

Argyll and Bute Council
Development and Economic Growth

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: 19/00094/PP

Planning Hierarchy: Local Application

Applicant: Mr Pelham Olive

Proposal: Erection of 12 dwellinghouses, alterations to vehicular access and installation of private drainage system

Site Address: Land East Of Lochside, Portincaple

SUPPLEMENTARY REPORT NO. 4

1.0 INTRODUCTION

The purpose of this report is to advise Members of a number of late representations which have been received since the previous supplementary report no.3 was published. In addition, the agent has submitted further comments in relation to late letters of representation submitted by Brendan O'Hara MP on 21st September 2020, Jackie Baillie MSP on 2nd November 2020 and Ian Cowan on 11 January 2021; and conditions and reasons have been updated to address typographical/duplication issues within their original production.

2.0 SUMMARY OF POINTS OF OBJECTION /REPRESENTATION

Since the publication of the Report on Handling supplementary report no, 3 on 20th January 2021, there have been a number of further objections and representations noted below. The points of representation are summarised below. Full details of all representations can be viewed on the Council's website www.argyll-bute.gov.uk

Jackie Baillie MSP (email dated 18/1/21)

Support the request to postpone consideration of this planning application in light of the difficulties caused by the COVID-19 restrictions.

Ross Greer MSP (email dated 18/1/21)

I would like to support the request made by Garelochhead Community Council for the decision to hold an online pre-determination hearing to be reconsidered following the recent tightening of restrictions.

While I appreciate that the council needs to continue with activities that can take place safely from home, I believe the reasons given by GCC in their email show strongly that the latest restrictions prevent a fair hearing.

It is important that the council sees the hearing not as a stand-alone online meeting, but as a part of a wider process within a community. Many residents are putting a substantial amount of work into preparing their case for the hearing, and believe that while there is no exemption permitting them to leave their home for this preparation, proceeding with the application whilst the current public health restrictions are in place would unnecessarily and avoidably disadvantage them and in turn, advantage the developer.

Michael Russell MSP (email dated 25/1/21)

I recall the original application to the National Park for a development at Carrick Castle by the same people . Despite local opposition this was granted. The building was described as a “hunting lodge” but it is now being advertised as a wedding venue on Air BnB . The estate is also advertising a chance to stay in a converted shipping container. Neither of these usages were, in my recollection, key or significant in the original application.

The pre-application document for the {Portincaple development stresses new links between Loch Goil and the Loch Lomond and Trossachs National Park and cites the likelihood , or indeed certainty, of new bus links and ferry links.

I have never in my experience as the local MSP for the Loch Goil area heard any indication of any demand for such links. I have seen no evidence at any time about potential or projected usage which is likely to be very small indeed in my view.

I know that there is concern in the Carrick Castle community about this proposed development and any increase on the traffic on the very inadequate road to the village.

Garelochhead Community Council (email dated 13/1/21 and 19/1/21)

I am writing to you again as Secretary of the Garelochhead Community Council. Since our previous correspondence below, the community Council has been approached by several residents of Portincaple expressing further concerns about the proposed public hearing. Given the current lockdown situation we would strongly urge you to reconsider the decision to hold this hearing while the current restrictions are in place.

We would like to summarise the pertinent points of concern as follows:

- Following the stay at home regulations that came into effect on 26th December 2020 (and since further tightened), mixing between households and individuals meeting up are severely restricted. This causes significant difficulties for members of the community to adequately prepare for the hearing as well as restricting their ability to support one another during the hearing itself. None of the current exemptions to these restrictions would apply in this case. (see <https://www.gov.scot/publications/coronavirus-covid-19-stay-at-home-guidance/>)
- The objectors (residents) are lay-people, they are not a professional body, do not have professional planning expertise, and do not possess the resources to remotely access and exchange documents freely. They are currently unable to meet up to discuss and to research an effective presentation for the planned hearing. They are under government instruction to stay at home and some do not possess the

- necessary electronic communication equipment that would allow them to communicate remotely
- The residents as lay people do not have routine access to public records in libraries, national archives in physical form and their ability to access them digitally is extremely hampered in the current lockdown as all but essential services are either severely restricted, unavailable in an effective and usable form or experiencing long delays.
- Effective consultation with private industry consultees or community advice consultants is severely restricted as many have temporarily closed or running on a reduced staffing level due to furlough and/or working from home.
- The inability for the objectors to communicate together freely during the hearing nor be able to support each other nor offer advice to each other whilst responding to questions from professional bodies and organisations is unjust and does in no way constitute nor enable a fair and balanced hearing.

There are over 1110 objections to this proposal, which is agreed by all parties to be contrary to the adopted LDP. Portincaple is a unique and isolated minor settlement of freehold properties with no Council Assets apart from the single lane entry/exit road. We feel it vital that the objectors are allowed to present the case in an environment that allows them to present their strongest possible case thus upholding the principles of what is fair and just.

Given the current industry pressure on the Scottish government to further restrict construction work, there is no urgency for this hearing to take place. We note there is a very real possibility of holding a more 'normal' public hearing including perhaps a site visit in the next 2-3 months and strongly recommend that the hearing is postponed until a date that allows a fair hearing and minimises the chance for any future legal challenge with regard to due and fair process being followed.

We would urge you to reconsider and strongly believe that holding the hearing during a time of such strict lockdown is unfair.

- The hearings that have already been held during Q4 of 2020 were held at a time when members of the public were permitted to meet together in groups of up to 6 and when the schools were open. At the current time no mixing of households is permitted and kids are at home using online resources. The applicant's team are much less constrained, including visiting the site etc and can meet at offices where they can state that this is essential for the undertaking of their professional activities.
- I have this morning reviewed the websites of every council in Scotland and I can confirm that not a single other council is currently going ahead with these hearings at the current time. The only council that has considered this is Aberdeen City council, and indeed they have decided to postpone the hearing for the Victoria Bar application at the request of the applicant's team!

I am also aware that Argyll & Bute Council have now received similar requests for the hearing to be postponed from a number of other sources, including members of the public, the Residents' Association, MSPs and our MP. There is a clear consensus of opinion that the hearing could not go ahead fairly under the current circumstances.

I note that the Garelochhead Community Council (a Statutory Consultee), have recently submitted a request for the “virtual pre determination public hearing” scheduled for Tuesday 26th January at 10.30 hrs, be temporarily postponed until such times as the current Coronavirus restrictions are relaxed. I would agree with that proposal, for the reasons set out below. However, I note that their request has not yet appeared on the public portal as a representation.

Despite the best efforts of the community, it has proved very difficult, if not impossible, in the circumstances currently pertaining, to put together a concise presentation which adequately expresses the views of the residents regarding this proposal. We cannot use the justification of a business meeting to get together as other parties would be able to, nor has every resident got the necessary technical skill set or indeed software to meet via video link.

I note that in the Procedure Note attached to the Notification for the meeting, it states:

2 Virtual meetings are those that will **not** involve a physical location. However, should circumstances dictate, the Chair (and if appropriate) Vice Chair along with Relevant officers will be located in a single venue.

3 Sentence two of this point confirms that the Council has the power to decide whether the hearing will take place on that day.

4 While reasonable efforts will be made to ensure all interested parties can attend the virtual discretionary hearing on request, there may be exceptional circumstances, given technological capacity, which may limit the numbers attending.

With over 1100 submissions in opposition to this proposal, any effort to restrict access to observe proceedings, would seem to be a deprivation of democratic rights, for each of those persons. Of course, not everyone is likely to attend, but to quote that other virtual pre determination hearings have been concluded successfully, where the numbers of members of the public involved have been probably between 50 and 100 at best, is not a justification for proceeding with this one.

Scottish Planning Policy 2014 states in item 4 that one of its core values is to ensure that:

- decisions are made in a **timely, transparent and fair way** to provide a supportive business environment **and engender public confidence in the system:**

In light of the current enhanced restrictions, but with the roll out of the vaccine offering the chance of a return to something approaching normality, I would respectfully request that this hearing be paused until such times that it can be held in a physical environment.

Comment (joint position agreed with ABC Head of Legal and Regulatory Support):
At a meeting on 19 August, the PPSL Committee considered a report "setting out

the current position in relation to pre-determination hearing arrangements during the Covid-19 response period and inviting Members to note the current position, review the arrangements for pre-determination planning hearings in light of the ongoing response to the Covid-19 pandemic and government guidance on public gatherings and consequently in the event of resumption of hearings to consider the arrangements for informal site visits". Members agreed to approve option (b) at paragraph 3.6 of the report which is to arrange for virtual hearings to proceed on either an audio or video basis. Thereafter, at the same meeting, the PPSL Committee determined that a pre-determination hearing should be held in respect of this Application.

In reaching its decision to proceed with virtual pre-determination hearings the PPSL Committee took account of potential the risks associated with delaying decisions on planning matters until it was possible to return to "normal hearings". Identified risks included "the potential for damage to economic recovery arising from non - determination, the additional workload associated with managing a build-up of hearings, impact on service performance and also potential reputational risks in terms of the Councils perception as being open for business".

A number of persons (including a local MP and MSP, Garelochhead Community Council, Portincaple Residents Associations and a number of individual objectors) have requested (directly or through third party representation) that the pre-determination hearing should be deferred until such times as it is possible to return to "normal hearings".

The PPSL Committee decided to adopt virtual discretionary pre-determination hearings in August 2020. At that time it also decided that the Application would be the subject of a pre-determination hearing. Parties with an interest in the application have therefore been on notice of the approach to determining the Application that has been agreed by the PPSL Committee for a period of approximately 5 months.

The decision to proceed to determine the Application in the manner proposed was, in all the circumstances, both fair and reasonable. It will afford interested parties an opportunity to engage with the PPSL Committee and to make their views known subject to the requirements of the Procedure Note.

Some of the interested parties have suggested that, for one reason or another, they are less able or even unable to participate in a virtual hearing. However, that does not mean that what is proposed is unfair or that the proposal lacks transparency. The hearing is discretionary. There is no statutory requirement for the hearing, nor is there any statutorily prescribed format for the hearing. It is for the PPSL Committee to decide, acting reasonably, how to proceed.

Some objectors argue that current restrictions have limited opportunities for persons to meet and discuss the Application and that the determination of the Application should be delayed therefore until the restrictions are lifted or relaxed. The Application has been in the system for a full year, and a very large number of objections have been received and comments/objections continue to be received at this time, and also that a number of persons have made a number of

representations in support of the Application. Statutory consultees have been consulted and the case officer has had time to consider whether the Application should be approved (including the inclusion of appropriate conditions and the requirement for a section 75 Agreement). In all the circumstances it is reasonable for the PPSL Committee to determine the Application. Regard has been had to the advice issued by the Chief Planner in April 2020 which refers to options available to enable decisions to continue to be made on planning matters during the COVID-19 pandemic in which specific reference is made to local authorities having the power to hold meetings virtually. In addition, the Scottish Government has recognised that whether to adjust consultation timescales is a matter for planning authorities to consider and that it would expect all parties involved to take a pragmatic and flexible approach. The approach to deal with this Application by way of virtual meeting is open, fair and transparent.

Further Objections / Representations Received:

Protect Portincaple Save Loch Long (dated 19/1/21): Bulk submission of 29 pro forma objections.

Protect Portincaple Save Loch Long (dated 19/1/21): Bulk submission of 28 pro forma objections.

Protect Portincaple Save Loch Long (dated 19/1/21): Bulk submission of 29 pro forma objections.

Protect Portincaple Save Loch Long (dated 21/1/21): Bulk submission of 207 pro forma objections.

Protect Portincaple Save Loch Long (dated 21/1/21): Bulk submission of 208 pro forma objections.

Protect Portincaple Save Loch Long (dated 21/1/21): Bulk submission of 178 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 11 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 6 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 10 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 11 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 12 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 11 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

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Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 20 pro forma objections.

Protect Portincaple Save Loch Long (dated 25/1/21): Bulk submission of 19 pro forma objections.

Note: Full details of every pro forma objection can be viewed on the Council's Public access system www.argyll-bute.gov.uk

Ron Fletcher, Bridge End Feuins Road Portincaple (dated 20/1/21);
Fiona Robinson, The Sheiling, Portincaple (dated 21/1/21);
Aileen Dorrian (dated 21/1/21)
Agnes Duncan 232 Jesmond Dene Road Jesmond NE2 2JU 21.01.2021
Agnes McLeod 22 Victoria Park South Glasgow G14 9RJ 21.01.2021
Agnes Pretty Edenbank 68 Colquhoun Street G84 9JP 21.01.2021
Alan Fielding 21 Aberdour Place Inverkip PA16 0HZ 21.01.2021
Alan Gent-White Traighmhor Ardfern Lochgilphead Argyll And Bute 21.01.2021
Alex Galloway 17A Ashton Road Gourock PA19 1BY 20.01.2021
Alex Green 140 Edgecumbe Green St Austell Cornwall PL25 5EE 21.01.2021
Alex Thomson 137 Bradbourne Vale Road Sevenoaks DD5 3AQ 21.01.2021
Alison Duncan 232 Jesmond Dene Road Jesmond Newcastle NE2 2JU 21.01.2021
Alison Kerr 20 Mansionhouse Road Glasgow G44 3DN 21.01.2021
Alistair Gammie 1/2, 23 Victoria Park Drive South Glasgow G14 9RJ 21.01.2021
Alyson Fielding 21 Aberdour Place Inverkip PA16 0HZ 21.01.2021
Amie Irwin 15 Ashen Drive Milton Of Campsie G66 8FE 21.01.2021
Andrea Wyllie 47 Ardgowan Street Greenock PA16 8EN 20.01.2021
Andrew Yarr 13 Magpie Crescent Inverkip PA16 0LW 21.01.2021

Angie Hutchings 17/1/21
Anna Yarr 20 Greentrees Park Perrystown Dublin 17 21.01.2021
Anne Crow Apt15B 400 Cathedral Avenue Washington DC 20016 21.01.2021
Anne Cumpsty 2 Watt Place Milngavie G62 7LQ 21.01.2021
Anne Linklater 20A Skelmorlie Castle Road Skelmorlie PA17 5AL 21.01.2021
Anne Love 4B Soroba Park Terrace Soroba Road Oban Argyll And Bute 20.01.2021
Anne Love 4B Soroba Park Terrace Soroba Road Oban Argyll And Bute 21.01.2021
Anne McVae 143 Finnart Street Greenock PA16 8HZ 21.01.2021
Anne-Marie Butterworth 13/8 Magdelene Drive Edinburgh EH15 3EB 21.01.2021
Annette Cumpsty 2 Watt Place Milngavie G62 7LQ 21.01.2021
Archie Hardie 3 Upper Adelaide Street Helensburgh Argyll And Bute G84 7HT 21.01.2021
Arlene Love 26 Feorlin Way Garelochhead Helensburgh Argyll And Bute 20.01.2021
Barbara Boyle 8 Nelson Mandela Place Glasgow G2 1BT 21.01.2021
Barbara Watt 17 Avonhead Ave Glasgow G67 4RB 21.01.2021
Barry Filer 22 Craigsheen Avenue Carmunock G76 9AG 21.01.2021
Barry Stone 13 Orchard Ave Parkstone Poole BH1 4AH 21.01.2021
Ben McCalmont 9 Doon Place Symington KA1 5RR 21.01.2021
Ben Wyllie 17A Ashton Road Gourock PA19 1BY 20.01.2021
Bill MacKay 126 Terrigles Avenue Pollokshields G41 4DQ 21.01.2021
Billy Martin 6 Broomberry Drive Gourock PA19 1JY 20.01.2021
Blair Nugent 10 Eglinton Drive Giffnock G46 7NQ 21.01.2021
Christine Pratt 25.01.2021
Dawn Pemberton 44 Mount View Road London N4 4HX 20.01.2021
Emma Linklater Sahm Kranichsteiner Strabe 21 Frankfurt 60598 Germany 20.01.2021
Eric Wyllie 47 Ardgowan Street Greenock PA16 8EN 20.01.2021
Fiona Robinson, The Sheiling, Portincaple, G84 0EU 21.01.2021
Gordon Devenish 24 Kilholm Street Newmilns KA16 9HD 20.01.2021
Gordon Peel 129 Maxwell Road Glasgow G41 1SN 20.01.2021
Hazel Kyle Caledonia 5 Eglinton Drive Skelmorlie PA17 5AE 20.01.2021
Helen Smith 15 Kirktonfield Crescent Neilston G78 3NF 20.01.2021
Ian Fraser Glenview Feuins Road Portincaple Helensburgh 20.01.2021
Irene Fraser Glenview Feuins Road Portincaple Helensburgh 20.01.2021
Jane Hill 50 Howieshill Road Cambuslang G72 8PL 20.01.2021
Jane Pemberton 44 Mount View Road London N4 4HX 20.01.2021
John Yarr Mallowdale 9 Montgomerie Terrace Skelmorlie PA17 5DT 20.01.2021
Jon O'Brien 26 Alloway Drive Paisley PA2 7DS 20.01.2021
Jonathan Hetherington 23/3 Darnell Road Edinburgh EH5 3PQ 20.01.2021
Jude Love 26 Feorlin Way Garelochhead Helensburgh Argyll And Bute 20.01.2021
Kay Docherty 18 Canmore Crescent Greenock PA16 7LX 20.01.2021
Kevin White 44 Mount View Road London N4 4HX 20.01.2021
Lesley Martin 6 Broomberry Drive Gourock PA19 1JY 20.01.2021
Linda Pender Kentra Pier Road Rhu Helensburgh 20.01.2021;
Lisa Henry 43 Mains Avenue Helensburgh Argyll And Bute G84 8QW 20.01.2021
Louise Yarr 17 Greentrees Park Perrystown Dublin 20.01.2021;
Lynne Ferrie 18 Strowan Crescent Glasgow G32 9DW 20.01.2021;
Maggie Yarr 3 Wittingham Drive Glasgow G12 0XS 20.01.2021;

Malcolm Myers Crescent Cottage Crescent Road Aldeburgh IP15 5HW 20.01.2021
Margaret Leck 95 Octavia Terrace Greenock PA16 7PY 20.01.2021
Michael Cameron 20/1/21
Linda Yarr Mallowdale 9 Montgomerie Terrace Skelmorlie PA17 5DT 20.01.2021
LizAnne McGinness 143 Brownside Road Glasgow G72 8AH 20.01.2021
Louise Hetherington 23/3 Darnell Road Edinburgh EH5 3PQ 20.01.2021
Louise Wyllie 17A Ashton Road Gourock PA19 1BY 20.01.2021
Lucy Wyllie 17A Ashton Road Gourock PA19 1BY 20.01.2021
Lynne Ferrie 18 Strowan Crescent Glasgow G32 9DW 20.01.2021
Maisie Mae Fielding 21 Aberdour Place Inverkip PA16 0HZ 20.01.2021
Margo Gent-White Traighmhor Ardfern Lochgilphead Argyll And Bute 20.01.2021
Margot McDonald 29 Longdon Croft Warwick Road Knowle West Midlands
20.01.2021
Maria Gloc 10 Roman Road Bearsden G61 2SW 20.01.2021
Martin Green 140 Edgecumbe Green St Austell Cornwall PL25 5EE 20.01.2021
Matthew McGowan Flat G/L 19 Crawford Street Largs KA30 8DH 20.01.2021
Maureen Kelly 20 Croftfoot Quadrant Glasgow G45 9HJ 20.01.2021
Nathan Cumpsty 2 Watt Place Milngavie G62 7LQ 20.01.2021
Neil Yarr 3 Wittingham Drive Glasgow G12 0XS 20.01.2021
Nick Halls Otters Pool Ardentiny PA23 8TR 20.01.2021
Pat Westbrooke 19 Tichfield Road Troon KA10 6AN 20.01.2021
Paul McGowan Lisheen The Orchard Law Brae KA23 9DD 20.01.2021
Paul McVae 143 Finnart Street Greenock PA16 8HZ 20.01.2021
Paul Yarr Flat 2/8 25E Mingarry Street Glasgow G20 8NS 21.01.2021
Peter Love 4B Soroba Park Terrace Soroba Road Oban Argyll And Bute 20.01.2021
Philipp Sahm Kranichsteiner Strabe 21 Frankfurt 60598 Germany 20.01.2021
Raymond Kyle Caledonia 5 Eglington Drive Skelmorlie PA17 5AE 20.01.2021
Rachel Roberts, Fairwater, Portincaple, G84 0ET 22.01.2021
Robbie Brown Wick House Church Road Newton PO17 6LE 21.01.2021
Robert Yarr 3 Wittingham Drive Glasgow G12 0XS 21.01.2021
Roddy Angus 2/L, 627 Shield Road Pollokshields G41 2RT 21.01.2021
Ronald Murray 15 Cleuch Gardens Glasgow G76 7QD 21.01.2021
Ronald Stuart 17 Newlands Road Giffnock G43 2JD 21.01.2021
Ronnie Rae 111 Main Street Patthead EH37 5PT 21.01.2021
Rory Andrew Duncan 232 Jesmond Dene Road Jesmond Newcastle NE2 2JU
20.01.2021
Ros Scott 27 Admirals Quarters Barrack Road Weymouth DT4 8BD 20.01.2021
Rosemary McKean 172 Mugdock Road Milngavie G62 8NE 20.01.2021
Ruby McGartland 44 Burns Road Greenock PA16 0RP 20.01.2021
Ruth Gavin 18 Kelly Street Greenock PA16 8JX 20.01.2021
Sally Myers Crescent Cottage Crescent Road Aldeburgh Suffolk 20.01.2021
Sandra Meharry 47 Elder Crescent Cambuslang G72 7GL 20.01.2021
Scott Thomson 137 Bradbourne Vale Road Sevenoaks Kent DD5 3AQ 20.01.2021
Sean Love 26 Feorlin Way Garelochhead Helensburgh Argyll And Bute 20.01.2021
Sharon McLaughlin 45 Ardgowan Street Greenock PA16 8BJ 20.01.2021
Sheena McGartland 44 Burns Road Greenock PA16 0RP 20.01.2021
Sheila May Sharp Ardbeg 6 Craigmillar Avenue Milngavie G62 8AU 20.01.2021
Simon Pender Kakra Pier Road Rhu Helensburgh 20.01.2021
Sophie Bancroft 32 Main Street Pathhead EH37 5PT 20.01.2021

Stan Gloc 10 Roman Road Bearsden G61 2SW 20.01.2021
Stephen McLaughlin 45 Ardgowan Street Greenock PA16 8BJ 20.01.2021
Steven Duncan 232 Jesmond Dene Road Jesmond Newcastle NE2 2JU 20.01.2021
Sue Codling 17/1/21
Susan Green 140 Edgecumbe Green St Austell PL25 5EE 20.01.2021
Susan Walker 40 Burnhouse Brae Newton Mearns G77 5RB 20.01.2021
Sylvia Rae 16 Northampton Road Broughton NN14 1NS 20.01.2021
Sylvia Tracey 16 Northampton Road Broughton NN14 1NS 20.01.2021
Tom Bancroft 19 Main Street Pathhead E37 5PZ 20.01.2021
Tom Lyne 32 Main Street Pathhead EH37 5PT 20.01.2021
Tom Wyllie 17A Ashton Road Gourock PA19 1BY 20.01.2021
Walter Briggs 25 Victoria Park Drive South Glasgow G14 9RJ 20.01.2021
Wendy Yarr 13 Magpie Crescent Inverkip PA16 0LW 20.01.2021
William Meharry 47 Elder Crescent Cambuslang G72 7GL 20.01.2021

Note: Full details of every representation can be viewed on the Council's Public access system www.argyll-bute.gov.uk

The main points of objection /representation are summarised as follows:

I would like to say thank you for the response to my letter, regarding the postponement of the “virtual” hearing for planning application 20/00094/PP.

Disappointed with both the content and the implication with regard to the Central Governance Manager’s response with the regard to the proposed virtual Hearing.

There was no attempt to answer any of my questions/statements specifically, but rather a bland “corporate speak” reply.

In my estimation and I regret having to even think this, but this gives the impression that the Council have no interest in adopting an even handed approach in this matter, and listening to the voice of their electorate, who have legitimate concerns about the implications of this proposal.

I would hope that the elected members, the ones who will be making the decision, will not blindly follow the recommendations of unelected officers, but rather take on board the genuine concerns of the over 1100 objectors who have responded to this opportunistic application, which will bring no benefits of any kind to any member of the community affected.

You state that Council has put in place a protocol to enable as many people as possible to participate in the virtual process, but then go on to say that this will be limited by technological capacity. How is this fair and open.

You then state that the opportunity for all “statutory consultees” is not affected, and I would agree, but we were talking about ordinary residents.

I note that the Council took the decision to proceed with virtual hearings in response to the Covid-19 situation, as recommended in a report by the Executive Director of Legal and Governance Services, to keep the planning system working. Whilst I would agree that this should apply to all “normal, non-controversial” applications, the current application is so far removed from this category that it should receive special consideration.

Finally, I cannot agree with your statement that the current arrangements achieve the necessary balance between openness and transparency, when viewed as a resident, no matter how much the Council believe it.

I hope that this correspondence will be included in the final Report of Handling which should be circulated to members of the PPSLC, prior to the hearing, so that they are fully cognisant of the feelings of the community involved.

On a personal note with the closure of schools and nurseries we are now back to juggling home-schooling, work, job seeking and studying from home. Families in our community are under enormous pressure during to day to meet their commitments. I am not sure any family, no matter how strongly they feel about this development, would be willing or even able to (local authority is asking for attendance and evidence to be sent in daily to the teacher) take time away in the middle of the day for what could be hours.

Comment: This is a matter for Members to consider.

Some 34 different clauses of Scottish Planning Policy were quoted in the letters of objection submitted, but they were dismissed in one sentence as not being contrary to the policies quoted, without any attempt to justify or explain that conclusion. It is difficult to understand how that assessment coincides with the basic principles set out in the first few clauses below.

Scottish Planning Policy

Core Values of the Planning Service

4. Scottish Ministers expect the planning service to perform to a high standard and to pursue continuous improvement. The service should:

- focus on outcomes, maximising benefits and balancing competing interests;
- play a key role in facilitating sustainable economic growth, particularly the creation of new jobs and the strengthening of economic capacity and resilience within communities;
- be plan-led, with plans being up-to-date and relevant;
- make decisions in a timely, transparent and fair way to provide a supportive business environment and engender public confidence in the system;
- be inclusive, engaging all interests as early and effectively as possible;
- be proportionate, only imposing conditions and obligations where necessary; and
- uphold the law and enforce the terms of decisions made

6. SUPPORT OR CONCERN EXPRESSED ON MATTERS MATERIAL TO PLANNING SHOULD BE GIVEN CAREFUL CONSIDERATION in developing plans and proposals and IN DETERMINING PLANNING APPLICATIONS.

To an unbiased observer, it would appear that the absence of counter argument to the points noted in the various objection letters, was an attempt to deprive the elected representatives, who will be making the decision without the full facts being available to them.

Comment: This application has been assessed in accordance with the requirements of the Town and Country Planning legislation, namely that the application should be determined in accordance with the development plan unless material considerations indicate otherwise. Scottish Planning Policy is a strategic document and has been considered during the processing of this application. The policies of Local Development Plan comply with Scottish Planning Policy. In this case it was considered that that there were material considerations sufficient to outweigh one of the policies within the Local Development and justify a minor departure. As this application has attracted in excess of 1000 objections it has not been possible to provide full details of all objections in the planning reports, however, a summary has been provided and full copies are available on the Council's public access system. Furthermore, as this application is going to be determined at a public Hearing individuals who have made a representation will have the opportunity to raise points which they feel are of importance to the determination of this planning application at the Hearing.

I would be grateful if you could provide an assurance that all committee members are familiar with the content of my objection and indeed the content of all 1,330 objections (as of today's date) and the entirety of this Application's contraventions and controversies: namely the LDP, PLDP2 (particularly Open Space Protection: as was the case prior to 2009), biodiversity, national and international legislation, MOD, SEPA, etc, etc.

I trust that all members of the committee will be in attendance on this very important day, not least for Portincaple, but for the veracity and integrity of local and national government.

The conduct of the parties involved has been brought into question on numerous occasions and is well documented: I trust every committee member is familiar with the objections, and the content of those objections, in order to make a self-evident and independent decision.

This planning application, and the manner of application, has caused untold distress to many Portincaple residents, and wider community, since November 2017 and taken up enormous resources in time, effort and personal cost.

Lastly, I wish to point out to the Committee that had this application conformed to LDP, conservation legislation etc, both national and international, then so much of the relentless pressure on Portincaple, its residents, flora and fauna, could have been avoided.

Comment: This application has been assessed in accordance with the requirements of the Town and Country Planning legislation, namely that the application should be determined in accordance with the development plan unless material considerations indicate otherwise. In this case it was considered that that there were material considerations sufficient to outweigh one of the policies within the Local Development and justify a minor departure. As this application has attracted in excess of 1000 objections it has not been possible to provide full details of all objections in the planning reports, however, a summary has been provided and full copies are available on the Council's public access system. Furthermore, as this application is going to be determined at a public Hearing individuals who have made a representation will have the opportunity to raise points which they feel are of importance to the determination of this planning application at the Hearing.

With regard to the above application, I am writing to strongly object to the way this application has been dealt with in the Report of Handling.

Rory Hobbs, a fully qualified Arboricultural Consultant for Highways England and advises multiple local authorities, wrote to Argyll and Bute Council in June last year pointing out that the tree survey conducted by the applicants had been only 15% completed and had also missed out 180 trees present on the topographical survey from their drawings, the arboricultural equivalent of “the back of a fag packet” report. Because they don’t exist on the drawings, how can the council insist they are retained and root protection areas applied?

Rory’s letter clearly stated:

The documents below are missing from the report and have clearly not been carried out:

1. A complete tree constraints plan with calculated RPA’s
2. An Arboricultural impact assessment (AIA) that evaluates the direct impact and indirect effects of the proposed design and where necessary recommends mitigation.
3. A complete tree protection plan
4. A complete arboricultural method statement (AMS) addressing and reducing the risk posed to trees during works as identified in the AIA. The AMS should also contain a timeline of works and a list of contact details for relevant parties and details of site monitoring.

Without these elements, this application does not confirm to BS 5837:2012 guidelines and should be refused.

Although this was very clearly stated, Argyll and Bute decided to disregard this information and instead base their recommendation on inaccurate and incomplete information provided by the applicant which leaves them open to a legal challenge – surely not the best use of council tax payers funds.

Does Argyll and Bute Council have an exemption to meeting the British Standards set for the rest of the country or are they simply disregarding them? As the second largest council in Scotland geographically and with far more trees than any other council it seems very strange that they should be in the bottom 2% of councils by not having a Tree Officer and do not even sub-contract these elements of planning applications out to experts in that field who are qualified to address the issues involved. How can Argyll and Bute accept such poor standards of information when every other council has to ensure they are conformed with? Surely with the recent spate of wholesale tree clearances carried out during lockdown by speculative developers, it is time for the council to employ a suitably qualified Tree Officer to help protect our natural environment rather than appearing to condone its wanton destruction by anyone with deep enough pockets.

BS5837 has been applied by the council to many other developments but not to this which seems very strange. By ignoring the standards for this application, a precedent is being set for other applications in the future.

A search through the planning portal shows BS5837 being applied to many applications, including the following:

No tree felling, demolition works or development shall commence within the application site until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise: i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development; ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 “Trees in Relation to Construction”.

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

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

No tree felling, demolition works or development shall commence within the application site until a Detailed Landscape Plan has been submitted to and approved in writing by the Planning Authority and approved by the Planning Authority in consultation with Forestry Commission Scotland.

Please explain why these standards are not being applied to this application.

The Council's Tree Strategy is geared completely towards replanting which is aimed more at forestry – there is nothing in the strategy to protect and conserve existing woodland.

A woodland management plan should be about the character of the woodland not the age of the trees. The Ancient Woodland in Portincaple has been there for hundreds of years and is irreplaceable. To allow this development to go ahead would break the broadleaf woodland and wildlife corridor which stretches from Arrochar all the way to Kilcreggan causing irreparable damage to the habitats of all the protected and endangered species for which this is home.

I would urge the council and councillors to refuse this application on the grounds that it is incomplete and inaccurate.

Comment: The Council's Biodiversity Officer has been consulted and is satisfied with the proposals. Tree protection conditions are proposed as part of the Construction Environmental Management Plan which is required by condition 16.

3.0 AGENT'S COMMENT IN RESPONSE TO LETTERS OF REPRESENTATION

In an email dated 20/1/21 agent and architect for the application submitted the comments:

“I am writing with regards to three letters lodged with you by:

1. Brendan O'Hara MP on 21st September 2020
2. Jackie Baillie MSP on 2nd November 2020
3. Ian Cowan on 11 January 2021.

These also make reference to letters from Johnny Mercer MP and Jeremy Quin MP of the Ministry of Defence.

Planning gain

These proposals deliver 2 specific planning gains, triggered because the proposals are for more than 5 houses in a ‘village or minor settlement,’ and therefore deemed a ‘minor’ departure from Policy DM1.

Policy SG LDP HOU1 under section D allows minor departure if at least one specific planning gain can be delivered which it lists as; either a deliberate attempt to counter population decline in the area; helping deliver affordable housing; or meeting a particular local housing need.

Only one of these is required to satisfy HOU1, however these proposals deliver two:

Affordable Housing

The affordable housing quota will be delivered by option 3 in the supplementary guidance by the payment of a commuted sum, calculated by the council’s District Valuer and accepted by all parties.

Provision of housing to serve an identified local housing need.

The proposals will meet a particular local housing need, identified as a specific priority in the Faslane area in the Council’s SHIP report p17.

This is to ensure sufficient and suitable capacity within the local housing system to address the increased demand for accommodation from Base expansion over the next 5 – 10 years.

The specific priority will be met by offering single cabin accommodation suitable to house Royal Navy personnel and other contractors associated with HMNB expansion. This will be secured by way of section 75 agreement and will run for a period of 5 years, as described in your Report of handling.

Agent’s Response to letters:

In direct response to Brendan O’Hara MP and Jackie Baillie MSP, the applicant has never claimed an agreement was already in place with the MOD/Royal Navy, evidenced in both MOD letters. Jackie Baillie MSP was informed of this at our meeting on 9th March 2020 at the Mackintosh Club Helensburgh, so I am unsure as to her confusion?

In regard to this particular issue, the letter from Johnny Mercer MP is particularly helpful, and explains that, ‘although Service-provided accommodation will continue to be available for entitled personnel, additional options are under consideration via the MOD’s Future Accommodation Model (FAM) project, which is being piloted at HMNB Clyde, and which commenced on 30 September 2019.’

This is exactly the point made in the council’s own SHIP report p17 which states:

‘A key issue in relation to housing and potential requirements for the SHIP, will be the proposed implementation of the Future Accommodation Model (FAM) which is being piloted by the MOD. The 2015 Strategic Defence and Security Review (SDSR)

committed the Ministry of Defence to make a new accommodation offer, to help more service personnel live in private accommodation and meet their aspirations for home ownership. The way people live and work is changing and the FAM reflects this, giving more choice to more Service personnel and their families over where, how and with whom they live. This 3 year (approximately) pilot is a chance for the MOD to test the policy and the way it is delivered before a decision is made about whether to roll out the FAM across the UK. If this is confirmed, the majority of bases will gradually transition to the FAM over the next decade or two. Indications are that FAM will now be implemented with the Faslane site, and this will have a direct impact on the Helensburgh & Lomond housing market area, and beyond. Ensuring sufficient and suitable capacity within the local housing system to address the anticipated increased demand will be a priority for the SHIP over the next 5 – 10 years.

If either Jackie Baillie or Brendan O'Hara need further information about FAM they should ask the MOD for more detail, who are very keen to promote the model, and encourage their service personnel to integrate with the community. The FAM model does not require MOD agreement or contract, but instead is the private choice of the individual service personnel.

Letter from Ian Cowan.

Similar to the two letters from Jackie Baillie and Brendan O'Hara, the other letter from Ian Cowan also seems to make selective interpretations.

Dealing with each of his points in turn:

1. Three houses, each with 5 beds, would provide 15 units of Single Living Accommodation, in MOD terms. This represents just 3.3% of 450 units, at the lower end of the need identified by the MOD. At best this is a tiny contribution to meeting the identified need.

Agent's Response. The letter from Jeremy Quin MP confirms that it is particularly the Single Living Accommodation (SLA) type of housing where there is a considerable shortfall. This was also our understanding from the several meetings held with RN accommodation liaison officers. Therefore, it is this model of housing that was most appropriate to provide hence it is these houses that are encompassed by the section 75. The 3.3% is completely irrelevant and it is patently clear that the shortfall will be met by a combination of many different solutions and the provision in these proposals is a contribution towards that total. In the same way I can confirm there is no intention to provide 450 SLA's, which is an absurd suggestion.

2. Although both section S of the Report and the above-mentioned letter from the MOD identify the need for housing for Royal Navy (RN) personnel, neither of them identifies any need for housing for the "people in other employment which is associated with the expansion HMNB Clyde" mentioned in section H of the Report. If all 15 units are occupied not by RN personnel, but by these people in other employment, the contribution of the development to meeting the identified need will be zero.

Agent's Response. The requirement for additional housing is not in fact identified by the MOD (RN) but by the councils SHIP report which states, '[This dedicated working group] continues to explore the potential accommodation needs arising from the

development of the naval base as the Royal Navy's UK Submarine Centre of Specialization; and the consequent economic impact this is likely to have in the local area. The SHIP is therefore required to take full account of the associated emerging accommodation needs in the Helensburgh and Lomond area.'

It can therefore be deduced that emerging accommodation needs to be considered in light of all increased economic impact and the associated requirement for skills and jobs at HMNB Clyde, and not just the increase in RN personnel. Therefore the 3 houses secured by the Section 75 will help meet this identified housing need, whether occupied by RN personnel or by other people required to work at the base due to expansion.

3. Policy SG LDP HOU 1 contains a presumption against medium-scale development (6-30 dwelling units) in villages or minor settlements. The Report's recommendation to override this presumption, and thereby to depart from the provisions of the development plan, is said to be justified by the provision of housing to serve an identified need, but only three of the proposed 12 houses contribute in any way to meeting that need. The other nine houses in the development do not contribute in any way, so are not covered by this justification, and the Report provides no other justification in relation to these houses. (Paragraph (C) of SG LDP HOU 1 requires 25% of developments of 8 or more houses to be affordable, but this 25% rule does not apply to meeting an identified housing need, it only applies to affordable housing.)

Agent's Response. It is correct that HOU 1 does not specify a % quota to meet the identified housing need, so yes, in fact the 25% allocation is an arbitrary figure. However, in the absence of a formal contract with the MOD, the council's officers have been given enough assurance by the 25% allocation that this is sufficient to ensure it meets the specific local housing need. It is however a fact that the remaining 9 houses also meet the specific housing need, albeit informally, and as SFA's not SLA's. There is no reason why any of these houses will not also be purchased by either RN personnel or by other people working at the Base. Since the site is around 3 miles from the Base it is ideal for anyone wishing to cycle to work, and I am sure the proximity along with all the other benefits of the proposals- open space, access to the water and highly efficient houses, will have a great bearing on choice.

4. The minimal contribution of the development to meeting the identified housing need will only be fulfilled if the MOD commits to buying or letting the three houses in question, but the above-mentioned letter from the MOD says: "The MOD has spoken with the developer concerning the Portincaple proposal and has obtained a high level understanding of this project. No further action has been taken." It will not be sufficient for the recommended s.75 agreement to prohibit the sale or lease of the 3 houses to anyone other than the MOD, as that could result in the houses remaining unoccupied. Unless the MOD is itself party to the recommended agreement and undertakes thereby to occupy the three houses, or the developer produces a written offer to do so from the MOD, which can then be referred to in and annexed to the recommended agreement, the Council cannot possibly enforce against the developer the requirement that the three specified houses be occupied by RN personnel, and the contribution of this development to meeting the identified need may never be made. As described in

the Report, the proposed justification for departing from the provisions of the development plan is therefore spurious.

Agent's Response. Jeremy Quinn MP does indeed state that at this time 'no further action has been taken' but he then confirms that 'when the time comes, this proposal will be analysed along with other options and proposals within the travel to work area....' This concurs with my understanding that the MOD will be happy to have further discussions about purchase, rental or otherwise, when the houses are available.

In addition to this, Ian Cowan is wrong to suggest 'meeting the identified housing need will only be fulfilled if the MOD commits to buying or letting the three houses in question,' The Section 75 actually states "Houses T1, T2 and T3 as shown on the approved site layout drawing shall be either let or sold to the Royal Navy / MOD to be used as accommodation for Royal Navy personnel or people in other employment which is associated with the expansion HMNB Clyde or let directly to Royal Navy personnel or people in other employment which is associated with the expansion HMNB Clyde.'

With regard to my response to Jackie Baillie and Brendan O'Hara above regarding FAM, and also that the properties can be let directly to people in other employment associated with expansion at the base, my understanding is therefore that at least 4No. options will exist for letting or selling the houses, and this list may not be exhaustive, as follows:

- a. Formal Sale to the MOD
- b. Rental to the MOD
- c. Rental directly to anyone employed by the RN
- d. Rental directly to people in other employment working at the base

Therefore, the applicant is satisfied that one or other or a combination of these avenues will ensure compliance with, and enforcement of the Section 75 agreement and therefore justifies departure from policy DMI by meeting a particular local housing need."

4.0 UPDATED CONDITIONS AND REASONS

Upon review officers have identified minor issues with the conditions and reasons set out within the Report of Handling dated 10th August 2020. Specifically it is noted that proposed condition 10 duplicates the requirements of proposed condition 9 and accordingly requires to be deleted; additionally it is noted that officers have omitted to define a reason for proposed condition 12, and there was a typographical error with numbering order (inadvertent jump from condition 21 – 23). These matters are addressed through the attachment to this report as Appendix A which sets out an updated schedule of proposed conditions and reasons that delete condition 10 (as referenced in the report of handling dated 8th August 2020) and revises the numbering of subsequent conditions, the addition of a reason for condition 12 (as referenced in the report of handling dated 8th August 2020) has also been addressed.

5.0 RECOMMENDATION

The points made have been considered during the processing of this planning application and do not alter the recommendation details on the main Report on Handling, namely, that, that planning permission be granted subject to:

- (i) a pre determination hearing;
- (ii) A section 75 agreement to ensure a commuted sum for affordable housing and housing addressing the needs relating to the expansion of HMNB Clyde; and
- (iii) the conditions and reasons attached as Appendix A to this report

Author of Report: Sandra Davies

Date: 25/1/21

Reviewing Officer: Peter Bain

Date: 25/1/21

Appendix A – Updated Schedule of Proposed Conditions and Reasons (and Note to Applicant)

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO.20/00094/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 17/01/2020, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	D 100		7/2/20
Site Layout	D 001	A	7/2/20
Ground Floor Plan GA	D 003		7/2/20
First Floor Plan GA	D 004		7/2/20
Second Floor and Roof Plan GA	D005		7/2/20
Site Sections	D 006		7/2/20
House Type 1 Terraced – Ground Floor Plans and Elevations	D 007		7/2/20
House Type 1 Terraced – First and Second Floor Plans and Elevations	D008		7/2/20
House Type 2 Semi Detached – Ground Floor and Elevations	D009		7/2/20
House Type 2 Semi Detached – First and Second Floor Plans and Elevations	D 010		7/2/20
House Type 3 – Detached – Ground Floor Plan and Elevations	D 011		7/2/20
House Type 3 – Detached – First Floor and Roof Plans	D 012		7/2/20
Road Layout	12864-01	D	7/2/20
Road Sections	12864-02	B	28/2/20
Drainage Layout	12864-03	D	17/7/20
Portincaple Landscape Strategy Masterplan	1998 L01	C (003)	28/5/20

Portincaple Landscape Strategy Planting Plan	1998 L02	A (003)	28/5/20
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Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the planning authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the planning authority in agreement with the West of Scotland Archaeology Service.

Reason: In order to protect archaeological resources.

3. Prior to the commencement of development, full details of the proposed realignment to the private access shall be submitted to and agreed in writing with the Planning Authority in consultation with the Council's Road Network Manager. Thereafter the proposed realignment shall be carried out in accordance with these details and shall be completed prior to the construction of the first dwelling house.

Reason: In the interests of road safety and to ensure the development is served by a public road.

4. Prior to the commencement of development, a full inspection and engineering report of the road surface, the existing bridges and culvert structures along the full length of Feuins Road shall be submitted to and agreed in writing with the Planning Authority in consultation with the Council's Road Network Manager. Following completion of development a further inspection of these areas shall be undertaken in consultation with the Council's Road Network Manager. Any deterioration identified as being caused by construction traffic shall be made good by the developer within 12 months of the completion of the last house.

Reason: In order to ensure that there is baseline information available prior to the commencement of development to assist identification of deterioration as a result of the construction traffic associated with the development and thereafter to ensure that any damage is rectified.

5. Prior to the construction of any houses, a visibility sightline of 2.4 x 25 x 1.05 metre shall be provided at the junction of the improved private access (new section of public road) and the new road serving the development and maintained in perpetuity.

Reason: In the interests of road safety.

6. Parking for each dwelling house shall be constructed prior to occupation of the dwelling house for which the parking is intended. The gradient of the driveways shall be no greater than 5% for first 5 metres and an absolute maximum 12.5% thereafter.

Reason: In the interests of road safety.

7. The new culvert to be designed in accordance with CIRIA C689 and convey the 1 in 200 year flow with climate change allowance plus a 0.6 m freeboard. Full details of which shall be submitted to and approved in writing by the planning authority.

Reason: In the interests of flood prevention.

8. Prior to the commencement of development full details of the finish to the inlet and outlet of the culvert face shall be submitted to and agreed in writing by the planning authority in consultation with the Area Roads Manager.

Reason: In order to ensure that the external appearance of the culvert is in keeping with the rural settlement and Area of Panoramic Quality.

9. Prior to the commencement of development drainage calculations to demonstrate the capacity of the surface water drainage including exceedance information shall be submitted to and approved in writing by the planning authority. e.g. Sewers for Scotland requires design to a 1 in 30 year event plus 30% climate change allowance, with testing on a 1 in 200 year event plus 30% climate change allowance. Thereafter development shall be carried out in accordance with these details unless otherwise agreed by the planning authority.

Reason: In the interests of flood prevention.

10. Prior to the commencement of development full details of the maintenance arrangements for the proposed surface water drainage system shall be submitted to and approved in writing by the planning authority. Thereafter the surface water drainage system shall be maintained in accordance with these details.

Reason: In the interests of flood prevention

11. 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 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.

Reason: In order to avoid light pollution in the interest of amenity.

12. 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.

13. Prior to the commencement of development full details of any proposed re-contouring of the site by means of existing and proposed ground levels shall be submitted to and approved in writing by the planning authority.

Reason: To enable the planning authority to consider this issue in detail.

14. The landscaping of the site shall be carried out in accordance with the submitted Landscape Strategy Masterplan and Landscape Strategy Planting Plan Rev. A produced by TGP Landscape Architects unless otherwise agreed in writing with the planning authority. The landscaping scheme shall be completed during the first planting season following the first occupation of development.

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.

15. No construction works shall be commenced until a Construction Environmental Management Plan (CEMP) and a Site Waste Management Plan (SWP) have been submitted to and approved in writing by the Planning Authority. The CEMP shall be overseen by an Ecological Clerk of Works (ECOW) and shall cover the following details:

- (a) No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:
- i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
 - ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

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

- (b) Prior to the commencement of development an updated habitat survey shall be carried out, the findings of which shall be submitted to and approved in writing with the planning authority.
- (c) If tree works are proposed during the bird nesting season (March – August inclusive) a pre-commencement inspection for active bird nests should be carried out by a suitably qualified person. Only if there are no active nests present should works proceed.
- (d) Otter mitigation shall be undertaken in accordance with the recommendations contained within the Walkover Survey for Eurasian Otters (WSEO) dated 8/2/19 produced by Tetrix Ecology, namely:
- An ecological toolbox talk will be presented to all site contractors as part of their pre-works site induction in accordance with the methodology detailed in the WSEO;
 - The generic mitigation measures as detailed in the WSEO.
 - The specific mitigation measures
 - An additional otter survey shall be undertaken in late spring / early summer to account for the temporal use of the site and wider area by otters.

- Where the species data is older than 18 months, the reported baseline should be updated by further survey work.
- (e) If any of the trees which have been identified as being suitable for bats are to be removed between May-September, a further inspection of these trees shall be carried out by a licensed Bat worker prior to their removal. A European Protected Species Licence will need to be acquired from Scottish Natural Heritage in order for the bats to be translocated by a licenced Bat Worker.
- (f) An ecological toolbox talk on bats and what to do if bats or field signs of bats are encountered shall be presented to all site contractors as part of their pre-works site induction.
- (h) As no evidence of Red Squirrel were recorded in this woodland, it is important to avoid risk of an offence. The applicant is required to carry out a pre-construction check of the site to determine the presence of this protected species. The pre-construction check should follow Scottish Natural Heritage advice as they are the licencing authority:
<https://www.nature.scot/sites/default/files/2018-09/Species%20Planning%20Advice%20-%20red%20squirrel.pdf>

Further information can be found in the Biodiversity Technical Note in terms of surveys and mitigation calendars Page 20 and 21: https://www.argyll-bute.gov.uk/sites/default/files/biodiversity_technical_note_feb_2017_4.pdf

- (i) The woodland is dominated by Pedunculate Oak and some Birch which was subject to a clearance programme where the focus was on Rhododendron ponticum (Rp) an Invasive Non Native Species (INNS), a watching brief should be maintained in relation to Rp re-emergence and factor in control measures for Japanese knotweed and Himalayan balsam.
An INNS Eradication Plan should be included in the CEMP ready for implementation.
- (j) Details of pollution controls during construction.

Reason: In order avoid, minimise or mitigate effects on the environment and surrounding area.

16. The areas of woodland associated with the development shall be managed in accordance with the submitted Woodland Management Plan dated 22nd May 2020 prepared by The Tree Inspector (Scotland).

Reason: In order to ensure the future management of the trees.

17. No development shall commence until samples of materials to be used in the construction of the dwelling houses hereby approved 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.

18. No development shall commence until details for the arrangements for the storage, separation and collection of waste from the site, including provision for the safe pick-up by refuse collection vehicles, have been submitted to an approved in writing by the Planning Authority. Thereafter the duly approved provision shall be implemented prior to the first occupation of the dwellings which it is intended to serve.

Reason: In order to ensure that satisfactory arrangements have been made for dealing with waste on the site in accordance with Policy SG LDP SERV 5 (b).

19. No development shall commence until details of the proposed finished ground floor level of the development relative to an identifiable fixed datum located outwith the application site have been submitted to and approved in writing by the Planning Authority. The development shall be implemented in accordance with the approved details.

Reason: In order to secure an acceptable relationship between the development and its surroundings.

20. No development shall commence until full details of the final design of the closed loop water source district heating system are submitted to and approved in writing. This shall include an assessment of any impacts on Priority Marine Features and shall include details of a pre-commencement survey and details of any mitigation required. Thereafter the development shall be carried out in accordance with these details unless otherwise agreed in writing with the planning authority.

Reason: To ensure that any works will be carried out in a manner to mitigate any potential impacts.

21. That prior to the occupation of the 12th dwelling house full details of bird and bat boxes to be installed on established trees shall be submitted to and approved in writing by the planning authority. This shall include details of the design of the boxes and their proposed location within the woodland and a timescale for their installation.

Reason: In the interests of biodiversity.

22. No construction activity shall be undertaken outwith the following times unless otherwise agreed with the planning authority in consultation with Environmental Health:

8:00am and 6:00pm, Monday to Friday inclusive,
and 8:00am and 1:30pm on a Saturday
and at no time on a Sunday or Public/Bank Holiday.

Pile breaking-out, pile reduction work and rock or concrete break-out and removal carried out using powered percussive equipment, shall only be carried out between the hours of:

10:00am and 2:00pm Monday to Friday inclusive,
and 10:00am and 1:00pm on a Saturday,
and at no time on a Sunday or Public/Bank Holiday.

The best practicable means to reduce noise to a minimum, as defined in Section 72 of the Control of Pollution Act 1974, shall be employed at all times.

All plant and machinery in use, including mechanical plant for excavation, shall be properly silenced and maintained in accordance with the manufacturers' instructions and

comply with the generic plant noise emissions in Code of Practice BS 5228: Part 1: 2009+A1 2014, Noise Control on Construction and Open Sites.

Diesel/petrol-powered electrical generators shall not be used on site unless it can be demonstrated that their use cannot reasonably be avoided and that a mains or temporary builder's electrical power supply is not available.

Reason: In the interests of protecting the amenity of the surrounding residential area during the construction phase.

23. No permission is given or implied for the pontoon indicated on the application site layout drawing D001A.

Reason: This does not form part of this planning application and a further application for planning permission would be required if the applicant wishes to proceed with this element of the proposal.

NOTES TO APPLICANT

1. **The length of this planning 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).]
2. 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.
3. 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.
4. It is recommended that the windows, although triple glazed, innermost pane (i.e. house side) be at least 6.8mm thick and incorporate a PVB interlayer in accordance with blast hazard mitigation measures. Thicker panes of laminated glass are also acceptable provided they contain a PVB thickness of at least 0.76mm.
5. The applicant should contact the Marine Scotland Licensing Operations Team directly to discuss the project in more detail. Scottish Government, Marine Laboratory, 375 Victoria Road, Aberdeen AB11 9DB Tel: 0300 244 5045 Email MS.marinelicensing@gov.scot
6. Scottish Water has advised that the development proposals impact on Scottish Water Assets. The applicant must identify any potential conflicts with Scottish Water assets and contact their Asset Impact Team directly at service.relocation@scottishwater.co.uk. The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.
7. The proposed road realignment to the existing private access road shall require the submission of an application for a roads construction consent. After subsequent approval a finance security road bond will be required to be lodged before any works commence on site. The shared surface road shall be constructed to an adoptable

standard, this shall, require the submission of an application for a roads construction consent. After subsequent Approval a finance security road bond will be required to be lodged before any works commence on site.