

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

Reference No:	23/01367/PP
Planning Hierarchy:	Local
Applicant:	Mrs Helen Tomolillo
Proposal:	Change of use of former church to form dwellinghouse, formation of vehicular access and driveway, erection of garage/carport, formation of opening in boundary wall to provide pedestrian access and associated works
Site Address:	Kilmichael Glassary Parish Church

DECISION ROUTE

Committee - Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Change of Use from Church Class 10 to Dwellinghouse Class 4
- Formation of vehicular access and driveway
- Installation of an air source heat pump
- Installation of sewage plant
- Erection of garage
- Formation of pedestrian access across graveyard, through boundary wall to proposed amenity area

(ii) Other specified operations

- Internal and external alterations (Listed Building Consent)
 - Formation of opening in boundary wall (Listed Building Consent)
-

(B) RECOMMENDATION:

That planning permission be refused for the reasons detailed in this report.

(C) CONSULTATIONS:

In summary, the following consultation responses were received:

Area Roads Engineer

Response Issued: 10.08.2023

No objections subject to conditions

Scottish Water

Response Issued: 02.08.2023

No objection subject to conditions

Environmental Health Services (EHS)

Response Issued: 05.09.2023

Argyll and Bute Design and Conservation Officer

Response issued: 23.02.2024

Objects.

In summary: -

The proposed interventions to the church building itself are generally sensitive and the proposal could most likely be supported if it were not for the surrounding graveyard. However the graveyard forms a key part of the setting of the listed building, noting that Historic Environment Scotland guidance explains that setting is how a building is understood, experienced and appreciated and about its relationships with other features (in this case the graveyard), combined to give a “*sense of place*”.

The consultation comments highlight guidance by Historic Environment Scotland, which states that if it isn't possible to keep a building in its current use then the requirement is to “*find a new use that has the least possible effect on the things that make the building special*”.

The response notes that the proposed change of use to a residential dwelling would alter the relationship between the listed church and its graveyard setting to the point that the sense of place would be significantly altered and states that an occasional community or public use would potentially be more suited to the nature of this site.

The response concludes that the proposed residential use is unlikely to be suitable for this former church and requests that an assessment is provided of the cultural significance of the listed church and its graveyard. ”

Argyll and Bute Council's Access Manager

Response issued: 25.01.2024

Objects to the proposed development

Comments are summarised as follows:-

The response sets out a number of access related concerns associated with the proposed development. The response concludes by stating the proposal would have a significant and detrimental impact on the public's legal rights of access to land, owned and maintained by the Council on behalf of the public.

West of Scotland Archaeology Service (WoSAS)

Response issued: 21.09.2023

Advises that the application may raise significant archaeological issues based on the long history of use at the site and that the long history of both structures and burials means ground works association with the development could possibly comprise unlawful activity. The response sets out that the site needs to be subject to archaeological evaluation prior to the determination of the planning application, the findings of which could still result in recommending refusal of the application.

(D) HISTORY:

None

(E) PUBLICITY:

The proposed development has been advertised in terms of Regulation 20 neighbour notification and local newspaper publication

ADVERT TYPE:

Regulation 20 Advert Local Application

EXPIRY DATE: 01.09.2023

(F) REPRESENTATIONS:

(i) Representations received from:

A total of 30 representations have been received as set out below: -

13 no. Support

- Mr Graham Melville, 269 Chesterfield Rd, Staveley, Chesterfield S43 3RX
- Mr Carlo Pacitti, 10 Clover Place, Newton Mearns, Glasgow G77 6JX
- Mrs Dominique Mulholland, Lodge House, 2 Avontoun Gardens, Linlithgow West Lothian EH496QB
- Mr Christopher Tomolillo, 3 Avontoun Gardens, Linlithgow EH49 6QB
- Miss Joanna Freeman, 19 Austen House, Amwell End, Ware, SG12 9FW
- Mr Kenneth Gray, 1A Bonfield Road, Strathkinness, St Andrews, KY16 9RR
- Dr Lindsey Gray, Bluestone House, 1A Bonfield Road, Strathkinness, by St Andrews, KY16 9RR
- Mr Alexander Ray, 19 Austen House, Amwell End, Ware, SG12 9FW
- Caroline Waterhouse, The Lodge, Kilmartin, Argyll, PA31 8RQ
- Mr Thomas Millar, 4, Margnaheglis, Road, Lamlash, Isle of Arran, KA27 8LL
- Mrs June Millar, 4, Margnaheglis, Road, Lamlash, Isle of Arran, KA27 8LL
- Dr Brian Boag, Birch Brae, Knapp, Perth, PH14 9SW
- Miss Ana Mayoral, 49A, Glasgow Road, Stirling, FK7 OPA

17 no. Objections

- Mr Allen Gillies, 10 Glenfyne Park, Ardrishaig, Lochgilphead, Argyll And Bute PA30 8HQ
- Dunadd Community Council, Tigh Bhruaich, Kiduskland Road, Adrishaig Lochgilphead, Argyll and Bute, PA30 8HE
- Mrs Doreen Hislop, Braigh Bhaile, North Ballachullish, Onich, Fort William, PH33 6SA
- Mr Donald Gillies, 4 Dornoch Way, High Blantyre, G72 0GR
- Mr Brendan McMonagle, 3 Gleneagles Place, Kilmarnock, KA1 2FE
- Ms Jade Clark, 1 Brabloch Park, Flat 3/2, Paisley, PA3 4QD
- Mr Ross Cook, 3 Gleneagles Place, Kilmarnock, KA1 2FE
- Mrs Melody Banford, 11 Crescent, Skelmorlie, PA17 5DX
- Mrs Lorna Thorburn, 7 Barga Gardens, Saltcoats, KA21 6GG
- Mrs Anne Gillies, 20 Clamps Terrace, east Kilbride, G74 2HA
- Mr Gary White, 43 Viking Crescent, Houston, Johnstone, PA6 7LQ
- Mr Hamish Thorburn, 36 Arran Crescent, Beith, KA15 2DU
- Mr Jamie Thorburn, 7 Barga Gardens, Saltcoats, KA21 6GG
- Mrs Frances McNeill, 21 Cara View, Tayinloan, Tarbert, Argyll and Bute, PA29 6XJ
- Mrs Leigh Phillips, 1 Am Baillie Mor, Kilmichael Glassary, Lochgilpead, Argyll and Bute, PA31 8BQ
- Mr John Gillies, 20 Clamps Terrace, St Leonards, East Kilbride, G74 2HA
- Ms Lorna Leitch, 8 Lilac Court, Cumbernauld, G67 3QB

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

(ii) Summary of issues raised:

It should be reiterated that the considerations listed below are only a summary of the representations received and that full copies of representations made are available to view on the Council's website:

SUPPORT

- The proposed design is complementary, sustainable and an improvement to the surrounding area and building;
- The reuse of the church stops the building deteriorating and becoming a building at risk;
- The building is in need of repair and brought up to current standards;
- The applicant is proposing to protect the building and preserve historical and cultural heritage;
- This is not the first church with a graveyard to have a change of use and there are examples of successful conversions;
- The conversion will have a positive impact on the community;
- If the building was any other use it would still need services and thus the disruption to the graveyard;
- The work done to get services to the church would be carried out with extreme sensitivity.

Officer Comments: *It is considered that the physical alterations to the building and the site are sympathetic to the listed buildings. Limited details have been provided regarding other examples of residential conversion to church buildings. In any event, the planning authority must determine this application on its own individual merits. In this case, and for the reasons set out in the attached appendix, it is considered that planning permission should be refused for the proposed development.*

Maintenance of surrounding graveyard

- The risk of demise of surrounding land including graveyard if permission is not granted;
- If someone is living in the church, they will naturally keep an eye on the graveyard and ensure it is not vandalised or damaged;
- The graveyard may receive extra attention in terms of maintenance;
- The proposed change of use would mean less disruption to the gravestones and graveyard;
- As a burial site, the graveyard will continued to be owned and protected by Argyll and Bute council which should reassure any objectors that the site will be 'out of danger';
- The proposal does not affect the graveyard, it would allow for respectful coexistence of the past and the present.

Officer Comments: *The operational graveyard is a public space owned and maintained by Argyll and Bute Council and therefore the surrounding graveyard would be maintained. Notwithstanding this, for the reasons set out in the appendix, the proposal is considered to have a detrimental effect on the amenity of the neighbouring land use and setting of the listed buildings which in this case is the operational graveyard.*

Access

- Long term access to the cemetery is not affected;
- If public access is ensured to the graveyard, the current proposal would be highly beneficial to Kilmichael Glassary;
- The use of land to the north will have minimal impact to the road

Officer Comments: *For the reasons set out in Appendix A, a consequence of public access to the graveyard has contributed to the reasons that planning permission is recommended for refusal. It is noted that Roads have raised no objection to the proposed development.*

Impact and Protection of Graveyard

- There are means in which the area can be checked for unmarked graves (specifically ground penetrating radar) prior to any work being carried out;
- Many people who have objected have not read the outline plans which are based on the impact of the cemetery, which is owned by the council and would not be affected;
- The graveyard is listed on the Commonwealth War Graves Commission site and is B listed so is protected.

Officer Comments: *The above comments are noted. However the points raised do not overcome the concerns set out in the reasons for refusal regarding the compatibility of the proposed land use with the surrounding graveyard (and vice versa), harm to the setting of the listed buildings, nor the need for an archaeological evaluation to be carried out prior to the determination of the application.*

OBJECTIONS

Disturbance to the graves

- Excavation and construction works could disturb the graves (including war graves, and historical graves dating back to the 1200s or possibly earlier, and unmarked graves);
- There are no details on how graves would be protected during renovations or longer term.

Officer Comments: *It is considered that the proposal would result in some temporary disruption to the graveyard. The applicant has confirmed that she wishes to preserve the graves as much as possible and the works would be carried out with caution and appropriate surveys prior to any works commencing. The applicant has also confirmed that she has no control over the operational graveyard which is a public space and it still owned and maintained by Argyll and Bute Council. Notwithstanding this, matters relating to archaeology comprise a recommended reason for refusal.*

Archaeology

- Previously a medieval stone and bell was found, there are not clear records to indicate what is in the ground;
- The existing church is the fourth church at the site since before the 1500s and there is no knowledge of what lies beneath the ground;
- Sufficient consideration has not been given to protecting the archaeology and the history of the site;
- No digging or excavation works should be allowed to make the driveway and garage over archaeological concerns.

Officer Comments: *WoSAS are concerned that the proposed development may raise significant archaeological issues based on the past use of the site for worship and burial. In response, the applicant has stated that the main objective is not to disturb any of the graves and to achieve this they propose that the drainage connection follows the existing line of the pedestrian path to the church. The applicant has further stated that they would consult with a recommended archaeologist to determine the best course of action to mitigate against unnecessary disturbance and consider undertaking a CAT survey of the prior to the works commencing.*

Whilst the applicant has proposed to address these matters prior to the works commencing, no assessment of the importance of the site, or archaeological evaluation has been submitted prior to the determination of the application as requested by the WoSAS consultee. Therefore the proposed development is considered to be contrary with the aims of NPF4 Policy, 7(o) and ABC LDP2 Policy 21, Sites of Archaeological Importance.

Infrastructure and Services

- Concerns raised regarding how infrastructure serving the development would be delivered in the context of the graveyard;
- No excavation works or digging should be allowed on the path, within the boundary wall or the field below;
- Removing a section of the boundary wall will expose and damage graves.

Officer Comments: *The applicant proposes to run the proposed services underground the existing pedestrian paths. The applicant has since submitted amended plans showing the alternative siting of the heat pump to the rear of the church further away from the gravestones. Scottish Water have been consulted and have no objection to the proposal subject to conditions.*

It is accepted that there would be some temporary disruption to the graveyard. The applicant has confirmed that the works would be carried out with caution with the intention to preserve the gravestones as much as possible and to undergo any necessary survey works prior to works commencing. Notwithstanding this, matters relating to archaeology comprise a recommended reason for refusal.

Historical Sensitivity and Sense of Place

- Work is proposed in close proximity to the protected boundary wall;
- The building itself is also of historic importance and the window at the front should not be altered;
- Kilmichael is a historic part of the village and most of the history has been taken from the village;
- Several concerns raised by the community that feel it is a sensitive and meaningful site as well as a historic one within the village

Officer Comments: *The application has been assessed and it is considered that the proposed physical alterations are sympathetic to the listed building and its setting; such matters are covered further in the accompanying listed building consent Report of Handling.*

The Council's Conservation Officer has raised concerns that the proposed residential use is unlikely to be suitable for this former church due to the surrounding operational

graveyard. For the reasons set out below, it is considered that the change of use associated with the proposed development would have an adverse effect on the setting of the Category B Listed Building.

Alternative Change of Use

- The church would be better used as a community hall.

Officer Comments: *This matter is considered further in Section P and Appendix A below.*

Access

- Concerns of restricted public access to graveyard grounds and restricted access to family graves now, during construction works and in the future;
- There is no guarantee that the graveyard would be used and nothing to prevent residents to use the ground as they wish.

Officer Comments: *It is also noted that as the Council own and maintain the surrounding graveyard, public access could be maintained.*

Compatibility of the proposed use and graveyard

- The proposal is extremely disrespectful to families and people who are buried at the graveyard;
- Concerns that family buried within graveyard will now form part of a private garden;
- There is not enough space to support family life around the building.
- The plans show a drying green, space for bins and a leisure area outside the present grounds of the church highlights the insensitivity of the proposal;
- The proposal involves an opening in the boundary wall and building a pathway through the graves;
- The proposal does not include for boundaries between the building and the graveyard;
- Pedestrian access from building to ancillary space will require the need to cross graves.
- With reference to those buried, there is a lack of respect to previous generations, including those who gave their lives in war-time;
- There is no way to ensure privacy or a peaceful experience for visitors paying their respects;
- There would be desecration of the graveyard ground.

Officer Comments: *It is acknowledged that the proposed development has raised personal matters of particular sensitivity for a number of respondents. It is respectfully noted that objections on moral grounds is a planning consideration that can be afforded limited weight only. However, for the reasons set out in Appendix A, it is considered that the proposed change of use to a residential dwelling would be incompatible development with the operational graveyard immediately surrounding the building.*

(G) SUPPORTING INFORMATION

(i) Has the application been the subject of: No

(ii) Environmental Impact Assessment Report: No

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

(iv) **A Design or Design/Access statement:** No

Sustainability Checklists (with reference to the requirements of LDP2 Policy 04)

TN06 Sustainability Checklist No

TN07 Sustainable Buildings Checklist No

The application was submitted prior to the adoption of LDP2. In this instance, it is considered that there is sufficient information available to allow for an informed determination of the proposed development.

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

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

List of all Development Plan Policy considerations taken into account in assessment of the application.

[National Planning Framework 4 \(Adopted 13th February 2023\)](#)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 3 – Biodiversity

NPF4 Policy 4 – Natural Places

NPF4 Policy 5 – Soils

NPF4 Policy 6 – Forestry, Woodland and Trees

NPF4 Policy 7 – Historic Assets and Places

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

NPF4 Policy 12 – Zero Waste

NPF4 Policy 13 – Sustainable Transport

Liveable Places

NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods
NPF4 Policy 16 – Quality Homes
NPF4 Policy 17 – Rural Homes
NPF4 Policy 18 – Infrastructure First
NPF4 Policy 22 – Flood Risk and Water Management

Productive Places

NPF4 Policy 29 – Rural Development

Argyll and Bute Local Development Plan 2 (Adopted 2024)

Spatial and Settlement Strategy

Policy 01 – Settlement Areas
Policy 02 – Outwith Settlement Areas
Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking
Policy 06 – Green Infrastructure
Policy 08 – Sustainable Siting
Policy 09 – Sustainable Design
Policy 10 – Design – All Development
Policy 11 – Design – Conversions and Change of Use
Policy 14 – Bad Neighbour Development
Policy 15 – Protection, Conservation and Enhancement of Our Historic Environment
Policy 16 – Listed Buildings
Policy 18 – Enabling Development
Policy 21 – Sites of Archaeological Importance

Connected Places

Policy 32 – Active Travel
Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
Policy 36 – New Private Accesses
Policy 39 – Construction Standards for Private Accesses
Policy 40 – Vehicle Parking Provision

Sustainable Communities

Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems
Policy 63 – Waste Related Development and Waste Management

Homes for People

Policy 66 – New Residential Development on Non-Allocated Housing Sites within Settlement Areas

High Quality Environment

Policy 73 – Development Impact on Habitats, Species and Biodiversity
Policy 79 – Protection of Soil and Peat Resources

(ii) Local Development Plan 2 Schedules

- **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**
- Third Party Representations
- Consultation Responses
- Planning History
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- [ABC draft Technical Note – Argyll and Bute Windows \(April 2018\)](#)
- [TN06 Sustainability Technical Note and Checklist \(Oct. 2023\)](#)
- [TN07 Sustainable Buildings Technical Note and Checklist \(Oct. 2023\)](#)
- [ABC Housing Needs and Demand Assessment](#)
- [ABC Housing Emergency Statement](#)

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

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

(M) Does the Council have an interest in the site: Yes

The surrounding graveyard is managed by Argyll and Bute Council.

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

It is acknowledged that a number of representations (in support and in objection) have been received in response to the proposal. However, this is a 'local' application that conflicts with the development plan, and it is considered that the proposal does not raise complex or novel issues that require discussion by way of hearing. As such, it is considered unlikely that a pre-determination hearing would add significant value to the decision making process.

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

- Kilmichael Glassary Parish Church, Kilmichael Village Category B Listed LB11033
- Kilmichael Churchyard Wall Category B Listed, Kilmichael Village LB11034

(O)(ii) Soils

[Agricultural Land Classification:](#)

Built Up Area
6.10 Proposed Driveway

[Peatland/Carbon Rich Soils Classification:](#)

[Peat Depth Classification:](#)

NA

Does the development relate to croft land? No

Would the development restrict access to croft or better quality agricultural land? No

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

N/A

(O)(iii) Woodland

No

Will the proposal result in loss of trees/woodland? N/A

Does the proposal include any replacement or compensatory planting?

N/A

Brownfield – Church building

Greenfield – proposed ancillary grounds and driveway

**(O)(iv) Land Status / LDP Settlement Strategy
ABC LDP2 Settlement Strategy**

Settlement Area

Countryside Area

ABC LDP2 Allocations/PDAs/AFAs etc:

N/A

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

Planning permission is sought for the change of use of former church to a dwellinghouse, formation of vehicular access and driveway, erection of garage/carport, formation of opening in boundary wall to provide pedestrian access and associated works at Kilmichael Glassary Parish Church, Kilmichael Glassary, Argyll and Bute. The Parish Church and its Churchyard Wall are both Category B Listed Buildings.

A Listed Building Consent Application (reference no 23/01369/LIB) has been submitted in association with this planning application, a separate Report of Handling for which is also before PPSL members. The listed building applications considers in greater detail the physical alterations proposed to the listed Parish Church and Churchyard Wall.

In terms of the Local Development Plan 2 (LDP2) the site's location straddles Kilmichael/Bridgend village within a Settlement Area and a Countryside Area. The proposed development benefits from support in principle with reference to LDP2 policies 01, 02, and NPF4 Policy 17c) and NPF4 Policy 9, subject to the acceptability of a number detailed matters as set out in Appendix A.

Officers are of the view that the physical alterations to the listed building and listed wall would preserve the special interest of both listed structures. The acceptability of the physical alterations is reflected in the recommendation to grant listed building consent (subject to conditions), for the reasons set out in the Report of Handling for the listed building consent application (23/01369/LIB).

However, in short, officers consider that the adjoining graveyard forms part a key part of the setting of the Listed Parish Church, making a significant and positive contribution to its sense of place, understanding, experience and appreciation. The proposed change of use of the church to a residential dwelling would significantly alter the relationship the Parish Church would have with its graveyard, to the extent that the proposed development would have an adverse impact on the setting of the listed building.

Officers are also of the view that the proximity of the proposed dwelling to an existing publically accessible graveyard (owned and maintained by the Council, with a number of relatively recent internments, and some potential to accommodate future burials for identified family burials) are land uses that would be incompatible with one another, with resultant harm to the privacy of future occupants of the proposed dwelling, and the privacy and quiet use of the graveyard by the public.

With reference to comments received from the West of Scotland Archaeology Service, the site has a long history and, if confirmed, the presence of highly significant buried remains could result for a recommendation of refusal. It is noted that excavation works to install infrastructure required to facilitate the proposed change of use would be in the graveyard. In the absence of any archaeological evaluation works undertaken prior to the determination of the planning application, there is significant uncertainty regarding the effect of the proposal in archaeological terms, which would be contrary to planning policy.

The applicant has put forward further statements to support the proposed development. This includes citing the deteriorating condition of the listed building, details of how the development would be constructed and occupied, reference to other development proposals, and reasons why a community use would not be suitable nor preferable to the residential use proposed for the site.

Officers have considered the points raised and note that the church is no longer in use and acknowledge that continued use can preserve a listed building for future generations. However, it is considered that the use of a listed building must be appropriate in terms of its special interest and setting. In addition, limited evidence has been provided to demonstrate that other potentially more appropriate uses of the site are not achievable. Furthermore, officers concerns regarding the incompatibility of the residential use and graveyard and in relation to the likelihood of significant archaeological implications remain.

Officers have carefully considered all points raised by the applicant and note that the proposed development would make a (albeit modest) contribution towards housing supply, in the context of the Council declaring a housing emergency. However, for the reasons for refusal set out in the proposed reasons for refusal, it is recommended that planning permission should be refused for the proposed development.

A full report is provided in Appendix A.

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

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

The proposal is considered to be in conflict with the relevant provisions of the Development Plan, and there are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission having regard to s25 of the Act.

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

N/A

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

Author of Report: Jennifer Campbell & Bryn Bowker **Date:** 06.08.2024

Reviewing Officer: Sandra Davies **Date:** 07.08.2024

Fergus Murray
Head of Development & Economic Growth

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 23/01367/PP

1. Kilmichael Glassary Parish Church is a Category B Listed Building and its associated adjoining graveyard forms part a key part of its setting, making a significant and positive contribution to its sense of place, understanding, experience and appreciation. The proposed change of use of the former parish church to a residential dwelling would significantly alter the relationship the Category B Listed Building Parish Church would have with its associated graveyard, to the extent that the proposed development would have an unacceptable adverse impact on the setting of the listed building.
2. The operational graveyard adjoining the proposed dwelling is accessible to the public and attracts visitors who would have a reasonable expectation to move freely around the public space at any time during night and day. Noting the proximity of the graveyard to the proposed dwelling, it is considered that the privacy of future occupants of the dwelling would be unacceptably harmed.

In addition, by nature of the change of use proposed, future occupants of the proposed dwelling would overlook the adjoining graveyard, and likely generate noise and disturbance within close proximity of the graveyard. The loss of privacy, and high likelihood of noise and disturbance would have a materially harmful impact on the general public using this space, who would have a reasonable expectation of the operational graveyard being a quiet and private place for reflection and contemplation.

As such, it is considered that the proposed residential conversion of the vacant church would be incompatible with the existing adjoining use of an open and operational graveyard, with reference to the resultant identified harm to the amenity of future residents and users of the publically accessible graveyard. As such, the proposal would be contrary to LDP2 policies 01, 05, 08,14, 66c) and NPF4 Policy 14c).

3. With reference to comments received from the West of Scotland Archaeology Service, the site has a long history and, if confirmed, the presence of highly significant buried remains could result for a recommendation of refusal. It is noted that excavation works to install infrastructure required to facilitate the proposed change of use would be within the graveyard. In the absence of any archaeological evaluation works undertaken prior to the determination of the planning application, there is significant uncertainty regarding the effect of the proposal in archaeological terms. Therefore the proposed development is considered to be contrary with NPF4 Policy, 7(o) and ABC LDP2 Policy 21, Sites of Archaeological Importance.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	23/01367/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Settlement Strategy

- 1.1. Planning permission is sought for the change of use of a former church to form a dwellinghouse, for formation of vehicular access and driveway, erection of garage/carport, formation of opening in boundary wall to provide pedestrian access and associated works at Kilmichael Glassary Parish Church. The Parish Church and its Churchyard Wall are both Category B Listed Buildings.
- 1.2. A Listed Building Consent Application (reference no 23/01369/LIB) has been submitted in association with this planning application, a separate Report of Handling for which is before PPSL members.
- 1.3. In terms of (LDP2, the site's location straddles a Settlement Area (Kilmichael/Bridgend village) and a Countryside Area. Of relevance to Settlement Areas and to the proposal, in summary LDP2 Policy 01 states that development will normally be acceptable where it is on a site which is the redevelopment of a brownfield site and it is compatible with surrounding uses including but not exclusively; providing access, service areas, infrastructure for existing, proposed or potential future development; is of an appropriate scale and fit for the size of settlement in which it is proposed; and respects the character and appearance of the surrounding townscape in terms of density, scale, massing, design, external finishes and access arrangements; and complies with all relevant LDP2 policies.
- 1.4. The formation of the ancillary space and vehicle access would be within a Countryside Area, as defined by LDP2. For Countryside Areas, in summary LDP2 Policy 02 sets out a presumption in favour of sustainable development where this is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant subject policies. LDP2 Policy 11 'Design: Conversions and Change of Use' is also of relevance, which in short sets out such proposals must respect the character of the traditional use; reuse materials wherever practicable; retain features of particular architectural or historic interest; and be capable of providing the proposed use without substantial extension or alteration which would be detrimental to the character of the building; be in scale and sympathy with the surrounding landscape, and not require significant infrastructure that is detrimental to the character or amenity of the place.
- 1.5. NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and buildings, and to help reduce the need for greenfield development. NPF4 Policy (d) provides support for development proposals for the reuse of existing buildings, where consideration is given to their suitability for conversion to other uses.
- 1.6. NPF4 Policy 17c) sets out that new homes in remote rural areas will be supported where it supports and sustains existing fragile communities, supports identified local housing outcomes and is suitable in terms of location, access and environmental impact.
- 1.7. Finally, noting the proposed development encompasses and would affect two Category B Listed Buildings (the Parish Church and its Churchyard Walls), LDP2 policies 15 'Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment', 16 'Listed Buildings' and NPF4 Policy 7 'Historic Assets and Places' are of

relevance to the principle of development, which in short and combined seek to preserve the special interest and setting of listed buildings.

- 1.8. With reference to the above policies, the principle of the proposed development would be acceptable, subject to the consideration of detailed matters considered below.

2. Proposed design details and the historic environment

- 2.1. The site of the proposal is located on the north east edge of the settlement of Kilmichael Glassary. The site is situated within an area predominantly residential in use, including detached and semi-detached dwellings. A car park and school are near the church on the west side of the road with residential dwellings set back further on the hill. The surrounding landscape to the east and north of the church and graveyard has a sloping gradient where the landscape is open and agricultural in nature. The site is not subject of any landscape or nature designations.
- 2.2. The church is currently not in use and the adjacent land immediately surrounding it is an operational graveyard that is owned and maintained by the Council. The existing access to the building is through the churchyard gates via a path that crosses the graveyard to the church entrance. The church and graveyard is bounded by a Category B listed wall. There is currently no vehicle access and parking within the site, however there is a car park to the south west of the church.
- 2.3. The applicant has purchased the church building from the Church of Scotland and is proposing to make physical alterations to it and change it to a residential use. The applicant has also purchased a small area of land that is located immediately north of the graveyard beyond the boundary wall. The operational graveyard surrounding the church is open to the public and is still visited by the public. A small number of lairs still available for burial. The graveyard includes a grave commemorating those lost in WW1 and two Commonwealth War Graves.
- 2.4. Physical alterations to the listed parish church include an infill roof alteration to the east section of the building, internal alterations to form a three bedroom dwelling across the ground floor, a new first floor, the replacement of existing windows, and the insertion of heritage roof lights and stove pipe. An opening would also be inserted into the listed churchyard wall.
- 2.5. A new vehicular access, with driveway, garage with car port, bin storage area, outside drying area and stair access to the proposed dwelling would be sited to the north of the graveyard, necessitating removal of a small section of the B listed Churchyard Wall to access. The formation of the vehicular access would require an alteration to the existing stonewall that bounds the highway. The site boundary to the northern parcel of the site would be formed by post and wire stock proof fencing
- 2.6. Serving infrastructure associated with the proposed change of use include the installation of an air source heat pump just off the east elevation of the church, and a private sewerage pump system along the southern footpath access to the main building. The development would connect to the existing public water supply network.
- 2.7. Officers are of the view that the physical alterations and minor supporting infrastructure proposed to the listed building and listed wall would preserve the special interest of both listed structures. This is reflected in the recommendation to grant listed building consent (subject to conditions), for the reasons set out in the Report of Handling for the listed building consent application (23/01369/LIB).

- 2.8. Noting the edge of settlement location and nearby listed buildings, subject to a landscaping planning condition, the newly formed vehicular access, garage with car port and associated development, would be modest in scale, and would preserve the setting of the listed structures and the landscape character of the surrounding area.
- 2.9. However, the change of use of the former church to a residential dwelling raises concern in respect of the setting of the Category B Listed Parish Church. Officers consider that the adjoining graveyard forms part a key part of the setting of the Listed Parish Church, making a significant and positive contribution to its sense of place, understanding, experience and appreciation of the listed building. The proposed change of use of the former parish church to a residential dwelling would significantly alter the relationship the Parish Church has with its graveyard, to the extent that the proposed development would have an adverse impact on the setting of the listed building.
- 2.10. In this light, of relevance to this concern, it is noted that LDP 2 Policy 15 sets out development proposal will not be acceptable where they fail to preserve the special characteristics of the historic built environment in terms of its proposed use. In addition, LDP2 Policy 16 sets out that a development proposal which affects a listed building, its curtilage or its setting will only be supported where it respects the original structure in terms of setting and proposed use.
- 2.11. In terms of NPF4, Policy 7 is of most relevance to the setting of a listed building, particularly criteria a) and c). Criterion a) requires that development proposals with a potentially significant impact on historic assets or places will be based on an assessment which is based on an understanding of the cultural significance of the asset or place. Criterion c) sets out that development affect the setting of a listed building should preserve its character, and its special architectural or historic interest. In terms of criterion a), the applicant has declined to produce such an assessment and as such the proposal conflicts with this part of NPF4 Policy 7a). This in itself is not harm nor determinative for the proposal. However, the above identified harm to the setting of the listed building is determinative.
- 2.12. Such harm should also be considered in the context of Section 14 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (the Act) is of particular relevance and sets out *“in considering whether to grant listed building consent for any works, the planning authority or the Secretary of State, as the case may be, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 2.13. Drawing the above together, for the reasons set out in the accompanying Report of Handling for the listed building consent application (23/01369/PP), the physical alterations to the listed Parish Church and Churchyard Wall would preserve the special interest of both historical assets. It is also considered that the proposed development would not harm the landscape character and appearance of the surrounding area.
- 2.14. However, the proposed change of use of the church to a residential dwelling (which forms part of this planning application 23/01367/PP) would significantly alter the relationship the Parish Church would have with its graveyard, to the extent that the proposed development would have an adverse impact on the setting of the listed building. As such the proposal would conflict with LDP2 policies 15, 16, NPF4 Policy 7 (criteria a and c) and the Council’s Statutory Duty set out at Section 14 of the Act, insofar as they relate to the setting of a listed building.

3. Compatibility of the proposed land use with the existing adjoining land use

- 3.1. As part of the proposal, the church building would become a three bedroom residential dwelling, surrounded immediately by an operational graveyard accessible to the public. The graveyard is owned and maintained by the Council with recent internments and the potential to accommodate further burials, where a family can sufficiently identify a family lair. The available evidence (including representations received in response to the application) indicate that the graveyard is and will continue to be used as a public space.
- 3.2. The church occupies roughly a central location in the graveyard, with ground floor windows on all of its elevations. Graves would be in very close proximity to the proposed dwelling. Members of the public using the graveyard would have a not unreasonable expectation that the space could be used at any point during the day and night, and in a manner that affords privacy, dignity and allows quiet contemplation. Future residents of the proposed development would have the reasonable expectation that domestic activity typically associated with residential use could be undertaken relatively unhindered. Previously, the operation of the church was directly linked to that of the graveyard. The proposed change of use would sever the relationship between the church and graveyard, introducing two different land uses in close proximity that could operate separately.
- 3.3. In such circumstances, the graveyard would be overlooked by future residents, which would unacceptably harm the privacy of the public using the graveyard. In addition, the activity, noise and disturbance typically associated with, and reasonable to expect of a dwelling would be particularly noticeable to users of the graveyard. The applicant has stated that the Church of Scotland have confirmed there are only two burial plots available before the graveyard reaches its full capacity. The applicant has also committed to vacating the property during any burial service, if notified ahead of time. However, future residents of the property might not be amenable to such arrangements. Furthermore, with reference to NPF4 Policy 18b (which sets out the tests that planning condition should meet), it is considered that the use of a planning condition to control human behaviour to this direct extent would not be enforceable, or reasonable in all other respects. Moreover, public use of the graveyard is not solely confined to burial services; it has a wider use, including for remembrance and quiet contemplation. As such, outside of burial services, the above identified harm would remain.
- 3.4. Also of importance is the resultant quality of living environment the proposal would provide for future residents, particularly in the context of the proximity of a publicly accessible and operational graveyard. In this light, officers are concerned about the extent of privacy future residents would have, noting nothing could prevent users of the graveyard from looking directly into the dwelling through the numerous, proximate and extensive ground floor windows. Such circumstances would represent an unacceptable loss of privacy for future residents.
- 3.5. Drawing the above together, it is considered that proposed residential land use would be incompatible with the existing adjoining use of an open and operational graveyard, with reference to the resultant identified harm to the amenity of future residents and the users of the graveyard. As such, the proposal would be contrary to LDP2 policies 01, 05, 08, 14, 66c) and NPF4 Policy 14c).

4. Archaeology

- 4.1. West of Scotland Archaeological Services (WoSAS) are concerned that the proposed development may raise significant archaeological issues based on the long past use of the site for worship and burial. It is also noted that excavation would be required to

facilitate the proposed change of use within the graveyard and that there is uncertainty regarding what is in the ground. WoSAS set out that the site needs to be subject to archaeological evaluation prior to the determination of the planning application, the findings of which could still result in recommending refusal of the application.

- 4.2. In response, the applicant has stated that the main objective is not to disturb any of the graves and to achieve this they propose that the drainage connection follows the existing line of the pedestrian path to the church. They would also consult with a recommended archaeologist to determine the best course of action to mitigate against unnecessary disturbance and consider undertaking a CAT survey of the path prior to works commencing.
- 4.3. Officers can understand the sensitivity and basis of the concerns raised about potential damage to gravestones associated with the construction and operation of the proposed development. However, it is considered that a suitably worded planning condition could ensure that the temporary construction process is undertaken in a way that would preserve existing gravestones at surface level at the site. It is also noted that the graveyard would be outside the residential curtilage/garden area of the proposed development, which would help limit the risk of damage.
- 4.4. Notwithstanding the above, with reference to the consultation response of WOSAS (who note that the matter of archaeology could be a reason for refusal) and the policy position of NPF4 7o) and LDP2 Policy 21, it is considered necessary in this case for archaeological investigatory works to be undertaken prior to determining the planning application. In the absence of such works or an assessment, the proposed development would be contrary to NPF4 7o) and LDP2 Policy 21.

5. Open Space and Access

- 5.1. The surrounding graveyard is not designated as an Open Space Protection Area by LDP2 and therefore LDP2 Policy 81 (e) – Open Space Protection Areas does not apply.
- 5.2. However, the relevant provisions of LDP2 Policy 32 would apply, which set out that where development would have significant effect on public access, submission of an Access Plan would be required to address public access issues to the satisfaction of the Council as part of the planning application.
- 5.3. In addition, the supporting text to LDP2 Policy 06 'Green and Blue Infrastructure' refers to churchyards and cemeteries when describing green infrastructure. Of particular relevance, LDP2 Policy 06 (at bullet point 7) sets out that developers should demonstrate that the proposal would not have a negative impact upon existing green infrastructure.
- 5.4. The Access Officer response notes that any subsequent owner of the proposed dwelling house may object to the use of the immediately adjoining land by the public and seek to exclude the public. However, in this instance, as the graveyard is owned by the Council, public access would not be significantly affected. The Access Officer raises a number of other concerns about the application, the majority of which relate to the compatibility of a dwelling next to a publically accessible graveyard. This has been addressed above.
- 5.5. As such, in this case public access would remain to the graveyard, accordingly no material conflict would arise between the proposal and LDP2 policies 06 and 32.

6. Roads

- 6.1. The proposed dwelling would be served by a private access and parking on land north of the existing graveyard. The Area Roads Engineer has raised no objections to the proposal subject to the conditions relating to turning and parking, visibility splays and the construction of the access. Therefore, subject to conditions, the proposal would be consistent with the relevant requirements of NPF4 Policy 13 and LDP2 Policies 35, 36, 39 and 40

7. Infrastructure

- 7.1. Notwithstanding the above noted archaeological related impacts of the servicing infrastructure, operationally the provision of a private sewage treatment plant for waste and connection to the public water network would be acceptable; noting the consultation response of Scottish Water and that SEPA and the building warrant stage would exert further control over the proposed foul drainage arrangements. In addition, matters of surface water drainage could be secured by planning condition, as could the operation of the proposed Air Source Heat Pump.

8. Points raised by the applicant

- 8.1. It is contended that the proposal is not unique and that churches with graveyards have been successfully converted into single family dwellings whilst maintaining their burial functions. The applicant cites a perceived similar application involving Killbride Chapel (ref 15/03267/PP) and states planning permission has been granted at a site adjacent to Kilmichael Parish Church. In response, based on the information available, it is not possible to fully compare the proposal at Kilmichael Parish Church with this planning application. In addition, the development cited at The Old Hall (that has been converted to residential use) to the immediate south of the site is not within an operational graveyard. Moreover, each planning application must be assessed on its own merits.
- 8.2. This applicant sets out that the proposal would preserve and protect the church, the condition of which is worsening. In the absence of the proposal, the applicant states that the church would be left closed and boarded up, falling into greater disrepair, becoming an eye sore, and being a source for anti-social behaviour. It is also asserted that using the site as a community hall would generate traffic, noise, would also require serving infrastructure and repair work to meet current energy efficiency standards. The applicant also states that loss of Kilmichael to a residential dwelling in 2007 (planning reference 07/01320/COU) was met with no objections, indicating no need for a community hall in the village.
- 8.3. Officers are mindful of the church potentially falling into disrepair, which would not be in the interests of preserving the long-term future of the listed building. Notwithstanding this, no substantive evidence has been submitted to demonstrate that the proposed residential conversion of the church is the only way to secure the long-term future of the listed Parish Church building. As such, the prospect of the proposal being the only way of securing the long-term future of the church is afforded limited weight.
- 8.4. During the application process, the applicant submitted revised plans including changes to the red line boundary so that it is drawn tightly around the Church building and paths through the graveyard. Officers are unable to consider such revised plans as part of this planning application. In any event, and for the purposes of clarity, the change in redline boundary proposed by the applicant would not overcome the proposed reasons for refusal recommended to Members.

8.5. The proposal would reuse a vacant building, contribute towards housing supply (in the context of the Council's Housing Emergency Declaration), and would be located mostly within a Rural Settlement Area, and help support construction employment. In addition, aside from the specific harm and resultant policy conflict identified within this report, the remaining elements of the proposal raise no concern, subject to planning conditions. As a whole, social, and economic benefits are associated with the proposed development. However, such factors are outweighed by the harm and resultant policy and statutory conflict identified above.

9. Conclusion

9.1. The proposal is considered to be in conflict with the relevant provisions of the Development Plan as identified in the recommended reasons for refusal above. There are no other material considerations of sufficient significance to indicate that it would be appropriate to grant planning permission having regard to s25 of the Act. As such, it is recommended planning permission is refused for the proposed development.