

**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**

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**Reference No:** 21/02718/PP  
**Planning Hierarchy:** Major  
**Applicant:** Gearach Limited  
**Proposal:** Erection of distillery and visitor centre, with associated and ancillary development including support warehousing buildings, Installation of sewage treatment plant, two solar panel sites and formation of accesses  
**Site Address:** Gearach Farm (ili Distillery), Port Charlotte, Isle Of Islay

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## **DECISION ROUTE**

Local Government Scotland Act 1973

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### **(A) THE APPLICATION**

#### **(i) Development Requiring Express Planning Permission**

- Erection of distillery and visitor centre;
- Erection of ancillary warehouse building;
- Erection of support building incorporating hydrogen plant, battery storage and substation.
- Hydrogen store
- Cooling Tower
- Pot ale tank
- Spent lees tank
- Grain store
- Installation of private sewage treatment plant;
- Installation of two solar panel arrays with a total installed capacity of 4.25MW and associated access track;
- Formation of three vehicular accesses;
- Formation of onsite parking and turning;
- Formation of hard surfaces;
- Infrastructure for extraction of private water supply from Gearach Loch;
- Boundary treatment and hard landscaping;

#### **(ii) Other specified operations**

- Soft landscaping
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### **(B) RECOMMENDATION:**

- (i) It is recommended that Members grant planning permission as a minor departure from Policy DM1 subject to the conditions and reasons attached.
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**(C) CONSULTATIONS:**

**Environmental Health:** (21.02.22) – Comments on private water supply

(03.03.22) – Comments on construction site noise (conditions); external lighting (condition), noise from operation of solar array (condition if not addressed in advance).

(15.03.22) – Contaminated Land Questionnaire was not received, so a condition in this respect will be attached to any approval.

**Area Roads Officer:** (15.03.22) – An initial deferred response was superseded after extensive discussions with the applicant and their representatives concluding with revised reports on 14.07.2022 and 01.09.2022. This included a number of recommendations and suspensive conditions relating to Transport Impact Assessment (TIA), passing places and vulnerable sections of road.

**Biodiversity Officer:** (13/5/22) acknowledged the EIAR and highlighted areas where more information and/or clarity is required. The council engaged with NatureScot with regard to the points raised.

**Flood Risk Advisor:** (7/3/22) No objections subject to conditions. Water course crossings. Delivery of SuDS

**NatureScot** – (05.09.2022) Responded with a detailed response requesting Appropriate Assessments for both bird species and butterflies. Additionally a number of suspensive conditions are requested. This was in response to a previous submission from them on 03.05.2022 outlining a number of concerns which were agreed and addressed by the applicant and their agents.

(2.2.22) Response in relation to additional information submitted. The proposal could affect internationally important natural heritage interests therefore NatureScot object to the proposal unless it is made subject to conditions so that the works are done strictly in accordance with the mitigation detailed in our appraisal. The proposal is located within the Rinns of Islay SAC designated for its marsh fritillary butterfly. The Rinns of Islay is also a SSSI for several qualifying features including blanket bog, breeding bird assemblage, chough, corncrake, Greenland barnacle goose (non-breeding), Greenland white-fronted goose (non-breeding), hen harrier and whooper swan. Argyll and Bute Council is required to consider the effect of the proposal on the SPA and SAC before it can be consented (commonly known as Habitats Regulations Appraisal).

Our advice is that this proposal is likely to have a significant effect on the Greenland white-fronted goose and Hen harrier populations of the Rinns of Islay SPA and the Marsh fritillary metapopulations supporting the main populations on the Rinns of Islay SAC. Consequently, Argyll and Bute Council, as competent authority, is required to carry out an appropriate assessment in view of the site's conservation objectives for its qualifying interests.

**Scottish Water** – (05.05.2022) Proposal is within Drinking Water Protected Area. Scottish Water have agreed to deal with the applicants Environmental Agents to set out requirement for provision of further information confirming:

Volume of water required for distillation

Volume of water required for hydrogen production

Information detailing demand profiles and potential seasonal fluctuations

Confirmation on whether potable (public SW) supply is considered as an alternative – if so further info on demand required

Details of precautions to protect drinking water supplies in peatland and opportunities for peatland restoration.

**SEPA** (15.3.22): No objections.

**Historic Environment Scotland** – No objections

**West of Scotland Archaeology Service** (11.03.2022) – The application lies in a landscape populated with recorded archaeological sites of prehistoric and later periods. The proposals will affect recorded sites as detailed in the EIA cultural heritage chapter, the conclusions and recommendations of which are agreeable. The large area of ground that will be disturbed by this development stands a good chance of unearthing visible or buried unrecorded remains which could be of any period and which may survive below ground level. As such, a potential archaeological issue is raised by the proposals. A planning condition is proposed.

**Highlands and Islands Airports Ltd** (dated 11/11/22): There are no objections to the proposed solar arrays.

**NATS Safeguarding** (dated 11/11/22): Wind turbines are a particular problem for us and we still have a requirement to be consulted for all planning applications containing turbines. Solar panels however present no unusual problems for our equipment therefore we are happy to treat them like any other building. For Argyll and Bute means we only need to be consulted within the defined zones around our installations at Machrihanish and on Tiree. On Islay, if you have consulted HIAL regarding the airport you should have covered all the aviation bases.

**Islay Community Council (16.03.22)**– While we welcome this development we wish to draw to your attention concerns expressed by members of our community: increased traffic in the Rinns area; the adequacy of the proposed parking at Gearach given the number of projected visitors; the impact on available housing; the impact on ferry usage; possible road safety issues for children at Port Charlotte Primary School. We have recently had a fruitful discussion with the iLi development team where we relayed these concerns and note their willingness to address issues raised.

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**(D) HISTORY:**

21/01629/PAN Proposal of Application Notice for a proposed distillery and visitor centre. Associated and ancillary development to include; distillery, warehouse buildings, services and hardstanding areas, parking, access roads and footpaths. Associated plant and infrastructure including; renewable energy infrastructure (hydrogen plant, solar panels and a wind turbine up to 76.5 metres high to blade tip, drainage arrangements, electrical sub-station, hard and soft landscaping 05.10.2021

21/01889/SCREEN Screening opinion for a proposed distillery and visitor centre. Associated and ancillary development to include; distillery, warehouse buildings, services and hardstanding areas, parking, access roads and footpaths. Associated plant and infrastructure including; renewable energy infrastructure (hydrogen plant, solar panels and a wind turbine up to 76.5 metres high to blade tip, drainage arrangements, electrical sub-station, hard and soft landscaping 28.09.2021

21/02063/SCRSCO Proposed distillery and visitor centre. Associated and ancillary development to include; distillery, warehouse buildings, services and hardstanding areas, parking, access roads and footpaths. Associated plant and infrastructure including; renewable energy infrastructure (hydrogen plant, solar panels and a wind turbine up to 76.5 metres high to blade tip, drainage arrangements, electrical sub-station, hard and soft landscaping 02.12.2021

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**(E) PUBLICITY:**

PAC consultation process commenced 05.10.2021  
Regulation 20 advert Oban Times expired 24.03.2022  
Neighbour Notification expired 06.03.2022

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

**Objections**

1. Mrs Kate Agashi 9A Cambridge Place Falmouth TR114QR
2. David Brooks The Old Police House, Main Street, Port Charlotte, PA48 7TL
3. Susan Brooks The Old Police House, Main Street, Port Charlotte, PA48 7TL
4. Mrs Bronwen Currie Taigh Na Torraig Bruichladdich Isle Of Islay
5. Ms Hannah Davies 3 Edgeborough Court Upper Edgeborough Road Guildford GU1 2BL
6. Mr Trevor Davies Pinewood Swanpool Falmouth TR11 5BA
7. Mr Tom Evans 11 High Street Portnahaven Isle Of Islay
8. Max Parkin 86 Main Street Port Charlotte Isle Of Islay PA48 7TX
9. Ms Sara Parkin 86 Main Street Port Charlotte Isle Of Islay
10. Mrs Valerie Peacock Taigh Na Creag Shore Street Port Charlotte Isle Of Islay
11. Eleanor Piper Gearach Forest Lodge Port Charlotte Isle Of Islay PA48 7UB
12. Mark Piper Gearach Forest Lodge Port Charlotte Isle Of Islay PA48 7UB  
08.03.2022
13. Mr David Pomeroy Tara House School Street Port Charlotte Isle Of Islay
14. Mrs Jan Reavey Lorgba House Main Street Port Charlotte Isle Of Islay
15. Dr Stephen Rogers Carraig Mhor Emerivale Port Ellen Isle Of Islay
16. Mrs Gael Roy Sgiba House Lorgba Main Street Port Charlotte Isle Of Islay
17. Mr Jimmy Roy Carraigmor Main Street Port Charlotte Isle Of Islay
18. Diana Wharton 94 Main Street Port Charlotte Isle Of Islay PA48 7TY
19. Tony Wharton 94 Main Street Port Charlotte Isle Of Islay PA48 7TY
20. Wendy Feist No Address Given
21. Hannah Davies Address Not Provided
22. Trevor Davies Address Not Provided

**Support**

1. Lorraine Gillies 5 School Street Port Charlotte Isle Of Islay PA48 7TW

2. Anne Kemp Tormisdale Croft Isle Of Islay
3. Roderick J MacFarlane Tormisdale Farm Port Charlotte Isle Of Islay
4. Mr Ronnie MacLellan 226 Abingdon Road Oxford OX1 4SP
5. Steven Mithen Carduncan Farmhouse Gruinart Isle Of Islay PA44 7PS
6. James Redman Whinhill Tormisdale Port Charlotte Isle Of Islay PA48 7UE
7. Roy Redman Tormisdale Croft Isle Of Islay
8. C Cleland No Address Provided
9. Neil McAslan No Address Provided
10. Heather McLellan No Address Provided
11. Neil McLellan No Address Provided
12. Sheila McLellan No Address Provided

### **Representation**

1. Steven Mithen Department Of Archaeology Whiteknights Box 227 Reading RG6 6AB

### **(ii) Summary of issues raised:**

#### **Objection**

##### **Landscape and Design Issues**

Negative impact on wild land.

*Comment: There is no designated wild land in the vicinity of the site.*

The distillery will look completely out of place and ruin the aesthetic for those who value nature.

*Comment: See assessment.*

##### **Roads Issues**

Road infrastructure is insufficient especially emerging into Port Charlotte Exit into the conservation area of Port Charlotte is unsuitable for industrial vehicles The condition and design of the road is unsuitable for large vehicles.

The cross roads at the bottom of School Street has very limited visibility when turning left or right. School Street has no pavements for the primary school children to walk on. The narrow bridge over the burn near to Yoth Hostel would be put under great strain to accommodate a steady stream of large lorries.

The increased traffic will have an adverse impact on the Port Charlotte Conservation Area.

The popularity of cycling on Islay is not fully recognised in the EIAR nor is the popularity of Kilchiaran Road for walkers and cyclists.

*Comment: There has been extensive dialogue with the roads department mainly in regard to the lack of passing places and the land required to create a sufficient number of standard sizes. The condition of existing verges and track sides. Detailed plans regarding surveying, construction and maintenance of the existing and any new or upgraded road surfaces. These aspects would be addressed in plans that would be conditions of any recommendation.*

##### **Natural Heritage Issues**

The proposed development will impact on nature conservation sites of international, national and local importance.

*Comment: See assessment.*

### **Sustainability**

The proposed development claims to be sustainable, however, there has been no detail provided regarding proposed waste management or how the applicant aims to achieve carbon neutral production.

*Comment: A sustainability checklist has been completed and a waste management arrangements are detailed in the EIAR.*

### **Economic Issues**

Islay already has more jobs than workers with a critical lack of accommodation, this development will only exacerbate this problem.

The economy of Islay is already too dependent of distilleries and the short tourist season and this development will only exacerbate the problem.

*Comment: These are not material considerations in the determination of this planning application.*

### **Other**

There is no capacity on the ferry.

*Comment: This is not a material consideration in the determination of this planning application.*

The solar panel sites are situated at a considerable distance from the distillery buildings. Direct current constitutes a potential life-threatening hazard and suffers considerable losses of power over cable lengths.

*Comment: This is not a material planning consideration.*

There is a right of way over the application site for other parties to extract timber. The warehouse building will impact on this route.

Timber transport lorries will have to drive through the site between the support and warehouse buildings.

The construction of solar panels and equipment to the east of the southern end of the track interferes without right of way and interferes with our right to construct a connecting road from the forestry to the existing track. This is vital for future access and in line with the Council's Woodland Forestry Strategy.

*Comment: The access to extract timber will be maintained.*

### **Support**

We are being told farms need to diversify to survive. This is a family with a background in agriculture and forestry, experience in looking after the biodiversity of their land. The huge investment will create jobs and due to the size of the distillery should not have a detrimental effect on the immediate environment once built.

This is a well-considered and sensitively and environmentally designed proposal.

This distillery will be carbon neutral and powered with renewable energy from the start.

The design of the proposal is of a very high standard.

*Comment: These points are noted.*

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## **(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- (i) Environmental Impact Assessment Report:** Yes  
The submitted EIAR contains chapters on:
- Introduction
  - Proposed development
  - EIA Methodology
  - Planning Policy
  - Landscape and Visual
  - Hydrology and Hydrogeology
  - Glint and Glare
  - Carbon Balance
  - Air Quality and Odour
  - Safety, Major Accidents and Disasters
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes. Two reports attached.
- (iii) A design or design/access statement:** yes
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**  
SHP Planning Statement

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## **(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No

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- (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**

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 6 – Supporting the Sustainable Growth of Renewables  
LDP 7 – Supporting our Town Centres and Retail  
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

Local Development Plan Schedules

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

### **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  
SG LDP ENV 6 – Impact on Trees / Woodland  
SG LDP ENV 7 – Water Quality and the Environment  
SG LDP ENV 11 – Protection of Soil and Peat Resources

### **Landscape and Design**

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality  
SG LDP ENV 14 – Landscape  
SG LDP ACE 1 – Area Capacity Evaluation (ACE)

### **Historic Environment and Archaeology**

SG LDP ENV 20 – Impact on Sites of Archaeological Importance

### **Support for Business & Industry: General**

SG LDP BUS 2 – Business & Industry Proposals in the Countryside Zones  
SG LDP BUS 5 – Economically Fragile Areas

### **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

### **Retail Developments (Including COU to and from Shops)**

SG LDP RET 4 – Retail Development within the Countryside Zones

### **Planning Gain**



SG LDP PG 1 – Planning Gain

### **Bad Neighbour Development**

SG LDP BAD 1 – Bad Neighbour Development

### **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 3 – Drainage Impact Assessment

SG LDP SERV 4 – Contaminated Land

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

SG LDP SERV 6 – Private Water Supplies and Water Conservation

### **Addressing Climate Change**

SG LDP SERV 7 – Flooding and Land Erosion – Risk Framework

SG LDP Sust Check – Sustainability Checklist

### **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 5 – Off-site Highway Improvements

SG LDP TRAN 6 – Vehicle Parking Provision

### **Renewables**

SG Renewable Energy

**(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 14 – Bad Neighbour Development

- Policy 23 – Tourist Development, Accommodation, Infrastructure and Facilities
- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 36 – New Private Accesses
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 38 – Construction Standards for Public Roads
- Policy 39 – Construction Standards for Private Access
- Policy 41 – Off Site Highway Improvements
- Policy 58 – Private Water Supplies and Water Conservation
- Policy 63 – Waste Related Development and Waste Management
- Policy 78 – Woodland Removal

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

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**(L) Has the application been the subject of statutory pre-application consultation (PAC):** Yes

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**(M) Has a sustainability check list been submitted:** Yes

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

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**(O) Requirement for a hearing:**

In deciding whether to hold a discretionary hearing Members should consider:

- How up to date the Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations, together with the relative size of community affected, set against the relative number of representations and their provenance.

Twenty-two objections, twelve support and 1 representation have been received regarding the proposed development.

It is considered that all of the material planning issues raised have been effectively addressed in the report and planning conditions have been recommended where appropriate.

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It is the opinion of the Planning officers that the representations received, together with officer assessment of the relevant planning issues contained within this report, provide all the information required to enable Members to make an informed decision based on the adopted development plan and other material considerations.

In this instance it is not considered that the objections raise any complex or technical issues that have not been addressed in the current Report of Handling and it is not considered that a discretionary local hearing would add value to the planning process.

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

The proposal seeks detailed planning permission for the erection of a new, 'large scale' industrial distillery and ancillary visitor centre development at a Countryside Zone location and partly within the 'rural opportunity area' (ROA) development management zones. Development of this location would not ordinarily be supported by the provisions of policy LDP DM 1 and SG LDP BUS 2; however, the applicant has satisfactorily set out a locational/operational need for the development of this location in the absence of any readily identifiable, sequentially preferable alternative. Islay is identified as an 'Economically Fragile Area

The proposed development would result in jobs creation, roads improvements, new sources of sustainable power, and the preservation and enhancement of habitats for protected species.

This proposal is EIA Development and the determination of this application is also subject to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. There is a requirement to examine the environmental information submitted and reach a reasoned conclusion on the significant environmental effects of the proposal.

The recommendation on this application has been guided by the conclusions of the EIAR and the proposal has been assessed against the policies of the adopted Local Development Plan and other material considerations.

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**(Q) Is the proposal consistent with the Development Plan:** No the proposal is considered to be a minor departure from Policy DM1

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

The proposal will deliver sustainable economic development within an 'economically fragile area' in a manner which, notwithstanding the concerns expressed by third parties, will not give rise to any unacceptable, or significant adverse effect upon the receiving environment. The proposal satisfies development plan requirements and there are no material considerations which would indicate the need to withhold consent in this case.

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

LDP policy DM1 requires an Area Capacity Evaluation (ACE) to be carried out for large scale development within the countryside. An ACE is a process which assesses the capacity of a landscape to absorb the proposed development.

However, this proposal is an EIA Development which contains a Landscape and Visual Impact Assessment (LVIA) undertaken in accordance with the recognised methodology set out in The Guidelines for Landscape and Visual Impact Assessment (Landscape Institute and IEMA, 2013). This is a more robust analysis which is undertaken by professional landscape architects and in these circumstances and ACE carried out by the planning officer is considered to be unnecessary. Taking account of the above, it is considered that this would represent a justifiable minor departure from Policy DM1.

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

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**Author of Report:** Derek Wilson **Date:** 11/11/22

**Reviewing Officer:** Sandra Davies **Date:** 11/11/22

**Fergus Murray**  
**Head of Development & Economic Growth**

## CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 21/02718/PP

### 1. PP - Approved Details & Standard Notes – Non EIA Development

The development shall be implemented in accordance with the details specified on the application form dated 21/12/21; , supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Inset Site Plan	C4632 (1) 107		08.02.2022
Inset Site Plan - Eastern Solar Site	C4632 (1) 109		08.02.2022
Inset Site Plan - Southern Solar Site	C4632 (1) 108		08.02.2022
Inset Site Plan - Support Building	C4632 (1) 105 Rev A		08.02.2022
Drainage Strategy Plan	C4632 (1) 106 Rev A		08.02.2022
Ground Mounted Solar Layout	C4632 (1) 103		08.02.2022
Hydrological Figures	C4632-1232/Figure 6.2 V 0.1		24.01.2022
Landscape Design Plan	C4632-1232/Figure 5.13 v 1.0		24.01.2022
Overall Site Layout	C4632 (1) 101 Rev A		08.02.2022
Partial Section Plan A-A	059 PL21		22.12.2021
Partial Section Plan A-A	059 PL22		22.12.2021
Partial Section Plan A-A	059 PL23		22.12.2021
Reflected Ceiling Plan Upper Level	059 PL13		22.12.2021
Solar Unit Elevation	C4632 (1) 104 Rev A		08.02.2022
Support Building Compound Plan and Elevations	059 PL29		08.02.2022
Support Building Layout Plan	059 PL27		08.02.2022
Supporting Distillery Location Plan with Key Detail	058 PL01		22.12.2021
Supporting Site Plan 1:1250	058 PL02A		08.02.2022.
Location Plan	C4632 (1) 102		08.12.2022
Location Plan 1:2500	058 PL01A		08.02.2022
Supplementary Location Plan	C4632 (1) 100 Rev 0		22.12.2021
Roof Plan Entrance Level	059 PL12		22.12.2022
Lower Floor Plan Distillery Level	059 PL11		22.12.2021

Support Building Floor Plan	C4632 (1) 110 Rev 0		08.02.2022
Upper Floor Plan Visitors Level	059 PL10		22.12.2021
Warehouse Floor Plan	059 PL25		08.02.2022
North East Elevation - Distillery	059 PL17		22.12.2021
North West Elevation - Distillery	059 PL18		22.02.2022
South East Elevation - Distillery	059 PL16		08.02.2022
Support Building Elevations	059 PL28		08.02.2022
Warehouse Elevations	059 PL26		08.02.2022

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

#### **Clarification of Use Approved**

2. Notwithstanding the provisions of Condition 1, the buildings hereby approved shall be used solely as production and storage of whisky and other spirit, and attendant administrative and visitor related uses and no other use including any other purpose in Class 6 and Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Furthermore, the storage building hereby approved shall be used solely for the storage of whisky and other spirit distilled on the island of Islay. A detailed inventory of the contents of the building shall be kept and all reasonable opportunity for the inspection of this inventory shall be afforded, by prior arrangement, to any designated representative of the council in pursuance of their duties in order to ensure compliance with the provisions of this planning condition.

Reason: In order to define the authorised use and to underpin the 'special need' argument that underlies the justification for the development as a departure to the Development Plan, and to enable the Planning Authority to control any subsequent change of use which might otherwise benefit from deemed permission that might erode the original justification for the development, and to protect the amenity of the locale.

#### **Roads Conditions**

3. Notwithstanding the provisions of Condition 1,
  - I. The proposed accesses for use by HGV vehicles shall be formed in accordance with the Council's Roads Standard Detail Drawing SD08/001 Rev a.
  - II. Junctions which will be used by general vehicles only are to be constructed as per the Council's standard detail drawing ref: SD 08/002 Rev a. with access width to be 5.50 metres, minimum and access radius to be a minimum of 6.00 metres,
  - III. All junctions shall be staggered with visibility splays of 2.40m x 75m x 1.05m. The accesses shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing.
  - IV. Prior to work starting on site the accesses hereby approved shall be formed to a minimum base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres

above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the accesses shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

- 4 Notwithstanding the provisions of Condition 1, no development works shall commence until:
- I. A Traffic Management Plan including a Method Statement has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. The Traffic Management plan shall include details of all materials, plant, equipment, components and labour required during the construction works.
  - II. A Traffic Impact Assessment has been submitted to and approved in writing by the Planning Authority in consultation with the Roads Authority. This is required for the section of the C16 Port Charlotte - Kilchearan Road, between the A847 Bridgend-Portnahaven Road / C16 Port Charlotte-Kilchearan Road junction and the application site.

Thereafter the development shall be carried out in accordance with these details.

Reason: To address abnormal traffic associated with the development in the interests of road safety.

- 5 No development shall commence until 12 new passing places with passing place signs have been provided between the A847 Bridgend-Portnahaven Road / C16 Port Charlotte-Kilchearan Road junction and the application site entrance. The passing places shall be equally spaced and intervisible where possible. Prior to work starting on the passing places, a plan showing the exact locations and specifications of the passing places shall be submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. The passing places shall accord with the Council's Typical Passing Place Detail drawing SD 08/003 Rev a, unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the road improvements shall be constructed in accordance with the approved details prior to the commencement of development.

Reason. In the interests of road safety.

- 6 No development shall commence until a condition survey of the road from the A847 (Bridgend to Portnahaven Road) to the application site shall be recorded by means of video and photographs. The results of this along with details of an ongoing inspection regime and service level agreement for the repair of the road defects to be carried out at the applicant's expense shall be submitted to and approved in writing by the Planning Authority in consultation with the Council's Roads service. Thereafter the development shall be carried out in accordance with these details.

Reason: In order to ensure any damage to the road caused as a result of the development of the proposal is rectified by the developer.

- 7 No development shall commence until full details identifying vulnerable areas of the road from the A847 (Bridgend to Portnahaven Road) to the application site have been submitted to and approved in writing by the Planning Authority in consultation with the Roads service. This shall include an assessment of any culverts or other structures

and will include measures to mitigate against any likely damage through the construction phase. Thereafter the development shall proceed in accordance with these details prior to the commencement of development.

Reasons: In order to secure an appropriate standard of road capable of conveying traffic associated with this development.

#### **Materials Condition**

- 8 Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the construction of walls, roofs, doors, windows and plant housing have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

#### **External Lighting Condition**

- 9 Prior to the installation of external lighting full details of any external lighting to be used within the site shall be submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary. Regard must be made to governmental Guidance Notes on Environmental Zone E1: Intrinsically Dark Areas. No external lighting shall be installed except in accordance with the duly approved scheme.

Reason: In order to avoid light pollution in the interests of amenity.

#### **Landscape and Boundary Treatment Condition**

- 10 Notwithstanding the provisions of Condition 1, no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

1. Existing and proposed ground levels in relation to an identified fixed datum;
2. Existing landscaping features and vegetation to be retained;
3. Location, design and materials of proposed walls, fences and gates;
4. Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
5. A programme for the timing, method of implementation, completion and on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

#### **CEMP Condition**



11 No development shall be commenced (including any land engineering works or any associated operations) until a full site specific Construction Environmental Management Plan (CEMP) and Pollution Prevention Plan (PPP) have been submitted to and approved in writing by the Planning Authority. The CEMP shall include:

- Details of pre-construction checks for any Hen harrier nests or roosts within 750m of the application site;
- Distribution of CEMP to project team and sub-contacts as applicable;
- Staff Site Induction – toolkit talks, Environment Posted and site notices – risk assessment briefings;
- Pre-start survey results;
- Specific species protection plans for each relevant SPA and SAC qualifier species. In relation to the Marsh fritillary butterfly this should provide detail in relation to specific measures to be taken if Marsh Fritillary or their caterpillar webs are found during construction so that there is confidence that there would be no adverse effect to site integrity. It also needs to ensure there is no potential for any reckless offence under the Wildlife and Countryside Act 1981;
- Species and Habitat Management Plan;
- Habitat Restoration Plan and method statement;
- Habitat Creation Plan and management plans;
- Logging procedure of delivery of plans, surveillance and non-compliant instances;
- Monitoring template to be drafted for site monitoring, the results are to be submitted to the Planning Authority on a quarterly basis;
- Site Waste Management Plan.

All of the above requirements of the CEMP shall be delivered and overseen by an Ecological Clerk of Works (ECoW). Thereafter the development shall proceed in accordance with the approved CEMP.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

#### **Nature Conservation Conditions**

12 No construction activities relating to the solar array installation shall take place between October and March inclusive unless otherwise approved in writing by the Planning Authority in consultation with NatureScot.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

13 Prior to the commencement of development, a Visitor Management Plan shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot. This shall detail how disturbance to roosting Greenland white-fronted geese arising from additional human activity shall be prevented. Thereafter the development shall be carried out in accordance with these details.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

14 Prior to the commencement of development, a Distillery Operations Mitigation Plan shall be submitted to and approved in writing by the Planning Authority in consultation with NatureScot. This shall detail how disturbance to roosting Greenland white-fronted

geese arising from night time operation of the distillery shall be mitigated. Thereafter the development shall be carried out in accordance with these details.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

- 15 Notwithstanding the provisions of condition 1, no development shall commence until full details of a Restoration Method Statement and Restoration Monitoring Plan has been submitted for the approval of the Planning Authority, in consultation with Scottish Natural Heritage. The restoration method statement shall provide restoration proposals for those areas disturbed by construction works, including access tracks, hardstandings and other construction areas. Restoration of construction disturbed areas shall be implemented as agreed in writing with the Planning Authority. The monitoring programme shall include a programme of visits to monitor initial vegetation establishment and responses to further requirements, and long term monitoring.

Reason: To ensure that disturbed areas of the site are reinstated in a proper manner following construction in the interests of amenity, landscape character and nature conservation.

#### **Decommissioning Condition**

- 16 There shall be no Commencement of Development unless a decommissioning, restoration and aftercare strategy for the solar array sites has been submitted to and approved in writing by the Planning Authority in consultation with NatureScot and SEPA. The strategy shall outline measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works, and environmental management provisions.

No later than 3 years prior to decommissioning of the Development a detailed decommissioning, restoration and aftercare plan, based upon the principles of the approved decommissioning, restoration and aftercare strategy, shall be submitted to the Planning Authority for written approval in consultation with NatureScot. The detailed decommissioning, restoration and aftercare plan will provide updated and detailed proposals for the removal of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions which shall include:

- a. a site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
- b. details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, internal access tracks, car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;
- c. a dust management plan;
- d. details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
- e. a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
- f. soil storage and management;
- g. a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;

- h. sewage disposal and treatment;
- i. temporary site illumination;
- j. the construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
- k. details of watercourse crossings;
- l. a species protection plan based on surveys for protected species (including birds) carried out no longer than 18 months prior to submission of the plan.

The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the approved plan, unless otherwise agreed in writing in advance with the Planning Authority in consultation with NatureScot and SEPA.

Reason: To ensure the decommissioning and removal of the Development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

### **Water Supply Suspensive Condition**

- 17 No development shall commence until all of the main sources of water supply for the development have been fully assessed and agreed with Scottish Water. Full details of post consent site investigation surveys in relation to the adjacent private spring and boreholes shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Water.

Reason: In order to ensure that Scottish Water can maintain its security of public water supply.

### **Solar Array Conditions**

- 18 The solar arrays hereby approved shall be finished in an anti- reflective coating.

Reason: In order to reduce the chance of arrays being mistaken for water in the interest of nature conservation.

- 19 Permission for operation of the solar arrays is limited to a period of 30 years from the commissioning of the development, following which the permitted equipment shall be removed and the land reinstated, unless on application to the Planning Authority permission has been granted for its retention for a further period. Decommissioning and site restoration shall be completed no later than whichever is the earlier of the following dates:

- a. 2 years from the end of the 30 year period stipulated in this condition, or
- b. 2 years from the date on which the development ceases to supply electricity for consumption on the airbase, or for export to the national grid, or both.

Reason: In view of the life expectancy of the proposed development and to ensure the removal of redundant equipment in the interests of amenity.

- 20 No solar panel shall be fixed at an angle greater than 35° relative to the horizontal and the structures supporting the solar panels shall contain no moving parts unless otherwise agreed in writing with the Planning Authority.

Reason: In order to avoid possible glint and glare nuisance in the interests of residential amenity.

- 21 Within 2 months from receipt of a written request from the Local Planning Authority following a substantiated complaint from occupiers of a sensitive property, the solar farm operator shall, at its expense, undertake a glint and glare assessment which shall be submitted for the written approval of the Planning Authority. Any identified mitigation measures arising from this assessment, and the Planning Authority's consideration thereof, shall be implemented within two months of being notified in writing to the operator.

Reason: In order to address identified glint and glare nuisance in the interests of residential amenity

#### **Drainage Impact Assessment**

- 22 Prior to the commencement of development, a detailed Drainage Impact Assessment shall be submitted to and approved in writing by the Planning Authority. Thereafter, the agreed measures in the Drainage Impact Assessment shall be implemented in full unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that the proposed drainage arrangements are acceptable.

#### **Archaeology**

- 23 No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service.

#### **Micrositing**

- 24 Tracks, solar infrastructure, compounds and areas of hardstanding shall be constructed in the position indicated on the approved drawings. A variation of the indicated position of any such infrastructure shall not be carried out unless :
- If the micro-sited position is less than 10 metres, the local planning authority is notified in writing prior to the variation, or
  - If the micro-sited position is between 10 metres and 25 metres it shall only be permitted following written approval of the planning authority.

No variation in position over 25m shall be carried out. The ECoW shall supervise and agree all proposed micrositing proposals.

Reason: To control environmental impacts while taking account of local ground conditions.

#### **Environmental Health Conditions**

- 25 Prior to the commencement of the site, a detailed Noise Action Plan shall be submitted in writing to the Planning Authority. The plan must clearly identify all practical and managerial control measures, to be adopted to eliminate/minimise the impact of site noise on surrounding areas.

*Reason: To minimise the impact of noise, generated by construction activities, on occupiers of residential properties.*

- 26 The permitted hours of demolition and construction works shall be restricted to 0800 hours to 1800 hours Monday to Friday and 0800 hours to 1300 hours on Saturday. No construction or demolition works shall take place outwith these hours, or on Sundays or Bank or Scottish Public Holidays, unless the written agreement of the Planning Authority has been obtained in advance, in which case the specified operations shall be confined to activities which do not present any likely source of nuisance in terms of noise, vibration, dust or any other consequence likely to be prejudicial to the interests of residential amenity. The above times shall include additional vehicular traffic related to the construction works.

Reason: In order to protect the residential amenities of the area.

- 27 Prior to the commencement of development a noise assessment relating to the solar arrays shall be submitted to and approved in writing by the Planning Authority in consultation with Environmental Health. This shall demonstrate that the project will not generate noise disturbance on the nearest occupiers of residential properties.

*Reason: In order to protect the amenities of the area from noise disturbance.*

#### **Contaminated Land Condition**

- 28 Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Planning Authority, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination to the satisfaction of the Planning Authority, and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, and d of this condition.

Should the desk study show the need for further assessment this will be undertaken in the following sequence:

- b) A detailed investigation of the nature and extent of contamination on site, and assessment of the risks such contamination presents.
- c) Development and agreement of a remedial strategy (if required) to treat/remove contamination ensuring the site is made suitable for its proposed use (this shall include a method statement, programme of works, and proposed verification plan).

d) Submission of a verification report for any agreed remedial actions detailing and evidencing the completion of these works.

Written confirmation from the Planning Authority, that the scheme has been implemented and completed shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

#### **Watercourse Crossings**

29 New watercourse crossings should not decrease the capacity of the watercourse post development. Ideally any new crossing should be designed to convey the 1 in 200-year flood level plus an allowance for climate change and freeboard.

Comment: In the interests of preventing flooding.

#### **NOTE TO APPLICANT**

- A Section 96 Legal Agreement will be required for the section of road between the A847 Bridgend - Portnahaven Road / C16 Port Charlotte-Kilcheeran Road junction and application site.
- Please see Scottish Water's consultation response dated 5/5/22
- Please see SEPA's consultation response dated 15/3/22

**PLANNING LAND USE AND POLICY ASSESSMENT**

**A. Settlement Strategy**

Policy Context:

The application site is partly located within a 'Rural Opportunity Area' (ROA), the remainder is within land zoned as 'Countryside' wherein the provisions of policy LDP DM 1 offer general support for 'small' scale development on appropriate infill, rounding-off, redevelopment and change of use of existing buildings; plus support for up to and including 'large' scale development on appropriate sites in exceptional circumstances where this accords with an 'Area Capacity Evaluation' (ACE).

Policy LDP DM1 requires that both land use designations are considered and in this case as the majority of the site is within the Countryside Zone paragraph (E) of policy is the main consideration. It encourages small scale development on appropriate sites. The existing derelict buildings to the centre of the overall site qualify as redevelopment; a development of new buildings involving significant demolitions. However, they are a small part of the proposed development site which is designated as large scale under Schedule B1 – Business and Industry scales of development:

Large-scale – buildings exceeding 600m<sup>2</sup> footprint, gross site area exceeding 2 hectares. This proposal site qualifies on both counts and must therefore be treated as an exceptional case under policy and therefore accord with an area capacity evaluation (ACE). As this is an EIA Development and a full LVIA has been submitted as part of the EIAR, it is not considered that an ACE would be necessary in this case an LVIA is a much more thorough and robust process than an ACE. It is therefore considered that this would represent a justifiable minor departure from Policy DM1.

The provisions of policy LDP 5 sets out that the Council will support the development of new industry and business which helps deliver sustainable economic growth. The supporting detail to policy LDP 5 identifies Islay as being both an Economically Fragile Area, and a Tourism Development Area.

Policy SG LDP BUS 2 sets out that proposals for new business and industry development (Use Classes 4, 5, 6 and 7) in the Countryside Development Management Zones will only be permitted where:

- A) The development is of a form, location and scale, consistent with policy LDP DM 1. Development proposals must also take account of SG LDP ENV 14 and comply with Schedule B 1 and Schedule B 3; OR,
- B) Proposals are for all scales of development in Rural Opportunity Areas, or for small scale development in the Countryside Zone, where the applicant can demonstrate a clear operational need for a specific location within these zones.

Schedule B1 sets out large Business and Industry development as per para 2. The provisions of Schedule B1 also note that within Economically Fragile Areas consideration will be given to variation of the permitted scales of development in line with the provisions of policy SG LDP BUS 5.

Schedule B3 sets out the preferred locations for business and industry development in the countryside expressing a preference only for 'small scale' development in 'non-residential locations' outwith the allocations and PDAs. Schedule B3 also defines 'non-residential locations' as being "locations where residential use does not predominate – this includes mixed use areas".

The explanatory text to SG LDP BUS 2 sets out that the Council recognises that "Argyll and Bute has a number of indigenous and emerging industries that are not suited to a location within an existing settlement. The special needs of the fragile economic areas are also recognised. ... Therefore, where an applicant can clearly demonstrate that their proposal requires a location in the countryside, permission will normally be granted, providing that redundant buildings and brownfield sites are used where possible."

In operation however, policy SG LDP BUS 5 effectively overrides the settlement strategy considerations built into SG LDP BUS 2 as it sets out that in the Economically Fragile Areas that consideration will be given to varying the permitted scales of economic development where it is judged by the Planning Authority that:

- It has been demonstrated that no suitable preferred location is available;
- The proposal is directly linked to the main potential growth sectors supported by the LDP and the EDAP (Economic Development Action Plan);
- A sustainability checklist has been completed and it has been demonstrated that any concerns that have been identified over the sustainability of the proposal can be addressed satisfactorily;
- Greenfield sites are avoided if brownfield land is available in close proximity;
- In residential locations, the proposed development would not erode the residential character of the area, or adversely affect local residents, through an increase in traffic levels, noise, fumes, or hours of operation;
- The proposal is consistent with any other relevant Local Development Plan policy and associated Supplementary Guidance;
- The design, scale and siting of the new development respects the landscape/townscape character and appearance of the surrounding area.

The explanatory text accompanying SG LDP BUS 5 confirms that whilst the LDP sets out a settlement strategy which provides a framework to deliver sustainable development the provisions of SG LDP BUS 5 serve to provide additional flexibility from the planning system in support of LDP objectives for sustainable economic growth and to support population retention and growth.

The proposal also includes a visitor centre (which should be viewed as an ancillary development to that of the main distillery) and accordingly regard should be had to the provisions of LDP 5 and SG LDP TOUR 1 and SG LDP TOUR 3.

Policies LDP 5 and SG LDP TOUR 3 offer broad encouragement for new and improved tourism facilities, particularly within designated Tourism Development Areas such as Islay. SG LDP TOUR 1 sets out a criteria-based approach, with a general presumption in favour of new or improved tourism facilities provided certain criteria are met:

- The development is of a form, location and scale consistent with Policy LDP DM 1;
- They respect the landscape/townscape character and amenity of the surrounding area;
- They are reasonably accessible by public transport where available, cycling and on foot, or would deliver major improvements to public transport services;



- They are well related to the existing built form of settlements or the existing development pattern outwith the settlements and avoid dispersed patterns of development, unless the developer has demonstrated a locational requirement based on the need to be near to the specific tourist interest being exploited, and that the facility will not damage those interests;

AND

- The proposal is consistent with other policies and SG contained in the Local Development Plan

The sustainable power element of the proposal comprises two solar arrays one to the east of the site and visible from the road and the proposed distillery and the other beyond woods to the south in a sloping area enclosed by wooded hills. They are intended as a power source for the complex and for a hydrogen plant creating clean sustainable power for the major production elements. Policy LP SG Renewables does not adopt a particular stance on solar energy developments but indicates that commercial scale photovoltaics should be considered against Policies LDP DM 1, LDP 6 and 10 and relevant Supplementary Guidance.

#### Assessment of the Proposal:

The proposal is for a distillery incorporating a visitor centre with associated parking, a maturation warehouse for casks and a support building with a battery energy storage facility and hydrogen plant along with two remote sites for solar arrays. The core site is around 80m (AOD) around 3.5km east of the conservation village of Port Charlotte. The main two storey circular building 150m north of the road is around 990sqm and will be partially built into the hill side which rises to the north. The building will reach heights between 4.5 – 9.5m. allowing absorption into this and surrounding higher hills although the rear will be above the ridge line. The outside will be glazing and stone cladding with the main fenestration to the north east facing the loch. The roof is mainly flat with a slight rise to the centre and the entrances are to the north east and south east. Parking for 17 cars (2 accessible spaces) would be located south of the building with new and separated accesses for production traffic and visitors. A SuDS system with a soakaway field will be towards the road. A temporary compound will be created at the roadside.

The warehouse and service buildings are to be on the vacant site containing derelict buildings south of the road. The new support building is a 600sqm rectangular building rising to around 10m including the roof ridge vents and its principle elevation addresses the road. There are large roller doors in each gable and is of a standard agricultural/industrial type design. It will house the batteries, hydrogen plant and an electricity sub-station. To the rear of this building is the ancillary plant; hydrogen store; cooling tower; pot ale and spent lees tanks; grain store. These are subordinate to the service building with the cooling tower rising to around 7m. The warehouse is to the east of these. It is 9m high (to shallow roof ridge) single storey rectangular 932sqm building addressing the road with further outdoor storage at the roadside. The design is standard industrial with main doors facing the entrance access. There is waste storage to the rear.

This site has existing infrastructure of the access from the road which will run through the site to the track which leads through the woods one of the solar sites. There is existing drainage around the site which is to be supplemented with a SuDS system including a soakaway field to drain the upgraded hard standing and parking areas.

The solar sites are for around 7850 panels on 334 mounting structures holding up to 34 panels each at 30 degrees. These will be in south westerly facing rows. Electricity

transformers will be on each site and connections to the support building infrastructure formed. The existing tracks to the site will be improved and in the case of the site closest to the distillery, lengthened with improved access at the road. There are no identified constraints to developing the site with regards to flooding, aircraft movement, archaeology or core paths subject to conditions where appropriate.

The applicant is a three year old company with a small staff based in London and are registered as having business activity of distilling, rectifying and blending of spirits. The company have identified a commercial requirement for a new Islay malt and have expressed a desire to work with the Council to promote not only the new malt but also Islay as a whisky brand. The retention and creation of jobs in both tourism and the food sectors are benefits identified in the Argyll and Bute Economic Development Action Plan (EDAP) 2013 – 18, as is support for strengthening the branding of Argyll and Bute indigenous food and drink products. Once fully operational the jobs created may number 23 on Islay, a further 3 in the council area and 22 more in Scotland. The value added to the island from this employment is estimated to be around £1-2million per annum.

The application is accompanied by supporting information which seeks to demonstrate that the proposed development meets the key principles of Sustainable Development defined in policy LDP STRAT 1, that there is no sequentially preferable location available for the proposed development, and that the location of the distillery requires to be operationally linked to an appropriate water source. Other known sites on the island would not afford the scale or orientation for the solar arrays to provide power for the buildings and the production of hydrogen as a sustainable fuel.

The supporting information provides a summary assessment detailing that various locations, including the existing business and industry allocations on Islay and other countryside redevelopment locations, are technically unsuitable to accommodate the requirements of the proposed development. The scale of the renewable power elements preclude designated sites. Other large sites in the countryside may offer similar suitable topologies, but the existing derelict buildings and their wider site lend weight to the suitability over similarly sized sites. Additionally, the proximity to a water source, few neighbouring land uses and buildings, and the low level of sensitivity by designated species of flora and fauna are deemed supportive to this choice of location. Officers are unaware of any other suitable locations either within settlement areas, or of any 'brownfield' sites on Islay which should be given consideration as sequentially preferable locations for the development. Islay is recognised as an 'Economically Fragile Area' in the LDP and accordingly it is not considered appropriate in this instance to extend consideration of potential alternative development locations to the wider Council area.

The development is not located within a "residential location" having regard to the definition provided by Schedule B3. The effects of the proposed development upon the amenity of the locale, including existing residential property within the locality is subject to detailed assessment in Section B below.

The proposal is supported by a Landscape and Visual Impact Assessment. The impact of the design, scale and siting of the proposed development is subject to detailed comment in Section F below.

The proposed development is not readily accessible by public transport, nor is there any segregated pedestrian or cycle access route to the site as an alternative to the existing single track road. The public road is recognised as unsuitable for an increased volume of larger vehicles and has therefore been subject to discussions regarding its

improvement which are accepted as a general infrastructure improvement for the wider benefit of communities and visitors. Part of the business case includes the provision of tourism facilities and creating a destination which is likely to generate significant additional visitor traffic in its own right.

In summary, the proposal represents a 'large-scale' business and industry/tourism development within a 'Rural Opportunity Area'/'Countryside Zone' where a clear locational/operational need has been demonstrated. The provisions of SG LDP BUS 5 recognise the requirement for flexibility within Economically Fragile Areas such as Islay and make provision for the normal provisions of the Council's Settlement Strategy to be varied to accommodate up to 'large scale' development in rural areas in appropriate circumstances. Accordingly, it is considered that the principle of the development is consistent with policies LDP STRAT 1, LDP 5, SG LDP BUS 2, SG LDP BUS 5, SG LDP TOUR 1.

## **B. Location, Nature and Design of Proposed Development**

The proposal requires to be assessed against the relevant provisions of policy LDP 9 and SG LDP Sustainable in terms of development setting, layout and design.

The provisions of policy LDP 9 set out that new development shall be required to be sited and positioned so as to pay regard to the context within which it is located, that the development layout and density shall effectively integrate with the setting of the development, and that the design of the development shall be compatible with its surroundings.

The provisions of SG LDP Sustainable relating to new industrial development within isolated locations advises that the form and pattern of the landscape will largely determine the acceptability of the proposal, and that the extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor. Assessment of proposals shall include consideration of the visual impact of the size and extent of the proposal and the distance/location from which it is seen; the location of the proposal and its landscape setting, including the way in which the development has used natural contours of the site is of prime importance – in this respect it is noted that a large building must be absorbed by the landscape as much as possible, whether by excavating, using existing landforms to mask the development or screening by new trees. The design and colour of the development and any ancillary structures can be used to minimise their perceived bulk and visual impact – it is noted that the use of natural materials such as timber and stone will help fit a large building into the landscape, as will dark colours.

The majority of the proposal is on greenfield sites which require minimal preparation or clearing for the solar arrays. The distillery complex is also greenfield but more rocky and with vestiges of previous settlements which are only recognisable as such when on site. The site for the support buildings is brown/greenfield and will require clearing, upgrade and mitigation for the new buildings.

The main receptors examined with regards to the development are generally within 300m of the sites and therefore

- that area of the Rhinns of Islay SPA and SSSI and its indigenous and migratory nature,
- water resources including the loch and its attendant drainage,
- solar infrastructure glint and glare,

- roads and human scale infrastructure,
- noise and odours from the operation of the distillery and its construction and remediation phase,
- and accessible viewpoints for workers, travellers and tourists and residents.

These are examined in the relevant sections of this report and are generally compliant with relevant policies.

## **C. Natural Environment**

The sites are within nature conservation designations of Rinns of Islay Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA) which would be directly or indirectly affected by the proposed development. The proposal which is located within 3km of The Rinns of Islay Special Area of Conservation (SAC) protected for its Marsh fritillat butterfly could also have likely significant effects on this site. There are a number of notable species within the wider area and concerns in this regard have been raised by NatureScot and some objectors. The application is accompanied by a detailed Ecological Impact Assessment which included policy, methodology and criteria, determination of ecological features and an Ecological Impact Assessment.

NatureScot were involved in a series of discussions with the applicant and their agents especially with regards to the disturbance of habitats. Supplementary reports in this regard were submitted and accepted with regard to policies. They agreed that the proposed development is unlikely to give rise to any significant loss of habitat or biodiversity if conditions are in place regarding construction times and methods, remediation and creation of surrounding habitats and reports regarding the habits of the protected species throughout the seasons. Two appendices to this report are supplied containing Appropriate Assessments in relation to the Rinns of Islay SPA and the Rinns of Islay SAC.

The Council's Biodiversity Officer, following the provision of the supplementary information, is satisfied that the proposed development will not have an adverse impact upon biodiversity interests within the area, subject to the mitigation measures and landscape planting identified.

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.

The main species to be effected are migratory birds to their breeding grounds and fritillary fauna; the habitats and feeding of both. The information examined and agree is consistent with the aims of LDP 3, SG LDP ENV 1, ENV 2 and ENV 4 and the objectives of the designations and the overall integrity of the area will not be compromised.

Policies LDP 3 and SG LDP ENV 7 examine the potential impact of development on:

- water quality and quantity, ecological status including morphology and flow rate
- riparian habitats and wildlife;
- leisure and recreational facilities and users;
- economic activity.

It was determined that the categories of sensitive receptor within the study area: surface water features, (the lochs and their tributaries), pipelines, peatland and the wildlife designations would be protected and where possible enhanced by careful design of the site layout, and the implementation of mitigation methods as outlined in the accepted plans and conditions that would require to be attached to any approval. The details of the proposal intend to ensure that any potential risks identified are avoided and the associated risk is reduced to acceptable levels. Further examination of the use of water resources is within the infrastructure section of this report.

Peat lands contain large reservoirs of carbon. Undisturbed, peatlands sequester carbon from the atmosphere through photosynthesising vegetation. This carbon is then stored in the soil. This accumulates primarily in waterlogged conditions, where there is a low potential for decomposition. No peat displacement is required to accommodate the development thereby retaining important carbon storage consistent with policies LDP 3 and ENV 11.

The accompanying EIAR did not identify significant ecological effects for the development construction and operation, in isolation as present or with similar rigour applied to any future proposals within its locus. Proposals have been made to enhance biodiversity for a net gain to the stabilisation and development of habitats with special regard to Marsh Fritillary and migrating birds which includes habitat creation in and around the solar arrays. Proposals are consistent with policy are included to ensure low magnitude effects during construction and comply with good practice.

#### **D. Historic Environment**

The proposed development does not give rise to any direct or indirect effects upon the site or setting of any listed building, scheduled monument, or conservation area. The development site is however located within an archaeological trigger area and accordingly requires to be assessed against the relevant provisions of policies LDP 3 and SG LDP ENV 20.

Historic Environment Scotland (HES) did not object to the proposed development. They noted that some scheduled monuments are located in the vicinity of the proposals but considered that significant impacts on their settings are unlikely. The West of Scotland Archaeological Service (WoSAS) advised that the application lies in a landscape populated with recorded archaeological sites of prehistoric and later periods. The proposals will affect recorded sites as detailed in the EIAR cultural heritage chapter, the conclusions and recommendations of which are agreeable. The large area of ground that will be disturbed by this development stands a good chance of unearthing visible or buried unrecorded remains which could be of any period and which may survive below ground level. As such, a potential archaeological issue is raised by the proposals. A planning condition is proposed.

HES agreed with the EIAR findings that the site is close to the historic settlement of Gearach which appears to have been abandoned and resettled over a long period of time. However, the potential for artefacts as far back as Roman times to be present or

recoverable is low. However, there may be prehistoric remains which are difficult to identify with an archaeological watching brief.

Once built and operational, the concern is the landscape/visual impact on existing site up to, for example 2km from of the distillery building. Site visits indicate that there is little if any intervisibility between historic sites in the vicinity of the proposal. The proposal is deemed to be consistent with policies LDP 3 and LDP ENV 20

## **E. Impact of Woodland**

The large area of woodland to the south and through which the second solar array site is accessed and framed will not require felling or any non commercial replanting. This is consistent with policy LDP 10 which seeks to avoid the loss of trees and woodland. The policy also provides opportunities for new planting and this should be in accordance with the local pattern of woodlands, thereby avoiding erosion of distinctive landscape patterns and enhancing landscape character.

The main focus of the planting plan is to achieve year round screening of the warehouse and support building south of the minor road, from the road and some views from the distillery site. The tree varieties will be coniferous (eg Scots pine). Although positioned mainly for screening they will also integrate and strengthen the existing pattern of trees along the southern side of the minor road. Further planting will flank the new service access road to the distillery creating an avenue effect. These will add to the existing woodland which currently lines the road and help strength the landscape character.

New plantings will assist with drainage and soil retention in what are exposed areas of the wider site. No key landscape features will be lost, and elements such as dry-stone dykes and woodland will be enhanced through reinstatement and planting,

The provisions of policies LDP 3, LDP 10 and SG LDP ENV 6 are consistent with the proposals maintaining and enhancing the existing plantings. A representation was made regarding access to the commercial woodland. The submitted plans are not deemed to show conflict with the neighbouring commercial plantings and their management.

## **F. Landscape and Visual Impact**

The application site is not located within a landscape designation so its impact upon local landscape character should be assessed against the provisions of LDP 9, LDP 3 and SG LDP ENV 14.

The provisions of SG LDP ENV 14 state that outwith scenic designations that the council will consider landscape impact when assessing development proposals, and will resist development when its scale, location or design will have a significant adverse effect on the character of the landscape, unless is demonstrated that any such effects upon the landscape quality are clearly outweighed by social, economic or environmental benefits of community wide importance; AND that the Council is satisfied that all possible mitigation measures have been incorporated into the development proposal to minimise adverse effects.

Furthermore, the proposal is for a 'large' scale development located within a site encompassing both 'Rural Opportunity Area' and 'Countryside' development management zones. The applicant has satisfactorily set out grounds allowing the

proposal to be considered as an 'exceptional case' and the application is accompanied by a 'Landscape and Visual Impact Assessment' (LVIA) report prepared on behalf of the applicant by qualified Landscape Architects (this report may be reviewed in full via public access) - including visualisations of the proposal from key viewpoints.

The development is located in the Rocky Moorland landscape of Argyll and Bute. Taking account of the LVIA process it is concluded that the distillery and visitor centre and warehouse support buildings can be accommodated in this landscape with minimal impacts. Mitigation in the form of appropriate tree planting and the use of dry-stone dykes will assist with this.

The impact of the solar arrays is examined in section I of this report and therefore the impact, visual influence and mitigation of the distillery, warehouse and support buildings only will be examined here. The applicant has supplied a series of viewpoint natural images which show the sites from a variety of locations and giving a current representation of the site in the round. As the site south of the road is already occupied by buildings, and the elevations for the distillery are realised within the plans and are deemed to be easily referenced with the viewpoints, proposed visualisations were not deemed required as an addition to officers own visits.

Policy requires the council to resist development when its scale, location or design will have a significant adverse impact on the character of the landscape unless it is demonstrated that:

- (A) Any such effects on the landscape quality are clearly outweighed by social, economic or environmental benefits of community wide importance; AND
- (B) The Council is satisfied that all possible mitigation measures have been incorporated into the development proposal to minimise adverse effects.

The landscape is rocky moorland consistent with this part of Islay and the circular stone clad distillery, functional but modern warehousing and support buildings and expected modern infrastructure are designed proposing materials, positions and scales to complement the existing landscape character and are able to be accommodated with minimal impacts from key viewpoints and passing traffic. It is deemed to be in character with the landscape and have a relatively small footprint minimising disruption or contrast to the baseline where elements are minor and only affect the landscape immediately adjacent to the development. No key landscape features will be lost, and elements such as dry-stone dykes and woodland will be enhanced through reinstatement and planting' as required by policy LDP 9.

Proposed mitigation measures can be grouped under three headings:

- Mitigation built into the design. The design process has aimed to reduce environmental impacts through careful siting of proposed infrastructure.
- Adoption of Best Practice during construction, including further micro-siting where required.
- Restoration and enhancement of the site post-construction.

These will be controlled by conditions by conditions attached to any approval.

## **G. Road Network, Parking and Associated Transport Matters**

The provisions of policy LDP 11 set out that the Council will seek to ensure that an appropriate standard of access is delivered to serve new developments, including off-site highway improvements where appropriate.

In this instance, the development is served by a sub-standard public road which presently connects to Port Charlotte at the A847 for some 3.45km. Access to the proposed development would involve negotiating the single track public road which is not only narrow in width but also is also sinuous in nature and contains a number of tight bends. The provisions of policy SG LDP TRAN 5 sets out that there is a requirement for developments to contribute proportionately to improvements to an agreed section of the public road network where the proposals will significantly increase vehicular or pedestrian traffic on a substandard public approach roads. The suitability of the existing public road to accommodate additional vehicle traffic associated with the proposed development has been subject to comment and concern from the council's roads department. They identified as priorities a Traffic Impact Assessment, upgrades of existing passing places and the creation of more passing places on the route with intervisibility and sufficient space for large vehicles to idle while others pass without detriment to the road surfaces or their verges. The upgrade of existing vulnerable sections of road is also required.

The roads team have further commented that the applicant should be made aware that there will be no financial contributions from Argyll & Bute Council towards the work required to facilitate the works or to make good any damage directly attributable to the construction works and that the applicant should be made aware that they will be responsible for making good any damage to the public road which is directly attributable to the construction of the development. The commensurate improvements such as new passing places, may require land outwith the applicant's control. The plan showing the suggested locations for passing places, **Reference 21064\_005** does not show equally spaced (as far as possible) passing places and it will be a condition of any approval that an acceptable plan is agreed with the council's officers.

The site itself will use the existing access to the south for the warehouse, ancillary buildings and the track to one of the solar array sites. New accesses for the distillery complex, its parking and servicing will be created on the north side of the road. Another access to service the other solar array will also be created. The roads team require conditions to be attached to any approval recommendation to cover:

- Traffic Impact Assessment for section of C16 Port Charlottee – Kilchearan Road
- identify requirement for additional passing places (with ABC Roads) on public approach road,
- provide plan identifying location and specification of new/upgraded passing places, and confirmation whether 3<sup>rd</sup> party land is required for any of these to be formed.
- report on public approach roads vulnerable to proposed traffic loading – assessment of culverts or structures and measures to mitigate damage.
- Traffic Management Plan,
- Method Statement for transportation of materials, plant and equipment – include pre-
- development road survey, Inspections of road, repair of roads defects,
- delivery of off site passing places and provision of signage,
- parking and turning to be provided as per plan,
- junction details to be agreed to adoption standard,
- provision of onsite turning for HGV.



The provisions of policies LDP 11, SG LDP TRAN 4 and SG LDP TRAN 6 set out the Council's requirements in respect of site access and parking provision require consideration. Subject to suspensive conditions requiring considerable surveying and upgrading of the route to the distillery site, the roads department are content that the applicant has the information, specification and capability to effect these works in advance of any construction works. The necessary work is also recognised as an opportunity for planning gain through offsite road improvements under policy SG LDP PG 1.

The area is used for recreation but there are no core paths crossing the site and the development will actually enable access to some prominent viewpoints and is acceptable under policy SG LDP TRAN 1. The introduction of the pathways, access improvements and parking (including wide berths) will be of benefit to visitors of restricted ability and is compliant with policy SG LDP TRAN 3. There are no existing public transit routes to the site and although the proposal will be a journey generator it is not contrary to SG LDP TRAN 2: indeed the required roads improvements may encourage non motor travel.

## **H. Infrastructure / Waste Management**

The proposal is to have separate drainage systems on site for the north (distillery and visitor car park) of the road and south of the road (cask warehouse and renewables support building). For the north, surface water will be treated via SuDS methods and storage provided up to the 200yr critical storm level. Discharge will be restricted to the equivalent 2yr green field run-off and outfall into an existing adjacent watercourse. Foul water will pass through a sewage treatment plant and discharge to a drainage field to be licenced by SEPA It may be possible to also discharge this to a watercourse if the drainage field is unfeasible. For the southerly buildings surface water will also be treated via SUDS methods and storage provided as above. Foul water will pass through a sewage treatment plant and discharge to an existing adjacent watercourse with a SEPA registration. The SEPA standing guidance is required to be followed in this respect.

SEPA's Flood Risk Map within the area and has identified both Loch Gearach and the headwaters of Abhainn Gearach to be at a high likelihood of both surface water and river flooding. The Map does not identify any other risk of river flooding within the area however, it does indicate that there are some limited areas with a high risk of surface water flooding. These flood extents are in the southern, western, and northern regions of the area and are associated with the burns that pass through the forestry, firebreaks within the forestry, and Loch Conailbhe. These remain confined to the watercourse channels and to periodic pools within the forestry. There are no 'Potentially Vulnerable Areas' noted within the area, i.e. no potential impacts of flooding on potentially vulnerable areas of people, properties, community services and specific environmental sites. These results are within defensible and remedial parameters and are consistent with the aims of policies LDP 10 and SG LDP SERV 7. The proposer supplied detailed sustainability information as part of the overall EIAR and its detail is sufficient to be acceptable under policy.

The Water Treatment Works (WTW) at Port Charlotte abstracts raw water from Loch Gearach, producing a potable drinking supply for existing customers as well as future customers as per this proposal. The supplied EIAR documentation acknowledges that Loch Gearach is a 'small water body' and understanding is required as to what

abstraction may be achievable from the loch. Scottish Water note that two other sources of water are being considered for the development's supply:

- a borehole to be identified and tested for quality and quantity,
- an existing adjacent private spring

The applicant has stated "Post consent site investigation surveys will commence to establish the borehole location(s) and to assess the existing spring". Therefore, whilst the application mentions three sources of water as potential points of supply, two of those sources will only be subject to detailed hydrological verification post consent.

With that being the case, Scottish Water would have to responsibly consider both the best case and worst case outcomes of those future investigations and its impact upon raw water yields and demands at Loch Gearach.

Scottish Water have identified Process Specific Demands as follows:

#### Distillery

- Approximate requirement of 18m<sup>3</sup>/daily (process only)
- Approximate requirement of 2m<sup>3</sup>/daily (domestic usage – distillery/visitor centre)
- Approximate requirement of 7m<sup>3</sup>/daily (hydrogen production)

Water Usage would equate to a total water usage of 27m<sup>3</sup>/daily 'after filtration and required purification stages. The proposers require to work closely with Scottish Water to explore the potential as to what abstraction may be achievable from Loch Gearach itself.

If for any reason should these proposed boreholes and adjacent spring be found to be insufficient to meet a significant portion of water demands post consent, this could in effect mean that a considerable proportion of the 27m<sup>3</sup> daily demand would need to be abstracted from Loch Gearach itself. If that were to be the case, Scottish Water's ability to maintain its general security of supply would have to be carefully assessed. A suspensive condition is proposed to ensure that post consent water supply surveys are submitted to the planning authority and agreed with Scottish Water before the development can proceed.

Scottish Water note the details relating to protective measures as outlined in the relevant Control of Major Accidents and Hazards (COMAH) assessment tables and mitigations detailed in order to minimise the environmental knock-on effects of any process incidents or failures that may impact upon the environment and public water supply. Containment measures relating to cleaning chemicals, ethanol or fire water, spreading to the surrounding environment, particularly to Loch Gearach itself, is welcomed. Proposed detection measures to be in place to warn of such spillages require a documented procedure for liaising with Scottish Water, should any risk of, or actual occurrence of, such named substances accidentally enter Loch Gearach.

Scottish Water requires access general access through the site for maintenance and monitoring and also to protect any underground assets. They also require vehicle and operative access to the reservoir at any point within a 24 hour and 7-day period when necessary.

With regards to the above information and agreements, Scottish Water are content with the proposal and the detail contained in the accompanying EIAR.

The proposer intends to construct a compound beside the main road in order to facilitate the construction process and the handling of waste material for separation and removal from the site. This area will be remediated once construction has been completed. It is expected that if borrow pits are required for winning materials during construction, these will be subject to a separate application.

The industrial waste created by the distillery process which consists of spent lees and pot ale is to be stored to the rear of the support building where it can be collected using the upgraded infrastructure of this part of the site.

The detail and options outlined by the proposer and the terms of agreements regarding the water systems and waste management with the council and consultees, will require conditions attached to any approval. Further consultation specifically with water supply require to be ongoing. The proposal is deemed to be consistent with policies LDP 10, SG LDP SERV 1, SG LDP SERV 2, SG LDP SERV 3, SG LDP SERV 5(b) and SG LDP SERV 6.

The proposed LDP 2 upgrades this policy advice but is broadly similar in intention.

## **I. Renewable Energy Generation (Ancillary to Industrial Development)**

The proposal is to install 7857 photovoltaic panels, each with a generating capacity of 265 watts which together would produce an overall installed capacity of around 4.25 MW. These will be arranged on two sites and a 700kW hydrogen electrolyser and a 5MW battery energy storage system to be housed across from the distillery next to the warehousing between the two array sites. The northerly site array is 3.3 hectares (20 rows of varying lengths to fit the irregular site) and the southerly 2.9ha. (19 rows, either side of the access) with 6.4m between each row, in order to avoid shadowing between rows. Each panel measures 1.7 x 1.0m and will be aligned so that it is facing towards the south at an inclined angle of around 30 to 35 degrees. The panels will be affixed to mounting frames which, dependant on ground conditions, are likely to be screwed into the ground rather than being more permanently affixed. The mounting frame will be 1m above ground level and the top of the inclined plane of each panel will reach a maximum height of 2.9 metres.

Wiring from the banks of panels will connect via underground cable to a nearby electricity sub-station with switchgear to be accommodated in an adjacent building. The only additional element will be a pre-fabricated transformer enclosure finished externally in green and measuring 5.0 x 2.5m in area and 2.5m high, which will be located adjacent to the existing sub-station. For security purposes the whole of the array will be enclosed by a 2m high weldmesh fence mounted on wooden poles. The site will be subject to remote surveillance by pole mounted CCTV infra-red cameras, which will obviate any requirement for on-site lighting. A section of 4m wide hardcore access track will be bisect the site and form a connection between the taxiway to the north and the roadway to the south, in order to serve vehicles required for construction, maintenance and decommissioning. The design life of the array is expected to be up to 30 years, following which the site will either be decommissioned or re-equipped

### Landscape and Visual Effects

The solar element would have the biggest footprints of the complex. The locations of the solar elements sit within a medium scale landscape and should be easily accommodated with minimum impact. It is unlikely that the development would

dominate the character of the area due to the focal point of the distillery and the replacement buildings on the vacant site.

The easterly array will be positioned within a shallow glen, which minimises any potential effects on the skyline. It may be visible from the surrounding area but will not form the skyline from any viewpoint. The southerly array development will be backdropped by mature woodland reducing the skyline impacts. The immediate landscape is dominated by moorland, woodland and rocky outcrops, which are all evident in close proximity to the development. The presence of these features gives a strong sense of character. The southerly array being beyond the woods will not be visible from accessible viewpoints until on site, where it will be framed and dominated by the woodland. The easterly will act as an introduction to the complex when arriving from Port Charlotte, but is unlikely to be a distraction from the simple aesthetics of the distillery building on the higher ground as you draw near. The hills will act as a backdrop to views when approaching from the west.

#### Glint and Glare

Government advice prompts the requirement for a 'glint and glare' assessment to consider the effects of development on ground based and aviation receptors. This has been carried out by the applicants and addresses the issue of reflectivity and the extent to which this might pose problems. Glint is produced as a direct reflection of the sun on the surface of the PV panel whereas glare is a continuous source of brightness, relative to diffused lighting reflected from the bright sky around the sun. Glare is significantly less intense than glint.

A condition is proposed to require the operator to undertake remedial measures in the event of any substantiated complaint from the occupiers of a residential property in respect of a persistent glint and glare impact upon residential amenity.

#### Conclusion

Government and local development plan policy encourages a wide portfolio of sources of renewable electricity generation in sustainable locations where effects upon the receiving environments are within acceptable limits.

The proposal is therefore deemed consistent with policies LDP 6 and SG Renewable Energy.

## **J. Amenity Issues**

The Council will resist any proposal that would have an unacceptable adverse impact upon the amenity of neighbouring land uses resulting from, but not limited to the following:

- noise or vibration
- odour or fumes
- light pollution or flicker

Policy LDP 6 in supporting the growth of renewables has limited reference to the effects of solar arrays. This cumulative impacts on neighbouring buildings, natural environments, landscape character and visual amenity have been examined within the other sections of this report.

Policies LDP 8 and SG LDP BAD 1 and emerging LDP policy 14 provide for transport, servicing and light to be such that no loss of amenity is suffered by neighbouring land uses including dwellings. This report has examined these themes and the likelihood of glint/glare from the arrays is minimal and the access and servicing will be by agreed designated and clear routes from the main road. The prevailing wind should mitigate the odour issues a distillery is bound to produce as they would tend to drift over the loch rather than the nearest dwellings or roads users.

The proposer supplied a detailed survey regarding the possibility of disturbing contaminated land as the previous uses although probably domestic may contain contaminants. The survey was negative and therefore accepted under policies LDP 10 and SG LDP SERV 4.

## **K. Socio Economic Issues**

The proposers have a ten year plan predicated on sales from year four to ten and have posited a figure of £1.2 million in Gross Value Add (GVA) by year ten. This figure is the value of output less the value of intermediate consumption; it is in this case a measure of the contribution to GDP made by an individual producer with the profit element removed. There is also an expectation of the overall business supporting 23 jobs on the island by this stage and having supported construction jobs for eight years at a figure worth between £5 and 6 million. Overall the estimate for the construction of the buildings, plant and solar arrays may be £15 million.

The applicant intends to contract with large firms who have access to staff on the island. Construction jobs represent about 7% of the current job market on the island. The supply chain for the distillery may secure two or more of the jobs and be worth around £100000 GVA.

Catering for the tourist sector will account for many of the created jobs and the proposer suggests that the distillery will attract around a further 2% of existing numbers. It is of course accepted that the majority of visitors to the distillery would not be additional but would be visiting anyway whether as whisky or other leisure tourists.

The company are considering community interest opportunities which may include share options for local people, purchase of revenue streams and/or a community benefit fund paid as a fixed amount or linked to output.

The applicant has also suggested that the economic multiplier effect for induced and indirect impacts may be £72000 once adjusted for tariffs from staff salaries. Should these figures be accurate the housing deficit on the island is recognised and the availability in Port Charlotte as identified in the most recent Islay Strategic Housing Overview is below the likely requirement level. However, permission has been granted for 29 houses just north of Bruichladdich which is extant although yet to break ground.

The economic case is consistent with policies LDP STRAT 1 paragraph a) LDP 5 and SG LDP BUS 5 in showing an exceptional economic case with attendant socio economic benefits for the locale, the island and the wider council area.

The tourism expectation for distilleries in rural Scotland (and almost all new builds) is that there will be tour arrangements with a tasting and retailing opportunity at the end. This proposal intends to offer a retail facility to complement the visitor experience within the distillery building. Islay is a Tourism Development Area. It is not anticipated the proposed land uses on site will have a detrimental impact on the viability of existing comparison and convenience offerings within the settlements of Islay. The proposal is deemed consistent with policies LDP 5, SG LDP TOUR 1 and 3 and LDP 7, SG LDP RET 4.

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

**Rinns of Islay Special Area of Conservation (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 Special Protection Area (SPA) was classified on 25 April 1990; extended 27 November 1995 and the (amended) citation adopted on 27 April 2018.

It covers a large site covering areas of wetland, open moorland and low intensity agricultural land on the island of Islay on the west coast of Scotland. The boundary of the SPA overlaps wholly with the Rinns of Islay Site of Special Scientific Interest (SSSI).

It has a qualifying interest by regularly supporting populations of European importance of the species: hen harrier *Circus cyaneus*, corncrake *Crex crex*, chough *Pyrrhocorax pyrrhocorax*, whooper swan *Cygnus Cygnus* and Greenland white-fronted goose *Anser albifrons flavirostris*. Rinns of Islay SPA further qualifies under Article 4.2 by regularly supporting a population of European importance of the migratory species: common scoter *Melanitta nigra*

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 (SNH) that the development proposed by means of planning application (ref: 21/02718/PP) could affect the qualifying interests which are: Greenland White

Fronted Geese (GWFG), Hen Harriers (HH), Corncrake, Common Scoter, Chough and Whooper Swan.

Otters and bats are not deemed to be at risk from the proposal.

The proposed site lies entirely within the SPA and the SSSI with the nearest boundary of the designation approximately 450 metres to the north east then recommences at around 1000m. This is within the mean maximum foraging range for birds identified as the qualifying interest of the SPA. 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 distillery and visitor centre, with associated and ancillary development including support warehousing buildings, installation of a sewage treatment plant, two nearby solar panel sites and formation of all necessary accesses.

The development sites have the potential to disrupt breeding and nesting birds of low populations and protected species and cause damage or displacement to feeding areas used by the qualifying species. The solar panels may be a distraction and danger to flight and nesting patterns. The development of a large area (over 2ha) within the protected areas may disrupt the habitats and movements of all fauna, protected or otherwise. The use of the waters from the nearby loch may affect water levels and therefore the hydrology of the wider area including domestic supplies.

### **Assessment**

The assessment considers the impact of the proposals on the birds identified as the qualifying interest and has regard to the applicant's submitted information in support of the planning application, and to consultation advice provided by NatureScot.

NatureScot has raised concerns about the submitted proposal on the basis that this proposal is likely to have a significant effect on the Greenland white-fronted goose and Hen harrier populations of the Rinns of Islay SPA supporting the main populations on the Rinns of Islay SAC and have detailed a series of outline topics and recommendations to be conditioned should the application be approved in accordance with the proposed mitigation measures as listed below:

- No construction or activities required for solar array installation to take place between October and March inclusive.
- An agreed visitor management plan to prevent disturbance to roosting GWFG from the additional human activity should be in place prior to construction commencing.
- An agreed distillery operations mitigation plan to prevent disturbance to roosting GWFG from the night time operation of the distillery should be in place prior to construction commencing.
- Anti-reflective coating must be used on solar panels.



- Pre-construction checks for any Hen harrier nests or roosts within 750m of the proposal must be carried out.
- An agreed specific species protection plan for each relevant SPA and SAC qualifier species should be in place prior to construction commencing.
- An agreed decommissioning plan should be in place prior to construction commencing.
- The detailed Habitat Management Plan should be agreed prior to construction commencing.

Nature Scot further commented that the applicant's breeding bird survey did not identify any species of concern however, as this is a snapshot in time they suggested that winter Vantage Point surveys are taken especially with regard to GFWG and included in management plans required under suggested conditions. The mitigation plans utilising (especially) pre-construction surveys require to be robust and to deal with any potential reckless offence under the Wildlife and Countryside Act 1981, which in practical terms means construction works, particularly the solar array work, was carried out outwith the breeding bird season when possible.

The developments should also seek to provide net benefits with regard to habitat preservation, mitigation and introductions of new habitats including peat land. This should be additional to the design requirements of avoidance, minimisation or compensation. Opportunities have been identified for this with corncrake in and around the solar but this needs careful consideration to ensure the habitat enhancement is compatible with the solar array management requirements. The full impacts of solar arrays is as the report states not fully known as there are no compatible comparator sites identified. The scale of the two proposed sites are small and unlikely to lead to significant loss of supporting habitats or introduce a significant collision risk.

The applicant has produced a comprehensive Environmental Impact Assessment Report (EIAR) in which appendix 12.1 concerns a Habitat and National Vegetation Classification Survey covering carbon and soil profiles, description of habitat types, notable and invasive species, evaluation of botanical interest and the impact to sensitive habitats and mitigation considerations which have helped inform proposed conditions to be attached to any approval. The NatureScot comments also highlight the comments made in the EIAR which identify potential adaptive management measures and are expected to be included in detail in the required plans as outlined in the suggested conditions.

## **Conclusion**

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 impacts arising from the operation of the development as proposed will not, with identified mitigation in place, have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.

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

**Rinns of Islay Special Area of Conservation (SAC)**

**Purpose of the designation**

The Habitats Directive aims to conserve biodiversity by maintaining or restoring species to favourable conservation status.

The site lies within 3km of the Rinns of Islay SAC. It has a qualifying interest by regularly supporting populations of European importance of the species of Marsh fritillary metapopulations which are not exclusive to the boundaries of the SAC. NatureScot reviewed the applicant's survey on 10 August 2022

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: 21/02718/PP) could affect the qualifying interests which are Marsh fritillary metapopulations.

**Characteristics of the development**

The proposal is for the erection of a distillery and visitor centre, with associated and ancillary development including support warehousing buildings, installation of a sewage treatment plant, two nearby solar array sites and formation of all necessary accesses.

Marsh fritillary are a qualifying species of a nearby SAC. This species is known to rely on meta populations so populations found outwith the SAC boundary can be important components of the SAC population. This is highlighted in the Conservation Advice Package (CAP)<sup>7</sup> document for the site, which states “The population at the Rinns of Islay SAC also use suitable habitat in the surrounding wider countryside. When assessing the effects of any plan or project consideration should be given to whether impacts outwith the SAC could affect achievement of this conservation objective.”

## **Assessment**

This assessment considers the impact of the proposals on butterflies identified as the qualifying interest and has regard to the applicant’s submitted information in support of the planning application, and to consultation advice provided by NatureScot.

NatureScot has raised concerns about the submitted proposal on the basis that this proposal could have likely significant effects on the Marsh Fritillary metapopulations of the Rinns of Islay supporting the main populations on the Rinns of Islay SAC and their environs. The major threats to the marsh fritillary population at Rinns of Islay SAC are: habitat loss from land development and agricultural improvement, afforestation, changes in grazing regimes, and increasing fragmentation and isolation of habitats. The development will remove habitat at the distillery site and on the access track and impact habitat at the solar array sites therefore the development presents a likely significant effect to marsh fritillary. Due to the metapopulation nature of this species, populations and habitat outwith the SAC are important.

On the basis of further information submitted by the applicant, NatureScot has advised that Due to the metapopulation nature of this species, populations and habitat outwith the SAC are important. Given the marginal existing habitat and low numbers recorded, it likely this area does not hold a significant population therefore the disturbance to the species is likely to be small scale, relatively localised and potentially reversible with the provision of habitat improvement, therefore not likely to cause an Adverse Effect on Site Integrity.

Due to the protected status of the Marsh fritillary an agreed **species protection plan** should be in place prior to construction commencing which will be a condition of any approval. This should provide detail in relation to specific measures to be taken if Marsh Fritillary or their caterpillar webs are found during construction so that there is confidence that there would be no adverse effect to site integrity. It also needs to ensure there is no potential for any reckless offence under the Wildlife and Countryside Act 1981.

The applicant’s outline habitat management plan states that habitat management will be carried out to provide marsh fritillary habitat within the two solar array areas, or could be accomplished elsewhere within the ownership boundary which would potentially provide biodiversity net gain.

The habitat management plan needs to ensure that the marsh fritillary management requirements are referenced to the maintenance requirements of the solar arrays. The final habitat management plan must detail the current grazing regime. The habitat management needs to identify and present the likely effectiveness of the any new proposed ground and equipment management. **The detailed Habitat Management Plan should be agreed prior to construction commencing.**

## **Conclusion**

The potential impacts of the development in relation to the conservation objectives cited in the SAC designation have been considered in the light of the above and it has been concluded that with identified mitigation measures in place the impacts arising from the operation of the development as proposed will not, with identified mitigation in place, have a significant impact upon qualifying interests, and accordingly there is no reason to withhold permission on European nature conservation grounds.