

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: 16/02835/PP
Planning Hierarchy: Local
Applicant: Oilfast Limited
Proposal: Proposed oil depot, comprising the erection of 2 portable buildings, installation of 4 oil storage tanks, 3 arm skid and septic tank and erection of metal fence enclosure
Site Address: Yard, Oban Airport, Ledaig, Oban

DECISION ROUTE

Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of two portable buildings
- Installation of septic tank and soakaway
- Installation of external lighting
- Erection of fence
- Installation of 4 oil storage tanks

(ii) Development Not Requiring Express Planning Permission

- Use of Site for Class 6 Purposes

The use of the site as an oil distribution depot falls fully within Class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997. The site has previously been used by the Councils Roads Department for the strategic storage of salt for roads treatments between 2010 and 2014 and also previously in the late 1990's. The site was also used to store construction materials. The Area Roads Department has confirmed that the depot had been in operation from at least the early 1980's. There is no planning history at the site and it is considered that this previous use as a Roads Depot has long since been established and is lawful.

A use may be carried on at a site even if at that moment there is no activity on site. A lawful use will survive a lengthy period of inactivity on the land. Abandonment is possible in relation to prior use though not in relation to rights acquired under a planning permission still capable of being implemented according to its terms. There is some debate as to whether a use instituted under a planning permission can be abandoned by lack of use. Conversely, if a use is not lawful then it will need to be actively carried out for the limitation period to become lawful.

As with most court led concepts related to planning law 'abandonment' this continues to create confusion. The most recent judgement on the matter came from the Court of Appeal in Hughes v Secretary of State for the Environment (2000). This case related to a house that had been unused since 1960, and was bought in 1990. It has become dilapidated and the applicant wished to rebuild. In this case it was held that the residential use had been abandoned. The test was objectively looking at the intention of the owner, the condition of the building, the period of non-use, and whether or not there had been any intervening use.

The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The Site has been actively marketed by the Council's Estates Department for rent for a use commensurate with the airport. The site has been used as recently as 2014 by the Roads Department for the strategic storage of salt for roads treatments. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned.

(iii) Other specified operations

- Installation of 3 arm loading skid
- Utilise existing vehicular access
- Connection to public water network

(B) RECOMMENDATION:

That permission be Granted subject to the conditions, reasons and informative notes set out in this report.

(C) CONSULTATIONS:

Area Roads Oban	01.11.2016	No objections subject to conditions in relation to onsite parking provision.
Scottish Water		No response to date, assumed no objections
Environmental Health	06.12.2016 and 04.01.2016	No objections
Trading Standards	17.11.2016	No objections
Oban Airport	29.11.2016	No objections subject to landscaping and lighting being consistent with CAA guidance.

Transport Scotland	18.11.2016	No objections
Civil Aviation Authority		No response to date, assumed no objections.
Core Paths	19.12.2016	No objections
SEPA	08.12.2016	No objections subject to advice for the applicant.
Ardchattan Community Council	01.12.2016	Object to the proposal raising concern about the proximity of the development to the residential Travelling Persons Site. Specific concern is raised in respect of potential conflict between children walking to/from the school bus and HGV traffic; the potential for noise disturbance to a residential area; safety concern in respect of the storage of large volumes of flammable fuel close to a residential caravan area; and potential conflict with the Sustrans Route 78 cycle path which may use part of the access road as its route.
Health and Safety Executive	14.12.2016	No objection

(D) HISTORY:

16/02464/PREAPP

erection of fence, 2 Portacabins and oil storage tanks, Advice issued 15.09.2016.

(E) PUBLICITY:

ADVERT TYPE:
Regulation 20 Advert Local Application
EXPIRY DATE: 01.12.2016

(F) REPRESENTATIONS:

(i) Representations received from:

- Yes, Representations have been submitted from 20 individuals in response to this planning application.

Heather Belshaw, 3 Torinturk, (02.12.2016)

Karen Aspinall, The Bunker, North Connel, PA37 1RW, (20.11.2016)
Gail Brack, The Mains, Hill Street, Oban PA34 5DG, (08.12.2016)
Bella Stewart, 9 Keil Gardens, Benderloch, PA37 1SY, (08.12.2016)
Margaret Johnstone, 1 Kenmore Gardens, Bonawe, PA37 1RJ, (08.12.2016)
E Haggart, 22 Kenmore Gardens, Bonawe, PA37 1RJ, (08.12.2016)
D MacDonald, 16 Keil Gardens, Benderloch, PA37 1SY, (08.12.2016)
Mr N Travers, Pitch 5, Ledaig TP Site, Oban, PA34 1NY, (08.12.2016)
Mrs Donna Stewart, Pitch 7, Ledaig TP Site, Oban, PA34 1NY, (08.12.2016)
Mr Peter Stewart, Pitch 8, Ledaig TP Site, PA34 1NY, (08.12.2016)
Mr James MacDonald, Pitch 4, Ledaig TP Site, PA£\$ 1NY, (08.12.2016)
Mrs Elizabeth Brown, Pitch 4, Ledaig TP Site, PA34 1NY, (08.12.2016)
William MacDonald, 33 McKelvie Road, PA34 4GB, (08.12.2016)
Mrs Elizabeth MacDonald, 33 McKelvie Road, PA34 4GB, (08.12.2016)
Mary MacDonald, Pitch 1 & 2, Ledaig, PA34 1NY, (08.12.2016)
John MacDonald, Pitch 1 & 2, Ledaig, PA34 1NY, (08.12.2016)
John MacDonald, Pitch 3, Ledaig, PA34 1N, (08.12.2016)
Alastair MacGregor, Menzies House, Glenshellach Business Park, PA34 4RY (08.12.2016)
Ms Breege Smyth, Ryvoan, North Connel, PA37 1RD, (09.12.2016)
Lyndsey Ferguson, 39 Easdale Island, PA344TB, (09.12.2016)

Representations have also been submitted by one MP and 3 Councillors in response to the planning application who are as follows:

Councillor Anne Horn, Councillor Ward 2, Kintyre and the Islands, (12.12.2016)
Councillor Julie McKenzie, 37 Creag Bhan Village, Oban, PA34 4BF, (08.12.2016)
Councillor Isobel Strong, Lillybank, Glebelands, Rothesay, PA20 9HN (14.12.2016)
Brendan O'Hara MP Argyll and Bute, House of Commons (12.12.2016)

(ii) **Summary of issues raised:**

- **The area has not been actively used by the Roads Department for some time and is merely an area of unserviced hardstanding.**

Comment: The Area Roads Performance Manager has confirmed that the site was previously used by the Roads Department for the strategic storage of salt for roads treatments between 2010 and 2014 and also previously in the late 1990's. Typical volumes delivered or reloaded and removed in these periods was between 500 tonnes and 1500 tonnes which involved multiple HGV movements over a one or two day period. The traffic volumes to the depot were possibly less than 100 vehicle movements per year. The site was also used to store construction materials. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning (Use Classes)(Scotland) Order 1997. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The site has been actively marketed by the Council's Estates Department for rent for a use commensurate with the airport. The site has been used as recently as

2014 by the Roads Department for the strategic storage of salt for roads treatments. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned.

- **Tankers pose a threat to pedestrians, children, animals and cyclists.**

Comment: Both the Area Roads Engineer and Transport Scotland have been consulted and have raised no objections to the proposed development.

- **The residents of Ledaig Travelling Persons Site have been discriminated against as they do not appear to have been given the same respect/value as other residential developments in Argyll.**
- **Neighbouring community have not been consulted and recognised in the application.**

Comment: Neighbour Notification and Publicity has been carried out in accordance with Regulation 18 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Residents from the Ledaig Travelling Persons site were afforded an extension of time in which to submit representations to this planning application. In all cases the Council must make decisions in line with the development plan unless 'material considerations' justify going against the plan. The proposed development is a Local Development that does not legally require to be the subject of the PAC process and so therefore there has been no requirement for any neighbours to be consulted prior to the submission of the application. The concerns of the objectors and nearby Travelling Persons Site will be taken into consideration during the determination of this application in the same manner as all other planning applications.

- **Noise disturbance from early morning HGV movements.**

Comment: The site benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot does not require the benefit of planning permission. The determining issues for the application relate to the site layout and design. The Environmental Health Unit has been consulted and has raised no objections to the proposed development.

- **Noise pollution and fumes**

Comment:

See comment above. The use of the site for class 6 purposes does not require planning permission. The Environmental Health Unit has been consulted and has raised no objections to the proposed development.

- **Large volume of flammable fuels being stored close to a residential caravan area presenting risks to safety in the event of a fire/explosion.**
- **Has a blast radius been taken into account yet and has a risk assessment been completed to address the even of fire or**

explosion?

Comment: The site has previously been used for the storage and distribution of road materials which falls within use class 6 – Storage and Distribution of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The use of the site for the storage and distribution of oil at the proposed scale does not constitute a material change of use of the land that would require planning permission.

Hazardous Substances consent is required for the presence of a hazardous substance on, over, or under land (which includes presence in buildings and on structures) unless the aggregate quantity of the substance present is less than the controlled quantity for that substance as specified in the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. The applicant has confirmed that the maximum quantity of fuel that would be stored at the site if all tanks were completely full would be 243 tonnes. This amount is significantly less than the controlled quantity specification of 2,500 tonnes as specified by Schedule 1, Part 2 of the Regulations.

Trading Standards have been consulted and have raised no objections as the proposed development does not involve the storage of petroleum.

The Council is therefore not responsible for the regulation of the proposed level of fuel that is proposed to be stored at the site.

The Health and Safety Executive (HSE) has been consulted and has raised no objections to the proposed development.

The HSE is responsible for regulating the storage of flammable liquids in tanks. The developer should liaise directly with HSE with a view of implementing the guidance contained within HSG176. Health and Safety Inspectors seek to secure compliance with the law and may refer to this guidance.

- **ACHA has not been aware of any fuel depot type planning application in such a close proximity to any of our residential developments.**

Comment: All planning applications are considered on their own merits. Whilst ACHA may not be aware of any fuel depots near any of their residential developments this does not categorically rule out the operation of a fuel depot in the vicinity of a residential area. The Council is not responsible for the regulation of the level of fuel that is proposed to be stored at the site. The Health and Safety Executive has been consulted and has raised no objections to the proposed development.

- **An alternative option well away from tenants should be explored at the Airport.**

Comment: This is not a material planning consideration. The application has been submitted for development at a specific site for which the Council are legally obligated to assess and process in accordance with Planning Legislation.

- **The proposed development would block a well used footpath leading to the field and the beach beyond which locals use daily.**

Comment: The Access Manager has been consulted and has raised no objections to the proposed development. The proposed development will not prejudice any public rights of way and core paths. The proposed development will not have a significant adverse effect upon public access interests and will comply with SG LDP TRAN 1. See Appendix A assessment below.

- **The access may conflict with Sustrans Route 78 Cycle path which is still under design/development and is also likely to use the access road as part of its route.**

Comment: Access to the site uses a short section (800m) long of the National Cycle Network, Oban to Fort William Route 78. The Access Manager has been consulted and has raised no objections to the proposed development. The Access Manager has advised that Sustrans are on record as stating that a minor road is suitable for unaccompanied 11 year olds to use provided that there are less than 1,000 vehicular movements per day. It is unlikely that the proposed development will result in more than 1,000 vehicular movements per day on this access. The Access Manager has advised that it may be appropriate to request that signs are erected advising motorists that there is an advisory speed limit in place and that they can expect to encounter pedestrians, cyclists and horse riders using the road. A condition will therefore be required to this effect. The proposed development will not have a significant adverse effect upon the public access interests of the National Cycle Network and will comply with SG LDP TRAN 1.

- **No pedestrian footpath at side of road**

Comment: Both the Area Roads Engineer and Transport Scotland have been consulted and have raised no objections to the proposed development. There has been no requirement for the provision of a pedestrian footpath at the side of the road. The site has previously been used for the storage and distribution of road materials which falls within use class 6 – Storage and Distribution of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The use of the site for the storage and distribution of oil at the proposed scale does not constitute a material change of use of the land that would require planning permission. The previous use of the site by the Roads Department involved a number of HGV deliveries to and from the site on an ad hoc basis. This use was unrestricted and potentially any type and quantity of vehicle could enter the site at any time. Whilst the proposed use of the site as an Oil Depot will result in an intensification of distribution (ie greater no of vehicle movements) planning permission is not required for the site to be reused for class 6 purposes. It would therefore be unreasonable to request the provision of a footpath.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

Is a Section 75 agreement required: No

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

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

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

'Argyll and Bute Local Development Plan' (Adopted March 2015)

LDP STRAT 1 – Sustainable Development
LDP PROP 2 – The Proposed Allocations
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 5 – Supporting the Sustainable Growth of Our Economy
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 14 – Landscape
SG LDP ACE 1 – Area Capacity Evaluation (ACE)
SG LDP BAD 1 – Bad Neighbour Development
SG LDP BUS 2 – Business & Industry Proposals in the Countryside Zones

SG LDP SERV 1 – Private Sewage Treatment Plants and Wastewater (i.e drainage) system
SG LDP SERV 2 – Incorporation of Natural Features / SuDS
SG LDP TRAN 1 – Access to the Outdoors
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision
SG LDP TRAN 7 – Safeguarding of Airports
SG LDP Sustainable – Sustainable Siting and Design Principles
SG LDP DEP – Departures from the Local Development Plan

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

- Third party representation
 - Scottish Planning Policy (SPP)
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(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 - Landowner

(O) Requirement for a hearing: No

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

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

The application has been the subject of 24 objections which largely relate to the general reuse of the site and potential impacts on the amenity of residents of the Travellers Site to the north. However, the use of the site for Class 6 – Storage and distribution purposes has been established with its previous and most recent use as a Roads Depot Storage and Distribution site and does not require planning permission. The determining issues for this application, therefore, solely relate to siting, layout and design issues.

It is not considered that the application raises any complex or technical issues and as the majority of the representations relate to the use which is not up for consideration in this planning application it is not considered that a hearing would add value to the process. It is therefore recommended that Members do not hold a hearing prior to the application being determined.

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

Planning permission is sought for the formation of an oil depot comprising the erection of two portable buildings, installation of oil storage tanks, 3 arm skid, septic tank and the erection of a metal fence to enclose the site.

The previous occupant of the site was the Council's Roads Department who used the site primarily for the storage and distribution of salt. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning) (Use Classes) Order 1997.

Consideration requires to be given to whether this use has been abandoned. This use was in operation until 2014 and there has not been any other use of the land since then. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The Site has been actively marketed by the Council's Estates Department for rent for a use commensurate with the airport. The site has been used as recently as 2014 by the Roads Department for the strategic storage of salt for roads treatments and prior to this it has been in use from at least the 1980s. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned. As the use of the site has not been abandoned, it benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot also falls fully within class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997. An application for planning permission is not therefore required for the use of the land and the determining issues for this application only relate to the site layout and design.

As this site has an unrestricted class 6 use issues relating to intensification are not a material consideration provided that the proposed use remains wholly within class 6. It would be ultra vires of the Planning Authority to refuse the application for any reasons associated with its use.

The determining issues for this application therefore relate to:

- the acceptability of the proposed modular buildings in terms of their scale and design
- The appearance and scale of the proposed tanks
- Any road safety transport issues emanating from the proposed layout of the site

The site is located within the Countryside Zone as defined by the adopted Local Development Plan. The plan is supportive of small scale redevelopment within appropriate redevelopment sites. The proposed development is considered to be a small scale development as the footprints of the two modular buildings measure less than 200 square metres. The footprint of the four proposed tanks are not included

within this calculation as they do not fall within the definition of buildings.

The applicant has confirmed that the maximum amount of fuel that would be stored at the site if all tanks were full would be 243 tonnes. This falls significantly short of the threshold of 2,500 tonnes which would require Hazardous Substances Consent. The operators of the site will however have to comply with Health and Safety Guidance in relation to the storage of flammable liquids in the oil tanks.

The Council's Trading Standards Section does not have any responsibilities for the type of fuel to be stored at the site.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site lies within a designated Area for Action ref AFA 5/6 which encourages development of this strategic transport hub including compatible non-airport uses. Policy LDP 5 identifies that the success of our local economy is fundamental to Argyll and Bute's future prosperity, helping to retain population and attract new people to the area. As such the full economic benefits of new developments will be taken into account in our assessment of new development proposals. The reuse of the site will provide an economic benefit by providing jobs and vital services to the locality. The site is a marketable site which is well located in terms of the settlement and spatial strategy.

Policy LDP DM 1 and SG LDP BUS 2 are supportive of small scale business and industry developments on appropriate infill, rounding-off and redevelopment, brownfield locations within the Countryside. The site presents a suitable opportunity for small scale redevelopment in accordance with LDP DM 1 and SG BUS 2.

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

The proposed development will be served by an existing vehicular access which comes off of the A828 Trunk Road. Both the Area Roads Engineer and Transport Scotland have been consulted and have raised no objections to the proposed development. The Area Roads Engineer has requested a condition with regards to the provision of parking and turning for four lorries and five cars within the application site. The existing access regime is considered to be acceptable and so therefore there is no requirement for any commensurate improvements. The proposal is considered to be consistent with the relevant provisions of policy LDP 11, SG LDP TRAN 4, and SG LDP TRAN 6.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The proposal provides for a small scale Class 6 reuse of an existing brownfield storage and distribution site within the countryside zone. The development is considered to be of appropriate scale, siting and design having regard to its location within the Area for Action promoting development of the Airport as a Strategic transport hub and will secure existing employment in a manner consistent with the

aspirations of policy LDP 5.

The development accords with the Local Development Plan in all other respects.

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

No Departure

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

Author of Report: Lesley Cuthbertson **Date:** 22.12.2016

Reviewing Officer: Peter Bain **Date:** 23/12/16

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 16/02835/PP

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 19.10.2016; and the approved drawings numbered 1-2; and stamped approved by Argyll and Bute Council.

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

Standard Note: In terms of condition 2 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non material amendment (NMA) should be made in writing to Planning Services, 1A Manse Brae, PA31 8RD which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

2. Notwithstanding the effect of Condition 1, the portable buildings hereby approved shall be finished in dark recessive materials. No development shall commence until written details of the type and colour of materials to be used in the construction of the portable buildings and fuel tanks; have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

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

3. Notwithstanding the provisions of Condition 1, no development shall commence until full details of the layout and surfacing of a parking and turning area to accommodate 4 lorries and 5 vehicles within the application site have been submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers. The duly approved scheme shall be implemented in full prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

4. Notwithstanding the provisions of Condition 1, no development shall commence until full details of signage to be erected along the private access advising motorists that there is an advisory speed limit in place and that they can expect to encounter pedestrians, cyclists and horse riders using the road have been submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads Engineers. The duly approved scheme shall be implemented in full prior to the site first being occupied and used and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

5. No development shall commence until details of the screen planting in the north eastern corner of the site has been submitted to and approved in writing by the Planning Authority. The following details will be required to be submitted:

- i) The location, species and size of every tree/shrub to be planted;

- ii) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the landscaping works shall be compliant with the CAA's Safeguarding of Aerodromes Advice Note 3 "Potential Bird Hazards from Amenity Landscaping and Building Design" and will 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.

6. Notwithstanding the provisions of Condition 1, no development shall commence until details of the intended means of surface water drainage to serve the development have been submitted to and approved in writing 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 maintained as such thereafter.

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

7. External storage within the planning unit shall only take place on land designated for such purpose and which has the prior written approval of the Planning Authority.

A request for the written approval of the Planning Authority shall include the extent and location of the proposed storage area(s), the types of materials to be stored, maximum stacking heights and details of any means of enclosure required.

Reason: In order to protect the amenity of the locale.

8. No development shall commence until full details of any external lighting to be used within the site has been submitted to and approved in writing by the Planning Authority. Such details shall provide for a lighting scheme compliant with the CAA's Safeguarding of Aerodromes Advice Note 2 "Lighting Near Aerodromes". Details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

No external lighting shall be installed except in accordance with the duly approved scheme.

Reason: In order to avoid light pollution in the interest of amenity and the safeguarding of Oban Airport.

9. The portable buildings hereby permitted shall be removed from the site within

10 years from the date of planning permission having been granted.

Reason: To define the permission and in order to protect the amenity of the locale.

NOTE TO APPLICANT

- **The length of the permission**: This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- The applicant is advised to contact Scottish Water directly to discuss securing a connection to their infrastructure.
- The applicant is advised to have regard to the consultation response from SEPA in respect of regulatory requirements under the Water Environment (Controlled Activities)(Scotland) Regulations 2011.
- The applicant is advised to have regard to the consultation response from Oban Airport which includes technical advice in relation to landscaping and lighting in the vicinity of airports.

Regard should be had to SEPA's consultation comments in relation to the proposed development.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 16/02835/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

This is a proposal seeking planning permission for the formation of an oil depot, comprising the erection of 2 portable buildings, installation of 4 oil storage tanks, 3 arm skid and septic tank and erection of metal fence enclosure at the Yard, Oban Airport, Ledaig, Oban. The previous occupant of the site was the Council's Roads Department who used the site primarily for the storage and distribution of salt. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning (Use Classes) (Scotland) Order 1997. The site is a brownfield location within the countryside zone which is presently comprised of a large concrete rectangular hardstanding area which presents a suitable opportunity for reuse for the purposes of storage and distribution.

Consideration requires to be given to whether the previous Class 6 use has been abandoned. This use was in operation until 2014 and there has not been any other use of the land since then. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 Use. The site has been actively marketed by the Council's Estates Department for rent for a use commensurate with the airport. The site has been used as recently as 2014 by the Roads Department for the strategic storage of salt for roads treatments. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned. As the use of the site has not been abandoned, it benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot also falls fully within class 6 of The Town and Country Planning (Use Classes) (Scotland) Order 1997 therefore the proposal does not constitute a material change in use of the land that would require express planning permission.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015, the application site lies within a designated Area for Action ref AFA 5/6. AFA 5/6 is identified in the Action Programme as a strategic development site primarily focussed on the development of this important transport hub servicing the wider north-west coast and fragile islands. Proposals within this Area for Action are required to support and enhance the existing airport facilities and its uses; however the Action Programme also sets out the aspiration to further consider the potential uses of Oban Airport interface including for the use of land/water for compatible non-airport purposes. The proposed depot is intended to distribute a range of fuels, but primarily heating oil throughout Argyll although there may be some prospect that this could also service the airport facilities and users of the airport. The proposed formation of an oil depot at this site will complement the existing Airport Facility as a transport/distribution hub and this use will be compatible with the facilities in the AFA.

Policy LDP 5 identifies that the success of our local economy is fundamental to Argyll and Bute's future prosperity, helping to retain population and attract new people to the area. As such the full economic benefits of new developments will be taken into account in the assessment of new development proposals. The reuse of the site will provide an economic benefit by providing jobs and vital services to the locality. The site is a marketable site which is well located in terms of the settlement and spatial strategy.

The site lies within the designated Countryside Zone wherein the provisions of Policy LDP DM 1 and SG LDP BUS 2 gives encouragement to sustainable forms of small scale development on appropriate infill, rounding off and redevelopment sites. The provisions of SG LDP BUS 2 also sets out a preference for the reuse of brownfield locations, a requirement to comply with technical standards in relation to access, parking, and servicing and that the design, scale and siting of the development respects existing townscape/landscape character and appearance.

The proposed fence and portable buildings are required in order to facilitate the intended use of the site. The proposed portable buildings will be sited on land to the immediate southern end of the hardstanding and will be bounded by the site entrance to the west and the public road which runs along the southern boundary of the site. The proposal is viewed as a small scale redevelopment required to facilitate the reuse of the area of hardstanding.

B. Location, Nature and Design of Proposed Development

The site has previously been used by the Roads Department for the strategic storage of salt for roads treatments between 2010 and 2014 and also previously in the late 1990's. The Area Roads Department has confirmed that the depot had been in operation from at least the early 1980's. There is no planning history at the site and it is considered that this previous use as a Roads Depot has long since been established and is lawful. Typical volumes delivered or reloaded and removed in these periods was between 500 tonnes and 1500 tonnes which involved multiple HGV movements over a one or two day period. The site was also used to store construction materials. This use falls within Class 6 – Storage and Distribution of The Town and Country Planning (Use Classes) (Scotland) Order 1997. The site is in a neat and tidy condition and would appear ready for a business to move in and operate a further Class 6 use. In addition it is the intention of the Council to rent the land with this established Class 6 use. In these circumstances it is considered that there is sufficient evidence to indicate that the Class 6 use has not been abandoned.

This depot was used for the storage and distribution of road materials which falls within use class 6 – Storage and Distribution of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The use of the site for the storage and distribution of oil at the proposed scale does not constitute a material change of use of the land that would require planning permission. The agent has advised that it is currently proposed that the depot would have four visits per day by 26 tonne oil tankers plus a daily visit from a 44 tonne oil tanker from Grangemouth to replenish supplies. The previous use of the site by the Council was not the subject of any planning conditions restricting hours of operation or activities.

Oban Airport is located 5 nautical miles northeast of Oban, near the village of North Connel. The site lies in a set-back position from the main A828 Trunk Road. The site forms part of the Airport Facility and is set against a loop road. The land is low lying and is set at the same level as the runway and airport site. A large concrete area of hardstanding occupies the site. It is proposed to form an Oil Depot at the site largely on the area of hardstanding. The proposed Oil Depot will comprise of:

- 2 portable buildings each measuring 10.24m x 3.39m x 2.57m LxBxH
- 4 Oil Storage Tanks (one with a fuel capacity of 67,500 litres, two with a fuel capacity of 94,770 litres and one with a fuel capacity of 116,789 litres)

- 3 Arm Loading Skid
- Septic tank with soakaway
- Oil interceptor with soakaway
- Surface water drain
- External lighting
- Parking and turning area
- 2.3 metre high metal enclosure fence

The proposed portable buildings are not of particularly high design quality but are simple, functional buildings and are considered to be acceptable within the context of existing development at the airport and the nearby Ledaig Travelling Persons Site. There is an existing portacabin building beside the Airport Terminal which is similar in form to the proposed portable buildings. The site is low lying and contained and forms part of a larger AFA which is based around the functionality of the Airport. The site is not readily visible from the trunk road to the east. The site is significantly backdropped when viewed from the coast to the west with higher ground to the east. The proposed development will have a very low profile and will have little or no impact on the surrounding landscape. On this basis, the proposed layout and design is considered to be acceptable. The proposed portable buildings are considered to be acceptable on a temporary basis given the non-permanent nature of the structures and so a condition will be required to ensure that the portable buildings are removed after 10 years with a view to the developer siting more permanent high quality structure or structures. Details of the proposed finishes of the buildings have not been submitted and a condition will be required to ensure that these details are submitted. Details of the dimensions and colour of each fuel tank will also be required via condition. The proposed development is of an appropriate design which will be compatible with its surroundings. The proposed development will therefore accord with the provisions of policy LDP 9 of the Local Development Plan. The proposed development will also accord with policy LDP 3 which encourages sustainable forms of development that seek to protect, conserve and where possible enhance the natural, human and built environment.

An amended Site Plan has been submitted to incorporate some landscaping. The applicant has been working with the Vehicle and Operation Services Agency (VOSA) to ensure the safe entry and exit of vehicles to the site. One of the agreed conditions with VOSA is that foliage be kept to a minimum to ensure maximum visibility. The amended site plan shows a proposed area of screen planting in the north eastern corner of the site alongside the private road. A condition will be required with regards to the specific details of this proposed landscaping. The proposed landscaping measures are considered acceptable on the basis that the applicant has limited options given the safeguarding criteria of the Airport and VOSA.

The proposal is considered to be compatible with the existing landscape/townscape setting and will accordingly comply with the relevant provisions of Policies LDP 3, LDP 9 and SG LDP ENV 14 and SG Sustainable Design Guidance which seek to ensure developments are compatible with their setting, are of a suitable scale, design and finish, and do not have an adverse impact on the privacy and amenity of neighbouring properties.

C. Bad Neighbour Development and amenity of neighbouring residents

The site boundary lies approximately 21 metres to the west of Ledaig Travelling Persons Site. There is a degree of separation between the application site and the Travelling Persons Site with recently upgraded road and a steep embankment separate both sites. The Travelling Persons Site occupies an area of ground that is

considerably higher than the application site and it is not readily visible from the Travelling Persons Site. The steep embankment is overgrown with vegetation which provides the Travelling Persons Site with an element of containment. The use of the site as a storage and distribution area is an established land use and the operation of the site for this purpose does not require the benefit of planning permission. It is the associated portable buildings, equipment and drainage provisions that are required to physically form the proposed Oil Depot that require the benefit of planning permission. It is considered that the proposed layout and design of the depot is suitable at this location.

The site lies within a designated Area for Action where proposals are required to support and enhance the existing airport facilities and its uses. This Area for Action is owned by the Council and has been designated as an AFA since the 2009 Local Plan. This AFA throughout the Local Development Plan preparation process has involved extensive information-gathering, partnership working with key agencies and local communities, environmental assessment and public consultation. This AFA has been formally adopted by the Council as part of the plan preparation.

Concern has been raised by a third parties regarding the storage of fuel and potential implications in terms of storage of hazardous substances. The relevant primary legislation for the control of Hazardous Substances is the Planning (Hazardous Substances) (Scotland) Act 1997 which is given effect by The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. These Regulations ensure that hazardous substances can be kept or used in significant amounts only after the responsible authorities have had the opportunity to assess the degree of risk arising to persons in the surrounding area and to the environment. The purpose of hazardous substances consent is to ensure that this residual risk to people in the vicinity or to the environment is taken into account before a hazardous substance is allowed to be present in a controlled quantity. The extent of this risk will depend upon where and how a hazardous substance is to be present; and the nature of existing and prospective uses of the application site and its surroundings.

Hazardous Substances consent is required for the presence of a hazardous substance on, over, or under land (which includes presence in buildings and on structures) unless the aggregate quantity of the substance present is less than the controlled quantity for that substance as specified in the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015. The applicant has confirmed that the maximum quantity of fuel that would be stored at the site if all tanks were completely full would be 243 tonnes. This amount is significantly less than the controlled quantity specification of 2,500 tonnes as specified by Schedule 1, Part 2 of the Regulations. The applicant has also confirmed that their sites are required to comply with Health and Safety Executive guidance in relation to Storage of Flammable Liquids in Tanks which prescribes that tanks with a capacity less than 250m³ should be separated from buildings by a minimum of 10 metres. In this instance the distance between the proposed fuel tanks and the boundary of the Ledaig Travelling Persons Site is 30 metres.

Trading Standards, as petroleum authority, have been consulted and have raised no objections as the proposed development does not involve the storage of petroleum.

The Council is therefore not responsible for the regulation of the proposed level of fuel that is proposed to be stored at the site. The Health and Safety Executive has been consulted and has raised no objections to the proposed development.

The Health and Safety Executive is responsible for regulating the storage of flammable liquids in tanks. The developer should liaise directly with HSE with a view of implementing the guidance contained within HSG176. Health and Safety Inspectors seek to secure compliance with the law and may refer to this guidance.

Concerns have been raised by third party regarding potential noise pollution and fumes. The site benefits from a full unrestricted class 6 use. The use of the site as an oil distribution depot does not require the benefit of planning permission. The determining issues for the application relate to the site layout and design. The Environmental Health Unit has been consulted and has raised no objections to the proposed development. Any statutory nuisance caused by the operational site could be controlled through Environmental Health legislation.

Given that the use of the site for Class 6 purposes is established and the absence of any objection from Environmental Health Officers to the proposed new activity, it is considered unlikely that the development would give rise to any significant or unacceptable adverse impacts upon the amenity of the locale, including the residential amenity of the adjacent Ledaig Travelling Persons Site and is accordingly consistent with the relevant provisions of policy LDP 8 and SG LDP BAD 1.

D. Road Network, Parking and Associated Transport Matters

The site is set along a private access loop road serving the Ledaig Travelling Persons Site and Oban Airport which connects to the A828 Trunk Road. Transport Scotland has been consulted and has raised no objections to the proposed development.

The Area Roads Engineer has been consulted and has raised no objections to the proposed development. The Area Roads Engineer has requested a condition with regards to the provision of parking and turning for four lorries and five cars within the application site. The existing access regime is considered to be acceptable and so therefore there is no requirement for any commensurate improvements. The proposal is considered to be consistent with the relevant provisions of policy LDP 11, SG LDP TRAN 4, and SG LDP TRAN 6.

The previous use of the site by the Roads Department involved a number of HGV deliveries to and from the site on an ad hoc basis.(possible less than 100 vehicles per annum which equates to approximately 0.4 visits per day). This use was unrestricted and potentially any type and quantity of vehicle could enter the site at any time. The agent has advised that it is currently proposed that the depot would have four visits per day by 26 tonne oil tankers plus a daily visit from a 44 tonne oil tanker. Whilst the use of the site may represent an intensification no material change of use is being proposed which would require the benefit of planning permission.

Access to the site uses a short section (800m) long of the National Cycle Network, Oban to Fort William Route 78. The Access Manager has been consulted and has raised no objections to the proposed development and has advised that Sustrans are on record as stating that a minor road is suitable for unaccompanied 11 year olds to use provided that there are less than 1,000 vehicular movements per day. It is unlikely that the proposed development will result in more than 1,000 vehicular movements per day on this access. The Access Manager has advised that it may be appropriate to request that signs are erected advising motorists that there is an advisory speed limit in place and that they can expect to encounter pedestrians, cyclists and horse riders using the road. A condition will therefore be required to this effect. The proposed development will not have a significant adverse effect upon the public access interests of the National Cycle Network and will comply with SG LDP TRAN 1.

E. Drainage Arrangements

It is proposed to make a connection to the public water supply network. Scottish Water has been consulted and have not provided a response to date and are therefore assumed to have no objection to the proposal. The applicant should contact Scottish Water directly to discuss securing a connection to their infrastructure.

A septic tank with soakaway will be installed to service the proposed portable buildings. Sufficient detail has been supplied for this stage and detailed arrangements will be covered by Building Standards Legislation.

An ACO type surface water drain will be installed alongside the loading skid and oil tanks. This drain will feed into an oil interceptor which will connect to a surface water soakaway.

SEPA has been consulted and has raised no objections to the proposed development. SEPA has advised that the Oil Storage Regulations 2006 do not apply to the storage of oil on a premises if that oil is only being stored for the purposes of onward distribution to another location. SEPA have noted the intention to bund the tanks and have recommended that this is undertaken in line with the Pollution Prevention Guide on Above Ground Oil Storage Tanks. SEPA are responsible for enforcing The Water Environment (Oil Storage) (Scotland) Regulations 2006.

The proposal is considered to be consistent with the relevant provisions of policy LDP 10, SG LDP SERV 1, and SG LDP SERV 2.

F. Aviation and Safeguarding

The Station Manager at Oban Airport has been consulted and has raised no objections to the proposed development. It has been advised that any lighting and landscaping should be in accordance with CAA advice notices as previously instructed. An amended Site Plan has been submitted with supporting technical data giving details of the proposed lighting and the Airport Station Manager has confirmed that the lighting proposals are acceptable.

The CAA has been consulted and has not provided a response or requested an extension of time.

The proposal is consistent with the provisions of policy LDP 11 and SG LDP TRAN 7.