

**Argyll and Bute Council**  
**Comhairle Earra-Ghàidheal Agus Bhòid**

*Customer Services*  
*Executive Director: Douglas Hendry*



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21 March 2018

**SUPPLEMENTARY PACK 2**

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - COUNCIL**  
**CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 21 MARCH 2018 at 11:00 AM**

I enclose herewith supplementary reports for **items 6 and 7** on the Agenda for the above meeting.

Douglas Hendry  
Executive Director of Customer Services

**SUPPLEMENTARY REPORTS**

- 6. DR NORMAN MACDONALD: IMPROVEMENTS TO JUNCTION AND ACCESS:  
LAND OPPOSITE FERLUM, BENDERLOCH, OBAN, PA37 1QS (REF:  
17/00983/PP)**  
Report by Head of Planning, Housing and Regulatory Services (Pages 3 – 6)
  
- 7. THE FYNST CAVIAR COMPANY LTD: SITE FOR THE ERECTION OF A  
CLOSED CONTAINMENT AQUACULTURE FACILITY FOR THE PRODUCTION OF  
STURGEON: ARDKINGLAS SAWMILL, CAIRNDOW (REF: 17/02897/PPP)**  
Report by Head of Planning, Housing and Regulatory Services (Pages 7 – 8)

**Planning, Protective Services and Licensing Committee**

Councillor Gordon Blair	Councillor Rory Colville (Vice-Chair)
Councillor Robin Currie	Councillor Mary-Jean Devon
Councillor Lorna Douglas	Councillor Audrey Forrest
Councillor George Freeman	Councillor Graham Hardie
Councillor David Kinniburgh (Chair)	Councillor Donald MacMillan
Councillor Roderick McCuish	Councillor Jean Moffat
Councillor Alastair Redman	Councillor Sandy Taylor
Councillor Richard Trail	

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**Argyll and Bute Council  
Development and Infrastructure Services**

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

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**Reference No:** 17/00983/PP

**Planning Hierarchy:** Local

**Applicant:** Dr Norman MacDonald

**Proposal:** Improvements to junction and access

**Site Address:** Land Opposite Ferlum, Benderloch, Oban

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**SUPPLEMENTARY REPORT NO. 1**

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**1.0 BACKGROUND**

The purpose of this supplementary report is to update Members on additional third party representations received raising objection to the proposal. Additionally it has been identified that the initial report to Members dated 9<sup>th</sup> March 2018 does not fully address concerns raised in relation to the impact of the proposed development upon road safety in relation to its impact upon the existing private access located to the NE between the properties Ferlum and Korora.

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**2.0 ADDITIONAL THIRD PARTY REPRESENTATION**

Subsequent to the report of 9<sup>th</sup> March 2018 five further representations raising objection to the proposal have been received from:

Jane Isaac, Barravulin Beag, Benderloch (by e-mail) 14.03.18  
 John Barrington, Failte, Benderloch (by e-mail) 15.03.18 & 18.03.18  
 Stephen Wilson, Cuan, Benderloch (by e-mail) 19.03.18  
 Hamish Isaac, Barravulin Beag, Benderloch (by e-mail) 18.03.18  
 Ann Colthart, Duriehill, Connel (by e-mail) 19.03.18

The matters raised are summarised below.

- Concern has been raised that the revised proposals to narrow the road with a grass verge will narrow the radius of the left turn from the Shenavallie junction more significantly than the original proposals and as such will make this junction difficult to negotiate for large vehicles including farm machinery and HGVs.

- Concern has been expressed that the revised proposals will provide a narrower road width with more pronounced verge than the original proposal. It is queried why the Roads Department are accepting of this detail.
- Concern is expressed that the revised proposal does not comply with earlier advice provided by the Roads Department in relation to the requirement for realignment of the road 60m either side of the junction to provide a natural curve.
- Concern is expressed that reduction in the width of the carriageway will have an adverse effect upon pedestrian safety and the use of the road by disabled carriages.
- Concern is raised that the proposed realignment of the road and provision of a grass verge will impede the safe use of adjacent existing private access/driveways. It is also observed that the details provided do not appear to identify existing access locations or provide detail of how these will cross the grass verge.
- Concern is expressed that the proposed realignment of the road and provision of a grass verge will impede the safe use of the subject access by larger vehicles such as for emptying septic tanks or delivery of large goods/building materials to existing properties.
- It is stated that in previous discussions Roads Officers had previously stated that road improvements would require to include the relocation of electricity poles. Concern is expressed that the revised proposal does not include for such works.
- Concern is expressed that the revised road layout is out of keeping with the nature of existing access arrangements and as such will have an adverse impact upon the character of the locality.
- Concern has been expressed criticising the lack of detail in the revised proposals, in particular with regard to the position and design of the retaining wall required on the NW side of the public road.
- Concern is expressed that the required retaining structure could considerably reduce the road width of the northern verge compared to the detail shown on the revised plan.
- Concern is expressed that the revised proposals do not fully address the reasons previously identified by Roads to suggest that planning permission should be refused. It is suggested that there is an inconsistency between the advice provided by Roads Officers in respect of this matter.
- Concern is expressed that revised Roads comments would appear to make a distinction between visibility standards afforded to oncoming cyclists and four wheel vehicles.
- Concern is expressed that the proposal will not deliver any meaningful road safety improvement as the applicant's perceived gain in road safety outweighs the consideration of other road users. It is noted that the applicant has stated that there is no history of road accidents at this location which would suggest the existing arrangements are not a concern.

*Comment: The matters above raise a number of significant material consideration which will require further assessment and input from Roads officers – in the event*

*that Members determined to convene a discretionary hearing then this would offer time for such views to be obtained and a forum for any remaining concerns to be discussed.*

- Concern has been expressed that interested parties have not been notified of the revised proposals and the subsequent commentary provided by Roads Officers.

*Comment: It is noted that these documents are posted on the public planning file which is made available for inspection via public access.*

- Concern is expressed that the report of handling dated 9<sup>th</sup> March states that details of the retaining wall are available but cannot be found on the online file.

*Comment: It is noted in the earlier report of handling that details of the retaining wall would require to be secured by planning condition.*

- It is alleged that the applicant has a history of disregarding the requirements of planning conditions and that it would therefore be inappropriate to grant planning permission with conditional requirements seeking approval of further details.

*Comment: Members are advised that any concerns relating to the likelihood of an applicant complying with a planning condition based on previous infringements of planning control would not be a material planning consideration.*

- Concern is expressed that the proposed road width would be less than 3.7m and as such should be subject to consultation with the local Fire Safety Officer.

*Comment: Roads have advised that the minimum carriageway width should be 3.8m.*

### **3.0 MATTERS PREVIOUSLY RAISED**

Following further discussion with one of the third party representees subsequent to the report dated March 9<sup>th</sup> being published Officers have advised that their interpretation of concerns raised in respect of the impact of the proposed development upon the visibility splays of the existing private access between Ferlum and Korora did not cover all of the relevant issues. Whilst the previous commentary includes a technical assessment of the visibility splays that should be provided at this junction having regard to current standards and the requirements of earlier planning permissions it did not however include a full assessment of its existing circumstances. Further assessment has confirmed that this access is substandard with visibility severely restricted by the presence of an electricity pole and bushes which have been planted within the garden ground of Ferlum that reduce clear visibility to 15m to the SW.

Further comments have been obtained from Roads in respect of this specific issue which advise that the proposal will not result in any significant reduction in visibility afforded to vehicles exiting the private access.

### **4.0 UPDATED ROADS COMMENTARY**

Updated comments have been received from Roads dated 15<sup>th</sup> March 2018 which seeks to provide clarification in respect of the impact of the proposal upon the access between Ferlum and Korora, the responsibility of maintenance of the proposed retaining wall structure, and corrections required to the proposed minimum carriageway width following the road improvement works.

These comments do not however address the matters raised in subsequent third party representations but for the purpose of completeness are summarised as follows:

- The previous report of handling and Roads Authority response provided that the minimum requirements for the road verge and carriageway width, in accordance with the Roads Development Guide were, a minimum 1 metre level width verge (on the north western side of the road opposite the applicant's junction) for use under the walked route to school guidelines, and for the carriageway, a minimum width 3.5m. The 2.4m visibility Y-distance shown on the applicant's drawings is of no concern to Roads. At present, this access has very limited visibility when exiting his driveway as the Y-distance is only 0.5m – 0.8m. Any increase in the Y-distance will be a road safety improvement.
- The overall road corridor width may be too narrow to achieve a 2.4m Y-distance with the construction of a retaining wall within the road verge. An addendum to the previous Road Authority response has been made which states that this minimum carriageway width of 3.5 metres does not allow for white edged lines on the road surface. Accordingly, the sealed carriageway surface width should therefore be 3.8 metres. It is acknowledged that the previously recommended conditions have specified the road width shall be a minimum width of 3.5 metres in accordance with the applicant's amended drawing. These conditions have been revised in lieu of the amended Roads Authority response. The amended conditions as stated below should be supplemented in their entirety for the previously recommended conditions in the report of handling.
- The maintenance of the proposed retaining wall is also not to be assumed by the roads Authority. This is because the wall is not required for road safety purposes and is only necessary because the applicant does not have control of the land with which it will be retaining. The Roads Authority has recommended this be dealt with as a condition on any planning permission granted. However, any planning conditions recommended must meet the tests of relevance to the development being permitted, enforceability and reasonableness set out in Circular 4/1998. Such a condition as proposed in respect of the ongoing maintenance of the wall will need to be further explored and can be discussed at the hearing or any subsequent supplementary report to follow.

## **5.0 RECOMMENDATION:**

In light of the further material issues raised by third parties in relation to the road safety implication of the proposal it is recommended that Members should convene a discretionary public hearing to explore these issues further in advance of a formal determination being reached. Continuation of the item would also allow sufficient time for these additional matters to be subject to consultation with Roads Officers and, if appropriate, subject to a clarification from the applicant.

**Angus Gilmour**  
**Head of Planning, Housing and Regulatory Services**

Author of Report:  
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**Argyll and Bute Council  
Development and Infrastructure Services**

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

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<b>Reference No:</b>	17/02897/PPP
<b>Planning Hierarchy:</b>	Local
<b>Applicant:</b>	The Fynest Caviar Company Ltd
<b>Proposal:</b>	Site for the erection of a closed containment aquaculture facility for the production of sturgeon
<b>Site Address:</b>	Ardkinglas Sawmill, Cairndow

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**SUPPLEMENTARY REPORT NO. 2**

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**1.0 BACKGROUND**

The purpose of this supplementary report is to update Members on responses received from the Animal and Plant Agency (APHA) and the Marine Fish Inspectors.

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**2.0 DETAIL**

In terms of responsibility for fish welfare at the time of slaughter, APHA has advised that this is covered by the welfare at time of slaughter legislation and have provided a link to a guide by the Humane Slaughter Association on the Humane Harvesting of fish.

The Marine Fish Inspectors have advised that their responsibilities relate to ensuring that the premises will have adequate biosecurity and containment to meet the conditions of their authorisation as an Aquaculture Production Business

The Council's Animal Health Officers would investigate any substantiated claim of fish cruelty or welfare issues under separate legislation. In addition it would be the intention of the planning service to consult the Animal Health Officers at the subsequent Approval of Matters Specified in Conditions (AMSC) stage to ensure that what is being considered would be fit for purpose in terms Animal Welfare issues.

**3.0 COMMENT**

This is an application for planning permission in principle and the plans at this stage are only indicative. In addition, the consent would not be species specific and if approved could be used for another type of freshwater fish. The proposed AMSC conditions allow for variations in the layout and design which may be required for reasons of fish welfare, health and biosecurity in accord with legislation associated with these issues. It is not

therefore considered that any fish health and welfare issues as they relate to the use of land in terms of the layout of the site would represent anything other than a very minor material consideration in the determination of this planning application. The Council's Animal Health Officers will be consulted at the detailed AMSC stage to ensure that what is proposed will be suitable for the welfare of fish. It is, therefore, the view of officers that this carries little weight insufficient to overturn the recommendation in the main report on handling and supplementary report no.1.

**4.0 RECOMMENDATION:**

This information does not alter the recommendations given the main report on handling and the supplementary report no.1, namely that planning permission in principle be approved subject to the conditions and notes to applicant detailed in the report on handling and supplementary report no.1.

**Angus Gilmour**  
**Head of Planning, Housing and Regulatory Services**

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