

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held ON A HYBRID BASIS IN THE COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD AND BY
MICROSOFT TEAMS on FRIDAY, 9 DECEMBER 2022**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Jan Brown	Councillor Liz McCabe
Councillor Graham Hardie	Councillor Luna Martin
Councillor Fiona Howard	Councillor Peter Wallace

Attending: Iain Jackson, Governance, Risk and Safety Manager
Peter Bain, Development Manager – Planning
Tiwaah Antwi, Planning Officer – Planning
Richard Stein, Applicant
David Bittleston, Supporter
Alexi Murdoch, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Audrey Forrest, Amanda Hampsey, Daniel Hampsey, Willie Hume and Paul Kennedy.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MR RICHARD STEIN: ERECTION OF DETACHED GARDEN ROOM ANCILLARY TO DWELLINGHOUSE: EILEAN DA MHEINN, HARBOUR ISLAND, CRINAN, LOCHGILPHEAD (REF: 22/01248/PP)

The Chair welcomed everyone to the meeting which was being held on a hybrid basis. For the purposes of the sederunt Iain Jackson, Clerk to the Committee today, read out the names of the Members of the Committee and asked them to confirm their attendance.

In advance of the meeting today interested parties confirmed they would make presentations to the Committee. Mr Jackson read out the names of those representatives and asked them to confirm their attendance. Mr Jackson also clarified that there were no others in attendance today that wished to speak.

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

PLANNING

On behalf of the Head of Development and Economic Growth, Tiwaah Antwi, Planning Officer, made the following presentation with the aid of power point slides.

The application before Members today is for the construction of a detached garden room ancillary to the main dwellinghouse on Eilean Da Mheinn, Harbour Island in Crinan. The Island is accessible via a short boat trip from the end of Crinan harbour road.

The application has attracted high volume of representations and was therefore referred to Members to be determined as per the Council's agreed scheme of delegation.

Following the publication of the Report of Handling on 5 October 2022 and the initial supplementary report on 19 October 2022, officers have received a late consultee response from West of Scotland Archaeological Services and 8 further representations as noted in the secondary Supplementary report with copies made publicly available online. For the purpose of the record, I will just highlight a typographical error in the introduction section to the supplementary report. It is confirmed that the number of late representations should read as 8 and not one as stated. It is further confirmed that all the late representations have been addressed in section 4.

To provide a background information on this application, a similar proposal for a garden room on this site was presented to members at the April PPSL prior to the Council Elections. At the time, Members decided to have a site visit and hold a Hearing prior to determination, however, the application was withdrawn prior to the Hearing date. This was intended to address some of the concerns previously raised in objection to the proposal. Similarly, during the October PPSL for the current and revised application, officers considered that this is a straightforward householder application for an ancillary building within an established extended garden area of a dwellinghouse and therefore remained of the opinion that a pre-determination hearing would not add significant value to the planning process. However, after careful deliberation, Members decided to have a site visit on 29 November 2022 and hold a Hearing today prior to determination.

Slide 3:

Moving on with today's presentation, officers seek to address two main key policy issues associated with this application; the first being the way in which officers have applied policy LDP DM 1 in the assessment of this application and the second being the proposals' impact on the National Scenic Area though objectors have lately expressed agreement with officers on this.

In the context of the adopted Local Development Plan and the proposals map, policy LDP DM1 sets out the settlement strategy which indicates areas where development on appropriate sites should or should not be encouraged/allowed. The Harbour Island in this regard sits within a Very Sensitive Countryside Zone.

The LDP defines the VSC zone as an area which comprises countryside and isolated coast which has extremely limited capacity to successfully absorb development and as such only limited categories of natural resource based development is supported in these areas.

The VSC therefore generally, relates to high peaks and remoter coastal areas – areas that are generally devoid of human habitation for the main part and where human habitation is not expected to be encouraged/required. Accordingly, this policy ordinarily does not allow any new development in the VSC zone with the exception of specified few categories noted on the next slide but is not intended to restrict acceptable proposals which seeks to support established activity.

Slide 4:

Section F of policy LDP DM1 sets out the limited categories of development allowed within the VSC zone restricting them to renewable energy, telecommunication, development directly supporting agricultural, aquaculture, nature conservation or other established activity and/or small scale development related to outdoor sport and recreation.

In view of this, the main part of this policy to focus on is part (iii) of section F which refers to development directly supporting agricultural, aquaculture, nature conservation or other established activity – which forms the basis for officers' assessment of the proposal before members today.

In practice LDP DM 1 F(iii) establishes that development which directly supports an established activity, including activities and land uses outwith those specifically identified elsewhere under section F, may be supported within the Very Sensitive Countryside zone, subject of course to compliance with any other relevant policies in the LDP.

In the case of this particular application, the established activity is the residential occupation of the applicant's dwellinghouse and their use of parts of the island for purposes that are ancillary to the residential occupation of the property.

Slide 5:

This photo depicts the existing dwellinghouse and its immediate curtilage and managed garden ground, the rising ground behind the house is part of the northern rock ridge area which is less managed on the island compared to the two valleys.

Slide 6:

This is a similar photo taken from the northern ridge looking back at the house and shows an area of lawn and some of the established paths which run through Harbour Island. The path in the centre of the screen provides the link to the application site.

Slide 7:

The proposed garden room is located approximately 70m to the south east within a sheltered valley which runs SW to NE and is enclosed by parallel rock ridges to the north and south. The floor of the valley includes an established path route connecting the dwellinghouse to a boathouse and slipway at the south of the island. Within this relatively level and sheltered area there is evidence of longer established activity which relates directly to the residential occupation of the dwellinghouse on the island with the presence of framed bedding areas, relatively level grassy open areas, drainage channels, and a number of well-established garden plants/non-native trees, in addition to the existing boathouse and slipway. This photo shows part of the extended garden area including areas of grassy open space, garden plants and a framed bedding area.

Slide 8:

Moving on to the submitted plans for the application before Members today, this is a supplementary location plan which shows the site's proximity and relation with Crinan village.

Crinan village itself is accessible by two main public roads C39 and U047. The latter would appear to split the village in two parts with properties on Crinan harbour located to its West. The Harbour Island lies some 190 metres NW of Crinan Harbour.

Slide 9:

The Island's topography is predominantly made up geological formations and it is important to understand these to fully grasp the natural features and usable spaces within the island and hopefully the site visit was of some benefit to Members who were able to attend. The main access to the site is located NE with the old access located SW next to the boathouse. There are wild and natural woodland areas on the island which will be retained as is.

The three series of rock formations of the Island run SW to NE and lie almost parallel to each other with two sheltered valleys between them. The first of the rock ridges is located northward, the second splits the two valleys and the third is located southward overlooking neighbouring residents of Crinan harbour. Essentially, from this site plan, it can be concluded that the areas in blue are less managed rocky areas and shorelines and the area demarcated red is the usable spaces within the Island. Though at the mid-point, the second rock formation extends to the steps which access both valleys.

The main house and its immediate curtilage as shown in previous photos is contained within one of the sheltered valleys with the proposed garden room to be confined within the second valley which is currently maintained and managed as an extended domesticated garden ground. It was evident on site the extended domesticated garden area predates the existing owners in that there are evidence of tropical, non-native plants, footpath which previously run from the existing boathouse and slipway (both of which is believed to have been established around the same time as the main dwellinghouse was built on the Island if not longer). There are also raised beds, established pond in more recent years and defined footpaths in the area connecting back to the main dwellinghouse via a set of reconstructed metallic steps forming part of the defined footpaths which runs through the Island.

With this in mind, officers' are confident that the secondary extended and domesticated garden area has a distinctively different use from say the areas marked blue which is mainly rocky and less managed. Based on the nature of the proposal, submitted information and evidence gathered during site visit, Officers are satisfied that the proposed garden room is to be located on land which forms part of the established activity relating to the residential occupation of a dwellinghouse, and accordingly as development which would support that established activity is considered to be consistent in principle with the requirements of policy LDP DM 1 (F)(iii).

The proposed site is precisely located (point to area) and will be confined by the rock ridges (NW and SE) and established matured trees (NE and SW) as we will see in some of the photos later on.

Slide 10:

This site plan focuses on the extended garden area including the proposed application site, rock formation bounding the site to the front and rear and footpath to the boathouse and slipway. Matured trees have been established in the area between the application site and the boathouse thereby limiting the usable land in this area.

This footpath is proposed to be improved for the delivery of material and during construction after which it will be reinstated to its current state.

For the avoidance of doubt, a condition has been recommended to restrict the use of the proposed garden room and to ensure the path is reverted to its current state post construction.

Slide 11:

The proposed plans and elevations here are as revised following withdrawal of the initial application presented to members at the April PPSL. The proposed development is intended to be ancillary to the main house. Its use is limited to Island workers and as a quiet room for the applicants and their visitors. The proposal measures 3.7 metres high, 6.5 metres in length and 3.7 metres wide – it is approx. 24 square metres and on the footprint of an existing ruins foundation. The foundations of the ruins and the prospects of a building historically existing in this position has not been considered as part of the assessment due to its insignificant scale. Also, no historic evidence has been found for the building that may have once stood on the site.

The proposed structure will have a shower facility for use by Island workers and siting area with stove for heating and will be finished in natural larch cladding.

This is the west elevation showing an area of overhang roof, two sections of the proposed development and the roof plan.

Slide 12:

This shows the north, south and east elevations and their context with existing rock ridges to the rear. The building will rely on the existing access and no new access is proposed with the exception of proposed improvement to the footpath for the delivery of materials and construction. Again, that will be reinstated upon completion.

Slide 13:

It is worth noting at this point the Harbour Island is also located within the National Scenic Area (NSA) wherein the provisions of policy LDP 3 and SG LDP ENV 12 would seek to resist development that would have an adverse effect on the integrity of the area, or which would undermine the Special Qualities of the area.

Whilst Eilean da Mheinn is a key feature within the local landscape setting of Loch Crinan and Crinan Harbour it is not specifically mentioned or identified in the NSA description or list of its Special Qualities. The topography of the island however is somewhat a miniature representation of the wider the ridges and valleys that characterise the northern part of the NSA along with the general restriction of existing built development to more sheltered locations within valleys.

Based on the nature of the proposed development as assessed against the defined qualities list here, Officers are confident that the proposal would not undermine any of these qualities not have materially detrimental effect on the designated landscape and therefore consider the proposal compliant with policy LDP 3 and SG LDP ENV 12.

The next couple of slides will focus on photos of the application site as looking for key views in and out.

Slide 14:

This is taken from the beach closest to the core path leading to Ardnoe which lies approx. 273 metres from the site.

It shows the boathouse, geological formations and their ridges with this tree being a crucial reference point to grasping the proposed site location.

This natural and unmanaged woodland area will remain intact and undisturbed although it is identified that glimpse may be achieved through the trees.

Slide 15:

This photo is taken from the junction of the Crinan harbour and the public car park towards the island. The boathouse is located here with this the proposal to be positioned to the right where the tip of this reference tree which is crucial to the positioning of the development. The proposed development will be hidden from view from this location.

Slide 16:

This photo is taken at sea towards the existing boat house and with reference to the proposed ridge height, the proposal would not be visible from the Crinan harbour given the distance from the harbour, rock ridge and established trees. The building will be hidden behind this rock

Slide 17:

This photo is taken from a slightly different angle to the previous photo in the direction of the core paths which lies some 273 metres south west of the proposed site which is hidden behind this tree and from this angle it is thought that the proposed natural finish of the development would weather overtime and blend in with the natural setting and therefore would not be significantly detrimental to the visual amenity of the National Scenic Area nor its qualities.

Slide 18:

Again, taken at sea, this photo is looking back in the direction of the Crinan harbour with the recent extension to the main dwellinghouse just blended in the background with the rock formation at this location.

The proposed development will be located to the right where it will be well set back from the location of the main house. Given that the main house is one and half storey, the proposal will not be visible from this angle

Slide 19:

This is the extension in closer view.

Slide 20:

Within the extended garden ground, this photo is taken from where tropical, non-native plant ponds and raised garden beds have been established with the application site located roughly there.

Slide 21:

This photo is taken from the S rock ridge on the island closest to Crinan looking NE where the main access and pontoon to the island is located. This also highlights parts of the natural and unmanaged woodland area and which shows a much contrast from the more managed areas

Slide 22:

From the same reference point looking NW and down to the application site which is located between these two trees with a view of the main dwellinghouse in the background.

Slide 23:

This photo shows the site location from the direction of the boathouse with the existing path running between the site and the first rock formation to the E.

Slide 24:

This shows rough footprint of the proposal and ruins - looking towards the SW towards to core path.

Slide 25:

This is the same area photographed from a different angle and highlights the footprint of the building and its entrance.

Slide 26:

This photo shows a 4 metre high reference pole on the site to depict the height of the proposal though it is a 3.7 metres high building.

Slide 27:

At sea this photo is taken between the Island and the core path with the 4 metre high pole help in place by an officer roughly at this point. This is zoomed in on the next slide for clearer visibility.

Slide 28:

When zoomed in the pole can be seen roughly here.

Slide 29:

This final photo is taken from a pedestrian's view on the core path where there may be glimpse of the garden room.

On this basis, it is concluded that the proposed development is a modest structure located within land currently managed as part of a domestic garden and will generally be screened from wider view by the surrounding landform and existing tree cover. Whilst it is accepted that the development may be partially visible from an elevated forest walk above Crinan Harbour it will not have a significant presence within the wider landscape setting, and where visible will not appear out of context in relation to existing built development either on the island or the wider locale. The development is back dropped by the settlements of Crinan Harbour and Crinan where built development, including dwellings of significant scale and mass are evident in much more prominent and elevated locations than the current proposal.

Based on the above, the application is recommended for approval subject to conditions appended in the body of the main report of handling.

Slide 30:

Thanks for chair. That is the end of my presentation

APPLICANT

Richard Stein gave the following presentation:

Introduction

Members – thank you for showing interest. Whatever disagreements, we all care passionately for our wonderful local environment. Pleased you do too. We want to maintain/enhance spectacular environment. This we have done/are doing so. Would do nothing to harm very special place. Will explain why, in unique set of circumstances granting permission won't set precedent for development in Very Special Countryside Areas. Not a test case!

Will cover

- History & nature of Eilean da Mheinn
- Garden room proposal – why we want it – and what it is – and isn't
- Relevant Local Plan Policy
- Safeguards to moderate concerns

History, nature of the Island & Glen

Nature of island – Essentially wild rocky areas – covered in bracken/grass or trees. Area 2 connected distinct cultivated areas – one has house & other Glen dealing with here – both intensively used and cultivated since at least since early 1990s. Previous owners – Mr & Mrs Siddell 1992 – 2016 great gardeners – but in last 10 plus years due to age & disability – garden round house & in glen fell into ruin.

Glen – When we arrived – glen massively run down & overgrown. Was jungle like – loads of work to restore.

Rotten wooden stairs to the house, drainage ditches needing clearing, many broken cold frames with glass, plant trays, fish boxes. Had been used as a vegetable garden (garden near house reserved for ornamental flowers & shrubs). Fruit trees and bushes. Rhododendrons, camellias & many other interesting shrubs. Number of exotic conifers &

other trees. Large areas covered with Terram weed suppressing membrane. Rough paths existed through from steps to boathouse (where previous owners used to arrive on island). Rotten rails into sea to enable boats to be pulled up into boathouse. No intention to restore! Access not good – dries at high tide. Ruined stone building in middle – slightly smaller than proposed garden room.

Garden Room proposals why & what is proposed?

Why – Wanted small annex – for use by gardeners & friends – toilet, shower. Sometimes to stay overnight. Also quiet/writing space. Chose location of ruin – centre of glen – beautiful spot middle of garden.

What is proposed

Small timber building with toilet, shower and woodstove in a perfect location. Not overlooked. Hidden among trees, rhododendrons, azaleas etc – specially designed solution for woodland hideaway.

In light of house extension experience, very surprised at objections to original proposal. Even though recommended for approval by your planners, withdrew, consulted, reapplied to address objections – substantial changes made attempting to arrive at locally harmonious solution to end local unpleasantness.

- All dimensions reduced;
- Area down from 30+ sqm to 24 sqm
- Spire & sleeping loft removed
- Ridge reduced from 6.5 to 3.7m
- Kitchen area deleted
- Skylights deleted

Not fully serviced. Intended to ancillary use – only for use with house. Barely visible – and only glimpse in winter from footpath. Not from harbour at all. Locally sourced timber construction. All access via existing pontoon. No trees affected in construction. No impact on National Scenic Area. Won't detract from the Island's character.

Development Plan Policy

Revised proposal addressed almost all concerns – now only issue raised is Development Plan policy **LDP DM1**.

What is **LDP DM1**? Policy to set out preferred areas for development in all areas across Argyll and Bute.

DM1(F) sets out where development is encouraged in **Very Sensitive Countryside** areas (VSC). These are areas of remote coastline & high hills. Very little development at all. Existing residential property extremely rare. (F)(iii) is relevant here Development directly supporting agricultural, aquaculture, nature conservation or other established activity.

No mention in policy of residential/householder development specifically – because is so little of it in VSC areas. But here clear, our residential use of the land here is an established activity – and a garden room in the garden glen would directly support our residential use and enjoyment of the property.

BUT all to be used with the main house – not separately!

Policy LDP DM1 would not permit a new independent residential unit. So no risk of weakening policy. This is not a test case.

Other LDP policies are the way to prevent inappropriate ancillary developments in the National Scenic Area. All satisfied here in view of your planners. Understand concern which has been raised – but as planners confirm – unjustified. None of our supporters would have endorsed our application otherwise. The objectors aren't the only ones who care passionately for our wonderful environment.

Safeguards

Concerns this will be a springboard for a separate residential unit on the island. We have no wish, or intention to do that – or allow it to happen in future. Have offered a s75 planning agreement to absolutely rule that out – whoever owns the island in the future.

Archaeology – happy with watching brief condition.

Restoration of haul route after works – happy.

Happy to answer any question. Would invite you to grant permission as recommended by your planning officers.

SUPPORTER

David Bittleston advised that he lived in Crinan and had been asked to speak today in support of the application. He thanked the Committee for being Councillors and for the public service they did. He said he knew how much effort and commitment it took as he had been a Councillor for 23 years.

The advised that he had 3 things he wished to talk about today. The first was the large amount of interest this garden room application had generated. The second was what the community of Crinan thought about it, and the third was the work effort from the Applicant.

He said that when the Applicant put the application in he did not consult with anyone. The reason being, when they first moved to Crinan they put in a much larger application and no one at that time made any comments or objection to it. So they did not think anyone would be interested in the garden room. He advised that it was a bit of a shock on the final day of consultation on the application that a large body of objection was received. He said that even though the application was recommended for approval and had many supporters, the Applicant thought it would be right to withdraw this application to address the concerns. He sent an open invitation to everyone objecting to come and visit the island and look at the site and comment on the revised plans. The revised plans significantly reduced the overall site and height of the garden room. Everyone writing in support has visited the island. He said that only 2 objectors took up the offer to visit the site.

With regard to the community of Crinan, he said there was a single objection signed by 28 people from the Crinan Harbour Community. He advised that only 5 of the people who signed this objection lived in Crinan. He pointed out that 20 people from Crinan supported the application and he said that there was 4 times the support for the application.

He then advised that this was not an established garden. He said that the previous owners were amazing and had filled the valley with amazing trees and plants. Sadly, due to ill health, this could not be maintained in later years. When the Applicant arrived they did an incredible amount of work to restore the garden.

In conclusion, he said that once the Applicant realised how strongly the objectors felt about the original application, he withdrew this application and invited everyone to visit the island. This application submitted now is a much smaller one. The majority of the residents on Crinan were in support and, in particular, supported the work the Applicant has done, and continues to do, to restore and improve the natural environment. He urged the Committee to accept the Officer's recommendation and grant planning permission.

OBJECTOR

Alexi Murdoch gave a presentation with the aid of power point slides. A summary of what was said is detailed below:

Good morning Councillors. Thank you for being here today and thank you for the opportunity to represent Objectors to the planning application before you.

Let me state at the outset that my submission to you here today has been put together in close consultation with two qualified and highly experienced planning consultants. Both chartered members of the RTPI.

Meabhann Crowe got her MSc in Urban and Regional Planning from Heriot Watt and was Associate Director of Planning at Colliers in Edinburgh, worked in Scotland for about 14 years before recently moving to MKO in Ireland.

(I mention Meabhann's Scottish qualifications as there seems to have been some suggestion that, since now working from Ireland, she might not have the necessary experience to speak with authority on this matter).

Steven Cameron is equally experienced and based in Helensburgh so highly familiar with Argyll & Bute Adopted Policy.

Unfortunately, through a combination of factors neither Meabhann nor Steven could attend today.

But please be rest assured, I know I don't look the part, but I'm not just talking out of my hat here! Much of what you'll hear will be direct quotes and excerpts provided by them including excerpts from submissions by Meabhann made to the Planning department on behalf of objectors.

I hope you've had chance to read some of the objections.

I think this should dispel any notion that this is about people worrying about visual amenity in Crinan specifically. None of the objectors complain about the views from Crinan, nobody is taking about what we will see or what we will not see and whether it will spoil the view.

This is all about a very important piece of Argyll and Bute Development Management Policy LDP DM1 designed to protect and conserve highest quality landscape across Argyll

and Bute. It replaced the Development Control Zone in the new LDP1 and in doing so, Section F that we are dealing with, sought to bring clarity by introducing these categorical restrictions which did not exist in the past. These restrictions as noted by the Planners, are these 4 restrictions which are renewably energy related development; telecommunication related development; development directly supporting agriculture, aquaculture, nature conservation or other established activity; and small scale development related to outdoor sport and recreation.

Today we have heard from the Planners that the criterion for approving this application in the assessment of this Policy is that it accords with number (iii). This is the first time we are hearing this today. There have been 2 reports of handling that have recommended approval of this application and at no time, in none of the bodies of these reports is it stated that this is the assessment that is being made. In fact, as I am reading it here after listing the 4, it states, the nature of the proposed development is small scale and therefore acceptable in that it is intended to be used in conjunction with the main dwelling house on the island. The report continues to say – it is worth noting that policy LDP DM1 is not intended to restrict acceptable extension of existing residential dwellings within the Very Sensitive Countryside designation, this includes erection of detached, ancillary annex out buildings.

Now, this is the problem that we have had all along. This is the problem that our consultants have had. Everyone we have consulted with has said that this justification does not exist in the Policy. I sympathise with anyone that has gone to see this, I sympathise with the Applicant. I understand what it is they want to do. No one is contesting the design, what it is intended for. The main problem is that this building is actually prohibited by Policy, and if it is allowed to be put in, in an area that prohibits it, because supposedly it is not intended to restrict extension of dwellings, even though this is something almost 100m away, we end up in a situation where the Very Sensitive Countryside Development Management Zone becomes pointless. And this is a key piece of policy, I would say one of the most key pieces of policy. Development Management in the LDP has been designed very carefully by Senior Planners to ensure that the landscape of Argyll and Bute, which is probably Argyll and Bute's most precious resource - natural and sustainable resource, is protected now and for future generations.

We discussed with our clients consultants about whether or not this development fits into any of these 4 categories and the consensus is, that while it is suggested here for the first time today that it does fit into number (iii), that would not actually be correct. So we contest that.

Slide 1 LDP MAP.

There are 2 main designations on the island. National Scenic Area and Very Sensitive Countryside. This report focuses on the first and fails to completely, to correctly assess the second. In fact it has been ignored. I am shocked to hear for the first time, after months and months of our consultant trying to have contact with the Planners to get clarity on this language about how the category is not intended to restrict the expansion of dwellings, we hear today, well actually it accords with number (iii).

This is perhaps illustrated by **Section (R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:** - The nature of the proposal constitutes small scale householder development deemed acceptable and consistent with the requirement for the Settlement area. By virtue of its location, massing, design, materials and infrastructure the development will be in keeping with the character of its

immediate surrounding and the wider National Scenic Area. It would not give rise to any detrimental residential or visual amenity concerns.

The second sentence is fine but the first sentence about the settlement area is not. If you look at the map you will see the island is not in settlement.

Crinan is affected by an overarching national designation. The NSA and 3 development management zones.

As you see the entire island falls in the VSC Zone.

This places very strict restriction on development in the form of allowing only 4 categories of development.

This development does not accord with any of those (this is not contested).

So what we have in place of this is a justification for approval that completely hinges on an argument that in turn relies on 3 ideas.

That the site is a Brownfield Site.

That it is a long established well managed garden.

That it forms part of domestic curtilage.

Ultimately none of these, even if accepted, actually work to make the development accord with the Policy, but let's look at them anyway.

Before we do that though it's important to note planning history.

Planning History

From 2017 ROH EXCEPTION MADE AND TREE SCREENING EXCUSE

Notwithstanding the applicant's Design Statement, the Local Planning Authority has assessed, and remain firmly of the view that the proposed extension of a single storey cottage by the addition of a two-storey design will have an insensitive relationship with the existing dwellinghouse and as such is completely unacceptable with regard to design related policy guidance.

However, on a very fine balance, and taken into account the resultant development will be screened, or glimpsed in views from the mainland and sea, it is considered that this (only just) adequately mitigates against unduly detrimental impact of the design on the landscape character of the NSA to a level where the proposal can be supported as an exception to Local Development Plan policy. Once again for clarity, this should not be interpreted as an argument that otherwise similarly unacceptable design can be approved within the highest quality landscape on the basis that it can't be seen by reason of, for example, temporary natural features such as trees.

And yet this argument is being offered 5 years later in this report of handling.

D. Landscape Impact P19

The proposed development is a modest structure located within land currently managed as part of a domestic garden and will generally be screened from wider view by the surrounding landform **and existing tree cover**.

So we have an exemption made 5 years ago where it is noted this justification should not be used again and here we are 5 years later seeing it used in exactly the same way.

Mr Bain was the reviewing Officer on that Application so might remember.

Worth noting:

From 2017 Design Statement

The extension is proposed to the North West Elevation, betwixt a natural rock contour and the Existing Dwelling.

This not only assists in the visual containment of the proposal, occupies the site of an existing outbuilding and absorbs an existing extension, but tends away from all habitation located to the South East and nearby mainland...

An Extension to any other face would negatively highlight island habitation;

- Toward the Harbour by additional light pollution.
- Toward Crinan peninsula and the oak woodland, increasing visibility and mass.
- Toward the Poltalloch peninsula (sea) by again increasing visibility from the hill Dwelling behind the harbour and sailors. Again introducing light pollution to same.

All above would exacerbate the presence of habitation on the island within the national scenic area.

Regarding Brownfield Site (Photos)

The “Ruins”

While Officers state in their report that the footing or outline of the unknown old stone structure/byre etc **cannot be considered as material** to the assessment, they nonetheless inexplicably go on to mention it repeatedly and go as far as to suggest that this is a ‘brownfield site’. This is highly misleading.

In addressing comments:

Further comment pertained to the stone structure on site. It is noted that this element should not be given weighting as no historic records have been found to indicate there was a building at the location between 1865 – 1971 – though no further maps of a scale large enough to show the structure were published between 1899 and 1971.

[Comment: This comment is noted. **As per the report, no material weighting is given to this feature in that the ruins are not deemed substantial to allow for a redevelopment of the site.**]

And in ROH1:

[Comment: This point is noted. **It is however worth noting that the footing as observed on site are not substantial to be considered for a redevelopment.**]

And YET the body of the report does NOT actually qualify this. Rather it seems to suggest the opposite.

On p8 quoting the Design Statement

The unique location of the garden room and very special nature of this hidden glen within the Island requires an equally unique and special design solution. The design here has evolved as a solution which compliments the nature of a very special area of land, **using the existing foundation footprint.**

In C. Natural Environment

The existing site is a brownfield location that is currently occupied by low stone walls of a former building.

And **B** on p17

It is considered that the proposed location is carefully chosen where it will be confined in the glen **and on a brownfield site with evidence of ruins foundation (approx. 500 mm above the ground).**

Steven Cameron said:

Brownfield and 'ruin' argument – the planning officer recognises that no weight can be attached to any historical use. Any 'structure' or building that may have existed has long been disused. The Planning concept of 'abandonment' is well established. Criteria to consider 'abandonment' include the condition of the building and the period of non-use. In this instance there is no building to re-use and the non-use period is evidently lengthy. **The site under no circumstances can be considered a brownfield site as any historic use, if one existed, cannot be reinstated.** The suggestion that the site is brownfield is akin to suggesting that a Roman Camp could be re-established as a camp as the site was previously used for that purpose.

Well Management Garden, Within Curtilage – site plan (pointing out Orchard and species garden), drawing from 2019 Woodland; Glen with wood photo

Curtilage: 2019 drawing

Steven said

Curtilage – the previous planning application clearly shows the residential curtilage tightly drawn around the existing house, the ground outside this is essentially countryside (in this case 'very sensitive countryside'). The current application site is described in the earlier application as 'dense woodland' which would remain 'unaffected and undisturbed' by the earlier development.

Any focus on or allusion to the development being within curtilage and being ancillary is misleading. The application site is not residential curtilage, the development requires the benefit of planning permission, the planning authority is progressing a planning application.

Curtilage – as with domestic garden ground extensions into the Green Belt, a similar extension into VSC will require a ‘change of use’ planning permission. Any application would need to be assessed against the relevant Development Management Policies, in this case VSC. The previous planning application indicates the site is dense woodland, not residential curtilage, therefore planning permission is required for the change of use as well as any new building.

Note Conditions and Reasons Relative to Application Ref. No. 17/01819/PP

3. No development shall commence until the following details have been submitted to and approved in writing by the Planning Authority to ensure retention and management of the existing woodland areas:

- (i) **A woodland management plan for the applicants’ land ownership as shown edged red and the remainder of the whole island as shown on drawing AR/241/01;** and,
- (ii) Details of the existing trees within the vicinity of the existing building and proposed extension are known, as shown on a plan, specifying those to be felled or trimmed. The development shall only progress in accordance with these duly authorised landscape/land management measures and there shall be no other tree felling/tree surgery works undertaken within these red/blue edged areas **(for purposes of this condition to comprise the whole island)** in contradiction to the approved details/woodland management specification unless approved in writing by the Planning Authority prior to any works being implemented. Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason or are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

Reason: To ensure implementation of the satisfactory scheme of landscaping and to protect the special landscape qualities of the National Scenic Area (NSA).

LDP DM 1 Section F) Very Sensitive Countryside

B. Location, Nature and Design of Proposed Development

P17

The proposed site includes land within a Very Sensitive Countryside Zone where Policy DM1 only gives encouragement to specific categories of development on appropriate sites. These comprise: (i) Renewable energy related development, (ii) Telecommunication related development, (iii) Development directly supporting agricultural, aquaculture, nature conservation or other established activity, (iv) small scale development related to outdoor sport and recreation.

The nature of the proposed development is **small scale and therefore acceptable in that it is intended to be used in conjunction with the main dwellinghouse on the island**. It is worth noting that Policy DM1 is not intended to restrict acceptable extension of existing residential dwellings within the Very Sensitive Countryside designation – this includes erection of detached ancillary annex/outbuildings within their garden grounds.

And earlier on page 12 a similar statement:

While the proposed building is not located immediately beside the existing dwellinghouse on the island it has been established that this part of the island is managed and utilised as part of the garden ground of the main dwellinghouse. The application has therefore been deemed a householder application for a domestic garden room ancillary to the main house. **Though Policy LDP DM1 sets out categorical development allowed within Very Sensitive Countryside Zones. It does not seek to restrict extension to established residential dwellings including erection of ancillary annex/outbuildings.**

The claim is made that the Policy has been assessed and the development conforms;

Based on the above, the Planning Authority is satisfied that the proposed development within the curtilage of the main dwellinghouse and its intended domesticated use is acceptable and conforms to Policy LDP DM1 without compromise.

Meabhann said:

1. The Officer claims the proposal is compliant with the adopted Development Plan and specifically references Policy LDP DM1. This policy is a development management control policy and includes only 4 no. categories of development; the proposal does not accord with any of these.
2. The Officer makes a link between the proposal being located on part of the island deemed managed garden ground. While this in itself is highly questionable, the Officer goes on to claim to assess the proposal against the 4 no. categories of development set out in the Policy but has not in fact undertaken any such assessment. The Officer states that the Policy “*does not seek to restrict extension to established residential dwellings including erection of ancillary annex/buildings.*” This wording is not included in the adopted Policy. The Policy is explicit. The Policy makes no reference whatsoever to residential development. The Officer has not pointed to any adopted Supplementary Guidance or interim guidance that explains this interpretation and application of the policy. The assessment presented in the report of handling is therefore completely flawed.

Impact of Proposal on the Very Sensitive Countryside

In the first instance it is most pertinent to consider the clear contravention with Policy that exists. Planning policy LDP DM1 (F) is clear in that ‘only’ certain specific categories of development ‘on appropriate sites’ will be entertained under that policy. The proposed development fails to fall within any of the four categories set out under part (F) of the Policy above. The proposed development is therefore not in accordance with Policy DM1 and as such, being within designated Very Sensitive Countryside, cannot be granted planning permission. There is no provision in the Policy or elsewhere in the Development Plan or Supplementary Guidance that provides for any other decision to be forthcoming.

RE-ZONING

In our objection letter we offered the following suggestion, and this suggestion still stands today.

Availability of proper channels for Development

We would like to suggest to the Applicant, however, that the proper channel by which to bring forth this proposal for building development on the island exists and is actually quite straightforward. This is for the Applicant to apply to the Council to have the land in question re-zoned in the next LDP from Very Sensitive Countryside to within the Settlement Zone.

This is a path available to everyone in Argyll and Bute.

Although we don't believe such a re-zoning in this area would be appropriate (given its sensitivity and being within an NSA, and the fact that it's obviously always been zoned this way for good reason) should the applicant be successful in including the island in the Development Zone, an application of this type could then be brought forward in compliance with Zoning Policy.

But while the island remains within Very Sensitive Countryside Zone, this development would clearly be in breach of that Policy and as such must be refused.

It is worth noting that ROH response to this suggestion:

'A suggestion was made for the applicant to use the proper channel in bringing forth the proposal....by applying to the council for re-zoning the site in question from the Very Sensitive Countryside designation to a settlement zone to allow the proposed development to go ahead.

[Comment: This comment is noted. However, it is noted that the designation is not proposed to change in the proposed LDP2.]

We are not sure what to make of this comment.

Either way, the suggestion still stands.

Steven Cameron said: On VSC

3. VSC – the existing house and its curtilage, as well as the application site, all sit within the VSC designation. Similar to a farmhouse or dwelling sitting in the green belt, any development proposals which require an express grant of planning permission must be assessed against policy criteria. Within the green belt for example, this would consider the development's impact on the characteristics of green belt, within VSC, it must accord with the VSC restrictions. A development is not automatically acceptable, nor can it benefit from being in curtilage (which in this case it isn't in any event) as the wider impacts on the Development Management Zone must be taken into account. Otherwise there is no point in having specific DMZs for different character areas.
4. The VSC Development Management Zone is explicit in what is acceptable in terms of development. The proposed development does not fall within any of these classes of development.

NOTE. We have sought for months through our planning consultant for an answer from Officers as to where the justification for this additional residential expansion criteria may be found in Policy. The only answer we have received was this reference in the most recent report.

Reference was made in relation to misinterpretation of Policy DM1 as per the Committee report for the previous application (21/02308/PP) which stated the policy is not intended to restrict acceptable extension of existing residential dwellings and their gardens within the Very Sensitive Countryside designation.

[Comment: In view of this, Officers remain of the view that though this policy seeks to protect the Very Sensitive Countryside zone against new developments, it has been interpreted correctly and the development assessed against it accurately and without compromise.]

Essentially, in view of your question we remain of the same view...

It seems clear that there simply is no provision in adopted policy to substantiate this statement.

The whole *point* of a *categorically restrictive* Development Management Zone is surely to *restrict* development within that zone to *only* those *categories* actually listed in the Policy. This is not, as in other areas, open to interpretation. This is *not subjective*. The policy is *objective* by design. It would not work otherwise.

This from Steven Cameron and this is key:

This is important/VSC & Greenbelt – to emphasise the above points it is worth noting that LDP DM1 part G in relation to development within the Green Belt also sets out exemptions to the general presumption against any new development, this includes part (v) which applies to “Demolition and replacement of buildings and alterations or extensions of such buildings, including dwelling houses, subject to no change of use occurring.” In other words, the Green Belt DM Zone explicitly allows alterations and extension to buildings in the green belt, the VSC DM Zone does not.

The Officer appears to make a subjective assumption that the policy did not intend to restrict domestic or residential ancillary development. If the intention was to allow ancillary residential development then the policy would be explicit in this regard and this would have been included in the list of acceptable developments.

This from Argyll & Bute’s own MAIN ISSUES REPORT 2011 Comment on Management Zones

This Main Issues Report (MIR) represents the first formal stage in producing a new Local Development Plan (LDP).

Perhaps this better speaks to the intention of this policy:

Chapter 9

SETTLEMENT STRATEGY

The main advantages of the use of this zone system is that it builds certainty into the planning process...

Precedent

There remains real concern that should planning permission be granted this will erode the weight of the above named policy and important designations across not just the island, but wider Argyll & Bute. This is especially true of the application of Policy LDP DM1. Should that transpire, it is inevitable that continued development of man-made structures in VSC will occur. This development is clearly not in accordance with the policy provisions of the Plan, and to grant planning permission is considered to be detrimental to the ability of the Authority to enforce any future controls in similar locations. A refusal of this planning application would ensure no precedent exists for development to be proposed in VSC areas which do not conform to the Policy controls set out in the existing Plans and Guidance.

Summary

To summarise,

The proposed building, although proposed as a 'room' is in fact a fully serviced building which is far removed from the main house, and seeks to build in a geographically separate, remote and largely undisturbed glen on the island within the highly restricted Management Zone of Very Sensitive Countryside as well as within a nationally important National Scenic Area

Most crucially, the building and the proposed plan fail to fall into any of the four strict categories of the development management policy in place, outside of which no development of any scale is allowed.

Consequently, this application is wholly and fundamentally incompatible and does not comply with Argyll & Bute Planning Policy and must be refused.

Refusal Justification

A clear breach of Policy would exist should permission be granted for this development. **There is categorically no justification set out in the adopted Development Plan or associated Supplementary Guidance (SG) for these statements from the Planning Authority.** There has been no interim technical note or similar provided by the Planning Authority to detail out how the application of Policy LDP DM1 can be altered from that clearly stated in the adopted Development Plan.

The policy wording is explicit, in that only four development categories exist where development in this Zone would be deemed acceptable. As the proposal fails to fall within any of the development categories set out in the Policy, it must be rejected.

At this point the Committee took a 5 minute comfort and resumed the hearing at 12.20 pm.

It was noted that Councillor Fiona Howard had left the hearing during the previous presentations for personal reasons. She did not return to the hearing.

MEMBERS' QUESTIONS

Councillor Irvine advised that he had heard from Mr Murdoch today that there were 2 key issues crucial to this - the definition of the area of curtilage, and the development categories under which this application might fall. He sought clarification from Planning. Mr Bain referred to the definition of curtilage and said the objectors were correct in respect of identifying that there was an inconsistency in the identification of curtilage between the 2017 application and the current submission. He advised that the 2017 application was for an extension to the existing dwellinghouse and the curtilage within the plans submitted were defined by the Applicant's Agent at that time. The focus of the assessment in that matter was looking at the acceptability of extending the property. In that case the main focus was that this was a very large extension to a very small property. The current application shows a larger curtilage which the Applicant has claimed within the supporting information was used for functions that were ancillary to the dwelling house. This was an issue that Officers queried at the outset of this application, certainly at validation stage, as to why the curtilage had been shown differently. Mr Bain advised that it was the discretion of the Applicant to ~~the~~ define plans and that Officers have, in undertaking a site visit, and assessing the information provided by the Applicant, sought to establish that the claimed area of additional garden ground was genuinely something that had in the past been used for that purpose. He advised that this was something which certainly the Members who had been on site would have had a chance to look at and get a feel for themselves how the land was used and whether that was something that had occurred very recently or something which, as Officers have taken the view from looking at that part of the application site, had a bit more depth to it in terms of the length of time which that activity has occurred. In terms of the second issue, Mr Bain said the application site was located within very sensitive countryside. The objectors have raised an issue which was worth clarifying and was a matter which was dealt with in supplementary report number 2. He advised that it essentially came down to a misinterpretation of what Officers were intending to say. In hindsight, he said, the wording of Officers in the original report of handling could have been clearer in terms of establishing exactly where the proposal sat within the context of policy LDP DM 1 (F). Essentially the report of handling talked about an established activity. It talked about very sensitive countryside not being intended to restrict the extension of an established residential dwelling and that was essentially the same as looking at F(iii) which supported development directly related in supporting an established activity on the land.

Councillor Irvine referred to the benefit of visiting the site a few weeks ago and having the chance to walk around, and said that it would appear that between the 2017 application and this application that some clearing of the application site was more recent. He asked Planning Officers if it was their opinion that the established activity was historically established activity which had gone on for years or if it was more recent and fell somewhere between 2017 and now. Mr Bain advised that his view of it and his experience of the island, having been on it and visited it, was in relation to the current application as he had not visited it in 2017. The view taken was that there was sufficient indication that there was historic use of that area as an ancillary area to the residential occupation of the dwelling house. Information that had been provided by the Applicant confirmed that the level of use of that area had varied over time. From an Officer perspective, he said they had not sought to take the view that it would be an unlawful activity or would be an unlawful extension of the curtilage.

Councillor Hardie asked Planning Officers to comment on what Mr Murdoch had said about setting a precedent if this application was granted. Mr Bain said that he would disagree with that view. He advised that provided Members were satisfied that the land in

which the building was to be located was part of the established activity, he would suggest the proposal was well aligned with policy LDP DM1 (F)(iii).

Councillor Green, in terms of considering the current application, asked what the Planning Officer view was on whether setting a precedent was a material consideration. Mr Bain said that setting a precedent in planning terms was usually quite difficult. He advised that ordinarily you would be concerned about precedent where you were looking to justify a departure from development plan policy because you would be looking to accept circumstances where you were setting the plan aside and you would ordinarily be looking to set a very high bar for that to be assured that there were material circumstances to planning that were not readily replicated. So accepting something that was not planned for but relative justification for doing so. He said that they did not think that was the case in this instance. As stated in the Officer presentation, he said they felt that this proposal was aligned with the Local Development Plan. On that basis, he said they would highlight that each application was required to be assessed on its own merits. He said it would be difficult to use this case as an example that would look to undermine the intentions of LDP DM 1 or the protection of the very sensitive countryside.

At this point it was noted that Councillor Luna Martin wished to speak. The Chair sought and received clarification from Councillor Martin that she had joined the meeting sometime after the hearing had started. The Governance, Risk and Safety Manager, confirmed to Councillor Martin that as she had not been present from the start of the hearing she would be unable to take part in determination of this application and would not be permitted to ask any questions.

Councillor Brown said that she had two questions, one for Planning Officers and one for the Applicant. She referred to the proposal fitting in with policy LDP DM1 (F)(iii), and asked if it would also fit with policy LDP DM1 (F)(iv). She pointed out (F)(iv) was for a small scale development relating to sport and recreation. She commented that this would be an ancillary garden room to be used for reading and writing and asked if that would come under recreation. Mr Bain advised that in terms of the provisions of LDP DM1(F)(iv), this was intended to relate to public facilities or facilities with a wider public benefit than a private garden area.

Councillor Brown sought and received clarification from Mr Stein that the garden room may be used for people to stay overnight if they required extra space for their guests if they were part of a group of people staying at the house and that there would be a sofa bed there for that purpose. He said they would not be having meals or living there, it would just be a place to sleep. He said they would always be part of what happened in the house and that there was no intention to use it separately for people who were not part of a grouping in the house. He confirmed that the building would be big enough to accommodate someone on a sofa bed. He said it would not be a regular or permanent thing.

Councillor Irvine referred to comments made by the Objectors about rezoning and sought clarification on the issue of zoning and rezoning from Planning. Mr Bain said that his interpretation of this was in reference to the Local Development Plan process whereby when a Plan was renewed, which up till now was every 5 years, and moving forward would be every 10 years. Part of that process involved the Council preparing a Plan and going out to consultation on its proposals which would include its settlement strategy and any zoning of land. He said there was an opportunity through that consultation process for any party to ask the Council to rezone land either to promote development or protect it from further development. He said it was not an automatic process - it would feed into the

consultation process and may be subject to counter objection from other parties. If it was a matter of contention it would be an issue for Scottish Ministers to resolve at examination. He said it was possible but it was a process that came around infrequently and was not something that could be readily achieved in a short timescale.

Councillor Armour referred to the Objector saying that there was dense woodland in the 2017 application and commented that having the good fortune to have visited the island, it did not look like a dense woodland. He asked if the area had materially changed since 2017. Mr Bain said it was difficult to say as he and Ms Antwi were only familiar with the island in its current form. He noted from the 2017 application that there was an indication that there may have been more trees at that location. He said that as far as he was aware the Woodland Management Plan submitted at that time in relation to the extension of the house focussed on the woodland area around the building. He said he was not aware if they had any details of the tree cover at that time and how that might have changed.

Councillor Armour asked Mr Stein when any clearance of woodland was made. Mr Stein said that looking from the steps towards the boat house the bit that was dense woodland was up on the ridge. On the other side there was a block of dense woodland by the steps and otherwise in the glen itself it was thicket. He said there was not ever in the glen dense woodland. He said there were a number of trees that needed pruning as they were unhealthy and there were a few removed. He advised that towards the boat house where there was more tree cover, SSE were concerned about their overhead power line and they came and felled a number of trees in that area between the boat house and the centre of the glen. He said they wanted to clear a 10m belt and they removed a number of trees from that area. Otherwise, he advised that there had been no removal of dense woodland just a thinning out of some trees as they were so over grown they were growing into each other.

Councillor Armour asked if there had been any attempt to find out what the building ruin was. He said he thought it did look like it could have been some sort of living structure. He asked if there had been any work done to find out what this could have been. Mr Bain said no and that from their end the report noted the presence of the footprint of this ruin. It indicated that the site had some form of previous development but Planning were not sure what it was. He said that part of the reason for not investigating that further was because the presence of a previous development was not a fundamental matter in looking to justify approval of this development. Had the case been made that it was a redevelopment, then the provenance of the ruin, its scale, its function, would all have been relevant factors in looking at the assessment of this case. He said it was something that was there and that had relevance to some degree, but it was not considered to be a fundamental factor in assessing the acceptability or otherwise of this development. He referred to the late comment received from West of Scotland Archaeology (WOSA). He said that they had not cleared up the mystery of that structure either. He said they had commented on more wider issues of archaeology in the area.

Councillor Armour asked if he was correct to say that WOSA would like to look at this site before any works started. Mr Bain said that they had expressed that within the wider locality of the Dunadd and Kilmartin glen area, there was a high concentration of archaeological finds within previously settled areas, and on that basis the WOSA had advised that it would be appropriate to condition a watching brief for any ground breaking work associated with this development but they had not identified any specific sensitivity or interest in the structure that was on the site.

Councillor Irvine referred to the issue of curtilage being a crucial argument here. He commented that on site they had seen a small pond, some previously established bedding areas and the route through to the old boat house and slip way. He asked if that would have been historically defined as curtilage, those areas that would have previously been in use as part of the day to day activities. He asked Planning, if going to use a boat house, for example, would constitute part of the curtilage of any given property. Mr Bain said that taking access through an area itself would not necessarily define it as curtilage, but it may indicate other activity. Generally when you have a route that was well used that may give rise to other activity over time along that route. He said the specific circumstances of the properties that it linked would need to be looked at and the function that was being undertaken within that area. He advised of the specific circumstances of this island - it was in single ownership with a dwellinghouse centrally on the island, it had an obvious, immediate curtilage which was quite intensively managed and used for cultivation, domestic outbuildings, seating areas, and grassed areas well maintained compared to the remainder of the island. He advised that having been on the island, he viewed the valley or glen to the south of that to be a secondary area, not managed to the same extent as the immediate curtilage. There was a different characteristic to that but it still felt domestic and used for purposes ancillary to the residential enjoyment of the dwellinghouse. Having walked the remainder of the island, once you stepped up on to the ridges either side of the house or to the southern side of the valley you had a much more rugged landscape characterised by rock outcrops, by bracken and by tree cover not managed in the same way as the domestic area of the island. He advised that there was a decision in this that was going to come back to the Members. Ultimately it was whether the Members were convinced that the application site formed part of that curtilage area or area of established activity that related to the residential occupation of part of the island. As Officers, he said that they had been there and observed the ground conditions. Taking it back to the question about tree cover, he said that the times that he had been on the island he did not see any evidence of any recent ground disturbance or any indication that there had been any extensive fellings. He advised that he appreciated that the condition of the land at the moment was improved from the position it was when the Applicant first took ownership of the island. Whether that constituted a change of use or just meant bringing the historic garden back into use, as Officers have taken the view, he said it was for Members to take a view on.

SUMMING UP

Planning

Peter Bain summed up as follows:

Overview & Section 25 of the T&CP (Scotland) Act 1997:

During the course of today Members have heard a range of issues both in support of and opposition to the development. In reaching a decision today, Members are reminded of the requirement placed upon decision makers by Section 25 of the Town and Country Planning (Scotland) Act 1997 that they are required to determine all planning applications in accordance with the provisions of the adopted development plan unless material considerations indicate otherwise.

Policy Overview

The proposal is for a modest building with a footprint of 24sqm and a ridge height of 3.7m located in a sheltered and well screened site within an extended garden area associated with the sole dwellinghouse on the island.

The proposed use of the building as a garden room that would be utilised solely for purposes ancillary to the main dwelling located approximately 70m to the North West. Accordingly, this is a householder development which, given its secluded location, will not have any direct impact upon the privacy or residential amenity of any neighbouring property, nor does it give rise to any concern in respect of access or infrastructure requirements.

The fact that a planning application for a householder development has proven to be so controversial in attracting 131 representations is perhaps the most unusual aspect of this case however it does remain the opinion of officers that, notwithstanding the concerns raised by third parties, the matters at hand are in fact relatively straightforward with the issues of settlement strategy and the impact of the proposal upon landscape being identified as the two fundamental policy matters that Members will require to reach a clear position on before making their own decision on whether or not to grant planning permission.

Settlement Strategy:

The first issue that members will require to address in reaching a determination on this matter is to decide whether or not the proposed development is aligned with the settlement strategy as set out in the Argyll and Bute Local Development Plan 2015. There are seven development management zones defined in the Local Development Plan which seek to inform the content of policies in the plan, particularly with regard to the form, location and scale of new development. The Development Management Zones help support the LDP's settlement strategy by guiding larger scales of development primarily to larger key settlements and safeguarding or more sensitive and vulnerable areas from inappropriate scales of development.

Policy LDP DM 1 establishes the acceptable scales of development in each of the zones with the boundaries of all the settlements and countryside zones mapped in the Local Development Plan proposal maps.

In this instance, it is confirmed that the application site is located within the Very Sensitive Countryside which is a development management zone that generally comprises predominantly remoter and elevated areas of countryside, and isolated coast which have extremely limited capacity to successfully absorb development and within which only limited categories of development is supported.

The provisions of Policy LDP DM 1 (F) (iii) do however clearly identify that within Very Sensitive Countryside support can be afforded to development which directly supports an "established activity" that falls outwith the other defined categories of development that might be supported. The other defined categories are development related to renewable energy, telecommunications, agriculture, aquaculture, or small scale outdoor sports and recreation.

Officers have advised that within the context of policy LDP DM 1, the existence of the applicant's dwellinghouse should be acknowledged as an "established activity" with such

consideration reasonably being extended also to other land which forms a function that is ancillary to the residential occupation and enjoyment of that property. Officers are however clear in their view that there is a marked distinction between areas of the island that form part of that “established activity” and areas that do not form part of the established residential activity. The ‘domesticated’ areas essentially comprise the lower lying sheltered areas in the middle of the island and include the dwellinghouse itself, its immediate curtilage with flower beds, lawns, and domestic outbuildings, and contained valley to the south which is less intensively managed but is nonetheless distinctively different in its appearance and character to the outlying areas of the island to the north and south which are more rugged in nature.

It is noted that the objectors have raised issue with the conflict between the curtilage defined in the Applicant’s 2017 application to extend the dwellinghouse. In this respect I would highlight to Members that the extent of the curtilage was not a key factor in consideration of the earlier application. The key issue for Officers in dealing with the application to extend the house was the acceptability of adding a 2 storey extension to a single storey property. Members who are familiar with other elements of the plan’s sustainability design policy will note that ordinarily that policy is looking for extensions to property to be subservient in nature. The 2017 application extended an argument as to why in that particular circumstance, and given the sensitivities of the case, a larger form of extension might be accommodated. That certainly is the focus of that assessment and the arguments and the safeguards that provided. But what that permission doesn’t do, that wasn’t a permission for a new dwellinghouse. So that permission was not looking to establish the boundaries of any land that might have a change in use from another non-domestic purpose to residential. It was simply accepting the facts that the Applicant put in front of us at that time in terms of the way they defined their boundary. Looking at the current application, I would contend that from the information available there is additional land that is used, has been used, historically to support the function of the dwellinghouse on that island. That is the conclusion the Officers have reached in assessing the facts put before them in this application and in their own observations in visiting the site.

In considering whether the current proposal benefits from the support afforded by policy LDP DM 1 (F) (iii) members will require to arrive at view on whether the land to be developed falls forms part of the area of “established activity”. The contained nature, undulating topography and land cover have made it challenging to provide members with photographs that accurately depict the experience of visiting the island, however it is hoped that, in addition to the information presented today that those members of PPSL who were able to attend the site visit last week will be in a position to assist their fellow Councillors in reaching a view on way or the other in this respect.

Consideration of this aspect of the proposal is clear – if Members agree that the development is within an area of “established activity” associated with the existing dwellinghouse and that the proposed development directly supports that function then they should also logically reach the view that the application is, in principle at least, consistent with the settlement strategy set out in policy LDP DM 1.

It is further noted that whilst the circumstances of the site are open to a degree of interpretation given the absence of any clear boundary demarcation between curtilage or other garden ground and other ‘non-domestic’ land within the same ownership the implications of Members decision on the circumstances of this particular application site would not be expected to set a precedent or undermine the application of policy LDP DM 1 elsewhere as objectors contend.

Landscape Impact:

The second significant issue for members to determine is to establish whether they consider that the development would or would not have a significant adverse impact upon the Knapdale National Scenic Area. Whilst the acceptability of the scale, siting and design of the proposed building are matters also considered to be relevant, officers assessment of these matters against policy LDP 9 and SG LDP Sustainable Design identifies that the proposed garden room and its intended function are appropriately sited and designed having regard to its relationship to the associated dwelling and its immediate setting. The provisions of LDP 3 and SG LDP ENV 12 however require consideration of the impact of the development upon the wider setting, including the landscape character and appearance of the NSA.

Whilst Eilean Da Mhienn is recognised as being a key feature within the local setting of Loch Crinan and Crinan Harbour it is not specifically mentioned or identified in Nature Scotland's Citation for the NSA designation or its list of Special Qualities.

Whilst the development is of modest scale and sited in a manner that will prevent it from being viewed prominently it is recognised that the development will still be visible from some locations offering views of the island, including the elevated footpath above Crinan Harbour. However it is also appropriate to recognise that whilst the island is sparsely populated it is a location where man-made development is already evident due to the previous establishment of the dwellinghouse and the boathouse. The proposed garden room would be set between these two existing structures and would not introduce built development into a location which is otherwise devoid of development, neither would the proposed scale and design of the building appear out of place in relation to existing built development.

Where the development is open to view it will be seen in the context of the existing buildings on the island and against a wider backdrop which includes existing built development at Crinan Harbour, and elevated properties in Crinan. Whilst officers are satisfied that the proposed development would not have a significant impact upon the integrity of the NSA or the special qualities for which it is designated and accordingly is consistent with Policy LDP 3 and SG LDP ENV 12 this is again ultimately a matter upon which Members will require to reach their own view in determining the application.

Conclusion:

In summary, the case before Members has been assessed by officers who have reached a view informed by both internal and external consultees that the siting, scale, design, finishes, amenity, access and servicing arrangements associated with the proposed development are considered to be sufficiently aligned with the relevant provisions of the Argyll and Bute Local Development Plan 2015 and it is accordingly recommended that the application should be granted planning permission subject to the conditions and reasons appended to Supplementary Report No. 2.

Applicant

Mr Stein invited the Committee to follow the advice of their expert and impartial Planning Officers.

Objector

Mr Murdoch advised that despite the intention by Planners here today that this development fitted within F section iii, he would say that if you read section iii carefully it stated 'Development directly supporting agricultural, aquaculture, nature conservation or other established activity.' If that other established activity was completely removed from the previous categories, it could be defined as anything. He said that surely if extensions to dwellings were listed in the Greenbelt as something that was specifically allowed, that would be listed as well in very sensitive countryside. To use established activity and to claim that could be garden or anything, he said, was highly misleading. Giving some evidence to this, he pointed out that in the upcoming LDP2, which he advised was about to be adopted, the zoning did not change. He said there were some changes to the countryside zonings. The countryside changed from presumption against development primarily to presumption in favour of certain developments. So the countryside zone did change but the very sensitive countryside zone did not change. He advised that the nomenclature changed to remote countryside, but in terms of the categories that were allowed, this remained the same. He said there was, however, a subtle change in the language and that was, along with agriculture and so on, changed to specify countryside activity. He suggested that this was a clarification of the language to avoid exactly the kind of situation faced today - that established activity could be co-opted and be used to mean anything.

He advised that he would argue that if you allowed established activity to mean just anything, it sort of made moot the point of having these categories. Furthermore he said that if we were to accept that this was a garden, and it was long established, even though 5 years ago it clearly wasn't, that it had been rediscovered and it had been reclaimed, this did not automatically mean that because we have established there was a garden there, that this building that was proposed, which was a new structure, had anything to do with gardening activity. He said they were not talking about putting up a large greenhouse, this was a small guest house. He advised that he did not see how that had anything do to with established activity. He said that if established activity was supposed to mean, established activity to do with the house, again that could mean anything – he could put up a cinema, or put up a bar.

He advised that he knew these rural development management zones were peculiar to many people, and maybe to some Members too. He said that for these areas out in the countryside and very sensitive countryside in the special landscape across Argyll and Bute, this was a key tool that the Council had and had adopted in order to protect this landscape. He said that from a subjective point of view, a visit to the site might lead you to conclude that in terms of assessing and in terms of the visual amenity, it might be a small thing, and it might not matter, you might only glimpse it a little.

He advised that it should be noted that in terms of the excuse of tree screening, it was specifically suggested in the 2017 report of handling that this excuse should not be used again for obvious reasons. He said that trees came down, they got felled, they got sick. He commented on the whole idea of using tree screening for a second time to essentially make an exception in this same site, in a National Scenic Area, in very sensitive countryside. The idea that this would not create a precedent, he said he strongly disagreed with that. He said this would absolutely create a precedent in that by allowing this interpretation of established activity to just mean anything we want, that meant that tomorrow, if this went through, anyone who had land in their ownership and was in very sensitive countryside and that maybe wasn't in their curtilage yesterday, could fall into their curtilage tomorrow because they started gardening it, and then by calling it their

garden, it became domestic curtilage, and then, once it had become domestic curtilage, apparently that just meant a building could go up. He said that to him that was the definition of precedent and it was going to become impossible for the authority to control development of this sort in the very sensitive countryside development management zone designation.

He said that was what objectors had a problem with. It wasn't even specifically about this one development, this was about what this represented to wider Argyll and Bute. He said it was the reason people across Argyll and Bute were worried, it was the reason why people from even further afield who came to Scotland, who recognised the value Scotland had - these dwindling, remote and wild landscapes. He said that encroachment into these areas had to be strongly resisted. He said the Scottish Government said so and the Local Development Plan said so. He advised that this was the remit the authority needed to uphold its own policy and that was what they were arguing for here today. He asked the Committee to uphold policy in the public interest and refuse this application.

The Chair received confirmation from all parties present that they had received a fair hearing.

The Chair ruled and the Committee agreed, to adjourn for lunch at 1.07 pm. The Committee reconvened at 2 pm. Councillor Luna Martin did not return to the meeting.

DEBATE

Councillor Hardie thanked everyone for their presentations. He advised that having read the paperwork and heard from everyone today, he was satisfied that to grant this application would be a decision made in accordance with the Local Development Plan so he was content to grant the application. He advised that he was also satisfied that by granting the application no precedent would be made or set.

Councillor McCabe said that she took a different view. She advised that she felt that if this application was granted it would set a precedent as Mr Murdoch had stated, people could commence gardening, the curtilage could be extended and they could apply to build. She said the development was 100 yards away from the house. She said she did not think the application should be granted.

Councillor Armour thanked everyone for their presentations as they had been really helpful. He said that it had also been helpful to visit the site and commented that he could certainly see from the plans from 2017 where it said dense woodland, he could see why, as it looked like that from the many pictures seen. He advised that on site it did not. He advised that it looked like it had been a garden and was trying to be brought up to a standard it looked like it had been previously. He said that it was obvious that the main way of getting to the island was from the boat house at the south end of the island which you would need to come through the glen. He said that it looked to him that a dwelling had previously been there. He said that the thing that had swung this for him was visiting the site and seeing what was there, and that he was minded, like Councillor Hardie to support the application.

Councillor Irvine advised that like Councillor Armour, he had benefited from visiting the site and being able to put the application area into context, helped him with the discussion about curtilages. He commented that this was a crucial factor, the fact that this would be extended to the area where the application site was. He said it was only separated by the fact of the rock formation. He said he had noted that Mr Stein had reinstated new steps

down into that area and that it was clear that previously, historically, it was used as part of the ongoing activities around the house. He advised that he could see clearly from the site visit that some of that had lapsed, and that some of the ground was not in the best of condition, showing that its use had lapsed, but, he said that he found himself inclined to see this as part of the curtilage. He advised that he found it uncomfortable that the Committee, along with Officers too, were having to make an interpretation of LDP DM 1 and that this was not as clear as perhaps it could have been. He advised that if he has come to the conclusion that this was fair curtilage, then he also had to come to the conclusion that the application site was part of ongoing activities that had previously existed and that existed now. He confirmed that he was minded to support the Officer's recommendation to approve the application.

Councillor Brown said that she had listened to both sides and commented that looking at the pictures and being on site put it right into context. She said she could see where the existing garden curtilage was and she could see where the extended curtilage was and that it had been in use. She pointed out that the old pictures presented by Mr Murdoch, showed that the biggest thing you could see then was the existing house. She commented that it did not look to her like there was any massive dense woodland. She said you could see the valley, you could see both sides of the rock and you could see where you would come from the house all the way down to where the wee boat house was. She advised that, whilst taking into consideration LDP DM 1 (F)(iii), she thought the Planners had made the case for her and that she was minded to support the application.

Councillor Green said he was grateful that some Members had been able to attend the site visit as he had been unable to go. He advised that he had taken the opportunity of looking at the site from Crinan Harbour when he happened to be in the area. He advised that having listened to all the arguments today and seen the presentations, he was minded to go with the Planner's recommendation. He said he thought the development was relatively small scale and unobtrusive. He said he did not have any problems with it and setting the precedent had been covered as well.

Councillor McCabe confirmed that she remained of a different mind. She advised that when she saw the pictures from 2017 that the Applicant had put in, there was an inconsistency between 2017 and now of what was on the plans.

Councillor Wallace said that he too had listened to all the arguments carefully. He advised that while he had sympathy for what the objectors were trying to do to protect the landscape, he said that he did think he came down on the side that he did think, having visited the site, that there was a clear difference in the landscape between the house site and the valley and then the rest of the island. He said he was minded to support the Officer's recommendation.

DECISION

The Committee agreed by a majority to grant planning permission subject to the following conditions and reasons, as detailed in supplementary report number 2:

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 14/06/2022, 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
Proximity and Location Plan	AR/287/A/01		25/08/2022
Site Plan with Curtilage (1:1250)	AR/287/A/02		25/08/2022
Site Plan (1:250)	AR/287/A/03		25/08/2022
Proposed Elevations	AR/287/A/05		26/07/2022
Proposed Elevation, Sections and Plans	AR/287/A/04		26/07/2022

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

2. Notwithstanding the provisions of Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997, the building hereby permitted shall be utilised solely as a structure ancillary to the occupation of the main dwelling and shall not be occupied independently thereof as a separate dwelling unit.

Reason: To define the permission on the basis of the Planning Authority's assessment of the use applied for.

Note to Applicant:

For the avoidance of doubt this permission only provides for the occupation of the ancillary building and the main dwelling by a single household and their non-paying guests. Specifically the occupation of the building independently from that of the main dwelling (e.g. as a separate fulltime residence or a holiday letting unit) shall require the benefit of a separate planning permission.

3. Notwithstanding the provisions of Condition 1, the proposed path improvement to be carried out between the boathouse and the application site for the delivery of materials and construction of the garden room, hereby approved, shall be removed and the ground reinstated within three months following completion of the structure.

Reason: To ensure the development integrates into its surroundings, in the interest of visual amenity.

4. No development or ground breaking works shall commence until a method statement for an archaeological watching brief has been submitted to and approved in writing by the Planning Authority in consultation with the West of Scotland Archaeology Service.

The method statement shall be prepared by a suitably qualified person and shall provide for the recording, recovery and reporting of items of interest or finds within the application site.

The name of the archaeological organisation retained by the developer shall be given to the Planning Authority and to the West of Scotland Archaeology Service in writing not less than 14 days before development commences.

Thereafter the development shall be implemented in accordance with the duly approved details with the suitably qualified person being afforded access at all reasonable times during ground disturbance works.

Reason: In order to protect archaeological resources.

(Reference: Report by Head of Development and Economic Growth dated 5 October 2022, supplementary report number 1 dated 18 October 2022 and supplementary report number 2 dated 8 December 2022, submitted)