufficient time for the determination of a submission prior to the commencement of works.

He stated that Clan Lamont have been offered the lease of Castle Toward to allow them to have substantially larger and more frequent events at their family seat which in turn should encourage more tourism within the area. New directional signage as well as educational and interpretation boards will also be installed making the ancient castle more accessible and visible to visitors. He advised that it was understood that this element of the proposals would be up to Clan Lamont to progress so the Applicant has no control over the likely submission of any necessary planning applications.

He explained that detailed applications were intended to be submitted in early 2017 for the reinstatement of the east drive lodges and the first of the dwelling houses, together with further information for the redevelopment of the west gatehouse complex commercial elements.

Beyond 2017, he advised that the Applicants will be submitting further applications for the deer farm and the holiday lodges but these would be market driven. Indicatively, he said that it was anticipated that these applications could be submitted in 2018 but their development could be further into the future.

He advised that the vast majority of planning applications that will control the delivery of the Masterplan will be submitted in the early part of 2017 and that works will continue on into 2018 with further applications for the deer farm and the holiday lodged in 2018 or beyond.

He stated that whilst it should be noted that the timetable was indicative and market dependent, it was encouraging to see initial investment being directed to the mansion house and other existing assets on the site, with new development being scheduled later in the programme. He advised that this was the converse of the more usual scenario where historic environment assets were involved, where there is often pressure for enabling development to precede investment in historic buildings, so as to provide an initial capital injection and to help redress any

conservation deficit in funding restoration works. He advised that to that extent a programme focussed initially on the existing historic environment assets was to be welcomed.

Mr Love referred to a slide showing in more detail the overall final product and pointed out that it was worth nothing the Applicants intention to assist Clan Lamont to promote the castle with respect to information boards and signs.

He advised that whilst the details of residential and commercial proposals within the PDA and SMA boundaries are intended to provide an indicative vision only of future development at this stage of the process, it was nevertheless considered that sufficient information has been submitted to demonstrate an overall strategy for future development which will ensure that a phased development can be achieved without compromising the long term aims of the PDA and SMA. He advised that it was therefore recommended that the Committee: endorses the masterplan as submitted; adopts it as a material consideration in the determination of applications currently under consideration and future development proposals; and agrees that the masterplan should be updated as necessary in the event that developments are approved at the site in conformity with the masterplan which prove to have implications for the delivery of development within the remainder of the site.

APPLICANT

Denise Punler advised that a lot of the key points she wished to make had already been covered by Planning. She said that she was a long standing business women of Argyll and Bute and that she was proud of all her achievements which she had put her heart and soul into. She indicated that she started her first business at the age of 17 years and has been involved in a significant number of business in Argyll and Bute since then. She spoke of shops she had in Oban, Inveraray, Luss and Dunoon. She advised that there has been a massive decline for Dunoon businesses which led to her having to close her shop down there which, she stated, was heart breaking. She pointed out that recently there has been a notable change in the area and referred to Inveraray Castle, Portavadie Marina and Mountstuart House on Bute. She advised that money was being put back into these businesses and that people were coming to see Cowal as the place to be and to invest in. She said that they wished to be a part of this. She referred to the history of Castle Toward and stated that they were committed to investing GDV circa £30 million in this project. She advised that this decision was not taken lightly and involved over a year of investigations in respect of costings etc. She advised that this Masterplan would take guts and passion to deliver. She said that she was passionate about the history of Castle Toward and that she wished to enhance this. She referred to Castle Toward being linked to two successful families – Kirkman Finlay and the Coats of Paisley. She also referred to Castle Toward's involvement in preparations for the DD landings during the Second World War. She referred to the part it played as a retreat for Glasgow's poorest children and stated that her own father visited as a child and recalled his experience of never seeing so much green fields before. She said that she felt that due to Castle Toward's history and location, the upgrading of this would encourage people to come to this area. She referred to there being an imaginary cut off at Dunoon with everyone who came off the ferry heading towards Inveraray. She stated that she wanted to encourage visitors to come further into South Cowal. She advised that she believed this would result in a knock on effect for other businesses and employment in the area. She referred to working with LDN Architects and the Wood Carvers Guild. She advised that they were working with

local craftsmen who were direct descendants of the original craftsmen who worked on Castle Toward which meant they had access to the original architectural drawings for the building. She pointed out that the building currently had no access to water, sewage or electricity. She stated that if it were to go on fire they would have no means of putting the fire out.

Denise then introduced Keith Vernon, of TLC Environmental. Keith advised that he was a Chartered Landscape Architect, Chartered Horticulturist and Chartered Environmentalist with over 40 years' experience in the industry, 20 of which have been in landscape design and construction. He said that he has been commissioned by the Applicants to provide landscape design and arboricultural services, to meet the needs of the development and the requirements of the planning process, and to assist in returning the gardens and landscapes to their former glory. He stated that the history of the gardens at Castle Toward were well documented and that there were still a great many secrets to be revealed. He spoke about the previous owners and about the variety of specimens of trees. He advised that although the garden has languished for 71 years, what still remained was remarkable. He advised that time was short for the remaining trees, either ailing under the effects of fungal attack and old age or what climate change has brought in terms of the many notifiable pests diseases that are currently affecting forests and woodlands. He said that the trees they knew of were special, The Tree Register for the UK has confirmed the *Griselinia litoralis* or Geraldine was a UK champion tree and has the largest stem diameter of 2.14m and the Large Scots pine on the main lawn is now a Country Champion and has taken over from its rival at Inveraray Castle. He said he believed there were more hidden veteran and champion gems to be discovered at Castle Toward and that these trees would require special attention through a veteran tree care management regime to ensure they remain in the landscape for as long as possible. He referred to the landscape proposals and advised that they were currently being developed within a Landscape Management Planning Strategy. He said that the Landscape Management Plan followed the same structure as required by Historic Environment Scotland following the criteria set out in Annex 5 of the Historic Environment Policy Statement 2016. He added that within the Landscape Management Plan would sit the woodland management plan and veteran tree care plan. He advised that the Applicants were passionate about Castle Toward and its garden, its trees and, most of all, its potential to deliver something wonderful for the Cowal Peninsula, Argyll and Bute, and Scotland. He advised that there were 51 action points to be considered as part of the development of the gardens which required nurturing back to health. He concluded by saying that every aspect of the landscape design and management would be carefully considered, no interventions would be taken on a whim and would always be derived based on historic precedents or justified as being a worthy and essential element to make Castle Toward a going concern that can pay its way and maintain the gardens in the fashion that the Applicants desire.

Denise then introduced Nigel Bird a hospitality expert and key figure in this project. Nigel advised that he was a Planning Management Consultant based in Scotland and has worked in the hotel business for over 25 years. He said that he has lived in Scotland for the last 9 years, which he now considers as home. He advised that he met Denise 9 years ago. He referred to her being a great business woman and entrepreneur and that she was exactly what Castle Toward needed. He referred to Scotland having very few exclusive use events venues and gave the example of Ackergill Tower in Wick. He advised that developing Castle Toward as an exclusive use venue would be business enhancing and that it was his understanding that there

would be nothing else like it around Cowal. He advised that Castle Toward could be used as a wedding venue, a celebratory retreat, for film shoots, and for product launches. He said that local historians, local gift shops, and pipers, for example, would benefit from these types of special events. He pointed out that these types of events would not suffer from seasonality and would generate a high level of permanent employment for the area. He commended this project to the Committee and Keith and Denise's commitment to the community which he fully supported.

Keith Punler thanked Keith Vernon for coming out of his sick bed to attend the meeting today and he also thanked so many members of the Committee for coming today. He referred to everyone hearing about the history and heritage of this truly astonishing place. He pointed out that the plans they had for the gardens would rival those at Mount Stuart and Crarae. He advised of Castle Toward being built during the 19th century by Kirkman Finlay and designed by David Hamilton and he also referred to the garden design work by Bateman. He referred to the Castle then being owned and extended by the family Coats of Paisley. He stated that they felt totally honoured that they were now the owners of this estate. He advised that they were passionate about the building. He referred to the Masterplan having 6 facets and advised that much was required to make it work financially so that they could reinvest. He referred to the plans to turn the Mansion House into an exclusive use venue and indicated that they already had reservations for 2017 and 2018 if this was allowed to go ahead. He read out the consultation response received by the Council from Historic Environment Scotland. He advised that they wanted to deliver this project as a community asset and that they wished to work with the community. He referred to there being a lot of anxiety when this application was first lodged and pointed out that over the last 6 to 8 months this had changed. He acknowledged that South Cowal Community Council may still have some concerns. He said it was not possible to keep this facility as a residential school. He advised that he believed that they and the community could work together to make this project happen.

CONSULTEES

South Cowal Community Council

Eleanor Stevenson advised that over the last 6 months relationships between the Community Council and the new owners of Castle Toward have improved. She said that they previously had a problem and there perhaps was also resentment from some due to the community buyout not being successful which they had been passionate about. She advised that they had moved on since then and acknowledged that the new owners were able to invest in Castle Toward and were delighted with the proposed plans for the house and the gardens. She stated that South Cowal Community Council now wished to work alongside the new occupants to continue the history of Castle Toward. She said that the Community Council's main objection was the right of way access which had not been proven. She said that they still wished people to be able to walk in the grounds and in the gardens. She asked if a legal agreement could be drawn up to let people know of any changes to the boundaries and where they would be permitted to walk. She advised that she hoped the planning permission would go through and also hoped that this development would bring employment and benefits to the area.

SUPPORTERS

Marilyn Norton

Marilyn Norton advised of growing up in Dunoon and seeing the area through the good times and that 4 years ago she decided to return to the area to retire. She said that she was happy to see something was going to be done to Castle Toward and did not understand how it would have worked out with the community buyout. She stated that the new owners' plans for Castle Toward were fabulous and she could see that everyone in the community would benefit and that she was glad to live here to be able to see it. She said that she was disappointed when she first returned to Dunoon as it was not what it used to be, however, she believed that this proposed plan would really help the local community as well as everyone else.

Amanda Hampsey

Amanda Hampsey advised that she has been involved with Castle Toward for some years and advised that her son used to visit there when it belonged to Actual Reality. She referred to the claimed right of way and expressed concern if people were able to walk freely close to the house, especially when children were visiting when it was owned by Actual Reality. She advised that as she has always loved Castle Toward and its history she became involved with the community buyout and attended several meetings including the final one held at Kilmory. She said that she did not want to see the castle fall into disrepair and wished to see it brought back to its former glory and opened up to the community. She said that she thought the proposed Masterplan was quite spectacular and would be a bonus to the area and that it was something that the area needed. She offered her whole hearted support and said that she would personally use the Castle as she often held large parties and family events. She referred to the other facilities that would be available in the future and said that at the moment she had to travel far in order to take her children to visit these types of facilities. She said that she could not think of anywhere else locally at the moment that would be able to offer as much as what Castle Toward will be able to offer.

OBJECTORS

Robert Trybis

Alan Chapman advised that although he was a member of South Cowal Community Council he was not here to speak on behalf of the Community Council. He explained that Robert Trybis had asked him to read out the following prepared statement as he was unable to attend the hearing today. Mr Chapman advised that it was important for democracy that everyone had the opportunity of making their views known so that these could be debated on and the Committee could give their reasons for their decision. He then read out the following statement:-

“Argyll and Bute Council heralded the sale of Castle Toward as delivering a Hotel, a restaurant open to non-residents, a Garden Centre, and an information area for the Estate with a guide to the walks available. All of this implied ongoing public access to the whole estate with little or no conflict with Rights of Way or right to roam.

The planning applications though are for a private house with a very significant impact on access. At least 11 respondents supporting the application made

comments about the importance of access and in particular being able to walk between the ruin and the Chinese Lakes eg;

'I am most heartened that a new pathway allowing for access to the Chinese Lakes is proposed'. 'I also like the idea of the path being upgraded as I live locally and have a small family who will continue to enjoy the estate'.

The Council's Access report states;

'The Applicant is proposing to provide a new path linking the East Drive with the Chinese Lakes to the east of the stream that forms the boundary of the Himalayan Gardens. This proposal is welcomed and should be constructed and open for the public to use prior to the erection of a fence around the private gardens. I advise that a Planning Condition is used to achieve this'.

However on the day of the sale access between the ruin and the Chinese Lakes along Right of Way SA181, as recorded in CROW, was immediately blocked and remains blocked with no alternative route in place.

The Council is agreeing to a private area which includes the Himalayan Glen which is an area that is not between buildings, is out of sight of the mansion, and in which the public would expect to have a right to roam . This right was being exercised until blocked in October.

Under these plans the public will have restricted paid access to land over which there are Rights of Way and in which they should have a right to roam.

The plans also include deer farming which, with even a small herd, would require a large area of land to be enclosed in deer fencing. This could considerably affect access but it is not shown in the plans.

I request that;

1. A planning condition restores public access along Right of Way SA181 until such time as a suitable alternative is actually put in place.
2. The Himalayan Glen should be excluded from the private area as it is not within the curtilage of buildings and right to roam without charge should apply.
3. It should be explicitly stated that any acceptance of the Masterplan does not imply acceptance of deer farming and that any future applications relating to deer farming should be judged on their own merits.

I also wish to complain that Argyll and Bute Council is not following proper process when dealing with this planning application.

PPSL Committee meeting of 16 November 2016 Agenda item 7 (page 144) part (n) asks 'Does the Council have an interest in this site'. The Council avoided giving a direct answer and failed to declare that it has an interest in that the Council will only receive a payment of £310,000 if it grants the planning consents requested by the applicants.

Also, the Council has advised that there are 174 Claimed rights of way within its area recorded in CROW. Local authorities have duties towards all Rights of Way even claimed ones.

However, the only Right of Way in CROW not recognised by the Council is SA181 at Castle Toward. It is not clear who at the Council decided SA181 would not be recognised, or when. The fact that SA181 is recorded in CROW means that there is a significant body of evidence for its existence. If the decision to not recognise SA181 was not taken at a meeting of the PPSL Committee then that is further evidence that proper process is not being followed.

The Council does not appear to be handling Rights of Way and access to Castle Toward in an impartial manner.

In view of the lack of transparency in the Council's actions and since many objectors explicitly requested it, the Council should refer any planning decisions at Castle Toward to Scottish Ministers."

MEMBERS' QUESTIONS

Councillor Colville sought and received confirmation from Mr Love that if it became apparent in the future that there was a flood risk to the area then a flood risk assessment would be required to be prepared as part of any future planning application.

Councillor Colville referred to the comment within the report of handling that the Applicants intended to provide an additional footpath and asked Planning if this would require planning permission. Mr Love explained that it would depend on what the Applicants proposed to do. He said that if they were just clearing overgrowth from an existing path then no but if they intended putting down hard walk surfaces or board walks then this may require planning permission.

Councillor Colville asked the Applicants what their plans were for a footpath. Mr Punler pointed out on the location plan where the existing path was. He pointed out where the path was located within their boundary and explained that some of the path leading up to the Chinese lakes was out with their ownership. He advised of their plans to improve this path. He advised that they would take guidance from the Planning Officers as to what they could do and what permissions would be required. Mrs Punler advised that they were currently discussing with the Forestry Commission the possibility of purchasing the path out with their boundary.

Councillor Freeman sought and received confirmation from Mr Love that if the plans for the footpath were De Minimis then a separate planning application would not be required.

Councillor Freeman sought and received confirmation from Mr Gritten that there were no plans to make changes to the core path network. Mr Gritten also confirmed that the Council did not have evidence to support the claimed right of way. He then explained the different mechanisms open to landowners to restrict access eg to hold one off events such as weddings, or to close off a path while felling trees. He added that in the event of the need to close a right of way for 2 days or more then a Section 11 Order would be required. He confirmed that consideration and determination of these types of applications would be delegated to Officers.

Councillor Freeman referred to seeing evidence of tree felling at the earlier site visit and asked if any of the trees were protected. Mr Love advised that none of the trees

had any formal protection. He advised that a Tree Protection Order was only served to protect trees if it was thought there was any imminent threat to them. He referred to the Applicants currently going through a tree felling licensing process with the Forestry Commission. He also referred to the Applicants preparing a Land Management Plan which would ensure protection and maintenance of the grounds.

Councillor Freeman referred to plans for residential dwellings in the Masterplan and asked the Applicants to confirm if this was to supplement finances. Mr Punler confirmed that it would. He explained that the dwellings would be small scale traditional estate type housing and would be located in an area that would not impact on the Mansion House but would enhance the overall setting. He added that they had plans to open up the eastern entrance to the estate.

Councillor Trail referred to the area of ground between the front of the lawn and the public road and asked the Applicants if they had any plans to restrict the public from this area. Mr Punler advised that they had no plans to restrict access at this location. He referred to the Masterplan which identified that 80% of the estate would become accessible with the granting of a change of use consent under the Land Reform (Scotland) Act. Mrs Punler advised that they planned to divert existing culverts which would dry out the area of land Councillor Trail spoke about and make it easier for locals to use.

Councillor Freeman asked the Community Council if they had any outstanding issues or concerns that had not been addressed by Officers. Mrs Stevenson replied that access had been their main problem and that the Community Council were happy with what was now planned. She advised that they did not consider there to be any other problems.

Councillor Blair referred to the comments made in Mr Trybis' statement about the Council not following proper process when dealing with this application and asked for comment on this. Mr Reppke confirmed that it was the Council's view that the correct formal process was followed.

SUMMING UP

Planning

David Love explained that the Masterplan was an indicative framework for future development and would be delivered through submission of planning applications.

He confirmed that planning conditions or a legal agreement could not be attached to the Masterplan and that future applications will be judged on their own merits.

He advised that planning decisions would not be referred to the Scottish Government unless there was a significant departure from the Local Development Plan and in this case there was no departure from the plan. He confirmed that if the path needed a bridge then planning permission would be required. He added that the public would still have access to 80% of the estate.

Applicant

Keith Punler referred to the issues raised by Mr Trybis. He advised that he was delighted to detect a warming in respect of their plans for Castle Toward. He

referred to Mr Trybis' comment about a garden centre and advised that the detail of this was not in the Masterplan at the moment. He explained that this was a working document going forward and that they had plans to include a garden centre in the future. He also referred to comments made by Mr Trybis about the Himalayan Glen. He said that this Glen was located within the most sensitive part of the gardens and was an intricate part of the policies of the garden. He said that a small charge made to the public to visit the gardens would be used to supplement additional staff wages to enable the gardens to be opened up for special days. Mr Punler advised that he was delighted that there appeared to be a general sentiment of support for their proposals and that this was thanks to Denise approaching the community. He thanked the Council for keeping the heating on in the Castle over the last 4 years. In the absence of any real objection he hoped the Committee would support this proposal.

Consultees

South Cowal Community Council

Eleanor Stevenson confirmed that they were quite happy with what was being proposed and hoped that planning permission would be granted as this was nothing but good for the area.

Supporters

Marilyn Norton

Marilyn Norton advised that she thought this was a good project which would be good for community.

Amanda Hampsey

Amanda Hampsey advised that she was also a member of the Cowal Walking Group and that she was delighted to hear of the proposals being put forward.

Objectors

Alan Chapman

Alan Chapman advised that the request for a legal agreement to protect the local community was a valid point. He referred to the minutes that were being taken at the meeting and said he hoped that they would be an open and transparent account of what has been said at the hearing today. He sought assurance that the minutes would be made available to the public. Mr Reppke explained that minute would not be a verbatim account of what had been said but would summarise the evidence presented to the Committee. He confirmed the minutes would be brought to the PPSL Committee in January for approval and that they would be available to view on the Council's website.

When asked, all parties confirmed that they had received a fair hearing.

DEBATE

Councillor Freeman advised that the one issue that clearly came across was about access. He advised that he believed the enormous potential for the site was obvious and he considered the current legislation in place in respect of access was a reasonable compromise given the potential benefit to the wider community that will come about. He noted that the Community Council now supported the development and that he had no problem in supporting this Masterplan.

Councillor Trail referred to the transfer of the estate to new owners being difficult. He said he was quite impressed by the story by the Applicants and their plans for the site and not only for the building but also for the grounds. He referred to the opposition to these proposals being turned around and stated that he was impressed by the Applicants' wish to work with the community for the benefit of the community. He confirmed that he was minded to support the Planning Officer's recommendation to approve the Masterplan.

Councillor McNaughton advised that he was totally impressed with the plans and added that he had no concerns at all about the proposals. He confirmed that he had no trouble with supporting the Planning recommendation.

Councillor Colville advised that he has been left in no doubt about the Applicants' total commitment to this project and that he was impressed by the presentations given.

Councillor Blair said he was happy that Castle Toward would now be in a better place than before and he believed that this would be an asset to the community. He advised that there was the opportunity here for economic development and an increase in tourism to the area. He referred to Castle Toward being a jewel in the crown.

Councillor Robert G MacIntyre agreed that the presentations made today were very good. He wished the Applicants well and advised that he supported the Planning Officer's recommendation.

Councillor McQueen confirmed that he also supported the Planning Officer's recommendation.

Councillor Kinniburgh stated that he was very impressed with the presentations made today. He said that often at hearings there were divisions within a community. He said that he believed that in this instance people had been turned around. He referred to the willingness of the Applicants to work with and listen to the community and stated that this could only be a good thing going forward. He said that he took on board the request for a legal agreement to be drawn up in respect of access and advised that this was not the correct application to deal with such matters. He advised that this was not an application that could have conditions attached to it. He advised that future planning applications could have conditions added to them where necessary. He advised that he was also satisfied that there would be continued dialogue between the Applicants and Planning and that the Applicants would continue to work with Planning Officers to deliver something special.

DECISION

The Committee unanimously agreed:-

1. to endorse the masterplan as submitted;
2. to adopt it as a material consideration in the determination of applications currently under consideration and future development proposals; and
3. that the masterplan should be updated as necessary in the event that developments are approved at the site in conformity with the masterplan which prove to have implications for the delivery of development within the remainder of the site.

(Reference: Report by Head of Planning and Regulatory Services dated 28 October 2016 and supplementary report number 1 dated 14 November 2016, submitted)

4. KEITH AND DENICE PUNLER: CHANGE OF USE FROM CLASS 8 (RESIDENTIAL INSTITUTION) TO CLASS 9 (DWELLINGHOUSE), INCLUDING ANCILLARY/HOUSEKEEPERS ACCOMMODATION AND SUI GENERIS USE AS A COMMERCIAL/LEISURE EVENTS VENUE: CASTLE TOWARD MANSION HOUSE (INCLUDING WALLED GARDENS AND GREENHOUSE), TOWARD (REF: 16/00996/PP)

The Chair advised that the Committee would now consider a proposal for a change of use from Class 8 to Sui Generis including use as a commercial / leisure events venue and Class 9 (dwellinghouse), including ancillary housekeeper's accommodation.

The Chair asked if anyone present required him to outline the procedure that would be followed again and he was advised that all those present were satisfied that they had heard the procedure outlined earlier in the morning. The Chair then asked Mr Reppke to identify the parties present who wished to address the Committee.

The Chair ruled and the Committee agreed to adjourn the meeting for 5 minutes for a comfort break. The Committee reconvened again and the Chair invited David Love from the planning department to make his presentation to the Committee.

Planning

Mr David Love

Mr Love advised that the application was for the change of use from class 8 (residential institution) to class 9 (dwellinghouse) including ancillary housekeeper's accommodation and Sui Generis use as a commercial/leisure events venue. He clarified the meaning of Sui Generis as a Latin phrase used in planning to describe a use of land or buildings that did not fit within any existing description of the Use Classes Order. He advised the Sui Generis could not move into other categories of the Use Classes Order and therefore any future proposed change of use would require planning permission.

Mr Love referred to slides on his PowerPoint presentation. He showed the extent of the Potential Development Area boundary, the Masterplan boundary and the extent of the landscape designation. He also showed the edge of the Area of Panoramic

Quality. Mr Love showed the Committee the site boundary taking into account the house, lawns, both walled gardens and greenhouses advising that the application established the curtilage of the house and was by and large the private area established in the Masterplan. Mr Love then showed the Committee a range of photographs showing the front of the house from the lawns, the walled gardens, the greenhouses, the west of the house from the west driveway, the rear of the house, the front lawns and the Japanese fountain. His final slide showed a birds eye view showing the extent of the application boundary. Mr Love advised that it was recommended that the Committee approve the application as per the reasons and conditions as outlined in the report of handling.

Applicant

Mr Keith Punler

Mr Punler advised that this was the first of a number of applications that would be coming forward over the coming months. He advised that this had been the application that had triggered the Masterplan. He advised that approval of the application was the trigger to financial investment in the house and that he had already touched on the problems in terms of services conditions and the reinstatement of furniture and fittings earlier that morning. He advised that approval would allow them to proceed with the final building warrant for the suites and the reinstatement of the building. Mr Punler told the Committee that he had looked at private policies for the gardens, historically at the estate and at more recent precedents of the Land Reform Act and advised that they were open to responsible right to roam. He advised that the boundaries determined by historical records had been investigated on site and had been found to be where they were expected to be. Mr Punler advised that the application had been changed to Class 9 with Sui Generis following advice from the planning department on their intentions for use and that this would allow more scope for events held on the grounds.

Mr Nigel Bird

Mr Bird referred to Ackergill Tower in Wick as having wow factor on both the national and international stage. He advised that there were no other 5 star exclusive use venues in Argyll and Bute and that any other 5 star venues in the area were very different in nature to what they would be offering. He advised that Visit Scotland had intimated that a 5 star Visit Scotland Award would be very achievable and had been very excited about what Castle Toward could bring to the area. He told the Committee that Argyll already sat very well on the international stage due to it being an area of natural beauty and this would be used to attract people to this venue. Mr Bird referred to comments made about the venue being out of reach for locals and advised that this was not true, that it would deliver another venue for people to hold weddings and events and that it was not just for the rich and famous. Mr Bird spoke about the benefits the venue would bring to the area such as business enhancement and employment. He advised that they would not be in competition with any other business in the area as there was nothing like it already in the area. He referred to exclusive use venues having no seasonality and that this would allow for a greater level of employment in the area. He added that other attractions in the area would benefit from additional income and gave examples such as ferries and fuel garages, shops. He concluded by saying that Denise and Keith were putting a huge investment into the area, that they had a long road ahead of them and that the application should be supported and embraced.

Mr Keith Punler

Mr Punler told the Committee that Highlands and Islands Enterprise had visited the site and had the view that the venue would be used both regionally and nationally due to the open air aspect. He highlighted that their intention was to employ a policy of local produce, suppliers and contractors being utilised and that currently the estate employed 12 full time Cowal residents. He advised that approval of the application would result in more opportunity for local support.

Consultees

South Cowal Community Council – Eleanor Stevenson

Mrs Stevenson advised that the Community Council were very happy for the application to go ahead and that they liked the idea of local employment. She advised that they loved the idea of it being an international venue and that it would do a lot for South Cowal and the surrounding area.

Questions

Councillor McNaughton asked the applicant about the employment prospects for the area and their anticipated level of employment over the coming 3 or 4 years. Mr Punler advised that in his estimations he had hoped to employ in the region of 77 full time equivalent posts within 18 to 24 months. He added that as more applications came forward there would be the potential for more construction jobs.

Councillor Colville asked if the applicant had any intention of linking with other coastal communities such as Campbeltown, Islay and Jura because of the distilleries. He referred to the Kintyre Express and asked if the applicant had plans to make use of these services and open up the venue to the rest of Argyll and Bute. Mrs Punler advised that they had recently purchased Scotland's first super yacht. She advised that they would be using this for trips around the islands and the West Coast of Scotland. She added that the interest in the yacht had been astronomical and that Visit Scotland would be using the yacht as their flagship accommodation the following year. She advised that they would be keen to look into all these opportunities.

Sum Up

Planning

Mr David Love

Mr Love advised that the application sought change of use from a residential institution to Sui generis use. He referred to the established curtilage of the house which was private with 80% of the estate still allowing public access. He advised that the application would create employment for the local area and encourage tourism opportunities and therefore they were recommending approval of the application.

Applicant

Mr Punler

Mr Punler advised that he had nothing further to add.

Mrs Punler

Mrs Punler told the Committee that they had been approached by an individual who was looking to secure Castle Toward for the month of August in 2018 for a £2m party and that they were thrilled that they were considering the area. She added that it would be an amazing catalyst for the area.

Consultees

Mrs Eleanor Stevenson

Mrs Stevenson summed up by saying that she hoped planning permission would be granted as it would be fantastic for the area.

The Chair asked all those present to confirm that they had received a fair hearing to which everyone confirmed that they had.

Debate

Councillor Freeman advised that all his queries had been clarified under the Masterplan item on the agenda and that the conditions detailed in the report of handling were straight forward. He advised that following the discussions that had taken place that morning he had no objection to the application and was happy to support the recommendation by the planning department.

Councillor McNaughton advised that he supported the application and he wished the applicant well.

Councillor Robert MacIntyre commented on the good presentations that had been made during the hearing. He advised that it was a great vision and that he hoped it would work as it would be a great benefit to the area. He wished the applicant luck.

Councillor McQueen advised that he supported the application and wished the applicants luck.

Councillor Blair advised that this catalyst for change was important for Cowal and he hoped that the other businesses in the area would support this as it was a real opportunity for Dunoon. He wished the applicant success.

Councillor Colville advised he had nothing further to add.

Councillor Kinniburgh wished the applicant well and advised that he liked the way the applicant was engaging with the community and how the community was now engaging with the applicants. He wished success for the applicants and moved that the Committee support the recommendation by the planning department to approve the application.

Decision

The Committee unanimously agreed to grant planning permission subject to the conditions, reasons and advisory notes as detailed within the report of handling by the Head of Planning and Regulatory Services.

(Reference: Supplementary Report 1 by Head of Planning and Regulatory Services dated 14 November 2016 and Report by head of Planning and regulatory Services dated 28 October 2016, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 14 DECEMBER 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Robert G MacIntyre
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Alistair MacDougall	Councillor Alex McNaughton
Councillor Neil MacIntyre	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
Sandra Davies, Senior Planning Officer
Angus Gilmour, Head of Planning and Regulatory Services
Jolyon Gritten, Access Manager

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated on behalf of Councillor Rory Colville, Councillor Roderick McCuish and Councillor James McQueen.

2. DECLARATIONS OF INTEREST

Councillors Donald MacMillan and Richard Trail declared a non-financial interest in planning application reference 16/02601/PP, which is dealt with at items 5 of this Minute, as they represent the Council at ACHA Board meetings.

Councillor Neil MacIntyre also declared a non-financial interest in this application as he represents the Council on ACHA's Area Committee for Oban, Lorn and the Isles.

The Chair ruled, with agreement of the Committee, to vary the order of business to allow an Officer to attend another meeting. The following items are minuted in the order they were taken at the meeting.

*** 3. PROPOSED VARIATION OF PATH AGREEMENTS TO FACILITATE TRANSFER OF THE DALRIADA TRUST TO THE BLARBUIE FOREST ENTERPRISE**

Consideration was given to a report advising that the Dalriada Trust, a partnership which maintains footpaths within Kilmartin Glen, is proposing to transfer its liabilities and assets to the Blarbuie Forest Enterprise in order to achieve the most efficient use of funds available for the maintenance liabilities. In order to do this the Dalriada Trust is asking that four path agreements between the Council and private landowners are varied to identify the Blarbuie Forest Enterprise as the Council's agent.

Decision

Committee agreed:-

- 1) to support the proposed transfer of the Dalriada Trust's assets and liabilities to the Blarbuie Woodland Enterprise, subject to the appointment of a Council representative on the Board of Blarbuie Woodland Enterprise;

- 2) to authorise Officers to seek agreement of the landowners to, and make variation of, the path agreements such that Blarbuie Woodland Enterprise becomes the agent of the Council; subject to Blarbuie Woodland Enterprise satisfactorily taking on the assets and liabilities of the Dalriada Trust and the appointment of a Council representative on its Board; and
- 3) to recommend to Council that a representative of the Council is appointed to the Board of Blarbuie Woodland Enterprise.

(Reference: Report by Executive Director – Development and Infrastructure Services dated 30 November 2016, submitted)

4. MINUTES

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 14 November 2016 was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 16 November 2016 at 9.30 am was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 16 November 2016 at 10.45 am was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 28 November 2016 was approved as a correct record.

At this point, having previously declared an interest in the following planning application, Councillors Neil MacIntyre, MacMillan and Trail left the room and took no part in the discussion of item 5.

5. ARGYLL COMMUNITY HOUSING ASSOCIATION: ERECTION OF 6 DWELLINGHOUSES, LAND EAST OF 9 HAYFIELD, OBAN (REF: 16/02601/PP)

The Major Applications Team Leader spoke to the terms of the report. Planning permission is sought for erection of 6 dwelling houses on an area of land to the east of the established Hayfield development within the Glenshellach area of Oban. In terms of the adopted Argyll and Bute Local Development Plan (LDP 2015) the application site forms part of a wider Housing Allocation H-AL 5/4 which has been approved for an overall housing development of 11 units with a requirement of 25% of those to be provided as affordable units.

A previous application, 16/01920/PP, for 12 dwelling houses directly to the north of the site subject of this current application was recently approved by the Committee at a discretionary hearing held in Oban. Should permission be granted for the current application, this would result in an overall number of 18 units within the housing allocation exceeding the 11 units which it was allocated for. However, the LDP states that "...The housing provision numbers are indicative and in appropriate circumstances may be varied at the discretion of the Planning Authority". This provides flexibility in response to unit size led by market demand, provided that density and other layout requirements still remain capable of satisfying LDP standards and guidance. In this instance an overall increase from 11 to 18 within the

wider allocation is considered to be acceptable and would relate well to the higher density development directly to the east of the site.

The proposal has elicited 100 objections and 121 expressions of support. The majority of the objections are from local addresses and whilst this level of interest in a planning application in the context of the community would normally be considered to be significant, in this instance Members will recall the recent discretionary hearing held for the adjacent site, where an appreciation of the proposals for the wider housing allocation was gained. This current application proposes a continuation of the development of the previously approved site and represents the second and final phase of development within the housing allocation. The objections raised to this current application are similar to those raised during the previous application which were addressed at the hearing. Accordingly, in this instance, as the site is allocated within the current LDP as a Housing Allocation area and Members have seen the site on the ground, it is not considered that a discretionary hearing would add value to the planning process and it is recommended that the Committee do not hold a hearing prior to the application being determined. The proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and LDP 11 and Supplementary Guidance SG2, SG LDP ENV 14, SG LDP HOU 1, SG LDP SERV 2, SG LDP TRAN 4 and SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan and is recommended for approval subject to the conditions and reasons detailed in the report of handling.

Decision

The Committee unanimously agreed to grant planning permission subject to the following conditions and reasons:-

General

- 1) The development shall be implemented in accordance with the details specified on the application form dated 23/09/16 and the approved drawing reference numbers:

Plan 1 of 6 (Drawing Number 1682-A3-001-B)

Plan 2 of 6 (Drawing Number 1682-A2-010-B)

Plan 3 of 6 (Drawing Number 1682-A3-011-A)

Plan 4 of 6 (Drawing Number 1682-A1-020)

Plan 5 of 6 (Drawing Number 1682-A1-021)

Plan 6 of 6 (Drawing Number J1246/C/01 C)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

Roads, Access and Parking

- 1) The access road and internal road layout shall be undertaken in accordance with a Road Construction Consent approved by the Roads Authority with the road

completed prior to the initial occupation of the dwellinghouses hereby approved, unless otherwise first agreed in writing by the Planning Authority.

Reason: In the interests of road safety in accordance with Policy LDP DM 11 and Supplementary Guidance SG LDP TRAN 4 of the adopted 'Argyll and Bute Local Development Plan' 2015.

- 2) No development shall commence on site until visibility splays of 42m x 2.4m formed in each direction from the centre line of the accesses have been cleared of all obstructions 1.05m above the level of the adjoining carriageway and these splays shall be maintained free of obstruction thereafter to the satisfaction of the Planning Authority.

Reason: In the interests of road safety in accordance with Policy LDP DM 11 and Supplementary Guidance SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015.

- 3) Notwithstanding the provisions of Condition 1, details of the surfacing of the parking and turning areas shall be submitted and approved in writing by the Planning Authority. Thereafter the parking and turning areas shall be completed in accordance with the approved details prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety in accordance with Policy LDP DM 11 and Supplementary Guidance SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015.

Water, Drainage and Flooding

- 4) Notwithstanding the provisions of Condition 1, the proposed Sustainable urban Drainage Systems (SuDS) shown on Drawing Number J1246/C/01 C shall be operational prior to the initial occupation of any of the dwellinghouses hereby approved and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding in accordance with Policy LDP DM 10 and Supplementary Guidance SG LDP SERV 7 of the adopted 'Argyll and Bute Local Development Plan' 2015.

Landscaping

- 5) Notwithstanding the provisions of Condition 1, no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:
 - i) Existing and proposed ground levels in relation to an identified fixed datum;
 - ii) Existing landscaping features and vegetation to be retained;
 - iii) Location design and materials of proposed walls, fences and gates;
 - iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;

- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity in accordance with Policy LDP 3 of the adopted 'Argyll and Bute Local Development Plan' 2015.

Affordable Housing

- 6) The development hereby permitted shall only be implemented 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) and shall not enure for the benefit of any other person, company or organisation.

Reason: To ensure the provision of affordable housing to the standard required by the development plan in the absence of any other agreed means of securing such provision.

Design and Finishes

- 7) Notwithstanding the provisions of Condition 1, the roofs of the development hereby approved shall be finished in a grey coloured concrete roof tile to the satisfaction of the Planning Authority.

Reason: In order to integrate the development into its surroundings in accordance with Policy LDP 9 and Supplementary Guidance SG 2 of the adopted Argyll and Bute Local Development Plan 2015.

(Reference: Report by Head of Planning and Regulatory Services dated 24 November 2016, submitted)

At this point Councillors Neil MacIntyre, MacMillan and Trail returned to the meeting.

6. PLANNING AND REGULATORY SERVICES PERFORMANCE REPORT - FQ2 2016-17

A report presenting the Planning and Regulatory Services performance report with associated scorecard for performance in FQ2 2016-17 was considered.

Decision

The Committee reviewed the scorecard as presented.

(Reference: Report by Head of Planning and Regulatory Services dated 14 December 2016, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 14 DECEMBER 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Robert G MacIntyre
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Alistair MacDougall	Councillor Alex McNaughton
Councillor Neil MacIntyre	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
Kate Connelly, Solicitor
Sergeant Iain McNicoll, Police Scotland
Heather Murray, Police Scotland
Thomas MacKay, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated on behalf of Councillors Rory Colville, George Freeman, Roderick McCuish, James McQueen and Sandy Taylor.

2. DECLARATIONS OF INTEREST

Councillor Neil MacIntyre declared a non-financial interest due to him having family members involved in the taxi business in the Oban area. At this point he left the room and took no further part in the meeting.

The Chair ruled, and the Committee agreed, to adjourn the meeting at 2.05pm, and to reconvene at 2.15pm by reason as to allow the Applicant time to appear.

The meeting reconvened at 2.15pm and it was noted that the Applicant was still not present. The Chair then ruled, and the Committee agreed, to adjourn the meeting and resume for consideration at 3.20pm.

The Committee reconvened at 3.20pm noting that Councillor Robin Currie was no longer in attendance.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TEMPORARY TAXI DRIVER LICENCE (T MCKAY, OBAN)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

Applicant

The Applicant stated that his current licence had expired and he had been advised from the Legal team that it would take up to 28 days for his licence to be renewed and therefore he decided to apply for a temporary licence to cover him for 6 weeks whilst his renewal was being determined. He apologised for allowing his licence to

lapse but explained that his mother had been ill (who had since passed away the morning of this meeting) and he himself had been experiencing personal problems.

After submitting his application for a temporary licence the Applicant stated that Legal Services called him to advise that they had received a letter of objection from the Police. Referring to the letter of representation made by Police Scotland the Applicant stated that on the date he was stopped in Benderloch he had been visiting his sister and the vehicle was not being used as a taxi and had not been used as a taxi for approximately two and a half weeks due to there being problems with the vehicle. He planned to contact Kilmory on the following Monday advising that he was going to use his partner's car as a substitution whilst waiting for delivery of his replacement vehicle. On the Saturday when he was stopped by the Police he explained that the car would be off the road on Monday and swapped for his partners car to be used as a substitute. The Applicant stated that he did not realise at the time he was stopped that the tyres had such a low tread reading. The Traffic Officer who stopped him called for a further 2 superior Officers to attend to the stop site to make a decision and after a further 20 minutes he was charged with having 2 illegal tyres. The car was left where it was and removed 2 days later by a recovery vehicle.

Questions from Police Scotland

The Applicant confirmed that on the day in question the vehicle was a licenced taxi and was capable of being used as a taxi at that time whilst he was anticipating getting the plates changed on the following Monday to the substitute car. This was the only car he had available to use on the day in question to visit his sister.

The Applicant confirmed that the reasons why he was not using the vehicle as a taxi at that time was due to engine problems and when questioned if he had more than one vehicle he stated that he had a small family run business as he has a taxi operators licence with one car himself and his partner, brother and sister all having a car each. He felt that the delay in granting him a licence had caused the company to suffer.

The Applicant confirmed that his taxi licence expired on 15 August 2015 and by way of explaining why he has differing addresses on his taxi and driving licence he stated that he has had no fixed abode for the past 2-3 years due to the break-up of his marriage.

Confirmation was sought and received from the Applicant that on the night in question his car was examined and he was charged with various offenses and convicted in court whereby he was fined £200. The applicant could not recall whether or not he had notified the Council of the conviction at that time but he was aware that this is one of the conditions of his licence and apologised for incorrectly filling out his taxi licence application form with his spent convictions rather than his current ones.

Sergeant Iain McNicoll then spoke of the defects which included 3 defective tyres and a loose bumper that led to the conviction in reference to the Chief Constables letter, stating that this was a letter of representation not of objection.

Members' Questions

Councillor Trail asked the Applicant what he did to ensure that his vehicle was serviced and the Applicant said that he took his vehicle to Kwik-Fit to get the tyres checked. Councillor Blair acknowledged that the Applicant is currently going through a stressful period but asked if the Applicant was fully aware of the importance of establishing a proper maintenance regime with accurate record keeping. The applicant confirmed that he did and stated that that is why as soon as he had available funds he purchased a new vehicle.

Sergeant Iain McNicoll confirmed to the Chair that he did not have a record of the actual depth of tread readings from the tyres but stated that it is an offence to have any reading below the legal minimum of 1.6mm

Summing Up

Police Scotland

Sergeant Iain McNicol spoke of the defects on the vehicle in question and general lack of maintenance and was concerned for the safety of potential fare paying passengers should the car have of been operating as a taxi on the night in question. The conviction at court had resulted in a £200 fine which he felt was lenient considering that 1 tyre found to be under the legal minimum depth ordinarily incurs a £100 fine and 3 penalty points. He felt concern that the Applicant had not disclosed his conviction to the Licensing department at the Council or on his licence application form.

Applicant

The Applicant apologised for not declaring his current convictions on his application form explaining that he is not competent with forms and paperwork and struggles with reading and writing. He stated that he has had no issues in the past 15 years of holding a taxi licence and that his lapse in renewing his licence was not intentional.

When asked both parties confirmed that they had received a fair hearing.

Debate

Councillor Blair and Councillor Trail took the same view that whilst the Applicant had mitigating domestic circumstances the Applicant needed to be aware of the potential severity of poorly maintained vehicles. In this instance they were supportive of the Applicant's case but highlighted the Applicant needed to take the Police remarks seriously and that this is where the line is drawn.

Councillor Robert G MacIntyre concurred with the previous Councillors' comments and felt that the court having imposed only a £200 fine could be seen as indicative to the severity of the offence as reasoning as to the decision.

Councillor MacDougall stated that whilst understanding that the Applicant had learnt his lesson he suggested that the Applicant sought an agreement with a local garage whereby they could issue him with a reminder when his vehicle was due to be serviced. The Chair was supportive of this idea stating that annual check-ups are not enough and suggested that as soon as his tyres get below 3mm he should get them changed.

The Chair further stated that whilst there had been lessons learned the Applicant must be mindful that he has more to lose than just his taxi driver licence but also his operator's licence and therefore his livelihood.

Mr Reppke advised the Applicant that he should seek independent advice regarding the issues with his record keeping and address details in order to avoid any further problems.

Decision

The Committee agreed to grant a temporary taxi driver licence to Mr T McKay for a period of 6 weeks from the date of issue.

(Reference: Report by Head of Governance and Law dated 14 December 2016, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 14 DECEMBER 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Robert G MacIntyre
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Alistair MacDougall	Councillor Alex McNaughton
Councillor Neil MacIntyre	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
Kate Connelly, Solicitor
Sergeant Iain MacNicol, Police Scotland
Heather Murray, Police Scotland
Leo Paterson, Applicant
Robert Paterson, Applicant's Representative

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Colville, Freeman, McCuish, McQueen and Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (L PATERSON, GARELOCHHEAD)

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

Applicant

The applicant's representative Robert Paterson advised that he would speak on behalf of Leo Paterson. He advised that following the road accident in February 2014, he had been acquitted on 15 August 2016 in relation to the criminal charge of careless driving.

Police

Sergeant MacNicol referred to a letter of representation submitted by the Chief Constable which advised of the circumstances surrounding an incident which took place on 11 February 2014 and resulted in the Applicant being acquitted. He advised that he had no further objections to the application.

Summing Up

Applicant

Mr Robert Paterson advised that his son was looking forward to being a taxi driver and to give something back to the community.

When asked both parties confirmed that they had received a fair hearing.

Debate

Councillors Trail and McNaughton thought that as he had been acquitted of the offence he should be granted his licence.

Decision

The Committee agreed to grant the renewal of Mr Paterson's Taxi Driver's Licence.

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

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 14 DECEMBER 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Alistair MacDougall	Councillor Alex McNaughton
Councillor Neil MacIntyre	Councillor Richard Trail
Councillor Robert G MacIntyre	

Attending: Charles Reppke, Head of Governance and Law
Kate Connelly, Solicitor
Brian Gallagher, Objector
Kenneth McAuley, Objector
Kenneth Barlas, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Colville, Currie, Freeman, McCuish, McQueen and Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR LICENCE (K BARLAS, BASINGSTOKE - TO OPERATE TAXI WITHIN HELENSBURGH & LOMOND AREA)

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

The Committee were advised of late objections received outwith the time period allowed by the Civic Government (Scotland) Act 1982 for making objections or representations. It is competent under Paragraph 3(2) of the 1982 Act for the licensing authority to entertain a late objection or representation if they are satisfied that there is sufficient reason for it not having been made within the time period allowed.

Mr Barlas advised that the late objectors had had ample time to get their objections in timeously and to attend the hearing and as such, the objections should be disregarded.

As Mr Ross, Mr Haddow and Mr Morley were not present to provide an explanation as to why the objections had been submitted out of time, the Committee agreed not to take these into consideration.

The Chair then outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

Applicant

Mr Barlas asked if he could pass round some literature for the Committee in support of this application which the Committee agreed to consider.

Mr Barlas advised that he had a London Hackney taxi badge for over 13 years and that his taxi had features for the disabled and wheelchair access. He thought that his taxi would be a useful addition to the area as there was only one other taxi in the area that had this facility. He had written to a number of care homes and nursing homes in the area and they had written to him to say that they would make use of his service. He will also apply for school runs to assist with children with disabilities. If he was successful in receiving work from these areas he would not have to sit at the rank affecting other taxi drivers. He further advised that he was from Helensburgh and had moved away at 19 and was now looking to move back to the area.

Questions from Objectors

Mr Gallagher asked Mr Barlas why he did not just apply for a private hire licence as there would be no objections to that. Mr Barlas advised that he also needed to get income from the rank.

Mr Gallagher asked whether the bulk of his work would come from the rank. Mr Barlas advised that he needed work from both.

Objectors

Mr Gallagher stated that the first survey had concluded that there were sufficient taxis and in fact there were 6 over what was required, since that survey and including the last one completed, the conclusion is the same, there is no unmet demand. As he left Helensburgh this morning there were 14 taxis at the rank and they were moving very slowly. The applicant intends to have wheelchair access but most can easily fold their chairs and put in the back of taxis. Another licence holder has wheelchair access and covers nursing and care homes which is only 5% of his workload so there is no need for another one. Helensburgh was busier in years gone by with Faslane but that was not the case now and there was less financial gain for everyone. He asked the Committee to take on board the results and the costs of the survey and that he had no objection to a private hire licence.

Questions from Applicant

Mr Barlas asked how they deal with electric wheelchairs. Mr Gallagher advised that there were not many electric wheelchairs and the majority of them don't need taxis. Mr Barlas asked what if they required to go further distances. Mr Gallagher replied that they could book the existing taxi that takes wheelchairs.

Members' Questions

Councillor Trail asked how he was going to run his business from Basingtoke. Mr Barlas explained that he would be moving to the Kilcreggan area if he was granted his licence. Councillor Trail asked after hearing from Mr Gallagher and that care / nursing homes would only be a small % of work, did he think his model was workable. Mr Barlas said he had received feedback from the homes to say that they would use his service although he couldn't say how much.

Councillor N MacIntyre asked Mr Gallagher, with 55 drivers in the area, how many firms were there. Mr Gallagher advised there were 2 firms.

The Chair asked about the two licences granted in Basingstoke. Mr Barlas advised that one was for his badge and the other for his plate for the same vehicle.

Summing Up

Objectors

Mr Gallagher advised that he had previously outlined the situation, the costs of the survey, there was no unmet demand and that the Committee take on board the results of the survey.

Applicant

Mr Barlas believed that the wheelchair access in his vehicle would be beneficial as customers could phone ahead and book. He could take on work from care homes, nursing homes and school transport. He advised that he would be adding a mini bus service for private hire at a later stage if his business was successful. He stated that the Policy and Resources Committee meeting in August had agreed the rural settlement fund to support businesses moving into the area and that he would be employing drivers.

When asked, both parties confirmed that they had received a fair hearing.

Debate

Councillor Trail stated that although it would be advantageous to have an additional wheelchair taxi he felt that the business model as proposed would not work as the applicant had not investigated the true demand and that most of this time would be spent at the rank. He was minded not to grant the licence.

Councillor N MacIntyre was sympathetic to the applicant wanting a job but felt there was no unmet demand in Helensburgh and that the applicant should apply for a private hire licence. He was also minded not to grant the licence.

The Chair advised that he agreed with Councillors Trail and MacIntyre that 4 care homes would not provide enough work and there was no unmet demand at the rank. He advised that the applicant should apply for a private hire licence as a Hackney cab would be unique for the area and could attract advance booking business.

Decision

The Committee unanimously determined not to grant Mr Barlas a taxi operator licence on the basis that there was no unmet demand at this time having regard to the Halcrow study and the submissions made the taxi association objectors as to the further decline in the market since the study was completed.

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

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 14 DECEMBER 2016**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Alistair MacDougall	Councillor Alex McNaughton
Councillor Neil MacIntyre	Councillor Richard Trail
Councillor Robert G MacIntyre	

Attending: Charles Reppke, Head of Governance and Law
Kate Connelly, Solicitor
Sergeant Iain MacNicol, Police Scotland
Heather Murray, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Colville, Currie, Freeman, McCuish, McQueen and Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING - LATE HOURS CATERING LICENCE (R GHARIB, T/A MR KEBAB, HELENSBURGH)

The Chair adjourned the meeting at 3.00pm and reconvened at 4.00pm.

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

The Committee were advised that neither Mr Gharib nor his Agent Mr Archie MacIver were in attendance and that an e-mail had been received from his Agent requesting the continuation of the hearing due to insufficient notice of the hearing and the non availability of his representative. Mr Reppke advised that notice of the hearing had been issued in accordance with normal procedures and that the Committee may want to hear from the Police. Sergeant MacNicol advised that he would be happy to proceed with the hearing with the Committee's agreement. The Chair advised that in view of previous history of Mr Gharib, as detailed in the letter requesting suspension of the licence, his view was that the hearing should be considered today.

The Committee agreed to proceed with the hearing.

The Chair then outlined the procedure that would be followed and invited Police Scotland to speak to the Chief Constable's complaint in respect of the late hours catering licence held by Mr Gharib trading as Mr Kebab.

Police Scotland

Sergeant MacNicol referred to a letter of representation submitted by the Chief Constable which advised of the detailed circumstances of two illegal immigrants who were found to be working within Mr Gharib's premises at Mr Kebab. Sergeant MacNicol read out the letter and highlighted points to the meeting. In light of this, the suspension of Mr Gharib's licence was requested as he was clearly no longer a fit and proper person to hold a late hours catering licence in the view of the Chief Constable.

Members' Questions

Councillor Trail asked what the terms of the licence were. Mr Reppke advised that the licence covered trading from 11.00pm until later in the evening this varied depending on the days of the week with later hours at the weekend.

Councillor Blair asked if other regulatory services were aware of the situation given the detail of illegal working. Mr Reppke stated that checks were carried out by other services but not for the right to work.

Councillor MacIntyre enquired what could be done regarding his business operating within the law during normal trading hours. Mr Reppke advised that the Police would no doubt continue to keep this under review.

The Chair sought clarity on the word "appears" in the Chief Constables representation. Sergeant MacNicol stated that Mr Gharib was definitely employing illegal immigrants and it appeared these started not long after the last hearing.

Summing Up

Police Scotland

Sergeant MacNicol referred to the previous hearing and that Mr Gharib had allegedly been employing illegal immigrants. There are other aspects to be taken into consideration with regard to wages being paid in cash and accommodation also being provided by Mr Gharib and as a result the possible exploitation of these immigrants.

When asked, Police Scotland confirmed that they had received a fair hearing.

Decision

The Committee unanimously agreed to suspend Mr Gharib's late hours catering licence. The Committee then determined that the suspension should commence from Monday 19 December 2016 and that the period of suspension shall be the remainder of the unexpired term of his licence as it was considered that he was no longer a fit and proper person to be the holder of the licence given the circumstances narrated in the letter requesting suspension of the licence.

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

4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: SUSPENSION HEARING - LATE HOURS CATERING LICENCE (R GHARIB, T/A FLAMINGO, HELENSBURGH)

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

The Committee were advised that neither Mr Gharib nor his Agent Mr Archie MacIver were in attendance and that an e-mail had been received from his Agent requesting the continuation of the hearing due to insufficient notice of the hearing and the non availability of his representative. Mr Reppke advised that notice of the hearing had been issued in accordance with normal procedures and that the Committee may want to hear from the Police. Sergeant MacNicol advised that he would be happy to proceed with the hearing with the Committee's agreement. The Chair advised that in view of previous history of Mr Gharib, as detailed in the letter requesting suspension of the licence, his view was that the hearing should be considered today.

The Committee agreed to proceed with the hearing.

The Chair then outlined the procedure that would be followed and invited Police Scotland to speak to the Chief Constable's complaint in respect of the late hours catering licence held by Mr Gharib trading as Flamingos.

Police Scotland

Sergeant MacNicol referred to a letter requesting suspension of the licence submitted by the Chief Constable which advised of the detailed circumstances of two illegal immigrants who were found to be working within the premises at Flamingos. Sergeant MacNicol read out the letter and highlighted points to the meeting. In light of this, the suspension of Mr Gharib's licence was requested as he was clearly no longer a fit and proper person to hold a late hours catering licence in the view of the Chief Constable.

When asked Police Scotland confirmed that they had received a fair hearing.

Decision

The Committee unanimously agreed to suspend Mr Gharib's late hours catering licence. The Committee then determined that the suspension should commence from Monday 19 December 2016 and that the period of suspension shall be the remainder of the unexpired term of his licence as it was considered that he was no longer a fit and proper person to be the holder of the licence given the circumstances narrated in the letter requesting suspension of the licence.

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

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ARGYLL AND BUTE COUNCIL**PLANNING, PROTECTIVE
SERVICES AND LICENSING
COMMITTEE****CUSTOMER SERVICES****18 January 2017**

CIVIC GOVERNMENT (SCOTLAND) ACT 1982**PUBLIC ENTERTAINMENT LICENCES**

1.0 EXECUTIVE SUMMARY

The main purpose of this report is to advise Members of the amendment to the Civic Government (Scotland) Act 1982 in relation to public entertainment licencing, Prior to the amendment a public entertainment licence was not required for licensed premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided during the licensed hours within the meaning of the 2005 Act. This meant that where an occasional licence was in effect a public entertainment licence was not required.

From 1st November 2016 this provision has been amended so that the exemption is now only applicable to premises in possession of a premises licence within the meaning of section 17 of the 2005 Act. This will have an impact on voluntary organisations running events which previously would have only had to apply for an occasional licence. Now if voluntary organisations are running an event requiring a public entertainment licence, such as a dance, they will also have to apply for a public entertainment licence.

RECOMMENDATIONS

- (a) The Committee are asked to confirm their preferred option for charges applicable to voluntary organisations in relation to temporary public entertainment licence fees, as listed below They wish to continue not charging a fee for events (indoor or outdoor) where the event is organised by a formally constituted voluntary group based in Argyll and Bute
- (b) They wish to amend the charging regime so that there is no fee for the first two events with subsequent events charged at £40
- (c) An alternative charging arrangement as identified by Members.

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CIVIC GOVERNMENT (SCOTLAND) ACT 1982

PUBLIC ENTERTAINMENT LICENCES

1. SUMMARY

- 1.1** There has been an amendment to the Civic Government (Scotland) Act 1982 in relation to public entertainment licencing, Prior to the amendment a public entertainment licence was not required for licensed premises within the meaning of the Licensing (Scotland) Act 2005 in which public entertainment is being provided during the licensed hours within the meaning of the 2005 Act. This meant that where an occasional licence was in effect a public entertainment licence was not required.
- 1.2** From 1st November 2016 this provision has been amended so that the exemption is now only applicable to premises in possession of a premises licence within the meaning of section 17 of the 2005 Act. This will have an impact on voluntary organisations running events which previously would have only had to apply for an occasional licence. Now if voluntary organisations are running an event requiring a public entertainment licence, such as a dance, they will also have to apply for a public entertainment licence.

2. RECOMMENDATIONS

- 2.1** The Committee are asked to confirm their preferred option for charges applicable to voluntary organisations in relation to temporary public entertainment licence fees, as listed in section 3.4 below.

3. DETAIL

- 3.1** The licensing provisions of the Civic Government (Scotland) Act 1982 have been amended to restrict the exemption from public entertainment licensing requirements to specify that the exemption is only applicable to premises in possession of a premises licence within the meaning of section 17 of the 2005 Act. This would result in those in possession of an occasional licence no longer being exempt from public entertainment licensing requirements.

In terms of the Licensing Scotland Act 2005 a Licensing Board may issue in respect of any one voluntary organisation in any period of 12 months—

(a) not more than 4 occasional licences each having effect for a period of 4 days or more, and

(b) not more than 12 occasional licences each having effect for a period of less than 4 days,

- provided that, in any period of 12 months, the total number of days on

which occasional licences issued in respect of the organisation have effect does not exceed 56. The fee for an occasional licence for a voluntary organisation is £10.

- 3.2** The Council on 27th June 2014 agreed that no public entertainment licence fee would be payable for [following a recommendation of this Committee on 22nd May 2013] events (indoor or outdoor) where the event is organised by a formally constituted voluntary group based in Argyll and Bute.

In terms of the Council's resolution a public entertainment licence requires to be obtained in relation to a range of specific classes of entertainment namely:-

Amusement arcades, boxing, wrestling, judo or similar presentations, circuses, concerts, dancing, discotheques, roller discos, fairgrounds, ice rinks and leisure centres (with audience accommodation) snooker or billiard halls, theatrical performances, video shows.

When the Committee considered the issue of charging fees for applications for voluntary and charitable groups on 22nd May 2013 it was estimated 27 temporary entertainment licences were granted so the loss of income was estimated at £3375.

- 3.3** It is estimated that this amendment to the licensing regime will result in approximately 140 number of events run by voluntary groups now needing a public entertainment licence which if the current charging regime of no fee continues would lead to an income of £18,060 if fees were charged at the usual rate of £125.

- 3.4** In terms of the Civic Government Scotland Act 1982 the licensing authority requires to seek to ensure that the total amount of fees received by them is sufficient to meet the expenses incurred by them in carrying out the functions under the Act.

Members are asked to consider whether :-

(a) They wish to continue not charging a fee for events (indoor or outdoor) where the event is organised by a formally constituted voluntary group based in Argyll and Bute.

(b) They wish to amend the charging regime so that there is no fee for the first two events with subsequent events charged at £40.

(c) An alternative charging arrangement as identified by Members.

4. CONCLUSION

- 4.1** This legislative change will potentially have a detrimental effect on the capacity of voluntary organisations to hold licensed events. Members may determine that the fees payable by these organisations should be waived or reduced as detailed at section 3.4 above.

5. IMPLICATIONS

- 5.1** Policy –potentially significant impact depending on option selected.
- 5.2** Financial – Options will result in reduced income to the Council.
- 5.3** Legal – Options may lead to breach of the statutory requirement for local authorities to ensure fees received are sufficient to meet the expenses incurred in exercising its functions as licensing authority.
- 5.4** HR – None identified.
- 5.5** Equalities – require assessment to assess potential impact on relevant groups.
- 5.6** Risk – potential financial and legal risks as detailed above.
- 5.7** Customer Service- if option selected is linked to significant change in current arrangements, consultation may be appropriate.

Douglas Hendry
Executive Director of Customer Services
Policy Lead: Cllr David Kinniburgh

December 2016

For further information contact: Sheila MacFadyen, Senior Solicitor
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ARGYLL AND BUTE COUNCIL**PLANNING, PROTECTIVE
SERVICES AND LICENSING
COMMITTEE****CUSTOMER SERVICES****18 January 2017**

CIVIC GOVERNMENT (SCOTLAND) ACT 1982**TAXI FARE SCALE REVIEW**

1.0 EXECUTIVE SUMMARY

In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis. The new fare structure requires to come into force by 25th July 2017. The fares were last reviewed by members on 21st October 2015 and took effect on 25th January 2016.

2.0 RECOMMENDATIONS

The Committee are asked to:

- Review the existing scales and publish them proposing a date when the proposed scales shall come into effect.
- Authorise the Head of Governance and Law to advertise the proposed changes to tariffs and to invite any responses within one month of the advertisement and report back to members at their meeting in March 2017.
- Should no objections or representations be received in relation to the proposal delegate authority to the Head of Governance and Law in consultation with the Chair of PPSL to conclude the review without the requirement for the Committee to consider a further report on the review.

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE
SERVICES AND LICENSING
COMMITTEE

CUSTOMER SERVICES

18 January 2017

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

TAXI FARE SCALE REVIEW

1. SUMMARY

1.1 In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis. The new fare structure requires to come into force by 25th July 2017. The fares were last reviewed by the Council on 21st October 2015 and the decision not to increase the fares took effect from 25th January 2016:-

1.2 The current maximum fares are:

Tariff 1 £3.00 (hiring between 7am and 10pm)
Initial charge (860 yards or part thereof)
Subsequent charge (each 176 yards or part thereof)

Tariff 2 £3.60 (hiring between 10pm and 7am)
Initial charge (860 yards or part thereof)
Subsequent charge (each 150 yards or part thereof)

Tariff 3 £4.20 (public holidays)
Initial charge (860 yards or part thereof)
Subsequent charge (each 120 yards or part thereof)

Charges in respect of soiling, waiting and telephone bookings are £100 (maximum), 35p per minute and 30p respectively.

RECOMMENDATIONS

2.

The Committee are asked to:

2.1

- Review the existing scales and publish them proposing a date when the proposed scales shall come into effect.
- Authorise the Head of Governance and Law to advertise the proposed changes to tariffs and to invite any responses within one month of the advertisement and report back to members at their meeting in March 2017.
- Should no objections or representations be received in relation to the

proposal delegate authority to the Head of Governance and Law in consultation with the Chair of PPSL to conclude the review without the requirement for the Committee to consider a further report on the review.

DETAIL

3.

3.1 All 133 taxi operators were invited to consultation meetings. These meetings took place in each of the following areas and an indication of those in attendance is provided.

3 from Campbeltown/Kintyre
1 from Lochgilphead/Mid Argyll
3 from Oban/Lorn
3 from Helensburgh/Lomond
2 from Rothesay/Bute
4 from Dunoon/Cowal

Operators were asked for their views on taxi fares and whether they felt they should be increased. The general consensus from the meetings is as follows:-

Cowal

The view was that the market was so poor that no increase should be sought at this time, as many operators are already discounting the maximum fares to customers.

Lomond

The view was that the market was poor that no increase should be sought at this time, there might need to be an earlier review if fuel prices keep rising over the next year or so.

Oban

The view was that the market was so poor that no increase should be sought at this time, as many operators are already discounting the maximum fares to customers.

Kintyre

The view was that the market was so poor that no increase should be sought at this time, as many operators are already discounting the maximum fares to customers.

Mid Argyll

The view was that the market was so poor that no increase should be sought at this time.

Bute

The view was that the market was so poor that no increase should be sought at this time, unless fuel prices jumped substantially.

3.2

On 3rd November 2016 a letter was issued to all taxi operators requesting their views on taxi fares by 2nd December 2016. As a result of the latest consultation 4 written responses were received, 2 from Lorn, 1 from Cowal and 1 from Lomond requesting no increase be made.

3.3 Enquiries were made with Highland Council and Aberdeenshire Council regarding their existing taxi charges for the purpose of comparison and the findings are noted below.

	Argyll and Bute Existing Fares	Aberdeenshire Council's Fares	Highland Council's Fares
Tariff 1	£3.00 860 yards then 176 @ 20p	£2.60 880 yards then 1/11 of a mile @ 20p	£2.70 785 yards then 130 @ 10p
Tariff 2	£3.60 860 yards then 150 @ 20p	£3.60 880 yards then 1/11 of a mile @ 20p	£3.30 560 yards then 92 @ 10p
Tariff 3	£4.20 860 yards then 120 @ 20p	£3.90 880 yards then 1/11 of a mile @ 30p	£3.90 444 yards then 74 @ 10p

It should be noted that Highland Council are currently reviewing their fares and the general effect of the proposed changes for tariff 1 the price of the first mile to be increased from £3.80 to £3.90 and the price per mile thereafter to be increased from £1.40 to £1.50p.

3.4 The Committee are advised that the National Statistics website detailed that prices overall rose this year. The price of petrol, as recorded for the Retail Price Index, rose by 1.0 pence per litre between September and October 2016, to stand at 112.3 pence per litre, compared with a fall of 1.6 pence per litre last year to stand at 109.0 pence per litre. Diesel prices rose by 1.0 pence per litre, to stand at 114.4 pence per litre in October 2016, compared with a rise of 0.9 pence per litre last year to stand at 110.8 pence per litre.

4. CONCLUSION

4.1 Members are now required to review the matter of taxi fares. As previously advised in terms of Section 17 the procedure for reviewing taxi fares has changed.

In carrying out a review, the licensing authority must-

- (a) consult with persons or organisations appearing to it to be, or to be representative of, the operators of taxis operating within its area,
- (b) following such consultation –
 - (i) review the existing scales, and
 - (ii) propose new scales (whether at altered rates or the same rates)
- (c) publish those proposed scales in a newspaper circulating in its area-
 - (i) setting out the proposed scales
 - (ii) explaining the effect of the proposed scales
 - (iii) proposing a date on which the proposed scales are to come into effect, and
 - (iv) stating that any person may make representations in writing until the relevant date, and

(d) consider any such representations

In reviewing the matter of taxi fares members are invited to consider whether;

- A)** They wish to accept the general consensus from all the taxi meetings and the 4 written responses received that no increases to fares are made.

When considering all of the above proposals members may wish to have regard to:-

1. The lack of representation or response to the proposed review of taxi fare scales for or against from consultees. A total of 133 were consulted with 4 providing written representations.
2. The comparison of the general effect of Argyll and Bute's existing fares with those in place in Aberdeenshire and Highland Council.
3. The fluctuation in the price of fuel.

- B)** They wish to reaffirm the current scale of maximum fares previously reviewed by the Council in October 2015 which came into force 25th January 2016 also having regard to the 4 written responses requesting that there are no increases to the taxi fares. Members may also wish to have regard to:-

1. The lack of representation or response to the proposed review of taxi fare scales for or against from consultees.

Members should be aware that any person or any persons or organisations appealing to the Traffic Commissioner to be representative of taxi operators in the area who operates a Taxi in an area for which scales have been fixed or in respect of which a review has been carried out will still have the opportunity to lodge an appeal to the Scottish Traffic Commissioner within a 14 day period.

5. IMPLICATIONS

5.1 Policy – None

5.2 Financial – None

5.3 Legal – The Council require to review taxi fares in terms of the Civic Government (Scotland) Act 1982

5.4 HR – None

5.5 Equalities – None

5.6 Risk – None

Douglas Hendry
Executive Director of Customer Services
Policy Lead: Cllr David Kinniburgh
December 2016

For further information contact: Sheila MacFadyen, Senior Solicitor
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ARGYLL AND BUTE COUNCIL

**Planning, Protective Services and
Licensing Committee**

Customer Services

18 January 2017

Draft Service Plan 2017-20 – Planning and Regulatory Services

1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is to present to the Planning, Protective Services and Licensing (PPSL) Committee the Draft Service Plans 2017-20 for Planning and Regulatory Services. The Draft Service Plan for 2017-20 supports the delivery of the Corporate Plan.

1.2 The Strategic Management Team agreed at their meeting on 19th September 2016 to proceed with three-year service plans with a one-year budget, the Draft Service Plan attached covers the 2017-20 period. The budget for 2017-18 will be included once the budget settlement figure is known.

1.3 It is recommended that the PPSL Committee note the attached Draft Service Plan 2017-20 for Planning and Regulatory Services.

ARGYLL AND BUTE COUNCIL

Customer Services

Planning, Protective Services and
Licensing Committee

18 January 2017

Draft Service Plan 2017-20 – Planning and Regulatory Services

2.0 INTRODUCTION

2.1 The Strategic Management Team agreed at their meeting on 19th September 2016 to proceed with three-year service plans with a one-year budget, the Draft Service Plan attached covers the 2017-20 period. The budget for 2017-18 will be included once the budget settlement figure is known.

3.0 RECOMMENDATIONS

3.1 It is recommended that the PPSL Committee note the attached Draft Service Plan 2017-20 for Planning and Regulatory Services.

4.0 DETAIL

4.1 The Strategic Management Team agreed at their meeting on 19th September 2016 to proceed with three-year service plans with a one-year budget, the Draft Service Plan attached covers the 2017-20 period. The budget for 2017-18 will be included once the budget settlement figure is known.

4.2 Work was undertaken by HR&OD to improve the format, consistency and use of plain language in service plans. This has resulted in the previous 63 Service Outcomes being replaced with 32 Business Outcomes; the use of Access rather than Excel; Service Plans becoming 2-part with a strategic 'locked-down' top level and operational, flexible lower level. These changes support high-level scrutiny and strategic focus by Elected Members.

4.3 The Draft Service Plans 2017-20 include key Improvements that each service has identified it will work towards.

4.4 Operational Risks will be aligned to the Challenges set out in the Draft Service Plans as identified by Services. The service-led Challenges will provide a more robust and appropriate source for the operational risks.

4.5 HR&OD supported Heads of Service through the service planning process and undertook a robust quality assurance exercise.

4.6 The Draft Service Plans will clearly identify how different services are contributing to the same Business Outcome along with the appropriate resources.

4.7 Two Business Outcomes focusing on Education – BO19 and BO20 - have been combined to remove reference to Primary and Secondary. This is in line with the holistic approach taken throughout the education system from pre-school to leavers' destinations.

5.0 CONCLUSION

5.1 The Draft Service Plan 2017-20 for Planning and Regulatory Services is presented in a new format to support high-level scrutiny and strategic focus by Elected Members with a more consistent use of plain language throughout and aligned to the delivery of the Corporate Plan.

6.0 IMPLICATIONS

6.1 Policy - None

6.2 Financial - None

6.3 Legal - None

6.4 HR - None

6.5 Equalities - None

6.6 Risk - None

6.7 Customer Service – The format of the Draft Service Plans for 2017-20 was developed after taking into account customer feedback from previous years.

Executive Director of Customer Services

9 December 2016

For further information contact: Jane Fowler, Head of IHR.

APPENDICES

Appendix 1 – List of Business Outcomes

Appendix 2 - Draft Service Plan 2017-20 for Planning and Regulatory Services.

Business Outcomes_All	
BORef	Business Outcome
BO01	The health of our people is protected through effective partnership working
BO02	Lifelong participation in sport and physical activity are increased
BO03	Prevention and support reduces homelessness
BO04	Benefits are paid promptly and accurately
BO05	Information and support are available for everyone
BO06	Quality culture, archives, libraries and museums are provided to promote wellbeing
BO07	Our communities benefit from the development of renewables
BO08	The third sector has increased capacity to support sustainable communities
BO09	Our assets are safe, efficient and fit for purpose
BO10	Quality of life is improved by managing risk
BO11	There is no place for discrimination and inequality
BO12	High standards of Public health and health protection are promoted
BO13	Our built environment is safe and improved
BO14	Our transport infrastructure is safe and fit for purpose
BO15	Argyll and Bute is open for business
BO16	We wholly embrace our Corporate Parenting responsibilities
BO17	The support needs of children and their families are met
BO18	Improved lifestyle choices are enabled
BO19	All children and young people are supported to realise their potential.
BO20	<i>No longer used – incorporated into BO19</i>
BO21	Our young people participate in post-16 learning, training or work
BO22	Adults are supported to realise their potential.
BO23	Economic growth is supported
BO24	Waste is disposed of sustainably
BO25	Access to and enjoyment of the natural and built environments is improved
BO26	People have a choice of suitable housing options
BO27	Infrastructure and assets are fit for purpose
BO28	Our processes and business procedures are efficient, cost effective and compliant
BO29	Health and safety is managed effectively
BO30	We engage with our customers, staff and partners
BO31	We have a culture of continuous improvement
BO32	Our workforce is supported to realise its potential
BO33	Information and support are available for our communities

Planning and Regulatory Services

The principal purpose of the Service is to:

Planning and Regulatory Services is an outward looking service which seeks to harness development opportunities, support businesses, protect the public and improve the economic, social and environmental wellbeing of the area by ensuring that development takes place in a sustainable manner.

The Service employs 107 FTE

The Service faces the following significant challenges:

To continue to demonstrate that customer care is embedded within our service delivery arrangements e.g. Building Standards retention and Planning and Regulatory attainment of Customer Services Excellence.

Responding to national and strategic review of Trading Standards.

Responding to and implementation of White Paper and Planning Bill in 2017 (which will deliver on Scottish Ministers recent (May 2016) independent review of Planning).

Implementation of Regulatory Reform Act and associated 'penalty clause' related to Planning Performance Framework.

Review of advice services in Argyll and Bute.

Retention of Building Standards verification function due for review by Scottish Government in May 2017.

The difference the Service makes:

The Service contributes to the following Business Outcomes:

BO25	PR25	Access to and enjoyment of the natural and built environments is improved
BO15	PR15	Argyll and Bute is open for business
BO23	PR23	Economic growth is supported
BO12	PR12	High standards of Public health and health protection are promoted
BO05	PR05	Information and support are available for everyone
BO27	PR27	Infrastructure and assets are fit for purpose
BO13	PR13	Our built environment is safe and improved
BO01	PR01	The health of our people is protected through effective partnership working

Planning and Regulatory Services success measures

BORef	SO Ref	Outcome success measures	Target	Timescale	Benchmark
BO01	PR01	Protecting health through the delivery of the formally approved Joint Health Protection Plan with NHS Highland, Highland Council and Argyll and Bute Council.	40% of plan achieved by 31/3/2018	Quarterly	No
BO05	PR05	Provide consumer advice and to undertake formal interventions as appropriate within 14 days from receipt of enquiry.	80%	Quarterly	Yes, nationally and through benchmarking club
BO05	PR05	The percentage of clients satisfied that they are better able to deal with their financial problems following our support and intervention.	90%	Quarterly	No
BO12	PR12	Increase the percentage of broadly compliant food businesses as a result of our enforcement interventions.	90%	Quarterly	Yes, nationally and through benchmarking club
BO12	PR12	Respond to public health incidents which have an immediate impact on public health within 20 working days.	80%	Quarterly	Yes, nationally and through benchmarking club
BO13	PR13	The percentage of our service users who are happy with our service. (Building Standards)	84%	Quarterly	G4S audit CSE benchmarking group CSE (Cross section of Local Authorities, Private sector and 3rd sector)
BO13	PR13	Produce and submit a Balanced Scorecard (Business Plan). (Building Standards)	Annual Balanced Scorecard submitted	Annually	Annual review with other 31 LA's.
BO13	PR13	Respond to Completion Certificate applications within 10 days.	80%	annually	Clyde Valley Benchmarking group

BORef	SO Ref	Outcome success measures	Target	Timescale	Benchmark
BO13	PR13	Respond to Building warrant applications within 20 days.	80%	annually	Clyde Valley Benchmarking group
BO13	PR13	Produce and submit a Continuous Improvement Plan.	Quarterly performance reports accepted by the Building Standards Division of the Scottish Government.	Quarterly	
BO15	PR15	Update and Improve our Conservation Area Appraisal Coverage.	Produce 2 Conservation Area Appraisals / annum	Annually	Explore performance measure / benchmark with other Local authorities with view to measure by end of 2016 (Suggest % of CAs with Appraisals??)
BO15	PR15	Maintaining a Local Development Plan less than 5 years old.	On track with Development Plan Scheme	Annually	Large Rural Authorities Benchmark Club: percentage of population coverage by Local Development Plan (100%); LDP scheme on track
BO15	PR15	Maintain an effective five year supply of housing land demonstrated annually in a housing land audit.	On Track	Annually	Large Rural Authorities Benchmark Club / NPPF.
BO23	PR23	Pre-application enquiries processed within 20 working days.	75%	Quarterly	Heads of Planning Scotland (HoPS) Benchmarking Group

BORef	SO Ref	Outcome success measures	Target	Timescale	Benchmark
BO23	PR23	Achieve an above national average level of application approval rates.	Above 95%	Quarterly	National Performance Statistics (Annual)
BO23	PR23	Register and neighbour notify applications within 5 days.	90%	Quarterly	Heads of Planning Scotland (HoPS) Benchmarking Group
BO23	PR23	Define the opportunities in the maritime industry sector of Argyll and Bute, and explore the feasibility of locally delivered training, apprenticeships and skills development for the marine industry in Argyll and Bute	Establish Working Group	FQ1 2017	N/A
BO23	PR23	Create a public sector asset register to develop economic growth.	Create register	2018	N/A
BO23	PR23	Determine 'All Planning Applications' quicker than the National Average.	10 Weeks	Quarterly	National Performance Statistics (Annual) + Heads of Planning Scotland (HoPS) Benchmarking Group
BO25	PR25	Increase visitor numbers to the Argyll and Bute Core Path network by promoting awareness and knowledge of footpath routes.	Create new links to online footpath guides for 30 Core Paths per annum	Annually	Explore with other access authorities (suggest % of Core Footpaths with online guide)
BO27	PR27	Develop an intervention programme to enable the necessary infrastructure be fit for purpose to deliver sites within the Local Development Plan.	Update LDP Action Programme bi-annually demonstrating progress	bi annually	Large Rural Authorities Benchmark Club

Planning and Regulatory Services service improvements

BORef	SO Ref	Improvement Action	Completion date	Source	Source detail
BO12	PR12	Development and implementation of an integrated system for delivery of successful and safe events across Argyll and Bute.	30th September 2017	Public Service Improvement Framework or other self-assessment	The improvement seeks to develop an integrated approach to event safety within the Council and implement the Safety Advisory Group model as advocated by COSLA.
BO12	PR12	Implementation and delivery of Food Safety Improvement Plan.	2019	Annual Performance Review	This improvement plan seeks to address gaps in the food safety service against the Framework standards: to prepare the Council for external audit; and to make changes to meet the new Code of Practice and other emerging food safety issues. The plan was agreed by PPSL Committee on the 21st September 2016.
BO13	PR13	Trial the building standards surveyor mobile working solution derived by Idox for building standards site inspection works.	March 2017	Employee suggestion	This improvement seeks to ensure a faster and more customer focused on site service delivery
BO15	PR15	Delivery and adaption of new signage strategy for Argyll and Bute.	April 2017	Annual Performance Review	Planning, Protective Services and Licencing Committee.

BORef	SO Ref	Improvement Action	Completion date	Source	Source detail
BO15	PR15	Trial the Place Standard Tool to conduct public consultation.	FQ2 2017	Employee suggestion	The Place Standard Tool has been devised by Scottish Government in 2016 and is the Government preferred mechanism for future LDP consultation activity.
BO23	PR23	Review Enforcement Charter and provision of Planning Enforcement Service following team re-structure.	July 2017	Annual Performance Review	Planning, Protective Services and Licencing Committee
BO23	PR23	The development of a protocol and process for involving Members in providing early key advice for major development.	July 2017	Annual Performance Review	Planning, Protective Services and Licencing Committee

ARGYLL AND BUTE COUNCIL**Planning, Protective Services and
Licensing****Development and Infrastructure****18th January 2017**

Development Plan Scheme Annual Update – Local Development Plan 2

1.0 EXECUTIVE SUMMARY

1.1 The main purposes of this report are to:-

- seek Planning, Protective Services and Licensing Committee approval of the attached updated Development Plan Scheme (DPS), including its associated Participation Statement
- obtain authority to publish the approved updated DPS and submit it to the Scottish Ministers.

1.2 The first Argyll and Bute Local Development Plan was adopted in March 2015. The process of planning for its review and replacement began in January 2016 with the preparation of the first [Development Plan Scheme](#) (DPS), as agreed at [Council](#). This is the timetable for preparing the replacement Local Development Plan 2 (LDP2). An annual update of the DPS is required to ensure we are still on track in terms of preparation of the LDP2 and to make any necessary adjustments. Appendix A contains the updated DPS. The preparation of the DPS is a requirement under the Planning Etc. (Scotland) Act 2006.

1.3 This report presents the second (updated) Development Plan Scheme. It sets out key milestones in the LDP2 process and how people can become engaged at those stages. It also provides a timetable that will deliver LDP2 within the required 5 year period from adoption of the current Local Development Plan. An up to date DPS and up to date local development plan are key performance indicators for the Scottish Government.

1.4 Key points to note are:-

- there has been no significant change to the original DPS in this update as the LDP2 process is currently on target
- the Council's statutory duty in respect of producing the Development Plan Scheme;
- the proposed timetable meets with the statutory requirements, which are linked to performance indicators;
- the governance regime to ensure the LDP is delivered timeously in an effective and efficient manner was agreed by Council, January 2016, including approval of the DPS by PPSL

1.5 It is recommended that the PPSL :-

- i) notes the contents of this report;
- ii) approves the updated Development Plan Scheme (DPS) attached in Appendix A of this report for publication and submission to the Scottish Ministers.

ARGYLL AND BUTE COUNCIL

PPSL

Development

18th January 2017

Development Plan Scheme – Local Development Plan 2

2.0 INTRODUCTION

2.1 The Planning Etc. (Scotland) Act 2006 requires each Planning Authority to prepare and keep up to date a Local Development Plan (LDP). This means preparing Local Development Plan 2 to replace the Argyll and Bute Local Development Plan, Adopted March 2015 for the area before March 2020. The process involves a number of statutory stages and significant engagement with communities, developers, key agencies, councillors and other stakeholders. The **Development Plan Scheme (DPS)** sets out the timetable and consultation process for Local Development Plan 2 and is required to be prepared annually. This appendix to this report contains the updated DPS.

3.0 RECOMMENDATIONS

3.1 It is recommended that the PPSL :-

- i) notes the contents of this report;
- ii) approves the updated Development Plan Scheme (DPS) attached in Appendix A of this report for publication and submission to the Scottish Ministers.

4.0 DETAIL

Background

- 4.1 The Planning Etc. (Scotland) Act 2006 requires each Planning Authority to prepare a Local Development Plan (LDP) at least every 5 years. By March 2020 Local Development Plan 2 is required to replace the Argyll and Bute Local Development Plan, adopted March 2015. The Act sets out the preparation process and procedures associated with the production of the Plan. Given the number of statutory phases, scale of Argyll and Bute and nature of the issues to be addressed, this process will take over 3 years to complete. The planning authority is measured on its performance in respect of an up to date Local Development Plan by the Scottish Government.
- 4.2 Section 20B of the Planning Etc. (Scotland) Act 2006 requires each Planning Authority to prepare a Development Plan Scheme (DPS) at least annually. The exact requirements for the content and process of the LDP and associated DPS are set out in the Town and Country Planning (Development Planning)(Scotland) Regulations 2008.
- 4.3 The DPS sets out the Council's programme for preparing and reviewing the LDP and what is likely to be involved at each stage. The DPS includes a Participation Statement which details when, how and with whom consultation on the LDP will take place, and the Council's proposals for public involvement in the plan preparation process. In drawing up the DPS regard was had to the statutory requirements in terms of production of a Local

Development Plan as well as to good practice as set out in Planning Advice Note 3/2010 Community Engagement. The proposed updated Development Plan Scheme is set out in Appendix A to this report.

- 4.4 The DPS also makes reference to the associated documents in the LDP process, which accompany the Proposed Local Development Plan to the Examination for information purposes. These include:-the Strategic Environmental Assessment draft Environmental Report (helps identify how we can implement development so that it minimises harm to the environment); the Habitat Regulation Appraisal Record (assesses where the LDP may have a significant effect on a European sites); the proposed Action Programme (contains the likely timescale and sequence of development and also actions required to deliver the plan).
- 4.5 Once this updated DPS has been approved by PPSL it is required to be published, copies placed in all public libraries within the planning authority area and 2 copies submitted to the Scottish Ministers. There is no requirement to consult on the content of the DPS. There are no significant changes to the updated DPS as the LDP2 process is currently on target.
- 4.6 Since the first DPS the Development Policy Team have undertaken the following actions in the LDP2 process:-
- Published the DPS
 - Set up the contacts database
 - Reviewed the existing housing land supply
 - Gathered information from charrettes (Rothesay, Tiree, Lochgilphead/Ardrishaig (Crinan))
 - Undertaken Call for Sites
 - Collation of baseline materials
 - Started Pre Main Issues Report engagement

Governance

- 4.6 The timeous preparation of development plans requires rigorous and carefully planned project management. The governance arrangements, that support the delivery of LDP2 are set out in the DPS and were approved by Council in January 2016.
- The key stages of i) the Proposed Local Development Plan consultation (setting out the Council's settled view); ii) the submission for Examination (Council's response to any outstanding objections); and iii) decision to Adopt, go directly to full Council;
 - Preparatory and sub stages of i) Main Issues Report (a range of alternatives for consultation), subsequent Development Plan Scheme revisions and Action Programme revisions go to Planning, Protective Services and Licensing Committee only.

Delivery

- 4.7 The general costs associated with the preparation of LDP2 are met from within the Development Policy budget. The original DPS was based on available resource following the Service Choices process. This was noted as placing a stronger reliance on the use of e-planning services with some consultation stages conducted online only with assistance in libraries and at service points for those with no online facilities/capability. The reduction in resources has also meant reducing some elements of the process to the statutory minimum, for example in terms of deposit locations, and adverts. This is continued in the current DPS. The LDP2 process runs up to March 2020 and therefore there is a risk that

the proposal of any additional resource reductions in the future could impact adversely on the delivery of LDP2 in line with the DPS, statutory requirements and performance indicators.

5.0 CONCLUSION

5.1 Engagement in the preparation of the LDP2 is a vital component in the new Planning Act. The updated DPS continues to set out a clear agenda for the LDP2 process and the associated public consultation as it progresses.

6.0 IMPLICATIONS

- 6.1 Policy The Development Plan Scheme sets out the timetable and consultation process for the production of the new Local Development Plan 2 that will replace the current Development Plan (Argyll and Bute Local Development Plan, adopted March 2015 and associated Supplementary Guidance) in due course.
- 6.2 Financial The cost for preparation of the DPS is contained within the Development Policy budget.
- 6.3 Legal There is a statutory duty to approve annually, publish and submit to the Scottish Ministers a Development Plan Scheme.
- 6.4 HR None
- 6.5 Equalities The Development Plan Scheme shows how the Local Development Plan consultation process will be handled to encourage engagement from all. An Equalities Impact Assessment will be undertaken as part of the LDP2 process.
- 6.6 Risk The LDP2 process runs up to March 2020 and therefore there is an uncertainty regarding resource levels. A reduction in resource levels would impact on the timetable set out in the DPS for delivery of the LDP2 and could result in failure to meet legislative requirements and Scottish Government performance targets.
- 6.7 Customer Service The Development Plan Scheme sets out how our customers can get involved in the Local Development Plan process.

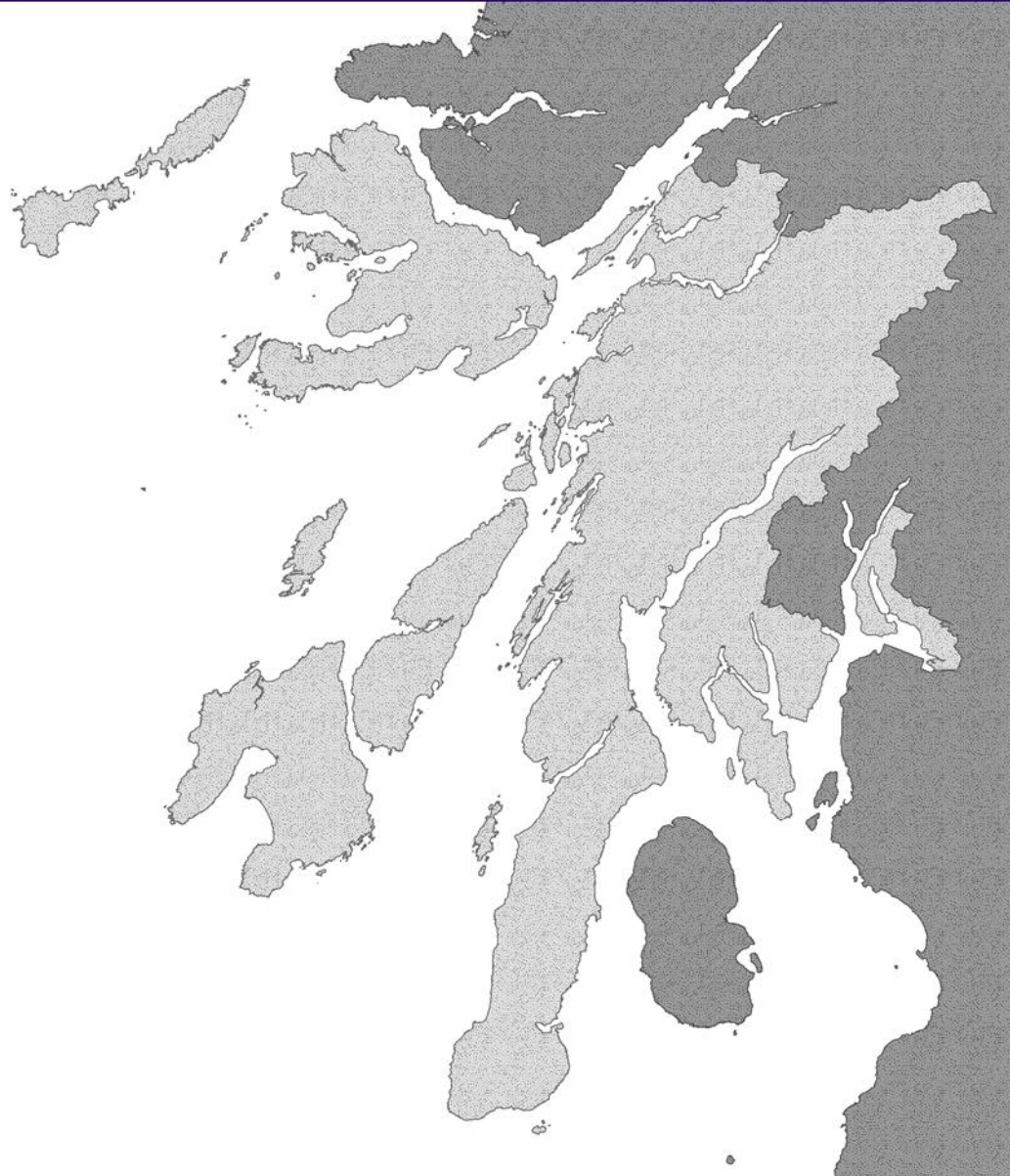
Executive Director of Development and Infrastructure : Pippa Milne
Policy Lead Cllr Kinniburgh
21st December 2016

For further information contact: Sybil Johnson 01546 604308

APPENDICES

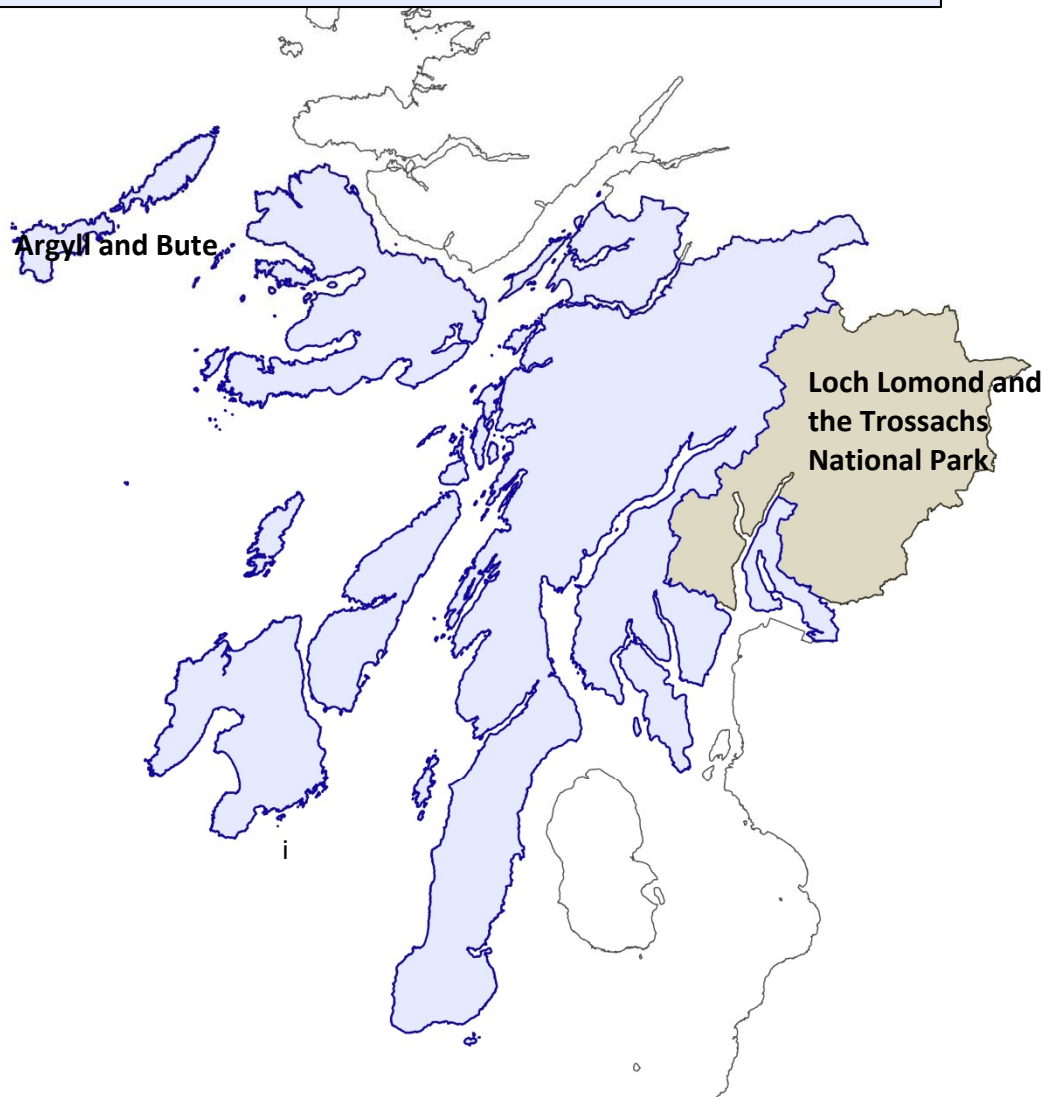
Appendix A : Development Plan Scheme : Local Development Plan 2

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Development Plan Scheme: Local Development Plan 2

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1 | What is a Development Plan Scheme?

- 1.1 This Development Plan Scheme (DPS) has been prepared to provide our communities and partners with information on our progress in updating our Local Development Plan (adopted March 2015). The Local Development Plan is the main way for showing where new development should and should not take place and for determining planning applications.
- 1.2 Whether you are a resident, landowner, developer, community representative, agent or public body your input into the process is vital. The Development Plan Scheme aims to provide you with an easy to use guide as to when, where and how you can engage in the next plan preparation process.
- 1.3 The DPS includes a timetable of when we intend to reach key stages in the process of preparing our new Local Development Plan 2 (LDP2), which will eventually replace our current adopted Local Development Plan, and also includes a Participation Statement explaining how we will engage with our communities and stakeholders. The DPS outlines:
- ◆ Why we are preparing a Local Development Plan;
 - ◆ What the process involves;
 - ◆ Who should be involved;
 - ◆ When we will undertake the stages of preparation.
- 1.4 We will update the DPS on at least an annual basis to reflect the progress of Plan preparation. This is the first update since the Development Plan Scheme was prepared in January 2016.

2 | Why are we preparing a Local Development Plan?

- 2.1 Argyll and Bute Council, as the planning authority for its area (excluding the Loch Lomond and the Trossachs National Park), has a statutory duty to prepare plans for guiding land use and development for up to ten years ahead. It is a requirement that these plans are kept up to date and so, the Local Development Plan is reviewed every five years post adoption.
- 2.2 Argyll and Bute Council adopted its current statutory plan to guide development in March 2015 – the Argyll and Bute Local Development Plan (Adopted March 2015). Supplementary Guidance which provides additional detail has also been prepared and sits alongside the Local Development Plan. Together these documents make up the statutory Development Plan. Since March 2015 the Local Development Plan has been the basis for providing advice on planning proposals, for guiding decision making on planning applications and for ensuring that the right development happens in the right place.
- 2.3 Under the legislation in the Planning etc (Scotland) Act 2006, it is required that we review the Local Development Plan and prepare a new one within 5 years from adoption of the current plan. The aim is that this new plan should be concise, focussed on areas of change, involve the community at an early stage and be updated regularly. Until the new Local Development Plan is adopted, the current Local Development Plan’s statutory status remains. Ministers expect LDPs to focus on their specific main proposals for the period up to year 10 from adoption.
- 2.4 The process for preparing the new Local Development Plan started in 2016 and to date has involved work on:-

- ◆ An assessment of all the current Allocations and Potential Development Areas to examine their effectiveness;
- ◆ A review of where major changes are occurring;
- ◆ An assessment of what we need to do to keep policies up to date and in alignment with current government policy and legislation.
- ◆ A call for and assessment of future development opportunity sites to accommodate future growth in Argyll and Bute for the next ten years, as well as giving an indication of potential into the longer term.

3 | What the process of preparing a Local Development Plan involves

National Planning context

- 3.1 Local Development Plans are influenced by a number of statutory requirements with the main Acts being the Town and Country Planning (Scotland Act) 1997 and the Planning etc. (Scotland) Act 2006. At the national level, the Scottish Government has prepared a National Planning Framework (NPF3) and Scottish Planning Policy (SPP) which provides the national policies and priorities for major new development. These will influence the development of the new Local Development Plan. Any changes as a result of the

Single Outcome Agreement

- 3.2 Local Development Plans are also influenced by a range of other plans, strategies and policies, in particular for Argyll and Bute, the [Single Outcome Agreement](#) is viewed as a “Sovereign Document”. This is prepared jointly by the Council and the other Community Planning partners and establishes the overarching policies and actions for the management of Argyll and Bute. It has an outcome focussed approach and ensures that the Community Planning Partnership’s aims are delivered in an integrated manner and aligned with Scottish Government outcomes.

- 3.3 The policies and actions with development and land use implications of the Single Outcome Agreement are reflected in the Local Development Plan (LDP). The Action Programme that has to accompany the LDP sets out how the Council proposes to implement the plan. These documents together are the drivers for change and action in Argyll and Bute and by keeping the documents updated we are able to respond to changing circumstances within the area and its communities. While the current Local Development Plan period is 2015-2020, the process to keep the Plan up to date is continual and the Single Outcome Agreement will inform the review of the current plan and preparation of the new Local Development Plan, the timetable for which is set out in this Development Plan Scheme.

Local Authority and its Partners

- 3.4 Argyll and Bute Council has the statutory responsibility for planning in the Council area, excluding the Loch Lomond and the Trossachs National Park where the Park Authority controls the planning function. It is important that all the relevant services within the Council (for example Economic Development, Roads and Amenity Services and Education) are fully engaged in the plan preparation as they are integral to the delivery of the LDP2 strategy and aims. The LDP2 will also be influenced by the priorities of other stakeholders as set out in their own strategies and programmes. The stakeholders include key agencies which the Regulations have identified as Scottish Natural Heritage; Scottish Environment Protection Agency; Scottish Water; Scottish Enterprise; Highland and Islands Enterprise; Regional Transport Partnerships; Crofting Commission; and Health Boards. The Government also require the following bodies to have the same level of involvement in the development plan process: Historic Environment Scotland; Transport Scotland; Forestry Commission Scotland; Marine Scotland and any Regional Marine Planning Partnerships. Neighbouring authorities are also consulted throughout the LDP2 process.

Our Communities

- 3.5 The input of local communities is very important. The aspirations of local communities are communicated in a number of ways, including through formal documents such as

3 | What the process of preparing a Local Development Plan involves

Community Plans. The priorities for communities influence the outcomes of the planning process. It is also important that individuals get involved in shaping the future of our area.

Development Sector

- 3.6 Developers, landowners, businesses and investors are all important to this process. Through land that they own and/or finance they are looking to invest or businesses which wish to grow or set up in the area. These interests are critical to realising the vision identified in the Local Development Plan.

Stages

- 3.7 The Local Development Plan process has a number of key stages as set out below:-

- ◆ Evidence Gathering – includes reviewing current policies, site assessment, call for sites and early engagement.
- ◆ Main Issues Report (MIR) – This is the first formal consultation. This will focus on the key areas of change since the last Local Development Plan was prepared. A range of options will be presented and comments sought. A Monitoring Report will accompany the MIR. A draft Strategic Environmental Assessment Environmental Report will also accompany the MIR to demonstrate the environmental effects of the proposals. This is the main engagement phase of the plan process and helps the Council come to a view on what should be in the plan.
- ◆ Proposed Local Development Plan 2 – having considered the comments on the MIR the Council will prepare and consult on the proposed Local Development Plan 2. The proposed Local Development Plan 2 represents the settled view of the Council. This is in two parts i) Written Statement with a strategic vision for the area and policies and proposals to help deliver this vision ii) Proposals Maps which show where the allocations and other designations are. This consultation includes neighbour notification. It is accompanied by a draft Action Programme, a revised Strategic Environmental Assessment and a Habitat Regulation Appraisal record.
- ◆ Examination – If the Council receive objections to the Proposed Local Development Plan 2 that are not resolved they will be sent to the Scottish Ministers. An Examination would then be conducted by a Scottish Government Reporter into the unresolved objections and a report produced with recommendations.
- ◆ Adoption of Local Development Plan 2 - The Council then modifies the plan as necessary, submits it to the Scottish Ministers and advertises its intention to Adopt the plan. The plan may be adopted after 28 days unless the Scottish Ministers direct otherwise.
- ◆ Action Programme - this sets out how the policies and proposals are to be delivered. It must be published by the Council within three months of adoption of Local Development Plan 2 and is to be reviewed every two years.

Governance

- 3.8 The preparation of Local Development Plan 2 is governed by a statutory process, the key stages of which are set out in this Development Plan Scheme. [Circular 6/2013](#) describes the development planning system in Scotland, and explains the legislative process in more

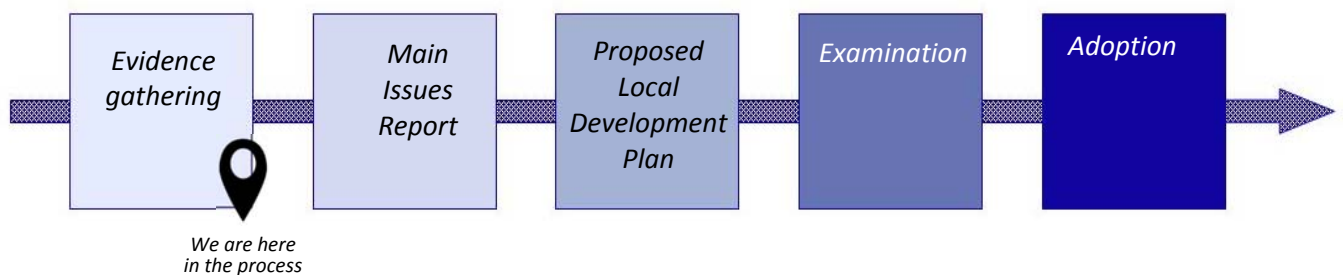
3 | What the process of preparing a Local Development Plan involves

detail. The Council, as the planning authority, controls the overarching corporate management of the Local Development Plan. This is dealt with at key stages through the Council's committee procedures and at Strategic Management Team meetings. A Project Board is responsible for providing overall direction to the delivery of Local Development Plan 2. This consists of the Development and Infrastructure Departmental Management Team plus the Head of service from Housing and Community Planning and Education. The project manager is responsible for the day to day management of the delivery of the plan and team. A communications team will meet regularly throughout the LDP2 process to ensure communications are as effective as possible.

4 | Where we are now

- 4.1 We started the process in January 2016, having adopted the Local Development Plan in March 2015. This was followed by publication of the Action Programme in June 2015. The first step was evidence gathering to help us prepare Local Development Plan 2. We started this with an assessment of our current sites to retest their effectiveness. We also started gathering information, including a Call for Sites and got involved with communities taking forward community based plans for Tiree, Crinan Corridor and Rothesay, all of which will help inform LDP2.
- 4.2 Currently we are finishing the information gathering stage and assessing the data we have collated. Next we will undertake pre Main Issues Report engagement with communities, key agencies and other stakeholders. Following this we will be able to publish the Main Issues Report for consultation.
- 4.3 We have set up a contacts database of those who require to or would like to be engaged in the Local Development Plan 2 process. If you would like to be added to this please let us know (find out how to contact us in section 8).

Local Development Plan 2 – Process



5 | The Next Steps

- 5.1 During 2017 we will be assessing information, such as that provided during the Call for Sites. We will undertake pre Main Issues Report engagement with communities, key agencies and other stakeholders through the use of the Place Standard Tool and by holding a Key Ideas Discussion. We will also continue to be actively involved with communities to help deliver community plans which can feed spatial priorities into the LDP, including Oban and Dunoon.
- 5.2 All the information from this initial work will help us draw up the Main Issues Report for public consultation in September 2017. This will contain options and ask for opinions and comments from you on these options. This is the first statutory consultation of the LDP2 process. The Main Issues Report will show our preferred longer term vision for Argyll and Bute and how we hope to deliver that during the period 2020 – 2025 and beyond. The Main Issues Report will show a number of options and we will ask questions about these options. Your comments at this stage will help us draw up the Proposed Local Development Plan to deliver sustainable development in Argyll and Bute.
- 5.2 It is important to be engaged as early as possible in the Local Development Plan process so that your views can be taken into account. The Main Issues stage is one where we are asking questions and seeking views. Once we have these views we can produce the Proposed Local Development Plan, which is the “settled view of the Council”.

6 | Participation Statement : how you can get involved

6.1 Community engagement is important in the Planning process and has influenced the plans policies and proposals.

6.2 At key stages we will consult:

- ◆ stakeholders/key agencies in the public sector (such as key government agencies,
- ◆ the neighbouring local authorities and Loch Lomond and the Trossachs National Park, statutory bodies, and non-governmental organisations;
- ◆ the private sector (such as business interests, landowners and developers);
- ◆ the local community including residents, Community Councils, community representatives, community organisations and other interested bodies.

6.3 We will use a variety of engagement techniques detailed in the engagement section below. We want to continue a discussion with all sectors of the community across Argyll and Bute but we are particularly keen to secure the views and opinions of young people and families with children and people in full time employment. These groups have been under-represented in the past and their involvement could help us look at new ways to achieve population retention and growth.

Engagement

- ◆ Provide information and consultation documents through our website – www.argyll-bute.gov.uk/ldp2, promoted by social media, email and newsletter updates
- ◆ Provide updates at key stages to those who have requested to receive updates or responded to the consultations
- ◆ Provide information through Community Councils, Council offices and local libraries
- ◆ Placing adverts in local newspapers and promoting the LDP2 process with the media
- ◆ Attend Public Meetings and other Community Meetings and Events where appropriate
- ◆ online mapping of the Proposed Local Development Plan
- ◆ Community drop-in events to be offered in key locations
- ◆ Briefing meetings to be arranged for Councillors and Government agencies
- ◆ Staff available to answer questions or provide information in person at our offices by appointment or via telephone and email
- ◆ Regular consultation updates to be provided during the consultation via blogs on our website promoted by social media
- ◆ Social media: Information feeds and sharing feedback through Facebook and Twitter
- ◆ Providing for formal comments to be submitted online
- ◆ Notify site owners / agents, tenants and neighbours of proposed development sites

6 | Participation Statement : how you can get involved

- 6.4 We have set up and will maintain a mailing list of people who we regularly contact via email/post to update on the Plan progress. If you would like to be added to this please let us know (find out how to contact us in section 8).
- 6.5 Appendix 1 sets out in greater detail the stages we will go through and the estimated timescales for engagement and consultation. It provides a detailed breakdown of the Local Development Plan process, indicative timescales and the opportunity for engagement including statutory periods of consultation.
- 6.6 A significant part of the process involves community engagement. People are welcome to make representation on the Main Issues Report, Proposed Local Development Plan 2 and draft Supplementary Guidance via the on line forms; available at www.argyll-bute.gov.uk/ldp2 and via the People's Network in the local libraries.

7 | Impact Assessment of the Local Development Plan

- 7.1 As we progress through the Local Development Plan process we will make information on the Strategic Environmental Assessment, Habitats Regulations Appraisal and the Equalities Impact Assessment available on line at www.argyll-bute.gov.uk/ldp2

Strategic Environmental Assessment

- 7.2 The Environmental Assessment (Scotland) Act 2005 requires us to carry out a Strategic Environmental Assessment of the Local Development Plan and related Supplementary Guidance. This is a process for identifying and assessing the environmental effects of proposed strategies, plans and programmes so that these are taken into account before they are approved or adopted. It is a vital tool which places environmental considerations at the heart of decision-making process and ensures that alternatives are fully and transparently regarded before final decisions are taken.

- 7.3 We will consult with Scottish Natural Heritage, Historic Environment Scotland and the Scottish Environmental Protection Agency in preparing our Strategic Environmental Assessment. This will result in an Environmental Report. There will be opportunities for everyone to comment on this document as well as on the emerging Plan and associated draft Supplementary Guidance.

Habitats Regulations Appraisal

- 7.4 We will produce a new Habitats Regulations Appraisal of the potential impacts of the proposed Local Development Plan on European Sites. This requires to be submitted to Scottish Ministers alongside the proposed Local Development Plan. There are a number of designated 'Natura' sites within Argyll and Bute and so any emerging plans and policies will have to be considered with regards to potential adverse impacts on these protected sites and species.

Equalities Impact Assessment

- 7.5 Under the Equality Act 2010 (Statutory Duties) (Scotland) Regulations 2011 we will undertake an Equalities Impact Assessment of proposed policies and practices.

8 | How to keep up to date

You can keep up to date, access information on the Local Development Plan and contact the Argyll and Bute Council Local Development Plan Team by:

Email: ldp@argyll-bute.gov.uk

Tel: 01546 604158

Making an appointment to talk to us.

Hard copies of consultations will be made available during advertised consultation periods in local libraries and at the council office, Manse Brae, Lochgilphead.

Follow Local Development Plan progress at:

www.argyll-bute.gov.uk/ldp2



And on **Twitter** at:

@ABC_Planning or

@argyllandbute



On **Facebook** at:

www.facebook.com/argyllandbutecouncil

Appendix 1 | Engagement Strategy for LDP2 – www.argyll-bute/ldp2

Activities	Stakeholders	Engagement Techniques	Communication Techniques	Indicative Timescale
Publish Development Plan Scheme				
Council approve the DPS, submit to Scottish Government and publish.	Council	Planning, Protective Services and Licensing Committee/Council process. Information dissemination.	DPS discussed at Committee. DPS available on the Council website, Development Policy Office (Manse Brae, Lochgilphead), public libraries DPS publicised through Council website www.argyll-bute/ldp2 , social media and direct e-mailshots to community councils, key agencies and others on the contacts database.	January 2016 COMPLETE NOTE : Updated annually
Pre Main Issues Report				
LDP Review; Existing site appraisal re effectiveness;	Council (in particular Roads, Economic Dev, Environmental Health, Education, Housing, Development Management) Developers Homes for Scotland Key Agencies	Technical information exchange	Direct email - Developers Meetings with relevant Council officers and Key Agencies	9 months Nov 2015 - January 2017 Housing COMPLETE
Community Planning pilots – charrettes to inform MIR.	Communities (Tiree, Lochgilphead/Ardrishaig, Dunoon, Oban, Helensburgh) Key Agencies, Scottish Canals Council	Charrette Engagement Other Community Plans Engagement	Charrettes involving intensive community engagement ran over a number of days. Publicised on Council and community websites. Press release Social media	Throughout Plan Process Commenced Nov 2015. 3 COMPLETE Oban and Dunoon anticipated 2017
Call for sites	Developers/Landowners Key Agencies	Information Gathering and analysis	Call for Sites on Council website including dedicated LDP2 page. Sites submitted through an On line form which will require key site information.	6 months June 2016 – February 2017 Call for Sites COMPLETE Analysis underway
Baseline information; contacts database	Council	Collation Publicity	Publicise LDP2 on Council website including dedicated LDP2 page	1 month August 2016 COMPLETE

Appendix 1 | Engagement Strategy for LDP2 – www.argyll-bute.gov.uk/ldp2

Activities	Stakeholders	Engagement Techniques	Communication Techniques	Indicative Timescale
Evidence Gathering/ data for monitoring report;	Council; Developers/ Landowners Key Agencies	Research, monitoring, data analysis; Engagement	Publicise; social media, press release; email shot to developers/landowners in contacts database; on line form for responses	3 months Sept 2016 – Jan 2017 UNDERWAY
Pre Engagement (including on environmental effects)	Council (in particular Councillors, Roads, Economic Dev, Environmental Health, Education, Housing, Development Management) Key Agencies Communities Scottish Ministers; SEA Gateway; Adjoining Planning Authorities; Community Planning Partnership; Stakeholders – including the business community; Representative youth groups	Engagement; Meetings with key agencies and consultation authorities;	On line survey; Community/stakeholder events Meetings with stakeholders; Business Days; Social media; Direct email to community councils, key agencies and consultation authorities; Explore capacity building work with secondary schools.	4 months – Dec 2016 – March 2017
Main Issues Report				
Prepare MIR, SEA draft Environmental Report; draft EqIA. Council approve Main Issues Report	Council SEA Gateway /Consultation Authorities	Internal/external Liaison Planning, Protective Services and Licensing Committee Full Council	Updates on dedicated Council web page www.argyll-bute.gov.uk/ldp2 Available on Council website	5 months April 2017 – September 2017
Consult on MIR accompanied by draft SEA and Monitoring Report	Council Communities Developers Landowners Business community Consultation Authorities including Key Agencies, SEA Gateway; Scottish Ministers and adjoining authorities.	Engagement Meetings/Briefings with key stakeholders Publicity	Publicised and available on Council Website dedicated page www.argyll-bute.gov.uk/ldp2 E-Newsletter to all in contacts database Direct mail to Key Agencies, adjoining authorities; Scottish Ministers and community councils Notice in local newspaper (s)	2 Months October 2017 – Nov 2017

Activities	Stakeholders	Engagement Techniques	Communication Techniques	Indicative Timescale
			Copies available in public libraries and Development Policy Office (Manse Brae, Lochgilphead) Social media. Community events -Story boarding / Meetings with stakeholders; Business Days Site specific publicity information On line representation form	
Proposed Local Development Plan				
Consider MIR Responses PLDP prepared and submitted to Council for approval. Settled view of Council	Council	Planning, Protective Services and Licensing Committee/Council process. Information dissemination.	Updates on dedicated Council web page www.argyll-bute.gov.uk/ldp2 Available on Council website	5 months Dec 2017 – April 2018
Consultation on PLDP and draft Action Programme Draft SEA Environmental Report updated.	Council Communities Developers Landowners Consultation Authorities including Key Agencies, SEA Gateway; Scottish Ministers and adjoining authorities.	Engagement Briefings with community councils Publicity	Publicised and available on Council Website dedicated page www.argyll-bute.gov.uk/ldp2 E-Newsletter to all in contacts database Direct mail to Key Agencies, adjoining authorities; Scottish Ministers, contacts database and community councils Notice in local newspaper (s) Copies available in public libraries and Development Policy Office (Manse Brae, Lochgilphead) Direct mail - Neighbour notification Social media On line representation form	3 months May 2018 – July 2018

Appendix 1 | Engagement Strategy for LDP2 – www.argyll-bute/ldp2

Activities	Stakeholders	Engagement Techniques	Communication Techniques	Indicative Timescale
Consider responses on PLDP. Prepare response (Schedule 4s) and prepare Report of Conformity with Participation Statement	Council	Internal liaison	Updates on dedicated Council web page www.argyll-bute/ldp2	3 months Aug 2018 – October 2018
Examination				
Submit Proposed Plan to the Scottish Ministers with all the supporting documents (including Habitats Regulation Appraisal record) and all the outstanding objections	Council	Planning, Protective Services and Licensing Committee/Council process. Information Publicity	Updates on dedicated Council web page www.argyll-bute/ldp2 and social media Notice in local newspaper (s) Copies available in public libraries and Development Policy Office (Manse Brae, Lochgilphead) Publish Proposed Local Development Plan as submitted on Council website	3 months Nov 2018 - January 2019
Examination of proposed plan; Reporters Report issued	Scottish Government Reporter(s) Council Objectors	Examination by written submissions/in public –Reporters remit Publicity	Updates on dedicated Council web page www.argyll-bute.gov.uk/ldp2 and social media	7 months February 2019 - August 2019
Post Examination - Consider reporters recommendations; Prepare modifications Submit to Scottish Ministers. Publish Modifications and Proposed Plan as modified. Revise SEA Environmental report, publish and send copies to Scottish Ministers alongside Habitats Regulation Appraisal Advertise Intention to Adopt	Council	Planning, Protective Services and Licensing Committee/Council process. Information Publicity	Updates on dedicated Council web page www.argyll-bute.gov.uk/ldp2 and social media	September– Nov 2019

Appendix 1 | Engagement Strategy for LDP2 – www.argyll-bute.gov.uk/ldp2

Activities	Stakeholders	Engagement Techniques	Communication Techniques	Indicative Timescale
Adoption				
Adopt LDP2 Publish post adoption SEA Statement and submit to SEA Gateway	Council	Planning, Protective Services and Licensing Committee/Council process. Information Publicity	Adopted Local Development Plan 2 available in public libraries and Development Policy Office (Manse Brae, Lochgilphead) and published on dedicated Council web page www.argyll-bute.gov.uk/ldp2 Notice in local newspaper (s) Direct mail to all those who made representations on the proposed plan. Direct mail to Scottish Ministers	December 2019
Action Programme				
Publish Action Programme	Council	Information	Publication of Action Programme on dedicated Council web page www.argyll-bute.gov.uk/ldp2 ; Copies available in public libraries; Copies sent to Scottish Ministers	



Argyll and Bute Council
Development and Infrastructure
Director: Pippa Milne

www.argyll-bute.gov.uk

Chomhairle Earra-Ghàidheal is Bhòid



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Argyll and Bute Council
Development Services

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 15/03260/PP

Planning Hierarchy: Local Application

Applicant: Mrs Iona Larg

Proposal: Erection of beach hut for Blackhouse Watersports (retrospective)

Site Address: Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree

SUPPLEMENTARY REPORT No 3

A) INTRODUCTION

Members will recall that this retrospective planning application was the subject of a discretionary local Hearing which took place at An Talla Community Hall, Crossapol, Tiree on the 28th November 2016. This Hearing was called in order to enable Members to fully consider any and all evidence put forward, both in support of the development and in objection to it and to debate the Planning Authority's recommendation that retrospective planning permission be refused for the reasons previously set out in the main report.

Shortly before this Hearing was to take place, an additional planning application for the retention of a related beach hut development at Gott Bay, Tiree (planning application reference 15/03364/PP) was withdrawn by the applicant. The withdrawal of this planning application was further confirmed by the applicant at the Hearing and a commitment was given by the applicant to remove the unauthorised building at Gott bay by Friday 6th January 2016.

In respect of the planning application for the remaining beach hut development at Balevullin Beach, the Council's published minutes state that the following Motion was put forward and accepted:

That the Committee continue consideration of retrospective planning permission to the meeting of the Planning, Protective Services and Licensing Committee on 18 January 2017 to allow Members to seek advice from officers in regard to a competent motion to support approval of the application and to allow for arrangements to be made for any requirement for an Area Capacity Evaluation (ACE).

This report advises Members of their considerations in respect of any competent motion required in order to support the approval of this application should they remain

minded to do so, plus to provide a draft Area Capacity Evaluation (ACE) for Member's consideration and critique.

B) COMPETENT MOTION TO SUPPORT THE DEVELOPMENT

Members are advised that the matter of 'competency' of any agreed motion to grant planning permission for this development contrary to the recommendation of its officers fundamentally rests upon Member's own assessment of the merits of the development proposals, in terms of their compliance (or otherwise) with key planning policy LDP DM 1.

The main report details the planning policy framework, plus all other material planning considerations, to be used in the assessment of this planning application.

Planning Policy LDP DM 1 expresses a general lack of support for development in the open countryside other than where it constitutes small scale development closely related to existing buildings as either an 'infill' development of an appropriate gap site between two or more substantial buildings; as a 'rounding off' development of an appropriate gap site between one or more substantial buildings on one side and a substantial landscape feature on the other, or as an appropriate redevelopment or change of use of an existing building.

In this specific case, there can be no reasonable claim that the proposed development is an infill, a rounding-off, a redevelopment or a change of use of an existing building. This stance has been accepted by the applicant in the published supporting statement and confirmed within evidence presented at the Hearing.

Therefore, the proposed development can only comply with the fundamental requirements of key planning policy LDP DM 1 should Members consider that the applicant's claim of an 'exceptional case' as advanced by the application and in evidence at the Hearing can be substantiated and supported. Whilst Officers have presented their detailed and considered arguments as to why, in their opinion, the advanced 'exceptional case' argument fails, Members are entitled to take an opposing view should they decide that the relevant planning considerations would reasonably lead them to that conclusion.

However, should Members be minded to draw the opposite conclusion to Officers in their assessment of the 'exceptional case' arguments put forward by the Applicant, policy LDP DM 1 requires that this exceptional case be underpinned by an ACE in order to demonstrate that the proposed development will have no unacceptable physical impact upon an identified area of 'common landscape character'.

In this regard, Officers herein attach their draft ACE for Members consideration and appraisal (Appendix A). Whilst the ACE prepared by planning officers concludes that the proposed development will indeed have a materially harmful visual impact within the identified area of common landscape character, and thus reiterates their assessment as contained within the main report and expressed at the Hearing, Members are again advised that they might arrive at a fundamentally different conclusion should they consider that the relevant planning considerations would reasonably lead them to that conclusion, and particularly given their inspection of the development, its site and the surrounding landscape characteristics at the Hearing.

C) RECOMMENDATION

It is recommended that Members note the procedural advice contained herein and the contents and conclusions of the draft ACE hereby appended. These submissions do not alter the previous recommendation to refuse the application for the reasons set out in the main report and as advanced as evidence at the Hearing.

Author of Report: Tim Williams

Date: 23rd December 2016

Angus Gilmour
Head of Planning and Regulatory Services

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APPENDIX A

**Area Capacity Evaluation – Pursuant to planning application 15/03260/PP –
Erection of beach hut for Blackhouse Watersports (retrospective), Land north-
east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree**

A. Purpose and Requirement for the ACE

The proposed beach hut is located on an open and undeveloped beach within the 'Countryside Zone' as defined in the Argyll and Bute Local Development Plan 2015 wherein the provisions of policy LDP DM 1 would ordinarily only encourage 'small scale' development on the basis of an appropriate infill, rounding off, redevelopment and change of use of existing buildings. However, in exceptional cases, development in the open countryside may be supported on appropriate sites as an 'exceptional case', based on an overriding operational/locational need and underpinned by a supporting Area Capacity Evaluation (ACE).

Whilst it is not considered that any 'exceptional case' has been demonstrated in accordance with the relevant provisions of the Local Development Plan, this ACE assessment has been undertaken in accordance with supplementary guidance SG LDP ACE 1 in order to form the basis of a critique by Members. The aim of the ACE process is simply to comprehensively and methodically assess the capacity of the landscape to successfully absorb the proposed development.

B. Area of Common Landscape Character / ACE Compartment

Having regard to SNH's 'Landscape Assessment of Argyll and the Firth of Clyde' (1996), the proposed development site is located within the limited LCT 25 'Sand Dunes and Machair' landscape type which is limited to the coastal fringes of Tiree and is also present at the southern end of Coll, at the coastal margins of Islay and in smaller pockets on Colonsay and along the west coast of southern Kintyre.

The ACE Compartment is defined by the public road on the western boundary where the land transitions from an area of gently undulating machair to an area of built development and managed croft land rising westwards; the southern boundary is defined by the public road where the land transitions from gently undulating machair to managed croft land; the eastern boundary is defined where the land transitions from rocky machair to an area of flat machair and the northern boundary is defined by the sea.

C. Key Environmental Features – Constraints & Opportunities

The SNH landscape character type assessment states that, “This is a particularly sensitive landscape in visual terms since any development would be prominent in the long coastal views. Tall features would be particularly intrusive and there is very little scope to accommodate development.” The SNH landscape character type assessment also states that all built development is likely to be prominent and the careful siting and massing of buildings will be a crucial consideration to ensure that their visual impact is minimised.

Within the compartment itself there are 5 distinct key environmental features. These are:

1. The natural public sandy beach
2. Sand dunes
3. An area of rocky machair in the eastern half of the compartment
4. An area of gently undulating machair in the western half of the compartment
5. A small area of developed land to the west of the compartment.

Key Environmental Features 1-4 are considered unique and special habitats and landscape characteristics which should be carefully conserved and within which there is very little scope to accommodate development.

Development opportunities within the ACE compartment are limited given the open, natural and exposed topography. However, within the western area of the ACE compartment there is a small linear pattern of loose croft style development which aligns with the Abhainn Bhan watercourse and which is bound by a small track. This key environmental feature may present an opportunity for a suitable site for incorporating a croft style outbuilding which could be integrated with the existing buildings.

D. Visual / Landscape Impact

The proposed development is a small, single storey timber hut which is finished in natural recessive colours and is located at the back of the beach within its south western margins. It is sited hard against a substantially elevated dune field to the rear such that it is concealed from view on the public approach to the beach, becoming evident only when the dunes are traversed from the adjoining car park, such that the development is largely contained within the beach with only limited visual impact outwith the beach itself.

However, although the development is small scale in nature and constructed in a manner and using materials which are sympathetic to the locality, its very presence on an otherwise undeveloped beach poses a serious issue, as its open and

unspoiled character forms a vital part of the area's local distinctiveness. Tiree's undisturbed beaches form a highly vulnerable 'wilderness fringe' between the land and the sea and one which should be afforded robust protection against artificial change; particularly against development in or adjacent to those areas of 'natural foreshore'.

The proposed development is sited upon an otherwise undeveloped and unspoiled beach which forms an integral and important part of the associated coastal zone; the distinctive character and quality of this vulnerable coastal location and the sense of openness and isolation which forms an intrinsic and valuable part of the 'Tiree beach experience'.

It is considered that the proposed development will partially erode these unique key landscape qualities through the introduction of a man-made structure to one of Tiree's wild beaches, and potentially set an undesirable precedent for other beach development, either on Balevullin Beach or on other similar unspoiled beaches on Tiree. Whilst it is recognised that beyond their intrinsic qualities, beaches can also provide a valued recreation/tourism asset, the exploitation of this resource should not be in a manner which diminishes their fundamental qualities, otherwise sustainable economic development is not attained.

The only possible opportunity to successfully accommodate the development within the ACE compartment is within the linear patten of development on the western edge as discussed in Section C above.

FIELD SHEET 1A Landscape Components and Key Environmental Features

Location	Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree
ACE title/ref.	15/03260/PP
Date	23/12/16

Visible, physical components of landform, its features and characteristics

High Plateau	Peak	Knoll ridge	Spur/crags	Outcrops
Corrie/gully	Low plateau	Distinct hills	Rolling hills/slopes	Glen valley
Gorge	Bench/terrace	Flats	Wide basin	Confined basin
Den	Hollows	Plain	Mounds/moraines	Cliff
Coastal brae	Bay	Headland	Beach	Intertidal

Notes:**Land cover and land use –water**

Sea	Sea loch	Intertidal	Mud/sand	Delta
Estuary	Loch	Lochans	Pools	River
Whitewater	Burn	Drain/ditch	Canal	Waterfall
Reservoir				

Notes: The ACE compartment falls partly within the intertidal water environment.

Land cover and land use – forestry, woodland and trees

Coniferous plantation	Mixed plantation	Broadleaved plantation	Semi-natural woodland	
Tree clumps/copses	Shelterbelts/tree lines	Roadside tree belts	Policy/parkland trees	
Hedgerow trees	Notable single trees			

Notes: N/A.

Land cover and land use – agriculture

Arable	Horticulture	Intensive livestock	Ley grassland	
Permanent pasture	Unimproved grassland	Rough hill grazing	Moorland	
Animals:	Cattle	Sheep	Pigs	
	Poultry	Horses	Deer	

Notes:**Land cover and land use – fields and boundaries**

Stone dykes	Dykes with fencing	Remnant dykes	Continuous hedgerows	
Hedgerows with gaps	Remnant hedgerows	Lost hedgerows	Post and wire fencing	
Post and rail fencing	High stone walls	Stone pillars	Wooden/metal gates	
Beech hedges	Hawthorn hedges			
Field size:	Very large	Large	Medium	Small
Maps/Aerial photos showing proposed ACE boundary	See attached.			

FIELD SHEET 1B Landscape Components and Key Environmental Features

Location	Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree Oban
ACE title/ref.	15/03260/PP
Date	22/12/16

Land cover and land use – other uses

Country park	Urban park	Nature reserve	Car parks	Sports field
Golf course	Angling	Camping site	Caravan site	Marine/boats
Dock/harbour	Military	Open cast coal	Sand and gravel	Hard rock industrial
Industrial	Warehousing	Airfield	Retail	Utilities

Notes:**Land cover and land use –settlements**

Nucleated	Scattered	Linear	Unplanned	Model/planned
Traditional	Modern	Mixed	Frequent	Infrequent
	Town	Village/township	Hamlet	Sprawling
Steadings:	Regular	Irregular	Absent	Frequent
	Infrequent	Small	Medium	Large
	Traditional	Modified	Extended	Converted

Notes:..**Dominant Building Materials**

Stone colour	Brick colour	Render/colourwash		
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Tile roof colour	Slate roof colour	Stone roof colour		
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Notes:

Linear Features

Motorway	Main road	B roads	Minor roads	Tracks
Road Nos/Name				
Core paths/LDR/ROW	Drove roads	Hill tracks	Derelict/operational railway	
Embankments	Cuttings	Power lines	High voltage	Low voltage
Rivers/watercourses	Overhead telephone	Pipelines	Coast/shoreline	

Notes:

Single point features

Church	Castle	Ruin	Folly/obelisk	Wind turbine
SAM/Unlisted mons	Bridge	Large house	Steadings	Signs
Mast/transmitter	Industrial site	Waste disposal site	Quarry/mine	Quarry buildings

Notes: N/A – There are no single point features within the ACE compartment

FIELD SHEET 2: Describe Experience of the Landscape & Sense Of Place

Location	Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree
ACE title/ref.	15/03260/PP
Date	22/12/16

Components of landscape experience – visible/spatial characteristics

SCALE	Intimate	Small	Large	Vast
OPENNESS	Tightly enclosed	Confined	Open	Exposed
COLOUR	Monochrome	Muted	Colourful	Garish
TEXTURE		Varied texture	Rough	Craggy
DIVERSITY		Simple	Diverse	Complex
FORM	Vertical	Sloping	Rolling	Flat/horizontal
LINE	Straight	Angular	Curved	Sinuuous
BALANCE	Harmonious	Balanced	Discordant	Chaotic
MOVEMENT	Dead	Calm	Active	Busy
PATTERN	Random indistinct	Organised irregular	Planned regular	Formal geometric
MANAGEMENT	(Semi) natural	Derelict/disturbed	Tended	Manicured

Components of landscape experience – other senses

SOUND	Silent	Quiet	Disturbed	Noisy
SMELL	Fresh	Agricultural	Coastal	Industrial
OTHER	Tranquil	Unspoilt	Meditative	

Notes:

FIELD SHEET 3: Predict and Assess Visual Impact

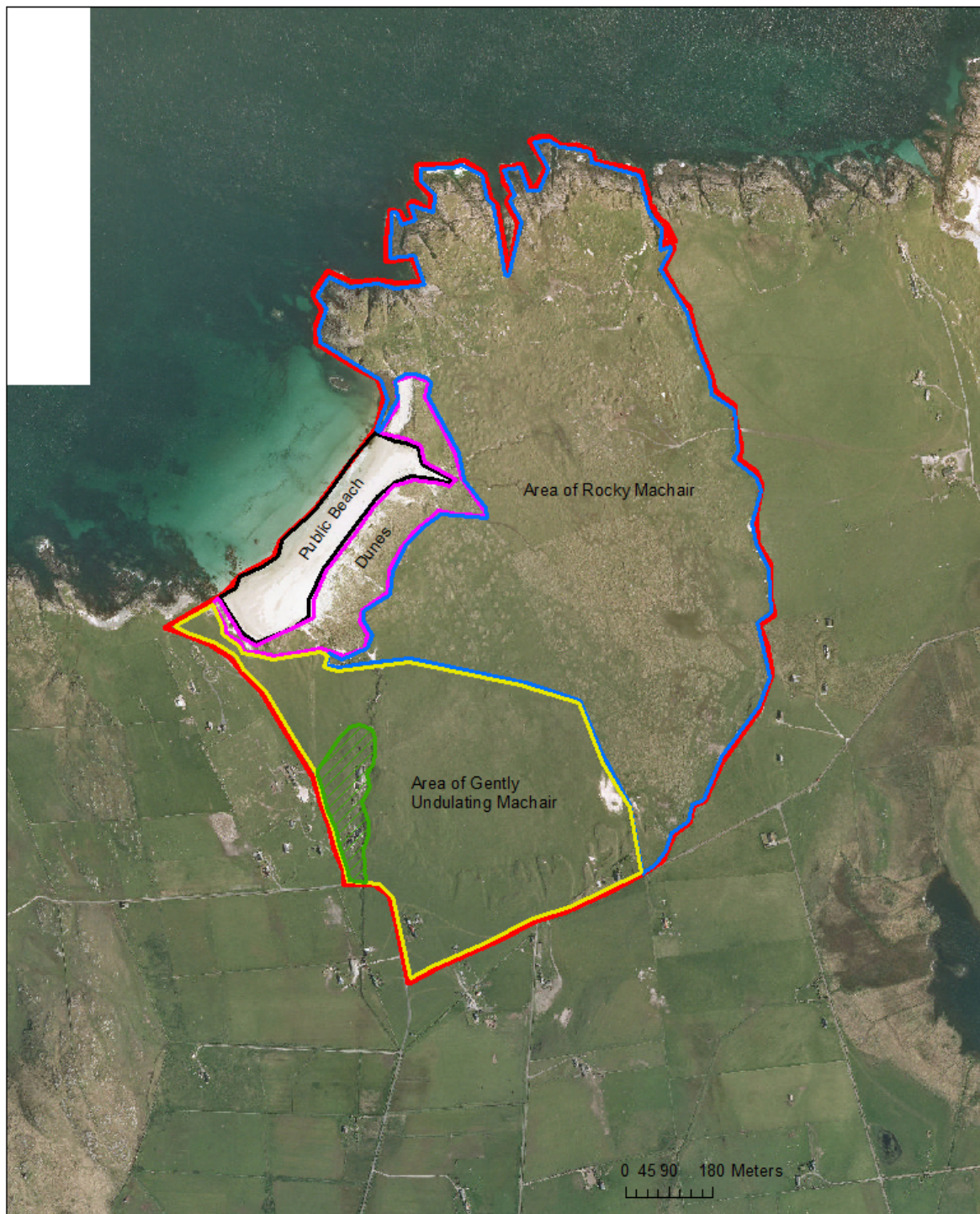
Location	Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree		
ACE title/ref.	15/03260/PP		
Date	22/12/16		
Visible, physical components of landform, its features and characteristics			
The proposed development comprises a small timber shed building sited within an open and uniform area of beach characterised and defined by its unspoilt nature, its isolation and its tranquillity.			
Visual receptors	Sensitivity of viewpoint	Impact: eg. visual intrusion/obstruction	Magnitude of impacts
Trunk roads and motorways	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types
A and B roads	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types
Minor roads	High/Medium/Low	There is an access track adjacent to the ACE compartment	Major/Moderate/Low/Negligible
Rights of way/paths/core paths	High/Medium/Low	The hut is situated in an area of informal public open space (a beach)	Major/Moderate/Low/Negligible
Important viewpoints	High/Medium/Low	The beach and its margins is considered an important public viewpoint	Major/Moderate/Low/Negligible
Railways	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types
Open space and recreation areas	High/Medium/Low	The beach is an important area of public open space and recreation. The proposed development is highly prominent and intrusive within it	Major/Moderate/Low/Negligible
Public buildings	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types	None – The ACE compartment is not experienced from these receptor types
Residential properties	High/Medium/Low	The hut is not visible from residential properties within the ACE compartment	None – The hut is not visible from residential properties within the ACE compartment
Workplaces	None – The ACE compartment is not	None – The ACE compartment is not	None – The ACE compartment is not

	experienced from these receptor types	experienced from these receptor types	experienced from these receptor types
Notes:			






FIELD SHEET 4: Predict and Assess Landscape Impact

Location	Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree		
ACE title/ref.	15/03260/PP		
Date	22/12/16		
Landscape receptors What will be affected?	Sensitivity How important is it	Impact What will the effect be?	Magnitude of impact
Landform	High/Medium/Low	The proposed development will introduce a strident and alien built feature within a natural and 'unspoilt' landscape	Major/Moderate/Low/Negligible
Water	High/Medium/Low	The proposed development will introduce a strident and alien built feature within a natural and 'unspoilt' landscape located at the edge of the sea and within the vulnerable coastal margins	Major/Moderate/Low/Negligible
Woodland and trees	High/Medium/Low/ None	The proposal will have no impact on existing woodland and trees	Major/Moderate/Low/Negligible/None
Agriculture	High/Medium/Low/		Major/Moderate/Low/Negligible/
Fields and boundaries	High/Medium/Low/		Major/Moderate/Low/Negligible/
Other land uses	High/Medium/Low	The proposed development will introduce a strident and alien built feature within a natural and 'unspoilt' beach landscape	Major/Moderate/Low/Negligible
Settlement pattern	High/Medium/Low/	The hut is not visible from residential properties within the ACE compartment	Major/Moderate/Low/Negligible/None
Linear features	High/Medium/Low	The proposed development will	Major/Moderate/Low/Negligible

		introduce a strident and alien built feature within a natural and 'unspoilt' linear coastal landscape	
Point features	High/Medium/Low/ None		Major/Moderate/Low/ Negligible/None
Aspects of landscape experience			
Colour	High/Medium/Low	The landscape consists of muted, natural colours and the proposed development will complement these provided any associated advertisements and/or flags etc can be controlled.	Major/Moderate/Low/ Negligible
Texture	High/Medium/Low	. The insertion of a building within the beach would have a major impact.	Major/Moderate/Low/ Negligible
Pattern etc.	High/Medium/Low	The insertion of a building within the beach such an environment would have a major impact.	Major/Moderate/Low/ Negligible




**Area Capacity Evaluation - 15/03260/PP
Balevullin Beach**

-  Area of Undulating Machair
-  Area of Rocky Machair
-  Public Beach
-  Dunes
-  Opportunities



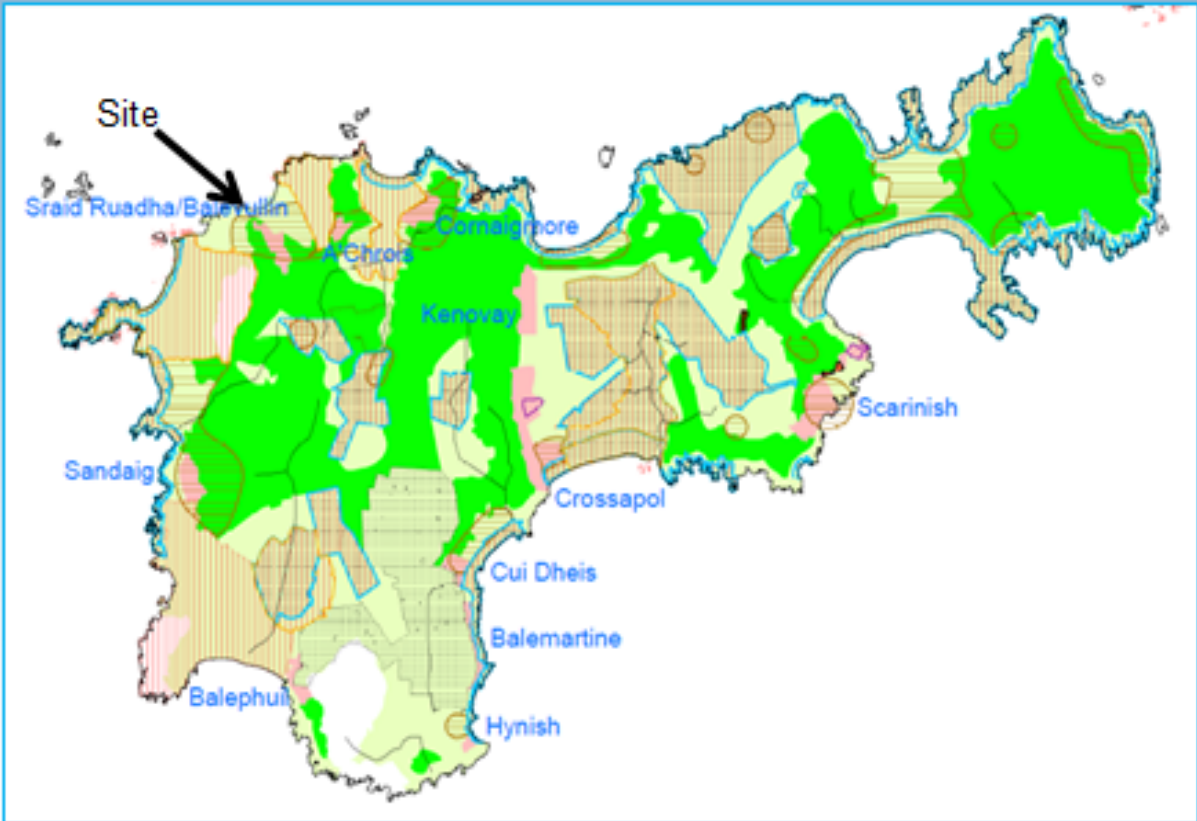
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 ACE Boundary

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Location of proposed development



Local Development Plan Context



Submitted site location plan.



View of proposed development within ACE compartment, looking due east.



Close-up view of proposed development



View of proposed development from outwith ACE compartment and looking due north.



Close-up view of proposed development from within ACE compartment and looking due south.

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Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No:	15/03260/PP
Planning Hierarchy:	Local Application
Applicant:	Mrs Iona Larg
Proposal:	Erection of beach hut for Blackhouse Watersports (retrospective)
Site Address:	Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree

SUPPLEMENTARY REPORT No 2

A) INTRODUCTION

This report advises Members of additional representations received since the publication of the main report and the subsequent publication of 'Supplementary Report No. 1'. These additional representations are both objecting to and in support of this application, together with one additional representation that offers neither support nor objection. This report also summarises the findings of a recent ballot of residents of Tiree, conducted by the Tiree Community Council.

B) ADDITIONAL REPRESENTATIONS

Additional representations have been received from the following individuals.

Objectors

- John Isaacson – 3 Upper Square, Hynish, Tiree – two additional emails (24.09.16 & 07.10.16)
- Alasdair Neill – (No address given) – (21.10.16)

The representations from Mr Isaacson serve largely as a summary of comments he has already raised and which have been reported (along with those of the other objectors) within the main report of handling. The representation from Mr Neill is new. Few new issues are raised. Those that are are summarised below.

(i) Summary of issues raised

- The beach hut has now been allowed to stand for two seasons without paying any non-domestic rates. Is this fair UK business?

- A lot of the arguments in support of the development are from visitors and could be summarised as, 'I had a good time'.
- The young people of Tiree will continue to surf without the hut, as they have done since the 1980s.

Supporters

- Gillian Walker – 43 Longsdale Crescent, Oban – (28.09.16)
- Ann Mitchell – (No address details given) – (11.10.16)
- Jonathan Mennie – 9 Skylark, Broadford, Portree, Skye – (19.09.16)
- Jonny Ewart – (Aberdeen area postcode given) – (02.10.16)
- Ruth Steen – 3 St Beunos Road, Llandudno, Conwy – (29.09.16)
- Micah Lester – (Cornwall area postcode given) – (23.09.16)
- George Noble – (Aberdeen area postcode given) – (23.09.16)
- Catriona Spink – (No address given, but refers to herself as, 'an involved member of Tiree's local community) – (24.09.16)
- Dougal Gudim – (Glasgow area postcode given) – (24.09.16)
- Russell Cruickshank – (Aberdeen area postcode given) – (23.09.16)
- Kenneth Morrison – (No address details given) – (20.09.16)
- Lee Bartlett – (Cornwall area postcode given) – (23.09.16)
- Andreas Siedow – Offenbach, Germany – (04.11.16)
- Hugh Fearnley-Whittingstall & Marie Derome - Yum Yum, Caolis, Tiree – (21.11.16)
- Margaux Mas Bertrand – 1 The Grove, Dura Den, Cupar – (21.11.16)
- Kate Carter – Stoneleigh, Askerswell, Dorchester – (20.11.16)

These are all additional representations of support. Few new issues are raised. Those that are are summarised below.

A further representation in support of the application has also been received by recently retired MSP Jamie McGrigor. Mr McGrigor has already expressed his support for the application at a time when he was still a serving MSP. This new representation is dated 7th November 2016 and adds no new issues.

A new representation in support of the application has been received by Donald Cameron MSP. This new representation is dated 22nd November 2016 and adds no new issues.

(i) Summary of issues raised

- The beach hut could be the difference between encouraging a proportion of the younger people on Tiree to stay on the island, or leaving for better opportunities elsewhere. On a small island such as Tiree, the retention of young people is vital.
- I was initially against the development of the beach hut but have now grown to see it as an excellent facility and one which has helped the regeneration of the beach; reversing sand erosion and promoting the growth of marram and other indigenous vegetation.

Representation

- Robert Trythall – Aird, Cornaigmore, Tiree – (09.11.16)

This is an additional representation covering mainly existing issues but expressing no clearly stated objection to or support for the proposals. The issues raised are summarised below.

(i) Summary of issues raised

- Consistency and principle cannot be expected from Argyll and Bute Council or from the Scottish Government. Reference is made to both local and national development proposals where planning decisions have been made against public objection and which compromise statutory environmental constraints (e.g. the Donald Trump golf course development, wind farm permissions etc). It would therefore be 'hypocrisy and humbug' if planning permission were to be refused for the beach hut on the grounds of planning policy and environmental constraints.
- This is put into perspective by the lack of action, either by the Council or by the public, against the applicant's other beach hut at Gott Bay. This hut has existed for a number of years but has not generated anywhere near the same level of interest. This suggests that there is an inconsistency – both by objectors and supporters of both planning applications.
- There are far worse visual and environmental issues for Tiree but these have resulted in minimal objection and total inaction on behalf of the Council. This is also 'hypocrisy and humbug'.
- Tiree has recently received the reports resulting from a wide-ranging public consultation exercise and a socio-economic study. This report highlights continuing population decline and a possible contraction in economic activity. There has, however, been a three-fold increase in tourism on Tiree since the 1990s. However, this is balanced by one of the conclusions of the study which states that, "There are mixed messages with tourism... The island needs to agree whether it wants to participate in growth in the sector and define a strategy of how this could be achieved.

- Committing fully to tourism on Tiree may mean accepting these beach huts and other similar development. Refusing permission for the beach huts may mean not committing fully to the tourism growth needs of the Island. Supporters of the proposal have to acknowledge the wider issues and accept that granting planning permission may result in further development and/or activity that they consider undesirable and unacceptable. Objectors to the proposal have to accept that past flexibility in the Council's approach to planning policy has proven beneficial and that a refusal of the proposed development may deny Tiree an opportunity for economic growth, enhanced tourism and a chance to reverse declining populations.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link: https://www.argyll-bute.gov.uk/Planning/lg/GFPlanningDocuments.page?Param=lg.Planning&SDescription=15/03260/PP&org.apache.shale.dialog.DIALOG_NAME=gfplanningsearch&viewdocs=true

C) BALLOT CONDUCTED BY COMMUNITY COUNCIL

Following local comments and representations to the community council, together with considerable public interest and comment on the Argyll and Bute Council planning portal website, unusually large amounts of press and social media comment, and finally a decision by Argyll & Bute Council that a public hearing would be held on Tiree in late November 2016, Tiree Community Council determined at a public meeting on Wednesday 5th October 2016 that the community council would take a position on this matter.

The motion was passed by a majority vote of 4/1 as follows;

"TCC proposes to undertake a postal ballot of all registered voters on the Tiree electoral roll with reference to 15/03260/PP & 15/03364/PP, subject to confirmation from professional advice that it can be done fairly and within the proposed timescale."

Following the 5th October decision, the community council Secretary sought advice from the Area Governance Officer, Argyll and Bute Council on appropriate wording and layout for a postal ballot of registered voters in Tiree. It was decided that the ballot would be entirely anonymised, but with a variety of security measures to ensure fairness and effective governance of the ballot process.

In view of the potential complexity of running a postal ballot, and ensuring a good response, without the community council taking a position for or against, the community council Convenor composed an explanatory letter to all registered voters on the Tiree Electoral Roll, as at Monday 10th October 2016.

Postal ballot voting papers, together with a stamped addressed envelope and explanatory letter, were sent to all registered voters on Monday 17th October 2016.

A return/closing date for the postal ballot was set as Friday 18th November 2016, giving one full calendar month for voters to return their ballot papers in the stamped addressed envelope supplied.

Ballot voting papers returned by Royal Mail were securely stored at Tiree Business Centre in an approved black ballot box, and opened and counted on Monday 21st November 2016 by Rona Campbell, (a certified Registrar), and vigilated by Dr John Holliday , (Tiree Community Council Convenor, and Iain MacKinnon, (retired Local Authority employee).

The electorate was asked to declare whether they supported the recommendation of the planning officer (i.e. that planning permission should be refused) or whether they opposed this recommendation.

The results of the postal ballot are as follows:

Postal Ballot Results

Number of ballot papers issued	535
Number of ballot papers returned	421
Percentage ballot papers returned	78.5%
Number of spoiled ballot papers	1

Balevullin Beach Hut Reference 15/03260/PP Results

Number of votes <u>in favour</u> of recommendation of Planning Officer	314
Number of votes <u>opposed</u> to recommendation of Planning Officer	102

Gott Bay Beach Hut Reference 15/03364/PP Results

Number of votes <u>in favour</u> of recommendation of Planning Officer	306
Number of votes <u>opposed</u> to recommendation of Planning Officer	109

The above represents a summary of the issues raised. Full details are available on the Council's Public Access System by clicking on the following link: https://www.argyll-bute.gov.uk/Planning/lg/GFPlanningDocuments.page?Param=lg.Planning&SDescription=15/03260/PP&org.apache.shale.dialog.DIALOG_NAME=gfplanningsearch&viewdocs=true

D) RECOMMENDATION

It is recommended that Members note the additional representations and the information relating to the postal ballot conducted by Tiree Community Council. The submissions do not alter the previous recommendation to refuse the application for the reasons set out in the main report.

Author of Report: Tim Williams

Date: 24th November 2016

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:	15/03260/PP
Planning Hierarchy:	Local Application
Applicant:	Mrs Iona Larg
Proposal:	Erection of beach hut for Blackhouse Watersports (retrospective)
Site Address:	Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree

SUPPLEMENTARY REPORT No 1

A) INTRODUCTION

This report advises Members of additional representations both objecting to and in support of this application. This report also summarises the Applicant's case in respect of a statement made on behalf of the RSPB and statements made within the main report of handling which the Applicant states are inaccurate.

B) ADDITIONAL REPRESENTATIONS

Additional representations have been received from the following individuals.

Objectors

- Pearl Brown – Lochan Ban, Balevullin, Tiree (15.09.2016)
- Mary Smith – Lochan Ban, Balevullin, Tiree (16.09.2016)
- Flora MacKinnon – 4 Balevullin, Tiree

(i) Summary of issues raised

These are supplementary representations from existing objectors to the proposed development. The additional comments serve to reiterate the originally expressed concerns with the addition of the following comments:

- I may be wrong here but it has crossed my mind that the delay in this hearing and the outcome may have been or will be influenced by [Argyll Estates] in a positive way for the owner but in a negative way for the unique beauty of the island. My apologies if this is not the case but I write with concern here. My father John Brown (1902 - 1986) was brought up in an impoverished croft on

Tiree where the lifestyle was dominated by the Argyll Estate and the thought that this kind of negative influence may still be around today shocks me.

- How are the people concerned allowed to continue doing business from the beach when planning permission has not been granted? They have been working all summer and must have made a lot of money.

Supporters

- Karl Hughes – Sunset Cottage, Balevullin, Tiree (14.09.2016 and 19.09.2016)

This are supplementary representations from an existing supporter of the proposed development but raises additional points as summarised below.

- Paul Le Roux – Croish House, Caolis, Tiree (12.09.2016)

This is a supplementary representation from an existing supporter of the proposed development and reiterates existing matters of support, although this time on behalf of the Tiree Surf Club.

- Mark Boyd (Secretary) Scottish Surfing Federation (01.09.2016)

This is an additional representation of support and is summarised below.

(i) Summary of issues raised

- You may/may not be aware that two local Tiree children both under the age of 18 - Finn MacDonald and Ben Largs - are at this very moment competing in the VISSLA ISA World Junior Surfing Championship (WJSC) in the Azores as representatives and core members of the Scottish Surfing team. Finn MacDonald this year became the Scottish under 18 champion in the national competition in Thurso, and Ben Largs the under 14 Champion at 12 years old. Finn MacDonald (who is from Balevullin) is the flag bearer for the entire Scottish team.
- Their participation in this international event is supported by the International Olympic committee...and as such these two lads have the possibility of representing Scotland/GB in the 2020 Olympics, again this would not have been possible without the beach hut or the voluntary support Black House Water sports have committed themselves too. There is nobody else (company or individual) on the island offering accredited safe tailor made surfing opportunities.
- [The Scottish Surfing Federation] had the pleasure of visiting Tiree this weekend past to attend the annual 'Gathering of the Clans' (a national interclub surfing event) and was in awe of the surfing community and spirit that has developed on the island. This was the first time we have held such an event in Tiree; upon hearing last year there was a thriving surf scene developing we made a conscious decision to take the event there. The Island of Tiree is uniquely placed as there are few other areas in Scotland which offers accessible beaches directly facing the Atlantic ocean; this means a significant increase in the number of days suitable of surfing within a calendar year compared with other Scottish surf destinations. Further to this the work the local surf club and community have been doing has allowed for a true grass

roots development of the sport. I met local kids aging from 4 – 18 taking up the sport; to the best of my knowledge there is no other region in Scotland which currently has this spectrum of kids partaking in surfing; this really has helped them to progress quickly and to a high level. I am convinced that the key to the success of the surf community has centred around the Beach Hut located at Balevullin Beach; a facility providing a simple means of wetsuit drying, equipment storage, a shelter from the cold and basic changing facilities has been the nucleus that has enabled the development to date.

The above represents a summary of the issues raised. Full details of the letters of representations are available on the Council's Public Access System by clicking on the following link: https://www.argyll-bute.gov.uk/Planning/Ig/GFPlanningDocuments.page?Param=Ig.Planning&SDescription=15/03260/PP&org.apache.shale.dialog.DIALOG_NAME=gfplanningsearch&viewdocs=true

C) APPLICANT'S RESPONSE TO CONSULTEE

On the 26th April 2016, the following comment was received from Dr John Bowler – Tiree Officer for RSPB Scotland:

"I would like to point out that on page 4 of the 'Supporting Information' for this application produced for the applicants by McKenzie Strickland Associates under point 2.4, there is a suggestion that RSPB gave advice on the location of the Balevullin beach hut. This is simply not the case, since RSPB was unaware of the intention to build this hut (and indeed the Gott Bay hut) until it had been erected on the beach. I would therefore be grateful if this comment could be struck from the record."

The paragraph (2.4) referred to states:

"In order to minimise the potential impact on wildlife the Balevullin hut has been located [on the beach] following advice from RSPB because it has no birdlife designations and is used less by shore birds."

The Applicant has responded to this and has provided details of email correspondence between herself and Dr Bowler which includes an email from Dr Bowler to Mrs Larg dated 22nd September 2015 which includes the sentence, "Balevullin beach is less used by shorebirds, which is why it has no formal designations."

The unauthorised beach hut at Balevullin was erected some time before the 23rd May 2015. Therefore the quoted comments by Dr Bowler were made after the building was in position on the beach.

It is appreciated that applicant wishes to avoid the suggestion that she has misrepresented the position of the RSPB, but as far as officers are concerned the issue of who said what, when and to whom is wholly irrelevant to the material planning considerations of this case. The fact remains that the 'official' RSPB consultation response to the proposed development (dated 9th February 2016) raises no objections from an ornithological point of view and neither does the consultation response from SNH.

The above represents a summary of the issues raised. Full details are available on the Council's Public Access System by clicking on the following link:

https://www.argyll-bute.gov.uk/Planning/lg/GFPlanningDocuments.page?Param=lq.Planning&SDescription=15/03260/PP&org.apache.shale.dialog.DIALOG_NAME=gfplanningsearch&viewdocs=true

D) APPLICANT'S RESPONSE TO PUBLISHED REPORT OF HANDLING

The Applicant has raised two points in the published report of handling which it is claimed are inaccurate and/or misleading. These are summarised below:

- *“Other existing and long-established water sports businesses on Tiree work in a very similar way to this, and Officers have concluded that the business needs of the applicant could be better met in planning terms by establishing a new base for their water sports activities elsewhere on the island in a less sensitive location.”* (Published report of handling).

The Applicant claims that this is incorrect as an existing watersports business based on Tiree (Wild Diamond) have a business base which operates out of an existing building sited on the banks of Loch Bhassapol to support their primary business which is windsurfing on the loch.

Comment: This is noted and understood. However, the Applicant also confirms that Wild Diamond also operate a surfing business which they serve via a trailer parked within the informal car parking area at Balevullin. It is alleged that this trailer is ‘pretty much permanently’ sited within the car park. This allegation will be investigated as a separate planning enforcement matter.

- *“In this regard, discussions have been held with both the Applicant and with Argyll Estates towards the identification of a potential alternative site. Whilst these negotiations have proved difficult, with a reluctance on behalf of the Applicant to relinquish their current (though unlawful) site, it is considered that alternatives could and should be explored.”* (Published report of handling).

The Applicant states that Argyll Estates (both the previous and the current Factor) have never asked her to remove either of her huts and that, if they did, she would. The applicant alleges that the above-quoted extract from the main report of handling indicates that Argyll Estates have found her ‘unwilling and reluctant to enter into discussions about alternative sites’.

Comment: This is a short extract from the published report of handling and loses much of its context when taken in isolation. The quoted extract does not assign any perceived ‘reluctance’ to the opinion of Argyll Estates, the opinion of which has been accurately summarised throughout the main report of handling.

The above represents a summary of the issues raised. Full details are available on the Council's Public Access System by clicking on the following link: https://www.argyll-bute.gov.uk/Planning/lg/GFPlanningDocuments.page?Param=lq.Planning&SDescription=15/03260/PP&org.apache.shale.dialog.DIALOG_NAME=gfplanningsearch&viewdocs=true

D) RECOMMENDATION

It is recommended that Members note the additional representations and the comments by the Applicant. The submissions do not alter the previous recommendation to hold a hearing and to refuse the application for the reasons set out in the main report.

Author of Report: Tim Williams

Date: 19th September 2016

Angus Gilmour
Head of Planning and Regulatory Services

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Argyll and Bute Council
Development & Infrastructure Services

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

Reference No: 15/03260/PP
Planning Hierarchy: Local Development
Applicant: Mrs Iona Larg
Proposal: Erection of beach hut for Blackhouse Watersports (retrospective)
Site Address: Land north-east of Braehead, Balevullin Beach, Balevullin, Isle of Tiree

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of beach hut building

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

That permission be refused for the reasons contained in this report subject to a local hearing being held in advance of the determination of the application.

(C) CONSULTATIONS:

Environmental Health - No response

SEPA (06.01.2016) - Whilst the development is located within part of the 1 in 200 year coastal flood risk zone and may therefore be at medium to high risk of flooding, the proposed development is retrospective and represents a commercial flood risk to the applicant. Given the relatively small scale of the proposal and the coastal nature of the potential flood risk it is

acknowledged that the proposed hut should not have a significant detrimental effect on flood plain storage, conveyance or local flood risk. Therefore no objection is raised.

SNH (14.12.2015) - No comments.

Area Roads (15.12.2015) - No objection.
Engineer

RSPB (09.02.2016 and 26.04.16) - No objections. It is pointed out that the applicant's supporting information suggests that RSPB gave advice on the siting of the hut which was not the case as the RSPB was unaware of the hut until it had been erected.

(D) HISTORY: None

(E) PUBLICITY:

The application has been published in the local newspaper (Regulation 20 Advert) with the period for representations having expired on 12.01.2016.

(F) REPRESENTATIONS:

39 objections, 100 expressions of support, a 135 signature petition of support and 1 representation have been received. Names and addresses of persons submitting individual representations are listed in Appendix B to this report.

Jamie McGrigor MSP has expressed his support for the proposal. Michael Russel MSP has also expressed his support for the proposal and has indicated his willingness to speak on the applicant's behalf if necessary.

Summary of grounds of objection

Visual/Amenity Impact - The beach at Balevullin is described variously as: A natural, sandy beach, unspoiled, beautiful, wild, unique, simple, raw, loved by many, precious, a sanctuary, undeveloped, dramatic, expansive, untouched, pristine, tranquil, much-photographed, a rare haven free from human constructs, a special space that holds a place in many hearts, one of the most untouched and pristine places on the west coast of Scotland; a place that must be preserved.

The proposed development is claimed to be materially harmful to these qualities. The impact of the proposed development is described variously as: an inauthentic experience of the beach, unsightly, an eyesore, presenting a loss of peace and sanctuary, commercialised, a contamination of the unique, dramatic white-sanded expanse of the bay, a loss of Tiree's natural identity, prominent, exposed, does not blend in, aggressively placed, an obviously man-made structure, the location of the development to the south end of Balevullin and adjacent to the existing

access means that one is faced with the structure and its advertising as one approaches the beach; there are plenty of places on the Island to run businesses from that do not impact on the natural sites of Tiree.

Environmental and Infrastructure Impact – It is asserted that the development has led to an increased number of people using this beach resulting in over-population, where previously those people would have been spread out over a larger number of beaches on the Island. It is suggested that this, and the development in general, has led (and will lead) to damage and erosion to the beach and the surrounding fragile machair and dunescape as well as to the common grazing land; to increased noise, light pollution, litter and mess; that the proposed development is damaging to wildlife; that it is damaging and unhygienic; is not served by adequate parking provision; that it has led to damage to its access from the existing car park and that the highly mobile coastal environment which is subject to storm surges and other tidal and fluvial effects renders the development unsustainable and at risk; and that the development could lead to an increased risk of damaging sand storms.

Implied Ownership and Intimidating Impact – It is asserted that the presence of the proposed structure on Balevullin beach favours a private business allowing them to unreasonably and inappropriately dominate a public beach and implying ownership of it; and that for some people (particularly those not involved with the water sports on offer) the presence of the beach hut and its associated use can seem intimidating and lead to a feeling of ‘being watched’. It is alleged that this deters some people from visiting the beach.

Unnecessary and not serving a Wider Community Benefit – It is claimed that the proposed beach hut is unnecessary and that it benefits a private business only with no wider community benefit. It is suggested that the business could operate to the same degree and provide the same service from a portable base which could be removed at the end of a working day. Tourists on Tiree have for years had access to water sports without the necessity for beach huts. The beach belongs no more to a surfer than it does to a walker, or a bird watcher, or a young family enjoying a picnic. It is a welcoming environment shared by all and it should remain that way.

Retrospective Nature of the Development and Fear of Precedent – If the structure is allowed to stay in this position, it would set a dangerous precedent for uncontrolled development of our wild and natural coastal landscape and perhaps demand for further huts on this beach to provide facilities for visitors.

Summary of expressions of support

Economic Factors – Wide ranging support is expressed for the Applicant's business on the basis of economic diversification and growth. Supporters consider that it provides a much needed facility, not just for local children and tourists, but for the whole economy via the footfall it attracts to the shops, cafes and self-catering businesses. Visitors have expressed the view that the presence of facilities is one of the factors that draws them to visit the island as a holiday destination. It is pointed out that the impact of demand for surfing sports has extended Tiree's peak vacation season to at least 7 months of the year – well in excess of most Scottish destinations.

Operational/Locational/Social Benefits – The presence on the beach contributes to water safety. Visitors are keener to get into the water if they have somewhere

comfortable/dry to get changed and this increases the length of the operating season. Blackhouse Watersports a thriving business which also runs a non-profit surf club offering local people free surfing lessons. We need this in our community. It promotes health and wellbeing which benefits everyone.

Environmental Benefits – Support is expressed for the proposal based on the suggestion that the development would actually improve the local environment by reducing rubbish on the beach, by enabling dolphin and sealife monitoring and by avoiding the need to drive vans and trailers with equipment onto the machair car park on a daily basis.

Visual/Amenity Impact – Contrary to objections summarised above, the supporters of the project express a different opinion of the visual impact of the development, the view being expressed that the wooden hut is appropriately designed using suitable materials and that it adds to the look and feel of the beach and is in keeping with its surroundings.

Petition – In addition to individual representations, a petition of some 135 names expressing support for the proposals on the following grounds has been received:

“I confirm my support for the beach hut to remain at Balevullin Beach, Tiree and I also confirm that I (or members of my family/friends) have benefitted from the hut and its situation. I also feel that the beach hut does not take away from the natural beauty and aesthetics of the area”.

Representation

It comes as no surprise that this development has received so much support, as the applicant has put it on social media asking people to support the planning application. It has also been placed on wind surfing websites to gain support.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council’s Public Access System by clicking on the following link: <http://publicaccess.argyll-bute.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|---|-----|
| (i) Environmental Statement: | No |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A design or design/access statement: | Yes |
| (iv) A report on the impact of the proposed development: | No |

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

Argyll and Bute Local Development Plan, 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 4 – Supporting the Sustainable Development of our Coastal Zone
LDP 5 – Supporting the Sustainable Growth of our Economy
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance, Adopted March 2016

SG 2 – Sustainable Siting and Design Principles
SG LDP ENV 5 – Development Impact on Local Nature Conservation Sites
SG LDP ENV 14 – Landscape
SG LDP CST 1 – Coastal Development *
SG LDP BUS 2 – Business and Industry Proposals in the Countryside Development Management Zones
SG LDP BUS 5 – Economically Fragile Areas
SG LDP TOUR 1 – Tourist Facilities and Accommodation
SG LDP REC/COM 1 – Safeguarding and Promotion of Sport, Leisure, Recreation, Open Space and Key Rural Services
SG LDP SERV 7 – Flooding and Land Erosion, The Risk Framework for Development
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

SG LDP TRAN 6 – Vehicle Parking Provision

** SG LDP CST 1 has been approved by the Council but not yet adopted through agreement with Scottish Ministers. It nevertheless forms a material planning consideration, albeit one which must be afforded less significance than the adopted policy contained within approved Supplementary Guidance.*

(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 Sustainable Design Guidance, 2006
- Scottish Planning Policy (SPP), 2014
- Isle of Tiree Sustainable Design Guide, 2007
- Consultee Responses
- Third Party Representations

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

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

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

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

(O) Requirement for a hearing (PAN41 or other): Yes – The application has generated large amounts of representation both for and against the proposal. The holding of a discretionary hearing would afford Members the opportunity to visit the site and to better appreciate the operational circumstances of the business prior to making a determination in the matter.

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

This retrospective planning application proposes the retention of a modest timber 'beach hut' building with an associated area of timber decking and a small ancillary barbecue facility attached to its rear elevation. This structure is sited within part of the Balevullin beach on the exposed north-west coast of Tiree which lies within the adopted development management 'Countryside Zone'. The development is used to facilitate an established water sports business for the resident operators, 'Blackhouse Watersports'.

This planning application is one of two similar applications, the other being for the retention of a similar development upon the beach at Gott Bay within the eastern part of the Island and for the same Applicant (application 15/03364/PP which appears elsewhere on this Agenda).

This retrospective application has been the subject of much detailed scrutiny and discussion/negotiation between the Planning Authority and the Applicant and the owners of the beach upon which it is sited, Argyll Estates. It has generated a substantial amount of third party interest and is supported by the submission of two detailed statements by/on behalf of the Applicant. With that in mind a discretionary hearing has been recommended.

The determining factor in this case is the delicate balance between three of the Council's 'Key LDP Planning Policy Objectives': the clear desire to support the

sustainable economic growth of this fragile rural island economy and thus reverse static or falling populations on the one hand, and the visual/environmental impact of the proposed development within this vulnerable and sensitive undeveloped coastscape on the other.

Although the development is small scale in nature and constructed in a manner and using materials which are sympathetic to the locality, its very presence on an otherwise undeveloped beach poses a serious issue, as its open and unspoiled character forms a vital part of the area's local distinctiveness. Tiree's undisturbed beaches form a highly vulnerable 'wilderness fringe' between the land and the sea and one which should be afforded robust protection against artificial change; particularly against development in or adjacent to those areas of 'natural foreshore'.

Whilst Officers support the business needs of the applicant and the wider economic/tourism benefits that the business provides for the Island, it is considered that no exceptional case sufficient to outweigh the presumption against inappropriate development within the 'Countryside Zone' has been demonstrated. Whilst a permanent building would undoubtedly benefit the operation of the business, Officers have not been persuaded that such a building must necessarily be sited directly on the beach. Whilst the sporting activities and ancillary services provided by the Applicant are undoubtedly locationally restricted by their very nature, it is not considered that the permanent base for this business must correspondingly be locationally fixed to the beach. It could, effectively, be elsewhere on the Island with those more essential functions such as shelter, first aid and lifeguard facilities provided for from a temporary shelter taken to the beach and then removed at the end of the business day. Other existing and long-established water sports businesses on Tiree work in a very similar way to this, and Officers have concluded that the business needs of the applicant could be better met in planning terms by establishing a new base for their water sports activities elsewhere on the island in a less sensitive location.

In this regard, discussions have been held with both the Applicant and with Argyll Estates towards the identification of a potential alternative site. Whilst these negotiations have proved difficult, with a reluctance on behalf of the Applicant to relinquish their current (though unlawful) site, it is considered that alternatives could and should be explored. This process has prospects of delivery given that the existing and possible alternative sites are in the control of Argyll Estates who have indicated willingness to work with Officers in the identification of a suitable alternative location. Nevertheless, all reasonable attempts by Officers to help to deliver a solution acceptable to all parties have not thus far delivered a suitable alternative and meantime the continuing development remains unlawful. Members are therefore required to determine this retrospective planning application on its merits, having given careful consideration to the material planning considerations set out below. Particular attention is drawn to the enforcement report accompanying the application which sets out the recommended response in the event that planning permission is refused.

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

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

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

Author of Report: Richard Kerr

Date: 30th August 2016

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION 15/03260/PP

1. The proposed development (which is retrospective) is located within a wider 'Countryside Zone' as defined within the approved and adopted Argyll and Bute Local Development Plan (the LDP) and constitutes 'coastal development' within that development management zone. Policy LDP DM 1 only supports small scale development within this zone in specific circumstances related to existing buildings or, exceptionally, where justified by a proven locational/operational need. This proposal does not constitute an appropriate infill, rounding-off or redevelopment opportunity sufficient to satisfy that policy nor does it involve the change of use of an existing building. Whilst a claim has been made by the Applicant that the proposed development constitutes an 'exceptional case' based on an operational/locational need for the development to be directly located upon the beach, this claim is not accepted by the Planning Authority as it is not a pre-requisite for businesses of this nature to have facilities located on the beaches from which watersports are conducted as evidenced by the means by which other such business are conducted elsewhere. The development is considered contrary to the sustainable development aims of the Council and its spatial planning strategy, contrary to the relevant provisions of Policies LDP STRAT 1, 'Sustainable Development' and LDP DM 1, 'Development within the Development Management Zones'.

2. Whilst the proposal represents economic development with acknowledged tourism, community and social benefits helping, in principle, to deliver several of the key planning policy objectives of the Council, it is nonetheless considered that the proposed siting and design of the development within this otherwise undeveloped, open and exposed area adjacent to the natural foreshore constitutes an alien feature, materially harmful to the local distinctiveness, special character and unspoiled quality of this vulnerable coastal location, and the sense of openness and isolation which forms an intrinsic and valuable part of the 'Tiree beach experience'. The delivery of sustainable forms of development without harming our outstanding environment is also one of the Council's key planning policy objectives. In this case it is not considered that operational advantages to the business outweigh the significantly adverse impacts of this isolated development upon the qualities of the sensitive and otherwise undeveloped receiving environment. The development is therefore considered contrary to the relevant provisions of the Local Development Plan, these being Policies LDP 3, 'Supporting the Protection, Conservation and Enhancement of our Environment', LDP 4, 'Supporting the Sustainable Development of our Coastal Zone', LDP 5, 'Supporting the Sustainable Growth of our Economy', LDP 8, 'Supporting the Strength of our Communities' and LDP 9, 'Developing Setting, Layout and Design', together with their associated adopted Supplementary Guidance: SG 2, 'Sustainable Siting and Design Principles', SG LDP ENV 4, 'Landscape', SG LDP CST 1, 'Coastal Development', SG LDP BUS 2, 'Business and Industry Proposals in the Countryside Development Management Zones', SG LDP TOUR 1, 'Tourist Facilities and Accommodation, including Static and Touring Caravans' and SG LDP REC/COM 1, 'Safeguarding and Promotion of Sport, Leisure, Recreation, Open Space and Key Rural Services'.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 15/03260/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy and Key Planning Policy Objectives

The Isle of Tiree is the most westerly island of the Inner Hebrides, sixty miles west of Oban and twenty-two miles west of Ardnamurchan, the nearest point on the Scottish mainland. The small islet of Gunna and the Isle of Coll lie close by to the northeast. Tiree is about twelve miles long and six miles wide at its widest point, and is mostly low-lying, with wide open skies and sea views in all directions. There are two hills; Ben Hynish in the south rises to 462 ft and Ben Hough in the northwest tops at 390 ft. The island's beaches extend most of the way around the Island's shoreline, a distance of forty-six miles altogether. These unspoiled and expansive white sand beaches give the Island much of its unique character.

The proposed development (which is retrospective) is located within the south-western extent of Balevullin Beach, located on the north-west coast of Tiree and forming a complex of dry machair and hummocky dunes forming an intricate mosaic with wet machair and dune slack vegetation.

The Argyll and Bute Local Development Plan sets out the Council's land use vision for how its area should be developed over the period to 2024 and beyond, along with the key objectives for achieving this vision. These reflect the overall approach to planning set out by the government in Scottish Planning Policy which is to enable sustainable economic development. LDP objectives seek to maintain population in rural areas and to help secure economic and social regeneration in smaller communities, particularly in terms of the growth of key sectors such as tourism. However, sustainable growth needs to avoid harming our outstanding natural historic and cultural environment. The determination of the current planning application hinges on the delicate balance between these key planning policy challenges and objectives.

The application site is within a wider 'Countryside Zone' as defined within the adopted Argyll and Bute Local Development Plan (the LDP) and constitutes 'coastal development' within that development management zone.

Local Development Plan policy LDP STRAT 1 – 'Sustainable Development' expands upon the key planning policy objective of delivering sustainable development and states, as a matter of general principle, that in preparing new development proposals, developers should seek to demonstrate a range of sustainable development principles identified in the policy which the Planning Authority will use in deciding whether or not to grant planning permission.

Spatial planning strategy policy LDP DM 1 – 'Development within the Development Management Zones' states that encouragement will be given to sustainable forms of development within the Countryside Zone of up to 'small scale' (in this case buildings generally not exceeding a 200 square metre footprint), but generally limited to appropriate infill, rounding-off and redevelopment sites and those proposals involving the change of use of existing buildings.

In this case, whilst the proposals can be said to be 'small scale', the proposed development which occupies part of a wider exposed and undeveloped area of 'wild beach' does not constitute appropriate development on any infill, rounding-off, redevelopment or change of use basis. This is accepted by the Applicant in their supporting statement.

However, Policy LDP DM 1 also states that, in exceptional cases, development of the proposed scale in the open countryside may be supported on appropriate sites where it benefits from a justifiable locational need in which case it must then be supported by the outcome of an Area Capacity Evaluation (ACE). The Applicant's case is that the proposed development does constitute an exceptional case based on its economic/tourism/community benefits, coupled with an asserted locational/operational need for the development to be sited on the beach, that the siting and design of the development is appropriate, and that these factors are sufficient to outweigh the general presumption against inappropriate development within open countryside. These arguments are not accepted by Officers and are discussed in greater detail in Section C below.

B. Location, Nature and Design of Proposed Development

This proposed (and retrospective) development is located within the south-western part of Balevullin Beach, a short distance from an existing informal public car parking area and to the north of the minor settlement of Sraid Rhuadha / Balevullin and A'Chrois. It occupies part of a defined 'coastal zone' being the strip of land between Mean Low Water Springs (MLWS) and extending 1 kilometre inwards. Development within this coastal zone is expected to accord with Policy LDP 4 and the guidance contained within SG LDP SCT 1 – 'Coastal Development' (approved by the Council though not as yet approved by Scottish Ministers or formally adopted). This is discussed in greater detail in Section D 'Landscape and Visual Impacts' below.

The development also occupies part of a defined 'Local Nature Conservation Site' (LNCS). Development within the LNCS is also expected to accord with the approved supplementary planning guidance contained within SG LDP ENV 5 – 'Development Impact on Local Nature Conservation Sites'. This is also discussed in greater detail in Section D 'Landscape and Visual Impacts' below.

The building has been clad in unfinished locally-sourced timber and comprises a structure without foundations – large supporting wooden beams have been dug into the sand to avoid any unnecessary impact on the beach. No concrete has been used at all and the beach hut has been deliberately positioned back towards the dunes, but not dug into the dunes, so as to minimise the impact upon the beach environment. It is located close to the existing informal Balevullin Beach public car parking area.

The building is of a 'small scale' in LDP terms (having regard to LDP DM 1 and SG LDP BUS 2 and SG LDP TOUR 1), measuring 3 metres wide by 4 metres long and being some 2.2 metres high to a gently sloping felted roof. In addition, the proposed development also incorporates an area of timber decking to the front with a footprint of approximately 25 square metres and a small barbeque platform to the rear with a footprint area of some 4 square metres. The overall footprint area of the proposed development is some 40 square metres – comfortably within the appropriate definition of 'small scale' development as stated above.

The submitted supporting statement states *inter alia* that:

"The hut has been sited and positioned so as to pay regard to the context within which it is located, with the design of the structure of a scale and detail compatible with the surroundings, with particular attention given to massing, form and detailing".
"Blackhouse Watersports are a local grassroots business who have invested in their business and continue to do so, with plans in the future to develop a café and surf accommodation".

“Blackhouse Watersports have been operating on the island for 8 years and provides a unique tourist experience, providing kite surfing, surfing and sea kayaking facilities with the added attraction of providing shore side changing and instructor facilities which is a key selling point that attracts new customers and visitors (and particularly young families) to the island. In addition to providing changing facilities, the beach hut at Balevullin is used for the secure storage of boards and wetsuits and has also been used to provide a surf life saver and first aid facilities for the purpose of providing shore side changing and distinctive water sports experience and provides a unique selling point for Blackhouse Watersports.”

The site itself (and the beach in general, together with much of the surrounding land) is owned by Argyll Estates. The Applicant states that there was detailed liaison with Argyll Estates prior to obtaining the landowner's permission for the erection of the structure and that the current site was seen by Argyll Estates as being the most suitable location for the hut, as any other surrounding areas are crofting land and locating the building elsewhere would most likely be seen as a misuse of common grazing. This position appears to be acknowledged by the then Factor of Argyll Estates, Andrew Montgomery, although it is noted that the current Factor, Hugh Nicol, whilst unequivocally in support of this local business, has indicated willingness as a landowner to consider the potential for a less sensitive location away from the beach, though still within the immediate vicinity of Balevullin. The extent of Argyll Estate's ownership on the island affords a credible opportunity to explore possible alternative locations.

Whilst the existing beach hut and associated structures is undoubtedly small in scale and is reasonably well designed using local timber and sited back towards the dunes so as to lessen its impact, Officers after much careful consideration are of the opinion that its very presence within this otherwise undeveloped, open and exposed beachscape constitutes an alien feature, materially harmful to the distinctive character and quality of this vulnerable coastal location and the sense of openness and isolation which forms an intrinsic and valuable part of the 'Tiree beach experience'.

The locational aspects and impact of the proposed development are discussed in greater detail in Section D 'Landscape and Visual Impacts' below.

C. Exceptional Case and Economic Impact.

The Applicant seeks to justify the development as an 'exceptional case' based on a locational/operational need in accordance with the special provisions of Policy LDP DM 1. This claimed locational/operational need for the building to be located on the beach is intrinsically embodied in the claimed economic benefit of the proposed development and its wider impact upon sustainable tourism development.

In terms of the economic aspects of the development Policy LDP 5 supports development which contributes to sustainable economic growth, having regard to the spatial influence of the LDP settlement strategy and business allocations in the plan. This is underpinned by approved supplementary guidance SG LDP BUS 2, 'Business and Industry Proposals in the Countryside Development Management Zones' which only supports developments in the countryside which are compliant with the settlement strategy established by Policy LDP DM 1 and which have regard to the BUS 2 schedules in terms of appropriate scales of development, and satisfy other technical guidance.

As a development in support of the island tourism economy it also requires assessment against approved supplementary guidance SG LDP TOUR 1, 'Tourist Facilities and

Accommodation, Including Static and Touring Caravans', This presumes in favour of new or improved tourist facilities and accommodation provided, but again subject to consistency with the effect of settlement strategy policy LDP DM 1, with respect being paid to the character and amenity of the surrounding area, and with avoidance of dispersed patterns of development, unless the developer has demonstrated a locational requirement based on the need to be near to the specific tourist interest being exploited, and that the facility will not damage those interests.

Associated policy LDP 8, 'Supporting the Strength of our Communities' *support proposals seeking to strengthen the communities of Argyll and Bute, making them better places to live, work and visit.* This policy is underpinned by approved supplementary guidance SG LDP REC/COM 1, 'Safeguarding and Promotion of Sport, Leisure, Recreation, Open Space and Key Rural Services'. It presumes in favour of new or improved sport, recreation and other community facilities but again subject to satisfying the requirements of Policy LDP DM1 and with respect for the landscape/townscape character and amenity of the surrounding area.

The key issue in this case is therefore whether the proposal is capable of satisfying the Policy requirements of LDP DM 1. This presumes against development in open countryside which is unrelated to the presence of existing buildings, unless exceptionally, a justifiable locational/operational need has been advanced and has been accepted, in which case the suitability of the scale of development and the location proposed will be further assessed by means of an Area Capacity Evaluation, in accordance with the specific requirements of LDP DM 1.

Two statements have been submitted In support of this application; one on behalf of the Applicant by McKenzie Strickland Associates, and a further statement provided directly by the Applicant. These statements form the basis of the claim that the application presents an exceptional case based on the specific operational/locational needs of the development and is summarised below (in addition to the background information already highlighted in Section B above). A selected summary of the matters advanced is presented below. The full documentation can be found through the web-link referenced at Section F of the main Report of Handling above.

- Blackhouse Watersports employs 3 people for the tourist months of April through to October and next year plans to employ another full-time surf instructor to help cope with the growing demand for the business;
- There is considerable support for the beach hut from customers, local residents, Tیره businesses and national sporting associations;
- The planning application is supported by the Scottish Surfing Federation, the governing body for the sport in Scotland who recognise the demand, the challenge of operating in this area and the contribution which the business makes to increased participation in the sport;
- Although the beach hut at Balevullin does not represent infill, rounding off, redevelopment or a change of use, the hut is of a very small scale and of a semi-permanent nature which represents suitable sustainable development that has minimal impact when assessed within the wider landscape.
- Although there is a presumption against development in the countryside zone, the development represents an exceptional case in terms of the operational

requirements of the business and the positive economic and community benefits that the continuation and expansion of the business shall bring to the Island.

- Blackhouse Watersports business and the development of the beach hut model represents an example of entrepreneurship in the tourism industry that has grown from humble beginnings and provides a sustainable business that has diversified into a niche market and will continue to attract visitors to the Islands.
- The beach hut provides water sports facilities and a children's surf school which encourages a healthy outdoor lifestyle for all ages and helps strengthen the local community.
- The success of the business is reported in newspapers and magazines and our story, the beach hut and much of the success that surrounds it has been noticed and applauded and we are delighted with this. This coverage supports tourism in Tiree, Argyll and Scotland.
- Discerning visitors and families are looking for a better tourist experience. Although there are other water sports companies on the island that work from temporary trailers, Blackhouse Watersports success has been based on providing visitors with an enhanced service and facilities and (at the very least) dry wetsuits and a place to change on the beach.
- The beach hut and trained staff mean that there is a constant place for parents and children to ask any related surfing questions or use the equipment and facilities, we are able explain and reassure about the current conditions and offer a place for parents to watch while their children participate in the sport.
- Much of the work done with schools and charity groups further cements the case of exceptional need. Supporting letters from schools and clubs indicate that the hut contributes to young people participating in watersport.
- The beach hut allows storage of more equipment enabling a community club to be run free of charge for local children.
- The location of the beach hut is fundamental to the level of service provided and the increased safety that comes with it. It is a point where the inexperienced can seek advice on conditions and a point of contact for any safety related incident. It also provides a place for parents to be able to watch their children. If the parents of children do not feel that they are safe they will not allow them to go. It is suggested that beach hut at Balevullin has already, and continues to significantly reduce the likelihood of a serious incident occurring.

In addition to the above, Members should be aware of the support expressed by the current Factor of Argyll Estates (27th July 2016) who does not support development carried out without the necessary consent but considers that the presence of the hut contributes to the generation of more business than would otherwise be the case.

The supporting statement and third party expressions of support demonstrate passion for the business and its wider economic and community benefit. However, there is a danger of confusing the *business* with the *building*. In the considered opinion of Officers, it is the business that provides and facilitates the water sports opportunities, the not-for-profit children's surf school, the yoga retreats and all of the other many sporting, community and social facilities referred to. The building where these activities

are coordinated from could, in the opinion of the Officers, be provided from locations elsewhere on the island consistent with policy, with those specific key operational requirements such as first aid facilities, lifesaving facilities, shelter etc. being catered for from a temporary 'tent-like' shelter taken to the beach at the start of the working session and removed from it at the end.

The fundamental question for the Planning Authority is therefore whether the clearly expressed business requirements can only be met on the beach itself, or whether they could be operated from an alternative base sited within a significantly less sensitive location. Whilst the need to promote and support sustainable economic growth and its associated tourism and community benefit forms several of the key planning policy aims of the Council, so too does the need to achieve such aims whilst protecting, conserving and enhancing the outstanding quality of the natural, historic and cultural environment. In this case, it is not considered that the claimed locational/operational need for a permanent building or structure on the beach itself has been proven.

The proposed development is located within an 'economically fragile area' (which encompasses the whole of Tiree) and therefore represents 'small scale' development within one of the identified 'priority areas' for new business development. The proposed development also seeks to strengthen the local community making it a better place to live, work and visit through the provision of new and enhanced sport, leisure and recreation opportunities. However, given the effect of Policy LDP DM 1 it is not considered that the proposed development is capable of passing the key locational and environmental tests within policies LDP 5 and LDP 8 and their associated supplementary guidance, despite the support these lend to economic, tourism and recreation related developments.

In particular, in the absence of an accepted exceptional locational need, the proposed development is not consistent with policy LDP DM 1, nor does it respect the landscape character and appearance of the surrounding area as required by SG LDP BUS 2, SG LDP TOUR 1 and SG LDP REC/COM 1. Neither does the proposed development respect the development pattern outwith the settlements, and avoid harm to the specific tourist interest to be exploited through the submitted claim of locational requirement as required by SG LDP TOUR 1.

It is considered that the Applicant's claim of an 'exceptional case' fails to be adequately demonstrated, the proposed development does not represent sustainable economic development, and is therefore contrary to settlement strategy policy LDP DM 1, and for that reason cannot satisfy LDP 5 and LDP 8 and associated supplementary guidance.

D. Landscape and Visual Impacts.

The proposed development is sited upon an otherwise undeveloped and unspoiled beach which forms an integral and important part of the associated coastal zone; the distinctive character and quality of this vulnerable coastal location and the sense of openness and isolation which forms an intrinsic and valuable part of the 'Tiree beach experience'. The site also forms part of a Local Nature Conservation Site (LNCS). The proposed development is sited immediately adjacent to the 'Natural Foreshore', being defined as that fragile and unspoiled coastal zone that sits between the mean low water springs and the mean high water springs.

In this regard, the relevant planning policy framework is established by Policy LDP 3, underpinned and expanded upon by approved supplementary guidance SG LDP ENV 5, 'Development Impact on Local Nature Conservation Sites (LNCS)' and SG LDP ENV

14, 'Landscape'. Together these seek to avoid development which does not respect the landscape character and nature conservation interests of the receiving environment. Additionally SG LDP CST 1, 'Coastal Development' seeks to safeguard special coastal qualities and to direct development away from undeveloped coasts. Finally, Policy LDP 9, 'Development Setting, Layout and seeks to ensure that development respects its context and integrates with its surroundings in terms of form and design details, with further guidance given in 'Sustainable Siting and Design Principles' as contained within the approved Supplementary Guidance, which seeks to conserve landscape character and avoid inappropriate or insensitive development.

Whilst the development is small scale in nature and constructed in a manner and using materials which are sympathetic to the locality, its very presence on an otherwise undeveloped beach poses a serious issue, as its open and unspoiled character forms a vital part of the area's local distinctiveness. Tiree's undisturbed beaches form a highly vulnerable 'wilderness fringe' between the land and the sea and one which should be afforded robust protection against artificial change; particularly against development in or adjacent to those areas of 'natural foreshore'.

The Council's published 'Sustainable Design Guidance for the Isle of Tiree', a partnership work between the Council and Scottish Natural Heritage and agreed by the Tiree Development Trust, states that:

Tiree's landscape is unique among the Inner Hebrides. It is significant in terms of its scenic qualities - big skies, beautiful beaches and machair, but it is also an important agricultural resource for its crofting community, which has been based on Tiree for many generations. Both landscape and settlements on Tiree have been continuously shaped to a significant extent by their crofting history. Tiree's unique and important heritage is the marriage between crofting and the environment. The island's built form manifests for the most part a balanced and unified historical and cultural tradition which new development needs to respect.

It is considered that the proposed development will partially erode these unique key landscape qualities through the introduction of a man-made structure to one of Tiree's wild beaches, and potentially set an undesirable precedent for other beach development, either on Balevullin Beach or on other similar unspoiled beaches on Tiree. Whilst it is recognised that beyond their intrinsic qualities, beaches can also provide an valued recreation/tourism asset, the exploitation of this resource should not be in a manner which diminishes their fundamental qualities, otherwise sustainable economic development is not attained.

In terms of the planning policy framework outline above, it is considered that the proposed development would be contrary to Policy LDP 3 and its associated supplementary guidance SG LDP ENV 14 in that it will not protect the local distinctiveness or acknowledged special qualities of Tiree's unique beach landscapes. The proposed development is also considered contrary to Policy LDP 4 and associated supplementary guidance SG LDP CST 1 because whilst it constitutes development of the coastal zone, this specific development is not considered sustainable due to the fact that it will damage key features of the natural foreshore, these being its openness and undeveloped 'wild' character.

The proposed development is also considered contrary to Policy LDP 9 in that the development cannot reasonably be said to pay regard to the context within which it is located, which is one of an absence of development. Neither does it integrate effectively with its coastline setting or take adequate account of the highly sensitive character of the area within which it is located.

In terms of the impact of the proposed development upon the Local Nature Conservation Site, it is noted that Scottish Natural Heritage has raised no objection to this aspect of the development. It is not considered that the small scale of the development or its careful siting on the beach, but away from the dunes, will have any materially detrimental impact upon those natural heritage qualities that make up the LCNS designation. In this regard, therefore, it is not considered that this aspect of the proposed development would conflict with the relevant parts of Policy LDP 3 and supplementary guidance SG LDP ENV 5.

E. Opportunities for Development on an Alternative Site.

Notwithstanding the shortcomings of the current proposal, Officers are anxious to support this local business in any reasonable way which would avoid conflict with planning policy and which could secure sustainable economic development. It is acknowledged that the existing business has had a valuable positive impact upon the growth and support of the local economy and tourism within this economically fragile island location, with clear economic, social and community benefits beyond those accruing solely to its owners and employees.

In this regard, discussions have taken place both with the Applicant and with Argyll Estates towards an attempt to identify an alternative site for the business; one which could be acceptable to the Planning Authority in terms of its landscape impact (and other material planning considerations), one which might be acceptable to the Applicant, and one which might be available and deliverable in the short term. This has not proven to be straightforward.

A potential alternative site for the business has emerged through discussion with Argyll Estates. This site is located within the defined 'settlement' of Sraid Ruadha / Balevullin and A'Chrois and is centred upon the proposed redevelopment of an existing ruined building located a short distance from Balevullin Beach. This building and the surrounding land is owned by Argyll Estates who have expressed a willingness to lease it to the Applicant on a 'peppercorn rent' basis in return for the removal of the existing beach hut, the provision of toilet facilities within the new development and the provision of a dedicated access to the new site in order to alleviate the pressure of continued erosion on the existing parking area. This site has been examined by Officers who have indicated support for its use and appropriate redevelopment through continued informal discussion and the subsequent submission of a formal planning application at the earliest possible opportunity.

It would appear, however, that the delivery of this alternative site, and the willingness of the Applicant to accept it, may prove difficult. The applicant has indicated that alternatives previously considered would involve:

- (i) crofting common grazing;
- (ii) sensitive machair land;
- (iii) the car park (which had already drawn complaints about past use for siting a trailer);
- (iv) The ruin located beside the Balevullin township would require access over common grazing/ machair and would be raise issues previously taken to Argyll Estates by local crofters and the RSPB in relation to the ad hoc way in which visitors to Tiree had previously parked on the common grazing and machair around the island.

The currently suggested alternative site is the same as that highlighted in (iv) above. Whilst it is considered that any new vehicular access to this site could avoid or minimise its impact upon the machair, and whilst it is not anticipated that any appropriately devised and considered planning application would be likely to result in fundamental difficulties in respect of natural heritage issues, it is accepted that the proposed alternative site is surrounded by common grazing land and that therefore the use of this site would need the agreement of local crofters.

Whilst it is accepted that this agreement might not be straightforward, the current Factor of Argyll Estates has commented that, *“The approach I have taken is to take a soft approach to broker a long-term amicable solution to a dispute that existed when I took on this role. My belief is that while some parties may not readily agree to a hut that would require use of common grazing in this spot, they may do so in preference to a hut on the beach.”*

The suggested alternative site may or may not prove capable of being deliverable. There may be opportunities for alternative sites elsewhere on the Island, but whether or not any of these could meet the claimed operational requirements of the business would seem doubtful.

F. Road Network, Parking and Associated Infrastructure Matters.

The proposed development raises no parking, access or infrastructure issues. The Council’s Area Roads Manager commented on 11th December 2015 that he has no objection to the proposed development. The proposed development has no water supply and no existing or proposed foul drainage.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 15/03260/PP

Objectors

- John Macleod – 43 Kinnaird Crescent, Bearsden
- Brodie Dunlop – Whistlers Hill Lodge, Aros Road, Rhu
- Ross Dunlop - Whistlers Hill Lodge, Aros Road, Rhu
- John Isaacson – 3 Upper Square, Hynish, Tiree
- Gavin Dunlop – 3 Upper Square, Hynish, Tiree
- Sophie Isaacson – 14 Pier View, Scaranish, Tiree
- Jane Isaacson – Achinreir Farm, Barcaldine, Oban
- Harry Esson – Melsetter, Torwoodhill Road, Rhu
- Neil Richardson – 25 Lawson Crescent, South Queensferry
- Jean Wilson – 53 Hunter Street, Kirn, Dunoon
- Jack Wilson - 53 Hunter Street, Kirn, Dunoon
- Kathryn Maccallum – 17 Balevullin, Tiree
- Deborah Short – Midlevel, Trefonen, Oswestry
- Flora McFadden – Caorann, Aros, Mull
- Iain Crawford – Avonlea of Priestgill, Strathaven
- Brodie Sim – Greasamull, Caolas, Tiree
- Dorothy Sim - Greasamull, Caolas, Tiree
- Gordon Millar – 4 Lindsaybeg lane, Lenzie
- Fiona MacRae – Frangosdal, Balevullin, Tiree
- Mike Archer – Sunny Side, California, Woodbridge
- Melanie Davies – Flat 2 Netherbrae, Craigard Road, Oban
- Kirsty MacLean – Burnside, Cornaigmore, Tiree
- William MacLean (Operator of Wild Diamond) - Burnside, Cornaigmore, Tiree
- Iona Paterson – 9b Millar Road, Oban
- Richard Murphy – (address not provided)
- Helen Thompson – (address not provided)
- Hector Neill – Tioran, Balevullin, Tiree
- Alison Campbell – Rockvale Guest House, Balephetrish, Tiree
- Catriona Laird – 10 Park Circus Place, Glasgow
- Mary Neill – 9 Kilmory Gardens, Skelmorlie, Ayrshire
- Mary Ann Spilman – 14 Land Park, Chulmleigh, Essex
- Flora MacKinnon – 4 Balevullin, Tiree
- Morag MacDonald – 2 Scaristavore, Harris
- Frances Woodhead – Ceosabh, Balinoe, Tiree
- Lachlan Brown – The Cottage, Balevullin, Tiree
- Sine Henderson – Seaview, Balevullin, Tiree
- Pamela Mitchell – (address not provided)
- James Pask – Duart, Scarinish, Tiree
- Iona Cairns – Seton Lodge, 29 Kirn Brae, Dunoon
- Pearl Brown – Lochan Ban, Balevullin, Tiree

Representee

- Neil Munn – 3 Balemeanach, Middleton Road, Tiree

Supporters

- Sian Milne – Beachcomber, Crossapol, Tiree
- Adam Milne – Thistledew, Crossapol, Tiree
- Margaux Mas Bertrand – 1 The Grove, Dura Den, Cupar
- Catherine Lamur - 1 The Grove, Dura Den, Cupar
- Ben Larg - 1 The Grove, Dura Den, Cupar
- Nick Griffin – 28 Inverleith Place, Edinburgh
- Caroline Jack – 7 Coates Cottages, Coates, Longniddry
- Angus Jack - 7 Coates Cottages, Coates, Longniddry
- G. Costello – 25 Kersie Terrace, South Alloa
- Lyndsay Robertson – 4 Flass Road, Wormit, Fife
- Christopher Sangster – 12 William Street, Carnoustie
- Gordon McCabe – 1/11 Rustic Place, Dundee
- Sam Long – 74 Ogilvy Street, Tayport, Fife
- Kris Wiltosz – 7 Newton Road, Dundee
- Mr Robbie Larg, The Two Harvests No 1 Balemartine, Tiree
- Sam Lomas – 2 Five Ashes Cottages, Windmill Lane, Macclesfield
- Rosemary Garrigan – 32-1 Stafford Street, Edinburgh
- Marie Derome – Yum Yum, Caolis, Tiree
- Hugh Fearnley-Whittingstall - Yum Yum, Caolis, Tiree
- Mairi McLellan – Heatherlea, Badachro, Gairloch
- Miles Stratton – 2 Ardenconnel Way, Rhu
- Anita Stratton – 2 Ardenconnel Way, Rhu
- Stephen Trombala – Mansfield, Abbotsford Road, North Berwick
- Richard Mauritzen – 6 St. Ford Road, Wormit, Fife
- Stuart Kelly – Hillcrest, Old School Lane, Longniddry
- Joanna Kelly – Hillcrest, Old School Lane, Longniddry
- Doug Reid – Cherry Pie Cottage, Rose, Truro
- Dominic McCann – 24 Oakwood Court, Edinburgh
- Lorna MacDonald – The Bothy, Balevullin, Tiree
- Mike Rennie – Flintstone Technology Limited, Dundee
- Paul Le Roux – Croish House, Caolis, Tiree
- Thomas Baxter – Flat 9, 1 Leonard Place, Kinnoull Causeway, Perth
- Alison Harper – 16 Balevullin, Tiree
- Lyle Moncur – 35/3 Gilmore Place, Edinburgh
- Susannah Frieze – Newton Prep School, Battersea Park Road, London
- Clare McBride – 21 St. Andrews Street, Trongate, Glasgow
- Gavin Turnbull – 21 Halmyre Street, Edinburgh
- David Cunningham – Woodend, Dirleton, North Berwick
- Innes Campbell – Druim Cottage, Lochhills, Urquhart
- Angelia Yorke – Moorcroft, Old Whisky Road, Dundee
- Frank Yorke - Moorcroft, Old Whisky Road, Dundee
- Euan Baxter – An Aird, Kinveachy Gardens, Aviemore
- Heather Clark – 20 St. Catherine's Place, Edinburgh
- Andrew Cameron – 168a Long Lane, Broughty Ferry
- Andreas Pilz – Leiten 370, 8972 Ramsau am Dachstein, Austria
- Steffi Waterbaer – 52 Kinneddar Street, Lossiemouth
- Rosemary Guinnane – Inverallan, 62 Aytoun Road, Glasgow
- Craig Sutherland – Suds Surf School, Lochs Steading West, Garmouth
- Mark Sutherland – Lochs Steading East, Garmouth
- Ffion Hardy – Tan Rhiw, Cwm y Glo, Gwynedd

- Jack Peyton - Tan Rhiw, Cwm y Glo, Gwynedd
- Paul Veverka – 304a Main Street, Blantyre
- Lucy Robertson – Marchmont Street, Edinburgh
- Alex Oliver – 58 1F2 Comiston Road, Edinburgh
- David Gunn – Hynish Farm Steadings, Hynish, Tiree
- Fiona Harwood – 51 Westville Oval, Harrogate
- Iain McKendry – Balhill House, Panmure Estate, Carnoustie
- Louise Andrew – 16 Colthill Road, Aberdeen
- Lynn Casey – 9 Dykedale, Dunblane
- Ruth Harland – Flat 1 Joe Brown Corner Shop, Llanberis
- Karl Hughes – Sunset Cottage, Balevullin, Tiree
- Stuart Kirk – 22 Finbraken Drive, Gourrock
- Rufus Henderson – 297 Avenue Road Extension, Leicester
- Niall MacLean – Flat 3/7, 5 Montague Street, Glasgow
- Timo Mullen – 4 Whitecliff Road, Poole, Dorset
- Nick Smith – Bramblewood, Largoward, Leven
- Becky Howard-Pope – Rainbow Pocket, Balemartine, Tiree
- Jill Howard - Rainbow Pocket, Balemartine, Tiree
- Geoff Gunby – 15 Junction Road, Tottenham, London
- Lisa Mosey – 19 High Fieldside, Crasmere, Cumbria
- Paul Mosey - 19 High Fieldside, Crasmere, Cumbria
- Tracy Carroll – Orchard House, Templehall By Longforan, Dundee
- Daz Migiani – 21 Bright Street, Lochee, Dundee
- Andrew Rossiter – Sunnyside, Balemartine, Tiree
- Lynsey Gray – Cruachan, Balemartine, Tiree
- Alison Aspe – 170 Crown Street, Aberdeen
- Mike McKenns – 8 Dornie Place, Dundee
- Graeme Brown – 20 Macfarlane Road, Glasgow
- Margaret Lothian – 74 Durward Rise, Livingston
- Stuart Willison – 14 Naughton Road, Wormit (2 representations received)
- Gavin Eisler – Bun Atha, Taynuilt
- Michael McLarwn – 70 Ancrum Drive, Dundee
- Michelle Bergson – 73 Barns Street, Glasgow
- Joanna Tennant – 7a Brunstane Road North, Edinburgh
- Moira & Michael Cambridge – 8 Palmer Place, Birkhill, Dundee
- Ulrike Moeser – Lobelinweg 79, 04288 Leipzig, Germany
- Kate Carter – Stoneleigh, Askerswell, Dorchester
- Anna Gornall – 19 Ullswater Road, Lancaster
- Michael Rennie – 6 Craigshannoch Road, Wormit
- James Roberts – Lawhill House, Trinity Gask, Auchterader
- Lisa Roberts - Lawhill House, Trinity Gask, Auchterader
- Justine Young – 105 Sleigh Drive, Edinburgh
- Neil Thomson – 21 South Hamilton Road, North Berwick
- Catriona Macdonald – An Cnoc, Balephuill, Tiree
- Graham Barr – 17 Lovedale Crescent, Balerno
- Zoe Wilson – 32 Hawthorn Way, Cambuslang, Glasgow
- Karen & Robby Robertson – St Andrews, Fife
- Jonny Meal – Knapthorpe House, Hockerton Road, Caunton, Newark
- Jeremy Garret-Cox – (no address given - states he is a houseowner on Tiree)

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Location Plan Relative to planning application: 15/03260/PP



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**Argyll and Bute Council
Development and 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 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 16/02218/PP

Planning Hierarchy: Local Development

Applicant: Mr Frank Phipps

Proposal: Erection of 9 dwellinghouses, installation of sewage treatment plant and formation of vehicle access

Site Address: Land North of West Shore Cottage, Fort Road, Kilcreggan

DECISION ROUTE

Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 9 (originally 10) dwellinghouses
- Installation of private sewage treatment plant
- Formation of private vehicle access from Fort Road to service 4 dwellinghouses
- Individual accesses direct from Fort Road to serve 5 dwellinghouses

(ii) Other specified operations

- Connection to public water main
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that, subject to a Discretionary Hearing, planning permission be granted as a minor departure from Policies LDP DM 1 and SG LDP HOU 1 of the Local Development Plan subject to a Section 75 Agreement covering off site junction improvements, footway provision and affordable housing, and the conditions and reasons appended to this report.

(C) HISTORY:

12/01548/PP

Erection of 14 dwellinghouses, installation of sewage treatment plant, formation of vehicular access and junction improvements at Fort Road/Rosneath Road

Comment: Application will be withdrawn.

15/01054/PP

Erection of 6 dwellinghouses, installation of sewage treatment plant and formation of vehicular access

Comment: Application will be withdrawn.

(D) CONSULTATIONS:

Area Roads Manager

Memos dated 01/11/16 and 13/10/16 - As previously intimated the existing public road (Fort Road) serving the new development is at capacity. Therefore, until such time as improvements are carried out, would not support any further development. The minimum necessary works required to upgrade the existing public road are at the junction of the B 833 (Rosneath Road) plus from the junction along the length of the road to the access into "Rockfield".

These carriageway, footway and verge improvements will require an application for Roads Construction Consent to be submitted to the Roads Network Manager. These upgrading works should also include the improvement of the existing piped culvert under Fort Road at the eastern boundary of the "Haven", Fort Road, Kilcreggan. No construction work on the new houses should not commence until such time as a Road Construction Consent has been approved and a financial security bond lodged with the Council.

It may be necessary that there is a requirement for a section 75 agreement to be completed, to ensure that any land outwith the existing public road boundary is available to accommodate these necessary road improvements.

Beyond the identified road improvements the existing public road serving the new development is accessed from a single track road with passing places and no pedestrian facility. Therefore, in accordance with the Local Plan Policy SG LDP TRAN 2, a dedicated pedestrian walkway would be required as commensurate improvement to link the development with the main village of Kilcreggan.

The car parking and turning provision detailed is in accordance with the Local Plan Policy SG LDP TRAN 6.

Core Paths

Memos dated 06/10/16 and 23/11/16. Core Path C499 to Kilcreggan – the proposed specification for the Core Path and the provision of a finger post are welcomed. There is no requirement to apply for a Section 208 Path Diversion Order provided that the line of the path remains as it has been recorded on the Core Paths Plan. Previously advised permit/approve.

Scottish Water

Letter dated 23/12/16 and e-mails dated 04/01/17 - No objection in principle. There is no public system to connect into.

SNH

E-mail dated 21/09/16 advising that they don't intend to comment.

West of Scotland Archaeology Service

On previous application letter dated 10/06/15 indicating no objections subject to a condition requiring an archaeological investigation.

Bio-Diversity Officer

Letter dated 21/05/16 on previous application. Asks that the applicant carry out an ecological survey (by a suitably qualified ecologist) of the site to determine its current biodiversity status in relation to the LNCS designation and any other biodiversity interest. In addition, that a landscape planting design is conditioned with emphasis on the treatment of the boundary adjacent to the LNCS.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 20/10/16.

(F) REPRESENTATIONS:

A total of 43 e-mails and letters of representation have been received. These comprise 31 objectors and 12 supporters as detailed in Appendix B at the end of this report.

Objectors

(i) Summary of issues raised

- There is already a substantial amount of heavy plant using Fort Road between the proposed site and the Old Boatyard, which is now a builders' yard. Additional construction traffic will be a source of even greater disruption and damage on a woefully inadequate road which is already in poor condition. The surface of the single track Fort Road continues to crumble along its entire length and we strongly urge no further developments be allowed to take place until Fort Road is upgraded.
Comment: The Area Roads Manager has advised no objection subject to Fort Road being upgraded. See also the assessment.
- The proposed density and type of development has the potential to blight an area outwith the core village next to Kilcreggan woods and Conservation Area. The only other large site with planning consent well within the Kilcreggan envelope lies undeveloped with only ground works completed creating a scar on the landscape and there must be a propensity for something similar should demand for the houses fail to materialise.
Comment: See the assessment.
- The proposed housing development is completely out of character with surrounding properties such as West Shore Cottage, The Barn, Glen Ashdale, Stratharran and Rana.
Comment: See the assessment.
- The culvert over the Kilcreggan Burn is over 100 years old and already showing signs of collapse. Any planning consent should include the upgrade of the entire length of Fort Road, the culvert and the junction with Shore Road prior to commencement of construction.
Comment: The Area Roads Manager has advised no objection subject to Fort Road being upgraded. See also the assessment.

- The proposed site sits astride several public footpaths and the proposed diversion(s) increases the walking distance substantially. The footpaths have been partially obstructed by the erection of fencing.
Comment: The Council's Core Path Team has no objections in principle to their diversion and amendment.
- The area is a site of archaeological and natural interest and should be conserved as such.
Comment: West of Scotland Archaeological Service has advised no objections subject to a condition requiring an archaeological investigation.
- The Council is required to assess such applications in terms of their impact on the natural, human and built environment. The site is designated as a Local Nature Conservation Site (LNCS) and the proposal will be detrimental to the landscape of the area and particularly the wildlife. The LNCS status for the entire area remains and has now been designated as an Area For Action as Sensitive Countryside. So sensitive that any further development here can only be detrimental to the LNCS. It has a very rare raised geological beach which is currently being decimated by owners. This development will take away the tranquillity of the area.
Comment: See the assessment.
- This application seems like a change in the proposals made in application 12/01548/PP. The application is large in scale with a bigger footprint than the very first proposals made in application 12/01548/PP. That application is still awaiting decision. Why were these changes not made in that application, therefore allowing all objectors to a chance to respond?
Comment: Where changes are made to a current planning application the Council has to decide whether they constitute a material change. If so the Council will request a fresh application. In this case it was decided that the changes were material and a fresh application was requested.
- The Bio-Diversity Officer asked for a report to be carried out by the applicant on application 12/01548/PP. We trust this is still a requirement.
Comment: An ecological report will be required as a pre-start condition.
- A major concern is the spread of Japanese Knotweed which is rife in the immediate vicinity of the site.
Comment: An informative has been attached to deal with this issue.

Supporters

(i) Summary of issues raised

- Local people have a very short memory regarding Fort Road. It was used by travellers and fly tippers with all sort of litter, couches, scrap cars and builders' rubble etc being left for someone else to deal with. With fencing and regular grass cutting they were turned away. Kilcreggan is a fantastic village and will only be made greater with this development.
Comment: See the assessment.
- The small section of Fort Road zoned for building is currently a grass paddock and will have minimum effect on the already encouraged local wildlife and the benefits these houses bring to the community in terms of new families to support the school and businesses far outweigh the obvious

gripes of one or two neighbours with a large list of friends and restless keyboard.

Comment: See the assessment.

- The roads are safer to drive on due to passing places, the area is cleaner due to a lack of fly tipping, and knotweed is being dealt with. The roads are also safer for cyclists due to the introduction of cycle/footpaths. The landowner has no intention of further developing the area for residential use and fully intends to improve and manage the long neglected area for the benefit of the community.

Comment: See the assessment.

- The area at Fort Road is only a very small part of a larger 30 acre estate. It is approximately 3 acres and has been identified in the Local Plan as a settlement zone. The infill will complete the small community and provide work, much needed homes for families, children to help maintain the schools and revenue for local businesses. This area needs affordable housing and cannot understand why objections should be made, after all there is a housing shortage.

Comment: See the assessment.

- Dismayed by many of the unfounded comments made by objectors to this small development. This development would benefit the community by: -
- bringing much needed housing to the area and improving the infrastructure of Fort Road by making the only entrance to it and our village surgery safer.
- The creation of a countryside foot path/cycle way/bridleway at the expense of the development team making it safer and pedestrian friendly
- An Ecological and Biodiversity report has already been carried out on the whole area of the 30-acre estate, but once again, what continually seems to be overlooked with regards to the site area is that the development site is in fact designated on the area wide plan for Argyll and Bute as a settlement zone.
- The landowners team have continually worked to improve the area, this has been proved by the increase in use by the public and the access provided. Many people park and walk their dogs from all over the area and now with the beach access created Kayakers now also park and launch to navigate the Kayak trail. The Peninsula trail follows Fort Road too and will soon with the team's efforts have a designated and safe pathway.
- A recent dig by the local archaeological group and with permission and assistance from the estate team unearthed bronze-age finds in a cave at the ancient beach. This will become a visitor feature and will also be protected and financed by the estate team and landowner.
- This development is very important to the future of the whole estate as the continuity of improvements requires finance and the small trade off from the 3 acres will provide all the improvements and management of the woodland and foreshore to take the Fort Road estate forward.
- The land owner and team want the Fort Road estate to be an outstanding feature of Kilcreggan village and a legacy to be proud of. Continued sensitive management of the whole area will continue.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>. A total of 42 e-mails and letters of representation have been received. These comprise 31 objectors and 11 supporters as detailed in the Appendix at the end of this report.

(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: Yes

A section 75 agreement is required in order to secure the proposed off site road improvements considered to be necessary in road safety terms in order to accommodate the increased traffic volumes that this development would generate. In addition, the adopted Local Development Plan, under Policies LDP 8 and SG LDP HOU 1, requires that on any site with more than 8 residential units, 25% of them should be affordable units. The developer is required to fund the following works, namely:

Junction improvements and footway provision

- a. The provision of a 5.5 metre carriageway between Rosneath Road (B833) and the entrance to the house known as "Rockfield". This shall include a 2 metre footway on the south side linking to the medical centre and grass verges on the north side.
- b. The existing water course culvert located under Fort Road serving the Kilcreggan burn should be increased in length to accommodate the proposed road widening works.
- c. The existing street lighting shall be extended to the eastern limits of the proposed road widening improvements.

Full details of these proposed road improvements on Fort Road shall be submitted to and agreed in writing with the Planning Authority in consultation with the Council's Road Network Manager. Thereafter the proposed road improvements shall be fully implemented in accordance with these details prior to occupation of the first dwelling house.

On Fort Road between the development site and the house known as "Rockfield" (termination of the proposed road widening works) a pedestrian walkway should be provided adjacent to the existing single track public road.

Full details of the layout and the proposed maintenance arrangements to be submitted prior to any works starting on site. Thereafter the approved layout shall be fully implemented prior to occupation of the first house.

Affordable Housing

Provision of 2 off-site affordable residential units by means of a commuted sum of approximately £24,000 per affordable unit payable to the Council’s Strategic Housing Fund after the completion of 1 mainstream house.

(ii) Reason for refusal in the event that the Section 75 agreement is not concluded:

Junction improvements and footway provision

The existing public road (Fort Road) serving the new development is at capacity. Therefore, the addition of a further 9 dwellinghouses require that improvements are carried out. The improvements include upgrading the existing public road (Fort Road) at the junction of the B 833 (Rosneath Road) plus from the junction along the length to the road to the access into “Rockfield”. These upgrading works should also include the improvement of the existing piped culvert under Fort Road at the eastern boundary of the “Haven” Fort Road, Kilcreggan. A dedicated pedestrian walkway would be required as commensurate improvement to link the development with the main village of Kilcreggan. These off-site measures cannot be secured by way of planning conditions and therefore a legal agreement is required. In the absence of such an agreement, vehicular and pedestrian safety on the approach road to the site would be compromised by the traffic generated by the scale of development proposed, contrary to the requirements of Policies LDP TRAN 4 and LDP TRAN 5 of the 'Argyll and Bute Local Development Plan'.

Affordable Housing

This development relates to the provision of more than 8 residential units and is therefore subject to Policies ‘LDP 8 and SG LDP HOU 1’ of the Argyll and Bute Local Development Plan. These policies require that sites with a capacity of 8 units or more should contribute 25% of the total number of units as affordable housing. In the absence of a Section 75 Legal Agreement to secure the required provision the development of 9 residential units, as proposed, would not provide for the affordability component required by Policies ‘LDP 8 and SG LDP HOU 1’. This would be contrary to the Council’s Local Development Plan commitment to assist in supply of affordable homes pursuant to the advice given by Scottish Government in SPP (2014).

(I)	Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:	No
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(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

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

Argyll and Bute Local Development Plan, 2015

- LDP STRAT 1 – Sustainable Development
- LDP DM 1 – Development within the Development Management Zones
- LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
- LDP 4 – Supporting the Sustainable Development of our Coastal Zone

- LDP 8 – Supporting the Strength of our Communities
- LDP 9 – Development Setting, Layout and Design
- LDP 10 – Maximising our Resources and Reducing our Consumption
- LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

- SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity
- SG LDP ENV 5 Development Impact on Local Nature Conservation Sites (LNCS)
- SG LDP ENV 6 – Development Impact on Trees / Woodland
- SG LDP ENV 14 –Landscape
- SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance

- SG LDP HOU 1 – General Housing Development including Affordable Housing
- SG LDP HOU 2 – Special Needs Access Provision in Housing Developments
- SG LDP HOU 3 – Housing Green Space
- Sustainable Siting and Design Principles
- Delivery of Affordable Housing

- SG LDP BAD 2 – Bad Neighbour Development in Reverse
- SG LDP SERV 1 Private Sewage Treatment Plants and Wastewater (i.e. drainage)

Systems

- SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Systems (SUDS)
- SG LDP SERV 3 – Drainage Impact Assessment (DIA)
- SG LDP SERV 5 (b) – Provision of Waste Storage and Collection Facilities within New Development
- SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development
- SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
- SG LDP TRAN 5 – Off-Site Highway Improvements
- SG LDP TRAN 6 –Vehicle Parking Provision

- SG LDP DEP – Departures to the Local Development Plan

- (i) **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 Sustainable Design Guidance, 2006
 Scottish Planning Policy (SPP), 2014
 Representations

(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:** A total of 43 e-mails and letters of representation have been received. In light of the significant local community interest and that the proposal is a minor departure from Policies LDP DM 1 and SG LDP HOU 1 it is considered that a hearing would give added value to the decision making process and is justified in this instance.

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

Planning permission is sought for the erection of 9, originally 10, dwellinghouses on an area of land at Fort Road, Kilcreggan. Policy SG LDP TRAN 4 indicates that developments should be served by a public road, however, there are a number of exceptions depending on the circumstances which include the opportunity for a housing development not exceeding 5 dwellings to be served by a private access. In this case 5 of the 9 houses take access directly from Fort Road which is adopted with the second tier of 4 houses being served by means of a new private access. The Area Roads Manager has indicated no objections subject to conditions and the proposal is considered to accord with this policy.

In this case the determining issues are whether the proposal has a high standard of design and its impact on the natural, human and built environment including, inter alia, form, location and scale. As the site also forms part of a larger Local Nature Conservation Site (LNCS) and Area for Action, the impact of the development on the wider LNCS also has to be considered. Development that would have an adverse effect on the integrity of Local Nature Conservation Sites will not be supported unless the developer satisfactorily demonstrates that such adverse effects are clearly outweighed by social, environmental or economic benefits and that all possible mitigation measures have been incorporated to minimise the adverse effects on the interests of the site.

In terms of the adopted Argyll and Bute Local Development Plan the application site is located primarily within the settlement boundary where Policy LDP DM 1 gives encouragement to sustainable forms of development subject to compliance with other relevant policies and supplementary guidance.

The site forms part of a larger paddock and scrub/rough grazing land on the north side of Fort Road. The proposal is for the erection of 9 houses set out in a two tier linear pattern. The site slopes up from the coast and road towards existing dwellinghouses. An access road to service four of the proposed houses is located towards the western end of the site and is just outwith the settlement boundary.

Portkil is a minor settlement where there is a presumption against major (more than 30 houses) and medium (6 to 30) scale housing development as defined by Policies LDP DM 1 and SG LDP HOU 1. At 9 houses the proposal is defined as medium scale and is contrary to these policies which in minor settlements allows up to 5 houses. Nine houses are proposed to fund the road improvements required by the Area Roads Manager. The development of 9 houses will have an economic benefit to the local area and the upgrading of the existing access road will create additional opportunities for development. By improving the infrastructure of Fort Road, specifically upgrading the access, it will make the only entrance to this area and access to the medical centre safer in terms of both vehicular and pedestrian safety. The creation of a countryside footpath/cycle/bridleway will also improve vehicular and pedestrian safety.

The access road to service four of the house plots and the proposed private sewage treatment plant are located outwith the settlement boundary in the Countryside Zone.

In this case the development has a high standard of design and sits comfortably with the existing settlement structure which comprises a mix of house styles. Only the access road and private sewage treatment plant is located within the Countryside Zone and any incursion/extension is minimal. There is currently no visible defined edge to the existing settlement boundary and a scheme of boundary planting is proposed which will give a specific and defensible end to the settlement. In landscape terms it is therefore, considered that there is justification for a minor departure to policies LDP DM1 and SG LDP HOU1 which are resistant to housing development immediately adjacent to a defined settlement boundary. As part of the proposal, 2 affordable units will be required and overall the proposed houses will finance the upgrade of Fort Road as required by the Area Roads Manager. The proposed houses, by virtue of their design and separation distance, will not impact on the character and amenity of adjoining houses and the surrounding area. In addition, the development will not detrimentally impact on the local nature conservation area. As such, it is considered that the proposal can be justified as a minor departure to Policies LDP DM 1 and SG LDP HOU 1.

The existing public road (Fort Road) serving the new development is at capacity therefore improvements will be required. The minimum necessary works required to upgrade the existing public road (Fort Road) are at the junction of the B 833 (Rosneath Road) plus from the junction along the length to the road to the access into "Rockfield".

These carriageway, footway and verge improvements will require an application for a roads construction consent to be submitted to the Roads Network Manager. These upgrading works should also include the improvement of the existing piped culvert under Fort Road at the eastern boundary of the property known as the "Haven", Fort Road, Kilcreggan. These can be covered by a Section 75 Agreement and should not commence until such time as a Road Construction Consent has been approved and a financial security bond lodged with the Council.

Beyond the identified road improvements the existing public road serving the new development is accessed from a single track road with passing places and no pedestrian facility. Therefore in accordance with Local Plan Policy SG LDP TRAN 2 a dedicated pedestrian walkway would be required as commensurate improvement to link the development with the main village of Kilcreggan. The car parking and turning provision detailed is in accordance with the Local Development Plan Policy SG LDP TRAN 6.

Water supply is via a connection to the public system while drainage is indicated to be by means of a private sewage system. Under Policy SG LDP SERV 1 connection to the public sewer will be required, unless the applicant can demonstrate, inter alia, that connection is not feasible, for technical or economic reasons. In terms of sewerage, a number of options are available. The applicant has previously obtained planning permission for a separate sewage treatment unit to the south of the application site under reference 09/00758/DET. This is to service other development in the area. Scottish Water has confirmed that there is no public system. An existing private pipe which takes waste from the existing houses on Fort Road discharges raw sewage directly in to the Clyde without any treatment and it is not considered appropriate to add to this. As such the applicant's preferred option for a new private treatment plant discharging clean water into adjoining ground is considered acceptable in principle.

The development has a high standard of design and sits comfortably with the existing settlement structure. A scheme of boundary planting is proposed which will give a specific and defensible end to the settlement. As part of the proposal 2 affordable units will be required and the proposed houses will finance the upgrade of Fort Road required by the Area Roads Manager. The proposed houses will not impact on the character and amenity of adjoining houses and the surrounding area. In addition, the development will not detrimentally impact on the local nature conservation area. As such, it is considered that

the proposal can be justified as a minor departure to Policies LDP DM 1 and SG LDP HOU 1.

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

(R) Reasons why planning permission should be granted

The development has a high standard of design and sits comfortably with the existing settlement structure which comprises a mix of house styles. There is no specific defined edge to the existing settlement boundary and a scheme of boundary planting is proposed which will give a specific and defensible end to the settlement. As part of the proposal 2 affordable units will be required and the proposed houses will finance the upgrade of Fort Road required by the Area Roads Manager. The proposed houses are all contained within the settlement boundary and will not impact on the character and amenity of adjoining houses and the surrounding area. In addition, the development will not detrimentally impact on the local nature conservation area. As such, it is considered that the proposal can be justified as a minor departure to Policies LDP DM 1 and SG LDP HOU 1.

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

Portkil is a minor settlement where there is a presumption against major (more than 30 houses) and medium (6 to 30) scale housing development as defined by Policies LDP DM 1 and SG LDP HOU 1. At 9 houses the proposal is defined as medium scale and is contrary to this policy which in minor settlements allows up to 5 houses. In addition, the access road to service four of the house plots is located outwith the settlement zone in the Countryside Zone. Within the Countryside Zone up to small scale on appropriate infill, rounding off and redevelopment sites and changes of use of existing buildings. In exceptional cases development in the open countryside up to and including large scale may be supported on appropriate sites if this accords with an ACE. There is a presumption against development that seeks to extend an existing settlement into the Countryside Zone.

In this case, the development has a high standard of design and, subject to the removal of one of the plots (from 10 to 9), sits comfortably with the existing settlement structure which comprises a mix of house styles. Only the private access which will serve 4 houses and the private sewage treatment plant are located within the Countryside Zone and any incursion/extension is minimal. There is currently no visible defined edge to the existing settlement boundary and a scheme of boundary planting is proposed which will give a specific and defensible end to the settlement. In landscape terms it is therefore, considered that there is justification for a minor departure to policies LDP DM1 and SG LDP HOU1 which are resistant to housing development immediately adjacent to a defined settlement boundary. As part of the proposal 2 affordable units will be required and the proposed houses will finance the upgrade of Fort Road required by the Area Roads Manager. The proposed houses will not impact on the character and amenity of adjoining houses and the surrounding area. In addition, the development will not detrimentally impact on the local nature conservation area.

The development of 9 houses will have an economic benefit to the local area and the upgrading of the existing access road will create additional opportunities for development. By improving the infrastructure of Fort Road, specifically upgrading the access, it will make the only entrance to this area and access to the medical centre safer in terms of both vehicular and pedestrian safety. The creation of a countryside footpath/cycle/bridleway will also improve vehicular and pedestrian safety. In

environmental terms the creation of a defined edge with significant boundary planting will enhance this part of Portkil and have a minor positive impact on the local nature conservation area by creating additional habitat. Previous development along Fort Road has not included any affordable housing. The scheme of 9 houses will provide 2 affordable units by means of a commuted sum off site thus having a positive social benefit. As such, it is considered that the proposal can be justified as a minor departure to Policies LDP DM 1 and SG LDP HOU 1.

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

Author of Report: Howard Young **Date:** 04/01/17

Reviewing Officer: Angus Gilmour **Date:** 05/01/17

Angus Gilmour
Head of Planning

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. (16/02218/PP)

1. The development shall be implemented in accordance with the details specified on the application form dated 9 August 2016 and the approved drawing reference numbers P(LP)001, P(SP)001, A.005H, A.005, A.006H, A.007H, A.007 and D(AP)001 A unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided to the Planning Authority for approval before commencement of development.

Reason: To ensure that the development is adequately served by a public water supply.

3. No development shall commence until samples of materials to be used in the construction of the dwellinghouse hereby approved have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority

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

4. Prior to commencement of development a scheme of boundary treatment, surface treatment and landscaping shall be submitted to and approved in writing by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
- iv) Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, 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: To assist with the integration of the proposal with its surroundings in the interest of amenity.

5. Prior to development commencing on site, full details of the proposed private sewage treatment plant to serve the development shall be submitted to and approved in writing by the Planning Authority. The information submitted shall include details of the proposed outfall soakaway and a regime for the on-going maintenance of the private treatment plant. The duly

approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development and to ensure that there is no discharge of contaminated or polluted drainage to ground or surface waters.

6. No development shall be commenced until details of the surface water drainage system to be incorporated into the development have been submitted to and approved in writing by the Planning Authority. Such measures shall show separate means for the disposal of foul and surface water, the provision of a Sustainable Urban Drainage System (SuDS) and shall include details of how it will be maintained. Suds should be designed in accordance with CIRIA C753 and Sewers for Scotland 3rd Edition and include details of design calculations, method statement for construction, maintenance regime and ground investigation. The approved surface water drainage system shall be completed and brought into use prior to the development hereby approved being completed or brought into use.

Reason: To ensure that an acceptable scheme of surface water drainage is implemented

7. Prior to development commencing a method statement for an archaeological watching brief shall be submitted to and approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service. The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site. Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

8. Prior to works commencing on site an ecological survey of the Kilcreggan Woodlands and Raised Beach Local Nature Conservation Site shall be carried out by a qualified ecologist to determine its current biodiversity status in relation to the LNCS designation and any other biodiversity interest. The survey should identify measures to maintain and enhance the flora and fauna of the area including a timescale for the implementation of any of the measures agreed with the Council.

Reason: To maintain and enhance the range of species and character of Kilcreggan Woodlands and Raised Beach Local Nature Conservation Site.

9. Prior to works commencing on site, the following information shall be submitted and agreed in writing with the Council:

- details of how it is proposed to maintain Core Path C499 during the construction phase of operations and after completion of development;
- details of how it is proposed to maintain the wider path network namely paths 15/22 and 15/86 which traverse the site during the construction phase of operations and after completion of development.

Reason: To ensure that Core Path C499 is maintained and improved.

10. Prior to works commencing on site, the following information shall be submitted and agreed in writing with the Council:

- details of how Core Path C499, within the applicant's control, will be improved and maintained. Thereafter, the approved details shall be implemented prior to the development hereby approved being completed or brought into use unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure that Core Path C499 is maintained and improved.

11. Prior to works commencing on site, details of the method of construction of the private access serving the four dwellings including gradients and finishes shall be submitted to and agreed in writing by the Planning Authority.

Reason: In the interests of road safety.

12. At the junction of the proposed private access serving the four dwellings and the public road (Fort Road) a visibility sightline 2.4 x 25 x 1.05 metres shall be provided and maintained in perpetuity.

Reason: In the interests of road safety.

13. The provision for car parking within the site shall be in accordance with the Council's Local Development Plan supplementary guidance SG LDP TRAN 6 Vehicle Parking Provision.

Reason: In the interests of road safety.

Notes to Applicant:

This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]

In order to comply with Sections 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. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.

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.

The proposed road improvements to the existing public road (Fort Road) would require the submission of an application for a roads construction consent. After subsequent approval a financial security road bond will be required to be lodged before any works commence on site.

Japanese Knotweed has been reported on or near this site. It is a highly invasive weed that is capable of structural damage. Disturbance will cause it to spread and its movement is controlled by legislation. Under the Wildlife and Countryside Act 1981 it is illegal to cause it to spread in the wild. You are strongly advised to survey the site for the presence of Japanese Knotweed at an early stage and before any site clearance work and, if found, to formulate plans to control or eradicate it. Please note that Japanese Knotweed can be far more extensive than the visible parts on the surface and that the underground parts of the plants may extend laterally up to 7 metres beyond this.

Prior to any alterations or diversion of the paths within the application site the applicant should contact the Council's Access Officer from the Core Paths Team to receive written approval for their proposals.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 16/02218/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Planning permission is sought for erection of 9 (originally 10) dwellinghouses on an area of paddock and scrub land at Fort Road, Kilcreggan. In terms of the adopted Argyll and Bute Local Development Plan the application site is located primarily within the settlement boundary where Policies LDP DM 1 and SD LDP HOU 1 give encouragement to sustainable forms of development subject to compliance with other relevant policies and supplementary guidance.

Portkil is a minor settlement where there is a presumption against major (more than 30 houses) and medium (6 to 30) scale housing development as defined by Policies LDP DM 1 and SG LDP HOU 1. At 9 houses the proposal is defined as medium scale and is contrary to these policies which in minor settlements allows up to 5 houses. Nine houses are proposed to fund the road improvements required by the Area Roads Manager. The development of 9 houses will have an economic benefit to the local area and the upgrading of the existing public road will create additional opportunities for development. By improving the infrastructure of Fort Road, specifically upgrading the junction with the B833, it will make the only entrance to this area and access to the medical centre safer in terms of both vehicular and pedestrian safety. The creation of a countryside footpath/cycle/bridleway will also improve vehicular and pedestrian safety.

The development has a high standard of design and, subject to the removal of one of the plots (from 10 to 9), sits comfortably with the existing settlement structure which comprises a mix of house styles. Only the private access which will serve 4 houses and the private sewage treatment plant are located within the Countryside Zone and any incursion/extension is minimal. There is currently no visible defined edge to the existing settlement boundary and a scheme of boundary planting is proposed which will give a specific and defensible end to the settlement. In landscape terms it is therefore, considered that there is justification for a minor departure to policies LDP DM1 and SG LDP HOU1 which are resistant to housing development immediately adjacent to a defined settlement boundary.

As part of the proposal 2 affordable units will be required and the proposed houses will finance the upgrade of Fort Road as required by the Area Roads Manager. The proposed houses will not impact on the character and amenity of adjoining houses and the surrounding area. In addition, the development will not detrimentally impact on the local nature conservation area. As such, it is considered that the proposal can be justified as a minor departure to Policies LDP DM 1 and SG LDP HOU 1.

B. Location, Nature and Design of Proposed Development

The site is irregular in shape extending to some 9372 square metres. It forms part of a larger area of paddock and scrub/rough grazing land on the north side of Fort Road, Portkil. The site slopes up from the coast and road towards existing dwellinghouses and an industrial unit.

The proposal is for the erection of 9 originally 10 houses set out in a linear pattern. Two house types are shown with all being detached, one and a half storey houses of modern design with a strong central projection/extension. The five at the front of the site take access from Fort Road. An access road to service the other four houses is located towards the western end of the site and is outwith the settlement boundary. The proposed houses have slate roofs and timber and smooth render finish walls.

The houses sit in substantial plots and are some 30 metres from the existing dwellinghouses to the north of the site and 23 metres from West Shore Cottage to the south. There is no specific defined edge to the existing settlement boundary and a scheme of boundary planting is proposed which will give a specific and defensible end to the settlement. As part of the proposal 2 affordable units will be required by means of a commuted sum and the proposed mainstream houses will finance the upgrade of Fort Road as required by the Area Roads Manager.

As indicated above, the original proposal was for 10 houses set out in three tiers of 5, 1 and 4 houses. The single house separating the other two tiers was incongruous and didn't sit well with the other houses. It appeared squeezed in to the corner of the site and was at odds with the proposed linear pattern. If approved it is considered that it would have been visually discordant and visually intrusive. As such the applicant has agreed to delete this property. With this plot removed the development has a high standard of design and sits comfortably with the existing settlement structure which comprises a mix of house styles. The proposed houses will not impact on the character and amenity of adjoining houses and the surrounding area. In addition, the development will not detrimentally impact on the local nature conservation area. As such, it is considered that the proposal can be justified as a minor departure to Policies LDP DM 1 and SG LDP HOU 1.

The application site adjoins Ensign Motifs which is a long-standing industrial unit now within the settlement boundary. Policy SG LDP BAD 2 deals with the potential for bad neighbour development in reverse. Potentially the siting of dwellinghouses next to an industrial unit could give rise to conflict. In this instance, Ensign Motifs manufactures embroidered clothing and would be classified as a Class 4 Business Use under the Use Classes (Scotland) Order. Such uses can be carried on in any residential area without detriment to the amenity of that area. As such it is considered that it does not constitute a bad neighbour and that the proposal accords with Policy SG LDP BAD 2.

C. Road Network, Parking and Associated Transport Matters.

Policy SG LDP TRAN 4 indicates that developments should be served by a public road, however, there are a number of exceptions depending on the circumstances which include the opportunity for a housing development not exceeding 5 dwellings to be served by a private access. In this case 5 of the 9 houses take access directly from Fort Road which is adopted with the second tier of 4 houses being served by means of a new private access. The Area Roads Manager has indicated no objections subject to conditions and the proposal is considered to accord with this policy.

Under Policy SG LP TRAN 5, where development proposals will significantly increase vehicular or pedestrian traffic on substandard private or public approach roads, then developments will be required to contribute proportionately to improvements to an agreed section of the public or private road network. Since the last Local Plan, when the settlement boundary of Portkil was revised and extended, the Council has approved a number of new houses in this area. It is now considered that the existing public road (Fort Road) serving the new development is at capacity and therefore improvements will be required. The minimum necessary works required to upgrade the existing public road (Fort Road) are at the junction of the B 833 (Rosneath Road) plus from the junction along the length to the road to the access into "Rockfield including upgrading of an existing culvert".

These carriageway, footway and verge improvements will require an application for Roads Construction Consent to be submitted to the Roads Network Manager. These upgrading works should also include the improvement of the existing piped culvert under Fort Road at the eastern boundary of the property known as the "Haven", Fort Road, Kilcreggan. The land is outwith the control of the applicant but he has indicated that he

has dealt with the owner previously and will be able to provide the improvements. As such a Section 75 Agreement is considered to be the most appropriate mechanism for providing these improvements in this instance. Road Construction Consent will also be required including a financial security bond to be lodged with the Council prior to the occupation of the first dwellinghouse. On this basis, the proposal accords with Policy SG LDP TRAN 5.

Beyond the identified road improvements the existing public road serving the new development is accessed from a single track road with passing places and no pedestrian facility. Therefore, in accordance with Local Plan Policy SG LDP TRAN 2, a dedicated pedestrian walkway would be required as commensurate improvement to link the development with the main village of Kilcreggan. Again this can be covered by condition. The car parking and turning provision, as amended, is in accordance with Policy SG LDP TRAN 6.

D. Drainage/Flooding/Infrastructure

Water supply is via a connection to the public system while drainage is indicated to be by means of a private sewage system. Under Policy SG LDP SERV 1 connection to the public sewer will be required, unless the applicant can demonstrate, inter alia, that connection is not feasible, for technical or economic reasons. In terms of sewerage, a number of options are available. The applicant has previously obtained planning permission for a separate sewage treatment unit to the south of the application site under reference 09/00758/DET. This is to service other development in the area. Scottish Water has confirmed that there is no public system. An existing private piped system which takes waste from the existing houses on Fort Road discharges raw sewage directly in to the Clyde without any treatment and it's not considered appropriate to add to this. As such the applicant's preferred option for a new private treatment plant discharging clean water into adjoining ground is considered acceptable in principle in line with Policy SG LDP SERV 1. A SuDS condition will also be attached regarding surface water.

E. Bio- Diversity/Local Nature Conservation Site

The application site has a triple designation under the Local Plan. It is part of the larger Kilcreggan Woodlands and Raised Beach Local Nature Conservation Site. It is an Area for Action (AFA) 2001 and it is within the settlement boundary. Policy SG LDP ENV 5 is applicable in relation to its conservation designation. It states that development that would have an adverse effect on the integrity of the Local Nature Conservation Sites will not be supported unless the developer satisfactorily demonstrates that:

- (A) Such adverse effects are clearly outweighed by social, environmental or economic benefits of community wide importance arising from the development proposal, and,
- (B) The Council is satisfied that all possible mitigation measures have been incorporated to minimise the adverse effects on the interests of the site.

Where development is allowed which could affect an LNCS, including beyond their boundaries, the developer must demonstrate that adequate measures will be taken to conserve and enhance the sites' ecological, geological and geomorphological interest.

The Local Nature Conservation Site has a special interest in regards to habitat diversity including uncommon flora (Wall Pennywort, Sea Radish, Common Skullcap, Bistort, White Campion, Yellow Rattle and a variety of orchids) and includes Black Bog Rush. The LNCS consists of mixed habitats and includes broadleaved woodland and scrub, marsh/marshy grassland. The Council's Bio-Diversity Officer was consulted on the previous application and responded in May 2016. She has indicated that the wider site does not have any protected European species but has interest in terms of both flora

and fauna. As such she is recommending an ecological survey be undertaken together with a landscape planting plan.

The issue is whether development of this site will undermine its conservation status. As previously advised the site is also included within the settlement boundary where there is a presumption in favour of development. The site itself is part paddock and scrub/rough grazing land which it is considered contributes little to the wider LNCS designation. The proposal includes substantial boundary planting to the west of the application site and the Bio-Diversity Officer has indicated that the ecological survey and planting scheme can be covered by suspensive conditions. As such it is considered that the loss of this part of the LNCS will not undermine its conservation status and that with additional planting the bio-diversity of the area will be marginally enhanced. The proposal is therefore consistent with Policy SG LDP ENV 5.

F. Core paths/Access issues

Under Policy SG LDP TRAN 1 the Council requires development proposals to safeguard and enhance public rights of access to the outdoors in a manner that is appropriate and proportionate to the specific site characteristics and the scale and impact of the proposed development on access issues. Accordingly, the Core Paths Plan, claimed Public Rights of Way and public rights of access to land and water under the Land Reform (Scotland) Act 2003 (LRSA) will be material considerations in assessing planning applications. Where development would have a significant adverse effect upon the public access interests identified an alternative access provision will be sought at the developer's expense either by diverting the route or incorporating it into the proposed development in a way that it is no less attractive, safe or convenient for public use. Where development would have a significant effect upon the public access interests identified the developer is required to submit an Access Plan which addresses access issues to the satisfaction of the Council.

Core path C499 is partly within the site boundary and offers the opportunity for re-routing and path improvement. In terms of the wider path network, paths 15/22 and 15/86 traverse the site and will require the construction of a new path. A new path is shown within the development site and the Outdoor Access Team have indicated no objections. Subject to conditions regarding maintenance of access and the re-routing and improvement of core path C499 it is considered that the proposal accords with Policy SG LDP TRAN 1.

G. Affordable Housing

The adopted Local Development Plan, under Policies LDP 8, SG LDP HOU 1, requires that on any site with more than 8 residential units, 25% of them should be affordable units. Affordable housing can be delivered by a variety of means including social rented housing, mid-market rented housing, the payment of commuted sums and also the building of houses/apartments designed to meet the needs of first time buyers. Affordable housing to be provided is expected to be fully integrated on site, delivered by a number of different mechanisms including shared equity where appropriate and taken forward in a tenure blind manner. Only in exceptional circumstances and once the developer has demonstrated to the satisfaction of the Planning Authority that on site provision is not practicable will other options then be considered. In order to secure the most appropriate affordable housing for each site therefore a sequential approach will be applied to the delivery of affordable housing, in the following order:

1(a) the provision of affordable (social rented/shared equity) housing on-site

OR

1(b) the transfer of an area of serviced land on-site to a registered social housing provider

OR – if this is not achievable for market, investment, location or other reasons:

2(a) the provision of affordable housing (social rented/shared equity) off-site within the same community or housing market area

2(b) the transfer of an area of serviced land off-site to a Registered Social Landlord (RSL).

Where the options 1 or 2 are not available for market, investment, location or other reasons the following options can also be considered on an equal basis namely;-

4 Commuted Payment (Sum to be agreed by the District Valuer for each Housing Market Area);

5 Discounted low cost sale;

6 Housing without subsidy.

In this case the applicant has indicated that provision will be by means of an Open Market Shared Equity Scheme. This allows people on low to moderate incomes to buy homes that are for sale on the open market where it is affordable for them to do so. The scheme is currently open to help all first time buyers. The minimum equity stake that buyers must take in a property is 60 per cent and the maximum equity stake is 90 per cent. Lenders normally require buyers to provide a modest deposit. Applications to the scheme are assessed by registered social landlords who administer the scheme on behalf of the Scottish Government

There are limits set on the price of homes that can be bought under the open market scheme to ensure that only 'starter' properties are available through the scheme - these are known as threshold prices. These limits vary according to house prices in different parts of Scotland and are often referred to as local maximum price ceilings. In Argyll and Bute a 6 apartment property has a threshold of £235,000. The applicant's agent has confirmed the two properties to be utilised for affordable housing will meet this threshold. However, it is considered that given their mass, scale and design these are not starter properties and their basic price will be well in excess of the Argyll and Bute threshold. Therefore, the requirement for a minimum equity stake that buyers must take in a property of 60 per cent and a maximum equity stake of 90 per cent means that this option is not a practical one in terms of the properties being affordable.

In terms of the sequential test and for the same reasons as indicated above it is not considered practical to provide housing on site either social rented/shared equity. Equally the transfer of an area of serviced land on-site to a registered social housing provider is also ruled out given the design of the houses. The applicant does not own land elsewhere and therefore off-site provision within the same community or housing market area or transfer of an area of serviced land off-site to a Registered Social Landlord (RSL) is not an option.

This leaves a commuted payment as the most practical option. These payments can be used to enable off-site provision to make an equal and equivalent financial contribution to the Strategic Housing Fund managed by Argyll and Bute Council to promote the direct provision of affordable accommodation with an approved Registered Social Landlord on other sites in the local housing market area. The commuted payment should be equivalent to the difference between the value of the affordable housing unit and the value of the equivalent private unit to ensure that the financial impact to the developer is the same as if the developer provided the affordable units on site. Where commuted payments are agreed, they will normally be payable at the same stage as on site provision would have been required in order to ensure that the time lag between the supply of private housing and the affordable housing is minimised.

In this case the commuted sum of approximately £24,000 per affordable unit would be payable to the Council's Strategic Housing Fund after the completion of 1 mainstream

house. The provision of the commuted sum would be monitored by Planning staff in conjunction with the Housing Department. If the Council is unable to attract public funding for the provision of affordable housing within a five year period (from completion of the first private house) in the form of off-site provision, then the provision in relation to commuted payments will be invoked and the developer will be entitled to have the commuted sum returned.

H. Previous Planning History

Reference is made in the representations section to the site's previous planning history. Two applications for this site are still pending decision. These are 12/01548/PP for the erection of 14 dwellinghouses, installation of sewage treatment plant, formation of vehicular access and junction improvements and 15/01054/PP for the erection of 6 dwellinghouses, installation of sewage treatment plant and formation of vehicular access. In the first instance the proposal for 14 houses (reduced from the original 20) was considered over development. Last year's application for 6 houses was considered more acceptable but, according to the applicant, would not provide sufficient monies to pay for the required junction and other road improvements. It is understood that they will be withdrawn and are minor material considerations in the assessment of the current proposal.

I. Conclusion.

Section 25 of the Town and Country Planning (Scotland) Act 1997 establishes that the determination of a planning application shall be made in accordance with the development plan unless material considerations indicate otherwise. In this instance the plan relevant to the application is the Local Development Plan (LDP).

Portkil is a minor settlement where there is a presumption against major (more than 30 houses) and medium (6 to 30) scale housing development as defined by Policies LDP DM1 and SG LDP HOU 1. At 9 houses the proposal is defined as medium scale and is contrary to these policies which in minor settlements allows up to 5 houses. In addition, the access road to service four of the house plots is located outwith the settlement zone in the Countryside Zone. In this case, the development has a high standard of design and, subject to the removal of one of the plots, sits comfortably with the existing settlement structure which comprises a mix of house styles. Only the access road is located within the Sensitive Countryside Zone and any incursion/extension is minimal. There is no specific defined edge to the existing settlement boundary and a scheme of boundary planting is proposed which will give a specific and defensible end to the settlement. As part of the proposal 2 affordable units will be required and the proposed houses will finance the upgrade of Fort Road required by the Area Roads Manager. The proposed houses will not impact on the character and amenity of adjoining houses and the surrounding area. In addition, the development will not detrimentally impact on the local nature conservation area.

The development of 9 houses will have an economic benefit to the local area and the upgrading of the existing access road will create additional opportunities for development. In environmental terms the creation of a defined edge with significant boundary planting will enhance this part of Portkil and have a minor positive impact on the local nature conservation area by creating additional habitat. Previous development along Fort Road has not included any affordable housing. The scheme of 9 houses will provide 2 affordable units thus having a positive social benefit. As such, it is considered that the proposal can be justified as a minor departure to Policies LDP DM 1 and SG LDP HOU 1.

Appendix B - Representations Received for: 16/02218/PP

Total Representations: 43

Representations - Summary	Totals
1 - OBJECTORS	31
2 - SUPPORTERS	12

1 - OBJECTORS

Aiden Flanagan, 15 Craighornie Gardens, Kilcreggan, Helensburgh, Argyll And Bute, G84 0HY

Alice Kelly, West Shore Cottage, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Alison Barclay, Shore Road, Kilcreggan

Catherine Murray, 10c Tenant Street, Renfrew, PA4 8RH

David Strachan, 43 Morion Road, Knightswood, Glasgow, G13 2HB

Dougie Wotherspoon, Flat 2/1, 27 Spencer Street, Clydebank, G81 3AX

Esther Connell, Stratharran, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Gary Kelly, West Shore Cottage, Fort Road, Helensburgh, Argyll And Bute, G84 0LG

Harry S Cathcart, Aingarh, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute G84 0LQ

Hugh Scanlan, 44 Dalmuir Court, Clydebank, G81 4AA

Iain Connell, Stratharran, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Irene Young, Creanach, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute G84 0LG

Jemma Cairns, 61 Lesmuir Drive, Scotstoun, Glasgow G14 0EG

Joanne Barron, 0/2 1545 Dumbarton Road, Glasgow, G14 9XG

Joanne Cairns, 61 Lesmuir Drive, Glasgow, G14 0EG

Jonathan Thompson, Flat 3 Yard, 122 Highgate, Kendal, LA9 4HE

Lorraine Kelly, 11 Fairway, Garelochhead, Helensburgh, Argyll And Bute, G84 0BA

Malcolm Evans, Thistle House, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Margaret Thompson, Flat 3, Yard 122, Highgate, Kendal, LA9 4HE

Mark Mills, 62 Cloan Ave, 0/2 Drumchapel, Glasgow, G15 6AD

Paul Murray, 10c Tennant Street, Renfrew, PA4 8RH

R H West, Lynton Park, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LQ

Robina Scanlan, 44 Dalmuir Court, Dalmuir, Clydebank, G81 4AA

Robyn Kelly, West Shore Cottage, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Samantha Sherwin, Flat 5 St Columba Mews, Sinclair Street, Helensburgh, Argyll And Bute, G84 8TR

Sharon Kelly, West Shore Cottage, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Sharon Strachan, 124 Baldwin Avenue, Glasgow, G13 2QU

Steven Morton, 9/2 Comely Bank Place, Edinburgh, EH41DT

Terence McLernon, 1545 Dumbarton Road, Glasgow, G14 9XG

Tim Burgess, The Haven, Fort Road, Kilcreggan, Argyll And Bute G84 0LQ

Walter Young, Creanach, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

2 - SUPPORTERS

Alan Smith, Bayview, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Arusha Irvine, Ivyhill, Shore Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0HQ

Cheryl Smith, Bayview, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Christina Smith, Bayview, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

James Aplin, 98 Main St, Barrhead, G78 1SE

Kerris Bone, 11E Rankin Way, Barrhead, G78 1TB

Mark Irvine, Ivyhill, Shore Road, Kilcreggan Helensburgh, Argyll And Bute, G84 0HQ

Paul Collins, Camsail, Rosneath, Helensburgh, G84 0QR

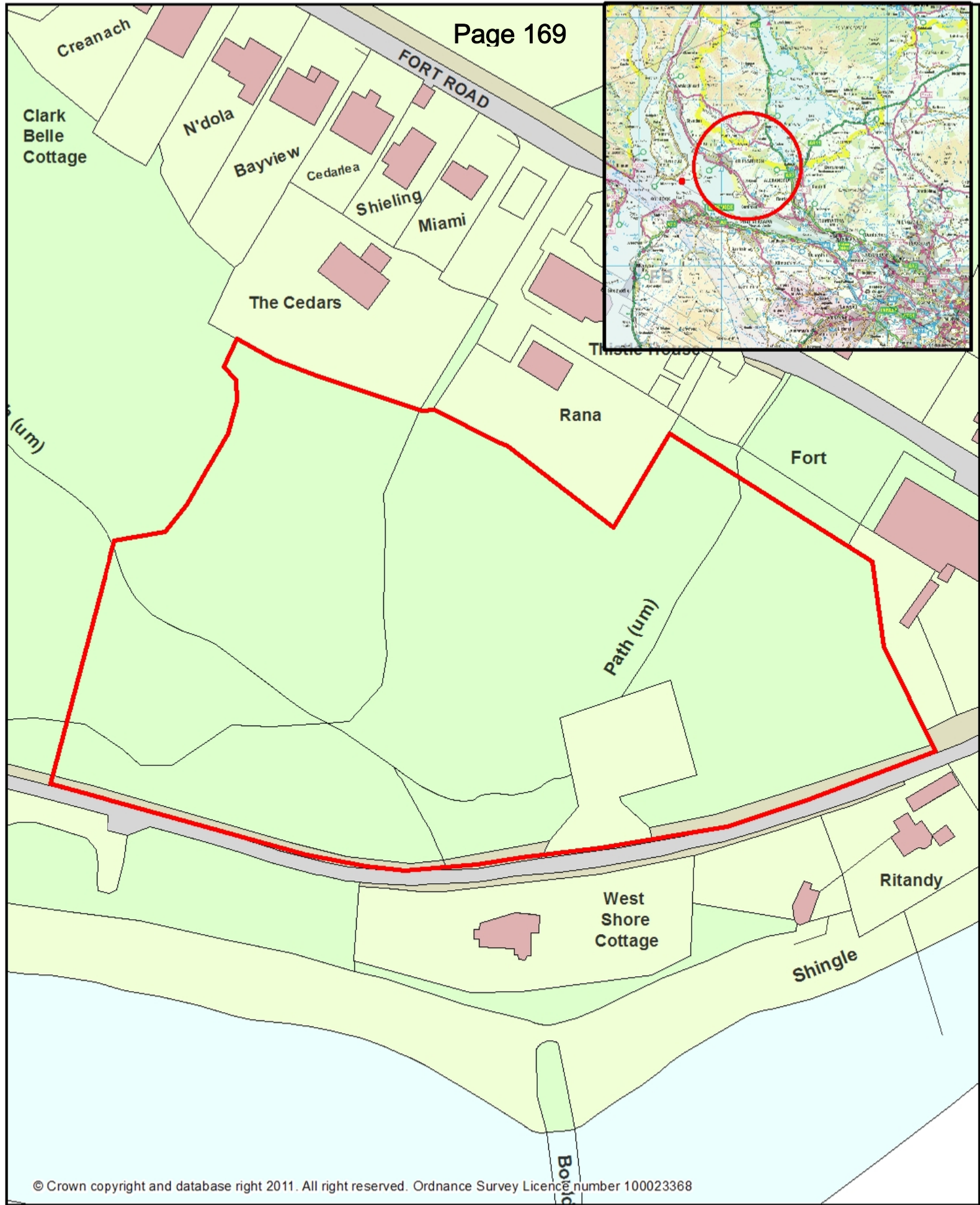
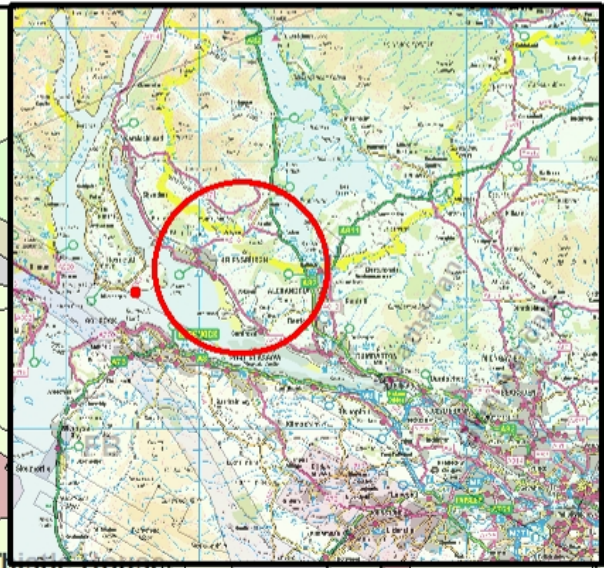
Robert Aplin, 6B Henry Street, Barrhead, G78 1RJ

Ryan Davies, Braeview, Fort Road, Kilcreggan, Helensburgh, Argyll And Bute, G84 0LG

Thomas Wilson, 2 Upland Wynd, Garelochhead, Helensburgh, Argyll And Bute, G84 0BL

Paul Wilson, Oakview, Fort Road, Kilcreggan, Argyll and Bute, G84 0LG

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Location Plan relative to Planning Application
Ref No: 16/02218/PP

Scale 1:756



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Argyll and Bute Council

Development and Infrastructure Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 16/02515/PP

Planning Hierarchy: Local

Applicant: Mr Colin Finnie

Proposal: Erection of dwellinghouse

Site Address: Land Adjacent To 21 Victoria Road Helensburgh

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Erection of dwellinghouse

Erection of garage

Formation of access

(ii) Other specified operations

Connection to existing public water main

Connection to existing public sewer

(B) RECOMMENDATION:

It is recommended that planning permission be granted subject to the attached conditions and reasons.

(C) HISTORY:

06/02083/DET - Erection of dwellinghouse – Refused 01.06.2007
Appeal reference 07/00018/REFPLA - Erection of dwellinghouse – Upheld
22.10.2007

(D) CONSULTATIONS:

Scottish Environmental Protection Agency	04.11.2016	No objections
Roads Helensburgh And Lomond	14.10.2016	No objection subject to conditions
Scottish Water		No reply
Flood Risk Assessor	07.11.2016	No objection subject to conditions.
Helensburgh Community Council	19.12.2016	No objections, but strong concerns as set out below:

The original combination plans lodged on 7th October crucially did not show the location of the house and garage.

Comment: The original plans did include a plan showing the location of the house and garage. This was removed from the 'combination plans' as it was superseded with a plan that showed a minor alteration to the red line of the site. The original proposed site plan showed the red line of the site (at the boundary with Chapleacre Grove) to be in the wrong position. The red line of the site needed to be shifted 1.7m to the east and the width reduced by approximately 0.6m. It was considered that this was a minor amendment given the extent of the site boundary and so a fresh application was not required. Furthermore, the red line of the site was shown correctly on both the location plan and the existing site plan.

Should Argyll & Bute be minded to consider the application we make the following recommendations:

Rec1: The true ownership of the land forming the garage and parking area for the new house at the foot of Chapleacre Grove be established.

Comment: The applicant owns all the land within the site boundary, including the parking area.

Rec2: A traffic impact assessment at the bottom of Chapleacre Grove is carried out due to the inevitable increase in the traffic levels there.

Comment: This is an application for the erection of 1 dwellinghouse which includes off street parking and which has been previously approved on appeal and renewed in 2012. It is unlikely that there will be a substantial increase in traffic. The Area Roads Manager has also indicated no objections.

Rec3: Establish whether there would be an increased risk of flooding in the Millig Burn caused by the construction of the new house

Comment: The Flood Risk Officer has been consulted and considers that the house is at a high enough level not to disrupt the burn.

Rec4: Establish whether the new house will damage the root boles of existing trees within 10 metres of it.

Comment: Conditions will be placed on the consent to ensure that the tree roots are not damaged.

Rec5: The 2006 Aboricultural Report is checked for its relevance in 2016 and is not accepted carte blanche.

Comment: A revised Aboricultural Report was submitted dated 9th December 2016.

Rec6: Strict conditions are laid down for minimising noise, damage and traffic conditions during the construction phase.

Comment: Construction noise and congestion are not normally a material planning consideration. However in this instance, since a condition was placed on the previous consent, the same condition requiring a construction method statement prior to commencement of works to include the hours of working and the measures proposed to control noise, vibration, dust and other disturbance to local residents caused by the construction work, and to prevent pollution of the Millig Burn, will be placed on the consent.

Rec7: consideration be given to moving the garage southward to allow vehicles to turn within the grounds of the new house and thus avoid the need to reverse on to Chapelacre Grove.

Comment: The garage is in the same position as the previously approved consent, except this time it is a double garage, not single. The Area Roads Manager has no indicated no objections.

(E) **PUBLICITY:** Listed Building/Conservation Advert (Expiry date 10.11.2016)

(F) **REPRESENTATIONS:**

8 letters and e-mails of objection have been received from 12 objectors.

Mr John Hanks, 9 Chapelacre Grove, Helensburgh (email dated 25/10/16)

Dr John McCormick, 10 Chapelacre Grove, Helensburgh (letter dated 21/10/16)

Robert G Hepburn, 33 Charlotte Street, Helensburgh (letter dated 26/10/16)

Mr and Mrs B Canty, 13 Chapelacre Grove, Helensburgh (email dated 27/10/16)

Mr D Stewart, 16 Chapelacre Grove, Helensburgh (email dated 27/10/16)

Mrs J Hope, 15 Chapelacre Grove, Helensburgh (email dated 27/10/16)

Mr J McMurty, 11 Chapelacre Grove, Helensburgh (email dated 27/10/16)

Mrs Eleanor Hanks, 9 Chapelacre Grove, Helensburgh (email dated 29/10/16)

Linda McCormick, 10 Chapelacre Grove, Helensburgh (letter dated 8/11/16)

Mairi Mclellan, Heatherlea, Badachro, Gairloch (email dated 14/11/16)

Robert G Hepburn and Catriona H Hepburn, 33 Charlotte Street, Helensburgh (letter dated 30/11/16)

(i) Summary of issues raised

We believe that the application is fundamentally flawed and that the Council cannot possibly approve the Planning Application. The fantastic mature beech tree which is 13 m tall and expected to have a life expectancy between 20 and 40 years must be retained.

Comment: This tree was marked for removal in the original application which was approved on appeal. There has been no change in circumstances to justify now retaining the tree.

Oil, bitumen, cement or other material likely to be injurious to a tree should not be stocked or discharged within 10 metres of a bole but the bole of several of the retained trees will be well within 10 metres of the proposed house. It is self-evident the proposed planning application cannot be approved by the Council.

Comment: This refers to materials to be stacked above ground, that could in theory topple over and damage the trees or spill onto the trees above ground and damage them. Relevant conditions are placed on the consent to include tree protection, hand digging around roots and special protection measures to make sure that the trees within close proximity to the house are not damaged.

Damage to many of the roots of trees which are to be retained.

Comments: Conditions will be placed on the consent to ensure that the trees are protected.

The proposed house is close to the Millig Burn which has the potential to destabilise its banks and flood.

Comment: The Flood Risk Officer considers that the house is at a high enough level not to disturb the burn. He did state that the removal of trees at the burn banks may have the potential to affect the banks and as such a condition requiring a bank stability and erosion study will be placed on the consent.

The proposed garage and gravel parking area would be a third access to the narrow turning head at this end of Chapelacre Grove, and it is only made possible in the plans by the proposed access encroaching physically onto the access drive to no. 10 Chapelacre Grove.

Comment: All proposed works are within land owned by the applicant. The site boundary was amended at the boundary between the application site and no. 10 Chapelacre Grove to show this. The Area Roads Manager has no objections to the proposal.

There is already congestion at this end of Chapleacre Grove by the needs for disabled residents, and their carers, to park outside the flats.

Comment: The Area Roads Manager has no objections to the proposal.

It is very important that the elderly or disabled residents are spared the additional noise, disruption and traffic congestion that would be caused by these building works.

Comment: Construction noise and congestion are not normally a material planning consideration. However, in this instance, since a condition was placed on the previous consent, the same condition a condition requiring a construction method statement prior to commencement of works to include the hours of working and the measures proposed to control noise, vibration, dust and other disturbance to local residents caused by the construction work, and to prevent pollution of the Millig Burn, will be placed on the consent.

The plans are incorrect and the red line encroaches onto our property (10 Chapleacre Grove).

Comment: The red line on the site plan was slightly incorrect. This has since been amended.

I would object to the new 1.6m high timber fence to the west of the proposed garage protruding northwards from the existing fence surrounding the Victoria Road property. The original development is an open development and this layout has remained over the decades.

Comment: The plans show that the new fence will not protrude further than the proposed garage. There is an existing fence between the two that will remain in situ.

At the time of construction of 21 Victoria Road it is believed that there was a covenant running with the land from Chapleacre Grove to Victoria Road.

Comment: This is not a material planning consideration.

The current proposal includes the construction of a double garage with 2 additional parking spaces in Chapleacre Grove where an application for disabled parking has already been refused on the grounds of the burden of existing traffic and to which the burden of 4 cars is now being contemplated.

Comment: The new garage and parking area is off Chapleacre Grove, on an area of land owned by the applicant. It will involve the loss of 1 on-street parking space where the curb needs to be lowered for the new access. The Area Roads Manager has no objections to the proposal.

There would be problems with egress from the new driveway, especially in winter.

Comment: The Area Road Manager has no objections to the proposal.

The access road onto Chapleacre Grove is only 3m which is narrower than the 3.7m minimum in Argyll & Bute planning guidance note.

Comment: The plans show the proposed access to be 4.8m wide. The Area Roads Manager has no objections to the proposal.

The residents of Chapleacre Grove have been unsettled by various planning applications on this site over 26 years.

Comment: This is not a material planning consideration.

Concerned that the new house might affect our light (23 Victoria Road). I haven't seen the plans so don't know how close it is to us. If our light is not affected I don't object.

Comment: The proposed new dwellinghouse will be sited approximately 45 metres north of 23 Victoria Road. It is not considered that there will be an impact on light.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** N
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** N
- (iii) **A design or design/access statement:** Y
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Y
Arboricultural Report

Summary of main issues raised by each assessment/report

Design Statement

The proposed development is the erection of a 4 bedroom house, almost identical in every respect to the house allowed on appeal in 2007 and renewed by the Council in 2012

The site forms part of the eastern part of the garden ground of 21 Victoria Road. The site is within a larger TPO relating to the grounds of Chapleacre House, a now demolished private dwellinghouse with extensive garden grounds

During the 1980's Cala Homes developed some of the land to provide 10 houses and 12 flats. In addition 3 further houses were built on plots sold by Cala. The newest house was completed in 2000 and is relatively modern with extensive use of facing brick and render.

The application site is not designated for its nature conservation value, and is not known to be at risk from flooding. It has a road frontage onto a cul-de-sac at the end of Chapleacre grove, which in turn is accessed from East Abercromby Street.

The proposed house has been designed to be in keeping with the scale and massing of the surrounding modern houses in the area.

The new dwelling has been designed to maximise light and views, particularly on the south and east elevations overlooking Millig Burn. The design is for an accessible family home.

The key features are the use of natural slate or a quality substitute, dormer windows springing from the wallheads, projecting bay windows, conservation style rooflights, a mix of reconstituted stone/white rendered walls, a mix of glazing and white panelling and timber windows and doors.

Access will be taken from a turning head at the end of Chapleacre Grove. A double garage will be set back from the road edge and a further 2 parking spaces provided.

Five trees are to be removed. In assessing the proposed loss of these trees, the Reporter noted that of the trees to be removed, only the Copper Beech had significant individual presence within the site, but that it was only partly visible from outwith the site. He was of the opinion that the value of the trees to the surrounding area was as a group and not individually and that the proposal would not significantly reduce the value of the woodland and its contribution to the character and appearance of the conservation area.

There has been no material change in circumstance or policy since the previous recommendations were made, notwithstanding the recent adoption of the LDP in 2015. It is therefore considered that the proposal continues to comply fully with the relevant policies and should be approved.

Arboricultural Report

The tree report identified 23 trees on site, most of these are in fair to good physical condition. The report identifies one tree that needs to be removed and a further 4 more that are to be removed to make way for the development.

(H) PLANNING OBLIGATIONS

(i) Is a Section 75 agreement required: N

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: N

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

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

Argyll and Bute Local Development Plan adopted March 2015

Policy LDP DM 1 – Development within the Development Management Zones –
The site is within the settlement boundary.

Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment

Policy LDP 9 – Development Setting, Layout and Design

Argyll and Bute Local Development Plan – Supplementary Guidance

SG LDP ENV 6 - Development Impact on Trees / Woodland

SG LDP ENV 17 - Development in Conservation Areas and Special Built Environment Areas

SG LDP HOU 1 - General Housing Development Including Affordable Housing Provision

SG LDP - Sustainable Siting and Design Principles

SG LDP TRAN 4 - New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 - Vehicle Parking Provision

- (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 3/2013.**

Argyll & Bute Sustainable Design Guidance (2006)

-
- (K) **Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: N**

-
- (L) **Has the application been the subject of statutory pre-application consultation (PAC): N**

-
- (M) **Has a sustainability check list been submitted: N**

-
- (N) **Does the Council have an interest in the site: N**

-
- (O) **Requirement for a hearing (PAN41 or other): N**

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

Planning permission is sought for the erection of a detached dwellinghouse within the garden ground of 21 Victoria Road, Helensburgh. This site has a long history, with an original application in 1990 being refused and the subsequent appeal dismissed. In 2006 a similar application was made with an officer's recommendation for approval. This recommendation was overturned at a discretionary hearing and the application was refused. The applicant appealed this decision and the reporter allowed the development. In 2012 an application for renewal of the existing consent was applied for and approved. This current application is for the same scheme (with some minor amendments), but cannot be considered a renewal because the previous permission has expired.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. In addition, where the development lies within a Conservation Area, the Planning Authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the designated area. Within the area covered by the application site, the Development Plan currently comprises the Argyll and Bute Local Development Plan, adopted March 2015. The determining issues in the case are whether the proposal would accord with the Development Plan and, if

not, whether there are any material considerations sufficient to outweigh the policies contained within this plan. Important issues for consideration in this case include whether the site could be developed in a manner which would maintain or enhance the character or appearance of the Conservation Area, whether the removal of trees covered by a TPO is justified to allow the development to proceed, whether the design is acceptable for this site within the Upper Helensburgh Conservation Area and whether there have been any change in circumstances since the previous planning application on the site was approved in 2012.

The existing dwellinghouse sits within an expansive plot measuring approximately 4000 square metres. It is accessed from Victoria Road and is sited to the west of the site. The new plot size is approximately 1700 square metres which is comparable with the density of surrounding properties. Vehicular access will be taken from Chapelacre Grove, where an access already exists. The house will be traditional in form, with a pitched roof and dormer windows, however it will have a protruding gable which will be fully glazed giving the design a more modern feel. The roof will be in natural slate, the walls will be a mixture of reconstituted stone and wet dash render and the windows will be timber. This is the same design that has been previously approved. The scale, form, proportions, materials, detailing and colour of the proposed dwelling house are therefore considered to be acceptable in this part of the conservation area.

In terms of impact on the amenity of the existing dwelling house, the proposed new dwellinghouse will be approximately 5.5 metres from the eastern gable at the closest point. There are no windows proposed on the western gable of the proposed dwelling and therefore there are no overlook issues. Both dwellinghouses will be on roughly the same building line and therefore there will be no overshadowing.

The Millig Burn runs along the eastern part of the site and there has been some concern amongst residents that the new development, particularly the south east corner of the dwelling, may have the potential to impact on the stability of the burn and pose a flood risk. SEPA were consulted and advised that it was outwith their remit, but there may be a potential for flooding so we should contact our own flooding officer. This was done and it was advised that from the levels shown on the tree report, the house was high enough on the site that the burn would not be affected.

The original tree survey submitted with the application was out of date and so a new tree survey was submitted. On this tree survey, 23 trees were identified and of those 23 trees, 5 of these are to be removed, 1 on health and safety grounds. The trees in Chapelacre are protected as a group of trees rather than for their individual specimens. Their removal was approved by the Council as part of the development and there has been no material change in circumstances since then that would justify retaining these trees.

A new vehicular access will be taken off of Chapelacre Grove. There is an existing access to the site at this location, but this will be formalised, widened and a new double garage built. This differs from the previous consent in that only a single garage was approved. This is the only change that has been made. The Area Roads Manager has no objections to the proposal.

It is considered that the proposal is acceptable and in accordance with Development Plan Policies. The site history and previous approvals are a strong material consideration and it is considered that there has been no new information since the previous approval that would warrant a change in recommendation. As such the proposal is in accordance with Policies LDP DM 1, LDP3, LDP 9 of the Argyll & Bute Local Development Plan Written Statement, adopted March 2015 and Policies SG LDP ENV 6, SG LDP ENV 17, SG LDP HOU1, SG LDP TRAN 4 and SGLDP TRAN 6 the Argyll & Bute Local Development Plan Supplementary Guidance, adopted March 2016.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

It is considered that the proposal is acceptable and in accordance with Development Plan Policies. The site history and previous approvals are a strong material consideration and it is considered that there has been no new information since the previous approval that would warrant a change in recommendation. This is in accordance with Policies LDP DM 1, LDP3, LDP 9 of the Argyll & Bute Local Development Plan Written Statement, adopted March 2015 and Policies SG LDP ENV 6, SG LDP ENV 17, SG LDP HOU1, SG LDP TRAN 4 and SGLDP TRAN 6 the Argyll & Bute Local Development Plan Supplementary Guidance, adopted March 2016.

(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: N

Author of Report: Stephanie Spreng

Date: 21/12/2016

Reviewing Officer: Howard Young

Date: 22/12/2016

Angus Gilmour

Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 16/02515/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 13/09/2016 and the approved drawing reference numbers 2016_027-00, 2016_027-01A, 2016_027-02C, 2016_027-03, 2016_027/04B and 2016_027/05 unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. The development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA C753 and Sewers for Scotland 3rd Edition. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

3. Development shall not begin until samples of the materials to be used on external surfaces of the buildings and in the construction of hard standings, walls and fences have been submitted to, and approved in writing by, the planning authority. Development shall thereafter be carried out using the approved materials, or such alternatives that the planning authority may agree in writing.

Reason: To ensure that the appearance of the development is compatible with its surroundings.

4. No part of the development shall take place until a construction method statement has been submitted to and approved in writing by the Planning Authority. Such a statement shall in particular include the hours of working and the measures proposed to control noise, vibration, dust and other disturbance to local residents caused by the construction work, and to prevent pollution of the Millig Burn. The work shall be carried out in accordance with the approved statement, unless the prior written consent of the planning authority is obtained for variation.

Reason: To limit the disturbance caused to local residents by the construction work, and to prevent water pollution from construction activities.

5. Prior to the occupation of the house, the first 5 metres of the driveway shall be finished in a bituminous material to the satisfaction of the planning authority.

Reason: To prevent loose material being carried on to the road, in the interests of traffic safety.

6. Before development begins, tree protection measures in accordance with BS 5837:2012 shall be erected along the edges of the canopies of the trees on or overhanging the site, and these shall not be removed until completion of the development unless approved in writing by the planning authority.

Reason: To protect the preserved trees on or overhanging the site.

7. During all construction works on site, including the provision of services, any excavation work through tree root areas shall be undertaken by hand.

Reason: To ensure that no damage is caused to tree roots during the works.

8. Before development begins, full details of a replacement tree planting scheme shall be submitted to, and approved in writing by, the planning authority. The scheme shall include two replacement trees to be planted close to the west bank of the Millig Burn, the ground preparation details for planting the trees, the proposed tree species and the nursery stock size of the proposed trees in terms of British Standards. The approved scheme shall be implemented within the planting season following the occupation of the house. Any replacement tree which in the opinion of the planning authority is dying, severely damaged or becoming seriously diseased within 10 years of the planting shall be replaced by a tree of similar size and species to that originally planted.

Reason: To ensure that the landscape character of the site and its surrounding area is maintained.

9. A bank stability and erosion study relating to the removal of two trees on/close to the Millig Burn banks should be submitted to and approved in writing by the Planning Authority prior to works commencing on site.

Reason: In order to ensure that the integrity of the banks of the burn are not jeopardised during the tree removal.

NOTES TO APPLICANT

1. **The length of this planning permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located in the eastern part of the garden and has the Millig Burn running through it. The burn is set within a deep gorge and has mature trees growing on the embankment to either side. There are also a number of trees across the site with the whole area forming part of a Tree Preservation Order (TPO) relating to grounds associated with the former Chapelacre estate. In addition, the site is located within the Upper Helensburgh Conservation Area.

In terms of the Argyll and Bute Local Development Plan 2015 the site is located within the main settlement of Helensburgh as defined by the Argyll and Bute Local Development Plan 2015. Policy LDP DM 1 gives support to suitable forms of development within settlements subject to compliance with other relevant policies and supplementary guidance. In particular, Policy LDP 9 requires the design of development and structures to be compatible with the surroundings where careful attention should be paid to the acceptability of massing, form, design details, materials, landscaping and boundary treatment. Any adverse impact on the amenity and privacy of neighbouring properties in terms of over shadowing and overlooking will also be taken into account. Policy LDP 3 assesses applications for their impact on the natural, human and built environment.

In addition, Supplementary Guidance requires consideration of the proposal in terms of potential impact: on conservation areas; vehicular access, on-site parking and connection to services. Supplementary Guidance SG LDP ENV 19 – Development in Conservation Areas and Special Built Environment Areas states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting. New development within these areas and on sites forming part of their settings must be of the highest quality and respect and enhance the architectural and other special qualities that give rise to their actual or proposed designation.

B. Location, Nature and Design of Proposed Development

The existing dwellinghouse sits within an expansive plot measuring approximately 4000 square metres. It is accessed from Victoria Road and is sited to the west of the site. The site is covered by mature trees and the Millig Burn runs along the eastern side of the site in a deep gorge. The proposal is to split the site vertically, with the new house being built towards the east of the site. The new plot size is approximately 1700 square metres which is comparable with the density of surrounding properties. Vehicular access will be taken from Chapelacre Grove, where an access already exists. This access will be widened and a new double garage will be built. The proposed house will be a 1¾ storey, rectangular plan villa. It will accommodate 4 bedrooms at upper level and the living accommodation at ground floor level. The house will be traditional in form, with a pitched roof and dormer windows, however it will have a protruding gable which will be fully glazed giving the design a more modern feel. The roof will be in natural slate, the walls will be a mixture of reconstituted stone and wet dash render and the windows will be timber. This is the same design that has been previously approved. The scale, form, proportions, materials, detailing and colour of the proposed dwelling house are therefore considered to be acceptable in this part of the conservation area. In terms of impact on the amenity of the existing dwelling house, the proposed new dwellinghouse will be approximately 5.5 metres from the eastern gable at the closest point. There are no windows proposed on the western gable of the proposed dwelling and therefore there are no overlook issues. Both dwellinghouses will be on roughly the same building line and therefore there will be no overshadowing.

C. Natural Environment

The Millig Burn runs along the eastern part of the site and there has been some concern amongst residents that the new development, particularly the south east corner of the dwelling, may have the potential to impact the stability of the burn and pose a flood risk. SEPA were consulted and advised that it was outwith their remit, but there may be a potential for flooding so we should contact our own flooding officer. This was done and it was advised that from the levels shown on the tree report, the house was high enough on the site that the burn would not be affected. However it was advised that if any trees close to the banks of the burn are to be removed, this may potentially cause harm to the banks and as such a condition should be placed on the consent requiring a bank stability and erosion survey. Two of the trees to be removed – no's 958 and 972 (Ash and Beech) are very close to/on the banks of the burn, and so an additional condition will be put on the consent.

D. Impact on Trees

The original tree survey submitted with the application was out of date and so a new tree survey was submitted. On this tree survey, 23 trees were identified and of those 23 trees, 5 of these are to be removed, 1 on health and safety grounds. The trees in Chapelacre are protected as a group of trees rather than for their individual specimens. Their removal was approved by the Council as part of the development and there has been no material change in circumstances since then that would justify retaining these trees.

E. Road Network, Parking and Associated Transport Matters

A new vehicular access will be taken off of Chapleacre Grove. There is an existing access to the site at this location, but this will be formalised, widened and a new double garage built. This differs from the previous consent in that only a single garage was approved. This is the only change that has been made. The Area Roads Manager has no objections to the proposal.

F. Previous Planning History

Over and above Development Plan Policy, the key material consideration is the previous planning history of the site. This site has a long history, with an original application in 1990 being refused and the subsequent appeal dismissed. In 2006 a similar application was made with an officer's recommendation for approval. This recommendation was overturned at a discretionary hearing and the application was refused. The applicant appealed this decision and the reporter allowed the development. In 2012 an application for renewal of the existing consent was applied for and approved. This current application is for the same scheme with some minor amendments. Although it cannot be considered a renewal because the previous permission has expired, the previous appeal decision in 2007 and the renewal of permission in 2012 are key material considerations. These add weight to the development plan policy position and support the recommendation to approve.

G. Conclusion

On the basis of the above information and assessment it is considered that the proposal for a new dwelling house is consistent with the provisions of the Argyll and Bute Local Development Plan 2015 and that the site is capable of accommodating a single dwelling house without detriment to the character and amenity of surrounding properties or the wider conservation area.



Location Plan Relative to planning application: 16/02515/PP



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**Argyll and Bute Council
Development & Infrastructure Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 16/02835/PP
Planning Hierarchy: Local
Applicant: Oilfast Limited
Proposal: Proposed oil depot, comprising the erection of 2 portable buildings, installation of 4 oil storage tanks, 3 arm skid and septic tank and erection of metal fence enclosure
Site Address: Yard, Oban Airport, Ledaig, Oban

DECISION ROUTE

Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of two portable buildings
- Installation of septic tank and soakaway
- Installation of external lighting
- Erection of fence
- Installation of 4 oil storage tanks

(ii) Development Not Requiring Express Planning Permission

- Use of Site for Class 6 Purposes

The use of the site as an oil distribution depot falls fully within Class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997. The site has previously been used by the Councils Roads Department for the strategic storage of salt for roads treatments between 2010 and 2014 and also previously in the late 1990's. The site was also used to store construction materials. The Area Roads Department has confirmed that the depot had been in operation from at least the early 1980's. There is no planning history at the site and it is considered that this previous use as a Roads Depot has long since been established and is lawful.

A use may be carried on at a site even if at that moment there is no activity on site. A lawful use will survive a lengthy period of inactivity on the land. Abandonment is possible in relation to prior use though not in relation to rights acquired under a planning permission still capable of being implemented according to its terms. There is some debate as to whether a use instituted under a planning permission can be abandoned by lack of use. Conversely, if a use is not lawful then it will need to be actively carried out for the limitation period to become lawful.

As with most court led concepts related to planning law ‘abandonment’ this continues to create confusion. The most recent judgement on the matter came from the Court of Appeal in Hughes v Secretary of State for the Environment (2000). This case related to a house that had been unused since 1960, and was bought in 1990. It has become dilapidated and the applicant wished to rebuild. In this case it was held that the residential use had been abandoned. The test was objectively looking at the intention of the owner, the condition of the building, the period of non-use, and whether or not there had been any intervening use.

The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The Site has been actively marketed by the Council’s Estates Department for rent for a use commensurate with the airport. The site has been used as recently as 2014 by the Roads Department for the strategic storage of salt for roads treatments. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned.

(iii)Other specified operations

- Installation of 3 arm loading skid
- Utilise existing vehicular access
- Connection to public water network

(B) RECOMMENDATION:

That permission be Granted subject to the conditions, reasons and informative notes set out in this report.

(C) CONSULTATIONS:

Area Roads Oban	01.11.2016	No objections subject to conditions in relation to onsite parking provision.
Scottish Water		No response to date, assumed no objections
Environmental Health	06.12.2016 and 04.01.2016	No objections
Trading Standards	17.11.2016	No objections
Oban Airport	29.11.2016	No objections subject to landscaping and lighting being consistent with CAA guidance.

Transport Scotland	18.11.2016	No objections
Civil Aviation Authority		No response to date, assumed no objections.
Core Paths	19.12.2016	No objections
SEPA	08.12.2016	No objections subject to advice for the applicant.
Ardchattan Community Council	01.12.2016	Object to the proposal raising concern about the proximity of the development to the residential Travelling Persons Site. Specific concern is raised in respect of potential conflict between children walking to/from the school bus and HGV traffic; the potential for noise disturbance to a residential area; safety concern in respect of the storage of large volumes of flammable fuel close to a residential caravan area; and potential conflict with the Sustrans Route 78 cycle path which may use part of the access road as its route.
Health and Safety Executive	14.12.2016	No objection

(D) HISTORY:

16/02464/PREAPP

erection of fence, 2 Portacabins and oil storage tanks, Advice issued 15.09.2016.

(E) PUBLICITY:

ADVERT TYPE:
Regulation 20 Advert Local Application
EXPIRY DATE: 01.12.2016

(F) REPRESENTATIONS:

(i) Representations received from:

- Yes, Representations have been submitted from 20 individuals in response to this planning application.

Heather Belshaw, 3 Torinturk, (02.12.2016)

Karen Aspinall, The Bunker, North Connel, PA37 1RW, (20.11.2016)
Gail Brack, The Mains, Hill Street, Oban PA34 5DG, (08.12.2016)
Bella Stewart, 9 Keil Gardens, Benderloch, PA37 1SY, (08.12.2016)
Margaret Johnstone, 1 Kenmore Gardens, Bonawe, PA37 1RJ, (08.12.2016)
E Haggart, 22 Kenmore Gardens, Bonawe, PA37 1RJ, (08.12.2016)
D MacDonald, 16 Keil Gardens, Benderloch, PA37 1SY, (08.12.2016)
Mr N Travers, Pitch 5, Ledaig TP Site, Oban, PA34 1NY, (08.12.2016)
Mrs Donna Stewart, Pitch 7, Ledaig TP Site, Oban, PA34 1NY, (08.12.2016)
Mr Peter Stewart, Pitch 8, Ledaig TP Site, PA34 1NY, (08.12.2016)
Mr James MacDonald, Pitch 4, Ledaig TP Site, PA£\$ 1NY, (08.12.2016)
Mrs Elizabeth Brown, Pitch 4, Ledaig TP Site, PA34 1NY, (08.12.2016)
William MacDonald, 33 McKelvie Road, PA34 4GB, (08.12.2016)
Mrs Elizabeth MacDonald, 33 McKelvie Road, PA34 4GB, (08.12.2016)
Mary MacDonald, Pitch 1 & 2, Ledaig, PA34 1NY, (08.12.2016)
John MacDonald, Pitch 1 & 2, Ledaig, PA34 1NY, (08.12.2016)
John MacDonald, Pitch 3, Ledaig, PA34 1N, (08.12.2016)
Alastair MacGregor, Menzies House, Glenshellach Business Park, PA34 4RY (08.12.2016)
Ms Breege Smyth, Ryvoan, North Connel, PA37 1RD, (09.12.2016)
Lyndsey Ferguson, 39 Easdale Island, PA344TB, (09.12.2016)

Representations have also been submitted by one MP and 3 Councillors in response to the planning application who are as follows:

Councillor Anne Horn, Councillor Ward 2, Kintyre and the Islands, (12.12.2016)
Councillor Julie McKenzie, 37 Creag Bhan Village, Oban, PA34 4BF, (08.12.2016)
Councillor Isobel Strong, Lillybank, Glebelands, Rothesay, PA20 9HN (14.12.2016)
Brendan O'Hara MP Argyll and Bute, House of Commons (12.12.2016)

(ii) **Summary of issues raised:**

- **The area has not been actively used by the Roads Department for some time and is merely an area of unserviced hardstanding.**

Comment: The Area Roads Performance Manager has confirmed that the site was previously used by the Roads Department for the strategic storage of salt for roads treatments between 2010 and 2014 and also previously in the late 1990's. Typical volumes delivered or reloaded and removed in these periods was between 500 tonnes and 1500 tonnes which involved multiple HGV movements over a one or two day period. The traffic volumes to the depot were possibly less than 100 vehicle movements per year. The site was also used to store construction materials. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning (Use Classes)(Scotland) Order 1997. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The site has been actively marketed by the Council's Estates Department for rent for a use commensurate with the airport. The site has been used as recently as

2014 by the Roads Department for the strategic storage of salt for roads treatments. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned.

- **Tankers pose a threat to pedestrians, children, animals and cyclists.**

Comment: Both the Area Roads Engineer and Transport Scotland have been consulted and have raised no objections to the proposed development.

- **The residents of Ledaig Travelling Persons Site have been discriminated against as they do not appear to have been given the same respect/value as other residential developments in Argyll.**
- **Neighbouring community have not been consulted and recognised in the application.**

Comment: Neighbour Notification and Publicity has been carried out in accordance with Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Residents from the Ledaig Travelling Persons site were afforded an extension of time in which to submit representations to this planning application. In all cases the Council must make decisions in line with the development plan unless 'material considerations' justify going against the plan. The proposed development is a Local Development that does not legally require to be the subject of the PAC process and so therefore there has been no requirement for any neighbours to be consulted prior to the submission of the application. The concerns of the objectors and nearby Travelling Persons Site will be taken into consideration during the determination of this application in the same manner as all other planning applications.

- **Noise disturbance from early morning HGV movements.**

Comment: The site benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot does not require the benefit of planning permission. The determining issues for the application relate to the site layout and design. The Environmental Health Unit has been consulted and has raised no objections to the proposed development.

- **Noise pollution and fumes**

Comment:

See comment above. The use of the site for class 6 purposes does not require planning permission. The Environmental Health Unit has been consulted and has raised no objections to the proposed development.

- **Large volume of flammable fuels being stored close to a residential caravan area presenting risks to safety in the event of a fire/explosion.**
- **Has a blast radius been taken into account yet and has a risk assessment been completed to address the even of fire or**

explosion?

Comment: The site has previously been used for the storage and distribution of road materials which falls within use class 6 – Storage and Distribution of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The use of the site for the storage and distribution of oil at the proposed scale does not constitute a material change of use of the land that would require planning permission.

Hazardous Substances consent is required for the presence of a hazardous substance on, over, or under land (which includes presence in buildings and on structures) unless the aggregate quantity of the substance present is less than the controlled quantity for that substance as specified in the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. The applicant has confirmed that the maximum quantity of fuel that would be stored at the site if all tanks were completely full would be 243 tonnes. This amount is significantly less than the controlled quantity specification of 2,500 tonnes as specified by Schedule 1, Part 2 of the Regulations.

Trading Standards have been consulted and have raised no objections as the proposed development does not involve the storage of petroleum.

The Council is therefore not responsible for the regulation of the proposed level of fuel that is proposed to be stored at the site.

The Health and Safety Executive (HSE) has been consulted and has raised no objections to the proposed development.

The HSE is responsible for regulating the storage of flammable liquids in tanks. The developer should liaise directly with HSE with a view of implementing the guidance contained within HSG176. Health and Safety Inspectors seek to secure compliance with the law and may refer to this guidance.

- **ACHA has not been aware of any fuel depot type planning application in such a close proximity to any of our residential developments.**

Comment: All planning applications are considered on their own merits. Whilst ACHA may not be aware of any fuel depots near any of their residential developments this does not categorically rule out the operation of a fuel depot in the vicinity of a residential area. The Council is not responsible for the regulation of the level of fuel that is proposed to be stored at the site. The Health and Safety Executive has been consulted and has raised no objections to the proposed development.

- **An alternative option well away from tenants should be explored at the Airport.**

Comment: This is not a material planning consideration. The application has been submitted for development at a specific site for which the Council are legally obligated to assess and process in accordance with Planning Legislation.

- **The proposed development would block a well used footpath leading to the field and the beach beyond which locals use daily.**

Comment: The Access Manager has been consulted and has raised no objections to the proposed development. The proposed development will not prejudice any public rights of way and core paths. The proposed development will not have a significant adverse effect upon public access interests and will comply with SG LDP TRAN 1. See Appendix A assessment below.

- **The access may conflict with Sustrans Route 78 Cycle path which is still under design/development and is also likely to use the access road as part of its route.**

Comment: Access to the site uses a short section (800m) long of the National Cycle Network, Oban to Fort William Route 78. The Access Manager has been consulted and has raised no objections to the proposed development. The Access Manager has advised that Sustrans are on record as stating that a minor road is suitable for unaccompanied 11 year olds to use provided that there are less than 1,000 vehicular movements per day. It is unlikely that the proposed development will result in more than 1,000 vehicular movements per day on this access. The Access Manager has advised that it may be appropriate to request that signs are erected advising motorists that there is an advisory speed limit in place and that they can expect to encounter pedestrians, cyclists and horse riders using the road. A condition will therefore be required to this effect. The proposed development will not have a significant adverse effect upon the public access interests of the National Cycle Network and will comply with SG LDP TRAN 1.

- **No pedestrian footpath at side of road**

Comment: Both the Area Roads Engineer and Transport Scotland have been consulted and have raised no objections to the proposed development. There has been no requirement for the provision of a pedestrian footpath at the side of the road. The site has previously been used for the storage and distribution of road materials which falls within use class 6 – Storage and Distribution of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The use of the site for the storage and distribution of oil at the proposed scale does not constitute a material change of use of the land that would require planning permission. The previous use of the site by the Roads Department involved a number of HGV deliveries to and from the site on an ad hoc basis. This use was unrestricted and potentially any type and quantity of vehicle could enter the site at any time. Whilst the proposed use of the site as an Oil Depot will result in an intensification of distribution (ie greater no of vehicle movements) planning permission is not required for the site to be reused for class 6 purposes. It would therefore be unreasonable to request the provision of a footpath.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

'Argyll and Bute Local Development Plan' (Adopted March 2015)

- LDP STRAT 1 – Sustainable Development
- LDP PROP 2 – The Proposed Allocations
- LDP DM 1 – Development within the Development Management Zones
- LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
- LDP 5 – Supporting the Sustainable Growth of Our Economy
- LDP 8 – Supporting the Strength of our Communities
- LDP 9 – Development Setting, Layout and Design
- LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

- SG LDP ENV 14 – Landscape
- SG LDP ACE 1 – Area Capacity Evaluation (ACE)
- SG LDP BAD 1 – Bad Neighbour Development
- SG LDP BUS 2 – Business & Industry Proposals in the Countryside Zones

SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e drainage) system
SG LDP SERV 2 – Incorporation of Natural Features / SuDS
SG LDP TRAN 1 – Access to the Outdoors
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision
SG LDP TRAN 7 – Safeguarding of Airports
SG LDP Sustainable – Sustainable Siting and Design Principles
SG LDP DEP – Departures from the Local Development 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 3/2013.**

- Third party representation
 - Scottish Planning Policy (SPP)
-

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

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

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

(N) **Does the Council have an interest in the site:** Yes - Landowner

(O) **Requirement for a hearing:** No

In deciding whether to hold a discretionary hearing, Members should consider:

- How up to date the Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations, together with the relative size of community affected set against the relative number of representations and their provenance.

The application has been the subject of 24 objections which largely relate to the general reuse of the site and potential impacts on the amenity of residents of the Travellers Site to the north. However, the use of the site for Class 6 – Storage and distribution purposes has been established with its previous and most recent use as a Roads Depot Storage and Distribution site and does not require planning permission. The determining issues for this application, therefore, solely relate to siting, layout and design issues.

It is not considered that the application raises any complex or technical issues and as the majority of the representations relate to the use which is not up for consideration in this planning application it is not considered that a hearing would add value to the process. It is therefore recommended that Members do not hold a hearing prior to the application being determined.

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

Planning permission is sought for the formation of an oil depot comprising the erection of two portable buildings, installation of oil storage tanks, 3 arm skid, septic tank and the erection of a metal fence to enclose the site.

The previous occupant of the site was the Council's Roads Department who used the site primarily for the storage and distribution of salt. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning) (Use Classes) Order 1997.

Consideration requires to be given to whether this use has been abandoned. This use was in operation until 2014 and there has not been any other use of the land since then. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The Site has been actively marketed by the Council's Estates Department for rent for a use commensurate with the airport. The site has been used as recently as 2014 by the Roads Department for the strategic storage of salt for roads treatments and prior to this it has been in use from at least the 1980s. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned. As the use of the site has not been abandoned, it benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot also falls fully within class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997. An application for planning permission is not therefore required for the use of the land and the determining issues for this application only relate to the site layout and design.

As this site has an unrestricted class 6 use issues relating to intensification are not a material consideration provided that the proposed use remains wholly within class 6. It would be ultra vires of the Planning Authority to refuse the application for any reasons associated with its use.

The determining issues for this application therefore relate to:

- the acceptability of the proposed modular buildings in terms of their scale and design
- The appearance and scale of the proposed tanks
- Any road safety transport issues emanating from the proposed layout of the site

The site is located within the Countryside Zone as defined by the adopted Local Development Plan. The plan is supportive of small scale redevelopment within appropriate redevelopment sites. The proposed development is considered to be a small scale development as the footprints of the two modular buildings measure less than 200 square metres. The footprint of the four proposed tanks are not included

within this calculation as they do not fall within the definition of buildings.

The applicant has confirmed that the maximum amount of fuel that would be stored at the site if all tanks were full would be 243 tonnes. This falls significantly short of the threshold of 2,500 tonnes which would require Hazardous Substances Consent. The operators of the site will however have to comply with Health and Safety Guidance in relation to the storage of flammable liquids in the oil tanks.

The Council's Trading Standards Section does not have any responsibilities for the type of fuel to be stored at the site.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site lies within a designated Area for Action ref AFA 5/6 which encourages development of this strategic transport hub including compatible non-airport uses. Policy LDP 5 identifies that the success of our local economy is fundamental to Argyll and Bute's future prosperity, helping to retain population and attract new people to the area. As such the full economic benefits of new developments will be taken into account in our assessment of new development proposals. The reuse of the site will provide an economic benefit by providing jobs and vital services to the locality. The site is a marketable site which is well located in terms of the settlement and spatial strategy.

Policy LDP DM 1 and SG LDP BUS 2 are supportive of small scale business and industry developments on appropriate infill, rounding-off and redevelopment, brownfield locations within the Countryside. The site presents a suitable opportunity for small scale redevelopment in accordance with LDP DM 1 and SG BUS 2.

The proposal is considered to comply with the terms of Policy LDP 9 and SG Sustainable Design Guidance which seek to ensure developments are of a suitable scale, design and finish and do not have an adverse impact on the privacy and amenity of neighbouring properties.

The proposed development will be served by an existing vehicular access which comes off of the A828 Trunk Road. Both the Area Roads Engineer and Transport Scotland have been consulted and have raised no objections to the proposed development. The Area Roads Engineer has requested a condition with regards to the provision of parking and turning for four lorries and five cars within the application site. The existing access regime is considered to be acceptable and so therefore there is no requirement for any commensurate improvements. The proposal is considered to be consistent with the relevant provisions of policy LDP 11, SG LDP TRAN 4, and SG LDP TRAN 6.

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

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

The proposal provides for a small scale Class 6 reuse of an existing brownfield storage and distribution site within the countryside zone. The development is considered to be of appropriate scale, siting and design having regard to its location within the Area for Action promoting development of the Airport as a Strategic transport hub and will secure existing employment in a manner consistent with the

aspirations of policy LDP 5.

The development accords with the Local Development Plan in all other respects.

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

No Departure

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

Author of Report: Lesley Cuthbertson **Date:** 22.12.2016

Reviewing Officer: Peter Bain **Date:** 23/12/16

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 16/02835/PP

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 19.10.2016; and the approved drawings numbered 1-2; 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.

Standard 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, 1A Manse Brae, PA31 8RD which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

2. Notwithstanding the effect of Condition 1, the portable buildings hereby approved shall be finished in dark recessive materials. No development shall commence until written details of the type and colour of materials to be used in the construction of the portable buildings and fuel tanks; have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

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

3. Notwithstanding the provisions of Condition 1, no development shall commence until full details of the layout and surfacing of a parking and turning area to accommodate 4 lorries and 5 vehicles within the application site have been submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers. The duly approved scheme shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

4. Notwithstanding the provisions of Condition 1, no development shall commence until full details of signage to be erected along the private access advising motorists that there is an advisory speed limit in place and that they can expect to encounter pedestrians, cyclists and horse riders using the road have been submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers. The duly approved scheme shall be implemented in full prior to the site first being occupied and used and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

5. No development shall commence until details of the screen planting in the north eastern corner of the site has been submitted to and approved in writing by the Planning Authority. The following details will be required to be submitted:

- i) The location, species and size of every tree/shrub to be planted;

- ii) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the landscaping works shall be compliant with the CAA's Safeguarding of Aerodromes Advice Note 3 "Potential Bird Hazards from Amenity Landscaping and Building Design" and will be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

- 6. Notwithstanding the provisions of Condition 1, no development shall commence until details of the intended means of surface water drainage to serve the development have been submitted to and approved in writing by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

- 7. External storage within the planning unit shall only take place on land designated for such purpose and which has the prior written approval of the Planning Authority.

A request for the written approval of the Planning Authority shall include the extent and location of the proposed storage area(s), the types of materials to be stored, maximum stacking heights and details of any means of enclosure required.

Reason: In order to protect the amenity of the locale.

- 8. No development shall commence until full details of any external lighting to be used within the site has been submitted to and approved in writing by the Planning Authority. Such details shall provide for a lighting scheme compliant with the CAA's Safeguarding of Aerodromes Advice Note 2 "Lighting Near Aerodromes". Details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

No external lighting shall be installed except in accordance with the duly approved scheme.

Reason: In order to avoid light pollution in the interest of amenity and the safeguarding of Oban Airport.

- 9. The portable buildings hereby permitted shall be removed from the site within

10 years from the date of planning permission having been granted.

Reason: To define the permission and in order to protect the amenity of the locale.

NOTE TO APPLICANT

- **The length of the permission**: This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- 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.
- The applicant is advised to contact Scottish Water directly to discuss securing a connection to their infrastructure.
- The applicant is advised to have regard to the consultation response from SEPA in respect of regulatory requirements under the Water Environment (Controlled Activities)(Scotland) Regulations 2011.
- The applicant is advised to have regard to the consultation response from Oban Airport which includes technical advice in relation to landscaping and lighting in the vicinity of airports.

Regard should be had to SEPA's consultation comments in relation to the proposed development.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 16/02835/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

This is a proposal seeking planning permission for the formation of an oil depot, comprising the erection of 2 portable buildings, installation of 4 oil storage tanks, 3 arm skid and septic tank and erection of metal fence enclosure at the Yard, Oban Airport, Ledaig, Oban. The previous occupant of the site was the Council's Roads Department who used the site primarily for the storage and distribution of salt. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning (Use Classes) (Scotland) Order 1997. The site is a brownfield location within the countryside zone which is presently comprised of a large concrete rectangular hardstanding area which presents a suitable opportunity for reuse for the purposes of storage and distribution.

Consideration requires to be given to whether the previous Class 6 use has been abandoned. This use was in operation until 2014 and there has not been any other use of the land since then. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The site has been actively marketed by the Council's Estates Department for rent for a use commensurate with the airport. The site has been used as recently as 2014 by the Roads Department for the strategic storage of salt for roads treatments. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned. As the use of the site has not been abandoned, it benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot also falls fully within class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 therefore the proposal does not constitute a material change in use of the land that would require express planning permission.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site lies within a designated Area for Action ref AFA 5/6. AFA 5/6 is identified in the Action Programme as a strategic development site primarily focussed on the development of this important transport hub servicing the wider north-west coast and fragile islands. Proposals within this Area for Action are required to support and enhance the existing airport facilities and its uses; however the Action Programme also sets out the aspiration to further consider the potential uses of Oban Airport interface including for the use of land/water for compatible non-airport purposes. The proposed depot is intended to distribute a range of fuels, but primarily heating oil throughout Argyll although there may be some prospect that this could also service the airport facilities and users of the airport. The proposed formation of an oil depot at this site will complement the existing Airport Facility as a transport/distribution hub and this use will be compatible with the facilities in the AFA.

Policy LDP 5 identifies that the success of our local economy is fundamental to Argyll and Bute's future prosperity, helping to retain population and attract new people to the area. As such the full economic benefits of new developments will be taken into account in the assessment of new development proposals. The reuse of the site will provide an economic benefit by providing jobs and vital services to the locality. The site is a marketable site which is well located in terms of the settlement and spatial strategy.

The site lies within the designated Countryside Zone wherein the provisions of Policy LDP DM 1 and SG LDP BUS 2 gives encouragement to sustainable forms of small scale development on appropriate infill, rounding off and redevelopment sites. The provisions of SG LDP BUS 2 also sets out a preference for the reuse of brownfield locations, a requirement to comply with technical standards in relation to access, parking, and servicing and that the design, scale and siting of the development respects existing townscape/landscape character and appearance.

The proposed fence and portable buildings are required in order to facilitate the intended use of the site. The proposed portable buildings will be sited on land to the immediate southern end of the hardstanding and will be bounded by the site entrance to the west and the public road which runs along the southern boundary of the site. The proposal is viewed as a small scale redevelopment required to facilitate the reuse of the area of hardstanding.

B. Location, Nature and Design of Proposed Development

The site has previously been used by the Roads Department for the strategic storage of salt for roads treatments between 2010 and 2014 and also previously in the late 1990's. The Area Roads Department has confirmed that the depot had been in operation from at least the early 1980's. There is no planning history at the site and it is considered that this previous use as a Roads Depot has long since been established and is lawful. Typical volumes delivered or reloaded and removed in these periods was between 500 tonnes and 1500 tonnes which involved multiple HGV movements over a one or two day period. The site was also used to store construction materials. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning (Use Classes) (Scotland) Order 1997. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 use. In addition it is the intention of the Council to rent the land with this established Class 6 use. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned.

This depot was used for the storage and distribution of road materials which falls within use class 6 – Storage and Distribution of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The use of the site for the storage and distribution of oil at the proposed scale does not constitute a material change of use of the land that would require planning permission. The agent has advised that it is currently proposed that the depot would have four visits per day by 26 tonne oil tankers plus a daily visit from a 44 tonne oil tanker from Grangemouth to replenish supplies. The previous use of the site by the Council was not the subject of any planning conditions restricting hours of operation or activities.

Oban Airport is located 5 nautical miles northeast of Oban, near the village of North Connel. The site lies in a set-back position from the main A828 Trunk Road. The site forms part of the Airport Facility and is set against a loop road. The land is low lying and is set at the same level as the runway and airport site. A large concrete area of hardstanding occupies the site. It is proposed to form an Oil Depot at the site largely on the area of hardstanding. The proposed Oil Depot will comprise of:

- 2 portable buildings each measuring 10.24m x 3.39m x 2.57m LxBxH
- 4 Oil Storage Tanks (one with a fuel capacity of 67,500 litres, two with a fuel capacity of 94,770 litres and one with a fuel capacity of 116,789 litres)

- 3 Arm Loading Skid
- Septic tank with soakaway
- Oil interceptor with soakaway
- Surface water drain
- External lighting
- Parking and turning area
- 2.3 metre high metal enclosure fence

The proposed portable buildings are not of particularly high design quality but are simple, functional buildings and are considered to be acceptable within the context of existing development at the airport and the nearby Ledaig Travelling Persons Site. There is an existing portacabin building beside the Airport Terminal which is similar in form to the proposed portable buildings. The site is low lying and contained and forms part of a larger AFA which is based around the functionality of the Airport. The site is not readily visible from the trunk road to the east. The site is significantly backdropped when viewed from the coast to the west with higher ground to the east. The proposed development will have a very low profile and will have little or no impact on the surrounding landscape. On this basis, the proposed layout and design is considered to be acceptable. The proposed portable buildings are considered to be acceptable on a temporary basis given the non-permanent nature of the structures and so a condition will be required to ensure that the portable buildings are removed after 10 years with a view to the developer siting more permanent high quality structure or structures. Details of the proposed finishes of the buildings have not been submitted and a condition will be required to ensure that these details are submitted. Details of the dimensions and colour of each fuel tank will also be required via condition. The proposed development is of an appropriate design which will be compatible with its surroundings. The proposed development will therefore accord with the provisions of policy LDP 9 of the Local Development Plan. The proposed development will also accord with policy LDP 3 which encourages sustainable forms of development that seek to protect, conserve and where possible enhance the natural, human and built environment.

An amended Site Plan has been submitted to incorporate some landscaping. The applicant has been working with the Vehicle and Operation Services Agency (VOSA) to ensure the safe entry and exit of vehicles to the site. One of the agreed conditions with VOSA is that foliage be kept to a minimum to ensure maximum visibility. The amended site plan shows a proposed area of screen planting in the north eastern corner of the site alongside the private road. A condition will be required with regards to the specific details of this proposed landscaping. The proposed landscaping measures are considered acceptable on the basis that the applicant has limited options given the safeguarding criteria of the Airport and VOSA.

The proposal is considered to be compatible with the existing landscape/townscape setting and will accordingly comply with the relevant provisions of Policies LDP 3, LDP 9 and SG LDP ENV 14 and SG Sustainable Design Guidance which seek to ensure developments are compatible with their setting, are of a suitable scale, design and finish, and do not have an adverse impact on the privacy and amenity of neighbouring properties.

C. Bad Neighbour Development and amenity of neighbouring residents

The site boundary lies approximately 21 metres to the west of Ledaig Travelling Persons Site. There is a degree of separation between the application site and the Travelling Persons Site with recently upgraded road and a steep embankment separate both sites. The Travelling Persons Site occupies an area of ground that is

considerably higher than the application site and it is not readily visible from the Travelling Persons Site. The steep embankment is overgrown with vegetation which provides the Travelling Persons Site with an element of containment. The use of the site as a storage and distribution area is an established land use and the operation of the site for this purpose does not require the benefit of planning permission. It is the associated portable buildings, equipment and drainage provisions that are required to physically form the proposed Oil Depot that require the benefit of planning permission. It is considered that the proposed layout and design of the depot is suitable at this location.

The site lies within a designated Area for Action where proposals are required to support and enhance the existing airport facilities and its uses. This Area for Action is owned by the Council and has been designated as an AFA since the 2009 Local Plan. This AFA throughout the Local Development Plan preparation process has involved extensive information-gathering, partnership working with key agencies and local communities, environmental assessment and public consultation. This AFA has been formally adopted by the Council as part of the plan preparation.

Concern has been raised by a third parties regarding the storage of fuel and potential implications in terms of storage of hazardous substances. The relevant primary legislation for the control of Hazardous Substances is the Planning (Hazardous Substances) (Scotland) Act 1997 which is given effect by The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. These Regulations ensure that hazardous substances can be kept or used in significant amounts only after the responsible authorities have had the opportunity to assess the degree of risk arising to persons in the surrounding area and to the environment. The purpose of hazardous substances consent is to ensure that this residual risk to people in the vicinity or to the environment is taken into account before a hazardous substance is allowed to be present in a controlled quantity. The extent of this risk will depend upon where and how a hazardous substance is to be present; and the nature of existing and prospective uses of the application site and its surroundings.

Hazardous Substances consent is required for the presence of a hazardous substance on, over, or under land (which includes presence in buildings and on structures) unless the aggregate quantity of the substance present is less than the controlled quantity for that substance as specified in the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. The applicant has confirmed that the maximum quantity of fuel that would be stored at the site if all tanks were completely full would be 243 tonnes. This amount is significantly less than the controlled quantity specification of 2,500 tonnes as specified by Schedule 1, Part 2 of the Regulations. The applicant has also confirmed that their sites are required to comply with Health and Safety Executive guidance in relation to Storage of Flammable Liquids in Tanks which prescribes that tanks with a capacity less than 250m³ should be separated from buildings by a minimum of 10 metres. In this instance the distance between the proposed fuel tanks and the boundary of the Ledaig Travelling Persons Site is 30 metres.

Trading Standards, as petroleum authority, have been consulted and have raised no objections as the proposed development does not involve the storage of petroleum.

The Council is therefore not responsible for the regulation of the proposed level of fuel that is proposed to be stored at the site. The Health and Safety Executive has been consulted and has raised no objections to the proposed development.

The Health and Safety Executive is responsible for regulating the storage of flammable liquids in tanks. The developer should liaise directly with HSE with a view of implementing the guidance contained within HSG176. Health and Safety Inspectors seek to secure compliance with the law and may refer to this guidance.

Concerns have been raised by third party regarding potential noise pollution and fumes. The site benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot does not require the benefit of planning permission. The determining issues for the application relate to the site layout and design. The Environmental Health Unit has been consulted and has raised no objections to the proposed development. Any statutory nuisance caused by the operational site could be controlled through Environmental Health legislation.

Given that the use of the site for Class 6 purposes is established and the absence of any objection from Environmental Health Officers to the proposed new activity, it is considered unlikely that the development would give rise to any significant or unacceptable adverse impacts upon the amenity of the locale, including the residential amenity of the adjacent Ledaig Travelling Persons Site and is accordingly consistent with the relevant provisions of policy LDP 8 and SG LDP BAD 1.

D. Road Network, Parking and Associated Transport Matters

The site is set along a private access loop road serving the Ledaig Travelling Persons Site and Oban Airport which connects to the A828 Trunk Road. Transport Scotland has been consulted and has raised no objections to the proposed development.

The Area Roads Engineer has been consulted and has raised no objections to the proposed development. The Area Roads Engineer has requested a condition with regards to the provision of parking and turning for four lorries and five cars within the application site. The existing access regime is considered to be acceptable and so therefore there is no requirement for any commensurate improvements. The proposal is considered to be consistent with the relevant provisions of policy LDP 11, SG LDP TRAN 4, and SG LDP TRAN 6.

The previous use of the site by the Roads Department involved a number of HGV deliveries to and from the site on an ad hoc basis.(possible less than 100 vehicles per annum which equates to approximately 0.4 visits per day). This use was unrestricted and potentially any type and quantity of vehicle could enter the site at any time. The agent has advised that it is currently proposed that the depot would have four visits per day by 26 tonne oil tankers plus a daily visit from a 44 tonne oil tanker. Whilst the use of the site may represent an intensification no material change of use is being proposed which would require the benefit of planning permission.

Access to the site uses a short section (800m) long of the National Cycle Network, Oban to Fort William Route 78. The Access Manager has been consulted and has raised no objections to the proposed development and has advised that Sustrans are on record as stating that a minor road is suitable for unaccompanied 11 year olds to use provided that there are less than 1,000 vehicular movements per day. It is unlikely that the proposed development will result in more than 1,000 vehicular movements per day on this access. The Access Manager has advised that it may be appropriate to request that signs are erected advising motorists that there is an advisory speed limit in place and that they can expect to encounter pedestrians, cyclists and horse riders using the road. A condition will therefore be required to this effect. The proposed development will not have a significant adverse effect upon the public access interests of the National Cycle Network and will comply with SG LDP TRAN 1.

E. Drainage Arrangements

It is proposed to make a connection to the public water supply network. Scottish Water has been consulted and have not provided a response to date and are therefore assumed to have no objection to the proposal. The applicant should contact Scottish Water directly to discuss securing a connection to their infrastructure.

A septic tank with soakaway will be installed to service the proposed portable buildings. Sufficient detail has been supplied for this stage and detailed arrangements will be covered by Building Standards Legislation.

An ACO type surface water drain will be installed alongside the loading skid and oil tanks. This drain will feed into an oil interceptor which will connect to a surface water soakaway.

SEPA has been consulted and has raised no objections to the proposed development. SEPA has advised that the Oil Storage Regulations 2006 do not apply to the storage of oil on a premises if that oil is only being stored for the purposes of onward distribution to another location. SEPA have noted the intention to bund the tanks and have recommended that this is undertaken in line with the Pollution Prevention Guide on Above Ground Oil Storage Tanks. SEPA are responsible for enforcing The Water Environment (Oil Storage) (Scotland) Regulations 2006.

The proposal is considered to be consistent with the relevant provisions of policy LDP 10, SG LDP SERV 1, and SG LDP SERV 2.

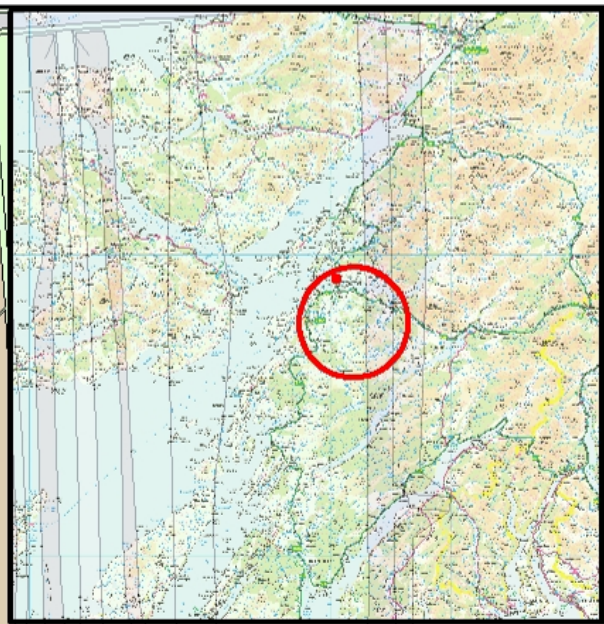
F. Aviation and Safeguarding

The Station Manager at Oban Airport has been consulted and has raised no objections to the proposed development. It has been advised that any lighting and landscaping should be in accordance with CAA advice notices as previously instructed. An amended Site Plan has been submitted with supporting technical data giving details of the proposed lighting and the Airport Station Manager has confirmed that the lighting proposals are acceptable.

The CAA has been consulted and has not provided a response or requested an extension of time.

The proposal is consistent with the provisions of policy LDP 11 and SG LDP TRAN 7.

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Runway Approach Lights

Macwood Lodge

Depot

Ledaig (Travellers Site)

14.6m

A 828

Path (um)

14.3m

Car Park

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Location Plan relative to Planning Application
Ref No: 16/02835/PP

Scale 1:1,250



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Argyll and Bute Council
Development & 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 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 16/02861/PP

Planning Hierarchy: Local Application

Applicant: Mr Jonathan Barton

Proposal: Erection of house in multiple occupation, installation of sewage treatment plant, air source heat pump and formation of vehicular access

Site Address: Land East Of Nant Farm, Ichrachan, Taynuilt

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Development Requiring Express Planning Permission

- Erection of House for Multiple Occupation (6 bedrooms)
- Formation of vehicular access
- Formation of on-site car parking and associated servicing and turning area
- Installation of sewage treatment plant and associated soakaway
- Installation of air sourced heat pump

(ii) Other specified operations

- Connection to existing public water supply
-

(B) RECOMMENDATION:

It is recommended that planning permission be approved as a minor departure from policies LDP DM1 and SG LDP HOU1 subject to the attached conditions and reasons.

(C) HISTORY:

It is clear from the objections received to this application that this site has a complex planning history. Indeed in objecting to this application a number of residents have

expressed concern over what they consider the lack of clarity on the process of determining previous applications. Residents have also separately written to the Head of Planning and Regulatory Services outside the application process to seek further clarity and reassurance on previous determinations and procedural matters related to the various proposals for the site.

It is felt that to reassure and inform both Members and Objectors a more detailed officer commentary explaining the planning history of the site and clarifying what has happened in the past would be a beneficial before evaluating the merits of the current planning application. This planning history and commentary is set out below:

14/01889/PREAPP – Pre-Application inquiry for residential re-development of farm complex (seven units).

Advice was sought on redeveloping the farm complex, which sits within the settlement boundary, for residential purposes. The response to this was generally favourable and advice to this effect was provided by the Area Team Leader at that time. His comments, by e-mail dated 18.9.14, were that:

“I confirm that the redevelopment of the site for housing is worthy of support in principle. The physical features on the ground are such that I recommend only six units are proposed. The trees and the raised bracken covered knoll at the north end of the site combine to rule out plot 4. Assuming the overhead line crossing plot 3 is realigned, the other six plots could all be supported in principle”.

16/00265/PP – Erection of dwellinghouse for use as House of Multiple Occupancy-withdrawn 18.3.16

The withdrawal of this application is related to the description of development being incorrect. I clarify this in more detail below:

An e-mail from the agent on 5.2.16 states: I’ve just realised that I called this a ‘house’ when technically it should have been ‘house of multiple occupancy’, sorry but any chance the description could be changed please? Thanks.

The e-mail withdrawing this application states: Further to recent discussions I confirm that we would like to withdraw this application. Thank you.

Both of these exchanges are on the public access system. The case officer at that time, has clarified that he was concerned that changing the description from “erection of dwellinghouse for use as house of multiple occupancy” to erection of a “house in multiple occupation”(HMO) was not a minor change to the nature of the proposal, but a substantial change which could cause confusion. Verbal advice was provided to the agent that if the erection of an HMO and not a dwellinghouse was what was desired, then the then current application for the erection of a “dwellinghouse for use as an HMO” should be withdrawn and a fresh application which correctly defined the proposals be submitted. The agent acted upon this advice.

16/00804/PP – Erection of a six bedroom dwelling house – Approved 10.5.16

Planning permission was granted for the erection of a six bedroomed dwelling house on 10.5.16. The Officers report to committee refers to the application being considered as a minor departure to development plan policy as part of the house and the rear garden area were located outwith the settlement boundary and within a countryside zone.

Considerable detail is contained within the officer’s report on the justification for approving this application as a departure to the Local Development Plan and the reason why this

planning judgement was reached. This report remains available through public access.

This planning permission remains extant (live) and capable of implementation. The determination has been made and planning permission issued as a point of law. Moreover the proposal was correctly identified as a departure from the Local Development Plan and planning permission has been granted for the reasons stated in the report based upon the judgement of officers.

16/01808/PP - submitted as a dwelling house HMO - withdrawn 10.10.16

Having examined the letters of objection and discussed the matter with the applicant's agent officers considered that the development proposed could be made more policy compliant and entered into discussions on this point.

The application for an HMO differed from the previously approved dwellinghouse and car parking required to be increased from three to six spaces. The need to consider how the HMO and increased parking requirement could be accommodated within the application site, suggested that it was opportune to reconsider siting and layout matters again for this HMO proposal and its relationship to both the settlement boundary and the adjoining farm site.

As so many objections had been lodged it was decided by the applicant, following discussions with officers, that a new and fresh application which was more policy compliant and contained greater consideration of how the application was to integrate with its surroundings was desirable. The case officer was aware of this intended course of action and also considered that if there were to be material changes to the scheme then a fresh application, accurately defining these changes was again the correct approach to take.

The current planning application, as now amended, seeks to address a number of the issues raised by local residents and also considers how the proposal will relate to likely future redevelopment proposals for the farmyard adjacent to the site. Matters such as access, servicing, foul drainage, footpath provision and general policy compliance all required to be considered. For the avoidance of doubt no planning application is before officers relating to the redevelopment of the farm yard and such information as is provided on drawing 1757 03 is for indicative purposes only and does not form part of this planning application determination.

(D) CONSULTATIONS:

Area Roads Engineer - No Objections subject to conditions Dated 28.10.16

Environmental Health Officer (HMO Team) – No Objection Dated 16.12.16

A license is required for living accommodation as a House in Multiple Occupation prior to occupation under Part 5 of the Housing (Scotland) Act 2006 (the "2006 Act").

The Council has approved a set of Housing Standards which owners are required to meet with regard to their property which will be a house in multiple occupation. These standards will need to be achieved for a license to be issued.

It should be noted that members of the public are given the opportunity the raise representations and objections to the licence application

Scottish Water No Response

SNH No Comment Dated 26.10.16

SEPA No Objection Dated 27.10.16

(E) PUBLICITY: The proposal was advertised in terms of Regulation 20 procedures and the closing date for representations was 3.11.16

(F) REPRESENTATIONS:

Objections have been received from the following parties:

<u>Name</u>	<u>Address</u>	<u>Dated</u>
L. Ross	Hawthornbank 10 Otter Creek Taynult	7.11.16
A. Ross	Hawthornbank 10 Otter Creek Taynult	7.11.16
M. Butler	Lichen Burn Otter Creek Taynult	7.11.16 & 8.11.16
A. Butler	Lichen Burn Otter Creek Taynult	7.11.16 & 8.11.16
G. Blunsum	Tanglewood, 3 Otter Creek Taynult	10.11.16
C. Blunsum	Tanglewood, 3 Otter Creek Taynult	10.11.16
K. Pennock	Cherrywood 8 Otter Creek Taynult	13.11.16
S. Pennock	Cherrywood 8 Otter Creek Taynult	13.11.16
D. Pennock	Cherrywood 8 Otter Creek Taynult	13.11.16
M.Brown	E-Mail	11.11.16
M.Shaw	Planning Agent for M. Brown	15.11.16

Main Issues Raised

There is already a house in Multiple Occupation in the locality (Ichrachan Farmhouse) which would mean 2 HMO's in a small rural development which would be harmful to the amenities of residents as Otter Creek is a quiet rural location. Three people are occupying this existing HMO. Comment: In respect of the alleged unauthorised HMO at the Farm Complex reportedly being occupied by three residents raised in objections, it is important to clarify that the planning definition of an HMO being formed and the need for a License under the Housing Acts are not the same.

Not more than five unrelated persons may occupy a dwellinghouse before a change of use to an HMO use is considered to have occurred under planning legislation. Therefore in planning terms the use of the other building by a reported three persons remains as a dwellinghouse in respect of planning legislation and no breach of control has taken place.

As this is not an HMO under planning legislation it cannot be regarded as anything other than a class 9 dwellinghouse in planning terms unless further information to the contrary comes forward. Officers therefore do not at this time consider that another HMO exists in the locality and therefore no planning evaluation of the current proposal now comprising two separate HMO's in the immediate vicinity has been undertaken

Officers have already passed this information to the HMO licensing team to ensure all necessary consents are in place as the Housing (Scotland) Act 2006 defines that living accommodation is a HMO within the meaning of the Act if it is:

- occupied by three or more persons from three or more families, and
- occupied by them as their only or main residence or in some other manner specified by the Scottish Ministers by order, and

- either a house, premises or a group of premises owned by the same person with shared basic amenities, or some other type of accommodation specified by the Scottish Ministers by order.

Concerned that current and future proposals are seeking a “student campus” on this land adjoining farmyard for occupation by students of “Ballet West” and position of the house reflects wider intentions to develop the farm yard complex as a “student campus”.

Comment: It should be emphasised that all pre-application discussions in respect of redeveloping the farm complex have been in respect of class 9 dwellinghouse provision, and not for any other purposes such as additional HMO's. It is not the role of planning officers to try and pre-judge development proposals for more HMO houses within the farm complex as this is not a matter before them. However if proposals do come forward, which meet, the legislative test set out in planning law these will be considered in respect of the LDP, Circular 1/2012 advice and also in consultation with HMO License Officers.

Wish clarity on A&B Council Policy to manage/control HMO concentrations in this area

Comment: This issue would be considered in a case by case basis in consultation with the HMO licencing team.

Allowing this HMO permission would set an undesirable precedent for others in the local area
Comment In respect of concerns expressed on the granting of this planning permission setting a precedent officers consider that each application must be determined on its merits, and this application does not, in the judgement of officers, set precedent for any future planning application in the locality which will be determined in accordance with the requirements set out at Section 25 of the Planning Act having regard to the Development Plan and any other material considerations. Neither Members or Officers will be bound by this decision to accept further HMO uses, as defined in planning legislation, on adjoining land.

The proposed house should not be constructed on land designated as Countryside. Much of the house and garden lies in the countryside zone.

Comment: See assessment

Complex planning history of this plot requires to be fully considered along with this application as numerous applications have been submitted and withdrawn.

Comment: See planning history section in this report.

The footpath that many students currently use to access the village from the ballet school is not of a suitable standard and causes noise and disturbance when students walk along it.

Comment: It is considered that the existing footpath forms a valuable pedestrian link. Noise and disturbance emanating from the footpath and its condition is not a material consideration in the determination in this planning application.

Concern over adequate car parking being provided for this and future proposals.

Comment: Since the application was first submitted the plans have been amended to show 6 car parking spaces. The Area Roads Engineer is satisfied with this level of provision.

Sufficient land within Ballet West grounds to accommodate student accommodation on land which is also designated as a Rural Opportunity Area. Housing for students should be built there not next to housing.

Comment: The Planning Authority is required to assess the current application on its merits.

Other matters

A number of residents have suggested in their representations that application fees have not been paid as required by the applicants.

Comment: The current HMO application is a “free go” for the recently withdrawn application 16/01808/PP which had paid full fees. The zero application fee status of the current application is therefore correct.

A number of objectors question the submission and withdrawal of applications and seek to question the intentions and motives of the applicant.

Comment: These are matters upon which no comment can be provided as they are not material to the determination of this application. It should however be clarified that the decision to submit or withdraw a planning application and the content of that application are not matters under the control of the Planning Authority.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** N
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** N
- (iii) **A design or design/access statement:** N
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** N

Summary of main issues raised by each assessment/report

N/A

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:** N

-
- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** N

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

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

Argyll and Bute Local Development Plan (Adopted March 2015)

LDP DM 1	Development within the Development Management Zones
LDP 3	Supporting the Protection Conservation and Enhancement of our Environment
LDP 9	Development Setting, Layout and Design
LDP 11	Improving our Connectivity and Infrastructure

Supplementary Guidance

- SG LDP HOU1 – General Housing Development including affordable housing provision
- SG LDP DEP - Departures to the Local Development Plan
- SG LDP ENV 14 –Landscape
- SG LDP SERV 1 –Private Sewage Treatment Plans & Wastewater Systems
- SG LDP SERV 2 - Incorporation of Natural Features / Sustainable Drainage Systems (SuDS)
- SG LDP TRAN 1- Access to the Outdoors
- SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
- SG LDP TRAN 6 – Vehicle Parking Provision

(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 Government Circular 2/2012 – “Houses in Multiple Occupation: Guidance on Planning Control and Licensing”

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

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

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

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

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

In deciding whether to hold a discretionary hearing, Members should consider:

- How up to date the Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations, together with the relative size of community affected set against the relative number of representations and their provenance.

Given the limited number of representations relative to the overall size of Taynuilt and the previous approval for a similar scheme for a dwelling which is still a live application, it is not considered that a Hearing would add further value to the process.

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

Planning permission is sought for the erection of a House in Multiple Occupation (HMO) on land east of Nant Farm, Ichrachan, Taynuilt. An HMO does not fall within Class 9 of the Town and Country Planning Use Classes Order and is regarded as a sui generis use. The proposed house footprint is located wholly within the settlement boundary as defined by the adopted Local Development Plan, however, part of the parking area and a section of the rear garden is located within the Countryside Zone. This application follows on from an application for a house on the same site which was approved subject to conditions. In this application part of the footprint of the house was also within the countryside zone.

As part of the development is located within the countryside zone the proposal is a considered to be a minor departure from policies DM 1 and SG LDP HOU 1 as housing development is not supported in the countryside in locations which are immediately adjacent to defined settlement boundaries. The part of the site within the countryside zone is considered to be *di minimus* and will comprise the rear garden of the HMO property and a small area of parking provision. Subject to appropriate boundary treatment which would be controlled by the proposed landscaping condition it is considered that the impact on the countryside area would be minimised whilst also providing the HMO with open space commensurate to the size of the proposed building. The current proposal also represents a reduction in the impact on the countryside zone when compared to the previous approval for a house which is still a live planning permission.

There is an informal footpath which would be affected by the development and a condition is proposed in order to ensure this link between the site and Taynuilt is maintained.

There is also a wider area of undeveloped settlement zone also within the ownership of the applicant located around the farm steading. As this could potentially be developed and the applicant has aspirations of further development at some point in the future, an indicative plan has been submitted add further context to the proposal. This development will be considered in its merits should an application be submitted. The purpose of this indicative plan is merely to show that the current development would not have an adverse impact on the remainder of the site in terms of sewage treatment provision and commensurate road improvements.

It is considered that the current application to construct a six bedroom HMO is acceptable as a minor departure from Policies LDP DM1 and policy SG LDP HOU1. The building itself is now located wholly within the settlement boundary and full parking provision for the HMO has now been provided. The design, scale and materials to be used are considered to be acceptable and in character with the locality. The submitted foul drainage solution, subject to conditions is also considered acceptable. It is therefore considered that subject to the imposition of appropriate conditions that the proposal is in accordance with SG LDP DEP, LDP STRAT 1, LDP 3, LDP 9, LDP 11, SG LDP 2, SG LDP ENV 14, SG LDP SERV 1, SG LDP SERV 2, SG LDP TRAN 1, SG LDP TRAN 4 and SG LDP TRAN 6 and planning permission should be granted.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The principle for the erection of a HMO and formation of a new vehicular access on land partly within the settlement of Taynuilt would largely be compatible with the Argyll and Bute Local Development Plan 2015 in terms of the land use and would not hinder future expansion into land forming part of the designated settlement of Taynuilt. It is considered that the scale, form, proportions, materials, detailing and colour of the proposed HMO dwellinghouse are all acceptable and that the proposed building respects the characteristics of the surrounding landscape and environment. The proposed development generally complies with the policy requirements of the development plan and there are no material considerations that would warrant the refusal of planning permission for this proposal.

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

While part of the application site is outside the settlement zone as designated by the LDP, it is considered that the encroachment into the countryside zone is *di minimus* and will have a minimal impact on the area and the adjustment will allow a suitable layout to be achieved in the longer term. It is therefore considered that a minor departure from development plan policies LDP DM1 and SG LDP HOU1 can be justified in this instance. The proposal is otherwise consistent with the policies and supplementary guidance of the Argyll and Bute Local Development Plan 2015 and that the site within the settlement of Otter Creek, Taynuilt is capable of accommodating a single HMO building without detriment to the built environment or wider landscape.

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

Author of Report: David Moore

Date: 14.12.16

Reviewing Officer: Angus Gilmour

Date: 4.1.17

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.16/02861/PP

1. Approved Drawings & General:

The proposed development shall be carried out in accordance with the details specified in the application form dated 18/03/16 and the approved drawings numbered:

- Plan 1 of 2 (1575 05 rev E)
- Plan 2 of 2 (1575 01 rev A)

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. Sewage Treatment Tank and Soakaway:

No development shall commence on site until full details of the proposed means of private foul drainage to serve the development and five other family sized residential units have been submitted to and approved by the Planning Authority.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

3. Sustainable Urban Drainage System (SuDS):

No development shall commence on-site until details of a Sustainable Urban Drainage System (SUDS) are submitted to and approved in writing by 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 thereafter shall be completed in accordance with the approved details prior to the initial occupation of the house 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.

4. Availability of Connection to Public Water Supply:

No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided in writing to the Planning Authority before commencement of development.

Reason: To ensure that the development is adequately served by a public water supply

5. Sample Materials:

No development shall commence on site until samples of materials and colour finishes to be used in the external finishes of the building have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed and

maintained using the approved materials and colours or such alternatives as may be agreed in writing with the Planning Authority.

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

6. Landscape/Surface/Boundary Treatment:

No development shall commence on site until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels.
- iv) Proposed hard and soft landscape works.

The development shall not be occupied until such time as the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

7. Visibility Splays:

The existing vehicular access at the junction of the existing public road shall have visibility sightlines of 2.4m x 42m x 1.05m in both directions and shall be constructed in accordance with Argyll and Bute Council Small Development Guide Drawing no. SD 08/004 rev a. This shall include a surface water drainage system to prevent water spilling onto the public road.

Reason: In the interests of road safety.

8. Parking and Turning Facilities

Prior to the occupation of the development hereby approved the parking and turning detailed on drawing no. 1575 05 Rev E shall be available for use and retained thereafter.
Reason: In order to ensure that there are acceptable levels of parking and turning provided on the site.

9. Finished Floor Levels:

No development shall commence on site until details of the proposed finished ground floor level of the development relative to an identifiable fixed datum located outwith the application site have been submitted to and approved in writing by the Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In order to secure an acceptable relationship between the development and its surroundings.

10. Prior to the commencement of development details of an alternative footpath route to replace that which is being obstructed by the development shall be submitted to the

planning authority for its approval. Such details as may be approved shall be provided in accordance with approved details in advance of any obstruction of the current footpath route through the curtilage of the proposed HMO.

Moreover any footpath formed in respect of the above requirement shall be retained in perpetuity unless with the written permission of the Planning Authority and maintained free of obstruction to allow the safe and unhindered passage of pedestrians linking in to the existing footpath route travelling in a north easterly direction away from the application site.

Reason: To ensure pedestrian access from Otter Creek and Ballet West is maintained to a level commensurate with the existing level of pedestrian permeability to the village of Tavnult.

11. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any other revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit within the area subject of this permission, any development referred to in Part 2 Class 7 of the aforementioned Schedule, as summarised below:
PART 2: SUNDRY MINOR OPERATIONS
Class 7.—
(1) The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Reason: To protect the sensitive area and the setting of the proposed dwellinghouse in the interest of visual amenity.

NOTE TO APPLICANT

This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]

In order to comply with Sections 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. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.

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 Opening Permit (S56) under the Roads (Scotland) Act 1984 will be required in connection with the construction of an altered/improved private vehicular access at the junction of the UC182 Otter Creek Road. The Council's highway 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 public road.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 16/02861/PP

A. Settlement Strategy

Many objectors have taken issue with the fact that the application, as initially submitted, was proposing to locate the HMO building partially within the Countryside zone and outside the defined settlement boundary.

Officers have noted these concerns, which were also expressed in respect of historic applications, and have secured through negotiation the relocation of the HMO building wholly within the settlement boundary, with only garden land, and car parking now being proposed in the countryside zone. This makes the proposal more policy compliant than previously submitted as the main element of the development is now policy compliant within the settlement boundary.

Appropriate conditions to control the profile and landscaping of the cut into the rising ground can be imposed on any planning permission. Views into the site from the public road will be minimal because of the intervening higher ground to the east of the HMO plot. It is considered that the proposed HMO and associated parking and garden area will have a minimal impact on the surrounding landscape and will sit comfortably within the satellite settlement of Otter Creek.

A section of the rear garden area and parking will however still extend into the countryside which in officer's opinion is at a *di minimus* level and represents a minor departure from the development plan. In this instance planning permission has already been granted for a dwelling house of exactly the same design within a similar application site and therefore the fact that the rear garden area and parking provision is still within the countryside zone must be regarded as a minor departure from policy LDP DM1 in respect of land use designations and therefore appropriate under SG LDP DEP.

B. Location, Nature and Design of Proposed Development

The proposed dwelling house is a modern interpretation of a traditional style and uses a simple palette of materials similar in character to existing houses in Otter Creek.

The scale, form, proportions, materials, detailing and colour of the proposed dwellinghouse mirror that previously approved under are considered to be acceptable and will ensure that the proposed development will be compatible with the characteristics of the surrounding settlement and landscape

It is however considered necessary to ensure that the means of enclosure and appearance of the garden area are not overly suburban or formal and assimilates successfully into the open countryside reflecting its character and appearance. To this end suitable conditions will be placed upon any grant of planning permission to ensure an appropriately design transition from countryside, to garden, to settlement zone is achieved. It is likely that only stock fencing will be appropriate to define the curtilage and no structures or buildings will be appropriate within the garden area which should remain natural in its appearance. Given appropriate restrictions the proposal will sit comfortably and readily assimilate into the landscape in accordance with SG LDP ENV 14.

As this is not a class 9 dwellinghouse no permitted development rights associated with a house are conveyed by the grant of this planning permission which is for a "sui generis use outside any use class. However it is necessary to remove Permitted Development rights associated with means of enclosure for non-residential uses.

In this respect it is considered that the proposal is in accordance with policies LDP 3 and LDP 9 of the adopted LDP and represents a development of appropriate scale, design and materials for this locality.

C. Potential impact of HMO on residential amenity

Concerns have also been raised in respect of the current application and potential impact upon residential amenity related to the location and use of the HMO building itself. Issues have also been raised in respect of the Councils policy approach to “concentrations” of HMO uses within the locality. These points are addressed below.

The application before Officers is for a single HMO and must be determined on this basis. The LDP has no specific policy in relation to HMO proposals and therefore officers must evaluate whether the character and nature of the use would, on balance of probability, and having regard to the relationship of the proposal to residential properties, be likely to give rise to any material impacts on their level of amenity.

In this respect the proposed HMO location is not immediately adjacent to any existing residential occupier or objector and the likely activity associated with the operation of the use would not in the opinion of officers adversely impact upon the amenities of any of the objectors or of any other residential properties in the locality. The site sits outside and spatially separate from the main concentration of residential properties and the comings and goings from this HMO would not be readily apparent to the casual observer.

In respect of any future application in the locality and potential concentrations of HMO uses in a local area Circular 1/1012 paragraph 3 advises that :

.....planning authorities may wish to adopt policies to limit HMO concentrations where the residential amenity of a community is already adversely affected by high concentrations of HMOs, or in areas where it is likely that this may happen in the future.

No policy relating to HMO concentrations is contained within the current LDP. The promotion of such a policy approach would therefore be a matter for the LDP review as to whether the circumstances of this locality would justify the adoption of a different, and potentially more restrictive, policy approach. Residents would be able through the current LDP review process to seek to promote a policy in respect of HMO's in this locality and this matter would be considered by Planning Policy Officers. The current planning application, in the absence of an adopted policy, is not a competent mechanism to address these wider policy framework concerns expressed by residents.

However members should note that Circular 1/2012 clarifies that powers are currently available in respect of concentrations when HMO licenses are applied for. Paragraph 14 states:

The 2011 Act also adds section 131A into the 2006 Act which gives the local authority the discretionary power under HMO licensing to refuse to grant a HMO licence if it considers that there is, or that the grant of a licence would result in, overprovision of HMOs in the locality. It is for the local authority to determine the locality.

Therefore powers currently exist in considering any HMO license application to have regard to any concentration of other HMO's in the locality. However this requires to be balanced against advice in the circular which states;

*HMOs provide a vital source of accommodation, and **planning authorities** should seek to ensure that an adequate supply is available to meet demand. Demand for HMOs should*

be met where it arises, and local authorities should consider HMOs when developing local housing strategies and development plans.

Objectors have suggested that applications for HMO or other uses should be redirected into the grounds of Ballet West. Officers must determine the application before them on its merits and it is not for officers to seek to curtail the development of land on the basis of other land ownership if the proposal is considered acceptable on its own merits. It should be emphasised that this is not a planning permission personal to Ballet West students it is an HMO capable of occupation by any party in need or such accommodation.

Other additional concerns expressed in respect of the future redevelopment of the farm complex are not matters before Members at the present time. Any future planning applications for HMO proposals would require to be judged on their merits (unless a policy framework for HMO proposals has been brought forward through the LDP at some future date).

It would not be appropriate for officers to enter into conjecture about any future HMO intentions of the applicant if those matters are not before officers as planning applications. Officers would however clarify that at this time no pre-application advice has been sought for anything other than the redevelopment of the farm complex for residential purposes.

D. Road Network, Parking and Associated Transport Matters.

The application as originally submitted showed only three parking spaces. The Area Roads Engineer is of the opinion that as six unrelated persons can occupy the HMO and this is a rural location then all six persons could potentially have a car. The applicant has therefore altered the parking layout to ensure that six spaces are provided. A condition requiring these spaces to be provided prior to the occupation of the HMO will require to be imposed to ensure provision.

It should be made clear that although there is correspondence suggesting that the building will be occupied by students of Ballet West, and indeed this seems on balance of probability likely, the application does not seek a personal permission and officers can identify no reason to seek to limit occupation of the building to only students of Ballet West. In this respect any permission will be for an HMO that could be occupied by not just Ballet West students, and therefore full compliance with parking standards has been required.

The area roads engineer has confirmed that no additional works are required to the private access which serve the site and adjacent farm to accommodate this application as only one house and one HMO would then exist. However should redevelopment proposals for the farm complex come forward it is likely that the road will require to be resurfaced and passing places provided. Junction improvements may also be required. These matters will be considered at such time as any further planning application for redevelopment the adjacent farm complex comes forward. The supporting plan which has been submitted showing the applicant's aspirations for development in the future indicates that the development of the current application would not adversely impact on the provision of commensurate improvements which may be required for future development.

The current proposal is therefore in accordance with SG LDP TRAN 4 and SG LDP TRAN 6 of the LDP.

E. Infrastructure

In evaluating the current application it became increasingly apparent to officers it was likely that the redevelopment of the farm complex for residential purposes was acceptable on point of principle in accordance with previous pre application advice under 14/01889/PREAPP. Officers therefore requested that confirmation be given that the new foul drainage solution which was being proposed would be able to accommodate not just existing, but likely future proposals and the need to “futureproof” foul drainage was accepted by the applicant as an appropriate way forward to address longer term development needs.

It has therefore been confirmed that the foul drainage solution being promoted will accommodate sufficient capacity for six units. This has been annotated on revised drawing 1575 05 Rev E. A condition requiring full details of this foul drainage solution, (which meets the requirement of SEPA and Building standards), to be submitted and approved prior to any construction works taking place will be imposed.

In respect of connection to a water supply and using SuDS complaint materials within the curtilage of the HMO building standards conditions will be used to address these matters in accordance with normal practice.

F. Footpath alterations and pedestrian access

The proposed HMO and its curtilage will block an existing footpath which connects Otter Creek and Ballet West to the village of Taynuilt. This route forms a valuable pedestrian link and an alternative to walking along the main road which is both unlit and has no footway. It is therefore considered that maintaining pedestrian connectivity along this existing footpath is a material planning consideration and requires to be addressed to ensure the proposal is in accordance with Policy LDP 11 and SG LDP TRAN 1 which seek to ensure that connectivity and public access are maintained or improved.

An illustrative plan has been provided by the applicant (Drawing 1575-03) to assist in setting the wider context for envisaged future development of the farm complex where an alternative footpath route to that being blocked by the current proposals is suggested. This enters the farm complex along its northern boundary from land outside the control of the applicant. This would also be on undulating land and would appear to require potentially extensive engineering operations.

Officers consider that this is not the appropriate alternative route for a replacement footpath. There is an obvious desire line and alternative footpath link into the farm complex across a small bridge adjacent to the existing gas tank entering from the east of the site (the gas tank location is annotated on drawing 1575 05 Rev E and the footpath site to the west of this). This would seem the obvious route for the replacement footpath route to take.

All of the land required to form this alternative footpath linkage is on land controlled by the applicant. The route also follows a claimed legal right of access over land by one of the objectors. It is not for planning officers to form judgement on legal matters relating to rights of access, however the claimed access route would appear to be a far better route for a footpath than that indicated on the illustrative plan.

To this effect a suspensive condition will be imposed requiring details of an alternative footpath route through the farm complex to be provided, and for this linkage to be in place and appropriately delineated prior to the occupation of the HMO building. This route will require to be kept free of obstruction at all times.

This will maintain this important pedestrian link between Otter Creek and the village itself and ensure compliance with Policy LDP 11 and SG LDP TRAN 1. It should also be noted that the location of this new footpath route will have to be considered for the future design and layout of any redevelopment of the farm complex. However this should be able to be easily accommodated due to the scale of the plots and buildings indicated.

Issues have been raised in respect of the safety and integrity of the existing footpath for use by pedestrians by objectors and noise associated with its use. This is an existing footpath for those wishing to walk into the village. It is clearly well established and well used from casual inspection of the desire line formed along its route.

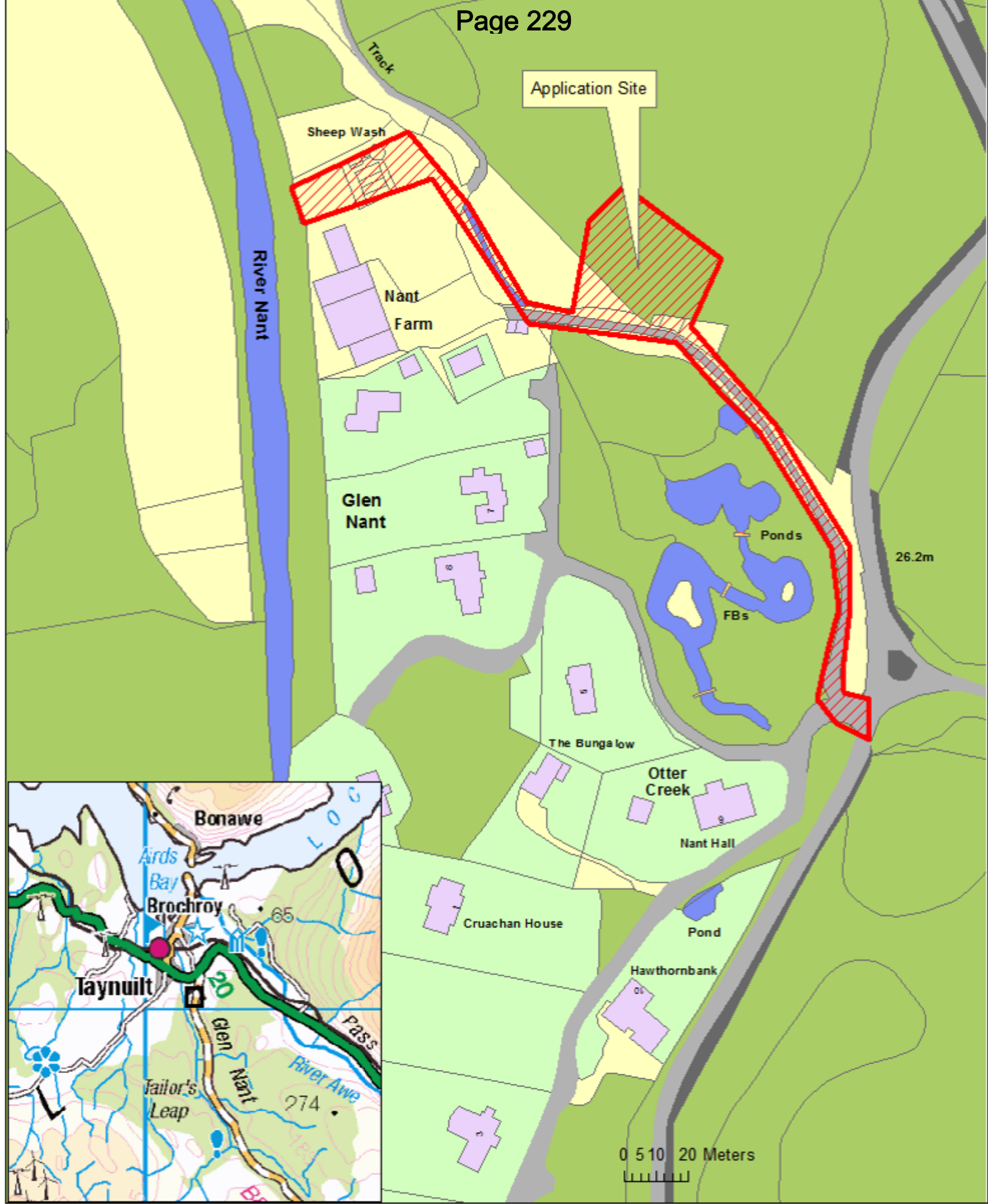
The current application for a single HMO in the judgement of officers does not represent a scale or type of development which would justify any substantial upgrading of the footpath at this stage. Six additional persons potentially using this footpath it is not considered to be a material planning consideration and given that the footpath is already extensively used. It is not considered that any increased activity associated with the six residents of the HMO proposal using this link would materially impact upon the amenity of any residential occupiers.

It should be noted that any alleged future unacceptable behaviour by any individual or group is not a matter for the planning authority. Circular 1/2012 –“*Houses in Multiple Occupation: Guidance on Planning Control and Licensing*” specifically addressed the interface between planning legislation and other Licensing for HMO premises. This clarifies at paragraph 3 that:

*High concentrations of HMOs can lead to a range of cultural, social, physical and economic changes in a community. Such changes may be positive or negative, and may be perceived differently from community to community. **Some of these changes, particularly regarding the behaviour of HMO tenants, are not matters for planning authorities....(Officer emphasis)***

In extreme cases the behaviour of individuals can become a matter for the police. It is not for the planning authority in the determination of a planning application to contend or give substantive weight to any future behaviour by the occupants of an HMO. This can be a matter for the grant of a License, but this is not for the Planning Authority to consider as a substantive material consideration in this instance.

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Location Plan Relative to planning application: 16/02861/PP



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