

Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 21/02393/PPP
Planning Hierarchy: Local
Applicant: Mrs Caroline Jane Keenan
Proposal: Site for the erection of dwellinghouse, 3 holiday cabins and ancillary building.
Site Address: Land Adjacent To Braeside Portnahaven Isle Of Islay

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for the erection of residential development (in principle).
- Installation of new accesses and footpaths (in principle)
- Erection of three holiday cabins (in principle).
- Erection of ancillary building (in principle).
- Formation of access and access track.
- Formation of parking and vehicle turning area.

(ii) Other specified operations

- Connection to public water and sewerage systems.
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(B) RECOMMENDATION:

Recommend that planning permission be refused for the reasons appended to this report.

(C) CONSULTATIONS:

- **Nature Scot** replied 14.03.2022 with no objection. However, there is concern regarding the volume of applications and suggest that the council carry out a capacity study. It is also identified that the proposal would be likely to have a significant impact upon Corncrake giving rise to a requirement for the Council to undertake an Appropriate Assessment in this respect.
- **Area Roads** replied 07.02.2022 with a refusal. There is insufficient land to construct the service bay and site access road. The land required for the

visibility splays are outwith the site edged red and the applicant's control. A Section 75 Legal Agreement would be required.

- **Scottish Water** replied 26.01.2022 with no objection subject to connections and capacity.
- **RSPB** responded 04.03.2022 with no objection but with a request to discuss future mitigation of proposals with regard to declining numbers of Corncrake.
- **WoSAS** replied 08.02.2022 with no objection subject to a condition requiring a watching brief.

(D) HISTORY:

None relevant.

(E) PUBLICITY:

- Regulation 20 Advert Local Application expired 24.02.2022 Oban Times.
Neighbour notification expired 24.02.2022

(F) REPRESENTATIONS:

(i) Representations received from:

Representations have been received from 37 individuals – 36 raising objection and 1 providing comment.

Representation:

Ms Peggy McNab, 33 High Street, Portnahaven 13.02.22

Objections:

Ms Emily Arnold-Fernandez 18 High Street Portnahaven Isle Of Islay 16.02.2022
Mrs Margaret Bauld Ardoch High Street Bowmore Isle Of Islay 15.02.2022
Nicola Bell 7 Queen Street Portnahaven Isle Of Islay 17.02.2022
Isabel Bell 7 Queen Street Portnahaven Isle Of Islay 17.02.2022
Cladville Estate Per Neill Clerk And Murray Solicitors Portnahaven 15.02.2022

Mr Tom Evans 11 High Street Portnahaven Isle Of Islay 08.02.2022
Nicola Evans 12 Queen Street Portnahaven Isle Of Islay PA47 7SJ 09.02.2022
Mr Douglas Farish 6 Queen Street Portnahaven Isle Of Islay
Mrs Mary-Ann Featherstone The Dower House South Kildalton Isle Of Islay
07.02.2022
Mr Neil Gillespie Am Binneach Shore Street Port Wemyss Isle Of Islay

Dr Alistair Hart 203 Nithsdale Rd Glasgow G41 5EX 17.02.2022
Jons Helsing Four Winds Portnahaven Isle Of Islay 14.02.2022
Gary Kaye Orsay House 8 Queen Street Portnahaven Isle Of Islay 08.02.2022

Alison Kaye Orsay House Queen Street Portnahaven PA47 7SJ 08.02.2022
Markus Keggenhoff Mercedes-Benz AG Mühlenstrasse 30 10243 Berlin
11.02.2022

Ina Keggenhoff Mercedes-Benz AG Mühlenstrasse 30 10243 Berlin 11.02.2022
Neil Lock Sendacs Crown Street Portnahaven Isle Of Islay 11.02.2022
Catherine MacArthur Braeside Church Street Portnahaven Islay 07.02.2022
Iain MacKinnon 3 Queen Street Portnahaven Isle Of Islay 15.02.2022
Catriona D Magowan 12 High Street Portnahaven Isle Of Islay 14.02.2022

Dr Alastair McCall 5 High Street Portnahaven Isle Of Islay
Kenneth McDowall 14 High Street Portnahaven Isle Of Islay 14.02.2022
Marion McDowall 14 High Street Portnahaven Isle Of Islay PA47 7SN 14.02.2022
Mrs Helen McIsaac 29 Pleasance square Falkirk Fk1 1bq 15.02.2022
Mr Brian McIsaac 29 Pleasance square Falkirk Fk1 1bq 15.02.2022

Mr Ronald Miller 17 Shore Street Portnahaven Isle Of Islay 14.02.2022
Sandy Rankin Braeside Church Street Portnahaven Islay 07.02.2022
Mrs Jean Rutherford Ardmore Main Street Port Wemyss Isle Of Islay 10.02.2022
Revd Michael Selby St Paul's Vicarage Thurlstone Road Ruislip HA4 0BP
15.02.2022
Mr Stuart Todd Tigh Beag Crown Street Portnahaven Isle Of Islay 14.02.2022

Alex Krasicki No Address Provided 16.02.2022
Kevin Smith No Address Provided 14.02.2022
Bradley Smith No Address Provided. 14.02.2022
Joan Yarker No Address Provided 10.02.2022
John Yarker No Address Provided 10.02.2022
Joanna Wrobel No Address Provided 16.02.2022

(ii) Summary of issues raised:

Representation:

- Comment setting out support for the prospect of the applicant's stated intent to reside in the village but raising issue with the prospect of the requirement for additional holiday accommodation when a significant number of properties in the village are already utilised as second homes and holiday rentals.

Comment: Noted.

Objections:

- The application is not competent under the current LDP.

Comment: Noted and addressed in Appendix A.

- The applicant has gone against the advice of the council's officer presented at the pre application.

Comment: Noted.

- The modern design of the house is not in keeping with the village's vernacular or the aims of the conservation area. The design is likely to be incapable of withstanding the local weather on such an exposed location. The cabins design is incongruous for the area and the wider environs of the villages and will break the skyline to its detriment. Materials, siting, density and design are incongruous within the villages setting. The council has previously rejected proposals and upgrades which do not preserve the character of the village.

Comment: This is a planning in principle application and the design is not a material consideration at this stage. Any approval would carry a condition outlining basic design standards to be applied.

- The business case has not been shown to be sustainable as has happened with previous failures. The further phases if not approved will undermine the business case to the render it unviable.

Comment: Noted and addressed in Appendix A.

- A condition regarding decommissioning should be applied to any approval.

Comment: Noted.

- The attraction of the village for many is the lack of dedicated tourism infrastructure. The proposal is over development for a croft site which generally would not have this size of house or the number of attendant buildings. A non-croft use should not be permitted at this location. The proposed activity areas would not be in keeping with land traditionally designated for crofting.

Comment: The property does not appear to form part of a registered croft holding and is not recorded as such by Registers of Scotland.

- Loss of amenity to existing neighbouring houses due to overlooking and shadowing. More car headlights in a generally dark sky area would be an intrusion. There will be an increase in light and noise pollution. The land is prone to flooding and subsidence due to current rainfall events and is not suitable for intensive housing use.

Comment: The proposal is not suited to a site outwith the settlement boundary due to amongst other reasons, amenity issues affecting existing dwellinghouses.

- There is depopulation of the villages due to seasonal letting and this proposal may be similar. There is almost no unemployment in the area and staffing may be a problem in an area of aged population.

Comment: Noted.

- Detrimental to birds and insect habitats within the SSSI. Joint Nature Conservation Committee has designated Rinns of Islay as Designated Area of Special Conservation.

Comment: Noted and addressed in Appendix A.

- Traffic increase is not acceptable at a junction where the unwary may cause accidents and injuries. There is a parking issue in the area which affects attendance at existing community facilities. The proposed parking is not sufficient for the three pods and the house. The proposer does not have full ownership of the proposed access road.

Comment: Noted and addressed in Appendix A.

- Refuse and waste management is already stretched in the area especially during the holiday season.

Comment: Noted.

- Construction traffic will bring amenity loss especially as other later phases are planned. The condition of the roads would further deteriorate due to traffic increases especially during construction.

Comment: Noted.

- An approval may set precedent for building outwith the villages.

Comment: Each application is addressed separately with its merits tested against the policies of the LDP.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|---|-----|
| (i) Environmental Statement: | Yes |
| (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | Yes |
| (iii) A design or design/access statement: | Yes |
| The proposal is accompanied by a Business Plan and Supporting Statement that provide background to the proposals but do not satisfactorily set out an exceptional locational/operational requirement for the development. | |
| (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
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- (J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

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

'Argyll and Bute Local Development Plan' Adopted March 2015

(delete as appropriate)

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

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

(delete as appropriate)

Natural Environment

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity

SG LDP ENV 2 – Impact on European Sites

SG LDP ENV 4 – Impact on SSSIs and National Nature Reserves

Landscape and Design

SG LDP ENV 13 – Impact on Areas of Panoramic Quality (APQs)

SG LDP ENV 14 – Landscape

SG LDP ACE 1 – Area Capacity Evaluation (ACE)

Historic Environment and Archaeology

SG LDP ENV 16(a) – Impact on Listed Buildings

SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas (SBEAs)

SG LDP ENV 20 – Impact on Sites of Archaeological Importance

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

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

SG LDP TOUR 3 – Promoting Tourism Development Areas

General Housing Development

SG LDP HOU 1 – General Housing Development Including Affordable Housing Provision

Sustainable Siting and Design

SG LDP Sustainable – Sustainable Siting and Design Principles

Resources and Consumption

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems

SG LDP SERV 2 – Incorporation of Natural Features / SuDS

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

Transport (Including Core Paths)

SG LDP TRAN 1 – Access to the Outdoors

SG LDP TRAN 2 – Development and Public Transport Accessibility

SG LDP TRAN 3 – Special Needs Access Provision

SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes

SG LDP TRAN 6 – Vehicle Parking Provision

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

- Scottish Planning Policy

Argyll and Bute proposed Local Development Plan 2 (November 2019) – The unchallenged policies and proposals within pLDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the pLDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of pLDP2 that may be afforded significant weighting in the determination of this application are listed below.

- Policy 23 – Tourist Development, Accommodation, Infrastructure and Facilities
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 63 – Waste Related Development and Waste Management

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing: Whilst there has been a significant volume of representation received on this matter it is almost unanimous in raising objection to the proposal.

The proposal is contrary to LDP policy. All issues raised by respondents have been addressed by consultees and by officers within the Report on Handling. In these circumstances, it is considered that a Hearing would add little value to the determination process unless Members were minded to consider approving the development contrary to the recommendation of officers.

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

The proposal seeks planning permission in principle for a site for the erection of a single dwellinghouse, three holiday cabins, an ancillary building, and car parking on an open countryside site to the north of Portnahaven.

The proposal is considered to be contrary to the provisions of the LDP settlement strategy and is considered likely to give rise to significant adverse impacts upon the landscape character of the North and West Islay Coast Area of Panoramic Quality, and upon the character, appearance and setting of the Portnahaven and Port Wemyss Conservation Area. Furthermore, the development would be served by a substandard private access regime where land required to provide commensurate improvements lie outwith the control of the applicant.

The proposal has been subject to thirty six third party representations raising objection and one third party submission making observation both for and against various aspects of the proposal.

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

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

The proposal is considered to be contrary to policies LDP DM 1, LDP 3, LDP 5 LDP 11, SG LDP HOU 1, SG LDP ENV 13, SG LDP 17, SG LDP TOUR 1, and SG LDP TRAN 4 of the Argyll and Bute Local Development Plan 2015, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission in this instance as a departure to the Development Plan having regard to s25 of the Act.

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

n/a

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

Author of Report: Derek Wilson

Date: 06/04/2022

Reviewing Officer: Peter Bain

Date: 06/04/2022

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 21/02393/PPP

1. The application site is located in an open location within a 'countryside zone', wherein policies LDP DM 1, LDP 5, SG LDP HOU 1, and SG LDP TOUR 1 set out a presumption against small-scale housing/tourism development on open/undeveloped sites. The proposal is directly contrary to the provisions of these policies and, with no significant material considerations to weigh in opposition, the application should be refused.
2. The proposed development would occupy a prominent elevated/skyline location that will render the proposed development as an incongruous addition to the landscape setting of Portnahaven. It is considered that the proposed development would accordingly give rise to a significant adverse visual impact upon the North West Islay Area of Panoramic Quality and the proposal is accordingly contrary to the provisions of policies LDP 3, and SG LDP ENV 13.
3. The proposed development would occupy a prominent elevated/skyline location that will render the proposed development as an incongruous addition within views into and out of the Portnahaven and Port Wemyss Conservation Area. It is considered that the proposed development would accordingly give rise to a significant adverse impact upon the character, appearance and setting of the Portnahaven and Port Wemyss Conservation Area and the proposal is accordingly contrary to the provisions of policies LDP 3, and SG LDP ENV 17.
4. The proposed development would be served by an existing substandard private access. The land required for necessary commensurate improvement of the access bellmouth and formation and maintenance of visibility splays that meet current standards as set out in the Council's Roads Development Guide require land outwith the current application site boundary and control of the applicant. The proposal is contrary to the relevant provisions of policies LDP 11 and SG LDP TRAN 4.

NOTE TO APPLICANT

- For the avoidance of doubt it is noted that the determination of this application relates to the plans stamped 'refused' and numbered 961_001, 961_002 and 961_101 application received 24.01.2022

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 21/02393/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The proposal seeks planning permission in principle for one dwellinghouse, 3 holiday cabins, an ancillary service building, and related access and infrastructure required by the development.

The development is located within the 'countryside' zone immediately adjacent to the 'settlement area' of Portnahaven. The proposal includes two key elements, residential and tourism development and requires to be assessed against the provisions of LDP DM 1, SG LDP HOU 1, LDP 5, and SG LDP TOUR 1 in respect of each element.

Within the 'countryside' LDP DM 1 is supportive of up to 'small' scale development on appropriate infill, rounding-off and redevelopment sites, and development relating to the change of use of existing buildings. LDP DM 1 may also support development in the open countryside in exceptional cases where a proposal on an appropriate site supported by an ACE. The current application is however considered to be an open countryside location. The proposal is accompanied by a Business Plan and Supporting Statement. Neither however identify any over-riding location requirement in relation to the development of the land that would merit consideration as an exceptional case.

The proposed single dwellinghouse is a 'small' scale residential development. SG LDP HOU 1 sets out a general presumption against housing development in the open countryside except in circumstances where this relates to the provision of a single dwellinghouse on a bareland croft for the purpose of managing that land. Whilst the applicant has provided information both within the application and in preceding pre-application discussion suggesting that the latter circumstance may be applicable, it has subsequently been confirmed that the application site does not currently form part of a registered croft and is not included on land identified as such by Registers of Scotland. The justification accompanying policy SG LDP HOU 1 confirms that development in the 'countryside' adjacent to a defined settlement boundary should be resisted and do not fall within the definition of 'rounding-off' development.

The proposed 3 holiday cabins area 'small scale' tourism development. The provisions of policy LDP 5 and SG LDP TOUR 1 set out a general presumption in support of new or improved tourist facilities and accommodation provided that

- (A) The development is of a form, location and scale consistent with Policy LDP DM 1;
- (B) the development respects landscape/townscape character and amenity of the surrounding area;
- (C) the development is reasonably accessible by public transport, cycling and on foot;
- (D) the development is well related to existing built form of settlements; and
- (E) The proposal is consistent with the other policies and SG contained in the LDP.

As noted above, the proposal is not in alignment with Policy LDP DM 1 given the absence of support for development of the open countryside location. Matters (B) – (E) are subject to more detailed consideration below.

Islay is located within a Tourism Development Area as defined in the LDP however this does not in itself provide justification to support development that is not aligned with the other relevant provisions of the LDP.

Policy 23 – Tourist Development, Accommodation, Infrastructure and Facilities contained within LDP2 maintains a similar approach to adopted plan policy SG LDP TOUR 1 in that development is required to be sympathetic to its surroundings, accessible and well related to the existing landscape and built form.

The proposed development of an open countryside location is considered to be contrary to the relevant provisions of policies LDP DM 1, SG LDP HOU 1, LDP 5 and SG LDP TOUR 1 and to Policy 23 of the proposed Local Development Plan 2.

B. Location, Nature and Design of Proposed Development

The application site relates to a 1.07ha area of land located to the north of Portnahaven on rising land that frames the setting of the village in views from the South and South East.

The current proposal seeks planning permission in principle but has included conceptual details showing a single storey dwellinghouse (no detail provided) that would occupy an open location on the hillside above High Street and Church Street, and below the former Coastguard Station that sits on the skyline to the north. The proposed site layout plans also identify that the development would include for the installation of 3no. holiday cabins (no detail provided) that would be located at the lower end of the site immediately behind existing traditional properties on High Street, and for the erection of an ancillary building (no detail provided) which is presume to be a service building for the maintenance of the site. The indicative site plan also shows that vehicular access would be via an existing private access from Church Street and would connect directly to the proposed house site and ancillary building. Parking for the holiday cabins would be located at the north east corner of the site with a connecting footpath to the cabins lower on the sloping site.

The provisions of policies LDP 9 and SG LDP Sustainable set out that the location of new development in the countryside should be carefully located to complement their surroundings and make the minimum possible physical impact. Siting should reflect existing landform and development patterns, and the amenity of other dwellings. Building design should be of a high standard and the scale, form, proportions, materials, detailing and colour must all work together to enhance the existing built form and landscape. Outbuildings should relate to the main building form and design, and be carefully positioned on the site. Landscape and boundaries should integrate into the site surrounds. Car parking areas should not be dominant features.

In this instance as the proposal seeks planning permission in principle only indicative detail is provided with the exception of the identification of the site access location. In this instance it is considered that the proposal will occupy an open location above the traditional built form of Portnahaven. Whilst there is an existing former Coastguard building to the north of the site, the proposed development will be seen as a sporadic development that does not relate to the existing pattern of development and will add unnecessary clutter within the backdrop to the backdrop of the settlement. The proposed addition of 3no. holiday cabins and an ancillary building will further exacerbate this impact. The proposed ancillary building and parking areas are indicated to be located at elevated locations and will feature prominently in views of the site from the South and South East

The indicative plan shows that the proposed cabins would be located at the south end of site. Beyond this are the private gardens of residential properties which front on to High Street and Queen Street. Given that the application site rises behind the gardens, it is considered that the proposed cabins would be an overbearing and dominant feature for those residing in the houses below. Although no final design has been submitted, there may also be overlook and privacy issues into the householder's private garden areas although there would be no window to window issues as the cabins would be more than 18 metres away from any dwelling.

It is considered that the proposal does not represent an opportunity for sustainable development that suitably respects the receiving environment and accordingly the proposal is considered to be contrary to the relevant provisions of policies LDP 9 and SG LDP Sustainable. The impact of the development on specific constraints, including landscape and the historic/natural environment are explored in further detail below.

C. Natural Environment

The application site is located within the Rinns of Islay SSSI and SPA designations wherein the provisions of policies LDP 3, SG LDP ENV 2 and SG LDP ENV 4 would seek to resist development that would adversely affect the integrity/special qualities of those designations.

The proposal lies within the Rinns of Islay SPA which is classified for its internationally important populations of Chough, Corncrake, Greenland white-fronted goose, Common scoter, Hen harrier, and Whooper swan. Nature Scot have advised that the proposal is likely to have a significant effect on Corncrake and accordingly the Council in reaching a decision on this application is required to undertake an Appropriate Assessment having regard to "Habitats Regulations". An Appropriate Assessment has been undertaken and is appended to this report as Appendix B. The assessment concludes that the proposal would not adversely affect the integrity of the site subject to appropriate mitigation measures including timing of construction and parts of the development site being set aside for Corncrake management.

Nature Scot have also highlighted the potential for cumulative impact upon Corncrake habitat in the Portnahaven area and, in the event that permission were to be approved, this would require to be informed by a capacity study undertaken to assess such cumulative effects from the proposal and other recent approvals for single dwellinghouses in the wider locality, and to determine the threshold at which development impinges upon the integrity of the designated site. In light of the recommendation to refuse permission no such capacity study has been undertaken in the assessment of the current application. **In the event that members were minded to approve the proposal contrary to the recommendation of officers then it would be necessary to address this matter prior to reaching that position to ensure compliance with LDP 3, SG LDP ENV 2 and SG LDP ENV 4.**

D. Built Environment

The application site is located approximately 100m to the west of the category B listed Portnahaven and Port Wemyss Parish Church. The provisions of policy LDP 3 and SG LDP ENV 16(a) would ordinarily seek to resist development that has an adverse impact upon a listed building or its setting.

Portnahaven and port Wemyss Parish Church is a Thomas Telford building dating from 1830. This single storey structure is a simple, traditional gable-ended building finished in white render and slate with a modest belfry on the western gable. The building is punctuated by two doors and two pointed lattice windows on the southern elevation. The building occupies an elevated location and centrally overlooks the bay of Portnahaven harbour with a gently rising, open backdrop behind to the north. The Church sits slightly separately from existing development with space reserved between it and adjacent housing. The proposed dwellinghouse and potentially also the ancillary building would be located approximately 130m to the west and would appear on the skyline above traditional terraced buildings. The proposed holiday cabins sit at a lower level and would be hidden from view by existing buildings. The setting of the church is however principally framed by the open land to the north; the proposed development is considered unlikely to have a significant adverse impact upon this aspect.

The proposed development is considered to be consistent with the relevant provisions of policies LDP 3 and SG LDP ENV 16(a).

The application site is located immediately adjacent to the designated Portnahaven and Port Wemyss Conservation Area. The provisions of policy LDP 3 and SG LDP ENV 17 would ordinarily seek to resist development that has an adverse impact upon the character or appearance of a Conservation Area, or its setting.

The application site occupies a prominent and elevated location that frames the northern backdrop to the settlement of Portnahaven which is characterised by the traditional terraced buildings within the Conservation Area. Whilst there is already an isolated building on the hilltop this is a former Coastguard building which was located there out of operational necessity and has a very distinct operational characteristic to the building design. The proposed dwellinghouse would occupy an elevated that would be visible over longer distances including from the A847 on the eastern entrance to the village where it would appear on the skyline to the left of the former Coastguard buildings; and from Port Wemyss where it would break into the currently undeveloped greenspace that forms the backdrop to the northern limit of Portnahaven. Within Portnahaven itself the proposed development would largely be screened from view on Shore Street/Queen Street, High Street and Church Street by existing terraced buildings although glimpses of the holiday accommodation may impinge on the skyline as they would sit at a higher level the rear garden areas and outbuildings of those properties. From King Street and Crown Street however there are clear views of the development site looking North West across Portnahaven harbour where the new dwellinghouse, ancillary building and parking areas would sit in what is currently a green open space above existing terraced buildings and would visually fill the space between those and the existing former Coastguard buildings, and from some angles the proposed dwellinghouse would also sit on the skyline.

It is considered that the proposed development would be a sporadic and prominent element that occupies that sits incongruously within the backdrop, and at times on the skyline both within views in to and out of the Conservation Area and whilst the development is located outwith the Conservation Area boundary it will adversely impact upon its character, appearance and setting.

The proposed development is considered to be contrary to the relevant provisions of policies LDP 3 and SG LDP ENV 17.

E. Landscape Character

The proposed development is located within the North and West Islay Coast Area of Panoramic Quality wherein the provisions of policy LDP 3 and SG LDP ENV 13 would seek to resist development where its scale, location or design will have a significant adverse impact on the character of the landscape.

The application site occupies a prominent and elevated location that frames the northern backdrop to the settlement of Portnahaven which is characterised by the traditional terraced buildings within the Conservation Area. Whilst there is already an isolated building on the hilltop this is a former Coastguard building which was located there out of operational necessity and has a very distinct operational characteristic to the building design. The proposed dwellinghouse would occupy an elevated that would be visible over longer distances including from the A847 on the eastern entrance to the village where it would appear on the skyline to the left of the former Coastguard buildings; and from Port Weymss where it would break into the currently undeveloped greenspace that forms the backdrop to the northern limit of Portnahaven. Within Portnahaven itself the proposed development would largely be screened from view on Shore Street/Queen Street, High Street and Church Street by existing terraced buildings although glimpses of the holiday accommodation may impinge on the skyline as they would sit at a higher level the rear garden areas and outbuildings of those properties. From King Street and Crown Street however there are clear views of the development site looking North West across Portnahaven harbour where the new dwellinghouse, ancillary building and car parking would sit in what is currently a green open space above existing terraced buildings and would visually fill the space between those and the existing former Coastguard buildings, and from some angles the proposed dwellinghouse would also sit on the skyline.

It is considered that the proposed development would be a sporadic and prominent element that occupies that sits incongruously within the backdrop, and at times on the skyline, to the existing landscape setting of Portnahaven when viewed both at distance from the East and South East, and also from views out of the village looking North-West.

The proposed development is considered to be contrary to the relevant provisions of policies LDP 3 and SG LDP ENV 13.

F. Archaeological Matters

The application lies in a landscape populated with recorded archaeological sites of prehistoric, medieval and later periods. Although there are no recorded archaeological sites actually within the application area there is no reason to suppose that what has so far been recorded in the surrounding landscape represents the full sum of archaeological remains formed over the many thousands of years covered by our understanding of British prehistory and history. The large area of ground that will be disturbed by this development stands a chance of unearthing buried unrecorded remains which could be of any period and which may survive below ground level. This is particularly the case with prehistoric stone tools which are a common theme amongst the many recorded sites in the wider landscape. In the event that permission were to be granted then this would require a condition for a watching brief during ground breaking to ensure compliance with policies LDP 3 and SG LDP ENV 20.

G. Road Network, Parking and Associated Transport Matters.

Access will be via an existing private access from Church Street which currently serves the former Coastguard buildings and provides access to surrounding open land. Parking (no detail provided) is indicatively shown to be provided onsite and is capable of complying with SG LDP TRAN 6 in this respect.

The site access is located approximately 170m from an existing bus stop on Campbell Place with pedestrian access available along the public road which also forms part of the core path network. The proposal does not appear to impact upon any existing public right of access/way and is accordingly viewed to be in alignment with SG LDP TRAN 1 and SG LDP TRAN 2. Consideration of any detailed proposals would also require to consider the requirements of SG LDP TRAN 3 for Special Needs Access Provision although there appears to be no obvious barrier to compliance in this respect at this time.

The Council's Roads officers have however advised that the existing private access is substandard and would require the bellmouth onto the public road to be improved with a service bay layout and visibility splays of 42m x 2.4m to bring it in line with current Council standards. The applicant does appear to have control over the land required to provide both service bay and visibility splay improvements. Whilst this could potentially be resolved if the relevant third party interests were willing to enter into a s75 agreement to provide/maintain the improved access this has not been explored as officers have identified fundamental failings in other aspects of the proposal.

Policies 37 (Development Utilising an Existing Private Access or Existing Private Road) of the proposed Local Development Plan 2 is similar to Policy SG LDP TRAN 4 in that it is supportive of commensurate improvements where the applicant can secure ownership or demonstrate that an agreement has been reached with the existing owner to allow the commensurate improvements to proceed.

In the absence of essential improvement works to the site access the proposal is considered to be contrary to the relevant provisions of LDP 11 and SG LDP TRAN 4 and Policy 37 of LDP2.

H. Infrastructure

The proposed development would be connected to public water supply and sewerage infrastructure. Scottish Water have not raised objection to the proposal and the application is considered to be consistent with the relevant provisions of LDP 10, SG LDP SERV 1, and SG LDP SERV 6 in these respects.

Provision for disposal of surface water would be made on site (no detail provided); in the event that permission were to be granted then compliance with the relevant provisions of policies LDP 10 and SG LDP SERV 2 would require to be secured by condition.

The proposal does not provide any indication of proposed arrangements for the storage, recycling, composting or collection of waste arising from the development, however in the event that permission were to be granted then these matters would require to be secured by condition to ensure compliance with LDP 10 and SG LDP SERV 5(b) and LDP2 Policy 63 (Waste Related Development and Waste Management).

APPENDIX B

HABITATS REGULATIONS 'APPROPRIATE ASSESSMENT' HABITAT DIRECTIVE 92-43-EEC THE CONSERVATION (NATURAL HABITATS AND C.) REGULATIONS 1994 AS AMENDED

Rinns of Islay Special Protection Area (SPA)

Purpose of the designation

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status. The Rinns of Islay SPA is classified for its internationally important populations of Chough, Corncrake, Greenland white-fronted goose, Common scoter, Hen harrier and Whooper swan.

The purpose of the designation is to avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained:

- Population of the species as a viable component of the site;
- Distribution of the species within site;
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species;
- No significant disturbance of the species.

Consequences of the designation

In circumstances where European Protected Species could be subject to significant effects as a consequence of development proposals, the competent authority, in considering whether development should be consented, is required to undertake an 'appropriate assessment' to inform its decision-making process, on the basis that where unacceptable effects are identified, or in cases of 'reasonable scientific doubt', then permission ought not to be granted.

An 'appropriate assessment' is required to be undertaken in cases where any plan or project which:

- (a) Either alone or in combination with other plans or projects would be likely to have a significant effect on a European site designated for nature conservation; and
- (b) Is not directly connected with the management of the site.

It is considered by NatureScot that the development proposed by means of planning application (ref: 21/02393/PP) could affect the Corncrake (*Crex crex*) feature of the Rinns SPA/SSSI due to the potential loss of corncrake habitat, its proximity to calling males and changes to human and agricultural activity on the site.

As a consequence, Argyll Bute Council has conducted an 'appropriate assessment', as per the Conservation (Habitats and C.) Regulations 1994 (as amended), having

regard to the anticipated effects of development and the conservation objectives for the site's qualifying interests. This assessment is detailed below.

Characteristics of the development

The proposal is for the erection of a dwelling house, three holiday cabins and an ancillary building on an open countryside side to the north of Portnahaven which is located within the SPA and SSSI. It is NatureScot's view that proposed development could impact the corncrake feature of the Rinns SPA/SSSI due to the loss of potential corncrake habitat, its proximity to calling males and the changes to human and agricultural activity on the site. Islay is a key area for corncrakes, in recent years numbers have declined substantially from 84 birds recorded in 2016 to only 26 in 2021. The proposed development would pose a small change within the context of the whole of the Rinns SPA, however if viewed as part of a small corncrake hotspot around Portnahaven, then the impacts of habitat loss and disturbance are more significant.

Assessment

The assessment considers the impact of the proposals on the Corncrake qualifying interest and has regard to consultation advice provided by NatureScot.

NatureScot advises that corncrake will move between groups of fields within favoured areas if suitable habitat is available. Connection of these areas of habitat to one another is particularly important. Whilst development construction works would have a relatively small duration, the potential habitat loss from the development footprint is irreversible. As the proposed development site is not suitable corncrake habitat, there will be no loss of habitat from the proposed development.

The majority of females nest within 250m of a calling male provided there is suitable habitat available, and calling male corncrake have been recorded within this distance of the proposed development site. Development construction and subsequent use of the house, and in particular short let holiday cabins, access track and parking, will significantly increase human activity in this area. Restriction on timing of works would allow development to commence without significant disturbance to the corncrakes, and other ground nesting birds, during the breeding season.

Although the change in activity in this area is expected to be significant, corncrake are often very tolerant to disturbance. This tolerance can make them vulnerable to predation by domestic cats and other pets at times but it does not seem to have a major impact on the overall population. Therefore, NatureScot conclude that disturbance will not pose a significant issue.

NatureScot have noted that in the last few years, a cluster of planning applications for single dwellings and agricultural sheds have occurred in the area of the Rinns SPA, which has a high density of corncrake present. There is concern that an increase in the number of developments in this area has the potential to cause a cumulative effect on the site, through loss of habitat, disturbance and adverse

changes to land management; particularly as corncrake rely on a network of suitable habitat. In order to mitigate against this NatureScot advise that some of the proposed development land be set aside for Corncrake management.

Conclusion

The proposal will not adversely affect the integrity of the site. However, NatureScot advise the following to mitigate against a cumulative impact of development:

- To reduce the impacts of construction works upon Corncrake (*Crex crex*) within the adjacent Corncrake habitat in Portnahaven, all construction work should be undertaken between the 20 September and 1 May;
- Some of the proposed development land is set aside for corncrake management to mitigate the cumulative impact of development in the Portnahaven area (suitable management should be agreed with NatureScot's Corncrake Conservation Advisor).
- A capacity study should be undertaken in order to assess the cumulative impact of development on Corncrake in the Portnahaven area and to determine the threshold at which development impinges of the integrity of the site.

The potential impacts of the development in relation to the conservation objectives cited in the SPA designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the proposal would not adversely affect the integrity of the site.

Accordingly there is no reason to withhold permission on European nature conservation grounds.