

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 20 NOVEMBER 2019**

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

Councillor Rory Colville	Councillor Jean Moffat
Councillor Robin Currie	Councillor Alastair Redman
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor George Freeman	Councillor Richard Trail
Councillor Donald MacMillan BEM	

**Attending:** Fergus Murray, Head of Development and Economic Growth  
Patricia O'Neill, Governance Manager  
Sandra Davies, Major Applications Team Leader  
Tim Williams, Area Team Leader for Oban, Lorn and the Isles  
Howard Young, Area Team Leader for Bute and Cowal & Helensburgh and Lomond  
David Love, Area Team Leader for Mid Argyll, Kintyre and the Islands  
Arlene Knox, Senior Planning Officer  
Mark Lodge, Senior Planning Officer  
Kim de Buiteleir, Design and Conservation Officer  
Graeme McMillan, Solicitor  
Sgt Wendy Maginnis, Police Scotland

The Chair ruled, and the Committee agreed, to consider the report at item 16 of this Minute as a matter of urgency as this was an issue of public safety and could not be delayed to the next scheduled meeting of the Committee.

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Mary-Jean Devon, Audrey Forrest, Graham Archibald Hardie and Roderick McCuish.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. MINUTES**

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 16 October 2019 was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 23 October 2019 at 11.00 am was approved as a correct record.
- c) The Minute of the Planning, Protective Services and Licensing Committee held on 23 October 2019 at 1.40 pm was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 23 October 2019 at 2.00 pm was approved as a correct record.

- e) The Minute of the Planning, Protective Services and Licensing Committee held on 23 October 2019 at 2.20 pm was approved as a correct record.
- f) The Minute of the Planning, Protective Services and Licensing Committee held on 23 October 2019 at 3.00 pm was approved as a correct record.
- g) The Minute of the Planning, Protective Services and Licensing Committee held on 23 October 2019 at 3.20 pm was approved as a correct record.

**4. THE SCOTTISH GOVERNMENT ON BEHALF OF ARCUS CONSULTANCY SERVICES: ELECTRICITY ACT SECTION 36 CONSULTATION RELEVANT TO HIGH CONSTELLATION WIND FARM: HIGH CONSTELLATION WIND FARM, 4KM SOUTH EAST OF CLACHAN (REF: 19/01182/S36)**

Consideration was given to the recommended response to the Scottish Government's Energy Consents and Development Unit Section 36 consultation regarding the proposed High Constellation Wind Farm. The Senior Planning Officer spoke to the terms of the report. In Scotland, any application to construct or operate an onshore power generating station, in this case, a wind farm, with an installed capacity of over 50 megawatts requires the consent of Scottish Ministers under Section 36 of the Electricity Act. Any ministerial authorisation given would include a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of consultee along with various other consultation bodies. This site is located on the Kintyre Peninsula, approximately 4km southeast of Clachan, 10km north of Carradale and 18km south of Tarbert with Lochranza on the Isle of Arran 11km to the east. The proposal is within a mixture of Rural Opportunity Area, Countryside and Very Sensitive Countryside and would comprise 10 turbines of up to, but not exceeding, 149.9m tip height and a rotor diameter up to 136m and other elements as detailed in Appendix A of the report of handling. Both East and West Kintyre Community Councils have objected. At the time of writing this report, there have been a total of 58 representations made to the ECU – 37 in support and 21 objections. These totals include a petition in favour of the proposal with 35 signatures. It is considered that the proposal will not have any unacceptable significant adverse effects. Given the expected productivity of the site, the presence of the existing infrastructure and the lack of any objection from statutory consultees on technical matters, Officers have concluded that the Council should not object to this Section 36 Application subject to the Energy Consents Unit considering the pre-determination matters, conditions and mitigation as detailed in Section X within Appendix A of the report.

**Motion**

To agree not to object to this Section 36 Application subject to the Energy Consents Unit considering the pre-determination matters, conditions and mitigation as detailed in Section X within Appendix A of the report.

Moved by Councillor David Kinniburgh, seconded by Councillor Rory Colville

**Amendment**

To agree to continue consideration of this matter in order to seek advice on a competent Amendment to object to this application.

Moved by Councillor Alastair Redman, seconded by Councillor Jean Moffat

The Motion was carried by 8 votes to 2 and the Committee resolved accordingly.

## **Decision**

The Committee agreed not to object to this Section 36 Application subject to the Energy Consents Unit considering the following pre-determination matters, conditions and mitigation set out at Section X within Appendix A of the report:

### Matters which the Council consider the ECU should consider prior to determination

- SNH provide advice in relation to the Kintyre Goose Roosts SPA. Due to the status of this site the ECU as determining authority will be required to undertake an Appropriate Assessment under the Habitat Regulations in view of the sites conservation objectives for its qualifying interest.
- That the ECU consult further with SNH on the lighting requirements of the Ministry of Defence and Highland and Islands Airports Limited and that this aspect is fully assessed and submitted for consideration in consultation with SNH before determination of the proposal; including potential landscape and visual cumulative effects.
- That the ECU consider requesting a Tourism Impact Assessment in accordance with the advice of Visit Scotland. This should also take into account the impact any perceived proliferation of developments may have on the local tourism industry, and the local economy.
- That the ECU consult with/obtain a consultee response from North Ayrshire Council regarding the potential impacts on Arran, in particular, Landscape and Visual impact (including cumulative) e.g. on North Arran NSA and Arran hills before determination of the proposal.
- That the ECU seek and approve the minor revisions to the Peat Landslide Hazard Risk Assessment as recommended by Ironside Farrar
- That the ECU obtain visuals from locations where the HMP felling will be visible as requested by Scottish Forestry for further consideration and that further consultation is undertaken with Scottish Forestry in this regard prior to reaching a decision on the application.
- That the ECU obtain the further information requested by Scottish Forestry in regard to: Geology, Hydrology and hydrogeology; fish and aquatic habitat surveys; increase in run-off and flood risk; Acidification of watercourses and undertake further consultation with Scottish Forestry in this regard prior to reaching a decision on the application.
- That the ECU pass on the British Horse Society's guidance for developer's to the applicant.

- That the conditions detailed above are only those recommended by consultees to be included in the full suite of final conditions, the Council would expect to be consulted on any final list of conditions prior to permission being granted, should Scottish Ministers be minded to do so.
- The Council would also expect to be consulted on any further mitigation, changes to the layout or turbine height, should the proposal be amended in line with the advice of consultees.

### Conditions

- Condition to ensure that the applicant provides more detailed information on the footprint/height and appearance (including security fencing, lighting, materials) of the compound containing the battery storage and its likely visibility from the B842 once the location has been confirmed to be agreed in writing by the Planning Authority in consultation with SNH and North Ayrshire Council.
- Condition to ensure the establishment of a robust integrated water quality and fish monitoring programme in accordance with the advice of Marine Scotland
- Conditions as recommended by the Council's Environment Protection Officer to ensure: control of noise emissions; a report to demonstrate compliance with the proposed noise limits; assessment by independent consultant upon request of Planning Authority and provision of independent consultant's assessment and conclusions to Planning Authority and to secure any necessary remedial action; logging of wind speed, wind direction and power generation data and provision of data upon request by Planning Authority; point of contact for local residents in regard to any noise complaints; a Construction Environmental Management Plan including details of measures to ensure the occurrence of noise or vibration nuisance during the construction phase including operational hours and control of dust etc (a condition to require compliance with this could be considered); and a Water Construction Environment Management Plan (WCEMP);
- Conditions as required by the Ministry of Defence (MOD) to secure that the development is fitted with MOD accredited aviation safety lighting and provision of the details of the date of construction starts and ends, maximum height of construction equipment, and the latitude and longitude of every turbine.
- Conditions as required by Transport Scotland to secure the submission and approval of: a Route Access Report; details of signing or temporary traffic control measures; details of the proposed means of access to the trunk road; wheel cleaning facilities; and a Construction Traffic Management Plan.
- Conditions as required by the Council's Area Roads Engineer to ensure that all vehicular traffic is taken from the A83 Tarbert – Campbeltown Trunk Road, and that no construction traffic shall use the B842 Claonaig – Southend Road.
- Conditions as required by Scottish Forestry to ensure the submission and approval of: constraints, opportunities and concept plans demonstrating that compliance with the UK Forestry Standard (UKFS) can be achieved; operational plan for harvesting, restocking and establishment; a compensatory planting

scheme of 31.73ha; a plan/proposal for the replanting of the appropriate Habitat Management Plan (HMP) areas in line with UKFS; compounds and borrow pits reinstated to woodland in a reasonable time scale and monitored.

- Condition in accordance with the advice of SNH, SEPA and RSPB to ensure that: A Habitat Management Plan (HMP) is agreed by SNH, SEPA and RSPB in writing, as outlined in EIA Report document Appendix A8.3; and the Habitat restoration work outlined in the plan is completed at least two growing seasons ahead of construction of the wind farm beginning. It is also noted from the advice of SNH that said Habitat Management Plan should also include the following provisions: a diver raft on Loch a Chaorainn and monitoring; native woodland creation and a commitment to remove, and if necessary undertake follow up control work to prevent invasion of *Rhododendron ponticum*, particularly into sensitive heath, bog, and native woodland habitats which will be created as restored in the HMP area. Both SNH and RSPB recommend that this condition should ensure that HMP work will start prior to any construction of the wind farm to allow time for habitat creation/management to have a positive mitigating effect before the turbines displace birds. The HMP shall be implemented as approved and shall include mitigation measures for eagles, divers, peatland restoration and native woodland creation. The HMP should operate for the lifetime of the development, including decommissioning.
- Conditions as recommended by RSPB Scotland: no construction work/vegetation clearance/tree felling or decommissioning shall be carried out during the bird breeding season, unless undertaken after a bird disturbance management plan has been agreed and implemented (to consider noise and visual disturbance); the employment of an appropriately qualified Ecological Clerk of Works (EcoW) to oversee construction and delivery of mitigation measures; a programme of post-construction monitoring of bird populations.
- Conditions as recommended by SEPA: Finalised Peat Management Plan including required details relating to peat probing, how layout and management reduces the volume of peat disturbed; temporary peat storage areas, and update disturbance and reuse calculations; Ground Water Dependent Terrestrial Ecosystems (GWDTE) - amendments to the layout, via micro-siting – buffer of at least 10m between any excavation works for Turbine 4 and M23a/M6b habitat, buffer of at least 10m between any excavation works for the laydown area and M6d habitat; Wind Farm Forest Plan, that specifically includes the requirement for a site plan showing the areas to be subject to the different felling and harvesting techniques, removal of trees with stem wood down to 7cm and brash from the site, woody material removed from smaller trees unless a clear beneficial use is agreed as part of the finalised Habitat Management Plan; unless otherwise agreed with SEPA any replacement watercourse crossings are to be of an arched bottomless culvert design, or traditional style bridge, designed to convey the 1 in 200 year flood event; 50m buffer around all water bodies except in the vicinity of watercourse crossings; enabling the applicant to micro-site the built elements of the scheme up to 50m or other distance as seen reasonable by ECU in order to formulate a finalised post-consent layout, once detailed ground investigations have been undertaken and before work commences; to ensure that all works are carried out in accordance with the Schedule of mitigation; to secure requirements as part of Construction Environment Management Plan (CEMP); finalised Decommissioning and Restoration Plan; and the finalised design of the substation and battery storage area to be agreed.

## Mitigation

- Whilst it is acknowledged that Historic Environment Scotland do not object to the proposal, the Energy Consents Unit may wish to explore with them whether there is any mitigation that they would suggest to lessen the impacts in order to address the concerns which they have raised in their consultation response regarding the impact of the proposal on: An Dunan, dun; Cour House and Dun Skeig.
- SNH consider that adverse effects on North Arran NSA could potentially be mitigated by reducing the scale/height of the turbines to make them more compatible with Cour wind farm. Furthermore, they advise that there are also some design issues to be addressed to improve the fit with both Cour wind farm and to improve the 'landscape fit'. The ECU may wish to explore this suggested mitigation with the applicant and SNH prior to reaching a decision on the application.
- SNH advise that turbine 8 is very close to areas of shallower peat and they advise that micro-siting this turbine to such an area would seem appropriate.

Consideration should be given by the ECU to the mitigation measures suggested by the Council's Consultant Landscape Architect that further redesign should be considered by the applicant to relocate and/or reduce the height of turbines (in particular T9 and T10) with the aim of mitigating significant adverse effects, especially on close views in the Cour area.

(Reference: Report by Head of Development and Economic Growth dated 4 November 2019, submitted)

### **5. MR R MUNN: ERECTION OF DWELLINGHOUSE, FORMATION OF ACCESS AND INSTALLATION OF SEPTIC TANK AND SOAKAWAY: LAND APPROX 82M SOUTH EAST OF 13 KILMALUAIG, ISLE OF TIREE (REF: 17/02909/PP)**

This application was previously considered by the Committee on 20 March 2019 and continued to 17 April 2019 when it was agreed to continue the determination of this application again to allow the planning authority to engage with the Applicant and to obtain clarification on various matters. The Area Team Leader for the Oban, Lorn and the Isles area spoke to the terms of supplementary report number 3 which advised of correspondence issued under the provisions of Regulation 24 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 to the Applicant and, separately, to his Agent requesting the submission of further details. The Applicant/Agent was given two weeks to respond and despite follow up requests being issued on 22 May, 27 June and 3 September 2019 there has been no response to this request for further information. Given the lack of engagement from the Applicant or his Agent neither Officers nor Members are able to properly assess or consider any claim of overriding locational/operational need for a dwellinghouse of this specific design and orientation and in this specific location. The stated claim of 'crofting need' is central to the Applicant's proposal but has not been appropriately demonstrated or substantiated. Therefore Officers remain of the considered opinion that the proposed development is unacceptable due to its materially harmful impact upon the setting of the adjacent Category A listed

building; due to its negative impact upon the character and quality of the Kilmaluaig Conservation Area; and due to its unacceptably harmful impact upon the special characteristics of Tiree's natural and built landscape. It is therefore recommended that Members refuse this planning application for the reasons detailed in supplementary report number 3.

## **Decision**

The Committee agreed to refuse planning permission for the following reasons:

- 1) Insufficient information has been submitted to allow a competent assessment of the applicant's claimed locational/operational need for the development and, in particular, the applicant's stated claim that the proposed development within this specific location and of this precise form is required in order to support a proposed and/or existing agricultural activity upon what is claimed to be a bareland croft. The planning authority have required the submission of additional necessary details by letter dated 26<sup>th</sup> April 2019 and issued under the provisions of Regulation 24 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, and have repeated this request for information by subsequent written communication dated 22<sup>nd</sup> May 2019, 27<sup>th</sup> June 2019 and 3<sup>rd</sup> September 2019.

No response has been forthcoming to any of these requests for information and in the absence of essential information upon which to make a competent assessment, the Planning Authority must refuse this planning application.

- 2) Notwithstanding Reason 1 above, the proposed development would have a materially harmful and unacceptable impact upon the historic environment including the setting of the adjacent Category A listed building and upon the character and quality of the conservation area.

The proximity of the proposed dwellinghouse and its associated access roadway to the listed building along with its modern design creates an uncomfortable relationship between them. At present the listed building currently enjoys a prime position, located slightly offset atop a rocky hillock, which has open outward views and which is free from development around its periphery. This area of open elevated and rural character contributes to the setting of the listed building, both on inward and outward views, and development of this site would erode the sense of space and openness which it currently enjoys, compromising its visual prominence and devaluing its historical value. The listed building is a key landscape feature and the proposed development would adversely affect the way the listed building is appreciated and experienced in the landscape, diminishing its visual significance by visually intruding into the visual prominence and exclusivity the building currently enjoys.

Kilmaluaig Conservation Area has been designated due to its traditional settlement pattern and orientation of the buildings within it, together with the presence of historically important thatched cottages which are also listed due to their unique physical characteristics.

This is not an acceptable site for development in terms of the council's settlement strategy as expressed through policy LDP DM 1 as well as being contrary to the provisions of Policy LDP 3 and associated Supplementary Guidance SG LDP

ENV 16(a) and SG LDP ENV 17 of the LDP as well as SPP and the Historic Environment Scotland Policy Statement 2016 and Historic Environment Scotland Managing Change: Setting, New Design in Historic Settings (Historic Scotland) which presume against development that detrimentally affects the setting of listed buildings and the quality and special character of conservation areas.

- 3) Notwithstanding Reasons 1 and 2 above, it is considered that the proposed development would, due to its inappropriate design, detailing, orientation and location, have an unacceptable and materially harmful impact upon its immediate landscape and, in particular, the built-landscape which comprises a key component of Tiree's unique and special character.

The proposed development fails to respect the specific settlement pattern, local distinctiveness and built-form of this part of Kilmaluag as recognised within the Council's 'Isle of Tiree Sustainable Design Guidance' or the 'Island of Tiree: Landscape Capacity Study for New Housing' (Final Report, published May 2006)', and as underpinned by the inclusion of this site within the Kilmaluag Conservation Area.

The development consists of a relatively large three-bedroomed 'T-shaped' detached bungalow of largely unimaginative design and materials and which does not properly capture the essence of Tiree's unique and special design character. This impression is materially heightened when considering the context of the proposed development and its siting within the immediate setting of the important traditional Tiree "blacktop" building and within the Kilmaluag Conservation Area, as expressed within refusal reason 1 above. Specifically, the proposed development is considered unacceptable for the following reasons:

- The orientation of the proposed dwellinghouse would be perpendicular to the listed building 13 Kilmaluag and to the majority of the existing buildings within the wider landscape. This is contrary to the traditional settlement pattern of this part of Tiree and will result in a development which will appear unduly prominent, particularly when experienced from the immediate setting of the listed building.
- The modern 'T-shaped' plan of the proposed dwellinghouse would result in a development which would have a scale and massing inconsistent with its setting and with the local distinctiveness of this part of the Island and which would erode the typical, simple proportions of the area in general and the Category A listed building in particular, namely a long, low, narrow building with a simple plan form.
- The proposed development does not retain the traditional window and wall relationships which form an important part of the unique character of Tiree's built environment. In addition, the proposed dwellinghouse incorporates uPVC windows and doors of a design and quality which are not considered appropriate within this part of the conservation area or that they pay sufficient regard to the traditional window and door detailing of the nearby listed building.

In addition, the site of the proposed development falls within the 'North Tiree Study Area' as identified within the Council's published "Island of Tiree: Landscape Capacity Study for New Housing" (Final Report, published May 2006),

which recognises that the site the subject of this application is located within an area of distinct landscape and visual character which the Study describes as 'Extensive Crofting' which consists of some limited opportunities for development which reflects the dispersed spacing and distinct relationship of existing settlement with the crofting inbye land. The Study states that new development should be set one field distance from the public road and a minimum of one field (no less than 100 metres) apart from existing croft houses. The study recommends that new development should be oriented facing a road and usually on a NE/SW axis where this predominates. Similarly, the Study states that where a distinct alignment of existing houses occurs, new development should be sited to fit with this. The Study also states that additional overhead lines and access tracks should be avoided.

In the case of the proposed development, the new dwellinghouse would be located more than 100 metres from the public road but less than 100 metres from the nearest croft house (the listed building 13 Kilmaluaig). The proposed development would be located approximately 80 metres to the south east of the listed building at its closest point (building to building) and within the existing field which includes 13 Kilmaluaig at its northern boundary. In addition, the proposed development includes a significant length of proposed new access track; approximately 120 metres in length and cutting across the field which is currently solely occupied by the listed building.

In addition, the proposed development would be oriented upon a broadly east to west axis and does not reflect the existing settlement pattern which consists of buildings located upon a distinct NE/SW axis, this being a specific part of the established and distinctive character of the area.

It is therefore considered that the proposed development would not sufficiently maintain the existing dispersed, low density settlement pattern of this part of Tiree or its distinctive NE/SW orientation of buildings and would involve the construction of a substantial new access trackway.

The proposed development is therefore considered contrary to the identified constraints and opportunities for new development as described within the "Island of Tiree: Landscape Capacity Study for New Housing" and contrary to Policy LDP 3, Supplementary Guidance SG LDP ENV 14, the Isle of Tiree Sustainable Design Guidance and the Sustainable Siting and Design Principles of the LDP.

(Reference: Report of Handling dated 4 March 2019, supplementary report number 1 dated 8 April 2019, supplementary report number 2 dated 16 April 2019 and supplementary report number 3 dated 5 November 2019, submitted)

**6. PETER MALTHOUSE: SITE FOR THE ERECTION OF 2 DWELLINGHOUSES: LAND NORTH EAST OF FAIRWATER, PORTINCAPLE (REF: 19/01139/PPP)**

The Area Team Leader for the Bute and Cowal & Helensburgh and Lomond areas spoke to the terms of the report and to supplementary report number 1 which advised of late representations received. He also advised of a further late representation received by email and which had been sent to all Members of the Committee by Mr Fergus Madigan. He advised that these late representations had not raised any further issues. Planning Permission in Principle is sought for the erection of 2 dwellinghouses each with a detached garage and sewerage treatment

works at land off Feuins Road, within the village/minor settlement of Portincaple. Within this area there is a general presumption in favour of small scale residential development subject to other local plan policies being satisfied. The site also lies within an area designated as an Area of Panoramic Quality (APQ). A number of representations have been received objecting to the proposed development together with concerns from Garelochhead Community Council. It is considered that the principle of development is consistent with the relevant provisions of the Local Development Plan, there are no objections from statutory consultees and the key issues raised by objectors have been covered in the report of handling or can be dealt with by condition. As such it is not considered that a discretionary hearing would add any value to this process. It is considered that the proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 10, LDP 11 and Supplementary Guidance SG LDP ENV 6, SG LDP ENV 13, SG LDP – Sustainable Design Principles, SG LDP HOU 1, SG LDP SERV 1, SG LDP SERV 2, SG LDP TRAN 4 and SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan. It is recommended that planning permission in principle be granted subject to the conditions and reasons detailed in the report of handling.

### **Motion**

To agree to grant planning permission in principle subject to the conditions and reasons detailed in the report of handling.

Moved by Councillor David Kinniburgh, seconded by Councillor Alastair Redman

### **Amendment**

To agree to hold a site visit and discretionary pre-determination hearing.

Moved by Councillor George Freeman, seconded by Councillor Jean Moffat

The Motion was carried by 8 votes to 2 and the Committee resolved accordingly.

### **Decision**

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

1. Plans and particulars of the matters specified in conditions 2 to 10 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).*

2. Pursuant to Condition 1 – no development shall commence in respect of any of the two plots until plans and particulars of the site layout including the provision for the storage / separation / recycling of waste in accordance with Local Development Plan policy, design, topographical surveys, cross sections and

external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate proposed finished ground floor levels relative to an identifiable fixed datum located out with the application site. Thereafter the development shall be implemented in accordance with the duly approved details.

*Reason: To ensure that the development has a layout and design which is compatible with its surroundings and in accordance with Local Development Plan policy.*

3. Pursuant to the provisions of Condition 1, no development shall commence until details of a Sustainable urban Drainage Systems (SuDS) scheme is submitted to the Council for further approval. This scheme shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA C753 and Sewers for Scotland 3rd Edition. Development shall thereafter be carried out using the approved scheme and be operational prior to the development being brought into use and shall be maintained as such thereafter.

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

4. Pursuant to the provisions of Condition 1, no development shall commence until details of a communal sewage treatment system to service both dwellinghouses has been submitted to and agreed in writing by the Planning Authority. Development shall thereafter be carried out using the approved scheme and be operational prior to the development being brought into use and shall be maintained as such thereafter.

*Reason: To ensure the provision of an adequate system to deal with foul drainage.*

5. Pursuant to the provisions of Condition 1, development shall not begin until samples of the materials to be used on external surfaces of the buildings and in the construction of hard standings, walls and fences have been submitted to, and approved in writing by, the planning authority. Development shall thereafter be carried out using the approved materials, or such alternatives that the planning authority may agree in writing.

*Reason: To ensure that the appearance of the development is compatible with its surroundings.*

6. Pursuant to the provisions of Condition 1, development shall not begin until details of the method of construction of the dwellings are submitted to the Planning Authority to allow further consultation with the Ministry of Defence (MOD) safeguarding department. Such details as may be approved by the Planning Authority in consultation with the MOD shall thereafter be implemented.

*Reason: The site is located within an MOD safeguarding zone and construction of any dwelling requires to accord with necessary standards in the interests of safety.*

7. Pursuant to the provisions of Condition 1, development shall not begin until details of the following road traffic safety requirements are submitted to the Planning Authority to allow further consideration with the Area Roads Manager. These shall comprise further information to show;
- a) the junctions of the new driveways onto the new access with sightline visibility splays 2.4 x 35 x 1.05m.
  - b) the gradient of the private access and driveways which shall be greater than 10% absolute maximum 12.5%
  - c) The access shall be surfaced in a bituminous material for a distance of 5 metres from the edge of the carriageway and graded to prevent the discharge of water/materials onto the public road.
  - d) The access at the junction with the public road shall be constructed as per drawing SD 08/002
  - e) The access shall be a minimum of 4.5 metres wide for a distance of 10 metres from the radius tangent point as per Drg SD 08/002.
  - f) Car parking and turning provision in accordance with the Councils 'Roads Guidance for Developers'

*Reason: In the interest of road traffic safety.*

8. Pursuant to the provisions of Condition 1, no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved 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) Location design and materials of proposed walls, fences and gates;
  - (iii) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
  - (iv) 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 the provisions of Condition 1, the applicant shall complete and submit the following Biodiversity Information for further approval by the Planning Authority prior to any works commencing on site.
- a) a Biodiversity Checklist as supporting information.
  - b) a Bat Survey report carried out at the optimum time of the year by an appropriately qualified person.

- c) the following ecological surveys for Red Squirrel, Badger and Ornithological interest carried out at the optimum time of the year by an appropriately qualified person.

*Reason: In the interests of Biodiversity.*

10. No development shall take place until details of trees, shrubs and hedgerows to be removed and to be retained, tree protection measures, soil stripping, storage and re-spreading procedures have been submitted to and approved in writing by the Planning Authority.

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

(Reference: Report by Head of Development and Economic Growth dated 6 November 2019 and supplementary report number 1 dated 18 November 2019, submitted)

**7. GEORGE HANSON (BUILDING CONTRACTORS) LTD: ERECTION OF SIX FLATS: LAND AT FORMER ST BRENDAN'S CHURCH TOWER, MOUNTSTUART ROAD, ROTHESAY, ISLE OF BUTE (REF: 19/01584/PP)**

The Area Team Leader for the Bute and Cowal & Helensburgh and Lomond areas spoke to the terms of the report and to supplementary report number 1 which advised of further representations received . Planning Permission is sought for the erection of a residential block comprising six flats on land at the site of the former St Brendan's Church tower. The site is within the main town of Rothesay where there is support in principle for residential development. The scale and design of the proposed building are considered to be acceptable having regard to the surrounding properties and the site's location within the Rothesay Conservation Area. The proposal has attracted objections from 13 individuals therefore consideration has to be given to holding a discretionary hearing prior to determining the application. The site is located within the Main Town of Rothesay and the proposal relates to an infill development between two existing residential blocks. For these reasons the proposal is considered to be consistent in principle with Policy LDP DM 1 and Supplementary Guidance SG LDP HOU 1 of the Argyll and Bute Local Development Plan 2015. Planning permission (ref: 09/01701/PP) for the erection of a flatted residence of six units with a car parking court was approved on 1 June 2012 and as such the principle of development has been established and the site specific issues have been addressed. There are no objections from consultees and there are no other material considerations which would justify refusal. Consequently, it is not considered that a discretionary hearing would give added value to the process and is not recommended in this instance. It is recommended that planning permission be granted subject to the conditions and reasons detailed in the report of handling.

### **Decision**

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

1. Unless otherwise directed by any of the conditions below, the development shall be implemented in accordance with the details provided in the application form dated 26<sup>th</sup> July 2019 and the approved drawings:

- Drawing No. 5825 – 01 (Plan 1 of 11)
- Drawing No. 5825 – 02 (Plan 2 of 11)
- Drawing No. 5825 – 03 (Plan 3 of 11)
- Drawing No. 5825 – 04 (Plan 4 of 11)
- Drawing No. 5825 – 05 (Plan 5 of 11)
- Drawing No. 5825 – 06 (Plan 6 of 11)
- Drawing No. 5825 – 07 (Plan 7 of 11)
- Drawing No. 5825 – 08 (Plan 8 of 11)
- Drawing No. 5825 – 09 (Plan 9 of 11)
- Drawing No. 5825 – 10 (Plan 10 of 11)
- Drawing No. 5825 – 11 (Plan 11 of 11)

unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

2. Unless otherwise agreed in writing with the Planning Authority, prior to the occupation of the first flatted unit, visibility splays of 42 metres shall be formed in both directions measured from a point 2.4 metres back from the edge of the carriageway at the centre of the vehicular access. All boundary walls, fencing or vegetation within the visibility splays shall thereafter be maintained in perpetuity at a height not exceeding 1.05 metres above the level of the road.

*Reason: In the interests of road safety.*

3. Unless otherwise agreed in writing with the Planning Authority, prior to the occupation of the first flatted unit, the access shall be formed in accordance with Argyll & Bute Council standard detail SD08/005a, incorporating an access width of 5.5 metres.

*Reason: In the interests of road safety.*

4. Prior to the commencement of any works on the construction of the flatted block (or such other timescale as may be agreed in writing with the Planning Authority), samples of the render, stone, roof covering and window frames to be used shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, the flatted block shall be constructed using the approved materials.

*Reason: In the interests of visual amenity and for the avoidance of doubt.*

5. Prior to the commencement of any works on the construction of the flatted block (or such other timescale as may be agreed in writing with the Planning Authority), details of the obscure glass to be fitted in the kitchen windows on the east and west-facing elevations of the building shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing

with the Planning Authority, the development shall be constructed in accordance with the approved details and maintained as such thereafter.

*Reason: In the interests of the privacy and amenity of No. 32 Mountstuart Road and No.34 Mountstuart Road having regard to the Supplementary Guidance relative to the distance between habitable room windows contained in the Argyll and Bute Local Development Plan 2015.*

6. Prior to the commencement of any works on the access drive and parking/turning area (or such other timescale as may be agreed in writing with the Planning Authority), details of the surface treatment to be used shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing by the Planning Authority, the access drive and parking/turning area shall be constructed using the approved materials.

*Reason: In the interests of visual amenity and for the avoidance of doubt.*

7. Prior to the commencement of the development (or such other timescale as may be agreed in writing with the Planning Authority), a detailed scheme of landscaping including boundary treatment(s), tree planting and details of trees and other features to be retained, shall be submitted to and approved in writing by the Planning Authority. This scheme shall specifically include proposed landscaping and tree/shrub planting including the age, species and location of tree and shrub planting. Additionally, the landscaping scheme shall include suitable screening (by trees/shrubs) of the twelve car parking spaces and turning area in the front portion of the site.

The landscaping scheme shall ensure:

- i. Completion of the scheme during the planting season immediately following the completion of the building(s) or such other date as may be agreed in writing with the Planning Authority;
- ii. The maintenance of the landscaped areas for a period of five years or until established, whichever may be longer. Any trees or shrubs removed, or which in the opinion of the Planning Authority, are dying, being severely damaged or becoming seriously diseased within three years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.
- iii. Retention of existing stone boundary walls and gate posts taking account of any realignment or height reduction required for the formation of the access.

*Reason: To ensure the implementation of a satisfactory scheme of landscaping, and to assist with the integration of the new development within the setting of the historic built environment.*

8. Notwithstanding the effect of Condition 1 above, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753 and Sewers for Scotland (3<sup>rd</sup> Edition). Prior to the commencement of the development (or such other

timescale as may be agreed in writing with the Planning Authority), details of the intended means of surface water drainage to serve the development shall be submitted to and approved in writing by the Planning Authority.

The surface water drainage shall be constructed in accordance with all of the approved details and shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

*Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding in accordance with the relevant Policies and Supplementary Guidance in the adopted Argyll and Bute Local Development Plan 2015.*

(Reference: Report by Head of Development and Economic Growth dated 4 November 2019 and supplementary report number 1 dated 18 November 2019, submitted)

**8. MR DAVID BROOKS: DISCHARGE OF PLANNING OBLIGATION IN RELATION TO PLANNING PERMISSION REFERENCE 12/00970/PP (INSTALLATION OF 10 SOLAR ROOF PANELS): 1 MAIN STREET, PORT CHARLOTTE (REF: 19/01864/PP)**

The Area Team Leader for Mid Argyll, Kintyre and the Islands spoke to the terms of the report. He drew Members' attention to a typographical error at section D of the report and advised that planning application reference 19/01859/PP for re-painting the dwellinghouse was granted on 30 October 2019. The proposal seeks to discharge a planning obligation under Section 75 of the Act to allow the permanent retention of ten photovoltaic panels on the rear facing roof of an unlisted property within the Port Charlotte Conservation Area. Planning permission has previously been granted retrospectively, and only on a temporary basis linked to the personal circumstances of the Applicant, for retention of the solar panels after they were installed by the property owner and subject to previous enforcement proceedings. The current application has come about due to the original Applicant no longer having an interest in the property. The inheritors now wish to retain the panels but can only do so lawfully if the planning obligation is removed/amended to reflect updated circumstances. The installed PV panels by virtue of their prominence, location, design and inherent reflective properties are considered to be an uncharacteristic addition to this traditional streetscape and, notwithstanding the limited architectural or historic value of the subject property, the installation neither preserves or enhances the character or appearance of the Port Charlotte Conservation Area and as such is considered to be contrary to the provisions of policies LDP 3, SG LDP ENV 17 and the Sustainable Siting and Design Principles. It is recommended that the request to discharge the planning obligation from the existing permission be refused.

**Decision**

The Committee agreed to discharge the planning obligation from the existing permission on the following grounds:

Given the fact that the current building has lost its character by reason of previous alterations, before the PV panels were installed, and given that the building is not listed, the PV panels have a neutral impact on the wider Conservation Area by virtue

of secondary elevation and limited views from the conservation area and surrounding listed buildings. The building is of low architectural merit compared with the other properties nearby and because the roof material is not of a traditional finish the panels have a neutral impact.

The PV panels will have a positive carbon neutrality and will in a small way go towards addressing climate change.

(Reference: Report by Head of Development and Economic Growth dated 1 November 2019, submitted)

**9. DM HALL: PROPOSAL OF APPLICATION NOTICE - RESIDENTIAL DEVELOPMENT (DUNBEG PHASE 4) (CLASS 9) INCLUDING SITE FOR COMMUNITY FACILITIES; SITE FOR NEW PRIMARY SCHOOL; NEW ROADS AND PARKING; GROUND RE-MODELLING; ABOVE GROUND AND BELOW GROUND INFRASTRUCTURE; OPEN SPACE AND LANDSCAPING : LAND WEST OF DUNSTAFFNAGE MAINS FARM, DUNBEG (REF: 19/02026/PAN)**

The Senior Planning Officer spoke to the terms of the report. This is the first of four Proposal of Application Notices (PAN) submitted to the Planning Authority in respect of the site at Dunbeg. Within the adopted Argyll and Bute Local Development Plan (March 2015) the Council has designated a Strategic Masterplan Area under MAST 1/12 "Dunbeg Corridor". This area includes the following uses – education, housing, commercial, including neighbourhood retail, business and industry. The current four PAN proposals sit within this wider strategic area but concentrate on housing, community uses, infrastructure and mixed commercial use on a number of sites as defined on Proposals Map 178 of the Adopted LDP. The approved Masterplan for the area (ref: 16/03368/MPLAN), clarifies the Applicant's intentions to build 300 additional dwellings (flats and houses) between 2017 and 2022 (Phase 3) with longer term development intentions for a further 305 dwellings and a mixed commercial area and community uses. Phase 3 is currently under construction and Kirk Road has been upgraded to accommodate this new development. No details on the number or tenure of the houses proposed in this PAN has been provided at this stage. This PAN relates to residential development (Dunbeg Phase 4) including site for community facilities, site for new primary school, new roads and parking, ground re-modelling, above ground and below ground infrastructure, open space and landscaping. No details on the number or tenure of the houses proposed in this PAN has been provided at this stage. The report summarises the policy considerations against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. It is recommended that Members consider the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN in order to allow these matters to be considered by the Applicant in finalising any future planning application submission.

### **Decision**

The Committee noted the content of the report and submissions and, whilst it welcomed the proposal for community facilities, raised no further issues.

(Reference: Report by Head of Development and Economic Growth dated 12 November 2019, submitted)

**10. DM HALL: PROPOSAL OF APPLICATION NOTICE - NEW ROUNDABOUT ON A85, NEW ROADS, GROUND RE-MODELLING; ABOVE GROUND AND BELOW GROUND INFRASTRUCTURE AND LANDSCAPING: LAND WEST OF DUNSTAFFNAGE MAINS FARM, DUNBEG (REF: 19/02027/PAN)**

The Senior Planning Officer spoke to the terms of the report. This is the second of four Proposal of Application Notices (PAN) submitted to the Planning Authority in respect of the site at Dunbeg. This PAN proposes a new roundabout and roads infrastructure at the site commonly known as “halfway”. Members are requested to note that Planning Permission for a new roundabout at this general location has previously been granted under 16/00692/PP. No planning permission for new roads in the area of land identified have as yet been granted. The report summarises the policy considerations against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. It is recommended that Members consider the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN in order to allow these matters to be considered by the Applicant in finalising any future planning application submission.

**Decision**

The Committee noted the content of the report and submissions and raised no further issues.

(Reference: Report by Head of Development and Economic Growth dated 12 November 2019, submitted)

**11. DM HALL: PROPOSAL OF APPLICATION NOTICE - MIXED USE DEVELOPMENT COMPRISING; RETAIL (CLASS 1 FOOD AND NON-FOOD); FINANCIAL, PROFESSIONAL AND OTHER SERVICES (CLASS 2); FOOD AND DRINK (CLASS 3); BUSINESS (CLASS 4); HOTEL (CLASS 7); NON-RESIDENTIAL INSTITUTIONS (CLASS 10); ASSEMBLY AND LEISURE (CLASS 11); PUBLIC HOUSE; TAKEAWAYS; ROADS AND PARKING; GROUND RE-MODELLING; ABOVE GROUND AND BELOW GROUND INFRASTRUCTURE; OPEN SPACE AND LANDSCAPING: LAND WEST OF DUNSTAFFNAGE MAINS FARM, DUNBEG (REF: 19/02028/PAN)**

The Senior Planning Officer spoke to the terms of the report. This is the third of four Proposal of Application Notices (PAN) submitted to the Planning Authority in respect of the site at Dunbeg. This PAN proposes mixed use development and the report summarises the policy considerations against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. It is recommended that Members consider the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN in order to allow these matters to be considered by the Applicant in finalising any future planning application submission.

**Decision**

The Committee noted the content of the report and submissions and raised no further issues.

(Reference: Report by Head of Development and Economic Growth dated 12 November 2019, submitted)

- 12. DM HALL: PROPOSAL OF APPLICATION NOTICE - MIXED USE DEVELOPMENT COMPRISING: RETAIL (CLASS 1); FINANCIAL, PROFESSIONAL AND OTHER SERVICES (CLASS 2); FOOD AND DRINK (CLASS 3); BUSINESS (CLASS 4); HOTEL (CLASS 7); RESIDENTIAL DEVELOPMENT (DUNBEG PHASE 4) (CLASS 9); NON-RESIDENTIAL INSTITUTIONS (CLASS 10); ASSEMBLY AND LEISURE (CLASS 11); PUBLIC HOUSE; TAKEAWAYS; SITE FOR COMMUNITY FACILITIES; SITE FOR NEW PRIMARY SCHOOL, NEW ROUNDABOUT ON A85, ROADS AND PARKING; GROUND RE-MODELLING; ABOVE GROUND AND BELOW GROUND INFRASTRUCTURE; OPEN SPACE AND LANDSCAPING: LAND WEST OF DUNSTAFFNAGE MAINS FARM, DUNBEG (REF: 19/02029/PAN)**

The Senior Planning Officer spoke to the terms of the report. This is the fourth of four Proposal of Application Notices (PAN) submitted to the Planning Authority in respect of the site at Dunbeg and is an amalgamation of the previous three PANs. The report summarises the policy considerations against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. It is recommended that Members consider the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN in order to allow these matters to be considered by the Applicant in finalising any future planning application submission.

#### **Decision**

The Committee noted the content of the report and submissions and, whilst the requirement for a new school was discussed, it raised no further issues.

(Reference: Report by Head of Development and Economic Growth dated 12 November 2019, submitted)

- 13. ELLENABEICH CONSERVATION AREA APPRAISAL & MANAGEMENT PLAN AND EASDALE ISLAND CONSERVATION AREA APPRAISAL & MANAGEMENT PLAN**

Consideration was given to a report inviting Members to approve the content of the Conservation Area Appraisals and Management Plans for Ellenabeich and Easdale Island. The Appraisals and Management Plans were updated to reflect comments received following a public consultation and a summary of the key changes were detailed in the report.

#### **Decision**

The Committee agreed to approve the Ellenabeich and Easdale Island Conservations Area Appraisals and Management Plans as technical guidance.

(Reference: Report by Executive Director with responsibility for Development and Economic Growth dated 8 October 2019, Ellenabeich Conservation Area Appraisal and Management Plan dated November 2019 and Easdale island Conservation Area Appraisal and Management Plan dated November 2019, submitted)

#### **14. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION**

A report summarising the outcome of a recent appeal decision by the Planning and Environmental Appeals Division relative to planning application reference 18/01546/PP - new hybrid development of tourism units, co-housing, paths, stabilisation of existing trees and planting plus workshops and shared facilities at land to North of Boat Yard, Rosneath Road, Kilcreggan, was before the Committee for information.

##### **Decision**

The Committee noted the contents of the report.

(Reference: Report by Head of Development and Economic Growth, submitted)

The Committee resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public for the following 2 items of business on the grounds that they were likely to involve the disclosure of exempt information as defined in Paragraph 13; and Paragraphs 3 and 14, respectively, of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

#### **15. ENFORCEMENT REPORT - REFERENCE 19/00326/ENFHSH**

Consideration was given to enforcement case reference 19/00326/ENFHSH.

##### **Decision**

The Committee agreed to take no action.

(Reference: Report by Head of Development and Economic Growth dated 29 October 2019, submitted)

#### **16. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: REQUEST FOR IMMEDIATE SUSPENSION OF TAXI DRIVER LICENCE**

Members were invited to consider a request from Police Scotland for the immediate suspension of a Taxi Driver Licence using the powers contained in Paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982.

The Council's Solicitor advised that the Licence Holder was not present and that an email had been sent from the Licence Holder's Solicitor last night which set out their position and asked for the matter to be considered at a future date. A copy of the email was circulated to the Committee. It was agreed to continue with the hearing and the Chair explained the procedure that would be followed and invited Police Scotland to speak in support of their complaint.

##### **Police Scotland**

Sgt Maginnis read out the contents of a letter from the Chief Constable which requested the immediate suspension of the licence and outlined the reasons for this request.

## **Members' Questions**

The Members were given the opportunity to ask Sgt Maginnis questions.

## **Summing Up**

### Police Scotland

Sgt Maginnis summed up the reasons for the Chief Constable's request and confirmed that she had received a fair hearing.

## **Debate**

The Members of the Committee debated the a request to suspend the Taxi Driver Licence.

## **Decision**

The Committee agreed to the immediate interim suspension of the Taxi Driver Licence pending a full suspension hearing taking place no later than 6 weeks from the date of this hearing.

(Reference: Report by Head of Legal and Regulatory Support, submitted)