

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: 19/01124/PP

Planning Hierarchy: Local Development

Applicant: Mr C Kennedy

Proposal: Erection of dwellinghouse and formation of vehicular access

Site Address: Land East of Tigh Na Mara, Arinagour, Isle of Coll, Argyll and Bute

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Construction of vehicular access

(ii) Other specified operations

- Connection to public water main
 - Connection to public drainage system
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(B) RECOMMENDATION:

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

(C) HISTORY:

18/01538/PPP

Site for the erection of dwellinghouse. Withdrawn 22nd November 2018

(D) CONSULTATIONS:

Area Roads Authority

No objection subject to conditions. Report dated 12th June 2018.

Scottish Water

No objection. Letter dated 13th June 2019

Scottish Natural Heritage

Does not intend to offer formal comment on the application. E-mail dated 24th June 2019

SEPA

No objection. Letter dated 13th June 2019

Council Flood Risk Officer

No objection subject to condition. Report dated 11th July 2019

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing 11th July 2019.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development. However, the applicant has submitted numerous representations in support of his application. These are summarised in Section G of Appendix A below.

(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 e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:	No

(H) PLANNING OBLIGATIONS

(i) Is a Section 75 obligation required:	No
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(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:	No
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(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

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

LDP STRAT 1 – Sustainable Development
 LDP DM 1 – Development within the Development Management Zones
 LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
 LDP 8 – Supporting the Strength of our Communities
 LDP 9 – Development Setting, Layout and Design
 LDP 8 - Supporting the Strength of our Communities
 LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 14 – Landscape
 SG LDP ENV 20 - Development Impact on Sites of Archaeological Importance
 SG LDP HOU 1 -General Housing Development Including Affordable Housing Provision
 SG LDP SERV 2 - Incorporation of Natural Features / Sustainable Drainage Systems (SuDS)
 SG LDP SERV 7 - Flooding and Land Erosion – The Risk Framework for Development
 SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
 SG LDP TRAN 6 – Vehicle Parking Provision

Sustainable Siting and Design Principles

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

Argyll and Bute Sustainable Design Guidance 2006
 Scottish Planning Policy (SPP) 2014
 Planning Advice Note 72 (PAN 72), Housing in the Countryside
 Consultee Responses
 Isle of Coll Sustainable Design Guidance
 Isle of Coll Landscape Capacity for New Housing Report 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:	No
(O)	Requirement for a hearing:	No
(P)	Assessment and summary of determining issues and material considerations	

This is an application for the erection of a dwellinghouse on a site next to the property forming Tigh Na Mara, Arinagour, Isle of Coll.

In terms of the adopted Argyll and Bute Local Development Plan (LDP) the application site is located within the southern fringe of the Key Rural Settlement of Arinagour where Policy LDP DM 1 gives encouragement to sustainable forms of development on appropriate sites subject to compliance with other relevant policies and supplementary guidance.

A previous application for planning permission in principle was submitted for the same site (our ref: 18/01538/PPP) however this was withdrawn by the applicant prior to formal determination. A supporting statement and accompanying photographs have been submitted by the applicant which are considered in more detail in Appendix A.

The proposed site is located on the seaward side of the road next to the neighbouring guesthouse Tigh Na Mara which occupies a site on the opposite side of the public road. The stretch of land between the ferry terminal to the south and the small pier to the north on the seaward side of the road is rocky in nature and it is completely devoid of development.

The determining factors in the assessment of this application are whether or not this location is acceptable for the erection of a dwellinghouse having regard to its visual impact upon the landscape and its visual relationship with neighbouring properties and its integration with the existing settlement pattern.

In this case it is considered that this not an appropriate site for the erection of a dwellinghouse as the proposed development will have a materially harmful adverse impact upon the character and setting of the landscape and would be contrary to the established pattern of development.

This application would normally have been determined as a local application under the Council's agreed scheme of delegation. In this case the applicant has raised concerns regarding the way in which this, and other planning applications submitted by him, have been dealt with by the planning authority, and in respect of the conduct of the Planning Authority in general. Therefore, in order to provide enhanced transparency within the decision making process, it is considered that the planning application for the proposed development should be determined by Members.

(Q)	Is the proposal consistent with the Development Plan:	No
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(R)	Reasons why planning permission should be refused
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See reasons for refusal below.

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

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

Author of Report: Andrew Barrie

Date: 30thth July 2019

Reviewing Officer: Tim Williams

Date: 2nd August 2019

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION 19/01124/PP

1. In terms of the adopted Argyll and Bute Local Development (LDP) the application site is located within the Key Rural Settlement of Arinagour which is subject to the effect of Policy LDP DM 1 and Supplementary Guidance SG LDP HOU 1 which establish a general presumption in favour of housing development within settlements, provided such development is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas, and is acceptable in terms of siting and compatibility with the established settlement pattern and landscape character.

Development of this site would erode the open and rural character of the rocky coastline, a key environmental feature, contrary to the established pattern of development which is characterised by an absence of built development on the seaward side of the public road south of the existing pier. The undeveloped nature of the site makes a positive contribution to the village and its development with a dwellinghouse would result in the loss of undeveloped land such that the characteristics and visual amenity of the locality would be materially harmed by the extent of built development. The natural interplay between the rocks and rough grazing would be disrupted by an alien feature adversely affecting this area of common landscape character. The large property at Tigh Na Mara is a visual focal point when one approaches the village from the south whilst the largely undeveloped seaward side of the road provides clear open views across the coastal edge and across the bay to the north-east and east and this would be unacceptably compromised by the proposed development which would result in an inappropriately prominent and isolated development within a fragile and vulnerable area of undeveloped and visually uninterrupted coastal hinterland which occupies the seaward side of the public road – a key arrival point on the island from the sea.

This assessment is underpinned by the key findings of the Isle of Coll Landscape Capacity for New Housing Report 2006 which is a detailed assessment of the landscape character of the island and it identifies the appropriate opportunities and necessary constraints for new housing development. The study highlights that there is a visual pinch point to the south of the proposed development site along the public approach to Arinagour from the ferry terminal and that any new development beyond this point would intrude negatively upon the 'surprise' reveal of Arinagour (whilst acknowledging that this effect is somewhat diminished by the existing property Tigh Na Mara). Although not statutory guidance in and of itself it is considered that the 2006 report is a material consideration in the determination of the application because it was an important and professionally competent technical working document commissioned by the Council in order to inform the subsequently adopted Isle of Coll Sustainable Design Guidance.

In this case it is considered that the erection of a dwellinghouse in this location would result in an unacceptable environmental impact resulting in a development which does not have regard to the surrounding settlement pattern and would be materially harmful to the wider landscape character of the area. The proposal is therefore considered to be contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9, Supplementary Guidance SG LDP HOU 1, and the Sustainable Siting and Design Principles of the LDP as well as the Isle of Coll Sustainable Design Guidance, the Isle of Coll Landscape Capacity for New Housing Report 2006, Scottish Planning Policy and Planning Advice Note 72.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 19/01124/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Detailed planning permission is sought for the erection of a dwellinghouse on a site adjacent to Tigh Na Mara, Arinagour, Isle of Coll.

In terms of the adopted Argyll and Bute Local Development Plan (LDP) the application site is located within the southern fringe of the Key Rural Settlement of Arinagour where Policy LDP DM 1 gives encouragement to sustainable forms of development on appropriate sites and subject to compliance with other relevant policies and supplementary guidance.

Policy LDP 3 assesses applications for their impact on the natural, human and built environment with Policy LDP 9 seeking developers to produce and execute a high standard of appropriate design and to ensure that development is sited and positioned so as to pay regard to the context within which it is located. The Sustainable Siting and Design Principles expands on this policy seeking development layouts to be compatible with, and consolidate the existing settlement and take into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues.

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities. Supplementary Guidance SG LDP HOU 1 states that there is a general presumption in favour of housing development within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas, and is acceptable in terms of siting and compatibility with the established settlement pattern.

In this case it is considered that development of this site would harmfully erode its open and rural character, contrary to the established pattern of development. The undeveloped nature of the site makes a positive contribution to the village and its development with a dwellinghouse would result in the loss of undeveloped land such that the characteristics and visual amenity of the locality would be materially harmed by the extent of built development. The large property forming Tigh Na Mara is a visual focal point when one approaches the village from the south whilst the seaward side of the road provides clear open views across the coastal edge and across the bay to the north-east and east and this would be materially harmed by the proposed development which would introduce a substantial built feature into the undeveloped and open natural landscape.

Therefore, whilst the proposed development site is within the extended settlement boundary, it is not considered that it represents an appropriate opportunity in terms of policy LDP 8 and Supplementary Guidance SG LDP HOU 1 for development. The reasons for this are discussed below.

Members should note that the applicant has submitted that the site forms part of a bareland croft and that there is a need for a dwellinghouse to serve this croft. However, the applicant has not specifically applied for a crofting development and, to date, no such supporting information has been submitted, such as a boundary of the alleged croft or any croft management plan and/or other information sufficient to demonstrate that there is a locational/operational need for the development, despite the applicant being advised that this would be required should he wish to advance a crofting need argument. The application has been assessed, as originally applied for, as a new dwellinghouse located within the Key Rural Settlement of Arinagour and not, specifically, as a new croft house on a bareland croft. The applicant has been advised of the information necessary for the planning authority to consider an argument of locational/operational need to support

crofting however, to date, no such information/justification has been submitted. If, subsequent to the publishing of this report, the applicant submits additional supporting information, this will require further detailed assessment as a new material consideration will have been introduced which has not and could not have been considered prior to the publication of this report of handling. This matter is discussed in more detail in Section G of Appendix A below.

B. Location, Nature and Design of Proposed Development

The site is located to the south of the village of Arinagour which is the main settlement on Coll which contains the majority of the island services. The village is important as it provides the initial impression of the island for visitors accessing Coll via the nearby ferry terminal. The majority of development is aligned along the western edge of a narrow rocky inlet and is not widely visible when approaching Coll from the sea or ferry terminal.

The proposed site is located on the seaward side of the road immediately opposite a neighbouring guesthouse Tigh Na Mara with the proposed dwellinghouse being oriented parallel to the public road. The proposed dwellinghouse is small scale and single storey with a rectangular plan, gable ends and a pitched roof. It has a central pitched roof porch on the roadside elevation and a steep mono-pitched roof extension to the south-east elevation which faces over the loch. Materials include a natural slate roof, natural stone, vertical and horizontal Siberian larch cladding and corrugated black steel sheeting.

The proposed development has been assessed in terms of its specific potential impact upon the nearby guesthouse property Tigh Na Mara. Due to the orientation and separation distances between the two properties there is no materially detrimental impact upon the privacy and/or amenity of the occupants of the guesthouse. In this respect the development complies with the Sustainable Siting and Design Principles of the LDP.

The proposed development site occupies an area of 'common landscape character', this being a stretch of land between the ferry terminal to the south and the small pier to the north on the seaward side of the road. This is an area of undeveloped coastal hinterland situated between the public road and the natural foreshore and represents a key landscape component affording unobstructed panoramic views from the public road. The development site and its wider coastal landscape setting is exposed and open in nature and it is completely devoid of built development. The construction of a new dwellinghouse and its associated hardstandings and curtilage would introduce an alien feature into this area of common landscape character which would disrupt the natural interplay between the rocks and the areas of rough grazing.

It is considered that development of this site would harmfully erode its open and rural character, contrary to the established pattern of development. The undeveloped nature of the site makes a positive contribution to the village and its development with a dwellinghouse would result in the loss of undeveloped land such that the characteristics and visual amenity of the locality would be materially harmed by the extent of built development. The large property forming Tigh Na Mara is a visual focal point when one approaches the village from the south whilst the seaward side of the road provides clear open views across the coastal edge and across the bay to the north-east and east and this would be materially harmed by the proposed development which would introduce a substantial built feature into the undeveloped and open natural landscape.

The Isle of Coll Sustainable Design Guidance has been adopted by the Council as supplementary guidance and notes that inappropriate development can arise when new dwellinghouses are located to take advantage of views and thus are located more prominently than their older neighbours which would have been sited to make the most of

shelter. It also states that new development should normally sit below the horizon rather than impacting on the skyline and which avoids significant visual intrusion onto the village setting. This development fails to do so. Within Arinagour, areas of localised higher densities - such as the long waterfront terraces on the landward side of the public road – form a successful development pattern because they are perceived as only a single visual component of a larger landscape setting. Less successful development can often be less dense but more harmful in terms of its wider landscape setting – such is the case here. The design guide has a useful aerial photograph which illustrates the importance of this open and undeveloped area and its relationship to the village.

The Isle of Coll has a distinctive and important landscape character. The Isle of Coll Sustainable Design Guidance notes that the island has an intricate relationship between a range of different landscape types, from the rocky coastline experienced when arriving by ferry, through moorland and hills to machair, high dunes and beautiful sandy beaches. The strip of land between the public road and the coast which runs from the ferry terminal to the pier is open and exposed with a distinct rural character and high scenic value which should be protected. The reference to this within the design guide is significant. The value of the island landscape is also an important economic asset, where it plays a central role in sustaining the continuing growth of the tourism industry. The siting, location and design of new development is therefore of utmost importance to ensure this value is not gradually eroded. The proposed development fails to appropriately respect the character of the landscape and the established settlement pattern, being visually intrusive as it interrupts key views from the public road and it encroaches into the undeveloped countryside eroding the rural character of the landscape. There are no discernible backdrops, enclosures or landscape features with which to 'root' the development into the landscape and the proposed development would therefore appear as inappropriately prominent and isolated within a substantial area of undeveloped and visually uninterrupted coastal hinterland.

The Isle of Coll Landscape Capacity Study for New Housing Report 2006 ('the study') is a detailed assessment of the landscape character of the island and it identifies the appropriate opportunities and necessary constraints for new housing development. Although not statutory guidance in and of itself it is considered that the 2006 report is a material consideration in the determination of the application because it was an important and professionally competent technical working document commissioned by the Council in order to inform the subsequently adopted Isle of Coll Sustainable Design Guidance. The study highlights that there is a visual pinch point to the south of the proposed development site along the public approach to Arinagour from the ferry terminal and that any new development beyond this point would intrude negatively upon the 'surprise' reveal of Arinagour (whilst acknowledging that this effect is somewhat diminished by the existing property Tigh Na Mara).

Similarly, the 'Opportunities and Constraints' section of the study identifies a strip of land along the coastal edge and along the seaward side of the public road as being not generally suited to housing development as it would intrude on views and affect the setting of the distinctive row of 19th century cottages. The proposal is therefore considered to be contrary to the Isle of Coll Landscape Capacity for New Housing Report 2006.

It is understood that the current settlement boundary for this part of Arinagour predates the Isle of Coll Landscape Capacity Study and that a settlement boundary review will be undertaken as part of the proposals for the new Local Development Plan.

Whilst Scottish Planning Policy recognises that the rural landscape of Scotland is changing, it states that it is essential that new development is appropriate in terms of its scale and location in order to ensure that the character and quality of the countryside is not eroded. Planning Advice Note 72 (PAN 72), Housing in the Countryside, reinforces these expectations, specifically in relation to the design and siting of new houses in the countryside whereby good quality rural housing respects the landscape and building

traditions. It is considered that the proposed development would be materially harmful to the character and quality of this part of the Coll coastline and is therefore contrary to national policy.

In this case it is considered that the erection of a dwellinghouse in this location would result in an unacceptable environmental impact resulting in a development which does not have regard to the surrounding settlement pattern and would be materially harmful to the wider landscape character of the area. The proposal is therefore considered to be contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9, Supplementary Guidance SG LDP HOU 1, and the Sustainable Siting and Design Principles of the LDP as well as the Isle of Coll Design Guidance, the Isle of Coll Landscape Capacity for New Housing Report 2006, Scottish Planning Policy and PAN 72.

C. Archaeology

The site lies within an archaeological trigger zone, however the West of Scotland Archaeology Service have not commented on the application. No archaeological mitigation is required and the proposal complies with Policy LDP 3 and Supplementary Guidance SG LDP ENV 20.

D. Road Network and Parking

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 expands on this policy seeking to ensure that developments are served by a safe means of vehicular access and have an adequate on-site parking and turning area.

The Area Roads Engineer has raised no objections to the proposed development subject to conditions. The development is considered to comply with Policy LDP 11 and Supplementary Guidance SG LDP TRAN 4 and SG LDP TRAN 6 of the LDP.

E. Infrastructure

Connection is to be made to the public water and drainage network and Scottish Water have not raised any objections to the proposal. However, they have advised that they cannot guarantee capacity and the applicant should contact them direct in this matter. This can be added as a 'note to applicant'. The proposal is considered to be in accordance with Policy LDP 11 of the LDP.

F. Flooding

The site may be liable to flooding and therefore consultation with SEPA and the Council's flood risk engineer has been carried out. SEPA has not raised any objections as the dwellinghouse is located above the 1 in 200 year CFB level. The council's flood risk engineer has recommended that the finished floor level be set to a minimum of 5mAOD to take account of climate change, wave action and freeboard. A revised site plan has been submitted which clarifies that the proposed finished floor level will be 6.5mAOD. The proposal will therefore accord with Policy LDP 10 and Supplementary Guidance SG LDP SERV 7 of the LDP.

G. Applicant's Supporting Statement and Additional Representations

The applicant has submitted numerous supporting representations as part of this current planning application. These are summarised below with direct quotes identified as such by inverted commas and with comments/corrections/redactions by the planning authority added in italics.

Full and unabbreviated copies of the submissions submitted by the applicant in support of the application are available for review on the public planning file.

Main supporting statement dated 20th June 2019

- “The site in question is located within the area of the current local plan 2015 identified as ‘settlement Area’ and coloured pink. It must be recognised that the local plan is a binding document which guides developers where planning consent and development is favoured.”
- “This site falls fairly within the area for development identified as most appropriate within the Local Plan 2015.”
- “In support of my position I quote from the Oban Times dated 18-04-19 which contained an article regarding development on an established settlement area where [*another named planning case officer*] in her report states “The site is within the established settlement area of Oban and therefore has policy support in the adopted Argyll & Bute local development Plan”. Clearly the Planning officer was recognising correctly the principal function of the said local plan and it must follow that officers dealing with [*my planning application*] must now recognise the requirement to treat applications on Coll, and indeed anywhere else, including the above application in an equal manner to those in Oban.”
- “Clearly this was not the case [*for my previous withdrawn planning application*] given [*that*] the reporting officer stated in a full report to the [*PPSL*] committee under the heading, “Reasons for refusal relative to application 18/01538/PPP” in which the reporting officer stated that development would constitute an “alien feature” on a site within an established settlement zone. Clearly the reporting officer was not thinking clearly regarding the site in question.”
- “It seems clear that had [*the previously mentioned named planning case officer*] been reporting on this application, recognition of the support from the Local plan would not have been overlooked and hopefully residential development within an identified settlement zone described as an ‘alien feature’.”
- “When enquiring of the planning department the reasoning for recommendation for refusal [*of the previously withdrawn planning application 18/01538/PPP – withdrawn by the applicant after the detailed report of handling was published but before the application could be considered by Members*] it was commented “we don’t like the site and we think the site is not appropriate as it is on the seaward side of the road, also the signatories to the report are appropriately qualified planning officers”.”
- “It seems fair to comment that appropriately qualified officers engaged in the appropriate manner with all the relevant authorities during the consultation process when drawing up the now approved Local plan 2015. Those appropriately qualified officials produced a plan [*in*] 2015 which was approved by Councillors which included the site in question and it would seem a step [*too*] far by the planning department officers to now be trying to re write the local plan on the hoof because they say they don’t like the site.”
- “It must be noted that the area in question coloured pink and identified as settlement was done for a reason which the reporting officer failed to spot, alternatively it was wilfully ignored.”

Comment: *Whilst it is acknowledged that the site of the proposed development lies within the extended settlement boundary for Arinagour the classification of an area of land as 'settlement' does not equate to an automatic 'green light' for development. Rather, the settlement boundary acts as an initial 'area of search' within which acceptable forms of sustainable development on appropriate sites may be supported subject to detailed assessment on a case by case basis. The 'presumption in favour of development' offered by planning policy must be carefully weighed against other material planning considerations. In this specific case, the site of the proposed development has been fully and competently assessed and found to be unacceptable for the reasons detailed above.*

The allegation that the planning authority have shown bias against the applicant is considered to be without merit and is robustly refuted.

- There is a ruined building within the southern boundary of this part of the settlement which guided the officers when drawing up the local plan. "The [planning authority] states [that], 'the proposed development would result in an inappropriately prominent and isolated development within a fragile and valuable area of undeveloped and visually interrupted coastal hinterland which occupies the seaward side of the road - a key arrival point on the Island from the Sea.' [These] fears can easily be overcome by additional development and indeed the ruin of a former building would make an ideal starting point and should the [planning authority] wish additional development, an appropriate approach would not go unconsidered and a second application would follow. Currently I see little value in submitting such an application due to what I regard as prejudice treatment, all as set out in this correspondence."
- "Again this would indicate officers making policy on the hoof and indeed endeavouring to mislead those on the PPSL committee."

Comment: *The application case officer has made a detailed site inspection and is not aware of any ruined building of a scale or form which would offer an appropriate redevelopment opportunity.*

The planning authority do not accept that the material harm caused by the proposed development could be lessened to an acceptable extent by allowing further built development within the vicinity of the current application site and on the seaward side of the public road. Whilst any such future planning application falls outwith the scope of the determination of the current planning application, it is considered that a larger development of more than a single dwellinghouse is likely to exacerbate the identified harm rather than reduce it.

The Council's development policy team have carried out a review of the current settlement boundaries of Arinagour and have indicated their intention to propose that the settlement boundary be amended within the forthcoming Local Development Plan to remove this area of settlement on the seaward side of the public road. Any such proposal will, of course be subject to scrutiny by interested parties and Members before being put forwards for adoption by the Scottish Government.

Again, the planning authority refutes the allegation that it is making recommendations and/or decisions contrary to the current adopted Local Development Plan or that it is 'endeavouring to mislead' Members.

- “I can find no policy which refers to no development on the seaward side of any road, and indeed here on Coll various developments are situated on the seaward side of the road, beginning at the entrance to Arinagour ferry terminal and continuing right through Arinagour Village and beyond to include a substantial recent development on the seaward side of the road within the curtilage of Arinagour village.” *[Photographic evidence of this is submitted by the applicant].*

Comment: *Members will be aware that there is no planning policy suggesting a blanket ‘ban’ on development to the seaward side of public roads. The LDP contains specific policies and guidance relating to siting and design. The development referred to in the comment above relates to the recent extension to the Coll Hotel. Not all sites are the same and they must be assessed on their own merits, as was the case for this development. The characteristics of the site proposed in this application, its importance in the wider landscape and why its development with a dwellinghouse would be contrary to the LDP have been clearly described in this report.*

- “It must also be noted that under [a freedom of information] request, documents have been recovered, clearly showing that efforts have been made after [the subsequently withdrawn] application [18/01538/PPP] was validated to ensure the land in question is removed from any future local plan.”
- “I submit this is inappropriate activity from within the planning department when endeavouring to delay / refuse an application in order to satisfy some agenda alien to natural justice.”

Comment: *Discussions have taken place in conjunction with the planning authority’s current review of the Local Development Plan towards the eventual publishing of its proposed draft replacement. This exercise has encompassed the whole of Argyll and Bute and has involved widespread input from officers of different disciplines and across the three area planning teams. These discussions seek to identify both constraints and opportunities to development in order to better inform the emerging development plan. They are certainly not limited specifically to the current application site.*

- “Quite how the reporting officers can state with any authority that a development only identified by an outline application without any detail will be an ‘alien feature’ on the landscape when the first property which one sees when arriving on Coll is Tigh Na Mara (Picture supplied) which bears no resemblance to any other development in Arinagour and in reality, if the officer was identifying any ‘alien feature’ on arriving on Coll, surely it has to be Tigh Na Mara and the social housing to the west.” *[Photographs supplied by the applicant.]*
- ***Comment:*** *The applicant appears to be referencing the withdrawn application 18/01538/PPP here. The current planning application has been submitted in detail. Tigh Na Mara is located on the landward side of the road where the majority of built development occurs, including the ‘social housing’ referred to by the applicant. It was built circa 1980. This current planning application, on the other hand, relates to part of an undeveloped strip of land on the shore-side of the road between the Calmac pier to the south and the Council pier to the north. This report of handling clearly details why development of this site with a dwellinghouse will have a detrimental impact upon the landscape and will appear as an ‘alien feature’ adversely affecting this area of common landscape character.*
- “The reporting officer states it is considered that the erection of a dwelling house would result in an unacceptable environmental impact showing disregard for the

surrounding settlement pattern and would be materially harmful to the wider landscape character of the area.”

- “I submit the reporting officers are on one hand saying the proposed development is an isolated development and then saying it does not have regard to the surrounding development pattern.”
- “The reporting officers require to be come to a firm conclusion. Is it an isolated development? Or is it within a surrounding development pattern? Situated within a settlement zone. Clearly it cannot be both. “
- “Again I submit this is a misleading statement by the signatories, directly intended to mislead the PPSL committee in an effort to obtain a specific outcome.”

Comment: *Again, the applicant is referring specifically to the published report of handling for the subsequently withdrawn planning application 18/01538/PPP. The central argument here is that the planning authority considers the proposed development to occupy and erode an undeveloped area of attractive rocky coastal strip situated to the seaward side of the public road, resulting in a materially harmful loss of open and rural coastline which represents a key environmental feature at the ‘gateway’ to the settlement, and that such development would, therefore, be contrary to the established settlement pattern which consists, at this point, of built development limited to the landward side of the public road. It is not considered that the published report of handling is ‘misleading’ or that it is ‘directly intended to mislead’ Members.*

- “I suggest [*that Members visit*] Coll to view on the ground all the properties for which I send picture images [*photographs of various existing developments attached by the applicant*] which are built on land not within the settlement zone, and bearing little or no resemblance to the Coll Design Guide, and indeed many could be described as “South Fork” not to mention the actual picture contained within the Council issued design guide of a suitable development for Coll which was built on a site with no planning permission.”

Comment: *The planning authority has examined the photographs submitted by the applicant but concludes that none of the developments depicted therein would set an overriding precedent sufficient to outweigh the harm caused by the current development proposal. Each individual planning application must be considered strictly on its own merits.*

- “[*The decision to report the subsequently withdrawn planning application 18/01539/PPP and, by extension, this current planning application*] directly to the PPSL Committee, [*thus*] missing out the normal process of delegated decision making, was a further attempt by the planning department to circumvent natural justice and narrow down the options available to the applicant. Clearly this action by the planning department was in violation of the applicant’s human rights to fair and equal treatment by a public body and it should be recognised that in so circumventing the delegated decision making process Argyll & Bute Council failed the principals set out in the Westbury principals in that no reasonable authority acting reasonably could have come to such as decision.”
- “I [*consider that*] Argyll & Bute Council are now compromised in dealing with this application given the facts reported above and if indeed natural justice can be perceived to have [*been*] delivered, this statement must be considered together with all the irregular behaviour previously experienced by the applicant, which I will not report on today but will rely on if required.”

Comment: *The published reports of handling, both for the subsequently withdrawn planning application 18/01538/PPP and for this current planning application, clearly state that the application would have normally been determined under the Council's agreed scheme of delegation. However, as the applicant has raised serious allegations regarding the way in which he and his application have been dealt with, and against the conduct of the Planning Authority generally, a considered decision was taken by the then Head of Planning, Housing and Regulatory Services to present the application to the planning committee in order to provide enhanced scrutiny and transparency in the decision making process. This decision has been replicated by the current Head of Development and Economic Growth. Such decisions are taken at the discretion of the planning authority and are wholly in accordance with the Council's scheme of delegation. It is not considered that the decision to report this application to Members for their consideration and for that consideration to be held before the public would prejudice the applicant's human rights.*

- The applicant raises further complaint against the way in which his previous (subsequently withdrawn) planning application was handled by the planning authority.

Comment: *This is not material to the determination of this current planning application. The matters raised by the applicant have been dealt with under the Council's formal complaints procedure.*

- "The planning authority have failed to apply the correct policies as set out in the Local Development Plan. "Only policies which could support a specific desired outcome of refusal were given consideration. I call on the reporting officers to engage with ALL policies in order to come to a fair outcome. I will not today enter into the substantial support offered to this application contained within certain policies as it is the role of the reporting officer to consider fully all policies, at this juncture I afford the officer that opportunity."

Comment: *All relevant material planning considerations, including the provisions of the Local Development Plan, have been considered in the assessment of this application.*

- "On recovery of all the responses from the statutory consultees not a single objection was recorded and indeed it is reasonable to suggest the planning department went beyond the normal endeavouring to obtain an objection, only to receive additional support in favour of the development. Clearly the application cleared all those hurdles while gaining full support."

Comment: *There have been no objections to the current application raised by either statutory or non-statutory consultees. Neither were any such objections raised to the previous withdrawn planning application. The planning authority did not attempt to coerce an objection from consultees. The applicant has provided no evidence to substantiate this claim.*

- [The current submission] is a full detailed application in which the proposed dwelling fully conforms with the Argyll & Bute Council sustainable design guide as published, possibly this is the only development which will conform on Coll. It is situated within the identified settlement zone as per local plan 2015. It is not an alien feature and, in reality, this application if considered against the Current agreed policies as set out in the local plan 2015, should achieve approval.

- “I formally request the Planning Department fully consider [my statement], which is not exhaustive in support of my position, and then engage in a constructive manner in order to demonstrate that the Council and its employees are not becoming a barrier to economic development on places like Coll with the consequences being population decline, closing shops, schools etc at a time when key government objective is development.”

Comment: *The report of handing clearly details the assessment of this planning application having regard to all material planning considerations.*

In addition to the above, the applicant has also submitted several separate email communications. These are briefly summarised as follows:

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- Email of 3rd July 2019 at 09.25 hours – Consisting of a photograph captioned, “Tigh Na Mara, alien feature in Arinagour.”
- Another email of 3rd July at 09.25 hours - Consisting of a photograph captioned, “Tigh Na Mara, alien feature on landscape from sea view.”
- Email of 3rd July 2019 at 09.26 hours – Consisting of a photograph captioned, “Showing site proposed with development in distance on seaward side of road.”
- Another email of 3rd July at 09.26 hours - Consisting of a photograph captioned, “Further development on seaward side of road within development settlement zone.”

Comment: *The rural coastal strip which forms part of the development site is visually distinct from the coastal strip which is referred to in these photographs. To the north of the proposed site the landform bends to the left and the line of the public road matches this. This change is quite distinct and is marked by the small Council-owned pier at the corner and the scattered small scale, ancillary buildings on the shoreside and the two linear rows of buildings on the landward side of the road which forms Main Street. To the south of the pier, including the proposed site, the area is characterised by lack of development on the shore side.*

- Email of 3rd July 2019 at 09.27 hours – Consisting of several photographs captioned, “Random pictures of development on hinterland undeveloped and outwith settlement zone or pink coloured land on Local Plan.”
- Another email of 3rd July at 09.27 hours - Consisting of a further three photographs captioned, “A further selection of various developments which would appear not to confirm with the design guide and indicating only my proposed development fully confirming with every council guidance must be refused! Explanation required!”
- Another email of 3rd July at 09.27 hours - Consisting of a photograph captioned, “Direct from the design guide, breaking every angle of the sky line.”
- Email of 3rd July 2019 at 09.28 hours – Consisting of a photograph [the recently completed Coll Hotel extension] captioned, “A recent completed development on seaward side of the road.”

Comment: *Planning applications are assessed on their own merits in accordance with the development plan, as would have been the case with these developments. These photographs do not take into account the location or context, the development plan in force at the time or any other material considerations that may have been a factor in their consideration.*

- Email of 3rd July 2019 at 09.28 hours attaching a clipping of an article from the Oban Times dated 18th April 2019 and titled, "Report says Lonan Drive house should get go-ahead." The applicant has attached the following comment, "Please find document in support of application above being copy of feature in Oban Times 18-04-19 quoting an extract from a report by [*the case officer*] expressing support from the Local Plan 2015 for the development due to being within a settlement zone."

Comment: *This matter has been commented on above. Members will be well aware of the long planning history relating to the proposed (and subsequently approved) application in principle for residential development off Lonan Drive in Oban and will no doubt acknowledge that the consideration and determination of that application did not simply rely upon an argument that 'it's in the settlement, therefore it's acceptable'.*

- Email of 9th July 2019 at 14:47 hours attaching an extract from the Isle of Coll Sustainable Design Guide 2006 captioned "Please find attached copy of page 2 from the published design guide which clearly indicates applicants are encouraged to engage in innovative and individual designs for sites in Argyll & Bute, particularly when sites are special in the area."

I submit that site East of Tigh Na Mara Isle of Coll and the current proposed development fits easily within the published guidance."

- Email of 9th July 2019 at 14:55 hours attaching an extract from the Isle of Coll Sustainable Design Guide 2006 captioned "Please find attached document being page 3 of the published design guide which clearly states both the Local Plan and the design guide are intended to encourage high quality sustainable development."

I submit that application PP191124/PP is 100% compliant with the published design guide and is situated within the area declared settlement zone within the local plan 2015, accordingly, this application fits 100% with the guidance as published by Argyll & Bute Council and amounts to sustainable development as described."

- Email of 9th July 2019 at 15:11 hours attaching an extract from the Scottish Government website relating to the determination of planning applications. The applicant states "Should it be that the Planning Department are not determining this site in accordance with the published guidance and are relying on other material considerations, I call upon the planning department to now set out what Material Considerations they will be relying upon as it is only fair that an equal opportunity is afforded to the applicant to make representations on any genuine Material considerations, in order to obtain a fair determination."

Comment: *The application has been assessed as per the requirements of Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended). All relevant policies and material considerations are referred to and considered in this report.*

- Email of 9th July 2019 at 15:15 hours attaching an extract from the Isle of Coll Sustainable Design Guide 2006 captioned "Please find attached a copy of page 5 from the published design guide. This is an extremely important publication which clearly recognises clusters of development in "rural opportunity areas "are acceptable with specific reference to supporting local shops and schools while

helping to sustain economic viability and communities. Clearly this is established policy as set out in Guidance which states that this will generally be extensions of existing towns and villages. Clearly application 19/01124/PP is an extension of Arinagour village which fits fair and square within the provision of small scale development and should it be considered Material that the proposal is for a single house development, this can easily be remedied with a further application.”

- Email of 9th July 2019 at 15:34 hours attaching an extract from the Isle of Coll Sustainable Design Guide 2006 captioned “On further examination of the published guidance I note the content of page 20 (copy attached) “siting relative to other buildings” clearly from the attached aerial view it is impossible to establish how planning was granted for the large modern property with its positioning relative to other buildings, all as set out in the design guide. I further submit the evidence from the attached picture amounts to a situation where any development inclusive of 18th century cottages to modern day mansions is appropriate for Arinagour with the planning department now fatally compromised having granted consent for the Alien feature evident within the attached aerial view.”

Comment: *In this case it is considered that this not an appropriate site for the erection of a dwellinghouse as the proposed development will have a materially harmful adverse impact upon the character and setting of the landscape and would be contrary to the established pattern of development as described in this report.*

- Email of 9th July 2019 at 15:42 hours attaching an extract from the Isle of Coll Sustainable Design Guide 2006 captioned “Please find attached a copy of page 28 from the design guide relating to sustainable siting. Great care has been given to the proposed development regarding application PP191124/PP to ensure its compliance with the published guidance from material, design, location etc. and it is 100% clear this proposal complies in every way possible with the published criteria set out by Argyll & Bute Council in conjunction with Scottish Government, as such this application should be approved within the statutory Eight week period. In the unlikely event you identify any issues supported by policy of which I am unaware, please advise in order such matters can be fully considered timeously.”

Comment: *This extract refers to plot size and overlooking. These aspects of the development are not in question. In this case it is considered that this is not an appropriate site for the erection of a dwellinghouse as the proposed development will have a materially harmful adverse impact upon the character and setting of the landscape and would be contrary to the established pattern of development as described in this report.*

- Email of 9th July 2019 at 15:49 hours attaching an aerial photograph showing what appears to be a roadside site comprising of building materials and other items captioned which the applicant describes as a blight on the landscape and that he would not do this with the currently proposed site.

Comment: *This is not relevant to the determination of the current planning application.*

- Email of 9th July 2019 at 15:51 hours attaching an aerial view of Arinagour looking northwards over the Coll hotel captioned, “Please find aerial photograph of 2018/9 development on Seaward side of the public road in Arinagour Village.”
- Email of 9th July 2018 at 15:53 hours attaching an aerial photograph of Main Street looking south captioned, “Please find attached further evidence on Seaward side

of public road within the settlement zone contained within the published local plan 2019.”

- Email of 9th July 2019 at 15:59 hours attaching an aerial photograph at the ferry terminal looking in a northerly direction captioned “Please find attached aerial view demonstrating on arrival at Coll from the ferry terminal that the first development is on the seaward side of the public road. Clearly entering Arinagour from the ferry terminal, from the Council supported airfield or be it from any other means, development existing on both sides of the public road, so to attempt to refuse a site within the identified settlement zone on the premise of a house being an alien feature requires detailed explanation.”

Comment: *As mentioned previously, there is no planning policy suggesting a blanket ‘ban’ on development to the seaward side of public roads. The LDP contains specific policies and guidance relating to siting and design. Not all sites are the same and they must be assessed on their own merits. These photographs are considered to illustrate the undeveloped nature of the coastal strip and the consolidation of development to the western (landward) side of the road. It highlights that development of this site for a dwellinghouse would be visually discordant and would be contrary to the established pattern of development eroding the undeveloped coastal strip to its detriment. A dwellinghouse at this location would be located between two rocky outcrops to the north and south and it would appear isolated along this undeveloped coastal strip.*

- Email of 9th July 2019 at 18:10 hours stating that the site is located on a bareland croft and that Supplementary Guidance SG LDP HOU 1 supports such developments. The applicant states that he ticked the box on the planning application that the site was a bareland croft and therefore the onus is on the Council to investigate this further and apply the relevant crofting policy. The applicant states, inter-alia: “At this stage it has to be taken into account the applicant is downsizing with semi-retirement being the next logical step in the calendar of life, most Council employees retire prior to attaining the age of sixty on a healthy pension, most Crofters do not have that luxury and require to continue cultivating the Croft as set out in the Act while also living on it, again as set out in the Act, accordingly it follows that appropriate accommodation is required in order to be compliant with the Crofters Scotland Act 1993 as amended.” He continues:

“The business case for this application is based on retaining the long established practise of small livestock production together with renewable energy production, together with a Home for the Crofter, figures can be supplied but given the business is long established and working it seems pointless to be setting out a business plan which may or may not be correct given the uncertainty surrounding livestock production and Brexit at this time.”

“In reality, this development is about building a House on the bare land Croft, downsizing from a Seven Bedroom house to a Two bedroom house, reducing living costs keeping overheads to a minimum as it is not easy being a poor Crofter trying to exist where everyone is edging out the boundary fence to take additional land from the Crofters not to mention the dumping of rubbish on the croft land, reducing the area available to graze the livestock of the Crofter.”

“Should it be required, a business plan can be made on paper to purport any required outcome, but it must be recognised the Crofting Act and the Council local plan recognise that Crofting is about living on the Croft which makes little or no

money. It seems nonsensical to have a business plan showing a loss and being supported by the pension as a means of obtaining planning permission.”

“Should any further detail be required regarding the bare land croft aspect, I am happy to provide what is required.”

Comment: *This application has not been advanced specifically as a crofting development. Whilst the applicant has ticked that the site is located upon croft land on the planning application form, this information is primarily required for the purposes of notification. No croft boundary plan or crofting management plan has been submitted and, to date, there is no cohesive detail before the planning authority of any specific locational/operational need for the dwellinghouse. The applicant appears to suggest that there may be a ‘long established and working’ business upon the croft, consisting of ‘small livestock production’ and ‘renewable energy production’. The applicant also makes reference to ‘semi-retirement’, ‘downsizing’ and ‘uncertainty surrounding livestock production and Brexit’. However, no details have been provided upon which to make any competent assessment of any of these somewhat vague and possibly contradictory arguments. There is certainly no evidence of any existing livestock and/or renewable energy business within the confines of the submitted application site and the planning authority have not been able to identify any wider boundary of the croft land. An email was sent by the planning authority to the applicant on the 10th July 2019 at 14:14 hours advising him of what supporting information would be required should the applicant wish to progress a crofting need argument. No such information has been submitted.*

- A response to this was received from the applicant on the 10th July 2019 at 16:24 hours which stated, inter-alia, “The question which arises being, is the application going to be considered favourably given the design is fully compliant with the published guidance and it is located within the designated settlement zone? In the event the position remains as contained in the previous report for the site, which I contend was unjustified, clearly the Croft aspect will have to become a factor as it further supports my position.”

“My position being, if an application for a modest development of a single house, fully compliant with the guidance as approved and published, within the published settlement zone, drawing support from the published local plan, all as printed relative to Lonan Drive development Oban, does not meet the criteria for approval, something is seriously wrong. Bareland Croft is a fall-back position which will require to be invoked in the event the application meets with some form of refusal difficult to find from within all the published guidance.”

Comment: *This response offers none of the information required by the planning authority and, although ambiguous, appears to be suggesting that the applicant will ‘invoke’ a detailed crofting argument only at such time as his application is refused (or, possibly, if any report of handling recommending that his application be refused is published). As the required information has not been supplied by the applicant this application has not been advanced specifically as a crofting development.*

A further email was sent on the 10th July at 15:56 hours by the planning authority to the applicant which again sought clarity and the submission of the missing essential information. To date, this information has not been submitted and therefore the application has been assessed as originally applied for, that is for a new dwellinghouse located within the Key Rural Settlement of Arinagour and not as a new crofting house on a bareland croft.

- Email of 11th July 2019 at 12:20 hours, attaching an aerial photomontage illustrating what the site could look like if developed. The applicant states that “I trust you and your colleagues will recognise all I have submitted in support of this application is genuine and valid in demonstrating why consent must be granted .I finally submit in the absence of any objections and with the site within the settlement zone drawing support from the local plan , together with the proposed development 100% compliant with the published design guide , if this development fails to meet with approval the council require to forget publishing any guidance in the future as it is simply down to who you are applying and nothing about location and all the guidance published.”

“Should this application meet refusal, the decision will be akin to having the six numbers up on your lottery ticket and not getting the pay out.”

Comment: *In the considered opinion of the planning authority, the photomontage submitted by the applicant illustrates the undeveloped nature of this coastal strip and the consolidation of development to the western (landward) side of the road. It highlights that development of this site for a dwellinghouse would be visually discordant and would be contrary to the established pattern of development eroding the undeveloped coastal strip to its detriment. A dwellinghouse at this location would be located between two rocky outcrops to the north and south and it would appear isolated along this undeveloped coastal strip.*

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