



Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

Customer Services
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19 June 2019

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **ARGYLLSHIRE GATHERING HALLS, BREADALBANE STREET, OBAN, PA34 5NZ** on **WEDNESDAY, 26 JUNE 2019 at 10:30 AM**, which you are requested to attend.

Douglas Hendry
Executive Director of Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST**
- 3. TSL LTD: SITE FOR PROPOSED RESIDENTIAL DEVELOPMENT: SITE AT LONAN DRIVE, OBAN (REF: 18/02720/PPP)**

Report by Head of Planning, Housing and Regulatory Services (Pages 3 – 46)

Planning, Protective Services and Licensing Committee

Councillor Gordon Blair	Councillor Rory Colville (Vice-Chair)
Councillor Robin Currie	Councillor Mary-Jean Devon
Councillor Lorna Douglas	Councillor Audrey Forrest
Councillor George Freeman	Councillor Graham Hardie
Councillor David Kinniburgh (Chair)	Councillor Donald MacMillan
Councillor Roderick McCuish	Councillor Jean Moffat
Councillor Alastair Redman	Councillor Sandy Taylor
Councillor Richard Trail	

Contact: Fiona McCallum

Tel. No. 01546 604392

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Argyll and Bute Council
Development and Infrastructure

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

Reference No: 18/02720/PPP

Planning Hierarchy: Local Development

Applicant: TSL Ltd

Proposal: Site for Proposed Residential Development

Site Address: Site at Lonan Drive, Oban

SUPPLEMENTARY REPORT NO. 1

(A) INTRODUCTION

This application is due to be presented to the Planning, Protective Services and Licensing Committee on 17 April 2019.

Since the original Report of Handling (ROH) was prepared, and the response from the Roads Authority received, two additional objections from third parties who have previously objected have been received.

(B) FURTHER REPRESENTATIONS

Mr William McKillop, 13 Creran Gardens, Oban, PA34 4JU (04/04/19)

Mr Iain MacFarlane Brown, Tigh Ealasaid, Nant Drive, Oban, PA34 4LA (07/04/19)

Summary of issues raised:

Response from the Council's Operational Services & Access Issues

- The response from the Council's Operational Services dated 20/02/19 advises that the previous application was refused as 'there was insufficient development width at the site'... and then states 'the revised design incorporates a traffic calmed area with a width restriction to the carriageway'. It is surprising if members of the Planning Authority, experienced as they are in such matters, could support the view taken by the Operational Services Officer that it is acceptable to use Traffic Calming Measures (TCM), which after all are intended to reduce road traffic accidents by limiting speed in existing built up areas, to enable vehicular access for the purpose of intensive development into an unspoilt open green space.
- The relevant legislation and regulations, including Highways Acts, The Highways (Traffic Calming Regs), The Traffic Calming Act 1992, have been researched and no support for such a purpose can be found. The Local Transport Note 1/08 (Traffic Calming), Appendix J, in appraising TCMs, considers 23 objectives and sub-objectives

in the New Approach to Appraisal, none of which make any mention of enabling vehicular access into an undeveloped site.

- It is no doubt the case that Councillors have discretion in this sort of matter, and I am confident good judgement and fairness will be exercised in this case. It is clear that in an attempt to thwart a previous unfavourable recommendation, the applicant seeks to misuse a TCM which after all has not been designed for the purpose of overcoming the inadequate development width of this site.
- Concerns regarding emergency access into the site in the event of blockage of the narrow give/take system.
- The Roads Authority require clearing of scrub and levelling and reseedling of the verge to the southeast of Lonan Drive. This land is the property of the residents of Creran Gardens whose land extends to the kerb of Lonan Drive and therefore this requirement cannot be achieved.
- A site specific Traffic Impact Assessment (TIA) should be submitted prior to the determination of the application.

Comment: The Roads Authority engaged with the applicant prior to the submission of the current application to agree the proposed access arrangements resulting in no objection being raised on road or pedestrian safety grounds subject to a number of conditions being imposed on the grant of permission as set out in the main ROH before Members.

The Roads Authority will deal with the clearing of scrub and levelling and reseedling of the road verge through the Road Construction Consent process.

The Roads Authority never requested the submission of a TIA.

Wildlife

- The site is bursting into life with birds, morning/evening chorus a priceless pleasurable asset to this community along with all other species that inhabit this wonderful natural part of Soroba.

Comment: As detailed in the main ROH before Members, the Council's Biodiversity Officer was consulted on the proposal and raised no objection to the proposed development subject to conditions requiring a number of surveys to be submitted with any future detailed application(s) being imposed to secure the submission of survey and management information when any detailed planning application for the site is submitted.

Access to Core Path

- The boundary fence of 13 Creran Gardens borders the proposed road/existing core path. The fence does not yet have a gate allowing access to the core path due to the several changes made to ground levels over the years by the landowners. It is proposed to install a gate and rebuild the fence to its 2 metre height after any more changes, if any, are made. This is simply to save costs as hundreds of pounds have already been spent on construction on planning permission.

Comment: The retrospective planning permission granted for the fence referred to did not include a gate and accordingly any change to the approved scheme may require a further planning permission at which time the proposal would be considered in relation to any permission granted for the adjacent site.

(C) RECOMMENDATION

It is not considered that the further representations raise any new or significant issues and accordingly it is recommended that planning permission in principle be granted subject to a pre-determination discretionary Hearing and the conditions and reasons recommended in the main ROH which are also appended to this report.

Author of Report: Fiona Scott **Date:** 15/04/19

Reviewing Officer: Peter Bain **Date:** 16/04/19

Angus Gilmour
Head of Planning, Housing and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 18/02720/PPP

GENERAL

1. Plans and particulars of the matters specified in conditions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Note to Applicant:

- This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority have been satisfied.
 - Application(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 within the time limits specified in Section 59 of the Act.
 - Having regard to Regulation 12, application(s) for the Approval of Matters Specified in Conditions must be submitted within 3 years from the date of which Planning Permission in Principle was granted. The exception being where an earlier submission for the Approval of Matters Specified in Conditions was refused or dismissed on appeal, in which case only one further application in respect of all outstanding matters requiring further approval of the Planning Authority may be submitted within a period of 6 months from determination of the earlier application. Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the time periods summarised above will no longer be capable of being implemented within the terms of this permission.
 - The development to which this planning permission in principle relates must commence no later than 2 years from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.
 - The applicant should note the advice contained in the attached consultation response from Scottish Water and the Councils Access Officer and should contact them direct to discuss the issues raised.
2. The development shall be implemented in accordance with the details specified on the application form dated 18/12/18 and the approved drawing reference numbers

Plan 1 of 5 to Plan 5 of 5, 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

It should be noted that the indicative layout submitted in support of the application does not form part of the approval, it is solely for indicative purposes only.

ROADS, ACCESS AND PARKING

3. Pursuant to Condition 1 – no development shall commence until details of the proposed service road and connection with the existing public road have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) A vehicular access layout providing a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984;
- ii) A turning head for the public service vehicle;
- iii) Details of the priority signage for the access into the site.

Prior to work starting on site, the junction with the existing public road shall be fully formed and surfaced with all access roads and footways granted consent constructed to at least base course level prior to any work starting on the erection of the buildings which they are intended to serve and the final wearing surface of the roads and footways shall be applied concurrently with the construction of the final building.

Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development and having regard to the status of the proposed access as a residential service road.

Note to Applicant:

Road Construction Consent under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers and a Road Bond provided prior to the formation of the access within the development site.

4. Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until plans and particulars of the means of parking/turning arrangements to serve that building have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) The provision of parking and turning in accordance with the requirements of Supplementary Guidance SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015.

The approved parking and turning layout to serve the buildings shall be implemented in full prior to that building first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

LAND DRAINAGE

5. Pursuant to Condition 1, no development shall commence on site until full details, in plan form, of the land drainage design for the site and details of its ongoing maintenance has been submitted to and approved in writing by the Planning Authority. Such details shall show a drainage system designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition.

Reason: In order to safeguard the development from the possibility of flooding.

DESIGN AND FINISHES

6. Pursuant to Condition 1 – no development shall commence in respect of any individual building until plans and particulars of the site layout, open space, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A Design Statement in accordance with the advice set out in Planning Advice Note 68 which shall establish the design principles applicable to the layout of the development as a whole and design of the individual dwellings.
- ii) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- iii) Local vernacular design.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

7. Pursuant to Condition 1 – no development shall commence until full details of proposed earthworks to include existing and proposed levels including all finished ground, road and dwelling floor levels and any area of infill proposed have been submitted to and approved by the Council as Planning Authority.

Reason: In the interest of visual amenity.

LANDSCAPING, TREE SURVEYS AND JAPANESE KNOTWEED

8. Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with

the approved scheme unless otherwise approved in writing by the Planning Authority.

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

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

9. Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:
- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
 - ii) An assessment of the amenity and nature conservation value of tree groups and individual trees which shall inform the layout of the development proposed;
 - iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
 - iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

The tree survey should be undertaken prior to drafting the design plan for the placement of dwellings, verges, access routes and services.

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

10. Pursuant to Condition 1 – no development shall commence on site until full details of a scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. The scheme shall include a timetable for implementation and clearly identify the extent of the Japanese Knotweed on a scaled plan. Prior to construction works commencing on site the approved scheme and timetable shall be implemented in full and a validation report confirming details of the remediation treatment carried out and confirmation that the site is free of Japanese Knotweed shall be submitted to the Planning Authority.

Reason: To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-invasive species through development works.

11. Pursuant to Condition 1 - no development shall commence until a scheme for the provision of affordable housing (as defined below) has been submitted to and approved by the Planning Authority. The scheme shall:
- a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
 - b) Define those properties to be used as affordable homes;
 - c) Establish the timing of their provision relative to the phasing of the development, which shall ensure that the last 25% of the dwellings within the development are not commenced until the affordable housing phase has been completed for occupation;
 - d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below);

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

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

The development shall be implemented and occupied thereafter in accordance with the duly approved scheme for affordable housing.

Reason: To accord with the provisions of the development plan in respect of affordable housing provision.

WILDLIFE SURVEYS

12. Pursuant to Condition 1 - no development shall commence until full details of a Bat Survey and Red Squirrel Survey have been submitted to and approved in writing by the Planning Authority in Consultation with the Biodiversity Officer. Such details shall include when the surveys are to be carried out, the methodology to be employed in both surveys and any mitigation measures, including a timetable for the implementation of mitigation measures.

Reason: To prevent the disturbance of Protected Species.

PEAT SURVEY

13. Pursuant to Condition 1- no development shall commence until full details of a Peat Survey and Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. Such details shall provide details of the depth of the peat deposit on site.

Reason: In order to protect natural heritage assets.

Note to Applicant:

Should the survey determine the depth of peat to be in excess of 0.5 metres the applicant will require to liaise with SEPA for advice on management.

OPEN SPACE/PLAY AREAS

14. Pursuant to Condition 1 – no development shall commence until details for the provision and maintenance of proposed areas of communal open space and equipped play area(s) within the development have been submitted to and approved by the Planning Authority. The details shall comprise:

- i) A plan showing the location and extent of communal open space and equipped play areas;
- ii) Provision to satisfy the minimum standards set out in the Development Plan; 6sqm of equipped play space and 12sqm of informal open space per dwelling unit;
- iii) Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the provisions of BS5696 (Play Equipment Intended for Permanent Installation Outdoors);
- iv) Proposals for the timing of the implementation of the play area(s) in relation to the phasing of the development;
- v) A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects.

The communal open space and equipped play area(s) shall be provided in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

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

CORE PATH

15. Pursuant to Condition 1 – no development shall commence until details for the provision of the Core Path through the development site has been submitted to and approved by the Planning Authority in consultation with the Access Officer.

The details shall comprise:

- i) The route a minimum width of 2.5 metres wide;
- ii) The route finished in a tarmacadam surface;
- iii) The route provided with dropped kerbs where it meets the road surface;
- iv) Gradients kept to a minimum to ensure the route is accessible for people of all abilities.

The route shall be provided in accordance with the duly approved details and maintained to the specified standards thereafter.

Reason: In order to secure the retention of the existing core path in the interests of amenity

Note to Applicant:

The advice contained in the consultation response from the Access Officer should be fully considered in the preparation of the details for the provision of the Core Path within the development.

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: 18/02720/PPP

Planning Hierarchy: Local Development

Applicant: TSL Ltd

Proposal: Site for Proposed Residential Development

Site Address: Site at Lonan Drive, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for erection of residential development (planning permission in principle)
- Formation of vehicular access (planning permission in principle)

(ii) Other specified operations

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

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission in principle be granted subject to a pre-determination discretionary Hearing and the conditions and reasons appended to this report.

(C) HISTORY:

17/02815/PPP – Site for proposed residential development – Withdrawn: 23/05/18

08/02088/OUT - Proposed site for housing development – Granted: 29/03/10

11/01452/PP - Formation of access track – Granted: 25/11/11

12/02210/PP - Variation of Condition 1 relative to outline planning permission reference 08/02088/OUT (Proposed site for housing development) - extension of time period to allow

a further period of three years to submit approval of matters specified by condition –
Granted: 22/11/12 – permission subsequently expired.

(D) CONSULTATIONS:

Area Roads Authority

Report dated 20/02/19 received 02/04/19 advising no objection subject to a number of conditions including road to adoptable standard and provision of appropriate parking and turning areas.

Scottish Water

Letter dated 22/01/19 advising no objection to the proposed development but advising that this does not confirm that the proposed development can currently be serviced and therefore they advise that the applicant completes a Pre-Development Enquiry (PDE). Scottish Water further advise that the proposed development impacts on existing Scottish Water assets and the applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

Biodiversity Officer

Letter dated 07/02/19 advising that she is familiar with this site having been consulted on the previous applications. In her response she raises no objection to the proposed development subject to conditions being imposed to secure the submission of survey and management information when any detailed application(s) for the site is submitted. Such surveys to include species surveys for Bats and Red Squirrel; Peat Management Plan; Tree Survey which should be undertaken prior to drafting the design plan for the placement of dwellings, verges, access routes and services; and finally a Japanese Knotweed Eradication Plan.

Flood Risk Manager (FRM)

Report dated 25/01/19 advising no objection subject to a condition being imposed requiring a Drainage Assessment to be undertaken at full planning stage and surface water drainage to be designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition.

Oban Community Council

E-mail dated 28/02/19 objecting to the application. In summary the points raised are:

- Impact of the proposed development on wildlife.
- Presence of invasive species on site.
- Impact of the proposed development on public amenity and the loss of open space.
- Risk of flooding downstream as a result of the proposed development.
- Inadequate road, water and sewage infrastructure to serve the proposed development.
- Lack of consideration of any Oban Development Plan with the LDP public event in November being cancelled.

Comment: The Council's Roads Authority was consulted on the proposal and has raised no objection to the proposal subject to a number of conditions which are fully detailed below. The Council's Flood Risk Manager raised no objection with regard to surface water drainage subject to a condition being imposed on any permission requiring full details of a land drainage design to be submitted with any detailed application. Similarly, should permission be granted, conditions will be imposed requiring the submission of a number of wildlife and tree surveys and a programme of works for the eradication of Japanese Knotweed on the site with any detailed application. With regards to the path through the site, the route is to be protected through detailed proposals to be submitted, shown as

achievable through the submission of the indicative layout submitted in support of the application.

The LDP public event referred to as having been cancelled is likely to have been a public event for the forthcoming LDP2 which is not yet at a point where it represents a material consideration in the current application. The application is being determined under the current adopted 'Argyll and Bute Local Development Plan' 2015.

Access Officer

Report received 21/03/19 advising no objection to the proposal stating that the route through the site is a Core Path (CP) providing a link to local services including schools and should be kept open for the public at all times unless a Section 208 Path Diversion Order has been approved. If it is necessary to close the path to allow building works to be carried out, this should be for the minimum period of time and, if possible, a diversion provided. Advisory comments were provided for the applicant regarding obtaining a Section 208 Diversion Order with the Access Officer advising that the detailed planning application will need to address all of the identified issues. Should permission be granted, a condition will be imposed on the grant of permission requiring full details of the proposed CP to be included with any future detailed planning application(s). An informative will also be added advising the applicant of the comments made by the Access Officer.

In addition to the above, the Access Officer further advised that representations from local residents identified that the path is used to access a network of local paths in adjacent woodland and, subject to advice and approval from the Council's Biodiversity Officer, the developer should consider mitigating the loss of the section of Core Path and land to which the public have a right of access and should consider providing a single path loop through the woodland using existing desire lines. The Access Officer further advised that the developer may need to gain permission from a third party to improve the short section of the Core Path leading to Feochan Gardens that is outwith their ownership. However, as these aspects of the proposal do not form part of the current application, these are separate matters for the developer. A copy of the Access Officer's response will be appended to any permission granted.

Development Policy Team (DPT)

Memo dated 20/03/19 advising that there are 3 key aspects to the environmental integrity of the area which should be taken into account in the proposal, namely, access via a Core Path both as a through route and for recreational purposes as a green route; valued open space; and landscape character. The DPT advise that any proposal should seek to minimise the impact on these key features and ensure appropriate mitigation measures are incorporated.

The DPT further advise that the currently adopted LDP contains 'Open Space Protection Areas' (OSPA) that were either carried forward from historic Local Plans or identified following a consultation process. The area of the currently proposed development is not identified as an OSPA in the current adopted LDP. The area was not identified for inclusion as a new OSPA during the Pre Main Issues Report (MIR) engagement for LDP2, however, after both the pre-engagement and MIR consultations closed, concerns were raised by the public regarding this area of open space and its identification as an OSPA.

In a further memo dated 26/03/19, the DPT clarified the comments in respect of the LDP 2 process advising that the wider area adjacent to the application site has been assessed as part of the preparation for Local Development Plan 2 (LDP2) as it is considered that the prominent ridge in this area contributes, at a local level, to both the landscape and townscape structure and identity of Oban. Accordingly the DPT advise that it is their intention to propose that the area of elevated land, outwith the current application site but within the ownership of the applicant, be identified as an OSPA in the proposed LDP2.

Oban Airport

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

The above represents a summary of the responses received from consultees. Full details of the consultation response are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 21/02/19.

(F) REPRESENTATIONS:

58 objections and 1 representation have been received regarding the proposed development.

OBJECTIONS

Donna Robertson (by e-mail 04/02/19)
Mr Andrew MacDougall, 14 Etive Gardens, Oban, PA34 4JP (06/02/19)
Mr Mark Gowdie, Glenelg, 47 Nant Drive, Oban, PA34 4HN (04/02/19)
Mrs Carol Burnside, 45 Nant Drive, Oban, PA34 4NL (01/02/19)
Dr Ian Reid, 2 Firgrove, Ardconnel Road, Oban, PA34 5DW (02/02/19)
Mr Scott Hetherington, 33 Nant Drive, Oban, PA34 4LA (03/02/19)
Mr Elliot Morrison, 3 Creran Gardens, Oban, PA34 4JU (03/02/19)
Mr J. Cook, 17 Creran Gardens, Oban, PA34 4JU (29/01/19)
V. Mair, 21 Nant Drive, Oban, PA34 4LA (04/02/19)
J. Mair, 21 Nant Drive, Oban, PA34 4LA (04/02/19)
Mrs Kirsteen Gillespie, 31 Nant Drive, Oban, PA34 4LA (04/02/19)
Mr Iain Grant, 27 Nant Drive, Oban, PA34 4LA (06/02/19)
Mrs Chrissie Grant, 27 Nant Drive, Oban, PA34 4LA (06/02/19)
Mr F. MacKenzie, 29 Nant Drive, Oban, PA34 4LA (07/02/19)
Mrs M. MacKenzie, 29 Nant Drive, Oban, PA34 4LA (07/02/19)
Mrs Jennifer Miller (by e-mail 11/02/19)
Mr Iain MacFarlane-Brown, 25 Nant Drive, Oban, PA34 4LA (08/02/19)
Mr William McKillop, 13 Creran Gardens, Oban, PA34 4LA (11/02/19)
Mrs Katrine Smalley, 102 Nant Drive, Oban, PA34 4NL (11/02/19)
Mr Keith Miller, Tigh a Ghlinne, Glenshellach Road, Oban, PA34 4PP (by e-mail 10/02/19, 11/02/19 & 20/02/19)
Mr Maurice Wilkins, Dunrobian, Laurel Road, Oban, PA34 5EA (10/02/19)
Mrs Lesley McKerracher, 75 Nant Drive, Oban, PA34 4NL (10/02/19)
Mr Scott Robertson, 110 Nant Drive, Oban, PA34 4NL (10/02/19)
Miss Katherine Reid, 17 Coe Gardens, Oban, PA34 4JT (10/02/19)
Alice Johnston, 6 Creran Gardens, Oban, PA34 4JU (11/02/19)
Mrs Rebecca Horne, 11B Airds Crescent, Oban, PA34 5SQ (10/02/19)
Mrs Catriona Reid, 17 Coe Gardens, Oban, PA34 4JT (10/02/19)
Karen MacInnes, 25 Lonan Drive, Oban, PA34 4NN (11/02/19)
Mrs Marie Muir, 1 Creran Gardens, Oban, PA34 4JU (09/02/19)
Helen Hetherington (by e-mail 11/02/19)
Mrs Anne McFadyen, 15 Coe Gardens, Oban, PA34 4JT (09/02/19)
Miss Nicola McFadyen, 15 Coe Gardens, Oban, PA34 4JT (09/02/19)
Mrs R. Russell, 23 Lonan Drive, Oban, PA34 4NN (11/02/19)
Mr Stephen Cooper, Con Brio, Feochan Gardens, Oban, PA34 4JP (11/02/19)
Mrs Lindsay Aitken, 15 Nant Drive, Oban, PA34 4LA (11/02/19)

Danielle Cooper, Con Brio, Feochan Gardens, Oban, PA34 4JP (11/02/19)
Mrs E. MacKinnon, 11 Coe Gardens, Oban, PA34 4JT (11/02/19)
Mr Andrew Cooper, 9 Etive Gardens, Oban, PA34 4JP (11/02/19)
Margaret Cooper, 9 Etive Gardens, Oban, PA34 4JP (11/02/19 & 26/03/19)
Mr David A.M. MacMillan, 49 Nant Drive, Oban, PA34 4NL (11/02/19)
Mrs J.A. Campbell, 15 Etive Gardens, Oban, PA34 4JP (11/02/19)
Mr D. MacGregor, 15 Etive Gardens, Oban, PA34 4JP (11/02/19)
Helen Jackson MBE, 4 Feochan Gardens, Oban, PA34 4NJ (11/02/19)
Mrs E. MacKenzie, 53 Nant Drive, Oban, PA34 4NL (11/02/19)
Mr A.C. MacKenzie, 53 Nant Drive, Oban, PA34 4NL (11/02/19)
Mr Keith Docherty (by e-mail 11/02/19)
Mrs Mundi Cooper, 1 Lonan Drive, Oban, PA34 4NN (11/02/19)
Mr Colin Cooper, 1 Lonan Drive, Oban, PA34 4NN (11/02/19)
Mrs Sandra Owens, 5 Feochan Gardens, Oban, PA34 4NJ (11/02/19)
Mr John Barbour, 104 Nant Drive, Oban, PA34 4NL (11/02/19)
Mrs Julie Didcock, 106 Nant Drive, Oban, PA34 4NL (11/02/19)
E.W. Arthur, Oronsay, Lonan Drive, Oban, PA34 4NN (18/02/19)
Mr Doug Carmichael, 5 Orchy Gardens, Oban (17/02/19)
Councillor Jim Lynch (by e-mail 12/02/19)
Mr Kenneth J. Moncrieff, 108 Nant Drive, Oban, PA34 4NL (13/02/19)
Mr Thomas Johnston, 6 Creran Gardens, Oban, PA34 4JU (11/02/19)
Sandra Ross, 13 Etive Gardens, Oban, PA34 4JP (13/02/19)
Mr Neil Angus, 13 Etive Gardens, Oban, PA34 4JP (13/02/19)

REPRESENTATION

Oban Disability Forum (by e-mail 25/02/19)

Summary of issues raised

- **Traffic and Access Issues**

The proposal is similar to the previous application except for a very significant alteration to road access to the site. The national standard for adoptable roads is 5.5 metre width with 2 metre footways either side with the proposal showing a road with of 3.7 metres with only one footway therefore not meeting the national road development guide and it is expected that the Roads Authority would refuse the proposal.

There is no clear indication of how a width of road which was previously unacceptable has now become suitable and this must be made clear prior to any determination in principle as the Council has a duty of care to the entire community with road safety and ease of access important factors.

The existing road network is already congested with further vehicles from the proposed development adding to the congestion having implications for emergency services vehicles.

The existing access into the site from Lonan Drive is limited and given that the carriageway to serve the development must be at least 5.5 metres in width with 2 metre pavements on either side, it is doubtful if this could be achieved.

As a result of increased traffic from the development, how will traffic and pedestrians be kept apart, particularly at opening and closure times of the Rockfield/St Columba's Joint Campus.

The existing public roads leading to the development are in a poor state of repair and the same will happen to the proposed road once adopted. Unless things change regarding roads maintenance there will be even more cases of car owners suing the Council due to damage caused to their vehicles due to the state of the public roads.

The proposed access is not suitable for a housing estate and for use by large vehicles such as buses and refuse collection vehicles.

There is insufficient space between existing fence lines and the proposed walkway/carrageway which will cause safety issues.

Comment: The Roads Authority was consulted on the proposed development and raised no objection on road or pedestrian safety grounds subject to a number of conditions being imposed on the grant of permission including the requirement for a flood assessment to be undertaken; road to be built to adoptable standard and provision of appropriate parking and turning areas.

- **Drainage Issues**

The site is a sunken area which was once a loch and latterly a quarry and there are concerns that the development of the site with 44 dwellings will materially affect the natural drainage of the area with implications for possible flooding.

The Councils flooding consultant JBA Consulting appear to be seriously understating the flooding issues in their comments.

Comment: A consultation was undertaken with the Council's Flooding Specialist who raised no objection to the proposal in principle subject to a condition being imposed on the grant of permission requiring the proposed surface water drainage to serve the development to be designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition. Such details will require to form part of any detailed proposals for the site and will be reviewed by the Council's Flooding Specialist in advance of any detailed permission being granted.

JBA consulting have been made aware of these comments and have responded as summarised: SEPA's Potentially Vulnerable Areas are large, broad brush areas used for the purpose of identifying large flood risk areas at the catchment scale and of national significance. They not show local detail such as a specific site being at risk/not being at risk. In the absence of additional detail such as photographs showing historical flooding on or near the site the 25 January response remains appropriate given the information available.

- **Impact on Wildlife**

Concerns regarding the impact the proposed development will have on the natural habitat of a number of different species including Red Squirrel, Bats, Deer and Pine Martin

Comment: The Council's Biodiversity Officer was consulted on the proposal and advised that she is aware of this site having been consulted on the previous applications. In her response she raised no objection to the proposed development subject to conditions requiring a number of surveys to be submitted with any future detailed application(s) being imposed to secure the submission of survey and management information when any detailed planning application for the site is submitted. Such surveys include species surveys for Bats (EPS) and Red Squirrel; Peat Management Plan; Tree Survey which should be undertaken prior to drafting the

design plan for the placement of dwellings, gardens, verges, access, routes and services; and finally a Japanese Knotweed Eradication Plan. Such details will require to form part of any detailed proposals for the site and will be reviewed by the Council's Biodiversity Officer in advance of any detailed permission being granted.

- **Density/Overdevelopment/Appearance**

Concerns that the indicative layout of 44 units implies flats which is too great for the site and at odds with the current local built environment of low density housing in the surrounding area which are predominantly detached and semi-detached houses with gardens. Any development should be of similar design, layout, visual appearance and finishing materials to surrounding houses in the Upper Soroba area.

Comment: The site is within the Main Town of Oban in an area where there is a mix of densities and styles of developments. Whilst it is accepted that the development to the west is lower density than proposed in the current application, to the north is the formal local authority development of Soroba which is a much denser development incorporating numerous blocks of flatted development.

However, as is stated above, it should be noted that this application is not for any specified number, layout or design at this stage but for planning permission in principle to establish the principle of the development. Any detailed submission will include the mix and layout of development and will be fully assessed against the relevant policies and guidance of the Development Plan to ensure no adverse visual impact or privacy or amenity issues arise. Third parties will have the opportunity to comment on the detailed proposals.

- **Overlooking Issues**

Given the number of residencies it is safe to assume that these will be two or perhaps three stories high and overlook the rear of neighbouring properties.

Comment: Given that the neighbouring residential development to the east is at a higher level, it is not considered that the proposed development will have any significant adverse impact on existing privacy or amenity levels. However, this application is for planning permission in principle to establish the principle of the proposal. Any detailed submission will be fully assessed against the relevant policies and guidance of the Development Plan to ensure no adverse privacy or amenity issues arise at which time third parties will have the opportunity to submit comments.

- **Japanese Knotweed**

The site is infested with Japanese Knotweed rendering it unsuitable for building and its disturbance will cause spread to neighbouring properties. It is inconceivable that the application is being presented whilst the infestation is still thriving.

Comment: The Council's Biodiversity Officer has highlighted the presence of Japanese Knotweed on the site and therefore it is proposed to impose a condition seeking a programme of works for its eradication. Such details will require to form part of any detailed proposals for the site and will be reviewed by the Council's Biodiversity Officer in advance of any detailed permission being granted.

- **Impact on Existing Infrastructure**

Concerns that the existing sewage and water infrastructure is already beyond capacity for the existing properties it serves.

Water pressure within the surrounding area is already an issue and the addition of 44 further properties will exacerbate the situation.

The proposal will impact on existing Scottish Water infrastructure within the site.

Comment: Scottish Water was consulted on the proposal and in their response advised no objection to the application but advising that this does not confirm that the proposed development can currently be serviced and therefore advised that the applicant completes a Pre-Development Enquiry (PDE). However the current planning application is merely to establish the principle of development on the site and is not an application for 44 dwellings, with the layout submitted for indicative purposes only. Furthermore the PDE might limit the density and/or form of any subsequent development. Scottish Water further advised that the proposed development impacts on existing Scottish Water assets and the applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction. An informative to this effect will be attached to the grant of any permission.

Furthermore the applicant has previously intimated that they are aware of Scottish Waters existing infrastructure within the site and have always understood this will need to be diverted as part of construction works and have discussed the proposal with Scottish Water at a local level.

- **Loss of Open Green Space**

The site is the only accessible recreation ground in the area and the only access to the open countryside by foot. The site is well used for recreation and concerns that the development of the site will result in the loss of the only accessible area of natural greenery in the surrounding area which would have a significant impact on the life quality of many residents.

Comment: The site is within private ownership and lies within the defined settlement boundary for Oban as defined in the Local Plan where there is a general presumption in favour of appropriate forms of development. The site is not within an Open Space Protection Area and therefore is not afforded any statutory protection. However, the LDP, specifically Policy SG LDP HOU 3, seeks to ensure that all development proposals of 20 residential units (and above) provide adequate levels of both equipped and casual play space/open space. The Planning Authority will ensure that any development of this site fully adheres to this requirement.

- **Core Path**

Concerns that the development of the site will lose the path that runs through the site for good, or during construction, which is unacceptable.

The core path running through the site must be retained to link the upper part of Nant Drive and Colonsay Terrace.

Regardless of any official route, users will inevitably take the shortest through the proposed housing scheme which will, by no means, be a safer route.

It will be safer for children to take the Nant Drive route rather than the new short cut, however this is contrary to National Planning Policy.

The parking provision to serve the proposed development will result in visibility issues leading to conflict between vehicles and users of the Core Path.

Users of the path will be exposed to traffic at the constructed access at the entrance to the site.

Comment: The site presently provides informal access through the site with a formal link with Feochan Gardens. The application shows the proposed access linking in to the path at Feochan Gardens retaining access through the site with the indicative plans showing that development can be achieved which protects the integrity of the path. The Council's Access Officer has raised no concerns regarding the Core Path following the proposed road but advised that any closure during the construction period should be kept to a minimum and which will require to be agreed in advance with him. A condition is proposed on the grant of permission requiring full details of the works to retain the Core Path within the development to be submitted as part of any future detailed planning application(s).

With regards to pedestrian safety at the proposed access into the site, the Roads Authority has raised no objection on this issue.

- **Reclassification of Site**

The site is wrongly classified as a Development Area and should be reclassified in the LDP 2 as an Open Space Protect Area (OSPA) to reflect its amenity and wildlife habitat and protect it from future development. Indeed representations have been made to the Council regarding LDP2 and a move to have the site reclassified as an OSPA.

Comment: This comment is noted, however this is not a material consideration in the determination of the current planning application. Should third parties wish to have the classification of the land reconsidered, they would have to engage in the Local Development Plan process.

- **Phase 1**

This proposal seems to be a precursor to another phase or two that would greatly exacerbate all the problems raised in relation to this current application.

Comment: There is no indication that the current application represents Phase 1 of a wider development. However, should further applications be forthcoming, they will be fully assessed against the relevant policies and guidance of the Development Plan and all other material planning considerations.

- **Unstable Slopes**

Many of the neighbouring properties are built on the top of a steep slope with some properties ground extending to the edge of the verge. Owners have witnessed signs of instability/slippage in certain areas and these slopes could be undermined by building works impacting adversely on existing properties.

Comment: Ground stability is a matter for good development practise and is regulated by the Council's Building Standards Unit.

- **Noise Issues**

Noise from construction works will be extremely disruptive/noisy and will restrict access to properties.

Once completed, noise from traffic to and from the new development will be disruptive and noisy and limit access to properties.

Comment: Construction noise is not a material planning consideration. Should noise from construction become a significant issue, this would be a matter for the Council's Environmental Health Unit. With regards to traffic noise to and from the proposed development once completed, it is not considered this would be a significant issue given that the site is within the main town of Oban adjacent to a large housing development where traffic noise already exists.

- **Previous Permissions**

The previous permission approved (08/02088/OUT) was for 23 units with conditions attached which are still relevant and should be imposed on any further permission.

The Council rejected application 13/00921/PPP for a plot on the proposed site with the reasons for the rejection still standing as nothing has materially changed. The same reasons can and do apply to this much larger proposal.

Comment: This comment is noted and all appropriate planning conditions that were imposed on the previous permission, and remain appropriate to the current development, will be imposed on any grant of planning permission in principle.

With regard to 13/00291/PPP, this application proposed a dwellinghouse outwith the developable area proposed in the current application and was assessed as not suitable in part due to it acting as part of the main service strip accommodating the adoptive road and drainage to serve the previous development of 23 house plots.

- **Construction Phase**

There will be significant long-term disruption and danger at the construction phase to residents in Lonan Drive.

Comment: This is not a material planning consideration. Site safety is a matter for the developer and ultimately the Health and Safety Executive.

- **Refusal of Previous Permission 17/02815/PPP**

There are little or no changes to the same application which was submitted last year and which was denied, accordingly the same issues exist.

Comment: The application referred to was withdrawn by the applicant, it was not refused by the Planning Service.

- **Availability of Other Sites**

Is there really a need for this development given the planned construction of 300 houses in the Oban/Dunbeg corridor.

Comment: This is not a material consideration in the determination of this planning application. The Planning Authority has to assess any application presented to them in terms of the provisions of the Development Plan in force at the time.

- **Public Meeting**

A public meeting should be held to explore the issues arising from the proposed development to allow a full consultation and sensible outcome.

Comment: The application has been recommended for a discretionary hearing prior to determination, during which the application will be fully discussed in the public domain.

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>.

Notwithstanding the above points raised by third parties, it should be noted that this is an application for planning permission in principle only. It seeks the approval for the residential development of the land subject of this planning application and not for any specified number, layout or form of dwellings. The subsequently submitted plan is solely for indicative purposes only. Whilst this indicative plan illustrates a possible development of 44 dwellings, this does not mean that the site is necessarily capable of being developed at that density. The purpose of the indicative plan is simply to demonstrate, to the satisfaction of the Planning Authority, that the site is capable of accommodating residential development to an appropriate standard and generally in accordance with the provision of the LDP.

It is considered that the indicative plan has successfully demonstrated that the site is appropriate for residential development arranged along a straight, central access road with buildings either side of it and limited to the 'valley floor' without unacceptable encroachment into the steep and wooded valley sides. Whilst the indicative plan demonstrates to the satisfaction of the Planning Authority that the site is capable of accommodating residential development, the specific detail of that development must be properly assessed through a subsequent future planning application(s).

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

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

Argyll and Bute Local Development Plan, 2015

- LDP STRAT 1 – Sustainable Development
- LDP DM 1 – Development within the Development Management Zones (*Settlement Zone*)
- 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 2 – Sustainable Siting and Design Principles
- SG LDP ENV 1 – Development Impact on Habitats, Species and our Biodiversity
- SG LDP ENV 6 – Development Impact on Trees/Woodland
- SG LDP ENV 8 – Protection and Enhancement of Green Networks
- SG LDP ENV 14 – Landscape
- SG LDP HOU 1 – General Housing Development including Affordable Housing
- SG LDP HOU 3 – Housing Green Space
- SG LDP REC/COM 2 – Safeguarding Sports Fields, Recreation Areas and Open Space Protection Areas
- SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)
- SG LDP SERV 7 – Flooding and Land Erosion, The Risk Framework
- SG LDP TRAN 1 – Access to the Outdoors
- SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
- SG LDP TRAN 6 – Vehicle Parking Provision

(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
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	No
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(O) Requirement for a hearing: Yes

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

- How up to date the Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations, together with the relative size of community affected, set against the relative number of representations and their provenance.

The application has been the subject of 58 objections, 1 representation and an objection from Oban Community Council.

Given the significant interest in the application, with many from local addresses, this level of interest in the application is considered to be of significance in the context of the community with a broad range of issues raised. It is therefore considered that there would be benefit in the matter being addressed by means of a discretionary local hearing which would afford Members an opportunity to visit the site, receive further representations and to ask questions prior to the application being determined.

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

Planning permission in principle (PPP) is sought for a residential development on an area of land at Lonan Drive, Oban.

Whilst only seeking permission in principle, an indicative layout has been submitted in support of the application showing a layout for 44 units. The indicative layout shows a mix of flats and semi-detached dwellinghouses in 12 blocks situated either side of the proposed access road with an area of casual play space to the south and an equipped play space to the north of the proposed residential units. The indicative layout has been arranged in such a way to avoid the steeply sloping tree covered hillside running along the western edge of the site.

The site plan submitted with the application makes reference to 46 units, however this has been confirmed by the agent as a typographical error.

However, notwithstanding the above, it should be noted that this is an application for planning permission in principle only seeking the approval for the residential development of the land subject of this planning application and not for any specified number, layout or form of dwellings. The submitted plan is solely for indicative purposes. Whilst this indicative plan illustrates a possible development of 46 dwellings, this does not mean that the site is necessarily capable of being developed at that density. The purpose of the indicative plan is simply to demonstrate, to the satisfaction of the Planning Authority, that the site is capable of accommodating residential development to an appropriate standard and generally in accordance with the provision of the LDP.

The proposal is considered consistent with the terms of the Local Plan Policies and Supplementary Guidance set out above.

The site has benefitted from a previous outline planning permission for development of 23 individual house plots, however this permission expired on 29 March 2016.

The proposal has elicited 58 objections, 1 representation and an objection from Oban Community Council.

The proposed development will have no materially adverse impact upon the historic environment including (but not necessarily limited to) the historic/architectural/cultural value and/or setting or other specified qualities of any listed building, any scheduled ancient monument, any garden and designed landscape, any conservation area or any special built environment area. Neither will the proposed development result in any material harm to the natural environment including (but not necessarily limited to) the special environmental/habitat/geological or other specified qualities of any site of special scientific interest, any special protection area, any 'Ramsar' site, any national or local nature reserve, any designated area of wild land, any marine consultation area, any area of semi-natural ancient woodland, any carbon and peatland area or any tree preservation order.

The development has been assessed against all of the above potential constraints and designations and has been determined to raise no issues or concerns except for any specifically referred to within this summary assessment.

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

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

The site is within the established settlement area of Oban and therefore has policy support in the adopted 'Argyll and Bute Local Development Plan' 2015.

The environmental impacts of the proposal have been assessed and it is considered that any impacts can be addressed during the consideration of any subsequent approval of matters specified in condition.

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: 19/03/19

Reviewing Officer: Tim Williams Date: 01/04/19

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

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 18/02720/PPP

GENERAL

1. Plans and particulars of the matters specified in conditions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Note to Applicant:

- This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority have been satisfied.
 - Application(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 within the time limits specified in Section 59 of the Act.
 - Having regard to Regulation 12, application(s) for the Approval of Matters Specified in Conditions must be submitted within 3 years from the date of which Planning Permission in Principle was granted. The exception being where an earlier submission for the Approval of Matters Specified in Conditions was refused or dismissed on appeal, in which case only one further application in respect of all outstanding matters requiring further approval of the Planning Authority may be submitted within a period of 6 months from determination of the earlier application. Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the time periods summarised above will no longer be capable of being implemented within the terms of this permission.
 - The development to which this planning permission in principle relates must commence no later than 2 years from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.
 - The applicant should note the advice contained in the attached consultation response from Scottish Water and the Councils Access Officer and should contact them direct to discuss the issues raised.
2. The development shall be implemented in accordance with the details specified on the application form dated 18/12/18 and the approved drawing reference numbers Plan 1 of 5 to Plan 5 of 5, 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

It should be noted that the indicative layout submitted in support of the application does not form part of the approval, it is solely for indicative purposes only.

ROADS, ACCESS AND PARKING

3. Pursuant to Condition 1 – no development shall commence until details of the proposed service road and connection with the existing public road have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) A vehicular access layout providing a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984;
- ii) A turning head for the public service vehicle;
- iii) Details of the priority signage for the access into the site.

Prior to work starting on site, the junction with the existing public road shall be fully formed and surfaced with all access roads and footways granted consent constructed to at least base course level prior to any work starting on the erection of the buildings which they are intended to serve and the final wearing surface of the roads and footways shall be applied concurrently with the construction of the final building.

Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development and having regard to the status of the proposed access as a residential service road.

Note to Applicant:

Road Construction Consent under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers and a Road Bond provided prior to the formation of the access within the development site.

4. Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until plans and particulars of the means of parking/turning arrangements to serve that building have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) The provision of parking and turning in accordance with the requirements of Supplementary Guidance SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015.

The approved parking and turning layout to serve the buildings shall be implemented in full prior to that building first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

LAND DRAINAGE

5. Pursuant to Condition 1, no development shall commence on site until full details, in plan form, of the land drainage design for the site and details of its ongoing maintenance has been submitted to and approved in writing by the Planning Authority. Such details shall show a drainage system designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition.

Reason: In order to safeguard the development from the possibility of flooding.

DESIGN AND FINISHES

6. Pursuant to Condition 1 – no development shall commence in respect of any individual building until plans and particulars of the site layout, open space, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A Design Statement in accordance with the advice set out in Planning Advice Note 68 which shall establish the design principles applicable to the layout of the development as a whole and design of the individual dwellings.
- ii) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- iii) Local vernacular design.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

7. Pursuant to Condition 1 – no development shall commence until full details of proposed earthworks to include existing and proposed levels including all finished ground, road and dwelling floor levels and any area of infill proposed have been submitted to and approved by the Council as Planning Authority.

Reason: In the interest of visual amenity.

LANDSCAPING, TREE SURVEYS AND JAPANESE KNOTWEED

8. Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

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

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

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

9. Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:
- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
 - ii) An assessment of the amenity and nature conservation value of tree groups and individual trees which shall inform the layout of the development proposed;
 - iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
 - iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

The tree survey should be undertaken prior to drafting the design plan for the placement of dwellings, verges, access routes and services.

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

10. Pursuant to Condition 1 – no development shall commence on site until full details of a scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. The scheme shall include a timetable for implementation and clearly identify the extent of the Japanese Knotweed on a scaled plan. Prior to construction works commencing on site the approved scheme and timetable shall be implemented in full and a validation report confirming details of the remediation treatment carried out and confirmation that the site is free of Japanese Knotweed shall be submitted to the Planning Authority.

Reason: To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-invasive species through development works.

AFFORDABLE HOUSING

11. Pursuant to Condition 1 - no development shall commence until a scheme for the provision of affordable housing (as defined below) has been submitted to and

approved by the Planning Authority. The scheme shall:

- a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
- b) Define those properties to be used as affordable homes;
- c) Establish the timing of their provision relative to the phasing of the development, which shall ensure that the last 25% of the dwellings within the development are not commenced until the affordable housing phase has been completed for occupation;
- d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below);

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

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

The development shall be implemented and occupied thereafter in accordance with the duly approved scheme for affordable housing.

Reason: To accord with the provisions of the development plan in respect of affordable housing provision.

WILDLIFE SURVEYS

12. Pursuant to Condition 1 - no development shall commence until full details of a Bat Survey and Red Squirrel Survey have been submitted to and approved in writing by the Planning Authority in Consultation with the Biodiversity Officer. Such details shall include when the surveys are to be carried out, the methodology to be employed in both surveys and any mitigation measures, including a timetable for the implementation of mitigation measures.

Reason: To prevent the disturbance of Protected Species.

PEAT SURVEY

13. Pursuant to Condition 1- no development shall commence until full details of a Peat Survey and Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. Such details shall provide details of the depth of the peat deposit on site.

Reason: In order to protect natural heritage assets.

Note to Applicant:

Should the survey determine the depth of peat to be in excess of 0.5 metres the applicant will require to liaise with SEPA for advice on management.

OPEN SPACE/PLAY AREAS

14. Pursuant to Condition 1 – no development shall commence until details for the provision and maintenance of proposed areas of communal open space and equipped play area(s) within the development have been submitted to and approved by the Planning Authority. The details shall comprise:

- i) A plan showing the location and extent of communal open space and equipped play areas;
- ii) Provision to satisfy the minimum standards set out in the Development Plan; 6sqm of equipped play space and 12sqm of informal open space per dwelling unit;
- iii) Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the provisions of BS5696 (Play Equipment Intended for Permanent Installation Outdoors);
- iv) Proposals for the timing of the implementation of the play area(s) in relation to the phasing of the development;
- v) A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects.

The communal open space and equipped play area(s) shall be provided in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

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

CORE PATH

15. Pursuant to Condition 1 – no development shall commence until details for the provision of the Core Path through the development site has been submitted to and approved by the Planning Authority in consultation with the Access Officer.

The details shall comprise:

- i) The route a minimum width of 2.5 metres wide;
- ii) The route finished in a tarmacadam surface;
- iii) The route provided with dropped kerbs where it meets the road surface;
- iv) Gradients kept to a minimum to ensure the route is accessible for people of all abilities.

The route shall be provided in accordance with the duly approved details and maintained to the specified standards thereafter.

Reason: In order to secure the retention of the existing core path in the interests of amenity

Note to Applicant:

The advice contained in the consultation response from the Access Officer should be fully considered in the preparation of the details for the provision of the Core Path within the development.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 18/02720/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Planning permission in principle (PPP) is sought for a residential development on an area of land at Lonan Drive, Oban.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site is situated within the Main Town of Oban where Policy LDP DM 1 gives encouragement to sustainable forms of development subject to compliance with other relevant LDP policies and Supplementary Guidance (SG).

Policy LDP 8 and SG LDP HOU 1 expand on Policy LDP DM 1 giving support to housing development of up to and including 'large scale' development within the Main Towns provided there is no unacceptable environmental, servicing or access impact.

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.

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 application is seeking planning permission in principle with no detailed layout, design or infrastructure details having been submitted. The purpose of this application is to establish the principle of development with the matters of layout and design to be addressed by way of future application(s) for approval of matters specified in conditions.

Whilst only seeking permission in principle, an indicative layout has been submitted in support of the application showing a layout for a 'large scale' housing development of 44 units.

The site has benefitted from a previous outline planning permission for development of 23 individual house plots, however this permission expired on 29 March 2016.

The proposal has elicited 58 objections, 1 representation and an objection from Oban Community Council.

B. Location, Nature and Design of Proposed Development

The site is situated within a long established residential area on the periphery of the Main Town of Oban.

The site is accessed from the end of Lonan Drive where it is contained within a small glen bounded along its western boundary by the established residential development of Nant Drive which is at a significantly higher level. To the east the site rises steeply upwards beyond which is the formal Local Authority development of Soroba. To the north is Feochan Gardens, a continuation of Nant Drive, and to the south Etive and Creran

Gardens. Development within the residential areas surrounding the site comprises a mixture of private semi-detached and detached dwellinghouses which are predominantly single storey.

The application proposes to extend Lonan Drive through the glen with the residential development located within the glen and hillside.

As the application is only seeking planning permission in principle, no detailed layout, design or infrastructure details have been submitted in support of the application with the purpose of this application to establish the principle of development with the matters of layout and design to be addressed by way of future application(s) for approval of matters specified in conditions.

However, given the constraints of the site, together with the number of units proposed, an indicative layout was submitted with the application. The indicative layout shows a mix of flats and semi-detached dwellinghouses in 12 blocks situated either side of the proposed access road with an area of casual play space to the south and an equipped play space to the north of the proposed residential units. The indicative layout has been arranged in such a way to avoid the steeply sloping tree covered hillside running along the western edge of the site.

The site plan submitted with the application makes reference to 46 units, however this has been confirmed by the agent as a typographical error.

Notwithstanding the above, it should be noted that this is an application for planning permission in principle only. It seeks the approval for the residential development of the land subject of this planning application and not for any specified number, layout or form of dwellings. The subsequently submitted plan is solely for indicative purposes only. Whilst this indicative plan illustrates a possible development of 44 dwellings, this does not mean that the site is necessarily capable of being developed at that density. The purpose of the indicative plan is simply to demonstrate, to the satisfaction of the Planning Authority, that the site is capable of accommodating residential development to an appropriate standard and generally in accordance with the provision of the LDP.

It is considered that the indicative plan has successfully demonstrated that the site is appropriate for residential development arranged along a straight, central access road with buildings either side of it and limited to the 'valley floor' without unacceptable encroachment into the steep and wooded valley sides. Whilst the indicative plan demonstrates to the satisfaction of the Planning Authority that the site is capable of accommodating residential development, the specific detail of that development must be properly assessed through a subsequent future planning application(s).

With suitably worded conditions to control the design and finishes of the development it is considered that the proposal is consistent with the terms of Policy LDP 9 and SG 2 which seek developers to produce and execute a high standard of appropriate design and ensure that development is compatible with and consolidate the existing settlement and takes into account the relationship with neighbouring properties.

C. Natural Environment

The site is not subject of any statutory landscape or nature designations but is within an area where there is significant tree cover with third parties raising concerns regarding the implications of the proposed development on wildlife, particularly squirrels and bats. The Council's Biodiversity Officer was consulted on the proposal and raised no objection subject to conditions being imposed to secure the submission of survey and management information when any detailed planning application(s) for the site is submitted. Such

surveys include species surveys for Bats (EPS) and Red Squirrel; Peat Management Plan; Tree Survey which should be undertaken prior to drafting the design plan for the placement of dwellings, gardens, verges, access, routes and services; and finally a Japanese Knotweed Eradication Plan.

With conditions to secure the necessary surveys, the proposal is consistent with the terms of Supplementary Guidance SG LDP ENV 1 which seeks to protect habitats and species from development and provide appropriate mitigation.

D. Affordable Housing

SG LDP HOU 2 requires the provision of 25% affordable housing within developments where eight or more units are proposed. At this stage it is not known how the prospective developer intends to deliver this aspect of the proposal and therefore it is considered appropriate to impose a condition on the grant of permission to secure the provision of affordable housing.

With a condition, the proposal complies with Supplementary Guidance SG LDP HOU 2 which seeks to ensure the provision of an adequate level of affordable housing.

E. Road Network, Parking and Associated Transport Matters

The application proposes to extend Lonan Drive to serve the proposed development.

The Roads Authority raised no objection to the proposal or concern in respect of the capacity of the existing road network to accommodate the development subject to a number of conditions including the construction of the internal road which will require to be to adoptable standard and provision of an appropriate parking and turning area to serve the development.

The Roads Authority advised that they were minded to refuse the previous application (17/02815/PPP) as there was insufficient development width at the site access to safely provide a two lane 5.5 metre wide carriageway with 2 metre footways/verges either side.

Whilst the physical circumstances of the site remain the same as the previous application, the Roads Authority advise that the revised design now addresses and provides an acceptable roads design solution for the section of the development that cannot achieve a 7.5m road corridor. It is advised that the roads design proposed in the current application incorporates a traffic calmed area with a width restriction to the carriageway and give and take vehicular access arrangements (similar to the traffic calming detailed in S6.6.4(9) of the Roads Development Guide). The traffic calmed area at the proposed access has been designed to provide a 3.7 metre wide carriageway with a 2 metre wide footway on one side for approximately 25 metres with the carriageway within the proposed development 5.5 metres wide with 2 metre footways either side.

The site presently provides informal access through the site with a formal link with Feochan Gardens. The application shows the proposed access linking in to the path at Feochan Gardens retaining access through the site. However, indicative plans show that development can be achieved which protects the integrity of the path. Furthermore the Council's Access Officer raised no objection to the proposed development provided that the route is retained with any closure for the minimum possible time period and subject to conditions regarding the Core Path.

With conditions to achieve the requirements of the Roads Authority and Access Officer, the proposal is considered acceptable from a road safety perspective and complies with the terms of Policy LDP DM 11 and SG LDP TRAN 1, 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.

F. Infrastructure

The application indicates water and drainage via connection to the public systems. Scottish Water was consulted on the proposed development and in their response raised no objection but advised that they are unable to confirm capacity and advise the applicant to complete a Pre-Development Enquiry form and submit it for consideration. Scottish Water further advised that, according to their records, the development proposals impact on existing Scottish Water assets and that any conflict with assets identified may be subject to restrictions on proximity of construction. Accordingly, should planning permission be granted, an informative will be added to the grant of planning permission in principle 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.

G. Open Space/Green Space

The site represents an area of informal open recreation space within a wider residential development and therefore the Planning Authority negotiated with the applicant during the processing of the application to secure an indicative layout which would have the least impact on this area of valuable open space.

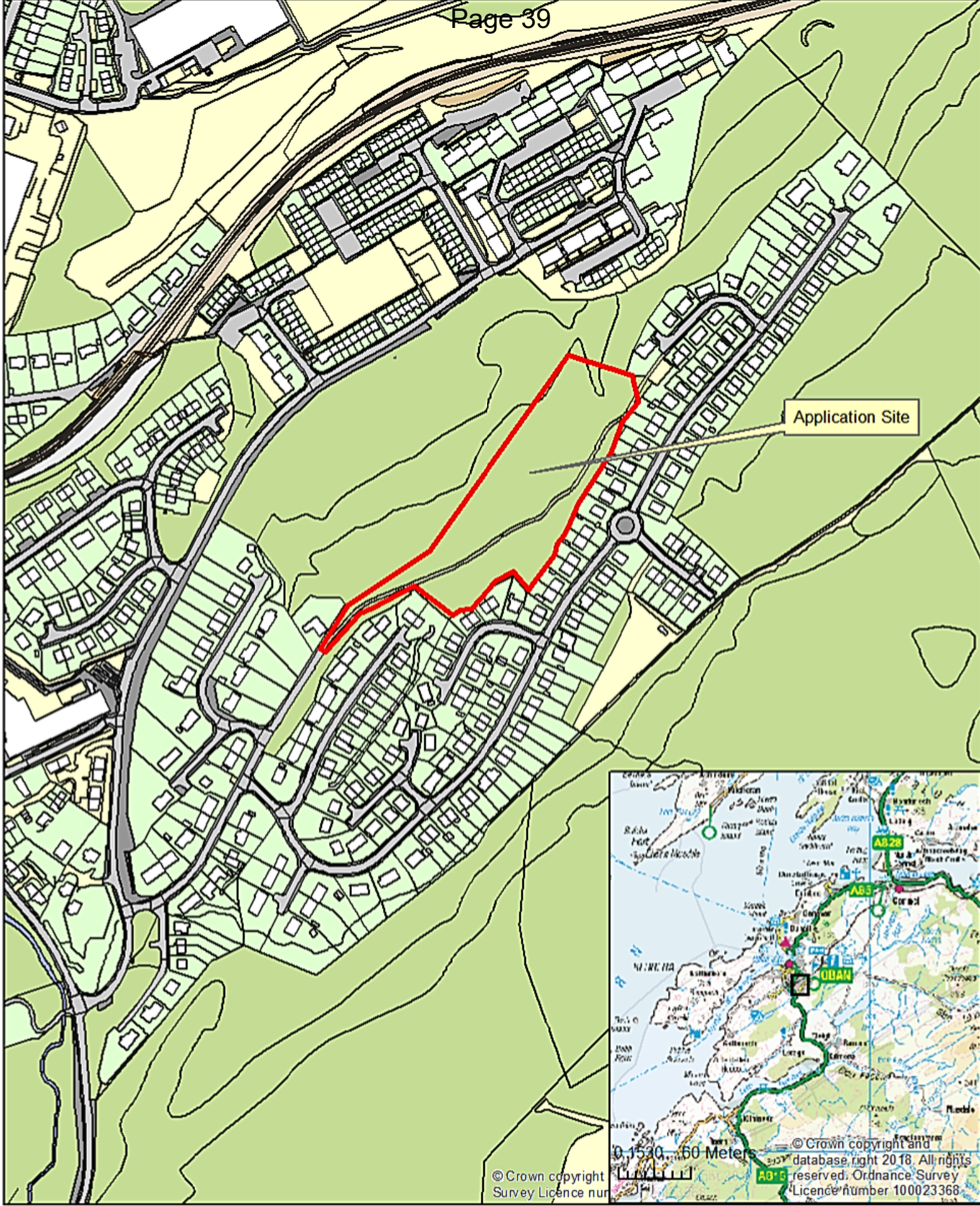
Furthermore, the Planning Authority sought to negotiate the provision of the elevated area of land within the ownership of the applicant (shown within the site edged blue) adjoining the application site as an Open Space Protection Area (OSPA). The Planning Authority are of the opinion that the provision of this land as an OSPA would add value to the overall development by offsetting the loss of a substantial area of land which has long been enjoyed as an informal area of public open space whilst also compensating for any under provision of casual open space within the development itself.

However, this request was rejected by the applicant and therefore discussions have taken place with the Council's Development Policy Team (DPT) to investigate a mechanism for securing this area as an OSPA. The DPT advised that the wider area adjacent to the application site has been assessed as part of the preparation for Local Development Plan 2 (LDP2) as it is considered that the prominent ridge in this area contributes, at a local level, to both the landscape and townscape structure and identity of Oban. Accordingly the DPT advise that it is their intention to propose that the area of elevated land, outwith the current application site but within the ownership of the applicant, be identified as an OSPA in the proposed LDP2.

The Council's DPT also advised that the current LDP contains OSPAs which were either carried forward from historic Local Plans or identified following a consultation process. Pre-Main Issues Report engagement as part of the LDP2 process consulted about the need for additional OSPAs, however, the area subject of the current application was not identified at this stage for inclusion as an OSPA.

As detailed at Section E above the site presently provides informal access through the site with a formal link with Feochan Gardens. However the application shows the proposed access linking in to the path at Feochan Gardens retaining access through the site with the indicative plans showing that development can be achieved which protects the integrity of the path.

In the absence of any formal means of protecting the elevated area of land referred to above, whilst the LDP identifies it as being within the settlement zone, this does not automatically mean that it is suitable for development. Accordingly, any formal planning application(s) submitted for this area of land in the future would require to be fully assessed by the Planning Authority against the relevant policies and supplementary guidance, specifically SG LDP REC/COM 2 which seeks to safeguard valued recreational areas and SG LDP ENV 8 which encourages the retention of Green Networks.



Location Plan Relative to planning application: 18/02720/PPP



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ARGYLL AND BUTE COUNCIL
PROCEDURE NOTE FOR USE AT

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

HELD BY THE PLANNING, PROTECTIVE SERVICES & LICENSING COMMITTEE

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

Ref: ABH1/2009

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

NOTE

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

Ref: ABH1/2009

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

The Applicant - not more than half an hour.

The Consultees - not more than half an hour.

The Supporters - not more than half an hour.

The Objectors - not more than half an hour.

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

I:data/typing/planning/procedure note

COMPETENT MOTIONS

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

DEFINING A MATERIAL CONSIDERATION

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

Ref: ABH1/2009

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