

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**23/0006/LRB**

**REFUSAL OF PLANNING PERMISSION FOR  
ERECTION OF SHORT-TERM HOLIDAY LET  
ACCOMMODATION, OUTBUILDING AND PONTOON  
AND INSTALLATION OF SEWAGE TREATMENT  
PLANT – PLANNING APPLICATION REFERENCE**

**22/02100/PP**

**EILEAN LOCH OSCAIR, ISLE OF LISMORE**

## STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr A MacGillivray ('the appellant').

Planning permission 22/02100/PP for the erection of short-term holiday let accommodation, outbuilding and pontoon and installation of sewage treatment plant at Eilean Loch Oskair, Isle of Lismore, Argyll and Bute ('the appeal site') was refused by the Planning Service under delegated powers on the 18<sup>th</sup> July 2023.

This decision is the subject of referral to a Local Review Body.

## DESCRIPTION OF SITE

The application site, Eilean Loch Oskair, is a small island located approximately 250 metres off the northwest coast of Lismore within Loch Linnhe. The proposed development site comprises an area of land towards the southern end of the island, extending from the west coast to the east coast of the island. The application site, and the wider surroundings, form an uninhabited and undeveloped island comprising rough grassland with a rocky foreshore.

## STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

## STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

- *Whether the proposed development is acceptable on a greenfield site within the 'Very Sensitive Countryside Zone' where National Planning Framework 4 Policy 9(b) requires development proposals on greenfield sites to be explicitly supported by policies in the Local Development Plan, and where Local Development Plan Policies LDP STRAT 1 and LDP DM 1 support only specific categories of development on appropriate sites, relating to proposals for renewable energy, telecommunications, agriculture, aquaculture, or nature conservation.*
- *Notwithstanding the above, whether the development is considered to be materially harmful to the landscape character and qualities of the area, the importance of which is acknowledged by the designation of the site as part of a wider National Scenic Area and is, therefore, contrary to National Planning Framework 4 Policy 4 as underpinned by Local Development Plan Policies LDP 3 and LDP 9, supplementary guidance SG LDP ENV 14, and Policies 04 and 70 of the proposed Local Development Plan 2.*

The Report of Handling (Appendix A) sets out the Council's full assessment of the application in terms of these key determining issues and concludes that:

Firstly, the proposal does not accord with NPF4 Policy 9 as underpinned by Local Development Plan Policies LDP STRAT 1 and LDP DM 1 and Policy 02 of the proposed Local Development Plan 2. The proposed development would be on a greenfield site within the 'Very Sensitive Countryside Zone' as designated in the adopted Local Development Plan and within the 'Remote Countryside Area' as designated in the proposed Local Development Plan 2, where support is given to only specific categories of development on appropriate sites. These comprise renewable energy related development; telecommunication related development; and development which would directly support agricultural, aquaculture, nature conservation or other established activity. The proposed short-term holiday letting dwellinghouse would not relate to any of the above categories of development.

Secondly, the proposed development would be sited on a small undeveloped and uninhabited island and would be materially harmful to the landscape character and qualities of the area, the importance of which is acknowledged by the designation of the site as part of a wider National Scenic Area. The proposed development would be in direct conflict with National Planning Framework Policy 4 which states that development proposals that will affect a National Scenic Area will only be supported where the objectives of the designation and the overall integrity of the area will not be compromised, or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. In this case, the scale, siting and nature of the proposed development will be materially harmful to the designated qualities of the area and its overall integrity and this harm is not clearly outweighed by any social, environmental or economic benefit, and certainly not of 'national importance'. The proposed development is therefore in conflict with NPF4 Policy 4 as underpinned by Local Development Plan Policies LDP 3 and LDP 9, supplementary guidance SG LDP ENV 14, and Policies 04 and 70 of the proposed Local Development Plan 2.

Furthermore, it is not considered that the highlighted unacceptable impacts of the proposed development can be appropriately mitigated through the use of planning conditions.

### **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is not considered that any additional information is required in light of the appellant's submission. The issues raised were assessed in the Report of Handling which is contained in Appendix A. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

### **COMMENT ON APPELLANT'S SUBMISSION**

The appellant's Agent ("the Agent") has submitted a supporting statement. The following comments are made in relation to their submission:

- The Agent states that 'It is accepted that the development will have a visual impact on the Lynn of Lorn National Scenic Area. However, that impact will be limited by virtue of the position, design, and materials proposed, for the buildings'.

**Comment:** *The proposed development would introduce built development in an area of undeveloped land, in an open and exposed location, and in this regard would undermine the designation of the National Scenic Area, having an adverse effect on the integrity of the area and failing to respect the undisturbed character and quality of the site and its surroundings. The harm is clearly not outweighed by any social, environmental or economic benefit, and certainly not of 'national importance', as required by NPF4 Policy 4. The development would be incompatible with and out of character in the context of the undisturbed, undeveloped and unaltered application site.*

- The Agent states that 'Furthermore, there is an economic benefit from adding a unique holiday experience to the island supporting the Applicant and his croft whilst, if councillors are impressed with the design, then this could be seen as being of 'national importance'.'

**Comment:** *The Applicant submitted no information to suggest that the proposed development would relate to the diversification of an existing croft. The site does not appear to be within a registered croft, as recorded on the Crofting Register. Additionally, there has been no demonstration that the proposal would have any benefits to the wider community or indeed the nation. In this regard, the proposal would further fail to meet the requirements of NPF4 Policy 4 as underpinned by Local Development Plan Policies LDP 3 and LDP 9, supplementary guidance SG LDP ENV 14, and Policies 04 and 70 of the proposed Local Development Plan 2.*

- The agent states that 'It is accepted that the development does not fall within one of the accepted categories under LDP Policies LDP STRAT 1 and LDP DM 1, and thus is at odds with NPF4 Policy 9 b. It also fails to find favour under NPF4 Policy 10. However, this is more than outweighed by the material considerations suggested above, notably the exceptional quality of the design'.

**Comment:** *The development proposed is on a greenfield site and is located within the 'Very Sensitive Countryside Zone' as defined within the Local Development Plan, where LDP Policies LDP STRAT 1 and LDP DM 1 give encouragement only to specific categories of development on appropriate sites. These comprise renewable energy related development; telecommunication related development; and development which would directly support agricultural, aquaculture, nature conservation or other established activity. The proposed short-term holiday letting dwellinghouse would not relate to any of the above categories of development. There is no established activity on the undeveloped and uninhabited island and no case has been presented to suggest otherwise. The design of the proposed development would not be sufficient to override the key policies of NPF4 Policy 9 and LDP Policies LDP STRAT 1 and LDP DM 1, which set out to reduce the need for greenfield development and set out the requirement for development proposals to respect the surrounding environment. The site occupies a wild, remote and undeveloped area valued for such qualities and the introduction of a significant form of built development would be at complete odds with the existing nature of the site and would*

*undermine the key policies which seek to preserve, protect and maintain such sensitive areas which have extremely limited capacity to successfully absorb development where only limited categories of natural based development is supported in these areas.*

- The Agent seeks to highlight the provisions of NPF4 Policy 29, which seeks to encourage rural economic activity, innovation and diversification.

**Comment:** *NPF4 Policy 29(a) offers support to development proposals that contribute to the viability, sustainability and diversity of rural communities and the local rural economy. The site is not linked to any existing community, settlement or other development and there is no information to suggest that the proposal for a holiday let dwellinghouse on an otherwise uninhabited island would provide any support to an existing rural community and its economy. The site is isolated and disconnected such that there would be no connection to the local community. Notwithstanding this, NPF4 Policy 29(c) requires development proposals to be suitable in terms of location, access, siting, design and environmental impact. In this instance, as previously outlined, the site is unsuitable for development in terms of location and access due its isolated and undeveloped nature and its sensitivity to inappropriate development that would fail to protect or conserve the important landscape characteristics of the wider area.*

- The Agent also seeks to highlight the provisions of NPF4 Policy 30, which seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

**Comment:** *No supporting information was submitted to address the requirements of NPF4 Policy 30, however the site is not in a location identified within the adopted Local Development Plan as being appropriate for tourist facilities or accommodation, and it therefore fails to comply with the provisions of NPF4 Policy 30(a). No information has been submitted with the application to suggest that the proposal would be a diversification opportunity or would in any way support the local economy. The development would fail to be compatible with the surrounding area by virtue of introducing significant built development that would lead to a significant increase in activity level at an isolated, undeveloped and sensitive location. As a result of the siting, the development would present very limited opportunities in terms of sustainable travel options and, as outlined within the representation received by the Oban District Access Panel, adaptations would be required to take into account accessibility for disabled people. The proposed development would not represent an appropriately sited tourism development.*

## CONCLUSION

Section 25 of the Town and Country Planning Act 1997 (as amended) requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

In this case, as detailed in the Report of Handling appended to this submission, the development does not represent an appropriate opportunity for the erection of a dwellinghouse for short-term holiday let accommodation and associated outbuilding, pontoon and sewage treatment plant, and there has been no sufficient or justifiable reason for the development to overcome the concerns outlined above. The proposed development is therefore confirmed as being contrary to National Planning Framework 4 Policies 4, 9, 10, 14, 17, 29 and 30, and Policies LDP 3, LDP 4, LDP 5, LDP 8, LDP 9, LDP 10 and LDP 11 and Supplementary Guidance SG LDP ENV 12, SG LDP ENV 14, SG LDP BUS 2, and SG LDP TOUR 1 of the Argyll and Bute Local Development Plan 2015.

Taking account of the above, it is respectfully submitted that the application for Review be dismissed.

## APPENDIX A – REPORT OF HANDLING

Argyll and Bute Council  
Development & Economic Growth

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

**Reference No:** 22/02100/PP  
**Planning Hierarchy:** Local Development  
**Applicant:** Mr A MacGillivray  
**Proposal:** Erection of short-term holiday let accommodation, outbuilding and pontoon and installation of sewage treatment plant  
**Site Address:** Eilean Loch Oskair, off Isle of Lismore

### DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
- Committee - Local Government Scotland Act 1973

### (A) THE APPLICATION

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

- Erection of short-term holiday let accommodation
- Erection of outbuilding
- Erection of pontoon
- Installation of sewage treatment plant
- Connection to private water supply

#### (ii) Other specified operations

- None

### (B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be **refused** for the reasons appended to this report.

### (C) CONSULTATIONS:

NatureScot

Letter dated 14.02.2023 objecting to the proposal until further information is provided. Further response dated 18.05.2023, following the receipt of additional information from the applicant, removing the holding objection.

Scottish Environment Protection Agency

Letter dated 03.02.2023 advising of no objections subject to conditions.

Environmental Health Service

Report dated 07.02.2023 advising of no objections to the application. Comment was made regarding the requirement of the applicant to apply for a short-term let licence.

Marine Scotland Licensing

No response at time of report and no request for an extension of time.

The above represents a summary of the issues raised. Full details of the consultation responses are available to view via the [Public Access](#) section of the Council's website.

**(D) HISTORY:**

No relevant planning history.

**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, overall closing date 23.02.2023.

**(F) REPRESENTATIONS:**

**(i) Representations received from:**

One email representation has been received from Lismore Community Council, dated 01.02.2023, supporting the application.

One email representation has been received from Oban District Access Panel, dated 27.01.2023, commenting on the application.

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

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

- Lismore Community Council support the proposed development as it would be a useful facility and diversification for a working croft, helping support the farming enterprise of a local family.



*Comment: Whilst the support for the application is noted, there has been no information submitted to suggest that the proposed development would relate to the diversification of an existing craft.*

- Oban District Access Panel (ODAP) outline that their remit is to encourage developers and designers to create accessible buildings and environments that provide disabled people with equal access and facilities and enable them to participate and to thrive.

In this respect the ODAP encourage the Applicant to consult with their Architect with a view to adapting the proposed accommodation on *Inclusive Design* principles to enable it to be used and enjoyed by a disabled people. This would involve providing a ramped access, facilitating wheelchair access, adapting the bathroom, and the widening of the pontoon bridge.

- *The comments by the ODAP are noted and will be passed to the Applicant for information/action should permission be granted.*

## (G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) **Environmental Impact Assessment Report:**  Yes  No

(ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:**  Yes  No

(iii) **A Design or Design/Access statement:**  Yes  No

A Design Statement has been submitted with the application.

(iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**  Yes  No

A Flood Risk Assessment has been submitted with the application.

## (H) PLANNING OBLIGATIONS

Is a Section 75 agreement required:  Yes  No

(I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:**  Yes  No

(J) **Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

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

**National Planning Framework 4 (Adopted 13<sup>th</sup> February 2023)**

**Part 2 – National Planning Policy**

**Sustainable Places**

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 5 – Soils

NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings (*includes provisions relevant to Greenfield Sites*)

NPF4 Policy 10 – Coastal Development

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

**Liveable Places**

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 17 – Rural Homes

NPF4 Policy 18 – Infrastructure First

NPF4 Policy 22 – Flood Risk and Water Management

**Productive Places**

NPF4 Policy 29 – Rural Development

NPF4 Policy 30 – Tourism

**‘Argyll and Bute Local Development Plan’ Adopted March 2015**

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

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

LDP 4 – Supporting the Sustainable Development of our Coastal Zone

LDP 5 – Supporting the Sustainable Growth of our Economy

LDP 8 – Supporting the Strength of our Communities

LDP 9 – Development Setting, Layout and Design

LDP 10 – Maximising our Resources and Reducing our Consumption

LDP 11 – Improving our Connectivity and Infrastructure

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

**Natural Environment**

SG LDP ENV 1 – Impact on Habitats, Species and our Biodiversity  
SG LDP ENV 2 – Impact on European Sites  
SG LDP ENV 11 – Protection of Soil and Peat Resources

**Landscape and Design**

SG LDP ENV 12 – Impact on National Scenic Areas (NSAs)  
SG LDP ENV 14 – Landscape

**Support for Business & Industry: General**

SG LDP BUS 2 – Business & Industry Proposals in the Countryside Zones

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

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

**Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

**Resources and Consumption**

SG LDP SERV 1 – Private Sewage Treatment Plants & Wastewater Systems  
SG LDP SERV 2 – Incorporation of Natural Features / SuDS  
SG LDP SERV 5(b) – Provision of Waste Storage & Collection Facilities within New Development  
SG LDP SERV 6 – Private Water Supplies and Water Conservation  
SG LDP SERV 9 – Safeguarding Better Quality Agricultural Land

**Addressing Climate Change**

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

**Transport (Including Core Paths)**

SG LDP TRAN 1 – Access to the Outdoors  
SG LDP TRAN 2 – Development and Public Transport Accessibility  
SG LDP TRAN 3 – Special Needs Access Provision  
SG LDP TRAN 4 – New & Existing, Public Roads & Private Access Regimes  
SG LDP TRAN 6 – Vehicle Parking Provision

**Coastal Development**

SG LDP CST 1 – Coastal Development

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

- Third Party Representations
- Consultation Responses
- Argyll and Bute Sustainable Design Guidance, 2006
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)

[Argyll and Bute proposed Local Development Plan 2 \(November 2019\)](#) – The Examination by Scottish Government Reporters to the Argyll and Bute Local Development Plan 2 has now concluded and the [Examination Report](#) has been published (13<sup>th</sup> June 2023). The Examination Report is a material consideration of significant weight and may be used as such until the conclusion of the LDP2 Adoption Process. Consequently, the Proposed Local Development Plan 2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

### **Spatial and Settlement Strategy**

Policy 02 – Outwith Settlement Areas  
Policy 04 – Sustainable Development

### **High Quality Places**

Policy 05 – Design and Placemaking  
Policy 08 – Sustainable Siting  
Policy 09 – Sustainable Design  
Policy 10 – Design – All Development

### **Diverse and Sustainable Economy**

Policy 23 – Tourism Development, Accommodation, Infrastructure and Facilities

### **Sustainable Communities**

Policy 55 – Flooding  
Policy 58 – Private Water Supplies and Water Conservation  
Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems  
Policy 61 – Sustainable Urban Drainage Systems (SUDS)  
Policy 63 – Waste Related Development and Waste Management

### **High Quality Environment**

Policy 70 – Development Impact on National Scenic Areas (NSA's)  
Policy 73 – Development Impact on Habitats, Species and Biodiversity  
Policy 74 – Development Impact of Sites International and National Importance  
Policy 79 – Protection of Soil and Peat Resources

Policy 83 – Safeguarding Agricultural and Croft Land

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

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

**(M) Has a Sustainability Checklist been submitted:**  Yes  No

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

**(O) Requirement for a pre-determination hearing:**  Yes  No

**(P)(i) Key Constraints/Designations Affected by the Development:**

- Lynn of Lorn National Scenic Area
- SEPA Coastal Flood Risk Zone
- Eileanan agus Sgeiran Lios mor Special Area of Conservation

**(P)(ii) Soils**

Agricultural Land Classification:

Unclassified Land

Peatland/Carbon Rich Soils Classification:

- Class 1  
 Class 2  
 Class 3  
 N/A

Peat Depth Classification:

N/A

Does the development relate to croft land?

Yes  No

Would the development restrict access to croft or better quality agricultural land?

Yes  No  N/A

Would the development result in fragmentation of croft / better quality agricultural land?

Yes  No  N/A

**(P)(iii) Woodland**

Will the proposal result in loss of trees/woodland?

Yes  
 No

Does the proposal include any replacement or compensatory planting?

Yes  
 No details to be secured by condition  
 N/A

**(P)(iv) Land Status / LDP Settlement Strategy**

Status of Land within the Application

- Brownfield
- Brownfield Reclaimed by Nature
- Greenfield

**ABC LDP 2015 Settlement Strategy**

LDP DM 1

- Main Town Settlement Area
- Key Rural Settlement Area
- Village/Minor Settlement Area
- Rural Opportunity Area
- Countryside Zone
- Very Sensitive Countryside Zone
- Greenbelt

**ABC LDP 2015 Allocations/PDAs/AF As etc:**

N/A

**ABC pLDP2 Settlement Strategy**

- Settlement Area
- Countryside Area
- Remote Countryside Area
- Helensburgh & Lomond Greenbelt

**ABC pLDP2 Allocations/PDAs/AF As etc:**

N/A

**(P)(v) Summary assessment and summary of determining issues and material considerations**

This application seeks planning permission for the erection of a detached dwellinghouse for short-term holiday letting purposes, an associated outbuilding and pontoon, and the installation of a sewage treatment plant, at the site of Eilean Loch Oskair, off the Isle of Lismore.

The application site, Eilean Loch Oskair, is a small island located approximately 250 metres off the northwest coast of Lismore within Loch Linnhe. The application site comprises an area of land towards the southern end of the island, extending from the west coast to the east coast of the island. The application site, and the wider surroundings, form an uninhabited and undeveloped island comprising rough grassland with a rocky foreshore.

This application seeks planning permission for the erection of a dwellinghouse for short-term holiday letting purposes, and an associated outbuilding and pontoon. The proposed dwellinghouse would be set back from the coast, sited relatively centrally within the plot. The dwelling would be single storey and would be formed of three main blocks; a narrow linear block at the rear would facilitate two bedrooms which would be connected to a circulation block which would facilitate the access within the dwelling and would connect to the larger living and dining block which would be set at an angle around an adjacent rocky outcrop. The total external footprint of the dwellinghouse would be approximately 188 square metres. The flat roof of the dwelling would predominantly have a height of 3.2 metres, with the circulation block being set slightly lower than this at a height of 3 metres. The dwelling would include contemporary glazing arrangements within each elevation which would feature

timber shutters. The facing material of the dwellinghouse would comprise vertically aligned natural timber cladding.

The proposed outbuilding would be sited immediately adjacent to the proposed dwellinghouse and would comprise a rectangular building covering a footprint of approximately 7.3 square metres. The building would be similar in design to the dwelling, having a flat roof at a height of 3.2 metres and clad in vertically aligned timber.

The proposed pontoon would be sited at the eastern shore of the island, extending approximately 38 metres from the shoreline to provide the access to the island and the application site.

**NPF4 Policy 1** seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

**NPF4 Policy 2** seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. It is noted that the provisions of the Settlement Strategy set out within Policy LDP DM 1 of the LDP promotes sustainable levels of growth by steering significant development to our Main Towns and Settlements, rural growth is supported through identification of Key Rural Settlements and safeguards more sensitive and vulnerable areas within its various countryside designations.

**NPF4 Policy 3** seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

The application site is located within close proximity to the Eileanan agus Sgeiran Lios mor Special Area of Conservation, protected for its harbour seals. As a result of the designation, comments were sought from NatureScot who, after the submission of additional information from the applicant, advised that the proposal is likely to have a significant effect on the harbour seal qualifying interests of the Special Area of Conservation. However, the response from NatureScot concluded that whilst there are natural heritage interest of international importance at the site, their advice is that these would not be adversely affected. The status of the site means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently NatureScot advised that the Council is required to consider the effect of the proposal on the Special Area of Conservation. NatureScot advised that, in their view, the proposal is likely to have a significant effect on the harbour seal qualifying interests and accordingly, the Council, as competent Authority, is required to carry out an Appropriate Assessment (AA) in view of the site's conservation objectives for its qualifying interests.

An Appropriate Assessment has been undertaken which identifies that, subject to conditions being imposed were planning permission to be granted, to ensure that the development would be undertaken in accordance with the mitigation set out within Environmental Statement accompanying the application, any disturbance would be minimised. Based on the likely short time period for construction, and the proposed mitigation measures, there would be no adverse effect on the integrity of the Special Area of Conservation.

Whilst no specific proposals for biodiversity improvements have been submitted it is considered that adequate and proportionate measures for biodiversity enhancement and protection could be delivered by planning condition in the event that planning permission were to be granted. The proposed development is therefore considered to be in compliance with NPF4 Policy 3 as underpinned by LDP Policy LDP 3, supplementary guidance SG LDP ENV 1, and Policies 73 and 74 of the proposed Local Development Plan 2.

**NPF4 Policy 4** seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

The site lies within the Lynn of Lorn National Scenic Area. The Lynn of Lorn is an island-studded waterway at the confluence of the Sound of Mull with Loch Etive and Loch Linnhe, from which it is separated by the island of Lismore. The Lynn follows the north-westerly alignment of the prevailing relief in the area, which, set in the wider context of sea lochs and mountains, is a small scale region of parallel limestone ridges. The proposed development would introduce built development in an area of undeveloped land, in an open and exposed location, and would therefore disturb the unsettled character of the landscape and have an adverse effect on the integrity of the area. In this regard, the development would fail to respect the existing character and quality of the site and its surroundings.

NPF Policy 4 c) states that development proposals that will affect a National Scenic Area will only be supported where:

- i. The objectives of designation and the overall integrity of the area will not be compromised; or
- ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

In this case, it is the considered opinion of the planning authority that the proposed development will be materially harmful to the designated qualities of the area and its overall integrity and that this harm is not clearly outweighed by any social, environmental or economic benefit, and certainly not of 'national importance'.

The proposed development is therefore considered to be in conflict with NPF4 Policy 4 as underpinned by Local Development Plan Policy LDP 3, supplementary guidance SG LDP ENV 14, and Policies 04 and 70 of the proposed Local Development Plan 2.

**NPF4 Policy 5** seeks to protect carbon-rich soils, to restore peatlands and to minimise disturbance to soils from development.



The development proposed by the current planning application seeks to develop an area of rough ground. The site has no agricultural land classification and is not within an identified area of peatland, carbon-rich soils or priority peatland habitat. The development proposed is therefore considered to be in accordance with NPF4 Policy 5 as underpinned by Local Development Plan Policy LDP 3, supplementary guidance SG LDP ENV 11 and SG LDP SERV 9, and Policies 79 and 83 of the proposed Local Development Plan 2.

**NPF4 Policy 9** seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

The development proposed by this planning application is on a greenfield site. The site is located within the Very Sensitive Countryside Zone as defined within the Local Development Plan, where LDP Policies LDP STRAT 1 and LDP DM 1 give encouragement only to specific categories of development on appropriate sites. These comprise renewable energy related development; telecommunication related development; and development which would directly support agricultural, aquaculture, nature conservation or other established activity. The proposed short-term holiday letting dwellinghouse would not relate to any of the above categories of development. There is no established activity on the undeveloped and uninhabited island and no case has been presented to suggest otherwise.

The proposed development, on a greenfield site, would therefore be contrary to NPF4 Policy 9b, which requires development proposals on greenfield sites to be explicitly supported by policies in the Local Development Plan. The development would thereby fail to achieve the policy outcome aims which require development to be sited within an appropriate location to maximise the use of existing assets and minimise additional land take.

With regard to the proposed Local Development Plan 2, the application site is located within the Remote Countryside. This development management zone comprises countryside and isolated coast which has extremely limited capacity to successfully absorb development. Only limited categories of natural resource based development is supported in these areas, limited to renewable energy related development, telecommunications or other associated digital infrastructure, or development directly supporting existing agricultural units, aquaculture, or other recognised countryside activity. The proposed development would not relate to any of these categories of development and in this regard would be contrary to Policy 02 of the proposed Local Development Plan 2.

**NPF4 Policy 10** seeks to protect coastal communities and assets and support resilience to the impacts of climate change.

The proposed development is considered to be a form of coastal development by virtue of the development relying on the use of the coast to access and facilitate the development. NPF4 Policy 10b states that development proposals in undeveloped coastal areas will only be supported where they:

- i. are necessary to support the blue economy, net zero emissions or to contribute to the economy or wellbeing of communities whose livelihood depend on marine or coastal activities, or is for essential infrastructure, where there is a specific locational need and no other suitable site;
- ii. do not result in the need for further coastal protection measures taking into account future sea level change; or increase the risk to people of coastal flooding or coastal erosion, including through the loss of natural coastal defences including dune systems; and
- iii. are anticipated to be supportable in the long-term, taking into account projected climate change; or
- iv. are designed to have a very short lifespan

The proposed development would fail to meet the above criteria as it would not relate to support of the blue economy or achieving net zero emissions, and neither would the development contribute to the economy or wellbeing of a community dependent on marine or coastal activities. Additionally, the development does not relate to the provision of essential infrastructure.

The isolated nature of the coastline within this area, designated as Very Sensitive Countryside Zone, is unable to successfully absorb the proposed development. The scale of the development, comprising a dwellinghouse with a large footprint, and the associated outbuilding and pontoon would be of a scale that is inappropriate to the characteristics of the undeveloped and isolated location and would therefore fail to safeguard areas identified as being sensitive and vulnerable to development impacts.

The proposed development would therefore represent an unsustainable form of coastal development that would conflict with the requirements of NPF4 Policy 10 as underpinned by Local Development Plan Policies LDP DM1, LDP 8 and LDP 10, and supplementary guidance SG LDP CST 1.

**NPF4 Policy 12** seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The development the subject of this planning application seeks permission for the erection of a dwellinghouse for short-term letting purposes. This is a development likely to generate waste when operational. Whilst no details have been provided regarding the proposed management of waste from the site, such details could be secured via condition in the event that planning permission were to be granted. In this regard, the proposed development is considered to be in compliance with NPF 4 Policy 12(c) as underpinned by LDP Policy LDP 10, supplementary guidance SG LDP SERV 5(b), and Policy 63 of the proposed Local Development Plan 2.

**NPF4 Policy 13** seeks to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.

This policy aims to provide more opportunities for improved and more inclusive active and sustainable travel opportunities whilst ensuring that developments are in locations which support sustainable travel.

Due to the isolated and remote location of the site, access would be required to be by boat, assisted by the proposed pontoon. This small scale development is not considered to be a significant travel generating use or a proposal where it is considered important to monitor travel patterns resulting from the development.

Notwithstanding the small scale nature of the development, it is not considered that the proposal adequately addresses the requirements of NPF4 Policy 13b, which requires development proposals to demonstrate consideration of the transport requirements generated and their adherence to sustainable travel and investment hierarchies. There would be no direct or easy access to the site via sustainable transport methods or public transport and no apparent consideration has been given to the transport needs of different user groups, such as those with limited mobility. Whilst the development would be small scale and access to the site could be facilitated, it is not considered that the proposal would adhere to the requirements of NPF4 Policy 13, which specifically requires development to be in a location that supports sustainable travel.

**NPF4 Policy 14** seeks to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the 'Place Principle'.

NPF4 Policy 14c states that development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful place will not be supported. Whilst it is acknowledged that the design of the dwelling has been given significant consideration, the siting of the development within the exposed and sensitive landscape would fail to adhere to the requirements of NPF4 Policy 14 by virtue of being inappropriately sited. The development would not be well connected to any existing established settlement, development or infrastructure, nor would the development safeguard the isolated and undeveloped nature of the immediate and wider landscape surroundings.

New development in this location would not be cohesive with the landscape or settlement pattern and would not integrate with the character of the surrounding area. The introduction of built development to an undeveloped island is considered inappropriate and the development would have a significant adverse impact upon the setting, and would unacceptably alter the character and appearance of the surrounding landscape and seascape.

In addition to the above, however, it is important to note that the impact of the proposed development upon the landscape and character of the surrounding area is not the sole determining factor in the consideration of this application. Regardless of any interpretation of the impact of the proposed development upon the landscape, the development does not meet the fundamental key planning policy test for the Council's established and adopted settlement strategy for the planned growth of Argyll and Bute as set out within Policy LDP DM 1. Neither, therefore, does the proposed development accord with the sustainable development aims of the Council as established within adopted key planning Policy LDP STRAT 1 which underpins NPF4 Policy 14.

The proposed development fails to pay regard to the wider surroundings of the site in terms of infrastructure, land uses, available facilities, connectivity, the existing

character, scale and density, and views. The site is isolated and the proposed development would be incompatible with the existing character of the area, and is therefore contrary to Policies 05, 08, 09 and 10 of the proposed Local Development Plan 2.

**NPF4 Policy 17** seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.

The development the subject of this planning application is located within a defined 'remote rural area' where Policy 17(c) offers support only where such proposals:

- i. Support and sustain existing fragile communities;
- ii. Support identified local housing outcomes; and
- iii. Are suitable in terms of location, access and environmental impact.

The proposed development seeks consent for a dwellinghouse for use for short-term holiday letting purposes. The proposed development would not therefore offer an opportunity for occupation by persons within the local community. No supporting evidence has been submitted to suggest that the development proposed would provide support to an established fragile community. In addition, as outlined above, the siting of the development is considered unsustainable due to its inaccessibility and impact upon the sensitive and vulnerable isolated landscape and seascape. The proposed development would therefore be contrary to the aims of NPF4 Policy 17 as underpinned by Local Development Plan Policy LDP DM 1.

**NPF4 Policy 18** seeks to encourage, promote and facilitate an infrastructure first approach to land use planning.

The development the subject of this planning application proposes a private drainage system comprising a sewage treatment plant, with water supply via connection to a private water supply. The Council's Building Standards Service would apply suitable control over the detailed arrangements of the proposed sewage treatment plant at Building Warrant stage in the event that planning permission were to be granted.

The proposed water and drainage infrastructure to serve the proposed development is considered to be consistent with the broad aims of NPF4 Policy 18 as underpinned by LDP Policy LDP 11, supplementary guidance SG LDP SERV 1, and Policy 60 of the proposed Local Development Plan 2.

**NPF4 Policy 22** seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

The development the subject of this planning application proposes connection to a private water supply. In the event that planning permission were to be granted, a condition would be required to secure an appraisal of the wholesomeness and sufficiency of the intended water supply.

The application site is situated adjacent to the coastal functional floodplain, as indicated on the SEPA Flood Maps. Given the proposed siting for the development on a small undeveloped island, the proposed development falls within the Most Vulnerable land use class. SEPA have been consulted on the application and have

stated that, based upon the Flood Risk Assessment submitted with the application, there are no objections subject to a condition relating to development being sited above 5.8mAOD. Should planning permission be granted and the relevant condition attached, the proposed development would be compliant with NPF4 Policy 22 as underpinned by Local Development Plan Policies LDP 10 and LDP 11, supplementary guidance SG LDP SERV 7, and Policies 55 and 58 of the proposed Local Development Plan 2.

**NPF4 Policy 29** seeks to encourage rural economic activity, innovation and diversification whilst ensuring that the distinctive character of the rural area and the service function of small towns, natural assets and cultural heritage are safeguarded and enhanced.

NPF4 Policy 29a offers support to development proposals that contribute to the viability, sustainability and diversity of rural communities and the local rural economy. No information has been submitted with the application to suggest that the proposal for a holiday let dwellinghouse on an otherwise uninhabited island would provide any support to an existing rural community and its economy.

With regard to NPF4 Policy 29c, development proposals in remote rural areas, where new development can often help to sustain fragile communities, will be supported where the proposal:

- i. will support local employment;
- ii. supports and sustains existing communities, for example through provision of digital infrastructure; and
- iii. is suitable in terms of location, access, siting, design and environmental impact

The proposed development would not relate to supporting local employment opportunities and neither would it provide support to an existing community. As previously outlined, the site is unsuitable for development in terms of location and access due to its isolated and undeveloped nature and its sensitivity to inappropriate development that would fail to protect or conserve the important landscape characteristics of the wider area. The proposed development would not therefore adhere to the requirements of NPF4 Policy 29 as underpinned by Local Development Plan Policies LDP 3, LDP 5, LDP 8 and LDP 9, and supplementary guidance SG LDP BUS 5.

**NPF4 Policy 30** seeks to encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

The site the subject of the application is not in a location identified within the adopted Local Development Plan as being appropriate for tourist facilities or accommodation, and in this way fails to comply with the provisions of NPF4 Policy 30a.

As stipulated by NPF4 Policy 30b, proposals for tourism related development must take into account a number of factors, including the contribution made to the local economy; compatibility with the surrounding area; impacts on communities; opportunities for sustainable travel; accessibility for disabled people; measures taken

to minimise carbon emissions; and opportunities to provide access to the natural environment.

No information has been submitted with the application to suggest that the proposal would be a diversification opportunity or such a related scheme to support the local economy. The development would fail to be compatible with the surrounding area by virtue of introducing significant built development that would lead to a significant increase in activity level at an isolated and undeveloped location. Due to its isolated location, the development would present very limited opportunities in terms of sustainable travel options and, as outlined within the representation received by the Oban District Access Panel, adaptations would be required to take into account accessibility for disabled people.

The proposed development is not considered to represent an appropriately sited tourism development. The proposal would fail to contribute to the community economically, socially and culturally. In this way, the proposed development would fail to meet the needs of the community, visitors and the environment, and would therefore be contrary to NPF4 Policy 30 as underpinned by Local Development Plan Policies LDP 3, LDP 5, LDP 8 and LDP 9, supplementary guidance SG LDP TOUR 1, and Policy 23 of the proposed Local Development Plan 2.

Notwithstanding the above requirements of NPF4 Policy 30, the development of the site with the erection of a dwellinghouse and associate services would represent an inappropriate form of development within the Very Sensitive Countryside Zone designation which would be detrimental to the character and appearance of the wider landscape and contrary to the policies set out within the National Planning Framework 4 and the adopted Local Development Plan and associated supplementary guidance.

There is sufficient alignment in the assessment of the proposal against both provisions of the current Local Development Plan and the Proposed Local Development Plan 2 (as modified) that a decision can be made under the current development plan without giving rise to fundamental conflict with PLDP2 (as modified).

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

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

See reasons for refusal set out below.

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

N/A

**(T) Need for notification to Scottish Ministers or Historic Environment Scotland:**

Yes  No

**Author of Report:** Emma Shaw

**Date:** 17.07.2023

**Reviewing Officer:** Tim Williams

**Date:** 18.07.2023