

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE held ON A HYBRID BASIS IN THE MARRIAGE SUITE, HELENSBURGH AND LOMOND CIVIC CENTRE, 38 EAST CLYDE STREET, HELENSBURGH AND BY MICROSOFT TEAMS on WEDNESDAY, 9 APRIL 2025**

**Present:** Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Graham Hardie
Councillor Gordon Blair	Councillor Fiona Howard
Councillor Jan Brown	Councillor Andrew Kain
Councillor Amanda Hampsey	Councillor Peter Wallace
Councillor Daniel Hampsey	

**Attending:** Shona Barton, Governance Manager  
Iain Jackson, Governance, Risk and Safety Manager  
Kirsty Sweeney, Area Team Leader – Planning  
Emma Jane, Planning Officer  
Michael Hyde, Applicant's Agent  
Claire Balneaves, Applicant's Employee  
Raymond Kane, Traffic Development Officer – Consultee  
Helen McCallin, Local Biodiversity Officer – Consultee  
George Freeman, Chair of Garelochhead Residents Association - Supporter

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Audrey Forrest, Mark Irvine, Paul Kennedy and Dougie Philand.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. LORNE THOMSON: CHANGE OF USE OF LAND TO VEHICLE PARKING/STORAGE, INCLUDING LAYING OF HARDCORE, ERECTION OF BOUNDARY WALL AND FORMATION OF ACCESS (PART-RETROSPECTIVE): LAND WEST OF BT TELEPHONE EXCHANGE, GARELOCHHEAD (REF: 24/01249/PP)**

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

In advance of the meeting today, interested parties confirmed they would make presentations to the Committee. Mrs Barton read out the names of those representatives and asked them to confirm their attendance.

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

**PLANNING**

On behalf of the Head of Development and Economic Growth, Kirsty Sweeney, Area Team Leader, gave the following presentation with the aid of power point slides.

This presentation relates to application – reference 24/01249/PP - for the change of use of land to vehicle parking/storage including laying of hardcore, erection of boundary wall and formation of access (part retrospective) at land west of BT telephone exchange, Garelochhead.

Before I go into the main presentation, I would like to draw Members' attention to supplementary report 2 which has been submitted to Members on Tuesday for consideration. In summary this report covers further points made by the Garelochhead Residents Association since the Committee last met and a further consultation response from the Roads Authority in relation to parking.

In terms of the points raised by the Garlochhead Residents Association, these are in relation to biodiversity. It should be noted that the loss of biodiversity and trees is not the reason for recommending refusal. There are no relevant planning matters raised in the comments that affect the recommendation made by officers.

In terms of the Roads comments, I would like to highlight that the parking solutions as set out by the roads officers are not deliverable as part of the application. The parking issues in the village come from a multiple of sources and not just the garage business owned by the applicant.

This is a key point, as any departure from Local Development Plan policies must be due to demonstratable public benefit. The Applicant's supporting information is not considered sufficient to warrant this departure. The recommendation continues to be a recommendation for refusal owing to this significant departure from the Local Development Plan.

The application is before Committee as the Officer recommendation is contrary to the body of public support for the application.

My presentation will now cover an overview of the proposal, the open space protection area designation, the history of the unauthorised works, the amenity value of the site before the unauthorised works took place, the landscaping proposals put forward by the applicant, the key policy issues and finally the alleged public benefit relating to alleviating parking issues in the village.

### SLIDE 3 - LOCATION PLAN OPEN SPACE PROTECTION AREA

This is a part-retrospective application which seeks planning permission for a change of use of land from a greenfield site located within the OSPA to a vehicle storage yard.

An OSPA is an Open Space Protection Area as designed by the Local Development Plan and is shown on the slide in the right-hand image outlined in blue. Locally this is known as Bendarroch Public Park and is a total of 8.19 hectares.

The development site is within the Open Space Protection area and amounts to 0.2 hectares – this is 2.44% of the open space protection area. Members should also be aware that the applicant has another proposal for a residential development on the opposite side of the burn which amounts to 0.5 hectares of the OSPA which totals to 0.7 hectares 8.5% of the open space protection area. The OSPA can be considered in two

parts with the southern part of the site – south of the B833 and area to the north of the B833. The area to the south has a distinct characteristic with recreational value on the far side of the burn and the views across the loch, the application site is a buffer to this main recreational area and forms a valuable amenity space in terms of setting for the village. This southern part of the OSPA totals 2.2 hectares and 0.7 hectares – the two proposed development area - is 31% of this southern part of the OSPA. When considering this cumulative impact, it is not considered to be minor part of the site, and the proposal serves to erode and fragment this OSPA.

#### SLIDE 4 – LDP2 – APPLICANT’S OBJECTION TO OSPA

As way of background the area, when the Council undertook the most recent round of consultation on the local development plan in 2019, the applicant objected to the open space designation and asked for the designation to be removed on the application site to accommodate a community building – Men’s shed - and for residential development on the far side of the river. The Applicant submitted a statement indicating that the remainder of the open space protection area within the control of the applicant would be enhanced.

The Council made the argument that the open space had a longstanding recognition in local plans going back to the Dumbarton District Wide Plan 1999 and that the site should remain as open space.

The Reporter from the Scottish Government examined the objection and did site inspection and stated in their conclusions:

*“Any development would fall to be considered under Policy 81 of the proposed plan. This would include appropriate consideration being given to mitigation through the provision or improvement of recreational facilities or greenspace elsewhere.”*

It was concluded that there is insufficient evidence to justify the removal of or part of the open space protection area.

The Local Review Body have met and considered the application for the residential development and are in the process of seeking community benefit via enhancement of the remaining open space via a Section 75 agreement. The planning officers are not in support of the residential development due to the adverse impact on the open space protection area.

In this application there has been very limited supporting evidence to support a departure from policy and there is no mechanism to address the parking issues – so there is no public benefit from this proposal which aligns with the Reporter’s assessment.

#### SLIDE 5 START OF COMPLAINTS 2020

Members are aware that the works are unauthorised and subject to a live enforcement case.

The works were notified to the Council in 2020, and an enforcement case was opened in relation to the unauthorised development. The complaint raised concerns about the effect on the scenic value of the area.

The first set of images were taken in June 2020 when the tree removal was undertaken – Members should be aware that the tree removal did not require any consent and was not part of the investigation.

#### SLIDE 6 – START OF COMPLAINTS 2020

The main concern initially was the pile of hardcore piled on the site but at this point the works did not amount to a change of use of land.

The Applicant claims these works were to clear the site of Japanese Knotweed, but Members should note that the treatment for Knotweed involves injection of the plants and would not have required the removal of trees. So, it is considered that the site had been cleared with the intent to develop it and the hardcore arrived on site immediately after the tree clearance.

#### SLIDE 7 HARDCORE – DEC 2020

It was later in March 2021 that complaints continued, when it was considered to be unauthorised works that were in breach of planning control. These photos show the hardcore laid by December 2020.

#### SLIDE 8 – CONTAINERS MARCH 2021

The site then had containers placed on it and these resulted in further complaints. At this time the owner was asked to remove the containers and the containers were removed.

#### SLIDE 9 - PORTACABINS SEPT 2021

However, by later in 2021 the containers were replaced with portacabins and portable toilets and vehicles.

#### SLIDE 10 – CAR STORAGE

Over time this changed to be mainly a car storage area, and this is when it was decided that enforcement action should be taken given the applicant was not actively resolving the breach and an application was not being encouraged given this type of use would not be supported by Local Development Plan policies.

It is hoped that these series of images have served to illustrate the point that the applicant has had disregard for the planning process and any concerns about the impact of their action on the local area.

#### SLIDE 11 - GREENFIELD SITE

This section of the presentation now moves on to the adverse effects on the amenity of the area and I will go through before and after images to illustrate this point.

This first set of images are ariel images showing the site before and after the works.

It illustrates how the site is within the central area of open space and next to the McAulay Burn. It is part of the green network and is a greenfield site.

#### SLIDE 12 – AMENITY VALUE FROM MAIN AREA OF OPEN SPACE

Before the site was developed it was not frequently used by the public as there was no path network going through the site, but it offered amenity value at an important road junction as arriving/leaving Garelochhead on a main tourist route – Clyde Sea Circular Trail which is a circular route around the Rosneath Peninsula.

This slide shows the site from the junction coming from the village, where the greenery enhanced this corner.

### SLIDE 13 – AMENITY VALUE FROM THE ROAD

This is another before and after image. This is of the site in 2011 and then in 2022 from Google Streetview. It illustrates the value the site would have had in terms of being greenspace. It would have been a tranquil area to enjoy in comparison to the stark appearance of the site shown on the bottom image.

### SLIDE 14 – AMENITY VALUE FROM MAIN AREA OF OPEN SPACE

This slide shows the site travelling from the other direction as you are travelling from the peninsula.

### SLIDE 15 – AMENITY VALUE FROM WITHIN THE OPEN SPACE

These slides show the site from across the burn. This is the area of Open Space which is used frequently by the public with a network of paths running across the site. There is now a clear view from the path networks across to the road rather than looking on to a green area. In addition, the noise levels are likely to have increased as there is no buffer zone between the local paths and the road.

### SLIDE 16 – PROPOSED LANDSCAPING

Whilst the landscaping proposals are welcomed and address some of the issues relation to wildlife connectivity by replacing some native woodland, the presence of greenery on this site was of important visual amenity value to the local area. The proposed change of use remains in significant conflict with the Local Development Plan.

### SLIDE 17 – OPEN SPACE PROTECTION AREA POLICY

This part of the presentation now moves on to the key policies.

One of the key policies that the proposal is contrary to is LPD2 Policy 81 which states that development will not be permitted unless it meets one of the exceptions listed in the policy.

The proposal does not fit any of these exceptions.

- a) It is not an ancillary use to the principal use of the site – this type of use might be a play park, or a new path or picnic benches, or a public car park for users of the open space. It is none of those types of developments.
- a) The next part of a) allows for a very minor part of the site to be development and it would not affect the integrity of the site and its continued use or amenity value – as the previous slides illustrated it is not considered to be ‘very’ minor, and it also affects the integrity of the site and its amenity value.

- The intent of this part of the policy is to allow very small-scale development such as essential infrastructure. This is not that type of development, it is an erosion and fragmentation of an open space without any justification.
- Parts b, c and d of the policy are not relevant as these relate to loss of outdoor sports facilities, recreational facilities or sites for growing food.
- In terms of part e) It has not been demonstrated that there is no loss of amenity value, and that alternative provision can be made available elsewhere.

The proposal as explained in the presentation and report, actively devalues the amenity value of the greenspace and wider Open Space Protection Area contrary to the Policy.

### SLIDE 18 – ECONOMIC DEVELOPMENT POLICIES

Under LDP2 Policy 22 (b) (Economic Development) development proposals outside the preferred areas for business and industry are required to demonstrate that there are no suitable sites within the preferred areas.

In cases where the need had been demonstrated the development is also required to reflect the character of an area; avoid greenfield sites where brownfield sites are available in close proximity; and will not erode residential amenity of the area.

Similarly, NPF4 Policy 26 (Business and Industry) requires Applicants to demonstrate that there are no suitable alternatives allocated in the LDP; and that the nature and scale of the activity will be compatible with the surrounding area.

Other than the land being in the Applicant's ownership there is no explanation or justification as to why the greenfield development of this site is required for their business and why there are no available alternative brownfield sites available.

In addition, the applicant does not adequately explain how the existing garage site within the village centre is insufficient to support the Applicant's business operations, or how the additional storage space in this location would support the business.

The policy clearly states the developer must demonstrate there are no suitable sites and show an operational need for the development. There is no such evidence or statement made by the applicant.

In turn, this application fails to demonstrate the requirements of NPF4 Policy 26 (Business and Industry) and LDP2 Policy 22 (Economic Development), contrary to the Local Development Plan.

The proposal does not give rise to wider economic benefit, and it has not been adequately demonstrated that this development accords with LDP2 Policy 22 (Economic Development). There is limited information submitted to meet the terms of the Policies and to justify a departure from the Development Plan in respect to the development of the greenfield and OSPA site for the purpose of business operations unconnected with the site.

### SLIDE 19 – NPF4 POLICY 9 AND POLICIES 01 AND 04 OF LDP2

The Members are also reminded of the greenfield protection policies where support must be given explicitly by other policies in the LDP for greenfield land to be released. As

explained, there is no such support from LDP Policy 22 or 81 so it is also contrary to these policies.

#### SLIDE 20 – APPLICANT’S AUTOPOINT GARAGE SITE

Finally, I move on to the points raised by the supporters in terms of the expected public benefit.

The Applicant has submitted a short statement in relation to the operation of their garage. Their garage is located within the centre of the village and is a long-established garage site.

In the supporting statement, the Applicant has highlighted that the proposal would support the ongoing business operations.

They said that prior to the use of the site as a parking/storage area for vehicles these vehicles were often parked on either at the neighbouring Gibson Hall car park or local roads near the garage. This creates highway safety problems and furthermore would annoy the residents.

The Applicant claims that using the application site for the parking/storage of vehicles has alleviated all these problems. We contest this is the case and following slides will attempt to demonstrate this point.

The Applicant sells both second hand cars and undertakes servicing and MOT tests. At any one time he says he can have between 10 and 15 cars for sale and be undertaking services for 10-15 services/MOTs a day.

The Applicant claims there is very little onsite parking, but Members have witnessed on the site visit and via the photographs that there is car storage space at the rear of the site and, it is considered that through improved management of this area then this could be increased and be sufficient to run the business without negative impacts on the residents.

#### SLIDE 21 – DISTANCE FROM GARAGE

This image is to illustrate the distance of the garage from the application site.

The Applicant states the site will be able to store cars for sale and also to park customer’s vehicles awaiting collection after being serviced. Customers therefore are being expected to walk 4-5mins to this site.

This is a big ask for customers to walk this distance and there is not anything to prevent the Applicant from continuing his current practice of using the public streets to park cars awaiting collection, close to the garage.

A number of letters of support have been submitted from local residents encouraged by the proposed improvement of the condition of the site and the opportunity to alleviate parking problems in the village. However, the proposed greenfield development is to create a private vehicle storage yard for the use by the Applicant in association with their garage business located in the centre of the village. There is no public access or parking proposed for visitors to the open space.

#### SLIDE 22 – PARKING ON OLD SCHOOL ROAD

These images are taken from the officer's site visit of old school road, and there are Google Streetview images from 2011 and 2021.

#### SLIDE 23 – PARKING ON STATION ROAD

These images are from Google Streetview images from 2009, 2011 and 2021. The parking issues associated with the Applicant's business operations have persisted around the garage despite the application site being used for car storage (without permission).

#### SLIDE 24 – REAR OF THE SITE

These images show the rear of the garage site and the storage available for cars within the applicant's site.

#### SLIDE 25 - CLOSING SLIDE

In conclusion this application presents no discernible wider public benefit to justify the departure from the Local Development Plan.

The site is a prominent greenfield site and the proposed use would devalue the amenity open space, and be detrimental to the character of the area, along a tourist route where no justification has been made by the applicant to demonstrate there is no other site suitable for this use and has been the result of unauthorised works where no thought or planning had gone into the proposal.

It is therefore recommended that this application is refused planning permission.

#### **APPLICANT**

On behalf of the Applicant, his Agent, Michael Hyde, gave the following presentation.

##### Michael Hyde

Good morning and thank you for providing this opportunity for me to speak on behalf of the applicant.

As you know well, decisions taken in respect of planning applications are to be in the public interest and in accordance with the provisions of the Development Plan ... unless material considerations indicate otherwise.

Material planning considerations are those that are directly relevant to the proposed development and its potential impact on the surrounding area and community.

In the current case there are considered to be two very relevant material planning considerations.

The first of these is the resolution of a known highway issue.

In 2019 the Community Planning Partnership (CPP) used a Place Standard tool to engage with residents in Argyll and Bute about how they feel about the places that they live and work. 42 of the responses received from residents of Garelochhead mentioned traffic and



parking as a concern and this was therefore highlighted as a priority area for improvement.

Some of the vehicles parked on the roads, or in the Gibson Hall car park, would be those associated with the applicant's business, either vehicles for sale or vehicles belonging to customers. Approving the current application would directly address this issue.

The Roads Officer submitted just yesterday a response to the application. He acknowledges that there is a significant parking issue in the village and that a contributing factor is that there are businesses with limited or no parking for staff or customers. He then however says, for reasons that are not fully understood, that the application proposal will not reduce on-street parking? It clearly will on the basis that it will provide 30 dedicated parking spaces for the applicant's staff and customers, and also for vehicles awaiting sale/collection.

The second material consideration is the strength of public support for the application. There have been 49 individual letters of support submitted, and just a single objection from a neighbour who does not appear to understand the basis of the application (it references the provision of parking for The Perch, a local café/restaurant).

The letters of support, including from the Garelochhead Residents Association, all state that granting planning permission will help reduce on-street parking, and mention the amenity benefits of securing tree planting and the building of a stone boundary wall.

The application is also fully supported by two of the three Local Ward Members, Councillors Mark Irvine and Maurice Steuart-Corry.

Once material planning considerations have been identified the weight to be attached to them is then solely a matter of judgement for the decision-makers, in this case the Councillors who make up this PPSL.

It has been fully acknowledged from the outset that the application proposal does not comply in every respect with the provisions of the Development Plan, in particular Policy 9 of NPF4 and Policy 81 of LDP2.

Policy 81 however states that development proposals resulting in the loss of part of an OSPA will be permitted if they only involve a very minor part of the site and would not affect its integrity and continued existing use or amenity value.

The application site was never able to be accessed by the public, it is bounded on two sides by a burn and on the other two sides by the public highway. It was covered by self-seeded trees and had been colonised by Japanese knotweed (all of which has now been removed). It also represents less than 2.5% of the total area of the OSPA so is a very minor part of the overall designation.

Any conflicts with policy are not considered to be significant. If a majority of Councillors are therefore inclined to give more weight to the material considerations than the slight conflict with the provisions of the Development Plan planning permission should be able to be granted as a 'minor departure' from policy. This would be entirely acceptable and would not be a decision that would be able to be challenged.

A grant of planning permission would clearly be in the public interest given the significant local support for the application proposal, from local residents, the Residents Association

and Local Ward Members. There would also be significant benefits to the village, through the removal of the Applicant's vehicles from the public highway, and the land will be able to be appropriately landscaped through the imposition of planning conditions relating to tree planting and the building of a roadside boundary wall.

Thank you.

### Claire Balneaves

With the aid of power point slides, the Applicant's employee, Claire Balneaves, gave the following presentation:

#### Background

Good morning Ladies and Gentlemen,

My name is Claire, I work for the Applicant and I am not used to public speaking so please bear with me.

Here is a little background from our point of view being the applicants.

We bought this ground in early 2019, back then it was an AREA FOR ACTION, it had been identified by the council as land designated to address specific needs and opportunities, focusing on growth, sustainability or community development. It had been neglected and a lot of local residents had concerns for the vandalism that was occurring and also the infestation of knotweed which extended to an acre of the ground with some sections 3m high.

I don't have a photo of the land from back then, but this one shows what the land was like.

The community council had discussed this piece of land, the vandalism and the fly tipping on many occasions over the years.

We tried to contact the planning department over the following year to ask advice on treatment and advise of our plan to remove the knotweed which covered nearly half of the land. Over the year none of our phone calls or emails were answered.

With no contact from the planners, we contacted the Scottish forestry department who advised us if we wanted to remove the trees there was nothing preventing this as long as we were under the limits set per quarter.

The trees were self-seeded and in very poor condition. Unfortunately, all the knotweed rhizomes had grown around the roots of the trees meaning we had to remove most of them to kill the knotweed.

We have kept all the roots of the trees and the rhizomes on a separate section of the ground and have an ongoing treatment to make sure these never grow back.

This slide shows some of the impact of Japanese Knotweed.

We weren't trying to damage this piece of ground, we were trying to help, we just wish the planning department had responded at this time so we could have shown them what needed improvement.

Eventually the planning department did reply to our correspondence, we then had a discussion back and forth to see if there was anything we could use the ground for. On 2 occasions we had replies from Emma stating that she has discussed with Peter and Howard and the land maybe suitable for a house plot as this was more suitable in terms of the local development plan. We were encouraged to remove our application on the other side of the burn and submit one on this side even giving us a free go to resubmit for a house plot.

### Emails Attached

This was still an Area for action with no mention from the planning dept about removal of the trees and suggesting we could submit a planning application is giving mixed messages.

### A bit about our business

We have been trading in Garelochhead for 20 years employing a number of local people and supporting all local residents and businesses. We employ staff of 20 people and many more subcontractors in several forms.

Our business is made up from all general car repairs, MOTs, servicing and car sales. We also run the local petrol station, where we try our best to keep prices lower than the surrounding towns. With the current climate surrounding garage repairs and a few local garages closing it is becoming uneconomic to run the garage without car sales, unfortunately this causes us a problem with space.

When we keep our own sales cars in the boundary of the garage it then means all our day to day passing trade then ends up on the streets around the garage, as we don't have the room. This was an ongoing problem for years with neighbours complaining about customers parking all over the village.

We have taken a few pictures of cars under the garage control that are parked around the village. The is just a snapshot of one day, where we need to park now since we have been asked to stop using the ground. This just exacerbates the parking issues in the village and adds to the dangerous roads situation.

So, when the trees were removed from the ground rather than this being an intentional act to use this for parking it was more an evolution of the business, which we found sorted all the complaints over night.

The comments recently from the planning department and biodiversity officer seem to suggest this was a nice woodland previously. Unfortunately, I think they are new to the area and never visited it before. This ground was scrubland that was infested with knotweed that no one could use and was also dumping ground for old household appliances, which the residents committee will confirm.

Moving forward, our plan if allowed, which we have trialled already, is using the ground as a collection and drop of area for the customers of the garage which worked really well, we generally have 20-40 cars passing through the garage on any one day so customers we're leaving the car on the plot, we would pick it up from there repair it, then drop it back off. This saved the need to use any public spaces in the village.

Due to the expansion of the Naval base, we are finding an influx of customers, which is good for the business and local area but also makes the local roads busier, hence why we need more parking in the village.

If this application is refused, we will be left no option but to concentrate our business on car sales instead of servicing the local community as there is nowhere else in the village or surrounding area to operate from, without impacting on the residential parking. Without this parking area we are going to be forced to close to the public which will be a major blow to the village in all respects.

The new planting we are proposing would increase the biodiversity of what was a previously degraded site and deliver a biodiversity net gain for the area as well as making the ground more aesthetically pleasing when entering the village from that side.

#### Points to consider

Rather than being deliberate act to remove the trees, it was to control an invasive species, which no one in the planning department has mentioned.

The area was an AFA, NOT AN OSPA until recently which was changed for an unknown reason and without consultation of the owner. This surely raises the question how can a piece of land owned by a private individual be reclassified without consultation?

The previous team leader had considered a single house development a reasonable suggestion.

Most of the local residents and users of the facilities within the village all seem to support the application, along with 3 local councillors.

The new planting will be much better than what was there before. A massive biodiversity net gain.

This will really help the local parking problems around the village and reduce the dangers of all the on-street parking.

This also allows a family run business the chance to evolve in a very challenging environment.

And lastly although we have the best intentions, when the planning department talk of enforcement action does that mean they would like me to stop the ongoing treatment of knotweed and let it grow back? Regarding replanting, nothing can be planted for the next few years while the treatment is still ongoing and any plan for this has to be discussed rather than the planning department's heavy handed approach.

If an enforcement notice is issued, we shall take legal representation to defend the point that the trees were removed years before this was an OSPA and no laws or permissions were broken by their removal,

Surely common sense has to prevail in such that this was NOT an OSPA until recently. It will have such a detrimental effect to the business and local people if not allowed. Nobody used this parcel of ground before hand and it has no benefit to the community to be left as it is.

## SUPPORTERS

### George Freeman, Garelochhead Residents Association

George Freeman gave the following presentation:

1. I am George Freeman, Chairperson of Garelochhead Residents Association. As there is currently no constituted Community Council operating within the village, our Association is the only constituted community group that speaks on behalf of the residents of Garelochhead. All residents over the age of 16 are members of our Association which was first constituted in 1986 - 39 years ago.
2. Our Association and many residents have had lengthy discussions on the two planning applications that have been submitted by Mr Thomson for two separate sites within, what is now classed as, Bendarroch Park Open Space Protection Area.
3. Until the 28th of February 2024 when the Council adopted the new Argyll & Bute Local Development Plan 2, this site was part of a much smaller Area For Action (AFA 3/7). It was only with the new Local Plan 2 that this site became part of the much larger Bendarroch Public Park Open Space Protection Area (OSPA).
4. Members of the PPSLC who attended the site visit this morning will have noted that the OSPA is clearly split into four distinct areas. The Bendarroch Park with football field and ASTRO Turf facility, the site next to the telephone exchange which is the subject of today's hearing, the site at the bottom of Whistlefield Hill on the opposite side of the B872 which is a mess and is cluttered with large containers, portacabins, machinery, caravans and other industrial equipment, and the site on the B833 Rosneath Road which was the subject of a separate planning application from today's applicant for a residential development which has recently been considered by three members of the PPSLC on a Local Review Body (LRB) which, I think it is safe to say, were happy for that application, which is on the same OSPA, to be approved subject to the appropriate conditions.
5. Of the four separate areas within the OSPA, the public have only ever had access to two of these areas. The Bendarroch Park with football field and ASTRO Turf facility, and the site on the B833 which the LRB members are clearly minded to approve development on, even although it is located within the same OSPA. That site on the B833 was part of the Area For Action and it is safe to say that the community resisted development of this site going back over 30 years prior to local government reorganisation to the days of Dumbarton District Council, when plans by the then owner to develop the site were rejected by Dumbarton District Council. Similar plans by the then owner were again rejected by Argyll & Bute Council Planning Officers over 20 years ago.
6. Council Planning Officers at Kilmory confirmed to me some time ago that the OSPA measures 8.19 hectares and the site for this application only equates to 0.2 hectares and as such, equates to only 2.44% of the OSPA. PPSLC members will be aware that Policy 81 on Open Space Protection Areas allows development of an OSPA where it only "involves a very minor part of the OSPA and would not affect its integrity and continued use or amenity value". Surely the PPSLC will agree that at 2.44% of the OSPA, you cannot get a much more minor part of the OSPA.

7. For a small rural community, the level of support for this application is exceptional. There has only been one late objection from a member of the community. Although the Council has recorded this objection as coming from an immediate neighbour, this is certainly not the case, I have measured it out and this sole objector lives half a mile away along the B833 and cannot be considered as an immediate neighbour to the site.
8. The Supplementary Report refers to the parking problems that have been highlighted but disappointingly, only refers to the section of the B872 between the Anchor Inn and Old School Road. It makes no mention of the extensive problems on Old School Road, Station Road and the lower end of Feorlin Way which are continually congested. I have photographs here that I took of these roads which clearly show that there is hardly a parking space to be had which is the norm across the centre of the village on most days.
9. A great deal has been made of the tree felling on the site with clear indications that it was unauthorised. I recently argued that the tree felling was NOT unauthorised and was included in the exemptions listed by Scottish Forestry in their publication Felling Permission – Application Guidance – Section 2 – Exemption 1, 2 and 3 and that the applicant had approval from Scottish Forestry for the felling of the trees. It is good to note that it is now confirmed in the Supplementary Report that the tree felling was NOT unauthorised and that no consent was required for the felling of the trees from the planning authority or from Scottish Forestry.
10. Questions have been raised about the availability of alternative suitable sites within the village. From my local knowledge and having lived within the village for well over 40 years, I can confirm that there are no other sites within the village where this development could take place.
11. Our Association has asked that this application be approved with conditions attached to control the use of the site. These should include, 1. That the boundary wall on the east side of the site be constructed within 3 months of the date of approval of the application, 2. That appropriate fast-growing trees, approved by Planning Officers, are planted along the east boundary of the site inside the boundary wall at a timescale approved by Planning Officers, 3. That a maximum of 30 vehicles are stored on site at any given time, 4. That no vehicles are stored on site for longer than six months, and 5. That a register is maintained of all vehicles stored on site giving the registration number of the vehicles and the dates when the individual vehicles arrived and were removed from the site which will ensure that the maximum of 30 vehicles on site and the maximum storage period of six months are not exceeded.
12. Comments have been made that the Council has not received complaints about the parking problems within the village. That is not the case. I have complained on many occasions in the past and have correspondence with Jim Smith who was until recently, the Head of Service. It was only because of these complaints that the Council eventually removed the double yellow lines in the long layby opposite the Anchor Inn to create additional car parking space for up to 10 vehicles.
13. Discussions a number of years ago with officers from the then Strathclyde Police Traffic Division ruled out the possibility of double yellow lines along both sides of the B872 through the centre of the village as the advice from the Traffic Division police officers was that this would create problems with vehicles speeding through the village.

14. The Leader of the Council recently made a statement that the Council needs to start listening to our communities and delivering for them. This is an ideal opportunity where the Leader of the Council's comments can be taken on board and that the PPSLC can deliver what the community clearly wants.

#### Local Member

Shona Barton, Governance Manager. read out the following written representation from Councillor Maurice Corry, who was unable to attend the hearing today:

I would like to confirm my support for it as it would alleviate severe traffic congestion along the main street in Garelochhead. The planning application would provide more vehicle parking in the village and therefore making it safer on the main street particularly around the shops.

I support the planning application as it could easily be granted as a minor departure from the provisions of Policy 81 which would produce benefits in removal of vehicles Parked from a public highway.

#### **MEMBERS' QUESTIONS**

Councillor Brown asked Planning what would happen to the site if this application was not approved. Kirsty Sweeney advised that if the application was refused today the Applicant would have a right of appeal and it was usual to wait for that process to be complete before looking at any enforcement issue if the appeal was unsuccessful. She said they would look to serve an enforcement notice on the site to remove the hard core and put some tree planting back.

Councillor Brown asked if the site would go back to the way it was before. Ms Sweeney said it would go back to open space.

Councillor Wallace asked Planning how tree planting could be part of an enforcement condition if it was permissible to remove the trees in the first place. Ms Sweeney advised that in any enforcement case Planning can specify any actions that must be taken for a site. She explained that because the site previously had trees on it, they could be part of this request. She said that even though planning permission was not required to remove the trees they could still be part of the enforcement notice.

Councillor Brown asked Planning to confirm when the site changed from being an AFA to an OSPA. Ms Sweeney advised that the proposed LDP was published in 2019 but the actual designation as an OSPA did not come into force until the Plan was adopted in 2024.

Councillor Green asked Planning what the terms of the AFA were and what that meant for the LDP in force at that time. Ms Sweeney referred to the site being an Open Space designation in the Dumbarton District Plan and then an AFA in the 2015 LDP. She advised that the exact wording was to enhance, to provide recreation and enhance open space. It was not specified that any development would be supported.

Councillor Wallace asked the Applicant how many cars they had parked on the street at the moment. Claire Balneaves said there were approximately 40 cars, 20 customer cars and 20 cars belonging to employees.

Councillor Wallace asked the Roads Officer to comment on his consultee response which said that he did not believe approval of this application would have an impact on parking in the village. Raymond Kane said he believed there was already an existing parking issue in the village, and this had arisen not solely as a contributor of the cars associated with this facility but also the overall businesses and residential accommodation. Within the area of Garelochhead, due to its make-up, it did not offer a significant amount of off-street parking for cafes, shops and businesses and for people that wanted to visit. It was understood and recognised that the problem was a combination of all of these contributing factors. He said he did not believe the parking issue would be immediately resolved through the creation of a car park that would only be available to one organisation. He said the parking of the 40 cars was part of the problem but not the only problem and he did not believe this proposal would resolve all the issues.

Councillor Wallace commented that he accepted that the proposal would not resolve all the issues. He asked the Roads Officer if he thought it would help alleviate the problem to some degree. Mr Kane said that to alleviate the problem would be to reduce the amount of cars that were permitted to park on the street. He said this could be done through various means, but the business could also do this. If the business has 40 cars, as they highlighted at the moment, in the surrounding streets, then they contributed to this problem. He said there would be nothing to say they would not then place 40 cars on the street and a further 40 cars at the proposed parking site. He said there was no means for Roads to limit or control how many cars that they then placed within the surrounding area. The creation of this car park would not necessarily remove the problem but could potentially increase the amount of cars attached to this facility. He advised that he did not believe that the creation of such a car park would resolve the issue. There were no guarantees and no conditions nor enforcement that could be placed on that unless a review of Garelochhead was taken in its entirety to place parking restrictions on the whole area. He said that would be a resolution but not an overnight resolution.

Councillor Blair asked the Roads Officer if he had received any requests from the community to carry out a traffic management survey or any such management of traffic that has been a problem over the years. Mr Kane said that over the years he believed there had been engagement with his predecessors. At that time there was funding available to review the overall traffic calming features within Garelochhead which, he believed, was a means to slow traffic through the main thoroughfare. Personally, he said he has engaged with local community members that have requested this, but this came back to where funding was available and how it was believed this could be addressed. Means that have previously been addressed, are the installation of double yellow lines, the reaffirming and detailing of existing double yellow lines and the potential expansion of corner re-dee would improve visibility. Beyond that, there had not been a great deal of suggestion or involvement at present but that was not to say, they would not welcome, if funds were to become available, the installation of further traffic calming in Garelochhead.

Councillor Blair asked the Roads Officer how many complaints were received annually regarding parking in Garelochhead. Mr Kane advised that from a review of recent communications, it was his understanding that they did not get registered complaints. They must be tracked and recorded through the Roads communications system for the data to be reviewed. He said that was not to say they were not aware of parking associated issues or movement issues that were a consequence of parking. He advised that without the creation of restrictions that could be enforced or on-street infrastructure to limit where people could park, there was little they could do at this point.



Councillor Blair asked the Roads Officer if he had any discussions with Police Scotland regarding how many traffic accidents there have been. Mr Kane said that there was on record a very serious accident involving someone alighting from a bus and crossing the road. He said he was not aware of the detail of this but understood that it could have been due to poor practice of the pedestrian or varied contribution factors. He said that Police Scotland did not regularly engage regarding concerns over Garelochhead and associated vehicle movement issues within it.

Councillor Blair asked if the Applicant was wanting to expand his business. Ms Balneaves said they were not looking to expand, they just wanted to cope with the business they had now. She said local garages were closing down all the time and there was an influx of business, but they were limited to how much business they could take in by the garage itself. Councillor Blair referred to the comment made by Roads that if demand increased this would lead to more cars and he sought and received confirmation from Ms Balneaves that she did not think that would happen.

Councillor Blair referred to Mr Freeman saying he had been involved in the community for a long number of years. He also referred to the LDP process and asked if community groups have engaged with this process. Mr Freeman referred to the local development plans being advertised in the local press, and said this was something that was a total turn off for the public and that the public very seldom ever got involved in the local development plans as they did not think it affected them until a development was proposed next door to them and then, all of a sudden, there was an outcry as they were not aware of various policies that had been included within the LDP. He said he did not see the public normally getting involved in local development plans.

Councillor Armour referred to the photos from 2009, 2011 and 2021 showing cars in the confines of the Applicant's own business footprint and asked the Applicant how many cars were parked within the business footprint at the moment. Ms Balneaves said there were about 30 cars parked to the rear of the garage. She confirmed there was approximately another 40 on the streets, a mix of customer and staff vehicles.

Councillor Armour asked the Roads Officer if a Traffic Regulation Order would solve the parking problem around the business. He suggested waiting restrictions to allow vehicles to only wait on that part of the street for 1 or 2 hours. He asked if that would solve that part of the problem.

Mr Kane said he recognised that would be a reasonable consideration and a potential tool that could be used to resolve an issue. He advised that with every application they must be consistent and with other application sites where there were visibility issues or access issues the Applicant has made a request for a change and reduction in speed so they can achieve visibility. In doing so Roads then have to make an amendment or TRO to facilitate that development. He advised that Roads could not, and would not, do that as they had limited resources, and they could not support one scheme over another. He said that if they applied waiting restrictions which would necessitate a TRO, they would then be supporting this development through the creation of a TRO and they would then have to consistently apply that to every other application across the whole of Argyll and Bute. He said they did not have the resources to facilitate that. So consistently applying that across every application, if it cannot be achieved within the Applicant's gift then Roads could not support it.

Councillor Armour asked the Roads Officer if a TRO could be brought in, if this application was approved today, and if it did not sort the problem and there were just as many cars from the business on the street.

Mr Kane said a TRO could be brought in and if it were successful, it could take somewhere between 12 and 18 months to be delivered. It would then be subject to the level of enforcement Roads had available. For somewhere like Garelochhead, which was not as central as somewhere like Helensburgh, there may not be wardens out there as regularly. He said a restriction was only as good as the enforcement and if people chose not to acknowledge these restrictions, then they could be flighted or ignored. He advised that it could be a solution but would not be an immediate solution if the proposal was accepted.

Councillor Armour commented that if the potential for enforcement was there it could act as a deterrent. Mr Kane said that they would have to give consideration to residents as there was very limited on-street parking available to them. It may be objected to on the grounds that why should a resident be prevented from parking on the street outside their house when they had not done anything to create the current issue. He said that this could then create a displacement parking effect and move the problem to another area. He said that placing parking restrictions in residential areas were difficult to manage and was not something that Roads wholly promoted in Argyll and Bute.

Councillor Armour commented that taking 40 cars off that street and putting in restrictions, would, to his mind, provide scope for any resident to be able to park within a reasonable distance from their home.

Councillor Kain referred to Mr Kane advising that he would not be keen because the Applicant could just add another 40 cars to the environment so it would not make any difference. He asked Mr Kane if he would accept that allowing 40 cars to park on the application site would, at the moment, reduce the traffic issues. Mr Kane said he did not think it would as there were no guarantees.

Councillor Kain commented that if there was an issue at the moment and 40 cars were removed from the environment that, by definition, would reduce the impact of traffic at this time. He said that in the future that might change but he suggested that if it did change it would indicate an addition to the economy of Garelochhead as more cars would be travelling there. It might create a traffic issue but, he asked Mr Kane if he would agree that it would add to the economy of Garelochhead.

Mr Kane advised that if they had data that was gathered over 3, 6 or 12 months, that detailed the registrations of vehicles on the streets, and those vehicles were associated with the company's business, they could then take a cross section of the over all volume of vehicles within the streets and identify those that were a contributing factor being the business, to remove these cars from the streets, this would create X amount of spaces. Or this would alleviate X amount of space. He said that what must be clear here was that these cars filled space within the carriageway; that no car had a right to park on the carriageway and Roads permitted cars to park on the carriageway. These spaces were not just for parking, they were to facilitate the safe movement of vehicles which allowed the safe movement of pedestrians and so on. He advised that if that data was there then he would comment that the removing of that factor would contribute to it. Mr Kane then referred to the question about the economy of Garelochhead. He advised that if removing the contributing factor, which was these cars, and that created space and allowed the safe movement of vehicles and then this space was further saturated at a later date, there was

nothing to necessarily align that to a growing economy. He said that could align to a change in business model to the operator whereby, instead of taking cars that could be turned over or changed over on a 1 day, 2 day, 3 day period, maybe change their business model to cars that required significantly more time and therefore greater return for them. He said it could also signify a change in practices in terms of residents and homeowners that previously parked one car further away because the existing area was saturated. He said he did not think you could necessarily align the re-saturation following a reduction to a growing economy. He advised that once the car park was created the only means of control thereafter would be to invest in a TRO or hard infrastructure to facilitate the safe movements of vehicles through Garelochhead.

Councillor Kain asked the Applicant to confirm if the trees were removed to deal with Japanese Knotweed prior to the OSPA being in place. Ms Balneaves confirmed that when the trees started to be removed the site was an AFA.

Councillor Brown asked the Applicant what difference had been made to the village of Garelochhead when those cars were off the road when the area was being used as car storage. Ms Balneaves advised that the feedback she had received from customers was that there was more space on the streets and that they could park on Station Road and Old School Road easier.

Councillor Brown asked Planning the same question. Ms Sweeney advised that they did not have this evidence so could not answer that question.

Mr Freeman advised that while the site was being used and cars were on it, it was quite clear to those in the community that there were more spaces on the roads around the centre of the village. When the cars were removed from the site the village went back to square one. He confirmed that he submitted complaints directly to the Head of Service about parking and it was only after some considerable time because of these complaints that it was agreed to remove the double yellow lines from the long layby opposite the Anchor Inn to allow parking there. He said he did not believe a TRO was legally amended but the signs were removed, and the double yellow lines were removed to try and help with some of the parking problems. He advised that the large layby could take about 10 vehicles. He said this came about because of complaints about parking in the centre of the village and that was only over the last 18 months.

Councillor Green referred to it being mentioned a few times in term of proposals for the site originating before the OSPA was introduced and an AFA being in effect at the time. He referred to the Applicant clearing trees to facilitate the treatment of Japanese Knotweed, and sought clarification on how the laying down of hard core would provide recreation and enhanced open space. Mr Hyde advised that he did not think that was something they were attempting to argue at all. He said that it was the situation the Applicant found himself in, once he had cleared the land and removed the trees to deal with the Knotweed. Given the problems associated with the parking related to his business opportunities and given that this was a piece of land that he owned in the village, he thought he could finally sort the problem he was causing for the residents of the village.

Councillor Green asked how this provided recreation and enhanced open space which was the criteria for the land at that time. Mr Hyde replied that he was not saying it did.

Councillor Green referred to Mr Freeman stating that it was his view the OSPA was divided into 4 areas. He referred to the older aerial views of the site and commented that there was not a clear division of these areas.

Mr Freeman explained that it was only from the ground that you could see the 4 distinct areas and he explained where these were and the makeup of each.

Councillor Green referred to the aerial view shown on slide 11 of the Planning power point presentation and advised of seeing a road crossing an otherwise continuous area of woodland of differing densities and sought comment from Mr Freeman.

Mr Freeman pointed out the Bendarroch Park at the top right, which was a standalone area. He also pointed out the area at the top left split by the B872 road which he said the Members would have seen at the site visit and was a disaster. He advised that the lower area, in his view was also separated with the lower large site outwith red line the area where the public made great use of for walking. He advised that within the red line that was the wooded area.

Councillor Howard asked Mr Freeman if he would agree that the area being discussed today had never been a public access area. Mr Freeman confirmed that the public never had access to it. He said it was fenced and was fairly thick with Japanese Knotweed and scrubby thin trees. He said he could not recall anyone requiring access to it. He said the large area below the red line was the area that over the years the public have used daily. He said that was the site the Association and Community Council had spent years protecting and supporting.

Councillor Blair referred to comments from the Reporter during the examination of LDP2 and asked Planning if the Reporter supported the removal of the designation of an OSPA for this area. Ms Sweeney confirmed the Reporter did not support the removal of this part from the OSPA following a representation made by the Applicant.

Councillor Green referred to the criteria of an OSPA and asked if it had to be available to the public to walk around or could it serve another purpose. Ms Sweeney said that Planning Advice Note 65 on Planning and Open Space identified Amenity Greenspace as areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons, and provides justification for a planning authority to identify and safeguard open space for visual amenity value in its development plan. She added that the space did not need to be publicly owned and could also be privately owned.

Councillor Green asked Planning when the first draft of LDP2 was put out. Ms Sweeney said she was not sure of the exact dates, but she believed it was the Spring of 2019 with the deadline for comments July 2019.

Councillor Green sought and received confirmation that the Applicant purchased the land in January 2019.

Councillor Armour referred to it being mentioned by the Applicant that they had been given a sort of 'go for it' to build a house on the site in 2022 or they were not told completely there was not a chance. He asked Planning why this was even considered if the first draft of the LDP was in 2019.

Emma Jane said that she was the case officer dealing with that planning application for another part of the site. It was an application for a house and there were several reasons for refusing that application and one of them was that it was not tying in with the settlement pattern. It was suggested could an alternative location for that plan be

presented to mitigate some of the reasons for refusal and the Applicant looked at that as a potential site which SEPA came back to say that land should not be developed as it was in the flood plain.

Councillor Armour referred to the Applicant being encouraged in 2022 to have a free go. Ms Jane explained that the free go referred to when an application was submitted and withdrawn within a year, there was no need to pay the fee again.

Councillor Armour asked why, if the area was going to be an OSPA, the Applicant was given that slight hope. Ms Jane advised that due to the application having several reasons for refusal, the Applicant was looking to mitigate some of these reasons for refusal, one being it did not fit in with the settlement pattern where they were proposing the house. Hence, they looked at this site as an alternative next to the BT Exchange as it fitted in with the settlement pattern.

Councillor Green referred to Mr Freeman mentioning red squirrels and otters not being an issue and he asked him to elaborate on that. Mr Freeman advised that at the January meeting of the PPSL Committee a statement was made and recorded that there were red squirrels on the site. He said that he had checked the national website for recordings of red squirrel sightings and had looked at the wider area. He said that most people knew that red squirrels only started from Whistlefield up to Arrochar and into Argyll. He said there were a few on the Rosneath peninsula but looking at all the sightings over a 5 year period there had only been one at the south end of Garelochhead village and nowhere near this site. He said that confirmed to him that there had been no sightings in that period and so no history of red squirrels on that site, although a statement had been made to Committee that there were squirrels on the site.

## **SUMMING UP**

### **Planning**

In reaching a decision on this application, Members are reminded of the requirements placed upon decision makers by Section 25 of the Town and Country Planning (Scotland) Act 1997 to determine all planning applications in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

During the course of today's hearing Members have heard arguments with opposing views from the anticipated benefits and the impacts of the proposal.

The position detailed by planning officers in the report of handling dated 1<sup>st</sup> November 2024 essentially identifies the fundamental issues which precludes the proposal from being considered to be consistent with the Development Plan.

The provisions of National Planning Framework Policy 9(b) set out that proposals on 'greenfield' sites "will not be supported unless the site has been allocated for development, or the proposal is explicitly supported by policies in the LDP".

In this instance the proposal is located within an area identified within the Argyll and Bute Local Development Plan 2024 as an Open Space Protection Area, abbreviated to OSPA, wherein Policy 81 sets out a presumption against development except where one or more of the criteria is met. It is considered by officers that the proposal meets none of the criteria.

The case set out by the applicant and the supporters today has sought to challenge this position, saying that the site is a minor part of the OSPA and had little amenity value. Also, it has been suggested that the biodiversity enhancement can only be achieved if the development is allowed. However, Members should note that Japanese Knotweed removal and new planting can happen without this development going ahead.

Also, in relation to Policy 22, it has been suggested that there is sufficient community and economic benefit to a local business to allow a greenfield site to be developed. This evidence is anecdotal re the parking problem and that it will be alleviated from the provision of 30 dedicated spaces for this business in addition to the parking area to the rear of their business and that there are no alternative brownfield sites. There is no report prepared to evidence this. We have also heard new information not before officers about the need to diversify their business into car sales.

The Roads Officer has provided a further consultation response and within the answers to Members today, has highlighted that the parking problems in the village come from various sources and there is no parking survey evidencing the issue arising from parking from the garage. They also explained the difficulties of placing a traffic order. There is no mechanism to secure that parking will not continue on the street and the applicant will use the application site.

Members are reminded that the designation of the OSPA within the LDP is an established matter. In order to assist members in reaching their decision the following matters are highlighted:

- Planning Advice Note 65 on Planning and Open Space identifies Amenity Greenspace as areas providing visual amenity or separating different buildings or land uses for environmental, visual or safety reasons, and provides justification for a planning authority to identify and safeguard open space for visual amenity value in its development plan.
- The aim of Policy 81 is to protect open space as the loss or partial loss of such areas to development can unacceptably erode either their individual integrity and function or the integrity of our wider green and blue infrastructure. Any loss will require robust justification as once such spaces and facilities are lost to alternative built development their opportunity to provide their original or similar function are typically **lost forever**.
- This site is considered to have visual amenity value intrinsic to the OSPA and the loss of this area fragments the OSPA and affects the overall setting of the main recreational area and the value the site. Even with boundary treatment as proposed by the applicant, it is not considered to be sufficient, as this is only mitigating impacts of the car storage and is not an added public benefit or provision of an alternative greenspace elsewhere.
- Policy 22 requires a sequential approach to new business/industry sites, first looking at preferred location, then other brownfield locations within settlements and avoiding greenfield sites. The applicant is required to demonstrate that the approach has been taken into account to the satisfaction of the planning authority. This has not been satisfactorily demonstrated and no alternative site have been explored.

- The applicant has highlighted that the proposal would support the ongoing business operations but the evidence they have submitted is considered to be insufficient to demonstrate that parking problems would be alleviated and there is no planning mechanism to secure this. The distance the garage site is located from the proposed car parking does not suggest it would be easily accessible for customers and the on-street parking is therefore likely to continue, particularly for parking cars following MOTs/Serviceing.
- Members should afford consideration to the fact the designation of the OSPA was challenged by the applicant during the consultation of the LDP. The reporter concluded following their site inspection, that "*there was insufficient evidence to justify the removal of, or part of, the open space protection area and no modification was made.*"

The application is accordingly recommended to members to be refused as development contrary to the provisions of the Local Development Plan, namely Policies 01, 04, 22 and 81 and also NPF4 Policies 9 and 26.

### **Applicant**

#### **Mr Hyde**

Mr Hyde advised that as the Planning Officer had said, planning applications had to be determined in accordance with the provisions of the Development Plan unless material considerations indicated otherwise. Anything relevant to planning and relevant to the proposed development could be considered to be a material consideration.

Once there were material considerations in the balance, and in this case the material considerations were - resolving a known parking issue and the strength of public support for the application. It was within the gift of the Committee to decide how much weight to attach to those material considerations and if significant weight was attached to those material considerations which would outweigh the loss of what was a very minor part of the overall Open Space Protection Area, then planning permission was able to be granted. He added that the planning permission could be furthermore subject to the imposition of planning conditions which could then be strictly enforced and as well as for the management of the site conditions suggested by Mr George Freeman, could also relate to landscaping and boundary treatments.

### **Consultees**

#### **Roads Authority**

Raymond Kane pointed out that it had been highlighted throughout the meeting that the business currently operated with 40 cars on the street. He said the application was for the creation of 30 car parking spaces, so it would not completely alleviate all the on-street parking issues.

He also referred to discussion around creating car parking restrictions and said this would not be an immediate resolution nor guaranteed either. He said it would not stop the business from saturating the streets in addition to the parking provision proposed.

#### **Local Biodiversity Officer**

Helen McCallin referred to comments about the scrubby woodland and advised that it was worth noting that was a really important biodiversity and valuable habitat to have. With regards to NPF4 Policy 1, she spoke about being in a nature crisis, and in a biodiversity crisis and a climate crisis. She said development should be enhancing biodiversity and restoring habitats and should be helping to strengthen and recreate these nature networks and connectivity of habitats. She advised that with the removal of the woodland that had sadly fragmented that habitat. She said that it should also be noted that regarding landscape design, there should be discussion about biodiversity enhancement and how to make the site better, and how to connect habitats better. She referred to the red squirrels, and said that looking at the NBN Atlas website, there were squirrels that had been recorded within the area up until last year and, she thought, even this year within a 2 km radius. She said there was potential for red squirrels to be either in that area or commuting through that area. She advised that NPF4 Policy 3 was also talking about restoring and enhancing and creating these nature networks that were needed to help tackle the biodiversity crisis.

### **Supporters**

George Freeman referred to this being a small application compared to some of the larger applications that had been dealt with over the years. Thinking back to 20 years ago, he referred to the An Suidhe windfarm application which was recommended for refusal by the Planning Officer. He said that this application went before the full Council and was approved. He said that it then went to Public Inquiry where it was still approved and had now been up and running for a number of years. He said it was not unusual for the Committee to go against the planning recommendation. He said that the Planners had their job to do but consideration could be given to many other things. He said that what he was looking at here was what was best for the community. He advised that there was no doubt that common sense should prevail, and the community would benefit from this application being approved. He referred to what the Leader of the Council had said at a recent Council meeting about the need for the Council to be listening to their communities and delivering for them. He said this was an ideal opportunity. He said the Leader of the Council was right in what he had said and there was an opportunity here to deliver for the community given the overwhelming support for this, he said he believed it would be crazy other than to approve it.

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

The Chair ruled, and the Committee agreed to adjourn the meeting at this point for lunch.

The Committee reconvened at 1.30 pm with all those present as per the sederunt.

### **DEBATE**

Before the debate commenced a copy of a Motion prepared by Councillor Howard was circulated to all those present in the room and online for consideration.

Councillor Howard said she had put forward a Motion to approve this based on the community's need and wish to have their problem of parking alleviated. She said she did not believe the area of land concerned was ever truly viable as anything other than what it was hopefully about to be. She said the new screening; the new wall would be better than what was there before. She said it would be much more attractive and a better aspect coming into the village from Arrochar. She said this was long overdue and would be of



great benefit, not just to the village businesses, but to its residents as well. She said she just wanted to see the application approved and for the village to get the benefit of the efforts of this businessman to change the way the village was.

Councillor Amanda Hampsey advised that when the time was appropriate, she would be quite happy to second that Motion.

Councillor Blair said he had taken on board comments made and that he appreciated the concerns and issues raised. He referred to the OSPA and said that as a regulatory Committee, the Members had an obligation to look after things like OSPAs. He advised that he felt because of the unauthorised development the Committee should still be keen to protect the OSPA. He said he had taken on board the comments from the Roads Officer and the Biodiversity Officer. He commented that from experience elsewhere, it was quite clear that nature had the opportunity to reinvent itself on whatever sites that were left. He referred to comments made about the proposal having the full support of the community. He referred to the population of Garelochhead being 3,000 – 3,500 with 2 to 3% in support and asked if that really meant 97% were not. He said he thought there was an opportunity here for possibly the re-establishment of the Community Council. As very often in communities when an issue came up it galvanised support or rejection and that got people pulled together. He said having a Community Council in the area was a good opportunity for the community to have a proper discussion. He acknowledged that LDPs were not the most popular read but if there was an issue going on in the community that could act as a catalyst for the re-establishment of a Community Council. In that case, he said he would be quite happy to support a move through the normal procedures, ie, through amending the LDP assuming the whole community or 50% of the community agreed. He advised that taking on board everything that had been said he supported the Officer's recommendation.

Councillor Green referred to point 6 of the Motion and said that he assumed that it had been checked for competency. He referred to point 6 - Biodiversity and Nature Networks – there is potential to secure compensatory planting etc. He said this was a view from the Planning Officers but been included in this Motion. He said he could not see any reference to any compensatory planting and enhanced landscaping and conditions associated with that.

Councillor Howard said it was her intention that there could be conditions put on a lot of the bit that was not hard standing and that it could be replanted in various ways.

Councillor Green asked Councillor Howard if she had these conditions.

Councillor Howard advised that she had left it to Planning to make the conditions that would cover that.

Councillor Green noted that Councillor Howard was moving that appropriate conditions and reasons be delegated to the Head of Development and Economic Growth in consultation with the Chair and Vice Chair of PPSL Committee. Councillor Howard confirmed she was leaving it to the experts to make the conditions.

Councillor Blair sought and received confirmation from Mr Jackson that the Motion was competent.

Ms Sweeney said the Motion was procedurally competent and it had been highlighted what was necessary to justify a departure from Policy. She advised that it was Planning

opinion that there was not enough evidence for this application to be approved and to set aside the Plan on so little solid evidence or demonstratable public benefit would weaken the Policy and set up a bar for future OSPAs if Members were minded to approve.

Councillor Green referred to point 7 of the Motion regarding the siting of red and grey squirrels across Scotland. It stated that there had only been one red squirrel sighting at Garelochhead and that was nowhere near the proposed development site. He said he was not confident of that as the Committee did hear from the Local Biodiversity Officer in terms of there being more than that. Additionally, it was not just in Garelochhead, where even within Garelochhead there had been significantly more than 1 over several years, but also just outside Garelochhead where you would not necessarily expect to see them in the village itself but just outside where they could be commuting in.

Councillor Howard advised that the squirrels reported were not just outside the village, they were on the Rosneath peninsula on the other side of the hill and considerably distant.

Councillor Green said he had the map in front of him which contradicted that assertion. He said he was not happy with that part of the Motion either. He said that even if Councillor Howard was content with this Motion, there were problems within it.

Councillor Howard said she had went on the basis of the reported sitings. She said she had never seen a grey squirrel let alone a red squirrel.

Councillor Green referred to point 8 of the Motion which stated that this area was cleared of all trees and hardstanding installed and that was required for the treatment and removal of Japanese knotweed. He said there was some debate as to whether the clearing of trees was necessary for the clearing of Japanese Knotweed, and certainly the installation of hardstanding would not be required for the removal of the Japanese Knotweed.

Councillor Howard said the trees had to be cleared from the site in order to get into the Japanese Knotweed.

Councillor Green pointed out that the Motion said the hard standing was necessary for the removal of the Japanese Knotweed and he said he was not confident that was the case.

Councillor Howard said that was a matter of opinion.

Councillor Green then referred to further on in point 8 where it was mentioned that looking at the full extent of the OSPA the site equated to only around 2% of the total OSPA. He said that it was his view that did not convey the full story in terms of the setting around this particular site, and also the role that this site played in the overall OSPA. He said this was a very narrow corridor which linked the OSPA together. He said if you took account of the overall scale of the OSPA it was a small percentage of that but a very significant percentage in terms of effectively cutting the OSPA in half. He said he did not think the effect of that could be belittled or diminished. He said he thought it compromised the overall OSPA, particularly looking at the neighbouring developments which combined the sites both towards the shore and just upstream the other side of the river and they served to sever the OSPA at that point and provide a significant barrier to any movement of wildlife across there.

Councillor Brown referred to being at the site visit and said she had previously been there for another matter. She noted that Councillor Green said and advised that there was main road there which cut through 2 sides of the OSPA which, in itself, prohibited the

movement of wildlife across that road. She said the piece of land being looked at here was a very narrow bit, there was a hardstanding, and it had been used for car parking in the past while it was not allowed to be used as that. She said that for her, anything the Committee could do here with regard to the OSPA for the benefit of the community and the visual impact and climate change, surely had to be looked at on its own. She said that what they had seen this morning was a mess and it had been a mess for a number of years. She referred to the development on the other side of the road which was unauthorised in the OSPA and a separate case. She said that she did not propose to look at that part over there in conjunction with the part looked at this morning. She said there was the opportunity to create a proper biodiversity area around where the parked cars would be which would give the visual impact, the biodiversity and climate change impact and would take away car parking problems in the streets and roads around Garelochhead. She said this was an opportunity to do something positive and it would make the OSPA visually better. The OSPA as it was before in this area was never used because the people couldn't and didn't have access to it. She advised that you could not go onto the other side of the OSPA across the river because there was no bridge or walkway across there. She said the route was along the pavement further up the road to get into the other part of the OSPA. She said there was an opportunity to make the OSPA what it should be, a place of sanctuary, to make a difference in Garelochhead. She acknowledged that cars were going to be in the middle of it but said that surely with enough work between the Applicant, the planning conditions and biodiversity, it should be possible to make it the place what it should be, a place of outstanding beauty.

Councillor Blair said he had a concern with the OSPA in the sense that different Committees of the Council were looking at different bits of the OSPA and to him that provided a conflict and that was a concern. He referred to comments made earlier by one of the community representatives that it was almost as if it was a fait accompli about determinations. He said the Members had to look at things as they were presented to the them. He said that his fear was that the community were missing a real opportunity to get together a new Community Council to discuss and develop and have dialogue with both the owner of the site and Planners and a collective response from Council in relation to other agencies in relation to the site and then make a request through the LDP process to remove some or all of the OSPA from the area. He advised that for him that was the kind of dialogue and discussion to have. He referred to the red squirrels and said they could cross over tarmac as well as woodland area. He referred to the aerial view of the original maps and the amount of greenery that was taken away, he said that from his experience in other areas, where nature had redeveloped itself, it was quite amazing the new species, etc that have come in. He advised that for him, while his view was still the same that this application should be refused, there was an opportunity for the community through dialogue and discussion and within a programme of development for that site involving all of the community, not just individuals within the resident association. He said the Committee had a statutory obligation to protect areas and that was why it said OSPA and that this should be taken seriously.

Councillor Howard referred to community involvement and pointed out that 49 letters of support were received from this community of 3,000 which, she said, was a high percentage. She referred to the supermarket development in Helensburgh which was considered to be approved based on 59 people taking part in a community of 15,000. Their opinions were counted as adequate. She said she did not think it could be said that there was not a suggestion that the people of Garelochhead were supporting this.

Councillor Armour referred to there being no Community Council and said if there was there would have been a representation from them. The fact that there was none meant

there was no statutory body that could respond. However, there was, as former Councillor, Mr Freeman said, a Residents Association that was open to everyone over the age of 16 who was a resident in the village. Mr Freeman's representation today was on behalf of the community, and he advised that it had certainly made him think. He said that he thought there was huge backing here in the community. He noted that there were only 49 responses but, as Councillor Howard said, the Committee have looked at applications with far fewer responses for far bigger applications. He said that he fully understood that it was against the OSPA, but the ground had been cleared and if it was possible, it would be good to get something that was in keeping with the area and replanted there. He referred to the road and said he could see serious problems there and that if this could lead to getting even 30 vehicles off the road this could solve a big part of the problem. He said he did think that some sort of TRO would need to be looked at so the garage did not double the number of cars that they have now. He said he felt there needed to be some sort of regulatory order but that would be for another day. He advised that he had come round from supporting the recommendation in the report to certainly considering changing his mind on that.

Councillor Kain said that he would be inclined to support Councillor Howard's Motion. He referred to talk about biodiversity and open spaces and advised that the reality would be there would be even more open spaces in Argyll and Bute if there was not an improvement in economic activity. He said that Officers advised in a report last year that the population would decline by 2%. He said that he saw any activity that would help improve the economic activity and retain populations being of benefit over and above alleviating to some degree a traffic issue that was there at the moment. He said he would be for this and protecting the species of homo sapiens that were still in decline in Argyll and Bute.

Councillor Daniel Hampsey said he thought that Councillor Kain had made some relevant points and likewise to Councillor Armour, he found himself in the initial position of supporting the recommendation but after looking at things and the support of the community he would be happy to support Councillor Howard's Motion.

Councillor Wallace said he would be keen to find a way to approve this application. He said he thought the community benefit was clear. The village would benefit from having the cars off the street. He appreciated that there was a wider problem but thought that this would be an important first step, so he was certainly keen to find a way to approve it.

Councillor Green said he would be quite content to move the recommendation from Officers. He said he thought there were some flaws with the Motion. He said he could see the development having a significant impact on the OSPA. He said the site should not be looked at in terms of what was there now but what it was prior to the clearance back in 2018. Looking at how you can make the site better than at the moment, better in terms of visual amenity in term of ecology. He said he did not believe any mitigation proposed in terms of use as storage and parking area could get any way near the benefits which were there with the original vegetation on the site. He said he was quite happy to move the recommendation from Officers.

## **Motion**

The PPSLC:

1. Notes the contents of the report of handling relating to the above Planning Application, and the concerns raised by Planning Officers that they consider the application

presents significant conflict with NPF4 Policy 09 (Brownfield, Vacant and Derelict Land and Empty Buildings); LDP2 Policy 01 (Settlement Areas); Policy 04 (Sustainable Development); and Policy 81 (Open Space Protection Areas); NPF4 Policy 26(d) (Business Industry) and LDP2 Policy 22 (Economic Development).

2. Notes that many of the representations received from the community highlight that the proposed development will have a significant beneficial impact on the community by helping to reduce the ongoing parking problems across the centre of the village.
3. Notes the overwhelming community support for this application with 42 local representations supporting the application and two of the ward councillors also confirming their full support for the application. Full support for the application has also been submitted by Garelochhead Residents Association (GRA) on behalf of the community.
4. Notes the contents of the ROAVR Group report on Protected Species and Preliminary Bat Roost Assessment (PRA) which confirms that subject to the completion of a Construction Environmental Management Plan (CEMP) to ensure suitable mitigation measures are implemented, the proposed development is unlikely to have a significant ecological impact on otter and bat species in the area.
5. Agrees that, given the varied design, setting, materials and location of existing buildings within the vicinity that the proposed development would not be out of keeping with the established development pattern in this part of Garelochhead, and would therefore not have a detrimental impact on the setting and character of the area.
6. Notes the contents of the report of handling which confirms the following in regard to the other matters considered by the Planners.

Design and Setting – the proposed low stone boundary wall would provide a uniform boundary treatment to the road improving the overall street scene and thoroughfare into Garelochhead centre and along with the proposed planting will be an improvement of the current condition of the land and help lessen the existing visual harm of the vehicle storage yard in line with much of the design principles set out within NPF4 Policy 14, LDP2 policies 05 and 10.

Biodiversity and Nature Networks – there is potential to secure compensatory planting and enhanced landscaping by Condition to restore and strengthen localised nature networks and to mitigate the impact of the development and the conflict with Biodiversity and Woodland policies is not considered a determining factor in the assessment of this application.

Residential Amenity – no concerns regarding residential disturbance through intensification of use.

Road Safety and Parking – a planning condition to regularise the type and longevity of vehicle storage on the site would be appropriate to ensure no end of life vehicles are stored or dismantled on site in the interest of residential and visual amenity and environmental protection.

Flooding – conflict with NPF4 Policy 22 and LDP2 Policy 55 could be minimised through drainage, water management and construction secured by planning condition.

7. Notes that the Saving Scotland's Red Squirrels - Sightings of Red and Grey Squirrels across Scotland website confirms that over the past 4/5 years, there has only been ONE red squirrel sighting at Garelochhead and that was nowhere near the proposed development site. No sightings of red squirrels have been recorded on or near the OSPA.
8. LDP2 Policy 81 Open Space Protection Area – this location was only designated as part of an OSPA in LDP2 which was adopted by the Council on 24 February 2024, the whole OSPA covers an area of 8.19 hectares and the proposed development site is only 0.2 hectares which equates to only 2.44% of the total OSPA.

This area was cleared of all trees and hardstanding installed by the applicant between June 2018, when the site comprised of dense woodland and 2021, prior to the designation as an OSPA, and was required for the treatment and removal of Japanese knotweed and trees that were of poor quality and self-seeded.

It is noted that the felling of the trees was included in the exemptions listed by Scottish Forestry in their publication Felling Permission - Application Guidance – Section 2 - Exemption 1, 2 and 3 and that the applicant had approval from Scottish Forestry for the felling of the trees.

The Planners are of the view that the development will affect the overall integrity of the OSPA and the amenity value of this site and therefore is not consistent with parts (a) and (e) of LDP2 Policy 81.

However, due to the limited reduction in the size of the overall OSPA, due to this small area being removed, there will be little effect on the overall integrity of the OSPA and amenity value of this site that would allow an approval of the application as consistent with part (a) of LDP2 Policy 81.

Part (e) of this Policy requires that there is no loss of amenity value and that an alternative provision of equal benefit is provided. I have provided a view above on the loss of amenity value and whilst no information has been provided in regard to an alternative provision I consider that the community and economic benefit that will result as detailed below, if this application is approved is sufficient to allow the application to be approved as a departure from this part of the Policy.

9. LDP2 Policy 22 part B(i) (Economic Development) – this policy requires the applicant to demonstrate that there is no alternative suitable site and I do not think he has done so, however, it has been suggested that there is no suitable site in Garelochhead and I am prepared to accept this and the Communities view on that. As mentioned above the Community overwhelmingly support this application and taking into account that the proposal will provide additional support for the largest employer within Garelochhead and as such very significant direct and indirect economic benefits for this small rural community and coupled with comments from the Planners as referenced under the heading Design and Setting above and the use of the land as a storage facility for vehicles that would otherwise be causing congestion in the village provides a justification for the application to be approved as a departure from this Policy and NFP4 Policy 26(d) (Business and Industry).
10. NFP4 Policy 9 – the site is owned by the applicant and whilst it has not been specifically allocated or explicitly supported by policies, I consider that for the reasons stated in this motion about community and economic benefit, the support of the

Community, the other information on design and setting and the small area that will be lost from the overall OSPA that the application can be approved as a departure from this Policy.

11. LDP Policies 2 and 4 – On the basis of my comments above and other information contained in the report of handling, I consider that this development is compatible with the surrounding land use, it makes efficient use of derelict land and doesn't devalue the amenity open space and as such can be approved as a minor departure from these policies.

I therefore move that the development can be approved subject to the addition of appropriate conditions and reasons being delegated to the Head of Development and Economic Growth in consultation with the Chair and Vice-Chair of the Planning, Protective Services and Licensing Committee.

Moved by Councillor Fiona Howard, seconded by Councillor Amanda Hampsey.

### **Amendment**

To agree to the Officer's recommendation to refuse planning permission for the reasons appended to the report of handling.

Moved by Councillor Kieron Green, seconded by Councillor Gordon Blair.

A vote was taken by calling the roll.

#### Motion

Councillor Armour  
Councillor Brown  
Councillor A Hampsey  
Councillor D Hampsey  
Councillor Howard  
Councillor Kain  
Councillor Wallace

#### Amendment

Councillor Blair  
Councillor Green  
Councillor Hardie

The Motion to approve was carried by 7 votes to 3.

### **DECISION**

The Committee agreed to grant planning permission subject to the addition of appropriate conditions and reasons being delegated to the Head of Development and Economic Growth in consultation with the Chair and Vice-Chair of the Planning, Protective Services and Licensing Committee.

(Reference: Report by Head of Development and Economic Growth dated 1 November 2025 and Supplementary Report Number 1 dated 9 January 2025 and supplementary report number 2 dated 7 April 2025, submitted)