

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

Reference No: 15/03112/PPP

Planning Hierarchy: Local Application

Applicant: Mr and Mrs R and G McIntyre

Proposal: Renewal of planning permission in principle reference 12/01287/PPP Site for the erection of 5 dwellinghouses

Site Address: Land South East of Mamore Farm, Peaton Road, Rahane

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- renewal of permission for erection of 5 dwellinghouses

(ii) Other specified operations

- None
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(B) RECOMMENDATION:

It is recommended that planning permission in principle be approved subject to the attached conditions and reasons.

(C) HISTORY: Y

In determining this renewal application and the request by the applicants for reconsideration of the reasonableness of condition 10 in respect of the provision of an off-site pavement, it has been necessary to examine a number of planning applications in the locality. Although these do not relate to the application site itself, their relationship to Peaton Road and the provision of a footway (and as a consequence the consideration of condition 10) is a material consideration in respect of this case.

History of relevant residential applications in vicinity of application site.

08/00591/DET	Plot 6 - Erection of a dwellinghouse
09/00729/DET	Plot 7 - Erection of detached dwelling
09/01799/PP	Plot 5 - Erection of dwelling house
10/00874/PPP	Land Adjacent to 3 Herons View - erection of a dwellinghouse
11/00525/PP	Erection of dwellinghouse, installation of septic tank and formation of new access.
12/01287/PPP	Site for the erection of 5 dwellinghouses.
13/00732/PPP	Garden Ground of Corlach Erection of 2 dwellinghouses
14/00388/PPP	Site for the erection of dwellinghouse (shared access with 12/01287/PPP)
15/03112/PPP	Renewal of planning permission in principle reference 12/01287/PPP

The application below is at time of writing still subject to an objection from SEPA and has not yet been determined. It is however noted that footway provision along the frontage of the site was required by 13/00732/PPP and this will be replicated in any renewal.

16/00115/PPP	Garden Ground Of Corlach - Renewal of planning permission in principle 13/00732/PPP erection of 2 dwellinghouses
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Some of the above permissions are not material to considering appropriate wording for condition 10 as they do not require the provision of a footway on Peaton Road. However, those applications which both grant new housing and are required to provide a footway section on Peaton Road will be considered in more detail in the main report Appendix.

(D) CONSULTATIONS: Y

Area Roads Engineer – No objections subject to replicating conditions Dated 16.11.16
SEPA – Initial flooding objection withdrawn – Dated 17.03.16
Flood Risk Assessor – No objections subject to conditions – Dated 25.11.15
Scottish Water – No response received. Condition will be imposed.
Environmental Health – No response required
MOD – Wish to be re-consulted on any detailed future proposals. Condition to ensure any future construction is in accordance with safeguarding location requirements will be imposed.

(E) PUBLICITY: Y

Regulation 20 Advert – Expired 17.12.15

(F) REPRESENTATIONS: N

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** Not required.
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No required

(iii) **A design or design/access statement:** Y Provided in respect of Permission 12/01287/PPP. The previous supporting statement states that the following will be incorporated into the proposed development:

- New tree belt in native species to complement existing will be planted along entire length of new settlement edge. This will be implemented in conjunction with development of the first plot.
- Existing trees alongside the existing burn to be retained where possible.
- Existing burn to be inclusively incorporated as an attractive feature within the development.
- House design(s) will be a maximum of 1½ storeys and material palette should include a prevalence of traditional stone and timber cladding.
- Stone from existing dykes to be salvaged and incorporated within the proposed development.
- Boundaries to be delineated using mixture of stone dyke walling as above and native planting.
- Road and driveway surfacing will be a mixture of both stone sett type paviors and natural gravel.

In respect of procedural matters as this is a renewal of a PPP the submissions made previously remain material to the determination of the current application.

(iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** N

Summary of main issues raised by each assessment/report

N/A

(H) PLANNING OBLIGATIONS

(i) **Is a Section 75 agreement required:** N

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

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

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

Argyll and Bute Local Development Plan 2015 Policies

LDP DM1	Development within the Development Management Zones
LDP 3	Supporting the Protection, Conservation and Enhancement of our Environment
LDP 9	Development Setting, Layout and Design

Adopted Supplementary Guidance

SG LDP HOU 1	General Housing Development including Affordable Housing Provision
SG LDP ENV 6	Development Impact on Trees/Woodland
SG LDP SERV 1	Private Sewage Treatment Plants and Wastewater (ie. drainage) systems
SG LDP SERV 2	Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)
SG LDP SERV 3	Drainage Impact Assessment
SG LDP SERV 5(b)	Provision of Waste Storage and Collection Facilities within New Development
SG LDP SERV 8	Development in the Vicinity of Notifiable Installations
SG LDP TRAN 2	Development and Public Transport Accessibility
SG LDP TRAN 4	New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 5	Off-site Highway Improvements
SG LDP TRAN 6	Vehicle Parking Provision

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

Permission 12/01287/PPP

Argyll & Bute Sustainable Design Guidance (2006)

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

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

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

(N) Does the Council have an interest in the site: Yes. The applicant is a Local Member.

(O) Requirement for a hearing (PAN41 or other): Not required.

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

A renewal of planning permission in principle (PPP) is sought for the erection of 5 houses within the settlement boundary of Rahane. The current application seeks to both renew permission 12/01287/PP and also that consideration be given to vary condition 10 of this permission which the applicant considers to be unreasonable. Condition 10 relates to the provision of a footway.

As a new Local Development Plan and Supplementary Guidance have been adopted since the previous grant of PPP it is necessary to examine the proposals against the current policy framework.

The site is located within the settlement boundary of Rahane. Development within settlement boundaries is supported by Policy LDP DM1. Rahane is defined as a minor settlement within the adopted LDP. SG LDP HOU 1 is supportive of small scale development in minor settlements. The proposal for 5 houses therefore continues to accord with the land use designation and settlement strategy in scale and locational terms.

This application is for the renewal of a previously granted PPP and therefore no finalised details of the design have been submitted. The application site measures approximately 1 hectare in size and the indicative plan of the plot layout shows five house plots which are all in excess of 1000 square metres. The land slopes downwards from west to east towards the Gare Loch. It is considered that the plots are of sufficient size and location to be able to accommodate dwellings which would not overlook or result in an unacceptable loss of privacy to neighbouring development. In general terms therefore there is no reason why a development which would accord with policies LDP 3 and LDP 9 could not, on balance of probability, be successfully designed and brought forward on this site through discharge of conditions.

Tree retention and planting on the site formed an important part of granting the previous PPP. This remains the case in terms of defining the settlement boundary by appropriate planting and ensuring that a stark and suburban character is not created by any development proposals in this pleasant and semi-rural location. To this effect conditions requiring tree retention/surveys and details of tree and landscape planting to accord with the requirements of SG LDP ENV 6 will continue to be imposed.

In respect of SuDS, water supply and foul drainage these matters can all be adequately controlled by the use of standard conditions. The Councils flooding advisor is content that previous conditions in respect of such matters can be replicated on any renewal. SEPA originally objected to the application. However, following the provision of additional information by the applicant relating to the capacity of watercourses which cross the site they have removed this objection. However, this is an area where flooding has been raised as a concern by SEPA and existing flooding to the public road takes Place. In such circumstances, and in accordance with SG LDP SERV 3 a Drainage Impact Assessment is considered to be required. Details of waste storage areas and recycling provisions associated with the development are also the subject of condition in accordance with the requirements of SG LDP SERV 5(b).

The development will therefore, subject to approval of conditions at Approval of Matters Specified in Conditions (AMSC) stage, be in accordance with accord with SG LDP SERV 1, SG LDP SERV 2, SG LDP SERV 3 and SG LDP SERV 5(b).

In respect of roads access and parking and matters SG LDP TRAN 4 details the vehicle access requirements of new developments. As the proposal is a small scale development not exceeding 5 houses, the development can be served by a private access. A number of sightline, road geometry, surfacing requirements and watercourse crossing details, as recommended by the Road Network Manager, are proposed as conditions in order to ensure that the proposal will comply with SG LDP TRAN 4.

Each of the 5 plots will require vehicle parking provision and turning in accordance with SG LDP TRAN 6 and associated parking standards set out in the adopted Plan. Two spaces are required in a house with up to three bedrooms and three spaces in house with four bedrooms or more. Again a condition is proposed to ensure that the proposal will accord with this policy.

This is a large site with generous plot sizes, and therefore no issue should be raised in respect of compliance with access and site layout requirements to meet roads standards.

Offsite works were required in approving the previous proposals under 12/01287/PPP to provide a footway to serve the development and meet the requirements of SG LDP TRAN 2 and SG LDP TRAN 5. (Condition10)

For the reasons set out in the appendix it is not considered to be reasonable to maintain the current wording of condition 10. Therefore it is recommended that condition 10 be amended to read as follows:

Pursuant to Condition 1 - no development shall be commenced in respect of any individual building until details of a footway from the east side of the development vehicular access to the existing footway on the east side of Peaton Road near the junction with Shore Road is submitted to and approved in writing by the Planning Authority. This footway shall be constructed to the satisfaction of the planning authority prior to the occupation of the first dwelling house.

The above notwithstanding, this condition shall not apply in respect of any part of the said footway that has been provided, or is in the course of being provided, by a third party to the satisfaction of the Planning Authority prior to development being commenced in respect of any dwelling associated with this grant of permission.

Reason: In the interests of road safety and the creation of a link to the public transport facility.

Members are requested to note the following points:

- a) The retained requirement for the provision of a safe and continuous footway to serve this development is considered to be an essential requirement of renewing this PPP.
- b) The terms of this amended condition are no more onerous than those of the previous grant of planning permission.
- c) The amended wording of condition 10 reflects current circumstances and is sufficiently flexible to avoid duplication of footway provision by third parties under other permissions or enforcement actions.

In conclusion, as this is an “in principle” application not all design details have been given. However, sufficient information has been submitted in respect of the previous grant of 12/01287/PPP to be able to demonstrate that the application site would be capable of accommodating 5 houses in accordance with all other relevant policies contained with the adopted LDP and SG. As this is a renewal of this previous application is it appropriate to found upon those previous submissions in reaching the current determination.

Subject to the imposition of appropriate conditions it is considered that the proposals are in accordance with the new Local Development Plan and associated Supplementary Guidance.

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

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

Sufficient information has been submitted in respect of the previous grant of 12/01287/PPP to be able to demonstrate that the application site would be capable of accommodating 5 houses in accordance with all other relevant policies contained with the adopted LDP and SG. As this is a renewal of this previous application is it appropriate to found upon those previous submissions in reaching the current determination

Subject to the imposition of appropriate conditions it is considered that the proposals are in accordance with the new Local Development Plan and associated Supplementary Guidance.

(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: David Moore
Reviewing Officer: Howard Young

Date: 21.07.16
Date: 22.07.16

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 15/03112/PPP

1. Plans and particulars of the matters specified in conditions 3 to 11 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: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997.

2. The development shall be implemented in accordance with the details specified on the application form dated 11/6/12, supporting information and the approved drawing refs AL(0)01, AL(0)02, AL(0)03B, AL(0)04 and AL(0)05A. The layout plans reference nos. AL(0)03B and AL(0)05A are for indicative purposes only and are not approved as part of this permission.

Reason: To accord with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

3. Pursuant to condition 1 – no development shall commence until details of the proposed means of private foul drainage to serve the development have been submitted to and approved by the Planning Authority. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development.

Reason: To ensure that an adequate means of foul drainage is available to serve the development.

4. Pursuant to Condition 1 – no development shall commence until a Drainage Impact Assessment, which includes a scheme for management of surface water within the development site, has been submitted to and approved by the Planning Authority. The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and shall be maintained as such thereafter.

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

5. Pursuant to condition 1 - no development shall commence until details of a Sustainable Urban Drainage system have been submitted to and approved by the Planning Authority. This shall be compliant with the guidance set out in accordance with CIRIA C753 and Sewers for Scotland 3rd Edition. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

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

6. 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. Thereafter the development shall proceed in accordance with the approved details. The scheme shall include details of:

- a. Location, design and materials of proposed walls, fences and gates;
- b. Surface treatment of proposed means of access and hardstanding areas. Road and driveway surfacing shall be a mixture of stone sett type pavements and natural gravel with

- the exception of the first 2 metres at the access onto Peaton Road which shall be of a bituminous material;
- c. Any proposed re-contouring of the site by means of existing and proposed ground levels including details of any retaining walls.
 - d. Full details of the native tree belt to be planted along the entire length of the settlement edge. This shall include the location, species and size (to BS standard) of each tree. This tree belt shall be planted during the first planting season following the occupation of the first dwellinghouse hereby approved.
 - e. A tree survey of all existing trees along the watercourse on the site, indicating the position of each existing tree, its species, height, canopy width and condition including details of replacement trees to be planted where any of the existing trees are of a condition which would warrant their removal. Details of the replacement trees shall include the location, species and size (to BS standard) of each tree and shall include a timetable for the completion of these works.
 - f. Full details of how the existing watercourse which crosses the site will be integrated into the overall scheme;
 - g. Full details of how the stone from the existing dykes on the site will be incorporated into the overall scheme.

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

7. Pursuant to Condition 1 – no development shall commence in respect of any individual plot; until plans and particulars of the site layout, design and external finishes of the development within that plot have been submitted to and approved by the Planning Authority. Thereafter the development shall proceed in accordance with the approved details. These details shall incorporate:
 - a. Maximum of 1.5 storeys in design;
 - b. Details of finished ground floor levels relative to an identifiable fixed datum located outwith the application site;
 - c. Details of arrangements for the storage, recycling, composting where appropriate, separation and collection of waste from within the development site.

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.

8. Pursuant to condition 1. - no development shall commence until details of the proposed private access and connection with the existing public road have been submitted to and approved by the Planning Authority. Thereafter the development shall proceed in accordance with the approved details. Such details shall incorporate:
 - a. At the junction with the existing public road (Peaton Road) visibility splays of 2.4 x 75 x 1.05 metres to the west side and 2.4 x 42 x 1.05 metres to the east side formed from the centre line of the junction. These sight lines to be in place prior to the commencement of any house construction works and maintained in perpetuity;
 - b. The new vehicle access shall be a minimum 4.5 metres in width for the first 10 metres with the first 5 metres surfaced in a bituminous material or other approved hard material. The gradient shall be no greater than 5% (1 in 20) for the first 5 metres and thereafter no greater than 12.5% (1 in 8).
 - c. Details of the proposed vehicle access crossing of the existing water course. This shall include a Structural engineer's report to confirm that the structure has the capacity to accommodate emergency and service vehicles. Also on completion of the works prior to occupation of the first house to the north of the water course, a Structural engineer's

certificate shall be submitted to confirm the construction of the crossing is in accordance with the approved design.

- d. The provision of a turning area to accommodate emergency and service vehicles.

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.

9. Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until plans and particulars of the means of vehicular access and parking/turning arrangements to serve that building have been submitted to and approved by the Planning Authority. Such details shall incorporate:
- a. The driveway gradients shall be no greater than 5% (1 in 20) for the first 5 metres and thereafter no greater than 12.5 % (1 in 8).
- b. The provision of parking and turning in accordance with the requirements of SG LDP TRAN 6 and Appendix C of the Argyll and Bute Local Development Plan 2015.

Reason: In the interests of road safety.

10. Pursuant to Condition 1 - no development shall be commenced in respect of any individual building until details of a footway from the east side of the development vehicular access to the existing footway on the east side of Peaton Road near the junction with Shore Road is submitted to and approved in writing by the Planning Authority. This footway shall be constructed to the satisfaction of the planning authority prior to the occupation of the first dwelling house.

The above notwithstanding, this condition shall not apply in respect of any part of the said footway that has been provided, or is in the course of being provided, by a third party to the satisfaction of the Planning Authority prior to development being commenced in respect of any dwelling associated with this grant of permission.

Reason: In the interests of road safety and the creation of a link to the public transport facility.

11. Pursuant to condition 1 - Prior to the construction of any dwelling associated with this permission details of the method of construction of the dwelling shall be 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.

NOTES TO APPLICANT

1. 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.

2. Applicants(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 with the time limits specified in Section 59 of the Act.

3. 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 the permission.

4. 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 date, from the date of the requisite approval for the last such matter being obtained), whichever is later. If the development has not commenced within this period then this planning permission in principle shall lapse.

5. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.

6. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

7. Private drainage arrangements are also subject to separate regulation by Building Standards and SEPA.

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

9. An application to provide a drop kerb and verge crossover must be submitted to Road Network Manager prior to work commencing on site. A road opening permit to construct the footway/verge crossover to the Council's standards will be required.

10. Full details of the construction and extent of the footway required for Peaton Road must be submitted for approval to the Road Network Manager prior to any house construction work commencing on site.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 15/03112/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within the settlement boundary of Rahane. Development within settlement boundaries is also supported by Policy LDP DM1. Rahane is defined as a minor settlement within the adopted LDP. SG LDP HOU 1 is supportive of small scale development in minor settlements. The proposal for five houses therefore continues to accord with the land use designation and settlement strategy.

B. Location, Nature and Design of Proposed Development

This application is for the renewal of a previously granted Planning Permission in Principle (PPP) and therefore no finalised details of the design have been submitted. The application site measures approximately 1 hectare in size and the indicative plan of the plot layout shows five house plots which are all in excess of 1000 square metres. The land slopes downwards from west to east towards the Gare Loch. It is considered that the plots are of sufficient size and location to be able to accommodate dwellings which would not overlook or result in an unacceptable loss of privacy to neighbouring development.

A key consideration on the success of this proposal remains its integration with the wider settlement of Rahane. It is considered that this can be achieved through the planting of a strategic tree belt around the new settlement edge, the incorporation of important landscape features into the wider scheme, a good design and the careful selection of materials for both the houses and hard landscaping.

The applicant has submitted additional details sufficient to demonstrate that an acceptable layout could be achieved which would be in keeping with the rural character of the existing settlement. The detailed design and layout of the scheme is a matter for further consideration at the Approval of Matters Specified in Conditions (AMSC) stage.

The Supporting Statement however notes that it is intended that the site be developed incorporating the following features:

- A new native tree belt along the entire length of the new settlement edge;
- That the existing burn which crosses the shall be incorporated as an attractive feature within the development and that the trees growing up the burn will be retained where possible;
- Houses will be a maximum of one and a half storeys and materials shall include a prevalence of traditional stone and timber cladding;
- Stone from the existing dykes on the site will be reused and incorporated into the development;
- Road and driveway surfacing will be a mixture of both stone sett type pavements and natural gravel.

It is considered that subject to a satisfactory design layout and landscaping, the proposal would accord fully with policies LDP 3 and LDP 9.

C. Landscape Character and Impact on Woodland

Rahane is a minor settlement located on the western banks of the Gare Loch. The land slopes steeply upwards from the B833 with the application site being located high up on the western boundary of the settlement. A watercourse crosses the centre of the application site. There are a number of trees growing along the banks of the burn and the water feature combined with the trees provide a very attractive landscape feature on the site. SG LDP ENV 6 requires that, inter alia, adequate provision is made for the preservation of and planting of new woodland/trees. This part of the undeveloped settlement sits behind a band of mature trees located to the east of the site. These mature trees currently define and enclose the existing settlement and it is considered important that a further bank of trees be planted to enclose the western settlement boundary to give the new development a sense of inclusion with and belonging to the remainder of Rahane.

This approach is supported by the Council's Sustainable Design Guide which suggests that this may be a good approach in order to ensure that new dwellings sit more comfortably within their landscape settings. The incorporation of the watercourse into the design of the scheme is also considered to be important in terms of the visual amenity of the development. Consideration was given to protecting the trees which are currently growing up the side of the watercourse, however, an initial inspection has revealed that many are in poor condition. Taking account of this a condition is proposed requiring a tree survey and replanting proposals as necessary.

D. Infrastructure

The planning application form indicates that the development will be served by a private sewerage facility. There are no public sewers in the area and therefore the provision of a private sewage system in this location would be consistent with SG LDP SERV 1. As this application is at the "in principle" stage no details have been given of the private sewage system. However, given the size of the site it is considered that a suitable sewage treatment plant could be accommodated.

SG LDP SERV 2 requires the incorporation of Sustainable Urban Drainage Systems (SUDS) in developments. This requirement is also noted in SEPA's standing advice which requires SUDS for all developments with the exception of single dwelling houses and discharges to coastal waters. A condition is therefore proposed requiring full details of SUDS. The condition has been amended to reflect the updated version of the referenced design manual.

SG LDP SERV 5(b) requires developments to make provision for the collection, storage and recycling of waste. Full details of this are therefore required prior to the commencement of development and a condition is proposed requiring these details.

The Council's Flooding and Drainage Advisor and SEPA have both been consulted on this application due to the presence of a watercourse on the site. SEPA had originally objected to the proposals requiring further clarification of flooding matters relating to a watercourse on the land. Their objection was withdrawn by letter dated 17.03.16 following additional matters of clarification being provided by the applicant.

The Council's Flooding and Drainage advisor has confirmed that there would be no objections to the proposal subject to the provision of a Drainage Impact Assessment in order to ascertain the suitability of the surface water drainage for the development and the provision of SUDS details. He has recommended that subject to the re-imposition of conditions 4 and 5 of the original permission that a new PPP can be granted in this instance. Conditions 4 and 5 will be re-imposed in accordance with this advice.

The application is set within a Ministry of Defence (M.O.D) safeguarding zone. Discussions with the MOD have established a need to impose an additional condition on

the application to ensure that any housing which comes forward is of a structural design to comply with the requirements of the safeguarding zone. A condition to this effect will therefore require to be imposed on the grant of planning permission in accordance with SG LDP SERV 8.

E. Road Network, Parking and Associated Transport Matters.

The site will be accessed from Peaton Road by means of a private access. The Road Network Manager has advised that he would have no objections to the application subject to the imposition of similar conditions to those previously imposed upon 12/01287/PPP. It should be noted that alterations are proposed to condition 10 to reflect the circumstances of the current application with regard to footway provision. Further detailed commentary on this matter is set out at a later stage under the heading “Variation of Condition 10 of permission 12/01287/PPP”.

SG LDP TRAN 2 requires development to make appropriate internal layout provision for encouraging pedestrian and cycle access and linking developments with public transport facilities and routes. In addition to providing acceptable visibility splays, road widths and gradients, a footway is also required along Peaton Road from the east side of the proposed vehicular access linking in to the existing footway further down Peaton Road. This footway is considered necessary in order to facilitate safe pedestrian access to the B833 which is on a public transport route. With the provision of this footway, the proposal would accord with SG LDP TRAN 2 and also with the terms of SG LDP TRAN 5 which is supportive of off-site highway improvements where development would significantly increase vehicular or pedestrian traffic on substandard private or public approach roads.

SG LDP TRAN 4 details the vehicle access requirements of new developments. As the proposal is a small scale development not exceeding 5 houses, the development can be served by a private access. A number of sightline, road geometry, surfacing requirements and watercourse crossing details, as recommended by the Road Network Manager, are proposed as conditions in order to ensure that the proposal will comply with SG LDP TRAN 4.

Each of the five plots will require vehicle parking provision and turning in accordance with SG LDP TRAN 6 and associated parking standards set out in the adopted Plan. In the case of houses, two spaces are required in a house with up to three bedrooms and three spaces in house with four bedrooms or more. Again a condition is proposed to ensure that the proposal will accord with this policy.

The applicant considers that the wording of condition 10 of the previous permission 12/01287/PPP to be onerous and unreasonable. More specifically the applicant considers the extent of the footway required to be constructed as part of this application to be too great when judged against the extent of the permission. Before examining the wording and requirements of the condition itself, it is considered beneficial to briefly set out the basis upon which the footway provision was and continues to be sought by the Area Roads Engineer having regard to the requirements of SG LDP TRAN 2 and SG LDP TRAN 5.

Planning permission 12/01287/PPP is the single largest grant of planning permission for residential development accessing onto Peaton Road in terms of the number of dwellings units proposed. This application proposes five new family houses, the adjacent plot proposes only two and planning permissions more recently relate to only single houses. The application site is also the furthest away from the existing footway at the bottom of Peaton Road. At the time of granting the previous PPP it was considered essential that future occupiers of these houses should have a safe pedestrian route down the hill to access the bus stop on the B833.

The need for a development of this scale to have a safe footpath route to access public transport continues to be a substantive planning consideration. SG LDP TRAN 2 (B) states that:

*(B) Development shall make appropriate internal layout provision for encouraging pedestrian and cyclist access, **linking the development with public transport facilities and routes** or with locations that contain such facilities e.g. town centres; (officer emphasis)*

Officers consider that the provision of a safe footway, able to be used by all potential occupiers of the five dwellings, including those who may have mobility difficulties, remains an important planning objective associated with this application. Officers consider that providing a footway link from the application site down Peaton Road remains an important roads and planning requirement. The footway provision is also in accordance with the requirement for off-site roads improvements under SG LDP TRAN 5.

F. Variation of Condition 10 of permission 12/01287/PPP

Having established that the provision of a safe footway linkage from the application site to the B833 remains a substantive and important planning requirement, it is necessary to consider whether the wording of condition 10 is reasonable, given circumstances at the present time.

Condition 10 currently states that:

Pursuant to Condition 1 - no development shall be commenced in respect of any individual building until details of a footway from the east side of the development vehicular access to the existing footway on the east side of Peaton Road near the junction with Shore Road is submitted to and approved in writing by the Planning Authority. This footway shall be constructed to the satisfaction of the planning authority prior to the occupation of the first dwelling house.

Reason: In the interests of road safety and the creation of link to the public transport facility.

It is well established that conditions should be read having regard to their plain English meaning. The wording of condition 10 currently requires a footway from the east side of the development vehicular access to the “existing footway” on the east side of Peaton Road “near” the junction with Shore Road.

As a point of information, Members should note that all planning conditions are required to meet “six tests” as set out in Circular 4/1998 “The Use of Conditions in Planning Permissions”. These tests are that a condition must be:

- 1) Necessary
- 2) Relevant to Planning
- 3) Relevant to the Development to be Permitted
- 4) Enforceable
- 5) Precise
- 6) Reasonable

Officers are aware through discussions with the agent that it is the view of the applicant that the extent of the footway provision should be limited to cover only the shared site

frontage between the road and the application site from the new access point down the hill on its eastern side.

Officers have therefore examined in some detail the planning history of new dwellings which have been both approved and take access onto Peaton Road, and in considering this matter have identified three other planning permissions which should be regarded as material to the wording of condition 10 as set out below:

- 08/00591/DET

Permission granted for a dwellinghouse on plot 6. Approved plans indicated provision of a footway along the application site frontage on Peaton Road.

- 09/00729/DET

Permission granted for a dwellinghouse on plot 7. This also required the provision of a footway with a condition imposed to ensure its provision along a defined length at the bottom of Peaton Road.

Members are requested to note that the footway provision associated with 08/00591/DET and 09/00729/DET is currently subject to ongoing enforcement investigations and separate enforcement reports on these are presented to this meeting. These are not matters which can be reported in a publicly available document.

However, as set out below it is considered essential that a continuous footway provision is made and therefore members will be requested to authorise the serving of appropriate enforcement notices in respect of applications 08/00591/DET and 09/00729/DET

In the event that these notices are either not agreed or are successfully appealed it will be necessary for this application to provide the required footway to ensure that a safe and continuous footway from the application site to the existing footway is provided. If any notices authorised to be served are either not appealed or are unsuccessfully appealed then footway provision will be addressed through this mechanism and not through the current application.

Members are requested to have regard to the separate enforcement reports relating to 08/00591/DET and 09/00729/DET which provides greater clarity on these matters.

- 13/00732/PPP(currently subject to renewal application 16/00115/PPP)

Following the grant of planning permission for 12/01287/PPP planning permission was granted for two additional houses on land immediately adjoining, and to the east of, the current application site which required the provision of a footway along its shared boundary with Peaton Road.

Officers consider that if this application is implemented in advance of the current application then the footway along the frontage of this application site will require to be provided separately and therefore this will not require to be provided by the current application. However if this planning permission is implemented in advance of the adjoining permission, there are no powers to require the adjoining permission to be implemented, and therefore the footway provision must be provided by the current application.

Having regard to the planning history, ongoing enforcement investigations (08/00591/DET and 09/00729/DET) and the subsequent grant of PPP under

13/00732/PP adjoining the site, officers consider that different circumstances now exist to those when the original grant of PPP was made and condition 10 was originally framed and imposed.

In respect of condition 10, what has not changed is that the provision of a continuous footway to serve occupants of this five house development remains essential to ensuring a safe means of access from the site to public transport. Therefore the provision of a safe and continuous footway, and the certainty of this being provided if the permission for five houses is implemented, is a critical and defining matter to the renewal of this PPP. Officers are therefore content that the provision of a continuous and safe footway under condition 10 remains proportionate and necessary having regard to the terms and scale of permission 12/01287/PPP which is currently subject to renewal.

The recommended alterations to condition 10 set out below retain the requirement to provide a continuous and safe footway to serve the development, yet allow for current circumstances and other actions which can be reasonably foreseen to be taken into account. In plain terms, if a section of footway is secured by another means prior to the implementation of this permission, then it does not have to be provided under condition 10. However if this planning permission is implemented in advance of the provision of a footway by other means, then the requirement for a safe and continuous footway to be provided under condition 10 will be retained.

For the reasons set out above it is recommended that condition 10 be amended to read as follows:

Pursuant to Condition 1 - no development shall be commenced in respect of any individual building until details of a footway from the east side of the development vehicular access to the existing footway on the east side of Peaton Road near the junction with Shore Road is submitted to and approved in writing by the Planning Authority. This footway shall be constructed to the satisfaction of the planning authority prior to the occupation of the first dwelling house.

The above notwithstanding, this condition shall not apply in respect of any part of the said footway that has been provided, or is in the course of being provided, by a third party to the satisfaction of the Planning Authority prior to development being commenced in respect of any dwelling associated with this grant of permission.

Reason: In the interests of road safety and the creation of a link to the public transport facility.

G. Additional Material Considerations

The continued adherence of the proposal to the recently adopted statutory planning framework comprising the LDP and SG provides materiality and weight to the previous grant of PPP on the site for exactly the same proposals. The granting of planning permission in principle for 12/01287/PPP therefore remains a substantive material consideration which favours the approval of the current application.

H. Conclusion and Recommendation

As this is an "in principle" application not all design details have been given, however, sufficient information has been submitted in respect of the previous grant of 12/01287/PPP to be able to demonstrate that the application site would be capable of accommodating five houses in accordance with all other relevant policies contained with the adopted LDP and SG. As this is a renewal of this previous application is it

appropriate to found upon those previous submissions in reaching the current determination.

In respect of the variation of condition 10, Officers agree that an alteration of the condition is appropriate and amended wording is suggested.

Subject to the imposition of appropriate conditions it is considered that the proposals are in accordance with the new Local Development Plan and Supplementary Guidance and that Planning Permission in Principle should be renewed.