



**Argyll and Bute Council**  
**Comhairle Earra-Ghàidheal Agus Bhòid**

*Customer Services*  
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12 September 2018

**NOTICE OF MEETING**

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 19 SEPTEMBER 2018** at **11:45 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 22 August 2018 (Pages 3 - 28)
- (b) Planning, Protective Services and Licensing Committee 27 August 2018 at 10.00 am (Pages 29 - 34)
- (c) Planning, Protective Services and Licensing Committee 27 August 2018 at 10.20 am (Pages 35 - 36)
- (d) Planning, Protective Services and Licensing Committee 27 August 2018 at 10.40 am (Pages 37 - 40)
- (e) Planning, Protective Services and Licensing Committee 27 August 2018 at 11.00 am (Pages 41 - 44)
- (f) Planning, Protective Services and Licensing Committee 27 August 2018 at 11.20 am (Pages 45 - 46)
- (g) Planning, Protective Services and Licensing Committee 27 August 2018 at 1.20 pm (Pages 47 - 50)

4. **AVANT HOMES SCOTLAND: REMOVAL OF CONDITIONS 4 AND 5 AND VARIATION OF CONDITION 7 OF PLANNING PERMISSION IN PRINCIPLE 15/01794/PPP (SITE FOR THE ERECTION OF RESIDENTIAL DEVELOPMENT WITH ASSOCIATED ACCESS, INFRASTRUCTURE, OPEN SPACE, LANDSCAPING AND MISCELLANEOUS WORKS) - IN RELATION TO ROADS ARRANGEMENTS: LAND NORTH OF CARDROSS PRIMARY SCHOOL, BARRS ROAD, CARDROSS (REF: 18/01444/PP)**

Report by Head of Planning, Housing and Regulatory Services (Pages 51 – 82)

5. **MR AND MRS MICHAEL CROWE: ERECTION OF DWELLINGHOUSE AND FORMATION OF ACCESS: GARDEN GROUND OF 34 KIRKTON ROAD, CARDROSS, G82 5PL (REF: 18/01500/PP)**

Report by Head of Planning, Housing and Regulatory Services (Pages 83 – 94)

- E1 6. **ENFORCEMENT REPORT - REFERENCES 16/00076/ENAMEN AND 17/00046/ENAMEN**

Report by Head of Planning, Housing and Regulatory Services (Pages 95 – 104)

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 Gordon Blair  
Councillor Robin Currie  
Councillor Lorna Douglas  
Councillor George Freeman  
Councillor David Kinniburgh (Chair)  
Councillor Roderick McCuish  
Councillor Alastair Redman  
Councillor Richard Trail

Councillor Rory Colville (Vice-Chair)  
Councillor Mary-Jean Devon  
Councillor Audrey Forrest  
Councillor Graham Hardie  
Councillor Donald MacMillan  
Councillor Jean Moffat  
Councillor Sandy Taylor

Contact: Fiona McCallum

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 22 AUGUST 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor George Freeman
Councillor Rory Colville	Councillor Graham Archibald Hardie
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Richard Trail

**Attending:** Charles Reppke, Head of Governance and Law  
 Angus Gilmour Head of Planning, Housing and Regulatory Services  
 Sheila MacFadyen, Senior Solicitor  
 Richard Kerr, Principal Planning Officer  
 Peter Bain, Acting Development Manager  
 Sandra Davies, Acting Major Applications Team Leader  
 Arlene Knox, Senior Planning Officer  
 Stuart Watson, Traffic and Development Manager  
 Alan Morrison, Regulatory Services Manager  
 Paul Convery, Planning Officer

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Roderick McCuish and Sandy Taylor.

**2. DECLARATIONS OF INTEREST**

Councillor Rory Colville declared a non-financial interest in planning application reference 18/01027/PP as he is a member of a tripartite Social Enterprise Group which was applying for Scottish Government funding to develop a community renewables investment project, with wide community benefits. He left the room and took no part in the determination of this application which is dealt with at item 9 of this Minute.

**3. MINUTE**

The Minute of the Planning, Protective Services and Licensing Committee held on 20 June 2018 was approved as a correct record.

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

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 fares were last reviewed by members on 18 January 2017 and took effect on 25 July 2017. Consideration was given to a report

advising that the Committee were now required to carry out a further review of taxi fares.

### **Decision**

The Committee agreed:-

1. to commence the review of fares in order that this can be completed within the 18 months required in terms of the Act; and
2. that the consultation required in terms of the Act will be in writing.

(Reference: Report by Head of Governance and Law dated 22 August 2018, submitted)

**5. LINK GROUP LTD: RESIDENTIAL DEVELOPMENT COMPRISING 300 DWELLINGS, GROUND RE-MODELLING, NEW ROADS, INFRASTRUCTURE, OPEN SPACE, LANDSCAPING, COMMUNITY WOODLAND AND AREA FOR COMMUNITY FACILITIES: LAND WEST OF DUNSTAFFNAGE MAINS FARM, DUNBEG (REF: 18/00375/PP)**

The Acting Development Manager spoke to the terms of the report and to supplementary report number 1 which advised of additional information comprising the impact of trees on daylighting and a Dunbeg SUDs Pond Initial Design Risk Analysis. The application seeks to bring forward Phase 1 of the approved Masterplan on identified housing allocations H-AL 5/8, H4007 and H4015 within the adopted Argyll and Bute Local Development Plan. This is for 300 dwellings, all of which will be “affordable housing” provided and retained by a Social Rented Landlord (Link Group). The application site is considerably smaller than the indicated area of land to accommodate phase 1 of the approved Masterplan for 300 dwellings and is therefore not strictly in accordance with the site area indicated in the approved Masterplan. However it is considered acceptable as the Masterplan design approach and aspirations to deliver wider benefits have been met. The site slightly extends beyond the identified housing site in the LDP into land designated as countryside. This is considered a minor and justifiable departure from Policy LDP DM1 (E). Members have already authorised flexibility, where appropriate, on such matters in approving the Masterplan for the site. A minor departure from policy LDP 9 SG guidance relating to amenity standards for housing in respect of window to window Privacy Standards, plot ratio and garden sizes is considered to be acceptable in this instance. There is a minor incursion into the OSPA land in respect of the provision of the housing development and parts of Blocks CO2 and CO3. It is considered that this will not adversely impact upon the appearance or function of the OSPA and therefore a minor departure from SG LDP REC/COM 2 is in this instance considered acceptable. The Area Roads Manager is satisfied that sufficient justification has been provided within that submitted in support of the application to allow car parking to be 10% below stated LDP standards. There have been no objections from statutory consultees. There has been two letters of objection received from third parties along with one letter of support. Having considered the merits of the proposal and balanced those matters which favour the granting of planning permission against the non-compliance of some of the dwellings with LDP 9 standards and other minor departures as set out in the report, it is considered that the benefits of delivering 300 affordable housing units as part of delivering a strategic planning aspiration through the approved Masterplan as part of the wider Lorn Arc

project, and in accordance with delivering an important aspect of the Strategic Housing Investment Plan, outweigh the failure to meet LDP SG standards in full. The application is recommended for approval as a minor departure to the Local Development Plan subject to the revised conditions and reasons detailed in supplementary report number 1 following receipt of the additional information from the Applicant in respect of the impact of trees on daylighting and a risk analysis for the SUDs ponds proposal.

## Decision

The Committee agreed to grant planning permission as a minor departure from LDP 9 SG, LDP DM 1 and SG LDP REC/COM 2 subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 23.3.17 and the approved drawing reference numbers:

D (-- ) 125            Rev L Site Plan  
D (-- ) 135            Rev A Refuse Strategy  
D (-- ) 183a           Rev B Housing Configuration 22: 'V-SWch-K' Ground Floor  
D (-- ) 183b           Rev C Housing Configuration 22: 'V-T-K' First Floor  
D (-- ) 183c           Rev B Housing Configuration 22: 'V' Second Floor  
D (-- ) 184a Rev A        Housing Configuration 23: 'W-SWch-K' Ground Floor  
D (-- ) 184b Rev B        Housing Configuration 23: 'W-T-K' First Floor  
D (-- ) 184c Rev A        Housing Configuration 23: 'W' Second Floor  
D (-- ) 185a Rev A        Housing Configuration 24: 'Y-SWch-K' Ground Floor  
D (-- ) 185b Rev B        Housing Configuration 24: 'Y-T-K' First Floor  
D (-- ) 185c            Rev A Housing Configuration 24: 'Y' Second Floor  
D (-- ) 300 Rev A Typical Terrace - Ground Floor Plan  
D (-- ) 301 Rev B Typical Terrace - First Floor Plan  
D (-- ) 302 Rev A Typical Terrace - Second Floor Plan  
D (-- ) 310 Rev A Typical Type A1-K Semi Detached - Ground Floor Plan  
D (-- ) 311 Rev A Typical Type A1-K Semi Detached - First Floor Plan  
D (-- ) 320 Rev A Typical Type K Semi Detached - Ground Floor Plan  
D (-- ) 321 Rev A Typical Type K Semi Detached - First Floor Plan  
D (90)100 Rev A Location Plan  
D (90)101 Rev C Site Plan  
L (-- ) 130 Rev C Typical K Type Semi-Detached Elevations  
L (-- ) 131 Rev D Typical Configuration 22 - V, S/T, K Elevations  
L (-- ) 132 Rev B Typical Configuration 23 - W,S/T,K Elevations  
L (-- ) 133 Rev F Typical Terrace Elevations 1  
L (-- ) 134 Rev G Typical Terrace Elevations 2  
L (-- ) 135 Rev B Typical Configuration 24 - Y,S/T, K Elevations  
L (-- ) 136 Rev B Type A1-K Semi-Detached Elevations  
L (-- ) 150 Rev A Sections with Landscape Details A-A & B-B  
L (-- ) 151 Rev A Site Section C-C  
L (-- ) 152 Rev A Site Section D-D  
L (-- ) 153 Rev A Site Section E-E  
L (-- ) 154 Rev A Site Section F-F  
L (-- ) 155 Rev A Site Section G-G  
L (-- ) 201 Rev A Typical Terrace Roof Plan  
L (-- ) 202            Typical Type K Semi-Detached Roof Plan

L (--)	203	Rev A	Typical V Cluster Roof Plan
L (--)	204		Type A1-K Semi-Detached Roof Plan
L (--)	205	Rev A	Typical W+Y Cluster Roof Plan
L (--)	210		Section: Typical Terrace
L (--)	220		Section: Typical Cluster Block
101		Rev 7	Landscape Masterplan
102		Rev 6	Landscape General Arrangement North
103		Rev 6	Landscape General Arrangement Central
104		Rev 6	Landscape General Arrangement South
106		Rev 1	Play and Open Space Provision
107			Core Paths, Cycle and Footpath Links
200		Rev 4	Street Cross Sections Studies
201			Street Sections
300		Rev 4	Typical Landscape Details
301		Rev 3	Typical Rear Garden Terrace
302		Rev 1	Typical Rear Garden Cluster
500		Rev 2	Landscape Visual Specification
SK3000			Topographical Survey
V (20)110			Terrace Grouping Aerial View Axonometric
V (20)111			Terrace Grouping Perspective Views
V (20)112			Terrace Grouping Aerial View - Axonometric Perspective

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 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.*

3. Prior to development commencing, an Environmental Management Plan shall be submitted to and approved in writing by the Planning Authority. The Plan shall address requirements arising from the construction phases of the development and shall inform the production of construction method statements. This shall include details of the following:
  - i. A construction method statement to demonstrate how potential impacts on otters and their safety shall be incorporated into normal site working practices and having regard to the recommendation contained in the updated Protected Species Survey Report dated 24.7.18
  - ii. Details of proposed rock extraction and/or blasting:

- If blasting, hours and times and publicity for residents/other premises will be required. All blasting to be monitored at points to be agreed and subject to specified vibration limits.
  - If a pecker to be used then hours of operation require to be provided and approved.
- iii. Rock crushing and storage/use of aggregates created on site
  - iv. Ground works phasing and waste management plan associated with movement/storage of all waste materials.
  - v. Protection measures for the water environment during construction to be agreed in consultation with SEPA to protect the water environment and in accordance with the water directive
  - vi. Details of all waste storage/movement /disposal or use
  - vii. Details of importation of materials and their storage
  - viii. Details of the location of construction compounds to be formed
  - ix. Details of the phasing of the construction of the dwellings
  - x. Details of any phased occupation of the dwellings
  - xi. Details of any external lighting to be used during construction
  - xii. Full land restoration details; to tie in with the proposed strategic and other landscaping proposals to ensure that the land within and/or adjacent to the application site where it has been physically altered by the construction of the development is restored to an acceptable appearance.
  - xiii. Adherence to the requirements of any other submitted and approved details and other conditions

The development shall be implemented in accordance with the requirements of any approved Environmental Management Plan and any phasing of works and details agreed in this document or as may otherwise be agreed in writing by the Planning Authority.

*Reason: In the interests of pollution control to adjoining watercourses and protection of, residential amenity, visual amenity and wildlife.*

4. Prior to the commencement of works a Traffic Management Plan shall be submitted to ensure safe access and egress for pedestrians and vehicles throughout the period of construction activity. This plan requires to be formulated in consultation with the Roads Authority to co-ordinate construction traffic associated with this application to the ongoing upgrade works to Kirk Road. The Plan shall detail approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles. All to be agreed in consultation with the Area Roads Engineer.

*Reason: In the interests of roads and pedestrian safety*

5. Prior to the commencement of development an Updated Peat Management Plan in shall be submitted setting out further details of the proposed management of peat impacted by construction works to the satisfaction of the biodiversity Officer

*Reason: To ensure the appropriate management of Peat during the construction process*

6. Notwithstanding the effect of condition 1, no development shall commence until samples and/or full details of materials to be used in the construction of :
  - (i) boundary fences;
  - (ii) external materials finishes of all the houses/flats
  - (iii) any other walls to be constructed in the development;
  - (iv) roads and parking areas;
  - (v) footpaths;
  - (vi) shared surfaces

have been submitted to and agreed 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 secure the use of appropriate materials.*

7. No construction of any dwelling shall commence until details for the arrangements for the storage, separation and collection of waste from the site, including provision for the safe pick-up by refuse collection vehicles, have been submitted to and approved in writing by the Planning Authority. Thereafter the duly approved provision shall be implemented prior to the first occupation of the dwellings it is intended to serve.

*Reason: In order to ensure that satisfactory arrangements have been made for dealing with waste on the site in accordance with Policy SG LDP SERV 5(b).*

8. Notwithstanding the landscape information submitted in support of the application, further information to include details the specific species and size/mix/numbers of the proposed planting throughout the site shall be submitted to the planning authority for approval in consultation with the Biodiversity Officer within 12 Months of the date of this permission, together with details of the proposed maintenance regime associated with the planting and clarifying the parties responsible for such future maintenance.

For the avoidance of doubt all landscaping proposals and maintenance details in respect of the proposed SuDS ponds shall be submitted in accordance with the requirements of this condition and not condition 17 unless otherwise agreed by the Planning Authority.

*Reason : In the interests of amenity and biodiversity.*

9. Any trees or shrubs which fail to become established, which die, are removed or become seriously diseased within 5 years of the implementation of the scheme



shall be replaced in the following planting season by equivalent size and species of trees or shrubs as those originally required to be planted ( With the exception of the trees planted to protect window to window privacy as identified within the Design Statement Addendum submitted 21<sup>st</sup> August 2018 “Impact of Trees on Daylighting – August 2018” where a separate condition in respect of these matters will apply)

*Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity and biodiversity.*

10. The trees identified and numbered T1 – T9 within the Design Statement Addendum submitted 21<sup>st</sup> August 2018 “Impact of Trees on Daylighting – August 2018” shall be planted prior to the occupation of the residential units on the plots they are intended to provide privacy for. These trees shall be replaced, with no time limit of liability, should they die or become seriously diseased with a heavy standard tree, or larger, of the same species of tree.

The identified trees shall be routinely maintained in a manner which ensures that they do not exceed the “maintained height” and “maintained width” width as identified within the Design Statement Addendum dated August 2018.

Any works other than routine maintenance of these trees shall require the written permission of the planning authority and they shall not be felled, lopped or topped in a manner which would undermine their function as screening between habitable rooms.

For the avoidance of doubt this condition will apply in perpetuity to the original trees and any future replacement planting.

*Reason: To ensure the future protection of residential amenity and specifically privacy.*

11. Within 12 months of the date of this planning permission a Community Woodland Delivery and Maintenance Plan shall be submitted to the Planning Authority. This document shall contain the following information;

- Location and boundaries of the proposed Community Woodland,
- Locations, species and size of proposed planting
- A maintenance regime and responsibility for this maintenance
- Footpath/access proposals and seating provision associated with the proposals clarifying the integration of the proposals to the existing and proposed footpath network approved by this permission

Such details as may be approved shall be implemented prior to the occupation of the 250th dwelling or in accordance with any agreed phasing contained within the Community Woodland Delivery and Maintenance Plan or as may otherwise be agreed in writing by the Planning Authority.

*Reason: To ensure the Community Woodland is delivered in accordance with the approved Masterplan objectives.*

12. Details relating to the provision and construction of the proposed upgraded footpath network in accordance with the requirements of the Access Manager in his consultation response dated 13.6.18 and accompanying annotated plans shall be submitted, together with clarification of the proposed maintenance regime and responsibility for this maintenance, for the approval of the Planning Authority within 12 months of the date of this permission. Such details as may be approved shall be duly implemented prior to the occupation of the 250<sup>th</sup> dwelling hereby approved or as otherwise may be agreed in writing by the planning authority. Works to include:

- C163: Should be constructed as a 2m wide unbound path, seating should be provided at regular intervals along the route, at points where users will want to rest. Substantial pieces of natural stone excavated from elsewhere on the site should be used to provide the seats. These should have a level, upper surface between 450 and 550mm in height of adequate size for two or more people to rest. Signage and way marking should be provided to encourage greater use of the path network. The section of path that should be improved being annotated on a copy of Drawing No P10970-00-001 Landscape Masterplan provided by the Access Manger in his consultation response.
- Construct a section of Cycle Path between the end of the southernmost road and C198 as annotated on the plan attached to consultation response to appropriate standards.
- The two paths between the end of the southernmost road and C163 should be built to the same specification as C163. Highlighted in blue on plan attached to consultation response.

In addition the following matters require to be complied with:

- The level of any new road crossing a path should be tied into it so that the movement of walkers, cyclists or horse riders is not impeded
- Any gates erected on paths or tracks should be provided with a bridle gate to allow public access; in order to stop livestock from straying this should be fitted with a self-closing device.
- Core Paths should not be obstructed at any time during construction and must be reinstated – If a closure (Stopping Up) or diversion is required this must be agreed with the Council Access Officer.
- Rights of Way probable or claimed should not be obstructed at any time during construction and must be reinstated – If a closure (Stopping Up) or diversion is required this must be agreed with the Council Access Officer
- The wider path network should not be obstructed at any time during construction and must be reinstated – If a closure or diversion is required this must be agreed with the Council Access Officer prior to the commencement of construction

*Reason: In order to maintain and improve the footpath network around the site in accordance with Masterplan objectives to promote improved outdoor recreational amenity for residents and visitors.*

13. Pursuant to Condition 1 –Details for the provision and maintenance of proposed areas of communal open space and equipped play area(s) within the development shall be submitted for the approval of the Planning Authority prior to the occupation of any dwelling house hereby approved. The details shall comprise:

- i. A plan confirming in detail the location and extent of communal open space and equipped play areas; to include the Multi Use Games Area (MUGA).
- ii. Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the provisions of BS5696 (Play Equipment Intended for Permanent Installation Outdoors);
- iii. Proposals for the timing of the provision of the play area(s) in relation to the phasing of the development;
- iv. A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects along with details of the parties responsible for such maintenance.

The communal open space and equipped play area(s) shall be provided prior to the occupation of the residential units they are intended to serve in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

*Reason: In order to secure provision and retention of communal open space and equipped play areas within the development in accordance with the standards set out in the Development Plan.*

14. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

*Reason: In order to protect archaeological resources.*

15. No construction plant and / or machinery shall be operated on the site outwith the following times: 08.00 – 18:00 Monday – Friday, 08:00 – 13:00 Saturday nor at any time on Sundays, Bank or Public Holidays unless otherwise approved in writing by the Planning Authority in consultation with Environmental Protection.

*Reason: In order to control noise nuisance in the interest of amenity.*

16. Prior to commencement of development full details of all external lighting shall be submitted to and approved in writing by the Planning Authority. Such 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.

*Reason: In order to avoid light pollution in the interest of amenity and ensure construction activity lighting minimises potential disturbance to wildlife*

17. Notwithstanding the provisions of Condition 1, the development shall be implemented in accordance with the drainage and flooding details and recommendations set out in the approved Engineering Strategy Report and associated figures 2, 3 and 4 therein. Further details in respect of the following matters shall be submitted for approval before the construction of any dwelling:

- i. Confirmation that finished floor levels of all dwellings will be at least 0.3m above ground level
- ii. Culverts and rerouted channel(s) to be designed such that pre-development channel capacity is retained and allowance for low flows made. Design to be in accordance with SEPA WAT-SG-25 and CIRIA C689.
- iii. Surface water drainage system to be designed in accordance with CIRIA C753 and Sewers for Scotland 3<sup>rd</sup> Edition
- iv. The Suds ponds shall be constructed in accordance with the details contained within any approved Risk Assessment Report

Such additional drawings/details as may be approved shall be implemented and retained unless as otherwise agreed in writing with the Planning Authority in consultation with their flooding advisor.

*Reason: In order to ensure appropriate mitigation for flood risk.*

18. Prior to the construction of any dwellings details of the maintenance responsibility and a schedule of maintenance arrangements of the approved drainage works shall be provided to the Planning Authority for their approval

*Reason: To ensure appropriate maintenance provisions in respect of the approved drainage details are secured.*

19. Details of all air sourced heat pumps, which do not comprise permitted development under the Town and Country Planning (General Permitted Development Order) (Scotland) 1992, or as may be amended in respect of such development, shall be submitted to the planning authority for their approval.

*Reason: In the interests of residential and visual amenity*

20. 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, any development referred to in Part 1 and Classes 1A, 1C, 1D, 3A, 3B and 3E and as summarised below:

Class 1A: Any enlargement of a dwellinghouse by way of a single storey ground floor extension, including any alteration to the roof required for the purposes of the enlargement.

Class 1C. The erection, construction or alteration of any porch outside any external door of a dwellinghouse.

Class 1D. Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

Class 3A.(1) The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

Class 3B. The carrying out of any building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse.

Class 3E. The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.

*Reason: To protect the setting of the proposed dwelling houses and to ensure alterations are not undertaken without due consideration to both amenity and passive observation safety considerations inherent in the design of the proposals by development normally carried out without planning permission; these normally being permitted under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011.*

21. No construction work shall commence until such time as details have been provided to demonstrate compliance with the following matters to the satisfaction of the Area Roads Engineer: :
- (i) The distributor road shall be 6m wide other roads 5.5m wide
  - (ii) Footways shall be 2m wide and required both sides of the carriageway. Where there is no footway 2m service strips are required.
  - (iii) A maximum gradient of 8% on all roads
  - (iv) A turning head will be required in each cul-de-sac and at the head of the distributor road. Design as per Figure 18 of the National Roads Development Guide.
22. Within 12 months of the date of this permission a Green Transport Plan shall be submitted to the Planning Authority to demonstrate how the development will be served by public transport. Details to include the provision of bus stop locations and the bus services which will serve the site. This document shall be produced in consultation with the Community Transport Division of the Council. Details of any proposed phasing shall be provided and thereafter such details as may be approved shall be implemented in accordance with the approved Green Transport Plan unless as otherwise agreed in writing by the Planning Authority.

*Reason: To ensure an appropriate level of public transport infrastructure is available to residents of the new dwellings*

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 6 August 2018, submitted and supplementary report number 1 dated 21 August 2018, tabled)

**6. THE SECRETARY OF STATE FOR THE HOME OFFICE: FORMATION OF TELECOMMUNICATIONS EQUIPMENT COMPOUND WITH 16.3M HIGH MONOPOLE AND ASSOCIATED WORKS: LAND NW OF DRUMALEA FARM, KILKENZIE, CAMPBELTOWN (REF: 18/00607/PP)**

The Principal Planning Officer spoke to the terms of the report. This proposal is in respect of telecommunications equipment to be sited on the skyline of an escarpment above the A83(T) on the Kintyre coast to the west of Tangy. The development forms part of the Extended Area Services network, an integral part of the Emergency Services Mobile Communications Programme. This Government programme, replacing the existing Airwave blue-light communications system with a 4G platform, will provide critical national infrastructure to enable communications and interoperability for the police, fire and ambulance service. The A83(T) is a Major Road for Emergency Services Network (ESN) purposes, which as part of this project requires a continuous level of high quality coverage along its length. The site lies within the 'countryside' development zone, which is generally one of constraint, other than in specific circumstances, none of which apply in this case. Exceptionally, development benefitting from locational/operational need may be considered favourably, but this prompts the additional requirement for an Area Capacity Evaluation (ACE). In this case, the need to complete coverage of the trunk road network and the lack any less prominent site able to fulfil that requirement, amounts to a locational/operational need for the development. An ACE has been conducted but this concludes that the proposal will not respect the established pattern and the landscape character of the area. Accordingly the proposal fails to satisfy policies LDP DM 1, LDP 3, LDP 9, SG LDP ACE 1, SG LDP ENV 13 and SG LDP Sustainable and SG LDP TEL 1 of the Development Plan. The importance of the ESN project and the imperative to secure coverage for the entirety of the public road network is such that it would not be appropriate to have a section of A83(T) without coverage. Officers are satisfied that the Applicants have demonstrated this can only be achieved using the location and reduced scale of equipment proposed. The national importance of this project is such that despite the failure to satisfy policy and the outcome of the ACE assessment, there remains a demonstrable need to be able to deliver the equipment specified for operational reasons. Despite the lack of conformity with policy requirements it is recommended that planning permission be granted as a 'minor departure' to development plan policy, with acceptance in the process that there will be acknowledged adverse visual effects associated with the development.

**Decision**

The Committee agreed to endorse the outcome of the Area Capacity Evaluation detailed in the appendix to the report and to grant planning permission as a 'minor departure' to development plan policy subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 28<sup>th</sup> February 2018 and the approved plans numbered 1 to 3 unless the prior written approval of the planning authority is

obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. Construction vehicles transporting materials/components to the site must leave/join the A83 trunk road at the public road junction at Drum Farm, to the south of the application site. There shall be no access for construction vehicles at the junction between the unclassified public road and the A83 trunk road to the north of the application site at Tangy Lodge.

*Reason: To ensure the development does not give rise to an unacceptable detrimental impact upon a fragile section of the public road network.*

3. No development shall commence until full details of the construction of the upgraded and new access track to serve the development have been submitted to and agreed in writing by the Planning Authority in consultation with Roads & Amenity Services. This shall include provision for the partial restoration (i.e. narrowing of the width and re-seeding of the edges) of the track following completion of the construction of the development.

*Reason: In the interests of clarity and to ensure the landscape and visual impact of the development is acceptable.*

4. No development shall commence until the junction between the public road and the existing private track serving Drumalea Farm has been surfaced in a bound material for a distance of 5m from the edge of the public carriageway.

*Reason: To ensure the development does not give rise to an unacceptable detrimental impact upon the public road network.*

5. No development shall commence until the colour finish, which shall be pale grey or similar, of the hereby approved mast has been submitted to and agreed in writing by the Planning Authority. Thereafter the development shall be completed in accordance with the duly approved detail.

*Reason: In order to ensure the landscape and visual impact of the development is mitigated.*

6. In the event that the equipment becomes obsolete or redundant it shall be removed and the site reinstated to a condition equivalent to that of the land adjoining the application site within a period of 6 months unless otherwise agreed in writing by the Planning Authority.

*Reason: In order to ensure the satisfactory reinstatement of the land in the interest of visual amenity.*

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 8 August 2018, submitted)

**7. DAWNFRESH FARMING LTD: REPLACEMENT OF 10 X 80M CIRCUMFERENCE CAGES WITH 12 X 80M CIRCUMFERENCE CAGES OF AN ALTERNATIVE DESIGN, INSTALLATION OF HOPPER FEED SYSTEM AND BIOMASS OF 1,545 TONNES: ETIVE 4 FISH FARM, AIRDS BAY, LOCH ETIVE (REF: 18/01124/MFF)**

The Principal Planning Officer spoke to the terms of the report and to supplementary report number 1. This application relates to the site of a long standing marine fish farm located off Airds Point in the central section of Loch Etive. It forms one of a suite of rainbow trout farms operated by the Applicants on the loch. The application seeks approval for replacement of existing cages with more modern equipment, the addition of two cages and additional feeding equipment, and a consequent enlargement of the seabed mooring area. When the farm was permitted in 2008 it was intended to support a maximum biomass of 966 tonnes, and was licensed by SEPA for such. In anticipation of being permitted to equip the site as now proposed, a further SEPA consent has already been obtained for an intended biomass increase to 1,545 tonnes. Additionally, SEPA has accepted that, in the interim, the site can be operated at a maximum biomass of 1,300 tonnes. It is considered that the principal determining issues in this case are the extent to which the landscape has capacity to absorb the development successfully, and the extent to which additional biomass is acceptable in terms of the implication it poses for wild fish interests. Having regard to the assessment required to satisfy SG LDP AQUA 1 as set out in Appendix A to the report, the re-equipment and enlargement of this site is considered acceptable in terms of most facets of fish farming. It does, however, impose an issue in respect of its implications for wild salmonids arising from the intention to increase biomass further, which poses a risk from the propagation of sea lice into surrounding waters and potential escapes of farmed fish. A combination of low salinity in Loch Etive, and the Applicant's early intervention policy using sea lice treatment thresholds well below what would otherwise be needed to satisfy industry guidelines, mean that the operating track record of this site in terms of lice guidelines has been generally good. It has been concluded that in the circumstances of this particular case, the imposition of a requirement for an Environment Management Plan would be a proportionate response to the risks to wild fish posed by sea lice and escape events attributable to the re-equipment and enlargement of this farm, and would provide reassurance in the context of this sensitive location that measures to safeguard wild fish interest could be invoked in the circumstances of escalating lice levels beyond those anticipated by the Applicant. Reference was made to supplementary report number 1 updating Members on further comments received from the Argyll District Salmon Fishery Board and the Friends of Loch Etive in response to the publication of the original report. Both parties appear reassured by the manner in which the application has been handled and subject to some minor changes being made to the recommended conditions to address their concerns, the Fishery Board would be willing to withdraw its original objection and Friends of Loch Etive would be content to see the application determined in the first instance, without the opportunity for them and their members to appear at a local hearing. A total of 333 objections have been received to date, with a further 5 expressions of support. Whilst the majority of the representations have been co-ordinated and submitted via the Friends of Loch Etive website, there remains a need to consider those individual representations lodged directly with the Council, as these alone amount to a significant body of representation. In that regard Friends of Loch Etive has pointed out that only 7 of those individual objectors are not either Friends of Loch Etive members or those who requested Friends of Loch Etive to register their objections for them. On the basis that consultees are now content with the proposal, and the organisation which has



been the catalyst for the majority of the objection, acting on behalf of its membership, is content to see the application determined without the opportunity for representation at a hearing, the conclusion of Officers is that in the circumstances now prevailing, it would be legitimate to proceed to determine the application in the first instance without convening a local hearing. The enlargement of this site satisfies the criteria set out in Policy SG AQUA 1 and other relevant policies of the Council's Local Development Plan. It is recommended that planning permission be granted subject to the conditions and reasons 1, 2, 4 and 5 listed in the main report, and conditions 3, 6 and 7 detailed in the supplementary report.

## Decision

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

1. The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details unless the prior written approval of the Planning Authority is obtained for a non-material amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997:
  - Application Form dated 03.05.18;
  - Plan 1 of 12 – location plan 1:10,000;
  - Plan 2 of 12 – existing site plan 1:10,000
  - Plan 3 of 12 – proposed site plan 1:10,000;
  - Plan 4 of 12 – Admiralty chart extract;
  - Plan 5 of 12 – surveyed depths;
  - Plan 6 of 12 – surface equipment and moorings (existing and proposed);
  - Plan 7 of 12 – elevation and layout of surface equipment;
  - Plan 8 of 12 – cage elevation;
  - Plan 9 of 12 – feed hopper;
  - Plan 10 of 12 – pen design;
  - Plan 11 of 12 – site co-ordinates 1;
  - Plan 12 of 15 – site co-ordinates 2.

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

2. The stocking of the site shall not exceed a maximum biomass of 1,545 tonnes.  
*Reason: In order to restrict production to that assessed for the purposes of this application in the interests of managing wild fish interactions.*
3. Prior to the first stocking of any more than ten of the twelve permitted cages or any increase in current permitted biomass across the site as a whole, the site operator shall submit a Strategy for monitoring and managing the interactions between the operation of the farm and the wild fish environment for the written approval of the Planning Authority, in consultation with the District Salmon Fishery Board, or any successor body.

The Strategy shall address the intended response to breaches of containment and sea lice control measures at the development site, and shall set out a programme for the monitoring of changes in the prevalence of sea lice

infestations amongst wild Salmonids within a zone of 30 kilometres from the development site.

The Strategy shall:

- A) Define a regime of regular monitoring and reporting of sea lice infestation on wild fish and at representative locations within 30km of the development site;
- B) Propose thresholds of ovigerous sea lice infestation (in terms of both severity and persistence) on and at representative locations within 30km of the development site above which additional mitigation measures are required;
- C) Specify the additional mitigation measures which shall be implemented in the event of either threshold being breached. This shall include a progressive response extending from enhanced monitoring, to additional chemical/mechanical treatment, to premature harvesting and to temporary biomass reduction, dependent upon the severity and persistence of the elevated risk to wild fish interests, and a statement of responsibility as to the cessation of any activity in the event that a breach of the mitigation/procedures set out in the Strategy occurs. This should include a notification procedure with associated provision for the halt of activities in consultation with the relevant regulatory and consultation authorities in the event that monitoring demonstrates a significant and consequent impact on wild fish populations as a result, direct or otherwise, of such a breach;
- D) Identify a minimum threshold for escape events, above which the implementation of additional monitoring activity as specified in the plan will be undertaken with the intention of furthering knowledge as to impact of escapes;
- E) Include for the periodic review of the Strategy in the light of operational experience, and to accommodate changes in scientific knowledge and 'best practice';
- F) Give details of how the Strategy itself, and any future revisions thereof, together with all sea lice monitoring data, on both farmed fish at the site and on wild fish monitored under the Strategy, will be made publicly available on-line, in as close to real time as possible, thereafter being maintained on-line for a period of at least 6 years.

Stocking of any more than ten of the twelve permitted cages or any increase in current permitted biomass across the site as a whole shall not take place until the Strategy has been approved in writing by the Planning Authority, and thereafter the site shall be operated, monitored, and managed in accordance with the duly approved Strategy, or any subsequently approved variation thereof.

*Reason: In the interests of nature conservation having regard to the desirability of avoiding adverse impacts upon wild salmonid populations in line with NASCO objectives.*

4. In the event that the development or any associated equipment approved by this permission ceases to be in operational use for a period exceeding three years, the equipment shall be wholly removed from the site thereafter unless otherwise agreed in writing by the Planning Authority.

*Reason: In the interest of visual amenity and to ensure that redundant development does not sterilise capacity for future development within the same water body.*

5. In the event of equipment falling into disrepair or becoming damaged, adrift, stranded, abandoned or sunk in such a manner as to cause an obstruction or danger to navigation, the developer shall carry out or make suitable arrangements for the carrying out of all measures necessary for lighting, buoying, raising, repairing, moving or destroying, as appropriate, the whole or any part of the equipment.

*Reason: In the interest of visual amenity.*

6. Stocking of any more than ten of the twelve permitted cages or any increase in current permitted biomass across the site as a whole shall not take place until a means of providing verification of species using the Awe Barrage fish counter has been devised in consultation with the District Salmon Fishery Board and has been submitted to and has been approved in writing by the Planning Authority. Thereafter in the event of any escape event at this farm, the agreed verification method shall be employed and the results conveyed in writing to the District Salmon Fishery Board.

*Reason: To ensure that farmed fish released during escape events do not undermine the statistical accuracy of fish counter in the interests of being able to return accurate data for reporting purposes.*

7. The finished surfaces of the feed hoppers and associated floats hereby permitted shall be non-reflective and of a dark recessive colour in accordance with colour schemes to be agreed in advance in writing by the Planning Authority (by way of BS numbers or manufacturer's specifications), unless otherwise agreed in advance in writing by the Planning Authority.

*Reason: in order to secure an appropriate appearance in the interests of visual amenity.*

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 14 August 2018 and supplementary report number 1 dated 20 August 2018, submitted)

**8. MR CAMPBELL-PRESTON: USE OF LAND TO ACCOMMODATE THE TEMPORARY STORING OF AQUACULTURE EQUIPMENT FOR UNDERTAKING MAINTENANCE (RETROSPECTIVE): LAND WEST OF DAWN FRESH FARMING, LOCH ETIVE TROUT FARM, INVERAWE, TAYNUILT (REF: 18/01125/PP)**

The Principal Planning Officer spoke to the terms of the report and to supplementary report number 1. This proposal is seeking retrospective planning permission for the change of use of land within the 'countryside' development management zone for the temporary storage of aquaculture equipment. The proposed site adjoins the North

Argyll Area of Panoramic Quality, designated in view of the scenic value of the locality. The development proposed is located at Inverawe, immediately to the east of the mouth of the River Awe as it flows into Loch Etive. The application has attracted a significant number of objections and a small number of expressions of support. Nine representations have been received directly from individuals, and a further 233 objections have been forwarded via the organisation 'Friends of Loch Etive'. A number of those have objected to the activities of the applicants in general rather than the proposal itself. Reference was made to supplementary report number 1 updating Members on additional third party reps received. A total of 282 expressions have now been received. Of the additional 54 received, all but one are objections to the proposed development. In addition to those further objections, a further representation has also been received from Mr Guy Linley Adams, who is acting for Friends of Loch Etive. He wishes to inform Members that Friends of Loch Etive would accept the officer recommendations, subject to minor recommended changes to one of the draft conditions proposed. If such changes are accepted Friends of Loch Etive would be content to see the application determined in the first instance, without the opportunity for them and their members to appear at a local hearing. On the basis that the organisation which has been the catalyst for the majority of the objection, acting on behalf of its membership, is content to see the application determined without opportunity for representation at a hearing, the conclusion of Officers is that in the circumstances now prevailing, it would be legitimate to proceed to determine the application in the first instance without convening a hearing. The proposed development is a small scale, intermittent use of land which is not considered to impact landscape character in a manner which is significantly adverse. The development benefits from an operational need associated with the farming of fin fish on the loch and requires a foreshore location in order to function for the intended purpose. It is considered to be appropriate for its location, subject to conditions, and will accord with the relevant provisions of the Local Development Plan. It is recommended that planning permission should be granted subject to the conditions and reasons set out in the main report, subject to the revised wording of condition 4 as set out in the supplementary report.

### **Decision**

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

1. The proposed development shall be carried out in accordance with the details specified in the application form and general supporting information dated 15.05.2018; and the approved drawings numbered 1 to 3 of 3 of 3; stamped approved by Argyll and Bute Council and the development hereby permitted shall be restricted to the specified area designated on approved plans.

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

2. The use of the land for storage purposes shall be restricted to fin fish farm cages, including any ancillary or accessory components, anchors and mooring blocks only. The storage of any other items at the site shall not be permitted.

*Reason: In order to ensure that storage is confined to that which has an operational requirement for occupation of the foreshore.*

3. No fabrication or dismantling of aquaculture equipment shall take place on the site, other than that required for the maintenance of fin fish farm cages.

*Reason: In order to ensure that storage is confined to that which has an operational requirement for occupation of the foreshore.*

4. Individual items permitted to be stored on the land by virtue of this consent shall not occupy the site for a period in excess of three months, unless any exception is agreed in advance in writing by the Planning Authority. The site operator shall maintain a log of equipment which shall record items and periods of use which shall be made available for inspection on request by the Planning Authority, and shall be provided at least every six months in writing to the authority”.

*Reason: To limit use of the land to the minimum periods necessary to support the operational requirements of fish farming activities on the loch and to avoid use of the land for long-term storage purposes.*

5. During both periods when the land is in use for its permitted purpose and periods when it is not occupied by equipment, the land shall be maintained in a sanitary and tidy state and no waste products, obsolete or redundant equipment shall be stored on the land. In the event that fin fish farming operations are discontinued on the loch, all equipment shall be removed from the site within three months of the decommissioning of the last remaining farm.

*Reason: To limit use of the land to the minimum periods necessary to support the operational requirements of fish farming activities on the loch and to avoid use of the land for long-term storage purposes.*

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 14 August 2018 and supplementary report number 1 dated 20 August 2018, submitted)

Having previously declared an interest in the following item, Councillor Rory Colville left the room.

Councillor Donald MacMillan left the meeting at this point.

9. **SSE GENERATION: VARIATION OF CONDITIONS 1, 6 AND 16 OF PLANNING PERMISSION 14/02969/PP (RE-POWERING OF TANGY WINDFARM COMPRISING 16 TURBINES (125 METRES HIGH TO BLADE TIP), ERECTION OF CONTROL BUILDING, SUB-STATION, 3 ANEMOMETER MASTS, FORMATION OF ACCESS TRACKS AND ANCILLARY DEVELOPMENT, INCLUDING DISMANTLING OF TANGY I AND TANGY II WINDFARMS) TO CHANGE PROPOSED WIND TURBINE TYPES TO ALLOW FOR A BASE TIP HEIGHT OF 130M RATHER THAN 125M, RELOCATION OF TEMPORARY CONSTRUCTION COMPOUND AND MINOR TRACK ALIGNMENTS: TANGY WINDFARM AND LAND NORTH THEREOF, KILKENZIE, CAMPBELTOWN (REF: 18/01027/PP)**

The Senior Planning Officer spoke to the terms of the report. The site is located approximately 9km north-west of Campbeltown and is already part occupied by the existing Tangy I and II wind farms which totals 22 turbines at 77m to blade tip. The Tangy III proposal (14/02969/PP) was for the erection of 16, 125m high wind turbines and ancillary development on the site of and on forestry land to the north of

the existing Tangy Wind Farm. The proposal was originally for 16 turbines but one turbine was deleted in the interest of securing a better 'fit' with the receiving landscape. The proposal would have involved dismantling the existing wind farm (Tangy I and II) and re-powering with fewer larger and more dispersed turbines in response to the increased size and output of turbines now available. This "Section 42 Application" is an application for a new planning permission with different conditions from those attached to the previous permission for Tangy III Wind Farm. In determining this application, the planning authority can only consider the merits of the changes sought to the conditions imposed on the previous permission. The Applicant is seeking to amend the planning permission to allow an increase in turbine height from the approved 125m blade tip height up to a blade tip height of 130m. In addition, information is provided in relation to minor track alignment changes and the relocation of a temporary construction compound, all as previously approved under Planning Conditions 1, 6 and 16 of planning permission 14/02969/PP. The existing wind farm pre dates the approval of the Council's Landscape Wind Energy Capacity Study (LWECS) and it is acknowledged that the Tangy III proposal is not consistent with the provisions of the LWECS. SNH have expressed concern about the proposed increase in tip height of the turbines. Planning Officers consider that from a landscape and visual impact perspective this proposal will result in a more compact, less cluttered layout and will be located slightly further back into the Upland Forest Moor Mosaic. There are no objections from any of the other consultees subject to conditions that were attached to 14/02969/PP being carried forward. There has been one letter of objection received and two letters of support. As it is not the principle of the wind farm which must be revisited as part of a Section 42 application, it is the proposed amendments to conditions 1, 6 and 16, it is considered that the proposal conforms to the relevant Local Development Plan policies and it is recommended that conditions 1, 6 and 16 are amended accordingly to support these changes, and that planning permission is granted in accordance with Section 42.

### **Decision**

The Committee agreed to grant conditional planning permission in accordance with Section 42 of the Town and Country Planning (Scotland) Act 1997.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 3 August 2018, submitted)

10. **MR AND MRS ANDY AND DEBORAH GALLACHER: NON MATERIAL AMENDMENT TO PLANNING PERMISSION 13/01166/PP (ERECTION OF PORCH - RETROSPECTIVE) TO INCORPORATE CHANGE IN HEIGHT, POLYCARBONATE FINISH AND INCLUDE RAIN WATER GOODS: EDENBANK SOUTH EAST FLAT, 20A NEWTON ROAD, INNELLAN (REF: 18/01166/NMA)**

The Acting Major Applications Team Leader spoke to the terms of the report and to supplementary report number 1 which summarised comments from the Applicant's Architect. The proposal is for a non-material amendment (NMA) to planning permission 13/01166/PP. Two objections to the NMN request have been received from the owner of the flat directly above the one associated with this request. Section 64 of the Act states that "a planning authority may, at the request of the grantee or a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material". In this instance the Applicant seeks to regularise the plans with what has already been built. The

changes are not substantial and are not considered to prejudice neighbours or adjacent property owners as they seek to replicate the as-built situation. The changes to the approved plans are considered non-material and do not adversely impact on the adjacent properties nor do they alter the character of the approved porch. With this in mind it is recommended that Members approve the changes under Section 64 of the Act. The Applicant is also seeking to discharge the requirements of condition 2 of the planning permission. Permission was granted on 29 July 2013 therefore the Applicant has been in breach of this condition for some time. The original planning enforcement investigation concluded that it would be prudent to allow this aspect of the development to be more thoroughly assessed through the application for a building warrant. However this remains outstanding. With this in mind Officers felt it was more appropriate to actively pursue these works. The Applicant has now complied with the requirements of this condition and consultation with Building Standards has confirmed that they would be minded to approve this aspect of works as part of any warrant application. With this in mind Officers recommend that Members discharge this condition.

### **Decision**

The Committee agreed that the application for the non-material amendment under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended) be approved and that the associated planning enforcement breach of condition notice is withdrawn.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 25 July 2018 and supplementary report number 1 dated 20 August 2018, submitted)

Councillor Colville returned to the meeting.

**11. MRS CAROL WEIR: ALTERATIONS TO BOUNDARY WALL AND GATEWAY (RETROSPECTIVE): FERRY INN, FERRY ROAD, ROSNEATH (REF: 18/01335/PP)**

The Acting Major Applications Team Leader spoke to the terms of the report. Retrospective planning permission together with a separate application for late listed building consent is sought for alterations to a listed boundary wall and gateway adjoining Ferry Inn, Rosneath. The wall and gate front onto the road on the southern boundary of the property. The original wall appears as a later addition to the dwelling house. The wall has been previously damaged by a vehicle and the Applicant has rebuilt and extended the wall, both upwards and to the east, in part to protect privacy. It now varies in height from two and half to two metres reflecting that the original wall decreased in height with the slope in the adjoining road. The previous gate has been replaced by a new timber arched gate and in the additional piece of wall to the east a smaller timber gate has also been installed. Both are considered acceptable. Whilst the original wall had a stone face described as blockwork in the Applicant's submission, the extended area utilises a modern block of a similar colour. In this case, given the extent of the new wall, this modern replacement is not considered to be appropriate if it were to remain in its current state. Consequently, it is considered that it can be made acceptable through the use of conditions requiring a rendered finish comprising either a lime harling or a wet dash render and boundary planting. The application has attracted 13 objections and 4 objections to the listed building application, together with an objection from Rosneath Community Council. It is not considered that a hearing would give added

value to the decision making process in this instance for the reasons given at section O of the report. On this basis it is considered that the proposal is acceptable and in accordance with Development Plan Policies and is recommended for approval subject to the conditions and reasons detailed in the report of handling.

## Decision

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

1. The development shall be implemented in accordance with the details specified on the application form dated 07/06/2018 and the approved drawing reference numbers 1812-001, 1812-002, 1812-003, 1812-004 and 1812-005 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. Notwithstanding Condition 1 above, within 3 months of the date of this consent the wall hereby approved shall be finished in a wet dash render. Within 1 month of the date of this consent a sample panel of the proposed render including colour of render shall be submitted for the approval of the Planning Authority. Thereafter the wall hereby approved shall be finished using the agreed wet dash render finish.

*Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.*

3. Within 3 months of the date of this consent a scheme of landscaping shall be 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) Proposed soft landscaping works including 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 soft landscaping works shall be carried out in accordance with the approved scheme within the next planting season 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.*



Having moved an Amendment which failed to find a seconder, Councillor George Freeman asked for his dissent from the foregoing decision to be recorded.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 26 July 2018, submitted)

**12. MRS CAROL WEIR: ALTERATIONS TO BOUNDARY WALL AND GATEWAY (RETROSPECTIVE): FERRY INN, FERRY ROAD, ROSNEATH (REF: 18/01477/LIB)**

The Acting Major Applications Team Leader spoke to the terms of the report. Late listed building consent together with a separate application for planning permission is sought for alterations to a listed boundary wall and gateway adjoining Ferry Inn, Rosneath. With reference to the presentation made in respect of the application for retrospective planning permission 18/01335/PP at item 11 of this Minute, it is recommended that listed building consent is granted subject to the conditions and reasons detailed in the report of handling.

**Decision**

The Committee agreed to grant listed building consent subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 29/06/2018 and the approved drawing reference numbers 1812-001, 1812-002, 1812-003, 1812-004 and 1812-005 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. Notwithstanding Condition 1 above, within 3 months of the date of this consent the wall hereby approved shall be finished in a wet dash render. Within 1 month of the date of this consent a sample panel of the proposed render including colour of render shall be submitted for the approval of the Planning Authority. Thereafter the wall hereby approved shall be finished using the agreed wet dash render finish.

*Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.*

3. Within 3 months of the date of this consent a scheme of landscaping shall be 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) Proposed soft landscaping works including 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 soft landscaping works shall be carried out in accordance with the approved scheme within the next planting season 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.*

Having moved an Amendment which failed to find a seconder, Councillor George Freeman asked for his dissent from the foregoing decision to be recorded.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 26 July 2018, submitted)

**13. OCCUPATIONAL HEALTH AND SAFETY LAW ENFORCEMENT PLAN 2018-2020**

The Council, as the “enforcing authority” under the Health and Safety at Work etc Act 1974, is required formally to approve an Occupational Health and Safety Law Enforcement Workplan under the statutory National Local Authority Enforcement Code. A report presenting the 2018/20 Workplan and Enforcement Policy for approval was considered.

**Decision**

The Committee agreed to:-

1. recognise the work by Regulatory Services to secure, and where appropriate, improve, the standards of health and safety across businesses in Argyll and Bute which directly protects employee and others (eg members of the public etc), supports business and indirectly supports the wider economy; and
2. endorse the Occupational Health and Safety Law Enforcement Workplan 2018-2020 and enforcement policy which will be implemented by Regulatory Services.

(Reference: Report by Executive Director – Development and Infrastructure Services dated 22 August 2018, Occupational Health and Safety Law Enforcement Plan 2018-2020 and Occupational Health and Safety Enforcement Policy 2018-2020, submitted)

Councillor Donald MacMillan returned to the meeting during consideration of the foregoing item.

Councillor Robin Currie left the meeting at this point.

**14. SCOTTISH WATER CONSULTATION - SHAPING THE FUTURE**

Scottish Water have published a consultation document entitled “Shaping the Future” which sets out how the organisation proposes to support customers and communities across Scotland in the decades to come. A report detailing the proposed response to the consultation which runs from 28 February to 31 August 2018 was before the Committee for consideration.

**Decision**

The Committee agreed to endorse the formal response as detailed at paragraph 3.1 of the Executive Director’s report.

(Reference: Report by Executive Director – Development and Infrastructure Services dated July 2018, submitted)

**15. PLANNING PERFORMANCE FRAMEWORK 2017/18**

A report introducing the 2017/18 Planning Performance Framework Annual report as required by the Scottish Government Planning Reform Agenda was before the Committee for information.

**Decision**

The Committee noted the contents of the report.

(Reference: Report by Executive Director – Development and Infrastructure Services dated 1 August 2018, submitted)

**16. LOCAL AIR QUALITY IN ARGYLL AND BUTE**

A report presenting the Local Air Quality Annual Progress report of Argyll and Bute Council which fulfils the Council’s statutory duties under Part IV of the Environment Act 1995 was before the Committee for information.

**Decision**

The Committee noted the contents of the report.

(Reference: Report by Executive Director – Development and Infrastructure Services dated 30 July 2018, submitted)

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public for the following 3 items of business on the grounds that they were all likely to involve the disclosure of exempt information as defined in Paragraph 13 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

**17. ENFORCEMENT REPORT - REFERENCE 16/00013/ENOTH3**

Consideration was given to enforcement case reference 16/00013/ENOTH3.

**Decision**

The Committee agreed that no further enforcement action be taken.

(Reference: Report by Head of Planning and Regulatory Services dated 13 August 2018, submitted)

**18. ENFORCEMENT REPORT - REFERENCE 17/00196/ENBOC3**

Consideration was given to enforcement case reference 17/00196/ENBOC3.

**Decision**

The Committee agreed that no further enforcement action be taken.

(Reference: Report by Head of Planning and Regulatory Services dated 13 August 2018, submitted)

**19. ENFORCEMENT REPORT - REFERENCE 18/00054/ENFLB**

Consideration was given to enforcement case reference 18/00054/ENFLB.

**Decision**

The Committee agreed that no further enforcement action be taken.

(Reference: Report by Head of Planning and Regulatory Services dated 13 August 2018, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on MONDAY, 27 AUGUST 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair  
Councillor Rory Colville  
Councillor Robin Currie

Councillor Lorna Douglas  
Councillor Audrey Forrest  
Councillor Graham Archibald Hardie

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Solicitor  
Sergeant McNicol, Police Scotland  
Heather Murray, Police Scotland  
Mr M McKim, Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mary Jean Devon, George Freeman, Donald MacMillan, Roderick McCuish, Jean Moffat, Alastair Redman, Sandy Taylor, Richard Trail.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interests.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR RENEWAL OF TAXI DRIVER'S LICENCE (M MCKIM, 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.

The Head of Governance and Law advised that a letter had been received from Mr McKim's solicitor and asked if the Committee and Police Scotland were happy to receive and consider this. After it was confirmed that they were happy to consider the letter, it was tabled.

**APPLICANT**

Mr McKim advised that on the day in question he had been on a hospital run to Inverness, on way back he had stopped for break then continued his journey after 15-20 mins. When he reached Benderloch he was aware of motorcyclists behind him, some of them tried to overtake on various corners, and on that day some of them had overtaken making a hand gesture. He advised that there were 3 motorcycles on the road between caravan site, bus stop and travellers site and looking in all three mirrors, he had overtaken the first, then carried on to overtake second; the third bike had then tried to overtake him and at this point he had put his hand out of the window gesturing the bike to get back. On his approach to the Connel Bridge, the first bike overtook 3 cars and a silver jeep had flashed its lights telling the bike to get back in. Another bike had tried to overtake just coming to bridge.

Mr McKim advised that when came to the Inn, some of the bikers were parked in the car park shouting and swearing and he had stopped. The one that had earlier given the hand gesture came over shouting and swearing at him and he had felt fear and alarm for his safety and had felt intimidated. The motorcyclist had put his hand into Mr McKim's car and removed keys from the ignition, sticking his elbow in Mr McKim's face. At this point he believes that his car may have rolled forward and hit one of the bikes. When Mr McKim got back into Oban, he phoned police from hospital around 3.50pm. He advised that he thought police would have come and taken his story but they did not come until 10pm that night while he was out driving the taxi. He stated his case, but noted that the Police didn't write it down. He took them to the back of hospital and showed them the car. There was a scratch to the front bumper on passenger side and they took a photo. He advised the Police that he did not touch the bike but thought that the car may have rolled forward into the bike as the motorcyclist took the keys from his ignition. He had put in the application for renewal of his taxi drivers licence on 22 June and had received a letter of objection in August, which had brought him before the Committee.

### **QUESTIONS FROM POLICE**

There were no questions for Mr McKim from Police Scotland.

### **POLICE SCOTLAND**

Sergeant Ian McNicol referred to a letter advising that the Chief Constable objected to this application on the grounds that Mr McKim was no longer a fit and proper person to be the holder of a Taxi Driver's Licence as he had been reported to the Procurator Fiscal for a contravention of Section 2 of the Road Traffic Act 1988 as a result of an incident which took place on 12 May 2018. He gave a brief account of the incident and advised that as the matter was sub-judice he was constrained with regard to the nature of any further information he could provide.

### **QUESTIONS FROM APPLICANT**

The applicant had no questions for Police Scotland.

### **MEMBERS' QUESTIONS**

Councillor Colville asked the Police if it was normal for 3 months to pass without a case going to court and if Mr McKim had been charged. Sergeant McNicol confirmed that Mr McKim had been charged and had been reported to the Procurator Fiscal. He added that the Procurator Fiscal would decide the next course of action and that the timeframe was not unusual for a case of dangerous driving.

Councillor Colville referred to the solicitors letter which advised that Mr McKim had held an unblemished licence for 26 years and asked Mr McKim to confirm this, which he did. Councillor Colville asked Mr McKim how many miles he travelled daily. Mr McKim replied that he was unsure of the exact mileage but that it was a lot as he covered hospital runs to Inverness and Glasgow and travelled daily from Oban to places like Clachan Seil, Lochgilphead, Dalmally, Connel and Taynuilt.

Councillor Currie asked the Police if Mr McKim was the only one who had reported the incident. Sergeant McNicol advised that Mr McKim reported the altercation which had taken place after the actual driving incident he had been charged for. Councillor Currie asked who had reported the incident and Sergeant McNicol advised that it had been one of the motorcyclists. Councillor Currie then asked the Police why they had not spoken to Mr McKim until 10pm at night and Sergeant McNicol replied that they had been speaking to the motorcyclists to obtain sufficient evidence to charge Mr McKim and that Mr McKim would have an opportunity to defend himself in court.

Councillor Douglas asked the Police to clarify how serious the charge was. Sergeant McNicol advised that it was a serious driving offence that normally carried a 1 year ban from driving. He advised that careless driving was a lesser offence and was more of a misjudgement or mistake but dangerous driving was seen as a more deliberate action and viewed as a serious driving offence.

Councillor Hardie asked the Police if anyone else had been charged in addition to Mr McKim. Sergeant McNicol confirmed that it was only the applicant who had been charged.

Councillor Hardie asked the applicant if he could describe the motorcyclists. Mr McKim advised that he could remember 2 of them and described them. He advised that he had felt intimidated and frightened and when the motorcyclist had put his hand in the window he had felt that he was going to elbow him in the face, which is why he had reported the incident to the Police.

Councillor Blair asked the Police if they knew the occupation of person who had made the complaint as sometimes the perception of bikers is that they are naturally aggressive. Sergeant McNicol advised that the Police did not judge complainers by their occupation, but advised the occupations of some of the witnesses were regional operations manager, fabricator, mechanic and public house manager.

Councillor Blair asked the applicant if he had been disciplined by the NHS for the incident. Mr McKim advised that he had told his manager on the Monday after it happened and not been disciplined as yet.

Councillor Douglas asked the Police if they knew the likelihood of the case being dealt with quickly. Sergeant McNicol advised that he could not confirm how long it would be and that a letter would be sent out from the Procurator Fiscal with a date in the next few months but could not say for certain.

Councillor Forrest asked if there was a possibility that the Procurator Fiscal may not proceed with the case. Sergeant McNicol advised that it was unlikely as there had been 7 witnesses saying that Mr McKim's driving had been dangerous and out of order.

Councillor Kinniburgh referred to the letter from Mr McKim's solicitor and the paragraph which said although Mr McKim had been charged he had not received service of complaint and asked the Police what this meant. Sergeant McNicol advised that Mr McKim would receive a letter stating the charge and asking whether he wants to plead guilty/not guilty. He added that if wanted to plead not guilty then the case would go to a court date.

Councillor Douglas asked if Mr McKim still had his driving licence and if he would keep it until a decision was reached. Sergeant McNicol confirmed that he did have his licence and would until a decision was reached.

Councillor Kinniburgh asked the Police if the Committee decided to issue the licence and Mr McKim was convicted if Police Scotland would then put in another objection. Sergeant McNicol confirmed that it would be monitored and the Police would come back following any conviction.

### **SUMMING UP**

#### **Police Scotland**

Sergeant McNicol summed up by saying that it was a dangerous driving case and the Police were making the Committee aware that it had been reported to the Procurator Fiscal. He added that there had been a number of witnesses reporting that Mr McKim's behaviour was so bad that it had been categorised as dangerous driving. He advised that the case would come to court in the future but currently the Police were advising that this was underway.

#### **Applicant**

Mr McKim summed up by saying that he had held a clean driving licence for 26 years and had been driving a taxi for more than 10 years and that he had never been refused a taxi drivers licence.

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

### **DEBATE**

Councillor Colville advised that he had reported a motorcyclist to the Police for overtaking a lorry and that he had a family member who had advised of the difficulty he had when he came across groups of motorcyclists as they could become aggressive in a pack. He advised that under the circumstances and due to the fact that Mr McKim's record was exemplary he had no issue with awarding the licence.

Councillor Currie advised that it was not a job for the Committee to decide whether the applicant was guilty or not guilty and that he had been driving for 3 months since incident reported. He advised that as the Police letter stated that no trial date had been set it was premature for the committee to make a decision.

Councillor Hardie advised that after weighing up facts he could not see any reason not to renew the licence.

Councillor Forrest advised that she found it a struggle to come to a decision when there was no formal letter received about the charge and no date for a court case. She advised that it would not be fair to at the current stage and that Mr McKim was innocent till proven guilty. She advised that she would be happier if the Committee could grant the licence now knowing that the Police can come back if Mr McKim was convicted.

Councillor Kinniburgh advised that it was an important fact that Police had the opportunity to come back if Mr McKim was convicted and that it was well within



Police Scotland's rights to put an objection before the Committee at this stage. Councillor Kinniburgh added that he felt that as Mr McKim had an unblemished record for 26 years it was therefore inappropriate to take the licence from Mr McKim before any conviction.

Councillor Blair advised that he took comfort by the fact that Mr McKim was employed by the NHS and no disciplinary action had been taken against him.

**DECISION**

The Committee agreed to grant the renewal of a taxi driver's licence to Mr McKim.

(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 MONDAY, 27 AUGUST 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair  
Councillor Rory Colville  
Councillor Robin Currie

Councillor Lorna Douglas  
Councillor Audrey Forrest  
Councillor Graham Archibald Hardie

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Solicitor  
Roy Strang, Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mary Jean Devon, George Freeman, Donald MacMillan, Roderick McCuish, Jean Moffat, Alastair Redman, Sandy Taylor and Richard Trail.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR RENEWAL OF TAXI DRIVER'S LICENCE (R STRANG, 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**

Mr Strang presented his case in support of the renewal of his Taxi Driver's Licence.

**MEMBERS' QUESTIONS**

The Members received responses to a number of questions raised.

**SUMMING UP**

The Applicant was then given the opportunity to sum up and confirmed that he had received a fair hearing.

**DECISION**

The Committee agreed to grant Mr Strang with the renewal of his 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 MONDAY, 27 AUGUST 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair  
Councillor Rory Colville  
Councillor Robin Currie  
Councillor Lorna Douglas

Councillor Audrey Forrest  
Councillor Graham Archibald Hardie  
Councillor Donald MacMillan

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Solicitor  
Kathleen McMann, Applicant's Agent

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mary Jean Devon, George Freeman, Roderick McCuish, Jean Moffat, Alastair Redman, Sandy Taylor and Richard Trail.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR LICENCE (H WERNER, 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's agent to speak in support of his application.

**APPLICANT**

Ms McMann spoke on behalf of the applicant Mr Werner advising that he had hoped to attend the hearing but had to be in Oban due to business.

Mr Werner was applying for a taxi operator licence for a Mercedes Vito 111 CDI multipurpose vehicle registration number H15 ETV. The vehicle was currently operated under a private hire licence which was due to expire and at this point Mr Werner had decided to apply for an operator's licence due to a large demand for taxis in Oban. He had attributed this to the recent changes in drink driving laws and the fact that Oban was being marketed as an all year round tourist destination. Ms McMann made reference to a reduction in taxi licenses in the Oban area since June.

Mr Werner had started his business 15 years ago in North Connel and still had regular business in that area. The 8 seater vehicle would be used for bigger jobs that would normally require 2 cars and this would allow one of the cars to stay on the rank. With regard to wheelchair access, Mr Werner had recently purchased a ramp which would allow access for both wheelchairs and mobility scooters. According to the Halcrow report there was only one wheelchair accessible vehicle in the Oban

area in 2013 and now there were 3; 4 if the application was to be approved. Mr Werner had made an application in the past for this type of vehicle and objections had been received; however this time no objections had been received. In his 15 years of operation he had received no complaints, his drivers had worked for him between 5 and 7 years and he had trackers and dash cams fitted to all his vehicles for safety. Ms McMann advised that Mr Werner took responsibility for a good and safe service and commended the application for granting.

### **MEMBERS' QUESTIONS**

Councillor Kinniburgh asked for confirmation of the number of taxi licences in the Oban Area. Mrs MacFadyen advised that there were currently 51. Councillor Kinniburgh highlighted that this meant that there had been a raise of 6 licences since the Halcrow report and asked Ms McMann to explain why there was an unmet demand based on this information. Ms McMann advised that Mr Werner would not have gone to the expense of purchasing wheelchair access for the 8 seater had there not been demand. She added that when the vehicle had been used as a private hire there had been plenty demand for it. Councillor Kinniburgh asked why Mr Werner had not moved one of his other cars to a private hire. Ms McMann advised that she was unsure of this and that given there had been no objections that there must be a demand.

Councillor Currie asked Ms McMann if she found it strange that no objections had been received in relation to the application given that taxi operators are usually quick to object. Ms McMann replied that it would be a benefit as there was a demand there for that type of vehicle.

Councillor Colville asked Ms McMann if she agreed that demand for taxis doubled during the tourist season and if she believed that for 6 months of the year the Halcrow report was incorrect. She replied yes and that the demand was now there all year round due to the winter festival and new premier inn with no allocated parking.

Councillor Douglas asked if the Council kept records of how many taxis had wheelchair access. Mr Reppke replied that the Council did not keep a list but could access the information through records. Ms McMann advised that there were currently 3, and would be 4 should the application be approved.

Councillor Kinniburgh asked if the reason other taxi operators hadn't objected was because the Committee had approved a further 11 licences on top of those in the Halcrow report and that they felt they would not be listened to if they did object. Ms McMann advised that they may not have objected due to the benefit this vehicle would bring to the town and that this was different to those previously submitted.

### **SUMMING UP**

Ms McMann summed up by saying that Mr Werner had applied for the operators licence due to unmet need given the calls received from the rank which he could not fulfil, and due to the fact that Oban was developing into an all year round tourist destination. He wanted to meet this unmet demand.

When asked, Ms McMann confirmed that she had received a fair hearing.

## **DEBATE**

Councillor Colville advised that he felt he needed to ensure that trade was economical for all taxi operators. He felt that taxi operators had given up objecting to applications. He advised that he did not want to support the application.

Councillor Hardie advised that due to the rapid increase and tourism and the fact that he had worked with disabled people and knew how hard it was to get a taxi, he supported the application.

Councillor Currie advised that he felt there was unmet demand. He felt that tourism was in Oban all year round and that it was a hub for all the islands off the west coast. He advised that he supported the application as it could cater for mobility scooters.

Councillor Blair advised that the Halcrow report was now 4 years old and that there had been a lot of developments in Oban during that time. He referred to a recent decision by the Committee which approved 300 new homes in the Dunbeg area and advised that he supported the application.

Councillor Douglas referred to the fact that there were few cases for larger cars like that of the application and for those with wheelchair access. She advised that it was clear there were places in Argyll and Bute that were doing very well and that the report could only be used as guidance. She advised that the 8 seater could do the job of 2 taxis and that they needed to think of the impact of this.

Councillor Forrest advised that as the vehicle had held a private hire licence previously this did not mean that it was an additional car on the road. She referred to the point made by Councillor Blair about additional housing in Dunbeg. She also advised that she felt Mr Werner would not have gone to the expense of buying a ramp if there was no demand.

Councillor Kinniburgh advised that he agreed with many of the comments made by members. He advised that he felt there was already enough operators in the Oban area to meet demand even with the application for 300 extra homes. He advised that he felt the approval of another operators licence would be wrong and that Mr Werner had the opportunity to move one of his other cars to a private hire car in order to use the vehicle in question under an operator's licence.

## **MOTION**

Councillor Kinniburgh moved that the application for an operator's licence be refused. This was seconded by Councillor Colville.

## **AMENDMENT**

Councillor Currie moved that the application for an operator's licence be granted. This was seconded by Councillor Hardie.

## **DECISION**

On a show of hands vote the Amendment was carried by 5 votes to 3 and the Committee agreed to grant a taxi operator's licence to Mr Helmut Werner.

(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 MONDAY, 27 AUGUST 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Audrey Forrest
Councillor Rory Colville	Councillor Graham Archibald Hardie
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Lorna Douglas	

**Attending:** Charles Reppke, Head of Governance and Law  
Sheila MacFadyen, Senior Solicitor  
Cameron Kerr, Applicant  
Sergeant Iain MacNicol, Police Scotland  
Heather Murray, Police Scotland

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mary-Jean Devon, George Freeman, Roderick McCuish, Jean Moffat, Alastair Redman, Sandy Taylor and Richard Trail.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI DRIVER'S LICENCE (C KERR, HELENSBURGH)**

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**

Mr Kerr referred to the main issue being that he had failed to declare his convictions on his application form. He explained that he was under the impression that after 3 years these were spent and did not have to be declared. He stressed that he was not trying to pull the wool over eyes and that this was a genuine mistake. He referred to each of the convictions in turn, pointing out that these happened 4½ years ago. He advised that at the time when he was convicted of having no car insurance he had been self-employed and was not making a lot of money. He advised that he had needed the car to get to work and during that time his insurance had lapsed and he needed to work in order to afford the insurance. He acknowledged that he had been stupid at that time and that it had led to him being disqualified from driving. He advised that this happened 4½ years ago and that there have been no issues since then. He confirmed that he was now in a full time job and he acknowledged his mistake over 4 years ago.

## **POLICE SCOTLAND**

Sergeant MacNicol referred to a letter of representation submitted by the Chief Constable which advised of the circumstances surrounding four convictions as a result of incidents which took place on 10 September 2012, 2 May 2013, 21 May 2013 and 2 April 2014 and which Mr Kerr did not declare on his application form. Sergeant MacNicol confirmed that following discussions with Mr Kerr he had been warned about not declaring these convictions on his application form.

## **MEMBERS' QUESTIONS**

Councillor Colville referred to Police Scotland bringing the convictions to the attention of the Committee as a result of these not being declared on the application form. He referred to the convictions for driving without car insurance which had occurred on two separate occasions and advised that it was his opinion that these were serious offences. He asked Sergeant MacNicol to comment. Sergeant MacNicol advised that he was not saying these were not serious offences and that was why they were being brought to the Committee's attention. He pointed out that these had led to a ban from driving for 12 months.

Councillor Colville sought and received confirmation from Sergeant MacNicol that the first offence for lack of insurance was on 21 May 2013 and the other was on 2 April 2014 and that both offences were dealt with on the same day at Court.

Councillor Colville sought and received an explanation from Mr Kerr as to why he had committed the offence of driving without car insurance on two separate occasions almost a year apart.

Councillor Colville sought and received confirmation from Mr Kerr that as he was in full time employment it was his intention to drive taxis in the evenings and on the weekends to assist his family when they were short of taxi drivers for their business.

Councillor Currie received confirmation from Mr Kerr that he now had a clean driving licence and that 3 April 2014 was the last time he received a conviction. He confirmed that following his ban he had been driving since April 2015 and had received no more convictions. He stressed that he had learnt his lesson. He confirmed that he was in full time employment, had moved to Argyll from Glasgow and that he was now in a totally different situation.

Councillor Kinniburgh sought further clarification from Sergeant MacNicol on the dates of offences and the Court dates. Councillor Kinniburgh referred to one of the Court dates happening the day after one of the offences and asked why this had come about so quickly. Sergeant MacNicol advised that this was because of a matter which was not disclosable.

## **SUMMING UP**

### **Police Scotland**

Sergeant MacNicol advised that he was here to advise the Committee of the nature of the convictions which had not been declared and to point out that Mr Kerr had been warned about not declaring these on his application form

## **Applicant**

Mr Kerr advised that prior to these convictions he had been driving for 10 years and had received one speeding conviction during that period. He confirmed that since his convictions and driving ban he had been driving for 3½ years and had not had any further convictions. He advised that it had been a bad period in his life which he had learnt from and was still paying for due to higher insurance premiums. He said that he could appreciate where the Members were coming from regarding their concerns. He confirmed that it was an honest mistake he had made not declaring the convictions on his application form. He advised that he had received no further driving offences since then and that it would not happen again.

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

## **DEBATE**

Councillor Colville advised that he was impressed that Mr Kerr had turned up today and faced up to his past. He said that he had taken note that the Police Scotland letter was simply bringing these convictions to the Committee's attention as they had not been declared on the application form which, he said, was a common occurrence. He confirmed that he was happy to grant the application.

Councillor Hardie advised that one conviction for no insurance he could accept, but two convictions made him feel slightly reserved about granting so he would not be supporting this application.

Councillor Currie advised that he would have no hesitation in granting the application. He commented that the convictions were 4 years ago and that everyone makes mistakes. He pointed out that Mr Kerr's licence as now clean. He noted that Police Scotland were not of the opinion that he was not a fit and proper person to hold a licence and that they were only alerting the Committee to the fact that the convictions were not declared on the application form.

Councillor Blair advised that he had similar concerns to Councillor Hardie but understood the circumstances which had been explained well by Mr Kerr. He commented on Mr Kerr's obligations working for the family firm and thought that this would reflect on his driving behaviour which had improved since the past. He pointed out that the Committee wanted good and safe taxi drivers and wanted the public to be protected. Due to the time that has passed, he confirmed that he was happy to support the application.

Councillor Kinniburgh confirmed that he was also hesitant about granting the application due to the two incidences of no car insurance which he found quite disturbing. He acknowledged that this was a Police representation rather than an objection and referred to Mr Kerr coming today to explain the circumstances and to advise that he had learnt his lesson from this. He advised that taking into account what Mr Kerr had said and what Sergeant MacNicol had said he moved that the application be granted in the knowledge that if there was anything else in the future Mr Kerr could come before this Committee again. Councillor Blair seconded this Motion.

**DECISION**

The Committee agreed to grant a Taxi Driver's Licence to Mr Kerr.

Having moved an Amendment, which failed to find a seconder, Councillor Hardie asked for his dissent from the foregoing decision to be recorded.

(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 MONDAY, 27 AUGUST 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair  
Councillor Rory Colville  
Councillor Robin Currie  
Councillor Lorna Douglas

Councillor Audrey Forrest  
Councillor Graham Archibald Hardie  
Councillor Donald MacMillan

**Attending:** Charles Reppke, Head of Governance and Law,  
Sheila MacFadyen, Senior Solicitor  
John Easdale, Applicant

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Mary-Jean Devon, George Freeman, Roderick McCuish, Jean Moffat, Alastair Redman, Sandy Taylor and Richard Trail.

**2. DECLARATIONS OF INTEREST**

Councillors Lorna Douglas and Graham Archibald Hardie declared a non-financial interest in this application as they personally knew the Applicant. They left the room and took no part in the determination of the application.

Councillor David Kinniburgh advised that he also knew the Applicant. He confirmed that due to the circumstances which led him to know the Applicant, he did not believe there was a need for him to leave the room and exclude himself from the hearing process.

The Council resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR RENEWAL OF TAXI DRIVER'S LICENCE (J EASDALE, HELENSBURGH)**

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**

Mr Easdale presented his case in support of the renewal of his Taxi Driver's Licence.

**MEMBERS' QUESTIONS**

The Members received responses to a number of questions raised.

**SUMMING UP**

The Applicant was given the opportunity to sum up and confirmed that he had received a fair hearing.

**DECISION**

The Committee unanimously agreed to grant a Taxi Driver's Licence to Mr Easdale.

(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 MONDAY, 27 AUGUST 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Gordon Blair  
Councillor Robin Currie  
Councillor Lorna Douglas

Councillor Audrey Forrest  
Councillor Graham Archibald Hardie  
Councillor Donald MacMillan

**Attending:** Charles Reppke, Head of Governance and Law  
Jayne Jones, Commercial Manager, Argyll and Bute Council – Applicant  
John Black, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Rory Colville, Mary-Jean Devon, George Freeman, Roderick McCuish, Jean Moffat, Alastair Redman, Sandy Taylor and Richard Trail.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PUBLIC ENTERTAINMENT LICENCE (ARGYLL AND BUTE COUNCIL FOR HELENSBURGH AND LOMOND CIVIC CENTRE, HELENSBURGH)**

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 the application.

**APPLICANT**

Ms Jones advised that the Council were currently looking at alternatives to service reductions and the catering and cleaning service were investigating ways to generate additional income for the Council. She said that the Helensburgh and Lomond Civic Centre had a number of rooms for hire to members of the public which were capable of accommodating corporate events and other functions. She advised that a Public Entertainment Licence would allow the Council to offer the rooms for hire in as flexible a way as possible. She referred to the launch of an event, Street Food Sunday on 1 July 2018 and said that this had been very successful with 13 food market stalls. She advised that the event enabled the stallholders to generate additional income for their businesses and that it also allowed the Council to open up its doors to the building and gardens and enabled staff to show case the facilities, for example, the marriage suite and café. She added that the music that day, which was held as a result of a temporary Public Entertainment Licence, went down well and she indicated that they had a number of other events planned for the future to support the community and the premises. She pointed out that having a Public Entertainment Licence was important for their success as it would enable them to

offer live music and widen the appeal of such events which would generate income for not only the musicians but also the Council and the wider community.

## **OBJECTOR**

Mr Black advised that he objected to the application for a Public Entertainment Licence for the Helensburgh and Lomond Civic Centre. He referred to the application being made in accordance with the Civic Government (Scotland) Act 1982 and said that he could see no provision in the Act for a Council to consider an application from itself. He said that he presumed that the legislation was written in the understanding that the role of local government was to provide basic services and not to run markets and public entertainment. He commented that if the staff housed in the Helensburgh and Lomond Civic Centre were bored, there were many ways they could participate in the activities of the town. He stated that he objected to public facilities being used in competition with legitimate businesses.

Mr Black pointed out that at one time the former primary school for the Parish of Rhu was an active community centre. He said that this building had been neglected by Argyll and Bute Council, was declared dangerous, and the community had to find other venues. He referred to the Civic Centre being an under used asset and commented that the Council's answer was to throw money at it. He advised that adding to an existing deficit was no way to run a business. He referred to a recent community event in which Councillor Aileen Morton spoke and also to a newspaper article by Councillor Trail. He said that after listening to Councillor Morton and reading the article by Councillor Trail, it was his opinion that this was a sorry state to be in. He said that the elected Members could not think and had no vision for Helensburgh. He referred to the Helensburgh CHORD project and stated that this had been a disaster from beginning to end. He referred to the current Helensburgh Pierhead project and pointed out that it would be run by the same team that was responsible for the CHORD project. He suggested alternative uses for the Helensburgh Pierhead funding. He advised that the CHORD project did not address the needs of the town. He referred to the recent food festival event and advised that this cost between £2,000 and £3,000 and did not include the cost of staff wages nor the cost of hiring a generator. He stated that the event brought very little business to the town.

## **MEMBERS' QUESTIONS**

Councillor Blair asked Mr Black if he participated in the local Community Council. Mr Black replied that he had a website and reached out to the community through that.

Councillor Currie asked Mr Black what his presentation had to do with the application. Mr Black advised that the Council were looking to use the facilities to compete directly with businesses in Helensburgh.

Councillor Kinniburgh referred to Mr Black's comment about the Civic Centre being an under used asset. He asked if Mr Black would agree that through applying for a Public Entertainment Licence the Council would bring this asset from being under used to one that was well used. Mr Black referred to the previous asset, the community centre, being well used but falling into disrepair. He advised that groups then had to go elsewhere which was a problem. He said that the Council were going about it the wrong way of trying to bring these groups back.



Councillor Kinniburgh acknowledged that the community centre was well used in the past. He asked Mr Black if he would agree that what was being proposed would bring to the community something the community could use. Mr Black replied, no.

Councillor Douglas referred to the proposed use of the building and asked Ms Jones if this was something that was also being looked at by other local authorities. Ms Jones confirmed that this was the case. She advised that the Council would operate the building in terms of leasing it and that the Council was also interested in working in partnership with local groups and that other local authorities were also doing this.

Councillor Blair asked why a generator was required for the food festival and if this would be a regular need for future events. Ms Jones advised that it had been required on that occasion due to the number and type of stalls which were all outside and, having taken advice from Health and Safety Officers, the generator was recommended. Ms Jones said that for other events, such as craft fairs, a generator would not be required.

Councillor Hardie asked Mr Black if he would agree that due to the success of the first event it would be appropriate to have other events. Mr Black advised that the last event lost money.

## **SUMMING UP**

### **Objector**

Mr Black advised that he had nothing further to add and left the meeting at this point.

### **Applicant**

Ms Jones advised that the aim was to reduce the need for service reductions and to bring additional income to the Council and to the Helensburgh area. She advised that a Public Entertainment Licence would assist with the delivery of this.

Ms Jones confirmed that she had received a fair hearing.

## **DECISION**

The Committee unanimously agreed to grant a Public Entertainment Licence to Argyll and Bute Council for the Helensburgh and Lomond Civic Centre.

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

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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**

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**Reference No:** 18/01444/PP

**Planning Hierarchy:** Major Application

**Applicant:** Avant Homes Scotland

**Proposal:** Removal of conditions 4 and 5 and variation of condition 7 of planning permission in principle 15/01794/PPP (Site for the erection of residential development with associated access, infrastructure, open space, landscaping and miscellaneous works) - in relation to roads arrangements

**Site Address:** Land North of Cardross Primary School, Barrs Road, Cardross

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**DECISION ROUTE****Local Government Scotland Act 1973**

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**(A) THE APPLICATION****(i) Development Requiring Express Planning Permission**

Removal of conditions 4 and 5 and variation of condition 7 of planning permission in principle 15/01794/PPP (Site for the erection of residential development with associated access, infrastructure, open space, landscaping and miscellaneous works) - in relation to roads arrangements

**(ii) Other specified operations**

None

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**(B) RECOMMENDATION:**

It is recommended that this section 42 application be refused for the reasons given overleaf subject to a pre determination discretionary Hearing.

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**(C) HISTORY:**

14/02409/PAN - Erection of residential development and landscaping

15/01794/PPP - Site for the erection of residential development with associated access, infrastructure, open space, landscaping and miscellaneous works. Granted subject to conditions 26/1/17

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**(D) CONSULTATIONS:**

Road Network Manager (dated 3/9/18): It is recommended that the application be refused.

Cardross Community Council (dated 21/7/18): The Community Council held an additional meeting in July at the request of several concerned residents. This was attended by 137 members of the public. The following concerns were raised:

- People felt the developers remarks and details with photographs were not considered representative of normal conditions in Barrs Road;
- Considerable anxiety from parents whose children walk to school as sightlines are poor and the traffic would be much heavier than usual;
- The application could not be commented on by the school as the notification was sent during the summer period;

The Community Council is concerned that this application has safety implications for local residents and persons coming to and from the Primary School.

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**(E) PUBLICITY:**

ADVERT TYPE:  
Regulation 20 Advert Local Application  
EXPIRY DATE: 02.08.2018

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**(F) REPRESENTATIONS:**

At the time of writing 157 objections have been received in relation to this planning application.

In addition a representation has been received from Jackie Baillie MSP (dated 23/7/18). The representation is summarised as follows:

- Barrs Road is being proposed as the new main route to the development since Darleith Road has been found too narrow. As Barrs Road already experiences a high volume of traffic, adding more residential traffic to this route may lead to the road being over congested.
- I have been advised that the Council is only consulting with a limited number of residents and that the consultation is taking place during the holiday period when many people are on holiday and the Community Council is in recess.
- I would be grateful if the Council could agree to extending and widening the consultation so that the maximum number of residents can have their say on the development.

*Comment: In accordance with the legislation, the application has been neighbour notified and advertised in the local paper, however, there is no requirement for the applicant to undertake further pre-application consultation (PAC) on s42 applications. It is the policy of the Council to continue to accept and consider representations beyond statutory cut off dates.*

The names and addresses of those contributing to the application are contained within Appendix B.

**(i) Summary of issues raised**

Object to re-routing the access to this development via Barrs Road and Muirend Road as there is already congestion on this route caused by parked vehicles.

*Comment: See assessment.*

As many of the houses do not have driveways there are large numbers of parked cars on Barrs Road. This is unsuitable as an access as it reduces the width of the road to single track.

*Comment: See assessment.*

Darleith Road is a straight road to the site and has a superior exit / entry to the main road.

*Comment: Subject to road improvements Darleith Road is considered to be acceptable.*

Barrs Road would not be suitable for the large volume of construction traffic which would be required for a site of this size.

*Comment: An agreed method of construction routing proposal would require to be submitted and approved prior to any works commencing on site.*

Barrs Road and Muirend Road are the main routes to the local primary school. The proposed plan would create an unsafe environment for local families and children, specifically on their daily route to school.

*Comment: See assessment.*

Visibility is poor when turning right from Muirend Road.

*Comment: See assessment.*

There are a number of pot holes on Barrs Road and the drainage has never been properly fixed which causes severe flooding in the winter.

*Comment: This is not a material consideration for this s42 application.*

The output from the traffic survey was narrow in scope both in terms of the locations covered and the times of day observed.

*Comment: See assessment.*

There is flooding down Barrs Road whenever there is heavy rain as there is inadequate drainage.

*Comment: This is an operational cyclic maintenance concern and not a material consideration for this s42 application.*

The photographs contained within the applicant's supporting statement are not reflective of the normal level of on-street parking on Barrs Road.

*Comment: This point is noted.*

There is a tight bend on Muirend Road which presents a danger to traffic.

*Comment: See assessment.*

It is contended that that the proposal would result in a 400% increase in the use of the road. It is considered that this would not be a minimal increase as suggested by the applicant's access appraisal.

*Comment: There is no data to support the statement of 400% increase. See assessment for vehicle movements.*

The applicant identifies the lengths of Barrs Road, Muirend Road and Ritchie Avenue available for on street parking and then converts this to "available on-street parking spaces based on a nominal vehicle length of 5 metres. This results in an apparent total of 278 parking spaces available on these three roads.

*Comment: The access appraisal does not appear to have considered the width of the road and the fact that continuous parking can only be accommodated on a single side therefore the number of spaces are potentially double what may be actually available.*

At present the section of Barrs Road between Kirkton Road and the proposed site access does not have a footway on the west side. Does the developer intend to provide one, or will pedestrians moving between the proposed development and the Primary School be expected to cross Barrs Road twice within a length of some 80 metres?

*Comment: No details have been submitted.*

The cars parked on Barrs Road may not change but the volume of traffic requiring to make “give and take” movements would change, and would significantly increase. This is almost certain to lead to increased driver frustration and potential conflict as identified and acknowledged, in the Road Safety Review.

*Comment: See assessment.*

The day to day experiences of the local community over many years should be accorded the same, or even greater, weight than two days of parking survey data in a single visit by the Road Safety Review team.

*Comment: See assessment.*

The proposed plan would create an unsafe environment for local families and children, specifically on their daily route to school.

*Comment: See assessment*

It would appear that using the Thursday peak flow data to create the 2018 Base for weekdays, especially for the pm peak period, produces a somewhat favourable result from the developer’s perspective.

*Comment: The traffic consultant has made an assessment on the suitability of the days and time to capture existing traffic data.*

It would appear that the developer is overstating the number of on road car parking spaces and understating potential traffic movement issues in particular in Barrs Road arising from parked vehicles.

*Comment: The access appraisal does not appear to have considered the width of the road and the fact that continuous parking can only be accommodated on a single side therefore the number of spaces are potentially double what may be actually available.*

Numerous photographs of car parking on Barrs Road have been submitted.

*Comment: These have been noted.*

The primary school has not got the capacity to cope with this growth in the village.

*Comment: This section 42 application is confined to roads issue and therefore school capacity is not a material consideration in this instance.*

The volume of traffic will have a negative impact on the residential area due to increased noise and possible parking restrictions.

*Comment: See assessment.*

This route to the site has already been ruled out during previous discussions.

*Comment: See assessment.*

The increased volume of traffic would result in additional noise and pollution.

*Comment: There be more instances of traffic noise and pollution however this considered to be within acceptable limits.*

Muirend Road, Barrs Road and Darleith Road were all built in the middle of the last century. This was at a time when few people had cars and off street parking was not considered necessary. Barrs Road and Barrs Terrace are examples of this. It is suggested that it is unrealistic to connect a major housing development to a main road more than 500 yards away via roads that presently are unfit for purpose and are unlikely to be made so to cater for present and projected increases in road traffic.

*Comment: See assessment.*

The geometry of Muirend Road is not suitable for additional traffic.

*Comment: See assessment.*

The A814 is already the busiest road in Argyll and Bute and the additional traffic generated by large scale development will cause increased congestion within Cardross and on the road to Dumbarton and Helensburgh.

*Comment: The scale of development would not have a significant impact on the A814.*

How would the proposed double yellow lines be enforced?

*Comment: Argyll and Bute Council employ traffic officers to enforce existing waiting restrictions.*

The proposal may also encourage people coming from Helensburgh to access the proposed development via Darleith Road, Barrs Terrace and Barrs Road. Barrs Terrace is even worse than Barrs Road for parked cars.

*Comment: These are existing public roads with a right of public passage.*

Do not think that Darleith Road provides an acceptable solution either.

*Comment: The planning permission in principle identifies this route as the primary access subject to road improvement to be carried out prior to construction.*

Darleith Road provides a more suitable access to the site.

*Comment: See assessment.*

The proposal may have an adverse effect on carer's visits due to parking restrictions.

*Comment: See assessment.*

It was made exceptionally clear by the Area Roads Engineer at the public meeting in 2017 that Barrs Road was not an acceptable feeder road to the Kirkton Farm Housing Development.

*Comment: See assessment.*



Is there sewage / waste water capacity for the site?

*Comment: This is not a material consideration for this s42 application.*

The site should have a road built to access it.

*Comment: A proposal has not been submitted to have a dedicated road to the site therefore this option has not been assessed.*

The Reporter approved the allocation of this site on the basis of access via Darleith Road, not Barrs Road.

*Comments: See assessment.*

The site is not suitable for large scale development via Barrs Road or Darleith Road.

*Comment: See assessment.*

The commuter parking at Cardross Station will overflow into the surrounding streets.

*Comment: This is not a material consideration for this s42 application.*

The proposal to use Barrs Road as opposed to Darleith Road does not include any mitigation measures such as new parking spaces.

*Comment: See assessment.*

Full details of all representations received can be viewed on the Council's website on [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- (i) Environmental Statement: No**
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: No**
- (iii) A design or design/access statement: No**
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Yes**  
**Avant Homes Kirkton Farm, Cardross Access Appraisal June 2018, Modus Transport Solutions Ltd.**

**Stage 2 Road Safety Review undertaken by Stewart Paton Associates dated March /April 2018.**

**Supporting statement from Keppie dated 10<sup>th</sup> August 2018**

The applicant's agent has responded to a number of points raised in the letters of objection. These points are summarised below, however, the full document can be viewed on the Council's web site [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

### **Sight Lines at Junctions**

The existing junction have sightlines commensurate with the guidance set out in Designing Streets and the National Roads Development Guide.

### **Vehicle trips generated by the proposed development**

The traffic generation has been assessed using the industry standard TRICS database. The TRICS assessment concluded that with a development of 136 units there would be a total of 23 arrivals and 92 departures during the morning peak period and 79 arrivals and 42 departures during the evening peak period.

### **Capacity of the local road network and junctions**

The traffic impact assessment has clearly demonstrated that the local road network and junction on the A814 has the capacity to accommodate the proposed development.

### **Impact on traffic flow**

An increase of vehicle movements of one vehicle every 40 seconds will result in a minimal increase in vehicle conflicts at certain locations on the road network. There are only a few locations where these conflicts may or may not occur and the probability of opposing vehicles meeting at these points based upon the frequency of traffic and the low number of potential conflict points is therefore deemed to be minimal.

### **Mitigation**

The use of double yellow lines would be to inform drivers who currently park inappropriately and inconsiderately that they should not park on corners. The use of "zig zag" markings and yellow lines could be discussed with Argyll and Bute Council.

### **The photographs in the MODUS report do not illustrate a typical parking situation**

The surveys were deemed to represent a "snap shot" of the parking situation on local streets and subsequent site visits and car video evidence shows that the parking surveys are representative of the typical parking situation in the area. Car video evidence can be made available to the Council if they wish to review this.

### **Safety Concerns**

No footway is provided on the western side, however, a dedicated pedestrian link will be provided within the development to ensure that there is a safe and direct route to the school without the need to enter or cross the existing street network.

### **Single track road**

The length of the “single track road” is very short and generally focused at the northern end of Barrs Road south of the junction with Kirkton Crescent. Based on the predicted traffic generation the probability of two vehicles meeting at conflict points remains very low.

### **Construction Management and emergency vehicles**

A Construction Management Plan will be produced for the development.

### **Theoretical available parking**

The use of theoretical parking capacity has been used appropriately and is not unrealistic for the intended assessment purpose.

### **Traffic survey findings**

It is not considered that these produce a favourable result for the developer.

### **Road Safety Audit**

The information provided has been undertaken by experts in their field with years of experience with similar projects and situations.

### **Letter from Keppie dated 6/9/18**

Keppie, the applicant’s agent has submitted a letter commenting on road’s consultation response. The full version of this letter can be viewed on the Council’s website [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk) however, the main points of the letter are summarised below:

- There is disappointment at the lack of consideration / assessment which the Council’s Roads Dept. has given the proposals in particular to the Access Appraisal and Road Safety Audit;
- The supporting statement from Keppie submitted with the application and the Access Appraisal provide new data and evidence to support the proposal;
- Little or no consideration and / or assessment has been given to the technical evidence such as car parking surveys;
- There is no acknowledgement of third party land issues, the engineering difficulties or the environmental impacts that would result from implementing the conditioned scheme along Darleith Road;
- Keppie has advised that they wish their concerns to be reflected to committee members that the Council’s Roads Officer’s views regarding the technical assessment have not fully addressed their submission assertion and observations;
- It is unclear how the roads officer is of the view that the proposal adversely impacts on road safety and should be refused as contrary to the LDP when the applicant concludes that there are no road safety issues;
- The proposed deletion and amendments are not inconsistent with the LDP as this is an allocated site and there are no site-specific requirements within the LDP that dictate where access into the site should be taken.

*Comment: The detail of the response returned by Roads would suggest that considerable time was taken to review the Access Appraisal and Road Safety*

*Audit. This also included a review of the proposed development access history from the time of the LDP housing allocation and a re-assessment of the earlier documentation provided in support of the original planning permission in principle.*

*The third party land and alleged engineering difficulties associated with the off-site road improvements which form part of the previous planning permission in principle do not form part of the assessment of this section 42 application. This merely provides background information on why the developer wishes the amendment. It is the suitability of the alternative proposed access through the existing residential area which is the key consideration in this section 42 planning application.*

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**(H) PLANNING OBLIGATIONS**

*(i) Is a Section 75 agreement required: No*

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**(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 adopted March 2015

LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

SG LDP TRAN 5 – Off-Site Highway Improvements

**(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.**

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

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- (L) **Has the application been the subject of statutory pre-application consultation (PAC):** No. Further PAC is not required for s42 applications.
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- (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

Whilst this application has previously been the subject of a local Hearing in 2017, it is considered that there would be merit in holding a further Hearing. The level of objection on this application is significantly higher than the previous planning permission in principle and it is considered that there would be added value in Members being able to visit the residential streets proposed to access the site and hearing the arguments on both sides in more detail.

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

A Section 42 application is an application for a new planning permission for a development but with different conditions from those attached to a previous permission for that development. In determining such an application, the planning authority can only consider changes to the conditions on the previous permission. The principle of the development is not under consideration and the original planning permission remains live.

Planning permission in principle was approved for this development following a Hearing on 26<sup>th</sup> January 2017. The site is identified as a housing allocation for 158 units with the adopted Local Development Plan, however, the applicant in the previous PPP application indicated that approximately 140 units were proposed. It is located to the north of the settlement of Cardross and is bounded by Darleith Road to the west and a private access to the east. This private access is a continuation of Barrs Road.

In this application the applicant has applied for the removal of two conditions and the variation of a third. Conditions 4 and 5 which the applicant wishes to be removed relate to off site road improvements on Darleith Road. Condition 7 which the applicant wishes to be varied relates to the internal road layout of the development.

The applicant has submitted a supporting statement which they consider justifies a layout which would bring all of the vehicular traffic down the east side of the development on routes using Barrs Road, Ritchie Avenue and Muirend Road which has a junction with the main A814.

It has been recognised by officers from the outset that there are significant challenges in accessing this site from the main A814 through the residential area to the site. The proposed route through this area of Cardross to the north of the A814 is unsuitable to provide access to the site in its current condition. The development of the allocation would

introduce a significant level of further traffic which would be detrimental to road safety. Serving the entire vehicular access from Barrs Road, Ritchie Avenue and Muirend Road would introduce further traffic into residential streets which have significant areas of on street parking resulting in reduced carriageway widths where it would not be possible for two cars to pass. Where driveways do exist, these introduce further road safety concerns with vehicles reversing on to the carriageway.

It is therefore recommended that planning permission be refused as the proposal would not comply with Policy LDP 11 which requires an appropriate standard of access to be delivered to serve new developments; Policy LDP SG TRAN 4 because the proposal would be detrimental to road safety and Policy LDP SG TRAN 5 as no off-site road improvements have been proposed to address the issues with these substandard public approach roads.

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

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted**

Not applicable

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

Not applicable

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**(T) Need for notification to Scottish Ministers or Historic Scotland:** Not required.

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**Author of Report:** Sandra Davies

**Date:** 3/9/18

**Reviewing Officer:** Angus Gilmour

**Date:** 4/9/18

**Angus Gilmour**

**Head of Planning, Housing and Regulatory Services**

**GROUNDINGS OF REFUSAL RELATIVE TO APPLICATION REF. NO.18/01444/PP**

1. The omission of conditions 4 and 5 and the variation of condition 7 would remove the requirement for specified off-site road improvements to be carried out and a requirement for vehicular traffic to be served by a site access at Darleith Road.

The applicant has advised that instead the access would be provided to the east of the site via Muirend Road and Barrs Road. It is considered that this would be detrimental to road safety in this residential area of Cardross.

The existing road network to the east of the development currently serves the majority of the residences north of the A814 Main Road. These roads have served the village from the first development in the 1930's with incremental development through to the mid 80's with no improvements to the road network. The introduction of over 100 vehicle movements during both morning and evening peak periods through this existing residential area would introduce drivers on these road whose main objective is to drive in and out of the new development. The route through this residential community has a mix of long lines of cars parked on street and single driveways which require reversing on and off the route. This presents obstacles and reductions in road widths which results in driver frustration and the potential for erratic driving which has a detrimental impact on road safety.

In the absence of acceptable mitigation to address these issues it is considered that there would be an unacceptable negative impact on road safety which would be contrary to Policy LDP 11 which requires an appropriate standard of access to be delivered to serve new developments; Policy LDP SG TRAN 4 because the proposal would be detrimental to road safety and Policy LDP SG TRAN 5 as no off-site road improvements have been proposed to address the issues with these substandard public approach roads.

2. Serving the development for the eastern side of the site would introduce further traffic to this side of the village onto substandard public approach roads. The focus of pedestrian movement from the new development into the village is anticipated to be focused on the eastern side due to the location of facilities such as the primary school, the shops and public transport including bus stop and the railway station.

The increase in the level of traffic combined with a lack of continuous footway provision will require pedestrians to cross a number of roads to get to the facilities of the village which will be detrimental to pedestrian safety and contrary to Policy LDP 11 which requires an appropriate standard of access to be delivered to serve new developments; Policy LDP SG TRAN 4 because the proposal would be detrimental to road safety and Policy LDP SG TRAN 5 as no off-site road improvements have been proposed to address the issues with these substandard public approach roads.

**NOTE TO APPLICANT**

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 25/6/18 and the refused drawing reference numbers 16/09 AL (0)001



**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 18/01444/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Introduction**

A Section 42 application is an application for a new planning permission for a development but with different conditions from those attached to a previous permission for that development. In determining such an application, the planning authority can only consider changes to the conditions on the previous permission. The principle of the development is not under consideration and the original planning permission remains live.

In this instance the applicant is seeking to remove two conditions which relate to off-site road improvements and vary one condition which limits the level of vehicular traffic using the eastern side of the development as an access. The applicant has advised that it has not been possible to procure the third party land required in order to implement these conditions.

The condition the applicant wishes to have removed are as follows:

4. Unless otherwise agreed in writing by the planning authority in consultation with the Council's Road Network Manager no development shall commence unless and until the following road improvements to Darleith Road have been provided to the satisfaction of the Planning Authority in consultation with the Road Network Manager:
  - (i) The provision of a suitable traffic calming scheme (give and take priority) between Barr's Terrace and Mill Road. This shall also include the provision of a minimum of 10 new off street car parking spaces, as shown on plan TIAVCAR2\_SK003 C
  - (ii) Road improvement between Mill Road and the proposed development site entrance as identified on plan TIAVCAR2\_SK002 B
  - (iii) The provision of a passing place immediately to the north of the proposed development site entrance in order to accommodate large vehicles passing in opposite directions;
  - (iv) The provision of street lighting to the north of the new access to the development, the exact location to be agreed in consultation with the Council's Road Network Manager;
  - (v) the existing lighting between Mill Road and the existing 30 mph speed restriction limit shall be upgraded.

Reason: In the interests of road safety and to ensure a safe connection from the A814 to the site, suitable traffic calming measures, compensatory parking and a passing place for larger vehicles are required to be implemented before construction work commences on site.

5. Unless otherwise agreed in writing by the planning authority in consultation with the Council's Road Network Manager no dwelling house shall be occupied unless and until the existing 30 miles per hour (mph) speed restriction on Darleith Road has been extended and brought into effect to a location north of the Darleith Road site access, the exact location to be agreed in consultation with the Council's Road Network Manager.

Reason: In the interests of road safety.

The condition the applicant wishes to be varied is as follows:

7. Pursuant to condition 1 - no development shall commence until full details of the internal road layout within the development have been submitted to and approved in writing by the planning authority. The development layout shall ensure that no more than 20 dwelling houses will be served from the east access. i.e. via Barr's Road. All other vehicular traffic will be required to access the development site from Darleith Road. The internal roads shall be constructed in accordance with the principles of Designing Streets.

Reason: In the interests of road safety and good place making.

## **B. History of the Housing Allocation**

The housing allocation for the Kirkton Farm site was first included as a greenbelt release in the current Local Development Plan which was adopted in March 2015.

The allocations schedule, of the Local Development Plan provides a reference no, location, purpose, expected capacity, and in the case of housing allocations, the minimum percentage required as affordable housing. The Local Development Plan does not specify specific conditions or constraints on the development of land identified as allocations.

The LDP is accompanied by an Action Programme where further information of each allocation is provided as illustrated below:

## Housing Allocations

H2002	Cardross – Kirkton Farm 1	Housing	158	25%
Action:	Connection with public sewer required			
Additional Information:				
Timescale:	Short to Medium			
Key Partners:	Landowner/developer			
Notes:	Access issue; proximity to village school; Buffer strip recommended (SEPA).			

The Action Programme does therefore highlight that there are access issues in relation to this site.

The applicant's agents have known from the outset that access to the site was an issue. In their submission in support of the Local Development Plan designation which was considered by the Reporters at the Inquiry stage of the plan Keppie stated that

*“The vehicular access will be taken from Darleith Road, following earlier representation made against Barrs Road. In consultation with Development and Infrastructure Services for the Helensburgh and Lomond Area, an access strategy has been agreed in principle which meets Council Roads Guidelines for Darleith Road.”*

### C. Roads Implications Relating to the Proposed Removal and Amendment of Conditions

As this section 42 application relates purely to roads issues the consultation response from the Council's Road Network Manager is critical in providing guidance on road safety issues.

The Road Network Manager has provided a detailed response on which also covers the history of the proposal.

It is advised that this development site has been the subject of much discussion and debate over the years with the first intimation for development submitted to the Roads Area Engineer as early as March 2004. This was followed up with meeting on 11th July 2005 between the Roads officers and the developer's Transportation Consultants.

The developer's current proposal is for 136 dwellings to be served from the existing public road using the primary routes from the A 814 via Muirend Road, Ritchie Avenue and Barrs Road with an amendment to the priority junction at Kilmahew Avenue.

An access appraisal has been prepared by Modus Transport Solutions Ltd and not by the original transport consultants who provided the supporting information for the approved planning permission in principle.

Development on the north side of Cardross at this location has evolved through an incremental increase from the mid 1930's with the last group of dwellings being

developed in the early 80's. The existing roads are single carriageway 5.5 metres wide, with a combination of on street parking and single individual driveways. These have served this area for over 80 years and more recently almost 40 years with no additional improvements. The driveways are in general single width which require residents to either reverse in or reverse out onto the public road.

The significant increase in car ownership over the years has resulted in the demand for on street parking to be even greater, with areas of the road network having long lengths of continuous parked cars. As a consequence the existing carriageway is now being restricted to one lane. This leads to an informal give and take priority over these lengths in particular on Barrs Road which is proposed to be part of the primary route to the new development.

The current planning policy for place making and people movement is guided "Designing Streets" This document recognises and encourages model shift away from motor vehicles and considers pedestrians and cyclists first with greater emphasis on the use of public transport. While it is recognised that Cardross is served by a good train service, the bus services are still limited in availability. Argyll & Bute Council recognise that within the Council's boundaries there is a high dependency on car use and this is reflected with the number of parked cars on the streets within Cardross especially on Barrs Road which is the proposed primary route to the site.

The submitted Access Appraisal dated June 2018 refers to place making and explains that the existing road network has both a place and a movement function. The Council's view does not necessarily disagree with this assessment, however, it is considered that the primary function of these existing streets for the vehicles taking access to the proposed development at the top of the hill would be movement. Whilst the road design layout within the new development would be designed to the principles within designing streets, the primary role for the vehicles moving either uphill or downhill between the A 814 and the development site would be that of movement with negligible or no involvement with a place function.

When considering the proposed amended traffic route and the use of Muirend Road as the primary junction with the A 814, it is agreed that the computer trip generated figures are not a significant concern. When comparing this junction with the junction at Darleith Road again the vehicle trip generation is not a concern, however, the visibility sightlines at Darleith Road are significantly better. Also the presence of double yellow lines on Darleith Road and no vehicle access points from the existing dwellings within the first 50 metres of the A 814 junction allows for a better flow of traffic. There is less likelihood of a delay in traffic movements off the main road. On Muirend Road within the first 50 metres there are a number of properties with single access driveways which require reversing movements along with cars parked on the street. Continuous observations over the years have shown that there are times when visitors wishing to use the adjacent shops on the main road park near the junction which again causes disruption to the flow of traffic. Therefore taking all these factors into consideration with regards the preferred choice for connection onto the main road from this new proposed residential development, the roads officers have taken the view that Darleith Road was safest and the best solution of the two junctions.

With regard to the proposed amended primary traffic routes via Muirend Road, Ritchie Avenue and Barrs Road, this matter was the subject of much consideration through the

planning process. Indeed the proposed access to the site through the existing residential area was highlighted as a concern at the time when the strategic planners were considering Kirkton Farm as a housing allocation. Further detailed assessments were carried out by the local roads officers and the developer's transportation consultants in order to determine if the existing road network could support a route to serve the site. The Council's road officers concluded that provided Darleith Road was to be used as the site access, the proposed site could be supported. Therefore through the process of preparing the main issues report, the final document submitted to Scottish Government and before adoption of the Council's Local Development Plan being approved and subsequently published, Darleith Road was identified as the primary route. The Developer's planning and transportation consultant's supported this strategy and submitted supporting documentation to this effect which assisted the Scottish Government's Reporter to conclude that Kirkton Farm site was a suitable housing allocation site. At this time the other proposed housing allocation site within Cardross was removed from the plan.

Within the Reporter's statement dated 18th November 2014 it is stated that

*"In the case of Kirkton Farm, the developers have submitted proposals which demonstrate the access to the site being taken from Darleith Road and have shown a scheme of improvements which the Councils Area Road Engineer has indicated in principle would be appropriate to accommodate the proposed development (see production no PD144/SD170)"*

The supporting document submitted by Keppie, Planning consultants who represent the developer states

Section 2 subsection 2.3.

*"The site can be accessed with local improvements down Darleith Road, a factor which has been the subject of much discussion with the roads department and the detail is shown in Appendix 2. This aspect will be further explained in Section 4."*

Section 4 subsection 4.16.

*"The vehicular access will be taken from Darleith Road, following earlier community representation made against Barrs Road. In consultation with Development and Infrastructure Services for Helensburgh & Lomond Area an access strategy has been agreed in principle which meets Council Roads Guidance for Darleith Road. The details of this will be confirmed at the planning application stage and the indicative solution below reflects the latest position"*

Sub section 4.17.

Shows a plan of Darleith Road with proposed road improvements.

Sub section 4.18.

*"The combined effect of these access proposals will improve the situation on Darleith Road and leave Barrs Road unaffected and only used by pedestrians and cyclists."*

This section 42 application allows the opportunity to review the Roads observations submitted in response to the planning permission in principle application and to re-

evaluate the reasons why the primary route using Barrs Road, Ritchie Avenue and Muirend Road was not considered suitable at this time. The points relating to the consideration for the east west routes are included below:

The following assessment for the eastern route included in the Road's observations submitted for the original Planning in Principle Application dated 10th June 2016 stated inter alia:

*"The east side would be accessed using Barrs Road and Muirend Road with the supplementary support from Kilmahew Avenue, Kilmahew Drive, Hillside Road and Richie Avenue: At first sight while this would appear to be the obvious traffic route from the site, further examination into the nature, use and lack of opportunity to provided alternative parking provision concludes that this is not the preferred option. In particular Barrs Road has a long length of parked cars on the west side with limited opportunity to give and take. Given that the traffic associated with the new development which has a primary function of movement either to travel uphill to the site or downhill to the main road, this will encourage this increased traffic speeds and attempts to dominate the flow of traffic.*

*Consideration has also been given to the alternative routes from that of Barrs Road. i.e. the use of Kilmahew Avenue turning onto Kilmahew Drive again turning onto Hillside Road with a further turn onto Muirend Road. This is not a straight forward route and has a number of junctions with the existing road network. Again, given that the primary objective of the driver is to move from the development site to the main road, the potential for conflict is greatly increased from the current position. While I acknowledge that the developer's transport consultants have submitted traffic data to demonstrate that these roads have the capacity to absorb the additional traffic, I am of the view as previously stated this area has grown in size over the years with no improvements to the original road and with the increase in car ownership the demand on the road network has increased significantly.*

*A further recognition is that the addition of pedestrian and possibly cycle traffic from the site will access the village via the east side. This mix with increasing traffic has the potential lead to a greater risk and a detriment to road safety.*

*During the earlier process on selecting this area as a housing allocation, the original view from the road officers to the strategic planning section was to only permit all traffic via Darleith Road. With the traffic data submitted by the developer I have intimated my support that a small number of houses within the development (10 to 15 absolute maximum 20) could take access off Barrs Road/ Kilmahew Avenue. However, I do not support the developer's proposal to split the site traffic 60/40 % which would result in 54 dwelling houses being served by this eastern route. I am of the view that this is not acceptable from a road safety perspective."*

The details conveyed to the members at the public planning hearing held on 24th January 2017 at Geilston Hall, Cardross are also relevant.

*"The site is bounded to the west by Darleith Road and to the east by a continuation of Barrs Road which is currently a farm track. The most significant determining issue relating to this application relates to roads matters and in particular the provision of a safe vehicular access route from the A814 through the existing residential area to the*

*site. Many of the objections relate to road and access concerns. A great deal of discussion has taken place between Council officers and the Applicant's transport consultants on this aspect of the proposal and this has included discussions with the Council's Senior Management including the Head of Roads and Amenity Services and the Head of Planning and Regulatory Services."*

*"Campbell Divertie then provided background on the thought process, the detailed considerations and the consultations with various members of Cardross to eventually come to the conclusion that Darleith Road would be the best route to serve the majority of the traffic from this site and also provided details on how the design of the road improvements have been developed to create the scheme that is now before Members today.*

*He advised Members of early discussions which took place in July 2005 regarding a proposal which looked at traffic using both the east and west routes (Barrs Road – Muirend Road and Darleith Road). The initial thoughts were this was a good idea to split the traffic between the two routes. However, when taking a closer look, both Darleith Road and Barrs Road have lengths of continuous parked cars reducing the usable road space to a single lane which requires the good will of drivers to give and take in order to continue their journeys. He referred to the number of houses serving both routes and said that the east side was by far the busiest route serving over 300 houses. These houses have been built over a number years from the mid 1930's through to last houses being built in Kilmahew Avenue in the mid 1980's.*

*He stated that the roads serving this area have been added to in a progressive manner with no improvements carried out. Many of the houses on the east side are served with single driveways with the residents having to reverse in or out into the road. As car ownership has increased over the years there is now more of this type of manoeuvre and there are always cars parked on these streets.*

*On the west side, Darleith Road, there are less cars currently using this route. However, like Barrs Road, there is a long length of parked cars on the one side, therefore reducing the road to a single lane, which again relies on the good will of drivers to give and take to continue their journeys. Currently what happens when there are cars travelling in opposite directions, some drivers try to bully their way forward and you have a stand-off situation. Also to allow the oncoming driver the chance to proceed the driver tends to speed up and thereafter the waiting car speeds up to get through before another cars appears. Generally all drivers are in a rush to pass the line of parked cars*

*When comparing the two routes and their junctions onto the Main road, Muirend Road to the east is more than adequate with good visibility sight lines in both directions and Darleith Road is similar. Muirend Road on occasions has cars parked near the junction as people nip into the local shops, however, the first section of Darleith Road is in general always clear of parked cars because there are no houses with direct frontage onto the road and the shops are some distance away.*

*Returning to the issue of the long length of parked cars on both Darleith Road and Barrs Road. This is particularly the case in the evenings and weekends*

*On Darleith Road, midway between Barrs Terrace and Mill Road, it would be possible to restrict car parking on the east side at the mid-point and create a formal passing place. This would reduce the length that drivers have to travel to pass each other which in turn, reduces the speed of the vehicles.*

*He advised of an opportunity to provide spaces on the opposite side of the road which means the residents still have spaces outside their house. They can look and see their cars and if they are carrying shopping from their car there is no need to walk any further than they do so now.*

*Looking at the same situation on Barrs Road and the continuous length of parked cars on the west side, there is no land available on the opposite side to provide alternative parking so to try and create a formal passing place or passing places is not possible without the existing residents losing their current spaces in front of their homes with no alternative provision.*

*Council Roads Officers and local Councillors are aware that parking issues between neighbours can be a very emotive subject and this has led to many neighbourhood disputes with many requests for the council to fix it, this happens regularly. The importance of car parking for our senior members within the community to allow them the opportunity to park close to their homes is very important to their quality of life and that of their carers.*

*Detailed discussions over many months and years mainly informal with various members and groups of the village, concluded that the initial thought to split the traffic both east and west was not such a good idea.*

*A further point to consider, is the potential pedestrian movements from the proposed site. This concluded that with most of the shops, the station, the post office all being to the east of the village and with a continuous footway available to the local primary school, the route through the eastern side of the development and continuing on the existing footways to the east side would be the shortest and safest routes and should be supported.*

*Mr Divertie advised that before this site was included within the Council's Local Development Plan as a designated housing allocation, he and the former Area Road's Engineer had concluded that should this site be taken forward for residential development and to ensure the minimum impact on the existing community of Cardross, the focus on vehicular movements should be predominantly taken from Darleith Road with a small number being permitted down the east side on Barrs Road. This option was subsequently discussed with the Council's strategic planners and the Head of Roads.*

*This was also recognised by the Reporter who then approved this site as a housing allocation. Therefore what is proposed today is not something that has just been dreamed up between the Applicant and myself."*

Both these documents conclude that the primary route to access the site should be Darleith Road and not as the route currently proposed by the applicant.

An additional change to the road network which has occurred after the public hearing and the Council's decision to support the in principle application is that the former Muirholm Hotel located on Barrs Road has been redeveloped and is now a retail outlet.



The Coop opened in October 2017 and this has increased the level of pedestrian and vehicular movements around Barrs Road, Ritchie Avenue and Muirend Road. This has been confirmed by the local community and observations from the local roads officers. It is acknowledged that no traffic surveys have been taken to support this change in traffic movements, however, it is a factor that should be considered in the assessment of this proposal to change the route from the west to the east.

The applicant's access appraisal is critical of the council's lack of hard traffic survey data, however, the roads officers during their assessment of this site have considered this location from the initial enquiry in 2004 and in more detail between 2011 and 2017. They have worked in conjunction with the developer's transportation consultants and have taken on board the views of the local members, the community council, local residents and the assessments of a number of the council's roads officers.

The applicant's access appraisal submission is based on two days traffic survey data carried out in March 2018 and is supported by a road safety review by Stewart Paton Associates. This review was carried out in their offices in New Stevenson supported by the benefit of a one day site visit on 16th February 2018.

The authors of this report are qualified professionals and have presented their view with the recent information gathered. It is not the intention to critique this report in detail, however, the report does recognise a number of the points of concern considered by the Council's officers.

*"Informal on street parking is present on the proposed route, this has the effect of providing horizontal shift / traffic calming and speed reduction, however, they recognise that this can lead to occasional queuing and potential driver behaviour."*

The report refers to a member of the review team being familiar with similar road layouts on either side of Corstorphine Hill in Edinburgh. Argyll & Bute Council's Roads officers are not familiar with this location in Edinburgh therefore it would be inappropriate to make comment. The Council's assessment has been based on many years of experience observing this road network at this location and over the years attending to the many requests from the local Members, Community Council and residents with regards to local car parking concerns and traffic issues.

Taking account of the above which highlights the observations submitted by roads to the planners and the details submitted to the planning committee at the PPP application hearing, it is confirmed that the Barrs Road route from Kirkton Farm was not a suitable traffic route to support this scale of development.

Darleith Road is confirmed as the best option in the interest of road safety and least impact on the local residents. This route was identified at the early stages of the housing allocation planning process, confirmed by the Scottish Government's reporter and supported by the developer's planning and transportation consultants. The road conditions included within the approved PPP application ensured that the road improvements were in place prior to construction works commencing on the development site. Therefore minimising the impact on the residents and providing a safe access route during the construction phase of the development and supporting the vehicle movements on occupation of the new dwellings.

The applicant's access appraisal has been based upon a development of 136 units and indicates that this would generate over 100 vehicle movements in both the morning and evening peak periods. These figures are accepted and are not in dispute.

The opportunity to review this decision and examine the current circumstances confirms that the early assessments were appropriate and that the proposed routes via Barrs Road, Ritchie Avenue and Muirend Road are not suitable. The opportunity to reconsider the potential options to provide off site road improvements to allow this route to be acceptable to support the development were also investigated.

On Barrs Road in particular in order to over-come the existing long lengths of parked cars on the west side, the provision of a formal passing place or places would be required. However, this would remove existing parking provision with no adjoining areas to provide alternative parking for the existing residents, therefore this is not considered to be acceptable. The applicant's access assessment includes details for on street parking and suggests that there are sufficient alternative areas available. This would require the existing residents to park further from their homes and this is not considered to be acceptable.

The thought of introducing further speed calming measures is a possibility, however, speed humps have gone out of favour and are not supported by the emergency services as they are not able to achieve their response time. This leads road designers to considered horizontal lateral shift. i.e. chicanes or road narrowing. Again due to the existing road layout and the existing driveways it would be doubtful to install these build outs within the recommended spacing. Again this method of traffic calming would have an impact on existing resident parking which has been identified as not being acceptable to the community.

A further consideration is that of pedestrian movement in particular at the location where the new development meets the existing public road/footway network. The focus of the access appraisal has been mainly concentrated on trip generation, traffic movements and car parking. It is well established that most of the village facilities are to the east of the site. It is not unreasonable to anticipate that the occupants of the new dwellings within the development would mainly take pedestrian access from the eastern side of the site onto Barrs Road. The proposal to use Barrs Road as the primary vehicle traffic route creates a conflict with pedestrian movements. This is further complicated by the fact that there is no footway on west side of Barrs Road on the final approach to the development. This adds to the risk that the Darleith Road access solution does not have.

A further consideration is that young children from the new development attending the local primary school would be required to cross Barrs Road twice going to school and twice when returning home, this results in a total of four crossings per day. There is an aspiration for a new dedicated pedestrian access from the development into the school, however, there is no guarantee this can be delivered. This school like all schools has security issues and a further access may not be supported.

### **D Conclusion**

The proposed removal of conditions 4 and 5 and the variation of condition 7 would not be acceptable. The alternative access to the site that has been proposed raises significant road safety concerns which have been highlighted in this report. No

acceptable mitigation to address these concerns has been identified. This application is therefore contrary to Policy LDP 11 which requires an appropriate standard of access to be delivered to serve new developments; Policy LDP SG TRAN 4 because the proposal would be detrimental to road safety and Policy LDP SG TRAN 5 as no off-site road improvements have been proposed to address the issues with these substandard public approach roads.

**Appendix B: List of Contributors**

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 Edward McCulloch 24 Muirend Road Cardross Dumbaron Argyll And Bute 17.07.2018  
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 Mrs Emma Mcpherson 32 Barrs Road Cardross Dumbaron Argyll And Bute 16.07.2018  
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Karen Veitch Thomson 5 Burnfoot Cardross Dumbarton Argyll And Bute 25.07.2018  
Mrs Jean Carter 20 Muirend Road Cardross Dumbarton Argyll And Bute 15.07.2018  
Mr Michael Crowe 3 Scott Gardens Main Road Cardross Dumbarton Argyll And Bute 24.07.2018  
Mr Stewart McKenna Maxwell 2 Kilmahew Court Cardross Dumbarton Argyll And Bute 24.07.2018  
Mr James Duncan 11 Muirend Road Cardross Dumbarton Argyll And Bute 11.07.2018  
Euan Fleming 1 Kilmahew Avenue Cardross G82 5NG 24.07.2018  
A Gray 6 Ritchie Avenue Cardross Dumbarton Argyll And Bute 10.08.2018  
Brian T Brogan 6 Kilmahew Drive Cardross Dumbarton Argyll And Bute 10.08.2018  
M D Brogan 6 Kilmahew Drive Cardross Dumbarton Argyll And Bute 10.08.2018  
John E Alderson 8 Barrs Road Cardross Dumbarton Argyll And Bute 10.08.2018  
Mr David Ward Connella Main Road Cardross Dumbarton Argyll And Bute 18.07.2018  
Miss Paula Grafton 27 Kilmahew Avenue Cardross Dumbarton Argyll And Bute  
Mr Hugh Hamill 34 Muirend Road Cardross Dumbarton Argyll And Bute 09.07.2018  
Moir Craven 24.07.2018  
Judith Aylward 24.07.2018  
Mark Aylward 24.07.2018  
Mr Andrew Potter Tara Main Road Cardross Dumbarton Argyll And Bute 13.07.2018  
Mr Mark McGhee 32 Muirend Road Cardross Dumbarton Argyll And Bute 16.07.2018  
Phoebe Aylward 24.07.2018  
Dr Dorothy MacDonald 18 Kilmahew Avenue Cardross Dumbarton Argyll And Bute 24.07.2018  
James C Thomson 30 Muirend Road Cardross Dumbarton Argyll And Bute 12.07.2018

Ian Fleming No Address Given 25.07.2018  
Forbes Hart 49 Barrs Road Cardross Dumbarton Argyll And Bute 25.07.2018  
Mrs Martha Hart 49 Barrs Road Cardross Dumbarton Argyll And Bute 25.07.2018  
Pamela Stevenson 21 Kilmahew Avenue Cardross Dumbarton Argyll And Bute  
25.07.2018  
Margaret Duggan Kirkton Cottage Darleith Road Cardross Dumbarton 25.07.2018  
Mrs Lesley Miller Hillview Darleith Road Cardross Dumbarton 25.07.2018  
Stuart Hunter 13 Braid Drive Cardross Dumbarton Argyll And Bute 03.08.2018  
Dr Gillian Hunter 13 Braid Drive Cardross Dumbarton Argyll And Bute 03.08.2018  
Peter Guy Macdonald 2 Muirend Road Cardross Dumbarton Argyll And Bute 03.08.2018  
Mrs C Court 3 Fairway Cardross Dumbarton Argyll And Bute 25.07.2018  
Mr Peter McPherson 32 Barrs Road Cardross Dumbarton Argyll And Bute 25.07.2018  
Professor Karen Renaud 8 Kilmahew Avenue Cardross Dumbarton Argyll And Bute  
06.08.2018  
Jessie Brazier 27 Barrs Road Cardross Dumbarton Argyll And Bute 23.07.2018  
Wendy Clarke 58 Kirkton Road Cardross Dumbarton Argyll And Bute 23.07.2018  
Aileen Thomson 30 Muirend Road Cardross Dumbarton Argyll And Bute 23.07.2018  
Mrs E Daldry 18 Barrs Terrace Cardross Dumbarton Argyll And Bute 23.07.2018  
Mavourneen Watkins Darleith Stables House Darleith Road Cardross Dumbarton  
23.07.2018  
Dr Nicola Craise St Meddans Main Road Cardross Dumbarton 23.07.2018  
Hannah Prentice 41 Barrs Road Cardross Dumbarton Argyll And Bute 30.07.2018  
Caroline Forbes 28A Barrs Road Cardross Dumbarton Argyll And Bute 30.07.2018  
Roger Forbes 28A Barrs Road Cardross Dumbarton Argyll And Bute 30.07.2018  
Mr Gerard Lindsay Flat 1/2 3 Castle Road Dumbarton G82 1AJ  
A Walker 11 Ritchie Avenue Cardross Dumbarton Argyll And Bute 27.07.2018  
David Prentice 41 Barrs Road Cardross Dumbarton Argyll And Bute 27.07.2018  
Mrs Grace Duncan 11A Muirend Road Cardross Dumbarton Argyll And Bute 27.07.2018  
Kirstine Young 5 Kilmahew Court Cardross Dumbarton Argyll And Bute 21.08.2018  
John Young 5 Kilmahew Court Cardross Dumbarton Argyll And Bute 21.08.2018  
Mary Paterson Flat 1 Cedarwood Court Main Road Cardross 22.08.2018  
Mrs Allyson Preston Darleith Lodge Darleith Road Cardross Argyll And Bute G82 5HN  
01.08.2018  
Mr Richard Smith 8 Kilmahew Drive Cardross Dumbarton Argyll And Bute 27.07.2018  
Sharon Cuttill 19.07.2018  
Gillian Macdonald Kirkton House Darleith Road Cardross G82 5EZ 19.07.2018  
Brian Craven 23.07.2018  
C Noel Glen 1 Kilmahew Drive Cardross Dumbarton Argyll And Bute 31.07.2018  
Kirsty Sweeney 24 Barrs Road Cardross Dumbarton Argyll And Bute 10.08.2018  
Ellen S Sandison 10 Muirend Road Cardross Dumbarton Argyll And Bute 10.08.2018  
Margaret Blair 3 Kilmahew Court Cardross Dumbarton Argyll And Bute 23.07.2018  
Stewart H Macdonald Kirkton House Darleith Road Cardross Dumbarton 23.07.2018  
Mr Stephen Allcroft 15 Barrs Road Cardross Dumbarton Argyll And Bute 01.08.2018  
Mrs Sandra Grant 7 Muirend Road Cardross Dumbarton Argyll And Bute 19.07.2018  
Graeme Fleming 1 Kilmahew Avenue Cardross 25.07.2018  
Carol Fleming 1 Kilmahew Avenue Cardross Dumbarton Argyll And Bute 25.07.2018  
Inness Veitch Thomson 5 Burnfoot Cardross Dumbarton Argyll And Bute 26.07.2018  
Mr Neil Sandison 10 Muirend Road Cardross Dumbarton Argyll And Bute 06.08.2018  
Dr Cameron Grant 39 Barrs Road Cardross Dumbarton Argyll And Bute 11.07.2018  
Stephen Telford 6 Barrs Road Cardross Dumbarton Argyll And Bute 13.07.2018  
Brenda Telford 6 Barrs Road Cardross Dumbarton Argyll And Bute 13.07.2018  
Mr John Watkins Darleith Stables House Darleith Road Cardross Dumbarton Argyll And  
Bute  
Mr Johan Machtelinckx 2 Ritchie Avenue Cardross Dumbarton Argyll And Bute  
Dr Claire McGonagle Flat 1/2 3 Castle Road Dumbarton G82 1AJ 13.08.2018  
Mrs Donna Lamond 20 Barrs Road Cardross Dumbarton Argyll And Bute 23.07.2018  
Mairi Harvey Barrachan Darleith Road Cardross Dumbarton 16.08.2018

Robert Harvey Barrachan Darleith Road Cardross Dumbarton 16.08.2018  
Dorothy Quinn 10 Bruce Court Cardross Dumbarton Argyll And Bute 17.07.2018  
James G Stevenson 21 Kilmahew Avenue Cardross Dumbarton Argyll And Bute  
20.07.2018  
Aidan Quinn 47 Barrs Road Cardross Dumbarton Argyll And Bute 20.07.2018  
Megan Macmillan 47 Barrs Road Cardross Dumbarton Argyll And Bute 20.07.2018  
Peter Radford 22 Muirend Road Cardross Dumbarton Argyll And Bute 20.07.2018  
Donald Blair 3 Kilmahew Court Cardross Dumbarton Argyll And Bute 20.07.2018  
Beryl Middleton, Kindar, Reay Avenue, Cardross Argyll and Bute 06.09.18

**Support**

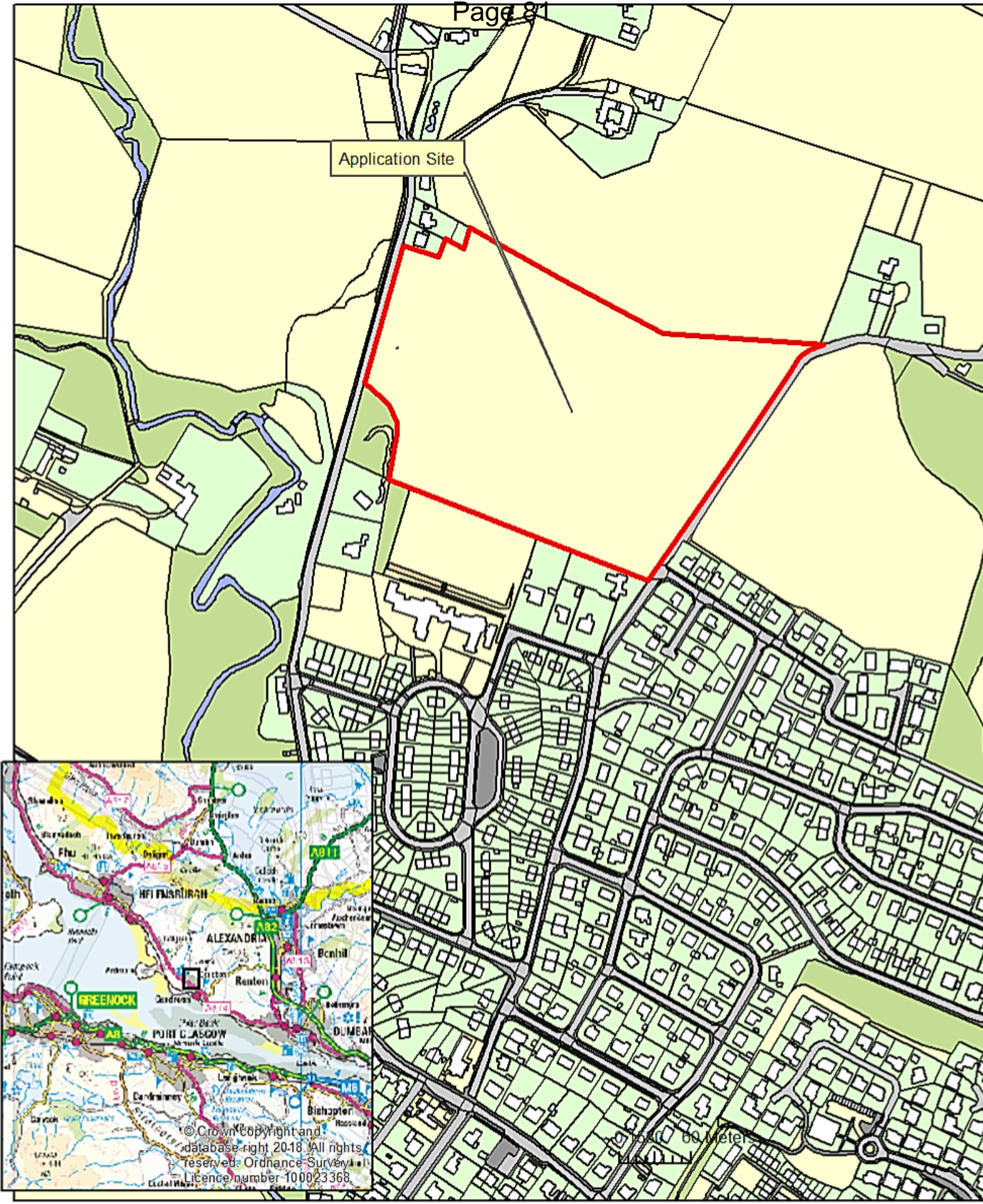
**Representation**

Jackie Baillie Constituency Office 6 Church Street Dumbarton G82 1QL 25.07.2018

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Application Site



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**Location Plan Relative to planning permission: 18/01444/PP**



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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

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Reference No: 18/01500/PP  
Planning Hierarchy: Local Application  
Applicant: Mr and Mrs Michael Crowe  
Proposal: Erection of dwellinghouse and formation of access  
Site Address: Garden Ground of 34 Kirkton Road, Cardross, Argyll and Bute, G82 5PL

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## **DECISION ROUTE**

Local Government Scotland Act 1973

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### **(A) THE APPLICATION**

#### **i) Development Requiring Express Planning Permission**

Erection of dwellinghouse and formation of access

#### **ii) Other Specified Operations**

Connection to existing public water main

Connection to existing public sewer

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### **(B) RECOMMENDATION:**

It is recommended that planning permission be approved subject to conditions.

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### **(C) HISTORY:**

18/00026/PP - Erection of dwellinghouse and formation of access – Withdrawn 16.07.2018

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### **(D) CONSULTATIONS:**

Roads Helensburgh And Lomond - 23.08.2018 - No objections subject to conditions

Scottish Water - 11.07.2018 - No objections

Scottish Environmental Protection Agency - 20.07.2018 - No objections

Cardross Community Council - 24.08.2018 – Objects on loss of off-street parking spaces.

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### **(E) PUBLICITY: N/A**

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### **(F) REPRESENTATIONS:**

13 letters of objection were received

#### **i) Representations received from:**

**Objection**

Edward C Lee, No Address Given 31.07.2018  
Lorna J Lee, No Address Given 31.07.2018  
Marion & David Gray No Address Given 03.08.2018  
Mr Iain McCormick 9 Laggary Road Rhu Helensburgh 30.07.2018  
Mrs Marion McCormick 36 Kirkton Road Cardross  
Miss Alison McCormick 40 Kirkton Road Cardross  
Caroline Forbes 28A Barrs Road Cardross 09.08.2018  
Ritchie Marshall 28 Barrs Road Cardross 09.08.2018  
Susan Marshall 28 Barrs Road Cardross 09.08.2018  
Martha Hart 49 Barrs Road Cardross 09.08.2018  
Forbes Hart 49 Barrs Road Cardross 09.08.2018  
R D Forbes 28A Barrs Road Cardross 09.08.2018  
Mr R Phillips 32 Kirkton Road Cardross 30.07.2018

**ii) Summary of issues raised:**

Parking is an issue as this will take away off street parking spaces in an already congested area.

*Comment: The Area Roads Manager has no objections. It is noted that on street parking in this area, like many other residential areas in Argyll & Bute, is a constant source of neighbourhood concern. This proposal provides off-street parking for both the existing dwelling and the new dwelling and accords with the Council's local plan and supplementary guidance.*

We have problems with the drains being frequently blocked, a new house will add to this.

*Comment: Scottish Water has no objections.*

The safety of the nearby school children is a concern with all of the construction traffic.

*Comment: The Area Roads Manager has no objections on road safety.*

This new building will be out of character and not in keeping with the existing street.

*Comment: The new house will be similar in design and will be of a scale to match the existing dwellings. It is considered that it is in keeping with the existing area.*

The new house would take up a considerable area of land from house 34 adding further damage to the natural green area of Kirkton Road.

*Comment: This land is garden ground and is currently fenced off. There is a large area of green open space to the front of the terraces.*

There is an issue regarding ownership of land between houses number 34 and 38 Kirkton Road.

*Comment: Land ownership is not a material planning consideration.*

The house will look directly into my back garden (40 Kirkton Road) meaning a significant loss of privacy.

*Comment: 40 Kirkton Road is to the north of the proposal. The only window to the upper floor of this elevation is a hall window which is a non-habitable room, some 24 metres from the boundary. Therefore it is considered that there will not be a loss of privacy.*

This house will overshadow my garden (number 40 Kirkton Road) leading to loss of daylight.

*Comment: Number 40 Kirkton Road is 3 houses away from the development site. The proposed new building follows the building line of the existing terrace. The extension to the rear is single storey and will not have an effect on daylight.*

This is overcrowding and sub-dividing the plot will lead to a smaller garden area of the existing house which will reduce its desirability.

*Comment: It is not considered that this is overcrowding. The proposed dwellinghouse will be left with a garden larger than some of the gardens in the surrounding area and the existing dwelling will be left with a garden of comparable size to neighbouring properties.*

Houses to the rear will have an additional bedroom overlooking their properties/gardens.

*Comment: The ground floor windows are approximately 10 metres from the boundary. There is screening so there is no issue with loss of privacy from this window. The upper floor windows are approximately 14.5 metres from the boundary and another 20 metres to the dwelling. There is already a degree of overlook in this estate given the existing density. It is considered that any increase in overlook is minimal and within acceptable limits.*

This will set a precedent.

*Comment: Each application is judged on its own merits.*

I am the neighbouring property to number 34 and already have issues with access and my bins. This is going to be a nightmare.

*Comment: The Area Roads Manager has no objections. There will still be access for the bins to be taken out.*

This structure will directly overlook my back garden (number 36) meaning loss of privacy.

*Comment: There are no habitable room windows to the north elevation, which is the only elevation which could overlook number 36. The east elevation windows will not have a direct view into the garden since it is orientated north-east.*

The structure will overshadow my property (number 36).

*Comment: This revised application has moved the house in line with the existing dwelling and the two storey element to the rear has been removed and is now single storey. This will not have a significant impact on daylight to the neighbouring property given the existing situation and the high density of the surrounding area.*

The disruption this will cause will be severe and will affect me on a daily basis.

*Comment: Construction traffic is not a material consideration.*

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**(G) SUPPORTING INFORMATION**

- i) Environmental Statement:: Not Required
- 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 e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: N

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**(H) PLANNING OBLIGATIONS**

None Required

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:**

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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.**



<b>Local Development Plan Policies</b>
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- Policy LDP DM 1 – Development within the Development Management Zones
- Policy LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment
- Policy LDP 9 – Development Setting, Layout and Design

<b>Local Development Plan – Supplementary Guidance Policies</b>
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- 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 other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.**

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

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**(L) Has the application been subject of statutory pre-application consultation (PAC):**

No Pre-application consultation required

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

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

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**(O) Requirement for hearing (PAN41 or other):** The application has attracted 13 letters of objection together with an objection from Cardross Community Council. As such consideration has to be given to holding a hearing. The site is within the settlement boundary of Cardross where there is a presumption in favour of development subject to site specific criteria being met. Concerns have been raised regarding loss of off-street parking and road safety. However, the Area Roads Manager has indicated no objections subject to conditions. Objections have also been raised concerning impact on sunlight and daylight. This is a re-submission of a previous planning application (18/00026/PP) which was withdrawn. The current application seeks to address issues that were raised during the processing of the previous application with regards to daylight/sunlight. The two storey element to the rear has been replaced by a single storey extension and the house has been brought forward to be in line with the existing terrace. The parking arrangement to the front has been altered. The new house will stand alone rather than the upper floor being attached to the end terrace. The proposed plot is considered to be acceptable at this location and to be of a density comparable with other plots in the area. The scale and design is acceptable and there are no issues with regards to loss of amenity to surrounding properties or the wider area. Given the above it is not considered that a hearing would give any added value to the decision making process.

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

Planning permission is sought for the erection of a dwellinghouse at 34 Kirkton Road, Cardross. This is the garden ground of an end terrace comprising 4 ex-Local Authority dwellings. The site is within the settlement boundary of Cardross, where there is a presumption in favour of development subject to site specific criteria being met.

This is a re-submission of a previous planning application (18/00026/PP) which was withdrawn. The current application seeks to address issues that were raised during the processing of the previous application with regards to daylight/sunlight. The two storey element to the rear has been replaced by a single storey extension and the house has been brought forward to be in line with the existing terrace. The parking arrangement to the front has been altered. The new house will stand alone rather than the upper floor being attached to the end terrace.

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. 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.

The existing dwellinghouse sits in a corner plot with a site area of 465 square metres, which is large in comparison with plot sizes in the surrounding area. The proposal is to sub-divide the plot, leaving the existing dwelling with a site area of 160 square metres and giving the new dwellinghouse a site area of 305 square metres. The newly formed plot will be more or less triangular in shape, with a frontage of 4.7 metres, widening to 17.5 metres at the rear. It is considered that a dwellinghouse, with a scale and density in keeping with the surrounding area can be accommodated on this plot whilst maintaining the character and amenity of the surrounding area and neighbouring properties.

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

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**(R) Reasons why Planning Permission or a Planning Permission in Principle should be granted**

Taking account of the above, it is recommended that planning permission be granted. The site is within the settlement boundary where there is a presumption in favour residential developments. The proposed plot is considered to be acceptable at this location and it is considered to be of a density comparable with other plots in the area. The scale and design is acceptable and there are no issues with regards to loss of amenity to surrounding properties or the wider area. It is therefore considered that the proposal is in accordance with Policies LDP DM1, LDP 3, LDP 9, LDP 11, SG LDP HOU 1, SG LDP - Sustainable Siting and Design Principles and SG LDP TRAN 6 of the Argyll & Bute Council Local Development Plan.

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

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**(T) Need for notification to Scottish Ministers:**

No

**Reviewing Officer:** Howard Young

**Date:** 3.09.18

Angus Gilmour  
Head of Planning, Housing and Regulatory Services



**CONDITIONS AND REASONS RELATIVE TO APPLICATION: 18/01500/PP**

1. The development shall be implemented in accordance with the details specified on the application form dated 02/07/2018 and the approved drawing reference numbers 2339..11, 2339..12, 2339..13, 2339..14, 2339..15 and 2339..16 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. Notwithstanding the details on the approved plans, the dwellinghouse shall be finished in a render of a colour similar to that of the neighbouring terrace, details of which shall be submitted to and approved in writing by the Planning Authority prior to works commencing on site.

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

3. The parking provision for the existing house shall be in place prior to commencement of construction of the proposed dwelling. The parking provision for the proposed house shall be in place prior to occupation.

Reason: In the interests of road safety.

4. The provision of surface water drainage is required to be installed at the low point of each driveway (heel of the public footway) to ensure that no surface water spills onto the public footway. Details of which shall be submitted to and approved in writing by the Planning Authority. These drainage channels shall be in place prior to occupation of the dwellinghouse.

Reason: In the interests of road safety and to stop surface water from cascading onto the public road.

5. The first 3 metres of the driveways/parking areas shall be surfaced in a bituminous material or other approved hard material as agreed in writing by the Planning Authority.

Reason: In the interests of road safety and to prevent loose material spilling onto the public footway.

**NOTE TO APPLICANT**

- 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.

**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 18/01500/PP**

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

The site is within the settlement boundary of Cardross where there is a presumption in favour of development subject to site specific criteria being met. This is the garden ground of an end terrace comprising 4 ex-Local Authority dwellings.

**B. Location, Nature and Design of Proposed Development**

The existing dwellinghouse sits in a corner plot with a site area of 465 square metres, which is large in comparison with plot sizes in the surrounding area. The proposal is to sub-divide the plot, leaving the existing dwelling with a site area of 160 square metres and giving the new dwellinghouse a site area of 305 square metres. The newly formed plot will be more or less triangular in shape, with a frontage of 4.7 metres, widening to 17.5 metres at the rear.

The proposed new house would have a footprint of 67 square metres and will accommodate 2 bedrooms. The proposed new dwelling will follow the building line of the existing dwelling and from the front will be the same height, width and will have the same roof pitch. The proposed finish is facing brick. It is considered that this is not acceptable at this location and that the building should be rendered in a similar colour to the surrounding houses in order to integrate the development with its surroundings. A condition will be placed on the consent to this effect. It will have a single storey extension to the rear which will allow for a large kitchen. It is considered that the scale and design is acceptable and in accordance with the Local Development Plan.

There will be no windows to the south elevation and to the north elevation there will only be narrow hall windows, which are non-habitable and as such do not affect privacy. To the rear there will be patio doors leading to the garden area at ground floor level and at first floor level there will be a bedroom window. The ground floor windows are approximately 10 metres from the boundary. There is screening so there is no issue with loss of privacy from this window. The upper floor windows are approximately 14.5 metres from the boundary and another 20 metres to the dwelling giving a 35 metre window to window distance. There is already a degree of overlook in this estate given the existing density and it is considered that any increase in overlook is minimal and within acceptable limits.

There were issues in relation to loss of sunlight/daylight with the original application and these have been dealt with by the house being brought forward on the plot and in line with the existing terrace and for the two storey element at the rear being reduced to single storey. This takes away any impact on loss of light to the existing property and reduces any loss of daylight to surrounding properties garden areas. Although at some points in the day there may be a slight overshadowing in some areas of neighbours garden, this is within acceptable limits.

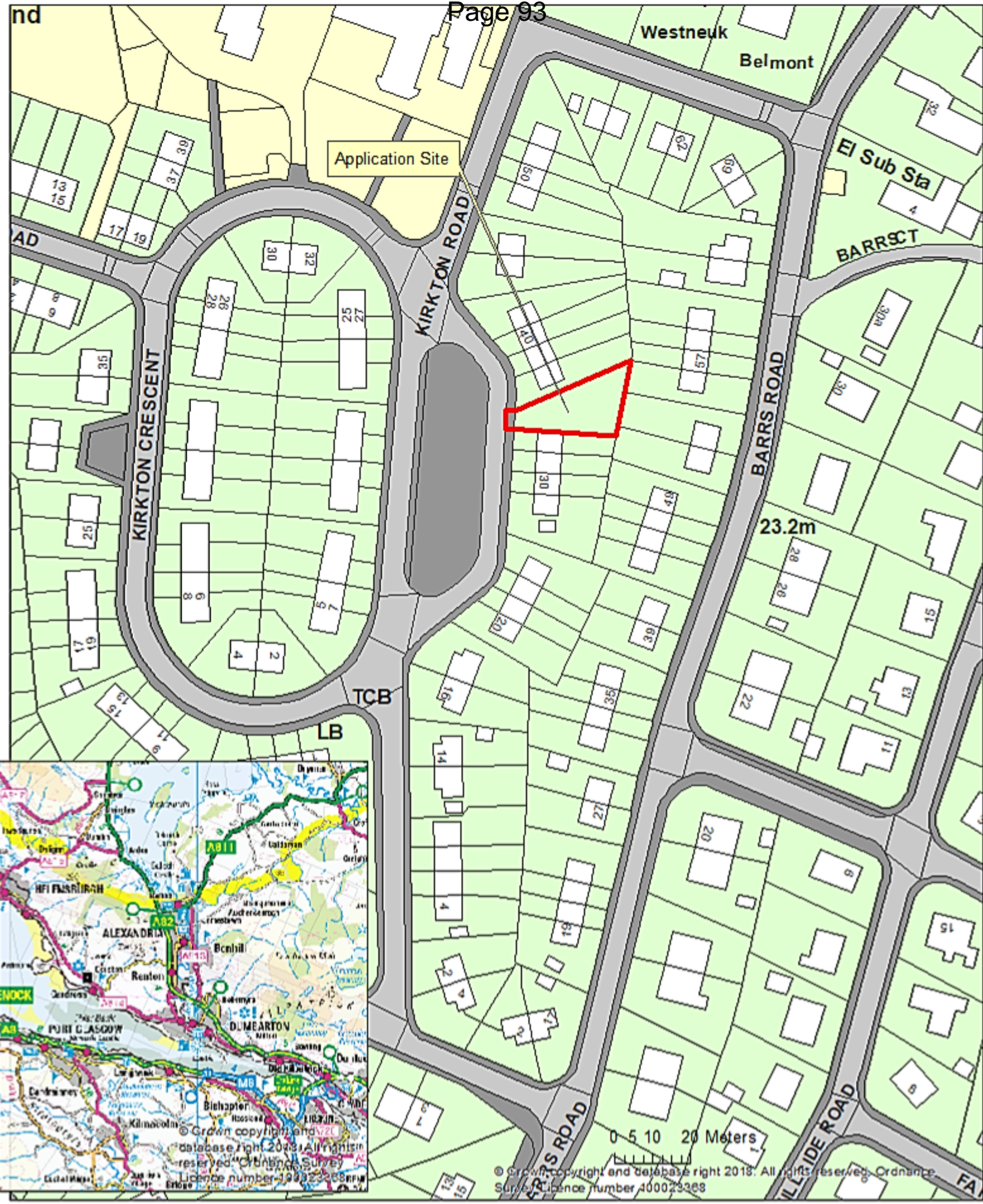
**E. Road Network, Parking and Associated Transport Matters**

A new vehicular access will be taken off of Kirkton Road. A monoblock driveway would be formed with parking for 2 cars. The Area Roads Manager has no objections to the proposal.

**G. Conclusion**

Taking account of the above, it is recommended that planning permission be granted. The site is within the settlement boundary where there is a presumption in favour residential developments. The proposed plot is considered to be acceptable at this location and it is considered to be of a density comparable with other plots in the area. The scale and design is acceptable and there are no issues with regards to loss of amenity to surrounding

properties or the wider area. It is therefore considered that the proposal is in accordance with Policies LDP DM1, LDP 3, LDP 9, LDP 11, SG LDP HOU 1, SG LDP - Sustainable Siting and Design Principles and SG LDP TRAN 6 of the Argyll & Bute Council Local Development Plan



**Location Plan Relative to planning permission: 18/01500/PP**



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