

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS
on MONDAY, 28 FEBRUARY 2022**

Present: Councillor David Kinniburgh (Chair)

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

Attending: Iain Jackson, Governance, Risk and Safety Manager
David Moore, Senior Planning Officer - Planning
Howard Young, Area Team Leader - Planning
Derek Scott, Planning Consultant - Applicant
Dr Paul Baker, Ecologist - Applicant
Jim Malcom, Architectural Agent - Applicant
Ross Helliwell, Helco Developments Ltd - Applicant
Fergus Madigan, Garelochhead Community Council - Consultee
Marina Curran-Colthart, Biodiversity Officer - Consultee
Donna Lawson, Traffic and Development Officer - Consultee
Michael Puxley - Objector
Bonnie Puxley - Objector
Lorna Masterton - Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Rory Colville and Roddy McCuish.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

**3. HELCO DEVELOPMENTS LIMITED: ERECTION OF 24 DWELLINGHOUSES:
LAND NORTH EAST OF BRAESIDE, STATION ROAD, GARELOCHHEAD (REF:
19/02328/PP)**

The Chair welcomed everyone to the meeting which was held 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, read out the names of the Members of the Committee and asked them to confirm their attendance.

In advance of the meeting interested parties had been asked to confirm if 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

Mr David Moore, Senior Planning Officer made the following presentation to the Committee making reference to Powerpoint slides –

Thank you, chair. Good Morning everyone.

Chair there have been further objections received after the Supplementary report 2 report was written and appendix C produced. These have been received Friday afternoon, Sunday and this morning. I will quickly run through these and all should now be on public access.

Susie Will (EMail provided)	25.02.22	14.22
Lois Smith (Email provided)	25.02.2022	14.41
Jacky Baillie MSP	25.02.22	13.45

On behalf of Lorna Masterton - Questions Adequacy of Surveys and that Members do not have adequate information to make a proper decision – this is addressed in Supplementary Report 2

She received a telephone call from one of the teachers at the local school who had taken a photograph of a red squirrel in their grounds. She has since spoken to the headmistress and she has registered the sighting – This off site report is not considered material to the application.

Debbie Carr - Braeside Cottage Portincaple – 26.02.22 – 16.50

Angela Anderson (Time for change Argyll and Bute) E mail – 28.02.22 (0.45)
Questions quality and conclusions of ecological surveys

A. Anderson (Plastic Free Helensburgh) –
Also Questions quality and conclusions of ecological surveys

All known objections are on public access.

4 additional objections received by post and booked in this morning -
G Brownhill
Vivian Flemming
Alan Flemming
N Flemming

No matters have been raised in these additional objections which are not already addressed in the reports provided to Members.

As of this morning the planning authority has received 163 Objections and 6 representations in respect of the proposals.

Slide 2 – This is a local planning application for the construction of 24 housing units on land accessed off station road Garelochhead.

Construction of new vehicular access road off Station Road
Junction improvements at junction of A814 and Station Road
Installation of traffic calming measures on Station Road

Construction of footway on Station Road

Slide 3 – identified the Railway Station, Station Road Access Point, Junction works, Location

Slide 4 – Aerial View. Shows site on edge of urban boundary on white land contained by the railway line, station road

Point out the extent of the housing development itself and those parts of the site not subject to development. Treed boundary and core path linkages.

Slide 5 LDP 2015 extract - This indicates the allocated housing site for 24 units under H-AL 3/3

Slide 6 LDP 2 - Housing allocation removed. Site now in settlement boundary. Site is not identified for any protective designation such as OSAP and therefore housing development could still be considered acceptable subject to compliance with plan policies. Application would have to be judged on merits.

Slide 7 – Overall Layout - Larger detached homes – railway to top/north – point out large areas of the site towards the railway not developed and also trees retained around the edges of the site. Will return to this at slide 12 which indicated landscape strategy and planting.

Slide 8 – House Type A - 3 bedroom – 2 spaces

Slide 9 – House Type B - 4 bedroom – 3 spaces

Slide 10 – House Type C - 4 bedroom – 3 Spaces

Slide 11 – House Type D - 4 Bedroom – 3 Spaces

The house designs are considered to have provided attractive accommodation.

Slide 12 – Officers noted the growing concerns of representations on biodiversity interests and advised the applicants that this matter required a more robust approach than had historically been the case in previous approvals, with particular reference to the 07 permission.

As a result of these Drawing LS-01 Landscape Strategy – Committing to biodiversity enhancement approach has been submitted. Tree protection measures for many on the larger boundary trees and trees not within the development footprint are also proposed.

Slide 13 – Core access road to site. This was submitted at the request of the area roads engineer to provide reassurance that acceptable standards could be met in terms of any RCC submissions.

Slide 14 – Cross sections of road gradients were requested by the Area Roads Engineer and provided by the applicants provided to ensure acceptable gradients for RCC could be provided

Slide 15 - Visibility splays at new access to station road achieved

Slide 16 - off-site footway improvements and traffic calming

Slide 17 - Proposed off site junction works with A814 improving junction layout and safety

Slides 18 - 34 Photographs of site and Station Road from now on

Chair in Conclusion

The principle of the development is acceptable having regard to the allocation of land for residential development in the adopted development plan. The proposals will provide an appropriate layout and design for this well contained site. Notwithstanding the third party objections which have been received, it is considered that the topography of the site, the layout of the scheme, the landscaping proposed, and the house designs and external finishes present a form of development which will accord with LDP and SG policy requirements.

The proposal accords with the adopted Argyll and Bute Local Development Plan (LDP) and supplementary guidance and there are no other material considerations, including views expressed by third parties, which would on officers' opinion warrant other than planning permission being granted in this instance.

Thank you chair that concludes my presentation.

APPLICANT

Mr Derek Scott, Planning Consultant

Mr Derek Scott made the following presentation –

Good morning Councillors and thank you for the opportunity to attend and to make representations to your Committee this morning. As introduced, my name is Derek Scott and I am here in my capacity as a Planning Consultant acting on behalf of the applicants, Helco Developments Limited. As previously advised, I am accompanied today by our client's architectural agent, Mr. Jim Malcolm, who has been dealing with the day to day progression of the application and by our client's ecologist, Dr Paul Baker. Both are available to answer questions specific to their particular involvements and areas of expertise.

Our clients acquired this particular site in 2019 as part of a portfolio of projects and sites which had fallen into administration. Subject to receiving planning permission today and other statutory consents in due course, it is their intention to commence development within the next 12 months and thereafter to embark on a 12-18 month construction programme. The programme outlined is fuelled to a large extent by the significant interest they have received in the development from prospective house purchasers keen to either move to the village or relocate within it.

Your Planning Officer, Mr. David Moore has just now and very comprehensively, outlined the proposals to you and his reasons for recommending the application for approval following his and the wider Council's assessment of the key issues relating to it – a process which I might add has been ongoing for over two years.

You will be aware from the papers presented that a wide range of views have been expressed by third parties, as to why they consider that this particular application should not be granted planning permission. Whilst it is important that you take those views into

account in your determination of the application, it is equally important that they are viewed and appropriately weighted within the context of your legal obligation as set out, in the Planning Acts, which, as you will be aware, is to determine applications in accordance with the development plan, unless material considerations indicate otherwise.

The relevant Development Plan in this instance is, of course, the Argyll and Bute Local Development Plan which was adopted by your Council in 2015. This plan identifies the site for the development of 24 dwelling houses – in other words it accepts the principle of developing the site for exactly the number of dwellings proposed in the application before you for determination.

The emerging Argyll and Bute Local Development Plan 2, whilst not specifically allocating the site for housing purposes, or any other purposes for that matter, continues to include it within the Garelochhead Settlement Envelope in a location where the principle of residential development is considered acceptable. We refer to such land in the trade as 'white land' although, somewhat ironically, it is coloured 'brown' in your emerging plan.

It is important for me to point out to you that your Council had the opportunity to zone the application site as an 'Open Space Protection Area' in the emerging Local Development Plan 2 as other areas of Garelochhead have been so zoned - but you chose not to do so. It is also incumbent upon me to point out that it would be highly highly inappropriate to ascribe such status to it, as many objectors have argued and lobbied for, in the determination of the application before you.

This point is very significant, particularly in the context of those objections put forward which support and advocate the refusal of the application due to perceived ecological and other environmental considerations. Our client's ecologist, Dr Baker, a highly distinguished consultant in his field, has confirmed that there are no statutory environmental designations pertaining to the site and furthermore that there are no ecological constraints preventing its development that cannot be satisfactorily and appropriately mitigated against. Dr. Baker, who undertook his initial habitat studies in October 2020 and June/July 2021 revisited the site last week to further update his work in response to third party objections and has reaffirmed his position in an updated study submitted to your Council last Thursday and available to view on the application file on your Council's Planning Portal. Within that most recent study referred to Dr. Baker highlights that the development proposed can actually bring positive benefit to the biodiversity of the area which will outweigh the perceived negative impact of the scheme proposed. Those benefits derive in part from the fact that some 40-50% of our client's overall land holding is being retained as open space and in part from the landscaping scheme proposed in association with the development. I have also noted and would draw your attention to the fact that your Council's own biodiversity officer has confirmed that she has no objection to the proposals subject to the imposition of conditions which our client is happy to accept.

No credible evidence submitted in opposition to the application to discredit the conclusions of Dr. Baker or your own biodiversity officer has been brought to my attention and therefore I assume it does not exist. Notwithstanding this and in view of the obvious concern that ecological considerations are causing to a section of the local community, our client would be happy, but only if you as a Council consider it to be required, to survey the site again in advance of construction works commencing and to engage the services of an ecological clerk of works during site stripping and initial construction works. Dr. Baker, as I have already advised, is available to answer any specific questions in relation to ecological considerations and the survey work he has undertaken.

Parties objecting to the application have also raised concerns about the transportation implications arising from the development of the 24 dwellings proposed. However, as I have previously outlined, the site is allocated for the development of 24 dwellings in your Council's Local Development Plan and as such has been ratified for the development of this number of units. I would also remind you that planning permission has previously been granted for the development of 24 houses on the site in 2005 and again in 2010 with exactly the same mitigation measures proposed and granted then as are proposed now. The specific circumstances pertaining to the wider road network within which the site is located and the number of vehicles using that road network will not have changed significantly, if at all, in the intervening years. Your Roads Engineers, in responding to the current application, have confirmed their satisfaction with the scheme as proposed and with the off-site mitigation measures identified.

Concerns have also been raised about drainage and flooding issues on the site. Scottish Water, SEPA and your Council's Flood Risk Manager have all been consulted and none of them have raised any objections - all being satisfied that any issues associated with drainage or flooding can be addressed through the incorporation of appropriately worded conditions on any consent granted. That is exactly what I would expect on a site and in a situation of this nature.

Objections have also been raised about the impact of the development on the public footpath through the site. I can assure you that our client will work closely with relevant officials in your Council to ensure that any disruption to the use of that Core Path is minimised and that there will remain, at all times, an alternative route to gain access to the wider path network. Mr. Moore has proposed the imposition of a condition in this regard which our client is again more than happy to accept.

As I have referred to earlier, a section of the local community have campaigned against the granting of planning permission for the development of this site, notwithstanding its status and identification as being suitable for housing development in both your adopted and emerging local development plans. Posters inviting residents to object to the application have been placed throughout the village and along the path that runs through the application site. Standard pro- forma letters encouraging parties to object have also been placed in local shops and other public places. An organisation called 'Save Garelochhead Wetland' has been set up as has a Facebook campaign against the application on such grounds. Notwithstanding the efforts made, only a fraction of households in the settlement (10-12%) have objected – that does not in my opinion constitute significant opposition.

There remains a very large percentage of the local population who have not objected – these parties or at least a proportion of them might well support and welcome the development including the opportunities and benefits that will arise from it:

Firstly the scheme overall will contribute to rather than detract from the biodiversity of the area within which the site is located noting in particular the large part of the overall holding which will be protected from development and the landscaping scheme proposed as part of it.

Secondly, it will lead to the introduction of off-site traffic calming and related road improvements on Station Road as required by your Roads Department.

Thirdly, it will lead to an increased choice of housing in the village for existing residents already living there and wishing to move house or for those wishing to move to the village in the first place. Our clients, as noted previously, have received a lot of interest in that regard;

Fourthly, it will provide much needed affordable housing in relation to which discussions are ongoing with the Argyll Community Housing Association;

Fifthly, the development will bring jobs and economic benefits to those involved in the construction and related sectors; and

Finally, it will, through the injection of new life in the settlement support local facilities and services including shops, schools, clubs, societies, and so on, hopefully for generations to come;

It is, in light of the considerations, I have outlined today, that I would commend this scheme to you and respectfully request that planning permission be granted for the proposals as they have been applied for; for which they are zoned in your adopted local development plan; and for which they have been granted on two previous occasions. I am happy to take questions or as previously outlined to direct them to my colleagues, Mr. Malcolm and/or Dr Baker. Thank you.

CONSULTEES

Fergus Madigan – Garelochhead Community Council

Referred to late publication of ecological report and made the following presentation

Good morning and thank you for the opportunity to speak on behalf of the clear majority of the residents and business owners of Garelochhead.

The community council is objecting to the application. We recognise and acknowledge the overwhelming opposition from the community of Garelochhead to this application.

The first point of the objection we would like to draw your attention to is the proposed junction realignment at the intersection of station road, Bromley place and the B872. The current junction is not perfect, but it does work. It supports the iconic village store and allows a small parking area directly in front of that store, the legality of which is often tested by dubious parking but it does dramatically slow down traffic entering and exiting the junction, organic and highly effective traffic calming is the best way to describe it, the area allows safe access to the store which is invaluable to the elderly, to those with mobility issues, those with young children and even those who are simply in a bit of a hurry, its very existence is vital to the owners (Marco and Roberto's) ability to trade and keep a long established business open that serves a vital need. We ask the committee to be pragmatic here and recognise the purpose it serves.

The proposed realignment takes away that small parking space and offers no alternative, nowhere for a delivery vehicle, nowhere for Mrs Stratton with her dodgy hip to pick up her milk and weekend paper as she has done for the past 65 years. There is no other parking that is readily available close by and we have huge concerns that this appears to have never been considered, it would be utterly shameful if this leads to the closure of the business especially considering the most salient point - the community, the business owners, the road users, the bus companies have never been consulted, there has never

been an effective process to ensure we get this right. Instead we are being asked to agree to a realignment drawn up in 2004 for a 2005 application, reused in 2007 and reused again today. The community has some very serious concerns that the junction will become dangerous with much higher average speeds. There are no pedestrian crossing included, there is no safe cycle crossing or path, the closest marked crossing is a distance down the main road and it itself has not been fit for purpose for the last 5 months as the warning light is awaiting repair. There is no enforcement of parking in Garelochhead and I am asking you to be realistic here, people are inherently lazy in their parking choices and we rightly fear that people will park in far more dangerous places than they currently do. Alternatively they do not park at all and this family run business simply ceases to exist, nobody wants that and alternatives should have been explored. A lot has changed in Garelochhead since 2004, the police station closed in 2013, the population has increased, there are many more road users and the community council asks you to consider the implications of using an 18 year old document produced without consultation on the busiest junction in the village.

The application also entails further conditions that a significant number of road safety apparatus be installed including new footpaths, whilst we welcome these it must be noted the community council finds it staggering that pedestrian crossings and safe cycle paths were not included as this is also the access road to the Garelochhead railway station, the access to the 3 lochs way and the cycle link path to the A817 junction. When we brought our concerns to the attention of the roads department we were told they were statutorily bound to accept this document regardless of some fairly serious misgivings that were expressed in my conversations with council officers. We respectfully ask the committee to make a powerful statement that this is unacceptable.

The community council often feels over-consulted, the A83, the A82, aviation strategy but we are generally happy to defer to the experts in delivering the best result for our communities but the very thing the community should have been consulted on has not been offered. We ask the committee to consider what current data was used, what consideration was given to providing alternate parking spaces, what feedback from the very road users in the best position to give real time and accurate insight into a junction realignment that meets the needs of the community in the best way possible. Was fair and just consideration given with the best interests of a wide cross section of the community in mind? We have serious and valid concerns as to why a site that has a long list of approved applications has never been built on, what stopped the MOD in 1998, what stopped the further 3 applications. The planning office cannot tell us why, the site itself, a steep, waterlogged area of regenerating native woodland may provide the most accurate answer. The conditions of having to deal with all surface water drainage on site via a suds system? The staggering financial burden of building on such a steep and waterlogged area in one of the wettest towns in the UK. Perhaps your recent site visit gave you a fair indication of the rather absurd notion that a simple soakaway could provide the necessary drainage?

We ask why relatively simple percolation tests were not undertaken to determine the viability of the project. We have serious concerns over the Scottish water consultee response, it makes no mention of the ability of the current sewer line to deal with further waste, confusingly it states 'the applicant should be aware that this does not confirm that the proposed development can currently be serviced' it also asks the applicant to submit a pre-development enquiry report. There is no record of this being completed on the portal. I myself have cleaned up raw sewage from the roadside and the rear garden of a friend's house adjacent to Station Road that was pouring out of the old brick lined sewer pits on

the road itself. I have been informed by the very people who reside in Station Road and below Station Road that this is a regular occurrence. The community council feels it is pertinent to remind the committee that the current storm water system is at full capacity and the recurrent flooding and sewer overflows that have plagued Station Road are not fallacy nor figment of imagination, just because an occurrence does not appear on a SEPA report it does not and must not be taken as a case of 'it didn't happen'. We simply ask you to listen to the testimony of the people best placed to give accurate information regarding this, that being the residents themselves.

The wildlife survey is one of the most questionable documents I have seen, it has morphed from a bat and otter survey originally presented as commissioned for a previous applicant (Northkirk Ltd) from 9 years ago (this is printed on the front page) and whose scope of works is clearly stated to be exclusively for a bat and otter survey. It is referenced in an email from the planning portal dated 31st August 2021 in a communication between the applicant and the planning office, the applicants agent makes the following statement 'Hi David, see attached revised bat survey with changes to conclusions to suit comments, I look forward to sign off, regards Jim' - 'changes to conclusions', that may have just been poorly worded but it gets worse.

It has now been given a serious makeover, changed the name of the company commissioning the survey, changed the opening statements, changed the scope of survey, added pages and pages of additional findings and resubmitted 3 days ago but also stating it is the same October 2020 survey just with a few tweaks. It now claims that whilst doing the bat and otter survey the ecologist just happened to undertake a detailed and non-commissioned survey of a full list of European protected species. Just so happened to do a detailed survey at an inappropriate time of the year (October) without ever being asked to. Anyone who has experience of commercial survey activity and indeed any commercial activity will struggle to believe this actually happened. I will highlight a quote from the document submitted on Friday. The original Bat roost potential and Otter surveys were, as noted, completed in October 2020. The client requested that these previously completed surveys be updated following the submission of late observations by third parties to the application and to ensure a broad range of valid in-date ecological survey information was available to assist with the final planning decision making process and will remain valid for post-approval use. The survey update therefore included not only bat roost potential and otter surveys but also a walkover extended Phase I habitat survey that included a protected species walkover survey that considered the potential presence of Badgers, Water Voles, Red Squirrel, reptiles, and breeding birds, with particular reference to those species with enhanced statutory protection' We are being asked to believe that the applicant requested an updated survey showing a full list of European protected species and it just so happened that the ecologist actually performed this incredibly generous and very detailed survey in October 2020 and just happened to keep it very quiet until last Friday. There is not a sniff test in existence that this passes. At least they managed to erase the previous applicant's details from the survey and put the current one. That is something I guess. The applicant has had a long, long time to prepare for this hearing. The sheer waste of officers' time and ratepayers' money, the drain on council resources, the time spent on 4 previous applications on the same site, for the same number of houses is staggering and must be considered a failure of the system. We question the wisdom of not ever commissioning a small survey to at least ascertain if this can be developed on a commercially successful basis or is the application simply being used as collateral by developers to further their financial needs. It is worth noting that when this land last changed hands in 2019 it was at the under instruction of the RBS as a charge had existed on it since it was purchased in 2008 having

been sold by the previous owner less than 12 months after permission was granted in 2007, the owner previous to this was the MOD who had applied and been granted permission in 1998. Do you see a pattern emerging here? It may be pointed out these are not material considerations, we would argue that a material consideration is one which is relevant to the site. How is this not relevant to the site? The application before you is a clear and unequivocal example of a serious flaw in the planning system coupled with some very dubious and questionable documentation and we hope you see fit to dismiss it and make a clear statement that valuable council funds will no longer be wasted on such spurious applications. We welcome growth in Argyll and Bute but we can grow whilst protecting our communities, there are residents along Station Road who have lived with the unwelcome possibility of their properties being overshadowed and their privacy compromised for over 20 years, let us also be fair and just to them, real people just like you and me. And while you may be inclined to think it is allocated for housing but notably soon to be rezoned, why not give it one last roll of the dice, well that would be simply condoning the status quo. Fundamental change does not just happen. Thank you for the opportunity to speak today.

Marina Curran-Colthart

Ms Curran-Colthart confirmed she was in attendance to answer questions and that she had no presentation to make.

OBJECTORS

Michael Puxley

Mr Puxley thanked the Committee for the opportunity to speak. He said that most of the points they had raised in their objection had been covered by Fergus Madigan and that they wholeheartedly supported them. In respect of the parking and access issues he advised the plans did not show the cars currently parked along Station Road and that both the flat and vertical sections would be repositioned. He said that this was a major concern because of the addition of approximately 50 cars from 24 houses to the current pinch point. He said that the second issue was with regards to the wetlands, and referred to slide 34 of David Moore's presentation advising that you could see that even with the current level of foliage in the development area there was over land flow and that the path led onto an area that was flooded with water 11 months of the year. He added that for 3 of these months it iced over and became a hazard. He said that in respect of drainage the water from the modern drains would be decanted into the older drainage system that was not fit for purpose. Mr Puxley referred to the comments made by Mr Madigan about sewerage and advised that the Council had been informed and that they had to come out and fix it, and therefore would be in Council records. The final point he made was around the plan for access to the three lochs way and mention that there would be consultation and advised that given the only access to this was via the railway underpass which was only accessed via the development area and if there was no plan in place for access then they would lose access completely and would mean taking cars out of Garelochhead to get around the railway line and accessing the area from the top end which was not ecologically sound. He referred to mental health and green spaces and advised that this would affect people's mental wellbeing.

Bonnie Puxley

Mrs Puxley confirmed she was in agreement with Michael and had nothing to add.

Lorna Masterton

A short video was played to the Committee showing the Garelochhead Wetlands and then Lorna Masterton made the following presentation –

I'm Lorna Masterton and I'm representing the residents of Garelochhead and the Save Garelochhead Wetland group which was set up a few months ago in response to a lack of awareness of the planning application amongst local residents as no public consultation has taken place.

Due to the 11th hour submission of a new biodiversity report on Friday afternoon we have had to formulate a new response over the weekend in consultation with our environmental solicitor. I will try to keep my presentation as succinct as possible but hope that the committee will be understanding of the difficult position we the objectors, have been put in.

Thank you for giving me this opportunity to speak and I hope I won't take up too much of your time.

The site in question is an undeveloped wild green space with two ponds, several waterways, countless pockets of standing water, and woodland of semi-mature and mature trees. It is smaller than half a hectare, permanently waterlogged and abundant in life, much of which is unseen.

I will present three main arguments, firstly that the planning application does not comply with legislation on Climate breakdown mitigation and is in contravention of Argyll & Bute's own planning policies.

Secondly, I will raise material planning issues concerning the Local Development Plan.

And thirdly, I will highlight serious concerns about the Biodiversity Report, demonstrating that it is not fit for purpose and must be disregarded when making a final decision on this planning application.

This is an important site in the local area for biodiversity and climate change mitigation and should be safeguarded from development. We consider it unlawful for this development to be granted planning permission and urge the Council to protect this important green space.

Moving to the first section of my presentation, the Climate Change (Scotland) Act 2009 states that Scottish Ministers are bound to meet a "net-zero emissions target" by 2045.

Section 44 imposes the duty on public bodies, of which the council is one, to ensure that in the operation of their ordinary functions they act in a way that is sustainable and most likely to contribute towards that target.

I note that Argyll and Bute Council has set its own ambitious targets for climate change mitigation, also aiming for net zero emissions by 2045.

Section 1 of the Nature Conservation (Scotland) Act 2004 places additional duties on public bodies to further the conservation of biodiversity and protect species of 'principal importance for conserving biodiversity' when exercising their functions.

The Planning Committee is accountable for ensuring compliance with these statutory obligations throughout the planning process, for the benefit of local residents and the wider community.

The 4th National Planning Framework which sets out the approach to achieving net zero, asserts that we need to change the way we plan our places to focus on the long-term public interest including Nature Recovery, creation and strengthening of nature networks, flood risk management (this site holds a huge amount of water and offers natural protection to the homes and businesses below from flooding and water run-off due to the extremely high rainfall in Garelochhead), carbon sequestration, biodiversity recovery and easy access to green spaces, all of which are relevant to this site.

Policy 12 of NPF4 states that 'Development proposals that result in the quantitative and/or qualitative loss of children's outdoor play provision should not be supported.'

Local children have played on this site for generations, looking for newts and frogspawn and connecting with nature. The shore path and the local park are the only other areas in Garelochhead for recreation away from traffic, so this is a much valued local amenity.

Policy 32 states that 'development proposals that would have an unacceptable impact on the natural environment including biodiversity objectives should not be supported.'

The woodland and grassland within the proposed development site is part of the Woodland and Acid Grassland network within the Central Scotland Green Network Integrated Habitat Network. This is a wildlife corridor that is a proposed national development in both NPF 3 and 4. Any development activity that results in the removal of woodland and grassland from the site would be contrary to Scottish Planning Policy.

The site is also part of the Central Scotland Green Network IHN Woodland Network, being classed as lowland mixed deciduous woodland and is a Priority Habitat under the UK Biodiversity Action Plan. Local authorities are obliged to preserve these habitats and help to reverse their decline.

In this section I have referred to several points of climate and environmental law, and Planning policy to argue that permission must not be granted for development on this site. In light of the 2021 Intergovernmental Panel on Climate Change (IPCC) report, COP26, and with the upcoming COP15, Climate Concerns must be at the forefront of the Council's minds when considering any development proposal.

Argyll and Bute Adopted Local Development Plan 2015

Moving on to the second section of my presentation regarding the Local Development Plans. The LDP 2015 enshrined certain principles including avoiding the loss of important recreational and amenity open space; conserving and enhancing the natural environment

and avoiding significant adverse impacts on biodiversity, natural heritage resources; and respect for the landscape character of an area.

Paragraph 3.2 of the 2015 Plan notes: “A development proposal will not be supported when it does not protect, conserve or where possible enhance biodiversity, soils, woodland, green networks, wild land, water and environment”

As asserted in our letter on the 9 February and highlighted in the short video, this is an important area for the community as it directly borders the village and serves as a green buffer between the village and the railway line to the east.

It is an area of naturally regenerating woodland and wetland with a distinctive character. The attractive winding path is the only accessible hillside walk and is a much-utilised amenity for local residents for dog walking, cycling, running, quiet time and respite through proximity to nature, something that has been widely acknowledged during the COVID 19 pandemic as being important for mental wellbeing. The path is also an important link to the Three Lochs.

There appear to be doubts amongst Senior Council planners as to whether the site is effective.

In an email dated 24 November 2021, the Senior Planning and Strategies Officer questioned the effectiveness of the site due to the number of planning applications for residential development since 1999, none of which have resulted in successful builds. He advised that for this reason the site had been excluded from the proposed Local Development Plan as an allocated housing site, particularly since there were no representations from the landowner / developer whilst the new Local Plan was being prepared, and the land was not required in order to meet housing land supply targets.

Whereas it is recognised that the proposed development site has been allocated within Local Development Plan 1, the process for LDP2 is almost complete and would have been finalised by now had it not been for the delays caused by the COVID-19 pandemic. But for COVID 19, LDP1 would not have any weight as a policy. We argue that it should be considered in that light, and local Garelochhead residents should not be penalised for these delays.

LDP1 is now 7 years out of date. The up-to-date strategy of LDP2 reflects current housing demands, having undergone a Strategic Environmental Assessment. Crucially, LDP2 does not include the proposed development site at Garelochhead in its zoning.

LDP2 for Helensburgh and Lomond states that there is enough allocated land for 971 dwellings. This far exceeds the housing supply target of just 690 dwellings, proving that there is no urgent housing demand that this proposed development would satisfy.

Further, the majority of the units in this proposed development are large private houses and are not classified as ‘affordable.’ The Argyll and Bute Housing Land Audit 2020 states that there is already an abundance of land for private housing.

Whilst there is a very low demand for housing in the area due to population decline, any demand that may exist is for social rent housing, as described in the Argyll and Bute Local Housing Strategy 2022 to 2027 report.

"Need" is a material consideration yet this proposed development does not meet the actual needs of the community and therefore it cannot be justified.

We submit that the terms of LDP2, which is the most up to date statement by the council of its development intent in so far as it excludes this site, are a material consideration, which the Committee must give very significant regard to when making their planning decision.

Section 25 of the Town and Country Planning (Scotland) Act 1997 states that decisions should be made in accordance with the current Development Plan unless material considerations indicate otherwise, therefore, I argue that this material consideration outweighs any support the site might otherwise draw from its historic inclusion within LDP1.

For these reasons, we respectfully urge the Council to reject this planning application and help safeguard this important green space.

Moving on to the third section of my presentation, here I will be commenting on the biodiversity report submitted by the applicant at the 11th hour on Friday 25th February. Despite the late submission we have managed to consult with our environmental solicitor R & R Urquhart LLP in conjunction with the Environmental Law Foundation and would like to focus your attention on six key areas of this flawed submission.

Firstly, the applicant has not followed due process. This late submission is contrary to article 6 on the European Convention of Human Rights. It is also contrary to the Aarhus Convention and Scottish environmental law which enshrines the principle of public participation and protects the public's right to transparency and proper consultation in the Planning process.

Any government body has a duty to follow these terms therefore we ask that this submission be refused as it is quite simply too late in the day for the objectors and the Planning Office to be able to read, fully consider and respond.

Indeed it renders the Report of Handling obsolete as this refers to the previous biodiversity survey from October 2020 and June/July 2021.

Secondly, in spite of this walk-over survey having been rushed through (indeed the surveyor has even failed to notice the second larger pond on the site) in February when many species are dormant, the report confirms that European Protected Species including otters and bats are in fact present on the site and that the site contains semi-natural habitat that is suitable for Lizards. Nine species of protected plants such as yellow marsh saxifrage and fen orchid have been referenced as being potentially present.

Indeed the NBN Atlas confirms that there are many protected species within a 2km radius of the site. Slow worms have been recorded on site by local residents and there has been a recent sighting of a red squirrel at the nearby primary school.

Thirdly, no quantitative surveys have been undertaken and bat detectors were not used to identify the types of bats, therefore we remain very much in the dark as to numbers and species of bats present. Individual surveys have not been completed for other protected species noted in the report such as Otters, lizards, and plant species to analyse what is on or making use of the land and to advise how any risk of harm to these protected species from development activity can be mitigated.

My fourth point. Please refer to Section 6.9, Limitations. The surveyor admits that a Phase 1 Habitat survey was completed in February which is clearly outwith the core Phase 1 habitat season of March to October. The species are not being studied at the correct time of year when they can actually be identified. It is no surprise that protected plants, water voles, reptiles, breeding and migrant birds were not found during this period of dormancy or hibernation.

Section 6.9 finishes by saying that no constraints were found, yet the single most important constraint was that the survey was completed at entirely the wrong time of year rendering it completely useless.

My fifth point. The conclusion of this report is an exercise in Greenwashing and contains useless hypothetical advice that cannot be used by the planning office to make a decision. It paints a false picture of a neglected landscape choked with invasive species, and attributes blame to local residents for littering whilst not acknowledging the private land owner's responsibility to maintain their own land. I would hope that the video of the site will serve as evidence that this is in fact a beautiful, wild space that is in no way suitable for development.

On to my sixth and final point on the biodiversity report. The surveyor states that the developer wanted to do the survey just before planning permission was due to be given and recommends that proper assessment of the protected species on this site be deferred until after planning permission has been granted.

The precautionary principle, an underlying principle of Environmental law, aims to prevent harm from the outset rather than manage it after the event. An absence of scientific data is not reason to proceed, and the onus of proof is on the developer to show that this proposal is environmentally benign.

We submit that no proper data set has been provided to adequately inform the council about the European Protected Species that are confirmed as present and using this site, and therefore they cannot and must not award planning permission.

To conclude, I have covered three main areas in this presentation.

One, that development on this land would contravene laws on climate change mitigation and ignore Planning policy to the long-term detriment of local inhabitants and the wider community.

Two, that the allocation in the out-of-date Local Development Plan 2015 must be overlooked in favour of the more relevant LDP 2 with its focus on the actual needs of the community based on up-to-date data.

Three, the biodiversity report submitted by the applicant beyond the 11th hour is unfit for purpose and using it as justification for awarding planning permission would be in contravention of the human rights of the Garelochhead community.

As previously stated, this is an important site in the local area for biodiversity and climate change mitigation and should be safeguarded from development. We consider it unlawful for this development to be granted planning permission and urge the Council to protect this important green space.

Thank you. And now I will pass you over to Nick Beevers.

Nicholas Beevers

Mr Beevers thanked the Committee for the opportunity to speak advising that he was a resident of Station Road. He advised that he seconded what both Lorna and Fergus had said about the late submission of the ecology report and that it was not fit for purpose. He said that he had seven points to make and wanted to remind the Councillors that the site was not fit for purpose. The first point he made was that planning permission was granted for 24 houses in 1999 but was abandoned because development was not feasible and this had the backing of the MOD, who had agreed it was not feasible. He advised that major landscaping works were undertaken at this stage and stopped. He said that the developer had spread knotweed during this process. He advised that in 2004 the land had been sold to North Kirk who had applied for planning for 24 houses and had also failed to build but had installed a box barrier on Station Road. This was evidence that it was not economically viable. He said that 23 years on and the land was in other hands and the latest plans were a re-hashing of something that was 20 years old and was not relevant. He said that there was no intention to build on the site and that the current developer had not removed the previous developers' names from the plans submitted which did not show commitment. He advised that the land owner was seeking planning permission to increase the value of the land which was a common tactic that wasted time and resources that the Council did not have. He advised that in 2021 and in preparation for LDP2 the Council had removed the housing allocation from the site due to inaction and the previous builder did not even comment on this which had shown how disengaged they had been with the developer. He asked why if the Council were relying on the private sector to deliver house builds why they did not push for infilling within the Garelochhead area as per National Planning Framework 4 which would avoid the use of a green area which was used by residents every day.

Mr Beevers said that his final comment was about the civil engineering involved on the site and advised that they had employed a civil engineer with around 50 years' experience who had serious concerns about the feasibility and suitability of the site for building. He had noted the steepness and the quantities of water flowing over the land which would make it a very expensive build. He advised that the developer could be looking at £2000 per square metre for each house which did not even include the road works proposed. He referred to the serious problems with water pressure and drainage on Station Road that had been overlooked, and advised that as a resident on Station Road they had daily issues with water pressure and a foul drainage problem at the bottom of the road. He advised that managing that would add to construction costs in building the houses. He

concluded by saying that it had nearly been 25 years since the process had begun and nothing had been built, therefore to approve it again was not correct. He asked that Councillors and planners made the correct decision not to approve planning permission.

Councillor Iain Shonny Paterson

Councillor Iain Shonny Paterson made the following presentation –

If the planning committee grant permission today for this development, the community will lose a significant area of woodlands and wetlands which are of huge benefit to the people of Garelochhead, community woodlands have always been special places and none more so now in light of what the country has went through in the last two years due to the covid pandemic.

Woodlands and wetlands like this provide more than places to visit, their value to our physical and mental health has never been more apparent, where places like this provide space solace and time for reflection.

They are a place where children play and develops there imagination, I am struck when I walk this path when you see the evidence of this, you see paths interspersed through this area coming from the houses that border the wetlands, with homemade bridges across the burn and dens being built in amongst the trees and bushes .

The strong feeling and objection to this development has been conveyed by many of my constituents, and the main reason we are having this meeting today, I know there is a need for good quality housing, and the Scottish government reflects that view in its commitment in providing that but Garelochhead wetlands is not the place for this development, when you also see that there has been planning applications for development on this site since 1999, the last being approved in 2010 you have to question the suitability of this site, especially in light of what I said earlier regarding the pandemic and importance of having places such as the Garelochhead wetlands that we can access easily, instead of putting a housing development here we need to preserve Garelochhead wetlands, so that it can continue to be enjoyed by the people .

I am asking the planning committee to reject this application on behalf of my constituents.

MEMBERS QUESTIONS

Councillor Devon referred to the gradient of the road and asked the Roads department if the gritter was able to drive up the road. Dona Lawson said that she was unable to advise if the gritter was able to drive up Station Road but said that the proposed access met their minimum design standards which was in accordance with both local and national guidance. The gradient of the proposed access road would require to be submitted and justified via the RCC process and would need to meet minimum requirements in terms of local and national guidance.

Councillor Devon referred to comments made around the Local Development Plan and asked how many objections had been received from the community since 2005 in respect of the housing allocation placed upon this site within the local development plan. Mr Moore advised that Mark Lodge would be better placed to answer this question as it was related to the review of the Local Development Plan. Councillor Devon asked if there was

anyone present in the meeting that could answer this and Mr Moore advised that there was not.

Councillor Trail referred to complaints made about the biodiversity report and asked Marina Curran-Colthart if she was satisfied that the biodiversity report had been carried out competently. Ms Curran-Colthart advised that she had received the report at the same time that it had gone into the public domain. She advised that there were a number of maps submitted with the report and in terms of the detail supplied by the applicants' ecologist she had found this acceptable because of where the development was going to take place as it was only on a proportion of the site. In terms of European protected species she advised that the suggested pre-start survey to ensure no species were compromised, tool box talks and an environmental management plan was a lot for a development of 24 houses. She advised that she had visited the site twice and that there were some wetlands that could be saved and that this could be conditioned by the Council to offset any development floor jam. She advised that the onus of keeping a watching brief was on the developer. Ms Curran-Colthart recognised the disappointment by the objectors at the lateness of the publication of the report but said that the focus of the report had been the effect of the development on European protected species and that it did not appear to have any effect. She advised that the developers had also included a tree protection plan under section 9 of the conditions to ensure that there was no construction creep from the development during the build.

Councillor Freeman advised that he was the local member and that he lived within 100m of the site. He advised that he was aware of the history of the site. He advised that he had concerns over the biodiversity of the site and asked Ms Curran-Colthart if her comments within the report of handling had taken into account the survey that had been published the previous Friday on the Council's website. She advised that on Friday she had spent a considerable amount of time reading the report and discussing it with the lead planner and raising any issues. She advised that comments made within supplementary report 2 reflected these discussions including what had been proposed by the applicant in terms of mitigation and pre-surveys. She said that she would have preferred longer but having had a number of years' experience and understanding the concern from objectors they had tried to balance that in terms of mitigation. Councillor Freeman asked her to explain what had been offered in terms of mitigation. Ms Curran-Colthart advised that mitigation was protecting areas out with the development site highlighting that only some of the site would be subject to development; making sure that a tree protection plan was going to be in place, and that pre-construction surveys would be done to ensure no species were compromised at the initiation state of the development. In addition to this she advised in terms of keeping a watching brief that tool box talks would be carried out with contractors to ensure that they were aware of the possibility of protected species entering the site. She advised that these were sound measures to ensure that no species were compromised. Councillor Freeman referred to the tree protection plan and asked for confirmation that this was not a Tree Preservation Order as there had been no request for one on the site. Ms Curran-Colthart advised that these were standard measures for tree protection which could be conditioned to ensure that they were fit for purpose. Councillor Freeman asked Ms Curran-Colthart to confirm that these surveys and reports complied 100% with Council and Scottish Government regulation. She replied that they would, eventually, and that they had supplied the information required of them albeit very late. Councillor Freeman referred to the use of the word eventually and asked if at this time the surveys and reports did not comply. She advised that anything submitted before an application was determined was still valid.

Councillor Freeman referred to a number of issues that had been raised in respect of roads and the access to the site. He asked the Roads Officer to confirm if the alterations to the junction would result in the loss of the parking area in front of the shops. Ms Lawson advised that the proposed realignment of the junction would not remove any road space and that it realigned the way that people access and egress from Station Road. She advised that there were no plans to restrict any parking or change anything. Councillor Freeman asked her to confirm that there would be no restriction to parking in front of the shops and that these parking areas would remain. Ms Lawson advised that the plans submitted did not propose any change in the parking but if it was brought forward that restrictions be placed in terms of safety then that would need to be looked at.

Councillor Freeman referred to discussions that had taken place at the site visit in relation to the number of additional vehicles that would be using Station Road which would be in the region of around 50 extra vehicles and asked Ms Lawson if she agreed that was a reasonable assessment. Ms Lawson advised that based on local and national guidance there was a need to check the percentage of affordable housing and proposed guidance on the number of cars per household, which was around 2 cars per household. She advised that as the proposed road was not a single carriageway with passing places she had no objection to an additional 50 vehicles using the road. Councillor Freeman advised that 25% of the development was proposed as affordable housing which was 6 houses but accepted that 50 additional vehicles was a reasonable figure. He referred to the comment she had made about the road not being single track and advised that the access to the site off Station Road was very narrow and that there was no space for vehicles to pass each other. He asked if the proposals would allow for 2 way traffic to access the site. Ms Lawson advised that both carriageways would be capable of carrying 2 way traffic in either direction, and neither of them were single track. She advised she had no concerns over 50 additional vehicles using the proposed roads. Councillor Freeman referred to the access to the site off Station Road and advised that after seeing the junction it was clearly not a two lane access track at this time and asked if the conditions attached specified a 2 lane road off Station Road onto the site. Ms Lawson advised that two lanes were what was currently proposed but if the applicant proposed a single lane carriageway with passing places then that would be looked at and determined if that was suitable access using both local and national guidance. The current proposal was for a 5.5m wide carriageway.

Councillor Freeman referred to the visibility splays required at the junction to the site and asked if the applicant owned the land to allow these visibility splays to be developed as on the plans. Mr Malcom advised that the visibility splays shown were within the applicant's ownership and within the public domain therefore there were no third party ownerships. He also confirmed in respect of the previous query regarding the 2 lane traffic, that it was a 5.5m two lane carriageway that was proposed.

Councillor Freeman referred to the site boundary and asked if the whole area within the site was within the village envelope. Mr Moore advised that he had noticed no discrepancy between the housing allocation site and the planning application site. He highlighted that all of the proposed development was on the allocated site.

Councillor Freeman referred to the comment Ms Curran-Colthart had made about the development not covering all the site and asked if she agreed that although this was the case that any development on the site could have a biodiversity impact on the whole of the site. Ms Curran-Colthart advised that if it was properly managed and there was no construction creep including the ends of the gardens that it could be balanced in terms of the landscape initiative. Additional work could be done in the area not proposed for

development to ensure the integrity of that area was not lost by introducing a management plan to ensure invasive and non-invasive species do not take over the area. She advised the site proposed for construction was an open site, possibly cleared for construction in the past and therefore that made the north side and the south side of the site different in the ways that they should be managed. She advised there were opportunities in both areas for biodiversity improvement. Councillor Freeman asked if the management plan she had referred to was included in the conditions for this application. Mr Moore advised there were conditions covering a construction environmental management plan, tree protection etc. which were usually imposed on major applications that had been applied due to the tightness of the site and also a traffic management plan for construction. In terms of open space management he advised these were standard conditions that would be built into the existing framework of the planning conditions. Councillor Freeman referred to an intimation made that work had started on the site in the past and asked for clarification on this as at the site visit they had been told by Mr Moore that no work had been started on any of the previous applications. Mr Moore advised that two freedom of information requests had been submitted in relation to this and he had found no evidence of commencement of development in terms of the Planning Act. He advised that this did not include clearing of the site for development.

Councillor Moffat asked Mr Scott if the proposed footpath was still planned at the side of the road and if it would be within the 5.5m width of the road or in addition to it. Mr Scott advised that the footpath was still proposed and it would be in addition to the 5.5m width of the road.

Councillor Moffat referred to the ecological survey and asked the biodiversity officer what weight was given to her input as against the ecological survey that had been provided by the applicant when considering the application. Ms Curran-Colthart advised that her role was to advise the planning process, to make sure ecological surveys were requested, phase one habitat surveys were requested and if anything came in via the public website to follow these up and make sure they are within the site. Her judgements were based on facts and findings within these reports and also on any mitigation measures that were proposed. She asked members to bear in mind that the ecologists were fully qualified and this was stressed in her requests for information. She advised that she took into account everything from an objectionable side of things and a supporting side of things and communicated fully with the planning officers. When no studies are provided she provides a list of what is required.

Councillor Hardie asked the planning officer how construction traffic would enter the site as the roads did not look wide enough when they conducted the site visit. He asked if road improvement would be made prior to commencement of construction as he had serious concerns about lorries travelling up the current roads. Mr Moore advised that the offsite improvements had been conditioned to be advanced prior to construction on the site and that a traffic management plan would be provided to show how construction traffic would get on and off the site safely. Councillor Hardie asked if any environmental health issues had been addressed such as noise. Mr Moore told him that standard conditions would be put in place to protect residents and construction hours would be in accordance with normal practice although with any construction there would be a degree of disruption which was unavoidable.

Councillor Devon asked Garelochhead Community Council if there was a housing need for young people in Garelochhead as 2 bedroom houses would be a good starter home. Mr Moore advised Councillor Devon that the proposal was for 3 and 4 bedroom houses.

Mr Madigan advised that there was always a need for housing for young families but it would be naive to look at the proposal and assume that the houses were something that could be afforded by young people. Councillor Devon then asked Mr Scott if there had been any interest in the houses proposed. Mr Scott advised that there had been a number of enquiries through their agent from both parties living in Garelochhead and those looking to move to the village. He advised that the local community housing association had requested 6 units for affordable housing. Councillor Devon asked Mr Scott if he felt the houses would be out of reach for young people. Mr Scott replied that the 25% affordable housing was not just for purchasing, it was for renting also and there wasn't an area that didn't need affordable housing.

Councillor Trail referred to the Community Council's view that the majority of residents were against the proposal and asked if any surveys had been done which provided figures to show this. Mr Madigan advised that no survey had been carried out but a community engagement exercise had been held the previous week. He advised that the opposition to the development was overwhelming and this was apparent from conversations that had taken place throughout the village. He referred to the applicants' intimation that 15% of houses had lodged an objection and advised that this was a significant number in a small village.

Councillor Freeman referred to slides 7 and 15 of the planning presentation showing the visibility splays at the access to the site and to the intimation made by the developer that the land was in their ownership. Mr Moore advised that the visibility splays, although they were not within the developers land, were on the public road and not third party land. He told Councillor Freeman that all road improvement works were conditioned to be carried out prior to any construction work on the site.

Councillor Hardie asked if the developer had sourced any local tradesmen for construction as mentioned in their presentation. Mr Scott advised that they had not sourced anyone yet but would if planning permission was obtained.

Councillor Kinniburgh asked about the proposed footway on Station Road and its location from the speed table along Station Road and then asked if the road would meet the 5.5m width criteria for two way traffic with the footpath. Ms Lawson advised that there was no proposal to reduce the width of the carriageway and that the footpath would be constructed on the existing road verge.

Councillor Kinniburgh referred to Ms Masterton's presentation and her mention of MPF4. He asked if he was correct in saying that MPF4 was still open to consultation until 30 March 2022. Mr Moore advised that it was out for consultation at the moment and was not an adopted or statutory document at that time, but would be once it was adopted. He advised that when considering the application, under Section 25 of the Planning Act, primary regard was given to the Local Development Plan and therefore Local Development Plan 1 was the substantive basis in the consideration of the application. He referred to comments about the current LDP1 being set aside and advised that it was clear in the report that although they accept LDP2 is a material consideration that they should not set aside LDP1. He advised that he believed MPF4 was a material planning consideration but it was a draft document and in his view the Local Development Plan and Housing Allocation policies were the substantive basis in which the application should be determined. Councillor Kinniburgh asked if the affordable housing allocation of 6 houses was covered by condition and Mr Moore confirmed that it was.

Councillor Moffat referred to slide 16 and her memory of the site visit and asked when constructing the 1.5m wide walkway if it would be on top of the deep gully. Ms Lawson replied by saying that it would be a design feature that the applicant would need to submit as part of their RCC as part of the planning conditions. Councillor Moffat said that if they added a 1.5m footway it would mean that Station Road would be 7m wide and that she did not think the verge was 1.5m wide currently. Ms Lawson said that the carriageway would not be reduced below 5.5m and that the developer would need to ensure that they could meet the requirement of 5.5m for the carriageway plus 1.5m for the footway. Councillor Moffat asked if the width could be measured and assurance given that this could be achieved before they could make a decision. David Moore advised that this matter could be dealt with by suspensive condition and that the onus would be on the developer to demonstrate how this would be achieved prior to any development taking place. Councillor Moffat said that she found it difficult to give it any credence without seeing the final plans. Mr Moore advised that the drawings submitted did give an indication of what was proposed in terms of off-site improvements. He highlighted that they were looking to install traffic calming measures as well. Councillor Moffat referred to the footway and being on site and said that she found it surprising that she didn't have all the details she needed to make an informed decision. Mr Moore said that it was imperative that anything put in was safe and that he was comfortable that there were a series of conditions requesting that the applicant demonstrate the details of how a safe access could be achieved, therefore, in terms of providing everything up front he felt that the plans submitted were sufficient for a planning application. He said that due to the way the planning conditions were framed everything had to be in place before any development on the site could take place. If this could not be achieved it would inhibit the building of the houses.

Councillor Kinniburgh asked for confirmation that if conditions were not met on any application then development could not take place. Mr Moore advised that this was correct and explained how a breach of a planning condition was dealt with and what would make something unlawful. He advised that if they were to breach the condition regarding the provision of safe footways and traffic calming then this would need to be addressed before any work took place on site or it would be unlawful.

Councillor Freeman referred again to the footpath, drainage channel and proposed traffic calming measures and advised that he did not think it was possible to put a 1.5m wide footpath at the side of the existing road, even though the drainage channel was underneath and still retain a 5.5m wide carriageway. He asked Ms Lawson to confirm the current width of the carriageway was the full 5.5m required. Ms Lawson advised that she had not measured it and that it would be the responsibility for the applicant to provide legal road construction consent (RCC) and for them to provide what was conditioned. Councillor Freeman asked if it would be possible to approve the application subject to confirmation that the 1.5m footpath and 5.5m carriageway could be provided. Mr Moore read out suggested condition 3 from the report of handling. He confirmed that the condition already required that the applicant provide necessary road and footway improvements before any development could take place on site. Councillor Freeman said that this would require an approval from the Committee for the condition to apply, and asked if the Committee was minded to approve could they approve it subject to confirmation to the planning officer that the 1.5m footpath and 5.5m carriageway could be provided. Mr Moore said that the wording of the condition could be amended to state clearly that certain things should be provided before commencement of development. Councillor Kinniburgh suggested that Councillor Freeman direct this question to Mr Jackson as it was a legal matter.

Mr Jackson advised that it would not be competent for the Committee to approve the application on the basis that the applicant provided the information and if they could not do this then the approval would fall. He referred to the condition around the roads consent agreement and advised that if they could not provide that then development could not take place on site and that it would be a matter for planning to address if this could not be achieved. He confirmed that for this condition to apply then the Committee would have to first approve the application.

Councillor Green referred to the size of the development being substantial and advised that many applications he had seen had included a lot more supporting documentation and considerations such as public transport. He asked the applicant if any consideration had been given to improving the road in the direction towards the station. He also asked if the applicant started work on the road improvements and footways and it became too expensive could they ask for the condition around the road improvements to be discharged. Mr Scott advised that works towards the station had not been raised with roads during the application. He advised that currently residents walked to the station and he assumed that residents from this development would do the same. He said that he did not envisage any added traffic from the development to the station therefore he didn't feel improvements were necessary. Councillor Green asked if the applicant felt that people from the development would want to make use of the station and increase the footway traffic. Mr Scott replied that he felt there would be additional foot traffic from the development to the station but could not see why it could not operate as a shared surface as it was currently. Mr Moore advised that Councillor Green's second question was hypothetical around the circumstance where the developer came back and said they were unable to carry out the road improvement works and stressed the importance of the safe operation of vehicles and pedestrians in this application and any other for this site saying that safety was first and foremost and at the heart of the consideration of the application.

Councillor Kinniburgh referred to the width of the road and sought clarification from Ms Lawson that they were looking for the carriageway to be 5.5m in width and the footway to be 1.5m. Ms Lawson said that they ask for a standard 5.5m width but the bare minimum was 4.8m. She advised that she would need to check the drawings to see what had been submitted but their bare minimum was a 4.8m wide carriageway and 1.5m wide footpath. Councillor Kinniburgh said he was led to believe that Station Road would be 5.5m wide with a 1.5m wide footway but what was showing on the drawing was a 4.8m carriageway and a 1.5m footway and asked if this was acceptable. Ms Lawson confirmed that it was 4.8m and 1.5m was their bare minimum acceptable.

Councillor Freeman referred to the point Councillor Kinniburgh made and said that he had concerns around this. He asked if officers were now saying a 4.8m carriageway could be provided or if an application came in for an amendment that they would accept 4.8m. Ms Lawson confirmed that a 4.8m width was acceptable in accordance with local and national guidance. Councillor Freeman reiterated his concerns around this given that discussion had been around a 5.5m width throughout the meeting.

The Committee adjourned for lunch from 13.40 to 14.15.

Mr Jackson asked the Members of the Committee to confirm their attendance.

The Committee confirmed that they had no further questions following the adjournment.

SUMMING UP

Howard Young – Planning

Mr Young summed up as follows –

Good afternoon. We are required to assess planning applications in terms of Development Plan Policy and other material considerations. The policy background is set out in the report.

In terms of material considerations the following are considered key:

- 1 The previous 3 approvals for housing on this site.
- 2 The responses from Statutory Consultees.
- 3 Objections to the proposal.

The proposal seeks to develop an allocated housing site (H-AL-3/3) to provide 24 dwellings of varying sizes. The principle of the development is acceptable having regard to the allocation of land for residential development in the adopted development plan. In the new LDP the site is within the settlement boundary which presumes in favour of development subject to a site based criteria assessment.

The proposals will provide an appropriate layout and design for this well contained site. Notwithstanding the third party objections which have been received, it is considered that the topography of the site, the layout of the scheme, the landscaping proposed, and the house designs and external finishes present a form of development which will accord with LDP and SG policy requirements.

The proposal has attracted a considerable number of objections raising issues relating to design, amenity, ecology, drainage/flooding, protection of footpath and road traffic safety. In relation to road safety we aren't starting with a blank canvas but a housing development within the existing urban fabric with its historical roads and pathways. I understand that 5.5 and 1.8 can be achieved within the site. 4.8 and 1.5 elsewhere which satisfies the Area Roads Manager. As such this and the other issues are addressed in the Officer report and can all be dealt with by way of safeguarding conditions.

The proposed extension would give rise to a significant adverse effect on the residential amenity of the lower flat of Dunsheen through loss of daylight to a habitable room having due regard to the applicable minimum standards relating to "Developments Affecting Daylight to Neighbouring Properties" as defined in the Sustainable Siting and Design Principles set out in the Appendix of the Argyll and Bute Local Plan 2015. As such the proposal is contrary to Policies LDP 3 and LDP 9 of the Local Plan 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 will resist development which does not comply with the relevant siting and design principles contained within the Appendix of the same.

Derek Scott – Applicant

Mr Scott advised that he had listened very carefully to the representations made by all parties, the questions raised and the responses made to the questions. He advised there were a number of key points that should be at the forefront of members' minds as they moved towards debate. The first being that the application site had been zoned for the

development of 24 houses which was the exact number that had been applied for. The site was included in the Garelochhead settlement envelope where the principle of development was acceptable. Planning applications had been granted twice previously for the development of 24 dwelling houses in 2005 and 2010. The circumstances had changed little since these applications had been granted. He said that a considerable amount of objections had been lodged to the application, some of which had been heard at the meeting, and whilst it was important to give consideration to these objections little weight should be given to them. In terms of ecological issues he said that Dr Baker had undertaken surveys on the site on 3 occasions and had confirmed that there were no constraints preventing development. He had concluded that development of the site would result in significant improvements and benefits to the diversity of the site rather than detract from it and this had been agreed by the Council's biodiversity officer. He added that the developer had offered to provide further surveys in advance of development and to employ an ecological clerk of works at the commencement of development. He said there had been nothing mentioned today that had challenged these considerations. In terms of transportation issues he advised that the scheme applied for was exactly the same as what had been applied for previously and would deliver benefits in terms of traffic calming and other measures on Station Road that would otherwise not be delivered. The roads officer had confirmed that she had no objection to the scheme. He said that the site was zoned for residential development and had already received permission on two separate occasions. In respect of matters raised in terms of drainage and flooding, he said that these were capable of being addressed which was also the view of SEPA, Scottish Water and the Council's own flooding consultant. The issues referred to by the objectors could be addressed through the development of the site. He advised that obstruction to the core path would be minimised and that there would always be an alternative route provided to access the wider core path network.

Mr Scott advised that the planning officer had recommended the application for approval as the site was a housing allocation within the local development plan and that the proposals accorded with the policies within the plan and with supplementary guidance and that there were no other material considerations including views by third parties. He said that these were strong words and a powerful recommendation and that it was within the Committee's right to agree or disagree with the recommendation but sound and unchallengeable grounds were required to do so. He said that given the history of planning applications on the site and the specific zoning allocated to the site the application was black and white, there were no grey areas to consider.

Mr Scott made reference to the advantages of the development that he had mentioned in his presentation including that it would contribute to the biodiversity of the site, the introduction of traffic calming measures and roads improvements on Station Road, the provision of much needed affordable housing of which discussions were ongoing with ACHA, the provision of jobs and economic benefits, and the support to local facilities and services.

Mr Scott told the Committee that should they refuse the application, the applicant would lodge an appeal with the Scottish Government and make a claim for entire expenses associated with such an appeal. He said that it was not intended to come across as a threat but as a matter of courtesy to ensure that they were aware of the consequences in arriving at such a decision.

He concluded by saying that he commended the scheme to the Committee and requested that planning permission be granted for the proposals as they had been applied for and granted previously on two separate occasions.

Mr Baker and Mr Malcom confirmed that they had nothing further to add. Mr Malcom reinforced that his position was the same as Mr Scott's.

Fergus Madigan – Garelochhead Community Council

Mr Madigan summed up as follows –

We note the hesitancy from the roads officer in answering the question from Councillor Freeman about parking spaces we ask you examine to proposed junction alterations as they clearly show the current parking spaces outside the spar are now an extended footpath and thus there are no parking spaces available, I ask you to listen carefully to Councillor Freeman's thoughts. He knows this junction very well and may understand the ramifications for Marco and Roberto and their business if this goes ahead. We also note the hesitancy from the biodiversity officer and noticeably vague answer of 'eventually' when asked if the very rejigged survey lodged on Friday meets required standard. The eminently qualified ecologist is a commercial ecologist first and foremost, you get what you pay for! The biodiversity officer has stated it would be fairly standard practice whilst doing a paid survey for bats and otters to also keep an eye out for other protected species, would it also be common practice to perform an extensive survey and mapping exercise with full notes and references unpaid for? The previous lodging (Dec 2020) of the October 2020 survey- Its title reads 'bat roost potential and otter surveys for proposed development' chapter 2- 2. Scope of Assessment and Survey- The survey considered the potential presence of relevant European Protected Species (bats and Otters). The updated 2020/2021 survey submitted sept 2021 is titled 'Bat roost surveys for proposed development' its scope and assessment of survey states the following. The very same survey is now a full 'Ecological survey' and its scope of assessment now encompasses all relevant protected species. How many times can you change the scope of and conclusions of a wildlife survey, post survey? It is easy for an applicant to claim they will do a full raft of further ecological surveys before building commencement. It's very easy to claim this when you have not even bothered to ascertain whether there is current capacity to deal with sewage, nor measured the width of a road, if you're serious about a project you simply lodge an enquiry to find out very early on in the process. This information has huge commercial ramifications. We are quite dumb founded by the claim that there has been a lot of interest from potential buyers in this project, it is a nice claim, but think about it seriously, this project hasn't even been given planning permission and there have been no builders contacted so the thought that these houses are on websites being marketed is dumb founding. That is all from the Community Council. Thanks for your time.

Marina Curran-Colthart

Ms Curran-Colthart said that in terms of ecological surveys, the applicants had eventually met the requirements of the site, and that these things could often be produced in an unordered way. She advised that the applicant could produce as many ecological surveys as they wished until the application was looked at and agreed.

Donna Lawson

Ms Lawson referred to the question regarding the parking outside the shop and advised that in accordance with the highway code you should not park within 10m of a junction. She advised the distance from Station Road to the junction with the B872 was 13m and anyone parking within that was in breach of the highway code. She advised that any proposal to widen the footway was not removing any parking as no one should have been parking there.

Michael Puxley

Mr Puxley made reference to the comment made that there were no parking restrictions being enforced which meant that Station Road on the horizontal and on the incline are both single track roads. He said that it could be seen from the photographs that were part of the presentation the parking that was on Station Road and if that was not going to be removed then it would be down to a one lane carriageway. He added that reversing out onto the main road was a common event without the building traffic. Mr Puxley told the Committee that during the lunch break, he, plus others, had measured the width of the road. He said that 4.8m minimum plus 1.5m minimum added to 6.3m and that a lot of the width of Station Road above the junction was less than 6.3m. He urged that a survey to back that up was done as soon as possible.

Bonnie Puxley

Mrs Puxley confirmed there was nothing further to add.

Lorna Masterton

Ms Masterton said that her presentation had covered 3 key material planning issues which should have been taken into consideration under Section 25 of the Town and Country Planning (Scotland) Act 1997. She advised the first of which was amenity as the area was well used by the community and would be detrimental to the whole community if it was lost. The second point she made was that the Local Development Plan 1 was out of date because LDP2 was more up to date and more in line with the needs of the community. She advised that need was a material condition and there was no housing need evidenced by the site being deallocated and the evidence proved by them earlier in terms of housing need. She advised ecology was the third issue and was a material consideration. She advised that European species were present on the site as evidenced in the NBN Atlas and the landowner as well. She said that the area should be safeguarded. She said that the latest biodiversity report was defective, came in far too late and had not been peer reviewed. She said that a planning application awarded on the basis of this information would be a contravention of the Human Rights of the people of Garelochhead, the vast majority of which were in opposition to the proposal. She referenced Article 6 of the Convention of Human Rights saying that it was contrary to convention and Scottish Environmental Law which enshrines the principle of public participation and protects the public's right to transparency and proper consultation in the planning process. Due to a lack of public consultation she advised that the local community were totally unaware of the proposal which led to a small group of people raising awareness and allowing them to have a voice. She advised that despite the late start the level of opposition was enormous and had been growing daily. She highlighted the fact that further representations had been submitted that day as evidenced by the planning officer.

Nicholas Beevers

Mr Beevers advised that he had found the developers comments threatening and he had been unsettled by them. He referred to the lack of understanding of the roads officer in respect of the parking outside the Spar shop advising that this showed the disconnect between planning and the village. He said that if they knew the village they would have known that people had no choice but to park there. He advised that there had been no enforcement. He referred to the width of the road advising that they had measured the road and that it was not wide enough. He advised that the application was setting a bleak precedent for biodiversity if a survey that had been submitted, which was wrong, was accepted. He advised that if the application went through it would be removing a green space in Garelochhead and starting a cycle of the land being used as capital and another 20-30 years of it not being delivered as housing or delivering the biodiversity that they had said would come from it. He asked the Committee not to put through the development as it would just start the cycle again, create traffic in Garelochhead and would mean the loss of a green space. He thanked the Committee for listening.

Nicola Sullivan

Ms Sullivan advised that she would like to make a few points in response to what had been said. She advised that European protected species had been found on the site including otters and that it was highly unlikely that one otter was passing through the site. It had also been noted that bats had been using the site and she advised there was a need to remember that these species were legally protected as they would not realise that only half the site was being built on and would not know to stay away from the works. She advised the biggest constraint to the biodiversity survey was its timing and that it was done at the wrong time of year as most of the species using the site would have been dormant or hibernating. She advised for that reason alone the survey should have been disregarded as it was useless.

Ms Sullivan advised that in relation to parking, that it had been said that there would be no parking restrictions imposed near the Spar shop, and that the bigger pavement area would encourage cars to park further into the busy road which would be dangerous. She referred to the access and the statement by roads that it was not single track advising that currently cars parked all the way along Station Road to the junction. She advised that photographs in the slides clearly showed that it would be a single track. She said that elderly residents were worrying about not being able to park on the road outside their homes. She referred to the footpath going down the track to Station Road advising that houses would be overlooked from this path and this was evidenced in photographs on slide 45 of their presentation which showed the view from the track where people would be able to see into kitchens and upper bedroom windows, gardens and living rooms due to the low wall also. She advised there would be no privacy.

In relation to construction traffic Ms Sullivan advised that when they previously attempted to build on the site there were JCBs going up and down the track which was approximately 15 years previously. She advised that they dragged knotweed all the way down the track until it was by the bordering wall of Rannoch Brae and onto Station Road. She said that the turning circle was not big enough for these vehicles therefore knotweed was tracked onto the other side of the road as well and the land had been churned up by the vehicles. She advised of the steep drop to the side of Station Road which was a safety issue. Ms Sullivan referred to objections made about noise and air pollution from

construction directly outside Rannoch Brae and that this had not been addressed at the hearing. She said that the cars which currently parked around the junction would still continue to do so therefore the road would be single track and that there were no parking restrictions to be put in place to ensure safety around this area creating a hazard on Station Road.

Councillor Iain Shonny Paterson

Councillor Paterson said that if the Committee were to grant permission for the application the community would lose a significant area of green lands and wetlands which were a huge benefit to Garelochhead. He advised that these areas provided more than just places to visit as they were of value to physical and mental wellbeing and this had never been more essential. He asked the Committee to reject the application before them.

The Chair received confirmation from all parties that they had received a fair hearing. In terms of the Councillors' National Code of Conduct, Councillor Iain Shonny Paterson, Objector, left the meeting at this point.

DEBATE

Councillor Freeman said that he had a number of points to be made on the application. He said he was surprised to hear that if the application was refused that there would be an appeal and that costs would be allocated against the Council. He said that in all the hearings he had attended that he had never heard a developer say this and although it was said that it was not intended as a threat that was the way that he had taken it. Councillor Freeman referred to the parking that was likely to be lost advising that the roads officer had stated that it was illegal to park within 10 metres of a junction and that he had complained to the Council on a number of occasions about other junctions in the village having cars parked on them and no action had been taken. He advised that this was a police issue and not a planning matter that could be taken into account. During the site visit he advised that his understanding was that there was serious concern raised about access to Station Road and to the site. He advised that parking on Station Road had been the norm for a number of years. He said that one of the important issues raised was the width of Station Road and the options for achieving at 5.5m carriageway with a 1.5m footway, a total of 7m; and although officers had said they would accept a minimum carriageway width of 4.8m this was still a total width of 6.3m. He said that he would not be happy with a width of 4.8m and had concerns that no one had measured the road, however he noted that from his own judgement the road and current channel were exactly 5.5m and no further width could be achieved therefore he could not see how the condition could be achieved.

In terms of biodiversity Councillor Freeman advised that he had serious concerns as they had been told that the survey did not achieve all the Scottish Government and Council regulations but that eventually it might be. He said that the fact the survey was only placed on the website on Friday raised further concerns and that he could not see how officers could have read the report fully. He added that the report did not contain any comments from the biodiversity officer in respect of this, another serious concern.

Councillor Freeman referred to comments made that objections had come from a small number of the local population and advised that it was very seldom that he had seen all representations of objection and no representations of support; he said that as officers had stated there had been 163 objections to the proposal which from a small community

like Garelochhead was a massive amount and clearly showed the community was completely opposed to the proposal. He said it was for Councillors to place appropriate weighting on the number of representations received but as a Councillor himself, he would be placing a high level of weighting on the representations that were received.

Councillor Freeman advised that it was disappointing to see that there were no proposals for electric car charging points on the site, which did nothing to help achieve net zero. He said that he believed all new developments should be asked to provide electric car charging points.

Councillor Freeman pointed out that this was one of the few open amenity areas within the village which was well used and would be a great loss to the village. The Council, in LDP2, he advised, had removed the housing allocation from this site and there had been no objections to its removal.

Councillor Freeman referred to the presentations by Fergus Madigan and Lorna Masterton saying they had clearly put in a lot of time and effort into the preparation of the presentations and congratulated them on the work they had put in.

Councillor Trail advised that he concurred with Councillor Freeman's comments about the standard of the presentation by the objectors who had clearly done their research. He advised that he shared their concerns over ecology and green spaces but advised that Councillors had to respect planning law therefore he was minded to agree to the planning officer's recommendations; but the history of the site gave a good indication of what the outcome of the application would be.

Councillor Green said that he had considered everything that had been said. He said it was a difficult case as there was clearly a united view from the community. He referred to the history of the site and that favoured a presumption of granting the planning permission. He said that the community had made very good points about the situation with the history of the site but he was minded to agree with the officers' recommendation. He made reference to the comment by the applicant about the steps that would be taken if the committee did not grant the application saying that he did not think that it was necessary.

Councillor Moffat thanked those who had made presentations. She said that she felt that planning had their hands tied by planning law and felt she was not skilled enough to prepare a competent motion against the application. She said that it was an appalling development, saying that she had visited the site. She advised that Station Road did not require any traffic calming measures as no one would be able to move through Station Road with additional traffic. She said that it was unsuitable and the access was dangerous. She said ruining the ecology of the area was monstrous. She advised that it was dreadful for the Committee to have to go against 163 objections to the proposal, that she felt sorry for planning officers and that it was shocking to receive a threat from the developer in respect of costs and legal action.

Councillor Devon said that as Councillors sitting on the Committee they were dependent on consultees. She advised that she was saddened that the Community Council had not carried out a full consultation. She advised that from 9 statutory consultees who responded, 8 had no objections and 1 did have an objection. She advised that she found it very difficult, but like Councillor Trail, would be going with the officers' recommendation. She said that she was very aware of all the work that the people of Garelochhead had put

in but she felt that she had to go with the officer's recommendation. She said that she had also been saddened by disrespectful remarks made and that in 15 years she had always respected peoples differing views. She asked that it be noted that this had saddened her.

Councillor Hardie said that he had found the hearing interesting with all the different views and whilst he was aware of the objectors' reasons for objecting he had found the planners case more persuasive. He said that for that reason he would be voting as Councillor Devon, Green and Trail for the application.

Councillor Freeman advised that at the appropriate time he would table a Motion.

Councillor Moffat advised that she was taking comfort in the fact that this was an undeliverable build. She said that this was because Station Road was too narrow and could not be made any wider.

Councillor Kinniburgh said that he had listened to everything carefully and congratulated those who had made presentations that had been very well put together. He advised that he did not concur with the comments made that the LDP was out of date and highlighted that the site was a housing allocation within the current development plan. He advised that LDP2 was still with the Scottish Government. He made reference to the comment by Mr Scott which he advised could only be taken by a threat. He advised that members were very aware of the planning process and the rights of applicants; and therefore the way that this was raised could only have been viewed as a threat, which he did not like.

Councillor Kinniburgh advised he had doubts that the development could be delivered due to issues with the access, which he said was a major issue. He said that they had heard about the conditions that would have to be met, and that the point of conditions was to make sure the road was safe. He referred to the views of the roads officer that this could be achieved and advised that he felt there would still be issues around the access, as after being on site he felt the road was not easy to access currently and even with the improvements he felt with another 50 vehicles there would still be issues.

Councillor Kinniburgh said he felt he had found himself in a position where he would have to reluctantly agree with the recommendations of planning but that he did have reservations.

Motion

To continue consideration of the application to allow for the opportunity for the formulation of a competent Motion to refuse the application.

Moved Councillor Freeman, seconded Councillor Moffat.

Amendment

To agree to the recommendation by officers to grant planning permission.

Moved Councillor Trail, seconded Councillor Hardie.

As the meeting was being held on a virtual basis, the vote required to be taken by calling the roll and Members voted as follows –

Motion**Amendment****No Vote**

Councillor Audrey Forrest
Councillor George Freeman
Councillor Jean Moffat

Councillor Mary Jean Devon
Councillor Kieron Green
Councillor Graham Hardie
Councillor David Kinniburgh
Councillor Alistair Redman
Councillor Richard Trail

Councillor Donald MacMillan

The Motion was carried by 6 votes to 3 and the Committee resolved accordingly.

DECISION

The Planning, Protective Services and Licensing Committee agreed to grant planning permission subject to the conditions and reasons appended to the report by the Head of Development and Economic Growth dated 7 January 2022.

(Reference: Report by Head of Development and Economic Growth dated 7 January 2022, Supplementary Report No.1 dated 18 January 2022 and Supplementary Report No.2 dated 24 February 2022, submitted)