



Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Customer Services
Executive Director: Douglas Hendry

Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD

17 October 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, 24 OCTOBER 2018** at **10:45 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 17 September 2018 at 10.00 am (Pages 5 - 10)
- (b) Planning, Protective Services and Licensing Committee 17 September 2018 at 10.20 am (Pages 11 - 18)
- (c) Planning, Protective Services and Licensing Committee 17 September 2018 at 10.40 am (Pages 19 - 22)
- (d) Planning, Protective Services and Licensing Committee 17 September 2018 at 11.00 am (Pages 23 - 24)
- (e) Planning, Protective Services and Licensing Committee 19 September 2018 (Pages 25 - 28)
- (f) Planning, Protective Services and Licensing Committee 19 September 2018 at 2.00 pm (Pages 29 - 30)

4. **CIVIC GOVERNMENT (SCOTLAND) ACT 1982: TAXI FARE SCALE REVIEW**
Report by Executive Director – Customer Services (Pages 31 – 36)
5. **THE GULLY PARTNERSHIP LLP: ERECTION OF DWELLINGHOUSE AND FORMATION OF VEHICULAR ACCESS: LAND SOUTH EAST OF THE LIBRARY, BAILE MOR, ISLE OF IONA (REF: 18/00931/PP)**
Report by Head of Planning, Housing and Regulatory Services (Pages 37 – 58)
6. **MR AND MRS M ROBERTSON: ERECTION OF DWELLINGHOUSE: LAND WEST OF PRETORIA, GLENSHELLACH ROAD, OBAN (REF: 18/01223/PP)**
Report by Head of Planning, Housing and Regulatory Services (Pages 59 – 76)
7. **MRS JEAN MOFFAT: INSTALLATION OF REPLACEMENT WINDOWS (RETROSPECTIVE): CRAIGMORE PIER COTTAGE, MOUNTSTUART ROAD, ROTHESAY, ISLE OF BUTE (REF: 18/01612/PP)**
Report by Head of Planning, Housing and Regulatory Services (Pages 77 – 86)
8. **ARGYLL AND BUTE COUNCIL: ERECTION OF NEW LEISURE BUILDING INCLUDING SWIMMING POOL, IMPROVED FLOOD DEFENCES, NEW CAR PARK INCLUDING PUBLIC REALM WORKS AND DEMOLITION OF EXISTING SWIMMING POOL: HELENSBURGH SWIMMING POOL, 1B WEST CLYDE STREET, HELENSBURGH (REF: 18/01614/PP)**
Report by Head of Planning, Housing and Regulatory Services (Pages 87 – 126)
9. **D HILL PROPERTIES: PROPOSAL OF APPLICATION NOTICE FOR PROPOSED HOUSING DEVELOPMENT (UP TO ONE HUNDRED UNITS IN NUMBER): LAND WEST OF ALEXANDER STREET, DUNOON (REF: 18/02005/PAN)**
Report by Head of Planning, Housing and Regulatory Services (Pages 127 – 132)

REPORT FOR NOTING

10. **RES LTD (VIA SCOTTISH GOVERNMENT CONSENTS UNIT): S36 CONSULTATION FOR PROPOSED KILLEAN WIND FARM: KILLEAN WIND FARM, TAYINLOAN (REF: 16/03400/S36)**
Report by Head of Planning, Housing and Regulatory Services (Pages 133 – 144)

EXEMPT REPORT FOR DECISION

- E1 11. ASSESSMENT OF REQUEST FOR TREE PRESERVATION ORDER**
Report by Head of Planning, Housing and Regulatory Services (Pages 145 – 150)

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

Tel. No. 01546 604392

This page is intentionally left blank

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on MONDAY, 17 SEPTEMBER 2018**

Present:

Councillor Rory Colville (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor Graham Archibald	Councillor Richard Trail
Hardie	

Attending:

Charles Reppke, Head of Governance and Law
 Graeme McMillan, Trainee Solicitor
 Ally Evans-Jones, Trainee Solicitor
 John Berry, Applicant
 John Black, Objector
 Jim Scott, Objector's Agent

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman, David Kinniburgh, Roderick McCuish and Jean Moffat.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR'S LICENCE: J BERRY (DUMBARTON)

The Chair welcomed everyone to the meeting and introductions were made by all parties present. The Head of Governance and Law outlined the procedure that would be followed and the Chair then invited the Applicant to speak in support of his application.

APPLICANT

Mr Berry advised that he was applying for a Taxi Operator's Licence as going by the Council's records to date 7 licences were not renewed by the end of June 2018. He also advised that the Council would not be adding any more licences, only replacing those for renewal. He pointed out that only 30 of the 48 Operators in Helensburgh and Lomond used a booking office. He commented that some Operators were of retirement age and were only working 2 or 3 days per week. He said that sometimes there were only 2 or 3 cars sitting at the rank, even during the peak time of 4 pm – 6 pm. He advised that if the Taxi Survey was carried out again this would be proved. He referred to a new licence being granted last year for a wheelchair accessible vehicle and advised that he has been told that this Operator mainly worked from home and only sat at the rank on a Saturday. He said that it was his company's intention to put more wheelchair accessible vehicles in Helensburgh as using these

taxis from Alexandria was currently adding £20 to a fare which local retirement homes could verify.

QUESTIONS FROM OBJECTOR

Professor Black asked Mr Berry how much he paid to purchase Trident Taxis. Mr Berry advised that Professor Black could obtain this information from Company's House.

Professor Black referred to Mr Berry stating that 7 plates have been removed and he asked Mr Berry why he thought he should get these places. Mr Berry replied that he was only applying for one plate.

OBJECTOR

Professor Black advised that he had concerns about the way these meetings were being conducted and recorded. He pointed out that he had received a copy of the Minute of 27 August 2018 and said that this was not accurate and was not reflective of the statement he had made at that meeting. Mr Reppke advised that this issue was not part of this Hearing and would be dealt with separately if Professor Black wished.

Professor Black advised that as he had stated at the meeting on 27 August 2018, it was his opinion that the Council was wasting money and was being badly run. He said that this application was in line with previous applications and was poorly dealt with by the Licensing Board. He said that the Applicant was not conducting his business as stated. He suggested that the Committee had approved another application for someone acting illegally. He stressed again that the Council was wasting money, wasting time and, as there was no current review of taxi services within Helensburgh and Lomond, the Council was in default. He said that there was no requirement in Argyll and Bute for wheelchair accessible vehicles. He said that the requirement was that any taxi has to accept a wheelchair but it does not have to be accessible and therefore the Applicant's argument was invalid. He referred to his training background and advised that he was used to analysing statistical information. He referred to the Halcrow report which was published in December 2013. He said that it was out of date and at that time concluded that there was no unmet demand for taxis in Helensburgh and Lomond. He advised that since then demand as decreased; that there was even less demand than there was then. He then gave a comprehensive critique of the report and concluded that the Council had paid £10,000 for this report which, he believed, was rubbish. He refuted the results of the Halcrow study and gave his reasons for this. He said that the conclusion in the report regarding the balance of supply and demand was incorrect. He referred to inaccuracies in street names and stated that it was deeply flawed in its methodology and conclusions. He said that the Council was in default for relying on this out of date report. He pointed out that taxi drivers were struggling to make a living and that the average wage was less than the minimum wage. He advised that there were too many taxis in the town and that granting this application would only increase fares or reduce the average wage of the taxi drivers.

MEMBERS' QUESTIONS

Councillor Trail sought and received confirmation from Mr McMillan that 7 Taxi Operator licences had lapsed since 1 July 2018 and that since the publication of the Halcrow report 9 licences had lapsed.

Councillor Douglas sought and received confirmation from Mr McMillan that at the time of publication of the Halcrow report in December 2013 there were 55 Taxi Operators and that there were currently 48. He advised that since publication of the report 9 licences had lapsed, 3 had been granted and one had been surrendered.

Councillor Colville asked Mr Berry if he knew why the 7 licences had lapsed. Mr Berry said that he believed 2 gentlemen had given theirs up due to illness. He advised that 4 of these had previously belonged to the owners of Trident Taxis and that they had to give them up as they were not the owners anymore.

Councillor Colville asked the same question to Professor Black who said that 4 of the licences belonged to the Morton family and that when the business was sold these plates should have been offered to local taxi businesses in Helensburgh.

Councillor Forrest sought clarification from either the Applicant or Objector as to whether these licences had lapsed because the Operators were not making enough money. Mr Berry confirmed that this was not the reason for the licences lapsing. Professor Black said that the business was sold in total to Mr Berry and that he believed there was some discussion that the plates would go across to his business. He advised that 2 plates were returned by Mr Cromar as he was told indirectly to return them rather than trade them in the open market as he was told this would not be permitted.

Councillor Blair referred to visiting the new subway museum in Helensburgh and commented on the good disabled access. He also commented on new homes being built with greater accessibility for people with disabilities. He said that he was interested in this application as it would mean another wheelchair accessible vehicle for the community. He said that he agreed that the report was an age away and commented that maybe the Committee could look at getting this updated and asked if either of the gentlemen would agree with him. Mr Berry replied yes. Professor Black said that he agreed with Councillor Blair's sentiments but there was no legal requirement to provide wheelchair accessible vehicles. He pointed out that there were already 2 in the area. He advised that one of these gentlemen had indicated when he submitted his application that he would run his taxi from Kilcreggan and that he was actually running from the rank in Helensburgh.

Councillor Blair asked Professor Black if he would agree that allowing people to have access to things able people have is important. Professor Black said that he did agree but in this case we were dealing with legal and statutory requirements. Mr Berry indicated that one of the wheelchair accessible vehicles was coming off the road tomorrow.

Councillor Douglas asked the Applicant and Objector when the busiest month of the year was for Helensburgh. Mr Berry said that this was probably Christmas time. Councillor Douglas asked about the summer months and Mr Berry replied that it depended on tourism and you could never know for sure and that there was no month in particular.

Councillor Douglas asked Professor Black to comment. Professor Black pointed out that the survey was carried out in November and the results of this were applied to the rest of the year. He said that the survey should have been carried out throughout the year. He said that Mr Berry operated from Alexandria and was not based in Helensburgh and had no idea what happened there.

Councillor Hardie referred to working with local disability groups and meeting families that had disabled members. He said that they had complained to him about a lack of wheelchair accessible taxis. He asked Professor Black if he would agree that the expansion of the Naval base would lead to an increase in demand. Professor Black replied that this expansion will happen over time and would take 10 years to build up. He referred to there being too much supply.

Councillor Taylor referred to the Committee granting a licence on the basis of service need for disabled persons. He asked the Legal Team if someone was granted a licence and used that type of vehicle at that time and then went back to using a normal vehicle was their licence tied to provision of the vehicle to serve that demand. Mr Reppke replied no.

Councillor Trail referred to the letter of objection from The Wright Taxis which commented on territorial limits and possible breaches. He asked what was meant by that. Mr Reppke advised that Members would be familiar with the principle that this Council licence taxis for Argyll and Bute. He advised that Section 21 of the Act states that you can only operate within the area you are licenced but there were exceptions to this where it was possible for an operator to be in a different district provided they conformed to one of the exceptions. He confirmed that the Legal Team were aware of concerns and they intended to ensure that there was appropriate enforcement to ensure everyone complied with the law.

Councillor Blair asked if it would be possible to put a condition on a licence that it could only be used for a wheelchair accessible vehicle in order stop someone replacing their taxi with a normal taxi. Mr Reppke advised that he was aware of other Council areas with policies on wheelchair accessible vehicles and that he was also aware of recent court cases on whether that type of policy was sustainable or not. He advised that the Council would have to adopt a policy for wheelchair accessible vehicles. He said that the Committee have not tried to apply an individual condition to only use a wheelchair accessible vehicle. He pointed out that the Act allowed for the substitution of vehicles. He advised that this was not something that could be done today but could be looked at in the future if the Committee were so minded.

SUMMING UP

Objector

Professor Black referred to the objection from The Wright Taxis and advised that this was not included in the package he received. He also advised that he had been unable to access a copy of the agenda pack online. Mr Reppke confirmed that paperwork for Civic Government Applications was not published online due to General Data Protection Regulations. He said that a paper copy of the pack was available to view if anyone wished.

Professor Black referred to a phone call made by a Mr Charles Jones on Friday morning to Trident Taxis and the voice that answered said he was speaking to TOA. He said that Mr Jones requested a taxi and was told that they were currently on the rank and that it would take 2 minutes. After 5 minutes when the taxi did not arrive Mr Jones made alternative arrangements. He then got a message advising that the taxi had arrived and was looking for Mr Black.

Professor Black then referred to another request by a Mr Smith for a taxi to take him from Carrick to Helensburgh. He said that the controller referred to him by his first name and told him the fare would be £22. When Mr Smith disputed this he was told that the meter had to be switched on when it reached Balloch. Professor Black advised that the taxi that arrived was from Helensburgh which was nowhere near Balloch.

Professor Black advised that he agreed that everything should be done to accommodate wheelchair users but there was no statutory requirement to do this. He commented that the Committee had previously approved an Operator Licence when the Applicant said he would operate from Kilcreggan. He pointed out that he was operating in Helensburgh and that there was now 2 wheelchair accessible taxis in Helensburgh. He stated that there was no unmet demand in Helensburgh. He referred to TOA in Alexandria picking up customers in Helensburgh and he suggested that this was illegal.

Applicant

Mr Berry referred to Professor Black's accusations and stated that his taxi office was fully computerised. He stated that these were lies that were being made up. He advised that he had sent an email to Argyll and Bute inviting them over to see his system and received no reply. He confirmed that he would have no problem if it was stated that he had to keep a wheelchair vehicle for all of its life. He advised that he still believed that Helensburgh needed more taxis and that this could be clearly seen by their office.

The Chair asked both parties to confirm if they had received a fair hearing. Mr Berry confirmed that he had.

Professor Black advised that he had not received a fair hearing. He referred to a previous hearing and said that the minute did not accurately reflect his input and that he suspected the same would happen today. He advised that this was a flawed system. He said that the Committee comprised of Members outwith the Helensburgh and Lomond area and that he had to travel to this meeting at his own expense whilst the Committee Members received expenses. He also referred to the absence of some Members from the meeting and questioned why meetings were scheduled on dates which clashed with other commitments. He suggested that Officers needed to be better organised. He referred again to Members representing other areas and stated that this meeting should have been held in Helensburgh as it took 5 hours there and back to attend in Lochgilphead.

Professor Black's comments were noted by the Committee who determined to proceed to debate the merits of the application.

DEBATE

Councillor Trail advised that in view of the fact that 7 licences had been withdrawn from Helensburgh recently he had no problem in granting this application.

Councillor Redman advised that following on from what had been said regarding the number of licences withdrawn and the fantastic growth in access for the disabled in Helensburgh he had no hesitation in granting this application. He also advised that he admired the Applicant's entrepreneurship and business acumen.

Councillor Colville advised that he took a different view. He referred to the Halcrow report which the Committee had adopted and recently reviewed as still fit for purpose. He advised that he did not think there was any unmet demand and was minded not to accept the application.

Councillor Hardie said that he lived in Helensburgh and commented that Helensburgh was very busy with lots of tourists and the naval base. He advised that he disagreed with Professor Black's view that there was not enough demand for taxis and confirmed that he had no hesitation in accepting the application.

Councillor Douglas advised that this problem kept coming up all the time, particularly in Helensburgh and Lomond. She said it was obvious there were underlying issues and she did not know if these were personal or due to rival companies and that she could not make a judgement on that. She said that she found it frustrating that this continued to go on. She advised that she lived in Helensburgh but did not need to use taxis so could not comment either or whether there was an unmet demand. She said that all she could go on was the fact that when the Halcrow report was published there were 55 Operator Licences and that there were now 48 and that this showed there was room for an increase and that she could not go against that. She said that whether or not that was the correct perception on the ground she did not know.

Motion

To agree to refuse the application for a Taxi Operator's Licence as there was no evidence of significant unmet demand.

Moved by Councillor Rory Colville, seconded by Councillor Audrey Forrest

Amendment

To agree to grant a Taxi Operator's Licence to Mr Berry.

Moved by Councillor Richard Trail, seconded by Councillor Alastair Redman

The Amendment was carried by 5 votes to 3 and the Committee resolved accordingly.

DECISION

The Committee agreed to grant a Taxi Operator's Licence to Mr Berry.

(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, 17 SEPTEMBER 2018**

Present: Councillor Rory Colville (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor Graham Archibald	Councillor Richard Trail
Hardie	

Attending: Charles Reppke, Head of Governance and Law
Graeme McMillan, Trainee Solicitor
Ally Evans-Jones, Trainee Solicitor
David Haddow, Applicant
John Black, Objector
Jim Scott, Objector's Agent

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman, David Kinniburgh, Roderick McCuish and Jean Moffat.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR'S LICENCE (D HADDOW, ALEXANDRIA)

The Chair welcomed everyone to the meeting and introductions were made. The Head of Governance and Law then outlined the procedure that would be followed.

Professor Black intimated that he did not accept the procedure that was being followed and this was noted.

The Chair invited the Applicant to speak in support of his application.

APPLICANT

Mr Haddow referred to everyone knowing that TOA had recently taken over Trident Taxis. He advised that in their opinion Helensburgh did not have enough wheelchair accessible taxis as there were only 2 covering the area. He said that one Operator only worked Saturdays and the other Operator was changing his car so that from this point tomorrow there would only be one car which was not contactable as the Operator did not work out of an office. He said that he would like to put a wheelchair accessible vehicle on the road, which he had already purchased. He referred to a number of care homes and Dr surgery appointments and said that he believed that once it was known there was a wheelchair accessible taxi available 24/7 there would be an increase in demand for it and that he may well be back in 6 months or a year

to ask for another plate for a wheelchair accessible vehicle. He advised it was his personal point of view that just now there was definitely a demand for a wheelchair accessible taxi for the Helensburgh area.

QUESTIONS FROM OBJECTOR

Professor Black referred to Mr Haddow's comment "as everyone will know". He questioned how everyone knew as the matter had not been reported in the Helensburgh Advertiser. He advised that when you phone up Trident Taxis the controller advises that you are through to TOA. Mr Haddow explained that the employees in their office have been working for TOA for years and that this was just a mistake as they have always been used to answering the phone in this way.

OBJECTOR

Professor Black advised that everyone would know that Trident Taxis was sold for an undisclosed sum to Mr Berry and his company. He advised that Trident Taxis was formally owned by Councillor Ellen Morton. He referred to having a scientific background and that he was used to reading and analysing scientific data. He suggested to the Members of the Committee that they all lacked the same sort of skills as it was suggested at a previous hearing that as the number of taxis in Helensburgh and Lomond in 2013 was 55 that it would be okay to return to this number. He advised that the Halcrow report published at that time had indicated that 55 taxis was too much. He suggested that 45 would be more accurate and pointed out that the Committee had granted another Taxi Operator Licence today at an earlier hearing.

Professor Black said that the Council was in default as the Halcrow report was published in 2013 and the Council had no current data to make their decisions. He pointed out that Council Douglas had indicated that she did not use taxis and he queried how many taxis the other Members of the Committee used. He advised that he had read the Halcrow report 3 times and said that it was a piece of nonsense which the Council paid £10,000 for.

Professor Black then read out his critique of the Halcrow report which, he advised, referred to an excess in supply of taxis. He said that he agreed something should be done about making wheelchair accessible taxis available but at this moment this was not a statutory requirement. He said that he thought it should be mandatory but it was not. He referred to the definition of significant unmet demand and explained the use of queue theory. He also referred to the seasonal factor and pointed out that the survey had been carried out one week in November and did not take account of what happened during the summer months in this seaside town. He advised that the Helensburgh taxi drivers were earning less than the minimum wage. He pointed out misspellings of street names and villages in the report. He advised that it was his opinion that the owner of TOA was operating illegally.

He advised that the stance figures in the report did not make sense and said that there was no data to support the outcome of the survey. He advised that there were more taxis sitting at the rank doing nothing which was environmentally damaging and reducing the wages of taxi drivers. He said that the Committee issuing more plates was making it worse. He said that the conclusion of the survey was wrong. He referred to an Operator who was recently granted a licence for Kilcreggan and advised that he was not working in Kilcreggan, he was working from the rank in

Helensburgh. He advised that in conclusion there were too many taxis in Helensburgh. He then invited his Agent to provide further information to support the objection he had lodged.

Mr Scott advised that he has worked in the Helensburgh area for 12 years. He said that one Saturday night there were 48 taxis out in Helensburgh and that taxis were sitting on the rank for up to 1.5 hours without a hire and that the situation was getting worse. He said that he was getting worried as taxi drivers were struggling to make a living. He referred to Trident Taxis being sold to TOA and advised that he was getting upset listening to all that was being said. He pointed out that the Council were ploughing ahead granting plate after plate. He advised that TOA were coming into the Helensburgh area, sitting on the Helensburgh ranks with West Dunbartonshire plates which was leading to confrontation with his company. He advised that Trident Taxis was not offered to local taxi drivers and that they had been unaware of the situation. He said that TOA were coming into the area sending 8 seater taxis and lifting passengers in front of Helensburgh taxi drivers which, he said, was illegal. He advised that they (Helensburgh taxi drivers) were sitting on the rank and were getting no protection from the Council. He advised that if this continued to happen he would use his own money to take a case to the ombudsman. He said that he was confounded at the attitude of the meeting today.

QUESTIONS FROM APPLICANT

Mr Haddow stressed that he refuted that TOA were sending taxis across to Helensburgh as he said this was simply not the case. He asked Mr Scott where he was getting his information from. Mr Scott advised that he was sitting on the rank 2 weeks ago when one of the Dumbarton taxis was on the rank. He said that when a naval person came along he had told the Dumbarton taxi driver that he was not allowed to sit on the rank and at that point he had become aggressive towards him. Mr Scott advised that he told the naval person that he should not get into the Dumbarton taxi and at that point the Dumbarton taxi sped off the rank.

Professor Black also referred to a Mr Smith phoning from Carrick for a taxi. He said that Mr Smith phoned the Trident taxi number but a person from TOA answered and referred to Mr Smith by his first name which, he believed, was being over familiar. He advised that Mr Smith was informed that the fare would be £22 and when he protested he was told that this was because the machine need to be turned on when the taxi reached Balloch as the taxi was coming from there. Professor Black advised that the taxi that arrived was a Helensburgh taxi and he suggested that this was fraud. He confirmed that he had recently left a copy of this information for Mr Haddow.

MEMBERS' QUESTIONS

Councillor Trail asked Mr Scott if other members of the taxi trade in Helensburgh were suffering why had they not objected to this application. Mr Scott explained that he was on holiday and missed the deadline for submitting an objection. He said that Councillor Trail had raised a very good point and that he has discussed this with several taxi drivers and in future they would be objecting to every application. Professor Black said that Councillor Ellen Morton had made it clear that if anyone objected they would be doing a stupid thing. Councillor Trail advised that if they do have objections then they should make them known to the Committee. Mr Scott confirmed that in the future that will happen.

Councillor Colville advised that he was aware there were 48 taxis operating and that in the Halcrow report it stated there were 55. He said that he was interested to know why the other 7 taxis were no longer operating. He referred to someone suggesting that there were now only 48 taxis as that was what there was the demand for. Professor Black said that it was nothing to do with demand and that it was to do with the sale of Trident Taxis to TOA. He advised that 4 of these licences came back from Trident Taxis and 2 came back from Mr Cromar. He suggested that Councillor Morton wanted to transfer the plates to TOA and that her son was a Director of TOA for 2 months and then resigned. He said that Mr Cromar was lent on by someone not to put the plates on the open market.

Councillor Colville advised that he was trying to understand why the taxis have reduced to 48 since the Halcrow report was published. Mr Haddow said that he had looked into this since the start of the year. He advised that as far as he could tell from the information in their system Trident Taxis have 21 vehicles working out of the Trident office and Neptune have 9 so that leaves 20 odd plates in Helensburgh doing nothing. He commented that on the surface it looked like there was more than enough to cover the work but in actual fact there was not.

Councillor Redman asked Mr Haddow how many jobs would be created if this application was granted. Mr Haddow said that if the 3 plates for TOA were granted there would be a maximum of 6 jobs created and a minimum of 3. He said that he hoped for at least 4 fresh jobs to be created. He said that they were hoping to attract younger drivers with some get up and go. He pointed out that they have seen people waiting 40 minutes for taxis. He advised that if they were able to attract a younger element this could lead to providing a more comprehensive service.

Councillor Douglas referred to there being 21 Trident Taxis and Neptune having 9 and asked of the Applicant and the Objector where the rest were? Mr Haddow said that they have driven around Helensburgh and could not find these taxis. Mr Scott advised that Mr Berry and his colleagues have been in Helensburgh for about 2 weeks. He suggested that they did not know the running of Helensburgh and that he has been here for 12 years. He advised that on Saturday there were 42 taxis out and that there was not enough work for these taxis. He advised that they have TOA coming into the area as they have the ability to send as many as they wish to Helensburgh (it was noted that Mr Haddow had confirmed that TOA had 150 taxis working out of the Dumbarton office). He pointed out that this company were also working to a different tariff from Argyll and Bute and this was confusing customers. He advised that TOA were charging a lower price. With regard to the number of taxis in the Helensburgh area he did not know where the other 18 were. He said that they all go out on a Saturday and there were also plenty going out during the week to cover the level of service required. Mr Scott indicated that he agreed with the disabled side of things but to add another 2 would cause more problems in Helensburgh.

Councillor Douglas sought and received confirmation from Mr Scott that TOA took over Trident Taxis. He said that the Helensburgh drivers that were with Trident were unaware that the company had been sold to TOA which had caused chaos in the Helensburgh area. He advised that there were enough taxis to supply the Helensburgh public and that the Council were going down the wrong road of issuing more plates.

SUMMING UP

Objector

Professor Black advised that he thought he had failed and that he had tried to present an analysis of the Halcrow report. He said that there were actually 20 odd independent Taxi Operators in Helensburgh. He advised that ideally the Council should regulate the number of taxis and do this by issuing taxi plates. He said that too many plates reduced the wages of taxi drivers but too few would mean not enough taxis for customers. He indicated that TOA had a control room able to monitor where all the taxis were and if there was unmet demand they should phone up taxi drivers to come out on the streets. He said that the examples of people waiting 40 minutes and was due to taxis being sent to the wrong place as the Operators from Alexandria were unfamiliar with the territory. He said that they had an incompetent running system and that 40 minutes waiting was due to this and not to unmet demand. He advised that all the Helensburgh and Lomond Members should know this.

Professor Black pointed out that the Committee had already issued one or two extra plates for Helensburgh and Lomond which, he said, has reduced the income of Helensburgh taxi drivers. He said that the Council were expecting taxi drivers to work for less. He advised that there was no evidence to support the conclusion of the Halcrow report and that the Council was in default of not supplying an up to date survey.

Mr Scott advised that as he had said before, they were categorically struggling out there and that if this continues to go on they may as well all be unemployed. He referred to Trident and Neptune and advised that an outside company was now operating from another area to control this taxi area and that he has never known this to happen before. He said that if we were to carry on down this road it would cause lots of problems for the Council and the taxi drivers in the area.

Professor Black said that the Council had a moral responsibility to look after the taxi drivers.

Applicant

Mr Haddow advised that from TOA's point of view, talking to their long term drivers about the new system put in, they were seeing an increase in business due to the new technology fitted to the cars. He said that this could be seen as hearsay but he did not know where the 2 gentlemen were getting their figures from. He referred to comments about TOA moving into Helensburgh and said that this was nonsense. He pointed out that the software did not allow that to happen. He advised that if a Helensburgh number phones it is directed to Trident Taxis and the system will only dispatch a Trident taxi. He said that the software has been tried and tested and has been available and has worked for years. He referred to the issue on the rank and said that this should have been reported to West Dunbartonshire Council as it was not allowed.

The Chair asked both parties to confirm if they had received a fair hearing. Mr Haddow and Mr Scott confirmed that they had received a fair hearing.

Professor Black advised that he had not received a fair hearing for the same reasons as intimated at the previous hearing as detailed below.

He referred to a previous hearing and said that the minute did not accurately reflect his input and that he suspected the same would happen today. He advised that this was a flawed system. He said that the Committee comprised of Members outwith the Helensburgh and Lomond area and that he had to travel to this meeting at his own expense whilst the Committee Members received expenses. He also referred to the absence of some Members from the meeting and questioned why meetings were scheduled on dates which clashed with other commitments. He suggested that Officers needed to be better organised. He referred again to Members representing other areas and stated that this meeting should have been held in Helensburgh as it took 5 hours there and back to attend in Lochgilphead.

Professor Black's comments were noted by the Committee who determined to proceed to debate the merits of the application.

DEBATE

Councillor Hardie commented that this had been a very interesting debate. He advised that he personally knew 3 or 4 taxi drivers and they had never once mentioned there were too many taxis. He advised of the last time he took a taxi. He confirmed that he would like to approve this application.

Councillor Blair referred to procedures and advised that from an auditor's perspective some of the issues mentioned would need to be proven. He said that he could not read minds so if what was being said to the Committee was happening there was a need for this to be proven. He advised that this also applied to Council Officers. He referred to the Halcrow report and advised that for the Committee to be basing its decisions on a document which some were saying was wrong, then there may be a need for another survey to be commissioned but to do that input would be required from the taxi drivers. He advised that there was a need for some future review to enable the Committee to do its best for the trade.

Councillor Redman referred to Helensburgh being a growing town and said that it would continue to grow. He said that the Committee may not have a legal obligation but they did have a moral obligation to see an expansion of wheelchair accessible taxis and to see an expansion in employment so for those reasons he supported the application.

Councillor Trail advised that if he had heard what was said at this hearing during the last hearing then his decision would have been different then. He commented that at last they had heard a voice from the taxi trade and that he was minded this time not to grant the application.

Councillor Colville advised that as with the previous application he was quite clear that the Committee reviewed the Halcrow report less than a year ago and agreed that it was fit for purpose. He said that he agreed that Helensburgh was growing but at this time he was not convinced there was no unmet demand.

Motion

To agree to refuse the application for a Taxi Operator's Licence as there was no evidence of significant unmet demand.

Moved by Councillor Rory Colville, seconded by Councillor Audrey Forrest

Amendment

To agree to grant a Taxi Operator's Licence to Mr Haddow.

Moved by Councillor Alastair Redman, seconded by Councillor Graham Archibald Hardie

The Motion was carried by 5 votes to 2 and the Committee resolved accordingly.

DECISION

The Committee agreed to refuse the application for a Taxi Operator's Licence as there was no evidence of significant unmet demand.

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

This page is intentionally left blank

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on MONDAY, 17 SEPTEMBER 2018**

Present: Councillor Rory Colville (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor Graham Archibald	Councillor Richard Trail
Hardie	

Attending: Charles Reppke, Head of Governance and Law
Graeme McMillan, Trainee Solicitor
Ally Evan-Jones, Trainee Solicitor
Michael Rainey, Applicant
John Black, Objector
Jim Scott, Objector's Agent

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman, David Kinniburgh, Roderick McCuish and Jean Moffat.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF TAXI OPERATOR'S LICENCE (M RAINEY, ALEXANDRIA)

The Chair welcomed everyone to the meeting and introductions were made. The Head of Governance and Law outlined the procedure that would be followed and Professor Black advised that he accepted the procedure with reservations. The Chair then invited the Applicant to speak in support of his application.

APPLICANT

Mr Rainey advised that he was applying for a Taxi Operator's Licence for Helensburgh as it was his understanding that so many were handed back in and he believed there was a shortage of vehicles in Helensburgh due to unmet demand.

OBJECTOR

Professor Black referred to everyone having a copy of the Halcrow report which should be clear in describing the situation in Helensburgh which, he said, has apparently been adopted as valid. He advised that the report was out of date from 2013 and stated that the Council had a legal requirement to have an up to date report and that it was not for the Applicant or Objectors to show what was happening. He said that the Committee Members, with the support of staff, should have all the information to hand. He said that 3, 4 or 5 Members should have

knowledge of the situation in Helensburgh. He said that he was totally sympathetic regarding the issues raised by Councillor Blair and agreed that there must be provision for the disabled, both housing and transport. He pointed out that there was no legal requirement for wheelchair accessible vehicles in Argyll and Bute and that this was a matter for the Council to take up with the Scottish Government. He advised that the system that TOA operate was modern technology direct to taxis. He advised that Councillor Blair was misplaced using UBER and instead should have used a black cab as they were regulated and were being disadvantaged by UBER. He advised that TOA/Trident was being run by Mr Berry and he referred to him being "a cowboy". He referred to Mr Haddow, in the earlier hearing, denying that cabs were coming from Dumbarton to serve Helensburgh. He pointed out that he proved that on Friday morning when a taxi was called from Carrick to Helensburgh it was TOA that responded. He said the company was not set up separately and that they were co-mingling. He also referred to Dumbarton taxis arriving in Helensburgh and picking up and delivering within the same zone and he said that this was illegal. He said that the Committee were aware of a number of illegal things and that nothing has been done. He referred to another person as being a con man and said that he was currently driving a taxi in Helensburgh and was in contact with people. He said that if he cons someone the Committee were liable. He advised that a GPS system was the way forward but was not being used correctly by TOA. He then read out the contents of a letter he had sent to Mr Haddow.

Professor Black said that he disputed that existing taxi drivers were too old. He advised that Mr Berry did not consult the drivers during the takeover process. He referred to alleged actions made by Councillor Ellen Morton to taxi drivers and to the Helensburgh Advertiser. He referred to existing drivers suffering from unfair competition as set out in his letter of objection.

QUESTIONS FROM APPLICANT

Mr Rainey asked Mr Scott if he worked from a booking office. Mr Scott replied that he worked independently and not from a booking office.

MEMBERS' QUESTIONS

Councillor Douglas asked Mr Scott if he knew how many independent taxi drivers were operating in Helensburgh and Lomond. Mr Scott said about 9 or 10 were independent.

Councillor Douglas asked Mr Scott if he was representing all of these. Professor Black pointed out that Mr Scott was representing him at this hearing to present evidence to support his objection. He added that there were 23 independent plates in Helensburgh. He suggested that if they were all members of the same GPS system it would work better and be efficient as supply and demand could be monitored and the controller could organise who needed to be on the rank and who could go home.

Councillor Trail asked Mr Rainey to develop the earlier statement he had made. He advised that discussion at the hearings to date had been around experience at the taxi rank and pointed out that Mr Rainey had referred to demand beyond the taxi rank. Mr Rainey advised that the controllers had an oversight of the system and that Dumbarton taxi drivers got knowledge of jobs in Helensburgh but they could not access these. He advised that in the Helensburgh area there were jobs available

nearly all day on his screen and that he could see jobs waiting constantly in Helensburgh. He advised that it was not unusual for Helensburgh customers to phone back after 20 minutes asking where their taxi was. He said that Helensburgh customers were relying on family to take them to the Doctors, train station and airport as the current service was not reliable. He advised that he has been led to believe that it has been like that for a long time and that if you phone the base you could be waiting up to 30 minutes. He said that they knew there was definitely unmet demand.

Councillor Colville sought and received confirmation from Mr Scott that he held a Taxi Operator's Licence and a Taxi Driver's Licence.

SUMMING UP

Objector

Professor Black read out an email that he had supplied to all the Committee Members, Mr Berry, Mr Haddow and Mr Rainey, the Applicant for this hearing. The email referred to a phone call made on Saturday for a taxi for Mr Jones which did not turn up on time. The email also referred to a Mr Smith calling for a taxi from Carrick to Helensburgh. He pointed out that Mr Rainey had said that fares could not be taken from Dumbarton and said that the Carrick case demonstrated that it did. He then said that the taxi came from Helensburgh and did not go near Balloch so there was no need to put the fare on from Balloch.

Mr Scott advised that as he had said at the previous hearing, he felt there was insufficient demand for more taxis in Helensburgh. He advised there was more than enough to supply the Helensburgh community. He felt that this plate should not be issued.

Applicant

Mr Rainey advised that as previously stated he believed there was unmet demand and that if this gentleman could see the system he would see this and that it was not something you could see from the street. He advised that when working with the system and listening to the controller you knew where the work was. He advised that the controller was not there to tell a driver when they could and could not work. He pointed out that the controller saying TOA instead of Trident when answering a call was just a mistake. He stressed that once a job went into the machine, depending on the telephone number, the job was either despatched to Trident or to TOA. He said that he had not had time to read the letter but advised that from what he had heard it was a fabrication as far as he was concerned. He stated that the machine/computer despatched the job and that was why they got the system. He advised that a man working off the rank would have no idea whether there was unmet demand and if he was on the system he could guarantee he would double his money. He referred to wheelchair accessible vehicles and advised that there were only 2 with one coming off today. He said that the other one only worked around Garelochhead and only worked on Saturdays and did not work on the system. He advised that at this time there were no wheelchair accessible vehicles in Helensburgh that you could phone.

The Chair asked both parties to confirm that they had received a fair hearing. Mr Rainey and Mr Scott confirmed that they had received a fair hearing.

It was noted that Professor Black did not feel he had received a fair hearing and the Committee determined to proceed to debate the merits of the application.

DEBATE

Councillor Hardie advised that he did not read Professor Black's email. He said that he would like to trust what the Applicant has said and approve the application.

Councillor Redman agreed with Councillor Hardie. He advised that as it stood right now all the Councillors had their own opinions. He said that if there were very few taxis working as wheelchair accessible vehicles then this should be encouraged and that he was minded to approve the application.

Councillor Colville said that he had found this morning invigorating. He advised that there had been a good debate with different points of view coming forward. He stated that as Councillors they had recently endorsed that the Halcrow report was still fit for purpose. He advised that it was possible from what they had heard this morning that this new system made it clear whether or not there was unmet demand and that he hoped that a future report would take cognisance of that. He advised that the fact remained that the Halcrow report was still relevant and whether or not it was up to date was a matter of opinion. He said that the Councillors had agreed it was still valid very recently and on the basis of all that he had heard he moved refusal of the application on the basis that there was no significant unmet demand.

Motion

To agree to refuse the application for a Taxi Operator's Licence as there was no evidence of significant unmet demand.

Moved by Councillor Rory Colville, seconded by Councillor Gordon Blair

Amendment

To agree to grant a Taxi Operator's Licence to Mr Rainey.

Moved by Councillor Alastair Redman, seconded by Councillor Graham Archibald Hardie

The Motion was carried by 5 votes to 2 and the Committee resolved accordingly.

DECISION

The Committee agreed to refuse the application for a Taxi Operator' Licence as there was no evidence of significant unmet demand.

(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, 17 SEPTEMBER 2018**

Present: Councillor Rory Colville (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor Audrey Forrest	Councillor Sandy Taylor
Councillor Graham Archibald Hardie	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and law
Graeme McMillan, Trainee Solicitor
Ally Evans-Jones, Trainee Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, George Freeman, David Kinniburgh, Roderick McCuish and Jean Moffat.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR RENEWAL OF A STREET TRADER'S LICENCE (R SERAPIGLIA, LARBERT)

The Head of Governance and Law advised that Mrs MacLeod had been present earlier to advise that her client, Mr Serapiglia, was currently abroad and that she was seeking an adjournment of this hearing. Mr Reppke explained that although this was a matter for the Committee, the Objectors had been contacted and had no objection to this hearing being adjourned. He advised that in the interests of natural justice he recommended that the Committee agree to this request for adjournment.

DECISION

The Committee unanimously agreed to continue consideration of this Application.

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

This page is intentionally left blank

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 19 SEPTEMBER 2018**

Present: Councillor Rory Colville (Chair)

Councillor Gordon Blair	Councillor Roderick McCuish
Councillor Lorna Douglas	Councillor Alastair Redman
Councillor George Freeman	Councillor Sandy Taylor
Councillor Graham Archibald	Councillor Richard Trail
Hardie	
Councillor Donald MacMillan	

Attending: Charles Reppke, Head of Governance and Law
Angus Gilmour, Head of Planning Housing and Regulatory Services
Sandra Davies, Acting Major Application Team Leader

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, Mary-Jean Devon, Audrey Forrest and David Kinniburgh.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 22 August 2018 was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 27 August 2018 at 10.00 am was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 27 August 2018 at 10.20 am was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 27 August 2018 at 10.40 am was approved as a correct record.
- e) The Minute of the Planning, Protective Services and Licensing Committee held on 27 August 2018 at 11.00 am was approved as a correct record.
- f) The Minute of the Planning, Protective Services and Licensing Committee held on 27 August 2018 at 11.20 am was approved as a correct record.
- g) The Minute of the Planning, Protective Services and Licensing Committee held on 27 August 2018 at 1.20 pm was approved as a correct record.

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)

The Acting Major Applications Team Leader spoke to the terms of the report. A Section 42 application has been submitted for removal of conditions 4 and 5 and variation of a condition 7 of planning permission in principle reference 15/01794/PPP. 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 application. The principle of 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 January 2017. 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 offsite 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. Objections to this application have been received from Roads Network Manager, Cardross Community Council and in excess of 157 individuals along with a representation from Jackie Baillie MSP. Whilst this application has previously been the subject of a local hearing, 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.

Decision

The Committee agreed to hold a discretionary pre determination hearing at the earliest opportunity.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 4 September 2018, submitted)

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)

The Acting Major Applications Team Leader spoke to the terms of the report. Planning permission is sought for the erection of a dwellinghouse in 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 prior to it being presented to the Committee. 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 houses has been brought forward to be in line with the existing terrace. The parking arrangements to the front has been altered and the new house will stand alone rather than the upper floor being attached to the end terrace. Thirteen letters of objection have been received along with an objection from Cardross Community Council. The proposed plot is considered to be acceptable at this location and it is considered to be a density comparable with other plots in the area. The scale and design is acceptable and there are no issues with regard to loss of amenity to surrounding properties or the wider area. It is therefore considered that the proposal is in accordance with Policies LDP DM 1, 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 and Bute Local Development Plan and it is recommended that planning permission is granted 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 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.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 3 September 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 item of business on the grounds that it was 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.

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

The Committee considered enforcement case references 16/00076/ENAMEN and 17/00046/ENAMEN.

Decision

The Committee agreed the recommendation in the report.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 10 September 2018, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 19 SEPTEMBER 2018**

Present: Councillor Rory Colville (Chair)

Councillor Gordon Blair	Councillor Roderick McCuish
Councillor George Freeman	Councillor Alastair Redman
Councillor Graham Archibald Hardie	Councillor Sandy Taylor
Councillor Donald MacMillan	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
Graeme McMillan, Trainee Solicitor
PC Graham, Police Scotland

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robin Currie, Mary-Jean Devon, Lorna Douglas, Audrey Forrest and David Kinniburgh.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PRIVATE HIRE DRIVER'S LICENCE (D BUTLER, HELENSBURGH)

The Chair welcomed everyone to the meeting and it was noted that the applicant was not present. The Chair ruled and the Committee agreed to adjourn the meeting for ten minutes to allow the applicant opportunity to attend given the adverse weather conditions.

The Committee reconvened after ten minutes and it was noted that the applicant was still not in attendance. The Chair ruled and the Committee agreed, that due to non-attendance of the applicant, to continue consideration of the application and to adjourn the meeting to a future date to be determined.

This page is intentionally left blank

ARGYLL AND BUTE COUNCIL**PLANNING, PROTECTIVE
SERVICES AND LICENSING
COMMITTEE****CUSTOMER SERVICES****24 October 2018**

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

1.0 EXECUTIVE SUMMARY

In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis. The new fare structure requires to come into force by 28th January 2019. The fares were last reviewed by members on 18th January 2017 and took effect on 25th July 2017.

2.0 RECOMMENDATIONS

The Committee are asked to:

- Review the existing scales and publish them proposing a date when the proposed scales shall come into effect.
- Authorise the Head of Governance and Law to advertise the proposed changes to tariffs and to invite any responses within one month of the advertisement and report back to members at their meeting in December 2018.
- Should no objections or representations be received in relation to the proposal delegate authority to the Head of Governance and Law in consultation with the Chair of PPSL to conclude the review without the requirement for the Committee to consider a further report on the review.

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE
SERVICES AND LICENSING
COMMITTEE

CUSTOMER SERVICES

24 October 2018

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

TAXI FARE SCALE REVIEW

1. SUMMARY

1.1 In terms of Section 17 of the Civic Government (Scotland) Act 1982, the Local Authority requires to fix maximum fares and other charges in connection with the hire of taxis operating in their area and to review the scales for taxi fares and other charges on a regular basis. The new fare structure requires to come into force by 28th January 2019. The fares were last reviewed by the Council on 18th January 2017 and the decision not to increase the fares took effect from 25th July 2017:-

1.2 The current maximum fares are:

Tariff 1 £3.00 (hiring between 7am and 10pm)
Initial charge (860 yards or part thereof)
Subsequent charge (each 176 yards or part thereof) @ 20p

Tariff 2 £3.60 (hiring between 10pm and 7am)
Initial charge (860 yards or part thereof)
Subsequent charge (each 150 yards or part thereof) @ 20p

Tariff 3 £4.20 (public holidays)
Initial charge (860 yards or part thereof)
Subsequent charge (each 120 yards or part thereof) @20p

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

2. RECOMMENDATIONS

2.1 The Committee are asked to:

- Review the existing scales and publish them proposing a date when the proposed scales shall come into effect.
- Authorise the Head of Governance and Law to advertise the proposed changes to tariffs and to invite any responses within one month of the advertisement and report back to members at their meeting in December 2018.
- Should no objections or representations be received in relation to the proposal delegate authority to the Head of Governance and Law in

consultation with the Chair of PPSL to conclude the review without the requirement for the Committee to consider a further report on the review.

3. DETAIL

- 3.1 On 23rd August 2018 a letter was issued to all taxi operators requesting their views on taxi fares by 25th September 2018. As a result of the latest consultation the following responses have been received and are as follows:

Lorn

3 requested no increase be made.

1 respondent stated people would stop using taxis if the fares increased

1 respondent stated the fares are perfectly adequate.

1 respondent stated that he is happy with the fares as they are. The balance has to be right, ensuring customers pay a reasonable cost for a taxi service, compared with fewer people using taxis because the fare is too expensive.

5 respondents requested that they be altered as follows:-

1 respondent was non-specific.

1 respondent suggested a modest increase as it has been 4 years since the last increase and their expenses, such as insurance, fuel and garage charges have increased.

1 respondent suggested a change from Tariff 1 to Tariff 2 for weekend days (Saturday and Sunday). The last tariff rise was in 2014, however the fares in general are still ok.

1 respondent suggested Tariff 1 increase from £3.00 to £3.50. Due to rising costs and the high frequency of short distances hires. However the main reason is the increased risk faced by taxi drivers due to the volume of traffic since the revamp of Station Square in 2016.

1 suggested Tariff 1 increase from £3.00 to £3.50, Tariff 2 increase from £3.60 to £4.20 and Tariff 3 increase from £4.20 to £5.00. With the cost of fuel and insurance on the rise an increase in the start rate they were of the view that this would be the best option as many hires are short town hires. If the price per yardage was to increase this would make taxis unaffordable to many who live out with the town area. Even a 10p increase per 176 yards would add £5 to a 6 mile hire.

Mid Argyll

1 response was received requesting no increase be made. They stated any increase to current fares would be highly detrimental to their business and strongly feel they should remain as they are. An increase would encourage taxi customers to find alternative transport arrangements.

Cowal

No Responses were received.

Lomond

1 response was received requesting no increase be made. Due to lack of trade from the local bars and restaurants when they work mainly in the

evenings. Also with TOA now operating in both Argyll and Bute and West Dumbarton but with different tariffs for each area. Since the takeover their vehicles from Alexandria have been picking up in Helensburgh and surrounding areas on a regular basis, and they assume this is for fares to West Dumbarton and beyond at a cheaper rate.

Bute

1 response was received suggesting an increase due to fuel prices and taxi licence fees increasing.

Kintyre

No responses were received.

6 operators from Bute and Lorn areas have requested an increase. 3 Operators from Lorn have requested no increase. The 2 responses from Mid Argyll and Lomond have requested no increase. There has been no response from the operators in Cowal and Kintyre.

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

	Argyll and Bute Existing Fares	Aberdeenshire Council's Fares	Highland Council's Fares
Tariff 1	£3.00 860 yards then 176 @ 20p	£2.60 880 yards then 1/11 of a mile @ 20p	£3.00 785 yards then 98 @ 10p
Tariff 2	£3.60 860 yards then 150 @ 20p	£3.60 880 yards then 1/11 of a mile @ 20p	£3.30 560 yards then 92 @ 10p
Tariff 3	£4.20 860 yards then 120 @ 20p	£3.90 880 yards then 1/11 of a mile @ 30p	£3.90 444 yards then 74 @ 10p

It should be noted that Aberdeenshire Council are currently reviewing their fares and the proposed fare structure is to remain the same.

- 3.3** The Committee are advised that the National Statistics website detailed that in the month to mid-August 2018, the pump price of unleaded petrol rose by 0.8 pence per litre and the pump price of diesel also rose by 0.8 pence per litre. In the year to mid-August 2018, unleaded petrol has increased by 12.8 pence per litre and diesel has increased by 15.2 pence per litre. These represent an increase of 11 per cent for unleaded petrol and an increase of 13 per cent for diesel. The price of unleaded petrol in mid-August 2018 was 4.2 pence per litre lower than diesel.

- 3.4** Circular 25/1986 states the Secretary of State expects that in fixing fares authorities will want to pay primary regard to the costs incurred by the trade, having regard to the capital costs. (including interest payments) of the vehicles, the costs of maintaining and replacing them to the standards required by the licensing authority, the costs of employing drivers, and the prevailing levels of wages and costs in related road transport industries. In the Secretary of State's view the public interest is better served by ensuring the maintenance of an adequate taxi service by giving the trade a fair return than by depressing fares for social reasons, however understandable. If fares are fixed at a level higher than the market can

stand, the trade is free to reduce them.

4. CONCLUSION

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

In carrying out a review, the licensing authority must-

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

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

- A)** They wish to accept the general consensus from the 11 written responses received whereby 6 are requesting an increase and 5 are requesting that no increases to fares are made.

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

1. The lack of representation or response to the proposed review of taxi fare scales for or against from consultees. A total of 121 were consulted with 11 providing written representations.
2. The comparison of the general effect of Argyll and Bute's existing fares with those in place in Aberdeenshire and Highland Council.
3. The fluctuation in the price of fuel.

- B)** They wish to reaffirm the current scale of maximum fares previously reviewed by the Council on 18th January 2017 which came into force 25th July 2017 also having regard to the 11 written responses whereby 6 are requesting an increase and 5 are requesting that there are no increases to the taxi fares. Members may also wish to have regard to:-

1. The lack of representation or response to the proposed review of taxi fare scales for or against from consultees.
2. It should be noted that of the 6 requesting an increase to the fares 5 are from the Lorn area.

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

5. IMPLICATIONS

5.1 Policy – None

5.2 Financial – None

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

5.4 HR – None

5.5 Equalities – None

5.6 Risk – None

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

For further information contact: Sheila MacFadyen, Senior Solicitor
Tel: 01546 604198
Email Sheila.macfadyen@argyll-bute.gov.uk

**Argyll and Bute Council
Development & Infrastructure Services**

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

Reference No: 18/00931/PP
Planning Hierarchy: Local
Applicant: The Gully Partnership LLP
Proposal: Erection of dwellinghouse and formation of vehicular access
Site Address: Land South East of the Library, Baile Mor, Isle of Iona, Argyll and Bute

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Formation of vehicular access and car parking

(ii) Other specified operations

- Connection to public water main
 - Connection to public drainage network
-

(B) RECOMMENDATION:

That planning permission be **refused** for the reasons appended to this report.

(C) CONSULTATIONS:

Area Roads Officer

No objection subject to conditions. Report dated 1st June 2018

Environmental Health

No objection. Memo dated 30th May 2018

West of Scotland Archaeology Service

No objection subject to archaeological evaluation. Letter dated 27th 2018

Historic Environment Scotland

Raises concerns regarding the introduction of new modern development in very

close proximity to Iona Nunnery (a Scheduled Ancient Monument) and comments that the development would intrude on important views to and from the nunnery. Comments that while the proposed development would, in its entirety, have an adverse effect on the integrity of the monument and its setting, the scale of this impact would be unlikely to be significant enough to warrant our objection – Historic Environment Scotland only objects where it believes issues of national significance are raised. – However, our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance. Letter dated 3rd May 2018

Conservation Officer

No response at time of report and no request for an extension of time

Core Paths Team

No comment. E-mail dated 21st September 2018

Iona Community Council

Objection. E-mail dated 2nd May 2018

Scottish Water

No objection. Letter dated 23rd April 2018

Health and Safety Executive

No comment. Letter dated 24th April 2018

National Trust for Scotland

Objection. Letter dated 11th May 2018

(D) HISTORY:

17/00353/PP

Installation of replacement and new septic tanks. Granted 12th April 2017

17/00965/PP

Erection of dwellinghouse and formation of vehicular access. Withdrawn 12th June 2017

17/00966/PP

Erection of dwellinghouse and formation of vehicular access. Withdrawn 12th June 2017

(E) PUBLICITY:

The proposal has been advertised in terms of listed building procedures, closing date 24th May 2018.

(F) REPRESENTATIONS:

93 objections have been received regarding the proposed development.

1. Cecilia Russell, Cnocmor Isle Of Iona (03/05/2018)
2. Judy Russell, Cnocmor, Isle of Iona (03/05/18)

3. Carol Dougal, Victoria Cottage, Isle Of Iona, PA76 6SJ (03/05/2018)
4. Jocelyn Brace, 2 Cnoc Oran, Iona, PA76 6SP (03/05/2018)
5. Lorna Bowry 74/12 Mortonhall Park, Crescent, Edinburgh, EH178SX (03/05/2018)
6. Su Bowman, su.bowman7@gmail.com (04/05/2018)
7. Joanne MacInnes, jmaciness@btinternet.com (04/05/18)
8. Jenny McLellan, Faradh, Iona, PA76 6SP (04/05.2018)
9. Moya Pringle, Lechnabahn, Isle Of Iona, PA76 6Sp (04/05/2018)
10. David Gillespie, 10 Glencairn Drive, Glasgow, G41 4QN (04/05/2018)
11. John Maclean, Lagandorain, Iona, PA76 6SW (04/05/2018)
12. Ailidh Lennon, 4 The Glebe, Isle Of Iona, PA76 6SG (09/05/2018)

13. Sarah Macdonald, Beannachd, Isle Of Iona, PA76 6SP (04/05/2018)
14. Lizzie Keenaghan, Camas Adventure Camp, Bunessan, Isle Of Mull, Argyll And Bute PA67 6DX (05/05/2018)
15. Mrs Ailsa Burn-Murdoch, 5b London St, Edinburgh, EH3 6LZ (06/05/2018)
16. Ruth Burgess, ruthburgess2003@yahoo.co.uk (05.05.2018)
17. Joyce Watson, Beannachd, Isle Of Iona, PA76 6SP (09/05/2018)
18. Anne Crosby, aciona@live.co.uk (05/05/2018)
19. Colin Crosby, aciona@live.co.uk (05/05/2018)
20. Jane Martin, Dunara, Isle Of Iona, PA76 6SJ (06/05/2018)
21. Crawford Morrison, Cruachan, Isle Of Iona, PA76 6SP (07/05/2018)
22. Dean Snell, Cruachan, Isle Of Iona, PA76 6SP (07/05/2018)
23. Isla Macleod, Arnish House, Isle Of Iona, PA76 6SJ (07/05/2018)
24. Jana McLellan, 5 The Glebe, Isle Of Iona, Argyll, PA76 6SG (07/05/2018)
25. Robert McLellan, 5 The Glebe, Isle Of Iona, Argyll, PA76 6SG (07/05/2018)
26. Caroyln Erdal, Block House, Iona (08/05/2018)
27. Richard Erdal, Block House, Iona (08/05/2018)
28. Iona Village Hall Community Trust (08/05/2018)
29. Stanley Hood, samhood.38@btinternet.com (08/05/2018)
30. Colin N Walker, walker449@btinternet.com (08/05/2018)
31. Fiona MacNeill, 10 Glencairn Drive, Glasgow, G41 4QN (08/05/2018)
32. Norman Shanks, rufuski@btinternet.com (08/05/2018)
33. Ruth Douglas Shanks, rufuski@btinternet.com (08/05/2018)
34. Colin Wallace, 21 Northumberland Road, Redland, Bristol, BS6 7AZ (08/05/2018)
35. Pauline Wallace, 21 Northumberland Road, Redland, Bristol, BS6 7AZ (08/05/2018)
36. Nina Ghosh, dalimng1956@gmail.com (08/05/2018)
37. Gillian Cummins Gillian.cummins@myphone.coop (08/05/2018)
38. Stewart Jardine, stewartjardine@googlemail.com (08/05/2018)
39. Christine Dougall, Primrose Cottage, Isle Of Iona, PA76 6SJ (08/05/2018)
40. Iona Library Committee (09/05/2018)
41. Judith Jardine, Judith_jardine@hotmail.com (06/05/2018)
42. Angus Johnston, angus_johnston_iona@yahoo.com (09/05/2018)
43. Morag Snell, Cruachan, Isle Of Iona, PA76 6SP (09/05/2018)
44. Iona Community, Iona Abbey, Iona, PA76 6SN (09/05/2018)
45. Kate Gordon, Duncraig, Iona, PA76 6SP (10/05/2018)
46. Duncan Wallace, 12 Heriot Row, Edinburgh, EH3 6HP (09/05/2018)
47. Mary Low, hoolet96@gmail.com (09/05/2018)
48. Mairi MacDonald, Tigh Gorm, Isle Of Iona, PA76 6SP (09/05/2018)
49. Hilary Young, Iona Post Office, Isle Of Iona, PA76 6SJ (10/05/2018)
50. Mr W A Wallace, Oakwood, Lediag, Oban, PA37 1RT (10/05/2018)
51. Eileen Griffith, Hill of Edinvale, Dallas, Forres, Moray, IV36 2RW (10/05/2018)
52. Shona Dougall, Ardionra, Isle of Bute, PA76 6SW (10/05/2018)
53. Nat Baldwin, nathanbaldwin@gmail.com (10/05/2018)
54. Philip Ruhemann, Fiuran, Isle Of Iona, Argyll And Bute, PA76 6SP (10/05/2018)

55. Mark Jardine, info@boattripsiona.com (10/05/2018)
56. Mary Levison, marylevison@btinternet.com (11/05/2018)
57. Annabel MacInnes, ruanaich@yahoo.co.uk (11/05/2018)
58. Anja Jardine, Lovedale, Isle of Iona, Argyll and Bute, PA76 6SJ (11/05/2018)
59. Katy Russon, Clachan Corrach, Isle Of Iona, Argyll and Bute, PA76 6SP (11/05/2018)
60. Sara Petrie, Torrasalsle, Of Iona, Argyll And Bute, PA76 6SP (12/05/2018)
61. J D Weatherhead, Machair, Isle Of Iona, PA76 6SP (12/05/2018)
62. Gordon Bruce, Dunaralsle, Of Iona, Argyll And Bute, PA76 6SJ (12/05/2018)
63. David Johnston, 4 Broadstraik Grove, Westhill, Aberdeen AB32 6JJ (13/05/2018)
64. James Gordon, gordonj@parliament.uk (13/05/2018)
65. Rebecca Knight, 2 The Glebe, Iona, PA76 6SG (13/05/2018)
66. Norman J Young, Tigh Na Tobrach, Isle Of Iona, PA76 6SP (14/05/2018)
67. Kathryn MacDonald, katemacdonald@hotmail.com (14/05/2018)
68. Colin MacDonald, Caol Ithe, Isle Of Iona (14/05/2018)
69. Mhairi Killin, Tigh-Na-Beargh, Isle Of Iona, Argyll And Bute, PA76 6JS (14/05/2018)
70. Karen Johnston, Roseneath Cottage, Isle of Iona, PA76 6SJ (14/05/2018)
71. Neil MacInnes, Suil Na Mara, Isle Of Iona, PA76 6SP (14/05/2018)
72. Anne Gordon, Torr Gorm, Isle of Iona, Argyll And Bute PA76 6SP (14/05/2018)
73. Jann Simpson, Cnocoran, Isle Of Iona, Argyll And Bute, PA76 6SP (14/05/2018)
74. Fiona Menzies, Lorne Cottage, Isle Of Iona, PA76 6SJ (14/05/2018)
75. Gordon Menzies, Lorne Cottage, Isle Of Iona, PA76 6SJ (14/05/2018)
76. David Hogg, Dalantober, Isle Of Iona, Argyll And Bute, PA76 6SP (15/05/2018)
77. Linda Hogg, Dalantober, Isle Of Iona, Argyll And Bute, PA76 6SP (15/05/2018)
78. Daniela Francia, The Blue House, Clachan Corrach, Isle of Iona, PA76 6SP (15/05/2018)
79. Isabel Sarle, isabelsarle@btinternet.com (15/05/2018)
80. Steve Small, stvsmall@gmail.com (15/05/2018)
81. Iona Cathedral Trust, 121 George Street, Edinburgh, EH2 4YN (15/05/2018)
82. Jeremy Akehurst, Tigh Shee, Isle Of Iona, Argyll And Bute, PA76 6SP (15/05/2018)
83. Robert MacManaway, Sabhallsle Of Iona, Argyll And Bute, PA76 6SP (15/05/2018)
84. Sandra Fox, Glenview, Isle Of Iona, Argyll And Bute, PA76 6SW (22/05/2018)
85. Mollie Hood, 10 Dalriada Place, Kilmichael Glassary, Lochgilphead, PA31 8QA (08/05/2018)
86. G Black, Clachan Corrach, Isle of Iona, PA76 6SP (03/05/2018)
87. Shiona Ruhemann, shionaruhe@me.com (23/05/2018)
88. Keith Grieve, 21 Church Path, London, E17 9RQ (09/05/2018)
89. Ken Hood, 21 Church Path, London, E17 9RQ (09/05/2018)
90. J, Sutch Pickard, 3 The Village, Bunessan, Isle Of Mull, PA67 6DG (15/07/2018)
91. Iain Dougall, Victoria Cottage, Isle Of Iona, PA76 6SJ (04/05/2018)
92. Rob Latimer, latimer.rob@googlemail.com (10/05/2018)
93. Shona Wallace, 2 Clathymore Cottages, Tibbermore, Perth, PH11QT (10/05/2018)

Summary of issues raised

- The proposed house will spoil the views from Cnocmor towards the village and the nunnery.

Comment: The right to a private view is not a material planning consideration.

- The proposed house will be too close to the historic library, the village hall,

the medical centre, the Nunnery and the primary school. This part of the village is commercial in nature and the proposed dwellinghouse would be out of place. The proposed house increases the density of development to a level which is contrary to the local streetscene and pattern of development.

Comment: It is considered that the proposed dwellinghouse creates an uncomfortable relationship with the existing commercial uses. The application is recommended for refusal. More information is contained within the main assessment.

- The entrance to the house would endanger pedestrians and vehicles as it will make the existing busy and sharp corner into a crossroad. The proposed house will have an adverse impact on road safety.

Comment: The area roads officer has been consulted and has not raised any objections in terms of road safety. It is considered that the proposal complies with Policy LDP 11 and Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 of the LDP.

- The proposed house would have an adverse impact on the conservation area.

Comment: This is a view held by the planning authority and it is one of the reasons for refusal. More information is contained within the main assessment.

- Visually the proposed house would overcrowd and block views on all sides. The dwellinghouse destroys historic views down to Martyrs Bay. The proposed house will block views to and from the Nunnery. The proposed development will affect the views of the library building on approach. The proposed parking space will block the view from Nunnery Corner looking down the sound to the south. In addition to the building, there would presumably be parking, bins, boundary treatments, washing lines, etc. which would all further fill that important gap and lose the view completely.

Comment: It is considered that the proposal has an adverse visual impact on the area including the setting of the conservation area and the Scheduled Ancient Monument. This is one of the reasons for refusal and more information is contained within the main assessment.

- The new plans use an old, defunct plan for the new village hall.

Comment: This plan does not form part of the main planning submission and is for supporting information only. The minor discrepancies are noted however they do not deviate from the proposed plans to such an extent that they would be misleading. They illustrate the indicative relationship the proposed buildings would have.

- The use of the proposed dwellinghouse would conflict with the library and village hall. There are reciprocal overlooking and privacy issues.

Comment: The proposal is considered to be contrary to the provisions of Policy LDP 8 and Supplementary Guidance SG LDP BAD 1 of the LDP. This is one of the reasons for refusal and more information is contained within the main assessment.

- The proposed house will have an adverse impact on the setting of the nunnery.
Comment: The planning authority also considers that the proposed dwellinghouse will have an adverse impact on the setting of the nunnery and this is one of the reasons for refusal. More information is contained within the main assessment.
- The development is out of character with the rest of the village.
Comment: It is considered that the development is not in keeping with the character of this part of the village and this is one of the reasons for refusal. More information is contained within the main assessment.
- The proposed house is situated on the 'Street of the Dead' which is a site of archaeological importance.
Comment: It is considered that the development will have an adverse impact on the on the setting of the 'Street of the Dead' however West of Scotland Archaeology Service have not objected subject to appropriate mitigation which can be achieved via planning condition.
- There is no mention whether the house will be sold or rented as affordable housing, 33% of the housing stock on the island is taken up with second homes and there are plenty of holiday lets available which benefit the income of island people. Another holiday let which belongs to someone not resident on the island is not helpful. There is no evidence that the proposed house will cater to local need.
Comment: The proposed tenure of the development is not a material planning consideration in this case.
- The design statement says the house forms a compact corner development which is not accurate as the library is the corner property.
Comment: When the new village hall is built with its 'L'-shaped plan the proposal will essentially infill the gap created between the new hall and the existing library.
- This is a completely opportunistic use of the land, aiming to achieve maximum monetary value with scant thought as to the impact on the surroundings and the local community.
Comment: This is not a material planning consideration.
- The design of the proposed house is poor.
Comment: The design of the proposed dwellinghouse, subject to conditions regarding external finishing materials, is considered to be acceptable, however there remains an adverse impact in terms of setting and settlement pattern.
- The proposed house has an adverse impact on the setting of the Area of Panoramic Quality.

Comment: It is not considered that the development will have an adverse impact on the setting of the Area of Panoramic Quality. Please see the main assessment for more information.

- The proposed house is inches from the new path access, courtyard and terrace for the proposed new village hall.

Comment: The proposal is recommended for refusal due to its inappropriate relationship to neighbouring properties. Please see the main assessment for more information.

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

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

Policy

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

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

Supplementary Guidance

SG LDP CC 1 - Climate Change and Sustainable Development
SG LDP ENV 14 – Landscape
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas
SG LDP ENV 19 – Development Impact on Scheduled Ancient Monuments
SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance
SG LDP BAD 2 – Bad Neighbour In Reverse
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision
Sustainable Siting and Design Principles

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

Scottish Planning Policy 2014
Consultation responses
Third party representations
Historic Environment Managing Change Series
Historic Environment Scotland Policy Statement 2016

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

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

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

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

(O) Requirement for a hearing: No

In deciding whether to hold a discretionary hearing, Members should consider:

- How up to date the Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations,

together with the relative size of community affected, set against the relative number of representations and their provenance.

Ninety four representations have been received regarding the proposed development.

Whilst this represents a substantial and significant number of objections in terms of the local context and the size of the existing Iona community, it is not considered that a hearing would add value to the decision making process in this case given the recommendation that the application be refused. However, should Members decide that they wish to support the development, it is recommended that any such decision should not take place without full consideration of the need to hold a discretionary local hearing.

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

This is an application for planning permission for the erection of a dwellinghouse on Land South East of the Library, Baile Mor, Isle of Iona.

The site is located within the village of Baile Mor wherein Policy LDP DM 1 of the adopted Argyll and Bute Local Development Plan (LDP) 2015 states that encouragement shall be given to sustainable and appropriate forms of up to small scale development on acceptable sites, having due regard to all other relevant planning policy considerations and all other material planning considerations..

The site is also located within the Baile Mor Conservation Area, is adjacent to the ruins of the historic Nunnery, (a Scheduled Ancient Monument) and the Central, South and West Mull Area of Panoramic Quality (APQ).

The site is currently undeveloped and open and sits immediately adjacent to a cluster of non-domestic properties to the north, north west and south west.

The determining factors in the assessment of this application are whether or not the scale, design and location of the development is acceptable for its site and surroundings, including its visual impact upon the landscape and townscape; its appropriateness in terms of the residential use of the proposed development adjacent to existing non-residential development and any material loss of amenity therefore arising from the juxtaposition of conflicting land uses; its impact upon the character and setting of the conservation area; and its impact upon the character and setting of the historic environment, including the SAM and the wider historic environment including the 'road of the dead'.

In this case it is considered that the proposed development will have a materially harmful adverse impact upon the character and setting of this part of the conservation area; will have a materially harmful adverse impact upon the historic environment, including the setting of the SAM and its intrusion upon the historic 'road of the dead' and will likely result in adverse privacy and amenity impacts for any future occupants of the proposed development due to the uncomfortable relationship between the proposed dwellinghouse and the existing immediately adjacent non-residential (bad neighbour in reverse).

The application triggers the requirement to be determined by the Planning, Protective Services and Licensing Committee due to the large amount of public interest. The proposal has elicited 94 objections from both the local community and further afield and includes objections from the Community Council and from the

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

(R) Reasons why Planning Permission or Planning Permission in Principle should be refused:

1. The proposed development would have a materially harmful and unacceptable impact upon the historic environment including the character and setting of the conservation area, the setting of the nearby Nunnery, which is a Scheduled Ancient Monument, and upon the historically and culturally significant 'Street of the Dead'.

The development creates a sense of enclosure which is further exacerbated by the proposed car parking area and curtilage which intrudes into key views to and from the Nunnery and its immediate setting and would result in a further obstruction to the 'Street of the Dead'. This results in an inappropriate partial erosion of an important 'gap site' between existing development which has a significant adverse impact upon the character and setting of the conservation area as well as the setting of the Nunnery. The development would alter the way the Nunnery is appreciated and experienced and it would visually intrude into the setting that it currently enjoys.

Views of the existing Carnegie Library will be obscured by the development when travelling along the public road from the ferry slip heading north-west. Although not listed, the building has important historical and cultural significance and this will be eroded by the new development which will further contribute to the reduction in the value of the historic environment. The Carnegie Library is located adjacent to a small cluster of non-domestic buildings and the construction of a residential building upon this site will create a situation which is functionally and visually out of character with the area further compromising the setting of the conservation area.

The proposed development therefore conflicts with Policies LDP DM 1, LDP ENV 3, LDP ENV 9 and Supplementary Guidance SG LDP ENV 17 and SG LDP ENV 19 of the LDP as well as Scottish Planning Policy and the Historic Environment Scotland Policy Statement 2016 and Historic Environment Scotland Managing Change: Setting.

2. The proposed dwellinghouse is located immediately adjacent to the existing library and village hall and would therefore introduce a new incompatible development within very close proximity to existing non-residential development. This would result in an uncomfortable relationship between domestic and non-domestic buildings in that there would likely be an adverse impact on privacy and amenity for the residents of the proposed new dwellinghouse. The proposed development is therefore considered a 'bad neighbour in reverse' which would cause conflict with the well-established neighbouring village hall which has no restrictions in terms of events that could take place or on hours of operation. The proximity of the proposed development to the village hall and the location of windows would result in an adverse impact on privacy and amenity in terms of noise nuisance and overlooking.

The proposed development is therefore contrary to Policy LDP 9 and Supplementary Guidance SG LDP BAD 2 of the LDP as well as Scottish Planning Policy.

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

N/A

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

Author of Report: Andrew Barrie **Date:** 8th October 2018

Reviewing Officer: Tim Williams **Date:** 9th October 2018

Angus Gilmour
Head of Planning, Housing & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 18/00931/PP

1. The proposed development would have a materially harmful and unacceptable impact upon the historic environment including the character and setting of the conservation area, the setting of the nearby Nunnery, which is a Scheduled Ancient Monument, and upon the historically and culturally significant 'Street of the Dead'.

The development creates a sense of enclosure which is further exacerbated by the proposed car parking area and curtilage which intrudes into key views to and from the Nunnery and its immediate setting and would result in a further obstruction to the 'Street of the Dead'. This results in an inappropriate partial erosion of an important 'gap site' between existing development which has a significant adverse impact upon the character and setting of the conservation area as well as the setting of the Nunnery. The development would alter the way the Nunnery is appreciated and experienced and it would visually intrude into the setting that it currently enjoys.

Views of the existing Carnegie Library will be obscured by the development when travelling along the public road from the ferry slip heading north-west. Although not listed, the building has important historical and cultural significance and this will be eroded by the new development which will further contribute to the reduction in the value of the historic environment. The Carnegie Library is located adjacent to a small cluster of non-domestic buildings and the construction of a residential building upon this site will create a situation which is functionally and visually out of character with the area further compromising the setting of the conservation area.

The proposed development therefore conflicts with Policies LDP DM 1, LDP ENV 3, LDP ENV 9 and Supplementary Guidance SG LDP ENV 17 and SG LDP ENV 19 of the LDP as well as Scottish Planning Policy and the Historic Environment Scotland Policy Statement 2016 and Historic Environment Scotland Managing Change: Setting.

2. The proposed dwellinghouse is located immediately adjacent to the existing library and village hall and would therefore introduce a new incompatible development within very close proximity to existing non-residential development. This would result in an uncomfortable relationship between domestic and non-domestic buildings in that there would likely be an adverse impact on privacy and amenity for the residents of the proposed new dwellinghouse. The proposed development is therefore considered a 'bad neighbour in reverse' which would cause conflict with the well-established neighbouring village hall which has no restrictions in terms of events that could take place or on hours of operation. The proximity of the proposed development to the village hall and the location of windows would result in an adverse impact on privacy and amenity in terms of noise nuisance and overlooking.

The proposed development is therefore contrary to Policy LDP 9 and Supplementary Guidance SG LDP BAD 2 of the LDP as well as Scottish Planning Policy.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 18/00931/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the settlement boundary of the village of Baile Mor wherein Policy LDP DM 1 of the adopted Argyll and Bute Local Development Plan (LDP) 2015 states that encouragement can be given to sustainable and otherwise acceptable forms of up to small scale development on appropriate sites but only where such development accords with any other material planning consideration including other relevant LDP policies.

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. The site is situated within an Area of Panoramic Quality (APQ) and Supplementary Guidance SG LDP ENV 13 seeks to resist development where its scale, location or design will have a significant adverse impact on the character of an APQ. Supplementary Guidance SG LDP ENV 17 and SG LDP ENV 19 seek to ensure that the integrity and character of conservation areas and scheduled ancient monuments are preserved and SG LDP ENV 20 seeks to retain, protect, preserve and enhance areas of archaeological significance.

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities through the provision and maintenance of an appropriate supply and tenure mix of housing. Supplementary Guidance SG LDP HOU 1 expands on this policy giving general support to new housing in the settlements on appropriate sites provided there are no unacceptable environmental, servicing or access issues. Supplementary Guidance SG LDP BAD 1 seeks to preserve the amenity of areas and resists inappropriate developments. SG LDP BAD 2 states that in all development management zones there will be a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to, areas already containing developments classed as 'bad neighbour developments' (and Schedule 2 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992). In this context, 'bad neighbour developments' would include a building in use as a dance hall, gymnasium (or building for indoor games), theatre or cinema plus a building which can cause activity and noise between the hours of 8pm and 8am. In this respect, the existing village hall is considered to be an existing 'bad neighbour' development and the proposed development of the immediately adjacent site will therefore introduce an incompatible residential use contrary to planning policy.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. The Sustainable Siting and Design Principles expands on this policy seeking development layouts to be compatible with, and consolidate the existing settlement and take into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues. In this case, as discussed above and in terms of its impact upon the historic environment (considered in Section D below), it is not considered that the proposed development pays appropriate regard to its context or has an appropriate relationship with neighbouring development.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure developments are served by a safe means of vehicular access and have an appropriate parking provision within the site.

B. Location, Nature and Design of Proposed Development

The site is located on a relatively flat area of ground immediately adjacent to the existing library building and village hall which are located to the north-west. To the south is an open field with views towards Martyrs Bay. To the north lies the doctors' surgery and primary school with a small hill in the background and to the east lies various forms of built development, including the Nunnery, which is a Scheduled Ancient Monument.

The main road is located to the east of the site which is an important route for pedestrians making their way to the Abbey from the ferry slip. A small private track runs to the west towards some houses and the Catholic House of Prayer. The site is also located on part of the historic route known as 'The Street of the Dead' with the south western corner of the proposed dwellinghouse plus part of the development curtilage bisecting this ancient pilgrimage route.

A key factor in the determination of this application will therefore be its impact on the historic environment (considered in Section D below).

The site was subject to a previous planning application for planning permission for two dwellinghouses which was withdrawn following advice from the planning authority as the proposed location and design of the development was considered to be inappropriate and which would have an unacceptable adverse impact on the setting of the adjacent Nunnery and wider historic environment and landscape.

The revised proposal is now only for a single dwellinghouse which has been significantly reduced in scale from the previous proposal and which is located to the north-western corner of the open field in an attempt to lessen the impact of the development.

The dwellinghouse proposed is single storey with a hipped roof with two bedrooms and it is similar in scale to the adjacent library. It is oriented with its plan at right angles to the street, with the east elevation being in line with the school boundary wall in an effort to reduce the impact of the proposed building and to consolidate with the existing development at this corner.

It is to be finished with a natural blue/black slate with a render finish to the walls and painted timber windows.

Car parking is to be located to the east of the proposed dwellinghouse as is the proposed area of residential curtilage.

As discussed in Section A above and Sections D and F below, the proposed development would have a materially harmful and unacceptable impact upon the historic environment including the character and setting of the conservation area, the setting of the nearby Nunnery (a Scheduled Ancient Monument), and upon the historically and culturally significant 'Street of the Dead'. Additionally, it would also create an unacceptable bad neighbour in reverse conflict with the neighbouring village hall.

The proposal is considered to be contrary to the relevant provisions of the LDP, particularly with regard to Policies LDP 3, LDP 8 and LDP 9 and Supplementary Guidance SG LDP ENV 17, SG LDP ENV 19, SG LDP BAD 2 and The Sustainable Siting and Design Principles of the LDP which seek to ensure that development is sited and positioned so as to pay regard to the context within which it is located.

C. Natural Environment and Landscape Considerations

The application site is located within an APQ designated for its high scenic beauty where Policy LDP 3 and SG LDP ENV 13 seeks to resist development where its scale, location or

design will have a significant adverse impact on the character of an APQ unless it is adequately demonstrated that any significant or adverse effects on the landscape quality for which the area has been designated are clearly outweighed by social, economic or environmental benefits of community wide importance. In this respect it is noted that the intent of the policy is to provide locally important landscapes with adequate protection against damaging development that would diminish their high scenic value. APQs are important not only for their physical landforms and scenic value but also for the environmental assets that they represent. These qualities could easily be destroyed or damaged by even a relatively small, insensitive development and must therefore be protected.

The proposed dwellinghouse is contained within the defined settlement boundary and is located within an important 'gap site' immediately adjacent to existing building development with a scale of similar size to that of the existing library. Whilst the proposed development would be unacceptable in terms of its localised impacts including the partial erosion of the existing gap site and the consequent harm to important key views both to and from the nearby Scheduled Ancient Monument and the adjacent locally important library building, given the scale and level of containment afforded to the proposed dwellinghouse in the context of the surrounding built environment it is not considered that the proposed development would have a materially detrimental impact at the macro level in terms of the scenic value of the wider panoramic landscape setting of the APQ and therefore the proposal, whilst conflicting with other key planning policies, is considered to be in accordance with SG LDP ENV 13 of the LDP.

D. Historic Environment

The proposed site forms part of an important gap site within the centre of the village which has open views towards Martyrs Bay and from Martyrs Bay looking towards the Nunnery and Abbey and back again.

The site is within the Iona Conservation Area and the whole of Iona is subject to an Article 4 direction removing 'permitted development' rights'.

SG LDP ENV 17 – Development in Conservation Areas states that:

There is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting, or a Special Built Environment Area.

New development within these areas and on sites forming part of their settings must be of the highest quality, must respect and enhance the architectural and other special qualities that give rise to their actual or proposed designation and conform to Historic Environment Scotland Policy Statement 2016 and accompanying Managing Change Guidance Notes.

Where development would affect these areas or their setting the developer will be expected to satisfactorily demonstrate that the impact of the development upon that special area has been assessed and that measures will be taken to preserve and enhance the special interest of the asset. The use of appropriate design statements, conservation plans, character appraisals etc. are expected facilitate this assessment. Where appropriate, measures of assessment will be expected to follow the principles set out in the joint guidance "New Design in Historic Settings" produced by Historic Environment Scotland, Architecture and Place, Architecture and Design Scotland.

The site is also within close proximity to the Nunnery, one of the most important buildings on the island (and important within the national historic context) and the first building of significance that people come across when heading north-east on the route to the Abbey. The

Nunnery is a Scheduled Ancient Monument (SAM) and Supplementary Guidance SG LDP ENV 19 of the Local Development Plan sets out a presumption in favour of retaining, protecting, preserving and enhancing SAMs and their settings. Developments that have an adverse impact on SAMs and their settings will not be permitted unless there are exceptional circumstances. Where development would adversely affect a heritage asset or its setting the developer will be expected to satisfactorily demonstrate that the impact of the development upon that asset has been assessed and that measures will be taken to preserve and enhance the special interest of the asset. Consultation with HES has therefore been undertaken.

HES has stated that whilst the development is largely related to the existing building cluster, the whole development including the proposed curtilage and parking/turning area would have an adverse impact on the setting of the Nunnery by intruding on important views to and from it. Whilst it is acknowledged that HES have not raised a formal objection to the proposal this advice is carefully worded and follows closely their usual advice protocols and procedures whereby a formal objection is unlikely to be raised if the development does not materially raise issues of *national* significance. Whilst not objecting, it is clear that HES have material and legitimate concerns with the proposed dwellinghouse and they note in their response that their decision not to object should not be taken as their support for the proposals, stating that this application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

This appropriate assessment is summarised below:

Key Views

The existing site is flat and open and it contributes to the important inward and outward views from the Nunnery and surroundings. A large number of tourists visit the island solely to visit Iona Abbey and so it is essential that the route from the ferry pier to it should be protected from any potentially harmful development as well as other key views. Key views are:

- Open views towards the site from the north when one is travelling west from the Abbey along the public road and from the Nunnery. These views overlook open fields along the 'Street of the Dead' towards Martyrs Bay and beyond to the south and south-west.

The Abbey and the Nunnery have an important conterminous visual link and this should be preserved. When viewed from a position immediately adjacent to the Abbey the proposed dwellinghouse will not be readily visible due to the presence of screening trees located at mid-point along the access avenue serving the Abbey and the Nunnery.

When viewed closer to the site of the proposed development, adjacent to the school for example, the proposed dwellinghouse encroaches into the view westwards across the open fields thus diminishing the sense of openness currently experienced. When one travels further along the avenue road the view is experienced to the south and south-west along the 'Street of the Dead' towards Martyrs Bay. Whilst there is no proposed built development which would directly obstruct this view, the proposed garden and parking area would fundamentally and harmfully affect the character of this space and the view experienced towards the south and south-west. This is also true from views within the Nunnery complex itself.

- Inward views from the coastal road and high road located to the south and south-west looking across the open fields and 'Street of the Dead'.

The proposed development with its curtilage and parking area encroaches into the view looking towards the Nunnery. The Nunnery is clearly visible in the background in these views as is the Abbey in places which is located further in the distance. The natural stone finish of the Nunnery and the presence of surrounding development slightly diminish the prominence

of the building and it is therefore essential that the proposal does not diminish its prominence and importance further.

At this distance the impact of the development is slightly lessened as the proposed building itself would somewhat relate to the existing cluster of development. However, the impact of the proposed curtilage and parking/turning area upon this key view is pronounced. It is acknowledged that the village hall encroaches onto this view also, however as it is set well back from the edge of the public road and thus the Nunnery, its visual impact is significantly lessened. The village hall (including its recently approved extensions) will maintain views over the majority of the open fields, importantly towards Martyr's Bay, and it does not encroach onto the historic 'Street of the Dead.'

The south western corner of the proposed dwellinghouse, on the other hand, plus a small part of its proposed curtilage area will be directly over a small section of the 'Street of the Dead'. Whilst the existing library building is positioned over the north west end of the Street of the Dead where it meets with the public road, this library building is discretely located at a 90 degree bend in the public road and has no recorded planning history. Nevertheless, its positioning is far less than ideal when considering its impact upon the historic environment in retrospect.

The ancient 'Street of the Dead' was the ceremonial burial route from Martyr's Bay to the Abbey and thence from there to the nearby burial ground of Rëilig Odhrain, currently occupied in part by St Oran's Chapel.

Impacts

Whilst the proposed dwellinghouse, in and of itself, is of small scale with a generally appropriate form and design, it is considered that it does not preserve or enhance the character and/or setting of the conservation area. The applicant has argued that the proposed dwellinghouse consolidates development at this location, particularly if the new extended village hall is constructed. However the planning authority disagrees with this. The proposed dwellinghouse is located at close proximity to the existing library and village hall which creates an uncomfortable relationship between domestic and non-domestic buildings. The south-eastern wall of the proposed dwellinghouse extends beyond the line of the boundary wall of Iona Primary School encroaching into the view across the open fields along the street of the dead towards Martyr's Bay which one appreciates as they travel along the public road. This creates a sense of enclosure which is further exacerbated by the car parking area and curtilage which intrudes into the view further. Although removal of permitted development rights and the restriction of boundary treatments may go some way to alleviating this, even fairly unrestricted boundary treatment such as a post and wire fence and the presence of vehicles will adversely impact on the views experienced as well as the sites relationship to the Nunnery.

At present the Nunnery currently enjoys an open outlook to the south and is relatively free from built development along its boundaries, with the school and doctor's surgery for example being set-back from it. Development of this site erodes this sense of space and openness and compromises the visual prominence of the Nunnery.

This area of the village is also dominated by non-residential buildings. These consist of the primary school, library, village hall and doctor's surgery. The closest residential building is located approximately 40m to the south-east of the existing library and it is considered that the open gap site between these provides an important buffer area. By developing within this area this will create a situation which is functionally and visually out of character with the area which further compromises the setting of the conservation area.

The proposed dwellinghouse is to be located directly in front of the existing Carnegie Library and when travelling along the public road from the ferry slip heading north-west, the view of this will be obscured. Although not listed, the building has important historical and cultural significance and this will be substantially eroded by the new development which will decrease the value of this important concentration of existing community buildings.

As noted above the proposed dwellinghouse will be prominent when viewed from the south and south-west. Whilst the proposed redevelopment of the village hall has been approved, this is set-back from the road and the Nunnery which significantly lessens its visual impact. The proposed dwellinghouse and its associated curtilage and parking encroaches into this view of the Nunnery compromising its setting.

Having regard to the above it is considered that the proposed development has a significant adverse impact on the setting of the conservation area as well as the setting of the Nunnery which is an internationally significant Scheduled Ancient Monument. The development would alter the way the monument is appreciated and experienced and it would visually intrude into the visual prominence the monument currently enjoys. This is contrary to the provisions of Policy LDP 3 and Supplementary Guidance SG LDP ENV 17 and SG LDP ENV 19 of the LDP as well as Scottish Planning Policy and the Historic Environment Scotland Policy Statement 2016 and the Historic Environment Scotland Managing Change: Setting.

E. Archaeology

Supplementary Guidance SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance states that there is a presumption in favour of retaining, protecting, preserving and enhancing the existing archaeological heritage and any future discoveries found in Argyll and Bute.

As the site is of significant archaeological sensitivity West of Scotland Archaeological Service has been consulted. They have advised that:

There is clearly potential here for there to be buried remains in this vicinity and any such features may be affected by the ground disturbance proposed in the application. This is likely to raise serious archaeological issues and could be very expensive to deal with satisfactorily. Any such remains that survive in the application area may be destroyed by the proposals and so there should be an attempt made to investigate this possibility before the application is determined through an archaeological evaluation in order to inform the developer and WOSAS of the likely scale of the issue and to preserve in situ any very significant sites identified and it is recommended that the site is subject to prior archaeological evaluation.

If this cannot be done the issue may be dealt with via planning condition. In this case given that the application is recommended for refusal, it would be unreasonable to request that this is carried out upfront, as this would result in unnecessary costs for the applicant. However, should Members be minded to grant planning permission, an appropriate archaeological prior assessment or suitable planning condition would be necessary.

Subject to further archaeological investigation, the proposed development complies with Policy LDP 3 and Supplementary Guidance SG LDP ENV 20 of the LDP.

F. Privacy, Amenity and Bad Neighbour Development

As the proposed dwellinghouse is located immediately adjacent to an existing village hall, the proposal represents a bad neighbour development in reverse. Accordingly, environmental health have been consulted. They have advised that, from their legislative standpoint, this is

not sufficient to warrant an objection to the proposed development and that any prospective purchasers of the proposed dwellinghouse if approved should be aware of these issues.

Notwithstanding that, the application must be assessed against Policy LDP 8 and SG LDP BAD 2 which states that in all development management zones there will be a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to, areas already containing developments classed as 'bad neighbour developments' (and Schedule 2 of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992). In this context, 'bad neighbour developments' would include a building in use as a dance hall, gymnasium (or building for indoor games), theatre or cinema plus a building which can cause activity and noise between the hours of 8pm and 8am. In this respect, the existing village hall is considered to be an existing 'bad neighbour' development and the proposed development of the immediately adjacent site will therefore introduce an incompatible residential use contrary to planning policy.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. The Sustainable Siting and Design Principles expands on this policy seeking development layouts to be compatible with, and consolidate the existing settlement and take into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues. In this case, as discussed above and in terms of its impact upon the historic environment (considered in Section D above), it is not considered that the proposed development pays appropriate regard to its context or has an appropriate relationship with neighbouring development.

Having regard to the above the proposed development is contrary to Policy LDP 9 and Supplementary Guidance SG LDP BAD 2 of the LDP.

G. Road Network and Parking

The Area Roads Engineer has confirmed that he has no objection to the application subject to conditions. The proposal will therefore accord with the provisions of LDP 11, SG LDP TRAN 4, and SG LDP TRAN 6 of the Local Development Plan which requires all development proposals to have an appropriate standard of access.

H. Infrastructure

It is proposed to connect to the public water main and drainage network and there has been no objection from Scottish Water. The proposal complies with Policy LDP 11 of the LDP.

This page is intentionally left blank

Application Site

Clinic

Iona Primary School

St Ronan's Chur
remains of
Priory
(Augustinian Nuns)

Tigh na
Am Fuaran
Well

Loveda
Primrose
Whitehouse
Roselea

Roseneath
Block House
TCBs

Library

Hall

Tank

Darrach bheag

Shop
Iona Cott

St Ronans

taigh
bhenedi
Dua

Cal an Ellein

Drain

F-Station

War Memor



© Crown copyright and database right 2018. All rights reserved. Ordnance Survey Licence number 100023368

04.79.5 19 Meters

4.6m



Location Plan Relative to planning application: 18/00931/PP



1:1,000

This page is intentionally left blank

Argyll and Bute Council
Development and Infrastructure

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

Reference No: 18/01223/PP

Planning Hierarchy: Local Development

Applicant: Mr and Mrs M. Robertson

Proposal: Erection of Dwellinghouse

Site Address: Land West of Pretoria, Glenshellach Road, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Erection of timber fence

(ii) Other specified operations

- Utilisation of existing vehicular access
 - Connection to public water main
 - Connection to public drainage system
 - Installation of air source heat pump
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

(C) HISTORY:

12/01072/PP

Erection of dwellinghouse and detached garage – Granted: 11/07/12

09/00416/OUT

Renewal of 05/02409/OUT (site for erection of dwellinghouse) – Granted: 12/05/09

05/02409/OUT

Site for erection of dwellinghouse – Granted: 12/04/06

(D) CONSULTATIONS:

Area Roads Authority

Report dated 29/05/18 advising no objection subject to conditions regarding upgrade of access, clearance of visibility splays and provision of an appropriate parking and turning area within the site.

Scottish Water

Letter dated 29/05/18 advising no objection to the proposal but providing advisory comments for the applicant regarding connection to their infrastructure.

Health and Safety Executive (HSE)

Report dated 01/06/18 advising that the proposed development site does not lie within the consultation distance of a major accident hazard pipeline, therefore at present HSE does not need to be consulted on any developments on this site.

Environmental Health Unit (EHU)

Memo dated 27/07/18 advising no objection to the proposed development subject to a condition being imposed ensuring that the noise level from the operation of the air source heat pump does not exceed a certain level. They further advise that an informative should be added to the grant of planning permission to make the applicant aware of the close proximity of the railway line serving Oban which runs close to the development site.

Network Rail (NR)

Memo dated 18/06/18 advising that, whilst they have no issues with the principle of the proposed development, they would object unless conditions are imposed on the grant of planning permission requiring a suitable trespass fence erected adjacent to NRs boundary; a scheme of surface and foul drainage sited 10 metres from NRs boundary; a landscaping scheme which does not affect the railway and a noise impact assessment assessing the potential for occupants of the dwellinghouse to experience noise nuisance from the railway.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 28/06/18.

(F) REPRESENTATIONS:

One objection has been received regarding the proposed development.

Maureen Gilmour, Caulfield Cottage, Glenshellach Road, Oban, PA34 4NQ (15/06/18)

Summary of issues raised

- The proposal represents over intensification of the site and space available with an imposing wall bordering the driveway/garden of Caulfield Cottage.
- The height and width of the northeast elevation will be unsightly, looking more like an industrial building and causing overshadowing of the driveway/garden of

Caulfield Cottage and will block natural light to the back of Caulfield Cottage where the kitchen/dining room are located. The blank wall on this elevation would be 7.8 metres high and 12.8 metres long and would be directly behind the existing hedge and within touching distance of the driveway/garden of Caulfield Cottage.

- The site could accommodate a similar building with the blank wall running parallel with the railway wall and set back more towards the southwest, more in keeping with the former Drimvargie House footprint which would have a lesser impact on other properties.

Comment: During the processing of the application the Planning Service sought a number of design changes to the proposed dwellinghouse to reduce any adverse impact on the established privacy and amenity levels of the neighbouring property 'Caulfield Cottage'. The design changes comprise:

- *Reduction in ridge and eaves height by approximately 567mm and 399mm respectively.*
- *The two storey element has been changed from a pitched to hipped roof.*
- *The dwellinghouse has been moved to the southwest of the site by approximately 2080mm.*
- *Resign of northwest wall of the proposed dwellinghouse to angle it away from the neighbouring property 'Caulfield Cottage'.*
- *Introduction of a fence ranging in height from 1.8 metres to 2.2 metres in height along the northeast elevation.*

Furthermore the applicant's agent has demonstrated that the proposed dwellinghouse would not result in a loss of daylight/sunlight to 'Caulfield Cottage'.

Accordingly, it is the considered opinion of the Planning Service that the changes secured address any concerns regarding the impact of the proposed dwellinghouse on the established privacy and amenity levels currently afforded to 'Caulfield Cottage', particularly given the part-implemented detailed planning permission for a large two storey dwellinghouse which currently exists on the site and within a very similar position to the smaller dwellinghouse currently proposed. Whilst the development the subject of this current planning application is not ideal in terms of its design and its size in relation to the somewhat restricted site area of the plot and its relationship with existing neighbouring dwellinghouses in terms of the Council's usual minimum privacy and amenity standards, it is considered that the amendments to its design and siting represent a small element of 'planning gain' for the site given the existing planning permission and the prospect of completion of the development to which that permission relates.

- There is a piece of overgrown ground to the front of this plot and Caulfield Cottage which is at the back of the properties of Cairnbhan and Kiloran on Albany Street which would be totally isolated and access blocked by a property of the proportion proposed.

Comment: This is not a material consideration in the determination of this current planning application. Furthermore the applicant owns all of the land involved in the current planning application which restricts access to this area of land.

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

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

(H) PLANNING OBLIGATIONS

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

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

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

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

Argyll and Bute Local Development Plan, 2015

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones (Settlement – Main Town of Oban)

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs) (North West Argyll (Coast))

SG LDP ENV 14 – Landscape

SG LDP HOU 1 – General Housing Development including Affordable Housing

SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)

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

SG LDP TRAN 6 – Vehicle Parking Provision

- (i) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

Argyll and Bute Sustainable Design Guidance, 2006

Scottish Planning Policy (SPP), 2014
 Consultee Responses
 Third Party Representations

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

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

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

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

(O)	Requirement for a hearing:	No
------------	-----------------------------------	-----------

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

Planning permission is sought for the erection of a dwellinghouse on an area of ground to the west of Pretoria, Glenshellach Road, Oban.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the site is within the settlement of Oban where Policy LDP DM 1 gives encouragement to development on appropriate sites subject to compliance with other relevant policies and supplementary guidance (SG). The appropriate Local Development Plan framework for the proposed development is discussed in Appendix A below.

The determining factors in the assessment of this application are whether or not the scale and design of the development is acceptable for its site and surroundings, including its impact upon the character and amenity of the area and upon the privacy and amenity of the occupiers of neighbouring properties. It is also necessary to address access, infrastructure and servicing concerns.

The principle of a dwellinghouse on this site has been established by the granting of detailed planning permission 12/01072/PP on 11 July 2012 which benefits from a 'meaningful start' on site rendering the permission live in perpetuity and capable of implementation on site.

The alternative design proposed in the current application is considered to represent a small but welcome 'planning gain' over and above that which was previously granted permission and can be accommodated within the site without any significant material detriment to the character and amenity of surrounding properties or the wider streetscene and without any materially harmful and unacceptable loss of privacy and amenity to the occupiers of the adjacent dwellinghouses.

The application triggers the requirement to be determined by the Planning, Protective Services and Licensing Committee due to the applicant being an Elected Member of the Council.

The proposal has elicited one objection from a neighbouring property.

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

(R) Reasons why planning permission should be granted

The principle of a dwellinghouse on this site has been established by the granting of planning permission 12/01072/PP on 11 July 2012.

The siting, design and finishing materials of the proposed dwellinghouse are considered to be acceptable within this area where there is a mix of architectural styles and finishing materials and there are no infrastructure constraints which would preclude development of the site.

The proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9, LDP 11 and Supplementary Guidance SG2, SG LDP ENV 13, SG LDP ENV 14, SG LDP HOU 1, SG LDP SERV 2, SG LDP TRAN 4 and SG LDP TRAN 6 of adopted 'Argyll and Bute Local Development Plan' 2015 and there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

N/A

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

Author of Report: Fiona Scott Date: 27/09/18

Reviewing Officer: Tim Williams Date: 03/10/18

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

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 18/01223/PP

GENERAL

1. The development shall be implemented in accordance with the details specified on the application form dated 22/05/18 and the approved amended drawing reference numbers:

Plan 1 of 5 (Drawing Number 18.01.01)
Plan 2 of 5 (Drawing Number 18.01.xxx)
Plan 3 of 5 (Drawing Number 18.01.02 rev b)
Plan 4 of 5 (Drawing Number 18.01.04 rev b)
Plan 5 of 5 (Drawing Number 18.01.05 rev b)

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

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

Note to Applicant:

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Regard should be given to the advice set out in the consultation response from Network Rail. You are advised to contact Network Rail directly to discuss the issues raised.

ROADS, ACCESS AND PARKING

2. Notwithstanding the provisions of Condition 1, the proposed access shall be upgraded in accordance with the Council's Roads Standard Detail Drawing SD 08/002a and shall include visibility splays of 2.4 metres to point X by 42 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays cleared of all obstructions over 1.05 metres above the public road carriageway. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to Applicant:

- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be upgraded and drained to ensure that no surface water is discharged onto the public road.

SUDS

3. Notwithstanding the provisions of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

Note to Applicant:

Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk.

DESIGN AND FINISHES

4. Notwithstanding the effect of Condition 1, no development shall commence until written details of the proposed roof covering to be used in the construction of the proposed dwellinghouse have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

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

LANDSCAPING

5. Notwithstanding the provisions of Condition 2, no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of:

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

Where trees/shrubs are to be planted adjacent to the railway boundary, these should be positioned a minimum distance from the boundary which is greater than their predicted mature height.

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

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

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

Note to Applicant:

Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail can provide details of planting recommendations for adjacent developments.

REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Part 1 and Classes 1A, 1B, 1D, 2B, 3A, 3B, 3C, 3D and 3E of the aforementioned Schedule, as summarised below:

PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

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 purpose of the enlargement.

Class 1B: Any enlargement of a dwellinghouse by way of a ground floor extension consisting of more than one storey, including any alteration to the roof required for the purpose of the enlargement.

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

Class 2B: Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

Class 3A: 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 the dwellinghouse.

Class 3C: The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of that dwellinghouse or the replacement in whole or in part of such a surface.

Class 3D: The erection, construction, maintenance, improvement or alteration of

any deck or other raised platform 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.

No such development shall be carried out at any time within this Part and these Classes without the express grant of planning permission.

Reason: To protect the sensitive area and the setting of the proposed dwellinghouse, in the interest of visual amenity and public health, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).

AIR SOURCE HEAT PUMP

7. The noise level from the operation of the air source heat pump hereby approved must not exceed 42dB LAeq (5 min) at 1 metre from the window of a habitable room on the façade of any neighbouring residential property. If, in the opinion of the Local Planning Authority the proposed air source heat pump result in any noise nuisance to the occupant of any neighbouring dwelling the Applicant shall install noise mitigation measures in agreement with the Planning Authority.

Reason: In the interests of amenity in order to avoid noise nuisance which could otherwise occur.

TRESPASS FENCING

8. Notwithstanding the provisions of Condition 2, no development shall commence until full details of a scheme for protecting the adjacent Network Rail land asset from trespass, and maintaining that protection, has been submitted to the planning authority and agreed in writing following consultation with Network Rail. The agreed anti-trespass boundary shall thereafter be installed (should additional boundary treatment be deemed necessary following the submission and assessment of the required mitigation strategy) before the development is first occupied and shall thereafter be maintained in accordance with the agreed scheme of maintenance and renewal.

Reason: In the interests of public safety and the protection of Network Rail infrastructure.

NOISE IMPACT ASSESSMENT

9. Notwithstanding the provisions of Condition 2, no development shall commence on site until such time as a noise impact assessment has been submitted to and approved in writing by the Planning Authority. The noise impact assessment shall include an assessment of the potential for occupants of the development to experience noise nuisance arising from the railway line. Should a potential for materially harmful noise disturbance be identified, proposals for the attenuation of that noise disturbance shall be submitted to and approved in writing by the Planning Authority. Any such approved noise attenuation scheme shall be implemented alongside the development and shall be completed before the dwellinghouse hereby approved is first occupied. Any noise attenuation measures deemed necessary and appropriate shall thereafter be retained in accordance with the approved scheme.

Reason: To ensure that occupants/users of the development do not experience undue disturbance arising from nearby noise sources.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 18/01223/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site is within the settlement of Oban where Policy LDP DM 1 gives encouragement to development on appropriate sites subject to compliance with other relevant policies and supplementary guidance (SG).

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. The site is situated within the North West Argyll (Coast) Area of Panoramic Quality (APQ) where SG LDP ENV 13 seeks to resist development where its scale, location or design will have a significant adverse impact on the character of an APQ.

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities with SG LDP HOU 1 expanding on this policy giving support to new housing in the settlements on appropriate sites provided there are no unacceptable environmental, servicing or access issue.

Policy LDP 9 seeks developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located. SG 2 expands on this policy seeking development layouts to be compatible with, and consolidate the existing settlement and take into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure developments are served by a safe means of vehicular access and have an appropriate parking provision within the site.

The proposal has elicited one objection from a neighbouring property.

It is considered that the proposed dwellinghouse accords with the established settlement pattern for the area and the settlement growth strategy for the main town of Oban and is of an appropriate scale and design which will ensure it does not have any significant adverse impact on the character of the site, its setting within the streetscene or the wider APQ. Furthermore, it is considered that the proposed development will not result in any materially harmful adverse impact upon the privacy and amenity of existing neighbouring dwellinghouses and raises no access or servicing issues. Accordingly, the proposed development is consistent with the terms of Policy LDP DM 1, LDP 3, LDP 8, LDP 9 and LDP 11 and supplementary guidance SG 2, SG LDP ENV 13, SG LDP HOU 1, SG LDP TRAN 4 and SG LDP TRAN 6.

B. Location, Nature and Design of Proposed Development

The application site is situated within the main town centre of Oban, comprising a triangular area of ground measuring approximately 820 square metres in size.

The site is bounded along its southern boundary, at a lower level, by Glenshellach Road with the Oban railway line running along its western boundary. To the east are a single storey detached dwellinghouse, 'Caulfield Cottage' and 2 no. two storey semi-detached dwellinghouses 'Pretoria' and 'Gavicaid' with an area of vacant ground to the north.

The principle of a dwellinghouse on this site has been established by the granting of planning permission 12/01072/PP on 11 July 2012 which benefits from a 'meaningful start' on site rendering the permission live in perpetuity and capable of implementation on site.

The current application seeks permission for an alternative design to that previously approved for the site.

During the processing of the application concerns were raised by the Planning Service regarding the impact the siting and design of the proposed dwellinghouse would have on neighbouring properties, particularly 'Caulfield Cottage'. As a result of these concerns the Planning Service negotiated a number of changes to the siting and design of the proposed dwellinghouse to reduce any impact on the established privacy and amenity levels of 'Caulfield Cottage'. In summary, the changes comprise a reduction in ridge and eaves height by approximately 567mm and 399mm respectively; change of the roof on the two storey element from a pitch to hipped roof; relocation of the dwellinghouse to the southwest of the site by approximately 2080mm; and the redesign of the northwest wall of the proposed dwellinghouse to angle it away from 'Caulfield Cottage' eliminating any overlooking issues from windows in this elevation. Furthermore a timber fence, ranging in height from 1.8 metres to 2.2 metres, has been proposed along the northeast boundary of the application site to further protect the amenity of 'Caulfield Cottage' and the other neighbouring properties.

The changes now result in a dwellinghouse which comprises a single storey pitched roof structure with a two storey hipped roof element to its eastern elevation. The dwellinghouse takes an 'H' shaped form with its main elevation orientated north to allow the two storey element to take advantage of views out over Oban Bay. The dwellinghouse will be built at the same level as the neighbouring dwellinghouses to the east with finishing materials comprising a mix of off-white coloured render, natural stone with a slate substitute roof covering and dark grey aluclad windows. The proposal incorporates 8 pv cells to the southwest roofplane of the two storey element of the dwellinghouse.

The proposed dwellinghouse will sit below the ridge line of the 2 storey semi-detached dwellinghouses 'Pretoria' and 'Gavicaid' when viewed from the west and lower than the ridge line of the dwellinghouse previously approved for the site. However, the proposed dwellinghouse will, like the one previously approved for this site, be substantially taller than the existing adjacent bungalow Caulfield Cottage.

As detailed above, the application now proposes a timber fence along the northeast boundary of the site ranging in height from 1.8 metres to 2.2 metres to further protect the amenity of the neighbouring properties.

It is the considered opinion of the Planning Service that the changes secured address any concerns regarding the impact of the proposed dwellinghouse on the established privacy and amenity levels currently afforded to 'Caulfield Cottage', particularly given the part-implemented detailed planning permission for a large two storey dwellinghouse which currently exists on the site and within a very similar position to the smaller dwellinghouse currently proposed. Whilst the development the subject of this current planning application

is not ideal in terms of its design and its size in relation to the somewhat restricted site area of the plot and its relationship with existing neighbouring dwellinghouses in terms of the Council's usual minimum privacy and amenity standards, it is considered that the amendments to its design and siting represent a small element of 'planning gain' for the site given the existing planning permission and the prospect of completion of the development to which that permission relates.

The proposal is considered to comply with the terms of Policy LDP 9 and SG 2 which seek to ensure developments are of a suitable scale, design and finish and do not have an adverse impact on the privacy and amenity of neighbouring properties.

C. Natural and Built Environment

The site is situated within the North West Argyll (Coast) Area of Panoramic Quality (APQ) where SG LDP ENV 13 seeks to resist development where its scale, location or design will have a significant adverse impact on the character of an APQ.

It is considered that the proposed dwellinghouse respects the established settlement pattern of the surrounding area and is of a scale and design which will ensure it does not have any significant adverse impact on the character of the site, its setting within the streetscene or the wider APQ consistent with the terms of Policy LDP 3, SG LDP ENV 13 and SG LDP ENV 14.

D. Road Network, Parking and Associated Transport Matters.

The application proposes to utilise the existing vehicular access serving the site to which the Roads Authority raised no objection subject to conditions regarding its upgrade, clearance of visibility splays and provision of an appropriate parking and turning area within the site.

With conditions to achieve the requirements of the Roads Authority, the proposal is considered acceptable from a road safety perspective and complies with the terms of Policy LDP DM 11 and SG LDP TRAN 4 and SG LDP TRAN 6 which seek to ensure that developments are served by an appropriate means of vehicular access and have a sufficient parking and turning area within the site.

E. Railway Infrastructure

Due to the proximity of the site to the Oban railway line, comments were submitted by Network Rail (NR) regarding the impact of the proposed development on their infrastructure. NR commented that they would object to the proposed development unless a number of planning conditions are imposed on the grant of planning permission. Such conditions require the provision of a trespass proof boundary adjacent to the railway cutting; details of a scheme for the treatment of surface and foul drainage; details of a landscaping scheme; and submission of a noise impact assessment of the potential for occupants of the proposed dwellinghouse to experience noise nuisance arising from the railway line with subsequent appropriate noise mitigation measures should the assessment require them.

Conditions are therefore proposed on the grant of permission as requested by NR with the exception of a scheme for the treatment of foul drainage as the application indicates connection to existing Scottish Water infrastructure and therefore there should be no impact on NR infrastructure.

In further consideration of the conditions required by NR it is noted that the site currently has the benefit of an intact and substantial stone wall of approximately 1 metre in height along the entire boundary between the proposed development site and the NR land asset.

It is not known whether NR are aware of this existing boundary or, if they are, whether the existing boundary is required to be increased in height or otherwise altered or replaced. It is therefore proposed that planning permission be granted subject to a condition that requires the applicant/developer to submit a scheme of anti-trespass measures to the planning authority to assess alongside detailed consultation with NR. Should the approved scheme require any further boundary treatment than that which exists at present, these additional anti-trespass measures will be expected to be installed in accordance with the approved scheme before the dwellinghouse is first occupied and thereafter maintained in perpetuity.

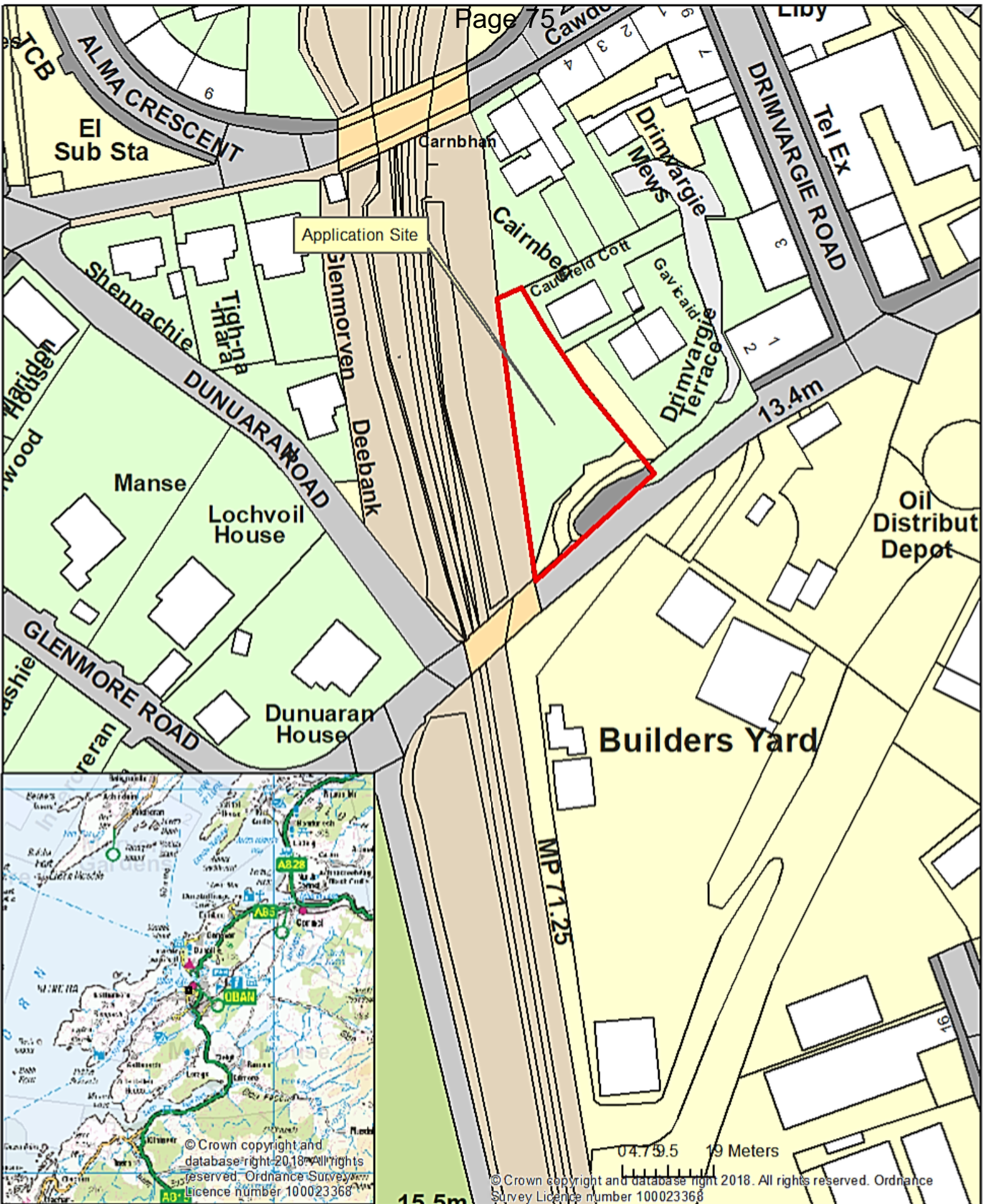
With conditions to secure the requirements of NR it is not considered that the proposed development would have any significant adverse impact on the operation of the railway line.

F. Infrastructure

The application shows water and drainage via connection to the public systems. Scottish Water was consulted on the proposed development and raised no objection but provided advisory comments for the applicant regarding connection to their infrastructure. Accordingly, should planning permission be granted, an informative should be added to the grant of planning permission advising the applicant to contact Scottish Water to discuss connection to their infrastructure.

The proposal is considered acceptable in terms of Policy LDP DM 11 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.

This page is intentionally left blank



Location Plan Relative to planning application: 18/01223/PP



1:1,000

This page is intentionally left blank

Argyll and Bute Council
Planning, Housing and Regulatory Services

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

Reference No: 18/01612/PP

Planning Hierarchy: Local Development

Applicant: Mrs Jean Moffat

Proposal: Installation of Replacement Windows (Retrospective)

Site Address: Craigmore Pier Cottage, Mountstuart Road, Rothesay, Isle of Bute

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Installation of replacement windows
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission be granted subject to the conditions, reasons and informative notes attached to the end of this report.

(C) HISTORY:

Planning Permission (ref: 01/88/0834) was granted on 25th November 1988 for the installation of windows and alterations and improvements to the tearoom, house and pier at the subject site.

An application (ref: 01/93/0980) was submitted in October 1993 for the extension to Craigmore Pier House. This application was withdrawn at the agent's instruction on 27th January 1994.

Planning Permission (ref: 01/94/0136/DET) was granted on 11th April 1994 for the replacement of windows at the subject site.

In February 1995, MacBeth and MacLagan Solicitors applied for a Certificate of Lawfulness for the proposed use of the premises as a licensed restaurant (with Restaurant Licence) and a retail shop. A certificate was issued on 4th May 1995 stating that Planning Permission would not be required for the introduction of the Restaurant Licence.

Planning Permission (ref: 04/00971/DET) was granted on 2nd February 2005 for the alterations and extension of the subject building to form a licensed restaurant.

Planning Permission (ref: 05/00619/DET) was granted on 12th May 2005 for the erection of a tent structure in the courtyard of the subject building subject to its removal by 31st December 2005.

An application for Planning Permission (ref: 06/02257/DET) for the retention of an extractor vent at the subject building was withdrawn on 8th January 2007.

Planning Permission (ref: 16/03018/PP) was granted on 12th January 2017 for the alterations and change of use of the former tearoom to residential use and connection to adjacent cottage to form single dwellinghouse at the subject building.

(D) CONSULTATIONS:

None

(E) PUBLICITY:

Neighbour Notification (expiry date: 19th September 2018) and Conservation Area Advert (expiry date: 5th October 2018).

(F) REPRESENTATIONS:

No representations have been received at the time of writing.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

(H) PLANNING OBLIGATIONS

Is a Section 75 obligation required: No

(I) Has a Direction been issued by Scottish Ministers in terms of No

Regulation 30, 31 or 32:

(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 (March 2015)

LDP STRAT 1 – Sustainable Development

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 9 – Development Setting, Layout and Design

Supplementary Guidance to the Argyll and Bute Local Plan 2015 (March 2016)

SG LDP Sustainable Siting and Design Principles

SG LDP ENV 17 - Development in Conservation Areas and Special Built Environment Areas

SG LDP ENV 21 - Protection and Enhancement of Buildings

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.

Argyll & Bute Sustainable Design Guidance (2006)

Technical Working Note – Rothesay Windows, December 2015

Scottish Planning Policy (2014)

SHEP, 2016

Historic Environment Scotland's Managing Change in the Historic

Environment – Windows, 2018

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

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

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

(N) Does the Council have an interest in the site: Yes

The applicant is a Local Member for the Bute ward.

(O) Requirement for a hearing: No

(P) Assessment of determining issues and material considerations

Craigmore Pier is located in a visually prominent site on the shore side of the A844 at Mountstuart Road, Rothesay. For many years, the single storey building contained a tearoom, kitchen and toilets in its western half whilst the eastern half contained a preparatory kitchen for the tearoom and a self-contained dwellinghouse. However, approximately four years ago, the tearoom ceased operating.

Two years ago, an application (ref: 16/03018/PP) was submitted for altering and changing the use of the former tearoom to residential use and forming a connection to the adjacent cottage thereby creating a single dwellinghouse. The scheme was assessed as a sympathetic refurbishment that would bring the entire building back into an appropriate use and Planning Permission was granted in January 2017.

Neither the approved plans nor the information contained in the application form identified any changes to the fenestration of the building with the exception of the western elevation of the proposed lounge on the rear part of the building. However, during the development works, it was noted that all of the window openings had been the subject of replacement and the applicant was notified that these works required Planning Permission. She has elected to apply retrospectively for the windows and the agent has stated the following in the current application form:

“The applicant replaced former upvc windows which were in poor condition with new upvc windows on the understanding that this was a necessary repair measure on a like for like basis”.

Rather than replacement on a “like-for-like” basis, what has taken place has been as follows:

- The removal of the nine brown-stained, upvc, top hopper windows on the front elevation and the installation of white, upvc, windows with a fixed bottom pane and a top-opening upper pane;
- The removal of the top hopper windows and a door on the rear elevation of what had been the lounge of the previous dwellinghouse and the installation of white upvc patio doors and windows;
- The removal of four top hopper windows on the rear elevation and the installation of white upvc windows with no transom bars;
- The removal of the fenestration on the rear elevation of what had been the tearoom and the installation of fenestration to a different design.

The removal of the existing windows and the installation of new windows were not discussed with the Planning Department prior to the works taking place. If a discussion had been undertaken, the Department would have recommended that the applicant refer to the Technical Working Note for replacement windows in the Rothesay Conservation Area. Members will recall that this document was approved by the Planning, Protective Services and Licensing Committee in December 2015 in order to assist in the assessment of applications for Planning Permission and Listed Building Consent.

Attention would have been drawn to Statement 4 of the Technical Working Note, which specifically addresses those situations where a building has non-traditional windows that are to be replaced (as in the case of the subject building). Importantly, one of the principal aims of the Note is to uplift the status quo and to reverse the damage caused by some of the unsympathetic window replacements that have occurred, even if these took place a number of years ago.

The Note sets out the principle that the presence of poor quality windows in certain townscape blocks does not mean that they are appropriate or necessarily that a precedent has been set. It acknowledges that, whilst 'like for like' replacements do not need permission, the Council shall always seek to improve the current arrangements where possible.

In all properties where the original windows have already been replaced or the fenestration has been devalued, the Technical Working Note stresses that every effort should be made to reintroduce new traditional/sympathetic units.

When assessing applications to replace windows that are neither original nor traditional, a sequential approach should be applied:-

1. The re-introduction of timber sliding sash and case units;
2. The installation of better quality windows than currently installed - good quality uPVC sliding sash or timber swing units for example; then
3. The installation of units of any material which retain the distinct step of sash and case windows and which give the appearance of a sash and case windows in all respects except when open.

The Technical Working Note concludes by stating that it is unlikely that windows outside the parameters listed above would be acceptable unless there is clear benefit or enhancement from what had already been installed.

Unfortunately, the Planning Department did not have the opportunity to advise the applicant of the options that were available in the Technical Working Note. If it had, it would have sought to encourage the installation of timber or upvc sliding sash and case units or some other option that introduced the distinctive stepped effect of sash and case units. This would then have been the subject of an application for Planning Permission for proposed windows that would have hopefully been in full accordance with Council guidance.

As it is, the windows have been replaced and the retrospective application requires being determined. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that, in exercising their Planning functions (including determining applications for Planning Permission), Planning Authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

In this particular case, the rear elevation of the building overlooking the water is considered to have a negligible role within the wider townscape of the Rothesay Conservation Area and the fenestration that has been installed has a '*neutral*' effect thereby preserving the character of this part of the Rothesay Conservation Area.

The more significant assessment relates to the windows that have been installed on the front elevation of the building. As mentioned elsewhere, the previous windows did not accord with the various elements of traditional fenestration in any respect. They were finished in brown-stained upvc and had a top hopper opening method which resulted in a relatively thick horizontal bar that divided the window in a 25/75 split.

The windows that have been installed are finished in white upvc with a fixed bottom pane and a top opening upper pane. The horizontal bar remains relatively thick; however, the split is now approaching 50/50. These windows accord with Statement 4 of the Technical Working Note above as they are white upvc with a more traditional proportion. Whilst acknowledging that there is a form of stepped effect, the particular method of opening

means that the type of stepped effect does not accord with that which the Council is seeking to encourage as an appropriate alternative to the traditional sliding sash and case units.

On the basis of the preceding paragraph, it is not considered that the windows that have been installed fully meet any of options 1 to 3 that are listed in Statement 4 of the Technical Working Note. However, the Note does allow replacement windows to be supported where their installation would represent a “*clear benefit or enhancement*” in comparison with the previous non-traditional windows.

Whilst the determination of this application is a finely-balanced one, there is recognition that the windows that have been installed have a more appropriate white colour than the previous brown-stained and are more sensitively proportioned with the change from a 25/75 split to a 50/50 split. In addition, the two windows facing directly onto Mountstuart Road in the western half of the building have introduced a greater verticality to this aperture. The absence of a distinctive stepped effect, whilst regrettable, should be viewed in the context that the opening method of the previous and existing windows has not materially altered. Ultimately, it can be reasonably concluded that, overall, the windows that are the subject of this application have “*enhanced*” the front façade.

In taking all of the foregoing into account, the application is considered to be consistent with the Technical Working Note (specifically the final sentence of Statement 4 above) and the Policies and Supplementary Guidance of the Argyll and Bute Local Development Plan 2015.

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

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

The previous windows in Craigmore Pier Cottage were non-traditional in every respect and Statement 4 of the Rothesay Windows Technical Working Note states that one of its principal aims is to uplift the status quo and to reverse the damage caused by some of the unsympathetic window replacements that have occurred, even if these took place a number of years ago.

The Note sets out a sequential approach to improving fenestration but also recognises that those windows which do not strictly accord with the three preferred options might be justifiable if “*clear benefit and enhancement*” can be demonstrated.

In the case of the windows that have been installed and for which Planning Permission has been retrospectively sought, they have a more appropriate white colour than the previous brown-stained and are more sensitively proportioned with the change from a 25/75 split to a 50/50 split. In addition, the two windows facing directly onto Mountstuart Road in the western half of the building have introduced a greater verticality to this aperture. The absence of a distinctive stepped effect, whilst regrettable, should be viewed in the context that the opening method of the previous and existing windows has not materially altered. Ultimately, it can be reasonably concluded that, overall, the windows that are the subject of this application have “*enhanced*” the front façade

On this basis, the proposal is consistent with the Technical Working Note for Rothesay Windows (December 2015) and the following Policies and Supplementary Guidance:

Argyll and Bute Local Development Plan (March 2015)

LDP STRAT 1 – Sustainable Development
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 9 – Development Setting, Layout and Design

Supplementary Guidance to the Argyll and Bute Local Plan 2015 (March 2016)

SG LDP Sustainable Siting and Design Principles
SG LDP ENV 17 - Development in Conservation Areas and Special Built Environment Areas
SG LDP ENV 21 - Protection and Enhancement of Buildings

The proposal conforms to the relevant development plan policies and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

N/A

(T) Need for notification to Scottish Ministers: No

Author of Report: Steven Gove

Date: 1st October 2018

Reviewing Officer: Angus Gilmour

Date: 1st October 2018

Angus Gilmour
Head of Planning, Housing and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 18/01612/PP

1. The development shall be implemented in accordance with the details provided in the application form dated 13th August 2018 and the approved drawings:

Drawing No. 5787/1 Revision E (Plan 1 of 3)

Drawing No. 5787/3B (Plan 2 of 3)

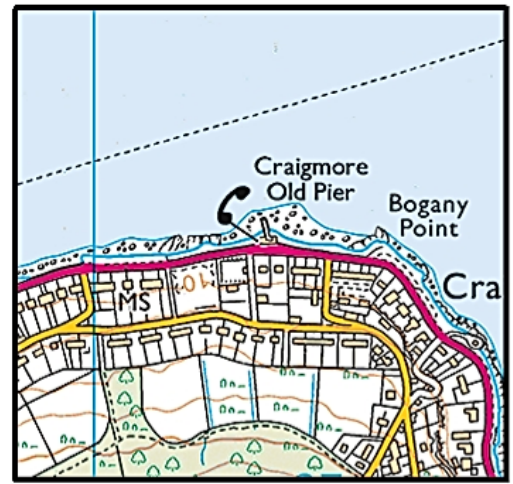
Drawing No. 5787/7E (Plan 3 of 3)

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.

NOTE TO APPLICANT

- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) 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.



esay Bay



Location Plan relative to Planning Application		
Ref No: 18/01612/PP		
		Scale 1:1,250

This page is intentionally left blank

Argyll and Bute Council
Development and Infrastructure Services

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

Reference No: 18/01614/PP

Planning Hierarchy: Major Application

Applicant: Executive Director Development and Infrastructure Argyll and Bute Council

Proposal: Erection of new leisure building including swimming pool, improved flood defences, new car park including public realm works and demolition of existing swimming pool

Site Address: Helensburgh Swimming Pool, 1B West Clyde Street, Helensburgh

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Erection of new leisure building including swimming pool, improved flood defences, new car park including public realm works

(ii) Other specified operations

Demolition of existing swimming pool and skate park.

(B) RECOMMENDATION:

It is recommended that planning permission be granted subject to:

- i) the holding of a pre-determination discretionary local hearing;
 - ii) the conditions and reasons detailed in this report.
-

(C) HISTORY:

98/01367/OUT: Mixed use development incorporating leisure development (restaurants/cafes) swimming pool, health club, multi-storey car park, public promenade and sculpture. Decision: Withdrawn 30.6.00.

00/00209/DET: Erection of supermarket and associated car parking and landscaping works. Decision: Called in. Application refused by Reporter.

00/01015/OUT: Mixed use development incorporating leisure development (restaurants/cafes), swimming pool health club, public promenade sculptural garden and surface car parking (revised application). Withdrawn 12.3.13

04/00271/DET: Erection of discovery centre and leisure facilities. Decision: Withdrawn

05/00891/PP: Change of use of land to skate park. Approved

August 2009 Masterplan Turley Associates - Mixed use development comprising leisure, retail, residential and recreational uses. Adopted as Supplementary Planning Guidance. Contained retail evaluation reports and market analysis information.

11/01767/PAN: Demolition of existing buildings. Mixed use development including retail (Class 1), residential, food and drink, petrol filling stations, public realm works, access, car parking and associated engineering works. Decision: PAN Agreed 25.11.11

May 2012 Masterplan Addendum – Gareth Hoskins

Masterplan deletes proposed residential development from 2009 Turley's Masterplan but retains both Leisure and retail uses. Places Leisure uses to south of site and retail to north.

18/00603/PAN: Proposal of Application Notice for Erection of new leisure building to include swimming pools, associated gym facilities, new flood defences and public realm areas. Decision 27.3.18.

18/01430/SCREEN - Pre application consultation screening opinion for Construction of new leisure building, new car park for 265 cars, improved flood defences, new public realm areas and demolition of existing swimming pool building. Decision: No EIA required 17.7.18

Planning history related to minor works to the existing pool building and also temporary planning permissions over a number of years for use of part of the site for amusement fair on a temporary basis is considered by Officers not to be material to the determination of the current planning application and have therefore not been separately listed. Full details of the complete planning history are available through public access.

(D) CONSULTATIONS:

SEPA (Dated 22.08.18) - No objection to proposals. The proposal constitutes no increase in land use vulnerability and provides the opportunity to provide flood risk betterment to a leisure facility through constructing flood defences and the adoption of appropriate finished ground levels. Expect Council to undertake their responsibilities as the Flood Risk Management Authority.

Alterations suggested to proposed method of surface water treatment.

Members are requested to note that SEPA have been approached separately by Helensburgh Community Council on matters relating to flooding. The response by SEPA to Helensburgh Community Council dated 26.9.18 and its contents will be addressed in the Officer report. The full SEPA response is available on public access.

Area Roads Engineer - (Dated 4.10.18) - No objection to proposals subject to conditions. Area Roads Engineer considers wider parking issues for Helensburgh Town Centre require further consideration in particular details to address loss of town centre parking during construction, further details on the construction, phasing and material delivery

arrangements and the provision of parking spaces for the building to be available before public use of building commences.

Environmental Health - (Dated 4.10.18) – No objection to proposals subject to conditions Suggested conditions in respect of addressing contamination on the site as a suspensive condition and also in respect of noise levels at sensitive receptors.

Biodiversity Officer (Dated: 22.08.18 and 14.9.18) – No objection. Notes original surveys undertaken outside optimum time.(*Note: these have been updated September 2018) Welcomes the content of the construction method statement. This should be included in a Construction Environmental Management Plan (CEMP) as part of the site management documentation. CEMP should also address potential noise impact on Marine Mammals and include a nesting bird check.

Updated Response Dated 14.9.18 Satisfied with the bat and otter surveys and proposed mitigation measures during construction for otters.

SNH (Dated: 27.08.18) – No Objection. Consider proposals sufficiently distant from RAMSAR and SSSI to make impacts unlikely. A Habitats Regulations ‘appropriate assessment’ is therefore not required by SNH. In respect of otters, the development should be carried out in accordance with the Preliminary Ecological report (Page 15) recommendations and annex A. Proposals are unlikely to require a special licence under protected species legislation. Recommend that a bat survey of the existing building be carried out.

(* Members should note this has now been undertaken September 2018 as set out in updated September 2018 ecology report)

Use of barge for construction unlikely to cause noise levels to disturb marine mammals and represent a low risk. If piling was required as part of construction then this position would change and noise which could cause disturbance to marine mammals could take place. Further details would be required for consideration in such a scenario.

Council Flooding Advisor (Dated 13.08.18 and 11.10.18) - No objection subject to conditions

1. Finished floor levels of the building shall be a minimum of 5.4m AOD
2. Detailed design of flood defences to be appropriate and fully account for wave overtopping through the lifetime of the development.
3. Flood plan to be developed and implemented. This to include actions to be undertaken in event of a flood, including safe evacuation.

Access Manager (No Response) No impact on core path network.

West of Scotland Archaeology Service (Dated 17.08.18) – No objection. No requirement for archaeological investigation.

Scottish Water (No Response). Will require to authorise fresh and foul water connections for the building as part of development process.

Helensburgh Community Council (Dated 29.9.18) – Object to the proposed scheme. Full grounds of objection set out in Consultation response with issues summarised at Page 4. Matters raised can generally be summarised as:

- Inadequate parking
- Inadequate pool facilities
- Retail space reserved with no assessment/justification of this
- Site of existing pool to be gravelled instead of landscaped, visually unattractive
- No budget set aside to replace skate park
- Building will be on most exposed location
- Leisure centre location not in accordance with 2012 Masterplan
- Contrary to SG LDP CST 1 – Coastal Development
- Contrary to LDP STRAT 1 – Sustainable Development
- A number of recommended changes to the scheme are also made in the submission related to addressing the above issues.

Rhu and Shandon Community Council (Dated: 15.10.18). Object to proposals
Do not object to the provision of a new facility, but do not support the current proposals.

Marine Scotland (No Response)

Previous EIA screening for flood defence works undertaken by Marine Scotland. Confirmed that proposal raises no significant Environmental Issues. Marine Licence from Marine Scotland related to construction of rock armour will be required in accordance with normal practice.

Council Marine and Coastal Development Officer (Dated: 20.08.18.). No objection.

The proposal will contribute either directly or indirectly to Council priority/action in the Local Development Plan and Economic Development Action Plan. The adopted Local Development Plan and National Marine Plan are both supportive of improvements to existing developments. The proposal works are considered to be consistent with SG LDP CST 1 (Coastal Development), SG LDP TRAN 8 (Piers and Harbours), and relevant policies of the National Marine Plan.

(E) PUBLICITY:

Newspaper and Site notice in respect of development affecting a conservation area.
Publicity period expired 06.09.2018.

(F) REPRESENTATIONS:

At the time of writing some 115 objections, 4 neutral representations and 61 expressions of support for the proposals have been received. Details of these are contained within Appendix B of the report:

(i) Summary of issues raised by objectors

1) Consultation Process with Community and incorporation of views into design

Applicant has failed to listen to the community and have ignored all the consultations that the community councils have done. Consultation process has not had any meaningful engagement unlike Hermitage Park development process, which has resulted in poor quality decision making in this case.

Should not rush into development but properly engage with the local community to get things right. If this is allowed by the Council it will show them to be out of touch with the majority of the Helensburgh Public who asked for a completely different brief for this project. Proposals should be halted and reconsidered through improved public consultation.

Comment: Officers are content that the PAN process was undertaken appropriately and the PAC report which accompanied the application clarifies both the PAN process undertaken to consult the community, notes the comments given by the community, and clarifies how the proposals have been amended to take on board those comments received.

2) Layout and Location of the Proposals

- Proposed location next to the water ignores SPP advice and the Council's own policies which require siting away from the shore and integration to the townscape. The building will be isolated both visually and functionally. Locating the leisure centre so far away from the town will harm the future viability of the town centre. Unless the plans are changed to more closely relate to the town centre, future impacts are likely to occur.
- Location of pool compromised by reserving land for a "retail opportunity". Would be better located where the current skate park is and where the old outdoor pool used to be, or as shown on 2012 Masterplan. If relocated away from the far edge of the pier would not require such expensive flood prevention measures and would be better connected to the town centre. This would allow more investment in the facilities.
- Proposed location of building does not comply with previously approved 2012 masterplan which had the pool midway up the pier aligned north-south. Change in location will increase exposure to elements. Moving it back to previous location would probably reduce flood defence costs.
- Proposals ignore the rest of the pier and will have a run-down pier next to development rather than incorporating it into proposals. The proposals should seek to refurbish the pier.
- If the retail element is a requirement of a viable scheme this will add an obtrusive and unattractive feature when viewed from West Clyde Street and if the leisure centre development depends on this it should not be approved.
- No room has been left for a skate-park, playpark, bonfire site and for other community events. There should be an area for an upgraded skate park. A commitment to provide space for a skate park was given by the Helensburgh and Lomond Area Committee. There is no commitment in the scheme to provide a replacement skate park. This contrary to the 2012 Masterplan proposals.

Comment: These matters raised in the above points are addressed in the assessment below.

- Chamber of Commerce and public wish the area identified for future retail use to be retained for leisure and recreation.

Comment: No application to define the future use of the land in question has, as yet, been submitted. However the approved 2012 Masterplan indicates that the land should be used for retail purposes. To promote an alternative future use would not accord with the approved Masterplan.

3) Design, Scale and Appearance

- Design is not of sufficient merit for such an important part of the town and proposal makes an £18m investment appear cut price, dull and in no way contemporary in appearance. Quality of materials has been reduced since pre-application consultations and design has been “value managed” to the detriment of the quality of the scheme.
- Design is aesthetically unappealing and lacking in ambition and modernity required when spending millions of pounds. Roof-scape and resultant box-like form uninspiring and entire project lacks vision. The development lacks the “wow” factor which would attract visitors to the town. A more ambitious design and range of facilities in the pool is required. This is a missed opportunity for real innovative design to act as a visitor attraction.
- Design does not comply with the pier head masterplan as this states that the new leisure centre should be of such a high standard that it will attract many more visitors to the town boosting local businesses. The current proposals fail to do this and does not meet the requirements of the Councils own long term economic plans.
- Key element of landscaping to link proposals to the town are absent from the proposal which is a major omission.

Comment: In respect of all of the above matters, these are addressed in the assessment below.

4) Traffic, Parking and Access

- Reducing parking numbers and the number of available free parking spaces on the pier is short sighted given the expected increase in demand due to increased naval personnel and their families expected and the many new homes proposed. Tourists also need car parking next to the town. This will be detrimental to trade in the town centre, undermine the economic future of Helensburgh and deter people from visiting the town. Difficult to frame a detailed objection based on parking evidence when the latest traffic management plan for Helensburgh currently under preparation consultants.
- Unhappy with current parking arrangements, including area around the pier which is spoiled by car and coaches. Multi storey car park would be more appropriate and would generate income.
- There needs to be more spaces for visiting coaches and two spaces is far less than the five indicated in the previous masterplan. Parking survey recommended that coaches can park in residential streets which is unacceptable to residents.
- Disabled parking bays adjacent to West Clyde Street currently outside the leisure centre being moved some 220m from the town centre.
- Concerns expressed over circulation of pedestrian and vehicle traffic in proposed car park
- Insufficient electric charging points have been incorporated into the design.
- No truck parking has been provided.

Comment: In respect of all of the above matters, these are addressed in the assessment below.

- Concerned over lack of access for Helensburgh Lifeboat to land casualties and lack of access to the public slipway which would allow vehicle access for the use of boats and kayaks etc. to be launched from pier in a safe environment.

Comment: Helensburgh lifeboat is based and launched from Rhu Marina not Helensburgh Pier. Access is maintained for Helensburgh Lifeboat to the existing pier at area 16 of the proposed site plan. No works are proposed to this area of the pier.

5) Flooding and Drainage

- The relocation of the swimming pool to the far end of the pier will increase exposure to elements and the risk of flooding and damage. If the pool was relocated to the previous site set out in the 2012 Masterplan it would not be so vulnerable to weather and wave action flooding.
- The proposed location of the building exposes it to the most extreme wave actions and the issue of increasing wave heights due to climate change have been ignored. The leisure centre will therefore be subject to flooding through wave out topping within the life time of the building.
- The proposed flooding alleviation measures will not be adequate post 2080.

Comment: In respect of all of the above matters, these are addressed in the assessment below.

6) Other Material Considerations

- Swimming pool and all facilities need to be fully accessible to ensure fair treatment of persons with disability. A “changing places” toilet, not just an “accessible” toilet should be provided and the development should be fully inclusive.

Comment: This has been provided in the development.

- The changes of height will cause issues for access for significant groups of people

Comment: The building and associated external works have all been designed to accommodate persons of mobility impairment in accordance with necessary access standards.

- Application is incomplete due to a large portion of the site being shaded in white yet not included in the application. Construction of retail units may not take place for many years, if at all and whole of the NW corner shaded in white will be left in a rough state for an indefinite period. This will harm appearance of town and deter visitors.

Comment: It is a requirement to determine the application that has been submitted. These matters are not part of the current planning application. Appropriate conditions to ensure the land is maintained in a tidy and appropriate manner will be imposed to address the appearance of the land. Future planning applications will be required for future development.

7) Other matters raised not considered by Officers to be material planning considerations in determining this application.

- It is a waste of money to create a new swimming pool when a similar one already exists. Needs to have flumes, wave machines and indoor soft play areas etc. for

families to encourage time and money to be spent in Helensburgh. In promoting only a swimming pool the proposal fails to design in contemporary leisure “best practice” models followed by the competition in the vicinity. Most families will go to other pools with more fun facilities instead.

Comment: The internal design of the pool and its operational characteristics are not matters which fall to be assessed as part of the planning process.

- Challenge the validity of Area Committee’s decision to approve change of location for pier from 2012 Masterplan location in approving the project brief in December 2017, in advance of the public consultation process which ran from Feb 2018 to May 2018.

Comment: This is not a planning matter

- Plant rooms are located on SW west corner of building which has best views to the Clyde estuary.

Comment: The internal design and layout of the pool is not a land use planning consideration.

- No viewing area or capacity for swimming events and competitions. Helensburgh amateur swimming club (HASC) which has 82 members not officially consulted. Proposed design not suitable to accommodate club’s activities and has inadequate space or seating. Urges decision-makers to consider the importance to the community of HASC and its needs in making any decision.

Comment: The internal design of the pool and its operational characteristics are not are not matters which fall to be assessed as part of the planning process.

- Pool is not of an adequate size or scope for the growing needs of the area given projected growth in population.

Comment: Capacity of the facility is not a land use planning consideration.

- Proposals must be financially viable for running costs and maintenance. Concerned that there has been no assessment of economic impact to justify improvement claims as facilities are only what is there already. There is therefore no reason to think that it will cause significant economic improvement which is one of the objectives of the proposal.

Comment: Operational and financial aspects of the development are not land use planning considerations. Any economic benefits associated with the proposal would be planning considerations and it would be for Members in their capacity as decision-makers to reach their own conclusions as to the likely extent of these, having regard to the details of the proposals.

- If the pool was built to international standards there is an opportunity to attract international events. Breakwater and beach with sand should be incorporated into the design.

Comment: The internal design of the pool and its operational characteristics are not are not matters which fall to be assessed as part of the planning process.

- Reference to retail element being essential to viability of scheme not considered justified. The retail element will not add to the shops in Helensburgh instead it will

cause existing shops to close and lie empty. The Council should be doing more to encourage the re-use of buildings in the town not build new retail space.

- There is no economic impact assessment of the retail proposal which seems to be trying to sneak its way through on the coat tale of the current planning application for the new pool.
- Retail element should be dropped completely as Helensburgh already has enough retail space a lot of which is of poor quality and struggling. The retail site should be redeveloped for public leisure space.

Comment: The application does not include retail development and any future retail proposals would require a separate planning application at which time any necessary details in respect of qualitative and/or quantitative need and impact analysis will require to be addressed.

- Pier should be improved to accommodate larger vessels and promenade to council offices created. Pool and car park use of this land use not the right development for such a valuable site. A pool could go anywhere. A function hall would be better with improved landscaping.

Comment: It is a requirement to determine the application that has been submitted. These matters are not part of the current planning application.

- The location of the pool maximises exposure of the building and visitors to inclement weather.

Comment: The weather climate of the proposed location is not a material planning consideration. The responsibility for ensuring that the building fabric is suitable for its location rests with the applicant and the Building Warrant process.

(ii) In support of the application the following matters have been raised as set out below:

- The proposed pool, gym. Exercise rooms and café will be a vast improvement of current facilities. The new facility will be a big improvement with better access for those with disabilities.
 - Location at the end of the pier is a good choice and better than having a large building looming over West Clyde Street.
 - Car parking provision looks reasonable/adequate especially given the new spaces made available in the new car park off East Clyde Street. Support scheme but plenty of adjacent parking essential
 - Supports scheme but it would be nice to see flumes and water slides incorporated to appeal to the young.
 - Flooding protection should be over engineered to guarantee flooding will not occur.
 - The town desperately needs a new swimming pool and leisure centre as the old one has reached the end of its useful life.
 - A space is identified for a skate park which has the opportunity to provide a permanent facility.
-

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** Yes
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes
 - PAC Report
 - Flood Risk Assessment
 - Drainage Impact Assessment and Drawings
 - Design and Access Statement
 - Noise Impact Assessment Report
 - Transportation Assessment
 - Development Masterplan Town Centre Parking Review
 - Geo-environmental Report
 - Preliminary Ecological Appraisal
 - Updated Ecological Appraisal
 - Ecological Survey

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

Argyll and Bute Local Development Plan (adopted March 2015)

LDP STRAT 1 – Sustainable Development
LDP DM1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment
LDP 4 – Supporting the Sustainable Development of our Coastal Zone
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design

Supplementary Guidance

SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity (i.e. biological diversity)
SG LDP ENV 7 – Water Quality and the Environment
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP CST 1 - Coastal Development
SG LDP TRAN 8 – Piers and Harbours
SG LDP BAD 1 – Bad Neighbour Development
SG LDP SERV 1 – Private Sewerage Treatment Plants and Wastewater (i.e. drainage) systems
SG LDP SERV 3 – Drainage Impact Assessment (DIA)
SG LDP SERV 4 – Contaminated Land
SG LDP SERV 5 – Waste Related Development and Waste Management in Development
SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development
SG LDP - Climate Change
SG LDP TRAN 2 - Development and Public Transport Accessibility
SG LDP TRAN 3 – Special Needs Access Provision
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 5 – Off-Site Highway Improvements
SG LDP TRAN 6 – Vehicle Parking Provision

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

- August 2009 Turley Associates Masterplan
- May 2012 Masterplan Addendum (Gareth Roberts)
- Scottish Planning Policy (SPP), 2014
- Statutory/Non-Statutory Consultee Comments
- Equality Act 2010 and Fairer Scotland Duty (April 2018)
- Argyll and Bute Sustainable Design Guide

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes

A screening opinion was issued on 17.7.18 advising an Environmental Impact Assessment was not required under the planning EIA Regulations.

In respect of the construction of the “rock armour” flood defences, Marine Scotland have also confirmed that an EIA for this element of the work will not be required as part of the Marine Licensing process.

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

A PAC report has been provided as part of the application submissions. This has demonstrated compliance with the terms of the approved PAN and has clarified the following changes have been made to the proposals in response to community and other feedback:

- Car park layout and number of designated parking spaces for the Leisure Building have been developed taking account of feedback from Argyll and Bute Council Development and Infrastructure department.
 - No. of bus parking and bus drop of areas have been developed as a result of the informal stakeholder and community engagement.
 - A servery has been added to the café as a result of the feedback from the informal stakeholder and community engagement.
 - As a result of consultation with the Central Scotland Green Network Trust regarding the John Muir Way we have proposed the finish of the long distance walk is relocated from its current location along the esplanade to the corner of the former Mariners site. In this location the start of the walk is more visible and closer to public transport links. The proposals include the relocation of the current stone/artwork that identifies the finish of the walk.
 - Feedback on the requirement for robust materials and planting for the landscaping proposals will be taken forward post consent when more detailed planting proposals are developed as part of the landscape design.
-

(M) Has a sustainability check list been submitted: Yes

(N) Does the Council have an interest in the site: Yes

The land subject to application is owned by Argyll and Bute Council and the applicant is the Executive Director, Development and Infrastructure, Argyll and Bute Council

(O) Requirement for a hearing (PAN41 or other): Yes

There has been considerable local interest and objection to this application which has attracted in excess of 100 representations. Helensburgh Community Council has objected to the design and layout proposed and therefore it is considered that value will be added to the consideration of the proposal by the holding of a discretionary local hearing.

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

Section 25 of the Planning Act requires that planning applications should be determined in accordance with the policies of the adopted Local Development Plan (LDP) which has primacy in decision-making. Scottish Planning Policy (SPP) also clarifies that the planning system should have “a presumption in favour of sustainable development”. If an

application is in accordance with the LDP plan policies and is considered to represent sustainable development then the planning policy framework is not neutral, it favours approval of the development.

In the case of this particular proposal, it is also material to the determination of the application that Masterplan proposals for the site have been approved by the Council in 2009 (Turley Associates), with an addendum to this approved in 2012 (Gareth Hoskins). The extent to which the development complies with these approved Masterplans is therefore also a material consideration in the determination of this application.

Officers have reviewed the proposals against the policies of the development plan as set out in detail within this report, and consider that the proposals accord with the requirements of the LDP and that the proposal, being a community use within the major settlement of Helensburgh with good transportation links, also represents sustainable development.

Having examined the terms of the 2009 and 2012 addendum Masterplan approvals, it is also the view of officers that the proposals are in accordance with the objectives and layout requirements of the 2012 iteration of the Masterplan. The Masterplan sought a leisure development to the south and west of the site with the area of land currently occupied by the existing pool to be subject to demolition works and then retail use.

The current application is considered by officers to accord with this fundamental spatial layout of the site, and importantly, the current application moves the Masterplan objectives forward by providing the opportunity for future development opportunities on the existing pool site, in accordance with the masterplan objectives.

It is considered that the location, scale and design of the building is acceptable and that the design approach assists in breaking up the overall scale and massing of the building. The use of a clear entrance detail is also welcomed as it provides an architectural focus to the building clearly defining its main entrance. A condition requiring details of all external finishes shall be imposed to ensure that the actual materials to be used are appropriate.

Flooding solutions proposed in respect of protecting not only the proposed building, but also raising the height of the remainder of the larger site to make it suitable for future development are to be welcomed. The building is located and designed to ensure that it does not undermine or compromise the future development of the northern section of the site, as is required by both the 2009 and 2012 Masterplan Addendum.

In respect of the potential loss of car parking during the construction phase, this has been identified by the Area Roads Engineer as a matter of concern, and to this end a condition seeking clarification of the phasing of the development construction and associated car parking loss, and also a requirement to bring forward a plan to address any identified parking shortfall has been suggested to address this matter.

Officers are of the opinion that the scheme represents an attractive and appropriate solution for the site and its environs ,and subject to the holding of a discretionary hearing in advance of determination, it is recommended that planning permission be granted subject to the imposition of appropriate conditions.

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

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

The proposed development is in accordance with LDP policies and also accords with the parameters set out in the most recently approved 2012 Masterplan addendum for the development site. It is therefore recommended that that planning permission should be granted subject to the imposition of appropriate conditions.

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

N/A

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

Author of Report: David Moore **Date:** 9.10.2018

Reviewing Officer: Sandra Davies **Date:** 9.10.2018

Angus Gilmour
Head of Planning, Housing and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 18/01614/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 20.7.2018 and the approved drawing reference numbers

1251-DB3-B01-01-DR-A-2000	Basement Plan
1251-DB3-B01-01-DR-A-2001	Ground Floor Plan
1251-DB3-B01-01-DR-A-2002	First Floor Plan
1251-DB3-B01-01-DR-A-2003	Roof Plan
1251-DB3-B01-ZZ-DR-A-20200	Proposed Elevations
1251-DB3-B01-ZZ-DR-A-20301	General Sections 1
1251-DB3-B01-ZZ-DR-A-20302	General Sections 2
1251-DB3-B01-ZZ-DR-A-90000	Site Location Plan
1251-DB3-B01-ZZ-DR-A-90001	Existing Site Plan
1251-DB3-B01-ZZ-DR-A-90002	Proposed Site Plan Rev E
1251-DB3-B01-ZZ-DR-A-90003	Existing Site Sections
1251-DB3-B01-ZZ-DR-A-90004	Proposed Site Sections
00045-02-003E	Proposed Site Plan
00045-02-004C	Proposed Sections
00045-02-005C	Site Sections
00045-02-006E	Alternate Indicative Method of Construction
00045-02-007	South-West Slipway Section
00045-02-008B	Proposed East Slipway
00045-02-009D	Flood Defence Construction Sequence
00045-02-010A	Retaining Wall and Sections
00045-02-011B	Outline Traffic Management Plan
1450-01/D	Landscape Proposals West Boundary and Pier
1450-02/E	Landscape Layout and Finishes
1450-03/B	Soft works Specifications
1450-04/A	Landscape Layout Waterfront Walkway
1450-05/A	West Boundary and Pier Sections
1450-06/B	Landscape Layout West Clyde Street
G17050_281_2	Existing Drainage Layout
G17050_281_3	Preliminary Drainage Strategy Layout and SuDS
Entrance Visual	3D Image
South Context Visual	3D Image
West Elevation Visual	3D Image
Existing Swimming Pool	1 of 3
Existing Swimming Pool	2 of 3
Existing Swimming Pool	3 of 3
1251-DB3-B01-EX-DR-E-63 01	Proposed External Lighting Scheme
1251-DB3-B01-EX-DR-E-63 02	Proposed External Lighting Scheme

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. 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:

- 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 Protected Species Survey Report
- In the event that piling is required a noise impact assessment on Marine Mammals together with proposed mechanisms to mitigate any identified adverse impacts
- A ground works phasing and waste management plan associated with movement/storage of all waste materials.
- Details of the location of construction compounds to be formed
- Details of the number of existing parking spaces lost at each main construction phase of the development in order to minimise the loss of existing parking during construction.
- Details of any external lighting to be used during construction
- Full land restoration details; to ensure that the land within the application site where it has been physically altered by the construction of the development or demolition of existing buildings/structures and the ground level raised, is restored to an acceptable appearance.
- Details of arrangements to retain access for emergency services to the far southern pier head area delineated as area 16 in the proposed site plan.
- Adherence to the requirements of any other submitted and approved details and other conditions

The development shall be implemented in accordance with the duly approved Environmental Management Plan unless any variation thereof is agreed in writing by the Planning Authority.

Reason: To ensure unacceptable environmental, wildlife or amenity consequences do not arise due to the construction of the development and appropriate mitigation measures, where required, are implemented.

3. No development shall be commenced until the following plans and particulars have been submitted to and approved in writing by the Planning Authority in consultation with the Head of Roads. Thereafter the development shall be implemented in accordance with the approved details. Such details shall incorporate:
 - (i) A detailed construction method statement including the construction phasing and the material delivery plan.
 - (ii) The interim car parking arrangements to address the loss of existing parking provision during the construction phases.

Reason: In the interests of roads safety and to maximise available parking spaces availability during construction.

4. No public use of the building shall commence until a minimum of 155 parking spaces (including disabled spaces) and all vehicular servicing areas associated with the operational use of the building have been provided in accordance with the details hereby approved. Thereafter the remaining parking spaces shall be provided within 12 months of the building being first brought into use.

Reason: In the interests of roads and pedestrian safety and to ensure that there is sufficient parking to support the leisure facility and town centre.

5. 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) external material finishes of the building
- (ii) any other visible walls/retaining structures to be constructed;
- (iii) roads and parking areas;
- (iv) footpaths;
- (v) 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 in the interests of visual amenity.

6. No occupation of the approved building 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 building.

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).

7. Details the specific species and size/mix/numbers of the proposed planting throughout the site on those areas identified to be landscaped shall be submitted for the written approval of the Planning Authority in consultation with the Biodiversity Officer within six 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. Thereafter the duly approved planting shall be implemented in the first available planting season following the substantial completion of the development. Any planting which fails to become established, dies, becomes seriously diseased or is removed within the first 12 months of having been planting shall be replaced in the following planting season with equivalent sizes and species as those originally required to be planted.

Reason: In the interests of amenity and biodiversity.

8. 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. No construction plant and /or machinery shall be operated 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.

9. 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. Thereafter the development shall be completed in accordance with these details

Reason: In order to avoid light pollution in the interest of amenity

10. Notwithstanding the provisions of Condition 1, the development shall be implemented in accordance with the flooding amelioration details and recommendations set out in the

Kaya Flood Risk Assessment (June 2018) and approved plans; 00045-02/004C, 00045-02/005C and 0045-02/009D

1. Finished floor levels of the building shall be a minimum of 5.4m AOD
2. Detailed design of flood defences to be appropriate and fully account for wave overtopping through the lifetime of the development.
3. Flood plan to be developed and implemented. This to include actions to be undertaken in event of a flood, including safe evacuation.

Reason: In order to ensure appropriate mitigation for flood risk and to safeguard public safety.

11. Prior to development commencing, details of the intended means of surface water drainage to serve the development shall be submitted to and approved in writing by the Planning Authority. The duly approved scheme shall be implemented in full concurrently with the construction of the development and shall be operational prior to the occupation of the development and maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

12. Prior to the first occupation of the building, a comprehensive Green Travel Plan that sets out proposals for reducing dependency on the private car shall be submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. The Travel Plan shall include details of:
 - i) The proposed monitoring schedule and reporting procedures;
 - ii) The management of the Travel Plan identifying the persons responsible for implementation;
 - iii) Proposed pedestrian and cycle infrastructure within the site and connections to existing networks;
 - iv) Cycle parking provision and location within the site;
 - v) Measures to improve public transport facilities;
 - vi) Initiatives such as, electric car facilities, car share scheme and flexible working;
 - vii) Employee locker facilities;
 - viii) Travel information to be provided within the site.

Thereafter the provisions of the plan shall be implemented as part of the operation of the approved development.

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

13. Prior to commencement of development, an assessment of the condition of the land shall be undertaken, submitted and approved in writing by the Planning Authority. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites.

Where contamination is identified, then a detailed remediation scheme to bring the site to a condition suitable for the intended use must be prepared and be subject to the approval in writing of the Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Any approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development with the exception of those actions required to carry out remediation unless otherwise agreed in writing by the Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation must be produced, and is subject to the approval in writing of the Planning Authority.

Reason: In order to ensure that contamination issues on the site have been fully investigated and remediated.

14. The level of noise emanating from the site following commencement of the permitted use shall not exceed the established background noise level LAeq (90) at the survey location by more than 5dB(A) unless otherwise approved in writing by the Planning Authority. Any plant and machinery should not produce any noise that has a distinguishable, discrete, continuous note or distinctive impulses.

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

NOTES TO APPLICANT

1. **The length of this planning permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
4. Notwithstanding the requirements of condition 13 in respect of addressing site contamination issues, the applicant's attention is drawn to the requirements of CAR General Binding Rule 10 to ensure all reasonable steps are taken to ensure discharge associated with construction does not result in pollution of the water environment.
5. All external lighting should be designed in accordance with the Scottish Government's Guidance Note "Controlling Light Pollution and Reducing Light Energy Consumption" 2007, Annexes A and B. Site specific advice may be obtained by contacting the Council's Environmental Health Officers.
6. The road improvements within West Clyde Street and at the junction with Sinclair Street will require approval under Section 56 of the Roads Scotland Act 1984. Contact should be made with the Argyll and Bute Council Head of Roads.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 18/01614/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The proposed development comprises a new leisure building to include swimming pools / gym facilities, new flood defences, public realm areas, cycle parking spaces, car parking spaces including electric charging machines and a coach and drop off facility. Vehicular access to the proposed development would be via the existing Sinclair Street / West Clyde Street / East Clyde Street signalised junction.

The proposal aims to deliver a new and modern leisure centre for the town of Helensburgh and surrounding area. The Helensburgh area has suffered from population decline, however, the Maritime Change Project, which involves the relocation of personnel to Faslane over a period up to the 2030s, has the capacity to redress this decline. The implications of this have been considered during the processing of this planning application. The development is proposed within the settlement boundary of the town, and the scale of the proposal is in accordance with the identification of the Town of Helensburgh as a 'major settlement', where larger development proposals such as this is appropriate in land use terms.

The proposals are located within the boundary of the LDP designated Town Centre and are of a scale appropriate to the settlement and are accessible by a range of transport modes.

The proposals are therefore considered to accord with the settlement strategy and more particularly policies STRAT 1 and LDP DM1. As a public facility located within a main town centre the proposal constitutes sustainable development under the requirements of SPP.

B. Compliance with Approved Masterplan

In September 2017 Argyll and Bute Council commissioned a project team lead by DarntonB3 Architecture to develop the Gareth Hoskins Masterplan Addendum Report dated May 2012 (which was itself an evolution of the Turley Associates Masterplan of August 2009).

The council brief applicable to the stage 3 stage study and report which has resulted in the current planning application comprises a number of key component parts:

- Swimming Pool
- Parking
- Coach Drop Off
- Sea wall defences and raising ground levels
- Urban Realm
- Landscaping
- Associated Infrastructure

The area of site within the approved Masterplan fronting onto West Clyde Street has been identified as a development site with potential to host a retail development. Future retail development is excluded from the current proposal. For the avoidance of doubt, the current planning application does not include any retail elements. These would require to be subject to a separate planning application(s) and consideration at a future date to ensure compliance with LDP policies.

Members will note that lack of compliance with the approved 2012 Masterplan has been raised as a reason to object to the current proposals by a number of parties. It is therefore

considered of assistance to examine the approved 2012 Masterplan in respect of its planning requirements. The 2012 addendum to the original Turley Associates Masterplan of 2009 produced by Gareth Hoskins confirms that the general approach to overall site development is envisaged as follows:

“a landmark building on the southern edge of the site taking advantage of the waterfront location. Placing the building on this location allowed the remainder of the site adjacent the town centre to be considered for other development”.

The 2012 Masterplan also recognises that:

“The 2009 Masterplan identified the Pierhead as the key development site in the town and the aspirations set out in the Masterplan for high quality design and placemaking remain key to the success of the development and regeneration of the town as a whole.”

The design of the building will be addressed in detail at section (B) of this report. However, in terms of general location and orientation of the new leisure building to the site, sea and town centre it is considered to accord with the general layout proposed in the 2012 Masterplan Addendum and the reasons for this approach. The layout guidance and urban design aspirations of the 2012 Masterplan document are considered to remain legitimate and well founded in seeking to locate the leisure building to the south of the site, with any future retail uses being to the north of the site, nearer West Clyde Street.

Although the indicated block plan location of the leisure building was further north than the current proposals in the 2012 layout, the location of the leisure use to the southern and western side of the site is considered to be in general accordance with the 2012 Masterplan and its urban design aspirations to create a landmark building for the waterfront, allowing intervening land to the north to accommodate future development with urban realm improvements and connections to the town centre.

It is the opinion of Officers that the proposals subject to this planning application are in accordance with the stated objectives and general layout of the approved 2012 Masterplan Addendum. Importantly, the current planning application does not constrain or undermine future development of the remainder of the site to provide future development which will require to be subject to future planning applications and consideration in respect of both compliance with the Masterplan and the policies of the LDP.

C. Location, and Design of Proposed Development

As indicated in the submissions, it is proposed to locate the facility on the south-western corner of the pier site. As previously indicated, Officers consider the location is in general conformity with the approved 2012 Masterplan.

In respect of the design of the proposals, Officers note that views have been expressed by objectors that the design is not appropriate. However from a planning perspective it is necessary to judge the merits of the application currently submitted and consider whether it is acceptable in respect of compliance with the policies of the development plan. In respect of design matters this would primarily involve the evaluation of the proposals against Policies LDP 3 and LDP 9. An evaluation of the proposals in respect of location, scale and massing, design, materials and associated setting, are all relevant to the determination of this planning application.

The design and access statement in support of the application submits that the key design aims of the proposals are to provide:

- Attractive and active primary elevations;

- Implement the Approved Master plan Addendum 2012;
- Provide a layout which responds to the requirements of commercially effective operating principles;
- Integrated and cohesive public facilities;
- Standout, prominent entrance and approach;
- Well-proportioned and functional external public space;
- Areas of transparency on the façade, maximising views in and out, openings with scale and impact;
- Sensitive, yet durable materials that complement the site, context and invigorate the existing palette;
- The formation of a central core, a hub of activity and movement to act as the heart of the building;
- Improved relationships of internal spaces with others, and their function
- Significantly improved sustainability;
- Natural light and surrounding views maximised;
- Sensitivity to the surrounding town centre environment;
- Design durability and versatility.

The internal and operational objectives set out above and any commercial matters are not land use planning matters which are material to the determination of this planning application. It is noted that many objectors have raised concerns relating to internal operations of the pool and in particular in respect of the degree to which it would be “fun” and attract families and provide facilities for both children and other users as well as the commercial viability of the proposals. These are not material planning considerations in the determination of this application, but are rather operational matters for the applicant. Therefore the planning evaluation of the design of the building should be restricted to the external appearance of the building and its relationship to the site and surroundings, and not the internal attributes and operational characteristics of the facility, as there are matters for the applicant to define, not the Planning Authority.

It is sufficient to generally acknowledge that the range of uses contained within the building, which falls within Class 11 ‘Leisure and Assembly’ of the Use Classes Order, accords with the 2012 Masterplan use envisaged to be developed on the site, and in this respect, as a matter of principle the proposal is acceptable.

From a purely locational stance it has already been outlined previously that the location in the south-western corner of the site is generally in accordance with the 2012 Masterplan location, and that this location does not undermine the further masterplan development objectives for the wider site. The location of the building within the site is therefore considered to be acceptable.

In terms of general scale, the building is much larger than others in the immediate vicinity, through necessity in order to accommodate the range of uses proposed over two floors. It is a new civic building and is therefore of a scale commensurate with its role and function where it will constitute a landmark building on this prominent and important development site. It is considered that the overall scale and massing of the building is appropriate for this location.

The concept proposed seeks to provide a prominent building along the waterfront esplanade, with a significant main entrance with good accessibility in terms of movement and visual connections to surrounding development. The integration of the new facility with the existing pier was considered by the applicant to be one of the most important guiding principles for design decisions, and led to the creation of an external public realm that integrates access routes with gathering points, flexible spaces and general areas to take in the attractive views the site affords. The location of the site entrance on the north-western corner of the building seeks to provide a visual link to the main entrance and to allow direct access from primary routes.

The entrance is marked by a colonnade of columns supporting a large roof canopy with feature soffit and lighting. This is stated to form the visual strength of the main elevation and solidifies the clean linear form of the building. Officers agree that this detailing is attractive and appropriate to define the entrance, and will form an important architectural feature of the building as appreciated from West Clyde Street.

The large glazed areas on the elevations allow views into the entrance foyer, pool hall, fitness suite and studio spaces. At night these spaces will generate activity and provide visual interest towards the building. The external elevations include architectural detailing to create interest and break up the overall massing of the building. The use of a wide pallet of materials also assists in adding interest to the building.

The external public realm proposals include variations in levels, form and materials to create an attractive linkage to the town centre, framing the building and its entrance in what is considered to be an attractive and appropriate manner. A range of external spaces are created which offer significant improvements in the urban realm over the current situation, and will complement the existing CHORD works within the town centre. All of these external urban realm elements have been designed to ensure that those of limited mobility are able to access and enjoy this new development both internally and externally

In respect of materials, Officers consider that the variation in finishes and materials for both the building and public realm are attractive and therefore acceptable. In accordance with normal practice samples will require to be submitted for final approval.

Officers consider that overall this is an attractive design, well-proportioned and suited to its intended civic role and located on such a prominent site. The external detailing of the building has both horizontal and vertical elements which break up the scale and mass of the building adding texture, diversity and interest. Given the need to have such a large building to meet functional requirements, Officers consider that the overall design, appearance and materials proposed are in accordance with the requirements of Policies LDP 3 and LDP 9 of the adopted plan.

There will be no material impact on the setting of any listed buildings in the locality due to the separation of the building to the extent that it will sit within its own setting at the end of the pier, defining its own immediate environmental and site characteristics and its spatial relationship to the town centre. The building is seen as a separate landmark feature in the townscape at this point. In this respect the proposal is in accordance with SG LDP ENV 16(a).

D. Marine Environment Piers and Harbours and Biodiversity.

The Council's Marine Policy Officer has provided a detailed response in respect of this application and its relationship to the Marine Environment and LDP plan policies in respect of coastal matters. No objections have been raised and the consultation response has been supportive of the proposals. Set out below are a number of relevant extracts from the response which provide clarification the support expressed:

Local Development Plan

The proposed development is considered to be consistent with the proposed Supplementary Guidance - SG LDP TRAN 8 (Piers and Harbours) and SG LDP CST 1 (Coastal Development).

Local Development Plan and National Marine Plan

The proposed development extends into the marine environment (Mean High Water Springs) and therefore the Council as a public body is required to take authorisation decisions in accordance with the National Marine Plan, unless relevant considerations indicate otherwise.

The adopted Local Development Plan and National Marine Plan are both supportive of improvements to existing developments. The proposal works are considered to be consistent with SG LDP CST 1 (Coastal Development), SG LDP TRAN 8 (Piers and Harbours), and relevant policies of the National Marine Plan.

Having regard to the above it is considered that the application accords with Policy LDP 4.

The Marine Policy Officer continues in respect of biodiversity matters to comment that:

The Helensburgh Waterfront development is partially located at the Mean High Water Springs boundary. Access to the intertidal foreshore will be required to undertake repair works to the pier and North East and South West slipways. The development lies out-with 200-350 metres of the Inner Clyde SPA / Ramsar / SSSI boundaries. SNH recommend that the threshold distance for considering potential disturbance to feeding redshank in casework is set at 150m. SNH advise that the development will not have any likely significant effect on the SPA and that no further assessment in these terms will be required.

As set out above, SNH have concluded that the proposal is unlikely to significantly prejudice Special Protection Area qualifying interests and have therefore not required the Council in its capacity as 'competent authority' to undertake an 'appropriate assessment' under the Habitat Regulations. No objections have been raised by SNH to the proposals. However, concerns have been expressed about potential impacts on Marine Mammals through noise disturbance in the event that piling were to be required during construction. This matter is addressed by the use of a planning condition requiring further details to be submitted for approval should piling works be found to be necessary.

In respect of biodiversity, initial site ecological surveys indicated that otters were foraging within the general environs of the site, but due to the lack of suitable foraging habitat within the area no holts or rest ups were identified on or near the site. Otters are European Protected Species (EPS) and therefore care has to be taken to ensure that they are not adversely impacted, as this can be criminal offence. No bat surveys were originally undertaken. However, these have now been carried out and the Biodiversity Officer is content that the updated September 2018 ecological surveys in respect of bats and otters are acceptable and that no protected species will be adversely impacted by the demolition of the existing pool building (bats) or the construction of the new leisure centre (otters).

She has however requested in her initial response dated 22.8.18 that appropriate site management protocols are undertaken to take account of the fact that otters may visit the locality of the site. This is considered necessary and therefore a condition to ensure site protocols to minimise potential impact on otters is recommended.

The Biodiversity Officer has also requested that a noise assessment on potential impact marine mammals should be submitted prior to construction commencing and this mirrors the comments from SNH in respect of potential impacts, depending on the construction approach which is ultimately undertaken. This matter is addressed by the recommended conditions.

Having regard to the foregoing, in terms of impacts on habitats and species, the proposals are therefore considered to be in accordance with the requirements of development plan policy

In respect of the proposed landscaping, this is not extensive; however, officers consider that further detailed proposals should be agreed with the Biodiversity Officer to maximise biodiversity benefit and add value to the proposals. It should, however be noted that this is an exposed location so careful consideration will be required.

Clarification has been sought from Marine Scotland as to whether an EIA would be required for the marine elements of the proposal. Marine Scotland have considered these matters and are of the opinion that subject to necessary marine licence requirements being met, that there should be no significant impacts and an EIA is not required.

E. Archaeological Matters, Contaminated Land and Noise

West of Scotland Archaeology Service (WOSAS) have confirmed that they do not consider the site to be of archaeological interest and therefore have not requested the imposition of any archaeological conditions.

Ground investigations have found some low level contaminants on the site. The Council's Environmental Protection Officer has requested the imposition of a suspensive condition, in accordance with normal practice, in order to ensure that this matter is properly addressed prior to works commencing. A condition requiring a remediation strategy prior to construction works commencing is therefore recommended.

The Environmental Protection Officer has also requested conditions to ensure adverse noise impact on sensitive receptors does not arise during construction, and to ensure that noise from the proposed plant and machinery will be acceptable. Suitably worded conditions have been recommended to address these matters and subject to their imposition the proposals will accord with the requirement of SG LDP SERV 4 and SG LDP ENV 7.

F. Road Network, Parking and Associated Transport Matters.

A transport assessment was undertaken to support this application and included the impact on the potential closure of the existing west exit from the pool car park. The existing junction at Sinclair Street/ East-West Clyde Street has the capacity to support the traffic generated from the proposed new leisure building including swimming pool, however, should the retail development be delivered as per the master plan, the junction will require an additional lane width from the car park. The public realm proposals at the junction takes this into consideration and have been located to support this future development or any other proposals that may be brought forward.

The reduction in the provision of car parking which has been the focus of concerns raised by many of the objectors was highlighted to the project team. To address this important matter, the project team have engaged an independent consultant to consider the implications and the impact on Helensburgh for the business community, the residents and visitors. The report includes detailed surveys taken in accordance with industry standards and the results demonstrate that both the on street and off street parking facilities have the capacity to support the reduction in provision at this location. I would also note that should the development for the retail units in accordance with the approved master plan be taken forward, further parking provision would be provided within this designated area of land.

The parking and access provision for the proposed development are therefore considered acceptable. However the Area Roads Engineer has also raised issues in respect of loss of parking during the construction works and has advised that the roads officers have considered a number of options in order to mitigate these concerns, however, these details require to be formally submitted for Council approval. These concerns are also reflected

in a number of the representations. The project team are aware of proposed mitigation measures, however, until such time as these are formally approved through the formal Council procedures, the detail of this is not available. The Area Roads Engineer has, however, confirmed that appropriate mitigation needs to be in place before the commencement of the construction phase. The Council is the applicant in this instance and other car parks are also under the control of the council. It is therefore considered reasonable to include suspensive condition to address this matter. This suspensive conditions also requires the provision of a construction method statement including the submission of a material delivery plan.

Post construction, the Town Centre Car Parking Review and Strategy in paragraph 7.2 notes that the Council are currently reviewing car parking provision within the full council area and specifically within the Helensburgh and Lomond Area. It states that *“This is a complex matter with varying demands for numerous different users. It will be necessary to undertake a thorough review of parking characteristics to ensure an outcome which provides the most suitable solution recognising the varying demands of differing users. The timescales for the delivery of the proposed HWD Masterplan are not expected for a number of years, this allows ABC the opportunity to ensure that these developments are taken into consideration during the wider car parking review.”* In response to this the Area Road Engineer has confirmed that that investigations into the overall parking provision within Helensburgh are currently underway.

The proposed development also requires off site road improvements on West Clyde Street at the junction with Sinclair Street. These have taken account the full Masterplan and have the capacity to facilitate the further development as indicated in the Masterplan.

In summary, the Area Roads Engineer has confirmed that the Transport Assessment and parking provision are acceptable for the development and that there are no objections subject to conditions.

Within the TA reference is made to the potential for a green travel plan to be drawn up in respect of the proposals. This will encourage Live Argyll who will be the occupiers of the proposed leisure building to promote modal shift to more sustainable forms of transport. A condition is, therefore, proposed requiring the submission of this Green Travel Plan.

The proposals are therefore considered to accord with SG LDP TRAN 2, SG LDP TRAN 3, SG LDP TRAN 4, TRAN 5 and SG LDP TRAN 6

Layouts have been provided which indicate the waste collection points associated with the proposals. Subject to further details being provided these are considered to be matters capable of being addressed in detail through the imposition of an appropriate condition. Therefore the proposals are considered to be in accordance with the requirements of SG LDP SERV 5.

G. Flooding, Drainage and Other Infrastructure

Given the proposed location of the building it is essential that flooding caused by wave action and climate change increases in sea levels is taken into account and is properly addressed in the consideration of the application. A number of objectors have raised this issue and it is particularly noted that Helensburgh Community Council in their objections have made lengthy submissions on this matter.

To address potential flooding two main approaches are proposed to be taken. Firstly, rock armour walls are proposed to a height sufficient to protect the building from wave action and overtopping. Secondly, the site as a whole is being raised in height to safeguard not only the new building from predicted coastal flood levels due to climate change, but also

the remainder of the site to ensure that that the main access route, parking provision and future development will also be protected from flood risk.

In response to the detailed reports submitted in respect of such matters, the Council's Flooding Advisor has recommended that planning permission can be granted subject to the imposition of appropriate conditions. He is of the opinion that subject to the following matters being addressed by condition that the proposals are acceptable and can operate safely.

1. Finished floor levels of the building shall be a minimum of 5.4m AOD
2. Detailed design of flood defences to be appropriate and fully account for wave overtopping through the lifetime of the development.
3. Flood plan to be developed and implemented. This to include actions to be undertaken in event of a flood, including safe evacuation.

The proposals are therefore considered to be acceptable, and subject to the imposition of appropriate conditions accord with SG LDP SERV 3, SG LDP SERV 7, SG LDP - Climate Change.

Members are also requested to note that SEPA have raised no objection to the proposals and are content that planning permission can be granted. It should be noted that SEPA have made a separate response to Helensburgh Community Council (dated 26.9.18) confirming that the development was in accordance with their policy advice and standards in respect of the proposed use at this location. Helensburgh Community Council in a detailed submission on flooding contend that overtopping of the flood defences beyond the 2080's will take place. Paragraph 1.6 of the SEPA response to the community council in respect of this matter confirms that the building should be set back by 6.25m. The location of the proposed building will meet this requirement.

H. Equalities Assessment – Equality Act 2010 and Fairer Scotland Duty (April 2018)

The "Fairer Scotland Duty" was introduced in April 2018 as Part 1 of the Equality Act. This requires Councils to put "tackling inequality genuinely at the heart of key decision-making".

In this instance, the proposals seek to provide a new and accessible public leisure facility within Helensburgh together with public realm designed to be accessible to all. By locating the facility in a main town centre the new building is able to be accessed by those without access to a car and therefore the proposed development will not discriminate against those who do not own a car. The proposals are therefore considered to accord with the objectives of assisting to address social and economic inequality by providing high quality modern and accessible facility for the benefit of the whole community.

It is therefore concluded that the proposals, if approved, will be in accordance with of the Equality Act 2010 and the Fairer Scotland Duty.

I. Other Matters

Treatment of land when swimming pool demolished

Concerns have been raised in objections to the potential visual impact upon the town centre and potential harm to visual amenity which could be caused if the land upon which the swimming pool is currently located is not satisfactorily restored following demolition works, given that no specific proposals or timescales for the re-use of the land are included in the current planning application.

As the land is to be raised to address flooding issues following removal of the existing structures, the works on this area of land fall within the scope of this planning permission

even though the demolition of the building itself would otherwise constitute 'permitted development' under the GPDO. Officers consider that it is important that the land is restored, even if only for a temporary period, to a condition that would not be detrimental to the amenity of area given the prominence of the site and uncertainty over redevelopment proposals and/or timescales. To address this matter a condition requiring details of the restoration of the land is recommended.

Skatepark removal/ future provision

Many objectors have raised concerns over the removal of the skatepark as part of the indicated development. The removal of the skate park is development (demolition), but is 'permitted development' by virtue of class 71 of the GDPO and therefore this aspect of the scheme requires no planning permission.

An area of land has been identified for a future skatepark/play use and in the proposed site plan this is annotated under Area 4. Objectors state that no firm commitment is contained within the current application as to when and how this will be replaced. The current application does not seek to develop this northern area of the site, only to alter ground levels as part of flood prevention works. The reinstatement of a skatepark following groundworks is a matter which will require to be addressed under the terms of the Masterplan at a future date when the remainder of the site is re-developed and more detailed proposals are subject to future application(s).

Retail policy/impact on existing shops

As has been clarified elsewhere in this report, no retail planning permission is sought by the current planning application and any separate proposals would require to address the appropriate policies of the LDP in order to define the scale and design which may ultimately be considered acceptable. This is not a matter for consideration as part of the current planning application and therefore no Retail Impact Analysis has been required to update the October 2011 Retail Study previously referenced in considering the 2012 Masterplan proposals. Such matters will be addressed in any future planning application for retail use on the site.

The renewal of the pool and the upgrading of facilities will assist in continuing to attract shared trips and assist in reinforcing the vitality and viability of the overall town centre offer.

J. Conclusion

It is considered that the location, scale and design of the building is acceptable and that the design approach assists in breaking up the overall scale and massing of the building. The use of a clear entrance detail is also welcomed as it provides an architectural focus to the building clearly defining its main entrance. A condition requiring details of all external finishes shall be included to ensure that the actual materials to be used are acceptable.

Flooding solutions proposed in respect of protecting not only the proposed building, but also raising the height of the remainder of the larger site to make it suitable for future development is to be welcomed. The building has been located and designed to ensure that it does not undermine or compromise the future development of the northern section of the site, as required by both the 2009 and 2012 Masterplan Addendum.

It is the opinion of Officers that the proposal is in accordance with the 2012 Masterplan Addendum. The function of a Masterplan is not to "set in stone" future planning applications in terms of exact locations and design, but to provide a framework and guidance to work within. The proposed leisure building will be located to the south of the site and will leave space for a potential future retail use facing onto West Clyde Street, in

accordance with the 2012 Masterplan Addendum requirements. That it is in a slightly different location to that shown in approved masterplan is not considered a material departure, given adherence to the overall Masterplan layout rationale.

In respect of car parking and access arrangements the Area Roads Engineer along with the supporting Transport Assessment and Car Parking Study confirms that the proposals are in accordance with the LDP.

Officers are of the opinion that subject to the imposition of appropriate conditions that the proposals are of an appropriate design and scale for their intended civic function and accord with the policies of the LDP.

APPENDIX B: REPRESENTATIONS

i) Representations received from:

Objection:

Mr Carl Dixon 5 Butt Avenue Helensburgh Argyll And Bute G84 9DA 09.08.2018

Miss Joanne Brown 5 Howie Crescent Rosneath Helensburgh Argyll And Bute
09.08.2018

Tariq Durrani 14 Duchess Park Helensburgh Argyll And Bute G84 9PY 13.09.2018

Mrs Fiona McLeod Upper Flat Heatherbank Fairway Garelochhead Helensburgh Argyll
AndBute

Mr Ian MacQuire 20 Rosedale Gardens Helensburgh Argyll And Bute G84 7RW

Mr Norman Muir 52 Grant Street Helensburgh Argyll And Bute G84 7EW 15.08.2018

Mr Ian Grout 18A Upper Glenfinlas Street Helensburgh Argyll And Bute G84 7HD
19.08.2018

Sue Thornley Glenarn House Glenarn Road Rhu Helensburgh 14.09.2018

Christine Gaskell 13 Kenilworth Avenue Helensburgh Argyll And Bute G84 7JR
14.09.2018

Robert McPartland 8 Endrick Wynd Helensburgh Argyll And Bute G84 7SU 14.09.2018

Garth Randal Address Not Supplied 14.09.2018

Clare Hennessey 9 West Abercromby Street Helensburgh Argyll And Bute G84 9LH
05.10.2018

Kimberly Chapman 4 Straid-A-Cnoc Clynder Helensburgh Argyll And Bute 31.08.2018

Valerie Reynard 31.08.2018

Jean Senior 107 East Princes Street Helensburgh Argyll And Bute G84 7DN 31.08.2018

Rebecca Wetherhill 11 South King Street Helensburgh Argyll And Bute G84 7DU
31.08.2018

Kirsty Horn 11 Blackhill Drive Helensburgh Argyll And Bute G84 9AF 31.08.2018

Melany Boyde 58 Fisher Place Helensburgh Argyll And Bute G84 9RJ 31.08.2018

Claire Balneaves 23 Redgauntlet Road Helensburgh Argyll And Bute G84 7TW
31.08.2018

Lucy Wright 59 Drumfork Road Helensburgh Argyll And Bute G84 7TN 31.08.2018

Maura McNally 2 Maitland Street Helensburgh Argyll And Bute G84 7PB 31.08.2018

Lisa Johnstone 36 Lawrence Avenue Helensburgh Argyll And Bute G84 7JJ 31.08.2018

Dr May Hadi 17 Kidston Drive Helensburgh Argyll And Bute G84 8QB 24.08.2018

Mr Benjamin Gibson 96 Drumfork Road Helensburgh Argyll And Bute G84 7TY
29.08.2018

Mr Urlan Wannop 43 Lomond Street Helensburgh Argyll And Bute G84 7ES 28.08.2018

Marie Therese Hayes Strathconon Cumberland Road Rhu Helensburgh 29.08.2018

Bethany Scott 6 Nelson Place Helensburgh Argyll And Bute G84 9ES 29.08.2018

Grant McIntosh 66A Colquhoun Street Helensburgh G84 8JP 29.08.2018

Mrs Barbara Warren 20 Lever Road Helensburgh Argyll And Bute G84 9DP 31.08.2018

Dr Peter Brown 03.10.2018

Lois Smith 25 Queens Crescent Garelochhead Helensburgh Argyll And Bute 04.09.2018

Norman McNally 2 Maitland Street Helensburgh G84 7PB 20.08.2018

Claire Stevenson 1 28 Ferry Road Rosneath Helensburgh 06.09.2018

Janus Basnov 1 28 Ferry Road Rosneath Helensburgh 06.09.2018

Sarah Urquart 15 Bain Crescent Helensburgh Argyll And Bute G84 9DB 06.09.2018

Roz Patterson 1 Portkil House Kilcreggan 06.09.2018

John McMurtrie Flat 2/2 24 Sinclair Street Helensburgh Argyll And Bute 06.09.2018

Stewart Noble 28 East Abercromby Street Helensburgh Argyll And Bute G84 7SQ
09.09.2018

Fiona Macpherson 31 Kennedy Drive Helensburgh Argyll And Bute G84 9AR
17.09.2018

Noble Macpherson 31 Kennedy Drive Helensburgh Argyll And Bute G84 9AR
17.09.2018

Heather Wilson Birchwood Rhu Road Higher Helensburgh Argyll And Bute 18.09.2018

Alan Johnston 12A Cairndhu Gardens Helensburgh G84 8PG 13.08.2018

Jean Johnston 12A Cairndhu Gardens Helensburgh G84 8PG 13.08.2018

Ron Ellis 8 Lineside Walk Rhu Helensburgh Argyll And Bute 12.09.2018

Ian Reynard 34 Loch Drive Helensburgh Argyll And Bute G84 8PZ 12.09.2018

Leila Reynard 34 Loch Drive Helensburgh Argyll And Bute G84 8PZ 12.09.2018

Kathryn Polley Flat 1/1 2 James Street Helensburgh Argyll And Bute 12.09.2018

Christina Atkins Inchcruin Redgauntlet Road Helensburgh Argyll And Bute 12.09.2018

Patricia Lawson 5 Tower Place 6 East Clyde Street Helensburgh 12.09.2018

Nick Cowie Garemount Lodge Shore Road Shandon Helensburgh 12.09.2018

William S Quaile Ulston Grove Spys Lane Rhu Helensburgh 12.09.2018

Mrs Kathy Black Strathlee Shore Road Cove Helensburgh Argyll And Bute 19.09.2018

Pauline Macdonald 33 Camperdown Court Helensburgh Argyll And Bute G84 9HH
20.09.2018

Mrs Claire Davidson 54 Colquhoun Street Helensburgh Argyll And Bute G84 8UX
05.09.2018

David Allan 145 West Princes Street Helensburgh Argyll And Bute G84 8EZ 05.09.2018

Mrs Jane Allan 145 West Princes Street Helensburgh Argyll And Bute G84 8EZ
05.09.2018

Gaynor Jakeman 38 Kildonan Drive Helensburgh Argyll And Bute G84 9SA 05.09.2018

Jenny Wainwright 24 Tower Place East Clyde Street Helensburgh Argyll And Bute
05.09.2018

Paula McIntosh 66 A Colquhoun Street Helensburgh G84 05.09.2018

Mr Paul Dods 8 Kildonan Drive Helensburgh Argyll And Bute G84 9SA 30.08.2018

Professor Norman McNally 2 Maitland Street Helensburgh Argyll And Bute G84 7PB
20.08.2018

Mrs Debbie Stevenson 27 Guy Mannering Road Helensburgh Argyll And Bute G84 7TJ
30.08.2018

Miss Fiona Baker Hillcroft Station Road Rhu Helensburgh Argyll And Bute 06.09.2018

James Kerr 20 Ardenconnel Way Rhu Helensburgh Argyll And Bute 04.09.2018

Andrew Watts The Olde School House Kilcreggan 04.09.2018

Rayna Watts The Olde School House Kilcreggan 04.09.2018

Emma Young 30 Stuckleckie Road Helensburgh Argyll And Bute G84 7NN 04.09.2018

Neil Petrie 9 South King Street Helensburgh Argyll And Bute G84 7DU 04.09.2018

Terri Colloton 7 Armstrong Road Helensburgh Argyll And Bute G84 7UE 04.09.2018

Veronica Davis 7 Kilmahew Court Cardross Dumbarton Argyll And Bute 04.09.2018

Veronica Davis 2 Talisman Crescent Helensburgh Argyll And Bute G84 7TD 04.09.2018

Elizabeth Clarke 2 Talisman Crescent Helensburgh Argyll And Bute G84 7TD
04.09.2018

James Taylor 75 West Clyde Street Helensburgh Argyll And Bute G84 8AX 04.09.2018

Toni Taylor 75 West Clyde Street Helensburgh Argyll And Bute G84 8AX 04.09.2018

Colin Shannon 38 Suffolk St Helensburgh G84 9PD 07.09.2018

Stella Kinloch Craigend Cardross Dumbarton Argyll And Bute 08.09.2018

M W Whitlock 28 Bain Crescent Helensburgh Argyll And Bute G84 9DF 11.09.2018

H R Whitlock 28 Bain Crescent Helensburgh Argyll And Bute G84 9DF 11.09.2018

Lynn Smith 7 Lower Sutherland Crescent Helensburgh Argyll And Bute G84 9PG
11.09.2018

B M Annesley 26 Duchess Drive Helensburgh Argyll And Bute G84 9PR 11.09.2018

Mrs C A Annesley 26 Duchess Drive Helensburgh Argyll And Bute G84 9PR 11.09.2018

Graham Jefferies 52 William Street Helensburgh Argyll And Bute G84 8XX 11.09.2018

Mairi Jefferies 52 William Street Helensburgh Argyll And Bute G84 8XX 11.09.2018

Alan MacNicol Aros Road Rhu Helensburgh 11.09.2018

Kay Court 07.09.2018

Lynne Dow 6 East Montrose Street Helensburgh Argyll And Bute G84 7HU 07.09.2018

Fiona McLeod Upper Flat Heatherbank Fairway Garelochhead 07.09.2018

Vivien Dance 07.09.2018

Alan Jack 188 West King Street Helensburgh Argyll And Bute G84 8QR 07.09.2018

Frances Baxter 69 Dennistoun Crescent Helensburgh Argyll And Bute G84 7JQ
12.09.2018

Chris Henderson 6 Laggary Park Rhu Helensburgh Argyll And Bute 12.09.2018

Peiwah Lee Harwood Church Avenue Cardross Dumbarton 12.09.2018

Geoffrey Atkins Inchcruin Redgauntlet Road Helensburgh Argyll And Bute G84 7TP
08.09.2018

Colin Keir 16 Barclay Drive Helensburgh Argyll And Bute G84 9RD 09.09.2018

Mr Philip Dye 9 Glen Drive Helensburgh Argyll And Bute G84 9BJ 14.09.2018
Mike Green No Address Provided 17.09.2018

A Brian Aitken Foinne Bhein Shandon Helensburgh Argyll And Bute 17.09.2018

G A Quickfall 25 Redclyffe Gardens Helensburgh Argyll And Bute G84 9JJ 17.09.2018

Raymond Williams 22 Blackhill Drive Helensburgh Argyll And Bute G84 9HR 18.09.2018

Pauline Williams 22 Blackhill Drive Helensburgh Argyll And Bute G84 9HR 18.09.2018

Mr Iain MacLaren Twiga Glenoran Road Helensburgh Argyll And Bute

Mr James Chapman 10 Cardross Road Helensburgh Argyll And Bute G84 7JW
23.08.2018

T G Calder 15 East Lennox Drive Helensburgh Argyll And Bute G84 9JD 01.10.2018

Iain M Cameron No Address Provided 01.10.2018

Peter Brown Ravenswood 32 Suffolk Street Helensburgh Argyll And Bute 01.10.2018

Mrs L E Aitken Foinne Bhein Shandon Helensburgh Argyll And Bute 03.09.2018

Lynn Henderson 9 Redclyffe Gardens Helensburgh Argyll And Bute G84 9JJ 03.09.2018

Helen Bowie 16 East Argyle Street Helensburgh Argyll And Bute G84 7RR 03.09.2018

George Bowie 16 East Argyle Street Helensburgh Argyll And Bute G84 7RR 03.09.2018

Anne Helstrip 33 Loch Drive Helensburgh Argyll And Bute G84 8PZ 03.09.2018

Michelle Scotland Upper Greenhill Shore Road Kilcreggan 03.09.2018

Dr Ben McNally Florastrasse 59 Wurenlos 5436 Switzerland 03.09.2018

Emma Henderson 22 Barclay Drive Helensburgh Argyll And Bute G84 9RB 03.09.2018

Connor McNally 2 Maitland Street Helensburgh Argyll And Bute G84 7PB 03.09.2018

Mrs Catherine Grout 18A Upper Glenfinlas Street Helensburgh Argyll And Bute G84
7HD 28.08.2018

Support:

Councillor Ellen Morton. Chair of Helensburgh and Lomond Area Committee. 18
Adelaide Street Helensburgh Argyll And Bute G84 7DL 10.10.2018

Rebecca Mair 38 Woodbank Court Alexandria G83 0LG 20.09.2018

Mr Nicholas Davies The Copse Donaldsons Brae Kilcreggan Helensburgh Argyll And
Bute 06.09.2018

Mrs Alison Barclay Craigarran Shore Road Kilcreggan Helensburgh Argyll And Bute
15.10.2018

Mrs Jackie Hood 11 East Montrose Street Helensburgh Argyll And Bute G84 7ER
03.10.2018

Mrs Nicola Hackett 66 Shore Road Innellan Dunoon Argyll And Bute 19.09.2018

Colin Crichton 800 Crow Road Glasgow G13 1LY 20.09.2018

Mr Kenneth White 20 West Lennox Drive Helensburgh Helensburgh Argyll And Bute
02.09.2018

Mr Kevin Anderson 6 Broomfield Drive Dunoon Argyll And Bute PA23 7LJ 18.09.2018

Ms Diane McMillan 7 Victoria Terrace Ardrishaig Lochgilphead Argyll And Bute

Mr Chris Turnbull 108 Mains Hill Erskine pa8 7je 21.09.2018

Mr Laurence Slavin Flat 1 Ponderosa Shore Road Kilcreggan Helensburgh Argyll And Bute

Amy Birch 6 Fairfield Gardens Helensburgh 10.10.2018

Margaret McGhee 132 Cardross Road Westcliff Dumbarton 10.10.2018

A Fletcher Flat 2/1 3 Brabloch Park Paisley PA3 4QD 10.10.2018

David Unsworth 87 Methven Road Paisley 10.10.2018

Rachel Nicolson West Clyde Street Helensburgh 10.10.2018

Angela Gibson 2 Charles Terrace Balloch G83 8LD 10.10.2018

S Cameron Full Address Not Provided 10.10.2018

Isabel Ward 20 St Michael Drive Helensburgh Argyll And Bute G84 7HG 10.10.2018

Esther Cowan Full Address Not Provided 10.10.2018

John Tetler 64 Old Luss Road Helensburgh Argyll And Bute G84 7LN 10.10.2018

Lorraine MacKenzie 9 Duncombe Avenue Hardgate Clydebank 10.10.2018

Rebecca Mair Address Not Provided 10.10.2018

Lorraine Welsh 72 Campbell Street Helensburgh G84 9QW 10.10.2018

Laura Judge 97 Davaar Avenue Campbeltown Argyll And Bute PA28 6NQ 10.10.2018

Robert Judge 97 Davaar Avenue Campbeltown Argyll And Bute PA28 6NQ 10.10.2018

Vincent Madden 38 Hunters Avenue Dumbarton 10.10.2018

Helen Taylor Full Address Not Provided 10.10.2018

Colin Crichton 800 Crow Road Glasgow 10.10.2018

Charlotte Savage 0/3 33 Castlegreen Street Dumbarton 10.10.2018

Alex Benn Beechdale Linnburn Shandon 10.10.2018

Aileen Baird 234 West Princes Street Helensburgh Argyll And Bute G84 8HA 10.10.2018

Alex Macfarlane 28 Abercromby Crescent Helensburgh Argyll And Bute G84 9DX
10.10.2018

Douglas Welsh 48 Manse Crescent Stanley PH1 4NZ 10.10.2018

Charles Breslin 3 Kennedy Drive Helensburgh Argyll And Bute G84 9AR 10.10.2018

Fiona Baird 35 Lochranza Drive Helensburgh Argyll And Bute G84 9DY 10.10.2018

N Parlane 43 William Street Helensburgh Argyll And Bute G84 8XX 10.10.2018

Steve Worsford 15 Collins Road Helensburgh Argyll And Bute G84 7UA 10.10.2018

Angela Pyne 92 Berwick Road Greenock 10.10.2018

Phil Taylor 3 John Street Lane Helensburgh Argyll And Bute G84 9NA 10.10.2018

Julie Nicol 30 Glenshira Drive Dumbarton 10.10.2018

Richard Millar Full Address Not Provided 10.10.2018

Paul Henderson Full Address Not Provided 10.10.2018

Karen Smith 34 West Montrose Street Helensburgh Argyll And Bute G84 9NQ
10.10.2018

Stuart Mason Cala Na Sythe Stuckenduff Road Shandon 10.10.2018

Chris Mckell 28 Kirkmichael Road Helensburgh Argyll And Bute G84 7NQ 10.10.2018

Daryl Walker 15 Mackintosh Court Helensburgh Argyll And Bute G84 7HZ 10.10.2018

Leah Walker 15 Mackintosh Court Helensburgh Argyll And Bute G84 7HZ 10.10.2018

J G Dean 25 Maclachlan Road Helensburgh G84 9BU 10.10.2018

K Brady Full Address Not Provided 10.10.2018

Mr Les Donald Flat 1/1 107 West Clyde Street Helensburgh Argyll And Bute 28.08.2018

Sinead Rooney Full Address Not Provided 09.10.2018

Richard Stephen 1 East Rossdhu Drive Helesnburgh 09.10.2018

Irene Telfer 64 Old Luss Road Helensburgh Argyll And Bute G84 7LN 09.10.2018

L Baird 3/3 69 Station Road Renfrew 09.10.2018

Paula Gill 51 Malcolm Place Helensburgh Argyll And Bute G84 9HW 08.10.2018

Dr Cecilia Chisholm 23 Machrie Drive Helensburgh Argyll And Bute G84 9EJ 08.10.2018

Neutral Representation:

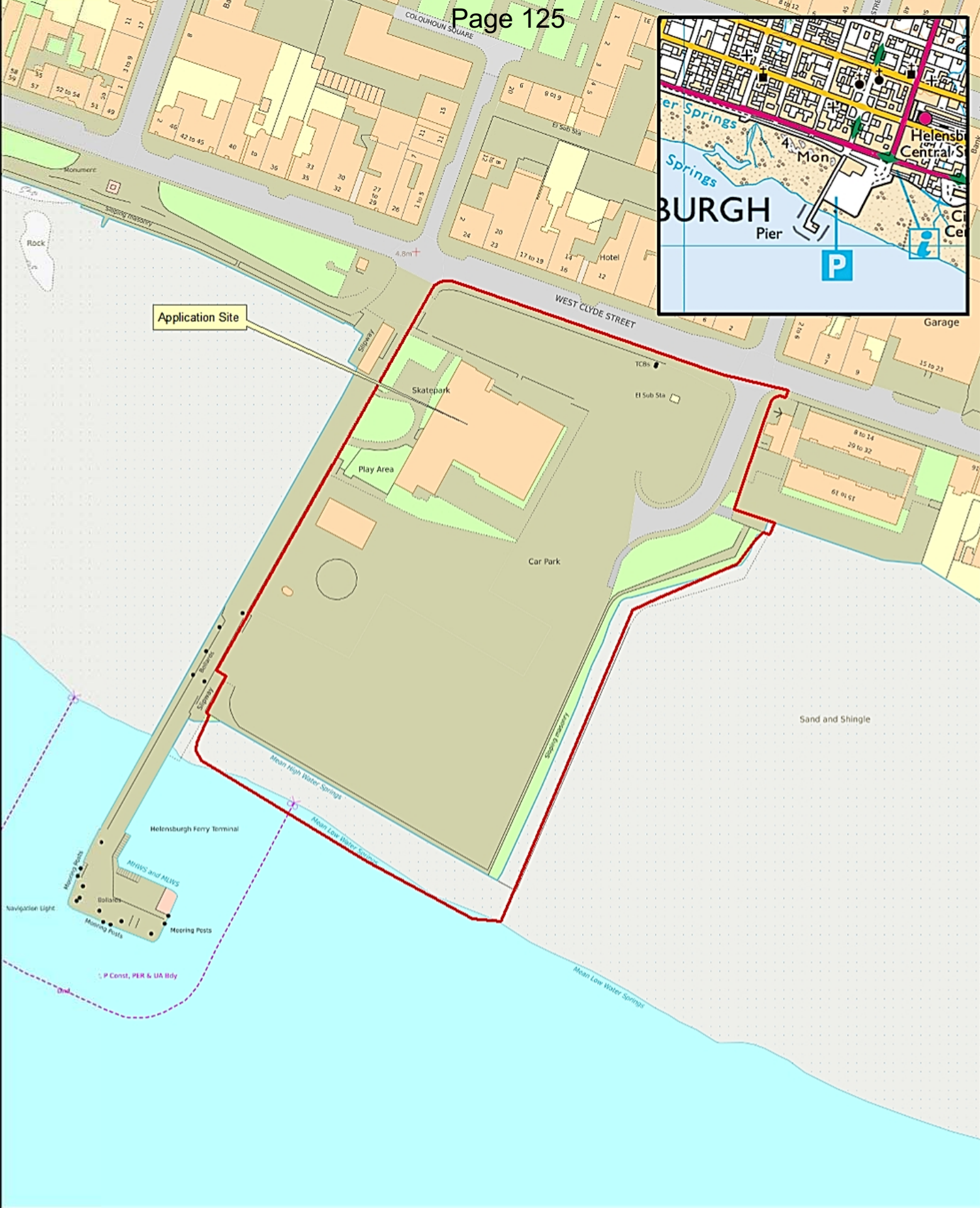
Mrs Patricia Lawson Flat 5 Tower Place 6 East Clyde Street Helensburgh 14.08.2018

Mr John Penniston Townhead Farm Drumfork Road Helensburgh Argyll And Bute
06.09.2018

Mr Ian Ward Rowallan 29 East Montrose Street Helensburgh Argyll And Bute
11.08.2018

Peter F Stewart. Senior Coastal Operations Manager, HIM Coastguard, Greenock Fire
Station, Rue End Street Greenock PA15 1HA 11.10.18

This page is intentionally left blank



Location Plan relative to Planning Application
Ref No: 18/01614/PP

Scale 1:1,250



This page is intentionally left blank

Argyll and Bute Council
Development and Infrastructure Services

PROPOSAL OF APPLICATION NOTICE (PAN)

Reference: 18/02005/PAN

Applicant: D Hill Properties

Proposal: Proposal of application notice for proposed housing development (up to one hundred units in number).

Site Address: Land west of Alexander Street, Dunoon, Argyll.

1.0 BACKGROUND

A Proposal of Application Notice (PAN) has been submitted to the Planning Authority which took effect from 7th September 2018. In order to allow for a minimum of 12 weeks community consultation in accordance with the relevant legislation no formal planning application can be submitted until the 16th November 2018.

The proposal is for the erection of up to a maximum of 100 dwellinghouses on a Housing Allocation site on the western flanks of Dunoon.

Site History

Outline planning permission was granted to Caldon Developments Ltd on 24 April 1981 for development of a site for housing at Auchamore Farm, Dunoon. An application for Approval of Reserved Matters was approved on 6th August 1984. The approved layout showed 41 dwellinghouses, 17 being detached and 24 semi-detached. It was determined in March 1990 that, as a consequence of work carried out on the approved access road, a meaningful start on the development under Section 40 (2) (d) of the Town and Country Planning (Scotland) Act 1972 had been effected timeously. Subsequently, one house was completed on Plot 26 (at the corner of Gordon Street and Mary Street) and a non-material amendment in respect of its external finishes was accepted in 1993 (ref: 92/00067/_003).

As a consequence of the above, it would appear that the planning permission for the remaining 40 houses approved in 1984 exists in perpetuity. However, because of changes to Building Standards and lapsed Roads Construction Consent in the intervening years, it is unlikely that the approved house types could now be built. A revised planning application would therefore be required for this part of the site where the extant planning permission would be a material consideration.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

The agent has stated that the site owner is a property investment company with a track record of residential and commercial acquisitions. They see their Dunoon site as an opportunity to develop a high quality residential development in Argyll with future potential to develop their land ownership to the north and west as a mixed use tourism development (possibly a high quality hotel(s), leisure and recreational development). The Phase 1 proposal is being designed as a mainstream housing layout comprising a mix of detached, semi-detached and flatted blocks along with public open space, pedestrian/cycle paths and road network connections to Alexander Street,

Gordon Street and Nelson Street. The latter may require off-site improvement on land outwith the applicant's control which will require re-consideration once initial consultations are received.

3.0 SITE DESCRIPTION

In the Argyll and Bute Local Development Plan, the development site is located within the Main Town Settlement of Dunoon where under policy LDP DM1, encouragement shall be given up to and including large scale (i.e. exceeding 30 units) sustainable development on appropriate sites.

The development site relates to an area of sloping moorland (approximately 8Ha) to the west of Alexander Street, north of Nelson Street and Gordon Street and south of Cowal Place. The development site provides the western backdrop to Dunoon and is currently criss-crossed by a series of Core Paths, informal tracks and a Forestry access track, all providing access into the Bishops' Glen and surrounding hillside.

The development site comprising Phase 1 constitutes Housing Allocation Site H-AL 2/3 in the Argyll and Bute Development Plan where the site has been identified for 100 housing units with a minimum of 25% affordability. In addition to the development site, the applicant owns a significant area of land to the west and north of the site stretching from the Scottish Water reservoir in the south to Cowal Avenue to the north and has been identified as Phase 2. Plans presently submitted at the pre-application stage for Phase 1 are indicative and intended for discussion following internal and external consultations.

The agent assumes that the principal road network indicated will be constructed to an adoptable standard and as such has been designed to relate to the maximum gradients permitted under the Roads Design Guidance and incorporating the contents of the "Designing Streets" guidance in preparing the layout as well as taking cognisance of the positions of over and under-ground services. The main north/south orientation of the principal streets allows future connection to the area of site out-with the current LDP to the north (Phase 2). The applicant envisages this as being developed in a second phase with additional housing and some form of hotel and leisure development. The area for proposed Phase 2 development is currently identified in the Argyll and Bute Local Development Plan as Countryside Zone, although it is only Phase 1 which is being considered at present.

4.0 DEVELOPMENT PLAN POLICY

Relevant Policies which will require to be considered include:

Argyll and Bute Local Development Plan (adopted March 2015):

LDP STRAT1 Sustainable Development;
LDP DM1 – Development within the Development Management Zones
LDP PROP 2 – The Proposed Allocations
LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment
LDP 5 – Supporting the Sustainable Growth of Our Economy
LDP 8 - Supporting the Strength of Our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 Improving our Connectivity and Infrastructure.

Supplementary Guidance (approved March 2016):

SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity (i.e. biological diversity)
SG LDP ENV 6 – Development Impact on Trees / Woodland

SG LDP ENV 14 –Landscape
SG LDP ENV 15 –Development Impact on Historic Gardens and Designed Landscapes
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP HOU 1 General Housing Development Including Affordable Housing Provision;
SG LDP Sustainable - Sustainable Siting and Design Principles
SG LDP SERV 1 – Private Sewerage Treatment Plants and Wastewater (i.e. drainage) systems
SG LDP SERV 2 – Incorporation of Natural Features / Sustainable Systems (SUDS)
SG LDP SERV 3 – Drainage Impact Assessment (DIA)
SG LDP SERV 5(b) – Provision of Waste Storage and Collection Facilities within New Development
SG LDP SERV 7 – Flooding and Land Erosion – The Risk Framework for Development
SG LDP CC 1 – Climate Change and Sustainable Buildings
SG LDP Sust Check – Sustainability Checklist
SG LDP TRAN1 Access to the Outdoors;
SG LDP TRAN2 Development and Public Transport Accessibility;
SG LDP TRAN3 Special Needs Access Provision;
SG LDP TRAN 4 New and Existing, Public Roads and Private Access Regimes;
SG LDP TRAN 5 Off-site Highway Improvements;
SG LDP TRAN 6 Vehicle Parking Provision;
SG2 Sustainable Siting and Design Principles.

Note: The Full Policies are available to view on the Council’s Web Site at: www.argyll-bute.gov.uk

It is considered that the main determining issues relating to this proposal will include:

- Landscape and visual impact;
- Settlement pattern, layout and design issues;
- Roads Issues – new vehicular accesses, parking and turning provision;
- Connection to public water supply;
- Connection to public waste water system or provision of private sewage treatment plant;
- Surface water drainage;
- Impact on core path routes;
- Impact on habitats and species;
- Diversion of existing services;
- Economic Impact

Note: *The above is not an exhaustive list and it has been provided in this report to give Members a flavour of the main issues which will require consideration when determining this Major planning application.*

5.0 CONCLUSION

Pre-application discussions regarding the proposed Phase 1 development for up to 100 dwellings are ongoing and the indicative layout is likely to change following input from internal and external consultees.

The report sets out the information submitted to date as part of the PAN. Summarised are the policy considerations, against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. The list is not exhaustive and further matters may arise as and when a planning application is received and in the light of public representations and consultation responses.

6.0 RECOMMENDATION

It is recommended that Members consider the content of the report, and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the applicant in finalising any future planning application submission.

Author of Report: Brian Close

Date: 21/09/18

Reviewing Officer: Sandra Davies

Date: /18

Angus Gilmour
Head of Planning, Housing and Regulatory Services



Location Plan relative to Planning Application
Ref No: 18/02005/PAN

Scale 1:1,750



This page is intentionally left blank

**Argyll and Bute Council
Development and Infrastructure Services**

Reference No: 16/03400/S36

Planning Hierarchy: Major

Applicant: RES Ltd (via Scottish Government Consents Unit)

Proposal: S36 consultation for proposed Killean Wind Farm

Site Address: Killean Wind Farm, Tayinloan, Argyll and Bute

SUPPLEMENTARY REPORT FOR NOTING

1.0 INTRODUCTION

This report serves to update Members on the current situation with Killean Wind Farm (16/03400/S36).

2.0 BACKGROUND

An application for consent for Killean Wind Farm under section 36 of the Electricity Act 1989, and for a Direction that planning permission should be deemed to be granted, was made in December 2016. An Environmental Statement was submitted with the application in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000. The Scottish Government's Energy Consents and Deployment Unit consulted the Council on the proposal in accordance with Section 36 protocol. Officers recommended that the Council object to the Killean wind farm proposal for the reasons detailed in their report dated 4th October 2017. Members considered this recommendation at PPSL committee on the 18th October 2017 and agreed to object for the reasons specified and that the Scottish Government be notified accordingly (please refer to Appendix 1 for reasons for Council Objection).

As the Council objected to the proposal a Public Local Inquiry (PLI) is required to be held which will commence on the 8th January 2019 and the DPEA have decided that it will be a conjoined combination of Inquiry and Hearing Sessions with Clachaig Glen Wind Farm (16/01313/PP). Clachaig Glen was refused on the 21st September 2017 and subsequently became the subject of a planning appeal. The reason for its conjoined consideration with Killean is its proximity in terms of cumulative impact. It also shares the Killean access route.

The Energy Consents Unit has now authorised the applicant (RES) to vary the application submitted in respect of Killean from what was originally submitted to the Energy Consents Unit and considered by the Council. These amendments are detailed in 'Additional Environmental Information' which was submitted on the 21st August 2018. The AEI comprises 4 volumes: Volume I: Main Text; Volume IV: Updated Landscape & Visual Figures; Volume V: Technical Appendices; and a Private Water Supply Assessment. The main changes to the proposal are as follows:

- To remove Turbines 14 and 17.
- To amend the access track layout by removing the access tracks proposed to provide access to Turbines 14 and 17.
- To accommodate advances in technological development of turbines, the specifications of the candidate turbine is amended to reduce the maximum tower height to 91.5m and increase the maximum rotor diameter to 117m.

It is provided by the applicant that the variations to the proposed Killean scheme will accommodate concerns expressed by the owner of the property known as Braids. This property is currently a ruinous dwelling located within the application site. It has the benefit of planning permission to allow for the renovation of the ruin to provide a single dwelling with associated servicing (Planning Reference 16/02779/PP).

3.0 OBJECTION RAISED TO THE AMENDMENT OF THE KILLEAN APPLICATION BY SUBMISSION OF ADDITIONAL ENVIRONMENTAL INFORMATION

When Officers became aware of the proposed changes and intention to vary the application at the Pre-examination meeting on the 3rd July 2018, an objection was raised at the meeting and followed up with a written objection sent from the Council's Senior Solicitor to the Energy Consents Unit on the 27th July 2018.

This objection was on the grounds, amongst other things that;

1. The variations proposed would be material. This view was formed in advance of the Additional Environmental Information being submitted, on the basis that it was indicated at the Pre Examination Meeting that the rotor diameters of the turbines were proposed to be increased. The materiality and potential impact of this change was of concern to Officers particularly in relation to:
 - Ornithological impact – potential for increased collision risk, due to the wider diameter of the rotor;
 - Landscape and Visual Impact – potential for increased visibility and landscape impact, due to the wider diameter of the rotor; and
 - Noise Impact – potential for increased noise immissions, due to the wider diameter of the rotor.
2. The variations proposed by way of submission of AEI by the Applicant at this stage in proceedings does not accord with the 'Code of Practice For Handling Inquiries Under Section 62 and Schedule 8 to the Electricity Act 1989' ('the Code') which sets out the arrangements which the DPEA will apply to ensure all parties are clear about what will happen and what is expected of them. The Code is designed to ensure the inquiry process is fair, robust and efficient.
3. It was considered that the Applicant, by requesting an amendment to the application at this stage in proceedings, had failed to make early and full disclosure of their case and to adopt a constructive approach to narrowing the range of issues to be considered at the inquiry;
4. That the amendment of the application at this stage in the proceedings is considered to be unreasonable behaviour and that the Council objects to the amendment of the application by the Applicant.

The Council invited the ECU to refuse the proposed amendment and advise the Applicant that they will require to either continue with the application for the development applied for or withdraw the application and thereafter submit a new application for the development now proposed.

In response to the Council's letter of objection the applicant's solicitors, Messrs Wright, Johnston & MacKenzie LLP submitted a letter to the ECU dated 8 August 2018. It was submitted, amongst other things, that the grounds of the objection by the Council were not supported by the Electricity Act 1989, the Electricity Act (Application for Consent) Regulations 1990/455 (as amended), and the Code of Practice for Handling Inquiries under Section 62 of Schedule 8 to the Electricity Act 1989. In conclusion it was submitted, amongst other things that the proposed variation was a variation to the application under the Electricity Act 1989, not an appeal under the Planning Act. While the cases on materiality may be useful in considering what might amount to a change to the application, the Scottish Ministers are not bound by the same considerations as would apply to a planning appeal. It was submitted that no party would suffer prejudice as a result of the proposed variation being made by the

variation being made by the applicant. The proposed change to the application would not result in a development that is different on scale, substance and character from that originally proposed. The Reporters have been formally appointed by the Scottish Ministers to hold a PLI and are able to consider “any matter relating to the exercise by them of a function under this Part” (s62 ss1A of the Electricity Act 1989). They therefore have the authority to consider the application as proposed to be varied. The submission previously made to the Scottish Ministers that the proposed variation is entirely within the scope of what could competently be allowed without a fresh application being required was recommended and repeated. The proposed variation in the application would not lead to a development which is in any sense different in scale and character. It would not change the level of significant effects. The proposed revised development would constitute a proposed wind powered generation station comprising 15 turbines, with a generating capacity of more than 50MW and no change to the proposed turbine tip heights.

The Energy Consents Unit responded to the objection and representation by the applicant’s solicitor on the 20th August 2018. In their correspondence they conclude that given the nature of the proposed amendments and that the Inquiry has not yet commenced, they consider the proposed amendments do not merit the submission of a new application and can be considered as additional information in the assessment process. This would be on the basis that the additional information as listed in the letter 6 July 2018 is advertised in accordance Regulation 20 of Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017. The applicant is required to provide a copy of the additional information to the planning authority and any other person to whom a copy of the ES report was sent. The applicant must publish a notice in the required newspapers and state on that notice how and by what date representations maybe made (being a date not earlier than 30 days after last date on which the notice was published). Any representations received by the ECU will be forwarded to the DPEA for the reporter’s consideration as part of the inquiry. In conclusion the ECU are content for the proposed amendments to be considered as additional information in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 and assessed during the inquiry process.

4.0 SCOPE OF ADDITIONAL ENVIRONMENTAL INFORMATION (AEI)

As detailed above the Energy Consents Unit has consented to the amendment of the Killean application. The AEI has been submitted in accordance with the Electricity Works (EIA) Regulations 2017 (Transitional Provisions). It provides information on the nature and extent of the amendments; identifies and assesses the likely significant environmental effects of the proposed development, to the extent that these may be different from the findings of the original ES. It also provides an updated cumulative assessment and provides an addendum to the Peat Stability Risk Assessment Report included within the original ES. The AEI should be read with the ES 2016 except where specified to be superseded in the AEI. It comprises the following:

- An introduction including a statement from the applicant outlining the relevant expertise or qualifications of the experts who have prepared the report and a concluding summary.
- A section updating the Design Evolution Chapter of the ES.
- An addendum to the Landscape and Visual Impact Assessment with relevant additional visualisations (including appropriate ZTVs, wirelines and photomontages).
- A Noise Section, including shadow flicker, to update the Noise Chapter of the ES.
- An Ornithology Section to update the Ornithology Chapter of the ES.
- A Traffic and Transport Section to update the Traffic and Transport Chapter of the ES
- An Addendum to the Peat Stability Risk Assessment with accompanying explanation to address the six points of revision and clarification required to be addressed in the checking report prepared by AM Geomorphology, commissioned by the Energy Consents Unit in respect the Peat Stability Risk Assessment Report included within the original ES.
- A Private Water Supply Statement has also been submitted

5.0 DESIGN EVOLUTION

This section of the AEI updates and supplements Chapter 3: Design Evolution and Alternatives of the ES following the changes made to the proposed wind farm. When the original turbine layout design was submitted as part of the original ES in December 2016, 'Braids' was a ruin and undeveloped. A planning application (16/02779/PP) for the redevelopment of the ruin into a dwellinghouse was submitted on the 4th of November 2016. The application was approved on 12th December 2016 and as far as the applicant is aware, has not been implemented. The removal of T14 and 17 addresses the concerns of the owners of Braids. In views from Braids, T14 and T17 in the application layout were the closest and most prominent turbines, at approximately 500m away. Their removal would mean that the closest turbine is now T15 at 794m away. With the removal of T17 the angle of view occupied by turbines would be slightly less, and there would no longer be stacking between T14 and T9, which sits behind T14 in the view.

6.0 LANDSCAPE AND VISUAL

The AEI provides updated and additional landscape and visual information in response to changes to the turbine layout, turbine dimensions and the cumulative baseline.

It concludes that the removal of T14 and T17 would not result in any changes to the nature and significance of landscape and visual effects as described in the LVIA. Changes to the landscape, including a reduction in the area of forest removed in the short term and a shorter access track, would not be noticeable at the scale of the landscape character type. Effects on landscape character type would continue to be significant up to around 5km from the site. The removal of the two turbines would be perceptible in closer views, becoming less perceptible with distance. In some views it would result in a simpler layout, with less stacking, in others it would introduce a gap between turbines. Overall it would not change the nature and significance of the visual effects identified at any of the LVIA viewpoints. The effect on receptors at the new viewpoint at Pirnhill would be minor and not significant, and this would not change the conclusions with regard to the North Arran NSA, as set out in the LVIA.

It is considered that the lower hub and larger rotor diameter would only be discernible in close views, with the apparent differences in turbine dimensions quickly diminishing with distance. In addition, small numbers of hubs would become screened by topography due to their lower heights from certain viewpoints. Overall, there would be no change to the nature and significance of landscape and visual effects as described in the LVIA.

Changes to the cumulative baseline are small, with most changes relating to a change in the status of the wind farm e.g. consented to operational. The removal of Creggan has a beneficial effect in some views, separating the cluster of wind farms created by the proposal, Deucheran Hill and potentially Clachaig Glen, with the cluster formed by Blary Hill, Beinn An Tuirc and its extensions. Overall the findings of the CLVIA would not be affected.

There will be some improvement to the nature of visual effects at Braids because of the removal of the two closest turbines (numbers 14 and 17). This will result in the closest turbine being Turbine 15, 0.8km to the southeast. There is no window proposed on the southeast elevation of the property, and whilst the turbines will clearly be seen at close range to the northeast through to the southeast, views to the northwest, west and southwest will not be affected. These include the key views down to the coast, and the views from the garden on the southwest side. In views to the northeast, there will be some screening and containment provided by rising ground, outbuildings and a stone wall on the perimeter. The visual effects will be significant, but in terms of the usual approach taken to residential amenity, it is not considered that the property will become widely considered to be an unattractive place in which to live.

Consultation has been undertaken with Carol Anderson the Landscape Architect who will be representing the Council at the Public Inquiry Sessions in regard to the Landscape, Visual & Cumulative Impact Issues detailed in the Additional Environmental Information. Carol Anderson concludes that from a landscape and visual point of view, the changes (omission of two turbines and changes to turbine design) are very minor and would not alter the

Council's conclusions on the nature and significance of landscape and visual effects. There is some slight improvement in terms of avoiding overlapping of turbines by omitting turbines 14 and 17 evident in some viewpoints (e.g. viewpoints 2, 4 and 6) but as the Council's objection is one of principle in that this wind farm is not located in the right place, then there would be no change to the Council's original appraisal which was based on the scale and prominence of the development and its more sensitive location.

9.0 ORNITHOLOGY

The AEI also updates the ornithological impact assessment for the Killean wind farm that was reported in project Environmental Statement (ES), to address whether an increase in rotor diameter from 99.8m (as assessed in the ES) to 117m might alter the previous findings in relation to ornithology, and the reduction in risk from the dropping of two turbines from the original 17. There were three key differences in relation to the collision risk modelling in comparison with the previous modelling undertaken for the ES; (a) a larger rotor swept area resulting in an increase collision risk volume, (b) reduced rotational speed resulting in reduction in collision risk, and (c) reduction in turbine number from 17 to 15.

Overall this assessment update of the collision risk for larger turbines but with a reduced number of turbines (15) found a slightly increased collision risk in comparison with the 17 turbine layout with a 99.8m rotor diameter turbine. This did not, however, make any material difference to the conclusions reached. There would be low/negligible magnitude collision risks to all of the key species assessed, which would not result in any significant ornithological impacts, alone or in-combination.

The Local Biodiversity Officer has considered the Additional Environmental Information and advises that her comments on the original application still stand.

10.0. TRANSPORT AND TRAFFIC

The AEI also assesses the traffic impact of the amended Proposal which includes a reduction in traffic, compared to that previously presented, to account for a reduction in the number of turbines and associated enabling infrastructure. During the lifecycle of a wind farm the temporary construction period is associated with the highest traffic flows and so this assessment has focused on this area. Vehicular access to the site is via the existing haul road/Kintyre Way from the A83 at Killean. The preferred route for the delivery of turbine equipment to the proposal is from the port of Campbeltown. The IEA Guidelines have been followed during the assessment process. The study network included the A83 north and south of the site. Baseline traffic flows were sourced for this road. The average daily traffic flows associated with construction were determined and added to the baseline. The predicted increase in HGV only traffic flows shows negligible impacts on sections of the A83; these 10% - 30% increases in traffic indicate a negligible change in conditions or circumstances. A Transport Management Plan (TMP) would be developed in consultation with the Council, TS and Police Scotland should the proposal be successful in obtaining planning permission. Overall the residual effect of the proposal is considered not to be significant.

Five cumulative wind farm developments for which construction timescales may overlap with that of the proposal have been identified in the area. These include three wind farms which have been approved – Blary Hill, Beinn An Tuirc Phase 3 and Tangy 3 – and two for which appeals have been submitted – Clachaig Glen and Eascairt. A cumulative assessment for the Clachaig Glen wind farm development determined that the cumulative impact of the Creggan, Blary Hill, Eascairt, Clachaig Glen and Beinn An Tuirc Phase 3 wind farms would result in negligible change in conditions or circumstances. Given that the Creggan wind farm has been refused and the potential impact of the Blary Hill wind farm can be controlled, it is considered that the cumulative impact of the five developments will also result in a negligible change in conditions or circumstances.

The Area Roads Engineer has no objection to the Additional Environmental Information notes that the proposal continues to be accessed from the A83 Trunk Road and advises that Transport Scotland should be notified.

11.0. NOISE & SHADOW FLICKER

The AEI includes an updated acoustic and shadow flicker assessment of the proposed Killean wind farm following a reduction in the number of turbines, which supersedes that presented in the ES submitted in 2016. The noise limits recommended in relevant legislation and guidance would be met at all considered receptors with the adoption of appropriate mitigation measures such that the resulting acoustic impact would be deemed acceptable. This is the case in both the assessment of Killean alone and cumulatively with nearby existing and proposed schemes. A comparison with the results presented in the ES show that the acoustic impact at the nearest receptor is reduced due to the revised layout. A Shadow flicker assessment indicates that the Braids may experience flicker events at sunrise. This is an extremely conservative estimate however mitigation solutions have been proposed which will prevent shadow flicker nuisance. The applicant will install shadow detection technology on relevant turbines and create a shutdown timetable. This will ensure that the Braids property is not subjected to shadow flicker nuisance.

The Environmental Health Officer has no objection to the Additional Environmental Information in relation to Noise & Shadow Flicker subject to conditions to be agreed to control noise limits.

12.0 PRIVATE WATER SUPPLY ASSESSMENT

This document submitted as part of the AEI provides information relating to the proposed private water supply which is part of the planning permission for redevelopment of the currently ruined property at Braids (16/02779/PP). The aim of the document is to inform the Planning Authority – which in this case is the Scottish Government – whether there is a risk to the redevelopments proposed Private Water Supply from the Killean wind farm and provide recommendations for mitigation and a contingency plan should risk be identified. The assessment concludes that the proposed PWS for Braids would have a potential un-mitigated risk of ‘moderate’. The main potential effects of the proposal on the PWS are identified as chemical pollution and sedimentation of receiving surface waters, impediments to flow from drainage and crossings, and disturbance to peatlands from excavation. Mitigation measures including the implementation of a CEMP and PWS water monitoring plan, have been proposed which would reduce the likelihood and magnitude of the potential effects on all the sensitive receptors. It is likely that rotational forestry works (which cover approximately 75% of the overall catchment) would pose a greater residual risk to the PWS than the proposed wind farm infrastructure. Overall, the effects of the proposal on the sites geology, hydrology and hydrogeology regime are not considered to be significant due to the scale of the operations; use of existing tracks and quarry footprint; and the proposed infrastructure within the catchment. An appropriately qualified Environmental Clerk of Works (ECoW) or Environmental Advisor should be appointed to provide onsite advice regarding the permanent and temporary drainage design and proposed mitigation measures. Providing the mitigation and monitoring detailed above is implemented in full by an appropriately qualified and competent individual or party, the residual risk would be low.

The Environmental Health Officer has no objection to the Additional Environmental Information in relation to the Private Water Supply and notes that the report recommends that measures to protect the private water supply are contained within a CEMP.

13.0 FLOOD PREVENTION

Internal consultation was undertaken with the Flood Prevention Officer on the Additional Environmental Information who has confirmed that the flood risk and drainage comments have not changed since their original consultation response.

14.0 CONCLUSION

The AEI concludes that the removal of T14 & T17 and the change in turbine dimensions will not change the overall nature and significance of the landscape and visual effects as described in the ES. The deletion of Turbines 14 and 17 from the proposed layout will result in a reduction of the potential effects upon the proposed residential property, Braids, as these turbines were the closest to it. The study concludes that whilst a high magnitude of change is expected, potential residents would not experience impacts on the visual component of residential amenity or living conditions which would affect the outlook of these residents to such an extent that the proposed residential property would generally become regarded, in the wider public interest, as an unattractive place to live. Overall the changes in the residual effects of the proposal from those presented in the ES are considered not to be significant. Operational noise levels both in the context of Killean alone and in combination with other sites will be met and can be secured with the adoption of mitigation as described in the Noise Section of the AEI. There are no significant changes to the construction noise assessment as contained in the ES. Appropriate measures can be taken to address the shadow flicker at Braids on the occasions that this may occur. The collision risk assessment found that the proposed change to the turbines did not make any material difference to the conclusions reached in the ES. There would be low/negligible magnitude collision risks to all of the key species assessed, which would not result in any significant ornithological impacts, alone or in combination. In respect of traffic and transport, the predicted increase in HGV only traffic flows show negligible impacts on sections of the A83; these 10% - 30% increases in traffic indicate a negligible change in conditions or circumstances. Overall the residual effect of the proposal is considered not to be significant. The updated cumulative assessment for Killean indicates that there is a negligible change from that assessed in the ES.

In light of the above, and the advice of the relevant internal consultees, there is no change to the recommendation to object to the proposal for the landscape, visual and cumulative impact reasons detailed in the main report dated 22nd December 2017 (and also at Appendix 1 to this report). The conditions recommended (including any revisals in light of the amendment to the proposal) by the Environmental Health Officer, Local Biodiversity Officer and Flood Prevention Officer will be relayed to the relevant Reporter and put forward in the Inquiry Paperwork for consideration at the Hearing Session for Conditions.

13.0 RECOMMENDATION:

To note this report continue to object to the proposal for the same reasons as detailed in the main report dated 22nd December 2017 and as shown in Appendix 1 of this report and to update the Reporters on revised conditions.

Angus Gilmour
Head of Planning, Housing and Regulatory Services

Author of Report: Arlene Knox 2nd October 2018

Contact Point: Sandra Davies 01436 658884

APPENDIX 1: REASONS FOR COUNCIL OBJECTION TO KILLEAN WIND FARM

1. At 149.9m in height to the blade tip, the proposal would be out of scale with its landscape context, and the turbine size would not be in keeping with other wind farm developments close by. This size of turbine would dominate the scale of the smaller more complex edge hills on the western edge of the upland area and would be an unwelcome intrusion in coastal landscapes. The west coast of Kintyre is designated as an Area of Panoramic Quality (APQ) in recognition of its scenic qualities of regional value. The proposal impinges on the sensitive coastal skylines which frame and provide a setting for the coast which is characterised by the contrast between the land and the sea, and development on the scale proposed would undermine these qualities to the detriment of landscape character.

From elevated locations, including very popular hill walks, as represented by VP10 Beinn Bharrain in the North Arran NSA, there will be a significant adverse visual effect. Views are focused towards Kintyre and the islands of Gigha and the Paps of Jura beyond. Killean wind farm would form a new distracting focus on the Kintyre skyline, interrupting scenic views towards the islands/Sound of Gigha. The turbines would visually link the Kintyre skyline to Gigha, interrupting the stretch of water important to the setting of the islands from high elevation views. The proposal will be visible above Deucheran Hill (76m) which appears in scale with the landscape and clearly associated with the interior of the peninsula; but will read as a separate and contrasting scheme due to its much greater scale (149.9m) almost double the height. The applicant's ES accepts that significantly adverse visual effects will be experienced over a relatively widespread area of the NSA across the west facing slopes, below the Pirnhill Hills, across several kilometres.

The proposed wind farm, inclusive of the means of access required, is located on the small edge hills on the outer western edge of the uplands of the Kintyre peninsula, within the 'Upland Forest Moor Mosaic' Landscape Character Type (ref 'Argyll & Bute Landscape Wind Energy Capacity Study (LWECS) (SNH/Argyll & Bute Council 2017) in very close proximity to the smaller scaled and highly sensitive coastal 'Rocky Mosaic' Landscape Character Type. Sensitivity increases at the transition between these two landscape character types due to the smaller scale of the hills on the western edge of the upland area, proximity to settled and farmed landscapes and to the coast, where sensitive receptors are concentrated. The proposal will intrude significantly on views of the peninsula from the coastal edge ('Coastal Plain' Landscape Character Type) and from offshore, in particular from the Isle of Gigha ('Coastal Parallel Ridges' Landscape Character Type) and the ferry route to/from

Islay. The proposal is not associated with the larger scale, simple upland interior where development of this scale has better prospects of being assimilated successfully in its landscape setting.

The 'Argyll and Bute Wind Energy Capacity Study' states that: *'larger turbines/more extensive wind farm developments sited on the outer edges of the Kintyre Uplands where they would be likely to significantly increase landscape and visual impacts on the settled coast edge of Kintyre and on views from Arran and Gigha and would also further erode the established pattern of developments largely associated with the less sensitive core of these uplands'*.

The foregoing environmental considerations are of such magnitude that they cannot be reasonably offset by the projected direct or indirect benefits which a development of this scale would make, including the achievement of climate change related commitments.

Having due regard to the above, it is considered that this proposal would have a significant adverse impact on Landscape Character, would adversely affect a number of key views and would degrade designated scenic assets including an 'Area of Panoramic Quality'. It is therefore inconsistent with the provisions of the Scottish Planning Policy and Scottish Government's Specific Advice Sheet on Onshore Wind Farms; Policies LDP STRAT 1 - Sustainable Development; LDP DM 1 - Development within the Development Management Zones; LDP 6 - Supporting the Sustainable Growth of Renewables; and LDP 9 - Development Setting, Layout and Design; of the 'Argyll & Bute Local Development Plan (adopted 2015) and Supplementary Guidance: SG LDP ENV 13 - Impact on Areas of Panoramic Quality (APQs); and the Argyll & Bute Landscape Wind Energy Capacity Study (LWECS) (2017).

2. The proposal would present relatively high visibility, compared to other wind farm development on the peninsula, would increase the prominence of wind farms in Kintyre and would have significant visual effects upon: the coast, including key recreation areas/tourist destinations/beaches. For example, Rhunahaorine Point area as represented by e.g. VP4 (Point Sands), and Southern Knapdale/ West Loch Tarbert area as represented by VP11 (B8024 Knapdale), and promoted walks to the archaeological features of Dun Skeig as represented by VP9 (A83 at Clachan); Key routes often in close proximity including: the Kintyre Way as represented by e.g. VP4 (Point Sands); A83 as represented by VP9 (A83 at Clachan); B8024 as represented by VP11 (B8024 Knapdale); the Gigha ferry; the Arran ferry (Lochranza routes); and the Islay ferry (West Loch Tarbert area as represented by VP12 Islay Ferry); Offshore including Gigha as represented by VP6 (Ardminish Bay), VP8 (Creag

Bhan) and the Sound of Gigha (a popular sailing route, no viewpoint provided); and Hill views (as represented by, for example, VP5 Beinn Bhreac).

The turbines would extend large scale wind turbine development on the skyline of the coastal edge of the peninsula, where it would exert an unwelcome influence over locations within the adjacent West Kintyre Area of Panoramic Quality. The development would also necessitate the formation of an extensive area to provide a means of access incorporating a turning area on the shoreside of the A83 (T), which in itself would constitute an intrusive form of development presenting adverse consequences for visual amenity.

The foregoing environmental considerations are of such magnitude that they cannot be reasonably offset by the projected direct or indirect benefits which a development of this scale would make, including the achievement of climate change related commitments.

Having due regard to the above, it is considered that this proposal would have a significant adverse impact on visual amenity by introducing prominent large scale development into a number of key views, and would degrade designated scenic assets including the adjacent 'Area of Panoramic Quality'. It is therefore inconsistent with the provisions of the Scottish Planning Policy and Scottish Government's Specific Advice Sheet on Onshore Wind Farms; Policies LDP STRAT 1 - Sustainable Development; LDP DM 1 – Development within the Development Management Zones; LDP 6 – Supporting the Sustainable Growth of Renewables; and LDP 9 – Development Setting, Layout and Design; of the 'Argyll & Bute Local Development Plan (adopted 2015) and Supplementary Guidance: SG LDP ENV 13 – Impact on Areas of Panoramic Quality (APQs); and the Argyll & Bute Landscape Wind Energy Capacity Study (LWECS) 2017.

3. The proposed development at Killean is not visually associated with the existing clusters of wind farm development, being a location more closely associated with the coast. The addition of this proposal to the western edge of 'Upland Forest Moor Mosaic' character type would erode the established pattern of wind energy development on the Kintyre peninsula, and would spread the influence of large scale turbine development away from the interior hills to the smaller scale and more sensitive coast and seascape. The existing focus of development around the central part of the spine of Kintyre is now well established, so the proposal would represent an outlier with influence over the coast, which would present a disproportionate cumulative impact upon both landscape character and scenic quality.

The foregoing environmental considerations are of such magnitude that they cannot be reasonably offset by the projected direct or indirect benefits which a development of this scale would make, including the achievement of climate change related commitments.

Having due regard to the above, it is considered that this proposal would contribute disproportionately to adverse cumulative impacts arising from the presence of wind farm developments in Kintyre. It is therefore inconsistent with the provisions of the Scottish Planning Policy and Scottish Government's Specific Advice Sheet on Onshore Wind Farms; Policies LDP STRAT 1 – Sustainable Development; LDP DM 1 – Development within the Development Management Zones; LDP 6 – Supporting the Sustainable Growth of Renewables; and LDP 9 – Development Setting, Layout and Design; of the 'Argyll & Bute Local Development Plan (adopted 2015) and Supplementary Guidance: SG LDP ENV 13 – Impact on Areas of Panoramic Quality (APQs); and the Argyll & Bute Landscape Wind Energy Capacity Study (LWECS) 2017.

This page is intentionally left blank

NOT FOR PUBLICATION by virtue of paragraph(s) 13
of Schedule 7A of the Local Government(Scotland) Act 1973

Document is Restricted

This page is intentionally left blank

NOT FOR PUBLICATION by virtue of paragraph(s) 13
of Schedule 7A of the Local Government(Scotland) Act 1973

Document is Restricted

This page is intentionally left blank