

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: 21/01404/PP
Planning Hierarchy: Local
Applicant: Mr Graham Gardner
Proposal: Change of Use from (class 9) residential to (sui generis) exclusive-use visitor accommodation (retrospective)
Site Address: Invergare Castle, Glenarn Road, Rhu G84 8LL

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Change of use form residential dwellinghouse and curtilage to exclusive-use visitor accommodation letting

(ii) Other specified operations

- None
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(B) RECOMMENDATION:

Planning permission be refused for the reasons set out herein.

(C) CONSULTATIONS:

Roads Helensburgh And Lomond – 29.07.2021 – Recommend that the application be refused in the interests of road safety.

Scottish Water – 23.07.2021 - 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.

Environmental Health - Helensburgh And Lomond – 26.08.2021 – 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 and 2021, 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 utilised.

Rhu and Shandon Community Council – 15.08.2021 - Objection on the following grounds: -

- The change of use will/has alter(ed) the character of this quiet part of the Rhu Conservation Area contrary to the Local Development Plan.
- Neighbours have been subjected to loud music, singing and shouting from inside and outside the house since the use started, including from outside hot tubs and a roof terrace. The number of reports to the police and the local authority over the last two years demonstrate that its current and proposed use is associated with uncontrolled anti-social behaviour and constitutes a noise nuisance.
- The number of reports of disturbances since the owners resubmitted their planning application is evidence of this. If they could not control their guests at this delicate time then it unlikely that they will do so in the long term.
- The owners are not on the site during rentals and telephone calls to them from neighbours have not always solved the immediate problem.
- Police visits have not proved to be a deterrent to intrusive noise due to limited (warning) protocol since the perpetrators are different for each call.
- It is advised that the owner has advised police that customers stays will be terminated with no refund if they are too noisy. This is not considered to be a realistic control as the only party who will benefit are the owners.
- 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.
- The Planning Statement submitted in support of the application "is heavy with unsubstantiated statements and sometimes ridiculous claims."
- It is hard to see how the proposal will benefit the local economy.

(D) HISTORY:

20/01248/PP - Change of use from Class 9 dwellinghouse to short term let (retrospective) by Mr. and Mrs. G Gardner – Withdrawn 23.07.2021.

19/00846/LIB - Alterations to form new patio doors to basement area – Refused 01/07/2019

19/00543/LIB - Internal alterations, installation of replacement windows and replacement lead works to roof – To be determined concurrently with this application for planning permission.

(E) PUBLICITY:

Site Notice - Conservation Area – Expired 18.08.2021

Listed Building/Conservation Advert – Expired 19.08.2021

(F) REPRESENTATIONS:

(i) Representations received from:

A total of 34 no. representations have been received objecting to the proposal:

Dr. F. Watt – No address given

Gordon Mackinnon - 45 Strathclyde Court Helensburgh Argyll And Bute G84 9PW

Graham Cotterell - The Coach House Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG

Michael Thornley - Glenarn House Glenarn Road Rhu Helensburgh Argyll And Bute G84 8LL

Sue Thornley - Glenarn House Glenarn Road Rhu Helensburgh - Objection

Margaret Thornley - Glenarn House Glenarn Road Rhu Helensburgh

Kim Maclean - Address Not Provided

Norma Bennie - Oakdene Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG

Anne Esson - Melsetter Torwoodhill Road Rhu Helensburgh

Gilly Barclay - Carbeth House Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE

Mrs Linda Fisher - Rowaleyn Cottage Glenarn Road Rhu

Mr. William Strachan - 10 Laggary Park Rhu Helensburgh Argyll And Bute G84 8LY

Margaret Mortimer - Artarman House Artarman Road Rhu Helensburgh Argyll And Bute G84 8LQ

John Abbot - Rowanlea Glenarn Road Rhu Helensburgh Argyll And Bute G84 8LL

Lesley Quirk - Glenard Upper Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE

Anita Jane - Elwood House Upper Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE 37)

Mike Jane - Elwood House Upper Torwoodhill Road Rhu

Hannah Jackson - Invergare Coach House Glenarn Road Rhu

Norman Quirk - Glenard Upper Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LE

Lesley Barton - Dunrowan Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG

Albert Barclay - Carbeth House Torwoodhill Road Rhu

Nick Barton - Dunrowan Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG

Mr. Colin Wood - 11 South Learmonth Gdns Edinburgh EH4 1EZ

Hilary Stuart - Dunaivon House Cottage Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG

Susan A. Miller - 8 Laggary Park Rhu Helensburgh Argyll And Bute G84 8LY
Rob Stuart - Dunaivon Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG
Mr. Neil Rosie - Mill Bridge Mill Lane Glenoran Road Helensburgh Argyll And Bute G84 8JU
Neil Richardson - Armadale Gareloch Road Rhu Helensburgh Argyll And Bute G84 8NE
Mrs. Lorraine Cotterell - The Coach House Armadale Road Rhu
James S. Murphy – Address not given
Frazer King - Hazelwood Torwoodhill Road Rhu Helensburgh Argyll And Bute G84 8LF
Clare Dickson – No address provided
Celia Taylor - Rowan House Armadale Road Rhu Helensburgh Argyll And Bute G84 8LG
Mrs. Vicki Richardson - Armadale Gareloch Road Rhu Helensburgh Argyll And Bute G84 8NE

(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 use for short-term letting (now described retrospectively as exclusive use visitor accommodation) has taken place over the last 2½ years without planning permission and with adverse impact on surrounding residents and the amenity of the area.

Comment: Addressed in full within the assessment within this report

- The supporting planning statement incorrectly states the change of use will result in no physical changes necessitating planning permission or listed building consent. Works were carried out 3 years ago without any permission or listed building consent.

Comment: - Noted. The works subject of the outstanding application for listed building consent under ref: 19/00543/LIB will be assessed concurrently with this application for planning permission. Further investigation will be undertaken in order to assess whether any development (other than shown within that application) has been carried out that requires planning permission or listed building consent and the appropriate action taken.

- 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; raucous shouting; loud laughter; sectarian chanting; screaming; 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.

- The proposed controls are ineffective. Reports of previous lettings (with dates) seek to demonstrate the lack of effectiveness of control mechanisms proposed by the applicant.

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

- The supporting Planning Statement indicates that the minimum let will be for 2 nights (to avoid parties). It is pointed out all of the problems have been experienced during previous 2 night lets. This will have no mitigating impact whatsoever.

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

- Letting of the property for up to 24 guests will result in an intensification of use relative to the historical use a single dwellinghouse with resultant impacts on traffic and road safety; disturbances; increased refuse; drainage infrastructure.

Comment: - Addressed in full in 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.

- 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.
- 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

Planning Statement – June 2021

- Proposed change of use for this B listed building in the conservation area will provide it with a sustainable function going forward that is appropriate today both to the character of the building and the character of the neighbouring area.
 - Guests staying at Invergare will benefit the local community and economy through direct employment opportunities and secondary spend in local cafes, restaurants, shops and activities.
 - Applicant is confident that the amenity concerns raised during the previous (withdrawn) application can be mitigated through a suite of appropriate planning conditions and (if required) a good neighbour agreement.
 - Focus on luxurious visitor accommodation for families and groups of friends.
 - Management procedures, including the following measures, will prevent adverse impact to neighbouring properties: -
 - No stag or hen parties
 - No loud music
 - Minimum stay of 2 nights (to prevent party bookings)
 - Property available as exclusive use to one booking at a time
 - The booking system routinely allows hosts and guests to screen one another.
 - A review mechanism will allow the hosts to give guests a poor review if they breach conditions e.g the use of external amplified music other than the supplied system." A poor review will impact on the guests' ability to make further future rentals.
 - The applicant is happy to explore entering into a good neighbour agreement guaranteeing use of the above screening/review mechanism
 - Such a control would be made explicit on the booking page dissuading guests from behaviour that would adversely impact local amenity.
 - Future licensing regulations for short-term let visitor accommodation is proposed by Scottish Government by April 2023 in order to give local authorities greater control over properties let out as visitor accommodation. In the meantime, several safeguards can be put in place to mitigate against adverse impacts on neighbouring residential properties.
 - It is important to note that all vehicle entering and leaving the property will use existing roads and the proposal will not require the construction of new roads.
 - It is not considered that an exclusive use for the property is likely to result in any greater intensification of traffic than would be anticipated if the house continued to be used as a single residential dwellinghouse. Means that family and friends groups will not need 1.2 spaces per room as it's likely that they will travel together and that some members will use public transport.
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- Market demand analysis provides evidence that there is a national and local demand for such properties let on an exclusive use basis.
- National Planning Framework (NPF) for Scotland and Scottish Planning Policy (SPP) recognise tourism as one of Scotland's key economic sectors with particular opportunities for growth.
- It is submitted that NPF4 (under production) is a useful 'signpost' from the Scottish Government in relation to the encouragement of tourism although it is acknowledged that NPF4 is not a material consideration in the assessment of this application.
- Argyll and Bute Council's Economic Strategy encourages the Council and its partners to support the growth of the important tourism sector.
- It is submitted that the proposed change of use is considered to be acceptable with reference to all relevant Local Development Plan Policy – 2015 and Policy 23 of the LDP2.

(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

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 5 – Off Site Highway Improvements

SG LDP TRAN 6 – Vehicle Parking Provision

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

- Scottish Planning Policy
- Consultee Responses
- Planning History
- Representations submitted with reference to material land-use planning considerations
- Argyll and Bute proposed Local Development Plan 2 (November 2019) – The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below:
 - Policy 14 – Bad Neighbour Development
 - Policy 23 – Tourist Development, Accommodation, Infrastructure and Facilities
 - Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
 - Policy 41 – Off Site Highway Improvements

(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 two and a half years 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 described as “exclusive use visitor accommodation.” Some explanation of this “exclusive use” terminology can be found in the supporting Planning Statement which advises that the letting of the accommodation will only be available as exclusive to “*one booking at a time; multiple, individual bookings not allowed.*” It is further stated that the focus on luxurious accommodation for families and groups of friends is reflected in its management arrangements.

The application is supported by a Planning Statement that seeks to demonstrate, amongst other issues, that control mechanisms can be implemented that will mitigate any material adverse impact upon the residential amenity of local residents. These suggested measures are summarised in Section G (iv) above.

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. As such, the propose development is contrary to policy LDP 9 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. It has not been demonstrated that potential impacts upon the residential character and amenities of the local area can be satisfactorily mitigated by means of management or planning mechanisms including planning conditions or a 'good neighbour agreement. The existing public/private regime does not have capacity to accommodate the resulting intensification, and change in nature, of traffic movements without detriment to highway safety.

(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: 3rd September 2021

Reviewing Officer: Howard Young

Date: 6th September 2021

Fergus Murray
Head of Development and Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 21/01404/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 letting period would result in general disturbance and significant detrimental 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. It has not been demonstrated that potential impacts upon the residential character and amenities of the local area can be satisfactorily mitigated by means of management or planning mechanisms including planning conditions or a 'good neighbour agreement'. Given the above the proposal is contrary to Policies LDP 3, LDP 5, LDP 9, SG LDP ENV 17, SG LDP TOUR 1 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.

The proposal is also contrary to Policies 14 (Bad Neighbour Development) and 23 (Tourist Development, Accommodation, Infrastructure and Facilities) of the proposed Argyll and Bute Local Development Plan 2 approved November 2019. Following consultation on this plan, no representations have been received on these policies and they will proceed unaltered into the adopted Local Development Plan 2 and can therefore be afforded significant weight.

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: 21/01404/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 1 no. separate letting unit, 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 5, 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.

Policy 23 – Tourist Development Accommodation, Infrastructure and Facilities of LDP2 has not been objected to and carries significant weight in the determination of this planning application. It has very similar requirements to the adopted policy.

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 and Policy 23 of LDP2. This assessment is consistent with the consultee response from the Council’s Environmental Health Service.

It is noted that the applicants supporting Planning Statement makes reference to NPF and SPP which recognise tourism as one of Scotland’s key economic sectors and encourage opportunities for sustainable growth. This is reflected in the Council’s Economic Strategy. However, this encouragement in principle must then be assessed

on a site-by-site basis with regard to the provisions of all other relevant Local Development Plan Policy and Supplementary Guidance. The supporting Planning Statement seeks to demonstrate that the proposed change of use respects the townscape, character and amenity of the surrounding area (with reference to SG LDP TOUR 1) on the basis that the building is already there and that no new built development is proposed. This interpretation of LDP policy is not accepted. The material change in use of land or buildings falls within the definition of 'development'. It is considered that the change of use will not respect the townscape, character and amenity of the surrounding area contrary to policy.

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 TRAN 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 11,326m² 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; crow stepped 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 (exclusive use) short-term letting accommodation.

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 the Gare Loch.

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.

The provisions of policy LDP 11 set out that the Council will seek to ensure that an appropriate standard of access is delivered to serve new developments. SG LDP TRAN 4 seeks to ensure that development is served by appropriate access arrangements and seeks to ensure that road safety and street design issues are

addressed, and SG LDP TRAN 6 establishes parking. In addition Policy SG LDP TRAN 5 requires proportionate improvements to be agreed with the applicant where development proposals will significantly increase vehicular or pedestrian traffic on substandard private or public approach roads. In addition, policies 37 – Development Utilising an Existing Private Access or Existing Private Road and 41 – Off Site highway Improvements from LDP2 carry significant weight as they have not been objected to. Policy 37 relates only to existing private accesses and roads. The other roads policies which relate to road safety and parking standards have been objected to and carry little weight. Policy 41 is almost identical to adopted policy SG LDP TRAN 5,

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 is 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 road safety contrary to the provisions of LDP 11 and SG LDP TRAN 4. Whilst the roads officer has raised concerns about the ability of the existing public road to serve the development in terms of road safety, no adverse comment have been made in relation to the existing private access therefore is not considered that the proposal would conflict with Policy 37 of LDP2

Road improvements in accordance with policy SG LDP TRAN 5 and Policy 41 of LDP2 were not pursued in this case due to the proposal being significantly contrary to other development plan policies.

Policy LDP 11 in conjunction with policy SG LDP TRAN 6 and the Access and Parking Standards require an appropriate level of parking with reference to the parking standards table for difference categories of development. In the absence of a specific standard for short term let use, the most appropriate use is considered to be hotels and hostels which requires 1 space per 3 staff plus 1.2 spaces per room. Bearing in

mind there will be no staff present at the same time as guests, the staff parking requirement has been removed resulting in a standard of 1.2 spaces per room equating to 11 spaces. No parking has been shown on the submitted plans, however the application form states that there are 12 spaces on site. On the basis of the information provided by the applicant, proposal does not conflict with Policies LDP 11 and SG LDP TRAN 6.

The applicant has stated that the level of traffic generated by the proposed use will not be materially different to that generated by the authorised use of the property as a single dwellinghouse, and as such that there will be a negligible impact upon road safety and the local road network. This is not accepted. The use of a property capable of providing short-term (minimum of 2 days rental) for up to 24 guests will result in a significant increase in traffic volumes, as well as resulting in a material change to the nature and pattern of traffic movements inappropriate to the capacity of the existing public private road regime. Additionally, the traffic generated by short term rental will very often be driven by drivers who are not familiar with the local road network (unlike residents of a dwellinghouse) increasing the risk of road traffic hazards.

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 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.

The applicant submits that the change of use will benefit the local economy in terms of direct employment opportunities and secondary spend in local shops, restaurants, cafes, attractions. It is not considered that the level of benefit to the local economy directly resulting from this exclusive use short term let accommodation will be of such significance to justify support of a proposal which is otherwise contrary to policy.

G. Impact upon Residential Amenities

The scale and nature of the proposed development falls within the definition of Bad Neighbour Development as defined in Schedule 7 of the the Town and Country Planning (General Development Procedure (Scotland) Order 1992, as such the proposal requires to be considered against policies LDP 8 and Policy SG LDP BAD 1. Development will only be permitted where it is demonstrated that the proposal will not adversely affect residential amenity or cause unacceptable roads issues. Policy 14 – Bad Neighbour Development of the Proposed LDP2 has not been objected to and carries significant weight in the determination of this application. This has a similar policy approach to adopted policy SG LDP BAD 1.

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.), however, the applicant has advised that the property will be let on an exclusive use basis.

A combination of the potential number of guests and the short term (min. 2 days) 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 acknowledged that the applicant has altered the description of the proposed use relative to the previously withdrawn application, and included suggested management mechanisms, in order to respond to potential impact upon residential amenities. Principle amongst these is that the property will only be let to a single family/group at

any one time and not to separate groups/individuals. It is not considered that this focus will reduce detrimental impact to residential amenities in practice, for example, a group of friends (or even a family group) under one single booking are readily capable in principle of occupying the property in such a way as to severely affect local residential amenities. It is further submitted that a minimum of 2 days booking will be wholly ineffective in discouraging parties. Local residents have submitted that much of the disturbance experienced has previously occurred (including the period after which the previous application was withdrawn by the applicants) in connection with “exclusive use” groups who had let the property over a 2 day period.

It is also considered that screening potential guests to stop stag or hen parties will be a crude and ineffective tool in practice, which is readily open to circumvention. It must also be noted that excessive noise and anti-social behaviour is not exclusive to stag or hen groups. Likewise, giving guests who break management rules regarding noise etc. a bad review in retrospect does not give a robust assurance that this control will be effective in protecting residential amenity.

The “exclusive-use” nature of the short term letting use, and the suggested mitigation measures and potential use of planning conditions to mitigate against impact on residential amenities has been fully taken into account in this assessment. However, it is considered that such planning conditions would not be realistically enforceable. In such circumstances, the use of planning conditions is not recommended. It is not considered that the various mechanisms suggested by the applicant for exploration will be sufficiently robust to demonstrate that the proposed use can be implemented without significant detrimental impact to the character of the area or local residential amenity.

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.

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. As such the use of planning conditions to secure satisfactory mitigation is not encouraged by Scottish Government.

Taking account of the above, it is considered that the proposal would fail to comply with policy SG LDP BAD 1. In addition, the proposal would fail to accord with Policy 14 of LDP2.

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. Policy LDP 3 and SG LDP are applicable in considering this application for planning permission. Policies LDP 3 and SG LDP ENV 17 serve 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 in principle 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 unduly detrimental impact upon the qualifying features of the designated Historic garden and Designed Landscape adjacent to the north of the application site.