

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: 11/02115/PPP

Planning Hierarchy: Local Development

Applicant: Mr and Mrs S Bate

Proposal: Site for the erection of croft house

Site Address: Land East of Achara, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Planning permission in principle for the erection of a dwelling house
- Upgrading of an existing access
- Installation of waste water treatment system
- Engineering (excavations) to form house site

(ii) Other specified operations

- Removal of trees
 - Landscaping and planting
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(B) RECOMMENDATION:

It is recommended that, **subject to the prior conclusion of a Section 75 Agreement**, the application is granted as a minor departure from the adopted development plan for the reasons detailed in the report and also subject to the conditions detailed below.

(C) HISTORY:

08/01573/OUT – Site for the erection of dwelling house – Withdrawn
08/01577/OUT – Site for the erection of dwelling house – Withdrawn
09/00094/DET – Site for the erection of 4 dwelling houses – Withdrawn
11/00504/PPP – Site for the erection of 2 chalet letting units – Refused
11/00505/PP – Erection of chalet letting unit (retrospective) – Refused
11/00387/PPP – Site for the erection of croft house - Refused

(D) CONSULTATIONS:

Area Roads Manager - report dated 9/11/11 No objection subject to the following requirements:

- Existing access at junction of public road to be upgraded in accordance with Roads Services drawing SD08/006a
- No walls, hedges, fences etc will be permitted within 2m from the channel line of the public road,
- Visibility splays measuring 53m x 2.4m to be cleared and maintained,
- A system of surface water drainage is required to prevent water from passing onto the public road,
- Parking for vehicles commensurate with dwelling to be provided.

Scottish Water - letter dated 15/11/11 No objection.

Scottish Natural Heritage - email dated 18/11/11 No objection.

Crofters Commission - late consultation issued 22/12/11. Response dated 27/03/12. The Crofters Commission response confirms the current condition of the land, and the remaining croft land. This confirms that little crofting activity has been undertaken at the site since croft status was granted (which the applicant explained was due to a lack of planning permission for development), other than installation of a new access. Given the condition of the croft land, there is very limited agricultural potential other than what was proposed when the crofting status was approved – which was small scale market gardening under the cover of polytunnels. The sheltered land near the existing chalet is identified as the best location for polytunnels.

In terms of the proposed house site, at the northern end of the croft, the loss of this land for provision of a house will not affect the future agricultural activity.

In conclusion, the Convenor made no comments on the application.

Local Biodiversity Officer - memo dated 24/11/11 No objection. The applicant has sited bird boxes on almost every tree along the boundary

Please note under the previous application for a croft house (11/00387/PPP) concerns were raised regarding potential impact upon bats, a European Protected Species, and Red Squirrels, a UKLBAP species. The site has since been cleared of more trees. As a result, there is no longer any potential impact on either species as potential habitats have been removed. Given that the trees were not protected and enforcement of any infringement of the protection of European species and other protected species is not a Council responsibility, this is a matter that lies beyond the control of the Planning Authority.

(E) PUBLICITY:

The proposal has been advertised in terms of regulation 20, closing date 8/12/11.

(F) REPRESENTATIONS:

None

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:
(If yes enter below) | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | Yes |

General Supporting Statement
Additional Supporting Information

Summary of main issues raised by each assessment/report

The General Supporting Statement sets out the reasons for the application, including the history and the crofting nature of the application, with the land securing croft status in December 2010 following a hearing. It also requests that the Council sets aside the PDA policy covering the site, and requests instead that policy STRAT AC 1 and LP HOU 1 (provision of a croft house on a bareland croft) be given primacy by the Council in order to support the crofting enterprise on the land.

The Additional Supporting Information sets out that the main reason for the delay in implementing crofting activity on the site has been uncertainty regarding the applicant's proposals for a permanent house on the site. They have been raising chickens and pigs, but have sold their stock pending an outcome on the planning application for a house. A timeframe of 1-4 years has been indicated for erection of the house and polytunnels, and relocation of the existing chalet for use as a workshop. In years 4-7 one small holiday letting unit is proposed. In years 7-10, two further small holiday units are proposed. If finances allow, the development of the Croft Plan will be accelerated.

The applicants are agreeable to entering a Section 75 Agreement tying the house and croft together.

The windblown sitka spruce and larch have been cleared with the appropriate licences being obtained. 200 replacement beech and copper beech seedlings have been planted.

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:**

Yes

The proposed development has been recommended for approval on the basis of a locational need associated with the designation of the land as a bareland croft, in circumstances where policy considerations would otherwise preclude support being given for a house. Prior to planning permission being granted, a Section 75

Legal Agreement is required in order to ensure that the croft house and the registered bareland croft are retained in a single ownership. Without such a restriction, it would be open for the croft house to be sold separately from the bareland croft which it is intended to serve, or other further sub-division of the croft land asset, thereby leading to potential demand for a further croft house to serve the residual bareland croft, which would undermine the adopted development plan and be at odds with the wider Countryside designation.

(ii) Reasons for refusal in the event that the legal agreement is not concluded within four months

1. In the absence of a Section 75 Agreement to underpin the locational need argument submitted in support of the planning application; the application proposes piecemeal development within the confines of PDA 5/5 identified by the 'Argyll and Bute Local Plan' (2009) for golf course expansion with possible ancillary, low density, high amenity, small scale housing and a 25% affordable element, associated with and prompted by the proposed Oban Development Road, the general route of which is provided for by the plan. There is a presumption that PDA's are not immediately effective and should therefore be planned for on a comprehensive basis in order to address servicing, ownership and other potential development constraints, in order to ensure that the purposes behind their designation are not frustrated or inhibited by premature or piecemeal forms of development, which in turn, could undermine the long term aspirations of the development plan for such sites. The proposal does not constitute part of the required master-planned approach to the PDA designation within which it is situated, and is therefore contrary to the provisions of the 'Argyll & Bute Local Plan' and there are no other material considerations, in the absence of a Section 75 Agreement to underpin the croft status argument proposed in favour of the application, which would warrant the application being determined other than in accordance with the primary designation of the land as delineated in the local plan.

(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 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 7 – Nature Conservation and Development Control
STRAT DC 8 – Landscape and Development Control
STRAT AC 1 – Development in Support of Farms, Crofts and Estates
STRAT SI 1 – Sustainable Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment
LP ENV 2 – Impact on Biodiversity
LP ENV 6 – Impact on Habitats and Species

LP ENV 7 – Impact on Trees/Woodland
LP ENV 19 – Development Setting, Layout and Design
LP HOU 1 – General Housing Development
LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems
LP SERV 4 – Water Supply

LP TRAN 1 – Public Access and Rights of Way
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 6 – Vehicle Parking Provision

LP DEP 1 – Departures to the Development Plan

Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards
Appendix E – Allocations, Potential Development Area Schedules and Areas for Action Schedules

PDA 5/5 Schedule – Golf course expansion with possible ancillary, low density, high amenity, small scale housing and 25% affordable element.

(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.

Argyll & Bute Sustainable Design Guidance (2006)
The Town & Country Planning Act (Scotland) 1997
The Planning etc. (Scotland) Act, 2006
Scottish Planning Policy, SPP, 2010

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	No
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(O)	Requirement for a hearing:	No
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(P) Assessment and summary of determining issues and material considerations

This application was due to be presented to the PPSL Committee in February 2012 recommended for refusal. On the request of the applicant, it was agreed that the application be continued to allow further information to be submitted. The information has now been supplied, including: a consultation response from the Crofters Commission; a further supporting statement from the agent explaining the delay in implementing the croft plan thus far; an indicative timeline to implement the croft development plan; and an indicative site plan informed by a site meeting on 13th March 2012 between the applicant and Stephen Fair, Area Team Leader for Oban,

Lorn and the Isles, to identify suitable sites for the polytunnel(s), workshop and holiday units referenced in the supporting evidence and submitted to the Crofters Commission at the time of the croft hearing, assuming the house were to be erected at the north-eastern end of the croft.

The site lies at the fringe of the existing settlement of Oban. It is located within Potential Development Area 5/5 adjacent the Oban 'settlement' zone along Glencruitten Road, immediately north-east of the golf course. The site has primarily been designated as a PDA to allow the golf course an opportunity to expand as a result of land which may be lost to facilitate the route of the Oban Development Road. The PDA schedule describes the PDA as "*Golf course expansion with possible ancillary low density high amenity small scale housing development.*" so there is recognition that some limited built development could be appropriate. The PDA Schedule requires a comprehensive masterplanned approach to include 25% affordable housing and address sewage and water supply constraints and road safety issues. The primary catalyst to development on this site is therefore the Oban Development Road and the displacement of part of the golf course. The PDA is adjoined to the south-west by an Open Space Protection Area (golf course) and to the north-east by 'countryside around settlement'.

The site is located to the north of Oban along Glencruitten Road in an area characterised by low density scattered housing development and undulating natural landscape. The site rises steeply from the public road edge to a significant height at the top of a knoll with a generally flatter top. It is proposed to locate a single dwelling house on the north eastern corner of the site, to the north-west of an existing unauthorised chalet. The applicant proposes to retain the chalet for family accommodation until the completion of the proposed croft house and then relocate it within the north-eastern end of the croft for ongoing use as a workshop associated with running the croft enterprise (market garden).

To the north-east of the site is the remainder of the undeveloped PDA, to the east are open fields and an undulating landscape, south is the golf course whilst west is the public road and a single house known as Achara. Much of the croft is extremely steep and has an existing agricultural access onto the public road that the applicant has recently upgraded under 'permitted development' rights.

The topography of the croft is such that it does not allow for the easy siting of a house consistent with the Council's Sustainable Design Guide. Planning Officers have advised that the most suitable location for a dwelling would be at the more contained north-eastern end of the croft, at the site of an existing unauthorised chalet. The chalet has been the subject of enforcement action since 2008 (currently held in abeyance pending determination of the planning application).

Following refusal of a dwelling in an inappropriately elevated, dominant and open location at the southern end of the croft in 2011, the applicant now proposes to locate a house to the north-west of the chalet, which is in accordance with Planning Officers' assessment of how to best accommodate a house within the confines of the croft. The existing chalet does not form part of this application and regardless of the outcome of this application will still remain unauthorised. However, if planning permission were in place for a house, and a lawful start had been made on such a house, then the chalet could remain on site as temporary accommodation under permitted development rights, for the duration of the house construction on the basis that it is removed following occupation of the new dwelling. Thereafter, the amended siting and use for a croft workshop would require separate consent.

The applicants secured croft status for the land in December 2010, which requires Structure Plan Policy STRAT AC 1 to be assessed. This supports the principle of a single house on a bareland croft on appropriate sites and diversification of crofts.

The Policy does, however, include other caveats and it is not generally considered STRAT AC 1 should override PDA allocations that require a comprehensive masterplanned approach. The Council's Development Plans officers confirm that a PDA status should generally take priority over a bareland croft status.

In the supporting documentation the applicant has submitted details of their croft development plan as supplied to the Crofters Commission. This information details intended polytunnels to grow fruit and vegetables on a commercial basis to sell to local hotels and also to have livestock within the croft. To date, there have been chickens and a pig on site, but no polytunnels and no working of the croft of any significance appears to be being undertaken. The applicants assert that this is due to the lack of certainty regarding a permanent house on the croft, but as they are already resident on the croft this can only be by virtue of a lack of desire to commit the finances rather than the inability to croft the site due to a lack of on-site presence.

Whilst there is a lack of evidence that the croft is being worked in accordance with the case for designation advanced to the Crofters Commission, the croft status still applies to the site, and this must be evaluated by the Planning Authority as required by STRAT AC 1 and LP HOU 1.

In response to recent Officer concerns regarding a lack of detail in terms of implementation of the Croft Development Plan, the applicant has provided further information, including an overall indicative site plan showing where the different elements of development could be successfully sited within the croft. This accords with the successful submission to the Crofters Commission (which secured the croft status) and demonstrates how the croft could be worked successfully.

Although polytunnels would also be best sited near the contained north-eastern end of the croft in order to gain best shelter, as highlighted by the Crofters Commission, a site visit has also identified a plateau near the centre of the site, where some softer ground could be cleared (with soil spread on remaining croft land) and a low rise structure such as a polytunnel or pair of polytunnels could nestle in taking advantage of surrounding knolls for containment and a degree of shelter. On balance, it is considered more important to site the permanent house in the best location, because it is the only place where a house could be comfortably accommodated, whereas there is an alternative position for the proposed polytunnel(s) that enables the croft development plan to be implemented. The applicant has now demonstrated how the polytunnels and a house can co-exist.

Similarly, the applicants have now backed up their verbal intention to have a workshop with an indicative plan showing where this could be sited. A site inspection in March 2012 confirms sufficient space exists within a sensible location of the site to position a workshop. The applicant intends to re-site the existing unauthorised chalet for ongoing use as a workshop on occupation of the new build house. Alternatively, a small purpose built workshop could be installed. Whatever arrangements are ultimately proposed, explicit planning permission will need to be sought at a later date. However, to avoid any future confusion over lawful usage, or accumulation of residential type buildings within close proximity at the northern end of the croft, it is considered necessary to apply an appropriate planning condition securing the removal of the chalet on occupation of the house currently proposed in principle, if such permission is to be granted.

The key policy matter to be decided is: a bareland croft argument in favour of the application, set against a PDA allocation requiring a wider, comprehensive approach.

In support of the application, the agent asserts that the elevated ridge is of a character that does not lend itself to the expansion of the golf course or the provision of the ODR across the site. Whilst forming part of the wider PDA, it is noted that this site is not itself likely to be crossed by the proposed ODR line. The site topography comprises steeply

sloping rocky banks rising up to an elevated ridge plateau croft. In this instance, it is accepted that the land does not form a functional or effective part of the wider PDA. In the individual circumstances that exist at this site, it is accepted that the land can be excluded from the wider PDA without compromising the ability of the PDA from being developed separately in a cohesive manner, and as such there remains little merit in insisting on a robust comprehensive masterplan being in place prior to determining the current application. Whilst a bareland croft status will not generally over-ride an allocated PDA, it is accepted that a special case has been made in this instance, whereby a croft house can be supported in principle.

The applicant has now supplied details of how the crofts development can be successfully accommodated within the site, in accordance with the details submitted to the Crofters' Commission to secure croft status, which gives an opportunity to rationalise the development with the council's adopted policies. Addressing these omissions from earlier submissions has enabled the balance to be tipped in favour of the provision of a house for the bareland croft. The proposal presents circumstances where a single croft house could be accommodated without physically preventing the PDA from being developed around the site or compromising the future viability of the PDA.

The applicants delay in implementing the Croft Development Plan is discussed earlier in this report. It is considered that if planning permission in principle is granted for a house, this would afford them full certainty as to the long term status of the land and their ability to actively croft the land. Achieving active crofting is the only way to underpin the special case that has been made for a house at the site. Accordingly, it is necessary to apply a suspensive planning condition preventing the house from commencing on site until the polytunnel(s) have been erected and are brought into use as a market garden enterprise and livestock have been re-introduced at the croft in accordance with the Croft Development Plan.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The dwelling is required for operational purposes to service a bareland croft and is supported by an appropriate Croft Development Plan. The dwelling has been sited in a location which represents the best opportunity to accommodate a house within the holding. A carefully designed, low rise dwelling will be acceptable in terms of the established characteristics of built development in the surrounding area and access and servicing arrangements are appropriate. Subject to a legal agreement tying the ownership of the dwelling to the croft land in order to avoid demand for further croft subdivision, the development confirms to Structure Plan policy STRAT AC 1 and Local Plan policy LP HOU 1. There are no other material considerations, including issues raised by third parties, which would prevent the development being granted as a minor departure from the adopted development plan.

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

Although situated within PDA allocation 5/5, where a comprehensive approach to development is normally required, the individual circumstances and topography of the site mean it is unlikely to be required to allow for the Oban Development Road or the expansion of the adjacent golf course. As the site does not conflict with the objectives which underpin the PDA allocation, it is accepted that a croft house can be granted without undermining the PDA allocation in this instance. The adopted development plan applies a generally supportive position for the provision of single croft houses on

bareland crofts. Since the wider PDA can still be developed; the application proposes the house in the best location within the site (north-eastern section); and evidence has been submitted to show acceptable locations for all elements of development required to successfully implement the Croft Development Plan; the house can be accepted as a minor departure to the adopted development plan provisions in this instance.

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

Author of Report: Stephen Fair



Date: 14/06/12

Reviewing Officer: Ross McLaughlin

Date: 15/6/12

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 11/02115/PPP

1. That this permission is granted in terms of Section 59 of the undernoted Act for planning permission in principle and further approval of the Planning Authority shall be required for matters specified in conditions, 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 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No development shall commence on site until the following information has been submitted by way of an application(s) for approval of matters specified in conditions and approval has been given in writing by the Planning Authority:
 - a) A detailed site layout plan at a scale of 1:500 showing the proposed dwellinghouse and residential curtilage.
 - b) Access, parking, water supply and drainage arrangements.
 - c) Plans and elevations of the proposed dwellinghouse which shall incorporate the following elements:
 - Be situated within the north-eastern end of the croft and not extending more than 40 metres away from the north-eastern site boundary at any point;
 - Be single storey in height (with or without rooms in the roof);
 - Incorporate windows with a strong vertical emphasis;
 - Have walls finished in timber cladding, white wet dash render or smooth cement render;
 - Have a symmetrically pitched roof finish of dark grey natural slate or high quality artificial slate; and,
 - If chimneys are proposed they will be set squarely on the building ridge.

Reason: In the interests of visual amenity and in order to maintain the character of the area and integrate the proposed dwellinghouse with its surroundings.

3. The occupation of the dwelling house hereby approved shall be limited to a person(s) carrying on, or last carrying on, the crofting activities at the croft at Highfield Croft, Glencruitten, Oban (Agricultural Code Number 174/0053) (the site), or a dependant of such person residing with him or her, or a widow or widower of such a person.

Reason: To underpin the locational/operational need which justified the approval of a house at the site, where a general presumption against housing applies in the adopted Development Plan.

4. No development shall commence or is hereby authorised until, the polytunnel(s) necessary for the crofting enterprise have been provided at the site and are in active use for the growing of market garden products, and livestock has been re-introduced to the croft all as per the Croft Development Plan. For the avoidance of doubt, this planning condition is not a substitute for planning permission or prior notification procedures as are necessary to authorise the erection of the said polytunnel(s) at the holding.

Reason: To ensure the credible working of the croft to underpin the special case proposed in support of the development.

5. As details pursuant to condition 2 above, full details of existing ground levels, proposed ground levels, and proposed finished floor levels for the house hereby approved, all relative to a fixed datum point, shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved prior to the initial occupation of the house hereby approved.

Reason: To ensure the development integrates with its landscape setting in an acceptable, unobtrusive manner.

6. As details pursuant to condition 2 above, full details of the proposed means of foul drainage including the capacity, treatment and outfall arrangements of the proposed private drainage system, shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved prior to the initial occupation of the house hereby approved.

Reason: To ensure that foul drainage arising from the development is safely and hygienically disposed of.

7. As details pursuant to condition 2 above, full details of the proposed means of surface water drainage disposed shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved prior to the initial occupation of the house hereby approved.

Reason: To ensure that surface water drainage arising from the development is adequately managed.

8. As details pursuant to condition 2 above, full details of the proposed means of boundary treatment to the residential curtilage (which shall not extend further than 40 metres away from the north-eastern site boundary at any point), shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved within one year of the initial occupation of the house hereby approved, and shall be so maintained thereafter in perpetuity.

Reason: To ensure development integrates with its landscape setting.

9. No development shall commence on site until the vehicular access at the junction with the public road has been constructed in accordance with the Council's Road Engineers Drawing Number SD 08/006a with visibility splays of 53m x 2.4m in each direction formed from the centre line of the proposed access and steps shall be taken to ensure that no surface water drainage is allowed to run onto the public road. Prior to work starting on site the visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.

The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouse which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouse hereby approved.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access.

10. As details pursuant to condition 2 above full details shall be submitted to the Planning Authority, in plan form, of the number of car parking spaces within the site at a level commensurate with the size of dwelling proposed in accordance with Policy LP TRAN 6 of the adopted Argyll and Bute Local Plan. Such details as are approved will be fully implemented prior to occupation of the house hereby approved in principle and thereafter so maintained in perpetuity.

Reason: To enable vehicles to park clear of the access road in the interests of road safety.

11. Within one month of the initial occupation of the house hereby granted planning permission in principle, the existing unauthorised chalet within the site shall be entirely removed from the site.

Reason: To avoid over-development of the site which could otherwise occur and to avoid any future ambiguity regarding the lawful use of the chalet.

NOTES TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), 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.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) 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.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/02115/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is within Potential Development Area 5/5 adjacent the Oban settlement zone along Glencruitten Road alongside the golf course. The site was designated as a PDA to allow the golf course expansion as a result of land due to be lost to the proposed route of the Oban Development Road. The PDA schedule describes the PDA as *“Golf course expansion with possible ancillary low density high amenity small scale housing development.”* The PDA also requires a comprehensive masterplanned approach, identifies sewage and water constraints and road safety issues. Therefore the catalyst to development of the PDA is the Oban Development Road and the reconfiguration of the golf course as a consequence.

The applicants secured croft status at the land in December 2010. Structure Plan Policy STRAT AC 1 supports the principle of a single house on a bareland croft on appropriate sites and also supports the diversification of crofts. The policy does not however generally override the PDA status which requires a comprehensive masterplanned approach.

An indicative masterplan has been submitted covering the land within PDA. This shows a possible route of the ODR, golf course expansion and some ‘medium scale’ housing development. However, what has been shown is entirely speculative and it is not understood that consultation has taken place with the other landowners involved, including the golf club. The PDA has been allocated as suitable for the golf course expansion with possible ancillary ‘small scale’ housing development only. The masterplan shows ‘medium scale’ housing development which in any event is not in conformity with the terms of the PDA. Due to the apparent lack of consultation and the inclusion of higher scale housing proposals than envisaged by the PDA it is not considered that the ‘masterplan’ is a sound basis on which to advance piecemeal development of the PDA. The agent has confirmed that the masterplan is speculative due to the different landownership interests and because there is no clarity in terms of the ODR being implemented. The role of the ODR as catalyst for the activation of this PDA and the wider issues to be overcome are the very reason for the land having been identified as part of the local plan process as a PDA, instead of being zoned as ‘settlement’ or identified as a housing or some other allocation.

However, the agent also asserts that the elevated ridge is of a character that does not lend itself to the expansion of the golf course or the provision of the ODR across the site. This argument is accepted in the context of the topography of the wider PDA and taking account of the specific topography and circumstances at this site. In the individual circumstances that apply in this instance, it is accepted that the site can be excluded from the PDA without hindering the cohesive development of the remaining PDA separately, and as such, there is little merit in insisting on the provision of a masterplan to enable the development of this single croft.

B. Location, Nature and Design of Proposed Development

The site is located to the north of Oban along Glencruitten Road in an area of low density scattered housing development, located within a natural undulating landscape. The croft land rises steeply from the road edge to a significant height at the top of a knoll with a flat top. It is proposed to locate a single dwelling house on the north eastern corner of the croft to the north-west of the existing unauthorised chalet. The chalet does not form part of this application and if planning permission in principle is granted for the current proposal, the applicant intends to retain the chalet for temporary accommodation

until the completion of the dwelling house. Planning conditions could then secure the removal of the chalet from the site.

To the north of the site is the remainder of the undeveloped PDA, to the east are open fields and an undulating landscape, south is the golf course whilst west is the public road and a property known as Achara. The site itself is extremely steep around the periphery and has an existing agricultural access onto the public road that the applicant has recently upgraded under 'permitted development' rights.

In this instance the topography of the croft does not allow for the easy siting of a house that would be consistent with the Council's Sustainable Design Guide. Permission has recently been refused for a dwelling in an inappropriately elevated dominant and open location at the southern end of the croft. The current submission presents the best opportunity to accommodate a house within the holding, in accordance with advice from Planning Officers. Although polytunnels would also be best sited near the contained north-eastern end of the croft in order to gain best shelter, as highlighted by the Crofters Commission, a site visit has also identified a plateau near the centre of the site, where some softer ground could be cleared (with soil spread on remaining croft land) and a low rise structure such as a polytunnel or pair of polytunnels could nestle in, taking advantage of surrounding knolls for containment and a degree of shelter.

An indicative plan has been supplied showing how a house, workshop, polytunnels and potential future holiday units could be successfully accommodated in the site, subject to successful low rise designs being devised. The current application is in principle only, and as such, no design details have been submitted at the present time.

C. Natural Environment

In terms of natural heritage, the Council's Biodiversity Officer has not objected to the proposal. It should be noted however that the applicant's own submissions during the previous application (11/00387/PPP), indicated the presence of Pipistrelle Bats, a European Protected Species, and Red Squirrels, a UK LBAP Priority Species. The site has since been cleared of vegetation and there is now little habitat for these protected species on the site. The applicant has however erected bird boxes around the site on almost every tree along the boundary. As the trees removed were not protected, and the enforcement of any infringement of the protection of European species and other protected species is not a Council responsibility, this is a matter that lies beyond the control of the Planning Authority.

The applicant has also submitted that the trees removed were largely wind blown sitka spruce and larch, and that 200 replacement beech and copper beech seedlings have been planted.

D. Built Environment

The area around the site is characterised as open, largely undeveloped countryside with the golf course to the south and a scattering of houses of different styles and sizes within 500 metres of the site. The applicant has indicated that he would like to provide a 3 bedroom bungalow.

E. Impact on Woodland/Access to Countryside.

The applicant, under agricultural 'permitted development' rights, has carried out works to open up various access routes into and around the site. In conjunction with this work, several mature trees were removed from the site. Those trees could have housed protected species and would have formed part of any habitat survey, but they were removed prior to such a survey being undertaken. Although the Planning Authority had

no direct power to prevent the tree felling, the loss of these trees has opened parts of the croft up to wider views which were not previously available.

F. Road Network, Parking and Associated Transport Matters

The Council's Area Roads Manager has responded with no objections subject to conditions addressing junction and visibility requirements, drainage and parking.

G. Infrastructure

The applicant intends to provide a private waste water treatment system and connect to the public water main. The PDA schedule states that these are two issues that need to be overcome for any comprehensive development. The applicant has been operating one unauthorised chalet on the site as a full time residence for some time and has not reported any issues with water or waste water drainage.

(Lawfulness is not established for the chalet and an enforcement notice was issued requiring its removal. Although that notice has been withdrawn due to a technical deficiency in its wording, retrospective permission has been refused for the chalet and it remains open to the Planning Authority to secure its removal. Service of a subsequent notice has been held in abeyance in order to allow this current application to be determined.)

H. Other Key Policy Matters

The applicants were awarded croft status on the land in December 2010 following a hearing by the Crofters Commission in November 2010. The supporting documentation provides details of the meeting when this was granted; "Note of Decision – Create a New Croft" states that it was the applicants' intention to grow fruit and vegetables on the croft.

The key policy matter to be decided is: a bareland croft argument in favour of the application, set against a PDA allocation requiring a wider, comprehensive approach.

The agent asserts that the elevated ridge is of a character that does not lend itself to the expansion of the golf course or the provision of the ODR across the site. This argument is accepted in the context of the topography of the wider PDA and taking account of the specific topography and circumstances at this site. As such, the site can be excluded from the PDA without compromising the ability of the remaining PDA from being developed comprehensively.

The applicant has now supplied details of how the crofts development can be successfully accommodated within the site, in accordance with the details submitted to the Crofters' Commission to secure croft status, which gives an opportunity to rationalise the development with the council's adopted policies. Addressing these omissions from earlier submissions has enabled the balance to be tipped in favour of the provision of a house for the bareland croft. The proposal presents circumstances where a single croft house could be accommodated without physically preventing the PDA from being developed around the site or compromising the future viability of the PDA.

I. Conclusion

In conclusion, the dwelling is required for operational purposes to service a bareland croft and is supported by an appropriate Croft Development Plan. The dwelling has been sited in a location which represents the best opportunity to accommodate a house within the holding. A carefully designed, low rise dwelling will be acceptable in terms of the established characteristics of built development in the surrounding area and access and servicing arrangements are appropriate. Subject to a legal agreement tying the ownership of the dwelling to the croft land in order to avoid demand for further croft sub-

division, the development confirms to Structure Plan policy STRAT AC 1 and Local Plan policy LP HOU 1.

Although situated within PDA allocation 5/5, where a comprehensive approach to development is normally required, the individual circumstances and topography of the site mean it is unlikely to be required to allow for the Oban Development Road or the expansion of the adjacent golf course. As the site does not conflict with the objectives which underpin the PDA allocation, it is accepted that a croft house can be granted without undermining the PDA allocation in this instance. The adopted development plan applies a generally supportive position for the provision of single croft houses on bareland crofts. Since the wider PDA can still be developed; the application proposes the house in the best location within the site (north-eastern section); and evidence has been submitted to show acceptable locations for all elements of development required to successfully implement the Croft Development Plan; the house can be accepted as a minor departure to the adopted development plan provisions in this instance.

APPENDIX TO DECISION NOTICE

Appendix relative to application **11/02115/PPP**

- (A)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (B)** The reason why planning permission has been granted.

The dwelling is required for operational purposes to service a bareland croft and is supported by an appropriate Croft Development Plan. The dwelling has been sited in a location which represents the best opportunity to accommodate a house within the holding. A carefully designed, low rise dwelling will be acceptable in terms of the established characteristics of built development in the surrounding area and access and servicing arrangements are appropriate. Subject to a legal agreement tying the ownership of the dwelling to the croft land in order to avoid demand for further croft subdivision, the development conforms to Structure Plan policy STRAT AC 1 and Local Plan policy LP HOU 1.

Although situated within PDA allocation 5/5, where a comprehensive approach to development is normally required, the individual circumstances and topography of the site mean it is unlikely to be required to allow for the Oban Development Road or the expansion of the adjacent golf course. As the site does not conflict with the objectives which underpin the PDA allocation, it is accepted that a croft house can be granted without undermining the PDA allocation in this instance. The adopted development plan applies a generally supportive position for the provision of single croft houses on bareland crofts. Since the wider PDA can still be developed; the application proposes the house in the best location within the site (north-eastern section); and evidence has been submitted to show acceptable locations for all elements of development required to successfully implement the Croft Development Plan the house can be accepted as a minor departure to the adopted development plan provisions in this instance.