

**Argyll and Bute Council  
Development & Economic Growth**

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

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<b>Reference No:</b>	24/01459/PP
<b>Planning Hierarchy:</b>	Local Application
<b>Applicant:</b>	Ms Erin Murphy
<b>Proposal:</b>	Erection of a Fence and Use of Land as the Curtilage of a Shop Unit
<b>Site Address:</b>	Land to the Rear of 19 East Princes Street, Rothesay, Isle of Bute

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**DECISION ROUTE**

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

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

- Erection of a fence
- Use of land as the curtilage of a shop unit including seating area for staff, the provision of refuse and recycling storage and retail display
- Land drainage works

**(ii) Other specified operations**

- Removal of vegetation
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**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission be **granted** subject to the conditions, reasons and informative notes set out below.

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**(C) CONSULTATIONS:**

None

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**(D) HISTORY:**

Planning Permission (ref: 06/01868/COU) granted on 06.02.2007 for alterations and change of use of the shop unit (Class 1) at 19 East Princes Street into an amusement arcade (Sui Generis).

Listed Building Consent (ref: 06/01869/LIB) granted on 16.03.2007 for alterations to convert the shop unit (Class 1) into an amusement arcade (Sui Generis).

Non Material Amendment (ref: 07/01283/NMA) to Planning Permission 06/01868/COU granted on 01.08.2007 for revision to window pane proportions.

Planning Permission (ref: 13/02562/PP) and Listed Building Consent (ref: 13/02563/LIB) granted on 06.01.2014 for the refurbishment of 19-25 East Princes Street (Duncan's Halls) including the installation of new cast iron guttering and downpipes.

Non Material Amendment (ref: 14/02221/NMA) to Planning Permission 13/02562/PP granted on 17.09.2014 to incorporate harling of chimney.

Planning Permission (ref: 21/00110/PP) granted on 25.11.2024 for the change of use of the shop unit at 19 East Princes Street to form a wine bar including the formation of an external seating area adjacent to the property frontage and the installation of a front canopy. Work commenced on the implementation of this permission at the end of February 2025.

Listed Building Consent (ref: 21/00119/LIB) granted on 26.11.2024 for internal and external alterations of the shop unit at 19 East Princes Street to create a wine bar including the removal and replacement of internal partitions and the display of signage. Work commenced on the implementation of this consent at the end of February 2025.

Advertisement Consent (ref: 21/00120/ADV) granted on 19.05.2021 for the display of non-illuminated fascia signage at 19 East Princes Street.

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**(E) PUBLICITY:**

Subject of Neighbour Notification (closing date 10.10.2024) and advertised as development in a Conservation Area and affecting the setting of a Listed Building (closing date: 25.10.2024).

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**(F) REPRESENTATIONS:**

**Objections** to the application have been received from the following seventeen sources:

Juliane Radwanski, Lowes House, Luncarty, Perth (received on 07.10.2024)  
Kyrie Dickson, 18 Partickhill Road, Glasgow (received on 08.10.2024)

Charlotte Morton, Flat 3/1, 21 East Princes Street, Rothesay, Isle of Bute (received on 09.10.2024)  
Lorna Bryden, Flat 2, Glenhead Ballochgoy Road, Rothesay, Isle of Bute (received on 09.10.2024)  
Chris Radwanski, Lowes House, Luncarty, Perth (received on 13.10.2024)  
Richard Sims, 19A Craigmore Road, Rothesay, Isle of Bute (received on 13.10.2024)  
Mark Anthony Carrigan, Flat 4/1, 21 East Princes Street, Rothesay, Isle of Bute (received on 15.10.2024)  
Edward Clack, Flat 2, 23 East Princes Street, Rothesay, Isle of Bute (received on 21.10.2024)  
Robin Patrick, 32 Crichton Road, Rothesay, Isle of Bute (received on 21.10.2024)  
Aldo Zavaroni, 13 East Princes Street, Rothesay, Isle of Bute (received on 22.10.2024)  
Margaret Zavaroni, 19A Craigmore Road, Rothesay, Isle of Bute (received on 22.10.2024)  
Susan Grasekamp, Flat 4/2, 21 East Princes Street, Rothesay, Isle of Bute (received on 23.10.2024)  
David Knowles, Flat 3, 23 East Princes Street, Rothesay, Isle of Bute (received on 23.10.2024)  
Helen Knowles, Flat 3, 23 East Princes Street, Rothesay, Isle of Bute (received on 23.10.2024)  
Mr Derek Morton, 2 Ceolwulph Close, Walkworth, Northumberland (received on 23.10.2024)  
Ms Monika Jedruch, Flat 3/2, 21 East Princes Street, Rothesay, Isle of Bute (received on 24.10.2024)  
Ms Pauline Bosco, 14 Glen Lyon Walk, Motherwell (received on 25.10.2024)

- i. It is contended that there is a lack of clarity regarding the ownership status of the plot of land for which Planning Permission is being sought. By using the postcode for No.19 East Princes Street, the delineation of the land to the rear is not shown in the Ordnance Survey-based land register from 1981 as presumably it has not yet been populated from the General Register of Sasines.

A number of neighbours have applied to the administrators of the latter register and were awaiting replies that would only have been received after the expiry of the date for comments to be submitted for this planning application. As such, there is no proper knowledge regarding what happened to the plot of land that was once run by The Palace Cinema Co. Ltd. i.e. whether it was purchased by them, leased or sold, etc.

**Comment:** This issue is addressed in Appendix A later in this report.

- ii. It is contended that the applicant does not own the land to the rear of No.19 East Princes Street for which Planning Permission is being sought.

**Comment:** This issue is addressed in Appendix A later in this report.

- iii. It is contended that the applicant has no more rights to the use of land to the rear of No.19 East Princes Street than the residents do.

**Comment:** This issue is addressed in Appendix A later in this report.

- iv. It is contended that the property at No.19 East Princes Street does not enjoy exclusive access to the land to the rear, given that there are several entrances to this area of ground.

**Comment:** This issue is addressed in Appendix A later in this report.

- v. It is contended that the land to the rear of No. 19 East Princes Street has been used by residents of the upper floor residential properties in Nos. 21 and 23 East Princes Street. Mention has been made of the following:

- The space has been used for “*decades*” as a valuable communal space. It has hosted family get-togethers and barbeques and has also offered the room to perform DIY tasks that can't be carried out indoors
- The proposed plans will result in the loss of a valuable community asset which is essential for the health, wellbeing, and social cohesion of residents and their families
- It is a green space which provides access to peaceful natural surroundings and where the outdoors can be enjoyed
- It is very clearly a garden for those living in the flats and is the only outdoor space to get any kind of fresh air without having to go and stand on the public street
- This is the only safe place for my daughter to play when we are visiting my Mum

One of the objectors, Susan Grasekamp, submitted two e-mails on 25<sup>th</sup> October 2024 that contained photographs of people sitting at tables and chairs on part of the rear area and one of these photographs is dated 25<sup>th</sup> July 2021.

**Comment:** These comments are noted although there is a lack of definitive evidence on the extent to which the land within the application site has been used in association with the residential flats in the upper floors.

- vi. Whilst there is an acknowledgement that the owners of Gather have worked to create a high-end food & drink offering for Bute residents and visitors, the proposal to utilise the entire curtilage is both excessive and unnecessary.

**Comment:** This comment is noted and the issue of the scale of the proposal is addressed in Appendix A later in this report.

- vii. It was understood that the footway adjoining the frontage of No. 19 East Princes Street was to be developed and no objections were raised when the applicant applied for seating in this location. This is very different from the current application that seeks to deny access altogether for all concerned residents.

**Comment:** This comment is noted and the issue of access is addressed in Appendix A later in this report.

- viii. With the entire garden being proposed to be fenced off from residents and used as a commercial space, concern is expressed that the negligible

concreted area proposed for use by residents is neither proportionate to the number of potential users nor large enough to be practical or suitable for basic domestic or recreational use

**Comment:** This comment is noted although there is a lack of definitive evidence on the extent to which the land within the application site has been used in association with the residential flats in the upper floors.

- ix. The title deeds of properties at Nos. 21/23 specifically indicate “*enjoyment of common areas*” and garden/outhouses of 21/23 should not have any reduction “*in enjoyment*” through changes of 21/23/cinema entrance or surrounding areas proposed in Planning applications.

**Comment:** This comment is noted but the contents of Title Deeds do not have a material bearing upon the planning aspects of the case.

- x. The main building has been used and lived in by the Zavaroni family for decades and some of that history should be preserved.

**Comment:** This comment is noted but it does not have a material bearing upon the planning aspects of the case.

- xi. The garden shed that the applicant bought from a previous resident shows that the area has been used as a garden.

**Comment:** This comment is noted but it does not have a material bearing upon the planning aspects of the case.

- xii. One of the objectors has stated that they are unaware of any maintenance to the land being carried out by the applicant.

**Comment:** This comment is noted but it does not have a material bearing upon the planning aspects of the case.

- xiii. The potential of damage to the residents’ small close by a heavier volume of foot traffic; the noise at unsociable hours; and the impact on the general safety of the residents would be unacceptable.

**Comment:** This issue is addressed in Appendix A later in this report.

- xiv. The applicant has left debris and hazardous materials in this land from their renovations on their commercial properties. Damage has been done to the building during these works. No safety signs or any safety barriers have been erected during the applicant’s renovations to date.

**Comment:** This comment is noted but these matters do not have a material bearing upon the planning aspects of the case.

- xv. It is contended that there are ongoing issues of damage to original close features, outside walls and slabbed paths, with several of these still awaiting proper repair. This raises the concern of how the council would ensure the ongoing careful maintenance of, and respect towards, the integrity and safety of the building from the applicants.

**Comment:** This comment is noted but these matters do not have a material bearing upon the planning aspects of the case.

- xvi. Concern is expressed that a general lack of communication and consideration by the applicant for the residents' welfare and safety has been apparent.

**Comment:** This comment is noted but these matters do not have a material bearing upon the planning aspects of the case.

- xvii. Concern is expressed that the proposal would have an Impact on the appearance of a Listed Building and the Conservation Area.

**Comment:** This issue is addressed in Appendix A later in this report.

- xviii. The proposed plans may impact the Listed Building through the removal of trees and shrubbery from the land to the rear of the property. The rear of the garden is frequently water-logged and the vegetation currently there may serve to reduce said flooding. It is considered that, should permission be granted, a thorough investigation of how this area would be impacted must be done in order to protect the buildings

**Comment:** This issue is addressed in Appendix A later in this report.

- xix. Concern is expressed regarding the impact of the proposal on the environment, including frogs/toads, newts, deer and birds.

**Comment:** This issue is addressed in Appendix A later in this report.

- xx. There is concern that the proposal would generate traffic that would have an impact on highway safety such that the adequacy of parking, loading, etc. was brought into question.

**Comment:** On the basis that the proposed use of the land in question would be ancillary to existing commercial premises, it is not considered that there would be an intensification in the use of the public road network in this part of East Princes Street.

- xxi. Currently, the plans do not include the use of the land in question as public space (e.g. outdoor seating for the bistro) but, should permission be granted for the use of the full curtilage, concern is expressed that this may change over time – particularly if the land can eventually be '*claimed*' according to the 10-year rule. This could result in the land being used for whatever commercial purposes the owners (current or future) deem fit, potentially disregarding the building's heritage, with aesthetic and structural changes out of character with the surrounding area.

**Comment:** This issue is addressed in Appendix A later in this report.

- xxii. The commercial property changes that are proposed by the application are not in line with the proximity of residential property in the same building. It is considered that there is a lack of definition as to the nature of the proposals and there needs to be more clarity and assurances that the area will not be used as a customer access area.

**Comment:** This issue is addressed in Appendix A later in this report.

- xxiii. Concern is expressed that the use of the communal area to the rear by customers of the wine bar would be unsafe, a nuisance and lead to possible damage to the building.

**Comment:** This issue is addressed in Appendix A later in this report.

- xxiv. It is considered that the proposed development would be a constant nuisance to residents and their current enjoyment of the adjacent garden and outhouses. Given the operating hours of the proposed commercial venture, there would be a massive loss of amenity in terms of noise disturbance to the rear of the tenement at 21/23 East Princes Street. This would be exacerbated in those properties that have single-glazed windows as a result of the Listed status of the main building.

**Comment:** This issue is addressed in Appendix A later in this report.

- xxv. Concern is expressed that the use of the land to the rear of No. 19 as an extension to the cafe/Deli would significantly increase the consequential build-up of waste on a daily basis and would result in odours that would have a detrimental impact on adjacent residents.

**Comment:** This issue is addressed in Appendix A later in this report.

- xxvi. Concern is expressed that changing the garden into an area for commercial purposes could be detrimental to both property values and home insurance costs for residents.

**Comment:** This comment is noted but these matters do not have a material bearing upon the planning aspects of the case.

- xxvii. Concern is expressed that there would be no access for any maintenance or service access to the external walls of the flats.

**Comment:** This comment is noted but this matter does not have a material bearing upon the planning aspects of the case. Access to the land to the rear of No. 19 for the purposes of carrying out work to the exterior of the building above the ground floor unit would be a civil matter between the parties concerned.

- xxviii. The owners of flats have unanimously agreed upon improving the entire garden space at their own cost should the current proposal be stopped and the curtilage is not given to the Gather Deli to use in its entirety. Moving forward, they then hope to invoke the 10 year-rule to make this a permanent communal space for all residents to enjoy.

**Comment:** This comment is noted but the Planning Authority is in the position of requiring to determine the current application. Any application by others in the future would be assessed accordingly.

**Support** for the application has been received from the following thirty-seven sources:

Elizabeth Wilcock, 10 Ladeside Place, Rothesay, Isle of Bute (received on 22.10.2024)  
Miss Imogen Holland, Flat 4, 23 East Princes Street, Rothesay, Isle of Bute (received on 23.10.2024)  
Ms Maria Przyborowska, Flat 3/2, 3 Bishop Terrace Brae, Rothesay, Isle of Bute (received on 23.10.2024)  
Mr Dmytro Konstantinov, Flat 3/2, 3 Bishop Terrace Brae, Rothesay, Isle of Bute (received on 23.10.2024)  
Gail Holland, 1 Eastlands Road, Rothesay, Isle of Bute (received on 23.10.2024)  
Holly Reid, 9 Creek Drive, Port Bannatyne, Isle of Bute (received on 23.10.2024)  
James Holland, 1 Eastlands Road, Rothesay, Isle of Bute (received on 23.10.2024)  
Ms Lorna Duncan, 16 Bridge Park, Rothesay, Isle of Bute (received on 24.10.2024)  
Mr Matthew Grandison, Flat 4, 23 East Princes Street, Rothesay, Isle of Bute (received on 24.10.2024)  
Mrs Rachel Sleeth, 7 Bishop Terrace, Rothesay, Isle of Bute (received on 24.10.2024)  
Mr Peter McDonald, 6 Crichton Road, Rothesay, Isle of Bute (received on 24.10.2024)  
Mr Scott McDonald, 1 Westlands Road, Rothesay, Isle of Bute (received on 24.10.2024)  
Miss Anna McNeil, 2 Arran View, Serpentine Road, Rothesay, Isle of Bute (received on 24.10.2024)  
Mrs Caroline Jane Speirs, 61 Mountstuart Road, Rothesay, Isle of Bute (received on 24.10.2024)  
Mrs Fiona McNeil, 2 Arran View, Serpentine Road, Rothesay, Isle of Bute (received on 24.10.2024)  
Mr Stuart Agnew, 2 Arran View, Serpentine Road, Rothesay, Isle of Bute (received on 24.10.2024)  
Dorothy McDonald, 6 Crichton Road, Rothesay, Isle of Bute (received on 24.10.2024)  
Mr Matthew Thom, 47 Gairn Road, Aberdeen (received on 24.10.2024)  
Mrs Elma Fisher, 1 Argyle Terrace, Rothesay, Isle of Bute (received on 25.10.2024)  
Mr David Murphy, Flat 2/1, 12 Argyle Street, Rothesay, Isle of Bute (received on 25.10.2024)  
Mr John Murphy, 9 Mountstuart Road, Rothesay, Isle of Bute (received on 25.10.2024)  
Mrs Anna McComb, 18 Academy Road, Rothesay, Isle of Bute (received on 25.10.2024)  
Mr Alex Sleeth, 7 Bishop Terrace, Rothesay, Isle of Bute (received on 25.10.2024)  
James Herbert, 23 Beechmount Park, Edinburgh (received on 25.10.2024)  
Mr Ross Jamieson, South Park Lodge, Ascog, Isle of Bute (received on 25.10.2024)  
Mr John Blue, 8 Craignethan, Rothesay, Isle of Bute (received on 25.10.2024)  
Mr Chris Robb, 10C Ardbeg Road, Rothesay, Isle of Bute (received on 25.10.2024)  
Mrs Lyndsay Jamieson, South Lodge, Balmory Road, Ascog, Isle of Bute (received on 25.10.2024)  
Miss Evie Paterson, 44 Lismore Place, Glasgow (received on 25.10.2024)  
Miss Georgie Grace, Flat 1/1, 12 Argyle Street, Isle of Bute (received on 25.10.2024)  
Mrs Stephanie Paterson, 44 Lismore Place, Newton Mearns, Glasgow (received on 25.10.2024)  
Mr Nathan Herbert, 4 Bellevue Road, Rothesay, Isle of Bute (received on 25.10.2024)  
Ms Costandia Costi, 22 Northbourne House, London (received on 25.10.2024)  
Mr Duncan Gordon, 46 Tolsford Road, London (received on 25.10.2024)  
Miss Kat Herbert, 23 Beechmount Park, Edinburgh (received on 25.10.2024)



Mrs Leigha Siegmeier, 1 Argyle Terrace, Rothesay, Isle of Bute (received on 25.10.2024)

Miss Linda Macrae, 54 Ardbeg Road, Rothesay, Isle of Bute (received on 25.10.2024)

Miss Sara Goss, The Boat House, 15 Battery Place, Rothesay, Isle of Bute (received on 04.11.2024)

- i. In terms of the use of the land to the rear of No. 19 East Princes Street, a comment has been received that “*little to no one (uses) the garden space*” and the occupiers of a property on Bishop Terrace Brae that looks over the site contend that they have never seen anyone making use of the land in the last three-and-a-half years. A person that delivers goods to the Gather Deli a few times per week states that they have never once witnessed anyone using the land, apart from the staff working in the area.

**Comment:** These comments are noted although there is a lack of definitive evidence on the extent to which the land within the application site has been used in association with the residential flats in the upper floors.

- ii. The opinion has been expressed that, before the applicant came along, the building known as Duncan's Halls looked sad and neglected and this area of Rothesay wasn't seen as a destination. Now, the building looks uniform and is visited by tourists and locals alike. It is stated that the Gather Deli is an asset to Bute and offers products and a visiting experience unlike any other on the island.

**Comment:** This issue is addressed in Appendix A later in this report.

- iii. It is contended that the land to the rear of No. 19 East Princes Street has been neglected. The vegetation is overgrown and the drainage system is non-functional with large pools of stagnant water accumulating. It is contended that, over many years, rubbish and abandoned building materials have collected in the area and in the pools of standing water.

**Comment:** This issue is addressed in Appendix A later in this report.

- iv. It is contended that there have been a number of recent incidents where discarded building materials have been left on the back area or blocking the accesses and egress to the rear of the building. It is suggested that this is an example of potential trip and fire hazards for the residents and businesses in the building. Business owners have taken it upon themselves to dispose of this material at their own cost.

**Comment:** This comment is noted but these matters do not have a material bearing upon the planning aspects of the case.

- v. It is considered that the proposed changes would greatly improve the working environment of Gather Deli employees by making it safer and generally more pleasant to work and take breaks in.

**Comment:** This issue is addressed in Appendix A later in this report.

- vi. It is considered that the addition of a fence would make a beneficial improvement to the garden which is in need of a professional landscape as it has become very much overgrown and untidy for some time.

**Comment:** This issue is addressed in Appendix A later in this report.

- vii. One supporter’s observations of the existing and planned commercial operations at the building is that they have been approached responsibly and activities that have been undertaken have been well planned and executed in accordance with the principles, guidelines and regulations for such work.

**Comment:** This comment is noted but these matters do not have a material bearing upon the planning aspects of the case.

- viii. The occupier of the shop premises at 19 East Princes Street in 2021-22 has stated that there was access through the back door to the ground at the rear. This large area was overgrown and seemed to be mainly used as an area to store building materials, bins, etc. Due to COVID restrictions at that time, there was encouragement to do many activities outdoors if possible, but the area in question was highly unsuitable, with uneven, badly drained ground, broken glass, etc.

**Comment:** This issue is addressed in Appendix A later in this report.

- ix. The owner of a first floor flat at No. 21 East Princes Street has stated that he has never been notified or invited to any "*residents meeting*" on this matter nor has he been included in any votes regarding this land. As such, he considers that any claims that residents have voted "*unanimously*" is entirely false and should be disregarded.

**Comment:** This comment is noted but this matter does not have a material bearing upon the planning aspects of the case.

Representations are published in full on the planning application file and are available to view via the [Argyll and Bute - Planning Documents](#) section of the Council’s website.

**(G) SUPPORTING INFORMATION**

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

- (i) **Environmental Impact Assessment Report:** Yes No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes No
- (iii) **A Design or Design/Access statement:** Yes No
- (iv) **Sustainability Checklists (with reference to the requirements of LDP2 Policy 04)**
  - TN06 Sustainability Checklist Yes No
  - TN07 Sustainable Buildings Checklist Yes No

The relevant Sustainability Checklist and Sustainable Building Checklist have been submitted and examined. It is considered that the agent has understood and given adequate consideration to the sustainability aspects of the proposed development, sufficient to accord with the core sustainability requirements of both national and local planning policy, specifically the relevant details of the 'Sustainable Places' group of policies within NPF4 and LDP2 policies 04, 08 and 09.

The checklists are published in full on the planning application file and are available to view via the [Argyll and Bute - Planning Documents](#) section of the Council's website.

- (v) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc.**  Yes  No

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 obligation required:**  Yes  No

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

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

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

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

**Part 2 – National Planning Policy**

**Sustainable Places**

NPF4 Policy 1 – Tackling the Climate and Nature Crises  
NPF4 Policy 2 – Climate Mitigation and Adaption  
NPF4 Policy 3 – Biodiversity  
NPF4 Policy 4 – Natural Places  
NPF4 Policy 5 – Soils  
NPF4 Policy 6 – Forestry, Woodland and Trees  
NPF4 Policy 7 – Historic Assets and Places  
NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings  
NPF4 Policy 12 – Zero Waste

### **Liveable Places**

NPF4 Policy 14 – Design, Quality and Place  
NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods  
NPF4 Policy 22 – Flood Risk and Water Management  
NPF4 Policy 23 – Health and Safety

### **Productive Places**

NPF4 Policy 27 – City, Town, Local and Commercial Centres  
NPF4 Policy 28 – Retail

## **Argyll and Bute Local Development Plan 2 (Adopted 2024)**

### **Spatial and Settlement Strategy**

Policy 01 – Settlement Areas  
Policy 04 – Sustainable Development

### **High Quality Places**

Policy 05 – Design and Placemaking  
Policy 08 – Sustainable Siting  
Policy 09 – Sustainable Design  
Policy 10 – Design – All Development  
Policy 14 – Bad Neighbour Development  
Policy 16 – Listed Buildings  
Policy 17 – Conservation Areas

### **Sustainable Communities**

Policy 45 – Supporting our Town Centres and Retailing  
Policy 46 – Retail Development – The Sequential Approach  
Policy 61 – Sustainable Urban Drainage Systems (SUDS)  
Policy 63 – Waste Related Development and Waste Management

### **High Quality Environment**

Policy 71 – Development Impact on Local Landscape Area (LLA)  
Policy 73 – Development Impact on Habitats, Species and Biodiversity  
Policy 77 – Forestry, Woodland and Trees  
Policy 78 – Woodland Removal  
Policy 79 – Protection of Soil and Peat Resources

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

Third Party Comments  
Planning History  
Argyll and Bute Technical Note on Biodiversity (2017)  
TN06 Sustainability Technical Note and Checklist (2023)  
TN07 Sustainable Buildings Technical Note and Checklist (2023)

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

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

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

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

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

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

At the time of writing, objections to the application have been submitted by seventeen sources whilst expressions of support have been received from thirty-seven sources.

The determining factors in the assessment of the application are whether the proposed development is consistent with the provisions of the adopted National Planning Framework 4 and Local Development Plan 2 and whether the issues introduced by third parties raise material considerations of sufficient significance to withhold Planning Permission.

In this instance, the proposal is within the '*Main Town*' of Rothesay; the layout and design of the development are considered to be appropriate; and there are no outstanding infrastructure or servicing issues. These factors result in a proposal that, subject to the attaching of suitably worded conditions, is wholly consistent with the provisions of both National and Local Planning Policy.

It is the opinion of the Planning Authority that the information that is available, together with the officer assessment of the relevant planning issues contained within this report, are sufficiently detailed and robust to enable Members to make an informed decision based on all of the material planning considerations in this case.

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

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

Setting of Listed Building  
 Conservation Area  
 Local Landscape Area

**(ii) Soils**

**Agricultural Land Classification:** Built-up Area/Unclassified Land

**Peatland/Carbon Rich Soils Classification:**  Class 1  
 Class 2  
 Class 3  
 N/A

**Peat Depth Classification:** N/A

Does the development relate to croft land?  Yes  No

Would the development restrict access to croft or better quality agricultural land?  Yes  No  N/A

Would the development result in fragmentation of croft / better quality agricultural land?  Yes  No  N/A

**(iii) Woodland**

Will the proposal result in loss of trees/woodland?  Yes  
 No

Does the proposal include any replacement or compensatory planting?  Yes  
 No – details to be secured by condition  
 Not applicable

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

Status of Land within the Application  Brownfield  
 Brownfield Reclaimed by Nature  
 Greenfield

**ABC LDP2 Settlement Strategy**

Settlement Area  
 Countryside Area  
 Remote Countryside Area  
 Helensburgh & Lomond Greenbelt

**ABC LDP2 Allocations/PDAs/AFAs etc.:**

Area for Action A1001  
 Rothesay Town Centre/Waterfront

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

Duncan's Halls is located at 19-25 East Princes Street in Rothesay on the Isle of Bute. It is a Category B Listed Building that occupies a visually prominent position within the town centre part of the Rothesay Conservation Area.

The application site consists of the ground floor unit at No. 19 East Princes Street and an area of land measuring approximately 790 square metres that is located to the rear of Duncan's Halls where the Palace Cinema was situated prior to its demolition over fifty years ago. The ground floor unit has historically been a retail premises but Planning Permission and Listed Building Consent were approved in late 2024 for its change of use into a wine bar and work has commenced on the conversion.

Planning Permission is sought for the following:

- The erection of a boundary fence and gate along the western boundary of the application site as it adjoins the communal ground that is shared by the upper floor residential properties. The fence would be constructed with timber posts at 1.8 metres centres and would incorporate vertical timber boards to a height of 1.6 metres above ground level
- The removal of vegetation from the application site and the provision of land drainage
- The use of the ground to be cleared for the following purposes: an area for staff employed by the applicant in Nos. 19, 22 and 24 East Princes Street to take outdoor breaks; the placement of waste and recycling bins along part of the northern boundary in association with the applicant's commercial businesses at Nos. 19, 22 and 24 East Princes Street; the provision of an area for the outdoor storage of stock and for the external display of goods for sale in association with the applicant's commercial businesses at Nos. 19, 22 and 24 East Princes Street

**Spatial & Settlement Strategy and Principle of Development**

The site is located within the '*Main Town*' of Rothesay as identified in the adopted Argyll and Bute Local Development Plan (LDP2) and, given that it was previously occupied by a cinema/bingo hall/theatre building but is now largely overgrown with trees and vegetation, it is considered to constitute brownfield land that has become naturalised.

The proposal would create a useable external space in association with the immediately adjacent ground floor commercial businesses. Given the mixed use nature of this particular area of the town (which includes commercial, retail and residential), it is considered that the proposal finds support in respect of criterion (a) of NPF4 Policy 27 in that it would assist with the vitality of businesses in the immediate vicinity.

### Impact on Local Landscape Area, Listed Buildings and Conservation Area Including Sense of Place and Quality of Design

The site is located in the Bute Local Landscape Area; it is adjacent to Duncan's Halls (a Category B Listed Building); and it is within the Rothesay Conservation Area.

The proposal is for a relatively small scale and minor development (the erection of fencing and a gate) that would be located in a visually inconspicuous position. It would not affect any important features on the Listed Building nor would it impinge on its setting and it would have a '*neutral*' effect thereby preserving the character of this part of the Rothesay Conservation Area and protecting the integrity of the wider Bute Local Landscape Area.

### Natural Environment Including Biodiversity, Soils and Trees/Woodland

A considerable part of the application site has a significant amount of overgrown vegetation and there are a number of trees towards the base of the rock cliff along the south-eastern boundary. Clearance of the vegetation is proposed but there is no indication that trees are to be removed. However, it is recognised that, at present, access over the area of ground for the purpose of survey and investigation becomes increasingly difficult the further one moves away from the rear wall of the building in a south-easterly direction.

In these circumstances, it is considered both necessary and reasonable to attach a condition that requires a survey and appraisal of the natural environment within the site to ensure that anything of significance and importance is not adversely affected and to allow for proposals for biodiversity benefits to be formulated.

### Impact on Residential Amenity

The current application description incorporates reference to the use of the land to the rear "*as part of the curtilage of the retail unit at 19 East Princes Street*" and this is mentioned in the accompanying '*Land Ownership Report*' and the annotation on the Proposed Site Plan.

The ground floor unit at No. 19 has historically been a retail premises but Planning Permission and Listed Building Consent were approved in late 2024 for its change of use into a wine bar and work has commenced on the conversion. The applicant's premises at No. 22 is a store whilst she obtained Planning Permission (ref: 24/01462/PP) in December 2024 to change the use of her delicatessen business at No. 24 into a licensed restaurant.

Given the proximity of the applicant's three businesses to the land to the rear, clarification was sought from her as to how she intended to use the area of ground. She has provided the following written confirmation:

- An area for staff employed by the applicant in Nos. 19, 22 and 24 East Princes Street to take outdoor rest breaks
- The placement of waste and recycling bins along part of the northern boundary in association with the applicant's commercial businesses at Nos. 19, 22 and 24 East Princes Street



- The provision of an area for the outdoor storage of stock and for the external display of goods for sale in association with the applicant's commercial businesses at Nos. 19, 22 and 24 East Princes Street. The display of goods for sale is likely to involve members of the public having access to the land but the applicant has confirmed that *"customers won't need to access the space via the alleyways for Nos. 21 and 23 as they will be able to access directly from the rear door at No. 19"*

In the interests of protecting the privacy and amenity of the occupiers of the residential flats on the floors above Nos. 19, 22 and 24, it is considered both necessary and reasonable to attach conditions in relation to controlling the use of the land; how it is accessed by customers; how it is used for staff rest breaks; and agreeing details of external lighting.

#### Waste Storage/Collection

In the applicant's supporting statement, they have stated that the refuse and recycling bins associated with their commercial properties are currently located in the communal area to the rear of building, which they advise is within the deeds of all of the properties. It is the applicant's intention that, once the land drainage issue is resolved and the area of ground in question has been enclosed with fencing, the commercial bins would be moved into a position adjacent to the north-easternmost boundary wall.

#### Flood and Water Management

Access to the land in the application site becomes more difficult the further one moves away from the rear wall of the building and it is understood that the clearance of vegetation would create the opportunity to survey the ground conditions; identify any issues; and then formulate plans for improving land drainage.

As such, it is considered appropriate to attach a condition that affords time for this process to take place but requires that the system is agreed with the Planning Authority prior to its implementation.

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

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**(R) Reasons why Planning Permission should be granted**

The proposal is considered to be consistent with the relevant provisions of the Development Plan which comprise National Planning Framework 4 and Local Development Plan 2 and there are no other material considerations of sufficient significance to indicate that it would be appropriate to withhold planning permission having regard to Section 25 of the Act.

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

Not applicable.

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

Yes  No

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**Author of Report:** Steven Gove

**Date:** 3<sup>rd</sup> April 2025

**Reviewing Officer:** Kirsty Sweeney

**Date:** 4<sup>th</sup> April 2025

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

**CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 24/01459/PP****Standard Time Limit Condition for Planning Permission (as defined by Regulation)****Standard Condition on Soil Management During Construction****Additional Conditions****1. PP - Approved Details**

Unless otherwise directed by any of the conditions below, the development shall be implemented in accordance with the details specified on the application form dated 8<sup>th</sup> August 2024; supporting information; and the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

<b>Plan Title.</b>	<b>Plan Ref. No.</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	Drawing No. 2207-001	A	16.09.2024
Site Block Plan	Drawing No. 2207-002	A	16.09.2024
Site Plan	Drawing No. 2207-005	C	19.09.2024
Detail of Fence	Drawing No. 2207-007	A	09.08.2024

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

**2. Details of Display of Goods**

Prior to the first use for the display of goods for sale of that part of the application site to the rear of the building, full details of the types of goods; their locations; the area of ground in square metres that they would occupy; and the means by which they are to be displayed shall be submitted to and approved in writing by the Planning Authority.

Unless otherwise agreed in writing with the Planning Authority, the display of goods for sale shall thereafter be undertaken in accordance with the approved details.

Reason: In the interests of visual amenity and no such details having been submitted.

**3. Details of Outdoor Storage**

Prior to the first use for outdoor storage of that part of the application site to the rear of the building, full details of the types of items to be stored; their locations; the area of ground in square metres that they would occupy; and the means by which they are to be stored shall be submitted to and approved in writing by the Planning Authority.

Unless otherwise agreed in writing with the Planning Authority, the outdoor storage of items shall thereafter be undertaken in accordance with the approved details.

Reason: In the interests of visual amenity and no such details having been submitted.

#### 4. **Restriction on Use of Land**

The use of that part of the application site to the rear of the building for the consumption of food and drink on a commercial basis under Class 3 of the Town and Country Planning (Use Classes) (Scotland) Order 1998 (as amended) shall not be permitted.

Reason: In the interests of protecting the privacy and amenity of the occupants of the residential flats in the vicinity of the site and for the avoidance of doubt.

#### 5. **Restriction on Access for Customers**

Access by customers for the purposes of viewing or purchasing goods that are displayed on that part of the application site to the rear of the building shall not be permitted through the alleyways identified as '21' and '23' on Drawing No. 2207-005 Rev C 'Site Plan'.

Reason: In the interests of protecting the privacy and amenity of the occupants of the residential flats in the vicinity of the site and for the avoidance of doubt.

#### 6. **Restriction on Use of Land After 10 p.m.**

The use of that part of the application site to the rear of the building for the purpose of staff rest breaks shall not be permitted after 10.00 p.m. in the evening.

Reason: In the interests of protecting the privacy and amenity of the occupants of the residential flats in the vicinity of the site and for the avoidance of doubt.

#### 7. **External Lighting**

Prior to their installation on the building or land contained in the application site, full details of all external lighting to be used (which should be designed in accordance with the Scottish Government's Guidance Note "*Controlling Light Pollution and Reducing Light Energy Consumption*" 2007, Annexes A and B) shall be submitted to and approved in writing by the Planning Authority. Such details shall include the location, type, angle of direction and wattage of each light and it shall be demonstrated that the lights will be positioned and angled to prevent any glare or light spillage outwith the site boundary.

Unless otherwise agreed in writing with the Planning Authority, all external lighting shall be installed in accordance with the approved details.

Reason: In the interests of protecting the privacy and amenity of the occupants of the residential flats in the vicinity of the site and no such details having been submitted.

#### 8. **Land Drainage Works**

Prior to the commencement of any land drainage works, full details of the surface water drainage system for the site shall be submitted to and approved in writing by the Planning Authority.

Unless otherwise agreed in writing with the Planning Authority, the drainage system shall be implemented in accordance with the approved details.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

## 9. Vegetation Clearance, Tree Retention/Removal and Biodiversity Enhancement

Prior to the commencement of any activities relative to the clearance of vegetation on the application site, a scheme for the implementation of these works shall be submitted to and approved in writing by the Planning Authority. The scheme shall include the following:

- i) A methodology for the survey of the vegetation and trees. This shall include details of the checking of trees with potential bat roost features and, where bats are identified as being present, the submission of appropriate mitigation measures.

This shall also include details of the checking for the presence of any nesting birds and, where these are identified as being present, the submission of appropriate mitigation measures.

- ii) Details of the means of removal of any Invasive Non Native Species that are found on the site
- iii) Details of any trees to be removed and the location and canopy spread of trees to be retained as part of the development
- iv) A programme of measures for the protection of the retained trees during the carrying out of works within the site that shall be in accordance with BS 5837:2012 "*Trees in Relation to Design, Demolition and Construction*".

The tree protection measures shall be implemented for the full duration of works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development.

The biodiversity statement should refer to [Developing with Nature guidance | NatureScot](#) as appropriate.

Unless otherwise agreed in writing with the Planning Authority, the works shall be carried out in accordance with the approved scheme.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity and to comply with the requirements of NPF4 Policy 3.

## APPENDIX A – RELATIVE TO APPLICATION NUMBER: 24/01459/PP

### PLANNING LAND USE AND POLICY ASSESSMENT

#### The Application Site

Duncan's Halls is located at 19-25 East Princes Street in Rothesay on the Isle of Bute. It is a Category B Listed Building that occupies a visually prominent position within the town centre part of the Rothesay Conservation Area.

Historic Environment Scotland's listing record states that the building dates from 1876 and was designed by James Hamilton and Sons. It is described as a "*symmetrical 4-storey with attic, 7-bay French Baroque style tenement forming part of terrace with shops at ground.*"

The '*Statement of Interest*' in the listing record is relatively detailed and contains the following text:

*"Duncan's Halls is a distinctive tenement and former hall in a prominent position in the centre of Rothesay. The building displays an array of fine architectural motifs with pedimented windows, engaged columns, balustraded parapet and French-pavilion-roofs all making a significant contribution to the streetscape. Walker describes it as a "...palatial piece of French beaux-arts theatricality", highly appropriate for this sea side town.*

*A large hall to the rear, subsequently a picture theatre and since demolished, was originally accessed from the central bay (now boarded up). The bold design and use of high quality materials, such as sandstone Ashlar for Duncan's Halls is particularly characteristic of this period of development in the town and can be seen in domestic architecture in the outlying residential areas."*

As mentioned in the preceding paragraph, a large building had projected from the rear of Duncan's Halls and, based on information to hand, this operated as the Palace Cinema from 1913 until 1963 after which it was converted into a bingo hall. In 1973, the Palace Cinema was re-opened as a live theatre but, in the following winter, the cliffs at the rear of the building slipped after a period of heavy rain. As a result, the auditorium was seriously damaged leading to its partial collapse and eventual demolition.

The application site consists of the ground floor unit at No. 19 East Princes Street and an area of land measuring approximately 790 square metres that is located where the Palace Cinema was situated prior to its demolition over fifty years ago. The ground floor unit has historically been a retail premises but Planning Permission and Listed Building Consent were approved in late 2024 for its change of use into a wine bar and work has commenced on the conversion.

A high wall runs along the northern boundary of the site on top of which there is a vertical timber fence and there is the gable of a building further to the east. The south-eastern boundary runs along the bottom of a rock cliff whilst the south-western boundary consists of a stone wall that separates the site from the rear amenity area of Nos. 16-18 East Princes Street. Part of the western boundary adjoins the rear wall of No. 19 whilst the remainder of this boundary separates the land in the application from the communal ground that is shared by the upper floor residential properties.

The application site has two sheds – the smaller one is adjacent to the high wall along the northern boundary whilst the larger one is next to the stone wall on the southern boundary. There is a considerable amount of vegetation throughout the site and there are a number of trees in the south-eastern part. In their supporting statement, the applicant has pointed out

that the ground in the areas covered by vegetation and trees is relatively wet with pools of stagnant water.

### **The Proposed Development**

Planning Permission is sought for the following:

- The erection of a boundary fence and gate along the western boundary of the application site as it adjoins the communal ground that is shared by the upper floor residential properties. The fence would be constructed with timber posts at 1.8 metres centres and would incorporate vertical timber boards to a height of 1.6 metres above ground level
- The removal of vegetation from the application site and the provision of land drainage
- The use of the ground that has been cleared for the following purposes: an area for staff employed by the applicant in Nos. 19, 22 and 24 East Princes Street to take outdoor breaks; the placement of waste and recycling bins along part of the northern boundary in association with the applicant's commercial businesses at Nos. 19, 22 and 24 East Princes Street; the provision of an area for the outdoor storage of stock and for the external display of goods for sale in association with the applicant's commercial businesses at Nos. 19, 22 and 24 East Princes Street

### **Procedural Matters**

One of the issues that has been raised during the processing of the application is the ownership of the site and it might be useful if this is addressed prior to the full assessment taking place.

Some of those objecting to the application have asserted that the applicant does not own the outdoor area of land on which development is to take place i.e. the majority part of the site that is outwith the footprint of the ground floor unit at No. 19 East Princes Street.

In the supporting documents that have been submitted by the applicant and by her agent, the opinion is expressed that, when the front tenement (Duncan's Halls) ceased its commercial uses (offices and entertaining spaces), it was separated into twelve flats. It is stated that the ground to the rear was purposely left off of the deeds of all the residential properties when they were sold off and every residential flat has the same deed.

The applicant states that they bought the commercial premises at Nos. 19 and 22 entirely because of the ground to the rear. They contend that the previous owners of the shops at Nos. 19 & 22 (having the only direct access and being the only proprietors granted access in the narrative of the deeds) have cleared and maintained the derelict land for decades and they have continued to clear it since their purchase.

The applicant has sought advice from local historians and archaeologists as well as tracing all the historic deeds before the submission of the application "*to ensure (they) had undertaken all the necessary due diligence*".

The land ownership certification in the application form describes the steps that the applicant has taken (as referred to in the preceding paragraph) to ascertain the names and addresses of the owners of the site and this follows the requirements of Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

From a procedural perspective, given that the applicant has followed the proper protocol under the aforementioned Regulations, it is considered that the Planning Authority can proceed to determine the application. However, it is important to highlight that the approval of Planning Permission would not confer ownership of the land on to the applicant and, if it transpires that there are other parties with an ownership interest, they would require to follow the appropriate procedures in obtaining any separate consents (such as consent from the other owners) that were necessary.

### **Consideration of the Proposed Development**

The assessment of the issues in this section of the report pays due regard to the overarching NPF4 Policy 1, which seeks to prioritise the climate and nature crises in all decisions. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance for or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

The key issues for consideration are:

1. Spatial & Settlement Strategy and Principle of Development
2. Impact on Local Landscape Area, Listed Buildings and Conservation Area Including Sense of Place and Quality of Design
3. Natural Environment Including Biodiversity, Soils and Trees/Woodland
4. Impact on Residential Amenity
5. Waste Storage/Collection
6. Flood and Water Management

### **Spatial & Settlement Strategy and Principle of Development**

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change.

Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions.

NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings and to help reduce the need for greenfield development. NPF4 Policy 9(a) supports proposals that will result in the sustainable reuse of brownfield land and, in determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.

NPF4 Policy 15(a) supports development proposals that would contribute to '*Local Living*' including, where relevant, '*20 minute neighbourhoods*'. To establish this, consideration will be given to existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area, including local access to a number of facilities.



Policy 27(a) of NPF4 states that development proposals that enhance and improve the vitality of city, town and local centres will be supported.

Policy 01 ('Settlement Areas') of the Argyll and Bute Local Development Plan (LDP2) notes that development will normally be acceptable where, *inter alia*: it involves the redevelopment of a brownfield site; it is compatible with surrounding uses; it is of an appropriate scale and fit for the size of settlement in which it is proposed; it respects the character and appearance of the surrounding townscape in terms of density, scale, massing, design, external finishes and access arrangements; and it complies with all relevant LDP2 policies.

LDP2 Policy 04 ('Sustainable Development') advocates making efficient use of vacant and/or derelict land

### **Assessment**

The site is located within the 'Main Town' of Rothesay as identified in the adopted Argyll and Bute Local Development Plan (LDP2) and, given that it was previously occupied by a cinema/bingo hall/theatre building but is now largely overgrown with trees and vegetation, it is considered to constitute brownfield land that has become naturalised.

The proposal would create a useable external space in association with the immediately adjacent ground floor commercial businesses. Given the mixed use nature of this particular area of the town (which includes commercial, retail and residential), it is considered that the proposal finds support in respect of criterion (a) of NPF4 Policy 27 in that it would assist with the vitality of businesses in the immediate vicinity.

Moreover, Rothesay has bus links, shops, cafes, primary schools, a secondary school (Rothesay Academy), health care facilities and play parks, etc. and, therefore, the proposal would be consistent with the principles of '20 minute neighbourhoods' and 'Local Living' as advocated in NPF4 Policy 15.

The detailed assessment that follows in this report demonstrates that, subject to the attaching of appropriately worded conditions, the proposed development would preserve the character and appearance of the townscape in terms of use, scale and design.

**On the basis of the above, it is considered that there is a general presumption in favour of the principle of this proposed development in terms of its location, nature and scale when assessed against the policy provisions relating to the LDP2 Settlement Strategy and relevant NPF4 Policy.**

### **Impact on Local Landscape Area, Listed Buildings and Conservation Area Including Sense of Place and Quality of Design**

NPF4 Policy 4(a) opposes proposals which, by virtue of their type, location or scale, would have an unacceptable impact on the natural environment. The site is located in the Bute Local Landscape Area (LLA) and this designation is a recognition of locally important physical landforms that are of scenic value. LDP2 Policy 71 seeks to resist development in, or affecting, an LLA where its scale, location or design would have a significant adverse impact on the character of the landscape and one of the requirements contained in it is that an application for development within an LLA should be supported by a landscape and visual impact assessment.

NPF4 Policy 7(c) seeks to ensure that proposals affecting the setting of a Listed Building should preserve its character and its special architectural or historic interest whilst Policy 7(d)

will only support proposals in Conservation Areas where the character and appearance of the designated area are preserved or enhanced.

These NPF4 Policies are closely aligned with LDP2 Policy 16 (*'Listed Buildings'*), which supports proposals that respects a Listed Building in terms of setting, scale, design, materials and proposed use, and LDP2 Policy 17 (*'Conservation Areas'*), which presumes against development that would not preserve or enhance the character or appearance of an existing Conservation Area.

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

NPF4 Policy 14(b) supports development proposals where they would be consistent with the six qualities of *'health'*; *'pleasantness'*; *'connectivity'*; *'distinctiveness'*; *'sustainability'*; and *'adaptability'*. NPF4 Policy 14(c) does not support development that is poorly designed, detrimental to the amenities of surrounding areas or inconsistent with the aforementioned six qualities.

NPF4 Policy 14 is closely aligned with the provisions of LDP2 Policy 04 (*'Sustainable Development'*) which requires developers to demonstrate certain sustainable development principles and also Policy 05 (*'Design and Placemaking'*) which requires developers to comply with certain placemaking criteria including: compatibility with surrounding land uses; respecting site topography; and adopting design that respects and complements its surroundings and which is sustainable in terms of materials and construction.

LDP2 Policy 08 (*'Sustainable Siting'*) requires that development integrates into the existing built form to minimise detrimental effects on the environment. The siting of a development should take into account the character of the area in terms of its settlement pattern, layout and density.

LDP2 Policy 09 (*'Sustainable Design'*) requires that development proposals demonstrate consideration of sustainable design and construction methods. LDP2 Policy 10 (*'Design: All Development'*) requires demonstration of an appropriate response to the development site and wider context and the use of materials that are harmonious with the context.

In relation to sustainability, the application has included the submission of the *'Sustainability Checklist'* and the *'Sustainable Buildings Checklist'* in response to LDP2 Policy 09.

## **Assessment**

The above-ground development that is proposed in the application is the erection of fencing and a gate on land to the rear of the main building. This would be constructed with timber posts at 1.8 metres centres; would incorporate vertical timber boards to a height of 1.6 metres above ground level; and would cover a distance of approximately 21 metres. The proposed clearance of vegetation on the area of ground, whilst not falling within the definition of *"development"*, would also alter the appearance of the land in question.

A section of timber fencing has been in place for a number of years adjoining the south-westernmost enclosed circular stairwell and this covers a distance of approximately 4 metres.

Whilst the site is located within the Bute Local Landscape Area (LLA), no formal landscape and visual impact assessment has been submitted with the application. However, the proposal is for a relatively small scale and minor development (the erection of fencing and a gate) that would be located in a visually inconspicuous position. In these circumstances, it is considered that the submitted plans and drawings; the completed Sustainability Checklist and Sustainable

Buildings Checklist; and the carrying out of an officer site inspection provide sufficient information to allow an appropriate form of assessment to be carried out.

From a built environment perspective, Historic Environment Scotland describes Duncan's Halls as a "*distinctive*" building located in a "*prominent position in the centre of Rothesay*" that "*displays an array of fine architectural motifs ... all making a significant contribution to the streetscape*". It is evident, therefore, that it is an important building although the individual qualities that are referred to primarily feature on the front elevation and the streetscape to which it contributes is that which is open to public views with the principal frontages facing in a westerly direction towards the harbour.

The principal elevation of Duncan's Halls would not be affected by the proposed development and only relatively small sections of the new fencing might be glimpsed from the footway on East Princes Street through the closes of Nos. 21 and 23 at distances of approximately 11 metres and 14 metres respectively.

The rear elevation of Duncan's Halls can be observed when looking downwards from sections of Bishop Terrace, which is located to the south-east at a distance of approximately 70 metres. However, it is primarily the upper storeys of the building that are most visible with the land that is the subject of the application largely hidden from site.

Having regard to the abovementioned factors – the visually inconspicuous location of the land to the rear of Duncan's Hall and the relative lack of architectural interest and quality of the building's rear elevation in comparison with the front façade – it is considered that the proposed development would have a '*neutral*' effect thereby preserving the setting of the Category B Listed Building and this part of the Rothesay Conservation Area and protecting the integrity of the wider Bute Local Landscape Area.

On the basis of the foregoing, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above and all other relevant Policies contained in Section (J) of this report.**

### **Natural Environment Including Biodiversity, Soils and Trees/Woodland**

NPF4 Policy 3 generally seeks to protect biodiversity, reverse biodiversity loss and to deliver positive benefits from development that strengthens nature networks and it is generally aligned with LDP2 Policy 73 ('*Development Impact on Habitats, Species and Biodiversity*').

NPF4 Policy 4 seeks to protect, restore and enhance natural assets making best use of nature-based solutions and, insofar as it relates to the location, nature and scale of the current proposal, it largely aligns with the provisions of LDP2 Policy 73.

LDP2 Policy 04 ('*Sustainable Development*') seeks to conserve and enhance the natural and built environment and to avoid significant adverse impacts on biodiversity, natural and heritage assets. LDP2 Policy 73 ensures that other legislation relating to biodiversity habitats are fully considered in relation to development proposals; and generally that development does not have an adverse impact on habitat or species, particularly in relation to habitat or species designated as being of European, national or local significance.

NPF4 Policy 5 seeks to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development. Policy 5(a) only supports proposals if they are designed and constructed in accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; in a manner that protects soil from damage including from compaction and erosion; and that minimises soil sealing.

LDP2 Policy 79 seeks to only support development where appropriate measures are taken to maintain soil resources and functions to an extent that is considered relevant and proportionate to the scale of the development.

Policy 5(b) only supports proposals on prime agricultural land or on land of lesser quality that is culturally or locally important for primary use providing that they might specific criteria.

NPF4 Policy 6(b) seeks to resist proposals where, *inter alia*, they would result in adverse impacts on individual trees of high biodiversity value and it is generally aligned with LDP2 Policy 77 ('*Forestry, Woodland and Trees*').

### **Assessment**

A considerable part of the application site has a significant amount of overgrown vegetation and there are a number of trees towards the base of the rock cliff along the south-eastern boundary. Clearance of the vegetation is proposed but there is no indication that trees are to be removed. However, it is recognised that, at present, access over the area of ground for the purpose of survey and investigation becomes increasingly difficult the further one moves away from the rear wall of the building in a south-easterly direction.

In these circumstances, it is considered both necessary and reasonable to attach a condition that requires a survey and appraisal of the natural environment within the site to ensure that anything of significance and importance is not adversely affected and to allow for proposals for biodiversity benefits to be formulated.

The site is not within an identified area of peatland, carbon-rich soils or priority peatland habitat and, in these circumstances, it is considered sufficient that the standard soil management condition (ensuring compliance with the established best practice set out by DEFRA) is attached to the Decision Notice.

The site is within a built-up area and does not have an agricultural land classification. On this basis, it is not considered that the proposal would result in the loss of land that is "*culturally or locally important for primary use*".

On the basis of the foregoing, and subject to a suitably worded condition, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above and all other relevant Policies contained in Section (J) of this report.**

### **Impact on Residential Amenity**

NPF4 Policy 23(e) opposes proposals that are likely to raise unacceptable noise issues.

LDP2 Policy 05 ('*Design and Placemaking*') requires that proposals should be compatible with surrounding land uses whilst Policy 08 ('*Sustainable Siting*') seeks to ensure that proposals integrate into the existing built form to minimise detrimental effects on the environment.

LDP2 Policy 14 ('*Bad Neighbour Development*') seeks to resist any proposal that would have an unacceptable adverse impact upon the amenity of neighbouring land uses resulting from a variety of sources, including noise. It states that, in certain circumstances, it may be possible to mitigate adverse impact upon neighbouring amenity by placing restrictions on the proposed development via planning conditions.

## Assessment

The applicant has ground floor commercial properties at Nos. 19, 22 and 24 East Princes Street that all adjoin the land to the rear. The current application description incorporates reference to the use of the land to the rear “*as part of the curtilage of the retail unit at 19 East Princes Street*” and this is mentioned in the accompanying ‘*Land Ownership Report*’ and the annotation on the Proposed Site Plan.

When the application was registered in September 2024, the premises at No. 19 was vacant but it had historically been used for retail purposes; hence the reference to a retail unit in the description. There was an application (ref: 21/00110/PP) under consideration at the time to change the premises from its previous retail use into a wine bar and Planning Permission was approved for the change of use in November. The Planning unit to which this permission related was confined to the footprint of the building and an area of the footway to the front of the premises and, as such, the approval did not authorise the use of the land to the rear as part of the wine bar business.

Work commenced in February 2025 on the conversion of No. 19 although it is understood that the use of the premises as a wine bar has not yet commenced.

The applicant’s premises at No. 22 is a store whilst she obtained Planning Permission (ref: 24/01462/PP) in November 2024 to change the use of her delicatessen business at No. 24 into a licensed restaurant.

Given the proximity of the applicant’s three businesses to the land to the rear, clarification was sought from them as to how they intended to use the area of ground. They have provided the following written confirmation:

- An area for staff employed by the applicant in Nos. 19, 22 and 24 East Princes Street to take outdoor rest breaks
- The placement of waste and recycling bins along part of the northern boundary in association with the applicant’s commercial businesses at Nos. 19, 22 and 24 East Princes Street
- The provision of an area for the outdoor storage of stock and for the external display of goods for sale in association with the applicant’s commercial businesses at Nos. 19, 22 and 24 East Princes Street. The display of goods for sale is likely to involve members of the public having access to the land but it is confirmed that “*customers won’t need to access the space via the alleyways for Nos. 21 and 23 as they will be able to access directly from the rear door at No. 19*”

In the interests of protecting the privacy and amenity of the occupiers of the residential flats on the floors above Nos. 19, 22 and 24, it is considered both necessary and reasonable to attach the following conditions:

- The use of that part of the application site to the rear of the building for the consumption of food and drink on a commercial basis under Class 3 of the Town and Country Planning (Use Classes) (Scotland) Order 1998 (as amended) shall not be permitted
- Access by customers for the purposes of viewing or purchasing goods that are displayed on that part of the application site to the rear of the building shall not be permitted through the alleyways identified as ‘21’ and ‘23’ on Drawing No. 2207-005 Rev C ‘*Site Plan*’

- The use of that part of the application site to the rear of the building for the purpose of staff rest breaks shall not be permitted after 10.00 p.m. in the evening. This time has been chosen as it is the same cut-off as that stipulated in the conditions of Planning Permissions 21/00110/PP and 24/01462/PP for the outdoor seating to the front of No. 19 and No. 24 respectively
- Prior to their installation, full details of all external lighting to be used shall be submitted to and approved in writing by the Planning Authority

On the basis of the foregoing, and subject to the attaching of suitably-worded conditions, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above and all other relevant Policies contained in Section (J) of this report.**

### **Waste Storage/Collection**

NPF4 Policy 12(c) expects that those developments that are likely to generate waste when operational (including residential, commercial, and industrial properties) should incorporate measures to minimise the cross-contamination of materials through the appropriate segregation and storage of waste together with convenient access for the collection of waste.

Policy 63 of LDP2 explains that developments shall make effective land use and layout provision for the storage, separation, recycling, composting and collection of waste.

### **Assessment**

In the applicant's supporting statement, they have stated that the refuse and recycling bins associated with their commercial properties are currently located in the communal area to the rear of building, which they advise is within the deeds of all of the properties. Their intention is that, once the land drainage issue is resolved and the area of ground in question has been enclosed with fencing, the commercial bins would be moved into a position adjacent to the north-easternmost boundary wall.

On the basis of the foregoing, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above and all other relevant Policies contained in Section (J) of this report.**

### **Flood and Water Management**

NPF4 Policy 22(c) seeks to ensure that proposed developments will not increase the risk of surface water flooding to others, or itself be at risk; will manage all rain and surface water through sustainable urban drainage systems (SUDS); and will seek to minimise the area of impermeable surface.

LDP2 Policy 61 seeks to ensure that development proposals manage all rain and surface water through sustainable urban drainage systems (SuDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All SuDS features should be in accordance with the Principles of The SuDS Manual (C753).

### **Assessment**

Access to the land becomes more difficult the further one moves away from the rear wall of the building and it is understood that the clearance of vegetation would create the opportunity

to survey the ground conditions; identify any issues; and then formulate plans for improving land drainage. As such, it is considered appropriate to attach a condition that affords time for this process to take place but requires that the system is agreed with the Planning Authority prior to its implementation.

On the basis of the foregoing, and subject to a suitably-worded condition, **the proposed development is considered to accord with the Policies that are referred to in the paragraphs above and all other relevant Policies contained in Section (J) of this report.**