

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: 20/01248/PP
Planning Hierarchy: Local
Applicant: Mr and Mrs G Gardner
Proposal: Change of use from Class 9 dwellinghouse to short term let (retrospective)
Site Address: Invergare House, Glenarn Road, Rhu, Helensburgh, Argyll And Bute G84 8LL

DECISION ROUTE

Local Government Scotland Act 1973 (delete as appropriate)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Change of use form residential dwellinghouse and curtilage to short term let.

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

Planning permission be refused for the reasons set out herein.

(C) CONSULTATIONS:

Roads Helensburgh And Lomond – 15.09.2020 – Recommend that the application be refused in the interests of road safety.

Scottish Water – No objection.

The applicant should be aware that this does not confirm that the development can currently be serviced. Further investigations may be required regarding water and waste water capacity once a formal application is submitted to Scottish Water by the applicants.

According to records the development proposed will impact upon existing Scottish Water assets. The applicants must contact the Scottish Water Asset Impact Team directly in this respect.

Connections into the Scottish Water combined sewer system will be permitted only for limited exceptional circumstances for brownfield sites.

Rhu and Shandon Community Council – Objection on the following grounds: -

- The development will alter the character of this quiet part of the Rhu Conservation Area contrary to the Local Development Plan.
- Current and proposed use is associated with uncontrolled anti-social behaviour and noise nuisance, as demonstrated by the number of reports to police and the council over the past two years.
- Extra commercial and ‘stranger’ traffic will put added strain on a recognised dangerous access road, Pier Road.
- Parking on the narrow access road is a safety hazard should emergency vehicles be required.
- Given that the owners have not controlled the use of the property so far, it is unlikely that the redesignation will improve the situation.

Environmental Health - Helensburgh And Lomond – 04.05.2021 – Objection unless suitable noise mitigation measures can be provided by the applicant.

This type of development could give cause for noise breakout causing nuisance to neighbouring residential properties.

When the property was available as a short term let during 2019, Environmental Health received complaints from several neighbours alleging excessive noise from amplified music and raised voices from parties leasing the property. The property can accommodate a maximum of 24 persons.

External spaces at the property are utilised with hot tubs and sound systems in situ. Control was implemented for the sound systems by disabling them at 22.00, however with no on-site supervision, it is alleged that alternative portable sound systems were used after those hours.

(D) HISTORY:

No relevant planning history

(E) PUBLICITY:

Site Notice - Conservation Area – Expired 23.09.2020

Listed Building/Conservation Advert – Expired 01.10.2020

(F) REPRESENTATIONS:

(i) Representations received from:

- 1) Mr. Peter Hillis - 1 Rowmore Quays Rhu Argyll And Bute G84 8TA – Objection
- 2) Jay Skinner – Objection
- 3) Margaret Thornley - Glenarn House Glenarn Road Rhu Helensburgh – Objection
- 4) Michael Thornley - Glenarn House Glenarn Road Rhu Helensburgh Argyll And Bute G84 8LL - Objection
- 5) Sue Thornley - Glenarn House Glenarn Road Rhu Helensburgh - Objection
- 6) Graham Cotterell - The Coach House Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG – Objection

- 7) Jane Nicholson - Torwood Cottage Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG – Objection
- 8) Valerie Coltart - Argyll And Bute G84 8LY
- 9) Chris Jackson - 3 Laggary House Laggary Park Rhu Helensburgh Argyll And Bute G84 8LY - Objection
- 10) Clare Dickson – No address provided – Objection
- 11) Norma Bennie - Oakdene Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG – Objection
- 12) Neil Richardson - Armadale Gareloch Road Rhu Helensburgh Argyll And Bute G84 8NE – Objection
- 13) Mr. Neil Rosie - Mill Bridge Mill Lane Glenoran Road Helensburgh Argyll And Bute G84 8JU - Objection
- 14) Hilary Stuart - Dunaivon House Cottage Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG – Objection
- 15) Rob Stuart - Dunaivon Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG - Objection
- 16) Kim Maclean - Address Not Provided – Objection
- 17) Celia Taylor - Rowan House Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG – Objection
- 18) Susan A. Miller - 8 Laggary Park Rhu Helensburgh Argyll And Bute G84 8LY – Objection
- 19) Lesley Quirk - Glenard Upper Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE – Objection
- 20) Norman Quirk - Glenard Upper Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE – Objection
- 21) Albert Barclay - Carbeth House Torwoodhill Road Rhu
- 22) Mrs. Barclay - Carbeth House Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE
- 23) Tony Hewitt - Squirrels Leap Glenarn Road Rhu Helensburgh
- 24) Margaret Mortimer - Artarman House Artarman Road Rhu Helensburgh Argyll And Bute G84 8LQ
- 25) Anne Esson - Melsester Torwoodhill Road Rhu Helensburgh
- 26) Nicola McMahon - 12 Laggary Park Rhu Helensburgh Argyll And Bute
- 27) Karen McGowan - Torridon Glenarn Road Rhu Helensburgh Argyll And Bute G84 8LL
- 28) John Abbot - Rowanlea Glenarn Road Rhu Helensburgh Argyll And Bute G84 8LL
- 29) James S. Murphy - Invergare Coach House Glenarn Road Rhu
- 30) Gordon Mackinnon - 45 Strathclyde Court Helensburgh Argyll And Bute G84 9PW
- 31) Nick Barton - Dunrowan Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG
- 32) Frazer King - Hazelwood Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LF
- 33) Mr. Jane - Elwood House Upper Torwoodhill Road Rhu
- 34) Anita Jane - Elwood House Upper Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE

(ii) Summary of issues raised:

A total of 34 no. representations have been received objecting to the retrospective application for change of use. The issues raised are summarised as follows. All representations are available for inspection in full on the Council's web site.

- The operational statement indicates that weekend and short term lets will be preferred by the applicants over 10 months of the year and that use as a venue to entertain and/or for events/social functions is promoted and will predominate over week or 2-week long rolling letting normally associated with holiday letting. This pattern and nature of use as an events venue is confirmed by experience of local residents over the last 18 months.

Comment: Addressed in full within the assessment within this report

- The operational statement limits the numbers to 24 however the property is capable of accommodating more and to date, numbers have not been effectively managed. It is alleged that parties attract non-guests to the property which further increase traffic movements and general disturbance to residents.

- Comment: Addressed in full within the assessment within this report

- The proposed use for short term weekend letting for up to 24 people is out of keeping with the residential character of the area and does not enhance or preserve the character or appearance of the conservation area.

Comment: Addressed in full within the material assessment below.

- The preferred pattern of weekend and short-term letting and promotion as an entertainment venue, as opposed to tourist accommodation, has led to unacceptable levels of noise and disturbance to local residents over a wide area, including allegations of excessive noise levels (internal and external sound systems operating until the early hours; loud voices; singing; shouting; loud laughter, traffic movements); generally disorderly and inconsiderate behaviour; rubbish being thrown into neighbours gardens It is submitted that disturbances have been reported to the relevant authorities and the police have had to make numerous visits. A documented schedule of such incidents has been provided.

Comment: - Addressed in full in the assessment within this report.

- There is no management to control numbers or to enforce controls to mitigate impacts on local amenity.

Comment: Addressed in full within the assessment within this report

- Local access roads not suitable for volumes of cars/vans accessing property.

Comment: Addressed in full within the assessment within this report

- Inadequate car parking provision

Comment: The planning application forms indicate that there are 10 no. existing on-site car parking spaces and that it is not proposed to increase this number. It is acknowledged that a car parking layout has not been provided to demonstrate this. The Area Roads Engineer has suggested

a car parking requirement of 1.2 spaces per bedroom, resulting in a requirement for 11 car parking spaces plus manoeuvring space. The site is large enough to accommodate additional parking area however this would require an application for express planning permission at which time the impact upon the setting of the listed building will require assessment.

- The proposal contravenes the Local Development Plan.

Comment: Addressed within the assessment within this report

- Commercial waste bins are not being emptied leading to vermin and potential environmental health issues.

Comment: The planning application forms state that no alterations are proposed to the existing refuse storage and collection provision. Were the proposed to be supported by the planning authority then it is considered that appropriate provision could be secured by means of planning condition in discussion with Area Roads. Whilst this is accepted as a material issue it is not considered to be an over-riding constraint in itself.

- There is no case to be made that short term letting will secure the fabric of listed buildings within the conservation area.
- The use will result in the need for external works to the listed building.
- Use as a single dwellinghouse is consistent with HES guidance.

Comment: It is considered that a change of use from a dwellinghouse to letting can in principle be supported with reference to HES guidance, however this requires individual assessment on the basis of the particular scale and nature of any application. Investigations will now continue into any unauthorised external alterations to, or within the curtilage of, the listed building and appropriate action taken.

- The provisions of the Planning Scotland Act 2019 in relation to short-term lets and introduction of further regulation through licensing and taxation as set out in Scottish Government consultation paper on short-term lets should be a material consideration.

Comment: All relevant Scottish Government statute and planning policy has been duly taken into account as part of this assessment. The site is not within an area of control for short term letting. This application has been fully assessed on its individual merits. Licensing and taxation controls should be considered when in force separate from the planning application process.

(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: No
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Yes – Operational Statement
- The let will be managed by the applicants
 - Bookings will be via their own website and on-line travel agents
 - The property can be let as two units as the lower floor can be a self-contained apartment
 - The maximum occupancy that the applicants will allow, as one unit, is 24 people
 - They would prefer week-long stays during July and August and allow weekend and short stays for the rest of the year
 - The applicants will exclude certain groups (such as ‘hen’ or ‘stag’ parties that they feel are more likely to break the rules (e.g. no loud music, no third party speakers, be considerate of the neighbours, etc.)
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(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

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

‘Argyll and Bute Local Development Plan’ Adopted March 2015

LDP STRAT 1 – Sustainable Development
 LDP DM 1 – Development within the Development Management Zones
 LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
 LDP 5 – Supporting the Sustainable Growth of our Economy
 LDP 9 – Development Setting, Layout and Design
 LDP 10 – Maximising our Resources and Reducing our Consumption
 LDP 11 – Improving our Connectivity and Infrastructure

‘Supplementary Guidance to the Argyll and Bute Local Plan 2015’ (Adopted March 2016)

Historic Environment and Archaeology

SG LDP ENV 15 – Impact on Historic Gardens and Designed Landscapes
SG LDP ENV 16(a) – Impact on Listed Buildings
SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas (SBEAs)

Support for Business & Industry: Main Potential Growth Sector: Tourism

SG LDP TOUR 1 – Tourist Facilities and Accommodation, including Static and Touring Caravans

Enforcement Action

SG LDP ENF – Enforcement Action

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Bad Neighbour

SG LDP BAD 1 – Bad Neighbour Development

Resources and Consumption

SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development

Transport (Including Core Paths)

SG LDP TRAN 2 – Development and Public Transport Accessibility
SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

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

- Scottish Planning Policy
- Argyll and Bute Proposed Local Development Plan 2 November 2019
- Consultee Responses
- Representations submitted with reference to material land-use planning considerations

(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

A total of 34 representations have been received in objection to the proposed development.

The approved Hearing protocol advocates a lesser emphasis on the previous numbers (of representations) threshold as a 'trigger' for a Hearing and more reliance on a criteria based approach in order to 'add value' to the determination process.

- In relation to the assessment of this application proposal, it is considered that notwithstanding the number of representations, and the level of controversy, there is consensus between the local community and the planning authority's recommendation.
- The material considerations in relation to the proposal are not considered to be significantly complex and are limited to impact on technical highways capacity matters and impact upon the character and amenities of the local area and residents.
- The proposed development/change of use is considered to be contrary to fundamental and up-to-date Local Development Plan policies and supplementary guidance. As such, the recommendation does not seek to justify a departure to the provisions of the Local Development Plan.

Therefore, having regard to the criteria –based assessments set out in current protocol, it is considered that a Pre-Determination Hearing will not add value to the decision-making process, and is not required.

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

The site comprises a prominent, Category B Listed Building, formerly a dwellinghouse, set within extensive landscaped grounds and located within the village of Rhu. The site lies within the Rhu Conservation Area. The surrounding area is uniformly residential in terms of land-use and character.

Vehicular access to the site entrance from Gareloch Road is via the southern end of Pier Road turning into the residential cul-de-sac of Glenarn Road. A gateway at the end of the latter road gives access onto the application site from which point a private driveway continues to a parking area adjacent to the house. Several houses are accessed off of this private driveway in addition to Invergare House.

The house has been used periodically over the last couple of years for short term letting. It appears that the property is not currently being used for short-term letting. This application seeks retrospective planning permission for a change of use from a

single dwellinghouse falling within Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 to sui-generis use to allow short-term letting.

The application is supported by an Operational Statement that states that:

- The property will be managed by the applicants
- The maximum number of people for any letting as a single unit will be limited to 24
- The lower ground floor is capable of being let as a separate unit to the rest of the house
- The applicants' preference is for week long stays during July/August allowing weekend and short stays during the remaining 10 months of the year.
- Certain groups will be excluded (such as 'hen' or 'stag' parties) that the applicants feel will be more likely to break their rules (e.g. no loud music, no third party speakers, be considerate of neighbours etc.)

The site is located within the village of Rhu, as identified in the Argyll and Bute Local Development Plan – 2015 (LDP) wherein a combination of policy LDP DM 1 and SG LDP TOUR 1 serve to operate a presumption in favour of development new or improved tourist facilities or accommodation provided that they are in accordance with all relevant provisions of the LDP including.:

- The form, location and scale is consistent with policy DM1
- They respect the landscape/townscape character and amenity of the surrounding area

It is considered that the proposed use will be out of keeping with the established residential character of the local area to the significant detriment to residential amenities of local residents by reason of undue intensification of activity; increased level and nature of noise; general disturbance; and the pattern, nature and volume of vehicular traffic all resultant from the proposed use. This assessment is consistent with the consultation response from Environmental Health objecting to the proposal "unless suitable mitigation measures can be provided." With regard to possible measures to mitigate impacts upon local residential amenities, the use of planning conditions has been considered. Having regard to Government Circular 4/1998 on the use of conditions on planning permissions, it is considered that conditions seeking to mitigate detrimental impact upon the character and residential amenities of the area would not pass the 'test' set out in the Circular, of being enforceable. This is particularly relevant where there is no on-site management presence to control letting conditions such as maximum numbers of people on site; restricted hours for outside activity and operation of sound systems. As such, the propose development is contrary to policy LDP and SG on Sustainable Siting ad Design principles.

Additionally, it is considered that the public and private road regime serving the application site, by reason of narrow carriageway widths without footways (and with very limited potential to provide footways due to existing boundaries with residential properties); sub-standard access junctions; and traffic speeds does not have the technical capacity to serve the nature, pattern and intensification of vehicular traffic movements generated by the proposal, without detriment to highway safety and the free flow of traffic. This assessment is consistent with the consultation response from Area Roads. As such, the proposal is contrary to policy LDP 11 and SG LDP TRAN 4.

A feature of this part of the Rhu Conservation Area is considered to be a peaceful character and low intensity of activity appropriate to the uniformly residential land use

and spacious pattern of built development. Whilst the proposal will not increase density of built development, the significant change in terms of intensification of activity and traffic movements will not enhance or protect the character or appearance of the Conservation Area contrary to policy LDP 3 and SG LDP ENV 17.

On the basis of the above, the proposed use is not supported by the provisions of policy LDP DM 1 (C) and SG LDP TOUR 1. As such the proposal is not consistent with the LDP Settlement and Spatial Strategy.

A combination of policy LDP 5 and SG LDP TOUR 1 serves to operate a presumption in favour of new or improved tourist accommodation provided that they are in accordance with all relevant provisions of the LDP including respecting the landscape/townscape character and amenity of the surrounding area; and being in a location served by road infrastructure without detriment to the free-flow of traffic or highway safety. As set out above, the proposed development fails to satisfy these provisions and as such support cannot be given under the provisions of policy LDP 5 and SG LDP TOUR 1. Whilst the planning authority supports proposals that contribute to the local tourism-based economy in principle, the assessment is that this particular location in relation to the residential character of the area and the roads infrastructure constraints is not suitable for a development/use of this nature and intensity of use without detriment to land use planning matters.

On this basis of this assessment, it is recommended that this planning application be refused

(Q) Is the proposal consistent with the Development Plan: No

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

Having regard to all material planning considerations it is considered that the proposed development/change of use will be out of keeping with and detrimental to the character and residential amenities of local area; and to the free flow of traffic and road safety. On this basis, the proposal is not consistent with the Local development Plan Settlement and Spatial Strategy. The proposed development is therefore considered to be contrary to the relevant provisions of the Local Development Plan, and no exceptional circumstances have been demonstrated to justify a departure from these provisions.

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

Not applicable – It is recommended that the application be refused as being contrary to the provisions of the LDP and that there is no departure from these provisions.

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

Author of Report: Norman Shewan

Date: 5th May 2021

Reviewing Officer: Howard Young

Date: 6th May 2021

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 20/01248/PP

1. Having regard to the scale and proposed nature and pattern of the proposed use in conjunction with the proximity of dwellinghouses within a uniformly residential area, the proposal would be severely detrimental to the residential amenities of residents. It would be out of keeping with the quiet residential character of the area and the proposal would not protect the established residential character and appearance of Rhu Conservation Area. The intensification of use of a dwellinghouse by up to 24 people over a condensed weekend letting would result in general disturbance and significant detriment impact on amenity by reason of intrusive and prolonged noise levels including amplified music, often at unsociable hours and intensification of activity including commercial and car vehicle movements. Environmental Health has concluded that this type of proposal could give cause for noise breakout causing nuisance to neighbouring residential properties. Environmental Health received complaints from several neighbours during 2019 alleging excessive noise from amplified music and raised voices from parties leasing the property. It is noted that external areas are utilised with hot tubs and external sound systems in-situ. Having regard to Scottish Government Guidance on the use of planning conditions, it is considered that the use of planning conditions to secure control of adequate mitigation measures e.g. restricted hours for operation of external and internal sound systems; restricted hours for outside activity with potential to cause nuisance; on-site management/control; strict limitation of numbers; etc. (such as may be applied in respect of an hotel for example) would be un-enforceable in relation to a short-term letting property. The use of planning conditions to secure satisfactory mitigation is not encouraged by Scottish Government. Given the above the proposal is contrary to Policies LDP 3, SG LDP ENV 17 and SG LDP BAD 1 which presume against development which does not protect, conserve or where possible enhance the established character of the built environment in terms of its location, scale, form and design, and development that does not preserve or enhance the character or appearance of an existing Conservation Area.
2. By reason of narrow width, lack of footways, sub-standard visibility at access junctions and existing volume and speed of traffic, the existing private road regime does not have capacity to accommodate the intensification, nature and pattern of vehicular traffic movements generated by the proposed development without undue detrimental impact upon road safety and the free flow of traffic contrary to the provisions of policy LDP 11 and Supplementary Guidance SG LDP TRAN 4 of the Argyll and Bute Local Development Plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 20/01248/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located within village/minor settlement development management zone for Rhu as designated in the Argyll and Bute Local Development Plan – 2015 wherein policy LDP DM1 (C) gives encouragement in principle to up to small scale, sustainable forms of development on appropriate sites.

Supporting text to SG LDP TOUR 1 – ‘Tourist Facilities and Accommodation...’ defines “small scale”, in relation to the use applied for, as “*up to 10 letting units.*”

On the basis that the proposed use is to be operated as a maximum of 2 no. separate letting units, it does technically fall within the definition of small scale for the purposes of applying policy DM 1. However, it is noted that the proposed maximum number of people for letting as one single unit is 24. This number of occupants has potential to generate a level of activity and traffic movements significantly in excess of that normally expected for a single unit of letting accommodation, traditionally let to a family or much smaller group living as a family.

SG LDP TOUR 1, in conjunction with LDP DM1, serves to operate a presumption in favour of new or improved tourist facilities or accommodation provided (amongst other criteria) that:

- The form, location and scale is consistent with policy DM1
- They respect the landscape/townscape character and amenity of the surrounding area
- The proposal is consistent with other policies and SG in the LDP.

The key assessment here, in relation to the LDP Settlement and Spatial Strategy, is whether the location is within an “*appropriate site*” having regard to all material land use planning considerations.

The property is located within an established residential area. As set out in greater detail within this report, it is considered that the proposed use is materially different from the established residential character and will have a significantly detrimental impact upon the residential amenities of this local area, contrary to the provisions of SG LDP TOUR 1. This assessment is consistent with the consultee response from the Council’s Environmental Health Service who object to the proposal.

Also, as set out elsewhere within this report, it is considered that the existing public/private road regime is not adequate to accommodate the resultant intensification of vehicular traffic without detriment to matters of road safety and the free flow of traffic on local roads, contrary to policy LDP 11 and SG LDP 4. This assessment is consistent with the consultee response by the Council’s Roads and Infrastructure Service.

On this basis, it is considered that the location of the property is not appropriate for the proposed use, and as such it does not accord with the Settlement and Spatial Strategy as established by the adopted Local Development Plan.

B. Location, Nature and Design of Proposed Development

The site is located within the village of Rhu.

The application site extends to approximately 11326m² in area, comprising a dwellinghouse of imposing scale in an elevated hillside setting, set in spacious and maturely landscaped grounds. The surrounding area is residential in character comprising predominantly large, detached houses in an informal and spacious development pattern, with maturely landscaped residential gardens with well-defined boundaries with the public realm.

The road network in the locality is made up primarily of quiet residential roads with an established informal design standard characterised often by narrow carriageway width, absence of footways, and boundaries to residential curtilages formed by stone walls and mature natural hedgerows and trees.

Access to the application site is off of the end of an existing residential cul-de-sac which is an adopted road. The private driveway beyond serves several residential properties as well as the application property.

The grounds are largely laid to open lawn falling steeply in level away from the principal, (western) elevation of the house and external terrace. The edges of the site are characterised by substantial and mature natural planting.

“Invergare House”, originally “Rowalyn” is a Category B Listed Building built in 1855 with later additions and alterations in 1923 and 1933. The Historic Environment Scotland Listing description (excerpt) is as follows:

“2-storey and apartment basement, asymmetrical, rambling-plan, Scots Baronial and 17th century detailed house sited on falling ground. Grey harl with honey-coloured sandstone dressings and margins; base course; chamfered reveals; quoin strips; eaves band; crowstepped gables; principal floor windows with cornices.”

The floorplans drawings submitted show a predominantly 2-storey building with a lower ground floor at the western part of the house, giving a 3-storey principal elevation. The lower ground floor is a design feature that addresses the steeply sloping topography of this siting. The building when operating as a single unit has a total of 9 no. bedrooms. Three of these are at lower ground floor level and the remaining six at first floor level. The ground floor has a generous provision of reception rooms and kitchen. The lower ground floor unit has its ‘own’ kitchen and living room and separate external access, such that it is capable of letting independently from the ‘main’ house above.

The authorised land use of the property is a single dwellinghouse falling with Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. It is understood that the property has been operating periodically as short-term letting accommodation over approximately the last two years.

The current application seeks retrospective planning permission for the change of use from a dwellinghouse to short-term letting accommodation.

An operational statement submitted with the application states that the maximum allowable number of people at any one time, when let as a single unit, will be limited to

24. Week long stays are preferred by the applicants during the months of July/August. Weekend and short stays will be allowed for the remaining 10 months of the year.

No alterations are proposed to the existing access, car parking arrangements or refuse storage and collection points.

The external terrace and garden grounds currently contain features including 2 no. hot tubs, large trampoline and zip-wire. These features are not considered to be development and would not be uncommon in principle within the curtilage of a dwellinghouse.

C. Built Environment

Built development in the surrounding area is characterised by historic houses informally and spatially laid out over undulating and often steeply sloping hillside on the eastern shore of Loch Gare.

Design styles and scale of individual buildings vary with age of development and fashion, however most properties are detached, large scale houses in spacious plots, particularly the area to the east of Pier Road. Some historic and imposing houses including the application property and “Glenarn House” adjacent to the north, set within substantial grounds remain. The overall impression is one of an unplanned and informal variation of ‘grain’ of development with substantial buildings set back from narrow roads with a strong element of open space and mature landscape planting.

There is a strong relationship between the hillside topography/landscape character and the road alignment and built development pattern. This creates a varied but harmonious character of development. The land use is almost exclusively residential.

The combination of all these features creates an attractively spacious, maturely landscaped and tranquil residential character and appearance.

D. Road Network, Parking and Associated Transport Matters.

Vehicular access to the application property, from the A814 Gareloch Road, is via the southern part of Pier Road leading onto Glenarn Road at a T-junction. Glenarn Road is a cul-de-sac serving established residential development. This network of public adopted roads extends to the gateway to the property, from which a private driveway continues to the parking and turning area adjacent to Invergare House. The private driveway serves several other dwellinghouses in addition to the application property.

Pier Road has a narrow carriageway width that is contained on either side by stone wall, earth bank and natural hedge boundaries to large residential dwellinghouses. There is no public footway on either side for most of its length.

The Council’s Roads and Infrastructure Service has advised that Pier Road has been an area of investigation for several years, resulting in meetings between Argyll and Bute Council, Police Scotland and the Community Council to try to find a resolution to a number of hazards. These hazards include the volume and speed of traffic using Pier Road; the safety of pedestrians due to the absence of a footway; and sightlines at junctions due to existing boundary walls and overgrown foliage.

Glenarn Road is a similarly narrow cul-de-sac road which has an established, continuous hedgerow boundary along the northern edge of the carriageway with no footway. Residential development fronts onto the southern side of the road. There is a narrow footway along the southern side of the road initially. The rest of the road has a very narrow grass verge back from the kerb and in front of the boundary walls/hedges of the houses.

It is considered that the nature, pattern and volume of traffic using the local public road network in association with the letting and servicing of a short-term letting unit capable of accommodating up to 24 people, would result in a material intensification of traffic movements significantly in excess of the authorised use as a single dwellinghouse. As such, the resultant intensification of traffic would have a detrimental impact upon the quiet residential amenities of this established residential area.

It is considered that the existing public and private road infrastructure, by reason of narrow width, absence of footways, sub-standard visibility at access junctions and traffic speeds does not have capacity to accommodate the scale, nature and patterns of resultant private and commercial vehicle traffic without detriment to road safety and the free-flow of traffic.

This assessment is consistent with the consultee response from the Council's Area Roads, which concludes that Pier Road is unsuitable for commercial vehicles that would impede traffic flow and, that the additional traffic movements created by the change of use would exacerbate the existing hazards.

The proposed use is assessed as contrary to the provisions of policy LDP 11 and SG LDP TRAN 4 of the Local development Plan.

E. Infrastructure

Consultation responses received indicate that there are no over-riding service infrastructure constraints to the proposed development. Further advice is offered to the applicants in relation to the next steps in relation to water and waste water applications and responsibilities to identify and to mitigate against any potential impact upon existing Scottish Water assets.

F. Impact upon Economic Growth

A combination of Policy LDP 5 and Supplementary Guidance SG LDP TOUR 1 serves to operate a presumption in favour of new or improved tourist accommodation provided that:

- The form, location and scale is consistent with policy DM1
- They respect the landscape/townscape character and amenity of the surrounding area
- The proposal is consistent with other policies and SG in the LDP.

As previously set out within this report, it is considered that the propose development fails to satisfy these provisions and as such support cannot be given under the provisions of policy LDP 5 and SG LDP TOUR 1.

Whilst the planning authority supports proposals that contribute to the local tourism-based economy in principle, the assessment is that this particular location in relation to the residential character of the area and the roads infrastructure constraints, is not suitable for a development/use of this nature and intensity of use without detriment to land use planning matters.

G. Impact upon Residential Amenities

The site is located within an established residential area.

Whilst proposals for short term letting within residential areas can be accommodated within residential areas in principle, this is subject to the proposed use respecting the local character and amenities of the local area.

This proposal relates to a large dwellinghouse with a total of 9 no. bedrooms and a generous provision of reception rooms. The submitted operational statement proposes that numbers will be limited to a maximum of 24 people when let as a single unit. The lower ground floor (with 3 no. bedrooms) is capable of being let separately to the 'main' part of the house (with 6 no. bedrooms.)

The operational statement also indicates a preference for short-term and weekend lettings from September – June (inc.) A combination of the potential number of guest and the preference for weekend lets would allow use as a venue for events or entertainment including wedding receptions, birthday celebrations and other events involving numbers of guests in excess of what would be typically expected in association with the authorised use of the site as a dwellinghouse. The nature of such uses will have a more significant impact upon the character of the area and residential amenities relative to a week or two-week holiday let to a family, or a group occupying the property as a family would. As such, the ready suitability and potential for regular use as an entertainment or events venue, and the likely impacts of such events, should be taken into account as part of this assessment.

It is considered that the use of a dwellinghouse in the manner proposed by this application would be out of keeping with the quiet residential character of the area and severely detrimental to the residential amenities of residents given the scale, pattern and nature of the operational use. The increased intensification of use of a dwellinghouse by up to 24 people over a condensed weekend letting would result in general disturbance and significant detriment impact on amenity by reason of increased and prolonged activity and excessive noise disturbance over a continuous period. Disturbance will also be caused by reason of increased private car and commercial vehicle trips to the property using nearby residential roads.

This assessment is consistent with the consultation response by Environmental Health which concludes this type of proposal could give cause for noise breakout causing nuisance to neighbouring residential properties. Environmental Health received complaints from several neighbours during 2019 alleging excessive noise from amplified music and raised voices from parties leasing the property. It is noted that external areas are utilised with hot tubs and external sound systems in-situ.

Scottish Government Guidance set out in Circular 4/1998 – the use of conditions in planning permissions, states that conditions imposed on a grant of planning permission can enable many development proposals to proceed where it would be otherwise necessary to refuse planning permission. However the power to impose planning conditions should be exercised in a manner which is fair, reasonable and practicable.

The guidance continues that planning conditions should only be applied where they are, amongst (other criteria) enforceable. In this instance, having particular regard to lack of on-site management control presence, it is considered that the use of planning conditions to secure control of adequate mitigation measures e.g. restricted hours for operation of external and internal sound systems; restricted hours for outside activity with potential to cause nuisance; on-site management/control; strict limitation of numbers; etc. (such as may be applied in respect of an hotel for example) would be un-enforceable in relation to a short-term letting property. As such the use of planning conditions to secure satisfactory mitigation is not encouraged by Scottish Government.

H. Impact on the Historic Environment

The village of Rhu is largely covered by a Conservation Area designation, within which, there is a statutory duty upon the local planning authority to protect the character and appearance of the conservation area. This is reflected in policy LDP 3 and SG LDP ENV 17 which serves to establish a *“presumption against development that does not preserve or enhance the character and appearance of a conservation area.”* The Supplementary Guidance requires that new development within conservation areas must respect the architectural and other special qualities that give rise to their designation.

The special qualities of this part of the Rhu Conservation Area include the quiet character and low intensity of activity arising from the residential nature of the area, comprising low density development of larger, detached houses set in spacious plots served by an informal residential road network with narrow widths and often lack of footways. The intensification of activity within the application property and increased volume of cars and commercial vehicles using the local access roads within a condensed time period, resulting from the proposed development, will be out of keeping with and injurious to the quiet, informal residential character of this part of the conservation area, contrary to the provisions of policy LDP 3 and SG LDP ENV 17.

It is considered that the proposed use can be accommodated in principle without material detriment to the architectural and historic character of the building.

Likewise, the proposed development is not likely to have an undue detrimental impact upon the qualifying features of the designated Historic garden and Designed Landscape adjacent to the north of the application site.