

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on TUESDAY, 23 NOVEMBER 2021**

Present: Councillor David Kinniburgh (Chair)

Councillor Gordon Blair	Councillor Donald MacMillan BEM
Councillor Mary-Jean Devon	Councillor Jean Moffat
Councillor Audrey Forrest	Councillor Alastair Redman
Councillor George Freeman	Councillor Richard Trail
Councillor Graham Hardie	

Attending: David Logan, Head of Legal and Regulatory Support
Iain Jackson, Governance, Risk and Safety Manager
Howard Young, Area Team Leader
Norman Shewan, Planning Officer
Morag Smith, Applicant
David Scott, Applicant
Kenny Matheson, Dunoon Community Council – Consultee
James Walsh, Objector
Lynda MacDonald, Objector
John McDougall, Objector
Councillor Alan Reid, Objector
Councillor Jim Anderson, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Rory Colville, Kieron Green, Roderick McCuish and Sandy Taylor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MISS BARBARA SMITH: TEMPORARY CHANGE OF USE OF DWELLINGHOUSE AND CURTILAGE TO WILDLIFE RESCUE CENTRE (RETROSPECTIVE): 19 LOCHAN AVENUE, KIRN DUNOON (REF: 21/00514/PP)

The Chair welcomed everyone to the meeting which was held on a remotely in line with the Council's current approach to the Covid-19 guidelines. For the purposes of the sederunt, Iain Jackson, Clerk to the Committee today, read out the names of the Members of the Committee and asked them to confirm their attendance.

In advance of the meeting today interested parties confirmed that they would make presentations to the Committee. Mr Jackson read out the names of those representatives and asked them to confirm their attendance.

The Chair, having explained the hearing procedure that would be followed, invited the Planning Officer to present the case.

PLANNING

Norman Shewan, Planning Officer, presented the application as follows on behalf of the Head of Development and Economic Growth.

Background

This planning application was assessed by members at the PPSL Committee meeting on 22nd September at which time members determined to hold a discretionary hearing.

An informal site visit took place on Friday 12th November at which times Members were able to view the proposed site from the public road and from within the rear curtilage of the site. Internal access was difficult to arrange due to potential distress to animals and as such a short series of videos of the interior of the will be presented this morning.

Proposed development

The proposed development is for the temporary change of use of a dwellinghouse to a wildlife rescue facility with associated pens and aviary structures sited within the rear curtilage. The proposal is retrospective.

The information submitted with the application advises that

- capacity of animals at any one time is fluid depending on seasonal changes and the animals which are received however the typical average ranges between 70-100 animals.
- the wildlife rescue operates with 5 full-time and 10 plus voluntary staff members, with around 5-7 volunteers helping out daily on a staggered shift pattern in order to address various constraints including space limitations and COVID-19 restrictions.
- Procedural operations are carried out in accordance with an Operational Management Plan with regard to:-
Waste, Odour and Noise mitigation;
Pest control management;
Traffic/parking
- The proposal includes for ancillary on-site accommodation for the manager **or** a permanent staff member.
- The applicant has acknowledged that the aims and objectives for the centre are severely constricted by the limitations of the current site and that the centre is actively working towards securing a site for a purpose built centre that meet the demands of the local community and the aims of the charity. As such, this application is for a temporary planning permission in order to continue to provide animal welfare service during transition to a purpose-built centre.

Consultation Responses

- The **Council's Area Roads Engineer** has no objection to the proposal with regard to impact upon matters of road safety or congestion, and is satisfied that the site has adequate on-site car parking provision to meet the required standards. Note that any planning permission should be subject to a condition requiring that these existing spaces be kept available for use.

- **Council Environmental Health** has no objection to the temporary approval of planning permission subject to the welfare centre being operated in accordance with the submitted Risk Management Plan, which should be monitored and updated as an evolving, working document.
- **Dunoon Community Council** objects to the proposed development on the basis that it presents a detriment to nearby residents in terms of 'bad neighbour' type of development, health and safety and road issues.
- **Hunters Quay Community Council** objects on the basis that a dwellinghouse within a residential area is not an appropriate location for this type of use. HQCC however does acknowledge the benefits of such a use in principle and feels strongly that cooperation with all involved to find an alternative site is the way ahead.
- **Sandbank Community Council** supports the application for temporary planning permission on the basis of its positive contribution towards conservation and ecological protection.

Representations

A summary of representations has been reported to Members as part of the PPSL Report of Handling and those representations are available for inspection on the planning file.

Members will be aware from the supplementary Report to this Hearing that: -

- additional photographs have been received in support of previous objections received;
- A representation of support has been received;
- And clarification has been made that 1 no. supporter reported to PPSL on 22nd September had withdrawn her support prior to that meeting.

It is not considered that the items referred to in the supplementary raise any new planning issues that would affect officers' assessment or recommendation.

Members will be fully aware of the nature of both the support for and objections to this application.

In summary, the objections relate largely to the residential property located within a homogenous residential area being inappropriate for this use resulting in undue detriment to residential amenities by reason of noise, general disturbance, risk to health and safety and detriment to residential visual amenity. It is submitted that the proposal is contrary to the provisions of the LDP with particular reference to SG LDP BAD 1. Additionally, objectors are concerned that the use results in road traffic hazards and congestion due to on-street parking.

Supporters raise the positive benefits to the wider community of the use and submit that the use is capable of being continued for a temporary period without undue detriment to residential amenities.

Assessment

This proposal falls within the type of development that has to be assessed under the provisions of SG LDP BAD 1 – Bad Neighbour Development. The provisions of policy LDP 8 and SG LDP BAD 1 mean that development will only be permitted where it is demonstrated that the proposal will not adversely affect the residential amenity. Objections in this respect have been fully assessed, however, Council environmental health officers have investigated previous complaints and failed to identify material harm to residential amenities. Likewise, numerous site inspections by planning officers has failed to provide any evidence of material harm. In the absence of direct evidence to the contrary, officers consider that the recommendation for approval is consistent with the provisions of the adopted Local development Plan, including policy LDP 8 and SG LDP BAD 1.

It is considered that the proposed use does not give rise to any issues of road safety or congestion and has adequate on-site car parking provision to meet adopted standards as confirmed by the Council's Roads Engineer.

The Planning Officer then ran through a series of slides showing photographs of the outside of the property and garden and referred to various issues raised by objectors. He also presented video footage of the inside of the property

Conclusion

Having regard to all material planning considerations including the relevant provisions of the Local Development Plan; Consultee responses and the land-use planning issues raised by objectors and supporters, it is considered that the proposal for a temporary change of use is acceptable as recommended.

APPLICANT

Miss Smith commented that much of what she could cover had already been addressed by the Planning Officer and that she had nothing new to bring to the table. She referred to receiving various visits and inspections, both planned and unplanned, over the years and said that she agreed that a residential house was not the best place for a wildlife rescue centre. She said they were massively limited with what they could do, and the number of animals they could help. She advised that they worked closely with a number of agencies including the SPCA and Hesselhead Wildlife Centre, which, she hoped showed that animal welfare was their primary concern. She advised that inside the house was where most of the activity went on and that she struggled with issues made about noise. She said that, yes, her garden was messy, but it backed onto a forest with trees etc, and that it was a wildlife rich area on its own merit. She said that she did not expect neighbours to be openly supportive of this. She advised that she thought the proposal had to be fairly assessed using factual material; it should be an evidence based assessment to see if it could continue to run without major disruption. She said that many of the objections were highly emotive. She asked the Committee to look at the facts. She pointed out that there would be no change and that the points made were not valid.

She said that the planning application was for a temporary change of use and that they were not going to change anything that they did. They would not be putting up any structures and that there would be nothing different to what they did normally.

She advised that some of the older pens, some of which had been donated, and which were now unsuitable, would be replaced. She pointed out that ultimately this was her home and that she lived there. She said she wanted to continue to offer a service, not just for the animals, but for the community. She referred to working with mental health groups and people on the autistic spectrum. She highlighted again that this was a temporary application and that they would never achieve their long term goals at this site as there was no space. She said she would like to have her house back and hoped to have the rescue centre developed as intended. She said a lot of objections were emotive and it needed to be considered whether they were based on fact or emotion. She said she believed the proposal needed to be fairly assessed.

CONSULTEES

Dunoon Community Council

Mr Matheson advised that Dunoon Community Council felt that Argyll and Bute Council had failed the residents of Lochan Avenue. He said that serious health issues could arise and were not being dealt with nor appropriately managed. He said that Environmental Health should have acted immediately and that the Community Council could not believe that this had been going on for 7 years. He referred to the mental health issues caused to residents and said that common sense needed to prevail. He said the Community Council did not support the temporary planning permission. He advised that if it was granted it should be limited to 6 months to a year. He referred to the roads issues and advised that this had been discussed at a lot of Community Council meetings. He said that the Committee needed to think about the neighbours, that this was a residential area and that people had put up with this for 7 years. He said that the property should be put back to residential accommodation. He pointed out that with the assistance of the RSPCA the animals could be rehomed. He advised that the Community Council strongly objected to this temporary consent but if it was approved it should be time limited.

OBJECTORS

James Walsh

Mr Walsh advised that he represented the views of a number of residents in Lochan Avenue as follows:

The basis of the residents' objections that were material and relevant were that:

- The proposal for a temporary change of use of this domestic property to a wildlife rescue centre and the resultant intensification of this use from the activities would be incompatible with the lawful uses of all of the properties situated in the Lochan Avenue housing development, will have an adverse and detrimental impact on the adjoining houses across the road and be inconsistent with the spirit, terms and purpose of the Local Development Plan, specifically policies LDP 3, LDP 8 and LDP 9.
- The suitability and nature of the make shift domestic dwellinghouse, its change of use to a wildlife rescue centre, the intensification from this use and activities, together with the scale of operation gives significant cause for concern –

- a) With the advised provision of a service from 9 am until 9 pm and possibly later with emergency activity 7 days per week.
- b) The employment of 15 plus full time and part time volunteers.
- c) The caring for 100 birds/animals at any given time.
- d) Limited parking with potential problems from vehicle movement, noise, and obstruction issues.
- e) Impact from site operations because of the restrictive nature of the dwelling and its curtilage.
- f) Impacts from the management of animal waste in particular in hot weather.
- g) Concerns resulting from the shared arrangements for animal welfare and domestic requirements.
- h) The creation of unacceptable roads issues.

All of this creating the potential for unacceptable problems of general nuisance, unpleasant smell, noise pollution, light pollution, attraction of insects and vermin, the potential for infection and disease, road hazards and detriment to road safety.

This suggests that the activities at the dwellinghouse would promote bad neighbour type activities and be inconsistent with the Local Development Plan and Bad Neighbour Policy SG LDP BAD 1, also Policy 14 Bad Neighbour Development of the proposed LDP2.

- The proposal for a temporary change of use for a three year period and in advance of securing an animal welfare licence of this private domestic dwelling raises concerns around health and safety with regard to the make shift nature and suitability of the property. For example, the shared domestic arrangements and the requirements for animal welfare and care utilising and sharing the kitchen, dining and living room areas with evident limitations and restriction on accommodation, space and capacity as illustrated in the supplied photograph. Added to this, concerns with the shared nature and use of the garage area for freezers, storage, and quarantine accommodation so close to the adjoining property. Further concerns with the suitability or lack of proper ventilation and air control at the dwelling and garage facility.

Notwithstanding the advice provided in the planning report that the site is capable of operating as a wildlife centre though subject to it being operated in accordance with the Risk Management Plan

Based on the experiences to date the residents have no confidence with this advice or that this Risk Management Plan has been forensically examined and no confidence that the property has the capacity, further no confidence that the appropriate resources will be available to efficiently and effectively address the supervision of this Management Plan or its implementation. Health and safety questions and concerns remain around the standards applying at this make shift facility that has had no health and safety adaptations carried out.

- a) Concerns with the numbers of volunteers working in this restricted environment at any given time in shifts advised as 5 to 7 people with potential social distancing issues.

- b) Concerns with the shared nature with the domestic facilities and ability to put into place precautions that will prevent and control the spread among the animals and people from infectious diseases, pathogens and parasites.

The residents in Lochan Avenue are disturbed, that they find themselves facing a situation where a domestic make shift facility, without any adaptations, is being recommended to continue operating for another three years, with questionable standards and consequent threats to their future health and safety.

They are extremely disappointed with the Planning Service. This follows them representing on their real concerns, with what they feel has been a protracted and disproportionate experience with the Service and this unlawful activity. This in particular at a time when considering all of the consequences and experiences from the Covid-19 pandemic. The potential for bird flu is another concern. The residents therefore object to this proposal on the grounds of health and safety.

- The residents have concerns and are not convinced with the advice being supplied by the Area Roads Engineer, that the local public roads regime is appropriate and has the capacity to accommodate any intensification of traffic without detriment to the free flow of traffic or road hazard. Whilst noting from the report that the original assessment for off road parking and shortfall has changed based on the advice from the Applicant, that the primary use of the dwelling will be as an animal rescue centre with, the domestic use being ancillary and now requiring only three places for the off road parking. The change conveniently advises that three vehicles can now be accommodated with cars parking nose to tail in the driveway. The Area Roads Engineer, in his advice, fails to recognise,
 - a) The limitations of road width,
 - b) .The multiplicity of vehicle accesses on both sides of the road, the distances between those accesses, and the limitations on available parking capacity.
 - c) The likely significant increase in on-road parking, with resultant reductions on access sightlines and detriment to safety.
 - d) Increased traffic movements from people working and calling at the facility, increased services for waste collections and delivers.
 - e) Vehicle conflicts with manoeuvring into and out of accesses.
 - f) Vehicles obstructing access due to the limitation on available on-road parking space.

It is important to highlight that with the three vehicles parking nose to tail at the development, those vehicles will require to either reverse from the main road onto the driveway or reverse from the driveway onto the main road, creating potential hazards and road safety issues.

It is the view of the residents that no proper scrutiny or survey work was conducted to inform the advice being supplied by the Engineer.

The assessed view from the residents is that the intensification of vehicle activity in the Lochan Avenue area will create obstruction, restrict access, increase noise, increase on-road parking, creating sightline problems and will result in detriment to the local amenity of the area with bad neighbour activity, be prejudicial to the road

safety for the residents living in this area. The residents object for the reasons for road safety detriment, loss of amenity and bad neighbour activity.

In conclusion, it has been noted from the report by the residents, that the only and questionable material justification put forward by the Planning Officers for recommending that a temporary consent for three years be granted, relates to the temporary nature of the application, their suggestions that the operations are no different than that from houses with several pets and can see no visual impact on the local amenity. The recommendation completely disregards the residents' experiences and concerns on detriment to the area, follows inconsistencies around the suitability and capacity of this residential dwelling, and a misplaced and disproportionate approach in the consideration and assessment of the real issues affecting the area. Further the Applicant advises that because the dwelling is unsuitable for her ambitions the Applicant is actively seeking an alternative location that does not limit expansion.

Reasonable commentators following the reading of the report and when being aware of the facts, have concluded that this process has been designed to circumvent the Local Development Plan and its policies and secure an outcome as recommended in the report.

I would support the residents' request for the refusal of this application and the cessation of this activity.

Lynda MacDonald

Ms MacDonald advised that she lived next door to 19 Lochan Avenue and was speaking on behalf of neighbours. She said the residents, who lived at Lochan Avenue, appreciated this opportunity to speak and put forward their objection to this retrospective proposal.

The residents recognise there may be a local need for wildlife rescue centre but it was not appropriate for it to be delivered from a residential house. Any such service should operate from a property planned, suitable location, well laid out, that properly protect the animals being cared for, the staff working there, and the wider public who require to call or live nearby.

This centre has been operating without planning permission for over 7 years and has grown significantly since that time. No alternative, suitable premises have been identified over that period of time and she was not convinced that granting a temporary permission would progress this.

The Committee needed to be aware and heed the neighbours' experiences and concerns because the problems have been real. Due to the unsuitability of this unlawful arrangement, their living conditions have been intolerable with problems of unpleasant smells, noise, plagues of flies and vermin, all clearly emanating from the presence of this dwelling. Neighbours have suffered much detriment with the loss of amenity and the enjoyment of their property with the consequent reduction in their quality of life.

It is noted from the Planning report that because of the assessed shortfall with parking, that if the application was granted, despite the shared nature of the residential use, that the future residential use will be ancillary, as the primary use will be the wildlife rescue centre.

It should also be noted that this dominant use of the residential property was highlighted to the Planners in an initial complaint by the neighbours and has persisted for some years. It is a matter of extreme regret that following representations from the residents it has taken in excess of 3 years to progress the enforcement process and resolution. Ms MacDonald advised that Jo Rains visited the property a number of years ago and met with herself and neighbours and said that she would not want to live next door.

Planning legislation requires that decisions on planning applications should be made in accordance with the Development Plan unless material considerations indicate otherwise.

The residents have considered the two main tests in their consideration on what is material and relevant and are of the view that this proposal does not accord with the Council's Development Plan, its intent and purpose. The granting of consent for this proposal will set an undesirable precedent, creating changes for unlawful commercial and retail uses of private domestic dwellings, in the heart of residential housing developments, that will result in an unacceptable intensification from those uses and activities, with detriment to the local amenity and consequent reductions in the quality of lives for people living there.

On a personal note, Ms MacDonald advised that living next door affected her privately and professionally. She had no pleasure or enjoyment from sitting in her garden in the summer due to the odour and noise and the constant stream of visitors looking into her garden. She said that she could not open her bedroom patio doors in the summer and that this was impacting on her health and wellbeing and her work. She said that she has been referred to Occupational Health and that she had worked during the difficult times during the pandemic.

The residents' assessment of the application confirms that the proposal represents a departure from the Development Plan policies LDP 3, LDP 8 and LDP 9, Bad Neighbour policy SG LDP BAD 1 and policy LDP 14 Bad Neighbour Development of the proposed LDP2. The proposal further raises concerns on health and safety and road safety issues in Lochan Avenue.

It was also an important point to further highlight that section P of the Planning report advises that had a planning application been lodged for the change of use of this domestic dwelling to a wildlife rescue centre, it would not be accepted with reference to Local Development Plan policy.

Another point to note was within the Planning Report section at conditions and reasons, page 47, paragraph 2 – if consent is issued today for a 3 year period, other than a further permission for continued use, following application, being granted this would create a legal and established use. A process assessed as disgracefully designed and manoeuvred to circumvent and get around the Local Development Plan policy.

Residents feel and request that the application as applied for be refused, that the enforcement process continues for the cessation of this unlawful use of this residential dwelling and that the animals currently domiciled at this dwelling should be relocated with the support of the SSPCA and Environmental Health to the facilities at Hesselhead, Ayrshire and/or the Vale of Wildlife Hospital, or other suitable facilities.

She said she hoped the Committee would take on board the real and valid points stated in the individual objections.

John McDougall

Mr McDougall commented that at the beginning of the hearing the Council Officer had said there was no evidence of material harm when visiting the premises. He advised, that as a resident of Lochan Avenue, this was nonsense. He pointed out that Lynda MacDonald had given a clear idea of what the street and she have suffered, which included the comings and goings of people and vehicles, the smells that could be detected, and the noise and mess from sea gulls. He referred to concerns about rat infestations and concerns that the Risk Management document did not address these problems.

He referred to specific points within the Plan and noted that young sea gulls would be kept in covered pens to reduce calling to wild gulls. He questioned why you would keep sea gulls in a back garden. He also questioned what was meant by reduce. He also referred to the Plan advising that feeding platform to be emptied of food and disinfected each night. He said this implied that the platform would have food on it during the day and he suggested that this would attract rats and questioned why this would not be a material harm. He then referred to the section in the Plan about disease transmission and said that there was no mention of the transmission of disease from animals to humans, which was concerning due to Covid-19 and avian flu. He said he agreed with Mr Walsh that this was entirely inappropriate. He then referred to the smells and advised that the Plan stated that all waste water to be sieved of solids and only emptied down the drain. He questioned what species produced solids that did not smell.

He advised that in general the document was so complex. It was pretty clear that a wildlife rescue centre was far too complex to be in a living room, garden, kitchen and bathroom of a residential bungalow, especially one that was cheek by jowl with other residential bungalows. He said that the residents living close to the wildlife centre have been, and would continue to be, unable to enjoy the peace and tranquillity which was their right in their homes.

He advised that the Council had a duty of care and if permission was granted the Council would be in dereliction of this duty of care. He said that if this happened the only reasonable course of action to take would be to mount a legal challenge against the Council. He advised that he thought the Council should listen to common sense and stop this development now.

Councillor Alan Reid

Councillor Reid advised that having read the objections and heard the testimony from neighbours today, the Committee would know about the misery of living close to the wildlife centre due to the noise, the sleep deprivation, the smells and the traffic problems.

It could be seen from the photographs that the houses in Lochan Avenue were built very close together and as Mr Walsh put it, you could not open both doors of a car in the driveway.

He referred to the Environmental Health submission, "Given the proximity of the operation to local housing and the nature of the operation, there is a high likelihood of nuisance arising from smells and flies." He said he could not believe that you could ignore that professional opinion.

The whole point of the planning system was to separate different categories of land use which were not compatible with each other and a home and a wildlife centre were not compatible.

The Local Policy LDP 8 – Supporting the Strength of Our Communities reads, “The Council will support new sustainable development proposals that seek to strengthen the communities of Argyll and Bute, making them better places to live, work and visit.” He questioned whether living next to a wildlife centre looking after a hundred animals made Lochan Avenue a better place to live and said if this was not believed then the Committee must reject the application.

He advised that one reason for separating residential and business use was traffic and there was no doubt the wildlife centre has caused traffic problems.

The Council’s Roads Engineer says the centre needs three off-road parking spaces. Councillor Reid pointed out that there were three spaces but these were all in one row, so the back two cars could not get out unless the front one was moved. Human nature being what it was, people would be reluctant to park off the road where they were going to be blocked in, and so they could park on the street.

He said that the evidence of the residents backed that up. They say that the volunteers did not manoeuvre in and out of these parking spaces. They just parked in the street causing traffic chaos.

There was even evidence in the submission from one of the supporters of the difficulties carers attending to an elderly resident have experienced finding a parking space.

He pointed out that there were 40 supporting comments and none of these came from Lochan Avenue. All the comments from Lochan Avenue were objections because the residents experienced daily the grim reality of living in close proximity to the wildlife centre.

He said he had received many phone calls and emails over the past three years from neighbours begging him to get the wildlife centre moved away.

He drew the Committee’s attention to the first paragraph on page 12 of the report,

“Several representations support and commend the intentions of the applicant whilst stating that the site is inappropriate for the use and that an alternative site more remote from an established residential area would be appropriate in all respects.”

He said that paragraph was key. A wildlife centre was needed, but should be situated remote from people’s houses.

He also advised of an email he received from Stuart Green, the Council’s Corporate & Support Manager, in which he writes, “there is optimism that a site suiting their requirements will be identified and a leasing arrangement can be put in place.”

Councillor Reid said it should be noted that the Applicant also agreed that her house was not the right location for the wildlife centre. She only applied for temporary permission until the end of next year to give her time to find more suitable premises.

However, although she only applied for permission for another 13 months, the planning officer has advised that you should give her permission for three years. He said he found that inexplicable.

The supporters think the wildlife centre should be somewhere else. The Council's Corporate & Support Manager is optimistic that other more suitable premises can be found.

But despite this, the premises have been used as a wildlife centre for seven years. He said that was surely long enough for temporary use.

He advised that if the Committee granted permission for a further three years, there would be no impetus on the Applicant to move during those three years.

He asked the Committee to reject the change of use. The animals would not suffer because they would be moved to more suitable premises which the Council was optimistic can be found.

He reminded the Committee of the professional advice from Environment Health – “there is a high likelihood of nuisance arising from smells and flies”

Noise from wild birds calling to the birds inside. The United Nations recognise sleep deprivation as a form of torture.

He asked the Committee not to sentence the residents to three more years of noise, sleep deprivation, smell and traffic congestion and to refuse the application.

Councillor Jim Anderson

Councillor Anderson advised that like the last 2 speakers he had real concerns about the Mental health and wellbeing of the residents in Lochan Avenue and presented his objection to this proposal as follows:

The street, including the house which has been turned into the wildlife centre, is in a settlement zone. KEY OBJECTIVE A of the Local Plan is, “To make Argyll and Bute’s Main Towns and Key Settlements increasingly attractive places where people want to live, work and invest.”

By making Lochan Avenue very unattractive to live in, the wildlife centre is contrary to KEY OBJECTIVE A.

Policy LDP 3(C) reads, “A development proposal will not be supported when it does not protect, conserve or where possible enhance the established character of the built environment in terms of its location, scale, form and design.”

As per the document description of proposal Environmental Health clearly state that given the proximity of the operation to local housing and the nature of the operation, there is a high likelihood of nuisance arising from smells and flies. The Applicant is required to assess all likely nuisance arising from the operation of the site and submit a management plan to the Planning authority. How will this be monitored on a daily basis?

Policy LDP 8 – Supporting the Strength of Our Communities reads, “The Council will support new sustainable development proposals that seek to strengthen the communities of Argyll and Bute, making them better places to live, work and visit.”

Since this development makes Lochan Avenue a worse place to live it is contrary to this policy too. This will also have a detrimental effect on the Mental Health and wellbeing of the residents in Lochan avenue.

What are the implications for the council if someone else wants would like to open the equivalent business set up we have to assume it would be granted.

It is commendable that people are willing to give their time to look after injured animals, but the wildlife rescue centre should be located in an appropriate setting, well away from peoples’ homes. A house in a street where every other property is a dwelling is not an appropriate setting. People have the right to live without having access to their houses disrupted or delayed.

People have the right to live without being disturbed or sleep deprivation by the early morning bird calls or having to put up with smells.

The council needs to work with the wildlife centre to establish a proper site for this operation which helps animals. What if there are too many animals surely this would have a detrimental effect on the animals’ wellbeing.

The planning system is meant to locate new developments in an appropriate setting. This is definitely not an appropriate setting, and the application should be refused.

MEMBERS’ QUESTIONS

Councillor Trail asked the Applicant what plans she had, or have been, undertaken to secure a new site for the animal rescue centre. Miss Smith explained that she has been working extensively with the Council’s Estates Department over the last 2 – 3 years. She said that she has also worked with property/land owners, both the Council and private owners, to find somewhere suitable to build or renovate to create somewhere for the rescued wildlife to be located. She advised that she was optimistic that they had found a site but ultimately this would not happen overnight, hence the submission of an application to buy time to build or buy a centre.

Councillor Trail sought and received confirmation from Miss Smith that she would be able to secure the financial resources to develop the site to be a wildlife rescue centre.

Councillor Devon referred to an enforcement order being served on the proprietor and an investigating Officer subsequently visiting the site to find that the operations had not ceased operations and sought comment from the Planning Officer on whether he thought this, at that point, tended to be a bad neighbour development. She also asked the Planning Officer why the RSPB were not consulted on this proposal. She then asked the Applicant to confirm how many of her 15 staff were on a shift at the same time and how many of them owned cars.

Mr Young said the issue with enforcement was always going to be what would happen to the animals afterwards if they were moved them. He said he had difficulty getting a response from the SPCA in terms of the potential for moving the animals. At that point, Environmental Health, as they are now, were saying that the Risk Management Plan was

suitable from their point of view, to manage any particular bad neighbour development in the short term, hence the reason why a short term temporary approval was recommended. In respect of consulting with the RSPB, he said that they did not normally consult with the RSPB unless it involved a specific designation like a Special Protection Area so we did not do it in this case. He advised that they had consulted with the Animal Welfare Officer but got no response. He said he did not think the RSPB were a big player in this.

Councillor Devon referred to concerns about animal welfare and health and safety as it has been accepted that disposal of animal waste and power washing of animal cages was done in close proximity to neighbours and this was, as Mr Young said, one of the main considerations material to this assessment. She asked Mr Young if he felt that what was covered in the assessment in the report was sufficient to address all this.

Mr Young said that various components made up the application and that was why they consulted with others in some cases. He advised that as Environmental Health have indicated no objection to the proposal based on the Risk Management Plan, he was happy to accept this. Members could disagree and take a different view but he advised that he was happy to follow the instructions of those who dealt with technical issues every day.

Miss Smith said that on a good day the maximum number of people that would be on the site would be 5. She explained that staff worked in shifts because of the way the cages were laid out and the amount of room there was to move about. She advised that 3 of her volunteers owned cars and that they parked in the driveway. She referred to the welfare of the animals and advised that they were highly restricted and monitored in the chemicals and processes used. She said that although this was a rescue centre running from a residential dwelling, strict protocols were followed and they worked extremely closely with the RSPCA. She advised that the RSPCA supported the centre and would take any animals if there was no room at the centre or outwith the centre's ability to care for them, or they were transferred to Hesselhead.

Councillor Devon sought and received confirmation from Miss Smith that there was never an occasion when staff parked on the street.

Councillor Moffat sought and received confirmation from Miss Smith that she owned her home. She also confirmed that the centre was a registered charity and that they were liaising with Argyll and Bute Council Estates Department to look for other places to house the centre. Miss Smith advised that they had been dealing with lots of people, including private landowners and that they had gone through a number of potential options. She said the most likely option was with Argyll and Bute Council as they may be able to secure a plot of land through them.

Councillor Moffat questioned why the Council were helping to rehome someone and said that if she, as a private home owner, was looking to move, she did not think she would get anywhere with the Estates Department. Miss Smith advised that she was not looking to move from her home, she was looking for a new site for the wildlife rescue centre.

Councillor Hardie asked Planning if Environmental Health had carried out a noise survey. He also asked the Applicant if staff undertook training and what experience the Applicant had to run a rescue service. He referred to there being 100 animals in the house and asked the Applicant if she worried about their welfare.

Mr Young said he was not aware if Environmental Health Officers undertook a noise impact assessment. He said he believed that adjoining residents were asked to keep a noise diary and that if they did this, these would have been taken into account when Environmental Health carried out their assessment of the proposal.

Miss Smith said that she had asked on a number of occasions for a noise assessment to be done as the noise levels claimed were not how it was. She pointed out that they lived in front of a woodland and close to the sea. She said there was no increase in wild birds to the area. She referred to the number of animals the centre had, and advised that this varied hugely. She said she had to put in a maximum number in the application. She advised that in the spring time they could have one small cage that could house 2 or 3 nests, comprising 6 – 8 baby birds at any one time. Although the numbers sounded huge, these were not adult animals and they were not there at the same time. She said that a lot of the young were kept in incubators and were not making a noise. She said she put in the maximum number so she was not un-factual with the numbers that could be cared for. She said they would very rarely have as many as 100 as they were limited with space. She advised that the welfare of the animals was paramount. With regards to training, she advised that she was a qualified insured marine mammal medic and has attended numerous wildlife care courses. They also work very closely with huge rescue centres and herself, the volunteer vets and other longer term volunteers regularly spent at least a week at one of the major wildlife centres in England to gain additional skills in addition to what she taught herself. She said she was very active in making sure everyone learnt new skills and that they were appropriate as the welfare of the animals was paramount.

Councillor Forrest sought and received confirmation from the Applicant that she had been looking for a new base for 3 or 4 years. She said this was before an enforcement case was opened. She said she had never set this centre up on purpose and that it had not been a planned process. It had grown arms and legs by itself as she had the skills. She advised that they had already been speaking to private land owners and the Social Enterprise Team, Officers of the Council, and another third sector enterprise team.

Councillor Forrest asked Ms MacDonald if she had completed a noise diary and asked what was in it. Ms MacDonald said she had been issued with a noise diary from Environmental Health after continued complaints about the noise. She said that the noise diary was not fit for purpose as she would have had to have been at home 24 hours per day to really capture all the noises. She said that at that time there was constant noise from the pheasant every morning from 3 – 5 am. She said that work and family commitments meant she could not capture the rest of the noise which came to the area.

Councillor Blair sought and received confirmation from Mr Shewan that his definition of which properties would be in the vicinity of the site would be those houses on the same side of the street and those on the opposite side of the street at Lochan Avenue and perhaps extending a bit further. Councillor Blair commented that he counted that this would amount to 66 homes and he had noted from the report that 14 of the 66 households had submitted an objection to this application. He said that he also noted that only one supporter resided within the vicinity of the site.

Councillor Blair asked the Planning Officers if there would be any economic advantage to having the centre relocated within Cowal. Mr Young said it was difficult to tell. He said that his view was that there would be minimal economic impact in terms of benefit to the local economy but he could be wrong.

Councillor Blair referred to Mr Matheson advising that the Community Council were keen to see the centre relocated but not within the timescale of 3 years and had indicated 6 – 12 months. Councillor Blair asked Mr Matheson if the Community Council would support a move to make that a possibility with the support of the community. Mr Matheson said the Community Council would be supportive as long as this application was rejected and the timescale to move was reconsidered. He advised that if this went on for another 3 years he did not think the centre would move. He pointed out that this was a residential area and this objection was for the people who stayed there. He advised that the Community Council always took advice from the residents in their area and the Community Council were fully supportive of their objection to this application. He said that if the application must be approved it should only be for 6 months to a year maximum as another 3 years would bring it to 10 years. He commented on the value of homes going down and owners not being able to sell them. He advised that the Community Council supported the application being rejected but if it was approved would like the time limit to be 6 months to a year for the animals to be moved.

Councillor Blair sought and received confirmation from the Applicant that she took advice and made any necessary amendments to the management of the centre if required. Miss Smith pointed out that they have never been asked to change anything and that those who have inspected the premises have been happy from the outset as to how the centre was run. She said that Environmental Health have never turned up, planned or unplanned, and found anything they wished to be changed. Miss Smith confirmed that the Risk Management Plan was a live working document and that it would be adjusted as and when necessary to account for anything that may come up. She confirmed that they have complied with everything and there have been no notes of concern, nor anything that has had to be actioned.

Councillor Blair asked Ms MacDonald if she would be supportive of the centre if it was possible for it to be relocated with all the animals moved as quickly as possible, or did she want the centre closed down completely. Ms MacDonald said that all the neighbours would be supportive if the centre was relocated as they were all animal lovers. She said they had no objection to there being a wildlife rescue centre, it was where it currently resided that they were objecting to. She said that if the centre was given a maximum of 6 months to move that would be perfect. She also said that with the fact that the centre was involved with other agencies she was sure there would be no problem with getting the animals relocated.

Councillor Freeman asked Planning Officers if this was approved would the centre require to be registered for non-domestic rates if there was a change of use. He also referred to the application being retrospective, and asked if the centre should have been registered for non-domestic rates while it was used in this manner. Mr Young said that he could not advise as this subject was not his area of expertise.

Councillor Kinniburgh referred to Mr Matheson's comment that if this application was granted on a temporary basis for 3 years this would bring the period of operation up to 10 years. He asked Planning if they could confirm if this would result in a deemed grant at this point. Mr Young advised that in terms of enforcement the clock started ticking at certain times, 4 years and 10 years, depending on the type of development. He confirmed that in this case the change of use would be legal after 10 years if no enforcement action had been taken. Where there was an enforcement notice in place, as there still was, then that 10 year rule did not apply.

Councillor Kinniburgh referred to the number of parking spaces in the driveway. He pointed out that what was being proposed was a business and asked Planning if there were different parking policies for a business, for example, should there be space for a turning area to enable vehicles to enter and egress from the property in a forward motion. Mr Young said that it was his presumption that you would have to go in and out in a forward gear but the his Roads Engineer colleagues, who were the experts in this case, have said this was not the case. He advised that it was always an issue at hearings when other Consultees were involved, like Roads and Environmental Health, that they did not seem to come along as often so Planning had to rely on their consultation response to the application. He said that he would presume vehicles would have to come in and out in a forward gear but as the Roads Engineers have indicated in this case that they were happy with the proposal and without their input he could not comment further on that.

Councillor Kinniburgh asked the Applicant how quickly she envisaged being able to relocate to suitable premises. He also asked if she was looking at suitable land for a purpose built centre or looking at a suitable property that could be adapted. Miss Smith said she has been looking at both. She advised that the Council did not have a huge catalogue of property or land and the properties she had looked at were not suitable for various reasons. She said the place she was looking at, at the moment, was a piece of land and it would take a reasonable amount of time to relocate there. She said ground clearance would be required before building. She said they could be fairly flexible with the type of structure. Ideally, she advised, they would like it to be eco-friendly and as environmentally unobtrusive as possible. She pointed out that the centre was run from a house at the moment and they would only require a building with rooms and this could take the form of a shed type building rather than a bricks and mortar house. She advised that they could even use a shipping container. She said that whatever they used would need to be suitable for the site and the least unobtrusive to the environment. She said that the site they were looking at was a brownfield site which would need access to roads. She advised that her choice would have been for an easily converted property but any they have looked at have not been suitable and that this was the point of view of Planning Officers too, due to their size and proximity to residential areas. She advised that ideally she would like the centre to be close to the town centre as being too far away would cause other potential problems.

Councillor Kinniburgh sought and received confirmation from Miss Smith that they had looked at 30 or 40 properties and that none had been suitable. She advised that they had initially looked at the most simplest option to get moved in and set up with the least disruption rather than building from scratch. She said the centre required more space as it was not intended to be just a rescue centre it would be much more than that. She confirmed that the other 30 or 40 properties would not have been cost effective to take on and expand.

Councillor Kinniburgh asked the Planning Officers if this proposal had been a fresh application to do what the Applicant was doing at the moment in her home, would it have been acceptable. Mr Young said that was difficult to judge as each application was considered on its own merits. He advised that Environmental Health were a key player and were not objecting on the basis of the Risk Management Plan. He said that Roads were also not objecting even though this was primarily a commercial premises and not residential. He said that if it was a long term option then probably not, but as a temporary option given the Roads and Environmental Health assessment then potentially it would.

Councillor Kinniburgh referred to section P of the report of handling which stated that "it is acknowledged that an application for change of use of a house to a commercial character

of development would not normally be accepted with reference to LDP policy” and asked Mr Young to comment. Mr Young advised that there were many examples of businesses being able to run from a home without the need to apply for a change of use, for example, running a nursery, distributing goods and workshop operations. He said that assessing a house for commercial use was not unheard of.

The Chair ruled, and the Committee agreed, to adjourn the meeting at 12.35 pm for a short comfort break.

The Committee reconvened at 12.45 pm.

SUMMING UP

Planning

Mr Young summed up as follows:

When I took over the role of Area Team Leader for Bute and Cowal I inherited this site as an enforcement case. Previously the initial assessment by my colleagues was that there hadn't been a change of use. I had to make my own assessment and having visited the site on a number of occasions I concluded that there now was a change of use requiring planning permission. The application is now before you for consideration.

We are required to assess each planning application in terms of Section 25 of the Act against development plan policy and other material considerations. The report of handling and supplementary report set out that policy background and the other material factors.

As stated by my colleague it is considered that the material considerations can be broadly categorised as whether this is an appropriate use in a residential area, the impact of visual amenity, the intensification of traffic and whether the proposal is contrary to the provisions of the Local Development Plan.

In terms of visual amenity it was stated that given the cages are located largely to the rear of the site, it is not considered there is a significant visual amenity at this site. Equally in terms of traffic, my Roads Engineer colleagues have indicated no objections after a second consideration. It then comes down to whether this is an appropriate use within residential area.

It is not straightforward to quantify effects on residential amenity on the basis of several site visits as this fails to take into account the cumulative impact of low level intrusion and individual instances of intrusion e.g. animal calls during the night time/early hours. Significant material weight should be afforded to the consultation response by the Council's Environmental Health Service. (It is noted that Environmental Health Officers have been involved at various times over the last 3 years in relation to noise and nuisance impact.). They have indicated that the site is capable of operating as a wildlife rescue facility subject to it being operated in accordance with a Management Plan to mitigate amenity nuisance and health issues.

The site is located within the settlement zone for the main town of Dunoon as identified in the Argyll and Bute Local Development Plan 2015, wherein policy DM 1 (A) gives encouragement in principle for sustainable forms of development on appropriate sites. The report does indicate that commercial uses create problems within residential areas, but as I have indicated in some of the responses to questions, it is not unheard of to have

a commercial operation such as a garage, or whatever, in a residential area. It has to be taken into account that an authorised residential use can include the keeping of a relatively significant number and variety of animals and/or birds without a material change of use having occurred. Based on all the material considerations, particularly the consultation responses, it is considered that the nature and level of animals/birds accommodated on this site in relation to the treatment/rescue use will not result in such a significant level of intrusive impact over and above what could be caused by an unauthorised residential use.

However, it is acknowledged that the site is not appropriate for any intensification of the wildlife rescue facility given its location. That is why we are considering a temporary change of use and that is why we have involved our Estates colleagues to look at alternative premises.

As a short term operation we consider it sufficient to approve, but only as a short term operation. We consider 3 years was an appropriate time given the difficulties in finding a site, but Members have various options open to them. They can, of course, refuse the application with a competent Motion or reduce the temporary consent to something like, 6 months, a year or 18 months. Based on our assessment I am happy to recommend the application for approval subject to that temporary consent.

Applicant

Miss Smith said that there had been a number of issues raised which she did not believe were factual. She said there were a lot of mights, maybes and assumptions but ultimately her application was for a temporary 18 months consent. She appreciated that Planning have recommended 3 years, but she had asked for 18 months. She said that she hoped that a middle ground could be reached in terms of the timescales. She pointed out that there would be no intensification of operations and that animal welfare was paramount. She said she had no plans to make any changes, she just wanted to continue.

Consultees

Dunoon Community Council

Mr Matheson referred to the Applicant advising that things that had been said were not factual and advised that Dunoon Community Council only dealt with facts. He said that the Community Council rejected this application if it was for 3 years as that would lead to 10 years of misery for the residents. He advised that he was also disturbed by the non-attendance of Roads and Environmental Health at the hearing. He said they should have been in attendance to answer questions. He advised that Dunoon Community Council have a lot of issues with the road and believed that the operation of the centre from the house should have been stopped by Environmental Health from the onset. He said that this was not the proper place for an animal welfare centre. He acknowledged that the welfare of the animals was important, but pointed out that so was the welfare of the residents living there. He commented that a lot has been said about mental health issues during the pandemic. He stressed that this had gone on too long and the mental health and wellbeing of the neighbours had to be taken into account.

Objectors

James Walsh

Mr Walsh directed Members to the defining material considerations and the guidance adopted by the Strategic Development Plan Authority, specifically the areas around Section 22.1 of the 1997 Act. He said the basic question was whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected. He said there was no doubt that there has been a significant impact on the residents that live in the Lochan Avenue area. Their objections were based on their experiences. There was a lack of confidence and a real concern about the levels of scrutiny that was adopted when the complaints were lodged about the operations around the facility, specifically in relation to Environmental Health but also with regard to the enforcement process. It was clear from day one that the dominant activities at the facility were with animal rescue and at that time the visual amenity was significantly impacted as not only were cages visible from the living room, but they were visible in the front door porch area and also the bedroom area.

We think we have demonstrated the real problems with road safety and photographic evidence confirms the unsuitability of the access. Mr Walsh reminded Members of the changes that were implemented in the assessment of the available parking spaces off-road at the development. It was initially felt that the Roads Department wanted 4 spaces to accommodate a 3 bedroom house and also an animal welfare centre. That was changed because the Roads Department reassessed the situation as the primary use of the property was as an animal welfare centre and the ancillary nature of the facility was with the domestic requirements. He referred to it being the case that vehicles should access and egress from a development site in forward gear. He said that was not possible in this case as there were no proper parking or turning area on the site. Vehicles were bound to park on the main road, whether that was volunteers, helpers or people bringing animals or calling at the facility. He referred to the multiplicity of accesses on Lochan Avenue and said there was very limited space for on-road parking. This led to obstruction for through traffic which needed to be considered.

He referred to the Applicant advising that the residential dwelling was not suitable for an animal welfare centre. She also confirmed there were limitations on the internal space. That was also evidence from the photographs provided to Members.

He referred to questions put to Planning about advice contained in the planning report regarding when an application for change of use would be accepted. He pointed out that this was an animal welfare rescue centre that was a house that was designed and planned for people to live in a residential setting. It was not designed for an animal welfare centre and that little or no adaptations have been carried out to the property. This gave real cause for concern due to the shared nature of the uses and the nature of the operations within the property.

The criteria that the planning authority are required to consider is the environmental impact of the proposal. He said there were clear potential issues around health and the detriment to residents. The design of the proposed development in relation to its surroundings, clearly showed it was not designed for the purposes it was being used and it was creating detriment to the area and that needed to be seriously looked at.

There was a legitimate public concern about this application. Given these site restraints and given the fact that the Applicant has indicated the difficulties with trying to obtain an

alternative site that would allow for the development of a purpose built facility which could take more than 3 years to develop, between acquiring the site, all the legal aspects and then the development.

The view of the residents was that the application should be refused today and that the enforcement action should continue. Six months should be given to allow for the relocation of the animals. Those discussions should take place with the support of the SPCA and other suitable and appropriate agencies. He said there was real concern that this process could be protracted and drawn out and the residents would experience what they have been experiencing for a long time.

Mr Walsh said that he expected, at the hearing today, to have heard from the SSPCA. He said that he was surprised that there has been an allowance for a facility that was clearly not suitable, given everything that has been experienced over the last 2 years with infection control etc.

He confirmed that the residents wanted the application rejected and the cessation of this activity as soon as possible. Three years was not short term and too long. He asked Members to reject this application today and get matters resolved once and for all for the benefit of everyone including the animals.

Lynda MacDonald

Ms MacDonald advised that she had tried to demonstrate what the residents of Lochan Avenue have had to experience. She said there has been no consideration for the neighbourhood at all. She acknowledged the need for an animal welfare centre, but said it should not be located in a residential area. She said she failed to comprehend that an excess of 30 properties were looked at and not one was suitable. She advised that a residential home was not suitable and thought that something more suitable for the animals would be much more available to use. She said that she had previously been in correspondence with David Love who was the previous Planning Officer involved, and that he had recommended that the enforcement notice be served. She said that she appreciated that Mr Young had to do his own assessment but this had prolonged the process even longer. She stressed to the Committee that this had gone on long enough, that this was not a suitable area and asked that they take the valid points raised on board.

Councillor Alan Reid

Councillor Reid advised that as many have said there was a need for a wildlife centre, but not in Lochan Avenue. There had been a lot of discussion about allowing a temporary operation but he pointed out to the Committee that if they refused the application today, which he hoped they would do, this did not mean they had to evict the wildlife centre from Lochan Avenue straight away. The timing of enforcement would still be in the Committee's hands. A lot of work has been done by the Officers on possible enforcement. If the Committee rejected the application a report on enforcement could come to the December PPSL meeting and at that meeting the Committee could decide not to enforce straight away but give the Applicant more time. There was widespread agreement, even from the neighbours, that the Applicant should be given a reasonable length of time to relocate.

He recommended that the Committee refuse the application on principle, because Lochan Avenue was not suitable for a wildlife rescue centre, but at later meetings the Committee should not enforce straight away but work with the Applicant to allow them a reasonable

length of time to relocate. The 3 years recommended by Officers, he thought was far, far too long

He said he thought a refusal was needed today to give the Applicant an impetus to relocate. He was sure a more suitable site than Lochan Avenue could be found within a reasonable length of time.

Reasons for refusal should be on smell, noise and traffic.

As Environmental Health have put it in their submission, "Given the proximity of the operation to local housing and the nature of the operation, there is a high likelihood of nuisance arising from smells and flies."

Noise – the worst noise comes from the wild birds who are attracted to the site, eg wild pheasant waking up the neighbours at dawn and the early hours of the morning in the summer. As it was a wild bird, Environmental Health say it has nothing to do with them. The reality was that the centre attracts these wild birds and noise from these birds wakens up the neighbours, it was sleep deprivation.

There has been conflicting evidence about traffic with the Applicant saying that all the volunteers parked on the driveway. The evidence from neighbours was that was not the case.

To summarise, refuse in principle, but proceed with caution with enforcement and work with the Applicant to find a new site.

Councillor Jim Anderson

Councillor Anderson summed up as follows:

I would like to record my disappointment at there being no representation from Roads and Amenities or Environmental Health.

I am an animal lover like most of the people who have spoken today but effects of a prolonged timescale on the health and wellbeing of the residents of Lochan avenue has to be taken seriously. I agree that there needs to be a period of time to find a solution. Suitable premises need to be found as soon as possible or an alternative arrangement made for the animals. The council needs to assist the rescue centre where possible to achieve this.

The Chair received confirmation from all parties that they had received a fair hearing. In terms of the Councillors' National Code of Conduct, Councillors Alan Reid and Jim Anderson, Objectors, left the meeting at this point.

DEBATE

Councillor Blair advised that in light of consideration of what has been discussed and with the benefit of the site visit he would put forward a Motion to change the length of the term of temporary use to allow the centre to continue as per the conditions. He said that he took on board comments from Councillor Reid and others regarding the outright rejection to the proposal. He said he would be keen to provide clarity for all parties to work together to source suitable premises.

Councillor Freeman said that the decision to hold a site visit had been worthwhile and that it had certainly been an eye opener to him. He said that he had been really surprised at the Officer's recommendation to approve as, to his mind, a facility like this would be out of keeping with the residential area. He advised that he would not be happy with a facility like that next door to him. He said that with all the issues raised, and although some may not be competent, he thought that Mr Walsh had covered all the issues well and had really done his homework. He advised that he would certainly not be supporting the proposal to approve this application and that if there was a competent Motion to refuse he would certainly consider that seriously.

Councillor Forrest said that this was a difficult one. She acknowledged that everyone present was an animal lover, but she would be putting forward a Motion to refuse the application at the appropriate time.

Councillor Devon said she also had a Motion to refuse the application.

Councillor Trail said that he took a slightly different view of this. He commented that much had been made about bird noise and sea gull noise and pointed out that in the area where he lived, this was a town close to the seaside and in mid-summer there was a lot of sea gull noise from dawn till dusk. He said that was a feature of living by the seaside. He advised that this wildlife centre was a valuable resource to have in the community and that it was unfortunate that it had outgrown its current site. He said he agreed that it should move but Miss Smith should be given a reasonable opportunity to find another site to move to. He commented that he was amazed at her dedication, giving up her house in order to look after the rescue animals.

Councillor Moffat said that she also admired the work that Miss Smith has put in. She commented that Miss Smith had given up her house to care for these animals but pointed out that this had meant her neighbours had also given up their homes. She noted that no one wanted to purchase a home in this area and acknowledged that this was not a material planning consideration. She advised that she would be supportive of anyone's Motion that would shorten the length of time to resolve this situation.

Councillor Hardie advised that when he read the report before the hearing he had a different view but during the hearing his view had changed. He commented that this was an emotive subject but really felt that the presiding factor was that this proposal was totally inappropriate in a residential area so he would be voting to reject this application.

Councillor Redman advised that, like many Members, he seen the location as inappropriate for an animal welfare centre and that he would be voting against this application.

Councillor Forrest thanked everyone for their presentations which had really informed the decisions today.

Councillor Kinniburgh also thanked everyone for their excellent presentations. He said that he found it extraordinary that there had been 30 – 40 premises looked at and none were suitable which concerned him. He advised that he would not be minded to support the Officer's recommendation in this case and would wait to hear what was put forward as he had noted that a couple of Members had indicated they had Motions. He invited Councillor Blair to present his Motion.

Councillor Blair said this was about reducing the timescale from 3 years down to 18 months and emphasised that a line must be drawn after 18 months. He advised that the agencies involved were keen to ensure a resolution to this as well within 18 months. He advised that he had noted the concerns but thought that his Motion would focus minds and allow the issue to be moved forward. He said he hoped that this would give some reassurance to the residents that he agreed this was not appropriate site but there was a need to look at the benefits of it to the wider community.

Motion

To approve the Officer's recommendation to grant temporary planning permission, subject to the conditions and reasons detailed in the report of handling, with the exception of condition 2, which should be amended to read:

This permission shall cease on or before the date 18 months from the date of this planning permission; other than in the event of a further permission for continued use having been granted upon application to the Planning Authority. Upon the date 18 months from the date of this consent, or upon cessation of the approved use prior to that date (whichever is sooner) the authorised use of the application shall revert to a single residential dwellinghouse (Class 9). Within three months of the cessation of the use all portable buildings/structures associated with the animal rescue operation shall be removed from the site.

Reason: To define the permission in order to allow the opportunity for the applicant to procure an alternative site for the relocation of this wildlife rescue facility and in order to protect the residential amenity of the residents of nearby houses.

Moved by Councillor Blair, seconded by Councillor Richard Trail.

Amendment 1

To approve the Officer's recommendation to grant temporary planning permission, subject to the conditions and reasons detailed in the report of handling, with the exception of condition 2, which should amend the timescale for the permission to cease to 6 months.

Moved by Councillor Mary-Jean Devon, seconded by Councillor David Kinniburgh.

Amendment 2

Chair I intend to move a motion to refuse the application and in doing so I am taking a different view to that expressed by the Council's Planning and Environmental Health officers.

I would firstly comment that I found the site visit to be very worthwhile in allowing me to fully consider the issues relating to this application.

I agree with the planners comments at pages 7 and 26 of the Report of Handling that the impact upon residential amenities and health & safety of residents of nearby houses is the principal land based planning issue related to this proposal and one of, if not the main consideration material to the assessment of the application.

While I fully respect the professional judgements advanced by them that this temporary consent can be approved, I believe, on this occasion, that I should follow my own view in

regard to the issues around residential amenity and the weight of consideration to be given to the issue of Bad Neighbour Development.

SG LDP BAD 1 states that development will only be permitted where it is demonstrated that the proposal will not adversely affect residential or visual amenity.

While the application is considered to be in accordance with the development plan, I am of the view that the objections received and SG LDP BAD 1 can be accorded sufficient weight to merit refusal of the application.

My reasons for this are as follows;

- 1) The application site is located within a residential area and is directly bounded on the north-west and on the south-east by residential properties. The proposed use of the site for a wildlife rescue centre and associated accommodation of wild animals has potential for intensification of use, subject to seasonal fluctuations to the number and types of animals, resulting in an unacceptably adverse effect on the amenity of neighbouring residents by reason of type and levels of noise, general disturbance, smells and risk to health. Policies LDP 8 - Supporting the Strength of Our Communities - and SG LDP BAD 1 - Bad Neighbour Development – of the Argyll and Bute Local Development Plan adopted 2015 provide that there should be no unacceptable adverse effects on the amenity of neighbouring residents. In this case the use of the site as a wildlife rescue centre with associated accommodation of wild animals has potential for intensification such as would not be compatible with an established residential area by virtue of noise, general disturbance and smells. The site is located within the Main Town of Dunoon as identified in the Local Development Plan wherein Policy LDP DM 1 (A) wherein encouragement in principle is given to sustainable forms of development on appropriate sites. On the basis that the proposed use has potential for intensification to an extent that would be incompatible with the residential amenities of this homogenous residential area, the site would not be appropriate for the proposed use and as such the proposal is contrary to the provisions of policy LDP 1. Policies LDP 1 and LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment 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. The proposal will be out of keeping with and detrimental to the established visual residential character of the street by reason of the scale, nature and appearance of animal pens within front garden area and that of bird cages within the interior of the house visible from the public street through windows contrary to the provisions of these policies.

Moved by Councillor Audrey Forrest, seconded by Councillor George Freeman

With the agreement of her seconder, Councillor Mary-Jean Devon withdrew her Amendment.

A vote was taken by calling the roll.

<u>Motion</u>	<u>Amendment</u>
Councillor Blair	Councillor Devon
Councillor Trail	Councillor Forrest

Councillor Freeman
Councillor Hardie
Councillor Kinniburgh
Councillor MacMillan
Councillor Moffat
Councillor Redman

The Amendment was carried by 8 votes to 2 and the Committee resolved according.

DECISION

The Committee agreed to refuse planning permission for the following reasons:

1. The application site is located within a residential area and is directly bounded on the north-west and on the south-east by residential properties. The proposed use of the site for a wildlife rescue centre and associated accommodation of wild animals has potential for intensification of use, subject to seasonal fluctuations to the number and types of animals, resulting in an unacceptably adverse effect on the amenity of neighbouring residents by reason of type and levels of noise, general disturbance, smells and risk to health. Policies LDP 8 - Supporting the Strength of Our Communities - and SG LDP BAD 1 - Bad Neighbour Development – of the Argyll and Bute Local Development Plan adopted 2015 provide that there should be no unacceptable adverse effects on the amenity of neighbouring residents. In this case the use of the site as a wildlife rescue centre with associated accommodation of wild animals has potential for intensification such as would not be compatible with an established residential area by virtue of noise, general disturbance and smells. The site is located within the Main Town of Dunoon as identified in the Local Development Plan wherein Policy LDP DM 1 (A) wherein encouragement in principle is given to sustainable forms of development on appropriate sites. On the basis that the proposed use has potential for intensification to an extent that would be incompatible with the residential amenities of this homogenous residential area, the site would not be appropriate for the proposed use and as such the proposal is contrary to the provisions of policy LDP 1. Policies LDP 1 and LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment 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. The proposal will be out of keeping with and detrimental to the established visual residential character of the street by reason of the scale, nature and appearance of animal pens within front garden area and that of bird cages within the interior of the house visible from the public street through windows contrary to the provisions of these policies.

(Reference: Report by Head of Development and Economic Growth dated 2 September 2021 and supplementary report number 1 dated 22 November 2021, submitted)