

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 07/00952/OUT

Planning Hierarchy: Major Application

Applicant: Sir Robert McAlpine

Proposal: Erection of mixed use development comprising: Partial infill of existing southern basin, improvements to retaining walls and coastal protection measures and associated ground clearance/engineering infrastructure works. Erection of a 220 berth marina (sui generis) with associated land based facilities; hotel (Class 7)(up to 120 beds) with ancillary restaurant/public house; retail units (Class 1 shop); Class 4 office units (5,500 square metre); improvements to existing fish farm and complementary Class 5 industrial premises; ferry terminal comprising link span crossing and associated car parking/waiting areas; residential development (flats and houses up to 220 units); waste water treatment plant and outfall; improvements to existing vehicular access and new vehicular/pedestrian accesses, landscaping, SUDs scheme and car parking.

Site Address: Ardyne Point, Toward, Argyll and Bute

DECISION ROUTE

(i) Local Government Scotland Act 1984

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Partial infill of existing southern basin, improvements to retaining walls and coastal protection measures and associated ground clearance/engineering infrastructure works;
- Erection of a 220 berth marina (sui generis) with associated land based facilities;
- Hotel (Class 7)(up to 120 beds) with ancillary restaurant/public house;
- Retail units (Class 1 store and craft shop);
- Class 4 office units (5,500 m²);
- Improvements to existing fish farm and complementary Class 5 industrial premises;
- Ferry terminal comprising link span crossing and associated car parking/waiting areas;
- Residential development (flats and houses up to 220 units);
- Waste water treatment plant comprising septic tanks and outfall;
- Improvements to existing vehicular access and new vehicular/pedestrian accesses, landscaping, SUDS scheme and car parking.

(ii) **Other specified operations**

Connection to public water supply

(B) RECOMMENDATION:

It is recommended that:

- a) subject to the prior conclusion of a Section 75 Agreement in respect of off-site road improvements, planning permission be granted subject to the conditions and reasons listed in the report.
 - b) Members resolve that in recognition of the nature and scale of the development proposed by this application, the purposes and objectives of Local Plan 'Area for Action' AFA 2/3 and 'Potential Development Area' PDA 2/43 will have been satisfied in full by the approval of this development, and that any subsequent planning applications within the remaining land subject to these designations, should be determined with reference to the policies applicable to the underlying development control zones, rather than in terms of the PDA and AFA designations.
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(C) CONSULTATIONS:

Area Roads Manager (response dated 12th November 2007 and 31st August 2009): No objections in principle subject to conditions regarding the submission of a formal Safety Audit, various improvements to the existing road infrastructure, surface water drainage system for the whole site, traffic calming measures, roads design, car parking standards, provision of street name plates and directional signs, street lighting and public transport provision. The off-site road improvements comprise:

- Improvements between Toward Primary School and the entrance to the site at the Memorial Hall, formation of footway. To be completed prior to the first house being occupied;
- Extension to the 40 mph speed restriction to beyond the entrance to the development. To be completed before the 50th house is occupied and / or the ferry terminal is operational.

An initial suggested requirement for an off-site road improvement at White Heather Farm, Innellan has been withdrawn.

Public Protection (response dated 5 June 2009): No objections subject to conditions.

Scottish Environmental Protection Agency (responses dated 2nd, 16th July 2007, 4 February 2008 and 5th May 2008): No objections subject to conditions.

Scottish Water (response dated 26th June 2007): No objection in principle but note that there are no public water mains in the vicinity. Connection could be made by an extension to the public supply.

Scottish Natural Heritage (response dated 24th July 2007): No objections in principle but advisory comments regarding need for further surveys regarding otters, bats, water voles and birds.

RSPB (response dated 25th June 2007): No objections in principle but advisory comments regarding habitat and biodiversity interests.

Council's Flood Alleviation Manager (responses dated 12th June and 12 November 2007): Drainage of surface water to loch via a SuDS system is acceptable in principle. Flood levels should be agreed and be such that emergency vehicles are able to access the development at the 1:200 year flood event. The design flood levels should be determined from the 1:200 year level plus an allowance for climate change, surge, wave height and freeboard.

West of Scotland Archaeology Service (response dated 27th June 2007): Given recent site history, no objections in principle but recommend an archaeological condition survey.

Scottish Executive: (responses dated 28 June and 16 July 2007): The developers should ensure that there is no significant impact on the water environment during and after construction and the implementation of SUDS should be adopted, where applicable, for road drainage.

Health and Safety Executive (response dated 26th June 2007): No comments to make. No pipelines or hazardous installations within the area of the proposed development.

Historic Scotland No significant impact on statutory interests. The designed landscape at Castle Toward has now been assigned full Inventory status.

Clydeport PLC: No response.

Royal Yachting Association (response dated 12th June 2007): No objection.

Strathclyde Fire Brigade (response dated 13th June 2007): Cannot make any observations at this stage due to insufficient information.

The Queens Harbour Master (response dated 7th June 2007): No objections.

Maritime and Coastguard Agency: No response.

Freshwater Fisheries and Aquaculture: No response.

Fisheries Research Services: No response.

Ministry Of Defence (response dated 7th June 2007): No objections. Outside MOD safeguarding area.

Argyll and Bute Local Biodiversity Partnership: No response.

South Cowal Community Council (responses dated 19th June 2007 and received 16 August 2007): Objection based on lack of improvements to A815 between Toward Church and Castle Toward

Bute Community Council (responses dated 1st June 2007 and 2nd July 2007): Have appreciated the opportunity to see the preliminary proposals but would wish to wait for the detailed application before making any possible response.

Head of Community Regeneration (response dated 1 July 2009): When planning for school places the norm is to apply a multiplier of 0.6 children per house although this may go down depending on the nature of the housing that is proposed. Given the capacity and current roll of the local school, I do not see any additional requirements from the proposed development.

(D) PUBLICITY:

The application has been subject of newspaper advertisement under Section 34 Vacant land (expiry date 15.06.2007), as a 'Potential Departure' to Policies within the subsequently superseded Cowal Local Plan (expiry date 22.06.2007) and under the Environmental Assessment Regulations (expiry date: 29.06.2007).

(E) PLANNING HISTORY

Ref 15856. Permission originally granted in 1973 for the construction of offshore oil production platforms and other floating concrete and steel structures for description see 142/78 below.

Ref 142/78: Use of site (Ardyne Point) for the continued use for the construction of offshore oil production platforms and other floating concrete and steel structures for a further period of 6 years as granted under permissions 15,856 and 531/76 (applicant *Sir Robert McAlpine and Sons Ltd*). Granted 2nd August 1978 subject to ten conditions including early implementation condition i.e. commence work before 31st December 1979 or permission shall lapse following report to committee. Permission not implemented.

930/78: Establishment of a fish farm centre adjacent to basin 3, Ardyne Point (Applicant *Sir Robert McAlpine and Sons Ltd.*) Granted 28th September 1979 subject to four conditions including that the fish farm should commence by 31st December 1979 i.e. within three months.

Ref 550/79 Continued use of yard for production of concrete structures Granted 11th January 1980 subject to eight conditions.

Ref 779/80: Use of Ardyne Oil Rig Construction site (Ardyne Point) for the storage and export of softwood granted 23rd May 1983. Temporary permission only until 30th April 1984.

Ref 381/86: Formation of a timber storage and vessel loading area (Applicant *Glenlight Shipping Limited*) granted on 29th August 1986 subject to conditions including a condition restricting use to *Glenlight Shipping Limited*.

Ref 550/87: Use of site (Ardyne Point) for a five year period for the construction of buoyant structures in concrete and/or steel (Applicant *Sir Robert McAlpine and Sons Ltd*) Granted 24th November 1987 subject to three conditions including a two year implementation and to be discontinued by 1st January 1993 following report to committee. Permission never implemented.

Ref 01/89/0490: Erection of a fish farm building at Ardyne Point (Applicant *Murray Seafoods Limited*). Granted 9th August 1989.

Ref 01/90/0524: Use of site (Ardyne Point) for a five-year period for the construction of buoyant structures in concrete and/or steel (Applicant *Sir Robert McAlpine and Sons Ltd*). Granted 5th September 1980 subject to seven conditions. Permission not implemented.

Ref: 01/90/0980 Siting of temporary office accommodation at Ardyne Point. Granted 14th December 1990 subject to three conditions.

02/94/0088/MFF Marine Fish Farm (Salmon and shellfish farming) *Baigh au Sgairh*, North of Ardyne Point (Applicant *Murray Seafoods*) Lease granted by The Crown Estate

27th October 1994 subject to three conditions including a 20 year lease from the agreed date of entry

95/05263 Modification to fish farm (additional salmon cages – no record of decision on microfiche).

95/05322/MFF Modification of fish farm (size of salmon cages) at *Baigh au Sgairh*, North of Ardyne Point. No objections 17th January 1996.

Ref 96/01603/DET Use of site (Ardyne Point) for five years for the construction of buoyant structures in concrete and/or steel (Applicant Sir Robert McAlpine and Sons Ltd). Granted 10th January 1997, subject to seven conditions. Permission now lapsed.

(F) REPRESENTATIONS:

Seven letters of objection have been received from the following:

Mr W Ferguson, The Old Smiddy, Toward (letter dated 11 May 2007);
Mrs J Ferguson, The Old Smiddy, Toward (letter dated 15 May 2007);
Paul Keatley, Shore Cottage, Port Lamont Toward (letter received 21 May 2007);
Jane Kelly, Shore Cottage, Port Lamont Toward (letter dated 23 May 2007);
Mick Common, Park Cottage Upper Quay Street Port Bannatyne (e-mail dated 11 May 2007);
G D Young, Ardyne Farm Ltd., Toward (letter dated 30 July 2007);

One letter of support has been received from:

Gordon Ross Western Ferries Ltd, Marine Parade, Hunters Quay (letter dated 3 October 2007) - who comments that Western Ferries express continuing interest in berthing facilities at Ardyne. Ferry link to Bute would drastically reduce travel time and enhance the desirability of both Bute and Cowal.

(i) Summary of issues raised

- The road infrastructure cannot cope with a development of this magnitude, and concern regarding volume of traffic during construction and on completion of development. Owners of Old Smiddy live next to a dangerous blind bend at Toward Castle.

Comment: The Area Roads Manager has requested a number of roads improvement considered necessary to cope with this scale of development.

- The access road would be subject to flooding and its construction may cause erosion elsewhere in the vicinity.

Comment: A Flood Risk Assessment has been undertaken and reviewed by the Council's flood prevention officer. Conditions are proposed to address flood risk.

- The siting of the sewage treatment plant close to Ardyne Burn may affect migratory fish.

Comment: SEPA has not raised objection to the proposed wastewater measures.

- The proposal fails to take account of wildlife which has settled in the site since the applicant deserted it. Significant impact on many protected species including nesting

waders, skylarks, otters etc.

Comment: The proposal has been the subject of an Environmental Impact Assessment and in line with this further conditions in relation to wildlife and protected species are proposed. Scottish Natural Heritage and the RSPB have not raised objections.

- Proposed hotel, restaurant and shopping facilities would have an adverse effect on existing businesses.

Comment: In terms of retail only a convenience store is proposed and this is exempt from the sequential test in view of its small scale. In all other respects competition is not a material planning consideration.

- Proposed ferry terminal would have an adverse effect on Colintrave ferry and also increase traffic through Toward, Innellan and Dunoon.

Comment: Competition between the ferries is not a material planning consideration. It is accepted that the development would result in an increase in traffic and the Area Roads Manager has recommended a number of roads improvements which would address this increase in volume of traffic.

- Proposed ferry terminal would cause noise pollution.

Comment: The Council's Public Protection Service has not objected to this aspect on noise grounds.

- Development will increase local carbon footprint.

Comment: A sustainability statement has been submitted and this outlines how the development seeks to minimise its impact on the environment.

- The proposal may have an adverse impact on proposed hotel/sport development of Knockdow House;

Comment: Competition between these developments is not a material planning consideration.

- The proposal may have an adverse impact on landscape from Port Lamont and Rothesay.

Comment: See section D of Appendix A of report.

- A similar proposal 20 years ago was abandoned. This proposal may also be abandoned.

Comment: The Planning Authority is obliged to determine applications on their planning merits, irrespective of the prospects of any consent being implemented.

- Loss of peace and tranquillity in the area.

Comment: The area is identified for development in the local plan.

- Ardyne is unsuitable for a marina because of prevailing winds;

Comment: This is not a material planning application.

- Footpath to Port Lamont would result in an invasion of privacy;
Comment: This aspect would be assessed at the detailed stage of the application.
- Question as to whether the area needs 200 holiday homes.
Comment: This is not a material planning consideration.
- Development is an unimaginative, dated concept. Consideration should be given to a contemporary arts performance centre;
Comments: The application requires to be assessed as submitted, irrespective of any possible alternative uses for which the site could be suitable.
- Development would be precursor to further development on surrounding land.
Comment: Any further development would require planning permission and would be assessed on its merits against development plan policies and other material considerations applicable at that time.
- A landowner has claimed lack of notification.
Comment: Notification has been carried out to the satisfaction of the Planning Authority, having been certified accordingly as part of the application.
- Were this very large development to go ahead in the proposed form it would adversely affect the scenic properties of the local environment. In particular, looking from Rothesay and Port Bannatyne it would spoil what are currently outstanding views to Cowal, which are little affected by the site in its present state. It is highly misleading, though technically correct, to describe the site, as the proposers do, as 'brownfield'. The impact on views from Bute would be at least as great as that of the proposed wind farm, which aroused much hostility from Bute residents;
Comment: See section D of Appendix A of report.
- The proposal includes a vehicular ferry terminal for a ferry running to 'Bute', which is somewhat vague. No consideration appears to have been given to the impact at the other end of the ferry route, which would clearly be somewhere in Kames Bay, and presumably at Ardmaleish. If the ferry were to achieve the usage envisaged in the proposal, there would be a considerable increase in traffic through Port Bannatyne and Ardbeg. Apart from the loss of amenity that this would entail, it should be noted that the road is already dangerous, especially in Ardbeg;
Comment: These issues would be addressed at the detailed stage. Development associated with any infrastructure on Bute would be subject to the need for a separate planning application.
- There is already a marina under construction in Kames Bay, and another, very large one, just across the way would damage the environment for residents and visitors of all kinds - it would be 'overdevelopment'.
Comment: Each development has to be considered on its merits. The site has been identified for a marina through the Local Plan process.
- If the area needs more houses, what is needed is affordable housing, near employment opportunities, for existing residents. Clearly, this is not what this development is intended to provide. It is not clear from the proposal that the houses

to be built will meet the environmental and energy efficiency standards that sustainable development, to which A and B Council is committed, now requires.

Comment: A condition is proposed to ensure that affordable housing is delivered on this site.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) Environmental Statement: Yes

The EIA is the systematic process of identifying, predicting and evaluating the environmental impacts of a proposed development. The Environmental Statement (ES) submitted covers and identifies the main changes which will be brought about by the development. The following key areas have been identified.

Land Use and Recreation – The ES concludes that in its existing state the site has little value for recreational use. The proposals are considered to represent a positive permanent change with increased opportunities for habitation, recreation and employment. Furthermore, the proposal would enhance land use and recreation of the surrounding area through improved access and transport links. It is, therefore, considered that there would be permanent, positive impacts.

Ecology and Nature Conservation – There are no statutorily protected sites within the application site, or within 5km. There were, however, a number of species and habitats included within the Local Biodiversity Action Plan relevant to the site. Construction activities would have the potential to cause disturbance by means of a loss of habitat, mortality from road traffic and pollution to land and water courses. Once operational, there would be an increase in the value of the wetland site although there remains the possibility of disturbance and mortality to otter and marine ecology. A range of mitigation measures are proposed, however, there still remains the likelihood of some negative effects on marine and terrestrial ecology which cannot be removed altogether. These negative impacts are considered to be minor and of mainly local significance.

Geology, Soils, Coastal Erosion and Contamination – The ES concludes that construction works could affect geology, soils, coastal erosion and contamination in a number of ways. A broad range of mitigation measures have been developed which seek to ensure that best practice construction methods are employed. This includes procedures for management of wastes, safe storage of fuels and chemicals and procedures for protecting site personnel from possible contamination on site. With these measures in place, the effects from construction will be negligible. The proposed installation of suitable coastal protection measures will reduce the effects and extent of coastal erosion. Once operational there will be no significant impacts.

Hydrology, Hydrogeology, Drainage and Flooding – Hydrology and water quality effects are most likely to arise in the short term during the construction stage. All these issues will be mitigated through the application of best practice construction methods and the Construction Environmental Management Plan. Operation impacts of the water environment will relate mainly to drainage and flooding. It is proposed to construct a new drainage and sewage treatment system on site. Operational impacts could potentially include increases in the volume of surface water run off and discharge of potentially untreated or partially treated wastewaters as well as direct discharges from herbicides and fuel / oil in storage use from boat refuelling

and maintenance. An Environmental Management System (EMS) will be implemented for operation of the marina and ferry to ensure that the potential for pollution of coastal waters from the boat and marina maintenance activities, fuel and oil storage, refuelling and onboard waste collection is minimised. Construction of suitably designed surface water drainage systems and raising floor levels above the highest predicted floor level will mitigate the potential for flooding impacts. With the implementation of mitigation, the construction and operation of the development is predicted to have negligible effects on the water environment.

Archaeology and Cultural Heritage - No significant residual effects on archaeology and cultural heritage are predicted.

Traffic and Transportation – Managing the effects of construction traffic will be addressed through the proposed Construction Environmental Management Plan. In relation to access to the operational development, a full Transport Assessment has been undertaken which incorporates a sustainable access strategy and travel plan framework. Once operational, the traffic and transport effects of the development are predicted to be broadly positive.

Noise and Vibration – With implementation of best practice in construction and demolition and careful management of the site, the residual noise impact during demolition / construction may at certain times remain significant, albeit temporary. Once operational, the main sources of noise will be from increased road traffic and new buildings themselves. The predicted increase in road traffic noise is considered to be a minor adverse impact and not significant. The detailed design of the buildings and any associated equipment will avoid, as far as reasonable practicable, impacts arising from operation noise. Along with agreed mitigation measures, the impact of any potential noise from equipment associated with the proposed business premises will be negligible.

Air Quality – A range of mitigation measures will be applied to control emissions from the construction works. The potential for short term releases of emissions from materials handling and site plant will remain after these measures have been applied, however, this is not predicted to be significant.

(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: No

(iii) A design or design/access statement: Yes

A Design Statement dated April 2009 has been submitted in support of this application. Six different character areas have been proposed for the development and these are summarised in Section C of Appendix A to this report.

(iv) A report on the impact of the proposed development Yes

- Transport Assessment - dated May 2007
- Stage 1 Flood Risk Assessment - dated April 2007
- Drainage Assessment - dated 26 February 2007
- Initial Dilution Assessment Rev 1 - dated 10 March 2009

Summary of main issues raised by each assessment/report:

Transport Assessment dated May 2007

It is concluded that the development site is ideally located to accommodate a new ferry terminal and associated crossing to the Isle of Bute. Convenient access is

currently provided to Dunoon from the development site. In addition, it is proposed to extend the existing bus service into the site.

The development is to be designed to be self-contained and sustainable and as such will provide convenient retail and employment opportunities for local residents, increasing the potential for a proportion of development generated trips to be made on foot or by cycle.

The TA concludes that the impact of the development can be accommodated on the local highway network without the need for mitigation measures. With the proposed improvement to the local bus services and the introduction of a new ferry service between Cowal and Bute, the site is considered accessible.

Drainage Assessment dated 26 February 2007

The drainage assessment provides further information on the proposal relating to:

- Existing surface water and foul drainage systems;
- Proposed surface water and foul flows;
- Proposed drainage schematics;
- Sustainable Urban Drainage Systems (SUDs);
- Drainage issues on the site;
- Constraints and discharge points;
- Waste water disposal.

Stage 1 Flood Risk Assessment dated April 2007

- The SEPA flood plan does not indicate any significant flooding from the Ardyne Burn and this would appear to be consistent with existing ground levels and observations on site.
- The plan indicated some coastal flooding from Loch Striven. The access road to the site also has coastal inundation indicated.
- Based on a calculation of the 1:200 year storm, it is suggested that FFLs should be set at a minimum of 5.05 AOD. This would allow for a 500mm freeboard above the highest predicted flood level.
- For landscaped areas a 300mm freeboard would be required with a finished ground level of 4.55 AOD.
- The specialist designer of the marina should take into account predicted flood levels.
- If proposed levels take into account the predicted flood levels, the risk of coastal flooding from Local Striven is considered to be low.

Initial Dilution Assessment Rev 1 dated 10 March 2009

This assessment showed that to achieve the standard set by SEPA the outfall location has to be approximately 21 metres offshore at a depth of approximately 3.1 metres below Chart Datum.

(H) PLANNING OBLIGATIONS

(i) Is a Section 75 agreement required: Yes

A section 75 agreement is required in order to secure the proposed off site road improvements considered to be necessary in road safety terms in order to accommodate the increased traffic volumes that this development would generate. The developer is required to fund the following works, namely:

- Improvements between Toward Primary School and the entrance to the site at the Memorial Hall, formation of footway to an adoptable standard. To be completed prior to the first house being occupied;
- Extension to the 40 mph speed restriction to beyond the entrance to the development. To be completed before the 50th house is occupied and / or the ferry terminal is operational.

(ii) **Reason for refusal in the event that the Section 75 agreement is not concluded:**

The application relates to a large scale mixed use development which would give rise to significant traffic generation in respect of C10 Glenstriven Road, which would require off-site measures commensurate with the scale of development in order to address the anticipated consequences of the additional traffic flows. The identified improvements required include the provision of a footway between Toward Primary School and the entrance to the site at the Memorial Hall and an extension to the existing 40 mph speed restriction to a point beyond the entrance to the development, both of which would be in the interests of road safety. These off-site measures cannot be secured by way of planning conditions and therefore a legal agreement is required to ensure their provision in association with the development. In the absence of such an agreement, vehicular and pedestrian safety on the approach road to the site would be compromised by the traffic generated by the scale of development proposed, contrary to the requirements of Policy TRAN 5 of the 'Argyll and Bute Local Plan' 2008.

(I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: 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.**

Argyll and Bute Structure Plan

Policy STRAT SI 1 – Sustainable Development.

Argyll and Bute Council shall adhere to the following principles in considering development proposals, and in its policies, proposals and land allocations in Local Plans. It will seek to:-

- a) maximise the opportunity for local community benefit;
- b) make efficient use of vacant and/or brownfield land;
- c) support existing communities and maximise the use of existing service infrastructure;
- d) maximise the opportunities for sustainable forms of design, including energy efficiency;
- e) avoid the use of prime quality or locally important good quality agricultural land;
- f) use public transport routes fully and increase walking and cycling networks;
- g) avoid the loss of recreational and amenity open space;

- h) conserve the natural and built environment and avoid significant adverse impacts on biodiversity, natural and built heritage resources;
- i) respect the landscape character of an area and the setting and character of settlements;
- j) avoid places where there is a significant risk of flooding, tidal inundation, coastal erosion or ground instability; and
- k) avoid having an adverse effect on land, air and water quality.

Policy STRAT DC 7 – Nature Conservation and Development Control

- a. Development which impacts on Local Wildlife Sites or other nature conservation interest, including sites, habitats or species at risk as identified in the Local Biodiversity Action Plan shall be assessed carefully to determine its acceptability balanced along with national – or local – social or economic considerations.
- b. Enhancement to nature conservation interest will also be encouraged in association with development and land use proposals.

Policy STRAT DC8 – This Policy presumes against developments which would damage or undermine key environmental features.

Policy STRAT DC9 - This policy resists development that damages or undermines the historic, architectural or cultural qualities of the historic environment.

Policy STRAT DC 10 – Flooding and Land Erosion. This policy presumes against development which would be of significant risk of flooding or would increase to other land or property.

Policy STRAT FW 2 – Development Impact on Woodland. This policy seeks to protect various categories of important woodland which form key environmental features.

Argyll and Bute Local Plan

The main objectives of the Argyll and Bute Local Plan include:

Economic and Social Objectives SI 1

- a) to improve economic competitiveness and relatively poor economic performance of Argyll and Bute as a whole.
- b) to enhance economic and social prospects of the geographically diverse local communities in Argyll and Bute.
- c) to promote appropriate responses to the variety of challenging economic, transport-related and planning circumstances facing these local communities.
- d) to treat the rich natural and historic environment of Argyll and Bute as a not fully realised economic asset which, if safeguarded and enhanced, can stimulate further investment and increased economic activity.

Environmental Objectives SI 2

- a) to safeguard the diverse and high quality natural and built heritage resources, including the abundant landward and maritime biodiversity of Argyll and Bute.
- b) to reinforce the strength of protection given to the European and national statutorily protected nature conservation sites, habitats, species and built heritage sites, with which Argyll and Bute is particularly richly endowed.
- c) to enhance and invest in the quality of the natural and built environment and to engage development more effectively with this enhancement process.
- d) to encourage development of a scale, form, design and location appropriate to the character of the landscape and settlements of Argyll and Bute.

The application site is designated predominantly as ‘sensitive countryside’ with a pocket of ‘rural opportunity area’. However, it is also shown to lie within Area For Action AFA

2/3 and Potential Development Area 2/43. The site also lies within an Area of Panoramic Quality.

Area for Action AFA 2/3 Ardyne describes the Nature of Action as Strategic: development and environmental enhancement. The Interim Action Plan shows this AFA as a Priority 3 project.

Potential Development Area 2/43: Ardyne advocates low density development of a mixed tourism/housing/marine related scheme

Policy LP ENV 1 – This policy requires that the Council assesses applications for their impact on both the natural, human and built environment.

Policy LP ENV 2 – Development Impact on Biodiversity

This proposal encourages existing biodiversity site interests to be incorporated into the design and requires specialist surveys where there is evidence of a habitat or species of local importance.

Policy LP ENV 6 – Development Impact on Habitats and Species

In considering development proposals, this policy requires the Council to give full consideration to the legislation, policies and conservation objectives that may apply to various designated habitats and species.

Policy LP ENV 7 – This policy seeks to resist development likely to have an adverse impact on trees and to ensure that adequate provision is made for the preservation of and where appropriate planning of new trees.

Policy LP ENV 10 – Development Impact on Areas of Panoramic Quality

This policy requires account to be taken of the impact of development on areas of panoramic quality.

Policy LP ENV11 – Development Impact on Historic Gardens and Designed Landscapes

Where development would affect a heritage asset or its setting, measures must be taken to preserve and enhance the special interest including planned historic views of, or from the site or buildings within it.

Policy LP ENV 12 – Water Quality and Environment

Policy LP ENV16 – Development Impact on Scheduled Ancient Monuments

There will be a presumption in favour of retaining, protecting, preserving and enhancing Scheduled Ancient Monuments (SAM's) and their settings. Developments that have an adverse impact on SAM's will not be permitted unless there are exceptional circumstances.

Policy LP ENV 19 requires a high standard of appropriate design in accordance with design principles (at Appendix A) with appropriate regard to setting, layout and density.

Policy LP CST 4 – This policy seeks to protect the impact of development on the natural foreshore.

Policy LP RET 1 – This policy presumes in favour of retail developments in town centres.

Policy LP BAD 1 – This policy requires proposed bad neighbour development to be assessed against a list of criteria to ensure that it causes no significant adverse effects.

Policy LP BAD 2 – This policy requires an assessment of the compatibility of new development adjacent to bad neighbour development in order to ensure that it causes no significant adverse effects.

Policy LP TOUR 1 – This policy details the areas and scales within the plan where there is a presumption in favour of new or improved tourist facilities or accommodation.

Policy LP HOU 2 – This policy sets out the requirement for the provision of affordable housing within developments.

Policy LP SERV 1 – This policy sets out the circumstances under which public and private sewage provision is required.

Policy LP SERV 3 – This policy sets out the criteria when Drainage Impact Assessments are required to be submitted in support of developments.

Policy LP SERV 5 – This policy deals with the management of waste within developments.

Policy LP SERV 7 – This policy requires a contaminated land assessment where development is proposed at a site where land is known to be contaminated or where there is a reasonable expectation of contamination.

Policy LP SERV 8 – This policy sets out the criteria for assessing the acceptability of development on land which may flood.

Policy LP TRAN1 – Public Access and Rights of Way

The policy seeks to protect public rights of way, core paths and important public access routes.

Policy LP TRAN 2 – This sets out the requirements for public transport provision for development likely to generate significant levels of journeys. Where considered appropriate, it also requires the submission of a Transport Impact Assessment and / or Green Transport Plan.

Policy LP TRAN 3 – This policy requires developments to make provision for special needs access and also requires suitable provision for service vehicles including emergency services.

Policy LP TRAN 4 – This policy lists the requirements for new and existing public roads and private access regimes.

Policy LP TRAN 5 – Off Site Highway Improvements

Where development proposals will significantly increase vehicular traffic on substandard private or public approach roads, then developments will be required to contribute proportionately to improvements to an agreed section of the public or private road network.

Policy LP TRAN 6 – This policy sets out parking requirements for developments.

Policy LP TRAN 8 – This sets out the Council's policy on the development of piers and harbours.

Policy LP REC 1 – This policy details the areas and scales within the plan where new or improved sport and recreation facilities will be supported.

(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 4/2009.

SPP2 – Economic Development (2002);

SPP3 – Planning for Housing (2003);
SPP 7 – Planning and Flooding (2004);
SPP 15 – Planning for Rural Development (2005);
SPP17 – Planning for Transport (2005);
NPPG 11 – Sports, Physical Recreation and Open Space (1996)
NPPG 13 – Coastal Planning (1997)
NPPG 14 – Natural Heritage
PAN 60 – Planning for Natural Heritage (2000)
PAN 73 – Rural Diversification

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

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

(L) Has a sustainability check list been submitted: No (Sustainability issues addressed in a Sustainability Statement dated March 2009).

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

(N) Requirement for a hearing (PAN41 or other): No

The proposal accords with the Development Plan and there have been seven representations; six objections and one in support. In accordance with Council policy it is considered that in these circumstances a local hearing is not required.

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

The site lies within a Potential Development Area (PDA) and Area for Action (AFA) as defined by the adopted Local Plan. It is considered that the proposal is consistent with the objectives of the PDA and AFA and would result in the remediation of an environmentally degraded site. All other relevant development plan policies would also be complied with. There are no other material considerations, including responses from consultees and representations from third parties, nor matters raised in the environmental assessment of the proposals, which would warrant the setting aside of the presumption in favour of the development established by development plan policy.

(P) Is the proposal consistent with the Development Plan: Yes

(Q) Reasons why Planning Permission in Principle should be granted

This mixed use development meets with the aims of both the PDA and AFA designations as defined by the Argyll and Bute Local Plan which has very recently been adopted. The development of these proposals would result in the upgrading of an environmentally degraded site. It would also accord with all other relevant development plan policies and it is therefore appropriate that planning permission in principle be granted in line with development plan policy, subject to conditions and to the conclusion of a Section 75 agreement to secure off-site road improvements commensurate with the scale of development.

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

Not applicable

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

Author of Report: Sandra Davies **Date:** 31.08.09

Reviewing Officer: Richard Kerr **Date:** 02.09.09

Angus Gilmour
Head of Planning

CONDITIONS AND REASONS RELATIVE TO APPLICATION: 07/00952/OUT

1. That the permission is granted in terms of Section 59 of the undernoted Act and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application (or applications) for planning permission in principle that further approval of Argyll and Bute Council or of Scottish Minister on appeal shall be required, such application must be made before whichever is the later of the following:-

a) the expiration of a period of 3 years from the date of this permission.

b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.

c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b) and c) above, only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

Reason: In accordance with Section 59 (1) of the Town and Country Planning (Scotland) Act 1997

2. The development is approved on the basis of application plan SIRG1000, the details specified on the application form dated 08.05.07 and the accompanying Design, Transport, Flood Risk and Drainage Assessments. The layout plans reference nos. 002 Rev A and 003 Rev A are for indicative purposes only and are not approved as part of this permission.

Reason: For the avoidance of doubt in order to confirm that the above noted plans do not constitute an approved layout for the site.

3. Notwithstanding the indicative layout plans reference nos. 002 Rev A and 003 Rev A submitted, the detailed design and layout of the development shall be substantially in accordance with the submitted illustrative layout and the design principles detailed in the Design Statement produced by Turley Associates dated April 2009.

Reason: The development is subject to an Environmental Impact Assessment the conclusions of which draw upon the principles guiding the intended form of the development. Any significant deviation from these principles would undermine the validity of the conclusions drawn as part of the assessment process. Also, to ensure than an appropriate form of development is achieved in keeping with the visual quality of the surrounding area.

4. Notwithstanding the phasing indicated in section 7.30, table 6.1 of the Design Statement dated April 2009 produced by Turley Associates, the development shall proceed in accordance with the details of a phasing programme to be submitted to and approved in writing by the Council as Planning Authority in advance of the construction of buildings contained within each of the identified phases. For the avoidance of doubt, this shall include the timing of the provision of affordable housing, hard and soft landscaping, play areas / open space, residential, commercial and business development. Thereafter the development shall proceed entirely in accordance with these details.

Reason: In order to ensure that the development is implemented in a progressive manner.

5. No development shall commence in respect of the construction of any of the buildings approved in principle as part of this development, until such time as details of the siting, design and external appearance of each of those buildings, and the parking provision to serve those buildings, has been submitted to and approved by the Council as Planning Authority; details of which shall have regard to principles set out in the Design Statement produced by Turley Associates dated April 2009. The development shall be implemented in accordance with the duly approved details.

Reason: To ensure an appropriate disposition and design of buildings in the interests of achieving appropriate settlement character and amenity and no such details having been submitted for approval.

6. No development shall commence until a scheme for affordable housing (as defined below) has been submitted to and approved in writing by the Council as Planning Authority. The scheme shall:
 - a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
 - b) Define those properties to be used as affordable homes;
 - c) Establish the timing of their provision relative to the phasing of the development, which shall ensure that the last 25% of the dwellings within the development are not commenced until the affordable housing phase has been completed for occupation;
 - d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below);

For the purposes of this condition 'affordable homes' are defined as being either:

- i) Social housing (rented or shared ownership or shared equity) managed by a registered social landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification);
- ii) Discounted low cost sale housing (subject to a burden under the Title Conditions (Scotland) Act 2003), or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification).
- iii) Housing for sale or rent without subsidy, which is designed to be affordable and to meet the housing needs of the majority of those households identified as in housing need in the Local Housing Strategy or Housing Market Study i.e. one or two person households on average income, with conditions attached to their missives to prevent further extension, thereby helping to ensure that they are likely to remain affordable to subsequent purchasers.

The development shall be implemented and occupied thereafter in perpetuity in accordance with the duly approved scheme for affordable housing.

Reason: To ensure that this development will provide housing to low income groups not adequately supplied by the market in accordance with the provisions of Policy LP HOU 2.

7. No development shall be commenced in respect of the provision of any aspect of the ferry terminal infrastructure and associated structures until such time as details of the siting, design and external appearance of the works required, and the vehicle mustering and parking provision intended to serve the terminal, have been submitted to and approved by the Council as Planning Authority. The development shall be implemented in accordance with the duly approved details.

Reason: To ensure an appropriate disposition and design in the interests of achieving appropriate settlement character and amenity and no such details having been submitted for approval.

8. No development shall be commenced in respect of the proposed marina until such time as details of the pontoon system, any associated land based infrastructure and the siting, design and external appearance and any associated structures/buildings, along with the parking provision and any on-land storage areas intended to serve the marina, have been submitted to and approved by the Council as Planning Authority. The development shall be implemented in accordance with the duly approved details.

Reason: To ensure an appropriate disposition and design in the interests of achieving appropriate settlement character and amenity and no such details having been submitted for approval.

9. No development shall be commenced in respect of the infilling of the basin area until a Method Statement indicating the proposed means of land reclamation and the proposals for the formation of the intended wetland area have been submitted to and approved by the Council as Planning Authority. The development shall be implemented in accordance with the duly approved details.

Reason: To ensure an appropriate means of reclamation in the interests of pollution control and amenity.

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

Reason: To enable the opportunity to identify and examine any items of archaeological interest which may be found on this site, and to allow any action required for the protection, preservation or recording of such remains to occur in accordance with the provisions of Policy LP ENV 17 and NPPG 5 (Archaeology).

11. Prior to works starting on site, full details of an otter survey shall be submitted to and approved in writing by the Planning Authority. Such details shall include when the otter survey is to be carried out, the methodology to be employed in the otter survey and any mitigation measures including a timetable for the implementation of mitigation measures.

Reason: To prevent disturbance of a European Protected Species and in accordance with the provisions of Policy LP ENV 6, NPPG 14 (Natural Environment) and PAN 60 (Planning for Natural Heritage).

12. Prior to works starting on site, full details of a bat survey shall be submitted to and approved in writing by the Planning Authority. Such details shall include when the bat survey is to be carried out, the methodology to be employed in the bat survey and any mitigation measures including a timetable for the implementation of mitigation measures.

Reason: To prevent disturbance of a European Protected Species and in accordance with the provisions of Policy LP ENV 6, NPPG 14 (Natural Environment) and PAN 60 (Planning for Natural Heritage).

13. Prior to works starting on site full details of a water vole survey shall be submitted to and approved in writing by the Planning Authority. Such details shall include when the water vole survey is to be carried out, the methodology to be employed in the water vole survey and any mitigation measures including a timetable for the implementation of mitigation measures.

Reason: To prevent disturbance of a European Protected Species and in accordance with the provisions of Policy LP ENV 6, NPPG 14 (Natural Environment) and PAN 60 (Planning for Natural Heritage).

14. Prior to works starting on site full details of a bird survey shall be submitted to and approved in writing by the Planning Authority. Such details shall include when the bird survey is to be carried out, the methodology to be employed in the bird survey and any mitigation measures including a timetable for the implementation of mitigation measures. Thereafter all construction works within habitats significant for breeding birds shall be timed to avoid the bird breeding season. (March to August).

Reason: In order to protect breeding birds from the impact of development and in accordance with the provisions of Policy LP ENV 6, NPPG 14 (Natural Environment) and PAN 60 (Planning for Natural Heritage).

15. Prior to the commencement of development, full details of the appearance of the proposed coastline to be created shall be submitted to and approved in writing by the Planning Authority. This shall include details of the coastal protection measures required to prevent further coastal erosion and visual improvements to the existing sea walls, sheet piling and stone rip rap in order to create a coastline with a more natural appearance. Thereafter development shall proceed entirely in accordance with the duly approved details.

Reason: In order to prevent coastal erosion and to ensure that the existing unsightly coastline is upgraded with a more sympathetic and visually pleasing alternative and in accordance with the provisions of LP CST 4 and NPPG 13 (Coastal Planning).

16. Prior to the commencement of development full details of the current costal defences and predicted flood levels including the additional works required to prevent coastal flooding shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall proceed entirely in accordance with the duly approved details.

Reason: In order to prevent coastal erosion and flooding in accordance with the provisions of Policy LP SERV 8, SPP7 (Planning and Flooding) and PAN 69 (Planning and Building Standards Advice on Flooding).

17. Prior to the commencement of development full details of access road levels such that emergency vehicles are able to access the development at the 1 to 200 year flood event shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall proceed entirely in accordance with the duly approved details.

Reason: In order to ensure that the development can be served by emergency services at all times.

18. Prior to the commencement of development details of the design flood levels to be determined from the 1 to 200 year level plus an allowance for climate change, surge, wave height and freeboard shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall proceed entirely in accordance with the duly approved details.

Reason: In order to prevent coastal erosion and flooding in accordance with the provisions of Policy LP SERV 8, SPP7 (Planning and Flooding) and PAN 69 (Planning and Building Standards Advice on Flooding).

19. No development shall commence on site until authorisation has been given by Scottish Water for connection to the public water supply. Confirmation of authorisation to connect shall be provided to the Planning Authority for approval before commencement of development.

Reason: To ensure that the development is adequately served by a public water supply.

20. Prior to works starting on site full details of the proposed waste water treatment works shall be submitted to and approved in writing by the planning authority. Such details shall include the provisions for the maintenance and or adoption of the system in consultation with SEPA and Scottish Water. Such details shall also include the timetable / phasing for the provision of the waste water treatment works which shall be fully operational prior to occupation of any premises or residential development on site.

Reason: To allow the potential for the waste water treatment works to be adopted by Scottish Water in the future.

21. The development shall not commence until details of the surface water drainage system to be incorporated into the development including details of the proposed future management and maintenance of these systems have been submitted to and approved in writing by the Planning Authority, in consultation with Scottish Water and the Scottish Environment Protection Agency.

Reason: In order to ensure a sustainable method of surface water drainage and avoid on site flooding.

22. Prior to the commencement of development a detailed site specific Construction Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. Thereafter the details agreed shall be implemented prior to the development being brought into use.

Reason: In order to prevent potential pollution and address waste issues.

23. Prior to the commencement of development full details of an investigation and an assessment, carried out by a competent person, on the ground contamination shall be undertaken and reported to the planning authority in consultation with the Public Protection Service. The assessment shall seek to define, with reference to relevant and current standards, any risks posed by contamination, and make recommendations as to the requirement for any actions necessary to render the site suitable for the proposed

use. The recommendations shall be agreed in writing with the planning authority, in consultation with the Public Protection Service prior to any development;

Where the investigation has indicated that action is necessary to render the site suitable for the proposed use, a competent person shall devise a remediation plan and such findings shall be reported to the planning authority in conjunction with the Public Protection Service. The remediation plan shall be agreed in writing with the planning authority prior to the commencement of any site works. The plan should include details of the methodology that will be employed to demonstrate that the site will be rendered suitable for the proposed use; and

The remediation works shall be undertaken as detailed within the remediation plan, unless otherwise agreed, in writing, with the planning authority, in consultation with the Public Protection Service, prior to the first use of the treatment works. Upon completion of remediation works a completion certificate shall be issued by a competent person certifying that the works identified within the remediation plan have been carried out in accordance with the plan.

Reason: In order to ensure that contamination issues on the site have been fully investigated in accordance with the provisions of Policy LP SERV 7.

24. Prior to the commencement of development full details of a proposed waste management scheme to include recycling facilities and including the phasing of this aspect shall be submitted to and approved in writing by the Planning Authority. Thereafter the waste management scheme shall be implemented in accordance with these details.

Reason: To ensure that the Council meets its responsibilities contained within the National Waste Strategy Local Area Waste Plan with regard to space for waste storage in accordance with the provisions of Policy LP SERV 5 and NPPG 10 (Planning and Waste Management).

25. The proposed access at the junction with the C10 Glenstriven Road shall have visibility splays of 4.5 metres by 215.0 metres in each direction formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstruction over 1.05 metres in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over 1.05 metres in height to the satisfaction of the Planning Authority.

Reason: In the interests of road safety.

26. Internal access roads not subject to the requirement for Roads Construction Consent shall be in accordance with the specifications laid out in Policy LP TRAN 4 (C), full details of which shall be submitted to the Planning Authority and approved in writing prior to any works starting on the construction of these accesses.

Reason: In the interests of road safety.

27. Prior to work starting on site full details shall be submitted of all access and parking within the site which shall be in accordance with the Design Statement dated April 2009 produced by Turley Associates and also details of the parking requirements for each component of the development to be in accordance with the provisions of Policy LP TRAN 6 Appendix C of the Argyll and Bute Local Plan and, where required, the Council's Roads Development Guide.

Reason: In the interests of road safety.

28. Prior to the commencement of development a Road Safety Audit shall be submitted to and approved in writing by the Planning Authority. This shall address both construction and post construction phases of the development assessing pedestrian and vehicle safety, including a timetable for the implementation of any required works. Thereafter the audit shall be implemented in accordance with the approved timetable to the satisfaction of the Planning Authority.

Reason: In the interests of road and pedestrian safety.

29. No part of the development shall be occupied until a Green Travel Plan (GTP), aimed at encouraging more sustainable means of travel, has been submitted to and approved in writing by the Council as Planning Authority. The Travel Plan will identify the measures to be implemented, the system of management, monitoring and review, reporting and duration of the plan. It will incorporate measures designed to encourage modes other than the private car, in particular, public transport, walking, and cycling. The GTP will also be aimed at ensuring that appropriate mode share targets are met, and the duly approved provisions shall be implemented thereafter.

Reason: In order to satisfy the requirements of SPP 17 – ‘Planning for Transport.

30. Prior to the commencement of development, the developer shall submit a detailed survey of all existing trees and hedging on the site. This survey shall be displayed on a site layout plan and shall include an identification of the tree species, their height and spread of branches and their location within the site (any trees around the perimeter which overhang onto the site shall also be included). Those trees which it is proposed to fell, remove or cut back shall be separately identified.

Reason: In the interests of visual amenity and to safeguard as many trees on the site as possible in order to provide a backdrop which will soften the impact of the development when viewed from the seaward side.

31. Prior to work starting on site full details of a landscaping plan for the development shall be submitted to and approved in writing by the Planning Authority. This shall include full details of all the open space associated with the development comprising formal and informal open space including children’s play areas and footpath access to the north of the site. These details shall be devised in accordance with the Design Statement produced by Turley Associates dated April 2009 and Policy LP HOU 4 of the Argyll and Bute Local Plan. This shall also include details of the phasing of the landscaping works and for the provisions for ongoing maintenance of the open space areas.

Reason: To ensure that the proposed development is provided with a satisfactory standard of landscaping and maintenance regime for the functional and visual requirements of the site and to assist the integration of the development into the surrounding area and to integrate the proposal with its surroundings.

32. Prior to the commencement of development full details of the zero and low carbon equipment to be incorporated into the development and predicted carbon emissions using SAP or SBEM calculations shall be submitted to and approved in writing by the Planning Authority. Thereafter the completed development shall accord with these details.

Reason: To ensure this development complies with the on site carbon emission targets of SPP6 and PAN 84.

NOTES TO APPLICANT:

1. The requirements of the conditions above should be met by an application(s) for Approval of Matters Specified in Conditions under Regulation 12(2) of the Town & Country Planning (Development Management Procedure)(Scotland) Regulations 2008, within the time limits specified in condition 1 of this Planning Permission in Principle.
2. In order to comply with Section 27 A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27 B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
4. Regard should be had to the enclosed consultation response from Scottish Water dated 26 June 2007. It should be noted that the Planning Authority views this to be a 'no objection' response to the development proposal at the time of the consultation. It does not, however, guarantee that a connection will necessarily still be available at the time when it is proposed to implement this consent. In advance of development being commenced, direct contact should be made with Scottish Water to ascertain whether sufficient capacity still remains at that time in order to be able to secure a connection to the public water supply and public sewer. Confirmation of the availability of a connection should be forwarded to the Planning Authority in order to satisfy the requirements of the condition above.

It should be noted that in the event that Scottish Water refuses a connection to the public water supply or public sewer, the provision of an alternative private water supply / private sewer would be considered a material amendment to the approved details and would require to be the subject of a further application for planning permission.

5. Roads Construction Consent and a Road Bond will be required for the above development.
6. It is essential that the discharge of sewage effluent and pollution from construction works do not have any effect on these waters or the existing salmon farm, in order to protect the aquaculture industry in this area.
7. The developers should contact Fisheries Research Services, Marine Laboratory at Aberdeen (FRS) to get a set of licence application forms under part II of the Food and Environmental Protection Act 1985 (FEPA) in respect of any marine deposits associated with the proposed works e.g. for the partial infill of the basin, construction of the marina and ferry terminal and instalment of sea outfall.

FRS Address: Environment Protection Group
Fisheries Research Services
Marine Laboratory
PO Box 101
375 Victoria Road
Aberdeen
AB11 9DB
Tel: 01224 876544

6. For the avoidance of doubt, the proposed scheme shown on the submitted plan is for indicative purposes only. The Planning Authority has concerns about the arrangement of the houses within the two northernmost low density residential character areas and would wish to see a more sympathetic settlement pattern for the housing units appropriate to these coastal locations.
7. The Council regards this Planning Permission in Principle as being Part 1 of a two part development consent in terms of the European Directives prompting the requirement for Environmental Assessment, and in the light of domestic case law. That being the case, any application(s) for approval of matters subject to conditions should be the subject of a revised Environmental Statement or Addenda to the original statement, as appropriate, in order that the significant environmental effects associated with the development can be properly assessed prior to the determination of subsequent applications.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 07/00952/OUT

PLANNING LAND USE AND POLICY ASSESSMENT

A. DEVELOPMENT PLAN CONTEXT

The development plan covering this site comprises the Argyll and Bute Structure Plan and the Argyll and Bute Local Plan.

The application sites lies within an Area for Action (AFA) AFA 2/3 and Potential Development Area (PDA) 2/43. These PDA and AFA policies are an expression of the Local Plan's objectives for the site.

Area for Action AFA 2/3 Ardyne describes the Nature of Action as Strategic: development and environmental enhancement. The Interim Action Plan shows this AFA as a Priority 3 project.

Potential Development Area 2/43: Ardyne advocates low density development of a mixed tourism/housing/marine related scheme

The site also lies within an Area of Panoramic Quality.

B. Settlement Strategy

The proposal is for a 'large scale' mixed use development which would not normally be permitted by the Local Plan outwith the main settlements. In this case, the site lies within PDA 2/43 which specifically identifies the site for a low density development of a mixed tourism/housing/marine related scheme. The scale and mix of the present proposal matches this requirement and the development is therefore consistent with the settlement strategy and meets the terms of the PDA brief.

Large scale tourist facilities are proposed on this site in the form of a 220 berth marina and 120 bed hotel with restaurant. Policy LP TOUR 1 allows this where the development is of a form, location and scale consistent with Policy STRAT DC 5 of the Structure Plan, where they are accessible by public transport and where the proposal is consistent with other policies contained within the Structure Plan. The form, scale and location of these tourist facilities would be consistent with Policy LP TOUR 1.

The application proposes 220 residential units in a low density arrangement overall. This is defined a 'large scale' development in terms of the Argyll and Bute Local Plan definitions. As previously noted, this would meet with the aims of the PDA and AFA. Given the size of the former Ardyne yard and the scale of environmental degradation which requires to be addressed, it is clear that a substantial scale of development is necessary to fund the remediation and enhancement of the site. To this end, the applicant has provided a Cost Plan to demonstrate the level of finance required to achieve the necessary remediation works.

At the time of PDA/AFA designation as part of the local plan process, these boundaries were drawn widely beyond the confines of the former brownfield site at Ardyne. The purpose behind this was to provide flexibility in the development of proposals and to allow for various responses to the remediation and development of what was identified as a problem area of derelict land. The proposals advanced by this application are, in the event, comprehensive and seek to address the problems inherent in the site by redevelopment confined to the boundaries of the derelict land, without recourse to the inclusion of any adjoining areas of hitherto undeveloped countryside.

It is considered that should this large scale proposal be developed, the potential development capacity related to the PDA for this plan period would have been fulfilled. The remaining area of the PDA does not contain land requiring remediation and is significantly different in nature to that of the application site. The development plan contains underlying policies against which further applications within this remaining area can be assessed. The forthcoming Landscape Character Assessment will inform the assessment of future applications which lie within 'rural opportunity areas'. Notwithstanding the fact that any future applications in this area would be determined on their merits, given the landscape characteristics of this area, which is generally good quality agricultural land interspersed with some woodland areas, it would appear that any further development would be very small scale in nature and should be limited to infill development around existing buildings.

For this reason, in the event that permission is granted for this development, Members are asked to endorse the position that the purposes and objectives of the PAD/AFA designations will be met in full by the scale and nature of the development proposed, and that accordingly, any subsequent planning applications within the remaining land subject to these designations, should be determined with reference to the policies applicable to the underlying development control zones, rather than in terms of the PDA and AFA designations.

The leisure and recreation facilities proposed would be accessible by public transport and would be consistent with other policies. Ardyne Point is specifically noted as a strategic development opportunity for transport and tourism related uses. The proposal would accord with Policy LP REC 1.

Seven business units are proposed at the north end of the site which would be aimed at small scale enterprises. These are speculative at present but it is envisaged that these may be associated with aquaculture, tourism or agribusiness.

The masterplan also proposes the introduction of a convenience store to serve the new community. This is considered to be acceptable in terms of Policy LP RET 1, as such convenience shops of less than 100sq.m gross floor space are exempt from sequential test requirements.

A private sewerage treatment plant is included within the plans and this falls within the description of 'bad neighbour' development. Taking account of the details provided and its proposed location on the south east of the site, it is not considered that there would be any diminution of amenity to neighbouring residents, thereby complying with Policy LP BAD 1.

Policy LP SERV 5 refers to waste management in developments. While this application is only at the outline stage, it is clear that effective provision can be made for waste management including recycling in terms of LP SERV 5.

C. Location, Nature and Design of Proposed Development

It is important to note that this is an application for planning permission in principle, and that whilst it is accompanied by a range of supporting documentation, it remains the principle of development on this site that is to be considered. The details will be considered at a later date when an application(s) for Approval of Matters Subject to Conditions is/are submitted, although detailed design guidance has been submitted which will form the basis of the development.

The site is located on the south eastern coast of the Cowal Peninsula and bounded by the Firth of Clyde to the east and south and by Loch Striven to the west. It is generally

flat with part of the site having been artificially reclaimed from the sea and raised in height to provide a level platform for construction. The majority of the site is covered by concrete slab platforms connected with concrete surfaced roads. The eastern boundary of the site rises steeply and covered by a mix of trees and scrub. In the northern part of the site there is an operational fish farm in an artificial sea basin. There are two further artificial sea basins in the south of the site. The site is subject to areas of dereliction and fly-tipping.

The proposal would develop the western and northern sections of the site with soft landscaping in the eastern part. The proposed land uses comprise housing in a village setting, an associated convenience store, leisure facilities including a hotel with restaurant and a marina with associated mooring pontoons and decking located within a manmade seawater basin. Business units are proposed for the north of the site next to the existing fish farm operation. The southernmost basin would be infilled using recycled screened materials recovered from the site and would ultimately form an extended wetland habitat.

A suggested ferry link between Ardyne Point and Bute is included.

A single sewage treatment plant to serve the needs of the development is also proposed.

The Ardyne Burn flows through the southern area of the site and parts of the site lie within the 200 year coastal and fluvial flood envelopes. In response to this issue, a Flood Risk Assessment has been submitted and this has enabled SEPA to withdraw its initial objection on flooding grounds. The proposal would therefore accord with Policy STRAT DC 10 of the Structure Plan and Policy LP SERV 8 of the Argyll and Bute Local Plan.

Structure Plan Policy STRAT SI 1 – Sustainable Development, details principles which development proposals should seek to achieve. This proposal would be in accordance with this policy as demonstrated by the submitted Sustainability Statement and it would ultimately result in the remediation and enhancement of a degraded site. The Environmental Statement has demonstrated that where negative impacts would be encountered they would be of a minor nature or could be mitigated appropriately.

Policy LP ENV 19 addresses issues of setting, layout and design. With regard to development setting, it is noted that development should be sited and positioned so as to pay regard to the context within which it is located. As the development would effectively produce a new village settlement, the agents have researched the characteristics of other existing settlements in order to gain a better understanding of how coastal communities have evolved. This approach is advocated in the Council's Sustainable Design Guidance. This recognises that development at the waterfront is generally at higher densities and provides a mix of uses. Further inland, away from the water's edge, a looser, lower density structure is evident but this still offers a high degree of permeability through the settlement. Towards the edges of such settlements the density is lower and tends to address the water. It is this mix of settlement patterns that offers good connectivity and legibility that the designers aim to incorporate into the Ardyne Point masterplan. While the numbers and densities are considered to be acceptable, there are residual concerns as to the suggested siting and layout of the two northernmost residential areas. As the outline submissions give only an indicative layout, this can be addressed at the subsequent stage of approval of conditions, in order to achieve a more sympathetic layout appropriate to this coastal location.

The landscape setting of Ardyne Point has a mixture of natural and manmade coastlines, mature tree planting and a backdrop of Achafour and Toward Hills. The majority of the development would be located within a 'cove' between the woodland and the basins. I am of the view that this approach would result in a sympathetically located

development, subject to some minor amendments to the indicative layout. The landscape setting of the new development would be further enhanced by tree planting and the removal of an artificial basin and the formation of an extended mud flat area.

In terms of height and massing, the Design Statement indicates that there would be a predominant building height of two and three storeys, although some key buildings may be up to four storeys.

Six different character areas have been proposed for the development and these are summarised as follows:

Gateway – The Ardyne Burn provides the focus for this character area along with the woodland which gives the feel of a sense of enclosure. A more formal open space is to be created with terraced houses and flats on three sides.

The Pond – The formation of a pond would provide the focus in this area. It is suggested within the Design Statement that a community facility may be appropriate for this area as would communal recycling and composting areas. Low density detached houses would be located on the eastern edge of the pond. Boundary treatments would comprise low hedgerows or similar.

The Marina – The marina and hotel area should be viewed as the hub of the development. This area would also accommodate the higher density housing and the shop. Parking would be accommodated to the rear of buildings in order to keep the marina as pedestrian friendly as possible. Boundary treatment would be low walls and gates to clearly define public and private spaces.

Village Residential – This would be the core residential area which has the streets and small parks as the focal points. This area would comprise detached and semi detached houses. Boundary treatment would comprise a mixture of stone or white rendered walls and low planting.

Low Density Plots – These small pockets of housing would offer open views ample garden space with a private setting. Some amendments would be required to the indicative layout at the detailed stage.

Business Area – It is proposed to provide business space accommodation ranging from 500 sq.m to 1500 sq.m floor space per unit.

All development on the site could be adapted to meet special needs but this would be considered in more detail at the approval of matters subject to conditions stage. Policy LP HOU 3 refers more specifically to special needs access which would be addressed at that time.

Taking account of the above, I am of the view that the proposal would accord with policy LP ENV 19 and the approach set out in the Council's Sustainable Design Guidance.

Any residential development comprising 20 dwellings or more is required to provide various categories of associated open space. The masterplan and accompanying Design Statement indicates how this might be achieved. As there is capacity to provide for these requirements within this extensive site, the proposal would not be in conflict with Policy LP HOU 4.

In accordance with Policy LP SERV 3, a Drainage Impact Assessment has been submitted. This details the proposed drainage arrangements in principle and looks at the use of SUDs for surface water, in order to address the Scottish Environment Protection Agency's requirements.

Appendix A of the Argyll and Bute Local Plan provides further guidance on sustainable siting and design. Many of these issues have been covered in the Design Statement and the remaining details and can be addressed at the application for approval of conditions stage.

D. Natural Environment

Policy STRAT DC 7 of the Structure Plan states that development which impacts on wildlife sites or other nature conservation interests, including sites, habitats or species at risk will be assessed on its acceptability balanced with social and economic considerations. It also notes that enhancements to nature conservation issues are encouraged. There are no protected sites on or within 5km of the site, and this proposal would remove environmental degradation and improve the ecological status of the site through minimal tree felling, sensitive new planting and the creation of a wetland habitat. This would be consistent with the above Structure Plan policy.

Structure Plan policy STRAT DC 8 and Local Plan Policy LP ENV 10 seeks to protect, *inter alia*, the impact of development on Areas of Panoramic Quality. It is considered that subject to a sensitively located and deigned development, the removal of the environmental degradation left behind after the industrial use of the site would result in some improvement of the panoramic quality as would the upgrading of the appearance of the coastline. This point is substantiated in the Environmental Statement.

Policy LP ENV 2 refers to biodiversity. Similar to the conclusion for Policy STRAT DC 7, it is considered that the proposal would benefit biodiversity and along with the mitigation measures proposed, the development would accord with this policy.

In terms of Policy ENV 6 which refers to habitats and species, the EIA process has fully investigated these issues. Further survey work to address the prevailing distribution of species of interest prior to commencement of development would be appropriate, and conditions have been recommended in order to mitigate and minimise any adverse effects.

E. Fresh Water, Marine Environment and Biodiversity.

Policy LP ENV 12 resists development which would have a significant impact on the water environment unless the effects can be fully mitigated. The water environment was a key topic in the Environmental Statement and it was concluded that, with the implementation of mitigation measures, the construction and operation of the development is predicted to have negligible effects on the water environment.

F. Impact on Woodland/Access to Countryside.

The site is bounded to the east by tree planting which is of importance in providing a backdrop to the development and there is also a mature tree belt situated along the banks of the Ardyne Burn. This is to be maintained and enhanced and would provide a key environmental feature within which the development is sited. This would not conflict with Policies STRAT FW 2 of the Structure Plan and ENV 7 of the Argyll and Bute Local Plan.

G. Landscape Character

The site lies within the 'Cowal Ridges' Landscape Character Area (LCA) as defined by the 'Argyll and Firth of Clyde Landscape Character Assessment' prepared by Environmental Resources Management in 1996 for Scottish Natural Heritage. This LCA has the characteristics of underlying Dalriadan rocks of the Southern Highland Group, dramatic mountain ridges with rocky outcrops, narrow glens and lochs, wild character and dispersed settlement pattern. The site is also influenced by the 'Bute' and the 'Loch Fyne' LCA's. The site itself is characterised by an area of flat fairly open land which has been artificially raised to around 6 metres above sea level provide an oil rig fabrication yard. Approximately 150 metres inland, the land rises steeply to between 20 to 25 metres above sea level to form a wooded escarpment. Policy ENV 1 (C) requires an assessment on the impacts of development on landscape. The Environmental Statement notes that primary mitigation measures have been included in the outline design of the development. These include careful siting of proposed buildings to ensure minimal impact, introduction of additional landscaping to help mitigate views to the site and to enhance the ecological value of the site and retention of the existing tree belt that provides both visual and physical protection. In addition, important viewpoints into the site have been considered through the EIA process and the development has been sited within an area which would cause minimal visual intrusion. It is concluded in the Environmental Statement that in terms of landscape character and visual amenity the site would experience a 'slight' enhancement following the development.

H. Affordable Housing/Archaeological Matters/ Contaminated Land/Piers and Harbours.

Whilst this application was submitted before the Local Plan Inquiry Reporter recommended that all PDAs would be required to adhere with the affordable housing policy HOU 2, the plan is now adopted with a 25% requirement, and it is therefore necessary that affordability obligations are met. The applicant has agreed to a condition to cover this aspect.

In terms of archaeological remains, it is considered that while there is the potential for significant archaeological remains on the site, it is likely these have been compromised by the amount of development which has already taken place on the site over the last 40 years. It is therefore recommended that a condition be imposed to require that these issues be investigated in more detail prior to the commencement of development.

Policy TRAN 8 encourages the use of harbour areas for marine related uses and the development would be consistent with this policy in terms of both the marina and ferry link proposals.

I. Road Network, Parking and Associated Transport Matters.

The development would be accessed by the C10 Glenstriven Road and the junction at the access road would require to be upgraded and the visibility splays increased to accommodate the increase in traffic flows. The existing public roads would require to be upgraded in places outwith this site and these off-site measures would need to be the subject of a Section 75 legal agreement. The off-site roads improvements recommended by the Head of Roads comprise:

- Improvements between Toward Primary School and the entrance to the site at the Memorial Hall, formation of footway. To be completed prior to the first house being occupied;

- Extension to the 40 mph speed restriction to beyond the entrance to the development. To be completed before the 50th house is occupied and / or the ferry terminal is operational;

Policy LP TRAN 5 refers specifically to off-site road improvements and these road improvements are required under this policy because it is considered that the proposal would significantly increase pedestrian and vehicular traffic on a substandard approach road. The footway is required to provide a safe pedestrian link from the site to the Primary School. The improvements are considered necessary to address the additional traffic generation associated with the proposal and are therefore commensurate with the scale of development.

A Roads Construction Consent and a Road Bond would be required for the development of adoptable roads within the site for this level of development under separate legislation. It should be noted that no building works can commence until such securities have been lodged. The road levels would require to address the flooding risk and a Flood Risk Assessment has been carried out for the site. Argyll and Bute Local Plan policy TRAN 1 to TRAN 6 (with the exception of LP TRAN 5 noted above) have either been accommodated within the current proposal, or can be secured by condition at the approval of conditions stage, with the exception of the identified off-site improvements which need to be addressed by way of legal agreement.

J. Infrastructure

In terms of wastewater provision, a private sewage treatment plant is proposed and a Drainage Assessment has been submitted in support of this application detailing this. This would be consistent with Policy SERV 1 as there are currently no public sewers in the vicinity which could serve the development.

Scottish Water has advised that there are no public water mains in the immediate vicinity of the development and therefore an extension may be required. The nearest water main is approximately 1125 metres from the site and further discussion with the developer is recommended. A suspensive condition requiring evidence that this water connection can be achieved is therefore proposed.

Whilst the site has been previously developed, it is not contained within the register of contaminated land, however, in view of its past occupation there may remain some risk of contamination. In this respect the Environmental Statement has concluded that through the application of best practice methodology and the mitigation measures recommended, this can be controlled at a site level to ensure that no significant environment effects arise. Adopting the approach advocated in the ES would satisfy policy LP SERV 7.

K. Other Key Policy Matters

LP CST 4 – Development Impact on the Foreshore, would apply to this site although it should be noted that large areas of this site have an artificial coastline. It is considered that the development would not damage natural foreshore area, and indeed it should improve the visual appearance of the coastline as well as the biodiversity where the mudflat area is to be extended.

L. Other Scottish Government Advice

There are a number of national planning policy and guidance notes which are applicable to this scale of development:

SPP1 – The Planning System

SPP1 encourages and supports regeneration, sustainable economic development, and the maintenance and enhancement of the quality of the natural and built development. This proposal would be in accordance with this policy as demonstrated by the submitted sustainability statement and it would ultimately result in the enhancement of a degraded site.

SPP2 – Economic Development

SPP2 supports the promotion of mixed use development as an appropriate way of bringing obsolete industrial sites back into beneficial use. Given the development proposed, it is considered that the proposal accords with this advice.

SPP3 – Planning for Housing

The advice contained in SPP3 is supportive of the proposal as it acknowledges the contribution previously developed 'brownfield' land can make to providing land for housing. The application proposes 220 residential units in a low density arrangement overall. This is defined as large scale development in terms of the Argyll and Bute Local Plan definitions. As previously noted this would meet with the aims of the PDA and AFA. Given the size of the former Ardyne yard and the scale of environmental degradation which requires to be addressed, it is clear that a 'large scale' development is necessary to fund the reclamation and enhancement of the site.

SPP 7 – Planning and Flooding

Construction of suitably designed surface water drainage systems and raising floor levels above the highest predicted floor level will mitigate the potential for flooding impacts. With the implementation of mitigation, the construction and operation of the development is predicted to have negligible effects on the water environment.

SPP 15 – Planning for Rural Development

This SPP recognises that large scale mixed use projects need to carefully weigh economic benefits with environmental and social impacts. It also emphasises the importance of landscape fit and design in making potential development areas acceptable.

This mixed used development with meets with the aims of both the PDA and AFA designations as defined by the Argyll and Bute Local Plan. The design and landscape impact is acceptable and will result in the redevelopment of a degraded site.

NPPG 11 – Sports, Physical Recreation and Open Space

This NPPG sets out Government policy on this issue emphasising the importance of sport and recreation to the economy, emphasises the environmental impact of recreational pursuits and how they can be harnessed to bring benefits to the rural economy.

The development represents a positive permanent change with increased opportunities for habitation, recreation and employment. Furthermore, the proposal would enhance land use and recreation of the surrounding area through improved access and transport links. It is, therefore, considered that there would be permanent, positive impacts.

NPPG 13 – Coastal Planning

NPPG 13 states that development that requires a coastal location should preferably re-use 'brownfield' land, giving careful consideration to siting, high design standards and the opportunity to provide public access. It is considered that the development would not damage natural foreshore area and indeed it should improve the visual appearance of the coastline as well as the biodiversity where the mudflat area is to be extended.

NPPG 14 – Natural Heritage

Government advice is that new development can offer opportunities to restore and enhance natural heritage through land rehabilitation, landscaping and the creation of new and improved habitats. Siting and design of new development should take account of the character of the landscape and the potential impact on the local environment. The Environmental Statement notes that primary mitigation measures have been included in the outline design of the development. These include careful siting of proposed buildings to ensure minimal impact, introduction of additional landscaping to help mitigate views to the site and to enhance the ecological value of the site and retention of the existing tree belt that provides both visual and physical protection.

M. Conclusion.

This large scale mixed used development meets with the aims of both the PDA and AFA designations as defined by the Argyll and Bute Local Plan, which has recently been adopted. It also satisfies other relevant development plan policies and meets with government advice. Taking account of the above, it is appropriate that planning permission in principle be granted, subject to conditions and a legal agreement to secure necessary off-site road improvements.