

Public Document Pack

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid

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15 May 2024

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held **BY MICROSOFT TEAMS** on **WEDNESDAY, 22 MAY 2024** at **11:00 AM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES**
 - (a) Planning, Protective Services and Licensing Committee held on 7 February and 19 March 2024 (Pages 5 - 68)
 - (b) Planning, Protective Services and Licensing Committee held on 20 March 2024 at 11.00 am (Pages 69 - 74)
 - (c) Planning, Protective Services and Licensing Committee held on 20 March 2024 at 2.00 pm (Pages 75 - 76)
 - (d) Planning, Protective Services and Licensing Committee held on 26 March 2024 at 10.00 am (Pages 77 - 80)
 - (e) Planning, Protective Services and Licensing Committee held on 26 March 2024 at 11.00 am (Pages 81 - 84)
 - (f) Planning, Protective Services and Licensing Committee held on 26 March 2024 at 2.00 pm (Pages 85 - 88)
4. **TORLOISK ESTATE: CONVERSION AND EXTENSION OF STONE BARN TO FORM DWELLINGHOUSE, INSTALLATION OF SEPTIC TANK AND FORMATION OF VEHICULAR ACCESS: LAND WEST OF LAGGANULVA FARM, ULVA FERRY, ISLE OF MULL (REF: 23/00185/PP)** (Pages 89 - 122)
Report by Head of Development and Economic Growth

5. **THE SCOTTISH GOVERNMENT: SECTION 36 CONSULTATION FOR ERECTION OF 13 TURBINES EACH UP TO A MAXIMUM OF 180 METRES IN HEIGHT TO BLADE TIP: LAND APPROXIMATELY 6KM NORTH WEST OF INVERARAY AND 4.5KM EAST OF DALAVICH (REF: 23/00795/S36)** (Pages 123 - 162)

Report by Head of Development and Economic Growth

6. **MRS JOANNA PEACH: ERECTION OF DWELLINGHOUSE AND FORMATION OF NEW VEHICULAR ACCESS: LAND BETWEEN LAGARIE LODGE AND LAGARIE HOUSE, TORWOODHILL ROAD, RHU (REF: 23/01502/PP)** (Pages 163 - 190)

Report by Head of Development and Economic Growth

7. **MRS JOANNA PEACH: FORMATION OF NEW VEHICULAR ACCESS THROUGH THE EXISTING STONE WALL: LAND BETWEEN LAGARIE LODGE AND LAGARIE HOUSE, TORWOODHILL ROAD, RHU (REF: 23/01503/LIB)** (Pages 191 - 204)

Report by Head of Development and Economic Growth

8. **THE SCOTTISH GOVERNMENT ON BEHALF OF ENERGIEKONTOR UK LTD: ELECTRICITY ACT SECTION 36 CONSULTATION RELEVANT TO BREAKERIE WIND FARM: LAND APPROXIMATELY 8KM SOUTH WEST OF CAMPBELTOWN (REF: 23/02230/S36)** (Pages 205 - 244)

Report by Head of Development and Economic Growth

9. **MINISTRY OF DEFENCE C/O DEFENCE INFRASTRUCTURE ORGANISATION (DIO): PROPOSAL OF APPLICATION NOTICE FOR THE ERECTION OF 639 SINGLE ACCOMMODATION UNITS (SLU) FOR MILITARY PERSONNEL WITH ASSOCIATED SERVICE ACCESS ROAD AND ENGINEERING/INFRASTRUCTURE WORKS: HM NAVAL BASE CLYDE, FASLANE, HELENSBURGH (REF: 24/00580/PAN)** (Pages 245 - 250)

Report by Head of Development and Economic Growth

10. **LAGGAN PROPERTIES/BAIRDS MALT: PROPOSAL OF APPLICATION NOTICE FOR HARVESTING OF PEAT MOSS FOR USE IN MALT WHISKY PRODUCTION AND RESTORATION OF PREVIOUSLY DRAINED SITES: LAND AT LAGGAN MOSS, BOWMORE, ISLE OF ISLAY (REF: 24/00661/PAN)** (Pages 251 - 256)

Report by Head of Development and Economic Growth

- * 11. **SIMPLIFIED PLANNING ZONES: PROPOSED CLOSURE OF PROJECT** (Pages 257 - 260)

Report by Executive Director with responsibility for Development and Economic Growth

12. **SCOTTISH GOVERNMENT CONSULTATION: MASTERPLAN CONSENT AREA REGULATIONS** (Pages 261 - 272)

Report by Executive Director with responsibility for Development and Economic Growth

13. **MASTERPLAN CONSENT AREA STATEMENT** (Pages 273 - 280)

Report by Executive Director with responsibility for Development and Economic Growth

REPORTS FOR NOTING

14. UPDATE ON RECENT SCOTTISH MINISTERS SECTION 36 NARACHAN WIND FARM DECISION (Pages 281 - 286)

Report by Head of Development and Economic Growth

15. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION (Pages 287 - 288)

Report by Head of Development and Economic Growth

16. PRIVATE HIRE CARS AND TAXIS LICENSED IN ARGYLL & BUTE (Pages 289 - 294)

Report by Executive Director with responsibility for Legal and Regulatory Support

EXEMPT REPORTS FOR DECISION

E1 17. REQUEST FOR TREE PRESERVATION ORDER (Pages 295 - 304)

Report by Executive Director with responsibility for Development and Economic Growth

E1 18. CONFIRMING A TREE PRESERVATION ORDER (Pages 305 - 330)

Report by Executive Director with responsibility for Development and Economic Growth

Items marked with an “asterisk” are items, on the basis of information available at the time this Agenda is published, on which the Committee may not have delegated powers to act, and which may therefore require to be referred to the Council or another Committee, and that referral may depend on the decision reached at the meeting.

The Committee will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an “E” on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

E1 Paragraph 13 Information which, if disclosed to the public, would reveal that the authority proposes-

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

Planning, Protective Services and Licensing Committee

Councillor John Armour
Councillor Jan Brown
Councillor Kieron Green (Chair)
Councillor Daniel Hampsey
Councillor Fiona Howard
Councillor Andrew Kain
Councillor Liz McCabe
Councillor Peter Wallace

Councillor Gordon Blair (Vice-Chair)
Councillor Audrey Forrest
Councillor Amanda Hampsey
Councillor Graham Hardie
Councillor Mark Irvine
Councillor Paul Donald Kennedy
Councillor Dougie Philand

Contact: Fiona McCallum

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**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, 7 FEBRUARY 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Jan Brown	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Liz McCabe
Councillor Graham Hardie	Councillor Luna Martin

Attending: Iain Jackson, Governance, Risk and Safety Manager
Kirsty Sweeney, Area Team Leader – Planning Authority
Emma Jane, Planning Officer – Planning Authority
Gail Crawford, Applicant
Ruari Gardiner, Applicant's Agent
Craig Gray, Applicant's Architect
Julian Morris, Chartered Arborist (On behalf of the Applicant)
Kim de Buitel eir, Design and Conservation Officer - Consultee
Nigel Millar, Helensburgh Community Council - Consultee
Raymond Kane, Traffic and Development Officer – Consultee
John Shelton – Objector
Michael Davis – Objector
David Henderson – Objector
Sally Butt – Objector
Suzanne Hamilton – Objector
Alistair McLuskey - Objector
Liam McKenzie – Chartered Arborist (On behalf of Objector's)

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Amanda Hampsey, Daniel Hampsey, Paul Kennedy, Dougie Philand and Peter Wallace.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. MS GAIL CRAWFORD: ALTERATIONS AND EXTENSIONS: 4 WEST LENNOX DRIVE, HELENSBURGH (REF: 23/00652/PP)

The Chair welcomed everyone to the meeting. He advised that due to a personal commitment he would require to leave the meeting, should it still be in progress, around 1:30pm. Having sought advice from Iain Jackson, Clerk to the Committee, it was agreed that the meeting be adjourned at an appropriate point in proceedings and reconvened at a later time, if required.

For the purposes of the sederunt Mr Jackson, read out the names of the Members of the Committee and asked them to confirm their attendance.

It was noted that, in advance of the meeting, interested parties had confirmed that they would make presentations to the Committee. Mr Jackson read out the names of those representatives and asked them to confirm their attendance. Mr Jackson sought clarity as to whether there was anyone else in attendance that wished to speak. Alastair McLuskey advised that he would like to speak as an objector. Having confirmed that Mr McLuskey was included in the list of objection comments received by the Planning Authority, Mr Jackson advised that Mr McLuskey would be permitted to speak at the relevant time.

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, Emma Jane, Planning Officer, made the following presentation with the aid of power point slides.

SLIDE 1 – Opening slide - Location Plan

Thank you Chair and Good morning, everyone.

Firstly, Chair, prior to presenting, I would like to draw member's attention to the supplementary report that has been provided by officers yesterday. This report was provided to update members on the various matters that have arisen subsequent to the PPSL meeting in October. This report covered the following;

- Firstly to advise members that following the publication of the main report of handling, officers received further representations. Two of these were verbally addressed during the October PPSL presentation. However, we have since received two further objections. This has resulted in a total of 30 representations - (29 objections and 1 representation). Out of the 4 subsequent representations 1 was from a new party and the remaining 3 were from existing objectors. The supplementary report covers the contributors and comments that were not previously addressed within the main report of handling.
- I would also like to advise members that further additional information was submitted by the applicant on the 5th of February. The additional information submitted includes updated plans and elevations to provide clarity on the extent of the proposed development. The only changes to the plans is a change to the yellow hatch which shows the extent of the proposed developments footprint and the updated location and root protection area of the neighbouring copper beech tree, there have been no physical alterations to the design of proposals. Further to this the applicants have also submitted an updated design & access statement and an updated drainage plan. The only change to the design & access statement is that a section has been added to include an analysis of built form to open space on sites within the Hillhouse Conservation Area and also a section including examples of two storey side extensions, the conclusions within this statement have also been updated to reflect this. The drainage drawing has been updated to reflect the root protection area as shown on the tree constrains plan provided within the applicant's arboricultural report so that the proposed drainage alterations are out with this area.

- I would also like to advise members that for clarity during the PPSL presentation in October it was noted by officers that there was an error within the main report of handling in regards to the total built element on the site resulting from the proposals. This has been double checked and the main report of handling as published is correct. For clarity the supplementary report also reiterates these sizes.
- I would like to further update members that the proposed Tree Preservation Order for the copper beech tree within the garden grounds of 2a Upper Colquhoun Street, Helensburgh, which is the neighbouring property to the application site, will be the subject of a provisional tree protection order as of tomorrow.
- Lastly the supplementary report also addresses two tree reports which have been submitted subsequent to the October PPSL meeting, one by the objectors and one by the applicants. The supplementary report also details the officer's response to this additional information and an updated recommendation and conditions based on this. I will go into more detail on this shortly.

SLIDE 2 - Aerial image of site

This slide shows an aerial image of the application site which is bounded by the red dashed line, the yellow dashed line represents the boundary of the Helenburgh Hill House Conservation Area and the green circle represents the approximate location of the neighboring copper beech tree. The existing massing and built development on the site can also be seen on this slide with the existing house sited towards the rear of the plot with a large front garden. The site gently slopes downhill from North to South and is bounded by mature hedges. The site measures approximately 2165sqm and was historically subdivided and a modern dwelling was built within the rear garden grounds. The site is bounded to the West by B listed Whincroft (also known as 2 & 2a Upper Colquhoun Street). Further to this located on the opposite side of the street is A listed Brantwoode and located on the street behind the site is A listed Red Towers (not shown on this plan).

SLIDE 3 – Tree survey objectors

This slide includes an extract from objector's arboricultural report showing the Copper Beech tree's location, canopy spread and root protection area. Within the supplementary report officers go into more detail on the contents of this however to summarise; This report is based on the British Standard in regards to Trees in Relation to Design, Demolition and Construction. The British standard sets out the standard calculation method for determining a tree's root protection area, this method has been used to show the root protection area on this drawing. The diameter of the copper beech tree has been measured as 1.2m which would equate to a circular root protection area of 14.4m centred on the base of the stem as shown. It is confirmed that the root protection area of the neighbouring copper beach tree would include areas within the footprint of the proposed extension and areas where it is proposed to demolish the existing single story element. In theory the root protection area represents a construction exclusion zone which could therefore, effect the ability of the applicants to undertake the proposals.

SLIDE 4 – Tree survey applicants

This slide includes an extract from the applicant's arboricultural report showing the Copper Beech tree's location, canopy spread and alternative root protection area. Again within the supplementary report officers go into more detail on the contents of this however to summarise; This report is in line with the report provided by objectors in terms of the tree's location and size, however, the root protection area varies from the root protection area as shown on the previous slide. This is because the British standard allows an alternative method of illustrating the root protection area where pre-existing site conditions or other factors indicate that rooting has occurred asymmetrically and that modifications to the shape of the root protection area should reflect a soundly based arboricultural assessment of likely root distribution. During the survey carried for this report the presence of a small number of roots were discovered in and around the proposed development area. One in particular was noted in a position that suggested its enlargement was being promoted by the presence of water from a leaking or defective drain. This report then noted that in the absence of any development proposals it is recommended that the soil around the existing drainage in this area be excavated and that all roots of any size be cut. It was also noted that as the discovered roots did not exceed 35mm diameter and were generally less the adverse effects on the tree would be minimal. The report also observed that recent works to the tree indicated that's the tree's reliance on the roots in area where crown reduction had occurred will reduce and for these reasons it could be foreseen that any roots within the development area, over 4 metres from the edge of the crown spread, are of secondary importance to the vitality of the tree.

The report then goes on to note that notwithstanding the root protection area that is represented on the tree constraints plan it is the arborists opinion that the roots within the development area can and should be severed without significantly damaging the vitality of the tree. It is also noted that this area is expected to comprise of less than 5% of the root protection area and less than 2% of the total rooting area of the tree and as such, no significant damage to the vitality of the tree can be foreseen. This report then summarises that regardless of the development proposals, it is recommended that all roots in and around and interfering with services in the area adjacent to the existing house be severed. And notes that this can be done using statutory exemptions from conservation area or tree preservation controls.

SLIDE 5 – Tree protection plan

This slide shows an extract from applicant's arboricultural report showing the proposed tree protection plan and an image of the Copper Beech tree. Within the supplementary report officers have provided a detailed response to the findings of the tree surveys and recommendations. However to summarise; It has been confirmed that the proposed development would encroach on the copper beech tree's root protection area as detailed using differing methods within both arboricultural reports. The report provided by the applicants has gone into a more detailed assessment and has identified that roots within the development site are effecting services within the site and that these roots require to be cut back and can be cut back without consent. It is confirmed to members that statutory exemptions do exist that would allow the cutting back of the Copper Beech tree's roots and members should bear in mind that regardless of whether or not the current application is approved the applicant has the ability to undertake tree works to cut back roots that are impacting on their services or buildings without consent. This being said the applicant's arboricultural report has noted that this cutting back of the trees roots to the required areas is expected to comprise of less than 5% of the root protection area and less than 2% of the total rooting area of the tree and as such, no significant damage to the vitality of the tree can be foreseen.

Based on this the authority is satisfied that the copper beech tree will not be adversely effected by the proposals and therefore our recommendation remains one of approval but subject to the amended recommended conditions as appended to the supplementary report which look to refine the tree protection mitigation measures to reflect the more detailed information that has become available.

SLIDE 6 – Site Photos

I will now move onto the main presentation which has been adapted from the previous presentation by officers in October.

This application seeks planning permission for alterations and extensions to an existing property located at; 4 West Lennox Drive, Helensburgh.

The application site is located within the Main Town Settlement Zone of Helensburgh. The existing property is a traditional two storey villa located within the Hill House Conservation Area. The house itself however is not listed. There are various listed properties in the vicinity of the house and it is noted that the design and conservation officer will go into more detail on this within their presentation shortly.

This slide shows the initial site visit photos taken on the 12th June last year. It shows the south elevation which fronts the road and Members can see the existing garage and side extension that are proposed to be demolished. There is also an image of the rear of the property that was taken prior to the unauthorised engineering works which you will have seen today and I will go into more detail on this later within the presentation.

SLIDE 7 - Existing Ground and First Floor Plan

This slide shows the existing ground and first floor plans. Highlighted in red on these plans are the proposed areas for demolition which include; the existing garage, the existing two timber sheds and the existing single story element.

SLIDE 8 – Existing Roof Plan

This slide shows the existing roof plan. It is noted that the original submission included the removal of 3 of the existing chimney stacks as well as the re-configuration of the existing roof to remove the valley section and replace this with a flat roof. The applicants have since revised their proposals to omit the roof re-configuration and proposed flat roof along with revised proposals to remove 1 of the chimneys stacks to the rear and retain the 2 chimneys stacks to the front. The roof alterations now proposed also include replacement of the ridge ties with zinc, lead repairs, slate repairs and the replacement of the existing retained chimney's pots.

SLIDE 9 – Existing South Elevation

The next four slides show the existing elevations, and the proposed alterations to the existing building which include;

- replacing 35 existing windows with double glazed timber sash and case to match the design of the originals
- repairing the existing masonry & render to match the existing
- and repairing & replacing the existing cast iron rainwater goods to match the existing

SLIDE 10 – Existing West Elevation

This slide shows the existing west (side) elevation.

The alterations particular to this elevation include;

- Removal of two first floor windows and openings infilled with reclaimed sandstone
- Removal of the existing ground floor window with the resultant opening utilised to access to the proposed extensions
- And removal of the rear chimney

SLIDE 11 – Existing North Elevation

This slide shows the existing north (rear) elevation.

The alterations particular to this elevation include:

- Full refurbishment of the central stained glass windows
- And removal of a double ground floor window and opening infilled with reclaimed sandstone

SLIDE 12 – Existing East Elevation

This slide shows the existing east (side) elevation.

The alterations particular to this elevation include:

- Removal of the rear chimney
- Full refurbishment of the stained glass windows
- And repairs to the render finish under the first floor bay window to match the existing

In summary in terms of the proposed alterations to the existing building is it regarded that these when considered cumulatively do not have an adverse effect on the character of the existing property nor on the wider conservation area, this again is something that the design and conservation officer will go into more detail on within their presentation.

SLIDE 13 – Proposed Drainage Alterations

This slide shows the proposed updated drainage alterations. It is noted that during the determination process the applicants submitted plans to show a re-routed and repaired surface water drainage scheme for the site. This was submitted as unauthorised drainage works were found to have taken place on the site which required consent. It is noted that consent is not required for the repair of existing drainage but is required if there are alterations to this. Officers have been to site and viewed the issues with the current broken surface water drainage, following the unauthorised engineering works and are content that the proposed alterations to reinstate and alter this are sufficient. It is also noted that as this is a proposed extension and not a new build there is no requirement for the applicants to install a new SUDS system. The submitted drawing shows a new French drain running along the northern boundary of the site (shown in green on the plan) to pick up the broken field drains which were discharging water into the solum of the property and then route the new field drain to the front of the property to tie in with the existing drainage discharge. It is also noted that the applicants have revised their drainage drawing to pick up the root protection area of the Copper Beech tree and have re-routed the drainage to ensure this is out with this area.

SLIDE 14 – Proposed Block Plan

This slide shows the proposed plan form and siting of the proposed extensions to the existing house and the proposed replacement garage/gym. New planting is also shown, principally to the West boundary of the site beside the proposed extension. This drawing has also been updated to show the accurate location of the Copper Beech tree and its root protection area. In terms of the scale of the proposed extensions and replacement garage. The proposed extension has a footprint of 90sqm whereas the original single storey element to be removed had a foot print of 55sqm. The existing garage which is to be removed has a footprint of 30sqm and replacement garage/gym has a footprint of 70sqm. In addition the proposal also seeks to introduce a covered external 'link' canopy between the garage/gym and the new extension, this has a footprint of 25sqm. The existing total built element on site has a foot print of approximately 264sqm which represents 12% of the overall plot. In comparison the proposals would result in a total built element foot print on the site of approximately 346sqm which represents 16% of the overall plot, an increase of 82sqm or 4% to the overall built footprint on the site.

SLIDE 15 – Proposed Ground Floor Plan

This slide shows the proposed ground floor plan as well as the proposed hard and soft landscaping. A retaining wall is also proposed to the rear of the site and beside the proposed garage/gym. It is noted that in regards to the proposed hard and soft landscaping it is advised that submission, assessment and approval of a scheme of hard and soft landscaping be required by planning condition which the council's Local Biodiversity Officer will have opportunity to assess. It is further recommended that this condition requires that any hard landscaping proposed be of permeable materials as to not impact on the surface water drainage for the site.

SLIDE 16 – Proposed First Floor Plan

This slide shows the proposed first floor plan. The foot print of the proposed first floor extension extends to approximately 50sqm. You can also see the proposed first floor terrace which extends to approximately 20sqm. There have been concerns raised over the possible overlooking from this terrace however the first floor terrace that is proposed is minimal in size and is screened by the existing copper beach tree, furthermore, there is an existing level of overlook from the first floor windows in this location – two of which will be removed, therefore, the limited element of overlooking is considered to be within acceptable limits.

SLIDE 17 – Proposed Roof Plan

This slide shows the proposed roof plan. Here you can see the flat roofs of the proposed extension and replacement garage/gym. The relevant policy in terms of flat roofs states that flat roofed extensions will not be permitted where they do not complement the existing house style and design. In this case, the extension is bold and contemporary which some may view at odds with the existing house style but the contrast in design provides a clear and deliberate design delineation between the old and the new and this is welcomed and supported by officers and is considered in this instance to complement the existing house. It is also noted that the flat roof of the proposed two storey extension minimizes the overall massing which is also welcomed.

SLIDE 18 – Proposed South Elevation

This slide shows the proposed South (street facing) elevation. Here you can see the proposed height of the replacement garage/gym as well as the proposed heights of the two storey extension in relation to the existing property. The single storey elements of the proposals have a roof height of 3.2m and the two storey element has a roof height of 6.4m. It is considered that the proposed extensions will not affect daylight into neighboring properties or gardens by way of overshadowing as they are set back far enough from the boundaries that when the 45 degree daylight test is applied the existing hedge screening mitigates any potential impacts including the first floor element.

SLIDE 19 – Proposed East & West Elevations

This slide shows the proposed East & West (side) elevations. Here you can see the extents of the single storey extensions and replacement garage/gym as well as the extent of the first floor extension.

SLIDE 20 – Proposed North Elevation

This slide shows the proposed North (rear) elevation. Here you can see the proposed external link canopy between the proposed extensions and replacement garage/gym.

SLIDE 21 – 3D Visualisation of proposed South Elevation

This slide shows a proposed 3D view of the front of the property. You can see here that the design of the proposed extensions and garage are contemporary in design. They are considered to be subservient to the existing house and do not dominate it, the clear delineation between the old and the new is welcomed and is in line with policy, the proposed materials are high quality and respect the character of the existing property and wider conservation area. You can also see the set back of the proposed first floor extension and the proposed replacement garage/gym.

SLIDE 22 – 3D Visualisation of proposed North Elevation

This slide shows a proposed 3D view of the rear of the property. Here you can see the proposed replacement garage/gym and the proposed external link canopy.

SLIDE 23 – Materiality Images

This slide shows the materials pallet that the applicants are proposing. The proposed external finishes are;

- External walls including retaining walls (ground floor) are to be a muted pink colour render
- External walls (first floor) are to be a perforated 'scaloped' powder coated aluminium sheeting in a muted green colour
- External canopy to be a dark steel finish
- Flat roofs to be finished in dark grey Sarnafil
- Windows to be Polyester powder coated aluminium frames

The proposed 2 storey extension seeks to use the heavier appearing finishes to the ground floor coupled with lightweight materials to the first floor. This is to make the design appear lighter as it increase a storey. This coupled with the reduced footprint of the first floor and the first floor setback allows the proposed first floor extension to appear subservient to the existing property and does not dominate it. It is also noted that there has been concern that the perforated steel cladding to the first floor of the proposed extension could impact on the privacy and amenity of the neighboring property, it is noted

that a safeguarding condition has been recommended that requires samples of this material be approved by the authority and that further a condition has been recommended that requires the glazing behind this screening be of obscure glass to protect the privacy and amenity of adjacent property.

SLIDE 24 – Visual Impact Assessment

This slide shows a selection of street view images that the applicants have provided to show the outline of the proposed extension and replacement garage/gym in red.

SLIDE 25 SUMMARY - 3D views

In terms of Statutory Consultees, there are no objections from Roads, Environmental Health, Historic Environmental Scotland or our Design and Conservation Officer. There is an objection from Helensburgh Community Council who have raised issues with the design, appearance, potential impacts on the surrounding conservation areas and also potential amenity impacts. It is noted that members will hear directly from the community council on these issues shortly.

THIRD PARTY REPRESENTATIONS - no change of slide.

A total of 30 no. representations have been received. 29 of these are objections and one is a representation. We have addressed the comments and concerns raised in these representations in detail within the main report of handling and the subsequent supplementary report, however, the material planning considerations raised are summarised into topics as follows:

- Drainage.
- Impact on the surrounding conservation areas.
- Impact on the setting of surrounding listed buildings.
- Impact on the existing property.
- Impact on residential amenities of surrounding properties.
- Impact on the copper beech tree within the neighbouring garden.
- The proposed materials.
- And the possible overdevelopment of the site.

Again it is noted that members will have the opportunity to hear directly from those parties that have chosen to speak today shortly.

In summary, this development has been assessed against the adopted Local Development Plan and in accordance with all material planning considerations including consultation responses and third party representations. The proposal accords with the policy provisions of NPF 4, the adopted LDP and the proposed LDP 2.

The proposed extensions and replacement garage/gym are not considered to be overdevelopment of the site, the proposed design is considered to be subservient to the donor house as does not dominate it. And even though dramatically different in style the materiality ties in with the existing house – such as the muted pink render to match the existing sandstone. The extension is set back from the front façade and the proportions have a vertical emphasis which ties in with the proportions of the existing house.

The proposed materials are high quality and respect the character of the existing property and wider conservation area, it is not considered that the proposals negatively affect the setting of surrounding listed properties and it is considered that this contemporary

extension to a traditional villa is in keeping with the character of the wider conservation area and the existing building.

Furthermore, the proposals raise no unacceptable issues in relation overlooking, loss of daylight / privacy or amenity to surrounding properties. And that any potential issues can be mitigated using planning conditions which have been recommended within the supplementary report.

It is therefore recommended that planning permission be granted.

APPLICANT

The Applicant's Agent and Architect, Ruari Gardiner and Craig Gray introduced themselves to the Committee and outlined their backgrounds as Directors of G53 Design Limited, with a combined 40 years of architectural experience between them.

Mr Gray advised that the applicant had fallen in love with the property and had invested time and money to future proof, protect and modernise it for generations to come. He advised that as a company, G53 Design Limited take very seriously the role of protecting, preserving and continuing the heritage of real high quality design that Scotland and Helensburgh in particular has to offer.

With the use of a presentation, Mr Gray outlined the proposal as a full internal refurbishment and large contemporary extension to the rear of an unlisted Victorian villa which sits within the Hillhouse Conservation Area. He highlighted a number of successful extensions to Victorian Buildings and outlined the celebration of contrast in style and materiality, moving away from pastiche architecture to allow the historic building to be more prominent. He outlined the use of recessive material which compliments the main building and the use of glazing to help mediate between the old and the new.

Mr Gray outlined a number of issues with the existing house that require to be assessed and resolved with the help of a chartered Structural Engineer, which included rubble masonry movement and loss of integrity; cracking in the envelope, water ingress in Solum and organic growth causing structural damage. He advised that Redholm sits on a long sloping plot, which led the design approach to maximise natural light with large widows creating views from the front living room all the way out to the back garden. Framing the spectacular views to the South and West of the site and using the architecture to celebrate them. He advised that the scheme had created a unique backdrop to the new internal spaces, which were unique to the new home.

Providing contextual analysis, Mr Gray spoke of the development of the Conservation Area over the last 120 years, he advised that there were two distinct phases of development that had contributed to the character of the area, the Victorian villas and the post war infill housing, which was of low architectural quality and had contributed to the dilution of the areas character. He advised that the desire to sell off sections of large gardens over the years had led to a lot of uncontrolled developments in the area.

Mr Gardiner addressed the comments relating to over-development of the site and advised that they had undertaken an analytical analysis to the scale of the plot. He advised they had examined each development plot within the Hillhouse Conservation Area and taken the ratio of house to large garden. He advised that each one is on average 12.78%. He advised that the application site was currently 12%, but increases to 16% with the proposal, but advised that looking at the range within the Conservation Area,

which ranges from 7% to 20%, it still falls within the mean percentage. He advised that this analysis shows that there is no over development as it is in line with what is in the Conservation Area at the moment. Addressing the suggestion that there was a departure from the norm in terms of the proposals to incorporate a flat roof, Mr Gardiner highlighted 2 properties near the development site which demonstrated two storey developments with flat roofs and advised that this suggestion was incorrect.

Mr Gray took the Committee through a number of slides which showed existing floor plans and elevations and a series of diagrams produced to evidence that site lines from public parts of adjacent streets and roads were not adversely affected. He advised that the width, depth and height were not arbitrary but were proposed in context with the existing architecture of the area. He spoke of the colour palette of the materials chosen and advised that these were selected to be ambiguous to blend in with the sky and the existing tree canopy.

Discussing the visual impact assessment, Mr Gray advised that as a consequence of the considered configuration of massing as well as screening provided by existing and proposed foliage and neighbouring structures, the proposed development had a minimal, often non-existent visual impact on the existing character of the area.

Having established that both the Applicant's Agent and Architect had concluded their submission, the Chair invited any other parties on behalf of the Applicant to speak.

Julian Morris, Chartered Arborist introduced himself to the Committee and outlined his qualifications and his in depth local knowledge, particularly in trees within the area. He advised that he had only recently become involved in the case and that he understood that the Committee were willing to recommend approval of this application subject to conditions to safeguard the Copper Beech tree. He advised that although the conditions appeared to be well intended, it would appear that they relied upon a superseded British Standard BS 5837. He advised that he recommended a greater protection to the tree. Mr Morris advised that he was aware that a Tree Preservation Order (TPO) was due to come into effect on 8 February 2024 and on the face of it appeared to thwart the development and as such required to be addressed.

Mr Morris outlined the report provided by the tree owner's Arborist. He advised that he had no difficulty with the dimension, species or heights reported, but rather his difficulty was that British Standard BS 5837 does say that the Root Protection Area (RPA) needs to be calculated initially with reference to the stem diameter when drawing the circle, it then goes on to say that you should modify that circle to any existing conditions. Mr Morris advised that the tree owner's Arborist did not follow the British Standard BS 5837 and that he believed this to be because of the 15 pruning wounds that he counted each measuring a diameter of about 4-5 inches. He advised that a Copper Beech tree of that age was unlikely to regenerate growth.

Going on to discuss the findings of the Engineer report which had shown that an existing field drain was blocked, Mr Morris advised that an engineer had submitted evidence that there was water pooling around the ground floor of the building. He advised that it was not just possible or probable but was inevitable that the field drain was choked with tree roots. He advised that the Engineer had recommended a trench with a perforated pipe to allow the water to be carried away.

Mr Morris advised that it was not against the law to allow roots to go into another property, but if those roots are damaging the property that is negligence. He advised that the

applicant simply wanted the field drains to work so that the water was no longer pooling below the property. He advised that the tree owner could abate that nuisance by cutting back the roots and branches to the boundary of the property. Mr Morris advised that the most recent discussions had indicated that it would be possible to relocate the field drain to beneath the proposed extension. The difference with this option would be 42 square metres of severed roots as opposed to 142 square metres. He advised that he was satisfied that, given the severity of the pruning described earlier, that this option would have a trivial effect on the Copper Beech tree, and that in any case the tree issues should not prevent permission being granted.

The Applicant, Gail Crawford gave the following presentation:

Good Morning.

My name is Gail Crawford, one of the owners of Redholm.

Firstly, I would like to thank the people of Helensburgh for their kind words of support over the last few months and to the majority of the Helensburgh community who have stayed silent.

Raised and schooled in Helensburgh, I had viewed a number of properties in the area before deciding on Redholm, looking to return to my home town to be near my elderly parents.

When buying Redholm I was under no illusion the huge undertaking required to make my home habitable, water tight and future proof thanks to the Home Report and multiple preservation reports carried out.

I was fully prepared for the level of commitment this property needs, what I was not prepared for was the level of intimidation I have received, including certain neighbours impersonating the Council. I was excited about coming home and getting involved in the renovation process, designing my home where I plan to stay for many years to come. Unfortunately, to date, this has not been my experience.

After taking possession of my new home in October 2022 it was noticed a continuous stream was flowing through the house. After many investigative works including the involvement of the Scottish Water Board, it became apparent that the issue was a field drainage problem. This drainage problem has been long standing and ongoing for many years.

During the summer months of 2023, while the weather permitted, I decided to carry out further investigative works to try and find the source of the problem. I could not just sit back and watch the fabric of my home deteriorate further, there is already evidence of subsidence at the front elevation in line with the flowing stream. I expect most home owners would have taken the same course of action.

Over the course of the last 11 months, the time period since submitting the application, my home has deteriorated further. The ceiling above the staircase has collapsed and I have severe water ingress to all main rooms.

What I am hoping from today is that the Councillors follow the recommendations of the professionals, Argyll and Bute Planning Department and Historic Scotland, who have carried out a rigorous process. It is only right we adhere to their recommendations and not undermine their integrity.

Councillors, please note that this planning application does not involve anything that is not already existing in the immediate area. I have applied to carry out extension works that neighbouring properties have already carried out. Nothing more.

I now need to be allowed to move forward and start getting the necessary works started before my home falls further into disrepair.

Please be assured I am taking this application with the upmost respect it deserves and taking every step to reinstate Redholm to its full potential whilst preserving and enhancing the area.

I have no doubt Redholm will prove to be an asset to the area once the works have been completed. As a community we need to be progressive. Let's lead by example and attract positive attention to the town of Helensburgh.

Thank you.

CONSULTEES

Kim de Buitel  r, Design and Conservation Officer

On behalf of the Head of Development and Economic Growth, Kim de Buitel  r, Design and Conservation Officer, gave the following presentation:

SLIDE 1 - INTRODUCTION

Thank you Chair

As Design and Conservation Officer for the Council, my presentation will focus only on aspects related to the design within the conservation area and the setting of listed buildings.

The house is not listed however sits within proximity of a number of A and B listed buildings, therefore listed building policies apply insofar as relevant to setting, but not in terms of the house itself which as stated is not listed. The house sits within Helensburgh Hill House Conservation Area therefore conservation area policies apply, as well as design policies.

SLIDE 2 – THE LEGISLATIVE CONTEXT

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that under section 64, special attention is paid to the desirability of preserving or enhancing the character or appearance of that area.

The Development Plan currently comprises the 2015 LDP and the NPF4 with the latter taking precedence due to its later date of adoption. LDP2 is a material consideration. Other material considerations relevant to this application are

- the Argyll and Bute Sustainable Design Guidance (dating from 2006),
- the Helensburgh Conservation Area Appraisal (dating from 2008),
- Managing Change Guidance by Historic Environment Scotland on Setting of listed buildings;

SLIDE 3 – THE POLICY CONTEXT (CONSERVATION AREA)

So, what Members are being asked to consider today in terms of whether the proposal is in accordance with the Development Plan and should be approved, is

- Will the proposal preserve or enhance the character or appearance of the conservation area

NPF4 suggests that the following are considered in this assessment:

- Architectural and historic character of the area
- Existing density, built form and layout
- Context and siting, quality of design and suitable materials

SLIDE 4 – THE POLICY CONTEXT (CONSERVATION AREA & SETTING OF LISTED BUILDINGS)

And in terms of the setting of listed buildings):

- Will the proposal preserve the character, and special architectural or historic interest of the setting of listed buildings

The 2015 LDP and LDP2 policies on conservation areas – LDP SG ENV 17, and Policy 17, are broadly the same as that of NPF4, albeit worded differently. They repeat that the policy test is to preserve or enhance the character or appearance of the conservation area, and they must respect their special architectural qualities.

The 2015 LDP and LDP2 policies on the setting of listed buildings – LDP SG ENV 16(a), and Policy 16, again are broadly the same as that of NPF4 as they require that the setting is preserved.

SLIDE 5 – THE POLICY CONTEXT (DESIGN)

Further Development Plan policies which provide support to meeting the policy requirements that I have just mentioned, are the Design policies. I have shown on the screen some key points from each of these policies but have not included each policy in its entirety.

NPF4 outlines 6 qualities of successful places. As this is a householder application only for an extension, the main quality applicable here is:

- Distinctive – supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

The 2015 LDP Supplementary Guidance has Sustainable Siting and Design Principles, in which sections 8.1 and 8.2 relate to extensions. It requires that the size, scale, proportion or design should not dominate the original building and external materials should be complementary to the existing property.

Policy 10 of the LDP2 requires that proposals:

- Demonstrate an understanding of and appropriate response to the proposed development site and wider context including consideration of character and, where applicable, urban grain

- Steer clear of mimicry and pastiche
- Use appropriate proportions for building elements
- Use materials that are harmonious with the context but embody honesty and legibility of contemporary design.

These policy considerations should essentially be used in this case to answer the question of

- Will the proposal preserve or enhance the character or appearance of the conservation area, as well as the setting of the listed buildings

The material considerations which I mentioned earlier in terms of guidance documents and statutory consultee responses, will be addressed throughout the presentation which sets out to address this policy test.

SLIDE 6 – EXISTING CHARACTER OF CONSERVATION AREAS

However, to consider the answer to these policy tests the first step is to understand the character of the conservation area, and its qualifying qualities.

As Members will have appreciated from their site visit, understanding the overall character and appearance of the conservation area requires to not simply focus on this one building, but to spend time walking through the streets, experiencing the street layout; the plot pattern; trees and planting; and the differing architectural styles, in order to understand the area as a whole, which is essential to answer the question:

- Will the proposal preserve or enhance the character or appearance of the conservation area, as well as the setting of the listed buildings

An extremely useful document that aids in the understanding of this area is the Appraisal of the Conservation Areas in Helensburgh 2008, written by the Helensburgh Conservation Areas Group. Whilst many of the objectors to this application have referred to Hill House Conservation Area as a separate designation, which it is, the Appraisal document does **NOT** separate out the two conservation areas but considers Hill House Conservation Area in conjunction with the much larger Upper Helensburgh Conservation Area.

SLIDE 7 – ARCHITECTURAL STYLES WITHIN THE CONSERVATION AREAS

Section 2.4 of the Appraisal sets out the special architectural interest of the area. It says:

“unlike the earlier, more strictly planned towns such as Inveraray or Port Charlotte (Islay), there is an eclectic mix of styles here”.

Indeed Hill House is a somewhat unique architectural style of its own here.

Whilst one Objector (on 14th August) stated that modern properties which pre-date the designation of the Hill House Conservation Area (in 1971) are irrelevant to the setting and context of the Hill House Conservation in regards to this application, however I would respectfully disagree with this statement and am of the view that a degree of modern development in the area adds to the character of the evolving and eclectic area.

The photos on this slide show a variety of properties both within the Hill House Conservation Area and within its wider setting of Helensburgh Upper Conservation Area. As the Hill House Box is a temporary covering I have included a photo from Historic Environment Scotland's website as Hill House will again in a few years look like without the temporary box.

SLIDE 8 – CONSERVATION AREA APPRAISAL

The Appraisal states

“the Conservation Areas are noted for their aesthetic appeal. Indeed it is the landscape architecture (the geometric structure of the grid contrasted with the freedom of infill) rather than any individual villa that gives rise to the essence of place”

That is not to say that no buildings are of special interest in their own right – but the special interest of many of those is covered by their listed status and protected by a different legislative requirement. The conservation area however, is about the wider appeal.

SLIDE 9 – CONSERVATION AREA APPRAISAL

The Appraisal sets out that there is unity, contrast, dominance and balance in the conservation area.

The unity of the area would be retained in terms of the grid structure, the tree lined streetscape, the positioning of houses to the north of their plots, and the colour palette proposed which ties in with the red sandstone and green grey roofs.

Further contrast would be provided in terms of adding to the eclectic styles and later additions in contrasting architectural styles, and the introduction of new materials.

The dominance (of the linearity and building heights) would not be affected.

And the balance, by way of the scale of buildings and the ratio of house to garden would be retained. Because even with the proposed extension added, this house would not be larger than many others in the area – this map demonstrates the existing plot layout pattern - the extension would be to the side and rear and would not significantly change its relationship to the overall plot.

So, it is on the basis of this character of the area as assessed in the Appraisal, that the policy test must be applied for this proposal:

- Will the proposal preserve or enhance the character or appearance of the conservation area, as well as the setting of the listed buildings within this

There are other conservation areas within Argyll where it would not be the landscape setting, but the buildings themselves that form the majority of the aesthetic appeal, and where there is not such contrast in architectural styles and materials. And in these conservation areas, to meet the policy test, there would be far less scope in terms of the bold design and scale.

However in this particular setting, while there are aspects that must be adhered to, to meet the policy test (these being retaining the grid structure and the tree lined

streetscapes and general urban grain), there is some degree of flexibility for the architecture that sits within this, so long as the overall character or appearance of the area is preserved or enhanced.

SLIDE 10 - LISTED BUILDINGS

Within the conservation area there are a number of listed buildings, shown on Historic Environment Scotland's map here (red are A-listed, blue are B-listed and pink are C-listed). Whilst the wider setting is the overall conservation area, to understand whether this proposal would preserve the character of these settings, the extent and nature of these within the wider conservation area firstly must be assessed and understood.

Historic Environment Scotland were consulted on the application as a statutory consultee, and they are also a key agency. They identified listed buildings whose settings had the potential to be affected by the proposal, but did not think that the setting of any of these listed buildings would be significantly affected by the proposal.

HES has produced Managing Change guidance on setting which sets out that: Setting' is the way the surroundings of a historic asset or place contribute to how it is understood, appreciated and experienced. This includes but is not limited to key views.

That does not mean that new development cannot take place within a setting, whether it is within a key view or not. This means, would the proposal bring about changes so significant that the way the listed building is understood, appreciated and experienced, materially change. Some level of change is acceptable – it comes down to the sensitivity of the asset (or receptor) and its setting to change, and the magnitude of change proposed.

In this case, all the listed buildings potentially affected by the proposal sit within a built environment setting. No new building is proposed within this setting. What is proposed is an extension to an existing building, using contemporary materials to provide clear legibility between old and new.

The overall massing and form would of course change, but the roof form would stay the same, and the existing front elevation would stay the same, but with set back elements added to each side. The colour palette is similar to the red sandstone and green grey slates of the existing building.

There would therefore be no change to the way the overall area (and therefore the general setting of the listed buildings within this) is understood, appreciated or experienced.

However, owners of some of the listed properties objected to the assessment by both Historic Environment Scotland and myself that the setting of each of these would be preserved. Whilst, as I've discussed, the way the overall, wider setting would be understood, appreciated and experienced, would stay the same, site visits to these properties allowed a better assessment of intervisibility and effect on key views.

So myself the Planning Officer and Area Team leader visited A listed Red Towers, B listed Whincroft, and A listed Brantwoode on 3rd October 2023 – these are highlighted on this map. I provided a full visual assessment which is on file dated 4th October 2023 and I will summarise these points along with a few of the photos. An objection received just last

week on 1st February 2024, states that I took photos from “obscure positions” to minimise the impact on nearby properties. I can clarify that this is absolutely not the case and I acted with professional integrity on site, taking photos towards the house from locations that gave the clearest view, and I will clarify these locations as I go through this.

SLIDE 11 – A-LISTED RED TOWERS

Firstly A-listed Red Towers, which sits to the north of Redholm:

In terms of the view to the south, the view is of the Clyde and hills beyond, with housing in the foreground. The housing is of varying architectural styles, colours and periods.

The photos on the slide show the view of Redholm from the front door; from the 1st floor balcony; and from the 2nd floor balcony, as well as an additional photo from the 2nd floor balcony looking east to show the varied built context.

The roof form of Redholm and chimneys are they key features of significance which add to these key views. During the course of the application the agent revised the proposals and the proposal being considered today retains this roof profile as well as 2 chimneys – one to the east side and one to the west.

In terms of the extension it will be visible, particularly the metal clad upper floor, however within the wider view of the varying architectural styles and colours, with the key viewpoint intended to be past these to the Clyde, I would not consider that overall the character of the setting would materially change.

SLIDE 12 – B-LISTED WHINCROFT

Moving on to B-listed Whincroft, which sits directly adjacent to Redholm:

The photos on the screen show how the extension would be visible from the garden grounds and bedroom, and to a very limited extent from the main reception room.

However I would NOT consider any of these to be key views from the property, which as with Red Towers, would be to the south towards the Clyde.

In terms of how the experience of the garden ground would be affected by the introduction of a 2 storey element, I would NOT consider that there would be significant change to the character of the garden – the extension would bring massing and fenestration closer to the garden ground but is already a built up townscape.

SLIDE 13 – A-LISTED BRANTWOODE

And finally A-listed Brantwoode

Although there are gates to the north of the property opposite Redhome, when we visited the property these appeared to be locked so we entered the property from the south, walking past the large front lawn. Whilst the main door is to the north the principle rooms face south. The photos show the view of Redholm from just outside Brantwood’s pedestrian gate; from the driveway; from the main door; and from the first floor hallway window. There was no intention for these photos to include obstructions in the line of sight towards 4 West Lennox – it was simply that, due to the siting of the pedestrian gate relative to the tree opposite; and the height of the rear wall that there is very limited visibility.

I would NOT consider that the limited visibility from the north of Brantwoode would result in its setting being affected.

This assessment of the setting, and the photos I have shown, demonstrates that, despite this proposal being of quite a large scale for an extension, and of contemporary materials, the proposal would preserve the character of the setting of the listed buildings and therefore comply with policy in this regard.

SLIDE 14 – REAR ROOF

Now I will move on to an assessment of the proposal in order to consider whether it has any detrimental effect on the overall character or appearance of the conservation area, or whether it meets the policy test of preserving its.

The initial proposal included the removal of 3 chimneys as well as the reconfiguration of the roof. Cumulatively these proposals would have resulted in quite a significant change to the existing form and character of the building and could not be supported. The current proposal retains the existing roof form and the two front chimneys. It would be preferable to retain all 4 chimneys however I would now consider that a sufficient level of the traditional form is being retained that there is now no significant impact on the existing roofscape when viewed from the north.

SLIDE 15 – PROPOSED MASSING

There has been some concern over the massing. The block plans originally submitted unfortunately did not assist with this concern due to giving as much emphasis to the landscaping as they do to the proposed built form, resulting in drawings where the proposal at first glance appears much larger than it is. These have now been updated and resubmitted with the yellow shaded area showing only the proposed built forms

Similarly, elevations in this case are not a good example to understand the massing because they show the proposal as flat, giving equal prominence to the extension and garage as the main house. However this would not be the case. The ground floor extension is set back some 3 metres, with the upper floor set back a further 2 and a half metres and the garage sitting almost at the rear of the house, far further back than the existing garage currently sits.

The arrangement of the elements can be more clearly seen on the visualisation on screen. Next to this is an aerial photo, from the Savills sales brochure that was submitted by an Objector. This shows an elevated view of the neighbouring property with its 2 storey extension and double garage, which is of a similar scale to this proposal.

Helensburgh Community Council states that 4 West Lennox Drive is a close match to this property and are concerned that the proposal would destroy their architectural design symmetry. However based on what we can see from this photo, not only does the extension at number 2 **not** dominate the existing architecture despite its scale and more relevantly does not detract from the character or appearance of the conservation area, but the two properties would actually resultantly be more similar in scale than they are currently.

An objection dated 22nd September stated I pointed to the proposal as being an overdevelopment of the site. For clarity, I have not said this – in my initial response of 22nd June I stated that the cumulative effect of the height and width of the extension “make it appear too large overall” – this was in relation to the house as a design concern given its positive contribution to the overall area, rather than being in relation to the plot size.

The agent subsequently addressed these concerns by providing an explanation of how the proportions had been developed. Whilst I feel that in order to be more sympathetic to the original house itself, the proposal may benefit by a reduction in scale, I am of the opinion that the existing architecture is still retained, and the overall scale would not affect the overall character of the conservation area of the setting of the listed buildings therein.

SLIDE 16 – PROPOSED DESIGN AND MATERIALS

In terms of the design and materials objectors have raised concerns in terms of the building having an industrial like appearance and many do not like the flat roof. However the colours of these proposed materials would be sympathetic to those of the main house, and a planning condition would ensure that. It should be noted that each photo within the file will show the sandstone and the slates a slightly different shade and tone due to the lighting conditions of each photo – checking samples on site would ensure the colours do actually match well. The flat roof allows a 2 storey extension whilst keeping the massing to a minimum.

On the basis of this I am of the opinion that the design and materials, while not everyone’s preference in terms of design, will integrate with the existing building as they do not compete in terms of form or design elements and aim to use a colour palette that will blend well. The existing architecture is still retained.

They are particularly in accordance with NPF4 Policy 14 by supporting attention to detail of local architectural styles and interpreting these creatively into the design; and policy 10 of LDP2 by using materials that are harmonious with the context but embody honesty and legibility of contemporary design by avoiding pastiche design solutions.

SLIDE 17 – CONCLUSION (1 of 2)

So while Members, like the objectors, may not like this design, that is not the policy test here. What is being asked is:

- Will the proposal preserve or enhance the character or appearance of the conservation area, as well as the setting of the listed buildings within this

SLIDE 18 – CONCLUSION (2 of 2)

And I would return to key points of the Conservation Area Appraisal in relation to that question:

The unity of the area in terms of the grid structure, the tree lined streetscape, the positioning of houses to the north of their plots, and the colour palette..

The contrast in terms of eclectic styles and later additions in contrasting architectural styles, and the introduction of new materials.

The dominance of the linearity and building heights.

And the balance, by way of the scale of buildings and the ratio of house to garden.

On the basis of this, I would consider that the proposal would NOT materially affect the overall character of the conservation area. The proposal would therefore preserve the character or appearance of the conservation area in accordance with NPF4 Policy 7 (d), LDP SG ENV 17 and Policy 17 of the emerging LDP2.

This building is not itself listed. And no designation review has been submitted to list the building. If that were the case Members would be being asked to consider different policy requirements, being in terms of the building itself. However this is not the case.

And I have discussed the setting of 3 listed buildings in the area and how a house extension of this scale relative to the overall plot, and of this muted colour palette (which would be subject to a condition requiring samples) would NOT materially affect the setting of these listed buildings. The settings of each would therefore be preserved in accordance with NPF4 Policy 7 (c), LDP SG ENV 16 (a) and Policy 16 of the emerging LDP2.

Thank You.

The Chair moved and the Committee agreed to adjourn to allow for a short comfort break. On reconvening at 12:15pm, all those present were as per the sederunt.

Nigel Millar on behalf of Helensburgh Community Council

Nigel Millar of Helensburgh Community Council gave a presentation to the Committee. He advised that as Statutory Consultees to all planning applications in the area, Helensburgh Community Council have a responsibility to assess them and decide how best to respond. He advised that as they are in the unique position of having a number of Conservation area's differing in size, the Community Council had taken the decision back in 2015 to set up Architecture and Design Helensburgh, which is Scotland's only design panel. He advised that it was made up of members from the Community Council, Architects and Planners. Mr Millar assured the Committee that when commenting on Planning applications, professional advice was always taken.

Mr Millar advised that as the application fell within the Hillhouse Conservation Area, the Community Council had a responsibility to look at the application very seriously, given that a percentage of properties in this area were listed as being in the top 5% in Scotland. He advised that a balanced approach had been taken when giving consideration to the Redholm application. He took the Committee through a number of slides which contained images showing a heavily wooded area where the Copper Beech tree is the dominant tree inside the area. He advised that consideration was given to the contribution to the overall ambience and beauty of the area and that the Community Council had no objections to buildings within the Conservation Area, nor to them being modern and no objections to taking a small garage and making it larger. He outlined the amenity benefits that come to residents who have taken advantage of Helensburgh's slopping side and outlined recent examples of extensions which were both modern and complimentary to the parent

building. He advised that the view of the Community Council was that the proposals were discordant to the parent building, particularly the garage on the East side of the building and that the prominence and importance of the original building was being compromised by the brutal proposal. He further advised that the focus of the building was moving from the centre of the site to the left hand side making for an unbalanced site.

Mr Millar advised that the Community Council compared applications with design policies produced by Argyll and Bute Council and consider whether they meet with the policies. He advised that to ensure consistency they had developed a design statement, which considers whether an application is distinctive, whether it fits in with the local area and open space and whether it is sustainable. He advised that this particular application was considered on these merits with the conclusion being drawn that unfortunately the proposals at Redholm were not a coherent addition.

Turning to the Applicant, Mr Millar advised that the Community Council supported what she was trying to achieve but they felt that the proposals did not enhance the neighbouring area.

OBJECTORS

With the aid of power point slides and a scale model, the objectors, as listed below, gave the following presentation:

Introduction

John Shelton

SLIDE 1 REDHOLM GENERAL VIEWS

Good morning, my name is John Shelton, I live at Suilven, 3 West Douglas Drive, immediately north of Redholm. On behalf of the objectors to this planning application who are available to attend and speak to today, and the support of those unable to be here, we welcome this opportunity. Whilst we have submitted numerous detailed representations to Argyll and Bute Council, and can't possibly reference everything here, we wish to address the key points and material considerations as to why this application should be refused.

We hope to demonstrate to you the importance of the Hill House Conservation Area, reference the relevant planning policies that we believe indicate this application should be refused, before addressing the shortcomings of this planning application and showing you pictorially, and through a scale model, the impact this proposal would have together with the unacceptable and irreparable damage it would have on an ancient Copper Beech tree. We believe this planning application to be not only misleading and erroneous but wholly inappropriate.

We are very concerned that the planners' recommendation has been made on the basis of misleading and inaccurate drawings, illustrations and information. We also have concerns regarding the Report of Handling in how this application has been assessed and the application of planning policy.

There are 23 houses in the Hill House Conservation Area, 16 of them, over half, are Listed Buildings and of course the eponymous Hill House is one of the jewels in Scotland's architectural crown. Some 29 individuals have made representations to A&B Council Planning to object to this development. The majority are residents in the Hill House Conservation Area and they consider the application to be detrimental to the amenity of

residents. We believe this proposal fails to enhance, preserve or protect the special designated area that is the Hill House Conservation Area.

I will now hand over to Michael Davis. Michael is a leading expert on Scottish architecture and he lectures on architectural conservation with the University of Strathclyde Masters course and with the King's Foundation. He will demonstrate the importance and special characteristics of the Hill House Conservation Area - designated as such to ensure it is protected from inappropriate development - and why this proposed development does not preserve, protect or enhance the conservation area.

The Hill House Conservation Area

Michael Davis

Ladies and Gentlemen,

SLIDE 2 – THE HILL HOUSE CONSERVATION AREA

I realise that Helensburgh will not be home ground for all of you. I am going to look at the conservation area in which Redholm is set and demonstrate its significance and character. Redholm is itself a feature of this area. Understand the conservation area and you understand to a great extent what this proposal is to be assessed against – that will help you decide whether it's a pass or a fail.

Redholm sits in the centre of The Hill House Conservation Area. The clue is of course in the name. The most important feature of the conservation area is *The Hill House*, which according to its owners, The National Trust for Scotland, and according to very many others, is the domestic masterpiece of Scotland's famous designer, Charles Rennie Mackintosh. It has attracted hundreds of thousands of visitors over the last decade. It is internationally famous, and it is featured in numerous books and articles. After the tragic burning down of Charles Rennie Mackintosh's Glasgow School of Art, its importance has further increased. To judge the importance of this building and its setting, bear in mind that the NTS have recently spent £4 million on a utilitarian but temporary shelter simply to allow vital repairs to be painstakingly carried out. This shelter, incidentally, allows as a key feature, views over the rest of the conservation area from walkways.

From the local perspective, The Hill House is a major contributor to tourism visits in Helensburgh and it combines with the John Muir Way to funnel visitors into and through the conservation area. Every visitor increases the potential for spend within Argyll and Bute.

SLIDE 3 - MUCH MORE THAN THE HILL HOUSE

The Hill House conservation area includes a great deal more than The Hill House. It incorporates all the villas and their gardens down to the West Highland railway line, as well as those lining the direct approach from Sinclair Street. This is partly to help protect the views to and from The Hill House – an important issue - but it is also intended to protect the amenity and character of the other properties within The Hill House Conservation area which are themselves of impressive significance.

How significant? Well, for such a relatively small conservation area, it includes 6 A-listed buildings, three A-listed structures and 10 B-listed buildings. Such a concentration is very

unusual and indicates a high architectural quality - and official acknowledgement of that quality by Argyll and Bute and by Historic Environment Scotland!

If we go on to look at The Hill House Conservation area in the context of a conservation area all but surrounded by a further conservation area – The Upper Helensburgh conservation Area – we see in the few streets bordering The Hill House Conservation area a further concentration of really significant buildings in generous gardens. Of the opposite sides of only the streets bordering “our” smaller conservation area, there are 2 A-listed buildings, 4 B-listed buildings and 2 C-listed buildings.

The White House, to choose just one, is designed by Hugh MacKay Baillie Scott (long name – big reputation), an internationally famous designer whose work, like that of Mackintosh, was much written about in his own day, and remains famous/celebrated? today. This is one of only two Baillie Scott houses in the whole of Scotland.

In 2007, The Hill House Conservation Area was actually considered as an element of a World Heritage site. Once the restoration of the Hill House is completed by The National Trust for Scotland, I think we can watch this space again.

SLIDE 4 – DREAM HOUSES

Why is there such an extraordinary concentration of top-quality buildings within The Hill House Conservation area and the adjacent sections of the Upper Helensburgh conservation area? The answer is very simple. Development of villa plots reached above the line of the West Highland railway in the 1890s and continued until the Great War, and at exactly this time Helensburgh had become the commuter town for the wealthy and artistic – at exactly the time when late Victorian and Edwardian architecture was at its most suave, ebullient and stylish. Many of the “art” architects who built these villas had actually moved to Helensburgh themselves, and were part of the Glasgow Boys “set”, the avant garde of the time, many of whom had very clear connections with Helensburgh. I could give you a complete talk on links between Helensburgh and many of the best-loved paintings in Kelvingrove!

The many impressive houses which populate the upper slopes are essentially “dream houses” created for the (architecturally savvy) “smart/ art” money of the time, and they show it. I am showing you here a selection of these houses from within The Hill House conservation area. Houses by William Leiper and by A N Paterson – both were artists in their own right, and today written up in many books, journals and articles. When even estate agents see the name William Leiper as a key selling point, then it is time to take notice. More Others? Are by a really stylish and mysterious architect called Robert Wemyss who did beautiful work, but virtually only in Helensburgh. His Strathmoyne in The Hill House conservation area is superb and B-Listed

SLIDE 5 – CHARACTER OF THE AREA

What then, is the character of The Hill House Conservation area?

The hugely significant presence of the Hill House. This is the reason why these buildings are not simply melded into one Upper Helensburgh conservation area. This is, if you like, the conservation area of conservation areas! The total value of the conservation area, according to Fiona Sinclair who is a significant contributor to the RIAS and Buildings of Scotland studies, puts it on a par with the Park/Park Circus area of Glasgow and the New Town of Edinburgh.

There is a real sense of quality and of carefully designed houses, set in spacious gardens, which commentators noted for their combined visual effect. Smaller villas have smaller gardens; larger villas have larger plots, and so on. Today, the original arrangement of boundaries with walls and hedges, then broad grassed verges outside, survives, giving a very distinct quality to the streets. There are few modern insertions into this landscape, and most if not all appear to date from before the conservation area was set up in 1971.

Perhaps one of the most significant features of the conservation area is the care with which most of the significant buildings are maintained, and the very high level of private investment. A number of A-listed buildings have been subject to high levels of conservation and maintenance, and work done to restore or present the gardens appropriately. The quality of the conservation area and its buildings can be judged by the level of expert recognition. Over the last three or four years, Brantwoode, Lynton and Red Towers have each been the subject of study-visits on several occasions by The King's Foundation (formerly the Prince's Foundation) built-heritage courses, and also in their wake by the Victorian Society and the Charles Rennie Mackintosh Society.

SLIDE 6 - IT CAN BE DONE SYMPATHETICALLY

A very good example of a development in the last ten years which complements and does not clash with the character of the area is found at Lynton where an extension and a major outbuilding work very well, even adjacent to The Hill House. More recently, a similarly well-mannered annex has appeared at Red Towers. The appeal of very special architecture has attracted owners who are enthusiastic about their properties and the conservation area in which they are set. You may not often come across a broad swath of owners who are supportive of the planning system and of their conservation area. Perhaps this is something we all need to support/emulate?

SLIDE 7 - ENHANCE OR DETRACT

Well then... Are the current proposals for Redholm suited to the conservation area? This is not simply subjective. I have laid out important evidence – a framework of acknowledged facts which need to be taken into account along with planning guidelines. The Community Council presentation has explored the design issue, and Helensburgh is fortunate to have a Community Council which applies considered criteria to evaluate cases like this. You yourselves have to evaluate such evidence, to use judgement to decide.

Is the design appropriate to the character of this conservation area? A so-called “contemporary” design is not a magic card which means that anything goes – the real question is how well the design is handled.

Does it enhance or detract from Redholm itself and from the conservation area.

Does it sympathetically blend or does it stridently clash?

Is it respectful, or overwhelming and out of place?

Is the scale too domineering for the building it clutches on three sides, and is this a case of the addition being too large for its setting?

I want to assure you that (as a lecturer in architectural conservation, and as a published architectural writer), I am here because I believe these proposals will have a major, detrimental impact and could also provide an unfortunate precedent for similar development. As an enthusiast for this town and its architecture, and as a personal objector to these proposals, I do hope you will refuse the current application.

I will now hand over to Sally Butt, for a demonstration of a scale model of the proposed changes to Redholm.

Sally Butt

Demonstration of scale model

My name is Sally Butt and I live at 2 West Lennox Drive, the neighboring property to the East of Redholm

Both houses were built 1901-3 - the plots having been purchased from the Colquhouns by Peter McKellar. They are pretty much a matched pair, same roofline and chimneys, same house layout with a single-storey side annex to the west, a feature replicated at numerous villas across Helensburgh.

Redholm is a little fancier though, I'd like to think inspired by the newly finished Leiper A listed Red Towers immediately behind, so it has castellation at the door and a wee turret, which I don't have. Mine has a first storey added to the side annex, which was done in 1934, long before Conservation Areas were a thing.

Looking at the applicant's proposals for Redholm, as John has said in his introduction, we were fairly confused, as it is hard to grasp the scale of both the new garage/gymnasium and the new west extension; the submitted drawings and computer images seem contradictory.

So...a group of neighbours decided to commission a model of Redholm from Abacus Modelmakers, a Glasgow firm of more than 30 years' experience. Dimensions are taken from the applicant's plans as submitted to the council and the model is 1:100 scale. Normally they would have fully contoured the grounds but as we only had 3 weeks' notice of this hearing, the grounds are a rough guide.

As you can see, this is the property as it currently is: main house, side annex, garage and 2 sheds. This is Whincroft immediately to the East, with its grand old copper beech tree. So, what the applicant is proposing is to remove these 2 chimneys, which will make the roof no longer match mine, and will look out of character for its surroundings.

The garage and sheds are to be demolished.

And the original 1904 side annex is to be demolished too.

This is the proposed new garage and gymnasium which is a lot larger than the original, more than twice as big, and this now sits directly on the property boundary, dwarfing my back garden - although the applicant's plans show a massive tree, no such tree exists.

Then this is the proposed extension to the west. This is a 38% increase in the house footprint, dwarfing the rather lovely original house and dominating it, constituting

overdevelopment, particularly given the character within the Conservation area with villas proportional to the site they sit in, as Mike said.

The Planning Officer and Built Heritage and Conservation Officer summarised in their recommendation for approval that 'the proposed extensions and replacement garage are subservient to the existing building and will not dominate it' ...

We disagree - As Mike Davis said, is this a case where the additions are just too large for the setting?

Quoting LDP 3, does this conserve and enhance the established character of the built environment in terms of location, scale, form and design?

It's very visible from the front, the new additions are massive and it is a glass and steel box.

Then there is the copper beech. This model tree is green and not dark red as it should be, but they don't make model copper beech models as big as this, so Abacus went with a green tree.

The applicant states that the green scalloped aluminium sheeting covering the boxy extension will blend with the background foliage. The tree is dark red. The box is green.

Then there is the tree position.

The existing and proposed plans submitted by the applicant have the tree in two different locations - here for the existing block plan, PL 001B, but then in the proposed plan PL010C, as we currently have here, the tree is strangely further away.

Because of these inconsistencies we have commissioned a tree survey - the applicants didn't submit one. Suzanne Hamilton, who lives here, will tell you more about the professional tree survey later, however that report, which you should have, places the tree more like in this position.

Next we are going to hear from David Henderson, joining us online from Dubai, who will speak on planning matters.

David Henderson

Planning Policy, Place and Setting

SLIDE 8 HHCA

My name is David Henderson and I live at A Listed Brantwoode to the south of Redholm.

In this section, before we address the specific issues raised by this application, we wish to highlight the relevant planning policies, which are the material considerations on which this application is assessed and determined. In doing so we will show that this proposal does not satisfy the checks and balances afforded by planning policy.

The Report of Handling identifies the Key Constraints/Designations Affected by the Development as Conservation Areas and Listed Buildings. It references the various planning policies that we are going to review here but there is one glaring omission - The Helensburgh Conservation Areas Appraisal 2008 is not mentioned, and it is a key material consideration.

SLIDE 9 PLANNING POLICES INDICATING REFUSAL 1

The Scottish Government in their document “A Guide to Conservation Areas in Scotland” reinforces the same point that a Conservation Area Appraisal is the correct starting point for any development programme to ensure that it is “comparable with the sensitivities of the historic area and enables a planning authority to fulfil their statutory duty to preserve and enhance conservation areas.”

Yet, the 2008 Helensburgh Conservation Area Appraisal according to the Report of Handling has not been relied upon in these findings – and indeed the Appraisal does not accord with the proposed changes in several important respects that I will come on to cover...

This raises concerns that insufficient attention is being paid to the impact of this application not only on Redholm, but on the conservation area as a whole. Indeed, Redholm has almost been treated in isolation rather than being an intrinsic part of what makes this very small conservation area so special as Mike Davis has already explained.

SLIDE 10 RECOMMENDED PLANNING CONDITIONS

Having considered the application the Planning Officer and Built Heritage and Conservation Officer summarised in their justification of why planning permission should be granted that:

the proposed extensions and replacement garage are not considered to be overdevelopment of the site

the proposed design is considered to be subservient to the donor house as does not dominate it

the clear and deliberate design delineation between the old and the new is welcomed as is in line with policy

the proposed materials are high quality and respect the character of the existing property and wider conservation area

it is not considered that the proposals negatively affect the setting of surrounding listed properties and it is considered that this contemporary extension to a traditional villa is in keeping with the character of the wider conservation area and successfully enhances it.

On every point we will explain why we fundamentally disagree that the proposal is in accordance with the relevant planning policies listed.

We have highlighted most of these policies in our presentation as these are the material considerations on which this planning application can be refused.

We appreciate that planners have to balance a great many policies to reach their conclusion. However, we believe that the missing Conservation Area designation should have taken precedence, per the Scottish Governments direction.

SLIDE 11 PLANNING POLICES INDICATING REFUSAL 2

Whilst Argyll and Bute are currently in the process of adopting the Local Development Plan LDP 2, the first LDP and its Supplementary Guidance is still current.

The adopted LDP states ‘The overall vision for Argyll and Bute is one which enjoys an outstanding natural and historic environment’. KEY OBJECTIVE E is to ensure the

outstanding quality of the natural, historic and cultural environment is protected conserved and enhanced.

Regarding Helensburgh and Lomond, the LDP describes it as 'A place of outstanding natural and built heritage..... and with change in Helensburgh's conservation areas guided by a management plan; The LDP also provides for the continued regeneration of our built heritage in ways that do not compromise the very qualities and attributes it is recognised for.

This latter statement is supported in Policy LDP 3 Supporting the Protection, Conservation and Enhancement of our Environment which states: A development proposal will not be supported when it:

(C) does not protect, conserve or where possible enhance the established character of the built environment in terms of its location, scale, form and design.

(D) has not been ascertained that it will avoid adverse effects, including cumulative effects, on the integrity or special qualities of international or nationally designated natural and built environment sites. And

(E) has significant adverse effects, including cumulative effects, on the special qualities or integrity of locally designated natural and built environment sites

Where there is significant uncertainty concerning the potential impact of a proposed development on the built, human or natural environment, LDP 3 also states that consideration must be given to the appropriate application of the precautionary principle. In other words to refuse the proposed development. Thereby allowing the applicants the right of appeal to the DPEA and its team of senior planners to opine.

We are of the view that on the basis of these criteria alone the Redholm application should not be supported or approved.

SLIDE 12 PLANNING POLICES INDICATING REFUSAL 3

Helensburgh's conservation areas contribute significantly to its recognition as one of Scotland's most beautiful small towns – something recently enhanced by the Council's designation of a third town centre conservation area.

The 2008 Conservation Area Appraisal specifically identifies elements that detract from the overall character and appearance of the Hill House and Upper Helensburgh Conservation Areas including:

- new buildings which obscure views of older houses
- removal of chimneys
- modern buildings out of scale with larger buildings
- use of brightly-coloured renderings and paints not in keeping with surrounding natural materials
- dominant horizontal line of modern and landscape windows, out of character with portrait windows of traditional buildings

All of the above are undeniably intrinsic to the Redholm application.

Specifically:

- the proposed development's container block style development, with an emphasis on square vertical and horizontal lines
- external finishes for these extensions and new garage extension,
- specifically muted pink colour external render finish,
- perforated 'scalloped' powder coated aluminium sheets colour muted green,
- dark weathering steel finish,
- flat roofs - dark grey sarnafil,
- windows – framed PPC aluminium,
- first-floor terrace glass balustrade
- single panel glazed and roof flashing to garage
- PPC flashing to colour match external canopy

We would also like to note that whilst the Committee was advised at the October meeting that there were no objections to the colour and materials, in fact a total of 18 objections to them have been submitted.

SLIDE 13 PLANNING POLICES INDICATING REFUSAL 4 NPF4

The over-arching and lead planning policy document to which all LDPs must conform is:
National Planning Framework 4, NPF4.

The Ministerial Forward to NPF4 by Tom Arthur MSP says:

'Changes to our places will not always be easy. People care about their neighbourhoods and rightly and reasonably expect that new development should improve their lives, rather than undermining what they value most.'

A key guiding principle and policy objective of NPF4 is that: 'Scotland's rich heritage, culture and outstanding environment are national assets which support our economy, identity, health and wellbeing.'

Of particular relevance is NPF4 Policy 7 Historic Assets and Places, which says:

(c) Development proposals for the reuse, alteration or extension of a listed building will only be supported where they will preserve its character, special architectural or historic interest and setting (note the word setting).

Comment: while Redholm itself is not listed but it is surrounded by A and B Listed buildings, hence that is quite plainly its setting.

(d) Development proposals in Conservation Areas will only be supported where the character and appearance of the conservation area and its setting is preserved or enhanced. Relevant considerations include the:

- i. architectural and historic character of the area;
- ii. existing density, built form and layout: and
- iii. context and siting, quality of design and suitable materials.

Comment: We do not believe this development proposal satisfies any of these considerations.

(e) Development proposals in conservation areas will ensure that existing natural and built features which contribute to the character of the conservation area and its setting, including structures, boundary walls, railings, trees and hedges, are retained.

Comment: The tree and hedges have already been removed without consent and the original service wing earmarked for demolition is an existing feature along with the chimneys, the removal of which is neither necessary nor valid under item (e).

(f) Demolition of buildings in a conservation area which make a positive contribution to the character will only be supported where it has been demonstrated that:

i. reasonable efforts have been made to retain, repair and reuse the building.

ii. the building is of little townscape value.

iii. the structural condition of the building prevents its retention at a reasonable cost

or

iv. the form or location of the building makes its reuse extremely difficult.

Comment: The original service wing extension to Redholm is characteristic of villas in Helensburgh. This along with the garage could with reasonable investments be retained and reused.

g) Where demolition within a conservation area is to be followed by redevelopment, consent to demolish will only be supported when an acceptable design, layout and materials are being used for the replacement development.

Comment: The design, layout and materials are not acceptable per the stipulations of the Hill House Conservation Area as I have already explained.

The Planning ROH states: 'Whilst the contemporary extension obviously changes the appearance of the house, I believe that it is complimentary and complies in policy terms with NPF4 Policy 7 (d) and LDP2 Policy 16.'

We absolutely disagree for the reasons I have just explained. Indeed, we submit that the proposed development at Redholm fails on every single criterion of the most important applicable policy, NPF4 Policy 7.

SLIDE 14 GROUNDS FOR REFUSAL MATERIAL CONSIDERATIONS

LDP2 Policy 16 Listed Buildings states Development: There is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed conservation area or its setting. New development within these areas and on sites affecting their settings must respect the architectural, historic and other special qualities that give rise to their actual or proposed designation.

Again, we cannot agree with the planner's opinion that this proposal complies in any way shape or form with this policy.

NPF Policy 16 contains the principle of 'Place' and its importance is highlighted in this policy which states that householder developments will only be supported where they 'do not have a detrimental impact on the character or environmental quality of the home and surrounding area in terms of size, design and materials'.

NPF16 also states:

B) Development proposals will be supported where they are consistent with the six qualities of successful places:

One of these six qualities is 'Distinctive', specifically referenced in the RoH. 'Distinctive' is defined as: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.

Comment: The Redholm proposal does not support local architectural style and in no way does it reinforce the identity of the area so valued by its resident community.

NPF16(c) states: Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places will not be supported.

In summary....

We believe that this proposal does not contribute positively to the Hill House Conservation Area, cherished not just nationally but internationally and that whilst it may be 'distinctive' it does not support 'attention to detail of local architectural styles' and that it is 'detrimental to the amenity of the surrounding area'.

Designation of this part of Helensburgh as a conservation area, since 1971, is a very clear and unequivocal recognition that it is a place of special characteristics that should be protected.

A planning authority has a statutory duty to preserve and enhance conservation areas. We are here today to defend the special character, quality and unique sense of place of the Hill House Conservation Area and we hope that the Committee will agree with us and determine that this proposal is detrimental to the integrity of this special area and therefore refuse planning consent.

I will now hand back to John, who is going to address some of the key factual flaws of this planning application.

An erroneous baseline and inaccuracies in the planning application.

John Shelton

SLIDE 15 HHCA VILLAS

I first wish to comment on the Design & Access statements of 30th March, 24th April, and 22 September 2023 prepared by the architect, Ruari Gardiner of G53 Architects on behalf of the applicant. We have found them to be misleading and disingenuous.

These statements, that seek to justify the proposed development, we feel have provided an erroneous baseline and contain many statements that are simply untrue. They describe the house as 'having lain vacant for a number of years' despite the previous owner having been resident until September 2022. Mention was made of the property suffering from a 'myriad of structural problems, widespread dilapidation, poor condition, deterioration and lack of ongoing maintenance'. This was not the condition and we find it frankly impossible for it to have deteriorated to the condition claimed by the applicant in just 6 months.

Five independent expert reports on the condition of Redholm, commissioned by the vendor clearly confirm the actual condition of the house. These independent specialist reports, which go to the heart of the applicant's arguments for this proposed major

reconfigurations and redesign, have been ignored in the Report of Handling. Given the seriousness of the omission, we do not believe any planning decision on the loss of Redholm's historic architectural features can be made under these circumstances.

Our concerns were submitted in Objectors' detailed submission dated 28 August 2023

This highly pertinent evidence was ignored by the Conservation Officer and not considered or referenced in the Report of Handling. The specialist building reports were described and dismissed as 'historical condition reports'. In effect, it appears that the Conservation Officer just accepts prima facie the Applicant's erroneous claims that would lead to the loss of numerous and significant architectural features. We believe that relevant evidence should not be ignored and disregarded in this way.

SLIDE 16 ARCHITECT DRAWINGS WITH CGI RENDER OF EXTENSIONS ADDED

The second Design and Access Statement, Revision B, dated 22 September 2023, still contains erroneous and inaccurate information. This document sought to refute the issues raised by the Conservation Officer, the same issues about which we are so concerned. Whilst the Officer might have been swayed to change her opinion, until finally reaching the frankly bizarre conclusion this building would enhance the conservation area. The objectors have not been convinced and believe that all of the issues first identified by the Conservation Officer remain valid and grounds for refusal. We believe this extension, as seen in the insets in the above slide on screen, would pose a dramatic change to the design character and original design aesthetic and would be incongruous and out of place in the Hillhouse Conservation Area.

A striking element of the architect's Second Design and Access Statement's response to the Conservation Officer's concerns about the proposal was the constant repetition, 'that poor quality / low architectural merit post war housing have diluted the character and had a significant detrimental effect on the character of the Conservation Area'.

This is not a justification for permitting further incongruous and inappropriate design and development. Moreover, the Conservation Area was created after these newer houses were built, presumably to avoid further erosion of the architectural landscape.

Surely the Conservation Area was designated to prevent further inappropriate buildings.

SLIDE 17 – SCREENS

This is a slide which shows better the type of metal screening that is to be used on the side extension. We say this would be appropriate on a new office block or a commercial building not on the side of Redholm.

SLIDE 18 - PLANS

Turning now to the actual planning application

According to the architect's submissions, the proposed extensions represent a 100 square meter increase in footprint. This is a 38% increase in the footprint of the existing building. The lead planner states that this is acceptable as permitted by policy, but does not take cognisance of the Helensburgh Conservation Areas Appraisal, a material consideration, which comments on the importance of size, scale and maintaining the setting of villas in their plots. Or indeed NPF4 Policy 16 which states that householder developments will only be supported where they 'do not have a detrimental impact on the character or environmental quality of the home and surrounding area in terms of size, design and materials'.

The slide shows the demolition areas in darker red and the large light red hatch shows the full extent of the footprint of the site works. You can see just how big that will be from the drawing.

Whatever the permitted percentages are, this increase in house size by well over a third is, in our view, disproportionate overdevelopment. We believe it will dominate the original villa and be a dramatic change of its character and original design aesthetic. We also have considerable concerns about the photographs provided by the applicant and Conservation Officer to assess the overall setting of this proposal. They are taken from obscure positions and angles which minimise the actual impact on surrounding properties and the streetscape. We have provided photographs that clearly indicate the visual impact on setting would be highly detrimental to the Area. However, these have been ignored and we would be grateful if the Committee would consider the following more realistic and representative illustrations in reaching your determination.

SLIDE 19 CGI OF SOUTH ELEVATION

You have already seen our accurate model but now let me show you what the applicant has provided.

The scale drawings and Computer-Generated Models or CGIs, one of which is shown here on screen of the south elevation, do not correspond to each other or reflect true scales and mass. Scrutiny of the applicant's drawings clearly indicates the CGI model provided by the applicant is incorrect. We believe that the planners have not identified these discrepancies and have reached a recommendation based on inaccurate and misleading information presented in the planning application.

For example:

1. The ground floor west extension is shown at a scale as if it is flush to the existing building (whereas it extends out slightly northwards from the main building, and so should appear larger in the CGI).
2. The first-floor extension is substantially minimized. The architectural drawings show it is virtually flush with the existing building on the rear elevation, so the CGI should show it to scale with the submitted elevation drawing.
3. The Copper Beech tree at Whincroft has been depicted in the wrong place, metres further away than it actually is. We wonder if it has been moved to give an erroneous impression of the proposal's impact on its survival. We have a lot more to say about the tree in a moment.
4. There is also a tree shown on the drawing that does not even exist.

SLIDE 20 CGI OF NORTH ELEVATION

In this Computer-Generated Image of the north elevation the flattened roof with no chimneys shown in blue on the CGI, which was subsequently redesigned on the advice of the Council to retain the original profile, albeit only two of the four chimneys are to be retained if this application is granted.

Using this CGI to illustrate the point to October PPSLC meeting, the Lead Planner asserted that the CGI image demonstrates that the proposed extensions are 'subservient to the existing building and will not dominate it'.

These inaccurate models have been relied on in the planners' report and in the Lead Planner's remarks as evidence of acceptable scaling. We believe relying on such misleading and inaccurate drawings is a serious error in process and grounds for refusal.

SLIDE 21 OUR CGI

This simple CGI on screen is based on the actual stated dimensions of the drawings. We believe the proposed extension would have a major detrimental impact on the Redholm and its setting. We do not consider this to be subservient to the existing villa or to have no impact on the setting of A listed Red Towers behind or to the conservation area as a whole.

I would now like to turn to another topic if I may, namely that of the unauthorized works that have been undertaken on the Redholm site.

Drainage/Unauthorised Works

SLIDE 23 EXPOSED REDHOLM WITH TREES FELLED AND SAVILLE'S INSET

You may recall I said I resided at Suilven No 3 West Douglas Drive, immediately to the rear of Redholm with which we share a conifer hedge boundary. I wish to raise the concerns of residents about a number of unauthorised works at Redholm undertaken by the applicant without planning consent.

Prior to plans being submitted, a number of trees and shrubs, which provided screening, were removed from the front of the property without consent. All trees in a Conservation Area are covered effectively by a blanket Tree Preservation Order and permission is required to do any works on them.

The planning application states that there are no trees on or close to Redholm. This is untrue, there were plenty of trees before they were cut down without consent. You can clearly see them in the picture at the bottom right.

At the October PPSLC Councillor Irvine commented that he had visited the site and found it looked rather stark and did not resemble the photographs submitted by the applicant or Conservation Officer. In fact the trees that were felled without permission are shown on the applicant's submitted illustrations, there is **no mention** of this inaccuracy in the Report of Handling. These drawings also show trees that don't actually exist, for example in the rear garden of 2 West Lennox Drive, and overall these give an inaccurate impression of the setting of the site and screening of the proposed development.

In the RoH in response to 'Concern that the trees indicated on submitted plans are not correctly shown' the planners' Comment is; I have visited the site and therefore have a good understanding of the existing trees within the site and surrounding the property. Further, in addressing the concerns raised by objectors the ROH states 'Note that trees have been removed within the proposals site without consent. Comment: This is being dealt with as a separate enforcement matter'. There is no indication of enforcement action being taken on the Council planning portal.

We would suggest that the planners do not in fact have a good understanding of the trees within or surrounding the site when the drawings are wrong, trees have been felled, other ones invented and the copper beech tree is shown in the wrong place on the applicant's drawings. We feel these matters should not only be addressed accurately, but they should also have been reported accurately in the RoH.

In addition to trees being felled, the original front hedge of species reflecting the planting in the rest of the Conservation Area was removed. The RoH describes the newly planted replacement hedge as 'native to Scotland'. This is also not true; it is a New Zealand species *Griselina littoralis*.

I will now turn to the extensive and unauthorised excavations at the rear of the property.

SLIDE 24 UNAUTHORISED EXCAVATIONS 'DRAINS'

In the last week of June 2023, excavation work was begun, without consent, and involved the further removal of trees and soil from a large area of the rear garden. The effect of this was to destroy a field drainage system, giving rise to drainage problems, which have not yet been rectified, and an unsupported embankment.

The slide, top left, shows how the rear garden used to be. The picture, top right, shows how it is today - a large area of flat ground which constantly floods, and an embankment which is unsupported and constantly eroding. Apart from the possibility of collapse of the exposed soil, the erosion and exposure will also be damaging the roots of the screening boundary hedge. Considering there is water ingress into the solum of Redholm identified by one of the specialist reports by Design Engineering Workshop, this large open area of excavation, far more than is necessary to repair drains, is probably just exacerbating the problem.

Objections were raised about these extensive excavations, and concerns about both the flooding and possible damage to a sewer pipe running across the property. This work was subject to a temporary stop notice being issued by the council in June 2023. However, further unauthorised excavation works were then carried out in the July shortly after the temporary stop notice expired. At this time approximately 20 metres of new drainage pipework was installed down the side of the property, bottom right, in the picture, and across the rear of the property, bottom left.

The initial excavation works undertaken in June 2023 are subject to an Enforcement Order issued by the Council for the carrying out of ground engineering operations constituting development. For information this work is referred to as Reference No. 23/000099/ENOTH3, Monday 12 June 23.

The carrying out of ground engineering operations constituting development

4 West Lennox Drive G84 9AD

Ref. No: 23/00099/ENOTH3 | Received: Mon 12 Jun 2023 | Status: DC

Application Submitted

This is noted in the Report of Handling but the later pipe laying work that has already been completed is not mentioned. I have still not received a reply to my last email enquiry of 25 November 2023 about the second unauthorised works.

I have particular concerns about the impact on the drainage from my property, which runs to the main foul water drains through Redholm's grounds. The Council planners have dismissed this as a civil matter and of no concern to them. I find it unacceptable for engineering works, which presumably would be authorised if planning permission is granted, to be permitted when they have adverse and potentially serious effects on surrounding properties.

Whilst the planning system disregards any enforcement actions at a property and considers them as irrelevant to the determination of a planning application, we feel that this cavalier attitude of removing hedges, cutting down trees, the knocking down of a gatepost, and excavating large areas is very concerning. It does not give the neighbours any confidence that, if this planning application were permitted, the works would actually be done in line with any attached planning conditions.

I will now hand over to Suzanne Hamilton who will speak about the Copper Beech tree.

The Copper Beech Tree

Suzanne Hamilton

SLIDE 25 TREE PHOTO

Hello, my name is Suzanne Hamilton and I live directly next door to 4 West Lennox Drive at Whincroft, 2A Upper Colquhoun Street.

Here is a picture of the Copper Beech tree that stands within my garden, which is said to have a further 40 + years' useful lifespan.

A TPO, Helensburgh 01/24 has now been served on this tree dated 24 January 2024.

We were very concerned to see that the tree had not been properly considered in the planners' assessment of this application, and even more so to see it was depicted on the application drawings in the wrong place. Indeed, the position of the tree is inconsistent within the applicant's first drawings PL001 and PL010.

The concerns raised by the objectors about the impact this proposal would have on the Copper Beech are noted in the ROH as 'Concern that the proposed extension and drainage works will affect the roots of an important copper beach tree located within the neighbouring garden.'

The Planners Comment on page 4 of the ROH is: This is noted and I have visited the site to understand where the extension will lay in relation to the tree roots. It is confirmed that the proposed extension is out with this trees canopy. However, a safe-guarding condition will be added to the decision notice requiring that this tree is protected at all times during construction works. It is also noted that a TPO is being sought by the authority to further safeguard this tree.'

As noted, the TPO has now been granted.

At the October PPSLC Councillor Brown queried the plan showing the trees and sought confirmation on the depiction of the canopy and root zone. We were surprised that the lead planner was unable to answer her request for clarification on what was depicted on the drawings until she was advised by a third party and then confirm, incorrectly, to Councillors that the Root Protection Area was not impacted by the proposed the development. The proposed development would in fact have a very severe and adverse impact on the RPA. This once again raises concerns about the scrutiny that has been applied to processing this planning application by Council officers.

As a professional Tree Survey was not submitted as part of the planning application, and the Council did not request one, residents have paid to have their own professional tree survey undertaken. This was submitted to the Council 5 working days before today's

hearing and on receipt of the tree survey two planning officer visited the site on 2 February.

SLIDE 26 APPLICANT'S PLAN AND TREE SURVEY PLAN OF LOCATION - DISCREPANCY

The tree survey was undertaken by Liam MacKenzie, who has all the necessary qualifications and a wealth of experience. The survey drawings are shown here and clearly and unequivocally demonstrate that the proposed extension would severely impact the Root Protection Area of the tree.

I would like to summarise the key findings:

- The root system of the tree would be damaged by this proposed development which would encroach heavily into the root protection area.
- The Proposals as they stand, violate the best practice addressed by British Standard BS5837:2012 Trees in relation to design, demolition and construction, and are incompatible with the wellbeing of the tree.

SLIDE 27 TREE WITH ROOT ZONE AND EXTENSION AND APPLICANT'S ILLUSTRATION OF ROOTS

More specifically the tree survey states:

- According to BS5837:2012, which is the document that defines best practice in these matters, this tree requires a root protection area of 652M2 which means protective fencing as specified in BS5837:2012 Section 6.2 would be erected some 14.4 metres from the centre of the tree. This fencing would be installed before any materials or machinery are brought onto site and before demolition, development or stripping of soil would commence. This creates a construction exclusion zone around the retained tree. This protected area would be treated as sacrosanct with no work taking place therein.
- A tree harmed in such a way is at an increased risk of dysfunction, degeneration and a shortened useful life expectancy, whereby it may become unsafe and need to be removed.

Liam MacKenzie and John Shelton have worked closely on this report and are here today to answer any questions you might have in person.

SLIDE 28 TREES MATERIAL CONSIDERATION

In essence, the decision before Councillors today will be to decide the fate of this mature tree – its stature and contribution to the amenity of my garden and the wider Conservation Area cannot be replaced by new planting in my or my children's lifetimes.

It is a material consideration in determining this planning application and I do not understand why the applicant's submission has not been given more scrutiny as it clearly misrepresents the actual situation on the ground.

The material finish of the second storey of the proposed extension with green tinged perforated metal screens, which the architect claims will blend in with foliage, will show

starkly against the red sandstone and copper beech in near proximity. It is incongruous and alien and we remain unconvinced that it will do anything to blend in to its surroundings.

As the owner of the beech tree, I would like to make a short statement from my insurance company to whom we have provided a copy of the tree survey report.

Our insurers have advised that 'in the event of approval of the application, and works commencing on the west side of 4 West Lennox Drive, where there is any subsequent damage to the beech tree, to property and/or persons, our insurers will want to understand the extent of works within the tree root perimeter, the decision making process leading to such works, and the associated insurance position of the parties impacted in order to help our insurers establish any insurance claim position and final liability'.

Having established that the Objectors who had indicated that they wished to make presentations in advance of the meeting had concluded their submission, and having noted that Alistair McLuskey had intimated at the start of the meeting that he wished to speak against the application, the Chair invited Mr McLuskey to address the Committee.

Alistair McLuskey

Mr McLuskey gave the following presentation:

- In contradiction of the Applicant's claims, and as a relative newcomer to Helensburgh, I have found the Objectors to be some of the most charming and passionate people I have ever met - in addition to the numerous unapproved activities undertaken by the Applicant, they had also had to put up with these works being undertaken up to 10 pm at night.
- Also, an 'avalanche' of new documents had been submitted on the Council planning portal yesterday with Objectors having no chance to review them - no tracked changes for example were provided.
- These documents have been relied on by Planning today and as a result it is not a fair process.
- We had been told by Planning that no further submissions / plans would be accepted and submitted our objections according to the rules.
- It is unfair to Objectors and these documents should not be considered as part of the Application.
- Also, numerous professional reports on the state of Redholm had been ignored by Planning - I had raised these concerns with Mr Fergus Murray of A&B C to no avail.
- I also believe that 999 people out of a 1000 would conclude that this application does dominate Redholm.
- Finally, it was not correct what Mr Morris had said about water ingress into the solum - we had had a similar problem and this can be dealt without destroying a well-loved tree.
- You can't stop water ingress once it had made channels for that flow into the solum.

- There were numerous systems available to deal with such problems within the solum.

Having established that all objectors had had an opportunity to speak and having earlier agreed that the meeting be adjourned at an appropriate point in proceedings, the Chair moved and the Committee agreed to adjourn the meeting at this point. The Clerk advised that the re-convened meeting would be called at the earliest opportunity.

The meeting re-convened on Tuesday, 19 March 2024.

Present: Councillor Kieron Green (Chair) Councillor John Armour
Councillor Jan Brown
Councillor Audrey Forrest
Councillor Graham Hardie
Councillor Mark Irvine
Councillor Liz McCabe

Attending: Iain Jackson, Governance, Risk and Safety Manager
Kirsty Sweeney, Area Team Leader – Planning Authority
Emma Jane, Planning Officer – Planning Authority
Gail Crawford, Applicant
Ruari Gardiner, Applicant's Agent
Craig Gray, Applicant's Architect
Julian Morris, Chartered Arborist (On behalf of the Applicant)
Kim de Buitel  ir, Design and Conservation Officer - Consultee
Nigel Millar, Helensburgh Community Council - Consultee
John Shelton – Objector
David Henderson – Objector
Sally Butt – Objector
Suzanne Hamilton – Objector
Alistair McLuskey - Objector
Liam McKenzie – Chartered Arborist (On behalf of Objector's)

The Chair welcomed everyone to the re-convened meeting.

Apologies for absence were intimated on behalf of Councillors John Armour, Andrew Kain and Luna Martin.

For the purposes of the sederunt Mr Jackson, read out the names of the Members of the Committee and asked them to confirm their attendance.

Mr Jackson advised that only those who had made presentations to the Committee at their last meeting would be entitled to speak. He read out the names of those representatives and asked them to confirm their attendance.

There were no declarations of interest intimated.

The Chair explained the hearing procedure that would be followed and invited the Planning Officer to provide a short update in relation to the adoption of the Local Development Plan 2 (LDP2).

Ms Jane advised as follows:-

I would like to give a brief overview of Supplementary Report 2 which was issued last Tuesday, 12 March in preparation for the continuation of the hearing today. This report was provided to update members on the various matters that have arisen subsequent to the hearing in February. This report covered the following;

ARGYLL AND BUTE LOCAL DEVELOPMENT PLAN 2

It is noted that the Argyll and Bute Local Development Plan 2 (LDP2) was adopted on 28 February 2024. As of this date, the 'Development Plan' for Argyll and Bute is National Planning Framework 4 and LDP2 which require to be applied holistically with preference afforded to LDP2. For the avoidance of doubt, it is also confirmed that the Argyll and Bute Local Development Plan 2015 and its associated Supplementary Guidance are now superseded.

Having regard to this, the determination of this application now requires to be undertaken with primary reference to NPF4 and LDP2. It is noted that within the main Report of Handling and Supplementary Report number 1, officers had previously taken into account and applied the relevant policies of LDP2 as this was a significant material consideration at that time. The commentary provided by officers confirms that there is no substantive difference between the relevant provisions of the now superseded LDP 2015 and the recently adopted LDP2 in so far as these are relevant to the current application, with the single exception that the policies of LDP2 are generally more favorable of the proposed contemporary extensions, the supplementary report goes into further details on the specifics of this.

In summary, it is confirmed that the adoption of LDP2 does not give rise to any substantive change to the matters considered within the assessment previously undertaken by officers in respect of this application. Notwithstanding the adoption of LDP2 during the determination process, the proposal continues to be viewed as consistent with the relevant provisions of the Development Plan (NPF 4 and LDP2) and the recommendation of officer's remains that planning permission should be granted subject to the conditions and reasons as included within supplementary report number 1.

ADDITIONAL REPRESENTATIONS:

It is also noted that subsequent to the issuing of supplementary report number 1, which covered any additional representations received after the main report of handling was published, we received further representations. This has resulted in a total of 30 (29 objections and 1 representation). The 2 subsequent representations were both from existing objectors. Details of the comments not addressed within the main report or supplementary report number 1 are covered in supplementary report number 2 furthermore, it is considered that the points that have been made are addressed appropriately within this report and they do not alter our recommendations.

PROPOSED TREE PRESERVATION ORDER:

Lastly, the proposed Tree Preservation Order (TPO) for the copper beech tree within the garden grounds of 2a Upper Colquhoun Street, Helensburgh which PPSL members recommended approval for on the 18 October 2023 is subject of a TPO as of the 24 January 2024. It was previously advised verbally and within supplementary report number 1 that this TPO would come into effect on the 8 February 2024, however, this was an error and this date should have been noted as 24 January 2024. This error occurred as officers mistook the date the TPO would be published, the 8 February, as the date it came into force.

Subsequent to this there have been a few matters which require rectification in relation to the serving of the TPO. The TPO served contained an error in that the subject tree was incorrectly described as a Cedar Beech and not the correct Copper Beech. The TPO order has been re-served to all interested parties on 8 March 2024, with a covering letter pointing out the error. The TPO order will not be modified at this stage and should the order be confirmed in due course, the revised name of the tree species will be confirmed under modification and this error will be rectified at that time.

When asked by the Chair, Members confirmed that they were content that there was no new material or information to consider.

MEMBERS' QUESTIONS

Having noted the differing accounts provided in relation to the RPA from either side, Councillor Brown asked both Arborists to confirm the protected area.

Mr Morris referred to British Standard BS 5837 which states that the RPA should be calculated initially with reference to the stem diameter when drawing the circle, but that the circle could be modified to any shape to fit any existing conditions.

Mr MacKenzie advised that the RPA was 14.4m from the tree in a circle. He then advised that you create a circle to give a volume, and that the shape could be modified to fit any conditions but that the volume of protection could not be modified.

Councillor Irvine enquired as to the potential regrowth of roots if they become damaged or severed.

Mr MacKenzie advised that in most cases a tree will grow new roots. He stressed that the tree in question was an older tree so he considered it to be more vulnerable as the capacity to regrow becomes harder as the tree ages. He advised that the ability of any tree to gain and lose roots each year is contingent upon a good rooting environment.

Mr Morris agreed with Mr MacKenzie, but advised that the resultant removal of large branches from the crown of the tree on his client's side would have an effect on the ability of the tree to regrow roots on the same side. He advised that if the development was to sever roots, it is likely that they would regrow if they had room to do so, however advised that with the branches having already been removed, there would be less of a need for them to do so.

Councillor Irvine asked whether there was a risk that at some point in the future the regrowth of the roots of the tree would impact on the structural integrity of the proposed extension.

Mr MacKenzie advised that there was no risk due to the distance of the tree from the proposed extension, as at that distance, the roots would be smaller. He outlined where direct and indirect damage could occur.

Mr Morris agreed with Mr MacKenzie that the distance was too great for any direct damage. He spoke of soil issues and outlined possible clay shrinkage, but advised that the lack of clay in this area together with the volume of rainfall would negate any possible shrinkage.

The Chair, Councillor Green enquired as to the remaining lifespan of the tree and asked whether it was the opinion of the Arborists' that the removal of some roots would render the tree more vulnerable, ultimately reducing the lifespan as a result of the proposed works.

Mr Morris advised that any roots removed would only affect a small part of the root system and that as roots can develop wounds just as branches do, he didn't anticipate that there would be any noticeable change to the vitality of the tree in the longer term.

Mr MacKenzie advised that he disagreed with Mr Morris' opinion given that the tree as a species is known for being more vulnerable than many other species. He spoke of the age of the tree and advised that just because it had lost branches on one side, it could afford to lose roots on that side also. He further advised that branches had been removed from the tree in 2019 and that new roots had been found to have grown and be functioning.

Councillor Green enquired as to whether both agreed that the reasonable lifespan of the tree was in excess of 40 years and, what reduction if any, could reasonably be expected as a result of the proposed works.

While both Mr Morris and Mr MacKenzie agreed with this figure, Mr MacKenzie stressed that he wouldn't like to put a number on how many years the lifespan of the tree would reduce by as a result of the proposed works. He referred to the minimum RPA as set out in British Standard BS 5837 and advised that some bodies are recommending a minimum RPA of up to eighteen times the stem diameter of the tree.

Referring to previous discussions around the possibility of re-routing service pipes, Councillor Irvine enquired as to how much root severance would require to take place regardless of service pipes or foundations.

The Applicant's Agent, Mr Gardiner advised that this would be less than 5% of the RPA and less than 2% of the total rooting area.

Councillor Irvine asked whether there was an engineering solution that would negate the need for any root severance.

Mr Gardiner advised that there are ways of addressing as part of the technical design further on to ensure minimal damage or impact to the tree.

Councillor Green asked why these measures hadn't been done already.

Mr Gardiner outlined the Building Warrant process and explained how this would be incorporated at a later stage within the Technical Design. He confirmed that the proposed works had taken into account and met British Standard BS 5837.

Councillor Brown enquired as to the use of screws to minimise the damage and sought clarification on the process as a means to understanding why this potential solution hadn't been put forward at this stage.

Mr Gardiner outlined the process from achieving planning consent to undertaking the technical design. He advised that working with the Arborist had ensured that damage to the RPA was less than 5% which complies with the British Standard. He added that this could be further improved upon through the use of ground screws or raft foundations.

Councillor Brown expressed her concern that this information was only coming to light now, she advised that this information could have negated a lot of questions.

Mr Gardiner advised that this had been touched upon in the Design and Planning Statement.

Mr Morris advised that regardless of the outcome of the application, there would still be a need to replace the field drains, which would also result in some root severance.

Councillor Green asked the Planning Authority to confirm whether it was their opinion that the conditions proposed were enough to mitigate against the concerns raised by Members.

The Planning Officer confirmed that it was her belief that the updated conditions provided in Supplementary Report Number 1 would be enough.

Discussion was had on the wording of condition number 8, with Ms Jane advising that this condition sets out the mitigation and control measures that would afford the best level of protection to the tree. She advised that at this stage the applicants, without the need for consent, could sever any tree roots that are interfering with the field drain that runs close to the boundary, regardless of the TPO. She further advised of the works undertaken by the applicant to revise their proposals in respect of the drainage in an attempt to minimise the damage to the tree.

Councillor Irvine asked the Objectors Arborist whether the engineering solutions discussed offered adequate protection to the tree.

Mr MacKenzie advised that in order to provide a response to this question, he would need to see proposals with a lot of detail on how the piles would be sorted, the levels of irrigation, drainage etc. He referred to section 7.5.1 of British Standard BS 5837 and advised that this states that strip foundations should be avoided as they can result in excessive root loss.

SUMMING UP

Planning

The Area Team Leader summed up as follows:-

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. For clarification, as the Planning Officer explained, the development plan now consists of NPF4 and LDP2. As we have stated there is no substantive difference between the relevant provisions of the previous plan and this recently adopted LDP2.

During the course of the hearing both today and on 7 February 2024, Members have heard arguments seeking both to support and oppose the proposed development, and its expected impacts.

The concerns raised by objectors, which you heard on 7 February 2024, covered a wide range of issues including the impact of the development upon the setting of the neighbouring listed buildings, the direct impacts on the Helensburgh Upper Conservation Area, concerns about the contemporary design in the context of these historic assets, the scale of the development including overdevelopment of the site, the neighbouring Beech tree covered by Tree Preservation Order, the concerns about loss of privacy and overlooking and the concerns about drainage works.

Whilst these are all issues that are relevant to planning and are material considerations, the position detailed by planning officers in the report of handling dated 13 October 2023 and presented at the PPSL committee on 18 October 2023 and the supplementary report as published on 6 February 2024 and the further supplementary report 2 presented today provided members with a detailed position of the planning officers identifying the single fundamental issues which is that the proposal is considered consistent with the policy provisions of NPF 4, the adopted LDP 2.

The key points to note are that:

- Officers do not consider the proposal results in overdevelopment of the site.
- Officers consider the design of the extensions to be contemporary and provide a clear and deliberate design delineation between old and new and are in line with the design policies.
- Officers consider there is no adverse impact on the setting of the neighbouring listed buildings or the wider conservation area
- Officers have considered overlooking, loss of daylight/privacy and amenity of surrounding properties
- Officers have considered the impact on tree roots and the drainage proposals and have concluded that the risk to the trees on the application site and within neighbouring gardens, including the beech tree is minimal and there will be no loss of any trees, compliant with policy.

Design

The case set out by the objectors focus around the interpretation of our design policies and they have reached a different conclusion and consider the design to be contrary to the development plan as the proposals do not complement the existing house style and design and do not give a coherent visual identity and does not blend with the parent house. There has been particular concerns about the scale and footprint. They have explained why they do not believe it to be subservient.

Officers have acknowledged that the design and massing of the extensions represent a departure from the characteristic of the surrounding buildings and extensions present in the locale. However, the extension materiality complements the existing house and surrounding houses and is high quality. The massing and proportions of the extension and it is considered to be subservient to the main house.

Local Development Plan 2 Policy 10 is of particular note as it gives a clear steer away from mimicry and pastiche design and a focus on honesty and legibility in contemporary design. It is noted that in the assessment this was a significant material consideration given the heightened status of the proposed LDP at the time and now this Policy is the adopted policy, strengthening further this point.

Historic Assets

Members are reminded that they have heard a detailed presentation from our Design and Conservation Officer based on a thorough assessment of all the matters relating to the historic assets. The objectors have also set out the importance of the Hill House Conservation Area and explained its significance in Scotland-wide context in terms of the number and density of listed buildings. The Conservation Area Appraisal guidance has been set out in detail by both the Conservation and Design Officer and the objectors and both have set out their points in relation to how they do not consider it to preserve or not preserve the Conservation Area. There was concern particularly noted of the material of the upper floor.

The officers, have clearly explained how the proposal is consistent with the relevant policies of NPF4 and LDP given it is considered the character and appearance of the conservation area and its setting is preserved and enhanced given the context, siting, quality of design, suitability of materials, existing density, built form and layout.

The physical change within conservation area does not necessarily need to replicate its surroundings, with the challenge being to ensure that all new development respects, preserves the conservation area. It is considered the extensions will have a positive impact on the area and are high quality as has been set out clearly by the applicant. The extension represents an improvement over the existing extension to the dwelling house and outbuildings on site, and it is considered the resultant proposal will have a preserve the character, appearance and setting of Conservation Area at this locale.

Tree

There are also significant concerns raised about the impact on the neighbouring tree beech from severing of roots to construct the extension. As explained by the planning officer, evidence has been presented that explains how the tree is causing a nuisance to the drains of the neighbouring property and under the TPO legislation works to abate the nuisance is allowed without the need of consent, if evidence is provided of the nuisance. There was extensive detail about the tree from both the applicant's and objectors tree specialists. The inaccuracies of the plans in relation to the location of the tree which have now been addressed.

Members are however reminded that NPF4 Policy 6 and Policy 77 of the adopted local development plan state that it is only where there a loss of ancient woodlands, ancient and veteran trees or adverse impact on their ecological condition that would justify a refusal. In this instance it is considered that there is no adverse impact on the beech tree or any other trees and the proposal is compliant with the policies. There are a number of conditions that officers are recommending to ensure the preservation of the tree and these can be amended, if Members wish to require agreement of construction methods.

Amenity

In terms of overlooking and privacy, I remind Members that this has been considered in detail and conditions are recommended to ensure the privacy of neighbours.

Conclusion

In conclusion, we have heard differing opinions presented to committee members with the objectors particularly highlighting the proposal is contrary to policies in relation to design and conservation areas. Members have had the opportunity to look at a model of the

proposed extension prepared by objectors. Also we have heard from the applicant who is seeking to protect, future proof and modernise their home.

I conclude by stating that officers are recommending to members that the application is to be approved subject to the conditions and reasons appended to Supplementary Report No. 1.

Applicant

The Applicants Agent took the opportunity to provide context around their company, G53 Design Limited. Mr Gardiner advised that they are one of Scotland's top architectural practices who undertake conservation and preservation on some of Scotland's most sensitive buildings and outlined a number of the buildings they have undertaken work on to date.

Mr Gardiner addressed the discussions that had taken place around the Copper Beech tree and advised that they would be willing to adapt their designs to appease these discussions and that they would be happy for the Planning Authority to impose conditions to ensure that the vitality of the tree is maintained with minimal damage.

He advised that having his professional integrity questioned was upsetting and appealed for context to be afforded to the project. He advised that through the designs they had tried to enhance and improve upon the diversity that was already in place within the area, giving Helensburgh something it could be proud of, while delivering the best.

The Applicant's Arborist spoke of Condition 8 contained within Supplementary Report Number 1. He advised that the applicant wished it to be noted that she was happy to have this condition amended to also say that a detailed Arboricultural Method Statement as approved by the British Standard be approved by the Council and could include high land ground beam and irrigation of the solum if so required to protect the remaining 4% of the RPA.

The Applicant, Gail Crawford took the opportunity to address the volume of objections to her application. She outlined objections that had come from outwith the area and highlighted where there was more than one objection from a household. She advised that other than the two objections from neighbours residing at 2a and 2b West Lennox Drive there had been no objections from any other immediate neighbouring properties.

Ms Crawford spoke of the Copper Beech tree and advised that the concerns raised by the owner of the tree had never been raised until such time as the application for Planning Permission had been lodged. She outlined a number of issues, of the tree owners making, that she believed impacted upon the wellbeing of the tree which included the erection of a large boundary fence, a suspended rope swing and ladders and many years of poor maintenance. She expressed that she believed the concern to be a smoke screen simply to disguise the neighbours' dislike of the proposed extension.

Ms Crawford read out a number of statements that had appeared in the Helensburgh Advertiser in support of her application and suggested that the use of the term "excavation" by the tree owner when trying to garner support for her petition simply highlighted the extreme exaggerations of the tree owner and suggested that the Planning Authority had confirmed this.

Ms Crawford requested that the application be assessed and judged against the necessary Planning Consents and asked for consideration to be given to the fact that all material requests had been addressed as part of the application process.

Consultees

The Design and Conservation Officer summed up as follows:-

First of all I would like to re-address the legislative and policy position as there was an error in the Objectors' presentation at the initial part of this Hearing on 7 February 2024:

The objectors stated that "a planning authority has a statutory duty to preserve and enhance conservation areas". This is incorrect in terms of our duty here. Under section 64 of the Planning (listed buildings and conservation areas) (Scotland) Act 1997, planning authorities are required, in their exercise of planning functions and under the provision of the planning acts, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

And that is the legal test that is then carried through to Development Plan policy.

Concern was raised by objectors that the CAA (which is a material consideration) hadn't been referred to throughout the process – I can confirm that this was referred to in the third paragraph of my initial response dated 22 June 2023.

I will now move on to particular aspects in terms of the proposal that were raised, then return to development plan policy and the CAA as a material consideration.

There has been some discussion about 4 and 2 West Lennox Drive being "a pair". They are not identical. They share some similarities in terms of scale and architectural design but each have their own identities and therefore any proposal to 4 West Lennox can continue this unique identity.

However the proposal is of a similar scale to that which already exists at neighbouring 2 West Lennox Drive. The proposed extension and garage to number 4 are all set back from the front façade, which will reduce the visual prominence of these new elements and leave the existing house as the visually dominant architectural style. An updated Design Statement submitted by the applicant on 6th February includes an analysis of the developed area to open spaces, and confirms that this will fall within the range found in this area. It would be 16% developed, as opposed to 14% at neighbouring 2 West Lennox, however it would appear that this extra 2% developed area would be as a result of the proposed garage with gym extending towards the back of the site more-so than development at number 2 does.

HCC challenged in their written objection that the proposal is unattractive, however it is not for objectors, the planning authority or Members to assess this application based on whether or not they like the design, but on the basis of Development Plan policy, fairly and objectively assessing whether or not the proposal is suitable for its context. I would draw Members attention again to NPF4 Policy 14, and in particular its requirement for places to be Distinctive by supporting attention to local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity. I would again refer to the CAA analysis of the character of the area which discusses the contrast of eclectic styles over various periods. The architect has demonstrated through a comprehensive Design Statement how this contemporary design has interpreted

proportions and the colour palette to develop a design proposal which despite being contemporary, is in harmony with the property and is in alignment with this policy.

Objectors also challenged the assessment of the ratio of developed area to open space, given the large size of the plots, questioned whether this means applicants could build up to 33% of their plot, suggesting “bungalows in the front garden”. I would respectfully disagree with this position, and reiterate the comparative built proportion would increase marginally from 12% to 16% (compared to 14% at number 2), and that the built element would remain at the rear of the plot, with all proposed elements being behind the front façade of the building.

I would refer to a comment made by an objector that “a so-called “contemporary” design is not a magic card which means anything goes” – the planning authority has not simply recommended approval on the basis of this being contemporary design but has assessed this design carefully against policy. It is considered to be appropriate for this context on the basis of the following:

- Being set back from the front façade and lower than the existing house and with no competing or pastiche design details, allowing the existing house to dominate visually
- Design and materials which are contemporary to allow clear legibility between old and new
- Proportions and colours which tie in with the existing to provide cohesion between old and new

On the point of colours, I like to make an observation on the model that was presented by Objectors, and clarify again that a Planning Condition would be included to ensure the colours of the materials work in harmony with the existing building, and this would ensure they would not be the conflicting colours used on that model.

I would finally return to the qualifying qualities that give rise to the character of the area as defined in the Conservation Area Appraisal:

The unity of the area would be retained in terms of the grid structure, the tree lined streetscape, the positioning of houses to the north of their plots, and the colour palette proposed which ties in with the red sandstone and green grey roofs.

Further contrast would be provided in terms of adding to the eclectic styles and later additions in contrasting architectural styles, and the introduction of new materials.

The dominance (of the linearity and building heights) would not be affected.

And the balance, by way of the scale of buildings and the ratio of house to garden would be retained. Because even with the proposed extension added, this house would not be larger than many others in the area - the extension would be to the side and rear and would not significantly change its relationship to the overall plot.

And remind Members of the policy test in this regard:

Will the proposal preserve or enhance the character or appearance of the conservation area?

And additionally the policy test in terms of listed buildings:

Will the proposal preserve the character, and special architectural or historic interest of the setting of listed buildings?

Thank you.

Nigel Millar, Helensburgh Community Council

Mr Millar of Helensburgh Community Council took the opportunity to reiterate the position of Helensburgh Community Council in assessing the application. He advised that they took into consideration the following six characteristics when considering what this application meant for the area:-

1. Was it distinctive as opposed to run of the mill;
2. Is it interesting and creative;
3. How does it fit with the urban landscape of the town;
4. Is it varied;
5. How does it fit in terms of the open spaces surrounding it; and
6. Is it sustainable, not only in relation to net zero, but in safety and are the policies consistent with one another.

He further advised that on taking it a step further they afforded consideration to whether it preserved and enhanced the area. He outlined a number of examples of buildings such as the Helensburgh and Lomond Civic Centre which they considered to be a harmonious example of the old meeting the new. Mr Millar advised that while the Community Council having nothing against modern extensions they felt that this particular design was discordant and it did not fit with other modern designs of the 21st Century and requested that the applicant take into consideration the views expressed in terms of the objections and have a rethink on the design.

Objectors

John Shelton

Ladies and Gentlemen,

During this hearing:

1. We have explained the specific character and architectural importance of the Hill House Conservation Area (HHCA)
2. We have shown you examples from within the HHCA of the type of sensitive and sympathetic architectural development it is possible to achieve while successfully meeting the “preserve and enhance” tests that pertain to conservation areas.
3. We have explained why this application is clearly repudiated by the relevant provisions of the 2008 Conservation Area Appraisal in multiple respects when considering its scale, form, design and materials. Specifically, the architectural conservationist Michael Davis has, for example, highlighted the relationships within the Conservation Area between size of house and size of garden, and the significance to the overall character of the setting of the original concept of houses set amid gardens, with views

of other impressive houses visible in the distance. Building large over-sized block style extensions runs entirely counter to both these key characteristics.

4. We have highlighted that differentiating new architectural work from existing Victorian buildings can favour contemporary-styled extensions, but that this does not mean that "anything goes". Any new development still has to look appropriate, and not stridently different, clashing, over-large and being ill composed with the existing villa. We have made no objection to modernist styling in itself; but we would point out that this has to be appropriate in appearance, scale, relationship and materials. Specifically, any proposal should meet these standards not because we (objectors or Helensburgh Community Council) say so but because these are taken from the explicit guidelines laid out clearly within the relevant Conservation Area Appraisal – The Helensburgh Upper Conservation Area Appraisal (2008).
5. We have provided this hearing with a considerable weight of evidence demonstrating that this application is in direct contradiction of the stated guidance that relevant Planning Policies up to and including NPF4 afford to Conservation Areas in general and to the HHCA in particular, in terms of the design, style, scale and material finishes.
6. We have illustrated through the use of an accurate scale model, the actual size and scale of the applicant's proposal, while noting that this differs substantially from the applicant's CGI renderings – essentially fake misleading images which the planning authority have up until now relied upon in their central conclusion, namely that 'the proposed design is considered to be subservient to the donor house and does not dominate it'. That is frankly just nonsense as the scale model aptly demonstrates.
7. We have referenced the extensive unauthorised engineering works and widespread unauthorised tree and hedge removals that have rendered the entire site and setting barren and barely recognizable from the family home and mature gardens that were passed to the applicant on completion of the sale in late 2022.
8. We have explained through expert analysis, that the ancient Copper beech tree, located in neighbouring Whincroft (and the subject of a specific TPO, granted on 24th January 2024), has a healthy root system that encroaches well into the footprint of the proposed development site and in accordance with BS (5837:2012).
9. We have explained why we believe that the dilapidation claimed by the applicant does not accord with the state of repair at the point of making the application. Such dilapidation in any case, requires specific routine repairs that do not require this type of development. Indeed we note that many "dilapidated" areas the applicant (and planning) has cited are not remotely near the new alterations and proposed development. The state of repair highlighted by the applicant is yet another smokescreen and entirely immaterial to this application.
10. We have highlighted in addition, the many other misleading, inaccurate and erroneous statements, illustrations and information, that the applicant's architect has submitted - falsely minimizing the scale and impact of this application and obfuscating the facts, at times we feel disingenuously - one such glaring example being their incorrect original positioning of the Copper Beech tree on their original plans, several metres away from

its actual location. Also, it is stated by the architects that the grounds are 5 acres in size (in fact the grounds are 0.5 acres, the original plot of land having already been subdivided once prior to the 1971 Conservation Area being established). This is just one of many important errors we have pointed out – acknowledged as false but as yet still uncorrected and remaining in the documentation on which this council are being asked to make a decision.

Clearly, the under resourced and extremely busy planning authority need to rely on the veracity of the applicant's agents to bring forward honest and credible information. Many times through this process the wool has attempted to be pulled over their eyes. Even in these proceedings, the planning officer has shown the CGI images, provided directly by the applicant's architect that purport to show the minimal impact of the development however as we have shown in our submissions, these images and other drawings are not remotely to scale as evidence to support the applicant's case. For example, take another look at the CGI image provided in relation to the actual scale of the building (John presents the photo and explains the CGI layover to show the discrepancy).

Abacus Modelmakers, the firm we commissioned to build the scale model based on the architect's plans are a respected leading architectural model maker of 32 years standing whose business rests on their precision and accuracy. They are happy for us to say that they immediately knew the CGI images were not to scale.

David Henderson

We would direct you to the original legal title deeds and burdens of Redholm which state explicitly with respect to further development that they should retain a space of twenty feet (6.1 metres) open and unbuilt on to each boundary north, south and east and also that any erection of ancillary buildings other than the dwelling house is not to exceed 14 feet (4.26 meters).

On the east side, we note that the existing garage is actually only within 1.5 metres of the boundary with Culverden and after its proposed demolition this is the proposed situation of the vastly enlarged garage and living use complex (currently proposed for use as a gym). We would redirect the councillors to the model in order to see the massive impact this enlarged extension will have and within just 1.5 metres of a perimeter boundary that the deed burden says should remain undeveloped for over 6 meters from the boundary. Additionally this new structure to the east of the plot, will take its height from the apex of the current garage roof (set at 3.2 meters) and then run a flat roof down the perimeter set at this consistent height, creating a substantial structure as the model again demonstrates. It is hard to argue that this structure does not encroach on Culverden, the neighbouring property the east. Again, we submit that it is entirely out of scale with the garden and overall plot.

Furthermore the west side, the ancillary two storey extension is 6.4 meters high (well over 2 metres over the stipulated height of 4.26 metres contained in Burden 1 of the deeds). Moreover, Burden 2 after the subdivision of Redholm in 1962 states expressly that the proprietors shall not be entitled to erect any buildings upon ground other than the dwellinghouse erected.

While we can accept that the application of title deeds might technically be a civil matter, it should be noted that clearly serious thought had been given to the design aesthetic back

when the deeds were drawn up and that this ties back to the dimensions of the house in relation to its garden. Hence, we are not alone in taking this position on massing and scaling. Again, the title deeds support the argument that this proposed development is simply far too large for its plot and this was also clearly the view the planners took in 1962, even as it was then, 9 years before the conservation area designation in 1971 placed an even higher bar in new developments.

We also wish to point out the highly material fact that the proposed elevation of the extension is considerably less than 18 metres from the neighbouring properties both east and west. The significance of the 18 metre rule being enshrined in Scottish Planning Policy and also referenced in the applicants submission as referenced in the original Report of Handling and I here quote directly from the applicant's submission:

"The West and gym (east elevation) is over 18 metres from neighbouring properties and glazing is also proposed to the ground floor. "

Just as was the case with the siting of the Copper Beech tree once again however the applicant has not given factually correct information. Their measurement is yet again out and by substantial margins. The proposed extension is NOT outwith the planning standard of 18m from the wall of the nearest dwelling with windows.

As you will read in our D&A rebuttal, the proposed extension to the west is NOT, as the architects have stated, the planning standard of 18m from the wall of the nearest dwelling with windows of habitable rooms, it is 10.54m or at a maximum 15.2m depending on where you measure. At no point is this 'greater than 18m'. So not only far too high but also far too close to Whincroft and it does not comply with the applicants submission.

It is the same story on the east elevation. Here we have a much larger if slightly lower although also flat roofed extension that comes to within just 11 metres of Culverden and although we concede it is not proposed to be glazed on the east aspect, we do have a serious problem with the scaling and massing so close to the perimeter and neighbouring property.

We have validated these correct distances with reference to the architect's plans, the professional scale model and by physical measurement up unto the applicant's property boundary line - thereafter using the architect's scale drawings. These detailed measurements come nowhere near the 18m stated by the architects and being central Scottish Planning policy, (especially on the west elevation where the ancillary property will be positioned at considerably less than 18 meters distance from Whincroft is proposed be glazed). We believe these points should at the very least have been properly validated by planning officials during the due diligence and consultation phases.

Many of these discrepancies have been established after the planning officers original decision to approve the application and this is of concern to us.

One might reasonably conclude that the architects have really done their homework on measurements and provision of accurate information. But if you dig a bit deeper, when the basic information and measurements are out, not by a small margin and when the scaling and massing are over-sized not just to the naked eye as you can see from the model but

the actual distances are a breach of the title deeds and most importantly, Scottish planning policy (notably this contravenes provisions contained within NPF4 and SG to the LDP) then that has to be a firm reason why this proposal should not be approved.

Throughout this entire process when we have pointed out a discrepancy we have been told the errors are sometimes typos or then again, on other occasions, we were told, the points we are highlighting, are not material. Well, we respectfully submit, some of these points specifically on measurement are highly material as we wish to register that just this aspect alone is a clear breach of Scottish Planning Policy.

A stretched planning team that have possibly not had the time or perhaps resource to properly investigate claims such as the misrepresentations which should have been correct in the first place: we note: the failures in measurement of buildings and distance, the incorrect placements of trees and foliage in drawings, the incorrect placement of the copper beech tree, the lack of correct scale applied in CGI and other drawings, the claims of comparable development within the “nearby area” (none of which are from within the Conservation Area) and so called precedents that all pre-date the 1971 designation of the Conservation Area. A planning authority, this committee and indeed the applicant should expect better. We regretfully feel that we must say, that attention to important details has been absent, in a process that to us has too often appeared to bias expediency over integrity.

Suzanne Hamilton

You will have heard a sense of passion in my voice and in those of my fellow objectors during this hearing. It is a passion that stems not from anger but rather from sadness. That we all need to be here at all today is a matter of great regret. We have been placed in the unfortunate position of playing the last line of defence when it comes to protecting this important area by objectively applying both relevant policy-led principles and observing the requirements of the Conservation Area Appraisal.

I'm going to go off piste a bit now and respond to Gail Crawford's questions implying that the beech tree is somehow a smoke screen to prevent planning permission. These are rough bullet points from memory to cover the ad lib response I gave during the hearing. See the recording for what was actually said.

- In response to Gail's assertion that there exists a silent majority in Helensburgh on her side, I would like to highlight the local support from my petition to protect the beech tree and the TPO. Some 191 signatures were from local postcodes of the total 306 signatures
- Let me remind you of the need to prove legal nuisance of roots and the position of my insurance company. Gail, does your insurance company know of the existence of the tree given you stated in an official document “there are no trees on or close to the boundary”
- The drains at 4 West Lennox Drive were cleared 4 years ago by the previous owner. They have special traps to allow rodding and by a hose to clear them of roots. This issue was thought about and dealt with all those years ago as part of the original house build design and it works without the need to sever roots. In response to the suggestion that the tree has lots of wounds/ occlusions from cutting of branches – this tree is loved and well managed. It has been managed over the years by all previous owners of Whincroft including ourselves A record of all these works is available on the

portal as both myself and previous owners have been granted planning permission to do so. The last arboricultural works took place in 2019 to reduce wind sail factor for the safety of both Whincroft and neighbouring Redholm. Our insurers are fully aware of all works that have been carried out and the tree is assessed by a qualified arboriculturist on an annual basis. The tree has 40+ years useful life.

- What fence are you referring to when you suggest that we have added a fence that would damage the tree roots? We have a chicken wire fence to protect the garden from residents dogs and deer (Deer can cause significant damage and subsequent loss of the 19 young trees we have newly planted and they need this protection to reach full maturity)
- We remain deeply concerned that Argyll and Bute Council do not currently have a tree specialist and feel that Emma Jane is not qualified to oversee any protection works. We further have no confidence in Julian Morris or any other tree specialist appointed by the applicant, who is not impartial.
- The TPO is still wrong. We have told Council Planning and David repeatedly that the tree is owned by 2A Upper Colquhoun Street and not 2 Upper Colquhoun Street. The errors, typos and omissions made at every stage of this process leave us with little confidence in Planning's ability.
- It is simply untrue that we have sought to apply for a Tree Preservation Order merely to thwart the applicant's plans. I am deeply offended by this comment. We bought Whincroft in 2017 and asked Argyll and Bute Council Planning if we could get a formal TPO for the beech tree at this time. We were told that all trees within the Hill House Conservation Area automatically had protection and that it would be only necessary to formalise this in the event of a planning application which might potentially endanger it
- I am appalled at the lack of due diligence afforded by Council Planning in their assessment of the root protection area (RPA) of this tree with no independent tree specialist report forthcoming from the Council other than a rudimentary inspection by Council Planners who have no apparent tree conservation experience. In future, they cannot reasonably rely upon an applicant's submission which may not be impartial or as we have seen in this case, biased.
- Severing Roots. In response to Emma Jane's comments that the applicant is legally entitled to sever roots anywhere on their property I would like to caution that while in theory, as with branches, a landowner has the right to remove roots simply because they are on or in his land, even if they are causing damage, doing so in the absence of any real need could be looked upon negatively if the result is damaging to the tree as a whole.
- There is a greater chance of damage to the tree, when dealing with roots – so it is best to involve an independent professional. Cutting roots may affect the stability of the tree and if it subsequently falls and causes damage, this could result in a claim against you.
- It is important to note that the applicant's agent commenced this process by making an official declaration that there are no trees on or adjacent to the property, which Council Planning accepted until objectors brought it to their attention.
- The applicant's agent then included the aforementioned beech tree in official drawing PL001 [Existing location plan and block plan reference no 1 of 32 date received 28/07/2023] before subsequently moving the tree's position in a later drawing PL010 [Proposed location plan and Block Plan no 9 of 32 version c date received 18/09/2023] in order to claim that the RPA of the tree did not stretch to within the area of the proposed works and further used an incorrect canopy estimate of the root protection area (not based on BS5837:2012). This was again accepted by council officers and put forward as gospel by Council officers at the October PPSL. We again demonstrated this was wrong and council officers subsequently stated that this had been a mistake on the applicant's part. We have since noted that these drawings have now been

removed from the Council Portal and replaced with an asterisk PL001B Existing location plan and Block Plan 28 July 2023. Is the Council allowed to remove documents in this way rather than offer amendments?

- The applicant, through a tree report submitted by Julian Morris, has now suggested that the roots somehow grow in such a way that a lesser RPA is sufficient and has made assertions about the % loss of roots that would be lost without causing harm or damage to the tree. We were told for the first time by the planning officer during these proceedings that Mr Morris's report is preferred to that of Mr Mackenzie – why because according to planning it is quote “more detailed”. Planning are trained and capable people however they are most certainly not arborists and it is simply NOT acceptable for them to spuriously accept and then support one expert's report over another. This requires independent verification and the enforcement officers response to our request for information on whether the TPO was breached during Mr Morris's root investigation has not been adequately clarified. Did he or did he not request permission in advance to conduct the root survey as per Council procedure?
- Mr Mackenzie is a well-known and practising local arborist who cares primarily about the welfare of trees and their importance in the natural heritage of Conservation areas (a consideration that is central toNPF4). Why therefore has his legitimate assessment been dismissed in favour of the last minute report of Mr Morris? The latter report conveniently shifting the aperture of the root system from the accepted British Standard methodology and allowing for the roots to be severed.
- Should we not expect that the local planning authority is at the very least balanced in presenting key facts such as these to this committee?
- We do recognise that their job is not an easy one given the resource constraints they face and also that they have been hampered by a plethora of inaccurate information on critical points from the applicant's architect which have been accepted at face value and relied upon in their recommendation. Yet so many relevant policy points and explicit conservation area guidance and constraints seem frankly to have been swept under the carpet.

Sally Butt

We have also demonstrated why this development poses a serious, indeed life-threatening, risk to the magnificent Copper beech tree in the adjacent garden. In closing, it is no exaggeration to say that this proposal, if approved, would have a deleterious effect not just on the HHCA but the town of Helensburgh, Argyll and Bute and it would also have repercussions at a national level. For 53 years, the HHCA, in tandem with this planning committee, has done its job properly – the Upper Helensburgh conservation area appraisal it has done exactly what those, who came before us, set it up to do. To protect this small yet wonderful “jewel in the crown” of Scottish Arts & Crafts architecture for our families, for our people and for future generations. Our objections are not (as it has been implied) borne out of “nimbyism” but through a heartfelt desire to do the right thing for an area that deserves to be preserved and enhanced for the people of the local community, the region and indeed Scotland. If this inappropriate development were to be approved then it would not only cause irreparable damage to this extraordinary area but also create a new far-reaching precedent that other architects could point to in other misguided future submissions. With due respect to the applicant's architects, the “nearby precedents” they cite do not matter one jot unless they are within the Conservation Area. The reason they cannot point to any such precedents is they are simply not there. Indeed, if this development goes ahead in its present form, one might say “why have a conservation area to begin with” because it will be tantamount to putting everyone on notice that here is an area where “anything goes”. We wish the applicant well in her efforts to make this

property her new home. We are certainly not opposed to change per se, but we do expect, as we would of any new home owner who purchases a property in the HHCA to fully respect the place where they have decided to come and make their new home and if they wish to make changes to their property that this is done sympathetically with the character of the area and with respect to the setting in which their home stands. If they do so, inevitably this will lead to the long-term benefit of the HHCA and will result in its character and heritage being preserved and enhanced for the benefit of all who come to live here and more importantly, for the many thousands of visitors to this wonderful place, now and in the future. That, ladies and gentlemen, is why the correct decision we believe is to reject the proposal and in doing so to encourage the applicant either to return with a more reasonable and sympathetic proposal or to appeal the decision in which case it will permit the DPEA, with its team of highly trained and experienced planners, to take a fresh and objective look at the application on its merits. We thank you very much for your interest and wisdom in considering this important matter.

When asked, all parties confirmed that they had received a fair hearing, with the exception of the Applicant's Agent, Ruaridh Gardiner who advised that he had not.

The Chair moved and the Committee agreed to adjourn for a short comfort break.

On resuming, at 1:30pm, all those in attendance were as per the sederunt.

DEBATE

Councillor Irvine advised that having taken into consideration the information provided in relation to the Copper Beech tree, the TPO and the possible engineering solutions, he felt that as a Committee they were doing enough to protect the tree. He advised that if the Committee were minded to approve the application, he would like to see a condition incorporated which would ensure the protection of the tree going forward. He also advised that while he took on board a number of things said by the Objectors, and he did share some of their concerns, he advised that as a Committee they had to base their concerns on Policy and not personal opinions on the design. He advised that while he doesn't like what he sees in terms of the design himself, he had to take into account that the extension is under the 33% permitted threshold and he felt stuck between those two things.

Councillor McCabe advised that she was of the opposite opinion, as she did like the design and could see that a lot of work had gone into it. She advised that she would like to approve the application subject to the conditions contained within Supplementary Report Number 1.

Councillor Forrest advised that she neither liked nor disliked the design and advised that she did not think this was a pertinent consideration of the application. She took the opportunity to thank all for their presentations and advised that the Committee had a responsibility to make a decision based on Policies and that she did believe that the application was in-line with design policies. Referring to Historic Environment Scotland (HES), she advised that they had indicated that they don't think the proposed development would have an adverse effect and she also believed that the Planning Authority had acted with due diligence. She advised that she too was minded to approve the application subject to the conditions as outlined by the Planning Authority in Supplementary Report Number 1.

Councillor Brown advised that she had gone on the site visit, where she had walked round the house and the surrounding area. She advised that there were no two houses the same in age, style or appearance. She advised that keeping everything the same in a Conservation area didn't fit for her. She advised that the TPO was a matter of huge importance but that she was comforted that the conditions provided by the Planning Authority would ensure that the tree would be looked after. She advised that based on the information presented she had to agree with the Planning Authority in saying that the application was consistent with the relevant associated Policies and therefore she agreed that the application be approved subject to the conditions as outlined by the Planning Authority in Supplementary Report number 1.

Councillor Hardie advised that he agreed with his fellow Councillors and that it was a matter of opinion on whether you liked or disliked the design. He advised that he trusted the opinion of the Planning Authority who had acted with due diligence. He further advised that he was happy to approve the application.

The Chair, Councillor Green advised that he had two main issues with the application. They were the impact on the nearby tree and the design aspect being in a Conservation area. He advised that a Conservation area was not a preservation area and he felt the need to acknowledge that there would be updates and renovations to meet modern demands. He advised that he did not find the design objectionable. He spoke of the tree and advised that he had been heartened by the Applicants' confirmation that she was happy to accept additional conditions. He advised that on those grounds he was minded to approve the application.

Discussion took place around the possibility of including a further condition which would safeguard the trees on site and the neighbouring garden.

Councillor Green formally moved approval of the application subject to the conditions and reasons detailed in Supplementary Report Number 1, with an additional condition to safeguard the trees on site and the neighbouring garden. This was seconded by Councillor Brown. With no one being otherwise minded, this became the decision of the Committee.

Decision

The Planning, Protective Services and Licensing Committee unanimously agreed that the application be approved subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 23/04/2023, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title	Plan Ref No	Version	Date Received
(PL)001 Existing location plan & Block plan	1 of 33	B	28.07.2023
(PL)002 Existing	2 of 33	A	30.03.2023

ground floor plan			
(PL)003 Existing first floor plan	3 of 33	A	22.05.2023
(PL)004 Existing roof plan	4 of 33	B	18.09.2023
(PL)005 Existing South elevation	5 of 33	B	18.09.2023
(PL)006 Existing West elevation	6 of 33	B	18.09.2023
(PL)007 Existing North elevation	7 of 33	B	18.09.2023
(PL)008 Existing East elevation	8 of 33	B	18.09.2023
(PL)010 Proposed location plan & Block plan	9 of 33	E	05.02.2024
(PL)011 Proposed ground floor plan	10 of 33	D	05.02.2024
(PL)012 Proposed first floor plan	11 of 33	D	05.02.2024
(PL)013 Proposed roof plan	12 of 33	E	05.02.2024
(PL)014 Proposed South elevation	13 of 33	E	05.02.2024
(PL)015 Proposed West elevation	14 of 33	D	05.02.2024
(PL)016 Proposed North elevation	15 of 33	E	05.02.2024
(PL)017 Proposed East elevation	16 of 33	E	05.02.2024
(PL)018 Proposed section A-A	17 of 33	A	28.07.2023
(PL)020 Existing window schedule	18 of 33	A	22.05.2023
(PL)021 Proposed window replacements	19 of 33	A	24.04.2023
(PL)030 Existing	20 of 33	A	22.05.2023

door schedule			
(PL)040 Images of areas for demolition	21 of 33	A	24.04.2023
(PL)050 Existing section A-A	22 of 33	A	18.09.2023
(PL)051 Existing section B-B	23 of 33	A	18.09.2023
(PL)052 Proposed section C-C	24 of 33	A	18.09.2023
(PL)053 Proposed section B-B	25 of 33	A	18.09.2023
(PL)054 Proposed section C-C	26 of 33	A	18.09.2023
(PL)055 Proposed section D-D	27 of 33	A	18.09.2023
(PL)056 Proposed section E-E	28 of 33	A	18.09.2023
Proposed drainage drawing	29 of 33	D	06.02.2024
Windows design & access statement	30 of 33	A	24.04.2023
Design & access statement	31 of 33	C	06.02.2024
Visual impact assessment	32 of 33	A	22.09.2023
Tree survey report	33 of 33	-	05.02.2024

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

2. Notwithstanding the effect of condition 1; Prior to work starting on site samples of the proposed materials to be used for the external finishes of the development hereby granted consent shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site. Samples to include; canopy finishes, render finish to external walls, retaining wall finish, garage door finish, perforated 'scaloped' powder coated aluminium cladding finish, roof finish, window frame finish and flashing finish.

Reason: In the interests of visual amenity and in order to integrate the proposal with its surroundings.

3. Notwithstanding the effect of condition 1; Prior to work starting on site full details of the design of doors/windows to the proposed extension and garage shall be submitted to and approved in writing by the Planning Authority in the form of drawings at a scale of 1:20.

Reasons: *To ensure appropriate detailing and to maintain the overall quality and character of the development and the surrounding environment.*

4. Notwithstanding the effect of condition 1; Prior to work starting on site samples of the natural stone proposed to be used for window infills and repairs to the existing building shall be submitted to and approved in writing by the Planning Authority.

Reason: *To ensure that the materials to be used on the external surfaces of the existing building match the existing building.*

5. Notwithstanding the effect of condition 1; Notwithstanding the details on the approved plans the window replacements to the existing building shall be vertically sliding timber sash and casement windows. Details of all the windows, including the size of windows, size of mullions, number of astragals, which shall physically divide the window into separate panes, method of opening, depth of recess and colour shall be submitted in the form of drawings scale 1:20 and shall be submitted to and approved in writing by the Planning Authority prior to work starting on site.

Reason: *In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building.*

6. Notwithstanding the effect of condition 1; Prior to work commencing on site full details of the proposed reconstruction of the wall ends and any piers or gate posts and gate shall be submitted to and approved in writing by the Planning Authority.

Reason: *To ensure that the development is undertaken in a manner which minimises the visual impact of the alterations in the streetscape and preserves as far as possible the integrity of the boundary wall in question.*

7. Notwithstanding the effect of condition 1; Development shall not begin until details of a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:

- i) location and design, including materials, of walls, fences and gates
- ii) Existing landscaping features and trees/vegetation to be retained;
- iii) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub
- iv) programme for completion and subsequent on-going maintenance.

All the hard and soft landscaping works shall be carried out in accordance with the scheme approved in writing by the Planning Authority. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of the development unless otherwise agreed in writing with the Planning Authority.

Any trees or plants which within a period of ten years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species, unless otherwise agreed in writing with the Planning Authority.

Please note that any hard landscaping proposed shall be permeable as to not impact on the surface water drainage for the site.

Reason: *To ensure the implementation of a satisfactory scheme of landscaping.*

8. Notwithstanding the effect of condition 1; all trees within and overhanging the application site, must be protected in accordance with methods as set out in BS5837/2012 including the erection of appropriate fencing during and until completion of all site operations and building works. A lesser protection zone will be allowed in relation to the neighbouring copper beech tree as per the approved tree protection plan contained within the Tree Survey Report dated February 2024 prepared by Julian A Morris (doc ref; Issue 240205). The Arboricultural Method Statement as contained within the Tree Survey Report dated February 2024 prepared by Julian A Morris (doc ref; Issue 240205) shall be adhered to in full, subject to the pre-arranged tree protection monitoring and site supervision, by a suitably qualified tree specialist.

Reason: *To safeguard and enhance the character and amenity of the site and locality and to avoid any irreversible damage to retained trees.*

9. Notwithstanding the effect of condition 1; Prior to work starting on site, full details of any external lighting to be used within the site or along its access shall be submitted to and approved in writing by the Planning Authority. Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary.

Reason: *In order to avoid the potential of light pollution infringing on surrounding land uses/properties.*

10. Notwithstanding the effect of condition 1; The first floor glazing to the North elevation (shower room window) and the first floor glazing to the West elevation (behind the proposed screening) of the proposed extension shall be of obscure glass and maintained in perpetuity in obscure glass to the satisfaction of the Planning Authority.

Reason: *In order to protect the privacy and amenity of adjacent properties.*

11. Notwithstanding the effect of condition 1; Prior to work starting on site details of the replacement chimney pots to the existing building shall be submitted to and approved in writing by the Planning Authority.

Reason: *In the interests of visual amenity and to ensure that the proposals do not adversely affect the architectural and historic character of the building.*

12. Notwithstanding the effect of condition 1; Prior to work starting on site identification and assessment of all potential sources of nuisance, including noise/ vibration, dust, and any temporary lighting provided, which may cause disturbance to nearby residents during the demolition / construction process should be undertaken by the applicant. This should include consideration of intended hours of operation, movement of vehicles, use of plant and storage of equipment and materials on site.

For all potential sources of nuisance the applicant will be required to provide a management plan with details of suitable control measures to be put in place so as to

ensure that construction does not cause loss of amenity to local residents and/or statutory nuisance.

Reason: *In order to avoid sources of nuisance in the interest of amenity.*

13. Notwithstanding the effect of condition 1; In order to minimise, as far as necessary, the level of noise and/or vibration to which nearby existing residents will be exposed during the construction process the hours of operation of the site should be restricted to 08.00 to 18:30 Monday to Friday and 08.00 to 13.00 on Saturdays. There should be no operation on Sundays or Bank Holidays.

Reason: *In order to avoid sources of nuisance in the interest of amenity.*

14. Prior to commencement of development, details of the methods of construction shall be submitted to and approved in writing by the planning authority. In particular, details of construction methods must include measures that protect the tree roots of the neighbouring beech tree located within the garden ground of 2a Upper Colquhoun Street, Helensburgh and should involve pile/screws or alternative construction methods to avoid tree roots.

Reason: *To safeguard the retained trees on site and in the neighbouring garden in line with Policy 77 of the Local Development Plan and Policy 6 of National Planning Framework 4.*

(Reference: Report by Head of Development and Economic Growth, dated 29 September 2023; Supplementary Report number 1 dated 6 February 2024 and Supplementary Report number 2 dated 12 March 2024 submitted)

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**MINUTES OF THE MEETING OF THE PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE HELD BY MICROSOFT TEAMS
ON WEDNESDAY, 20 MARCH 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Paul Donald Kennedy
Councillor Graham Hardie	Councillor Dougie Philand
Councillor Mark Irvine	Councillor Peter Wallace

Attending: Fergus Murray, Head of Development and Economic Growth
Shona Barton, Governance Manager
Peter Bain, Development Manager
Sandra Davies, Major Applications Team Leader
David Moore, Senior Planning Officer
Steven Gove, Planning Officer
Stuart Watson, Assistant Network and Standards Manager

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Jan Brown, Amanda Hampsey, Daniel Hampsey and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. MINUTES

(a) Planning, Protective Services and Licensing Committee held on 16 February 2024 at 9:30 am

The Minute of the Planning, Protective Services and Licensing Committee held on 16 February 2024 at 9.30 am was approved as a correct record.

(b) Planning, Protective Services and Licensing Committee held on 16 February 2024 at 2:00 pm

The Minute of the Planning, Protective Services and Licensing Committee held on 16 February 2024 at 2.00 pm was approved as a correct record.

(c) Planning, Protective Services and Licensing Committee held on 21 February 2024 at 11:00 am

The Minute of the Planning, Protective Services and Licensing Committee held on 21 February 2024 at 11.00 am was before members for approval. It was agreed to amend the minute at item 4, to highlight that Councillor Julie McKenzie was in support of the application and not a neutral representation.

(d) **Planning, Protective Services and Licensing Committee held on 21 February 2024 at 2:30 pm**

The Minute of the Planning, Protective Services and Licensing Committee held on 21 February 2024 at 2.30 pm was approved as a correct record.

(e) **Planning, Protective Services and Licensing Committee held on 21 February 2024 at 3:30 pm**

The Minute of the Planning, Protective Services and Licensing Committee held on 21 February 2024 at 3.30 pm was approved as a correct record.

4. **CALA MANAGEMENT LIMITED: APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 2, 3 6, 7, 8, 9, 11, 12, 13, 15, 16 AND 17 OF CONSENT 18/01444/PP (PPA-130-2071): ERECTION OF RESIDENTIAL DEVELOPMENT WITH ASSOCIATED ACCESS, INFRASTRUCTURE, OPEN SPACE, LANDSCAPING AND MISCELLANEOUS WORKS: LAND NORTH OF CARDROSS PRIMARY SCHOOL, BARRS ROAD, CARDROSS: (REF: 23/00144/AMSC)**

The Senior Planning Officer spoke to the terms of the report. This application seeks approval of matters specified in conditions following a permission in principle granted at appeal by a Reporter relating to a housing site in Cardross. This is effectively a formalised system for discharging conditions referenced as Approval of Matters Subject to Conditions (AMSC).

It was recommended that members approve the submissions and discharge these aspects of the conditional approval.

Decision

The Committee:

1. noted that they were satisfied in relation to conditions 2,3,6,7,8,9,13,15, 16 and 17;
2. agreed to hold a pre-determination hearing on a Hybrid basis to relation to conditions 11 and 12; and
3. agreed to hold a site visit in advance of this hearing with the Council's flooding advisers in attendance.

(Report by Head of Development and Economic Growth dated 4 March 2024, submitted)

5. **MR HARVEY LEE: ALTERATIONS (INCLUDING REMOVAL OF UPVC WINDOWS AND INSTALLATION OF NEW TIMBER SASH AND CASE WINDOWS) AND CHANGE OF USE OF HOTEL TO FORM THREE STUDIOS AND SIX APARTMENTS FOR USE AS SHORT-TERM HOLIDAY LETTING UNITS: BUTE HOUSE GUEST HOUSE, 4 WEST PRINCES STREET, ROTHESAY, ISLE OF BUTE, PA20 9AF: (REF: 23/01007/PP)**

The Planning Officer spoke to the terms of the report. This application is seeking Planning Permission for alterations and the change of use of the former Bute House Hotel/Guest

House located at 4 West Princes Street, Rothesay, Isle of Bute into three studios and six apartments for use as short-term holiday letting units.

It was recommended that Planning Permission be granted as a minor departure to Local Development Plan 2 subject to the conditions, reasons and informative notes set out in the report.

Decision

The Committee agreed to grant planning permission as a minor departure to Local Development Plan 2, and subject to the following conditions and reasons:

Standard Time Limit Condition for Planning Permission (as defined by Regulation)

Standard Condition on Soil Management During Construction

Additional Conditions

1. Unless otherwise directed by any of the conditions below, the development shall be implemented in accordance with the details specified on the application form dated 22nd May 2023; supporting information; and the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan (1:1,000)	Plan 1 of 1	-	23.05.2023
Plans as Existing	Drawing No. 001	-	23.05.2023
Sections & Elevations as Existing	Drawing No. 002	-	23.05.2023
Plans as Proposed	Drawing No. 101	-	24.07.2023
Sections & Elevations as Proposed	Drawing No. 102	-	23.05.2023
Window Schedule	Drawing No. 310	-	24.07.2023
Window Details as Proposed Plan, Elevation and Section	Drawing No. 311	-	24.07.2023

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

2. Unless otherwise agreed in writing with the Planning Authority, prior to the first

use of any part of the premises for short-term holiday letting purposes, all of the white uPVC windows identified in red on Drawing No. 002 'Sections & Elevations as Existing' shall be removed and replaced with the timber windows shown in Drawing No. 310 'Window Schedule' and Drawing No. 311 'Window Details as Proposed Plan, Elevation and Section' (as amended by Condition 3 below).

Reason: In order to re-introduce traditional timber fenestration into the building in a timeous manner and to successfully integrate the development with the existing Listed Building and the wider Conservation Area.

3. Notwithstanding the approved plans, and unless otherwise agreed in writing with the Planning Authority, all of the replacement windows hereby approved shall incorporate horn detailing on the exterior of the central meeting rail to match this feature that is present in the existing timber fenestration at the property.

Reason: In order to successfully integrate the development with the existing Listed Building and the wider Conservation Area for the avoidance of doubt.

4. Prior to the commencement of any works to the exterior of the building, full details of the remedial works that are proposed to the external façade; the flashings; and the rainwater goods shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority, the works shall be undertaken in accordance with the approved details.

Reason: In order to successfully integrate the development with the existing Listed Building and the wider Conservation Area for the avoidance of doubt.

5. A facility for the storage of cycles and the provision of e-bike charging, the details of which shall have been previously submitted to and agreed in writing with the Planning Authority, shall be provided within the application site prior to the first use of any part of the premises for short-term holiday letting purposes. Unless otherwise agreed in writing with the Planning Authority, the approved cycle storage and charging point(s) shall be retained in perpetuity for these dedicated purposes.

Reason: In the interests of facilitating the use of cycles by the occupants of the short-term holiday letting units hereby approved in accordance with the provisions of National Planning Framework 4 Policy 13 'Sustainable Transport'.

6. The short-term let accommodation hereby approved shall not be used as a main (permanent/principle) residences and shall not be occupied by any family, group or individual for a cumulative period of more than three calendar months in any one year. A register showing dates of arrivals and departures shall be maintained at the premises and shall be available at all reasonable times for inspection by the Planning Authority.

Reason: For avoidance of doubt because the development is unsuited to full

time residential occupation and due to it being assessed as tourism use having regard to the relevant provisions of the Development Plan.

Note to Applicant: Specifically the occupation of the premises as a residential use (Class 9) shall require the benefit of a separate planning permission.

(Report by Head of Development and Economic Growth dated 4 March 2024, submitted)

6. PROPOSAL OF APPLICATION NOTICE FOR PROPOSED BATTERY ENERGY STORAGE SYSTEM AND ASSOCIATED INFRASTRUCTURE: LAND ADJACENT TO SSEN TAYNUILT SUBSTATION, TAYNUILT: (REF: 24/00287/PAN)

The Senior Planning Officer spoke to the terms of the report. This report informs the Planning Committee of the submission of a Proposal of Application Notice (PAN). The submission of the PAN accords with the provisions of the Planning etc. (Scotland) Act 2006. The development which is subject to the PAN is of a scale which will be an application to The Planning Authority as the capacity of the battery storage facility at 49.9Mw, will not exceed 50Mw in total capacity. (Above 50Mw would require a Section 36 Application under the Electricity Act to The Scottish Ministers).

The report sets out the information submitted to date as part of the PAN and Summarises the policy considerations, against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date.

It was recommended that Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the Applicant's in finalising any future planning application submission.

Decision

The Committee noted the content of the report and submissions and provided the following feedback to the Applicants':

- Given that this site is next to a lot of the key infrastructure in the area we need to be well informed as to what the likelihood of risks are associated with the site, and the implications should there be any issues.

(Report by Head of Development and Economic Growth dated 23 February 2024, submitted)

7. DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE - FQ3 2023/24

A report providing an update on the performance of the Development Management Service for the reporting period FQ3 2023/24 was considered.

Decision

The Committee agreed to note the content of the report.

(Reference: Report by Executive Director with responsibility for Development and Infrastructure, dated 8 March 2024, submitted)

8. PROPOSED PROGRAMME OF PLANNING TRAINING FOR MEMBERS

Over the past 11 years a series of short training sessions or occasionally workshops/site visits have been delivered for all elected Members with an aim to improve knowledge of the planning system on a wide range of issues.

A report seeking endorsement of the training programme from April 2024 to March 2025 was before the Committee for consideration.

Decision

The Committee:

1. agreed to continuing an ongoing programme of planning related training for Members of the PPSL Committee, and that it should be open to any other Members not currently involved in planning decision-making; and
2. endorsed the initial subject areas for training and the provisional dates for delivery, on the understanding that the programme may be varied to take account of any additional training requirements Members may wish to identify, along with any other particular training needs identified by officers as a consequence of matters emerging during the course of the year.

(Reference: Report by Head of Development and Economic Growth dated 28 February 2024, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS
on WEDNESDAY, 20 MARCH 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Mark Irvine	

Attending: Shona Barton, Governance Manager
Fiona Macdonald, Solicitor
Katie Clanahan, Solicitor
Mohammad Sohail, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gordon Blair, Jan Brown, Amanda Hampsey, Daniel Hampsey, Paul Donald Kennedy, and Liz McCabe.

2. DECLARATIONS OF INTEREST

Councillor Graham Hardie, in relation to item 3 (CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR A GRANT OF A TAXI CAR LICENCE: M SOHAIL, CARDROSS) on the agenda, advised that he knew the applicant well. He advised that he would leave the meeting during discussion and deliberation of the item.

Councillor Hardie left the meeting at this point.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR A GRANT OF A TAXI CAR LICENCE: M SOHAIL, CARDROSS

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing the Applicant opted to proceed by way of audio call and Mr Sohail joined the meeting by telephone.

The Chair then outlined the procedure that would be followed and invited the Applicant to speak in support of their application.

APPLICANT

The Applicant advised that he did not wish to add anything further to his application, and he was content with the information that had been submitted to the Committee.

MEMBERS' QUESTIONS

The Chair asked the Applicant for details in relation to his reason for requiring a Taxi Car licence. He also sought and received confirmation from the Applicant that he believed that there was significant demand for taxis in the area. The Applicant advised that he was hoping to change jobs and make a better living for himself.

SUMMING UP

Applicant

The Applicant advised that he would be happy to receive the licence, and to work long hours as and when required. He noted that he was used to working long hours.

When asked, Mr Sohail confirmed that he had received a fair hearing.

DEBATE

The Chair noted that the Committee had taken a relatively consistent position with granting Taxi Car Licences. He highlighted that the available data for the Helensburgh and Lomond area was based on information gathered prior to the pandemic, which could now be seen as outdated. He advised that as a result of this, he would suggest approval of the Licence.

Councillor Armour advised that he was in agreement with the Chair. He noted that there were no representations or objections in relation to the application, and he would be happy to support the award of the Licence.

Councillor Forrest noted her agreement with other Members, and advised that she did not see any reason not to approve the application.

Councillor Philand agreed with the other Members, and confirmed he would be happy to grant the Licence.

DECISION

The Committee unanimously agreed to grant a Taxi Car Licence to Mr Sohail and noted that he would receive written confirmation of this within 7 days.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the BY MICROSOFT TEAMS
on TUESDAY, 26 MARCH 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Jan Brown	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Amanda Hampsey	Councillor Peter Wallace
Councillor Graham Hardie	

Attending:

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated on behalf of Councillors Gordon Blair, Daniel Hampsey, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022: APPLICATION FOR GRANT OF A SHORT TERM LET LICENCE (C BRAY, RHU)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing the Applicant and her husband opted to proceed by way of video call and joined by MS Teams, the Objector opted to proceed by audio call and joined the meeting by telephone.

The Chair outlined the procedure that would be followed and invited the Licensing Standards Officer to speak to the terms of the report.

The Chair then invited the Applicant to speak in support of the application.

APPLICANT

For the last five years the flat has been let out for short term lets, apart from the lock down period, we have not received any form of complaints or concerns from neighbours within the property and feel that the flat does not affect them in any way. There are 17 flats within the property and only one objector to our application, we have a good relationship with the surrounding owner occupiers and tenants. We work sensitively, are responsible hosts and have painted the back of the building, which benefits everyone.

QUESTIONS FROM OBJECTOR

No questions were asked by objector.

OBJECTOR

The Objector spoke in support of his objections as outlined in his letter, which included invasion of privacy and security and the setting of precedence. He advised that he had lived in the property for the last 35 years, noting that the other owner occupiers and long term tenants are known to me but these people coming and going to the short term let are not. He noted that he was the only objector as not everyone knew about this hearing nor the application. He advised that he has served on the residents committee for a number of years and feels that allowing this short term let would set a precedent for others to follow suit and the building would go downhill.

QUESTIONS FROM APPLICANT

Have you had any issues with any other long term tenants, owner occupiers or short term lets.

Objector responded yes probably with all of them over the years. I do not know who is coming and going to short term lets.

MEMBERS' QUESTIONS

Councillor Brown asked if in the last 5 years that the flat has operated as an Air BnB if any mail has went missing or has there been any anti-social behaviour.

Applicants responded that nothing has ever been raised to them.

Objector responded by advising that an item was stolen from an outside shed but it was difficult to know if any mail had went missing.

Councillor Brown asked the objector if he knew if the theft related to the short term let.

He did not know.

Councillor Forrest asked the applicants how and where they displayed the notices in relation to the short term let application?

The applicant responded that notices were displayed on the front and back gates of property and that several owners had spoken to her in relation to the notices.

Councillor Forrest also asked if there had ever been police involvement.

The applicant was not aware of any issues that would have involved the Police.

The objector said probably in the last 30 years but could not remember anything specific.

Councillor Armour asked the Objector in the last 5 years what issues had arisen.

The objector responded that it is a residential area which are either long term lets or owner occupiers, the issues that have arisen in the past 5 years are a nuisance to myself.

Councillor Armour added how many times have you complained to the owners?

The objector advised that he had never complained to the owners.

Councillor Irvine asked the objector if the short term let or the application had been discussed with the residents association.

The objector advised that this had not been discussed.

Councillor Hardie asked the objector if he had any issues with noise at unsociable hours.

The objector advised that where his residence is in relation to the short term let he would not hear any noise from that area.

Councillor Brown asked both applicant and objector if there had been a discussion around installation of a secure mail box.

The applicants stated that they had offered to arrange for a door to be put on the mail box to secure it, however, there are often parcels left outside the property. No other resident had raised a concern with regard to the mail

Councillor Philand asked the objector if the licence was to be granted with the conditions applied, what do you think is missing that should be included?

The objector responded that his issue is with privacy.

There were no further questions.

SUMMING UP

Objector

The objector summed up by stating that he wanted the building to stay as long term residency and not short term lets, it infringes on privacy, not everyone wants to get involved. He does not want different people every other day going backwards and forwards. There may not have been anything in the original title deeds but may have been if it had been legitimised back then. The applicants never asked any of the neighbours their thoughts.

Applicant

The applicant stated that there are 17 flats within the building, there is an access road that runs around the property to 7 other buildings, so there is a right of way through the grounds. We try to operate in a manner sympathetic to the other residents.

When asked, both parties confirmed that they had received a fair hearing.

DEBATE

Councillor Hardie having listened to both sides advised he had no problem with agreeing to grant the licence with the conditions attached.

Councillor Irvine wished that all applicants were as accommodating and considerate and agreed with Councillor Hardie that the licence should be granted with conditions.

Councillor Forrest was of the same opinion as her fellow councillors.

Councillor Brown had taken on board the objectors concerns, but also agreed to the licence being granted.

Councillor Philand stated the applicants had addressed any concerns quickly and agreed that the licence should be granted.

Councillor Green appreciated the concerns of the Objector but expectations of privacy should be based on a level where sharing a building with 17 flats, he also agreed that the licence should be granted.

Councillor Green moved that the application be approved with the conditions, as outlined within the report relating to antisocial behaviour and privacy and security. With no one being otherwise minded this became the decision of the Committee.

DECISION

The Planning, Protective Services and Licensing Committee unanimously agreed to grant a Short-Term Let Licence to the Applicant, subject to the inclusion of the antisocial behaviour and privacy and security conditions set out at paragraph 6.1 of the report.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the BY MICROSOFT TEAMS
on TUESDAY, 26 MARCH 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Jan Brown	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Amanda Hampsey	Councillor Peter Wallace
Councillor Graham Hardie	

Attending: Shona Barton, Governance Manager
Fiona MacDonald, Solicitor
Alison MacLeod, Licensing Officer
Hugh Kinnaird, Applicant
Keith Shanks, Applicant's Agent

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated on behalf of Councillors Gordon Blair, Daniel Hampsey, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022: APPLICATION FOR GRANT OF A SHORT TERM LET LICENCE (H KINNAIRD, LUSS)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing the Applicant and his Agent opted to proceed by way of video call and joined the meeting by MS Teams. . It was noted that the objector to the application had opted to proceed by way of written submission.

The Chair outlined the procedure that would be followed and invited the Licensing Standards Officer to speak to the terms of the report.

The Chair then invited the Applicant to speak in support of the application.

APPLICANT'S AGENT

There was a presentation of before and after pictures of the Old Mill, which showed a heavily wooded area between the grounds of the Old Mill and the Objector's property.

The property is advertised as a short term let for families and not for stag or hen parties. The Applicant lives in Balloch and has family that live nearer to the Old Mill, so they can

be in attendance quickly in the event of any unnecessary nuisance. The Outside Area, which consists of a sitting/eating area and a hot tub has noise monitoring equipment fitted in the canopies that cover both areas. The noise equipment records noise levels only not conversations. There are also CCTV cameras fitted in the property. Advertising through Airbnb there are parameters set, so only certain people can actually book the property and the applicant or a family member is usually on site to meet the guests.

MEMBERS' QUESTIONS

Councillor Kain asked the applicant what he defined as early intervention as per 4.7 of the report.

The applicant advised that he could be at the property within 30 mins or there is family closer by that could be in attendance in about 7 mins.

Councillor Kain added that stating times with regard to early intervention must be achievable and also asked what reasonable steps would be taken to ensure that no more than 10 people turn up to the property.

The applicant stated that they meet guests on arrival, there are noise monitors and CCTV cameras fitted, but would welcome any other suggestions that would alleviate any issues.

Councillor Brown asked for clarification on how many people could actually sleep in the property as the application stated that there were 3 double beds, plus a double bedroom which amounts to 8 persons that could sleep there.

The applicant advised that there was also a sofa bed in the living room area which would sleep 2.

Councillor Brown also asked where the notices were displayed and where the applicant was based in relation to the Old Mill.

The applicant advised that Notices were displayed on the front gate of the property and that he lives in Balloch.

Councillor Irvine advised that he was familiar with the area as it was within his Ward, he asked how close the objector's property to the Old Mill was.

The applicant and agent responded about 70 meters. The photograph of the aerial view of the property was presented in order that the Committee could see where the objector's property was situated in relation to the Old Mill.

Councillor Brown asked the applicant's agent how many properties they managed.

Mr Shanks responded that they manage 83 properties.

Councillor Irvine asked how many properties within the Luss area.

Mr Shanks stated 4.

Councillor Green asked if the applicant gave his guests advice on what time they should not use the outside area.

The applicant advised that the outside area should be used no later than 10pm, but is happy to take guidance from the Committee.

SUMMING UP

Applicant's Agent and Applicant

In response to the Objector we have put in noise monitoring equipment and CCTV Cameras, which are linked to our phones, we have marketed the property aimed at families, there will be no stag or hen parties allowed. We have done as much as possible to alleviate and concerns or issues that arise.

The applicant also added that the property is personal to him and there are items he has within the property that mean a great deal to him and he himself wants to stay at the property at times.

When asked, the applicant confirmed that they had received a fair hearing.

DEBATE

Councillor Hardie stated that the applicant was professional, organised and dealt with concerns quickly and had no problem in the licence being granted.

Councillor Irvine stated that he did have some issues, not with this property in particular nor the objector's concerns, but with the over provision of short term lets in the area. The applicant has done a great job and he was minded to approve the licence with a caveat to be aware of over provision of short term lets in the area.

Councillor Brown advised that she did have some concerns regarding noise, but will support the approval of the licence as long as the applicant carries out resolving any issues as he has said.

Councillor Forrest agreed to supporting approval of the licence.

Councillor Kain supported the application but to put achievable response times to any issues that arise.

Councillor Philand stated that the applicant had put measures in place in response to the neighbour's concerns and would be happy to support the application.

Councillor Armour was happy that Councillor Irvine raised the question of where exactly the neighbour's property was situated as he had not been clear on that. Therefore, happy to support the licence being granted.

Councillor Green advised that he was happy that the applicant would look at the hours of the use of the outside area and if no one was otherwise minded, that the licence should be granted with the conditions stated.

DECISION

The Planning, Protective Services and Licensing Committee unanimously agreed to grant a Short-Term Let Licence to the Applicant, subject to the inclusion of the antisocial behaviour and privacy and security conditions set out at paragraph 6.4 of the report.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the BY MICROSOFT TEAMS
on TUESDAY, 26 MARCH 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Mark Irvine
Councillor Jan Brown	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Amanda Hampsey	Councillor Peter Wallace
Councillor Graham Hardie	

Attending: Shona Barton, Governance Manager
Fiona MacDonald, Solicitor
James Crawford, Licensing Officer
Iain Pettigrew, Applicant's Representative

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated on behalf of Councillors Gordon Blair, Daniel Hampsey, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

There were no declarations of interest intimated.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022: APPLICATION FOR GRANT OF A SHORT TERM LET LICENCE (GOWANLEA, KILCHATTAN BAY, ISLE OF BUTE)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing the Applicant's representative opted to proceed by way of audio call and joined the meeting by telephone. It was noted that the objector to the application had opted to proceed by way of written submission.

The Chair outlined the procedure that would be followed and invited the Licensing Standards Officer to speak to the terms of the report.

The Chair then invited the Applicant to speak in support of the application.

APPLICANT

The applicant's agent addressed the objector's comments advising that they were inaccurate. There has never been a door replaced due to damage or otherwise, the flat is let on a minimum 2 night stay, there have never been any reports of guests being inebriated or smoking in the garden, the applicant has a good relationship with the upstairs neighbour, who enjoys having people coming to stay in the property. The objector also complained of people sitting outside the window, so the applicant planted

shrubs in that area, which the objector did not like and cut them back. There was one occasion in 2020 when there was a report of a dog barking, the applicant immediately phoned the guests, who were out at the local hotel having dinner and they returned to the property at once. Although, pets are allowed in the property, there was never any statement of how many or about leaving them unattended, this has now been added to the welcome pack and advertising. An area of the garden has been fenced off to allow guests to let their dogs use it.

There is also a quiet time stated in the welcome pack. Housekeeping services are employed and have never complained about how the property or garden has been left. A gardener has also been employed for the past 20 years, who has carried out weeding.

The property is let out from March to October as a quiet retreat, with no wifi or technology equipment on offer. The other months, the property is used by family members and our own dogs. The area is not a retirement village nor a holiday camp as stated by the Objector.

MEMBERS' QUESTIONS

Councillor Philand referred to point 2c of the objectors concerns, that the property sleeps 4 but at one time had 15 people.

The applicant advised that when they started to let out the flat there had been a campervan parked outside the property, there had also been a function at the local hotel, which is just along the road from property. We only cater for 4 persons within the property and can only imagine that there was a gathering in the garden area. The Objector also refers to her dog being savagely attacked by 7 dogs, there was never any evidence of this and the story was exaggerated.

SUMMING UP

Applicant's Agent

The licensing officer gave us a great deal of support and we knew that there would be issues with the Objector, as she had stated that she would go out of her way to go against the application.

When asked, the applicant confirmed that they had received a fair hearing.

DEBATE

Councillor Hardie agreed that the applicant had done everything to address the Objectors concerns and he has happy to support the application.

Councillor Brown stated that the applicant had shown great restraint and willingness to be co-operative and to be responsible owners and operators. Happy to support the approval of the licence.

Councillor Forrest agreed that the applicant had done everything to make things better and supported the granting of the licence.

Councillor Philand agreed with his fellow committee members.

Councillor Green moved that the application be approved with the conditions, as outlined within the report relating to antisocial behaviour and privacy and security. With no one being otherwise minded this became the decision of the Committee.

DECISION

The Planning, Protective Services and Licensing Committee unanimously agreed to grant a Short-Term Let Licence to the Applicant, subject to the inclusion of the antisocial behaviour and privacy and security conditions set out at paragraph 6 of the report.

(Reference: Report by Head of Legal and Regulatory Support, submitted)

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

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

Reference No: 23/00185/PP
Planning Hierarchy: Local Development
Applicant: Torloisk Estate
Proposal: Conversion and extension of stone barn to form dwellinghouse, installation of septic tank and formation of vehicular access
Site Address: Land West of Lagganulva Farm

DECISION ROUTE

Committee - Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Conversion and extension of barn to form dwellinghouse
- Installation of private drainage system
- Formation of vehicular access
- Connection to private water supply

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

(C) CONSULTATIONS:

Argyll and Bute Council – Roads Authority

Report dated 14.03.2023 advising of no objections to the application subject to conditions relating to the formation of the access at the junction with the public road, the clearance and maintenance of visibility splays, the provision of a system of surface water drainage, and the provision of a parking and turning area. The report further advises that the required sightlines are achievable within the public road corridor.

Scottish Water

Letter dated 14.03.2023 advising of no objections to the application.

NatureScot

Letter dated 04.04.2023 advising that the proposed development lies within the Lagganulva Woodland Site of Special Scientific Interest and within the Loch na Keal National Scenic Area. The letter advises that the proposed development is unlikely to have a significant effect on the qualifying interests of these sites either directly or indirectly. The letter further advises that European Protected Species, such as bats and otters, may be present on the site.

Argyll and Bute Council – Environmental Health Service

Report dated 27.03.2023 advising that the application appears to be proposing the redevelopment of land where there is an indication of previous use which may be contaminative. The response recommends the inclusion of a planning condition relating to a site investigation and risk assessment.

Local Biodiversity Officer

Email dated 19.04.2023 advising of agreement with the submitted Preliminary Ecological Appraisal and requesting further surveys to identify the presence of otters, bats and nesting birds, and requesting the provision of a Tree Protection and Management Plan. Upon the submission of an Otter and Bat Survey Report, the Local Biodiversity Officer was re-consulted and, in an email dated 26.06.2023, advised that works should be carried out in accordance with the submitted Report.

The above represents a summary of the issues raised. Full details of the consultation responses are available to view via the [Public Access](#) section of the Council's website.

(D) HISTORY:

24/00259/PNAGRI

Erection of agricultural shed

Prior Approval Not Required and permission therefore granted – Decision Issued 10.04.2024

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 18.04.2023.

(F) REPRESENTATIONS:

(i) Representations received from:

22 objections have been received to the application.

OBJECTIONS

Mr Daniel Brooks, Sapling Cottage, Ulva Ferry, Isle of Mull, PA73 6LY (14.04.2023)

Mr Rhuri Munro, Ferry House, Ulva, Isle of Mull, PA73 6LZ (17.04.2023)

Christine Leach (15.04.2023 and 17.04.2023)

Celia Royce, Kellan Old Farm, Aros, Isle of Mull, PA72 6JY – by email only (17.04.2023)

Kirsty Leitch – by email only (17.04.2023)

Miss Hilary Sutton, The Bothy, Tigh-Na-Caora, B8073 North of Ulva Ferry, from Grouse Cottage to C44 Ulva Ferry Road, Ulva Ferry, Isle of Mull, PA73 6LT (18.04.2023)

Ms Irene Anderson, Burnedge, Bridge of Eam, Perth, PH2 9BP (18.04.2023)

Ms Elizabeth Wood, 9 Lochmill Holding, Milton of Campsie, Glasgow, G66 8AG (18.04.2023)

Mr Michael Hogan, 29 Coltpark Woods, Hamsterley Colliery, Newcastle Upon Tyne, NE17 7SP (18.04.2023)

Mr Kieran Murray, Craighead Cottage, Braco, Dunblane, FK15 9LP (18.04.2023)

E Wood – by email only (17.04.2023)

Nick Mawhinney (14.04.2023)

Sarah Mawhinney – by email only (17.04.2023)

Dr Robert Stewart, Killiemore Garden Caravan, Killiechronan, Isle of Mull, PA72 6JZ (18.04.2023)

Ms Helen Stace, Scoor Cottage, Ulva Ferry, Isle of Mull, PA73 6LX (four representations dated 18.04.2023)

Tim Dixon, Scoor Cottage, Croft 3, Fanmore (18.04.2023)

North West Mull Community Woodland Company Ltd, Penmore Mill, Dervaig, Isle of Mull, PA75 6QS (17.04.2023)

Lauren Worrell, NFU Scotland, Rural Centre – West Mains, Ingliston, Newbridge, Midlothian, EH28 8LT (18.03.2024)

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:

OBJECTION

Conversion of existing barn

- The existing barn is of historic and visual interest.
- The tenant farmers still use the barn and have done so for a long time. The existing building remains in use for agricultural purposes. The building is not redundant and is part of a local enterprise. A replacement building would be required and is unlikely to be of a similarly traditional appearance.
- If the existing barn building were to be removed from its current use, a replacement building would be required. The replacement building would not be in keeping with the setting.
- Steading buildings that are maintained and in use on Mull are rare.

Officer Comment: *The barn the subject of this planning application is not listed or protected in any way. Neither is it located within a conservation area. It could, therefore, be demolished at any time without reference to the planning authority. The agent has advised that the existing barn, on the opposite side of the public road to the established farm steading, is unsuitable in terms of its siting, scale and form, and is not suitable for current agricultural use or machinery storage and does not provide an efficient space for such uses. The barn as existing is unable to accommodate agricultural machinery, meaning that machinery is kept outside. The ceasing of the agricultural use of the existing barn does not form a material planning consideration,*

however, the applicant submitted a prior notification application to erect a building as 'agricultural permitted development' on land to the north of Lagganulva Farm (our reference 24/00259/PNAGRI). The application was determined as permitted development in terms of Class 18 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 as amended. The report accompanying application 24/00259/PNAGRI considered that the erection of an agricultural building within the holding would have no materially negative visual impact on the environment or the wider landscape including the National Scenic Area. The replacement agricultural building is to be sensitively sited within the existing farm complex where it would be largely screened from the public realm by existing built development. The replacement agricultural building would instead relate both visually and functionally to existing buildings associated with the agricultural business and the scale of the replacement agricultural building would be commensurate with the functional need for the building and its setting in the landscape.

Provision has therefore been made for an alternative building for use by the tenant farmer on land within the farm steading and closer to the existing buildings than the barn the subject of this application. The provision of the alternative agricultural building can be secured through the use of a suitable planning condition which would require it to be available for use by the tenant farmer before any works on the conversion of the existing barn commence.

The existing barn would be retained as part of the development proposal. It is proposed to repair and repoint the existing stone walls of the barn and make use of the existing tiled roof. The alterations to the existing barn would be limited to repairs to the walls and roof, the installation of windows and doors, and downtakings to facilitate the adjoining of the proposed extension. In this way, the proposed development would largely preserve the existing building, thereby retaining its character and appearance.

Biodiversity

- The existing barn and the wider application site hosts bats, birds and otters.
- Otters, bats and barn owls are present on and around the application site.
- The submitted information does not demonstrate how the development would benefit biodiversity.

Officer Comment: The application has been submitted with a Preliminary Ecological Appraisal and an Otter and Bat Survey Report. The Council's Biodiversity Officer was consulted on the application and confirmed agreement with the submitted information, stating that a pre-commencement survey is required to identify bird nests within the application site. The Council's Biodiversity Officer confirmed agreement with the proposed mitigation measures in relation to the impact of the proposed development upon otters, bats and nesting birds. Suitable conditions are required to ensure that the proposed development is carried out in accordance with the mitigation measures outlined within the submitted Preliminary Ecological Appraisal and the Otter and Bat Survey Report, and to secure the provision of a pre-commencement nesting bird survey to ensure that no bird species are compromised.

NPF4 Policy 3(c) requires development proposals to include appropriate measures to conserve, restore and enhance biodiversity. The information submitted with the

application has demonstrated that the development proposal would conserve biodiversity. With regard to biodiversity enhancement, adequate and proportionate measures for biodiversity enhancement and protection can be delivered by planning condition, to be secured prior to the commencement of development. The condition will secure the provision of biodiversity enhancement measures prior to the occupation of the development.

Landscape and visual impact

- The installation of windows into the existing barn would have a detrimental impact upon the character and appearance of the National Scenic Area, increasing the prominence of the building. The existing development at Lagganulva is a focal point and the existing house and steadings are important local landmarks. The proposed extension would be harmful to the location which is highly valuable in terms of scenic beauty.
- The development would be sited within the Loch na Keal National Scenic Area. The Landscape Capacity Study specifically identifies the existing Lagganulva setting for special consideration.
- The nearest electricity supply is on the opposite side of the road. No information has been provided as to whether the connecting cable would run underground or result in additional unsightly poles and lines.
- No information has been provided regarding landscaping and boundary treatments.

Officer Comment: *The proposed windows are considered to be suitable to the scale of the existing barn and would have a negligible impact upon the appearance of the existing building. The application proposes to retain the scale and form of the existing barn, to include the repair of the existing stone walls and slate roof, and in this regard the development would retain the character and appearance of the existing barn without any material harm to the character and appearance of the National Scenic Area.*

The proposed extension would be modest in scale, occupying a total external footprint of 56 square metres. The proposed extension would have a simple and traditional narrow, linear form and a single storey dual-pitched roof, ensuring that it would not appear as unduly prominent. The proposed timber finishing materials would assist in providing the proposed extension with a simple appearance, ensuring that it would integrate with the appearance of the rural surroundings. The extension would be sited sensitively on land between the existing barn and the public road, ensuring that it would not encroach into more open and undeveloped areas of the site.

The application proposes to retain the existing development at the site through the repair and conversion of the existing stone barn. In this regard, the site would remain a focal point within the landscape. Given the small scale and appropriate form, design and appearance of the proposed extension, the visual composition of the site would not be adversely impacted and the proposal would not therefore disrupt the visual focus.

A scheme for boundary treatment, surface treatment and landscaping is to be secured via planning condition, to include the submission of details any proposed walls, fences and gates; surface treatment; and hard and soft landscaping works.

Proposed use

- The area does not need short term holiday letting properties; the area instead requires long term affordable accommodation.
- Granting planning permission for a development of this nature would set a precedent for the use of agricultural buildings as short-term holiday letting accommodation where agricultural buildings are already in scarce supply.

Officer Comment: *The proposal the subject of this planning application is seeking to secure planning permission for the conversion of and extension to the existing stone barn to form a dwellinghouse. This is by no means an unusual type of development. The Planning Authority is satisfied that the existing barn, and the application site, is able to successfully accommodate a suitably sited, scaled and designed extension which would facilitate the conversion of the existing stone barn to form a dwellinghouse which would relate to the established appearance of the surrounding area. The application relates to the provision of a dwellinghouse and does not relate to short term let accommodation. Whilst it is acknowledged that the future occupancy or tenure of the dwellinghouse is unknown, the Council currently has no planning policies that could control this and, in that regard, this is not considered a planning issue of any overriding material significance.*

Water supply and drainage

- The application indicates a connection to the public water supply, however no such supply is available and no details have been submitted regarding the private water supply.
- All existing water supplies are barely adequate and demand from another development could not be sustained.
- The proposed arrangement for sewage disposal is not satisfactory; the discharge would be to Laggan Bay which is within a designated Shellfish Waters Protected Area and that must be safeguarded.
- The application has not been submitted with a technical report for foul water drainage. This is relevant as the building is adjacent to a watercourse and the proposed soakaway would be adjacent to a well and on an area of ground which is waterlogged all year round.

Officer Comment: *The agent has confirmed that the proposed development would be served by a private water supply. A suitable pre-commencement condition is required to secure an appraisal of the wholesomeness and sufficiency of the intended private water supply and the system required to serve the development to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.*

The application proposes the installation of a private drainage system and a soakaway. The Council's Building Standards Service will apply sufficient control over the treatment plant arrangements at Building Warrant stage. The proposed drainage system would be regulated under the building standards to ensure that it is capable of being provided to a safe, effective and appropriate technical standard. Any discharge to the water environment would be regulated by SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). It is the responsibility of the installer and owner to ensure that the drainage system is installed and maintained correctly. Pollution enforcement is the responsibility of SEPA and as the proposed development is not located within a Waste Water Drainage Consultation Area there is no reason to assume that a safe and effective private wastewater system cannot be utilised.

Additionally, the area of the marine environment within the vicinity of the proposed development site is not within either a Marine Protected Area or a Marine Consultation Area.

Trees

- No works should occur within the root protection area or tree protection zone. The site features veteran trees and the application describes felling, limbing, crown reduction and pollarding, which would significantly impact upon the appearance of the area.
- The submitted tree report fails to recognise the age and significance of the trees and fails to take into account elder trees on the roadside boundary.
- The clearance of visibility splays for the access may result in the loss of roadside trees and walls.
- The trees provide a food source for insects.

Officer Comment: *The proposed extension to the existing barn would be sited towards the southeast corner of the application site, away from the mature trees which are sited adjacent to the northwest of the existing barn. The submitted information advises that any excavation works in the area adjacent to the tree protection zone would be excavated by hand. The application does not propose any works to the trees on site. However, given the presence of established mature trees at the site, a suitable condition is required to secure the provision of a scheme for the retention and safeguarding of trees during construction work, to include detail of any proposed tree works and a programme of measures for the protection of trees during construction works.*

The proposed development would not harm the Lagganulva Wood Site of Special Scientific Interest.

Suitability of the site

- The application has been submitted with insufficient information with regard to biodiversity, landscape impact, sustainability, water supply, the proposed use of the site, and the impact upon the Site of Special Scientific Interest designation.

- The steading proposed for conversion is part of a working farmyard with characteristic noises created by animals and machinery. This may create conflict between neighbours.
- The Torloisk Estate already has properties which have been moved into the self-catering market.
- A house in this location is invasive of privacy. The location and design of the proposed development would negatively impact upon the residents of Lagganulva Farm and the surrounding landscape.
- The barn is not a suitable site for the development proposed.
- Protection is required for agricultural land which is good quality and locally important. The field associated with the steading is valuable in this location.

Officer Comment: *The information submitted with the application, in the form of the Preliminary Ecological Appraisal, photomontages, Tree Report, Otter and Bat Report, Design Statement, and 'Six Qualities of Successful Places' Statement have satisfactorily demonstrated that, in this instance, the proposed development site would represent an appropriate opportunity for development with a sensitively sited extension which would be of an acceptable scale, design and finish that would integrate with the application site and its wider setting within the landscape.*

The application site is located southwest of the existing farm. Whilst the application site and the proposed development would be located in proximity to the agricultural business, the proposed development would be sited at a sufficient distance to ensure that there would be no impact upon neighbour amenity with regard to overlooking, visual intrusion or shading. In terms of 'bad neighbour' development, the application site would be physically separate from the established farm, which is sited on the opposite side of the public road. The proposed development would be well contained within the application site and would not share access with the farm, nor would the application site be functionally associated with the agricultural business. The proposed development would be sufficiently distinct from the farm and its associated activity such that it is not considered that there would be any adverse impacts upon the sensitive receptor of the dwellinghouse with regard to noise disturbance, odour pollution or light pollution.

The development proposed by the current application seeks to develop a rough area of ground adjacent to the existing barn. In terms of the land capability for agriculture, the application site falls within Class 5.2 where the land is capable of use as improved grassland, where pasture establishment may be difficult to maintain. The proposed development would be of a small scale and would not impact upon prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, with due consideration to the extent of the wider agricultural landholding.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) Environmental Impact Assessment Report: Yes No

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

(iii) **A Design or Design/Access statement:** Yes No

A Design Statement has been submitted with the application.

(iv) **A Sustainability Checklist (with reference to the requirements of LDP2 Policy 04)** Yes No

The application was submitted prior to the adoption of the LDP2 and has been submitted with a Preliminary Ecological Appraisal, photomontages, a Tree Report, an Otter and Bat Report, a detailed Design Statement, and a 'Six Qualities of Successful Places' Statement, which together with the site visits undertaken, has demonstrated that there would be no significant adverse effect on landscape and visual amenity resulting from the development of the site with the conversion of, and extension to, the existing barn and therefore, in this instance, it is not considered that any further landscape/visual information is required to allow a decision on the proposal to be made.

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

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes No

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

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

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

[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 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

[Argyll and Bute Local Development Plan 2 \(Adopted 2024\)](#)

Spatial and Settlement Strategy

Policy 02 – Outwith Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking

Policy 08 – Sustainable Siting

Policy 09 – Sustainable Design

Policy 10 – Design – All Development

Policy 11 – Design – Conversions and Change of Use

Policy 14 – Bad Neighbour Development

Connected Places

- Policy 34 – Electric Vehicle Charging
- Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
- Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
- Policy 39 – Construction Standards for Private Accesses
- Policy 40 – Vehicle Parking Provision

Sustainable Communities

- Policy 58 – Private Water Supplies and Water Conservation
- Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems
- Policy 61 – Sustainable Urban Drainage Systems (SUDS)
- Policy 63 – Waste Related Development and Waste Management

Homes for People

- Policy 67 – Provision of Housing to Meet Local Needs Including Affordable Housing

High Quality Environment

- Policy 70 – Development Impact on National Scenic Areas (NSA's)
- Policy 73 – Development Impact on Habitats, Species and Biodiversity
- Policy 75 – Development Impact of Sites of Special Scientific Interest (SSSIs)
- Policy 77 – Forestry, Woodland and Trees
- Policy 79 – Protection of Soil and Peat Resources
- Policy 82 – Contaminated Land
- Policy 83 – Safeguarding Agricultural and Croft Land

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

- Third Party Representations
- Consultation Responses
- Planning History
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- [ABC draft Technical Note – Argyll and Bute Windows \(April 2018\)](#)
- [ABC Landscape Studies](#)
- [ABC Housing Needs and Demand Assessment](#)
- [ABC Housing Emergency Statement](#)

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

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

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

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

Whilst there has been considerable objection raised, it is noted that only approximately half of those objections are from the local area. In addition, the representations relate largely to the conversion of the existing barn to form a dwellinghouse and the resultant loss of its existing use for agricultural purposes. The loss of the agricultural use of the existing barn is not, in itself, a material planning consideration as it is a privately owned building that is not afforded any protection status. Whilst officers have every sympathy with the tenant farmer, the applicant has, at the insistence of the planning authority, addressed this concern through the provision of a replacement agricultural building, as detailed within application reference 24/00259/PNAGRI. With regard to objections raised in terms of biodiversity, landscape, servicing, infrastructure and access, the Officer's recommendation is aligned with the consultation responses received on the application and as such it is not considered that a pre-determination hearing would add value to the decision making process.

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

- Loch na Keal National Scenic Area
- Lagganulva Wood Site of Special Scientific Interest

(O)(ii) Soils

Agricultural Land Classification:

Built Up Area

Peatland/Carbon Rich Soils Classification:

- Class 1
Class 2
Class 3
Class 5
N/A

Peat Depth Classification:

1 metre

Does the development relate to croft land?

Yes No

Would the development restrict access to croft or better quality agricultural land?

Yes No N/A

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

Yes No N/A

The application site falls within Class 5.2 where the land is capable of use as improved grassland, where pasture establishment may be difficult to maintain. The proposed development would be of a small scale such that it is considered that the proposed development would not impact upon prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, with due consideration to the extent of the wider agricultural landholding.

(O)(iii) Woodland

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

Does the proposal include any replacement or compensatory planting? Yes
 No details to be secured by condition
 N/A

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

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

ABC LDP2 Settlement Strategy

Settlement Area
 Countryside Area
 Remote Countryside Area
 Helensburgh & Lomond Greenbelt

ABC LDP2 Allocations/PDAs/AFAs etc:

N/A

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

The proposal the subject of this planning application is seeking to secure planning permission for the conversion of, and extension to, an existing barn to form a dwellinghouse, and the installation of a septic tank and the formation of a vehicular access.

In terms of the adopted LDP2 the site is defined as 'Outwith Settlement Areas' within an area identified as 'Countryside Area' where Policy 02 of LDP2 gives a presumption in favour of sustainable development where it is of an appropriate scale, design, siting and use for its countryside location, as set out in the relevant sustainable siting and design policies of LDP2.

Policy 02 further states that certain development will be supported, generally without the need for detailed environmental assessments, with these comprising, infill, redevelopment opportunities of clusters; or previously developed sites. In Countryside Areas, where there are nature conservation or landscape designations in place, Policy 02 details that development proposals will have to demonstrate that they are compatible with the designation interests.

The application site comprises an irregular plot of land located on the northern edge of Laggan Bay, immediately to the west of the B8073 public road. To the northeast of the application site, to the east of the public road, there is a farmhouse and associated outbuildings. The application site features an existing 'L' shaped stone barn with a hipped slate roof, set within the southeast corner of the plot. There are a number of mature trees within the site boundary.

This application is seeking to secure planning permission for the conversion of, and extension to, the existing stone barn at the site to form a dwellinghouse, and the installation of a septic tank and the formation of a vehicular access. The existing stone walls of the barn would be repaired and repointed as necessary, and the slate roof would be retained. The proposed extension to the barn would be sited upon the

eastern elevation and would take a linear form, orientated parallel to the public road, with a dual-pitched roof and gable ends.

The application proposes the upgrade of an existing vehicular access to serve the proposed development, with the formation of a turning area and parking provision for two vehicles. The water supply would be via connection to a private supply and the foul drainage would be by way of a private system comprising a septic tank and soakaway due to the lack of public infrastructure within the vicinity of the application site.

The proposal has elicited 22 objections.

The main considerations relate to whether or not the conversion of, and extension to, the existing stone barn at the application site to form a dwellinghouse is appropriate in terms of scale, design, siting and use for its countryside location; whether the servicing, infrastructure and access arrangements are suitable; whether the proposal is acceptable in terms of biodiversity and landscape impacts; and whether it is consistent with the provisions of adopted National and Local Planning Policy.

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

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

The proposal is considered to be consistent with the relevant provisions of the Development Plan and National Planning Framework 4 and there are no other material considerations of sufficient significance, including issues raised by third parties, to indicate that it would be appropriate to withhold planning permission having regard to Section 25 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:
 Yes No

Author of Report: Emma Shaw **Date:** 08.05.2024

Reviewing Officer: Tim Williams **Date:** 08.05.2024

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/00185/PP**Standard Time Limit Condition** (as defined by Regulation)**Standard Condition on Soil Management During Construction****Additional Conditions****1. PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 01.02.2023, supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Existing Drawings 1 (downtakings in red)	PL_003		02.02.2023
Existing Drawings 2 (downtakings in red)	PL_004		02.02.2023
Proposed Elevations	PL_008		02.02.2023
Proposed Plan	PL_006		02.02.2023
Proposed Section A-A South Elevation and Section B-B	PL_007		02.02.2023
Proposed Renders	PL_009		02.02.2023
Proposed Interior Renders	PL_010		02.02.2023
Existing Site Plan	PL_002		27.02.2023
Proposed Site Plan	PL_005		27.02.2023
Proposed Plan	PL_006		27.02.2023
Location Plan	PL_001		27.02.2023

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

2. Timescale to be Agreed for Completion

No development shall commence until details of the proposed timescale for completion of the approved development have been submitted to and approved by the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

Reason: In order to comply with the requirements of NPF4 Policy 16F.

3. Sustainable Drainage System

Notwithstanding the effect of Condition 1, the development shall incorporate a surface water drainage system which is consistent with the principles of Sustainable urban Drainage Systems (SuDS) compliant with the guidance set out in CIRIA's SuDS Manual C753 and Sewers for Scotland 4th Edition. The requisite surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

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

Note to Applicant:

- Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk .

4. **Landscaping and Biodiversity Enhancement**

No development shall commence until a scheme of biodiversity protection and enhancement, boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall include details of:

- i) Location, design and materials of proposed walls, fences and gates;
- ii) Surface treatment of proposed means of access and hardstanding areas;
- iii) Any proposed re-contouring of the site by means of existing and proposed ground levels;
- iv) Proposed hard and soft landscape works; and
- v) A biodiversity statement demonstrating how the proposal will contribute to conservation/restoration/enhancement of biodiversity, and how these benefits will be maintained for the lifetime of the development.

The development shall not be occupied until such time as the physical biodiversity enhancement measures (bird nesting boxes, 'swift bricks', wildlife ponds, bat and insect boxes, hedgehog homes etc), the boundary treatment, surface treatment and any re-contouring works have been completed in accordance with the duly approved scheme.

All biodiversity enhancement measures consisting of new or enhanced planting shall be undertaken either in accordance with the approved scheme of implementation or within the next available planting season following the development first being brought into use.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme during the first planting season following the commencement of the development, unless otherwise agreed in writing by the Planning Authority.

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

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

5. Junction with Public Road

Notwithstanding the provisions of Condition 1, the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing SD08/004a and shall include visibility splays of 2.4 metres to point X by 75 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to Applicant:

- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.

6. Parking and Turning As Shown

The parking and turning area shall be laid out and surfaced in accordance with the details shown on the approved plans prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

7. Private Water Supply

No development shall commence until an appraisal of the wholesomeness and sufficiency of the intended private water supply and the system required to serve the development has been submitted to and approved in writing by the Planning Authority.

The appraisal shall be carried out by a qualified hydrologist and shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 which shall inform the design of the system by which a wholesome and sufficient water supply shall be provided and maintained. The appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development.

The development shall not be brought into use or occupied until the required water supply system has been installed in accordance with the agreed specification and is operational.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

Note to Applicant:

- Regulatory requirements for private water supplies should be discussed with the Council's Environmental Health Officers in the first instance.

8. **Submission of Details of Materials**

Notwithstanding the effect of Condition 1, no development shall commence until written details of the type and colour of materials to be used in the construction of the roof coverings and external walls have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed using the approved materials or such alternatives as may be agreed in writing with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

9. **PP - Removal of PD Rights – Dwellinghouse**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended), (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Part 1 and Classes 1A, 1B, 1D, 2B, 3A, 3B, 3C, 3D and 3E of the aforementioned Schedule, as summarised below:

PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class 1A: Any enlargement of a dwellinghouse by way of a single storey ground floor extension, including any alteration to the roof required for the purpose of the enlargement.

Class 1B: Any enlargement of a dwellinghouse by way of a ground floor extension consisting of more than one storey, including any alteration to the roof required for the purpose of the enlargement.

Class 1D: Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

Class 2B: Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

Class 3A: The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

Class 3B: The carrying out of any building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse.

Class 3C: The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of that dwellinghouse or the replacement in whole or in part of such a surface.

Class 3D: The erection, construction, maintenance, improvement or alteration of any deck or other raised platform within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of that dwellinghouse.

Class 3E: The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.

No such development shall be carried out at any time within this Part and these Classes without the express grant of planning permission.

Reason: To maintain the integrity and architectural value of this bespoke dwellinghouse and to protect it and its immediate setting against inharmonious additions and accretions and to protect the sensitive area and the setting of the proposed dwellinghouse in the interest of visual amenity and public health, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended).

10. **Electric Vehicle Charging**

Notwithstanding Condition 1, Prior to the commencement of development, details of the provision of supply cabling suitable for electric vehicle charge points shall first be submitted and approved in writing by the Local Planning Authority. Thereafter the electric vehicle charge points must be available for use in the development hereby approved.

Reason: *In order to ensure compliance with LDP2 Policy 34.*

11. **Pre-commencement Survey**

No development or other work shall be carried out on the site until a pre-commencement survey for the presence of nesting birds has been carried out by an appropriately qualified person and has been submitted for the written approval of the Planning Authority. In circumstances where species of interest are identified as being present, or at risk from construction works, the survey shall further provide suggested avoidance and or mitigation measures, including timing constraints, to address such presence or risk. The development shall be implemented in accordance with the measures identified in the duly approved scheme.

Reason: In order to establish that the circumstances of the site have not changed significantly between approval and implementation of the development for the purpose of protecting natural heritage assets in the interest of nature conservation.

12. **Implement/Operate Development in Accordance with Identified Mitigation Measures**

Notwithstanding the provisions of Condition 1, the development shall be undertaken in accordance with the mitigation measures set out in the documents titled 'Preliminary

Ecological Appraisal' dated August 2022 and 'Otter & Bat Surveys Report' dated September 2022.

Reason: In order to protect natural heritage assets in the interest of nature conservation.

13. Contaminated Land

Unless otherwise agreed in writing and in advance by the Planning Authority, prior to any development commencing on site, a scheme will be submitted by the Developer (at their expense) to identify and assess potential contamination on site. No construction work shall commence until the scheme has been submitted to, and approved, by the Planning Authority, and is thereafter implemented in accordance with the scheme so approved.

The scheme shall be undertaken by a competent person or persons in accordance with relevant authoritative guidance including PAN 33 (2000) and BS10175:2011 or, in the event of these being superseded or supplemented, the most up-to-date version(s) of any subsequent revision(s) of, and/or supplement(s) to, these documents. This scheme should contain details of proposals to investigate and remediate potential contamination to the satisfaction of the Planning Authority, and must include:-

- a) A desk study and development of a conceptual site model including (where necessary) a detailed site investigation strategy. The desk study and the scope and method of recommended further investigations shall be agreed with the Council prior to addressing parts b, c, and d of this condition.

Should the desk study show the need for further assessment this will be undertaken in the following sequence:

- b) A detailed investigation of the nature and extent of contamination on site, and assessment of the risks such contamination presents.
- c) Development and agreement of a remedial strategy (if required) to treat/remove contamination ensuring the site is made suitable for its proposed use (this shall include a method statement, programme of works, and proposed verification plan).
- d) Submission of a verification report for any agreed remedial actions detailing and evidencing the completion of these works.

Written confirmation from the Planning Authority, that the scheme has been implemented and completed shall be required by the Developer before any development hereby approved commences. Where remedial measures are required as part of the development construction detail, commencement must be agreed in writing with the Planning Authority.

Reason: To ensure that the potential risks to human health, the water environment, property, and, ecological systems arising from any identified land contamination have been adequately addressed.

14. Tree Retention and Protection

No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:

- i) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
- ii) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2005 "Trees in Relation to Construction".

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

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

15. Phasing of Development

Notwithstanding the provisions of Condition 1, prior to the commencement of any development on site, the associated replacement agricultural building, as granted under application 24/00259/PNAGRI, shall be erected and available for use.

Reason: In order to ensure that the development of the existing barn the subject of this current planning permission is delivered in accordance with the stated management and development of the remainder of the agricultural holding.

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	23/00185/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Introduction

1.1. The proposal the subject of this application is seeking to secure planning permission for the conversion of, and extension to, an existing stone barn to form a dwellinghouse, the installation of a private drainage system and the formation of a vehicular access.

2. Location of Proposed Development

2.1. The application site comprises an irregular plot of land located on the northern edge of Laggan Bay, immediately to the west of the B8073 public road.

2.2. To the northeast of the application site, to the east of the public road, there is a farmhouse and associated outbuildings. The application site features an existing 'L' shaped stone barn with a hipped slate roof, set within the southeast corner of the plot. There are a number of mature trees within the site boundary.

3. Settlement Strategy

3.1. In terms of the Settlement Strategy set out in the adopted LDP2, the application site is situated 'Outwith Settlements' in the designated 'Countryside Area' where Policy 02 of LDP2 gives a presumption in favour of sustainable development where it is of an appropriate scale, design, siting and use for its countryside location, as set out in the relevant sustainable siting and design policies of LDP2. Policy 02 further states that certain development will be supported, generally without the need for detailed environmental assessments, with these comprising, infill, redevelopment opportunities of clusters; or previously developed sites. In Countryside Areas, where there are nature conservation or landscape designations in place, Policy 02 details that development proposals will have to demonstrate that they are compatible with the designation interests.

In order to address the determining issues, the key considerations in this application are:

- 3.1.1. Compliance with the Development Plan and other relevant planning policy.
- 3.1.2. Whether the conversion of, and extension to, the existing stone barn at the application site to form a dwellinghouse is appropriate in terms of scale, design, siting and use for its countryside location.
- 3.1.3. The suitability of the proposed servicing, access and infrastructure arrangements.
- 3.1.4. Any other material considerations.

4. Proposal

4.1. The proposal is seeking to secure planning permission for the conversion of, and extension to, the existing stone barn to form a dwellinghouse, and the installation of a private drainage system and the formation of a vehicular access.

4.2. The proposal relates to the refurbishment of and extension to an existing stone barn to form a dwellinghouse. The existing barn, which has an 'L' shaped footprint covering an area of approximately 89 square metres, is constructed of stone walls with a hipped slate

roof. The proposal would involve repairing and repointing the existing stone walls. The proposed extension would adjoin the east elevation of the existing barn and would take a narrow linear form with a small linking corridor, occupying a total footprint of 56 square metres. The extension would have a dual-pitched roof set at a height of 4.7 metres with an eaves height of 2.5 metres. The linking corridor set between the existing barn and the proposed extension, would have a flat roof at a height of 2.4 metres, set below the eaves height of the existing barn. The proposed extension would feature large single windows within the south, north and west elevations, and there would be two rooflights within the east elevation roofslope. Windows would be inserted within each elevation of the existing barn. An appropriate condition is required to secure the exact details of the proposed facing and roofing materials so as to ensure that the proposed development integrates into its surroundings.

- 4.3. The existing vehicular access into the site, positioned to the north of the existing barn, would be upgraded and a parking and turning area would be formed. The application includes the installation of a private drainage system and connection to a private water supply.

5. Compliance with National Policy

5.1. NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 1 seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4.

Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour for, or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

5.2. NPF4 Policy 2 – Climate, Mitigation and Adaption

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

Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions. The Spatial Settlement Strategy set out within LDP2 seeks to deliver sustainable levels of growth by steering the majority of development to our existing settlements as these are where the most of our current infrastructure, services, employment opportunities, housing and community facilities are to be found, however LDP2 recognises that there are instances where a different approach to significant development has to be taken particularly where existing infrastructure or services are at capacity and where a more sustainable option would be to provide new facilities elsewhere.

5.3. NPF4 Policy 3 – Biodiversity

NPF4 Policy 3 seeks to protect biodiversity, reverse biodiversity loss and deliver positive effects from development and strengthen nature networks.

The application has been submitted with a Preliminary Ecological Appraisal, which sought to establish the potential for the application site to support protected species known to inhabit the area, namely otters, nesting birds, bats, reptiles, and butterflies/day flying

moths and bats. The Preliminary Ecological Appraisal also sought to map the habitats within the site boundary to identify the presence of any priority habitats or flora. The existing barn was classed as having 'Moderate' bat roost potential and four trees within the application site boundary were found to have the potential to support bats, classed as 'Low' potential. No notable or rare plant species or habitats were identified on the site. No evidence was discovered to suggest the presence of otters within the application site.

The Council's Biodiversity Officer has been consulted on the application and confirmed agreement that additional surveys were required with regard to the impact of the proposed development upon otters and bats. The consultation response from the Council's Biodiversity Officer confirmed agreement that a pre-commencement survey is required to identify bird nests within the application site and a Tree Protection and Management Plan is provided so as to protect the existing trees within the application site during the clearance and construction phases of the proposed development.

An Otter and Bat Survey Report was subsequently submitted following the findings and recommendations of the Preliminary Ecological Appraisal. The Report stated that an otter survey undertaken concluded that it is unlikely that there is an otter holt close enough to the development site as to be at risk of disturbance and therefore no European Protected Species Licence need be sought in respect of otters. However, at least one otter utilises the burn adjacent to the site and therefore mitigation measures should be adhered to. The two trees adjacent to the existing barn were subject to activity surveys however were not found to contain bat roosts and therefore no further survey work would be required. The Report states that the proposed development of the existing barn would result in the destruction of two summer roosting non-maternity Soprano pipistrelle roosts impacting on up to three Soprano pipistrelle bats and one summer roosting Brown Long-eared roost impacting on up to five Brown Long-eared bats. A European Protected Species Licence for bats would be required and mitigation measures adhered to. The Report further states that due to the nature of the habitat present and the identification of several nests within the site boundary and within the barn itself, should the development be planned to take place during the breeding bird season, pre-construction checks for nests would be required. Following the submission of the Otter and Bat Survey Report, the Council's Biodiversity Officer was re-consulted and confirmed agreement with the proposed mitigation measures in relation to the impact of the proposed development upon otters, bats and nesting birds. Subject to relevant conditions to ensure that the proposed development is carried out in accordance with the mitigation measures outlined within the submitted Preliminary Ecological Appraisal and the Otter and Bat Survey Report and to secure the provision of a pre-commencement nesting bird survey to ensure that no bird species are compromised, the proposal would adhere to the requirements of NPF4 Policy 3(d).

Whilst no specific proposals for biodiversity improvements have been submitted it is considered that adequate and proportionate measures for biodiversity enhancement and protection can be delivered by planning condition. Such a condition will be attached to this permission. With a condition to secure adequate and proportionate biodiversity enhancement and protection measures within the development, the proposal aligns with the broad aims of NPF4 Policy 3 and is consistent with the requirements of LDP2 Policy 73, Development Impact on Habitats, Species and Biodiversity.

5.4. NPF4 Policy 4 – Natural Places

NPF4 Policy 4 seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

NPF4 Policy 4(a) states that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. In this instance, the proposed development relates to the addition of a small scale extension to an existing building to facilitate the conversion of the building to form a dwellinghouse. The proposal would make use of an existing building and its setting, and the proposed extension would be of a small scale such that there would be no adverse impact upon the surrounding environment.

The application site lies within the Loch na Keal National Scenic Area, designated for its coastal scenery, expansive seascape and interior mountain peaks. The application site lies within the Outer Loch na Keal Area, which comprises relatively level terrain and alluvial deposits. The development would be set against the backdrop of rugged steeper slopes and would make use of an existing building to ensure that the development would not encroach upon undeveloped sites or impact upon key views. The consultation response received from NatureScot advised that the proposed development would be sited within the Loch na Keal National Scenic Area, however given the size and scale of the proposed development and with regard to previous developments within the application site, the integrity of the National Scenic Area or the qualities for which it has been designated, would not be adversely affected. It is therefore the considered opinion of the Planning Authority that the proposal would not result in any significant adverse effects on the integrity of the area.

The proposed development is sited within the Lagganulva Wood Site of Special Scientific Interest, designated for its geological interest and upland oak woodland habitat. The proposed development would have no ecological connectivity to the site's qualifying interests and would not therefore undermine the conservation of the qualifying interests. In line with the consultee response received from NatureScot, the proposal would not have a significant effect on the natural heritage interests of national importance due to the proposed development being sited away from the features for which the site has been designated. In this regard, the proposal would be compliant with NPF4 Policy 4 and LDP2 Policies 70 and 75.

Notwithstanding the above, the proposed development is not within any designated European site of natural environment conservation or protection, it is not located within a National Park, a RAMSAR site, or a National Nature Reserve. Neither is it located within a site designated as a local nature conservation site or landscape area or within an area identified as wild land.

5.5. NPF4 Policy 5 – Soils

NPF4 Policy 5 seeks to protect carbon-rich soils, to restore peatlands and to minimise disturbance to soils from development.

The development proposed by the current application seeks to develop a rough area of ground adjacent to the existing barn. In terms of the land capability for agriculture, the application site falls within Class 5.2 where the land is capable of use as improved grassland, where pasture establishment may be difficult to maintain. The proposed development would be of a small scale such that the proposed development would not impact upon prime agricultural land, or land of lesser quality that is culturally or locally important for primary use, with due consideration to the extent of the wider agricultural landholding.

The application site is located within an area designated as Class 5 Carbon and Peatland, where no peatland habitat has been recorded. The proposed development would not therefore adversely impact upon peatland, carbon-rich soils or priority peatland habitat.

The development proposed is therefore considered to be in accordance with NPF4 Policy 5 and Policies 79 and 83 of LDP2.

5.6. NPF4 Policy 6 – Forestry, Woodland and Trees

NPF4 Policy 6 seeks to protect and expand forests, woodland and trees.

The application site features a number of large Sycamore trees which are long-established and are exposed to the prevailing south westerly wind. The application has been submitted with a Tree Report detailing a general description of the trees present at the application site, the dimensions and details of the individual trees, and options for their management. The information submitted with the application indicates that there is a small overlap of the tree protection zone in the location where the existing barn is sited. The information submitted with the application advises that any excavation inside the existing barn in this location would be limited and carried out by hand. The submitted information further advises that any excavation works in the area adjacent to the tree protection zone would be excavated by hand. The proposed extension to the existing barn would be sited towards the southeast corner of the application site, away from the mature trees which are sited adjacent to the northwest of the existing barn.

Given the presence of establish mature trees at the site, a suitable condition is required to secure the provision of a scheme for the retention and safeguarding of trees during construction work, to include detail on any proposed tree works and a programme of measures for the protection of trees during construction works. The proposed development would not adversely impact ancient woodland, veteran trees or native woodland and the proposed development would not lead to the fragmentation of woodland habitats. Subject to a suitable condition to secure appropriate tree protection measures, the proposed development would adhere to the requirements of NPF4 Policy 6 and the provisions of LDP2 Policy 77.

5.7. NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings

NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

NPF4 Policy 9(d) provides support for development proposals for the reuse of existing buildings, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option. The development the subject of this current application proposes to convert and extend the existing stone barn at the application site to form a dwellinghouse. The development proposal would retain the existing stone barn, with repairs to the existing stone walls undertaken as necessary. It is considered that the conversion of the existing stone barn would constitute an appropriate redevelopment opportunity whereby the character and appearance of the existing barn would be retained without the need for significant alterations.

The proposed extension would be sited immediately adjacent to the existing barn and in this regard is considered to be brownfield site and accordingly the use of the land for the proposed extension is considered to represent the sustainable reuse of brownfield land which is afforded direct support under NPF4 Policy 9(a).

The application site lies 'Outwith Settlement Areas' in the designated 'Countryside Area'. LDP2 Policy 02, Outwith Settlement Areas, seeks to promote a more flexible approach to development in areas identified as Countryside Area, with Part A of Policy 02 giving a

presumption in favour of sustainable development where it is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant sustainable siting and design policies. In this instance, the proposal involves the conversion of an existing barn and the addition of an appropriately scaled and designed extension to form a dwellinghouse. The scale of the proposed development would be appropriate to the size of the wider application site and its setting within the landscape. The proposed design would be of a simple form, respecting local architectural styles and the siting would be such that it would not appear as obtrusive within the landscape, making use of the existing built development at the site.

In this instance, the site is considered to represent an appropriate opportunity for the conversion, redevelopment and extension to the existing barn to form a dwellinghouse within the Countryside Area which has been specifically designed with due regard to the context of the site in terms of its character and appearance and in this regard would be consistent with NPF4 Policy 9 which does not conflict with the spatial and settlement strategy set out in LDP2 Policy 02.

The Council's Environmental Health Service have been consulted on the application with regard to previous, potentially contaminative, uses of the site. NPF4 Policy 9(c) states that where land is known or suspected to be unstable or contaminated, development proposals will demonstrate that the land is, or can be made, safe and suitable for the proposed new use. An appropriate planning condition is required to ensure that, prior to the commencement of development, a phased site investigation and risk assessment is carried out to identify and assess potential contamination on site. Subject to such a condition, the proposed development would adhere to the requirements of NPF4 Policy 9(c) and LDP2 Policy 82.

5.8. NPF4 Policy 12 – Zero Waste

NPF4 Policy 12 seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy as defined within the policy document.

The development the subject of this planning application seeks to secure permission for the conversion of an extension to an existing building to form a new single dwellinghouse. Whilst this is a development likely to generate waste when operational, it would benefit from regular waste uplifts by the Council and would be expected to comply with our adopted and enforced recycling and reuse strategy. In this regard, the proposed development is considered to be in compliance with NPF4 Policy 12 and does not conflict with the requirements of LDP2 Policy 63, Waste Related Development and Waste Management, which seek to ensure that effective provision for waste and recycling are provided within developments.

5.9. NPF4 Policy 13 – Sustainable Transport

This application is seeking to secure permission for a single dwellinghouse which is not considered to be a significant travel generating use or a proposal where it is considered important to monitor travel patterns resulting from the development.

The application site as existing features a vehicular access from the B8073 public road. It is proposed within this application to upgrade the existing vehicular access into the site and provide a parking and turning area within the application site, to be sited immediately to the north of the existing barn.

The Council's Area Roads Authority have been consulted on the application and have raised no objections subject to conditions relating to the construction of the access at the

junction with the public road, the clearance and maintenance of visibility splays, the provision of a system of surface water drainage, and the provision of a parking and turning area for two vehicles.

Subject to the required conditions, the proposed development is consistent with the broad aims of NPF4 Policy 13 and is consistent with the requirements of LDP2 Policies 35, 37, 39 and 40 which collectively seek to ensure that proposed developments are served by a suitable and safe access regime and provide appropriate parking provision commensurate with the scale of the development proposed.

5.10. NPF4 Policy 14 – Design, Quality and Place

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

The proposed conversion of the existing barn would be undertaken with minimal works to the existing external appearance of the barn, with works limited to repairs to the existing stone walls and slate roof, and the installation of windows. It is considered that the siting of the proposed extension in the existing vacant area between the existing barn and the public road would ensure that the proposal would not encroach into more undeveloped areas of the site, thereby reducing its visual impact upon the landscape. New built development at the site would be limited to the proposed extension, which would have a modest footprint and an appropriately simple form and appearance. The narrow linear form would respect local architectural styles and would readily integrate into the application site. The proposed finishing materials would comprise natural timber cladding, which would contrast appropriately with the stone walls of the existing barn, giving the proposed extension a suitably subservient appearance that would read clearly as a later addition. The use of natural timber cladding would assist in integrating the proposed extension into the landscape. The proposed extension would be a contemporary addition that would have a different character to the existing barn, however it would be of a sympathetic design and appropriately sited such that it would respect the application site and its wider rural context.

The siting of the access to the north of the existing building ensures that it would be screened from view when approaching the application site from the south. The proposed parking and turning area would be facilitated within the courtyard that would result from the 'U' shaped built development at the site. A condition is proposed to remove permitted development rights normally associated with residential properties in order to protect the setting of the proposed dwellinghouse from inappropriate development.

The proposed development is considered to be designed to an appropriate standard to ensure compliance with the six qualities of successful places set out in NPF4 Policy 14 as follows. **Healthy:** being situated within a quiet rural setting but within proximity to an existing community; **Pleasant:** being an attractively designed and finished development that would contribute to the character of the area; **Connected:** situated immediately adjacent to the public road, connecting the development to larger settlements; **Distinctive:** the design of the development would be of a distinct, high quality design which would respond to its unique setting whilst respecting the surrounding natural landscape; **Sustainable:** the dwelling would utilise appropriately proportioned and designed fenestration which would maximise potential for natural light; **Adaptable:** the development would be of a high quality design that would be capable of adaption for accessibility and for alternative future uses.

NPF4 Policy 14(c) states that development proposals that are detrimental to the amenity of the area will not be supported. 'Bad neighbour uses' are uses that can result in a

negative impact upon neighbouring amenity and proposals for development can also introduce the reverse situation by proposing a sensitive receptor, including housing, in close proximity to existing operations or land uses where the introduction of sensitive receptors into these situations could compromise the existing operations. In this instance, the proposed conversion of and extension to the existing barn to form a dwellinghouse is not considered to be a 'bad neighbour' development given that the application site is sited at a sufficient distance from the established farm, on the opposite side of the public road. The proposed development would be well contained within the application site and would be adequately separate from the farm both physically and visually. The proposed development would be sufficiently distinct from the farm and its associated activity such that it is not considered that there would be any adverse impacts upon the sensitive receptor of the dwellinghouse with regard to noise disturbance, odour pollution or light pollution that may result from the use of the nearby land for agricultural activity.

The development the subject of this planning application is considered to be in accordance with the broad aims of NPF4 Policy 14 and does not conflict with the sustainable siting and design policies of LDP2 namely Policy 5, Design and Placemaking, Policy 08, Sustainable Siting, Policy 09, Sustainable Design and Policy 10, Design: all policies which, in summary, collectively seek to ensure that developments are compatible with surrounding land uses, are sited sensitively within the landscape making use of existing infrastructure, are of an appropriate scale, sustainable design and finishes for their site, and ensure that no adverse visual or amenity impacts arise.

5.11. NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods

NPF4 Policy 15 seeks to encourage, promote and facilitate the application of the 'Place Principle' and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.

In terms of our adopted settlement strategy, the site of the proposed dwellinghouse is in an area identified as being Outwith Settlement Areas where LDP2 Policy 02 seeks to promote a more flexible approach to development in areas identified as Countryside Area, within which the site is situated, with Part A of Policy 02 giving a presumption in favour of sustainable development where it is of an appropriate scale, design, siting and use for its countryside location, as detailed in the relevant sustainable siting and design policies.

In this instance, it is considered that the small scale of the proposed development, and its rural location, would reasonably comply with Policy 15 of NPF4 given the existing dispersed geographical scale of the environment within which the development is to be located, and given its compliance with the existing settlement pattern and the level and quality of interconnectivity of the proposed development with the surrounding area where people can reasonably meet the majority of their daily needs within a reasonable distance of their home.

The proposed development aligns with NPF4 and there is no conflict with LDP2 Policy 02.

5.12. NPF4 Policy 16 – Quality Homes

NPF4 Policy 16 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes in the right locations and providing choice of tenure to meet diverse housing needs.

Policy 16(c) supports development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and which address identified

gaps in provision, including 'self-provided homes' of which the proposed development represents.

With regards to Part (f) of Policy 16(i) an agreed timescale for build-out will be covered through the use of a planning condition; 16(ii), whilst the development proposed by this planning application is not on land actively allocated for housing in the LDP2, it would wholly accord with the adopted settlement strategy and would accord with the principles of 'local living' and '20 minute neighbourhoods'; 16(iii) the proposal is consistent with NPF4 Policy 17, Rural Homes, being a suitable site which is in keeping with the landscape character of the area.

The proposed development is deemed to be consistent with NPF4 Policy 16 and there is no conflict with LDP 2 Policy 02, Outwith Settlement due to the proposed development being of an appropriate scale, design and use for its countryside location.

5.13. NPF4 Policy 17 – Rural Homes

NPF4 Policy 17 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations.

Policy 17(a) supports development proposals for new homes in rural areas where the development is suitably scaled, sited and designed to be in keeping with the character of the area. It has been demonstrated at NPF4 Policies 9 and 14 above that the proposed dwellinghouse is of a suitable scale and design for its countryside location.

Policy 17(b) requires proposals for new homes in rural areas to consider how the development will contribute towards local living and take into account identified local housing needs. It has already been seen at NPF4 Policy 15 above that the proposed development is consistent with our adopted settlement strategy policies and that it would have no materially harmful access or environmental impact. The proposed development seeks the introduction of a single dwellinghouse through the conversion of and extension to an existing barn, which would accord with the Council's key planning policies aims of supporting and sustaining fragile rural communities by contributing to actions to reverse our falling rural populations and supporting the local economy.

Policy 17(c) offers support to new homes in remote rural areas where such proposals (i) support and sustain existing fragile communities; (ii) support identified local housing outcomes; and (iii) are suitable in terms of location, access and environmental impact.

The development proposed accords with the broad aims of NPF4 Policy 17 and does not conflict with LDP2 Policy 09, Sustainable Development, Policy 10, Design all Development, and Policy 67, Provision of Housing to Meet Local Needs.

5.14. NPF4 Policy 18 – Infrastructure First

NPF4 Policy 18 seeks to encourage, promote and facilitate an infrastructure first approach to land use, which puts infrastructure considerations at the heart of placemaking.

Due to the lack of public water or drainage infrastructure within the vicinity of the site, as was confirmed within the consultation response from Scottish Water, the application proposes private arrangements comprising a private water supply and a private drainage system. A condition is required to secure a report on the proposed private water supply to ensure that it is sufficient to serve the proposed development and does not impact on existing users of the same supply or adjacent supplies. The Council's Building Standards

Service will apply sufficient control over the septic tank arrangements at Building Warrant stage.

With a condition to secure a report on the proposed private water supply, the proposed development aligns with NPF4 Policy 18 and is in accordance with LDP2 Policy 04, Sustainable Development, Policy 58, Private Water Supplies and Water Conservation and Policy 60, Private Sewage Treatment Plants and Wastewater Drainage Systems which seek to ensure that suitable infrastructure is available to serve proposed developments and give support to private water supply and drainage arrangements where connection to the public systems is not available.

5.15. NPF4 Policy 22 – Flood Risk and Water Management

NPF4 Policy 22 seeks to strengthen resilience to flood risk and to ensure that water resources are used efficiently and sustainably.

As detailed at NPF4 Policy 18 above, the development the subject of this planning application proposes a private water supply, the details of which will be sought by planning condition.

With regards to the management of rain and surface water at the site, this will be controlled through a condition imposed on the grant of permission to secure a suitable sustainable drainage system for the site. The proposal aligns with NPF4 Policy 22 and LDP2 Policy 61, Sustainable Drainage Systems.

6. Other Considerations

6.1. Public Representation

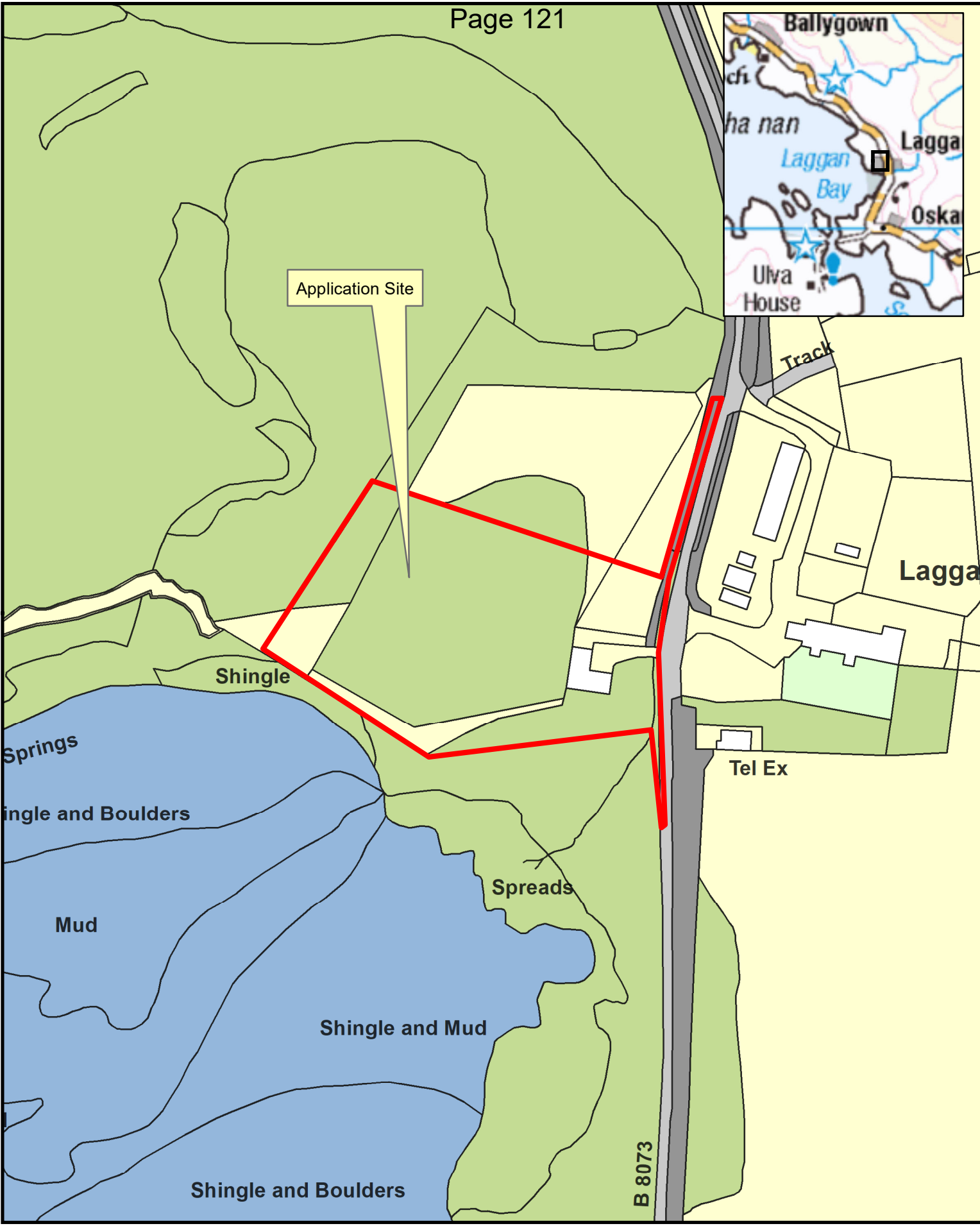
The application has been subject to 22 objections.

The determining factor in the assessment of this application is whether the conversion of and extension to the existing stone barn to form a dwellinghouse at the site the subject of this application is consistent with the Development Plan which comprise National Planning Framework 4 and Local Development Plan 2 and whether the issues raised by third parties raise material considerations of sufficient significance to withhold planning permission.

In this instance, as detailed above, the proposed development would represent a suitable opportunity for the conversion of, and extension to, an existing barn to form a dwellinghouse where the development would be of an appropriate scale and design for its setting. The proposed development would involve the sustainable reuse of the existing built development at the site, with an appropriately scaled, sited and designed extension, to form a dwellinghouse. The applicant has addressed the needs of the tenant farmer through the provision of a replacement agricultural building, as detailed within application 24/00259/PNAGRI, where the replacement agricultural building is of a scale that is commensurate with the need and its setting within the landscape, is related physically and functionally to existing buildings associated with the agricultural business, and is sensitively sited. The information submitted with the application has satisfactorily demonstrated that, subject to appropriate conditions, there would be no adverse impacts on biodiversity, nature networks or the natural environment. No objections have been received from consultees with regards to the proposed infrastructure to serve the proposed development.

7. Conclusion

7.1. The detailed information submitted with the application, in the form of the Preliminary Ecological Appraisal, photomontages, Tree Report, Otter and Bat Report, Design Statement, and 'Six Qualities of Successful Places' Statement have satisfactorily demonstrated that, in this instance, the proposed development site would represent an appropriate opportunity for the conversion of and extension to the existing stone barn to form a sensitively sited and designed dwellinghouse that would be of an acceptable scale, design and finish that would integrate with the application site and its wider setting within the landscape. The above assessment has concluded that appropriate servicing and infrastructure arrangements can be provided to serve a dwellinghouse on the site. Accordingly, the application is recommended for approval subject to conditions.



Location Plan Relative to Planning Application: 23/00185/PP



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Argyll & Bute Council
Development & Economic Growth

This report is a recommended response to the Scottish Government's Energy Consents Unit (ECU) consultation on the Section 36 Consultation for An Carr Dubh wind farm comprising the erection of 13 turbines each up to a maximum of 180 metres in height to blade tip on Land Approximately 6km Northwest of Inveraray and 4.5km East of Dalavich

Reference No: 23/00795/S36/ECU00004781
Applicant: The Scottish Government
Proposal: Section 36 Consultation for erection of 13 turbines each up to a maximum of 180 metres in height to blade tip
Site Address: Land Approximately 6km Northwest of Inveraray and 4.5km East of Dalavich

(A) THE APPLICATION

Section 36 Application made up of the following key elements:

- Up to 13 wind turbines (including internal transformers), each up to a maximum tip height of 180m
- Foundations supporting each wind turbine
- Associated crane hardstandings and laydown areas at each turbine
- Network of onsite access tracks of approximately 23.1km (6.6km of upgraded existing track and 16.5km new track)
- 106 watercourse crossings and associated infrastructure, i.e. culverts
- Network of underground cables and cable trenches to connect the turbines to the onsite substation
- Permanent meteorological mast, up to 122.5m in height and associated track
- Vehicle turning heads
- Onsite passing places
- Site signage
- A permanent compound containing the control building, substation and 20MW energy storage facility
- An Outline Restoration and Enhancement Plan (OREP) (Peat, Biodiversity, Landscape and Forestry).

In addition to the above components, construction will require:

- Temporary construction compound
- Creation of one temporary borrow pit for the extraction of stone, and the reopening/use of two existing borrow pits
- Junction widening and upgrades on the A83 and the A819, and an upgraded access off the A83 into site
- Felling of approximately 3.77ha of forestry to facilitate access during construction.

Two blade transfer areas will also be required to facilitate construction of the Proposed Development; however, these do not form part of this application for

consent, as there is a degree of uncertainty associated with the final locations and requirements.

The expected operational life of the proposal is 40 years from the date of commissioning.

Connection to Electricity Grid - There is a feasible grid connection available, as advised by the network operator SSEN. The grid connection will be the subject of a separate application by SSEN.

(B) RECOMMENDATION:

That the ECU be notified accordingly that Argyll & Bute Council does not object to the proposed development and recommends that the following advice is considered by the Energy Consents Unit:

Mitigation - Consideration should be given to the mitigation suggested by the Council's Landscape Consultant:

- The well-wooded nature of the Loch Awe area restricts open views across and along the loch but where these views do occur, they are particularly valuable for their scenic qualities. The loch shores near Dalavich comprise one of these important open areas as does the road between Loch Awe and Loch Avich and the shores and waters of Loch Avich. The proposal appears poorly designed from these areas and ***it is strongly recommended that the layout of turbines is reviewed by the applicant from Viewpoints 2, 5 and 11 with the overlapping of Turbines 2, 8 and 10 resolved and Turbine 13 omitted as this appears dislocated from the main group of turbines and significantly increases the horizontal extent of the proposal in these views.***
- *In addition, significant adverse effects on the Dun na Cuaiche folly within the Inveraray Castle GDL are acknowledged likely to arise in the LVIA (Viewpoint 4). This is an important viewpoint, and the cluttered appearance of the proposal contributes to significant adverse effects on views. **It is therefore strongly recommended that the layout of turbines is reviewed by the applicant from Viewpoint 4 with the discordant overlapping of Turbines 2 and 8 resolved and the prominence of Turbines 1 and 2 reduced by adjusting their location and/or lowering their height.***
- *In addition, the cumulative effects of visible aviation lighting on landscape character and on views is also a concern and while there will be fewer people affected at night, it is considered important to retain the character of dark skies within Argyll & Bute, particularly given the number of wind energy proposals across the region with similar lighting. **It is therefore strongly recommended that radar activated lighting should be installed at the earliest opportunity as this would substantially reduce the duration and impact of night-time lighting.***

Conditions

All conditions recommended by consultees should be included in any Consent.

Ornithology and Trunk Road Matters

The ECU should note that it has not been possible for Argyll & Bute Council to reach a conclusion on the acceptability of this proposal in respect to Ornithology or Trunk Road matters. This is because these matters have not been resolved and discussions are ongoing between the Applicant, the ECU, NatureScot, RSPB Scotland and Transport Scotland.

In respect to the outstanding Ornithological matters, Argyll & Bute Council would defer to the expert advice of NatureScot and the RSPB Scotland.

In respect to the outstanding Trunk Road matters, Argyll & Bute Council would defer to the expert advice of Transport Scotland.

(C) CONSULTATIONS:

ENERGY CONSENTS UNIT RESPONSES

NatureScot (19th July 2023) – provide the following advice on Ornithology:

- Glen Etive and Glen Fyne Special Protection Area (SPA) – it is unlikely the proposal will have a significant effect on the qualifying interest either directly or indirectly. An appropriate assessment is not required.
- There is a high risk the G/LAE1B golden eagle territory could be abandoned without extensive revised mitigation. The current mitigation is unclear and potentially counterproductive.
- The proposed route of the access track should be reconsidered due to the risk of committing an offence under the Wildlife & Countryside Act 1981 (as amended).
- The Proposal has the highest predicted white-tailed eagle collision risk of any proposed wind farm, so far, in Natural Heritage Zone (NHZ) 14 with the current mitigation potentially unclear and counterproductive; and
- The Collision Risk Model (CRM) appears to exclude relevant flight data from VP C without explanation. VP C recorded numerous flights of target species over the site and NS request clarification as to why it was excluded from the CRM calculations and the potential re-assessment of collision risk. As part of this they also request clarification as to why osprey were scoped out of the CRM and the re-assessment of osprey collision risk.

NatureScot provide the following Landscape & visual advice:

- There would be a significant effect on landscape character in the surrounding Craggy Upland Landscape Character Type (LCT) and on smaller scale areas of the LCT on the west of Loch Awe exposed to skyline views of the turbines. Significant effects would also extend to parts of the Loch Fyne Upland Forest-Moor Mosaic LCT and the Rocky Mosaic LCT on the western shores of Loch Awe.
- Significant visual effects would extend up to c15km and would be mainly concentrated on settlements, roads, and recreational receptors on the west side

of Loch Awe. There would be significant cumulative landscape and visual effects when the proposal is considered in addition to operational, consented, and proposed wind farms, particularly the nearby operational An Suidhe wind farm and the proposed neighbouring Blarghour wind farm.

- Currently there are no operational or consented wind farms in the study area requiring lighting and the sparsely populated area is characterised by low levels of artificial light at night. While proposed measures to control the intensity and direction of lighting could substantially reduce the potential for effects, they consider there would be significant night-time landscape and visual effects within areas surrounding the proposal; and
- The Proposal does not conform with NatureScot's wind farm design guidance raising important design issues in terms of its relationship to the existing adjacent An Suidhe wind farm. In respect of the Argyll & Bute LWECS, there is no scope for turbines of this size due to the potential for effects on Loch Awe and its smaller scale, scenic and settled fringes. This could only be mitigated by significantly reducing turbine size.

Applicant (12th January & 1st February 2024) – responses were provided to NatureScot's Ornithology and Landscape & Visual comments.

NatureScot (19th March) – provided a further response in relation to Ornithology confirming osprey and red-throated diver issues have been resolved. They maintain their position regarding golden eagle displacement, the proposed access track, white-tailed eagle collision risk modelling (CRM), and the proposed Outline Restoration and Enhancement Plan (OREP).

RSPB Scotland (14th July 2023) – Object, they have significant concerns regarding the proposals impact on Golden Eagle, on the basis that the proposal will likely result in the loss of Golden Eagle range G/LAE1B due to loss of habitat and cumulative impacts. RSPB Scotland object until an off-site Habitat Management Plan area is secured by planning condition for Golden Eagle and delivered in the long-term against planned, measurable targets. Once they have received this information, they will reconsider their position.

Historic Environment Scotland (HES) (21st June 2023) – no objection - the Proposed Development does not raise historic environment issues of national significance. The impact on the setting of Ardchonnell Castle would be greater than assessed in the EIAR. The impacts on the Castle could be mitigated by removing, relocating, or lowering the height of turbines T9, T10, T11, T12 and T13, and it is recommended that this mitigation is considered.

Applicant (24th July 2023) – note that HES does not object and advise that it is not proposed to make any further changes to the design. Extensive work has gone into the design to develop a layout that contributes positively to carbon reduction targets, maximises energy yield whilst respecting technical and environmental constraints including ecological, ornithological, hydrological, cultural heritage and ground conditions.

Historic Environment Scotland (7th August 2023) – recommended in their earlier response to the EIAR that consideration should be given to the removal, relocation or lowering of turbines T9, T10, T11, T12 and T13. This continues to be their advice.

Applicant (15th August 2023) – responded to the ECU on the further comments received from HES and acknowledged the feedback.

Scottish Forestry (29th May 2023) – no objection subject to conditions to secure a native woodland plan and compensatory planting.

Transport Scotland (TS) (25th May 2023) – additional information required. Satisfied with the EIAR and no objection in terms of environmental impacts on trunk road network. However, they require additional information on the blade transfer points and access junction for the bypass of Inverary is before they can provide their final response.

Applicant (19th December 2023) – responded to request for additional information.

Transport Scotland (TS) (11th January 2023) – additional information still required. Concerns regarding the blade transfer points now addressed subject to a condition to ensure that no abnormal load deliveries commence until details of the blade transfer areas have been approved. Reiterated their previous request for 1:500 scale drawings showing the proposed junction layout and associated visibility splays to enable a final response to be provided.

SEPA (Scottish Environment Protection Agency) (29th May 2023) – initially objected/raised concerns - advised minor changes to the track layout could reduce the amount of peat and sensitive habitat that would be disturbed, and the Applicant should consider changes.

Applicant Response (4th July 2023) – responded to the concerns raised by SEPA in relation to the track layout.

SEPA (28th August 2023) – withdrew their objection subject to a planning condition to ensure that changes to the track layout to avoid deeper peat are considered at the detailed design stage to reduce the amount of peat disturbance. If this condition is not applied, then SEPA's objection will be maintained.

Marine Directorate (18th May 2023) – no objection subject to a planning condition to secure pre-construction fish population and fish habitat surveys are carried out in accordance with an integrated water quality and fish population monitoring programme. In accordance with the monitoring programme guidelines fully quantitative electrofishing fish population surveys and fish habitat surveys should be carried out in all watercourses at risk of an impact and control sites for at least 12 months pre-construction, during construction and for 12 months post construction.

Argyll District Salmon Fishery Board (ADSFB) (23rd May 2023) – no objection. Consideration needs to be given to the maintenance of stream habitats and water quality within and downstream of the site throughout the life of the Proposed Development. ADSFB fully expect Scottish Government guidelines to be followed in terms of pre, during and post development monitoring of Water quality, macroinvertebrates, and fish." ADSFB welcome both the commitments listed in the EIA in relation to stream crossings and the commitment to monitoring of fish populations.

Scottish Water (19th April 2023) – no objection. This does not confirm the proposal can be serviced. Advice is provided on drinking water protected areas and surface water.

Ironside Farrar, Peat Landslide Hazard Risk Assessment, Stage 1 Checking Report (PLHRA) (August 2023) – minor revisions required.

Applicant Response (25th February 2024) – addressed the minor revisions.

Ironside Farrar, Peat Landslide Hazard Risk Assessment, Stage 2 Checking Report (PLHRA) (April 2024) – minor revisions addressed nothing further required.
Defence Infrastructure Organisation (DIO) (5th May 2023) – no objection subject to conditions to secure an Aviation Lighting Scheme and Aviation Charting and Safety Management details.

NATS Safeguarding (3rd May 2023) – no objection the proposal does not conflict with their safeguarding criteria.

Glasgow Airport (26th May 2023) – no objection the proposal does not conflict with their safeguarding criteria.

Glasgow Prestwick Airport (GPA) (18th April 2023) – no objection the proposal lies out with their safeguarding area.

Edinburgh Airport (1st May 2023) – no objection the proposal lies out with their safeguarding zone.

The Joint Radio Company (24th April 2023) – no objection proposal is cleared with respect to radio link infrastructure operated by local energy networks.

BT (26th April 2023) – no objection the proposal should not cause interference to BT's radio network.

Mountaineering Scotland (25th May 2023) – no comment.

Inveraray Community Council (9th May 2024) - would like to offer their support for the application. The basis for their support includes: the project will create jobs for local people; community benefit which may include funding grants for distribution to the local community; influx of construction workers will benefit the local economy, by spending on accommodation, eating out, visiting local attractions and investing in clean energy helps to provide a more sustainable future for the next generation.

ABC CONSULTATION RESPONSES

ABC Landscape Consultant (21st March 2024) – has recommended that it is not considered that appropriate design mitigation has been applied in line with NPF4 Policy 11e (ii) and the significant adverse effects of the proposal could be mitigated to some degree by improving its appearance from key views.

Applicant Response (4th April 2024) – note that the review states “All wind farm developments will incur significant adverse landscape and visual effects and this proposal is no different in this respect”. Extensive work has gone into the design to develop a layout that contributes positively to carbon reduction targets, maximises energy yield whilst respecting technical and environmental constraints including ecological, ornithological, hydrological, cultural heritage and ground conditions. It is not proposed to make any further changes to the design at this time, as requested in the review.

ABC Landscape Consultant (25th April 2024) – the Applicants response contains no new information or reasoned judgement which would alter the finding of their review report and they have nothing to add or change in their advice to the Council.

ABC Roads & Amenity Services (25th April 2023) – no objection subject to conditions relating to the A819 Inveraray to Dalmally Road Vehicular Accesses and some additional conditions. They advise that as one of the proposed site accesses connects directly to the A83 Tarbet - Campbeltown Trunk Road, Transport Scotland should be notified. Notes for intimation to the Applicant are also provided - a Road Opening Permit will be required and there should be no surface water discharge.

Local Biodiversity Officer (22nd May 2023) – asks for the following: collisions by birds and bats are logged; that deer are included in the monitoring so as to avoid degradation of restored areas during establishment; a map of where the peatland restoration has been implemented; a detailed landscape planting plan is submitted once the areas have been identified; further details of sensitive burning locations and any changes to grazing livestock (type) and regime; and that invasive non-native species these are removed along the access track so as to avoid spread by traffic.

ABC Core Paths – no response received.

ABC Flood Prevention Officer (10th May 2023) – no objection. No conditions recommended.

ABC Noise Consultant (October 2023) – in general, good practice has been adopted by the applicant, with a few minor issues identified. The most significant of these issues are the omission to consider the contribution of two operational turbines at Blarghour Farm in the cumulative assessment; and confirmation of the correction of predicted LAeq to give LA90 by subtracting 2 dB. The cumulative assessment considers the consented layout of Blarghour wind farm, which is considered to represent the worst case (assuming the Blarghour Farm turbines are to be decommissioned). It is agreed that due to the need to avoid a cumulative exceedance of 35 dB LA90 at all receptors, the contribution of An Càrr Dubh is to be controlled with an apportioned limit. Following a satisfactory response to the above issues, it is considered there would be no reasons to object on noise grounds subject to a condition to limit the noise levels, tonality, and amplitude modulation to control noise levels from the proposal.

Applicant's Response (8th December 2023) – responded to the issues raised relating to: consideration of operational wind turbines which are close to receptors considered by the assessment (minimum of ~585m) (two existing turbines at Blarghour Farm); confirmed there are no derelict properties with residential planning status in the study area; confirmed correction of predicted LAeq to give LA90 by subtracting 2dB; and proposed noise conditions. In respect to the proposed Amplitude Modulation condition the Applicant raised concern regarding its necessity in terms of ETSU-R-97 and its preciseness and advised they could not agree the terms of the Proposed Amplitude Modulation Condition. No concerns regarding the remainder of the proposed noise conditions.

ABC Noise Consultant (12th December 2023) – re-emphasised the need for the two Blarghour turbines to be included in the cumulative assessment, and accepts: confirmation from the Applicant that there are no derelict properties with residential status; the confirmation of 2dB correction between LAeq and LA90; the typo in the planning condition; and retains their position in respect of the need for an Amplitude Modulation condition.

Applicant Response (14th March 2024) – still does not consider it is necessary to present a further cumulative assessment that includes the Blarghour turbines or that an Amplitude Modulation condition is required. However, have provided an alternative draft condition which includes an AM penalty wording which is considered clearer, and which includes the specific noise limits for the proposal. A similar condition is also provided without the AM clause.

ABC Noise Consultant (9th April 2024) – confirmed they agree the proposed apportioned noise limits for the wind turbines are correct on both AM & non AM conditions; that the more precise AM condition would be the Council's preferred option, and accept the proposed AM condition wording from the Applicant; they agree that there is no need to present a cumulative assessment; and, they maintain their position that the AM condition is required to protect residential amenity.

Applicant Response (3rd May 2024) - confirm that the applicant is happy with the requirement for an AM condition on the basis that their proposed wording has been accepted.

West of Scotland Archaeology Service (WoSAS) (21st June 2023) – no objection subject to a condition to secure a programme of archaeological works in accordance with a written scheme of investigation to be submitted by the applicant for the written approval of the Planning Authority in consultation with WoSAS.

Please note: the above are summaries and the full consultee responses can be viewed on the Energy Consent Unit and Argyll & Bute Council websites.

(D) HISTORY:

13/02835/PP - Erection of 15 wind turbines of up to 111m in height to blade tip, including permanent foundations, associated hardstanding and electrical transformer buildings; construction of approximately 12.5km of new track and widening and upgrading of access tracks and road junction; erection of electrical substation and control building and temporary construction compound; erection of one permanent and two temporary anemometry masts up to 80m in height; and associated ancillary development, Ardchnonnel Windfarm Approx 6.5Km North West Of Inveraray And 1.5Km East of Loch Awe, Argyll & Bute – Refused, Appeal Dismissed September 2015.

Note: The proposal occupies the same site as the 'Ardchnonnel' wind farm proposal which was refused at Appeal in September 2015 (PPA-130-2045). Overall, the Reporter at the time, considered that the landscape and visual impacts would produce unacceptable significant adverse effects because of the poor design relationship between the proposal and An Suidhe, and that these impacts were sufficient to outweigh the benefits of the proposal.

(E) PUBLICITY:

As the Council is not the Determining Authority the ECU oversees the Publicity of the application.

Public Consultation – Whilst not a statutory requirement for Section 36 applications, the applicant has undertaken Public Consultation. Further information on this is contained in the An Carr Dubh Pre-Application Consultation Report (March 2023) available on the ECU website (reference: ECU00004781).

(F) REPRESENTATIONS:

As the Council is not the determining Authority any letters of representation are considered by the Energy Consents Unit. At time of writing, no letters of public representation have been received by the ECU.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) Environmental Impact Assessment Report (EIAR): Yes

EIAR (March 2023) presented in 4 volumes:

- Volume 1: Written Text
- Volume 2: Figures
- Volume 3(a) – 3(d): Landscape and Visual Impact Assessment (LVIA) and Appendix 10.1 Cultural Heritage Assessment Visualisations (NS format)
- Volume 4: Appendices
- Non-Technical Summary

Confidential appendices (Appendices 9.3, 9.4 and 9.5 of the EIAR have been provided with respect to ornithological interests). These have been provided to the ECU, NS, and RSPB, but not to other consultees, and will not be made available online.

Key topics covered in the EIAR include: Introduction; Approach to the EIA; Site Selection and Design Strategy; Project Description; Statutory and Policy Framework; Landscape and Visual Amenity; Geology, Hydrology, Hydrogeology and Peat; Ecology; Ornithology; Cultural Heritage; Noise and Vibration; Traffic and Transport; Socio-Economics; Other Issues (including aviation and climate change); and Summary of Significant Effects.

In addition, the following documents are also provided in support of the application:

- Design and Access Statement
- Pre-Application Consultation Report; and
- Planning Statement

(ii) An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994: NatureScot will advise the ECU

(iii) A Design or Design/Access statement: Yes

- (iv) **Sustainability Checklists (with reference to the requirements of LDP2 Policy 04):** Not required proposal accompanied by full EIAR.
- (v) **A report on the impact of the proposal e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** All relevant reports are encompassed within the EIAR

(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

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

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

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

NPF4 Policy 1 – Tackling the Climate and Nature Crises
 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 11 – Energy
 NPF4 Policy 22 – Flood Risk and Water Management
 NPF4 Policy 33 – Minerals

Annex B – National Statements of Need

3. Strategic Renewable Electricity Generation and Transmission Infrastructure

[Argyll & Bute Local Development Plan 2 \(Adopted 2024\)](#)

Policy 02 – Outwith Settlement Areas
 Policy 04 – Sustainable Development

Policy 15 – Protection, Conservation and Enhancement of Our Historic Environment
 Policy 19 – Scheduled Monuments
 Policy 20 – Gardens and Designed Landscapes
 Policy 21 – Sites of Archaeological Importance

Policy 30 – The Sustainable Growth of Renewables
 Policy 31 – Minerals

Policy 32 – Active Travel

Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
 Policy 43 – Safeguarding of Aerodromes

Policy 55 – Flooding
 Policy 56 – Land Erosion
 Policy 57 – Risk Appraisals
 Policy 58 – Private Water Supplies and Water Conservation
 Policy 59 – Water Quality and the Environment
 Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems
 Policy 62 – Drainage Impact Assessments
 Policy 63 – Waste Related Development and Waste Management

Policy 70 – Development Impact on National Scenic Areas (NSA's)
 Policy 71 – Development Impact on Local Landscape Areas (LLA's)
 Policy 73 – Development Impact on Habitats, Species and Biodiversity
 Policy 74 – Development Impact on Sites of International Importance
 Policy 77 – Forestry, Woodland, and Trees
 Policy 78 – Woodland Removal
 Policy 79 – Protection of Soil and Peat Resources

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

- Draft Energy Strategy and Just Transition Plan (January 2023)
- Onshore Wind Policy Statement (OWPS) (December 2022)
- Historic Environment Policy for Scotland (HEPS, 2019)
- Managing Change
- Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
- Scottish Government Good Practice Principles for Shared Ownership and Community Benefit of Onshore Renewable Energy Developments (May 2019)
- Argyll & Bute Landscape Wind Energy Capacity Study (2017) (LWECS)
- Siting and Designing Wind Farms in the Landscape, SNH (August 2017)
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- Onshore Wind Turbines: Planning Advice, Scottish Government (May 2014)
- Guidance for Landscape and Visual Impact Assessment, 3rd Edition, Landscape Institute, and Institute of Environmental Management & Assessment, (2013)
- PAN 1/2011: 'Planning and Noise' (March 2011)
- The Scottish Government's Policy on 'Control of Woodland Removal' (Forestry Commission Scotland 2009)
- PAN 60 – Planning for Natural Heritage (Jan 2008)
- Views of statutory and other consultees
- Planning history of the site
- Legitimate public concern or support expressed on relevant planning matters

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

(L) Has the application been the subject of statutory pre-application consultation (PAC): No - PAC is not required for S36 applications.

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

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

(O) Is the proposal consistent with the Development Plan: Not possible to conclude at this time due to unresolved matters raised by NatureScot, RSPB Scotland, and Transport Scotland.

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

Author of Report: Arlene Knox

Date: 9th May 2024

Reviewing Officer: Sandra Davies
Date: 9th May 2024

Fergus Murray
Head of Development & Economic Growth

COMMITTEE REPORT**APPENDIX A – RELATIVE TO APPLICATION NUMBER: 23/00795/S36****PLANNING LAND USE AND POLICY ASSESSMENT****1. THE SECTION 36C CONSENTING REGIME**

- 1.1 In Scotland, any application to construct or operate an onshore power generating station, in this case, a renewable energy development with an installed capacity of over 50 megawatts (MW) require the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Any ministerial authorisation given would include a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of a consultee along with various other consultation bodies.
- 1.2 The Development Plan is not the starting point for consideration of S36 applications. This is because Sections 25 and 37 of the Town & Country Planning (Scotland) Act 1997 which establish the primacy of LDP policy in decision-making, are not engaged in the deemed consent process. NPF4 and the LDP 2 now form the Statutory Development Plan. Whilst the Statutory Development Plan does not have primacy in S36 decision-making it remains an important relevant consideration informing the Council's response to the proposal.
- 1.3 Schedule 9 of the Electricity Act does require both the applicant and the decision-maker to have regard to the preservation of amenity. It requires that in the formulation of proposals the prospective developer shall have regard to:
 - (a) the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest; and
 - (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings, or objects.
- 1.4 Similarly, it obliges the Scottish Ministers in their capacity as decision maker to have regard to the desirability of the matters at a) and the extent to which the Applicant has complied with the duty at b).
- 1.5 Consideration of the proposal against NPF4 and ABLDP2 will ensure that proper consideration is given by the Council to the extent to which the proposal satisfies these Schedule 9 duties.
- 1.6 It is open to the Council to either support or object to the proposal, and to recommend conditions it would wish to see imposed in the event that authorisation is given by Scottish Ministers. In the event of an objection being raised by the Council, the Scottish Ministers are obliged to convene a Public Local Inquiry (PLI) if they are minded to approve the proposal. They can also choose to hold a PLI in other circumstances at their own discretion. Such an Inquiry would be conducted by a Reporter(s) appointed by the Directorate for Planning and Environmental Appeals. In the event that consent is given, either where there has been no objection from the Council, or where objections have been overruled following PLI, the Council as Planning Authority would

become responsible for the agreement of matters pursuant to conditions, and for the ongoing monitoring and enforcement.

- 1.7 This report reviews the policy considerations which are relevant to this proposal and the planning merits of the development, the views of bodies consulted by the Scottish Government along with other consultations undertaken by the Council, and any 3rd party opinion expressed to the Scottish Government following publicity of the application by them. It recommends views to be conveyed to the Scottish Government on behalf of the Council before a final decision is taken on the matter. The conclusion of this report is to recommend that the Council does not object to this Section 36 consultation for the reasons detailed in this report.

2. SPATIAL AND SETTLEMENT STRATEGY

- 2.1 Policy 02 – Outwith Settlement Areas establishes acceptable scales of development in three different ‘zones’. The main wind farm site is predominantly located within Remote Countryside Area. Within the Remote Countryside Areas, only specific categories of development are supported. This includes renewable energy related development. In principle, Policy 02 supports renewable energy and ancillary developments in these areas, providing they are consistent with all other relevant LDP2 Policies. With respect to the requirement for developments to accord with all other relevant policies of LDP2, particular attention is drawn to the need for proposals to accord with Policies 70 to 76 with respect to landscape and the natural environment. Proposals will also be required to demonstrate that there will be no unacceptable adverse effects (either individually or cumulatively) on natural heritage resources, built and/or cultural heritage resources, and landscape and visual amenity.
- 2.2 Policy 04 – Sustainable Development requires that in preparing new development proposals, developers should seek to demonstrate the following sustainable development principles (where relevant): a) Maximise the opportunity for local community benefit, including the creation of district (renewable) heat networks, where viable; b) Make efficient use of vacant and/or derelict land including appropriate buildings; c) Support existing communities and maximise the use of existing infrastructure and services; d) Maximise the opportunities for sustainable forms of design including minimising waste, reducing our carbon footprint, increasing energy efficiency, solar panels, ground, water and air source heat pumps and other forms of renewable energy generation; e) Avoid the use of locally important good quality agricultural land; f) Utilise public transport corridors and active travel networks; g) Avoid the loss of important recreational and amenity open space; h) Conserve and enhance the natural and built environment and avoid significant adverse impacts on biodiversity, natural and heritage assets; i) Respect the landscape character of an area and the setting and character of settlements; j) Avoid places with significant risk of flooding, tidal inundation, coastal erosion or ground instability; and k) Avoid having significant adverse impacts on land, air and water environment. The application is supported by an Environmental Impact Assessment Report (EIAR) which sets out in detail the measures proposed to ensure the proposal is ‘Sustainable Development.’
- 2.3 Policy 11 – Energy of NPF4 and Policy 30 – Sustainable Growth of Renewables of LDP 2 provide the primary policy framework for assessing wind farms. In this case, subject to the mitigation recommended by the Councils Landscape Consultant it is considered that the Landscape & Visual Impact of the proposal is acceptable, and that all matters excluding Ornithology and Transport can be suitably mitigated by appropriate conditions. Due to the outstanding matters raised by NatureScot, RSPB Scotland and Transport Scotland it is not possible to reach a conclusion on whether the proposal is consistent with Development Plan Policy relating to the spatial and

settlement strategy, as they require development proposals to be consistent with all relevant policies.

2.4 For the reasons detailed below in this report, it is considered that this proposal satisfies Development Plan Policy and associated guidance in respect of renewable energy development in some respects. Areas where it has not been possible to reach a conclusion are explained.

2.5 Having due regard to the above it is not possible at this time to conclude whether this proposal can be considered 'sustainable' or whether it is consistent with the provisions of LDP 2 Policy 02 – Outwith Settlement Areas and LDP Policy 04 – Sustainable Development.

3. ENERGY & SUPPORTING THE SUSTAINABLE GROWTH OF RENEWABLES

3.1 Argyll & Bute Council is keen to ensure that Argyll & Bute continues to make a positive contribution to meeting the Scottish Government's targets for renewable energy generation. These targets are important given the compelling need to reduce our carbon footprint and reduce our reliance on fossil fuels, reinforced by the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019. The Council will support renewable energy developments where these are consistent with the principles of sustainable development, and it can be adequately demonstrated that there would be no unacceptable significant adverse effects.

3.2 Inveraray Community Council have also offered their support for the application not only in terms of economic benefits, but also on the grounds that investing in clean energy helps to provide a more sustainable future for the next generation.

3.3 This proposal has been assessed primarily against the criterion in the two lead Statutory Development Plan policies relating to renewable energy. These are: Policy 11 – Energy of National Planning Framework 4 and Policy 30 – the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan 2. Other policies are referred to where relevant.

4. LOCATION, NATURE, AND DESIGN OF PROPOSAL

4.1 The site is located on the plateau between Loch Awe to the northwest and Loch Fyne to the southeast. Settlements nearby are located within the glens and adjacent lochs, with Turbine (T) 1 of the proposal being the closest to Inveraray, located approximately 6km to the north-west, and T13 being the closest to Dalavich, which is located approximately 4.5km to the east. A number of small clusters of residential properties are found scattered along the shores of Loch Awe, with the closest properties to the site located at Ardchnonell and Blarghour, over 1km from the site boundary.

4.2 The area where turbines are proposed to be sited comprises undulating moorland plateau with rocky outcrops, orientated north-east to south-west, with frequent lochans in lower lying areas.

4.3 Large areas of commercial forestry are found adjacent to the site, extending down the lower slopes to the east, south and west, with forested areas also located within the eastern extent of the site boundary to the west of Inveraray.

4.4 The site is located within the Kames River, Allt Blarghour, River Aray and Douglas Water catchments. There are many watercourses and lochans within the site, including the Eas an Amair (a tributary of the Allt Blarghour), the Erallich Water and

Allt Bail' a Ghobhainn (tributaries of the River Array), and numerous smaller named and unnamed tributaries

- 4.5 The proposal will be accessed via the A82, south of Inveraray. Abnormal load vehicles will follow the 'Inveraray bypass' (the Upper Avenue) outlined separately on Figure 2, where some widening and realignment of the existing track will be required. The access will then join the A819 for a short section, approximately 1.2km long, before accessing the site, south of Electric Cottage.
- 4.6 There are three Core Paths within or traversing the site access and the Inveraray Forest Circuit forms a loop around Inveraray, following the Core Paths within the site. The Caledonia Way cycle route is located on the western side of Loch Awe approximately 4.8km from T12. There are a number of other recreational routes located within 15km of the site.
- 4.7 Proposed Development – the main components of the Proposed Development are:
- Up to 13 wind turbines, each with a maximum tip height of up to 180m. The currently considered candidate turbine has a rated capacity of 6.6MW;
 - Foundations supporting each wind turbine;
 - Associated crane hardstandings and adjacent laydown areas at each turbine location;
 - A network of onsite access tracks of approximately 23.1km (of which approximately 6.6km will be upgraded existing track and 16.5km will be new track);
 - 105 watercourse crossings and associated infrastructure (31 upgraded existing crossing and 74 new crossings);
 - A network of underground cables and cable trenches to connect the turbines to the onsite substation;
 - A permanent anemometer (meteorological mast) of up to 102.5m in height and associated track;
 - Vehicle turning areas and onsite passing places (location and size to be determined by the turbine supplier);
 - Site signage;
 - A permanent compound containing the control building, substation, and energy storage facility; and
 - An Outline Restoration and Enhancement Plan (OREP) for peat, biodiversity, landscape, and forestry.
- 4.8 Connection to Electricity Grid - There is a feasible grid connection available, as advised by the network operator SSEN. The grid connection will be the subject of a separate application by SSEN.

Infrastructure

- 4.9 Scottish Water have advised the ECU that they have no objection, however, this does not confirm that the proposal can currently be serviced. Advice is also provided on: Drinking Water Protected Areas and Surface Water.
- 4.10 Drinking Water Protected Areas – they have confirmed that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposal.

4.11 Surface Water - For reasons of sustainability and to protect customers from potential future sewer flooding, Scottish Water have advised that they will not accept any surface water connections into their combined sewer system.

5. NET ECONOMIC IMPACT, INCLUDING LOCAL AND COMMUNITY SOCIO-ECONOMIC BENEFITS

5.1 Policy 11 – Energy of NPF4 states that proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. Policy 30 - the Sustainable Growth of Renewables of ABLDP2 require all applications for wind turbine developments to be assessed in terms of net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.

5.2 During construction, there will be direct employment generation to the equivalent of 30.2 'person year equivalent' (PYE) in the local economy. This equates to a 'gross value added' (GVA) of £1.91 million. Indirect benefits through spend in the local economy etc. will equate to an additional 55 PYE and additional GVA of £4.03 million, stimulating the local supply chain. This will be of minor (positive) significance for local employment and the economy within Argyll & Bute.

5.3 Due to their remote operational control and limited need for servicing, wind farms do not create large numbers of jobs during the operational stage. There will be direct employment generation to the equivalent of 1.6 PYE in the local economy. This equates to £56,000 GVA. Indirect benefits through spend in the local economy etc. will equate to a further 2.96 PYE and additional GVA of £99,700. As such, direct and indirect employment benefits once the proposal is operational will be minor.

5.4 The Applicant will contribute £5,000 per MW of installed capacity per annum into a community benefit fund. This equates to a maximum of £429,000 of income per annum, or over £17.1 million over the 40-year operational life of the proposal, subject to the eventual turbines and capacity installed. A moderate (positive) effect is therefore predicted in relation to direct economic benefits.

5.5 Inveraray Community Council would like to offer their support for the application. The basis for their support includes: the project will create jobs for local people; community benefit which may include funding grants for distribution to the local community; influx of construction workers will benefit the local economy, by spending on accommodation, eating out, visiting local attractions and investing in clean energy helps to provide a more sustainable future for the next generation.

5.6 The economic benefits associated with this proposal relating to job creation and benefits to the local economy from the influx of construction workers, by spending on accommodation, eating out and visiting local attractions are a relevant consideration, which has been considered. Community Benefit is not however, a 'material planning consideration' in the determination of planning applications, as there is no planning mechanism available to secure it. If consent were to be granted, the negotiation of any community benefit, either directly with the local community or under the auspices of the Council, would take place outside the application process.

5.7 Having due regard to the above it is considered a degree of net economic impact, including local and community socio-economic benefits, typical of such developments will be provided. It is therefore concluded that the

proposal is consistent with the provisions of Policy 11 – Energy of NPF4, and Policy 30 – The Sustainable Growth of Renewables of the ABLDP2.

6. IMPACTS ON COMMUNITIES AND INDIVIDUAL DWELLINGS, INCLUDING RESIDENTIAL AMENITY, VISUAL IMPACT, NOISE AND SHADOW FLICKER

6.1 Policy 11 – Energy of NPF4 requires that project design and mitigation will demonstrate how impacts on communities and individual dwellings, including, residential amenity, visual impact, noise, and shadow flicker have been addressed. Policy 30 – the Sustainable Growth of Renewables of the ABLDP2 requires all applications for wind turbine developments to be assessed in terms of impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker (including cumulative).

Noise

6.2 ABC Noise Consultant undertook a review of the noise assessment for the proposal. This review included a desktop assessment against current good practice, a check of the predicted noise levels from the wind farm, and a site survey of the area surrounding the wind farm site including the nearest residential receptors. The desktop review and site survey concluded that, in general, good practice has been adopted by the applicant, with a few minor issues identified. These issues related to exclusion of two operational wind turbines at Blarghour Farms from the cumulative assessment confirmation that there are no derelict properties with residential status in the study area; confirmation of the correction of predicted LAeq to give LA90 by subtracting 2 dB; and proposed noise conditions. Following a satisfactory response to these issues, it was considered that there would be no reason to object to the proposal on noise grounds subject to a suitably worded condition to limit the noise levels, tonality, and amplitude modulation to control noise levels from the proposed scheme.

6.3 The Applicant – provided a response to the matters raised by the ABC Noise Consultant. They disagreed that the Blarghour turbines should be included in the cumulative assessment. Confirmed that there are no derelict properties with planning permission for conversion to inhabited residential status located closer to the proposed wind farm. Confirmed the correction of predicted LAeq to give LA90 by subtracting 2 dB. Agreed with the wording of the proposed noise condition subject to a minor typo. They advised that they could not agree with the wording of the Proposed Amplitude Modulation Condition.

6.4 ABC Noise Consultant – advised that they still considered that the two Blarghour turbines should be considered in the cumulative assessment; accepted the confirmation of no derelict properties with residential status; accepted confirmation of 2dB correction between LAeq and LA90; accepted the typo in the noise condition and advised that the Council retains its position in respect of the need for an Amplitude Modulation condition.

6.5 The Applicant provided a further response to the points raised by the ABC Noise Consultant stating that inclusion of the operational wind turbines at Blarghour would not change the outcome of the cumulative noise assessment; that whilst they do not consider that an Amplitude Modulation condition is necessary they suggested alternative wording.

6.6 ABC Noise Consultant in their most recent response have confirmed that: they agree that the proposed apportioned noise limits for the wind turbines are correct on both AM & non AM conditions; they agree that the more precise AM condition would be the

Council's preferred option, and accept the proposed AM condition wording from the Applicant; they agree that there is no need to present a cumulative assessment; and they maintain their position that the Amplitude Modulation condition is required to protect residential amenity.

- 6.7 The Applicant – has now confirmed that they agree to the Amplitude Modulation condition.
- 6.8 Shadow Flicker – A shadow flicker assessment is required if any properties lie within 10 rotor diameters of the wind farm. This is in line with Scottish Government online renewables planning advice on 'onshore wind turbines' which states that "where separation is provided between wind turbines and nearby dwellings (as a general rule 10 rotor diameters), 'shadow flicker' should not be a problem." On the basis that the nearest property (Blarghour) is over 2.5 km from the nearest turbine (T9), a detailed shadow flicker assessment was not required.
- 6.9 Having due regard to the above it is concluded that the proposal is acceptable in terms of any potential shadow flicker impact and Noise subject to the conditions recommended by the Council's Noise Consultant and agreed by the Applicant and is therefore consistent with the provisions of Policy 11-Energy, and Policy 30 – The Sustainable Growth of Renewables of the ABLDP2 in this respect.**

7. SIGNIFICANT LANDSCAPE AND VISUAL IMPACTS

- 7.1 Policy 11 – Energy of NPF 4 requires that project design and mitigation demonstrates how significant landscape and visual impacts have been addressed, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable. Policy 4 a) – Natural Places of NPF4 states that proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. Policy 30 – The Sustainable Growth of Renewables of ABLDP 2 requires all applications for wind turbine developments to be assessed against landscape and visual impacts.
- 7.2 The Council's Consultant Landscape Architect, has undertaken a Landscape and Visual Review, based on examination of the EIAR (March 2023) and visits to the area surrounding the proposed site.
- 7.3 The Proposal - would be located in the uplands lying between Loch Fyne and Loch Awe. It would comprise 13 turbines 180m high to blade tip. It would lie between the operational An Suidhe wind farm which comprises 24 turbines 83m high to blade tip and the consented Blarghour wind farm which comprises 17 turbines, 136.5m high to blade tip. A revision to the consented Blarghour wind farm has been submitted for 14 turbines, 180m to blade tip.
- 7.4 Ancillary development would include 16.5km of new access track and a permanent compound. 3.77 ha of forestry would require removal to accommodate access. Chapter 4 of the EIAR which describes the proposal does not provide a detailed specification of visible aviation lighting. Appendix 14.2 sets out a proposed lighting strategy whereby 2000 candela lights would be fixed to the hubs of 7 turbines. Reduced intensity lighting (where 2000 candela nacelle lighting would reduce to 200 candela during periods of clear visibility) and directional lighting with a focussed horizontal beam of light (limiting lighting intensity seen from lower-lying views) are both embedded features of the proposed lighting scheme.

- 7.5 A Restoration and Enhancement Plan is proposed which includes peat restoration across 132ha of degraded moorland and native tree planting.
- 7.6 The landscape and visual information provided by the Applicant - The LVIA set out in Chapter 6 of the EIAR accords with the Guidelines for Landscape and Visual Impact Assessment Third Edition. The Council's Landscape Consultant considers the LVIA to be comprehensive and robust and agrees with the majority of the findings on the significance of landscape and visual effects. The day-time visualisations accord with best practice guidance and present an accurate representation of the proposal. A variety of night-time visualisations has been produced depicting a worse case scenario and proposed mitigation to aviation lighting which would reduce intensity in some circumstances.
- 7.7 Landscape effects - Eleven of the turbines within the proposal lie within the *Craggy Upland* Landscape Character Type (LCT) and the remaining 2 turbines lie in the *Loch Fyne Upland Forest Moor Mosaic* LCT. The proposal would have significant adverse effects on the character of both these 'host' LCTs. Significant adverse effects would also occur on the smaller scale fringes of Loch Awe (which are in part defined as the *Rocky Mosaic* LCT) and on the narrow waters of the loch itself. Visible aviation lighting would introduce lighting to the dark skies of the sparsely settled Loch Awe area further diminishing its remote and little developed character.
- 7.8 The Council's Landscape Consultant considers that the proposal would not have a significant adverse effect on the Area of Panoramic Quality local landscape designation covering the head of Loch Awe and the Loch Fyne area.
- 7.9 Visual effects - The Zone of Theoretical Visibility map indicates that the proposal would be visible across approximately two thirds of Loch Awe and would be seen from both its western and its lower south-eastern shores. Close views <5km distance will occur from the waters of Loch Awe and from western shores in the Dalavich to Inverinan area. Between 5-10km the proposal would be visible from the lower Loch Awe area and across the lower half and northern shores of Loch Avich.
- 7.10 Beyond 10km there would be visibility of turbines from the eastern shores of Loch Fyne although the combination of distance and partial screening of turbine towers would reduce significant intrusion from settlement and roads along the fringes of the loch.
- 7.11 Significant adverse effects on views would occur from:
- The west side of Loch Awe, from the unclassified road/NCR 78, the road to Loch Avich and from promoted viewpoints on these routes (represented by VPs 5 and 9). The larger 180m high turbines proposed would increase discordancy with the much smaller operational An Suidhe wind turbines seen in views from this area. The overlapping of Turbines 2, 8 and 10 in key views adds to the discord and cluttered appearance of the proposal.
 - The settlements of Dalavich and Inverinan and from promoted footpaths along the north-western shores and hillsides of Loch Awe (represented by VPs 2 and 7). Turbine 13 would be noticeably more prominent from the Dalavich area (see VP 2) because of its location on west-facing slopes (and not set behind the ridge like the other turbines within the proposal) and its separation from the main group of turbines.
 - From the waters of Loch Awe experienced by people using watercraft and where, if the long length of the loch is traversed, sequential cumulative effects would occur with

the operational wind farm of Carraig Gheal (and the consented Blarghour wind farm). This is illustrated by the wireline visualisation in VP 1.

- The northern shores and waters of Loch Avich where the turbines would be prominently sited on elevated and open skylines (VPs 11 and 13). Turbine 13 appears to drift away from the main group of turbines and significantly increases the horizontal extent of the proposal and the magnitude of effect on the Loch Avich area.
 - The southern end of Loch Awe where views from the ruin of Fincharn Castle and from a short section of the B840 are channelled down the length of the loch and the combination of water and steep wooded side slopes creates a scenic composition. The proposal would lie some 13km + distance away but would be seen as a focus at the end of these views and would have a disruptive and detractive effect (exacerbating the effect of the consented Blarghour wind farm). These views are illustrated in VPs 15 and 16.
 - The folly at Dun na Cuaiche within the Inveraray Castle GDL (VP 4) – while the proposal would not interrupt the main focus of views along Loch Fyne, the proximity (5.69km) and size of the turbines and the intrusion of new tracks accessing the wind farm would result in significant adverse effects. The overlapping of Turbines 2 and 8, and the greater prominence of Turbines 1 and 2 contributes to the magnitude of effect likely to be experienced from this highly sensitive viewpoint.
- 7.12 Turbine lighting would extend the duration of significant adverse effects in close-by views from parts of Dalavich and from elevated viewpoints such as VP 4 at the Folly at Dun Cuaiche within the Inveraray Castle GDL and VP 9 at Kilmaha.
- 7.13 Cumulative landscape and visual effects with other proposed wind farms - It is assumed that the visualisations produced within the EIAR show the wind farm proposals listed in Table 6.8 of the LVIA. Clarification is sought that the Blarghour revised proposal (scoping stage layout comprising 17 turbines, 180m high) is shown in the visualisations rather than the consented scheme which comprises 17 turbines 136.5m high. The key (green) appears to indicate that the scoping scheme is shown.
- 7.14 Significant combined cumulative landscape and visual effects would occur where this proposal was seen together with the proposed revised Blarghour wind farm which lies within 1.5km of the proposal. Both developments would be largely seen together and would substantially increase the extent of very large wind turbines seen on the skyline of uplands which enclose the eastern side of Loch Awe. Large turbines would appear as a continuous feature seen in relatively close proximity to the loch, significantly exacerbating the diminishment of the sense of seclusion and naturalness likely to already be associated with the revised Blarghour wind farm.
- 7.15 The proposed Eredine, Ladyfield and Bheinn Ghlas repowering wind farm developments would also contribute to significant adverse combined cumulative effects on landscape and views when seen together and sequentially, principally in the Loch Awe area but also affecting elevated views at the head of Loch Fyne (for example VP 4 from the folly at Dun na Cuaiche at Inveraray Castle GDL). Visible aviation lighting on these proposals (which all comprise larger turbines >180m) would extend the duration of significant cumulative effects from some views. The combined cumulative effect would be one where the uplands on the eastern side of Loch Awe would appear to comprise a landscape dominated by wind farms – a ‘wind farm landscape’ in effect.

- 7.16 Conclusions - This proposal would be located in the *Craggy Upland* and the *Loch Fyne Upland Forest Moor Mosaic* LCT's and would have significant adverse effects on their character. It would also incur significant adverse effects on the *Rocky Mosaic* LCT which covers part of the shores of Loch Awe and on the character of Loch Awe and Loch Avich. Formally valued landscapes, including the Area of Panoramic Quality designation, would not be significantly affected by the proposal.
- 7.17 The proposal would be for 13 turbines 180m high to blade tip and would be much more visually prominent than operational wind farms. It would have significant adverse effects on open views from the minor road/promoted cycle routes and footpaths on the west side of Loch Awe and from part of the B840 and the shore of the loch east of Ford. There would be extensive visibility across a large part of the waters of Loch Awe with significant effects likely to extend between the settlements of Inverinan and Ford (an area comprising approximately two-thirds of the loch).
- 7.18 Significant adverse effects on views would also occur from the northern shores of Loch Avich and from the open waters of this loch. The layout of the proposal will exacerbate effects from the Loch Avich road (which offers spectacular views over Loch Awe) where considerable overlapping of turbines occurs. The positioning of Turbine 13 in particular gives the proposal an overly 'stretched out' appearance in views from Loch Avich which contributes to the magnitude of effect.
- 7.19 Lower elevation views from Loch Fyne and its settled shores will not be significant due to a combination of distance and partial screening of turbine towers by landform, although significant adverse effects would occur on views from the folly at Dun na Cuaiche which lies within the Inveraray Castle Inventory listed Garden and Designed Landscape. The design of the proposal is particularly poor from this important viewpoint with overlapping turbines creating a cluttered appearance and Turbines 1 and 2 being particularly prominent in relation to the other turbines which are more set back behind ridgelines.
- 7.20 There would be significant cumulative effects arising with both the consented and proposed Blarghour wind farm and the operational An Suidhe wind farm with this proposal effectively filling the gap between the 2 operational/consented developments. There would be a substantial increase in the horizontal extent of wind farm development seen simultaneously on containing skylines from Loch Awe and its shores. The addition of the Eredine, Ladyfield and Beinn Ghlas Repowering wind farm proposals (which all comprise much larger turbines) would add to sequential effects experienced when travelling on roads/promoted cycle routes along Loch Awe and from watercraft on the loch itself (in addition to a baseline which includes the operational Carraig Gheal wind farm which is already prominent from the loch and its shores). The proposal would also contribute to significant adverse combined cumulative effects on views from the folly at Dun na Cuaiche within the Inveraray Castle Garden and Designed Landscape when seen together with the operational Clachan Flats wind farm, the proposed Ladyfield, Blarghour and Eredine wind farms and the consented Creag Dhubh wind farm.
- 7.21 This proposal would introduce lighting to the dark skies of Loch Awe and while there will be fewer visual receptors during hours of darkness, the number of proposed wind farms requiring visible aviation lighting would result in significant cumulative effects associated with visible aviation lighting.
- 7.22 Recommendation - This proposal would not significantly affect national or local landscape designations.

- 7.23 All wind farm developments will incur significant adverse landscape and visual effects and this proposal is no different in this respect. One of the key significant adverse effects associated with this proposal would be its cumulative effect with the consented Blarghour wind farm and, to a lesser degree, the operational An Suidhe wind farm, which would result in a substantially more dominant combined effect of wind energy development on the character of Loch Awe and on views.
- 7.24 It is not considered that appropriate design mitigation has been applied to the proposal in line with NPF4 Policy 11e (ii) and the significant adverse effects of the proposal could be mitigated to some degree by improving its appearance from key views as follows:
- The well-wooded nature of the Loch Awe area restricts open views across and along the loch but where these views do occur, they are particularly valuable for their scenic qualities. The loch shores near Dalavich comprise one of these important open areas as does the road between Loch Awe and Loch Avich and the shores and waters of Loch Avich. The proposal appears poorly designed from these areas and ***it is strongly recommended that the layout of turbines is reviewed by the applicant from Viewpoints 2, 5 and 11 with the overlapping of Turbines 2, 8 and 10 resolved and Turbine 13 omitted as this appears dislocated from the main group of turbines and significantly increases the horizontal extent of the proposal in these views.***
 - In addition, significant adverse effects on the Dun na Cuaiche folly within the Inveraray Castle GDL are acknowledged likely to arise in the LVIA (Viewpoint 4). This is an important viewpoint, and the cluttered appearance of the proposal contributes to significant adverse effects on views. ***It is therefore strongly recommended that the layout of turbines is reviewed by the applicant from Viewpoint 4 with the discordant overlapping of Turbines 2 and 8 resolved and the prominence of Turbines 1 and 2 reduced by adjusting their location and/or lowering their height.***
 - In addition, the cumulative effects of visible aviation lighting on landscape character and on views is also a concern and while there will be fewer people affected at night, it is considered important to retain the character of dark skies within Argyll & Bute, particularly given the number of wind energy proposals across the region with similar lighting. ***It is therefore strongly recommended that radar activated lighting should be installed at the earliest opportunity as this would substantially reduce the duration and impact of night-time lighting.***
- 7.25 The Applicant provided a response to the key points raised by the Councils Landscape Consultant. In summary, they advise that extensive work has gone into the design of the Proposed Development to develop a layout that contributes positively to carbon reduction targets, maximises energy yield whilst respecting technical and environmental constraints including ecological, ornithological, hydrological, cultural heritage and ground conditions identified during the consultation and EIA process. As such, it is not proposed to make any further changes to the design at this time, as requested in the review of landscape and visual effects, for the reasons outlined above. As noted in the review “All wind farm developments will incur significant adverse landscape and visual effects and this proposal is no different in this respect.”
- 7.26 ABC Landscape Consultant – advised that the Applicants response contains no new information or reasoned judgement which would alter the finding of their review report and they have nothing to add or change in their advice to the Council.

7.27 NatureScot have provided the ECU with the following landscape advice (summary) –

- There would be a significant effect on landscape character in the surrounding Craggy Upland Landscape Character Type (LCT) and on smaller scale areas of the LCT on the west of Loch Awe exposed to skyline views of the turbines. Significant effects would also extend to parts of the Loch Fyne Upland Forest-Moor Mosaic LCT and the Rocky Mosaic LCT on the western shores of Loch Awe;
- Significant visual effects would extend up to c15km and would be mainly concentrated on settlements, roads, and recreational receptors on the west side of Loch Awe. There would be significant cumulative landscape and visual effects when the proposal is considered in addition to operational, consented, and proposed wind farms, particularly the nearby operational An Suidhe wind farm and the proposed neighbouring Blarghour wind farm;
- Currently there are no operational or consented wind farms in the study area requiring lighting and the sparsely populated area is characterised by low levels of artificial light at night. While proposed measures to control the intensity and direction of lighting could substantially reduce the potential for effects, they consider there would be significant night-time landscape and visual effects within areas surrounding the proposal; and
- The Proposal does not conform with NatureScot's wind farm design guidance raising important design issues in terms of its relationship to the existing adjacent An Suidhe wind farm. In respect of the Argyll & Bute LWECS, there is no scope for turbines of this size due to the potential for effects on Loch Awe and its smaller scale, scenic and settled fringes. This could only be mitigated by significantly reducing turbine size.

Officer's Conclusion

7.28 Based on the advice of the Council's Consultant Landscape Architect the proposed development does not warrant an objection on landscape and visual grounds. Another key factor in reaching this conclusion is the recent Blarghour decision on a site adjacent to the proposed development. The Council objected to the Blarghour proposal which caused a Public Inquiry to be held. The outcome was not in the Council's favour and the Blarghour proposal was approved by Scottish Ministers. The concerns raised by NatureScot are noted and will be a matter for the ECU to consider/resolve prior to reaching a decision on this application.

7.29 Having due regard to the above and consideration being given to the suggested mitigation (including a condition to secure ADLS (Aircraft Detection Lighting System) lighting) it is concluded that the proposal complies with the provisions of Policies 11 – Energy and 4 – Natural Places of NPF4, and Policy 30 – The Sustainable Growth of Renewables of ABLDP2 in this respect.

8. IMPACTS ON TOURISM AND RECREATION

8.1 Policy 11 – Energy of NPF4 does not require Impacts on tourism to be considered – this criterion is no longer included. Policy 30 – The Sustainable Growth of Renewables of ABLDP2 requires all applications for wind turbine developments to be assessed against impacts on tourism and recreation.

- 8.2 Tourism – It is acknowledged that Policy 11 of NPF4 does not include a requirement for the impact of proposals on tourism to be assessed. However, Policy 30 – The Sustainable Growth of Renewables of the LDP does. In Argyll & Bute the landscape is regarded as being a particularly valued asset both in terms of its intrinsic qualities and in terms of its value to the tourism economy. For all types of development, the maintenance of landscape character is an important facet of decision-making in the countryside in Argyll & Bute, regardless of the scale of development proposed.
- 8.3 As Tourism and Landscape & Visual matters are intrinsically linked, and there is little evidence to demonstrate whether wind farms adversely affect tourism, it is considered that such impacts are covered in the landscape and visual impact assessment of the proposal.
- 8.4 Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy 11 – Energy of NPF4 and Policies 04 – Sustainable Development and 30 – The Sustainable Growth of Renewables of ABLDP2 in this respect.**

9. PUBLIC ACCESS

- 9.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on public access are addressed, including impact on long distance walking, and cycling routes and scenic routes. Policy 30 – the Sustainable Growth of Renewables of ABLDP2 requires all applications for wind turbine developments to be assessed against impacts on public access, including impact on long distance walking and cycling routes and those scenic routes identified in the NPF. Policy 32 – Active Travel of ABLDP2 requires that requires active travel and recreation to be integrated in developments from the start of the wider design process and existing active travel networks should be safeguarded and integrated with the development.
- 9.2 Chapter 11 of the EIAR considers potential direct and indirect effects in relation to public access, recreation, and tourism. The assessment states that a number of Core Paths and regional cycle routes are located within the vicinity of the site, clustered around the communities and settlements, particularly along the shores of the Lochs, Inveraray and Dalavich. There are three Core Paths located within the area which includes the site access track.
- 9.3 Other routes located within the site include: The Inveraray Forest Circuit which is routed around Inveraray and forms a loop, including within the site following the above Core Paths.
- 9.4 There are no Rights of Way paths within the site; however, there are three Core Paths (C200a, C200b and C203a) which are located within / traversing the site access (which also form part of an advertised route on Walk Highlands called the Inveraray Forest Circuit. The assessment states that there is potential for direct disruption to the use of these Core Paths and circuit during construction for a small number of people. The routes may have some restricted access however these impacts can be satisfactorily management by way of an Access and Recreation Management Plan which could be secured by way of a planning condition.
- 9.5 ABC Core Paths – At time of writing no response has been received.
- 9.6 Mountaineering Scotland have advised the ECU they have no comment.

9.7 Having due regard to the above subject to a condition to secure an Access and Recreation Management Plan in the event that consent is granted it is considered that the proposal is consistent with the provisions of Policy 11- Energy of NPF4, Policy 30 – the Sustainable Growth of Renewables; and Policy 32 - Active Travel of the ABLDP2.

10. AVIATION AND DEFENCE INTERESTS INCLUDING SEISMOLOGICAL RECORDING

10.1 Policy 11 – Energy of NPF4 requires that project design and mitigations demonstrates how impacts on aviation and defence interests including seismological recording have been addressed. Policy 30 – the Sustainable Growth of Renewables of ABLDP2 requires impacts on aviation and defence interests and seismological recording to be addressed. Policy 43 – Safeguarding of Aerodromes of ABLDP2 stipulates that Development will not be permitted where it would compromise the safe operation of an Aerodrome or Technical Site or constrain their present or future operations.

10.2 Defence Infrastructure Organisation (DIO) – have advised the ECU that, subject to conditions to secure an Aviation Lighting Scheme and Aviation Charting and Safety Management details the MOD has no objection.

10.3 National Air Traffic Services Safeguarding (NATS), Edinburgh Airport, Glasgow Airport, and Glasgow Prestwick Airport – have all advised the ECU that they have no objection to the proposal.

10.4 Having due regard to the above, subject to the conditions recommended by the Ministry of Defence, it is concluded the proposal is consistent with the provisions of Policy 11 – Energy of NPF4 and Policies 30 – The Sustainable Growth of Renewables and 43 – Safeguarding of Aerodromes, of the ABLDP2 in this respect.

11. TELECOMMUNICATIONS AND BROADCASTING INSTALLATIONS

11.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on telecommunications and broadcasting installations, have been addressed particularly, ensuring that transmission links are not compromised. Policy 30 – The Sustainable Growth of Renewables of ABLDP2 requires all applications for wind turbine developments to be assessed against impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised.

11.2 The Joint Radio Company and BT have both advised the ECU that they have no objection to this proposal.

11.3 Having due regard to the above it is concluded that the proposal will not have any adverse impacts on telecommunications, broadcasting installations and transmission links (including cumulative impacts) and is consistent with the provisions of Policy 11- Energy of NPF4 and Policy 30 – The Sustainable Growth of Renewables of ABLDP2 in this respect.

12. ROAD TRAFFIC AND ADJACENT TRUNK ROADS

12.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on road traffic and on adjacent trunk roads have

been addressed, including during construction. Policy 30 – the Sustainable Growth of Renewables of ABLDP2 requires all applications for wind turbine developments to be assessed against impacts on road traffic and impacts on adjacent trunk roads. Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes of ABLDP2 acceptance of development utilising new and existing public roads, private roads and private access regimes is subject to road safety and street design issues being addressed to the satisfaction of the Roads Authority and the Planning Authority. Policy 38 – Construction Standards for Public Roads requires that accesses which connect to or impact significantly on a Trunk Road require consultation with Transport Scotland.

- 12.2 The proposed development will be accessed from the A819, with all traffic approaching the site from the A83 trunk road. A bypass of Inveraray is proposed for AIL (abnormal indivisible loads) traffic, due to constraints located within Inveraray.
- 12.3 Transport Scotland (TS) – advised the ECU that they are satisfied with the submitted EIAR and have no objection in terms of environmental impacts on the trunk road network. However, they have sought additional information on the blade transfer points and the access junction for the bypass of Inveraray before they will provide their final response. The Applicant provided additional information for TS in respect to these points.
- 12.4 TS reviewed this additional information and provided further comment to the ECU. In respect to the access junction for the bypass of Inveraray, TS have reiterated their previous request for 1:500 scale drawings showing the junction layout and visibility splays etc. with any departures from standard known at this stage highlighted. In respect to the blade transfer points TS note that a separate planning application will be required, which they will review as a statutory consultee. To link this to the main wind farm application they request a condition is added to any consent to ensure that no abnormal load deliveries commence until the details of the blade transfer points on the A83 have been submitted and approved in writing by the Planning Authority in consultation with them to maintain the safety and free flow of the traffic on the trunk road network. They also confirm that they will conclude their consultation on the proposal once they have received and reviewed the additional information, they require for the access junction.
- 12.5 At time of writing, it is Officers understanding that the details requested by Transport Scotland in relation to the access junction have still not been provided. Consequently, no final response has been received from Transport Scotland and the matter remains unresolved. This will need to be resolved by the ECU prior to reaching a final decision on this application.
- 12.6 ABC's Roads & Amenity Services have advised they have no objection subject to conditions relating to the A819 Inveraray to Dalmally Road Vehicular Accesses and some additional conditions.
- 12.7 Conditions relating to the southern access - 1. Connection of site access to public road, 75 x 2.40 x 1.05 metres; 2. Access to be constructed as per the Council's standard detail drawing ref: SD 08/001 Rev a, or otherwise agreed in writing by Roads & Infrastructure Services; 3. Junction geometry and surfacing to be fully completed, prior to any work starting on site; 4. Existing permanent warning signs must remain in situ, unless otherwise agreed in writing by Roads & Infrastructure Services; and 5. Advanced warning signs for the site access to be erected on either approach, prior to any works starting on site.

- 12.8 Conditions relating to the northern access - 1. Connection of site access to public road, 160 metres to the north west and 75 metres to the south east; 2. Access to be constructed as per the Council's standard detail drawing ref: SD 08/001 Rev a, or otherwise agreed in writing by Roads & Infrastructure Services; 3. A positive surface water drainage system to be installed to prevent the discharge of surface water onto the public road, details to be agreed with Roads & Infrastructure Services, prior to any works starting on site; 4. Junction geometry, surfacing and drainage be fully completed, prior to any work starting on site; and 5. Advanced warning signs for the site access to be erected on either approach, prior to any works starting on site.
- 12.9 Additional Conditions - 1. Strictly no vehicular access from the B840 East Lochaweside Road; 2. Traffic Management Plan to be submitted for approval by Roads & Infrastructure Services, prior to any work starting on site. The Traffic Management plan should include details of all materials, plant, equipment, components, and labour required during the construction works; 3. A detailed Method Statement in relation to access and transport of materials, plant, and equipment. Method statement to be submitted for approval by Roads & Infrastructure Services, prior to any work starting on site; and 4. A detailed condition survey to be carried out between the A83 Tarbet - Campbeltown Trunk Road / A819 Inveraray - Dalmally Road junction and the application site, prior to any work starting on site. The condition survey to be recorded by means of video and photographs. A copy of the video and photographs to be submitted to Roads & Infrastructure Services for approval, prior to any work starting on site.
- 12.10 The Area Roads Engineer also advises that one of the proposed site accesses connects directly to the A83 Tarbet - Campbeltown Trunk Road and Transport Scotland should be notified. Furthermore, that a Road Opening Permit will be required and there should be no surface water discharge.
- 12.11 **Having due regard to the above, due to the outstanding matters still required to be resolved with Transport Scotland it has not been possible to reach a conclusion on whether or not the proposal is consistent with the provisions of Policy 11 – Energy of NPF4, Policy 30 – The Sustainable Growth of Renewables, Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes and Policy 38 – Construction Standards for Public Roads in this regard. It is recommended that the conditions required by Area Roads and Amenity Services are attached to any consent granted by the ECU.**

13. HISTORIC ENVIRONMENT

- 13.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on the historic environment have been addressed. Policy 7 – Historic Assets and Places of NPF4 intent is to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. Policy 30 – The Sustainable Growth of Renewables of ABLDP2 requires all applications for wind turbine developments to be assessed against impacts on the historic environment, including scheduled monuments, listed buildings and their settings. Policy 15 – Protection, Conservation and Enhancement of Our Historic Environment Policy 19 – Scheduled Monuments Policy 20 – Gardens and Designed Landscapes Policy 21 – Sites of Archaeological Importance support the key policies and provide guidance on assessing development proposals against heritage impacts.
- 13.2 Historic Environment Scotland (HES) – have advised the ECU the proposal would have adverse impacts on the setting of several scheduled monuments, and they

judge that the impact on the setting of Ardchnonnel Castle SM291 would be greater than assessed in the EIAR. However, the severity of these impacts would not be sufficient to raise issues in the national interest. The impacts on the setting of Ardchnonnel Castle SM291 could be mitigated by removing, relocating, or lowering the height of turbines T9, T10, T11, T12 and T13, and they recommend that any opportunity to put this mitigation into action should be explored. Their report also identifies that there would be direct impacts on Inveraray Castle Inventory Garden and Designed Landscape from work to improve the existing access network and minor operational effects on Tower, Dun Na Cuaiche, Inveraray Castle Estate, within Inveraray Castle GDL. These would not raise issues of national significance. Historic Environment Scotland's view is that the proposals do not raise historic environment issues of national significance and therefore they do not object.

- 13.3 The Applicant provided a response to the ECU on the matters raised by HES. They note that HES does not object on the basis that *"the proposals do not raise historic environment issues of national significance"* and provide information in response to the comments raised in relation to the design of the proposal, and the potential effects on the setting of Ardchnonnel Castle & Island of Innis Chonnel, Loch Awe. In summary, they advise that extensive work has gone into the design of the proposal to develop a layout that contributes positively to carbon reduction targets, maximises energy yield whilst respecting technical and environmental constraints including ecological, ornithological, hydrological, cultural heritage and ground conditions identified during the consultation and EIA process. As such, it is not proposed to make any further changes to the design at this time as requested by HES for the detailed reasons outlined in their response.
- 13.4 Historic Environment Scotland have advised the ECU they have reviewed the applicants' response. They do not object to the proposal, which does not raise issues of national significance. However, they consider that the impacts of the development on the setting of Ardchnonnel Castle & Island of Innis Chonnel, Loch Awe have been underestimated in the EIAR, and that the impacts are likely to be significant. They recommended in their earlier response to the EIAR that consideration should be given to the removal, relocation or lowering of turbines T9, T10, T11, T12 and T13. This continues to be their advice. The applicant considers each redesign option, removal, relocation and lowering, in turn. In their response to the suggestion of removing these 5 turbines, their counter argument is based on the reduction this would cause in the scale of the proposal, and its associated power generation and carbon saving. However, these are not issues that HES can consider in their assessment of the proposals, but rather concerns to be considered as part of the planning balance overall by the determining authority. HES note the applicants seem to have considered each potential mitigation action separately, rather than in combination. It may be worth them considering whether removal, relocation and reduction of height can be used in various combinations to reduce the residual effects on the setting of Ardchnonnel Castle. HES would be happy to provide further advice and comments in response to any revised designs
- 13.5 The **Applicant** responded to the ECU on the further comments received from HES acknowledging their feedback.
- 13.6 HES have advised that the proposals as submitted do not raise issues of national significance for the setting of Ardchnonnel Castle such that they should object. This means that if the applicants either do not consider changing the turbines as discussed, or consider it and decide not to, HES will not change their position. Having said this, HES are clear as noted in their consultation responses, that the applicants have underestimated the impacts of the proposal on the setting of the castle in their EIAR,

and that the proposal would have serious impacts on the castle's setting. These impacts are not severe enough to justify HES objecting to the proposal, but if the applicants were to reduce, remove or relocate turbines 9, 10, 11, 12 and 13, then the impacts of the proposal on the setting of the castle would be reduced and the design would be improved. HES's comments were intended to help in mitigating the impacts of the proposal and to help the planners and ECU when coming to a final decision.

13.7 West of Scotland Archaeology Service – have advised that they have no objection subject to a condition to secure a programme of archaeological works in accordance with a written scheme of investigation to be submitted by the applicant for the written approval of the Planning Authority in consultation with WoSAS.

13.8 **Having due regard to the above subject to the condition recommended by the West of Scotland Archaeology Service it is considered that the proposal is consistent with the provisions of Policy 11 – Energy and Policy 7 – Historic Assets and Places of NPF4, and Policies 30 – The Sustainable Growth of Renewables; 15 – Protection, Conservation and Enhancement of Our Historic Environment; 19 – Scheduled Monuments; 20 – Gardens and Designed Landscapes; and 21 – Sites of Archaeological Importance of the ABLDP2**

14. HYDROLOGY, THE WATER ENVIRONMENT AND FLOOD RISK

14.1 **Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how effects on hydrology, the water environment and flood risk have been addressed. Policy 30 – Supporting the Sustainable Growth of Renewables of ABLDP2 requires all applications for wind turbine developments to be assessed against impacts arising from effects on hydrology, the water environment and flood risk (including cumulative). Policy 55 - Flooding of ABLDP 2 provides guidance on the type of development that will be generally permissible within specific flood risk areas. Policy 57 – Risk Appraisals requires flood risk assessments, and drainage impact assessments, to accompany applications where required.**

14.2 The Council's Flood Prevention Officer – has confirmed they have no objection to the proposal and have not recommended any planning conditions.

14.3 **Having due regard to the above, it is concluded that the proposal is consistent with the provisions of Policy 11 – Energy of NPF 4, Policy 30 – The Sustainable Growth of Renewables, Policy 55 – Flooding; and Policy 57 Risk Appraisals of ABLDP2.**

15. BIODIVERSITY

15.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrate how impacts on biodiversity, including birds have been addressed. Policy 3 – Biodiversity of NPF4 requires development proposals to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Policy 5 – Soils of NPF4 supports the generation of energy from renewable sources that optimises the contribution of the area to GHG emissions reduction targets on peatland, carbon-rich soils, and priority peatland. A detailed site-specific assessment will be required for development on peatland which will include the likely net effects of the development on climate emissions and loss of carbon. Policy 30 – The Sustainable Growth of Renewables of the ABLDP2 requires all applications for wind turbine developments to be assessed against impacts arising from effects on the natural heritage, including birds and to be assessed against

impacts on carbon rich soils, using the carbon calculator (including cumulative) Policy 73 – Development Impact on Habitats, Species and Biodiversity requires Development proposals will be encouraged to incorporate, safeguard and enhance existing site biodiversity wherever possible.

Ornithology

15.2 NatureScot provided the ECU with the following Ornithology advice (summary).

- Glen Etive and Glen Fyne Special Protection Area (SPA) - advise that it is unlikely the proposal will have a significant effect on the qualifying interest either directly or indirectly. An appropriate assessment is therefore not required;
- There is a high risk the G/LAE1B golden eagle territory could be abandoned without extensive revised mitigation. The current mitigation is unclear and potentially counterproductive (see Annex 1, Section 1.2.1)
- The proposed route of the access track should be reconsidered due to the risk of committing an offence under the Wildlife & Countryside Act 1981 (as amended)
- The Proposal has the highest predicted white-tailed eagle collision risk of any proposed wind farm, so far, in Natural Heritage Zone (NHZ) 14 with the current mitigation potentially unclear and counterproductive; and
- The Collision Risk Model (CRM) appears to exclude relevant flight data from VP C without explanation. VP C recorded numerous flights of target species over the site and NS request clarification as to why it was excluded from the CRM calculations and the potential re-assessment of collision risk. As part of this they also request clarification as to why osprey were scoped out of the CRM and the re-assessment of osprey collision risk.

15.3 The Applicant provided a response to the ECU on the ornithological matters raised by NatureScot. NatureScot provided a further response advising that the response addressed the issues they raised regarding osprey and red-throated diver. However, they maintain their position regarding golden eagle displacement, the proposed access track, white-tailed eagle collision risk modelling (CRM), and the proposed OREP). In summary, NS's view regarding the G/LAE1B territory is unchanged. They advise there is a high risk this golden eagle territory could be abandoned without extensive revised mitigation; - They request the full figure used for the kernel analysis; - Their view regarding the proposed access track is unchanged. They advise the track should be reconsidered due to the risk of committing an offence under the Wildlife & Countryside Act 1981 (as amended); - Their view on white-tailed eagle is unchanged. They request full details of the CRM are provided; and - Their view regarding the effectiveness of the Outline Restoration and Enhancement Plan (OREP) is unchanged. The OREP, as currently proposed, is unlikely to mitigate potential impacts and needs to be reconsidered to provide appropriate management measures to ensure the intended overall objectives are achieved and to reduce the risk of the G/LAE1B golden eagle territory being abandoned.

15.4 RSPB Scotland – have advised the ECU that they have significant concerns regarding the ornithological impacts of the proposal, particularly its impact on Annex 1/Schedule 1 breeding Golden Eagle *Aquila chrysaetos*, on the basis that the proposal will likely result in the loss of Golden Eagle range G/LAE1B due to loss of habitat and cumulative impacts. Therefore, RSPB Scotland **objects** to the proposal until the following issue is addressed: An off-site Habitat Management Plan area is secured by

planning condition for Golden Eagle and delivered in the long-term against planned, measurable targets. Once RSPB Scotland have received this information, they will reconsider their position.

Peat & Sensitive Habitat (Tracks)

- 15.5 SEPA initially advised the ECU they are pleased to see that most of their requirements have been well covered. Mitigation has been planned and detailed as have peat management and restoration plans. They did, however, have some concerns relating to tracks. They advise that minor changes to the track layout could reduce the amount of peat and sensitive habitat that would be disturbed by the proposal, and that the applicant should consider changes. SEPA also refer the ECU to their advice on other planning matters and provide regulatory advice for the applicant.
- 15.6 The Applicant provided a response to the ECU regarding the concerns raised by SEPA in relation to tracks and their proximity to GWDTEs (Groundwater Dependant Terrestrial Ecosystem), areas of deeper peat; and regulatory advice. SEPA advised the ECU they withdraw their objection subject to a planning condition being attached to consent if granted. The applicant has acknowledged their previous comments regarding track layout and have provided justification for not committing to changes at this stage. SEPA understand that changes will be considered at the detailed design phase to avoid deeper peat. They request that a condition requiring changes to be considered at the detailed design phase is attached to reduce the amount of peat disturbance from this proposal. If this condition is not applied, then SEPA's objection will be maintained.

Peat Landslide Hazard Risk Assessment

- 15.7 Ironside Farrar (Peat Landslide Hazard Risk Assessment, Stage 1 Checking Report (PLHRA)) advised the ECU that the PLHRA required minor revisions. The Applicant provided a clarification letter to the ECU in response to the points raised. Ironside Farrar, Peat Landslide Hazard Risk Assessment, Stage 2 Checking Report (PLHRA) advised the ECU that the clarification provided by the Applicant addressed the matters raised in the Stage 1 Checking Report and no further response from the Applicant is required.
- 15.8 The Council's Local Biodiversity Officer – in summary, welcomes the details of the various biodiversity related survey reports along with the proposed mitigation including additional activities in terms of tree planting, habitat (including peat) restoration, boxes for Pine marten and Red Squirrel, as well as additional monitoring of Water vole and the Outline CEMP (Construction and Environmental Management Plan) to be overseen by an ECoW (Ecological Clerk of Works). The Local Biodiversity Officer asks for the following: collisions by birds and bats are logged; that deer are included in the monitoring so as to avoid degradation of restored areas during establishment; a map of where the peatland restoration has been implemented; a detailed landscape planting plan is submitted once the areas have been identified; further details of sensitive burning locations and any changes to grazing livestock (type) and regime and asks that invasive non-native species are removed along the access track so as to avoid spread by traffic movements.

Fish

- 15.9 The Marine Directorate have advised the ECU that baseline pre-construction fish population and fish habitat surveys should be carried out as part of an integrated water quality and fish population monitoring programme. The monitoring programme can be

secured, using suitable wording, in a planning condition, should the development be granted consent. In line with their monitoring programme guidelines fully quantitative electrofishing fish population surveys and fish habitat surveys should be carried out in all watercourses that are at risk of an impact and at control sites for least 12 months prior to construction commencing, to continue during construction and for at least 12 months after construction is complete.

- 15.10 Argyll District Salmon Fishery Board (ADSFB) have advised the ECU they have a responsibility to conserve and improve stocks of Migratory salmonid fish, the juvenile life-stages of which have been recorded as being present in some of the tributary streams of Allt Blarghour and Allt Beochlich in the Awe catchment and the tributaries of the River Aray, including the Eralich Water. Therefore, ADSFB urge that all consideration is given to the maintenance of stream habitats and water quality within and downstream of the site throughout the project's lifetime. ADSFB fully expect Scottish Government guidelines to be followed in terms of pre, during and post development monitoring of Water quality, macroinvertebrates, and fish." ADSFB welcome the commitments listed in the EIA within the response / Action taken tabled in chapter 8 in relation to stream crossings and welcome the commitment to monitoring of fish populations throughout the proposal.
- 15.11 In light of the advice provided by NatureScot and RSPB Scotland to the ECU and the fact that ornithological matters remain to be addressed, it is not possible for Officers to reach a conclusion on the proposal's acceptability in this regard. It is recommended that this matter is deferred to the expert advice of NatureScot and RSPB Scotland.
- 15.12 Having due regard to the above, due to the unresolved ornithological matters it is not possible at this time for a conclusion to be reached on whether or not the proposal is consistent with the provisions of Policies 11 – Energy and 3 – Biodiversity of NPF4, and Policies 30 – The Sustainable Growth of Renewables, Policy 73 – Development Impact on Habitats, Species and Biodiversity of ABLDP2.**
- 15.13 In respect to other matters detailed above and subject to the conditions recommended by consultees being attached in the event that consent is granted it is considered that the proposal is consistent with the provisions of Policies 11 – Energy, 3 Biodiversity, 5 – Soils and Policies 30 – The Sustainable Growth of Renewables of and 79 – Protection of Soil and Peat Resources of ABLDP2**

16. TREES, WOODS, AND FORESTS

- 16.1 Policy 11 – Energy of NPF4 requires that project design and mitigation will demonstrate how impacts on trees, woods and forests have been addressed. Policy 6 – Forestry, woodland, and Trees of NPF4 intent is to protect and expand forests, woodland, and trees. Policy 77 – Forestry, Woodland, and Trees of ABLDP2 states that there is a strong presumption in favour of protecting our woodland resources. Policy 78 – Woodland Removal of ABLDP2 states that proposals that would involve the removal of woodland resources will be assessed against the criteria for determining the acceptability of woodland removal, in accordance with the Scottish Government's Control of Woodland Removal Policy. Where this assessment concludes that compensatory planting would be appropriate, developers will need to provide for this in accordance with the advice in the Scottish Government's Control of Woodland Removal Policy.
- 16.2 Scottish Forestry – have advised the ECU that they have no objection subject to conditions to secure a native woodland plan and compensatory planting.

16.3 Having due regard to the above it is concluded that subject to the conditions recommended by Scottish Forestry being attached in the event that the proposal receives consent it is consistent with the provisions of Policies 11 – Energy and 6 – Forestry, woodland and Trees of NPF4, and Policies 30 – The Sustainable Growth of Renewables; 77 – Forestry, Woodland and Trees and 78 – Woodland Removal of the ABLDP2.

17. MINERALS

17.1 Policy 33 – Minerals of NPF4 states that development proposals for borrow pits will only be supported where: the proposal is tied to a specific project and is time-limited; the proposal complies with the mineral extraction criteria in Policy 33 taking into account the temporary nature of the development; and appropriate restoration proposals are enforceable and Policy 31 – Minerals of ABLDP2 states that proposals for mineral extraction will generally be supported for borrow pits where the proposal is found to be acceptable after being assessed against National Planning Framework 4 Policy 33 criterion e).

17.2 To minimise the volume of stone bought onto the site for construction of the Proposed Development, and any associated environmental effects, if suitable, stone will be sourced from three borrow pits to provide the material necessary for new or upgraded tracks and hardstanding construction. The proposed development will include the creation of one temporary borrow pit for the extraction of stone, and the reopening/use of two existing borrow pits.

17.3 Having due regard to the above taking into account that the proposed borrow pits are tied to the proposal it is concluded that the proposal is consistent with the provisions of Policy 33 – Minerals of NPF4 and Policy 31 – Minerals of the ABLDP2 in this regard, subject to a condition to secure details of the borrow pits and a borrow pit restoration plan.

18. DECOMMISSIONING, SITE RESTORATION AND QUALITY OF SITE RESTORATION PLANS

18.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrate how proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration have been addressed. It also requires that project design and mitigation demonstrate how the quality of site restoration plans have been addressed including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans. Policy 30 – The Sustainable Growth of Renewables of the ABLDP2 requires consideration to be given to the long-term environmental management of the site.

18.2 The operational life of the proposed development is 40 years from the date of commissioning. At the end of the 40-year operational period, it will be fully decommissioned, or an application may be made to extend its operational life or replace the turbines. It is estimated that decommissioning would take approximately 12 months. This would involve the dismantling and removal of the wind turbines, hardstandings, electrical equipment, and control building as well as restoring the turbine areas, hardstandings and tracks. A Decommissioning Plan would set out environmental protection measures and restoration principles which would be implemented. This Plan would be agreed with ABC. It is recommended that this matter is covered by planning conditions consistent with other projects across Argyll & Bute in the event that the proposal obtains consent from the ECU.

18.3 Having due regard to the above it is concluded that subject to an appropriate condition being attached if the proposal receives consent the proposal is consistent with the provisions of Policy 11 – Energy of NPF4 and Policy 30 – The Sustainable Growth of Renewables of the ABLDP2

19. CUMULATIVE IMPACTS

19.1 Policy 11 – Energy of NPF4 requires that project design and mitigation will demonstrate how cumulative impacts have been addressed. Policy 30 – The Sustainable Growth of Renewables of the ABLDP2 also requires cumulative impacts to be addressed. Any cumulative impacts which have been identified are covered in the preceding sections of this report.

20. RENEWABLE ENERGY GENERATION TARGETS AND GREENHOUSE GAS EMISSIONS REDUCTION TARGETS.

20.1 Policy 11 – Energy of NPF4 requires that, in considering the impacts of the proposal, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. Policy 1 – Tackling the climate and nature crises of NPF4 requires that when considering all development proposals significant weight will be given to the global climate and nature crises. Policy 30 – The Sustainable Growth of Renewables of ABLDP2 require all applications for wind turbine developments to be assessed against the scale of contribution to renewable energy generation targets and greenhouse gas emissions.

20.2 Renewable Energy Generation Targets - The proposal would consist of up to 13 wind turbines, each with a rated capacity of approximately 6.6MW (based on candidate turbine), therefore the overall installed capacity of the wind farm would be approximately 85.8MW. In terms of contribution to renewable energy generation targets, the proposal would therefore contribute approximately 85.8MW of capacity to the Scottish Governments minimum targets for having 20GW of onshore wind operational by 2030.

20.3 Greenhouse Gas Emissions Reduction Targets - Assuming a 40-year operational life and based on an overall expected annual carbon saving of 40,000 tCO₂e and a total carbon loss (during both construction and operation) of just over 116,000 tCO₂, this equates to a total saving of approximately 1.48 million tCO₂e over the proposed development's operational lifetime. The results of the Scottish Government Carbon Calculator show that the Proposed Development is estimated to produce annual carbon savings of approximately 40,000 tCO₂ per year, through the displacement of grid electricity, based on the current average grid mix.

20.4 The renewable electricity generated could power an estimated 95,872 homes on average each year. To put this into context, Argyll & Bute has an estimated 42,384 households.

20.5 Having due regard to the above it is considered that the proposal is consistent with the provisions of Policies 1 – Tackling the climate and nature crisis and 11 – Energy of NPF 4, and Policies 30 – The Sustainable Growth of Renewables and 04 – Sustainable Development of ABLDP2

21. GRID CAPACITY & ENERGY STORAGE

- 21.1 Policy 11 – Energy of NPF4 requires that grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator and that development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, which includes energy storage. Policy 30 – The Sustainable Growth of Renewables of ABLDP2 requires the Council to have regard to the opportunities for energy storage.
- 21.2 Grid Capacity - Connection to Electricity Grid - There is a feasible grid connection available, as advised by the network operator SSEN. The grid connection will be the subject of a separate application by SSEN. Energy storage – battery storage is proposed as part of this development. It is intended to be located in the permanent compound which will also contain the control building and substation. This will be able to store excess power generated by the wind farm and release the power on to the grid when the wind drops. Inclusion of a battery within the scheme increases the sustainability of the power generated. Energy storage enables renewable integration, helps to balance supply and demand, and enhances the security of supply.
- 21.3 **Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy 11 – Energy of NPF 4, and Policy 30 – The Sustainable Growth of Renewables of the ABLDP2 in respect to Grid Capacity and Energy Storage.**

22. PERPETUITY

- 22.1 Policy 11 – Energy of NPF4 requires that consents for proposals may be time limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity. It is acknowledged that areas identified for wind farms are expected to be suitable for use in perpetuity. However, as the expected operational life of the Proposed Development is 40 years from the date of commissioning, should consent be granted, Officers would expect it to be time limited to 40 years to reflect the life of the wind farm as detailed in the EIAR.

23. CONCLUSION

- 23.1 This proposal is classed as “Strategic Renewable Electricity Generation” - a National Development, in terms of the Spatial Strategy given its capacity to generate and store more than 50MW. In principle, there is support for this scale of development given its importance in the delivery of Scotland’s Spatial Strategy. However, such projects are still required to be assessed against the provisions of the Development Plan, which now consists of National Planning Framework 4 and the Argyll & Bute Local Development Plan 2.
- 23.2 The lead Development Plan policies support renewable energy development in principle but requires that proposals are assessed against the criterion detailed in this report. While the weight to be given to each of the considerations is a matter for the decision maker, NPF4 is clear that significant weight will require to be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets. However, a balance still requires to be reached in terms of the impact of the development.
- 23.3 In relation to landscape and visual impacts NPF4 advises that where impacts are localised and / or appropriate design mitigation has been applied such effects will generally be considered acceptable. However, NPF4 must be read as a whole, and detailed consideration given to linked policies. Policy 4 (Natural Places) – sets out

that development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment will not be supported. Whilst it is considered that this proposal will have a significant landscape and visual impact, it is not considered that it warrants an objection from the Council subject to consideration of the mitigation suggested by the Councils Landscape Consultant by the ECU.

- 23.4 Development Plan Policy also requires Biodiversity and Transport impacts to be resolved – there are outstanding Ornithological and Transport matters that still require to be addressed. It has therefore not been possible for officers to reach a conclusion on the acceptability of this proposal in terms of policy in this regard. In terms of Ornithology, the Council would defer to the expert advice of NatureScot and RSPB Scotland. In terms of Transport matters the Council would defer to Transport Scotland.
- 23.5 The Scottish Government gives considerable commitment to renewable energy and encourages Planning Authorities to support the development of wind farms where they can operate successfully in appropriate locations. This is not however blanket support without qualification. In considering the appropriateness of the development, significant weight has been given to these matters. In addition, the advice of the Council's Landscape Consultant is not to object and to seek mitigation for Landscape & Visual impact.
- 23.6 In conclusion, it is recommended by Officers that the Council does not object to this application subject to the inclusion of any conditions recommended by consultees in any consent granted by the ECU. That the Landscape and Visual Impact mitigation recommended by the Councils Landscape Consultant is considered by the ECU prior to reaching a decision on the application. That it is brought to the attention of the ECU that it has not been possible to draw a conclusion on Ornithology and Transport because these matters have not been resolved. Finally, to highlight to the ECU that the Council would defer to the expert advice of NatureScot, RSPB Scotland and Transport Scotland on the outstanding ornithological and transport matters.

24. RECOMMENDATION

That the ECU be notified accordingly that Argyll & Bute Council does not object to the proposed development and recommends that the following advice is considered by the Energy Consents Unit:

Mitigation

That consideration should be given to the mitigation suggested by the Council's Landscape Consultant as follows:

- The well-wooded nature of the Loch Awe area restricts open views across and along the loch but where these views do occur, they are particularly valuable for their scenic qualities. The loch shores near Dalavich comprise one of these important open areas as does the road between Loch Awe and Loch Avich and the shores and waters of Loch Avich. **The proposal appears poorly designed from these areas and *it is strongly recommended that the layout of turbines is reviewed by the applicant from Viewpoints 2, 5 and 11 with the overlapping of Turbines 2, 8 and 10 resolved and Turbine 13 omitted as this appears dislocated from the main group of turbines and significantly increases the horizontal extent of the proposal in these views.***

- *In addition, significant adverse effects on the Dun na Cuaiche folly within the Inveraray Castle GDL are acknowledged likely to arise in the LVIA (Viewpoint 4). This is an important viewpoint, and the cluttered appearance of the proposal contributes to significant adverse effects on views. **It is therefore strongly recommended that the layout of turbines is reviewed by the applicant from Viewpoint 4 with the discordant overlapping of Turbines 2 and 8 resolved and the prominence of Turbines 1 and 2 reduced by adjusting their location and/or lowering their height.***
- *In addition, the cumulative effects of visible aviation lighting on landscape character and on views is also a concern and while there will be fewer people affected at night, it is considered important to retain the character of dark skies within Argyll & Bute, particularly given the number of wind energy proposals across the region with similar lighting. **It is therefore strongly recommended that radar activated lighting should be installed at the earliest opportunity as this would substantially reduce the duration and impact of night-time lighting.***

Conditions

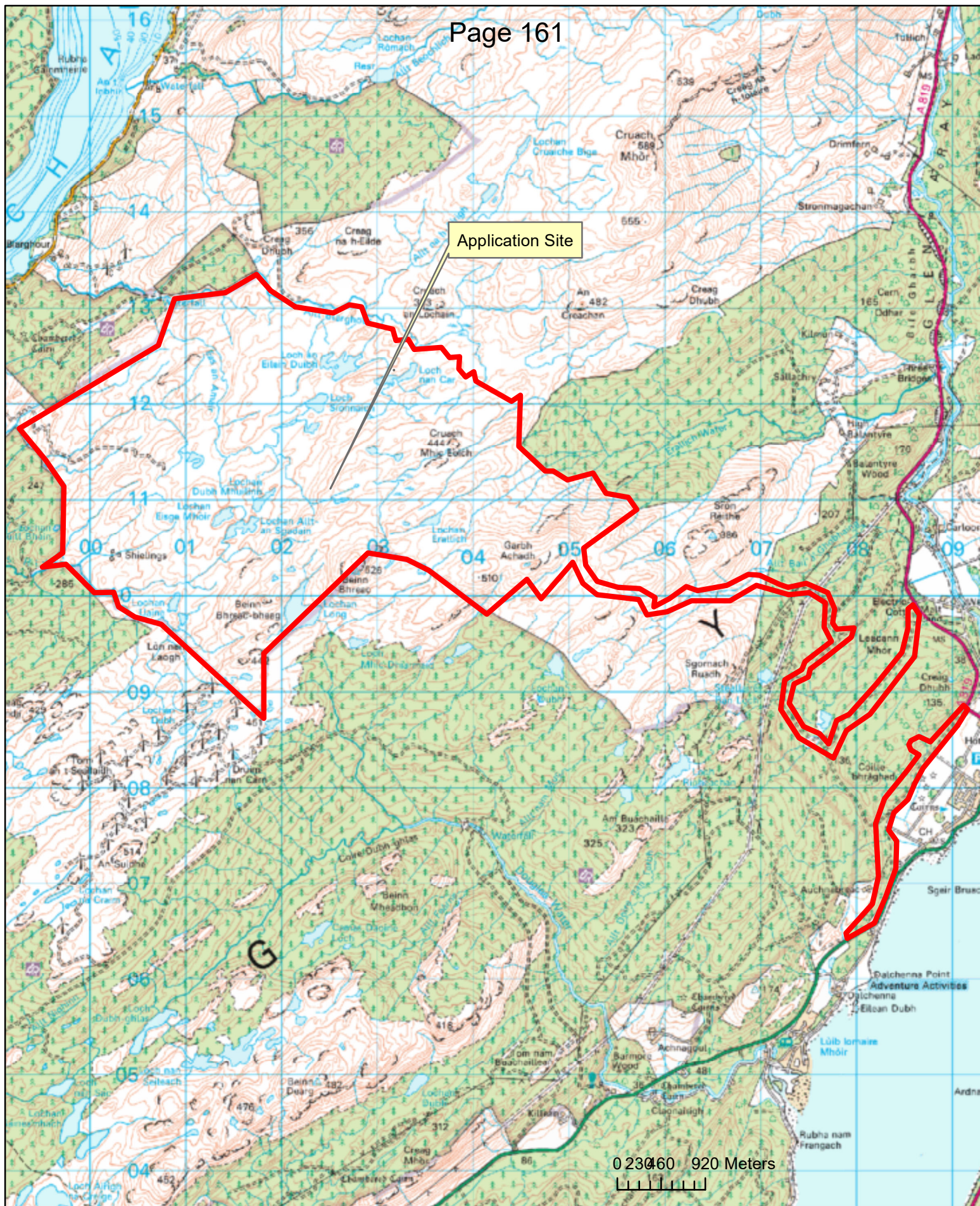
The inclusion of all conditions recommended by consultees in any consent granted by the ECU.

Ornithology and Trunk Road Matters

That the ECU should note that it has not been possible for Argyll & Bute Council to reach a conclusion on the acceptability of this proposal in respect to Ornithology or Trunk Road matters. This is because these matters have not been resolved and discussions are ongoing between the Applicant, the ECU, NatureScot, RSPB Scotland and Transport Scotland.

In respect to the outstanding Ornithological matters, Argyll & Bute Council would defer to the expert advice of NatureScot and the RSPB Scotland.

In respect to the outstanding Trunk Road matters, Argyll & Bute Council would defer to the expert advice of Transport Scotland.



Location Plan Relative to Planning Application:23/00795/S36



1:50,000

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

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

Reference No:	23/01502/PP
Planning Hierarchy:	Local Application
Applicant:	Mrs Joanna Peach
Proposal:	Erection of dwellinghouse and formation of new vehicular access
Site Address:	Land Between Lagarie Lodge And Lagarie House Torwoodhill Road Rhu Argyll And Bute

DECISION ROUTE

Committee Decision under Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse and formation of new vehicular access

(ii) Other specified operations

- n/a
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be **granted** subject to the conditions and reasons appended to this report.

(C) CONSULTATIONS:

Scottish Water - 30.08.2023 – No objection however Scottish Water have noted; *There is currently sufficient capacity in the Blairlinnans Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us. This proposed development will be serviced by Rhu Sep Waste Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via our Customer Portal or contact Development Operations. The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.*

Roads Helensburgh And Lomond - 14.09.2023 – No objection subject to conditions

Marina Curran-Colthart - Local Biodiversity Officer – 29.11.2023 & 30.11.2023 - Firstly, request an updated tree survey including mitigation and replacement planting scheme. Secondly, request a potential bat roost assessment. Lastly, note that a condition should be added to any approval requiring a bird and red squirrel survey prior to works commencing on site.

Built Heritage Conservation Officer – 23.11.2023 – No objection (see detailed comments with assessment below)

Historic Environment Scotland - 05.09.2023 – No objections

(D) HISTORY:

C6986

Conversion of Lagarie house from children's home to from 4 flats, including the erection of 4 detached dwellinghouses to the West of the Lagarie house. *Note: During determination the proposal for 4 dwellinghouses was reduced to 3 dwellinghouses.*
24.05.1983 (application approved)

C6994

Erection of 2 detached dwellinghouses North-West of Lagarie house.
28.06.1983 (application approved)

C8400

Outline planning permission for the erection of a 2 storey detached dwellinghouse with double integral garage to the East of Lagarie House.
07.04.1989 (application refused)

P/PPA/SH/137

Appeal of planning refusal reference C8400.
05.02.1990 (appeal dismissed)

11/00528/PP

Erection of 5 flats and car ports
07.11.2011 (application withdrawn)

19/02162/PP

Erection of 2 dwellinghouses and garages
14.02.2020 (application withdrawn)

20/01382/PP

Erection of dwellinghouse with integral garage and formation of new vehicular access
16.08.2023 (application withdrawn)

20/01383/LIB

Formation of new vehicular access through the existing stone wall
16.08.2023 (application withdrawn)

23/01503/LIB

Formation of new vehicular access through the existing stone wall
Pending

(E) PUBLICITY:

Advert Type: Listed Building/Conservation Advert
28.09.2023

Expiry Date:

(F) REPRESENTATIONS:

(i) Representations received from:

Objection

Jim Crawford Garden Cottage Lagarie Torwoodhill Road Rhu Helensburgh
21.09.2023 & 29.09.2023 & 10.10.2023 & 11.10.2023 & 02.02.2024 & 14.03.2024
& 17.03.2024 & 03.04.2024 & 02.05.2024

Irene Crawford Garden Cottage Lagarie Torwoodhill Road Rhu Helensburgh
21.09.2023

Scott Buchanan Flat 3 Lagarie House Torwoodhill Road Rhu 20.09.2023

Mrs Moira Burke Lagarie Lodge Torwoodhill Road Rhu Helensburgh Argyll And
Bute 08.10.2023

Dr James Edwin Crawford Kildalloig Dhorlin Wheatleywell lane Chester Le Street
DH2 3LD 09.10.2023 & 10.10.2023

Krystina Crawford 736 Crow Road, Anniesland, Glasgow, G13 1NF 09.10.2023 &
10.10.2023

Duncan McGuire Flat 4 Lagarie House Torwoodhill Road Rhu 20.09.2023

Andrew Patterson 4/4 14 Norval Street Glasgow G11 7RX 06.10.2023

Peter Cassidy Auchenlea Lodge Torwoodhill Road Rhu Helensburgh 10.10.2023

James Windebank 19 West Montrose Street Helensburgh G84 9PF 12.10.2023

Sandra McGuire 4 Lagarie House Torwoodhill Road Rhu Helensburgh 19.09.2023
& 20.09.2023

Miss Kim Burke Lagarie Lodge Torwoodhill Road Rhu Helensburgh 07.10.2023

Kenneth Mangion Tombrake Farm Steadings Balfron G63 0qr 08.10.2023

Ann McKechnie Flat 1 Lagarie House Torwoodhill Road Rhu 20.09.2023

Georgina Cassidy Auchenlea Lodge Torwoodhill Road Rhu Helensburgh
10.10.2023

Sarah Mok 8 Simpson Loan, Flat 16 Edinburgh EH3 9GS 09.10.2023

Russell Burke Lagarie Lodge Torwoodhill Road Rhu Helensburgh Argyll And Bute
09.10.2023

Peter Eastwood 8 Charlotte Court Charlotte Street Helensburgh G84 7DF
03.10.2023

Jill Eastwood 8 Charlotte Court Charlotte Street Helensburgh G84 7DF
03.10.2023

Ronald McKechnie 1 Lagarie House Torwoodhill Road Rhu Helensburgh
20.09.2023

Maureen Buchanan Flat 3 Lagarie House Torwoodhill Road Rhu 20.09.2023

M Edwards Lagarie Cottage Torwoodhill Road Rhu Helensburgh 05.10.2023

Irene Edwards Lagarie Cottage Torwoodhill Road Rhu Helensburgh 05.10.2023

Kerry Gould Tummel Cottage Cumberland Road Rhu Helensburgh Argyll And
Bute 28.01.2024

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:

Concern in regards to the tree removal as the site forms part of a TPO area.

Comment; please see assessment below.

Concern about potential impacts on birds.

Comment: the biodiversity officer has been consulted on the proposals and has requested that a survey for birds and red squirrel is conducted prior to works starting on site.

Concern that newts, frogs and hedgehogs that may live in the grass will be disturbed.

Comment: the biodiversity officer has been consulted on the proposals and has requested that a survey for birds and red squirrel is conducted prior to works starting on site and that a potential bat roost assessment is undertaken prior to determining the application, they have not requested additional info or suggested conditions in terms of the above.

Concern that the proposals would not be in keeping with the neighbouring listed building and would affect its setting.

Comment; please see assessment below.

Concern about forming a new access through a listed wall.

Comment; please see assessment below

Concern that the new access will impede the existing access for Torwoodhill Road.

Comment; roads have been consulted on the proposals and have noted that they have no objection subject to conditions

Concern in regards to the safety of the proposed access.

Comment; as above

Note that the present owners of the proposals site have not been maintaining the land.

Comment; this is not a material planning consideration

Note that the application site is part of the neighbouring properties curtilage.

Comment; the application site no longer forms part of the neighbouring properties curtilage

Concern that the removal of trees or bushes would create greater traffic noise for neighbouring properties.

Comment; this is noted however this is considered to be minimal.

Concern that the proposal represents overdevelopment of the site.

Comment; please see assessment below.

Note that the application site was formerly the garden grounds of the neighbouring listed building and should not be developed.

Comment; please see assessment below.

Note that the submitted drawings do not show the extent of tree / bush removal.

Comment; the submitted drawings are in line with the updated tree survey.

Note that the applicants have not submitted an assessment on the impact on the setting of the neighbouring listed building which is a policy requirement.

Comment; the applicants have addressed this within their submitted design and access statement and please see assessment below,

Concern that the proposals will have a negative effect on the conservation area.

Comment; please see assessment below

Note that the applicant has a right of access from the private road from the rear and would use this as additional access.

Comment; The applicants have shared right of access over this private road, however, the proposed development of the site requires certain roads conditions, and these cannot be achieved via the existing shared access as the applicants do not have full control over the land hence why a new private access is proposed from the A814. The recommended roads conditions are that the new access shall be installed prior to construction of the dwellinghouse. As the site is within a Conservation Area, then creation of an additional access from the private road would require further approval.

Concern that the proposals could affect bats.

Comment; the applicants have submitted a potential bat roost assessment as requested by the bio-diversity officer. This assessment concludes 'having regard to the distribution of species, habitat, potential roost features, suitability and importance of any of these signs of bat activity the risk of bat roots or bats being disturbed is negligible or low and roosting can reasonably be ruled out'.

Concern that the proposed development could overshadow neighbouring properties.

Comment; please see assessment below.

Note that a previous application for a single dwelling on the proposal site was refused in 1989 and also refused at the subsequent appeal in 1990 and therefore this application should also be refused.

Comment; this is noted however, it is confirmed that the previous decision simply confirms that the principle of development was determined to be unacceptable having regard to the detail of the proposal, development plan policy and circumstances at the point in time that the appeal decision was made. A substantial period of time has elapsed since the appeal decision and within this time the relevant development plan and other relevant policy considerations have been superseded by subsequent iterations of the Local Development Plan and National Policy and Guidance and accordingly it is necessary for any decision on the current application to be assessed against these revised provisions and in relation to the current circumstances of the site and its surrounds.

Concern that the approval of such a development will set a precedent.

Comment; each application is accessed on its own merits.

Concern about the removal of the mature rhododendron hedge.

Comment; rhododendron ponticum is an invasive species and the removal of this would benefit the biodiversity on the site.

Note that no boundary treatments have been shown on the submitted drawings.

Comment; this is noted and a detailed scheme of landscaping to include boundary treatments will be conditioned.

Note that application reference 11/00528/PP for the same site was drafted by the council as a refusal but was withdrawn.

Comment; this is noted, however, the scheme as per this application differs significantly as it was for the erection of 5 flats.

Concern that the following have not been submitted; environment statement, flood risk assessment, drainage impact assessment, proposed SUDS layout, contaminated land survey, habitat survey or transport assessment.

Comment; the required surveys as per the statutory consultees have been submitted and no further surveys are required prior to determining the application. A detailed SUDS scheme will be conditioned.

Concern that Scottish water have raised issues in regards to drainage.

Comment; Scottish water have raised no objection to the proposals.

Concern in terms of flooding issues and drainage on the site.

Comment; the site is not within an area of flood risk, in terms of SUDS a condition will be added in this regard.

Concern in regards to bins.

Comment; a designated bin area has been shown on the plans.

Concern in regards to bluebells on the site.

Comment; the bio-diversity officer was consulted on the proposals and requested certain surveys prior to determination as well as recommendation of a condition requesting bird and red squirrel surveys, they have not requested further info in terms of bluebells.

Note that the historical approval for other development on 'Lagarie estate' had a condition on it that noted no access should be taken from the main road.

Comment; each application is accessed on its own merits.

Note that the sightline drawings submitted are incorrect and do not meet guidance and are also contradictory to previous advice on historical applications.

Comment; roads have been consulted on the proposals and have noted no objection subject to conditions.

Concern that a tree which is noted down as to be retained impedes on the sightlines required.

Comment; roads have been consulted on the proposals and have noted no objection subject to conditions, in regards to the specific tree in roads have noted; "whilst the pedestrian visibility splay offered/illustrated within proposed site plan L(9)2D, details a pedestrian visibility splay of 20m distance/length. It should be noted that roads only require a minimum pedestrian visibility splay of 2.4m x 2.4m x 0.9m measured from the heel of the footway at all driveways. With this in mind, roads are satisfied that the minimum pedestrian visibility splay of 2.4m x 2.4m x 0.9m can be achieved were the tree to be retained.

Note that the submitted tree survey is 4 years old.

Comment; an updated tree survey has been submitted.

Note that trees have been planted on the site historically to from screening.

Comment; please see assessment below.

Note that the submitted potential bat roost assessment was not undertaken at the correct time of year.

Comment; please note that potential roost assessments can be undertaken at any time of the year

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.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | |
|---|-----|
| (i) Environmental Impact Assessment Report: | No |
| (ii) An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) A Design or Design/Access statement: | Yes |

D&A statement covers the following topics; Application Details, Background, Site Description, Site History, Setting, Impact, Boundary Wall, Sitting & Orientation, Building Form, Accessibility, Materials & Sustainability and Landscaping. The D&A statement concludes the following; *We trust that these revised proposals show that full cognisance has been taken of the comments and concerns raised by both council officials and adjoining neighbour's. We have strived to ensure*

that the revised design accords with adopted Council Policy and is reflective of the style and built form which is evident in Rhu. Whilst there is always likely to be a reluctance by some, to accept change this proposal can also benefit Rhu and the wider community by providing a quality family dwelling located in a mature substantial plot. This particular site has now developed and changed over the last 40+ years since the adjacent Lagarie House was sub-divided into flats. This change means that it can be clearly demonstrated that development of this site as the revised proposal can be achieved without detracting in any way the setting or importance of the Grade B listed Lagarie House or the Grade A Ardencaple Hotel.

(iv) Sustainability Checklists

TN06 Sustainability Checklist	Yes
TN07 Sustainable Buildings Checklist	Yes

(v) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Yes

Bat Scoping Survey (Julian A Morris, Jan 2024)

The nature of the survey was to undertake a preliminary character assessment to ascertain whether the site has potential to support roosting and/or foraging bats and identify the species of bat and any trees and their potential for roost feature and signs of bat use. The survey was carried out on 30th January 2024. The stone wall was checked for cavities or unbound rubble interiors and no signs of this was found. All trees were checked for holes, cavities and hollows and no sign of potential roost features were identified on any of the trees.

Tree Survey Report (Julian A Morris, Feb 2024)

The survey was undertaken on 31st January 2024. Each tree over 75mm diameter on site was recorded. Around 50 trees on and around the site were recorded, measured and categorised individually. The survey did not identify the presence of individual veteran or ancient trees on or around the site. Root protection areas were identified for all the trees.

(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

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

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

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

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 11 – Energy

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

[Argyll and Bute Local Development Plan 2 \(Adopted 2024\)](#)

Spatial and Settlement Strategy

Policy 01 – Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

Policy 05 – Design and Placemaking

Policy 08 – Sustainable Siting

Policy 09 – Sustainable Design

Policy 10 – Design – All Development

Policy 15 – Protection, Conservation and Enhancement of Our Historic Environment

Policy 16 – Listed Buildings

Policy 17 – Conservation Areas

Connected Places

Policy 34 – Electric Vehicle Charging Points

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 61 – Sustainable Urban Drainage Systems (SUDS)

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 77 – Forestry, Woodland and Trees

Policy 79 – Protection of Soil and Peat Resources

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

- Third Party Representations
- Consultation Responses
- Planning History
- ABC Technical Note – Biodiversity (Feb 2017)
- 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
- SEPA Standing Guidance for Development Management (Dec. 2022)
- Historic Environment Scotland - HEPS
- Historic Environment Scotland – Managing Change in The Historic Environment - various

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

Please note that officers are not recommending a pre-determination hearing as it is considered that there would be no added value in this as all material planning considerations have been taken into account within this report including; consultee responses, third party representations and planning history etc.

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

Conservation Area

Listed Buildings

Tree Preservation Order

(O)(ii) Soils

[Agricultural Land Classification:](#)

Built Up Area

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

N/A

Peat Depth Classification: N/A

Does the development relate to croft land? No

Would the development restrict access to croft or better quality agricultural land? N/A

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

(O)(iii) Woodland

Will the proposal result in loss of trees/woodland? Yes

Does the proposal include any replacement or compensatory planting? Yes

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

Status of Land within the Application Greenfield

ABC LDP2 Settlement Strategy Settlement Area

ABC LDP2 Allocations/PDAs/AFAs etc: N/A

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

The proposed development relates to the erection of a 4 bed detached dwellinghouse and formation of new vehicular access.

The site is located within the settlement area of Rhu as identified in the adopted Argyll and Bute Local Development Plan (LDP2) wherein Policy 01 (Settlement Areas) notes that development will normally be acceptable on a non-brownfield site where, the proposal is considered acceptable in relation to the overall land supply, it is compatible with surrounding uses, it 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.

The proposal lies within the Rhu Conservation Area and the residential property adjacent to the West, "Lagarie House" which is a Category "B" listed building. Additionally, within the vicinity is the Category "A" listed "Ardencaple Hotel". As such, the impact of the proposed development on the historic environment is a determining factor. In addition, the proposed development has been assessed more generally with regard to siting, scale, massing form, and detailed design in relation to the aim of respecting and reflecting the visual character of the existing built development patter; and protecting local residential amenity.

The site is covered by an area Tree Preservation Order (TPO), however, the site is not located within or in proximity to any nature conservation sites, nor does it lie within NatureScot Ancient Woodland Inventory. However, any impact upon the natural environment in relation to biodiversity and impact on trees/woodland falls to be assessed in connection with the proposal.

The proposal has also been assessed with regard to the satisfactory provision of services infrastructure provision.

A fully detailed assessment with reference to the above determining factors, and all other material considerations, including planning history and material planning issues raised by third party representations (not addressed above) are set out in the Appendix A to this report.

Having regard to all material considerations it is considered that the proposal is acceptable.

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

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

The proposal is considered to be consistent 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 withhold planning permission having regard to s25 of the Act.

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

No departure

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

Author of Report: Emma Jane **Date:** 07.05.2024

Reviewing Officer: Kirsty Sweeney **Date:** 07.05.2024

Fergus Murray
Head of Development & Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 23/01502/PP**Standard Time Limit Condition** (as defined by Regulation)**Standard Condition on Soil Management During Construction****Additional Conditions****1. PP - Approved Details & Standard Notes – Non EIA Development**

The development shall be implemented in accordance with the details specified on the application form dated 05.08.2023; , supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 15	A	22.08.2023
Existing Site Plan	2 of 15	A	22.08.2023
Existing Site Cross Section and Photos - Sheet 1 of 2	3 of 15	-	01.08.2023
Existing Site Cross Section and Photos - Sheet 2 of 2	4 of 15	-	01.08.2023
Proposed Site Plan	5 of 15	B	29.02.2024
Proposed Site Cross Sections	6 of 15	-	01.08.2023
Proposed Site Cross Section, Access Wall Elevation and Layout Plan	7 of 15	A	23.08.2023
Proposed Sightline Plan	8 of 15	D	22.08.2023
Proposed Elevations and Sections	9 of 15	-	01.08.2023
Proposed Floor/Roof Plans	10 of 15	-	01.08.2023
Planning Design and Access Statement	11 of 15	-	01.08.2023
Tree Survey Report	12 of 15	A	28.02.2024
Bat Scoping Survey Report	13 of 15	-	28.02.2024
Sustainability checklist	14 of 15	-	12.03.2024
Sustainable buildings checklist	15 of 15	-	12.03.2024

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

2. **Sustainable Urban Drainage** – Notwithstanding Condition 1, details of a sustainable urban drainage system compliant with the guidance set out in CIRIA's SuDS Manual C753 must be submitted to and approved in writing by the planning authority prior to construction. The surface water drainage shall be operational prior to the development being brought into use and shall be maintained as such thereafter.

Reason: To ensure adequate surface water drainage is implemented to prevent flooding elsewhere.

3. **Landscape and Biodiversity Enhancement** - Notwithstanding Condition 1, No development shall take place until full details of both hard and soft landscape works to be carried out at the site have been submitted to and approved in writing by the local planning authority. The approved hard landscaping works shall be carried out prior to first occupation of the development and the soft landscaping works within the first planting season following first occupation of the development. The details submitted shall include:

- proposed finished site levels or contours;
- hard surfacing materials;
- details of the number, size and location of the trees, shrubs and plants to be retained and planted together with a planting specification – these shall include compensatory planting for the trees already identified as to be removed as part of the development;
- details of measures to enhance biodiversity within the site;
- location and design, including materials, of walls, fences and gates;
- programme for completion and subsequent on-going maintenance.

Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of biodiversity and the natural environment.

4. **External Materials** - Notwithstanding Condition 1, Prior to work starting on site samples of the proposed materials to be used for the external finishes of the development hereby granted consent shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site.

Reason: In the interests of visual amenity and in order to integrate the proposal with its surroundings.

5. **Sustainable Design** – Notwithstanding Condition 1, Prior to the commencement of development, details of the on-site micro renewable energy to provide heat or electricity to the property and details of the use of the final materials – including details of any re-cycled materials or local sourced materials and their embodied energy for each materials, shall first be submitted and approved in writing by the Local Planning Authority. Thereafter the approved micro renewables and materials must be used in the development hereby approved.

Reason: In order to ensure compliance with LDP2 Policy 09 and to ensure the building is being as energy efficient as possible in order to respond to climate change.

6. **Electric Vehicle Charging** – Notwithstanding Condition 1, Prior to the commencement of development, details of the provision of electric vehicle charge points shall first be submitted and approved in writing by the Local Planning Authority. Thereafter the electric vehicle charge points must be available for use in the development hereby approved.

Reason: In order to ensure compliance with LDP2 Policy 34.

7. **Quality homes** – Notwithstanding Condition 1, no development shall commence until details of the proposed timescale for completion of the approved development have been submitted to and approved by the Planning Authority. Thereafter, the development shall be implemented in accordance with the duly approved timescale for completion unless an alternative timescale for completion is otherwise agreed in writing with the Planning Authority.

Reason: In order to comply with the requirements of NPF4 Policy 16F.

8. **Trees** – Notwithstanding Condition 1, All retained trees on site shall be protected at all times during construction in accordance with the British Standard; BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations).

Reason: The landscape features to be protected are important to the appearance and character of the site and the surrounding area and are required to successfully integrate the proposal with its surroundings.

9. **Potential sources of nuisance** – Notwithstanding Condition 1, Prior to work starting on site identification and assessment of all potential sources of nuisance, including noise/ vibration, dust, and any temporary lighting provided, which may cause disturbance to nearby residents during the demolition / construction process should be undertaken by the applicant and submitted to and approved by the Planning Authority. This should include consideration of intended hours of operation, movement of vehicles, use of plant and storage of equipment and materials on site.

For all potential sources of nuisance the applicant will be required to provide a management plan with details of suitable control measures to be put in place so as to ensure that construction does not cause loss of amenity to local residents and/or statutory nuisance.

Reason: In order to avoid sources of nuisance in the interest of amenity.

10. **Scottish Water** – Notwithstanding Condition 1, Prior to the commencement of development the developer shall submit written evidence to the Planning Authority that an agreement with Scottish Water is in place for the connection of the proposed development to the public water supply and waste water sewage network.

Reason: In the interests of public health and to ensure the availability of an adequate water supply to serve the proposed development.

11. **Parking and Turning** – The parking and turning area shall be laid out and surfaced in accordance with the details shown on the approved plans prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

12. **PP - Junction with public road:**

Notwithstanding the provisions of Condition 1, the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing SD 08/005 Rev. B (as laid out on approved drawings L(9)2D and L(9)4B) and visibility splays of 2.4m metres to point X by 75.0 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions such that nothing shall disrupt visibility from a point 1.05 metres above the access at point X to a point 0.6 metres above the public road carriageway at point Y. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to Applicant:

- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the formation/alteration of a junction with the public road.
- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.

13. **Bird and Red Squirrel Survey** - Notwithstanding Condition 1, Prior to work starting on site a pre-commencement survey for the presence of birds and red squirrels on site; shall be carried out by an appropriately qualified person at the optimum time of year and submitted to and approved by the Planning Authority. In circumstances where species of interest are identified as being present, or at risk from construction works, the survey shall further provide suggested avoidance and or mitigation measures, including timing constraints, to address such presence or risk. The development shall be implemented in accordance with the measures identified in the duly approved scheme.

Reason: *In order to establish that the circumstances of the site have not changed significantly between approval and implementation of the development for the purpose of protecting natural heritage assets in the interest of nature conservation.*

ADDITIONAL NOTES TO APPLICANT

- N/A

COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	23/01502/PP
PLANNING LAND USE AND POLICY ASSESSMENT	

1. Settlement Strategy

1.1. The site is located within the settlement area of Rhu as identified in the adopted Argyll and Bute Local Development Plan (LDP2) wherein Policy 01 (Settlement Areas) notes that development will normally be acceptable on a non-brownfield site where the proposal is considered acceptable in relation to the overall land supply for the proposed use, and it is compatible with surrounding uses including but not exclusively; providing access, service areas, infrastructure for existing, proposed or potential future development, and it 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 lastly that it complies with all relevant LDP2 policies.

1.2. LDP2 Policy 66 (New Residential development on non-allocated housing sites within Settlement Areas) requires that new buildings will only be permitted where:

- a) the layout, density, plot ratio, scale, form and materials of any proposed development do not detract from the character of the surrounding buildings and the local area;
- b) it does not affect the privacy and amenity of existing and proposed properties;
- c) the site provides a suitable residential environment;
- d) it provides appropriate private and public open space and;
- e) an appropriate standard of access to and parking for vehicles associated with the development is provided, it does not result in the loss of any existing parking spaces, and that traffic generated as a result of the development is capable of being accommodated within the capacity of the existing road network surrounding the development;
- f) it is not detrimental to the overall housing land supply of the LDP2.

The proposals must also demonstrate that they meet the tests laid down in National Planning Framework 4 Policy 16 (Quality homes) criterion f).

1.3. NPF4 Policy 16 (f) supports new homes on land not allocated for housing where the proposal is supported by an agreed timescale for build-out, it is otherwise consistent with the plan spatial strategy and other relevant policies including local living and the proposal is for smaller scale opportunity within an existing settlement.

1.4. NPF4 Policy 1 (Tackling the climate and nature crises) requires that significant weight be given the global climate and nature crises when considering new development. Policy 2 (Climate mitigation and adaptation) seeks to encourage, promote and facilitate development that minimises emissions and adapts to impacts on climate change. NPF 4 Policy 5 (Soils) aims to protect locally, regionally, national and internationally valued soils.

1.5. The development is considered small-scale as it for the erection of one dwelling. It is located within an identified settlement with access to community facilities and public transport networks, consistent with NPF 4 Policy 15 (Local Living and 20 minute Neighbourhoods), and is compatible with the provisions of NPF 4 Policy 1 in terms of addressing the Climate Crisis in principle. The site is located within an established residential area and will not impact upon soil that has material value. It is recommended that any planning permission will be subject to a model planning condition.

- 1.6. On the above basis, it is considered that there is a general presumption in favour of the principle of this proposed development in terms of its location, nature and scale when assessed against the policy provisions relating to the LDP2 Settlement Strategy and relevant NPF 4 Policy.

2. Location, Nature and Design of Proposed Development

- 2.1. The application site measures approximately 3254sqm and is bounded to the North by the existing access to neighbouring Lagarie House, to the East by the boundary of Lagarie Lodge, to the West by the boundary of Lagarie House and to the South by an existing stone wall that separates the site from the A814. It is proposed to create the access to the site through this stone wall which is considered to be listed by way of curtilage listing relative to Lagarie House (category B listed), there is a separate listed building consent application for the alterations to this wall (reference; 23/01503/LIB). There is an established natural belt of trees and large shrubs along the South, East and West site boundaries separating it from the grounds of Lagarie House and the A814. To the Southern boundary of the site and also extending up the Western boundary there is a large rhododendron hedge. The site slopes gently upwards from South to North.
- 2.2. The application site formerly formed part of Lagarie House's curtilage and was part of the House's lawn. Lagarie House was however, subdivided into flats historically and its curtilage was divided into plots. 5no. Dwellinghouses have subsequently been built to the north and west of the Lagarie House as well as Lagarie Lodge which was built to the east. This plot is located in between Lagarie House, the original main house and Lagarie Lodge, an infill house built in the mid-1900's.
- 2.3. The proposed house is to be sited centrally within the plot from West to East and from South to North it is to be sited such that the front elevation is in line with the front elevation of both Lagarie House and Lagarie Lodge. The proposed access from the A814 will be formed through the existing stone wall on the Southern boundary and will be located centrally on this boundary, with driveway and parking in front of the proposed house. The proposed dwellinghouse will have 4 bedrooms with a footprint of approximately 245sqm and a maximum ridge height of 7 metres. It will be traditional in design to reflect the architectural character of the surrounding area. The proposed house is generally single storey massing with a 1 ½ storey element to the front with pitched roofs and dormers, this is in keeping with the surrounding properties. There are two projecting gable forms to the front and rear which will visually 'break up' the massing of the new building, a projecting gable element is also proposed to the front elevation, this will provide an attractive, well-considered form and 'animated' roofscape. A simple pallet of materials is proposed to respect the characteristics of the surrounding properties. This will include slate roofs, Ashlar feature stonework, wet dash render and timber double glazed sash and case windows (painted white). A projecting bay window is also proposed to the front elevation which will be capped in lead.
- 2.4. NPF4 Policy 14 (Design, quality and place) requires that development proposals be designed to improve the quality of an area; and, offers support to development that achieve the six qualities of Health; Pleasant; Connected; Distinctive; Sustainable; and, Adaptable. Development that is poorly designed, detrimental to the amenities of surrounding areas or inconsistent with the aforementioned six qualities will not be supported.
- 2.5. NPF Policy 14 is closely aligned with the provisions of LDP2 Policy 04 (Sustainable Development) which requires that developers to demonstrate certain sustainable development principles and also Policy 05 (Design and Placemaking) which requires developers to comply with certain placemaking criteria including; compatibility with surrounding land uses, make use of existing infrastructure, respect site topography, improve connectivity, incorporate green and blue infrastructure, adopting design that respects and complements its surroundings, siting and design should respond to the natural environment and the design should be sustainable in terms of materials and

construction and should consider future adaptability, and climate change mitigation measures.

- 2.6. LDP2 Policy 08 (Sustainable Siting) requires that development integrates into the landscape or existing built form to minimise detrimental effects on the environment, and the siting of a development should take into account the character of the area in terms of its settlement pattern, layout and density; development should be carefully sited to avoid overshadowing or overlooking of itself or other properties; development should be positioned within the landscape to make the best use of solar gain, natural ventilation and shelter from the elements; development should be sited within easy access of existing infrastructure and services; and any ancillary development such as parking and turning areas, should be sensitively designed and sited. LDP2 Policy 09 (Sustainable Design) requires that development proposals demonstrate consideration of renewable energy and sustainable design & construction methods. LDP2 Policy 10 (Design: All Development) requires demonstration of an appropriate response to the development site and wider context, acknowledgement of the scale / massing of nearby buildings and use materials that are harmonious with the context.
- 2.7. Having regard to the built development pattern and densities of the local area, it is noted that there is a range of scale and design of houses, and whilst the overall pattern of built development is very spacious, there is a range of plot ratios. The ratio of built development to open curtilage in the case of this proposal is spacious in nature and reflects the plot ratio of the neighbouring Lagarie Lodge. The scale of the house is comparatively small and it is considered that the siting, form, massing and material finishes will respect and reflect the existing character of built development and compliment the visual character of the area in accordance with the relevant provisions of NPF4 and LDP2.
- 2.8. The proposed house will be screened from Lagarie House and Lagarie Lodge by existing natural boundary features and the planting of additional trees to the North will screen the proposals from Lagarie cottage, in conjunction with the relative orientation of windows and separation distances will mean that there will be no material loss of residential amenities to the occupiers of these properties by reason of overlooking. On this basis, Officers are satisfied that the proposed development will not have a material impact upon the residential amenities of nearby properties in accordance with the relevant provisions of NPF4 and LDP2.
- 2.9. In relation to sustainability, the application has included the submission of the Sustainability Checklist and the Sustainable Buildings Checklist in response to LDP2 Policy 09. The application responds to the sustainability criteria as follows:
- The site is located in accordance with the LDP2 settlement and spatial strategy;
 - It is well connected in terms of active travel and public transport routes;
 - It avoids high quality agricultural land and does not raise issues of flood risk or land erosion;
 - It maintains the quality of the historic environment;
 - Proposed siting has minimised groundworks including excavation and fill;
 - The house is designed to be adaptable for future needs and has dedicated home working provision;
 - The house is designed internally to have main habitable rooms in the elevations which benefit from maximum daylighting and solar gain.
- 2.10. As such, with regard to sustainable principles, it is accepted that the application is sustainably located. Whilst some principles of sustainable design and construction methods are not clearly set out, it is considered that further information can be obtained via condition (in this instance) to demonstrate clearly how sustainable principles are being incorporated into the design.

3. Natural Environment

- 3.1. NPF4 Policy 3 (Biodiversity) generally seeks to protect biodiversity, reverse biodiversity loss and to deliver positive benefits from development that strengthens nature networks. Policy 3(c) requires that proposals for local development will include appropriate biodiversity measures proportionate to the scale and nature of the proposal. Policy 3(d) requires any potential adverse impacts on biodiversity/nature networks/natural environment to be minimised by planning and design. NPF 4 Policy 3 is generally aligned with LDP2 Policy 73 (Development Impact on Habitats, Species and Biodiversity), although NPF 4 Policy 3(c) goes beyond the LDP2 requirements in relation to current biodiversity interests of the site.
- 3.2. NPF 4 Policy 4 (Natural places) generally confirms that development that will have an unacceptable impact on the natural environment will not be supported. Outside of European, national and local designations, development is expected to meet the relevant statutory tests in terms of protected species legislation; and potential impacts must be fully considered prior to determination of planning applications. NPF 4 Policy 4 (insofar as it relates to the location, nature and scale of the current proposal) largely aligns with the provisions of LDP2 Policy 73.
- 3.3. LDP2 Policy 04 seeks to conserve and enhance the natural and built environment and avoid significant adverse impacts on biodiversity, natural and heritage assets. LDP2 Policy 73 ensures that other legislation relating to biodiversity habitats are fully considered in relation to development proposals; and generally that development does not have an adverse impact on habitat or species, particularly in relation to habitat or species designated as being of European, national or local significance.
- 3.4. The site is not located within or in proximity to any nature conservation designation.
- 3.5. The Council's Local Biodiversity Officer has been consulted on the proposals and requested that an updated tree survey and a potential roost assessment (PRA –bats) is submitted prior to determination. The applicants have subsequently provided this additional information as requested. The bat survey concluded that there were no potential bat roots within the trees or the walls. The proposal will therefore have no adverse effect on a European Protected Species and meets the requirements of LDP2 Policy 73.
- 3.6. The Council's Local Biodiversity Officer also recommended that further surveys for birds and red squirrel are conditioned as part of any approval.
- 3.7. It is further recommended that any planning permission be subject to a condition requiring the submission of a detailed scheme of landscaping including; hard and soft landscaping as well as boundary treatments is submitted to and approved by the authority prior to works starting on site.

4. Built / Historic Environment

- 4.1. The application site forms part of the original grounds of a Category B listed building, "Lagarie House." Additionally, within the vicinity is Category A listed "Ardencaple Hotel" which is adjacent to Lagarie Lodge on the opposite side of Torwoodhill Road.
- 4.2. The site is located within the Rhu Conservation Area.
- 4.3. NPF4 Policy 7 (Historic assets and places) generally seeks to protect and enhance the historic environment, assets and places, and to enable positive change as a catalyst for the regeneration of places.
- 4.4. NPF4 Policy 7(a) requires that development proposals with a potentially significant impact on historic assets or places be accompanied by an assessment based on an understanding of the cultural significance of the asset and/or place. Development will only be supported where the character and appearance of the conservation area is

preserved or enhanced. It is noted that officers are satisfied that the proposals have met the policy requirements of NPF4 Policy 7(a) and have included an appropriate assessment within the submitted design and access statement.

- 4.5. NPF4 Policy 7(c) requires that development proposals affecting the setting of a listed building preserve its character, and its special architectural or historic interest. LDP2 Policy 16 (Listed Buildings) add to this that that development must be of the highest quality, and respect the original structure in terms of setting, scale, design, materials and proposed use.
- 4.6. NPF4 Policy 7(d) requires that development proposals in a conservation area will only be supported when the character or appearance of the conservation area is preserved or enhanced. Relevant considerations include the architectural and historic character of the area; existing density, built form and layout; context and siting, quality of design and suitable materials. LDP2 Policy 17 (Conservation Areas) broadly reflects this.
- 4.7. The Council's Design and Conservation Officer was consulted on the proposals and has summarised; *"my position is that whilst the cumulative impact on the setting must be considered and that previous erosion of character does not necessarily mean that further erosion should be allowed, but that the understanding of the setting must be reconsidered based on the evolved situation to allow appropriate change consistent with planning policy. In this case I feel that the extensive subdivision to date has altered the setting to the point that Lagarie House is no longer understood and experienced as it once was. To clarify – I am referring to the cumulative effect of the dwellinghouses to the north and west as well as the lodge to the east and the mature trees. Of particular note in relation to this application is that Lagarie's former relationship with this proposed development plot (part of its lawn) has been significantly altered due to heavy planting. Therefore taking into account the houses to the north and west, and the lodge to the east as well as the development of mature trees, it must be accepted that the original setting of Lagarie no longer exists. I would argue in this case that what does remain of the setting in terms of the way in which Lagarie House is viewed and experienced is its prominence of architectural scale and style. [...] on the basis of the above and the conclusion that its setting can now be considered to simply be its architectural prominence within the wider built up conservation area, I do not think that appropriate development of this particular piece of garden ground will have a significant adverse impact on the evolved setting. Whilst setting can also include views to and from the house, such views are screened by the trees, and the proposal would not change this. [...] taking into account the national and local policies referred to at the start of this response, I do not see reason why something of suitable scale and design should not be sited here now. In terms of 20/01382/PP (previous application on the site which was withdrawn) I was not satisfied that the scale or design of the proposal was suitable for the site. The height has now been reduced to a similar height to adjacent Lagarie Lodge and I would consider this to be acceptable."*
- 4.8. Historic Environment Scotland were also consulted on the proposals in relation to the nearby category A listed Ardencaple Hotel (please note that Historic Environment Scotland do not advise on matters relating to category B or C listed properties and this is a matter for the councils design and conservation officer, which has been detailed above) and have noted that they do not have any comments to make in regards to this application.
- 4.9. Officers are satisfied that the proposed development, by reason of siting, scale, form and architectural style is of a sufficiently high standard and will preserve the character and appearance of this part of the Rhu Conservation Area and will not have an adverse impact on character of surrounding listed properties in accordance with NPF 4 Policy 7, LDP2 Policy 16, LDP2 Policy 17 and relevant HES guidance on development impact on historic assets.

5. Impact on Trees

- 5.1. The site was formerly part of Lagarie House's lawn, however the land surrounding Lagarie House has been subdivided and is now in separate ownership. There is an established natural belt of trees and large shrubs along the South, East and West site boundaries separating it from the grounds of Lagarie House, Lagarie Lodge and the A814. To the Southern boundary of the site and also extending up the Western boundary there is a large rhododendron hedge.
- 5.2. A tree survey has been undertaken of the site and its surrounds as summarised earlier in the report. The application originally noted that 9 trees were to be removed to accommodate the house but since receipt of the detailed tree survey, the application has been updated to omit one tree for removal. Therefore it is now proposed to remove the large rhododendron hedge and 8no. Trees to enable this development (as shown on the Proposed Site Plan), these are mainly located to the area where the new access and driveway/parking area is proposed. It is noted that the site is covered by an Area TPO which was established on the 23.08.1983. Trees planted after this date would not be covered by this TPO, however, as the site is also within a conservation area all existing trees (with over 75mm diameter measured at 1.5m in height above ground) are automatically protected. The Tree Survey Report submitted as part of this application has categorised the trees to be removed as; one category B tree (trees of moderate quality), 6 category C trees (trees of low quality) and one category U tree (trees unsuitable for retention). Trees will remain along the east and west boundaries to maintain the privacy of neighbouring properties, as side from 2no. Trees which will be removed on the west boundary. It is proposed that 9 new replacement native species trees will be planted in natural groupings to the north of the site to further protect privacy and to help the development to integrate into its surroundings. The replacement trees proposed are a mix of; birch, willow, hazel, oak, ash, alder and rowan. Lastly it is proposed to fully remove the substantial rhododendron hedge as this is a non-native invasive species this is considered acceptable.
- 5.3. In other respects, it is not considered that the individual trees to be removed are of high biodiversity value and that removal of the trees proposed will have an adverse impact on the ecological condition of the area, based on the Tree Survey and Officers inspection of the site, this is further supported by the additional planting of additional native species trees.
- 5.4. It is recommended that any planning permission be subject to a condition requiring the retained trees on site are protected during construction in accordance with the British Standard; BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations).
- 5.5. On the above basis it is considered that the proposal is in accordance with the provisions of NPF4 Policy 6 (Forestry, woodland and trees) and LDP2 Policy 77 (Forestry, Woodland and Trees).

6. Road Network, Parking and Associated Transport Matters.

- 6.1. Access to the site is proposed directly from the A814. It is proposed to create the access to the site through the existing stone wall which bounds the frontage of the site, the new access will be located centrally on this frontage. The existing stone wall is considered to be listed by way of curtilage listing relative to Lagarie House (category B listed) and there is a separate listed building consent application for the alterations to this wall (reference; 23/01503/LIB).
- 6.2. From the access junction a private driveway will continue approximately 20m into the application site to a parking and turning area laid out in front of the proposed house. Three car parking spaces are identified on the application drawings as well as the location for the proposed waste storage facilities.

- 6.3. NPF4 Policy 13 (Sustainable transport) generally aims to encourage, promote and facilitate developments that prioritise alternative means of transport to car journeys and reduce the need to travel unsustainably. The requirement to submit a Transport Assessment is introduced for some developments however this relates to larger scale developments than the current proposal for a single house, this policy is largely aligned with LDP2 Policy 33 (Public Transport Infrastructure).
- 6.4. The elements of NPF 4 Policy 13 that are relative to the scale and nature of this development are largely aligned with the provisions of LDP2 polices 36 (New Private Accesses) & 39 (Construction Standards for Private Access), which relate to new private accesses and construction standards for private access.
- 6.5. The consultation response from Council Area Roads notes that roads have no objection to the proposed, subject to any approval being subject of planning conditions relating to; drainage being achieved within the site boundary, that no water shall discharge onto the public road (details of which shall be provided prior to works commencing on site) and that the access and associated visibility splays shall be completed in advance of construction of the dwellinghouse.
- 6.6. The submitted site layout drawing shows 3 no. car parking spaces and adequate turning space and notes that the new access is to be formed in accordance with Argyll and Bute roads drawing number SD 08/005 Rev B (driveway access across public footway). This drawing also notes that the new access road to be constructed as indicated with first 5m to be finished with tarmac and gradient not to exceed 5% with the balance of driveway to be less than 12.5% gradient. The submitted visibility splay drawing also shows the proposed visibility spays of a vehicular visibility splay of 75m x 2.4m x 1.05m in both directions measured from the edge of the carriageway and a pedestrian visibility splay of 20m x 2.4m x 1.05m in both directions measured from the rear of the footway.
- 6.7. On the above basis it is considered that the proposal is in accordance with the provisions of NPF4 Policy 13 and LDP2 Policies 36 & 39.

7. Infrastructure

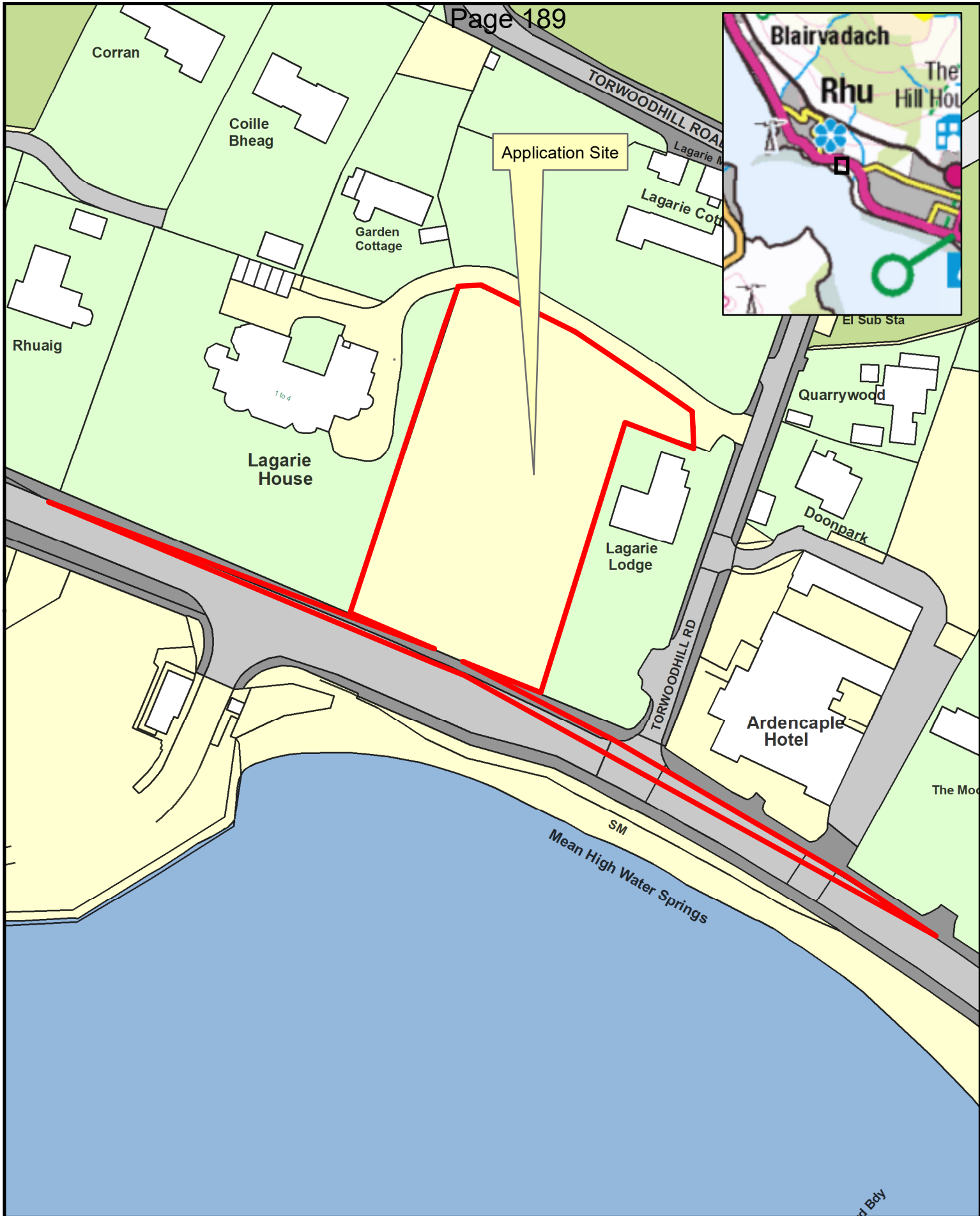
- 7.1. Water supply and foul drainage is proposed to be by means of a connection to the existing Scottish Water network. The consultation response from Scottish Water does not indicate any issues with this, but advises that further investigation may be required upon submission of a Pre-Development Enquiry (PDE) by the applicant. On this basis, officers are satisfied in principle that there are no known constraints in respect of public water and sewage infrastructure.
- 7.2. The consultation response from Scottish Water specifically advises that a surface water connection into its combined drainage system will not be accepted. Therefore, any approval will be subject to a planning condition that the development incorporate a Sustainable Urban Drainage System (SuDS). SuDS to be designed and installed in accordance with the principles of the SuDS Manual (C753).
- 7.3. In terms of potential flood risk, the application site, is not overlain by any recorded areas at risk to coastal, fluvial or surface water flooding with reference to the SEPA Flood Map.
- 7.4. It is recommended that the provision of electric vehicle charge points as per LDP2 Policy 34 (Electric Vehicle Charging) is subject of a planning condition.
- 7.5. Subject to the above, it is considered that the proposal makes adequate provision for services infrastructure in accordance with the provisions of NPF4 Policies 18 (Infrastructure first), 20 (Blue and green infrastructure) & 22 (Flood risk and water management) and LDP2 Polices 06 (Green and Blue Infrastructure), 33 (Public Transport Infrastructure), 34 (Electric Vehicle Charging) & 61 (Sustainable Drainage Systems).

8. Planning history

- 8.1. The application site was formerly part of the garden ground of B listed Lagarie House. Lagarie House is dated 1901 and was designed by the noteworthy architect A N Paterson and is a 2 storey plus attic asymmetrical Arts and Crafts house. The property was a private residence until operating as a children's home from 1949 until 1982. From researching historical maps it appears that Lagarie Lodge was built in the 1950's. Lagarie House was initially listed in 1980 as a category C listed property however, since then the category of listing has been uplifted to category B. In 1983 planning consent was given for the change of use and sub-division of the property to form 4 flats. At this time planning consent was also given for the erection of 5 additional dwelling houses within the garden ground to the North-West & West of Lagarie House (application references; C6986 & C6994).
- 8.2. In 1989 there was an outline planning permission application for the erection of a detached 2 storey dwellinghouse with integral double garage on this application site (application reference; C8400). This application was refused and the decision was subsequently appealed. This appeal was dismissed in 1990 (appeal reference; P/PPA/SH/137).
- 8.3. There was a planning application for the site (reference; 11/00528/PP) submitted in 2011 by a different applicant for the erection of 5 flats and car ports, this application was withdrawn prior to determination.
- 8.4. The current applicants initially submitted a planning application for 2 houses with detached garages and a proposed access from Torwoodhill Road in 2019 (reference; 19/02162/PP). This application was withdrawn prior to determination due to concerns raised by the roads department in terms of the proposed access and also concerns raised by officers in regards to the proposal for 2 houses being overdevelopment of the site / not appropriate in terms of the settlement pattern in the area.
- 8.5. In 2020 the current applicants then submitted a further planning application (reference; 20/01382/PP) for a single dwelling with proposed access from the A814. At this time an accompanying listed building consent application was also submitted in relation to the formation of the vehicular access through the listed wall (reference; 20/01383/LIB). At this time officers had concerns in regards to the design and scale of the proposal in terms of its relationship to the site and surrounding residential area. Again this application along with the listed building consent application was withdrawn prior to determination.
- 8.6. It is noted that the planning history of the site is a material planning consideration, which has been taken into consideration and afforded weight in determining this application. In the case of the previous refusal, appeal and subsequent dismissal for outline planning permission for a single dwelling on the site, which has been noted by objectors. Officers have considered this and for the avoidance of doubt it is confirmed that the existence of a previous appeal decision, refusing planning permission, does not preclude a future planning application being submitted, nor does it prevent the Council as planning authority from determining the application. In the instance of this application a substantial period of time has elapsed since the appeal decision; within this time the relevant development plan and other relevant policy considerations have been superseded by subsequent iterations of the Local Development Plan and National Policy and Guidance and accordingly it is necessary for any decision on the current application to be assessed against these revised provisions and in relation to the current circumstances of the site and its surrounds.
- 8.7. At the time of the appeal dismissal the main reasons for refusal were that there remained a strong physical and historical relationship between the scale of Lagarie House and the extent of open ground between it and Lagarie Lodge and Lagarie Cottage and their conclusion was that a new house anywhere to the east of Lagarie House, no

matter what its design, would seriously alter the scale and relationship between Lagarie House and as such, would have a detrimental effect on the setting of the listed building. It was further noted that the erection of an additional house on the appeal site could be held to assist in either the preservation or enhancement of the character or appearance of Rhu conservation area was not accepted.

- 8.8. In response to this the Council's Design and Conservation Officer has concluded "*the understanding of the setting must be reconsidered based on the evolved situation to allow appropriate change consistent with planning policy. In this case I feel that the extensive subdivision to date has altered the setting to the point that Lagarie House is no longer understood and experienced as it once was. To clarify – I am referring to the cumulative effect of the dwellinghouses to the north and west as well as the lodge to the east and the mature trees. Of particular note in relation to this application is that Lagarie's former relationship with this proposed development plot (part of its lawn) has been significantly altered due to heavy planting. Therefore taking into account the houses to the north and west, and the lodge to the east as well as the development of mature trees, it must be accepted that the original setting of Lagarie no longer exists. I would argue in this case that what does remain of the setting in terms of the way in which Lagarie House is viewed and experienced is its prominence of architectural scale and style. [...] on the basis of the above and the conclusion that its setting can now be considered to simply be its architectural prominence within the wider built up conservation area, I do not think that appropriate development of this particular piece of garden ground will have a significant adverse impact on the evolved setting*".
- 8.9. On the basis of the above it is confirmed that having regard to all material considerations it is considered that the proposal is acceptable.



Location Plan Relative to Planning Application: 23/01502/PP



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Committee Planning Application Report and Report of Handling in relation to The Planning (Listed Building Consent and Conservation Area Consent Procedure)(Scotland) Regulations 2015

Reference No: 23/01503/LIB

Applicant: Mrs Joanna Peach

Proposal: Formation of new vehicular access through the existing stone wall

Site Address: Land Between Lagarie Lodge And Lagarie House Torwoodhill Road Rhu Argyll And Bute

DECISION ROUTE

Committee Decision under Local Government Scotland Act 1973

(A) THE APPLICATION

- (i) Alterations requiring Listed Building Consent**
- Formation of new vehicular access through existing stone wall
- (ii) Other specified operations**
- n/a
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that listed building consent be **granted** subject to the conditions and reasons appended to this report.

(C) CONSULTATIONS:

Historic Environment Scotland	04.09.2023	No Objection
Built Heritage Conservation Officer	30.08.2023	No Objection subject to conditions

(D) RELEVANT HISTORY:

20/01383/LIB



Formation of new vehicular access through the existing stone wall
16.08.2023 (application withdrawn)

23/01502/PP

Erection of dwellinghouse and formation of new vehicular access *Pending*

(E) PUBLICITY:

ADVERT TYPE: Listed Building/Conservation Advert

EXPIRY DATE: 28.09.2023

(F) REPRESENTATIONS:

(i) Representations received from:

Objections:

Mrs Sandra McGuire, 4 Lagarie House, Torwoodhill Road, Rhu, Helensburgh, Argyll & Bute, G84 8LF, 11.10.2023

Krystina Crawford, 736 Crow Road, Anniesland, Glasgow, G13 1NF, 03.10.2023, 10.10.2023

Peter Cassidy, Auchenlea Lodge, Torwoodhill Road, Rhu, Helensburgh, Argyll & Bute, 02.10.2023

Peter Eastwood, 8 Charlotte Court, Charlotte Street, Helensburgh, G84 7DF, 30.09.2023

Jill Eastwood, 8 Charlotte Court, Charlotte Street, Helensburgh, G84 7DF, 30.09.2023

Ronald McKechnie, 1 Lagarie House, Torwoodhill Road, Rhu, Helensburgh, Argyll & Bute, 19.09.2023

James Windebank, 19 West Montrose Street, Helensburgh, G84 9PF, 11.10.2023

Jim Crawford Garden Cottage Lagarie Torwoodhill Road Rhu Helensburgh, 08.10.2023, 09.10.2023, 10.10.2023, 01,02,2024, 03.04.2024, 02.05,2024

Georgina Cassidy, Auchenlea Lodge,, Torwoodhill Road Rhu, Helensburgh, Argyll & Bute, 02.10.2023

Dr James Edwin Crawford, Kildalloig Dhorlin, Wheatleywell lane, Chester Le Street, DH2 3LD, 04.10.2023, 10.10.2023

Dr Kenneth Mangion, Tombrake Farm Steadings, Balfroon, G63 0QR, 02.04.2024

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:



Note that the proposed listed building consent application is associated directly with planning application reference; 23/01502/PP and should not be considered in isolation and should be decided after the planning permission application

Comment; the council has considered both applications in conjunction

Note that the applicant has identified the application site as vacant land, however, this is incorrect as the land is the front garden of Lagarie house and is its main lawn

Comment; this is noted, however, the site is no longer part of the garden grounds of Lagarie House

Note that the supporting statement for this application is incorrect as it states that the wall is not part of Lagarie Houses' curtilage

Comment; the application site no longer forms part of Lagarie Houses' curtilage. It is deemed that the wall is considered to be listed by way of curtilage but this does not relate to the current property boundary's, for a structure to be considered listed by way of curtilage it must meet the four tests of curtilage listing, these are; were the structures built before 1 July 1948? Were the structures in the same ownership as the main subject of the listing at the time of listing? Do the structures clearly relate to the main subject of the listing in terms of their (original) function? Do the structures still relate to the main subject on the ground?

Note that the existing hedge and boundary screening form part of Lagarie Houses' setting and wider conservation area

Comment; please note that this application solely relates to the proposed alterations to a listed wall, the above points raised are assessed under planning application reference 23/01502/PP

Note that the proposal is overdevelopment of Lagarie Houses' garden grounds

Comment; this is noted, however, the site is no longer part of the garden grounds of Lagarie House. Furthermore, please note that this application solely relates to the proposed alterations to the listed wall, the above points raised are assessed under planning application reference 23/01502/PP

Note that the drawings submitted for this application do not include the existing hedge or boundary screening

Comment; please note that this application solely relates to the proposed alterations to a listed wall, the above points raised are assessed under planning application reference 23/01502/PP

Note that no impact assessment has been submitted in relation to traffic noise, ecological issues, the wider conservation area or the setting of the listed building

Comment; please note that this application solely relates to the proposed alterations to the listed wall, the above points raised in regards to traffic noise and ecological issues are assessed under planning application reference 23/01502/PP. With regards to the effects of the proposed alterations to the listed wall, please see assessment below

Note that no detail has been provided in terms of roads / access issues and that there are concerns in relation to roads / access issues

Comment; please note that this application solely relates to the proposed alterations to a listed wall, the above points raised are assessed under planning application reference 23/01502/PP

Note that no gate has been proposed

Comment; no gate has been shown on the proposals, should the applicants wish to install a gate this would be subject of a future application

Note that the proposal will have a detrimental impact on the setting of the neighbouring listed building

Comment; please note that this application solely relates to the proposed alterations to a listed wall. With regards to the effects of the proposed alterations to the listed wall, please see assessment below

Note that the proposal will have a detrimental impact on the character of the conservation area

Comment; as above

Concerns about the proposed developments impact on trees and concern in regards to the lack of ecological or bat surveys

Comment; please note that this application solely relates to the proposed alterations to a listed wall, the above points raised are assessed under planning application reference 23/01502/PP

Note that the applicant has a right of access from the private road from the rear and would use this as additional access

Comment; The applicants have shared right of access over this private road, however, the proposed development of the site requires certain roads conditions, and these cannot be achieved via the existing shared access as the applicants do not have full control over the land hence why a new private access is proposed from the A814. The recommended roads conditions are that the new access shall be installed prior to construction of the dwellinghouse. As the site is within a Conservation Area, then creation of an additional access from the private road would require further approval.

Note that the existing listed boundary wall will have its integrity broken

Comment; please see assessment below

Note that all previous applications on the site have been refused and a previous appeal that was dismissed should mean that this application should be refused

Comment; please note that this application solely relates to the proposed alterations to a listed wall, the above points raised are assessed under planning application reference 23/01502/PP

Note that previous approvals surrounding the site contained planning conditions that noted that no access should be taken directly from the A814

Comment; As above

(G) POLICIES:

List of all Development Plan Policies and other material considerations taken into account in assessment of the application.

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

NPF4 Policy 7 – Historic Assets and Places

[Argyll and Bute Local Development Plan 2 \(Adopted 2024\)](#)

Policy 15 – Protection, Conservation and Enhancement of Our Historic Environment

Policy 16 – Listed Buildings

Policy 17 – Conservation Areas

Other guidance:

[Managing Change in the Historic Environment: Boundaries | HES](#)

Note: there is no Conservation Area Appraisal for Rhu Conservation Area.

(H) SUMMARY ASSESSMENT:

Listed building consent is sought for the alterations to form of a new vehicular access through an existing stone wall at; Land Between Lagarie Lodge and Lagarie House, Torwoodhill Road, Rhu.

The proposal lies within the Rhu Conservation Area and the residential property adjacent to the West, “Lagarie House” is a Category “B” listed building. Additionally, within the vicinity is the Category “A” listed “Ardencaple Hotel”. Listed Building Consent is sought for the alterations to the existing stone wall as it is deemed that the wall is Category “B” listed by way of curtilage in relation to “Lagarie House”.

The determining factor is the impact of the alteration of wall on the historic environment, in particular whether the works preserve the listed wall, the setting of the listed building or any features of special architectural or historic interest and whether the works would preserve or enhance the character and appearance of the area.

The formation of the proposed new vehicular access from the A814 will be through the existing random rubble stone wall which forms part of the southern boundary to the application site. The proposal is that the wall will be altered to provide the necessary 5.5m wide opening (4.5m road & 0.5m verge on each side). The wall will be splayed and returned into the new entrance for a distance of approx. 4.5m. The wall will be re-instated to match the height of the existing stone wall (approx. 800mm high from adjacent pavement level) with the same stone and design as currently constructed.

The Council’s Design and Conservation Officer was consulted on the proposals and has summarised;

“there would be no significant issue in principal in terms of the character or appearance of the conservation area or the character or special interest of the listed building.”

Historic Environment Scotland (HES) were also consulted on the proposals in relation to the nearby category A listed Ardencaple Hotel) and have noted that they do not have any comments to make in regards to this application.

A fully detailed assessment with reference to the above determining factors, and all other material considerations and material planning issues raised by third party representations (not addressed above) are set out in the Appendix A to this report.

Having regard to all material considerations it is considered that the proposal is acceptable.

RECOMMENDATION:

It is recommended that Listed Building Consent be granted subject to the conditions and reasons on the following page.

Author of Report: Emma Jane **Date:** 07.05.2024

Reviewing Officer: Kirsty Sweeney **Date:** 07.05.2024

Fergus Murray
Head of Development & Economic Growth



CONDITIONS AND REASONS RELATIVE TO APPLICATION 23/01503/LIB

1. Notwithstanding the effect of condition 1; the works permitted to which this consent relates must be begun within three years from the date of this permission.

Reason: *to comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.*

2. The development shall be implemented in accordance with the details specified on the application form dated 28/07/2023; supporting information and, the approved drawings listed in the table below.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 8	-	01.08.2023
Existing Site Plan	2 of 8	-	01.08.2023
Existing Site Cross Section and Photographs	3 of 8	-	01.08.2023
Proposed Site Plan	4 of 8	C	22.08.2023
Proposed Site Cross Sections	5 of 8	-	01.08.2023
Proposed Site Cross Section Access Wall Elevation and Layout Plan	6 of 8	-	01.08.2023
Proposed Sightline Plan	7 of 8	C	01.08.2023
Supporting Statement	8 of 8	-	01.08.2023

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

3. Notwithstanding the effect of condition 1; Samples of the replacement stone to be used for the of the development hereby granted consent shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site.

Reason: *To ensure that the materials to be used on the external surfaces of the listed wall complement and match the existing wall.*

4. Notwithstanding the effect of condition 1; any replacement stone shall match the detailing including joint thickness of the existing listed stone wall.

Reason: *To ensure that the materials to be used on the external surfaces of the listed wall complement and match the existing wall.*

5. Notwithstanding the effect of condition 1; should any gateposts be formed additional details of these shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site.

Reason: *To ensure that the materials to be used on the external surfaces of the listed wall complement and match the existing wall.*

NOTE TO APPLICANT

N/A



COMMITTEE REPORT	
APPENDIX A – RELATIVE TO APPLICATION NUMBER:	23/01503/LIB
LISTED BUILDING CONSENT POLICY ASSESSMENT: 23/001503/LIB	

1. Main Assessment

1. Listed building consent is sought for the formation of a new vehicular access through an existing stone wall at; Land Between Lagarie Lodge and Lagarie House, Torwoodhill Road, Rhu. The proposal lies within the Rhu Conservation Area and the residential property adjacent to the West, “Lagarie House” is a Category “B” listed building. Additionally, within the vicinity is the Category “A” listed “Ardencaple Hotel”. Listed Building Consent is sought for the alterations to the existing stone wall as it is deemed that the wall is Category “B” listed by way of curtilage in relation to “Lagarie House”.
 - 1.1. Section 14(2) of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 states that there shall be special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Also, Section 64(1) of the aforementioned Act requires special attention to the desirability of preserving or enhancing the character or appearance of the Rhu Conservation Area, in which the wall is located. As such the determining factor is the impact of the alteration of wall on the historic environment, in particular whether the works preserve the listed wall, the setting of the listed building or any features of special architectural or historic interest and whether the works would preserve or enhance the character and appearance of the area.
 - 1.2. The formation of the proposed new vehicular access from the A814 will be through the existing random rubble stone wall which forms part of the southern boundary to the application site. The proposal is that the wall will be altered to provide the necessary 5.5m wide opening (4.5m road & 0.5m verge on each side). The wall will be splayed and returned into the new entrance for a distance of approx. 4.5m. The wall will be re-instated to match the height of the existing stone wall (approx. 800mm high from adjacent pavement level) with the same stone and design as currently constructed. It is noted that the existing stone wall appears to span along the majority of the frontage of the settlement area of Rhu and the A814, as such it is indicative of the settlement and the conservation area. At various points there are junctions, private vehicular accesses and pedestrian accesses taken through this wall.
 - 1.3. NPF4 Policy 7 (Historic assets and places) generally seeks to protect and enhance the historic environment, assets and places, and to enable positive change as a catalyst for the regeneration of places.
 - 1.4. NPF4 Policy 7(a) requires that development proposals with a potentially significant impact on historic assets or places be accompanied by an assessment based on an understanding of the cultural significance of the asset and/or place. Development will only be supported where the character and appearance of the conservation area is preserved or enhanced. It is noted that officers are satisfied that the proposals have met the policy requirements of NPF4 Policy 7(a) and have included an appropriate assessment within the submitted design and access statement relative to the accompanying planning application reference; 23/01502/PP.
 - 1.5. NPF4 Policy 7(c) requires that development proposals affecting the setting of a listed building preserve its character, and its special architectural or historic interest. LDP2 Policy 16 (Listed Buildings) add to this that that development must be of the highest quality, and respect the original structure in terms of setting, scale, design, materials and proposed use.

- 1.6. NPF4 Policy 7(d) requires that development proposals in a conservation area will only be supported when the character or appearance of the conservation area is preserved or enhanced. Relevant considerations include the architectural and historic character of the area; existing density, built form and layout; context and siting, quality of design and suitable materials. LDP2 Policy 17 (Conservation Areas) broadly reflects this.
- 1.7. The HES guidance 'Managing Change in the Historic Environment Boundaries' sets out the principles that apply and how they should inform planning policies. It states that walls form important elements in defining the character of historic buildings, conservation areas and designed landscapes. Age, design, materials and associated features are amongst the factors that contribute to the interest of historic boundaries. Walls often use local building materials or local traditions so new work should seek to maintain this wherever possible. Alternative locations for access may have less impact on a boundary and provide safer approaches for vehicles. The formation of a new opening needs to be considered in light of the overall composition of the boundary and assessed as to whether it would be consistent with the existing design. Where the formation of a new opening is found to be consistent, the minimum of historic fabric should be lost and the opening should normally be detailed to match the existing openings.
- 1.8. The Council's Design and Conservation Officer was consulted on the proposals and has summarised;

"The proposal involves alteration to form an opening in the wall which is listed as part of the curtilage of Lagarie House. This relates to a separate a separate application to erect a dwellinghouse in the grounds of Lagarie House (23/01502/PP) for which I have provided comments on separately.

In terms of this application, there would be no significant issue in principal in terms of the character or appearance of the conservation area or the character or special interest of the listed building. However Planning Conditions should be included in terms of the following:

- Existing stone is to be used in the same manner, to include matching of joint thicknesses*
- If any new stone is required to supplement the existing then samples of this should be provided*
- Should gateposts be proposed to be formed then details of these should be provided"*

- 1.9. Historic Environment Scotland (HES) were also consulted on the proposals in relation to the nearby category A listed Ardencaple Hotel (please note that Historic Environment Scotland do not advise on matters relating to category B or C listed properties and this is a matter for the councils design and conservation officer, which has been detailed above) and have noted that they do not have any comments to make in regards to this application.
- 1.10. As stated above, although the listed wall is a prominent feature along the frontage of Rhu, there are already numerous similar vehicular and pedestrian entrances that make an insertion through the wall. Therefore, it is not considered that an additional access would have a negative impact on the surrounding conservation area or would affect the setting of nearby listed properties. It will result in the minimum amount of wall being removed and the proposed returns will be detailed to match the existing wall. It is therefore recommended that the matters specified by the Design and Conservation Officer are secured via condition and this will ensure the detailing is to a high standard in keeping with the existing wall.

2. Conclusion

- 2.1. In conclusion, officers are satisfied that the proposed development, by reason of siting, scale, form and architectural style is of a sufficiently high standard and will preserve the character and appearance of this part of the Rhu Conservation Area and will not have an adverse impact on character of surrounding listed properties in accordance with NPF 4 Policy 7, LDP2 Policy 16, LDP2 Policy 17 and relevant HES guidance on development impact on historic assets.

2.2. On the basis of the above it is confirmed that having regard to all material considerations it is considered that the proposal is acceptable, therefore, it is recommended that listed building consent be granted.



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Location Plan Relative to Planning Application: 23/01503/LIB



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

This report is a recommended response to the Scottish Government's Energy Consents and Deployment Unit (ECDU) consultation on the Section 36 Application to construct and operate Breackerie Wind Farm, on land approximately 8km south west of Campbeltown.

Reference No: 23/02230/S36/ECU00004507

Applicant: The Scottish Government on behalf of EnergieKontor UK Ltd

Proposal: Electricity Act Section 36 consultation relevant to Breackerie Wind Farm

Site Address: Land approximately 8km south west of Campbeltown, Argyll & Bute

(A) Section 36 application made up of the following elements:

- Construction, 35 year operation and subsequent decommissioning, of up to 13 wind turbines with a tip height of up to 200m (approximately 85.8MW)
- Associated turbine compound areas including foundations and hardstanding areas for erecting cranes at each turbine location;
- On-site tracks connecting each turbine, using existing forestry tracks where appropriate (approximately 4.02km) and construction of new tracks elsewhere (approximately 7.47km);
- An energy storage compound to store batteries with a 5MW capacity;
- Underground cables linking the turbines to the substation;
- Use of up to four onsite existing borrow pits;
- A temporary construction compound including provision for onsite concrete batching;
- On-site 132kv substation;
- Forestry felling and restocking; and
- Habitat Management provisions

The grid connection does not form part of the section 36 application for the Proposed Development. Any required consent for the grid connection would typically be sought by the relevant owner of the local distribution or transmission network. The Network Operator would be responsible for the consenting, construction and operation and maintenance of the grid connection.

(B) RECOMMENDATION:

That the ECU be notified accordingly that:

- 1. Argyll & Bute Council does not object to the proposed development subject to the inclusion of conditions recommended by consultees being included in any consent.**
- 2. Argyll & Bute Council further recommends the following conditions and provisions for legal agreements as discussed with the applicant to mitigate the specific impacts of the Breackerie Wind Farm proposal:**
 - **Revision of height and/or location of T7 and T9 in consultation with Argyll and Bute Council to reduce landscape and visual impact and heritage impacts;**

- **Aviation detection lighting system to avoid the visual impact on the dark skies of the Mull of Kintyre;**
 - **Reduced wind turbine micro-siting allowance of other wind turbines to 50m to ensure no change from assessed proposal;**
 - **Delivery of 80 ha compensatory biodiversity enhancement measures at Largiebaan Nature Reserve and consideration of further on-site compensatory planting; and**
 - **Noise protection measures (AM and fixed minimum limits).**
- 3. Regarding the outstanding Aviation matters, Argyll & Bute Council would defer to the expert advice of National Air Traffic Systems and Glasgow Prestwick Airport to resolve these matters with the ECU.**

(C) CONSULTATIONS:

ENERGY CONSENT UNIT RESPONSES:

NatureScot (28th March 2024) – advised the ECU that the Proposal does not raise issues of National Interest, however NatureScot summarise the following key considerations:

- Significant landscape and visual effects, including potentially weakening the distinctive character of the Mull of Kintyre as a relatively undeveloped and remote area with well expressed qualities of remoteness/ seclusion and high scenic quality;
- Potential operational effects on bats requiring further post construction monitoring and potentially additional ‘feathering’ to minimise bat collision; and
- Lack of detail on mitigation and proposed biodiversity enhancement measures, particularly in relation to 1.41 ha of potentially affected habitat of Blanket bog which is identified as a priority habitat in the UK BAP, Scottish Biodiversity List and Annex 1 of the ‘Habitats Directive’.
- Ornithological matters - concerns regarding the quality of the survey work and subsequent assessment.

NatureScot advises the ECU to encourage a reduction in turbine height with the aim of reducing visibility/ intrusion on the currently undeveloped skyline; especially where the turbines impinge into smaller scale settled landscapes/ highly scenic coastal panoramas. NatureScot also confirms (6th May 2024) that the proposed height reduction to turbines T7 and T9 would not alter its previous advice.

Transport Scotland (TS) (21st November 2023) - advised the ECU they have no objection. TS requests that conditions are attached in the event that the proposal receives consent relating to: an Abnormal Loads Assessment; approval of the proposed route for any abnormal loads; accommodation measures (removal of street furniture, junction widening, traffic management); additional signing or temporary traffic control measures must be undertaken by a recognised Quality Assured traffic management consultant; abnormal load delivery trial run; Construction Traffic Management Plan (CTMP); sheeting of all vehicles transporting construction material; vehicle wheel cleansing facilities; and a Decommissioning Plan.

Scottish Forestry (SF) (19th December 2023) – advised the ECU they support the proposal for key-holing and habitat improvements within the forest, although this will involve a large-scale intervention of 196ha tree felling. It is noted that this felling provides an opportunity to improve the diversity of the woodland, particularly through extending habitat networks and connecting to the proposed peatland restoration. They

recommend the use of planning conditions to secure a revised forest plan for Slate forest and a detailed compensatory planting condition alongside a Long Term Forest Management Plan. The following queries are raised:

- The applicant should confirm no broadleaf felling will be taking place;
- The applicant should confirm the timber haulage for the 218+52 hectares has been covered in the transport section in addition to the timescales and proposed access routes for felling.

Applicant response (2nd May 2024) – confirms no plans for removal of broadleaves and sets out detail of the proposed timber haulage routes and time periods. Deliveries / movements would be captured in the CTMP as per normal.

Scottish Environment Protection Agency (SEPA) (15th January 2024) – advised the ECU they have no objection and request conditions relating to: schedule of mitigation; a 50m buffer around all water bodies and water course crossings; a detailed site-specific Peat Management Plan (PMP) to detail maintain the hydrological condition of the area between T5 and T9 due to the presence of relatively deep peat and M6. The Peat Management Plan includes the use of floating tracks and micro-siting where possible between turbines T5 and T7 but these measures should be extended to T9 due to the presence of M6 (mire); ensuring the peat surplus from excavations is used for peatland restoration as detailed in the Habitat Management Plan; Borrow pit restoration; Finalised Habitat Management Plan; Private water supplies; and micro-siting.

Historic Environment Scotland (HES) (28th March 2024) – advised the ECU they do not object to the proposal but have identified EIA significant effects on the setting of two scheduled monuments in the vicinity of the proposed development, Lochorodale, long cairn 1000m NW of (SM3653) and Lochorodale, long cairn 505m SW of (SM3654). HS identifies the following mitigation which would reduce this level of effect:

- The deletion of turbines T6, T7, T8 and T9 or substantial height reduction and/or relocation to an area of the development further from the cairn would reduce the level of effect on the setting of the SM3653.
- The deletion or reduction in height or relocation of turbines, T7 and T8, that align broadly with the axis of the cairn would reduce the level of effect on the setting of Lochorodale, long cairn 505m SW of (SM3654).

HES response to proposed revisions (3rd May 2024) welcome the consideration of changes and advises that the proposed revisions to turbines 7 and 9 would not make a material alteration to the impacts on the setting of the two scheduled monuments. HES confirm that the suggested revisions would not raise issues of national interest.

Marine Directorate (4th December 2023) – advised that the fish habitat surveys carried out in winter 2022/23 found that the watercourses draining the proposed development site provide suitable habitat for salmonid fish. Advise planning condition to secure an integrated water quality and aquatic biota monitoring programme, with a monitoring programme which follows MD-SEDD guidelines and includes fully quantitative electrofishing surveys in all watercourses which are at risk of an impact and at control sites where an impact is unlikely. Key hydrochemical parameters should be recorded at a minimum of monthly intervals at sites where fish surveys are carried out. Monitoring should commence at least one year prior to construction commencing and continue during construction and for at least one year after construction is complete.

Royal Society for the Protection of Birds (RSPB) (26th January 2024) – does not object to the proposals and welcomes the siting of the majority of the proposal's

infrastructure within commercial forestry plantation (considered low biodiversity value) but requested further information. RSPB welcomes the submission of the Outline Habitat Management Plan and the proposed Bird Protection Plan and Open Ground Management, but suggest additional planting to help reduce the attractiveness of key-holed areas to Hen Harriers. Further queries related to the targeted survey results, cumulative impacts and proposed levels of mitigation vs. enhancement.

Applicant response to RSPB (12th February 2024) – provided further information on ornithology surveys to confirm compliance with NatureScot Guidance and set out the methodology for assessing cumulative impacts. Further detail was also provided on the proposed peat restoration which was noted to include both restoration *and* enhancement.

Argyll District Salmon Fishery Board (9th March 2024) – advised that the proposed wind farm is located within the headwaters of the Breakerie Water (Abhainn Breacairigh) and the Conieglen Water, both of which support important populations of Atlantic salmon and sea trout. The fish habitat survey conducted by Argyll Fisheries Trust (Technical Appendix 8.4) identify habitats for migratory salmonids adjacent to and immediately downstream of the proposed development site. Therefore, Argyll DSFB request that pre and post construction monitoring of fish populations and macroinvertebrates in these watercourses (as prescribed by Marine Directorate) should be undertaken if the site is given permission to be developed. We would strongly recommend that these guidelines are fully considered throughout the proposed development to demonstrate that the interests of Argyll DSFB have been protected.

Scottish Water (9th November 2023) – advised the ECU they have no objection. This does not confirm the proposal can be serviced. Advice is provided on: drinking water protected areas and surface water.

Defence Infrastructure Organisation (17th November 2023) – advised the ECU they have no objection subject to the following conditions: Aviation lighting and Aviation Charting and Safety Management.

Joint Radio Company Limited (9th November 2023) – advised the ECU no potential problems are foreseen based on known interference scenarios and the data provided. However, if any details of the wind farm change, particularly the disposition or scale of any turbine(s), it will be necessary to re-evaluate the proposal.

Glasgow Airport (13th November 2023) – advised the ECU the proposal is located outwith the consultation area and as such no comment to make and need not be consulted further.

National Air Traffic Services Safeguarding (NATS) (9th November 2023) – advised the ECU the proposal has been examined by their technical safeguarding teams and a technical impact is anticipated on Prestwick Centre ATC and Military ATC, this has been deemed to be unacceptable. Accordingly, NATS issued a safeguarding objection to the proposal.

Glasgow Prestwick Airport (GPA) (23rd November 2023) – advised the ECU that the proposal raises an aviation safety concern which may create an operational impact on the Airport as an Air Navigation Services Provider (ANSP). As a result a standard holding objection has been raised until all technical and operational aviation safety matters detailed above are addressed to the satisfaction of the Airport, any aviation

safety measures dictated by the Airport Wind Farm Safeguarding Process are implemented, and a mitigation agreement is put in place for the life of the windfarm. The Airport noted that it would be able to remove the holding objection should the proposed radar line of sight assessment indicate that no turbines were visible to the GPA PSR(s).

Applicant's response to GPA and NATS (email - 2nd May 2024) – further technical work is being undertaken to resolve the issues raised, including a VHF report. Following these reports, mitigation contracts will be drawn up between the applicant and both NATS and GPA to ensure no impact on aviation matters – following which the objections will be withdrawn. This is an approach that has been previously adopted for other wind farm applications (e.g. Rowan Wind Farm (insert ref)). It is further noted that the resolution of aviation matters is within the remit of the ECU rather than the local planning authority.

Highlands & Islands Airport Limited (HIAL) (13th December 2023) – advised the ECU that at the given position and height, this development would not infringe the safeguarding criteria and operation of Campbeltown Airport and therefore no objection is raised.

Defence Infrastructure Organisation (17th November 2023) – advised the ECU they have no objection subject to the following conditions: Aviation lighting and Aviation Charting and Safety Management to maintain aviation safety.

Crown Estate Scotland (25th February 2024) - confirm that the assets of Crown Estate Scotland are not affected by this proposal and we therefore have no comments to make.

Ironside Farrar (Environmental Consultants on behalf of Scottish Government ECU to audit Peat Landslide Hazard Risk Assessment (PLHRA)) (21st March 2024) – advised the ECU that the PLHRA requires resubmission there are significant shortcomings throughout the PLHRA and reworking of the PLHRA report is required to support a robust assessment; areas for attention will be advised in the review findings and outline guidance offered to support the developer in preparing a satisfactory PLHRA.

Applicant response to IF: this is a process that is a matter for the ECU rather than the local planning authority and a revised PLHRA will be submitted to the ECU accordingly before any decision.

Campbeltown Community Council (17th December 2023) – have objected to the proposal on the following grounds: impact on the last wild area of Mull of Kintyre; landscape impact on the Mull of Kintyre Area of Panoramic Quality; cumulative impacts on the tourism industry (particularly the dark skies and walkers/hikers) and related impacts on tourism employment; concerns over traffic volumes on B842 and B843 and potential incidents blocking access; and impacts on peat deposits and impact on ground water supplies.

ARGYLL & BUTE COUNCIL RESPONSES

ABC Consultant Landscape Architect Review (17th April 2024) – concludes that this proposal would have some significant adverse effects on landscape character and on views although its location in a less sensitive larger scale forested upland landscape, its siting in a slight dip between rolling hills (which affords a degree of

screening) and its distance from more sensitive landscapes and key visual receptors generally reduces the magnitude of these effects.

A number of mitigation measures were identified that could potentially improve the appearance of the wind farm and also provide optimum outcomes for biodiversity and landscape character. Discussions have taken place with the applicant on the following measures:

- A reduction in the height of Turbines 7 and 9 to mitigate intrusion experienced in views from the sensitive southern coast of the LLA. *The applicant has produced a wireline showing a reduction in the height of these two most prominent turbines from 200m to 180m.*
- An alternative option to relocate these two turbines (retaining them at 200m height) to a lower position so more of the tower is screened by the ridge. *Following review of the wireline produced 20/3/24 by the applicant a further reduction of turbines 7 and 9 to 180m would be beneficial but that further measures to reduce their prominence should be undertaken. This should either involve a further reduction in the height of these two turbines (<180m) or relocation of the two 180m high turbines further down the slope to the north-east to benefit from greater screening of towers by Achnaslishaig Hill.*

The Landscape Consultant recommended the following conditions:

- An Aircraft Detection Lighting System would substantially reduce the duration and impact of night-time lighting.
- Micro-siting of turbines to 50m (the applicant is seeking a 100m micro-siting allowance) due to the steeply rolling nature of the proposal site where even relatively small adjustments to the location of some turbines could potentially result in a loss of landform screening and greater visual intrusion of turbines in key views.

In addition, the applicant was asked to consider more ambitious landscape and biodiversity mitigation and enhancement package of proposals in line with the aims of NPF4 Policy 3. The Landscape Architect noted that the proposed wind farm should be used as an opportunity to form a catalyst to effect quicker and more far-reaching improvements to biodiversity and landscape within the proposed development site.

Applicant response to Landscape Architect (10th April 2024) – in addition to the restoration of peat habitats, proposals to deliver 80 ha of new Atlantic Rainforest with enhanced biodiversity and compensatory planting at the Largiebaan Nature Reserve have been progressed with the Scottish Wildlife Trust (SWT) This would comprise 52.93 hectares of compensatory planting and a further 27.07 hectares as an off-site biodiversity enhancement measures. We would be agreeable to a condition that requires confirmation of mitigation and enhancement measures down under a suspensive condition.

ABC Roads & Amenity Services (24th November 2023) – comments were provided should the site be accessed from the C10 Glenbreackerie Road: 1. There would be no financial contribution from Argyll & Bute Council towards the work required to facilitate the works or make good any damage directly attributable to the construction of the wind farm. 2. The applicant should be made aware that they will be responsible for making good any damage to the public road which is directly attributable to the construction of the wind farm. Further comments were made in relation to the proposed use of the U38 Moss Road and the B843 to transport several thousand tonnes of material due as the single track road would not be able to sustain the regular HGV

movements anticipated. Further comments were made in relation to the proposed use of the U10 Glenbreackerie Road which is a narrow, lightly constructed, single-track road with passing places and as such identified as a Severely Restricted Route with a TTMP in place. A holding objection was raised in relation to the proposed use of these roads and it was requested that the applicant review the Traffic Management Plan (TMP).

Applicant's response to ABC Roads & Amenity Services advice (1st March 2024) provided confirmation that the U38 Moss Road route would not be used for general HGV traffic and instead the designated access for such traffic would be via the A83 trunk road and then the B843. The applicant noted it would accept a condition on the use of Moss Road for general construction traffic with the designated route being via the A83 and B843 and that a prescriptive CTMP condition could be used to designate routes to be used and avoided for construction access.

Further information was provided on the proposed routes for abnormal loads (of which there will be around 368 movements) including on the unclassified C10 Glenbervie Road and a package of necessary upgrades including verge widening to 5 m will be required for a length of 1.2 km. The applicant noted it is content to accept a planning condition on the technical approval process with Argyll & Bute Council along with a scheme of mitigation for the C10 Glenbervie Road to be agreed post-consent; and a wear and tear agreement. The applicant also provided further information on the site access junction where the private windfarm access meets the C10 Glenbervie Road to demonstrate the proposed junction design to widen the minor arm of the junction to 6m to allow two HGVs to pass and resurface the first 15m of the road in tarmac.

Further comments from ABC Roads & Amenity Services (22nd March 2024) Reiterated previous comments made in relation to the U38 Moss Road and C10 Glenbreackerie Road. No objection subject to the following conditions: U38 to be used for abnormal loads only; all contractors to be made aware of U38 to be used for abnormal loads only; applicant is to inspect and submit a U38 and C10 mitigation report prior to any works starting; carriageway widening, strengthening, surfacing and additional passing places for the proposed U38 Moss Road and U10 Glenbreackerie Road (including new passing place signs); temporary carriageway widening to be soiled and reseeded on completion of construction works; all street furniture required to be removed is to be replaced with new; Traffic Management Plan to be submitted; a detailed Method Statement to be submitted; A detailed condition survey to be carried out on all haul routes between the A83 Tarbet - Campbeltown Trunk Road and the application site; and, the public road between the A83 Tarbet - Campbeltown Trunk Road and the application site to have weekly inspections.

It was also noted that the applicant will be responsible for the cost of carrying out repairs to the carriageway which are directly attributable to the works, as they appear. Construction details for repairs to carriageway to be agreed with Roads & Infrastructure Services, prior to any work starting on site. The Roads Engineer has also highlighted the following notes for intimation to the Applicant: a Section 96 Legal Agreement will be required and connection of site access to public road to be agreed with Roads & Infrastructure Services, prior to any work starting on site.

ABC Flood Risk Assessor ABC Flood Prevention Officer (12th December 2023) – no objections subject to conditions to ensure that: watercourse crossings should not reduce the existing capacity of the channel, and ideally designed to convey the 1 in 200 year plus climate change (46% allowance) flood event; and surface water drainage should be designed in accordance with CIRIA C753 and ensure that post development surface water runoff does not exceed the pre-development surface

water runoff. The surface water drainage should be in operation prior to the start of construction.

ABC Access Team (2nd May 2024) – noted that the Kintyre way passes several wind farms along its route and one more is unlikely to have a significant impact. Provided comments relating to public access and recommendations for maintaining public access during both construction and operation.

ABC Noise Consultant (5th March 2024) – concludes that in general, good practice has been adopted by the Applicant and further information requested on the sound power levels of the turbines and assessment of operational noise. A lower limit for the night-time period is recommended, and two options have been suggested for consideration. Following a satisfactory response to the above issues from the Applicant, it is considered that there would be no reasons to object to the scheme on noise grounds. A suitably worded condition to limit the noise levels, tonality and amplitude modulation should be applied to control noise levels from the proposed scheme. It is expected that conditions relating to approve the final turbine selection will already be included as it relates to other aspects than noise alone.

Applicant's Noise Consultant (TNEI) response to ABC Noise Consultant's advice (8th April 2024) – provided clarifications on the candidate turbine sound power level data for the unconstrained and noise reduced operational modes; the use of noise reduced operational modes; the calibration dates presented on one of the Field Data Sheets and further information on the equipment used for the baseline background noise survey. Rejected the need for an Amplitude Modulation condition and the recommended lower night time fixed minimum limits, stating that Statutory Nuisance powers should be used to address any noise complaints and that a night time fixed minimum limit of 35 dB LA90 would be unduly restrictive to the renewable energy output of the Proposed Development.

ABC Noise Consultant (16th April 2024) - responded they are satisfied with additional evidence provided adequate demonstration of the likely noise levels from the scheme; the ability of the proposed turbine to be controlled as necessary in certain wind speeds (as required) and the evidence equipment and calibration used for the background noise survey is in accordance with good practice. It is the view of the Council's Noise Consultant that planning conditions relating to Amplitude Modulation and lower fixed limit of 38 dB LA90 should be applied to consent.

West of Scotland Archaeology Service (2nd February 2024) – support Historic Environment Scotland (HES) advice concerning the effect of the proposals on the setting of Scheduled Ancient Monuments (SAMs) in the surrounding landscape. Advises that both Lochorodale cairn SAMs (SM3653, SM3654) will suffer a significant detrimental effect on the ability to appreciate the monuments in an entirely rural landscape setting when visiting the sites themselves and on approach from the NE on the road. Advised the ECU that the proposed mitigation set out in the EIA cultural heritage chapter would reduce any significant effect and these measures should be secured through conditional consent.

Please note: the above are summaries and the full consultee responses can be viewed on the Energy Consent Unit and Argyll & Bute Council websites.

(D) REPRESENTATIONS:

As the Council is not the determining Authority all letters of representation are considered by the Energy Consents Unit. At time of writing, public representation figures stand at 9 objections, which are published on the ECU website. The main issues raised are summarised below:

- Concerns over safety, speed and noise issues on the single track access road;
- Adverse landscape and visual impact Intrusive impact of turbine, out of scale in the landscape;
- Cumulative significant landscape impact with High Dalrioch Wind Farm
- Adverse impact on wildlife;
- Adverse impact on ornithology, including migratory birds;
- Adverse impact on tourism;
- Impact of aviation lighting on dark skies;
- Lack of Community Consultation;
- Poor local communication/consultation;
- Concerns over the impact of pylons to transport energy;
- Kintyre turning into an industrial landscape;
- Impact on wild space, local nature reserve at Largiebaan and SSSI;
- Concerns over construction impacts;
- Single track access road is inadequate;
- Loss of amenity value of the proposed site;
- Impact on the nature-based economy; and
- More wind farms will not reduce demand for energy.

Public Consultation – Whilst not a statutory requirement for Section 36 applications, the applicant has undertaken Public Consultation. Further information on this is contained in the Breackerie Pre-Application Consultation (PAC) Report (October 2023) which is available on the ECU website (reference: ECU00004507).

Note: the comments raised above are addressed in the assessment of the proposal at Appendix A of this report. The letters of representation above have been summarised and that the full letters of representations are available on the Energy Consents Units website.

(E) SUPPORTING INFORMATION

Has the application been the subject of:

- i) **Environmental Impact Assessment Report (EIAR):** Yes

EIAR (October 2023) presented in 4 volumes:

- Volume 1: Written Statement
- Volume 2: Figures
- Volume 3: Visualisations
- Volume 4: Technical Appendices

Key matters covered in the EIAR include: Introduction; EIA Methodology; Project Description; Design Evolution; Renewable Energy & Planning Policy; Landscape & Visual; Socio-economics & Tourism; Ecology; Ornithology; Hydrology, Hydrogeology, Geology and Peat; Cultural Heritage; Noise; Traffic and Transport; Forestry; Other Issues; and Schedule of Mitigation.

The EIA Report should also be read in context with the following documents:

- EIA Non-Technical Summary (NTS)
 - Planning Statement
 - Pre-Application Consultation Report (PAC Report)
 - Design and Access Statement (DAS) which illustrates the approach to design and access.
- ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- iii) **A design or design/access statement:** Yes (October 2023)
- iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc.:** All relevant reports are encompassed within the EIAR

(F) Statutory Development Plan (NPF4 and LDP) and any other material considerations over and above those listed above which have been taken into account in the assessment of the application:

Members are asked to note in the context of the Local Development Plan (LDP) and planning process that this application has been submitted to the Scottish Government under Section 36 (S36) of the Electricity Act 1989. As part of the S36 application process, the applicant is also seeking that the Scottish Ministers issue a Direction under Section 57 (2) of the Town and Country Planning (Scotland) Act 1997 that deemed planning permission be granted for the proposal. In such instances, the LDP is not the starting point for consideration of S36 applications, as Sections 25 and 37 of the Town and Country Planning (Scotland) Act 1997 which establish the primacy of LDP policy in decision-making, are not engaged in the deemed consent process associated with Electricity Act applications. Nonetheless, the adopted Argyll & Bute LDP2 2024 still remains an important material consideration informing the Council's response to the proposal.

Schedule 9 of the Electricity Act does require both the applicant and the decision-maker to have regard to the preservation of amenity. It requires that in the formulation of proposals the prospective developer shall have regard to:

(a) the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiological features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

Similarly, it obliges the Scottish Ministers in their capacity as decision maker to have regard to the desirability of the matters at a) and the extent to which the applicant has complied with the duty at b). Consideration of the proposal against both the effect of NPF4 and the adopted Argyll & Bute LDP2 2024 will ensure that proper consideration is given by the Council to the extent which the proposal satisfies these Schedule 9 duties.

- (i) **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 11 – Energy

Liveable Places

NPF4 Policy 22 – Flood Risk and Water Management

NPF4 Policy 23 – Health and Safety

Productive Places

NPF4 Policy 25 – Community Wealth Building

NPF4 Policy 26 – Business and Industry

NPF4 Policy 29 – Rural Development

NPF4 Policy 30 – Tourism

NPF4 Policy 33 – Minerals

Annex B – National Statements of Need

3. Strategic Renewable Electricity Generation and Transmission Infrastructure

[Argyll and Bute Local Development Plan 2 \(Adopted 2024\)](#)

Spatial and Settlement Strategy

Policy 02 – Outwith Settlement Areas

Policy 04 – Sustainable Development

High Quality Places

Policy 08 – Sustainable Siting

Policy 09 – Sustainable Design

Policy 14 – Bad Neighbour Development

Policy 16 – Listed Buildings

Policy 19 – Scheduled Monuments

Policy 21 – Sites of Archaeological Importance

Diverse and Sustainable Economy

Policy 22 – Economic Development

Policy 23 – Tourism Development, Accommodation, Infrastructure and Facilities

Policy 26 – Informal Public Outdoor Recreation and Leisure Related Development

Policy 30 – The Sustainable Growth of Renewables

Connected Places

Policy 36 – New Private Accesses

Policy 37 – Development Utilising an Existing Private Access or Existing Private Road

Policy 38 – Construction Standards for Public Roads

Policy 39 – Construction Standards for Private Accesses

Policy 41 – Off Site Highway Improvements

Sustainable Communities

Policy 55 – Flooding

Policy 56 – Land Erosion

Policy 57 – Risk Appraisals

Policy 62 – Drainage Impact Assessments

High Quality Environment

Policy 71 – Development Impact on Local Landscape Areas (LLA's)

Policy 73 – Development Impact on Habitats, Species and Biodiversity

Policy 77 – Forestry, Woodland and Trees

Policy 78 – Woodland Removal

Policy 79 – Protection of Soil and Peat Resources

Local Development Plan 2 Schedules

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

- Third Party Representations
- Consultation Responses
- Planning History
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- [TN06 Sustainability Technical Note and Checklist \(Oct. 2023\)](#)
- [TN21 VII and LVIA Light Technical Note \(Oct. 2023\)](#)
- [TN07 Sustainable Buildings Technical Note and Checklist \(Oct. 2023\)](#)
- [ABC Landscape Studies](#)
- [ABC Economic Development Action Plan](#)
- [SEPA Standing Guidance for Development Management \(Dec. 2022\)](#)
- Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
- The Future of Energy in Scotland: Scottish Energy Strategy, Scottish Government (December 2017)
- Onshore wind policy statement, Scottish Government (January 2017)
- Historic Environment Policy for Scotland (HEPS) (April 2019)
- The Scottish Government's Policy on 'Control of Woodland Removal' (Forestry Commission Scotland 2009)
- SNH Review 78 – Landscape Assessment of Argyll and the Firth of Clyde (1996)
- SNH Siting and Designing Wind Farms in the Landscape Guidance, (August 2017)
- Guidance for Landscape and Visual Impact Assessment, 3rd Edition, Landscape Institute and Institute of Environmental Management & Assessment, (2013);
- Onshore Wind Turbines: Planning Advice, Scottish Government (May 2014).
- Planning Advice Note 1/2011: 'Planning and Noise'

- Scottish Government Good Practice Principles for Shared Ownership and Community Benefit of Onshore Renewable Energy Developments;
- Views of statutory and other consultees
- Planning history of the site
- Legitimate public concern or support expressed on relevant planning matters

(G) Has the application been the subject of statutory pre-application consultation (PAC): Although PAC is not required for S36 applications a PAC Report (October 2023) is submitted in support of the application.

(H) Does the Council have an interest in the site: No

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

(J) Is the proposal consistent with the Development Plan: Yes

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

Author of Report: Shelley Gould

Date: 9th May 2024

Reviewing Officer: Sandra Davies

Date: 9th May 2024

Fergus Murray

Head of Development and Economic Growth

COMMITTEE REPORT

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 23/02230/S36

PLANNING LAND USE AND POLICY ASSESSMENT

1. THE SECTION 36 CONSENTING REGIME

- 1.1 In Scotland, any application to construct or operate an onshore power generating station, in this case, a renewable energy development with an installed capacity of over 50 megawatts (MW) requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Any ministerial authorisation given would include a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of a consultee along with various other consultation bodies.
- 1.2 It is open to the Council to either support or object to the proposal, and to recommend conditions it would wish to see imposed in the event that authorisation is given by the Scottish Government. In the event of an objection being raised by the Council, the Scottish Ministers are obliged to convene a Public Local Inquiry (PLI) if they are minded to approve the proposal. They can also choose to hold a PLI in other circumstances at their own discretion. Such an Inquiry would be conducted by a Reporter(s) appointed by the Directorate for Planning and Environmental Appeals. In the event that consent is given, either where there has been no objection from the Council, or where objections have been overruled following PLI, the Council as Planning Authority would become responsible for the agreement of matters pursuant to conditions, and for the ongoing monitoring and enforcement of such conditions.
- 1.3 This report reviews the policy considerations which are applicable to this proposal and the planning merits of the development, the views of bodies consulted by the Scottish Government along with other consultations undertaken by the Council, and 3rd party opinion expressed to the Scottish Government following publicity of the application by them. It recommends views to be conveyed to the Scottish Government on behalf of the Council before a final decision is taken on the matter. The conclusion of this report is to recommend that the Council does not raise an Objection to this Section 36 consultation for the reasons detailed in this report.

2. SUPPORTING THE SUSTAINABLE GROWTH OF RENEWABLES

- 2.1 The Scottish Government has set ambitious targets for renewable energy generation and the reduction of carbon emissions to achieve net zero by 2045 (Climate Change (Emissions Reduction Targets) (Scotland) Act 2019). To support the delivery of renewable energy generation, the Scottish Government included 'Strategic Renewable Electricity Generation and Transmission Infrastructure' as 'national development' in the National Planning Framework 4 (NPF4) to enable 'a large and rapid increase in electricity generation from renewable sources'. As a 'national development' the principle of development does not need to be agreed in later consenting processes.
- 2.2 NPF4 Policy 1 – Tackling the climate and nature crises is an overarching policy which requires that when considering all development proposals significant weight will be given to the global climate and nature crises. Argyll & Bute Council declared a climate emergency in 2021 and in line with the provisions of NPF4 the 2024 Local Development Framework 2 (LDP2) expects all developments to make a positive contribution to meeting the Scottish Government's targets for renewable energy generation. The Council will therefore support renewable energy developments where

these are consistent with the principles of sustainable development and it can be adequately demonstrated that there would be no unacceptable significant adverse effects.

- 2.3 This proposal has been assessed primarily against the criterion in the two lead Statutory Development Plan policies relating to renewable energy as follows:

NPF4 Policy 11 – Energy requires that, in considering the impacts of the proposal, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.

LDP2 Policy 30 – Supporting the Sustainable Growth of Renewables requires that renewable energy developments are consistent with the principles of sustainable development. It should also be adequately demonstrated that there would be no unacceptable environmental effects, whether individual or cumulative, on local communities, natural and historic environments, landscape character and visual amenity, and that the proposals would be compatible with adjacent land uses. The policy further sets out that applications for all wind turbine developments will be assessed against the following criteria:

- Impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker;
- Landscape and visual impacts;
- Effects on the natural heritage, including birds;
- Impacts on carbon rich soils, using the carbon calculator;
- Public access, including impact on long distance walking and cycling routes and those scenic routes identified in the NPF;
- Impacts on the historic environment, including scheduled monuments, listed buildings and their settings;
- Impacts on tourism and recreation;
- Impacts on aviation and defence interests and seismological recording;
- Impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;
- Impacts on road traffic and adjacent trunk roads;
- Effects on hydrology, the water environment and flood risk; Cumulative impacts arising from all of the considerations above;
- Net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities;
- The scale of contribution to renewable energy generation targets;
- Effect on greenhouse gas emissions; and
- Impacts on trees, woods and forests.

- 2.4 In assessing any application LDP2 Policy 30 sets out that the Council will additionally have regard to the opportunities for energy storage, local energy networks, and long term environmental management of the site.

Contribution to renewable energy generation targets and greenhouse gas emissions

- 2.5 The Proposed Development would generate renewable electricity and would therefore displace carbon dioxide (CO₂) emissions associated with electricity generation, which would otherwise be supplied via other forms of power generation requiring the combustion of fossil fuels. The Scottish Government Carbon Calculator for Wind Farm on Peatlands has been used to calculate a payback period for the Proposed

Development based on the full development lifecycle. The results of this assessment indicate that the Proposed Development would have an expected payback period of 2.8 years compared to grid mix of electricity generation and would save approximately 157,802 tonnes of carbon dioxide per year (compared to a typical grid mix of electricity supply). This equates to supplying 93,811 homes annually with renewable electricity and a lifetime carbon savings of over 12.7Mt of CO₂e.

- 2.6 When decision makers are considering the impacts detailed in NPF4 Policy 11 they need to give significant weight to the contribution of the proposed development to renewable energy generation targets and on GHG emissions reduction targets. The Onshore Wind Policy Statement (2017) sets a minimum target of 20GW of deployed onshore wind by 2030 which is an additional 12GW. In addition, NPF4 Policy 1 – Tackling the climate and nature crises states that significant weight is to be given to the global climate and nature crises when considering all development proposals.

Grid capacity and energy storage

- 2.7 NPF4 Policy 11 – Energy requires that grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts arising from opportunities for energy storage.
- 2.8 This proposal includes a 5 MW battery energy storage system (BESS). The benefit of such a system would be to store energy from the proposal or excess electricity from the national grid, providing stability to the electricity supply network, meeting energy demands and providing improved energy security.

Having due regard to the above it is considered that the proposal by its very nature is consistent with the provisions of NPF4 Policy 1 – Tackling the climate and nature crises, NPF4 Policy 11 – Energy and LDP Policy 30 – The Sustainable Growth of Renewables which establish the primary policy framework for assessing wind farms.

3. SETTLEMENT STRATEGY

- 3.1 LDP2 Policy 02 – Outwith Settlement Areas states that outwith the settlement areas shown on the proposals map, development will only be acceptable where it accords with being located within a Countryside Area, a Remote Countryside Area, or within the Helensburgh and Lomond Green Belt subject to the criteria available. In the case of the site, it is located within a Remote Countryside Area (as per the Kintyre Proposals Map). Under part (i) of subcategory B, only specific categories of development on appropriate sites will be generally be supported, including renewable energy related development.
- 3.2 In principle, LDP2 Policy 02 supports renewable energy and ancillary developments Remote Countryside Areas, providing they accord with all other relevant policies. Policy 02 draws particular attention to the need for development proposals to accord with LDP2 Policies 70 to 76 with respect to landscape and the natural environment and sets out that development proposals will also be required to demonstrate that there will be no unacceptable adverse effects (either individually or cumulatively) on natural heritage resources, built and/or cultural heritage resources, and landscape and visual amenity.

- 3.3 LDP2 Policy 04 - Sustainable Development further sets out that in preparing new development proposals, the developer should seek to demonstrate sustainable development principles including (as relevant to this proposal) to: a) maximise the opportunity for community benefit; i) respect the landscape character of an area; j) avoid places with significant risk of flooding... or ground instability; and k) avoid having a significant adverse impacts on land, air and water environment. The Breackerie Wind Farm application is supported by an Environmental Impact Assessment Report (EIAR) which sets out in detail the measures proposed to ensure the proposal is 'Sustainable Development'.
- 3.4 The submitted EIAR demonstrates that the scale and location of the proposal, does not produce adverse consequences in terms of landscape & visual impact (including cumulative) and that the significant effects caused are mitigated through the wider biodiversity and habitat creation measures proposed. For the reasons detailed in sections 4 to 22 of this report, it is considered that this proposal satisfies Development Plan Policy in relation to Settlement Strategy and Sustainable Development.

Having due regard to the above this proposal is consistent with the provisions of NPF4, LDP2 Policy 02 - Outwith Settlement Areas and Policy 04 - Sustainable development.

4 . LOCATION, NATURE AND DESIGN OF PROPOSED DEVELOPMENT

- 4.1 Spanning approximately 1373 hectares (ha), the site is situated at the southern end of the Kintyre peninsula within an area of active commercial coniferous forestry. It is around 8km south-west of Campbeltown, approximately 5.5km north of Southend, and 5km south of Machrihanish. The core of the site comprises a basin created by the surrounding hills with the Lecknacrive Burn running generally north-west to south-east. The summit of Tirfergus Hill (260m AOD) to the north is outwith the site boundary, while the summits of Cnoc na Gabhar (239m AOD) and Cnoc Odhar (277m AOD) to the east, as well as Achnaslishaig Hill (307m AOD) to the south and The Slate (384m AOD) to the north-west all lie within the site boundary.
- 4.2 The landscape comprises a rolling plateau of densely forested hills, contrasting with local summits, with a small-scale valley to the immediate east which the B842 passes through. This contains most of the settlement within the area. Land to the west and south-west comprises steep coastal hills which drop steeply to the sea. To the north, the landform flattens into a broad lowland plain between Machrihanish and Campbeltown.
- 4.3 Settlement within the wider area is relatively sparse, with some small settlements, farms, and scattered residential properties located predominately to the eastern side of the site. Within 5km of the site, the small settlements of Machrihanish, Drumlemble, Stewarton, Killellan and Killeonan/Knocknaha are located to the north and north-east of the site. Other small settlements within 10km of the site include Kilchenzie to the north, Peninver to the north-east, and Millpark and Southend to the south-east.
- 4.4 The nearest trunk road is the A83, which terminates in Campbeltown. The B842 extends south of Campbeltown via Stewarton towards Southend and serves as the primary route south of Campbeltown. It passes the site approximately 1km to the east in a north-south orientation. The B843 extends east/west from Campbeltown to Machrihanish. There are a number of minor watercourses on the site including Allt Mor, Allt Brandon, Allt Seilich, Allt a Ghillean Dubh, Allt Airighe Glaise and Allt Criche, which flow into the Lecknacrive Burn. This runs in a generally south-easterly direction on

the site and feeds into the Breakerie Water to the south of the site. The site straddles a number of hillsides to form a rough bowl and as such is generally well drained with an absence of lochans or pools.

4.5 A local landscape designation covers the majority of the area south of Campbeltown including the site: the Mull of Kintyre Local Landscape Area. The Proposed Development would be the southern-most wind farm on the Kintyre Peninsula. However, there are a number of proposed, consented and operational wind farm developments located to the north of Campbeltown in addition to the proposed High Dalrioch wind farm to the north west of the site (just south of Campbeltown) which is currently at the scoping stage.

4.6 The main components of the proposed development are:

- Up to 13 turbines;
- Associated turbine compound areas including foundations and hardstanding areas for erecting cranes at each turbine location;
- On-site tracks connecting each turbine, using existing forestry tracks where appropriate (approximately 4.02km) and construction of new tracks elsewhere (approximately 7.47km);
- An energy storage compound to store batteries with a 5MW capacity which would be within the construction compound footprint;
- Underground cables linking the turbines to the substation;
- Use of up to four onsite existing borrow pits for the extraction of stone on-site;
- A temporary construction compound including provision for onsite concrete batching;
- On-site 132kv substation;
- Forestry felling and restocking; and
- Habitat Management provisions.

4.7 The proposed development would provide approximately 85.8 MW of installed capacity in addition to 5MW of battery storage capacity, depending on the turbine model chosen. It is estimated by the Applicant that this installed capacity could generate approximately 365,678MWh of renewable electricity each year. The proposed development would be time-limited to 35 years from the first date of commercial operation. The construction phase would last approximately eighteen months and decommissioning would last approximately six months.

4.8 Deemed planning permission is sought to permit a period of ten years between the date of the Decision Notice and expiry of consent (should works not be commenced) rather than the usual three years. This is to accommodate any potential grid delays.

4.9 Connection to Electricity Grid - The grid connection does not form part of the section 36 application for the Proposed Development. Any required consent for the grid connection would typically be sought by the relevant owner of the local distribution or transmission network. The Network Operator would be responsible for the consenting, construction and operation and maintenance of the grid connection.

Infrastructure

4.10 Scottish Water have advised the ECU that they have no objection to this proposal. This does not confirm the proposal can be serviced. Advice is also provided on: water assessment; foul assessment; drinking water protected areas and surface water.

- 4.11 Water Assessment – they have advised that there is no public Scottish Water, Water infrastructure within the vicinity of this proposed development therefore they would advise applicant to investigate private options.
- 4.12 Foul Assessment – they have advised that there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore they would advise applicant to investigate private treatment options.
- 4.13 Drinking Water Protected Areas – they have confirmed that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposal.
- 4.14 Surface Water - For reasons of sustainability and to protect customers from potential future sewer flooding, Scottish Water have advised that they will not accept any surface water connections into their combined sewer system.

5. NET ECONOMIC IMPACT, INCLUDING LOCAL AND COMMUNITY SOCIO-ECONOMIC BENEFITS

- 5.1 NPF4 Policy 11 – Energy states that proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. N LDP2 Policy 30 – Supporting the Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed in terms of net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.
- 5.2 The project would bring socio-economic benefits to the local community, including the creation of jobs and opportunities for local businesses and suppliers during the construction phase and for the lifetime of the project. The Applicant is also committed to paying a community benefit package of £5,000 per MW of installed capacity for every year of operation in line with current Scottish Government guidance. There are several options for distributing these funds for the benefit of the local community and the applicant is in active discussions with established Community Development Trusts. Community Benefit is not however, considered a ‘material planning consideration’ in the determination of planning applications. If consent were to be granted, the negotiation of any community benefit, either directly with the local community or under the auspices of the Council, would take place outside the application process.
- 5.3 Subject to further agreement, there are discussions ongoing between the Applicant and the neighbouring Largiebaan reserve owned and operated by the Scottish Wildlife Trust (SWT), to facilitate the planting of Atlantic rainforest as part of the off-site compensation required via forestry felling and replanting. This will provide an additional community benefit through required compensatory and biodiversity enhancement measures and should be secured through a planning condition.
- 5.4 **Having due regard to the above it is considered a degree of net economic impact, including local and community socio-economic benefits, typical of such developments will be provided. It is therefore concluded that the proposal is**

consistent with the provisions of NPF4 Policy 11 – Energy, Nand LDP2 Policy 30 – Supporting the Sustainable Growth of Renewables.

6. IMPACTS ON COMMUNITIES AND INDIVIDUAL DWELLINGS, INCLUDING RESIDENTIAL AMENITY, VISUAL IMPACT, NOISE AND SHADOW FLICKER

- 6.1 NPF4 Policy 11 – Energy requires that project design and mitigation will demonstrate how impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker have been addressed. LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed in terms of impacts on communities and individual dwellings, including visual impact, residential amenity, noise and shadow flicker (including cumulative).
- 6.2 Noise - Mott MacDonald Ltd (MM) and Alistair Somerville Associates were commissioned by Argyll & Bute Council to undertake a peer review of the noise assessment for the proposed Breackerie wind farm. This review included a desktop assessment against current good practice, a check of the predicted noise levels from the wind farm, and a site survey of the area surrounding the wind farm site including the nearest residential receptors. A report was produced which summarises the findings of the review, sought further information and suggested suitably worded conditions to limit the noise levels, tonality and amplitude modulation.
- 6.3 On 8th April 2024 the applicant provided additional information on the candidate turbine sound power level data for the unconstrained and noise reduced operational modes, details on the use of noise reduced operational modes, clarification on the calibration dates presented on one of the Field Data Sheets and further information on the equipment used for the baseline background noise survey. The applicant also disagreed with the proposed conditions relating to amplitude Modulation (AM), noting that these should be dealt with using Statutory Nuisance powers and that a night-time fixed limit of 35 dB LA90 is adopted then this would be unduly restrictive to the renewable energy output of the Proposed Development.
- 6.4 Further to the submission of this additional information, (16th April 2024) the Council's noise consultant has responded to confirm that the technical matters pertaining to the turbine power levels and mitigation and the background noise survey were satisfactorily resolved. The following planning conditions are required to mitigate the impact of noise on local communities:
- Amplitude Modulation - The Council's Noise Consultant confirms this condition is necessary as set out in the Mott MacDonald Report and in line with recently consented schemes by Scottish Ministers (Sanquhar II wind farm).
 - Fixed Minimum Limits - A lower fixed night-time limit of 38 dB LA90 (as accepted on other proposed schemes within Argyll and Bute) should be applied to ensure the effectiveness of the AM and tonality condition at night.
- 6.5 Shadow Flicker – there are only two properties in proximity to the site where shadow flicker effects are theoretically possible: Lochorodale Woods (the northernmost of the two properties to the northeast of T8) and Lochorodale (by the roadside). The former is financially involved with the project and is used as an occasional leisure base for a European-based landowner (and therefore not occupied year-round), whilst the latter is presently unoccupied and has been for several years (although is occupiable). When

applying corrections and allowances for the amount of sunlight received in Kintyre, no property would receive significant effects.

- 6.6 Any Residential Amenity and Visual Impact matters are considered below in the section on Significant Landscape & Visual Impact.
- 6.7 **Having due regard to the above it is concluded that the proposal complies with provisions of NPF4 Policy 11- Energy and LDP2 Policy 30 – The Sustainable Growth of Renewables relating to potential shadow flicker and noise impacts subject to the conditions referred to in paragraph 6.4 by the Council’s Noise Consultant being attached to any consent.**

7. SIGNIFICANT LANDSCAPE AND VISUAL IMPACTS

- 7.1 NPF4 Policy 11 – Energy requires that project design and mitigation demonstrates how significant landscape and visual impacts have been addressed, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable. NPF4 Policy 4 (a) – Natural Places states that proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported. LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against landscape and visual impacts. LDP2 Policy 71 – Development Impacts on Local Landscape Areas (LLA) states that the Council will resist development in or affecting LLAs where its scale, location or design will have a significant adverse impact on the character of the landscape. Proposals must demonstrate that any significant adverse effects on the landscape quality for which the area has been designated are clearly outweighed by social, economic or environmental benefits of community-wide importance.
- 7.2 The Council’s Consultant Landscape Architect, Carol Anderson has undertaken a Landscape & Visual Review of this proposal, which is based on examination of the Environmental Impact Assessment Report (EIAR) and site visits to identified key viewpoints. The term ‘Mull of Kintyre’ is used in the review to refer to the whole of the southern end of the Kintyre peninsula as this area has a distinct character which is different from the rest of the Kintyre peninsula.
- 7.3 Siting and design of the proposal: the Council’s landscape consultant agrees that the location of the wind farm in a shallow dip between rolling hills would generally reduce intrusion, particularly on the sensitive coasts of the Mull of Kintyre and that the proposal would fit with the simple character of landform and landcover of the site and its immediate surrounds. However, the Council’s consultant does not agree that the proposed turbines (at 200m high to blade tip) would fit with the scale of the landscape and in some close views they will appear overly large in relation to the relief of the hills they are located within. Mitigation has been agreed in outline with the applicant with the aim of reducing the dominant effects of some turbines in key views and this is addressed in the conclusions set out below.

- 7.4 Effects on landscape character - *The Mull of Kintyre Upland Forest Moor Mosaic* Landscape Character Type (LCT), within which the proposed development is located, has a large to medium scale. The rolling hills present in the core of this LCT are largely forested and have a generally simple landform and landcover pattern. These key characteristics reduce the susceptibility of much of this landscape although the complexity of the landform and landscape pattern increases (and the scale reduces) on the outer southern, eastern and northern fringes of these uplands where farmland and settlement are present. The coastal parts of this LCT are additionally complex and rugged with strong qualities of naturalness, and in the more remote high cliff coastal edges to the south-west and west, a distinct sense of wildness can be experienced. Susceptibility therefore varies significantly across the LCT. This LCT is covered by a local landscape designation and additionally accommodates the nationally important route of the Kintyre Way which increases the value associated with this landscape. Effects on the character of part of this LCT would be direct, significant and adverse.
- 7.5 There would be adverse significant indirect effects on the character of the adjacent *Hidden Glens LCT (Glen Breackerie)* where the proposal would be widely visible and the turbines would appear very large in relation to the small-medium scale of this narrow glen.
- 7.6 In terms of effects on wider seascape character (which takes into account the combination of sea, coastal edge and land), there would be visibility of the proposal from the expansive seas to the south and west of the Mull of Kintyre and from the northern part of the small and remote island of Sanda. The proposal would introduce man-made infrastructure into seascapes with a high degree of remoteness and naturalness diminishing the sense of wildness associated with the Mull of Kintyre. Effects on the character of this seascape are considered to be adverse but not significantly so because of the mitigating factors of the relatively limited extent of development visible (both vertical and horizontal), the location of the proposal 'sunk down' in a dip between hills (which generally reduces its prominence) and its distance from the coast and sea.
- 7.7 Effects on designated landscapes - Theoretical visibility of the proposal is shown on Figures 6.2a and 6.3a of the EIA. Beyond 10km of the proposal, visibility would principally extend across the sparsely settled southern hills of the Kintyre peninsula. There would be some visibility from the west coast of Kintyre but little visibility from the east coast. There would be extensive visibility across the sea to the west and north-west and to the south and south-east with the proposal seen at distances from around 5km. Within approximately 5-10km, visibility of the proposal from the north would be principally concentrated across the sparsely settled southern hills of the Kintyre peninsula, the farmed and settled lowlands and south-facing hill slopes between Campbeltown and Machrinhanish. There would be patchy visibility of the proposal from the southern coast and farmland of the Mull of Kintyre area and seen at distances of >4km. Closer to the development site, there would be views from minor public roads (one of these routes is aligned through the proposed wind farm site) and from the B842. There would be no visibility of the proposal from the remote and rugged south-western and western coast of the Mull of Kintyre.
- 7.8 This proposal would have some significant adverse effects on landscape character and on views although its location in a less sensitive larger scale forested upland landscape, its siting in a slight dip between rolling hills (which affords a degree of screening) and its distance from more sensitive landscapes and key visual receptors

generally reduces the magnitude of these effects. The proposal would be located in the Mull of Kintyre LLA. This LLA is likely to have been designated because of its diverse and dramatic coastal scenery. There would be significant adverse effects on some of the qualities likely to have formed the reasons for designation of the LLA but having appraised the extent and nature of these effects, I do not consider that the integrity of the designated area would be compromised.

- 7.9 In general, although effects would be significant in views from the north, for example from the A83 road (viewpoint 11) due to the introduction of new turbines in views where none are presently seen, the turbines would be seen on a lower section of a generally simple upland skyline reducing the severity of the effect. Similarly, while the proposal would be clearly visible from the beaches of Machrihanish and Westport (and seen at distances of around 6-10km) the location of the turbines away from the dramatic bluff formed by the high summits and cliffs of the western Mull of Kintyre is a mitigating factor reducing the magnitude of change. There would be visibility from the eastern part of Campbeltown (Viewpoint 12) but I consider that effects would not be significant due to the position of the turbines seen on a low section of skyline with some screening of turbine bases by landform.
- 7.10 Significant adverse effects on views would principally occur within approximately 10km of the proposed development and with the key effects being from the following locations:
- *The Kintyre Way Viewpoints 1, 2 and 5* illustrate views from the route but the proposal would also be seen in views from the unclassified road which forms part of this nationally important recreational route between Caskey Bay and Glen Breackerie (over a distance of between 3-4km) where the turbines would be prominent and would appear to overwhelm the relief of the rolling hills they are sited within. Turbines 7 and 9 would be particularly intrusive in views seen along the route from Keil Point travelling north-west into Glen Breackerie.
 - *The B842 Viewpoints 3 and 7* illustrate these views. The turbines would appear particularly dominant in Viewpoint 3 near Killellan and would overwhelm the relief of the rolling hills they are sited within with access road construction/widening clearly visible and adding to the magnitude of change. There would be similarly close views from the unclassified road which branches from the B842 to traverse the uplands and which would be aligned through the proposed wind farm site before dropping down to Glen Breackerie.
 - *Views from the sea to the south and from Sanda (Viewpoint 10)* illustrates likely views from the sea and the proposal's disruption of the present harmonious layered effect of hills which backdrop the coast. While the majority of turbine towers will be screened by landform (thereby reducing intrusion to some degree) I disagree with the judgement made in the LVIA that effects would not be significant given the scenic quality and intactness of the upland landscape which is free of detractors in these sea views. Similar visibility is predicted to extend across the northern part of Sanda (although it is accepted that few people visit this island due to restrictions imposed by its present owners).
 - *Ben Ghuilean (Viewpoint 9)* where views would be elevated and the proposal seen at 7.7km with access tracks, keyhole felling and turbines adding to the already unsightly forest operations and geometry of felling coupes.
- 7.11 Night-time lighting effects - Technical Appendix 6.4 of the EIA provides an assessment of night-time effects. Four visualisations showing night-time effects have been generated. The assessment concludes that there would be no significant effects

associated with night-time lighting from these viewpoints. The Mull of Kintyre is sparsely settled and has dark night skies. Our Consultant Landscape Architect considers that the LVIA under-estimates the likely effects of night-time lighting from Viewpoints 3 and 5. These viewpoints lie within the darker southern part of the study area unlike Viewpoints 7 and 14 (Stewarton and Westport Beach) where baseline lighting levels are increased due to the presence of Machrihanish airport, well-trafficked roads and Campbeltown. The duration of significant adverse effects would extend into night-time from Viewpoints 3 and 5, from Glen Breackerie and from temporary anchorages off Carskey Bay and near Sanda on the southern coast of the Mull of Kintyre.

- 7.12 Cumulative landscape and visual effects with other proposed wind farms - The proposal would introduce new wind farm development to the southern extremity of Kintyre. As such there would be few cumulative landscape and visual effects with operational and consented wind farms which are located further north on the peninsula >12km distance with relatively little intervisibility occurring between developments. There will however be adverse cumulative effects on sequential views from:
- The Kintyre Way with this proposal contributing to the increase in the incidence of close-by wind turbines having significant adverse effects on people walking the route.
 - The A83 between Tarbert and Campbeltown where the proposal would be seen sequentially with the operational Auchadaduie turbines and the Blary Hill and Tangy wind farms and the consented Tangy repowering, Clachaig Glen, Airigh and Rowan wind farms.
 - In views from Arran – although adverse in terms of extending extent of development the proposal would sit low on the skyline of Kintyre (thereby reducing prominence and intrusion) and the distinctive ‘bump’ of the Mull of Kintyre would remain largely unaffected in these views.
- 7.13 High Dalrioch wind farm proposal which lies approximately 5km from the Breackerie proposal has greatest potential to result in significant adverse cumulative landscape and visual effects in views from Campbeltown, Ben Ghuilean and from the farmed and settled lowlands between Campbeltown and Machrinhanish
- 7.14 Conclusions - Following an initial review of the proposal, including a field visit, a number of mitigation measures were identified that could potentially improve the appearance of the wind farm and also provide optimum outcomes for biodiversity and landscape character. Discussions have taken place with the applicant on the following measures:
- A reduction in the height of Turbines 7 and 9 to mitigate the degree of intrusion experienced in views from the sensitive southern coast of the LLA and when seen from the Kintyre Way where it is aligned in Glen Breackerie. The applicant has produced a wireline showing a reduction in the height of these two most prominent turbines from 200m to 180m.
 - Relocation of these two turbines (retaining them at 200m height) to a lower position so more of the tower is screened by the ridge. Following review of the revised wireline produced 20/3/24 by the applicant it appears a reduction of turbines 7 and 9 to 180m would be beneficial but that further measures to reduce their prominence should be undertaken. This should either involve a further reduction in the height of these two turbines (<180m) or relocation of the two 180m high turbines further down the slope to the north-east to benefit from greater screening of towers by Achnaslishaig Hill.

- 7.15 In addition, the applicant was asked to consider more ambitious landscape and biodiversity mitigation and enhancement proposals in line with the aims of NPF4 Policy 3 - Biodiversity. The measures set out in Technical Appendix 8.5 (Habitat Management Plan) principally relate to mitigation of the effects of the development rather than wider biodiversity enhancement. It is noted in Chapter 3 of the EIA (paragraph 3.66) that compensatory planting may involve the creation of Atlantic rainforest in the Largiebaan Reserve. In response to the Council's request, the applicant has set out a proposal to create 80 hectares of Atlantic rainforest on the Largiebaan Reserve subject to the agreement of the Scottish Wildlife Trust (SWT) (email dated 10/4/24). This would comprise 52.93 hectares of compensatory planting and a further 27.07 hectares as an off-site biodiversity enhancement measure. This would be a beneficial outcome in terms of biodiversity and these measures should be secured by planning condition or as part of the legal agreement.
- 7.16 While the location of the proposal in a productive forest is likely to limit scope for biodiversity enhancement, the Council's Landscape Consultant considers that the proposed wind farm should form a catalyst to effect quicker and more far-reaching improvement to uniform and, in places, poorly designed forestry. The planting of native woodlands (particularly to soften the often abrupt and angular edges of productive forestry in key views) and the creation of more extensive open space and riparian woodland along water courses within the Slate Forest landholding should be undertaken. These measures have not yet been addressed by the applicant and should also be considered as part of the outline habitat management plan and/or long term forest management plan to be secured by condition.
- 7.17 The effects of visible aviation lighting are also a concern and while it is accepted that the day-time effects of the proposal would be of far greater significance and would be likely to affect more people, the Mull of Kintyre area has notably dark skies which would be significantly diminished by this proposal. It is therefore also strongly recommended that an Aircraft Detection Lighting System should be installed at the earliest opportunity as this would substantially reduce the duration and impact of night-time lighting and this provision should be secured via planning condition.
- 7.18 It is also recommended that a condition should be put in place to limit micro-siting of turbines to 50m (the applicant is seeking a 100m micro-siting allowance). The reason for restricting the micro-siting allowance is because of the steeply rolling nature of the proposal site where even relatively small adjustments to the location of some turbines could potentially result in a loss of landform screening and greater visual intrusion of turbines in key views.
- 7.19 Key visualisations for the Committee to review include:
- Viewpoint 1: Kintyre Way, Glen Breackerie
 - Viewpoint 3: B842 near Killellan
 - Viewpoint 5: Minor road near Keil Point
 - Viewpoint 7: Stewarton
 - Viewpoint 9: Ben Ghulean
 - Viewpoint 10: Kintyre Express Ferry Route
 - Viewpoint 11: A83 between Kilkenzie and Drumore
 - Viewpoint 12: Campbeltown
 - Viewpoint 14: Westport beach
 - Night-time visualisations N3 and N5
 - Additional wireline visualisation produced by the applicant 20/3/24 from the sea to the west of the Mull of Kintyre

- The comparative wireline visualisations (Viewpoints 1-4, 10 and 14) should also be reviewed as these show the differences between the Proposal and the proposed reduction in height of turbines 7 and 9.

- 7.20 Applicant's response to ABC Landscape Comments – following discussions on options to improve visual effects from the south, additional wirelines were provided to demonstrate the difference from viewpoint 5 should T7 and T9 be limited to 180m in the current position. Noted these reductions in height would also reduce impacts on Scheduled Monuments as highlighted by HES. The applicant advised the ECU that they would agree to a condition to limit the overall height in m AOD of turbines 7 and 9 – either as a movement downhill but retaining the tip height at 200m, or if the turbines remain in their current position they would be limited to 180m to tip. The wording of the condition to be agreed at a later stage with the Council to be consulted on final co-ordinates.
- 7.21 In response to the requested uplift in biodiversity enhancements, the applicant provided further information on proposals to deliver 80 ha of enhanced biodiversity and compensatory planting at the Largiebaan Nature Reserve have been progressed with the Scottish Wildlife Trust (SWT) to deliver compensatory planting in the form of 80ha new Atlantic rainforest in the Largiebaan Reserve (email dated 10/4/24). This would comprise 52.93 hectares of compensatory planting and a further 27.07 hectares as an off-site biodiversity enhancement measures.
- 7.22 NatureScot have provided the ECU with the following landscape advice (summary) –
- The Mull of Kintyre has its own distinctive regional character which forms a marked contrast to the rest of the Kintyre peninsula and contains no consented large-scale wind farm developments. The Proposal would introduce wind farm development within the northwestern uplands of the Mull of Kintyre, south of the Campbeltown Plain. The value and scenic qualities of the Mull are recognised in part by the Argyll and Bute Council Mull of Kintyre Local Landscape Area (LLA) designation.
 - The introduction of wind farm development into the Mull of Kintyre would reduce the marked contrast with the length of the Kintyre peninsula where wind farm development is concentrated, potentially weakening the distinctive character of the Mull of Kintyre as a relatively undeveloped and remote area. Our advice focusses on significant adverse effects in relation to the Mull of Kintyre. The Proposal will diminish the experience of the Mull of Kintyre as a discrete area with a strong sense of arrival, well expressed qualities of remoteness/ seclusion and high scenic quality.
 - While the Proposal would have significant adverse landscape and visual effects it does not meet the threshold of national interest in line with our guidance.
 - Advised the Determining Authority to encourage the Applicant to explore a reduction in turbine height with the aim of reducing visibility/ intrusion on the currently undeveloped skyline; especially where the turbines impinge into smaller scale settled landscapes/ highly scenic coastal panoramas.
 - It should be noted the potential for significant cumulative interactions would be a future consideration for any similar applications within the Mull of Kintyre and the potential significant erosion of distinctive regional character.
- 7.23 Historic Environment Scotland (HES) - have provided the following landscape advice (summary) – advised the ECU they do not object to the proposal but have identified EIA significant effects on the setting of two scheduled monuments in the vicinity of the proposed development, Lochorodale, long cairn 1000m NW of (SM3653) and

Lochorodale, long cairn 505m SW of (SM3654). We have identified mitigation which would help to reduce this level of effect:

- the deletion of turbines T6, T7, T8 and T9 or substantial height reduction and/or relocation to an area of the development further from the cairn would reduce the level of effect on the setting of the SM3653.
- the deletion or reduction in height or relocation of turbines, T7 and T8, that align broadly with the axis of the cairn would reduce the level of effect on the setting of Lochorodale, long cairn 505m SW of (SM3654).

7.24 Officer's Conclusion – based on the advice of the Council's Consultant Landscape Architect the impact of this Proposed Development does not warrant an objection on landscape and visual impact grounds. Assessment of the impact on the Mull of Kintyre LLA have found that the proposal would not damage the integrity of the area or the qualities for which it has been identified. In addition, the applicant has reduced the impact of turbines 7&9 through a lowering of 180m in height and has agreed to further reduce the impact on these turbines through micrositing. Additional landscape and biodiversity benefits have also been agreed as part of an overall package to mitigate the landscape and visual impact and deliver local social and environmental benefits.

7.25 The concerns raised by NatureScot and HES are noted and will be a matter for the Energy Consents Unit to consider/resolve prior to Scottish Ministers reaching a decision on this application.

7.26 **Having due regard to the above and the changes made to mitigate the significant effects on the landscape it is concluded that provided these changes are secured through the use of planning conditions, the proposal complies with the provisions of NPF4 Policy 11 – Energy and NPF4 Policy 4 – Natural Places, and LDP2 Policy 30 – The Sustainable Growth of renewables, LDP2 Policy 71 – Development Impacts on Local Landscape Areas (LLA) and ABWECS (2017).**

8. IMPACTS ON TOURISM AND RECREATION

8.1 NPF4 Policy 11 – Energy does not require Impacts on tourism to be considered, however LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts on tourism and recreation.

8.2 Impacts on tourism and recreation – In Argyll & Bute the landscape is regarded as being a particularly valued asset both in terms of its intrinsic qualities and in terms of its value to the tourism economy. For all types of development the maintenance of landscape character is an important facet of decision-making in the countryside, regardless of the scale of development proposed. LDP2 identifies impacts on tourism and recreation as a material consideration in the assessment of renewable energy developments on the basis that inappropriate developments with significant adverse effects which contribute to the degradation of landscape character are unlikely to be in the interests of the Argyll tourism economy.

8.3 As Tourism and Landscape & Visual matters are intrinsically linked, and there is little evidence to demonstrate whether or not wind farms adversely affect tourism, it is considered that such impacts are covered in the landscape and visual impact assessment of the proposal. The assessment provided demonstrates that the proposals will not visually impact upon any of the top 5 free or paid for tourism

attractions in Argyll and Bute. However, the LVIA does identify significant impacts on local tourist and recreation receptors in the operational phases, including:

- one tourist accommodation property (Kilchrist Castle Cottages);
- 4 land-based routes or groups of routes: Core Path C088(l) – Campbeltown to Claonaig; C092(a) Mull of Kintyre Lighthouse; C086 – Machrihanish to West Port; C087 (Sound of Kintyre Housing to beach); C447 (Darlochan to Stewarton, Campbeltown); and C448 (Stewarton to Clochkeil, Campbeltown).
- 1 public beach (Westport Beach); and
- one natural environment activity (Largiebaan Nature Reserve).

8.4 A number of representations have also been received to the ECU relating to the impact on tourism and walking routes, however, it is not considered that the impact of the proposed development would be significant.

8.5 **Having due regard to the above it is considered that the proposals is consistent with the provisions of NPF4 Policy 11 - Energy, NPF4 Policy 4 – Natural Places and LDP2 Policy 30 – The Sustainable Growth of Renewables, LDP2 Policy 32 Active Travel; Argyll and Bute Landscape Wind Energy Capacity Study 2017 LDP2 TN12 Technical Note: Renewable Energy.**

9. PUBLIC ACCESS

9.1 NPF4 Policy 11 – Energy requires that project design and mitigation demonstrates how impacts on public access are addressed, including impact on long distance walking and cycling routes and scenic routes. LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts on public access, including impact on long distance walking and cycling routes and those scenic routes identified in the NPF. LDP2 Policy 32 – Active Travel requires active travel and recreation to be integrated in developments from the start of the wider design process and existing active travel networks should be safeguarded and integrated with the development.

9.2 The Council's Access officer has noted that the whole area of the proposed windfarm is land where the public can exercise their legal rights of access, and people can only be excluded from land immediately around sites where construction is being carried out. Therefore the majority of the area should be open for the public throughout the construction period and any closures should affect the minimum area for the shortest period possible. People of all abilities can exercise their rights of access to walk, cycle or ride a horse, therefore bridle gates should be installed wherever it is necessary to install a locked gate or cattle grid. The Council has powers to require a landowner to install a bridle gate where the public's rights of access are obstructed by a locked gate or cattle grid.

Officer opinion: The proposal will be visible from some key routes, but will not have any adverse impact on public access and guidance has been provided to the applicant to maintain access for the public when appropriate.

9.3 **Having due regard to the above subject to a condition to secure an Access Management Plan in the event that consent is granted it is considered that the proposal is consistent with the provisions of NPF4 Policy 11- Energy, NPF4 Policy 4 – Natural Places and LDP2 Policy 30 – The Sustainable Growth of Renewables, LDP2 Policy 32 Active Travel;**

10. AVIATION AND DEFENCE INTERESTS INCLUDING SEISMOLOGICAL RECORDING

- 10.1 NPF4 Policy 11 – Energy requires that project design and mitigations demonstrates how impacts on aviation and defence interests including seismological recording have been addressed. LDP2 Policy 30 – The Sustainable Growth of Renewables requires impacts on aviation and defence interests and seismological recording and on telecommunications links to be addressed.
- 10.2 Highlands & Islands Airport Limited (HIAL) (13th December 2023) – advised the ECU that at the given position and height, this development would not infringe the safeguarding criteria and operation of Campbeltown Airport and therefore no objection is raised.
- 10.3 Defence Infrastructure Organisation (17th November 2023) – advised the ECU they have no objection subject to the following conditions: Aviation lighting and Aviation Charting and Safety Management to maintain aviation safety.
- 10.4 Glasgow Airport have advised the ECU the proposal advised the ECU the proposal is located outwith the consultation area and as such no comment to make and need not be consulted further.
- 10.5 **Glasgow Prestwick Airport (GPA)** (23rd November 2023) – advised the ECU that the proposal raises an aviation safety concern which may create an operational impact on the Airport as an Air Navigation Services Provider (ANSP). As a result a standard holding objection has been raised until all technical and operational aviation safety matters detailed above are addressed to the satisfaction of the Airport, any aviation safety measures dictated by the Airport Wind Farm Safeguarding Process are implemented, and a mitigation agreement is put in place for the life of the windfarm. The Airport noted that it would be able to remove the holding objection should the proposed radar line of sight assessment indicate that no turbines were visible to the GPA PSR(s).
- 10.6 **National Air Traffic Services Safeguarding (NATS)** 9th November 2023) – advised the ECU the proposal has been examined by their technical safeguarding teams and a technical impact is anticipated on Prestwick Centre ATC and Military ATC, this has been deemed to be unacceptable. Accordingly, NATS issued a safeguarding objection to the proposal.
- 10.7 **Applicant's response to GPA and NATS** (10th April 2024) – further technical work is being undertaken to resolve the issues raised, including a VHF report. Following these reports, mitigation contracts will be drawn up between the applicant and both NATS and GPA to ensure no impact on aviation matters and ensure the withdrawal of the holding objections. This is an approach that has been previously adopted for other wind farm applications (e.g. Rowan Wind Farm (insert ref)).
- 10.8 Further confirmation has been provided (7th May 2024) that GPA is optimistic that appropriate mitigation of these effects will be possible and that an agreement can be reached with the Applicant in respect of mitigation measures, which would allow GPA to withdraw its objection. NATS has also confirmed (9th May 2024) that they are confident that the implementation of the proposed 'blinking contract' will address the concerns effectively. It should also be noted that in the unlikely event the standing objection is not withdrawn by either NATS or GPA, aviation matters fall within the remit

of the ECU to resolve PRIOR to any decision by Scottish Ministers rather than with the local planning authority. For this reason, officers do not recommended a holding objection by the Council on aviation matters.

- 10.9 **Having due regard to the above, subject to the conditions recommended by the Ministry of Defence, it is concluded the proposal is consistent with the provisions of NPF4 Policy 11 – Energy, LDP2 Policy 30 – The Sustainable Growth of Renewables.**

11. TELECOMMUNICATIONS AND BROADCASTING INSTALLATIONS

- 11.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on telecommunications and broadcasting installations, have been addressed particularly, ensuring that transmission links are not compromised. LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts on telecommunications and broadcasting installations particularly ensuring that transmission links are not compromised.

- 11.2 Joint Radio Company Limited (9th November 2023) – advised the ECU no potential problems are foreseen based on known interference scenarios and the data provided. However, if any details of the wind farm change, particularly the disposition or scale of any turbine(s), it will be necessary to re-evaluate the proposal.

- 11.3 **Having due regard to the above it is concluded that the proposal will not have any adverse impacts on telecommunications, broadcasting installations and transmission links (including cumulative impacts) and is consistent with the provisions of NPF4 Policy 11- Energy and LDP2 Policy 30 – The Sustainable Growth of Renewables.**

12. ROAD TRAFFIC AND ADJACENT TRUNK ROADS

- 12.1 NPF4 Policy 11 – Energy requires that project design and mitigation demonstrates how impacts on road traffic and on adjacent trunk roads have been addressed, including during construction. LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts on road traffic and impacts on adjacent trunk roads.

- 12.2 Transport Scotland (TS) - advised the ECU they have no objection. TS requests that conditions are attached in the event that the proposal receives consent relating to: an Abnormal Loads Assessment; approval of the proposed route for any abnormal loads; accommodation measures (removal of street furniture, junction widening, traffic management); additional signing or temporary traffic control measures must be undertaken by a recognised Quality Assured traffic management consultant; abnormal load delivery trial run; Construction Traffic Management Plan (CTMP); sheeting of all vehicles transporting construction material; vehicle wheel cleansing facilities; and a Decommissioning Plan.

- 12.3 Following discussions between the Council's Roads Engineer and the applicant's Transport Consultant, further information has been provided to clarify the proposals to use U38 and C10 and no objection is raised. A number of conditions are requested to be attached to any consent granted: U38 to be used for abnormal loads only; all contractors to be made aware of U38 to be used for abnormal loads only; applicant is

to inspect and submit a U38 and C10 mitigation report prior to any works starting; carriageway widening, strengthening, surfacing and additional passing places for the proposed U38 Moss Road and U10 Glenbreakerie Road (including new passing place signs); temporary carriageway widening to be soiled and reseeded on completion of construction works; all removed street furniture to be replaced with new; Traffic Management Plan to include details of all materials, plant, equipment, components and labour required during the construction, operation and decommissioning phase; a detailed Method Statement in relation to access and transport of materials, plant and equipment; detailed condition survey to be carried out on all haul routes between the A83 Tarbet - Campbeltown Trunk Road and the application site; weekly carriageway inspections on the public road between the A83 Tarbet - Campbeltown Trunk Road. The applicant will be responsible for the cost of carrying out repairs to the carriageway which are directly attributable to the works, as they appear with details for repairs to carriageway to be agreed with Roads & Infrastructure Services, prior to any work starting on site.

- 12.4 The Roads Engineer has also highlighted the following notes for intimation to the Applicant: a Section 96 Legal Agreement will be required and connection of site access to public road to be agreed with Roads & Infrastructure Services, prior to any work starting on site.
- 12.5 **Having due regard to the above, subject to the relevant conditions being attached in the event that consent is granted it is concluded that the proposal is consistent with the provisions of Policy 11 – Energy of National Planning Framework 4, LDP2 Policy 30 – The Sustainable Growth of Renewables, LDP2 Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes and LDP2 Policy 38 – Construction Standards for Public Roads.**

13. HISTORIC ENVIRONMENT

- 13.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrates how impacts on the historic environment have been addressed. Policy 7 – Historic Assets and Places of NPF4 intent is to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places. Policy LDP 6 – Supporting the Sustainable Growth of Renewables of the Argyll & Bute Local Development Plan requires all applications for wind turbine developments to be assessed against impacts on the historic environment, including scheduled monuments, listed buildings and their settings. LDP2 Policy 19 – Scheduled Monuments and LDP2 Policy 16 – Listed Buildings provide further guidance on assessing development proposals against heritage impacts.
- 13.2 Historic Environment Scotland (HES) – advised the ECU they do not object to the proposal but have identified EIA significant effects on the setting of two scheduled monuments in the vicinity of the proposed development, Lochorodale, long cairn 1000m NW of (SM3653) and Lochorodale, long cairn 505m SW of (SM3654). HS identifies the following mitigation which would reduce this level of effect:
- The deletion of turbines T6, T7, T8 and T9 or substantial height reduction and/or relocation to an area of the development further from the cairn would reduce the level of effect on the setting of the SM3653.
 - The deletion or reduction in height or relocation of turbines, T7 and T8, that align broadly with the axis of the cairn would reduce the level of effect on the setting of Lochorodale, long cairn 505m SW of (SM3654).

- 13.4 In response to the proposed changes made to the Proposed Development to mitigate landscape and visual impact assessment, HES responded (3rd May 2024) that while they welcome the consideration of changes, the proposed revisions to the heights of turbines 7 and 9 to 180m would not make a material alteration to the impacts on the setting of the two scheduled monuments. HES confirm however that the suggested revisions would not raise issues of national interest.
- 13.5 The West of Scotland Archaeology Service (WOSAS) support Historic Environment Scotland (HES) advice concerning the effect of the proposals on the setting of Scheduled Ancient Monuments (SAMs) in the surrounding landscape. Advises that both Lochorodale cairn SAMs (SM3653, SM3654) will suffer a significant detrimental effect on the ability to appreciate the monuments in an entirely rural landscape setting when visiting the sites themselves and on approach from the NE on the road. Advised the ECU that the proposed mitigation set out in the EIA cultural heritage chapter would reduce any significant effect and these measures should be secured through conditional consent.
- 13.6 Listed buildings - There is one C listed building which falls within the zone of theoretical visibility (7 to 9 turbines visible) - Killenan lodge. Additional visualisations have been provided to demonstrate the impact of the proposals on the setting of this building and the Council's Design and Conservation officer has commented: *the historic importance of the gate lodge is connected to its function of protecting the main house itself (which in this case is now in ruin). Its historic setting would therefore primarily be inward to the house, rather than outward, and unlikely to be particularly affected unless there is a change of character in the immediate landscape. I would not consider that long views towards these turbine tips to notably affect this setting.* As such, the proposals are consistent with LDP2 Policy 16 – Listed Buildings.
- 13.7 **Having due regard to the above it is considered that the proposal is consistent with the provisions of NPF4 Policy 11 – Energy and Policy 7 – Historic Assets and LDP2 Policy 30 – Supporting the Sustainable Growth of Renewables, LDP2 Policy 19 – Scheduled Monuments, LDP2 Policy 16 – Listed Buildings.**

14. HYDROLOGY, THE WATER ENVIRONMENT AND FLOOD RISK

- 14.1 NPF4 Policy 11 – Energy requires that project design and mitigation demonstrates how effects on hydrology, the water environment and flood risk have been addressed. LDP2 Policy LDP 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts arising from effects on hydrology, the water environment and flood risk (including cumulative). LDP2 Policy 56 – Land Erosion and LDP2 Policy 57 - Risk Appraisals provide guidance on the type of development that will be generally permissible within specific flood risk areas and require flood risk assessments, drainage impact assessments, or land erosion risk appraisals to accompany application where required.
- 14.2 ABC Flood Risk Assessor (12th December 2023) – no objections subject to conditions to ensure that: watercourse crossings should not reduce the existing capacity of the channel, and ideally designed to convey the 1 in 200 year plus climate change (46% allowance) flood event; and surface water drainage should be designed in accordance with CIRIA C753 to ensure that post development surface water runoff does not exceed the pre-development surface water runoff. The surface water drainage should be in operation prior to the start of construction.

- 14.3 **Having due regard to the above, subject to the relevant conditions being attached in the event that consent is granted it is concluded that the proposal is consistent with the provisions of NPF4 Policy 11 – Energy, LDP2 Policy 30 – The Sustainable Growth of Renewables, LDP2 Policy 56 – Land Erosion and LDP2 Policy 57 - Risk Appraisals.**

15. NATURAL HERITAGE, INC. BIRDS

- 15.1 Policy 11 – Energy of NPF4 requires that project design and mitigation demonstrate how impacts on biodiversity, including birds have been addressed. Policy 3 – Biodiversity of NPF4 requires development proposals to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks. Policy 5 – Soils of NPF4 supports the generation of energy from renewable sources that optimises the contribution of the area to GHG emissions reduction targets on peatland, carbon-rich soils and priority peatland. A detailed site specific assessment will be required for development on peatland which will include the likely net effects of the development on climate emissions and loss of carbon. LDP2 Policy 30 – the Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts arising from effects on the natural heritage, including birds and to be assessed against impacts on carbon rich soils, using the carbon calculator (including cumulative). Policy 73 – Development Impact on Habitats, Species and Biodiversity requires Development proposals will be encouraged to incorporate, safeguard and enhance existing site biodiversity wherever possible.

Ornithology

- 15.2 NatureScot confirmed to the ECU that the Proposal will not raise issues of national interest with regards to the ornithological interest of the site but did raise queries regarding the survey work (including the age of data), inputs into the modelling process and subsequent assessment. The applicant has responded to these issues. NS also noted that increased monitoring for bat and bird carcasses at the operational stage would allow for mitigation to reduce the impact on biodiversity and requested that this be secured through the use of planning condition. NS also recommended revisions to the Outline Habitat Management Plan to create better habitat away from the key holed areas to reduce the attractiveness of the habitat for hen harriers, informed by existing habitat quality and any known history of nesting locally in line with emerging guidance.
- 15.3 RSPB has advised the ECU that it does not object to the proposals and welcomes the siting of the majority of the proposal's infrastructure within commercial forestry plantation (considered low biodiversity value). RSPB also suggest additional planting to help reduce the attractiveness of proposed key-holed areas to Hen Harriers. RSPB queried the balance of mitigation vs enhancement measure in line with NPF4 Policy 3 – Biodiversity and requested conditions to secure: a Bird Protection Plan; Habitat Management Plan; an Ecological Clerk of Works (ECoW); and, an appropriate programme of post-construction monitoring alongside any consent.

Peat

- 15.4 According to the submitted EIAR, most of the Proposed Development site is classed as Class 5 peat (where no peatland habitat is recorded, but where soils are carbon-rich and comprise deep peat).

- 15.5 Scottish Environment Protection Agency (SEPA) – advised the ECU they have no objection and requested conditions relating to: schedule of mitigation; a 50m buffer around all water bodies and water course crossings; a detailed site-specific Peat Management Plan (PMP) to detail maintain the hydrological condition of the area between T5 and T9 due to the presence of relatively deep peat and M6. The Peat Management Plan includes the use of floating tracks and micro-siting where possible between turbines T5 and T7 but we require these measures to be extended to T9 due to the presence of M6 (mire) AND ensure the peat surplus from excavations is used for peatland restoration as detailed in the Habitat Management Plan; Borrow pit restoration; Finalised Habitat Management Plan; Private water supplies; and micro-siting.
- 15.6 To ensure that any changes to the peat reuse proposals because of further post consent investigation are appropriate and in line with current guidance, SEPA request a condition requiring a detailed site-specific Peat Management Plan (PMP) for approval to the determining authority, in consultation with SEPA, at least two months prior to commencement of development. This should demonstrate how micro-siting and other measures have been used to further minimise peat disturbance following ground investigations and detailed design work.
- 15.7 **Ironside Farrar (Environmental Consultants on behalf of Scottish Government ECU to audit Peat Landslide Hazard Risk Assessment (PLHRA))** (21st March 2024) – advised the ECU that further information is required to support a robust assessment; areas for attention will be advised in the review findings and outline guidance offered to support the developer in preparing a satisfactory PLHRA. At time of writing further submissions have not yet been made, however it is noted that this will be a matter for the ECU to resolve with the applicant prior to any decisions being made by the Scottish Ministers on this proposal.

Borrow pits

- 15.8 The proposal seeks consent for use of up to four onsite existing borrow pits. NPF4 Policy 33 – Minerals states that development proposals for borrow pits will only be supported where: the proposal is tied to a specific project and is time-limited; the proposal complies with the mineral extraction criteria in Policy 33 taking into account the temporary nature of the development; and appropriate restoration proposals are enforceable and LDP2 Policy 31 – Minerals states that proposals for mineral extraction will generally be supported for borrow pits where the proposal is found to be acceptable after being assessed against National Planning Framework 4 Policy 33 criterion e). As noted above, conditions will be used to secure appropriate restoration proposals in line with SEPA recommendations.
- 15.9 Officer comment - Officers are satisfied to support the recommendation of SEPA, including suggested conditions in relation to peat matters and the restoration of borrow pits. In terms of ornithology, officers are content with the assessment and recommendations of NatureScot and RSPB, including the proposed conditions. Proposals to deliver additional 80ha compensatory planting to create new areas of Atlantic Rainforest within the Largiebaan Nature Reserve are also noted as making a positive contribution towards the natural heritage in the immediate area surrounding the proposed development site and these enhancement measures should be secured by planning condition or legal agreement with appropriate consultation with NatureScot and RSPB.

- 15.10 **Having due regard to the above, the proposal is consistent with the provisions of NPF4 Policy 11 – Energy, NPF4 Policy 3 – Biodiversity, NPF4 Policy 5 Soils and NPF4 Policy 31 – Minerals as well as LDP2 Policy 30 – The Sustainable Growth of renewables, LDP2 Policy 73 – Development Impact on Habitats, Species and Biodiversity, LDP2 Policy 79 – Protection of Soil and Peat Resources and LDP2 Policy 31 - Minerals.**

16. TREES, WOODS AND FORESTS

- 16.1 NPF4 Policy 11 – Energy requires that project design and mitigation will demonstrate how impacts on trees, woods and forests have been addressed. NPF4 Policy 6 – Forestry, woodland and Trees intent is to protect and expand forests, woodland and trees. LDP2 Policy 77 – Forestry, Woodland and Trees states: Removal of woodland resources will only be permitted where it would achieve significant and clearly defined additional public benefits. These benefits will be secured by attaching a planning condition or by requiring a developer to enter into a planning obligation. Where woodland, hedgerows or individual trees are removed in association with development, adequate provision must be made for the planting of new woodland resources, including compensatory planting in accordance with the sequential approach set out in LDP2 Policy 78 – Woodland Removal.
- 16.2 The proposed development is situated within an active commercial coniferous forestry plantation, dominated by sitka spruce. As a result of the proposed development, a total of 271.43ha would be required to accommodate the infrastructure footprint, buffer for bats, and management felling. A total of 218.5ha would subsequently be restocked on site, with 52.93ha requiring to be replaced as off-site compensation. Subject to further agreement, there are discussions ongoing between the Applicant and the neighbouring Largiebaan reserve owned and operated by the Scottish Wildlife Trust (SWT), to facilitate the planting of 80 ha Atlantic rainforest as part of the off-site compensation required via forestry felling and replanting and the Control of Woodland Policy.
- 16.3 This arrangement for compensatory planting would be in line with LDP2 Policy 78 which states that a sequential approach should be followed for all agreed compensatory planting with on site as the most favourable approach and offsite (within Argyll and Bute) as the next best option. Off-site compensatory planting must be set out in a compensatory planting plan approved by Scottish Forestry and should be conditioned as appropriate or dealt with through S75 or S69 agreements.
- 16.4 Scottish Forestry – advised the ECU they support the proposal for key-holing and habitat improvements within the forest, although this will involve a large-scale intervention of 196ha tree felling. It is noted that this felling provides an opportunity to improve the diversity of the woodland, particularly through extending habitat networks and connecting to the proposed peatland restoration. They recommend the use of planning conditions to secure a revised forest plan for Slate forest and a detailed compensatory planting condition.
- 16.5 **Having due regard to the above it is concluded that subject to the conditions recommended by Scottish Forestry being attached in the event that the proposal receives consent it is consistent with the provisions of NPF4 Policies 11 – Energy and 6 – Forestry, Woodland and Trees and LDP2 Policy 04 – Sustainable Development; LDP2 Policy 73 – Development Impact on Habitats, Species and Biodiversity, Policy 77 – Forestry, Woodland and Trees, LDP2 Policy 78 – Woodland Removal.**

17. DECOMMISSIONING, SITE RESTORATION AND QUALITY OF SITE RESTORATION PLANS

- 17.1 NPF4 Policy 11 – Energy (e) requires that project design and mitigation demonstrates how proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration have been addressed. It also requires that project design and mitigation demonstrates how the quality of site restoration plans have been addressed including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans. LDP2 Policy 30 – The Sustainable Growth of Renewables requires all applications for wind turbine developments to be assessed against impacts arising from the need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration and the need for a robust planning obligation to ensure that operators achieve site restoration.
- 17.2 At the end of the project’s operational life (approximately 35 years), a decision would be made as to whether to refurbish, remove, or replace the turbines. If refurbishment or replacement were to be chosen, relevant planning applications would be made. If a decision were to be taken to decommission the Proposed Development, this would entail the removal of all the turbine components, transformers, the substation and associated buildings. Access tracks and underground cables would be left in place and foundations removed to a depth of 0.5 m below ground level to avoid environmental impacts from removal.
- 17.3 A Decommissioning Plan would set out environmental protection measures and restoration principles which would be implemented. This Plan would be agreed with ABC but it is recommended that this matter is covered by planning conditions consistent with other projects across Argyll & Bute in the event that the proposal obtains consent from the ECU. It should be noted that a financial guarantee and bond will also be required - this bond will need to be reviewed by independent consultants every 5 years at the cost to the applicant.

Having due regard to the above it is concluded that subject to an appropriate condition being attached to secure decommissioning in the event that the proposal receives consent the proposal is consistent with the provisions of NPF4 Policy 11 – Energy and LDP2 Policy 30 – The Sustainable Growth of Renewables.

18. CUMULATIVE IMPACTS

- 18.1 NPF4 Policy 11 – Energy requires that project design and mitigation will demonstrate how cumulative impacts have been addressed. LDP2 Policy 30 – The Sustainable Growth of Renewables also requires cumulative impacts to be addressed. Any cumulative impacts are mostly related to landscape and visual impact, which have been covered in the preceding sections of this report.

19. PERPETUITY

- 19.1 Policy 11 – Energy of NPF4 requires that consents for development proposals may be time limited. Areas identified for wind farms are, however, expected to be suitable for use in perpetuity. It is acknowledged that areas identified for wind farms are expected to be suitable for use in perpetuity. **However, as the operational life of the Proposed Development would be 35 years, should consent be granted for this**

proposal Officers would expect it to be time limited to 35 years to reflect the life of the wind farm as detailed in the EIAR.

20. CONCLUSION

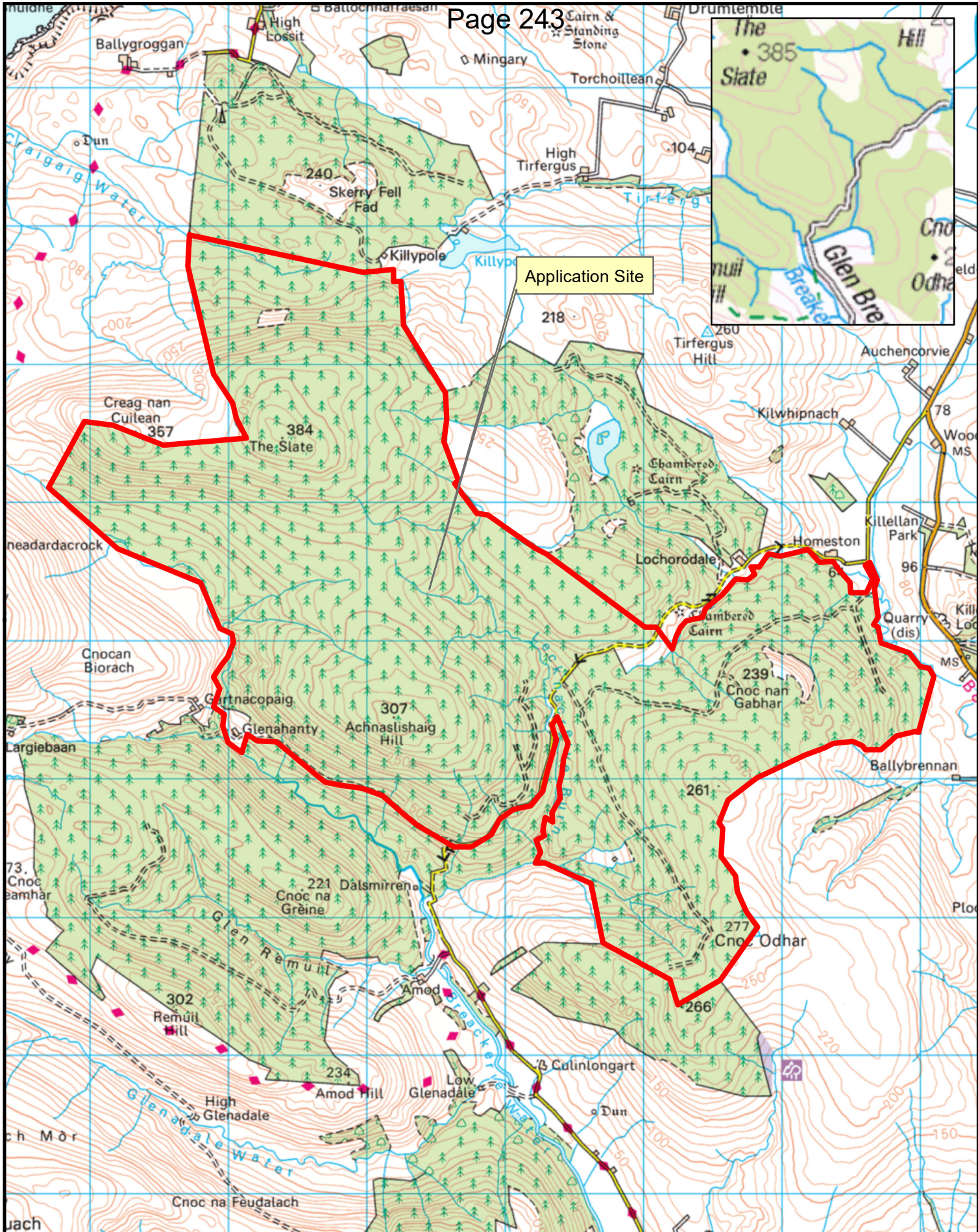
- 20.1 This proposal is classed as “Strategic Renewable Electricity Generation” - a National Development, due to its capacity to generate and store more than 50MW. The Scottish Government gives considerable commitment to the delivery of renewable energy given the priority set out in NPF4 to address the climate and biodiversity crises. It therefore encourages Planning Authorities to support the development of wind farms where they can operate successfully in appropriate locations. NPF4 is clear that significant weight should be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emission reduction targets. This proposal will result in the generation of 85.8MW energy and the reduction of 157,802 tonnes of carbon dioxide annually during its 35 year operational life.
- 20.2 However, while there is clearly ‘in principle’ support for this type of development, assessment against the wider provisions of the Development Plan, which includes NPF4 and the Argyll & Bute LDP2 is required to determine the impact of the proposal.
- 20.3 For Argyll and Bute Council, the visual impact on the landscape is a key consideration. In this instance, the Council’s Landscape Consultant has identified some significant adverse landscape and visual impacts, however, these are not considered to warrant an objection on landscape and visual impact grounds. NPF4 further advises that where impacts are localised and / or appropriate design mitigation has been applied (which is the case for this proposal where height reduction and possible relocation of T7 and T9 has been agreed) such effects will generally be considered acceptable. It is also noted that a package of enhanced biodiversity measures including the creation of 80 ha Atlantic Rainforest at Largiebaan has been agreed with the applicant and host site to mitigate and reduce these impacts.
- 20.4 Other matters relating to impacts of the Proposed Development on noise, roads, impacts on residential amenity, natural heritage, trees and woodland, soils, historic environment, roads and traffic, hydrology and flood risk, tourism and recreation, public access, telecommunications, including cumulative impacts have been assessed and found to be acceptable. Where negative effects have been identified, these have generally been found to be minor in nature and are either addressed through planning conditions or outweighed by social, environmental or economic benefits consistent with the provisions of the Development Plan in this regard.
- 20.5 Outstanding matters relate to aviation and peat landslide risk. However, these matters fall within the remit of the ECU to resolve appropriately with the applicant prior to any decision by Scottish Ministers. These are not grounds for objection by the Council.
- 20.6 In conclusion, it is recommended by Officers that the Council does not object to this application subject to the inclusion of any conditions recommended by consultees in any consent granted by the ECU. In addition to the standard conditions applied to most wind farm developments, the following conditions and provisions for legal agreements have been identified as necessary to mitigate the specific impacts of the Breackerie Wind Farm proposal:
- Revision of height and/or location of T7 and T9 in consultation with Argyll and Bute Council to reduce landscape and visual impact and heritage impacts;

- Aviation detection lighting system to avoid the impact on the dark skies of the Mull of Kintyre;
- Reduced wind turbine micro-siting allowance of 50m;
- Secure delivery of 80 ha compensatory biodiversity enhancement measures at Largibaan Nature Reserve and consideration of further on-site compensatory planting; and
- Noise protection measures (AM and fixed minimum limits).

21. RECOMMENDATION

That the ECU be notified accordingly that:

- 1. Argyll & Bute Council does not object to the proposed development subject to the inclusion of conditions recommended by consultees being included in any consent.**
- 2. Argyll & Bute Council further recommends the following conditions and provisions for legal agreements as discussed with the applicant to mitigate the specific impacts of the Breackerie Wind Farm proposal:**
 - **Revision of height and/or location of T7 and T9 in consultation with Argyll and Bute Council to reduce landscape and visual impact and heritage impacts;**
 - **Aviation detection lighting system to avoid the visual impact on the dark skies of the Mull of Kintyre;**
 - **Reduced wind turbine micro-siting allowance of other wind turbines to 50m to ensure no change from assessed proposal;**
 - **Delivery of 80 ha compensatory biodiversity enhancement measures at Largiebaan Nature Reserve and consideration of further on-site compensatory planting; and**
 - **Noise protection measures (AM and fixed minimum limits).**
- 3. Regarding the outstanding Aviation matters, Argyll & Bute Council would defer to the expert advice of National Air Traffic Systems and Glasgow Prestwick Airport to resolve these matters with the ECU.**



Location Plan Relative to Planning Application:23/02230/S36



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Argyll and Bute Council
Development and Economic Growth

PROPOSAL OF APPLICATION NOTICE (PAN)

Reference: 24/00580/PAN

Applicant: Ministry of Defence c/o Defence Infrastructure Organisation (DIO)

Proposal: Proposal of Application Notice for: Erection of 639 Single Living Accommodation (SLA) units for military personnel with associated service access road and engineering/infrastructure works

Site Address: H M Naval Base Clyde, Faslane, Helensburgh, G84 8HL

1.0 INTRODUCTION

Proposal of Application Notices only relate to National and Major Applications as defined by the Government's planning hierarchy and are a statutory requirement prior to the submission of the planning application in line with the provisions of the Planning etc (Scotland) Act 2006. The PAN marks the start of a minimum 12 week period to allow for community consultation before an application can be lodged and this PAN was made valid on 9.4.2024.

In considering this item, Members should restrict comments to issues relating to the material considerations which may be relevant in the determination of the proposed development and should refrain from expressing opinion as to the likely acceptability of development in advance of any subsequent application being presented for determination. Any opinions or views expressed by Councillors at the pre-application stage must be made mindful of the overarching requirements of fairness, impartiality and of keeping an open mind. The process provides opportunity for Officers to give feedback to the prospective applicant on issues which Members would wish to see addressed within the planning application submission.

The submitted information includes:

- Proposal of Application Notice
- Location Plan
- Copy of newspaper adverts

The Proposal of Application Notice describes the proposed development as "Erection of 639 Single Living Accommodation (SLA) units for military personnel with associated service access road and engineering/infrastructure works".

The applicant has confirmed the following consultation steps will be undertaken:

- a) Local Councillors were notified by email on 19.3.24.
- b) The following Community Councils were notified on 19.3.24: Garelochhead, Rosneath & Clynder, Rhu & Shandon and Cove & Kilcreggan.

- c) Two public meetings were held at Centre 81, Garelochhead on the 26th April & 17th May 2024 from 13:30 to 20:00.
- d) A press notice was placed in the Helensburgh Advertiser on the 18th April & 9th May, for the public meetings to be held as set out above.

Officers consider that the steps set out in the PAN are acceptable and in accordance with the requirements of the Regulations to ensure appropriate community consultation is undertaken.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

Based on the description of the development contained within the proposal of application notice, the forthcoming application is anticipated to comprise 639 single accommodation units comprised in 4 blocks of up to 3 stories:

- o Block 1.1 (176 SLA units)
- o Block 1.2 (209 SLA units)
- o Block 1.3 (126 SLA units)
- o Block 1.4 (128 SLA units)

3.0 SITE DESCRIPTION

The proposed site is located within the HM Clyde Naval Base, Faslane military site, located 2km southeast of from Garelochhead. The proposed development site has been partially cleared and is surrounded by the built up area of the Naval Base which fronts onto the Gare Loch to the west. In terms of the adopted Local Development Plan 2 (2024), the site is located within the Garelochhead Settlement Area and borders the Helensburgh/Lomond Countryside Area to the east. The site itself is not subject to constraints, although a mains water supply runs adjacent to the site.

4.0 DEVELOPMENT PLAN POLICY

This is not a planning application and therefore does not require evaluating and determining in accordance with Section 25 of the Planning Act against the Development Plan and its policies. However, in considering the merits of this PAN, a number of Development Plan Policy considerations are relevant. The policies likely to be considered include:

National Planning Framework 4 (Adopted 2023)

- NPF4 Policy 1 – Tackling the Climate and Nature Crises
- NPF4 Policy 2 – Climate Mitigation and Adaption
- NPF4 Policy 3 – Biodiversity
- NPF4 Policy 10 – Coastal Development
- NPF4 Policy 11 – Energy
- NPF4 Policy 12 – Zero Waste
- NPF4 Policy 13 – Sustainable Transport
- NPF4 Policy 14 – Design, Quality and Place
- NPF4 Policy 15 – Local Living and 20 Minute Neighbourhoods
- NPF4 Policy 19 – Heating and Cooling
- NPF4 Policy 20 – Blue and Green Infrastructure
- NPF4 Policy 22 – Flood Risk and Water Management

Argyll & Bute Local Development Plan 2 (Adopted 2024)

Policy 01 – Settlement Areas
Policy 04 – Sustainable Development
Policy 05 – Design and Placemaking
Policy 06 – Green & Blue Infrastructure
Policy 08 – Sustainable Siting
Policy 09 – Sustainable Design
Policy 10 – Design – All Development
Policy 32 – Active Travel
Policy 33 – Public Transport
Policy 34 – Electric Vehicle Charging Points
Policy 35 – Design of New and Existing, Public Roads and Private Access Regimes
Policy 37 – Development Utilising an Existing Private Access or Existing Private Road
Policy 39 – Construction Standards for Private Accesses
Policy 40 – Vehicle Parking Provision
Policy 55 – Flooding
Policy 57 – Risk Appraisals
Policy 59 – Water Quality and the Environment
Policy 60 – Private Sewage Treatment Plants and Wastewater Drainage Systems
Policy 61 – Sustainable Drainage Systems (Suds)
Policy 62 – Drainage Impact Assessments
Policy 63 – Waste Related Development and Waste Management
Policy 73 – Development Impact on Habitats, Species and Biodiversity

Land Use Designations in LDP 2:

- Zoned as Settlement Area

Other Relevant Policy Considerations:

- [TN06 Sustainability Technical Note and Checklist \(Oct. 2023\)](#)
- [TN07 Sustainable Buildings Technical Note and Checklist \(Oct. 2023\)](#)
- [ABC Technical Note – Biodiversity \(Feb 2017\)](#)
- [ABC Housing Needs and Demand Assessment](#)
- [ABC Housing Emergency Statement](#)
- [SEPA Standing Guidance for Development Management \(Dec. 2022\)](#)

5.0 POTENTIAL MATERIAL CONSIDERATIONS

In respect of this proposal, it is considered that the following matters will be material considerations in the determination of any future planning application:

- Design and massing;
- Landscape and visual issues;
- Climate change mitigation and adaptation;
- Conservation, restoration and enhancement of biodiversity;
- Green and blue infrastructure impacts;
- Traffic, parking and transport;
- Flood Risk, Water Quality and Drainage;
- The views of statutory consultees in respect of any formal planning application; and
- Any other material considerations raised within representations.

6.0 CONCLUSION

The report sets out the information submitted to date as part of the PAN. Summarised are the policy considerations, against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. The list is not exhaustive and further matters may arise as and when a planning application is received and in the light of public representations and consultation responses.

7.0 RECOMMENDATION

That Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the applicants in finalising any future planning application submission.

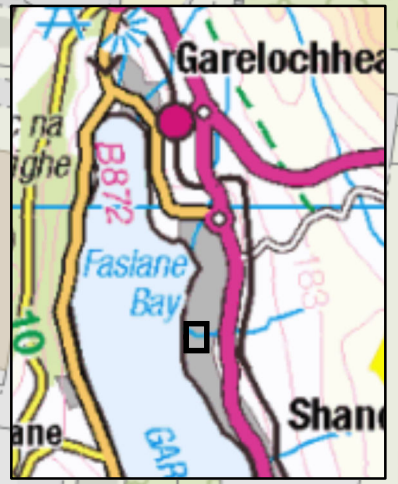
Author of Report: Shelley Gould

Date: 9th May 2024

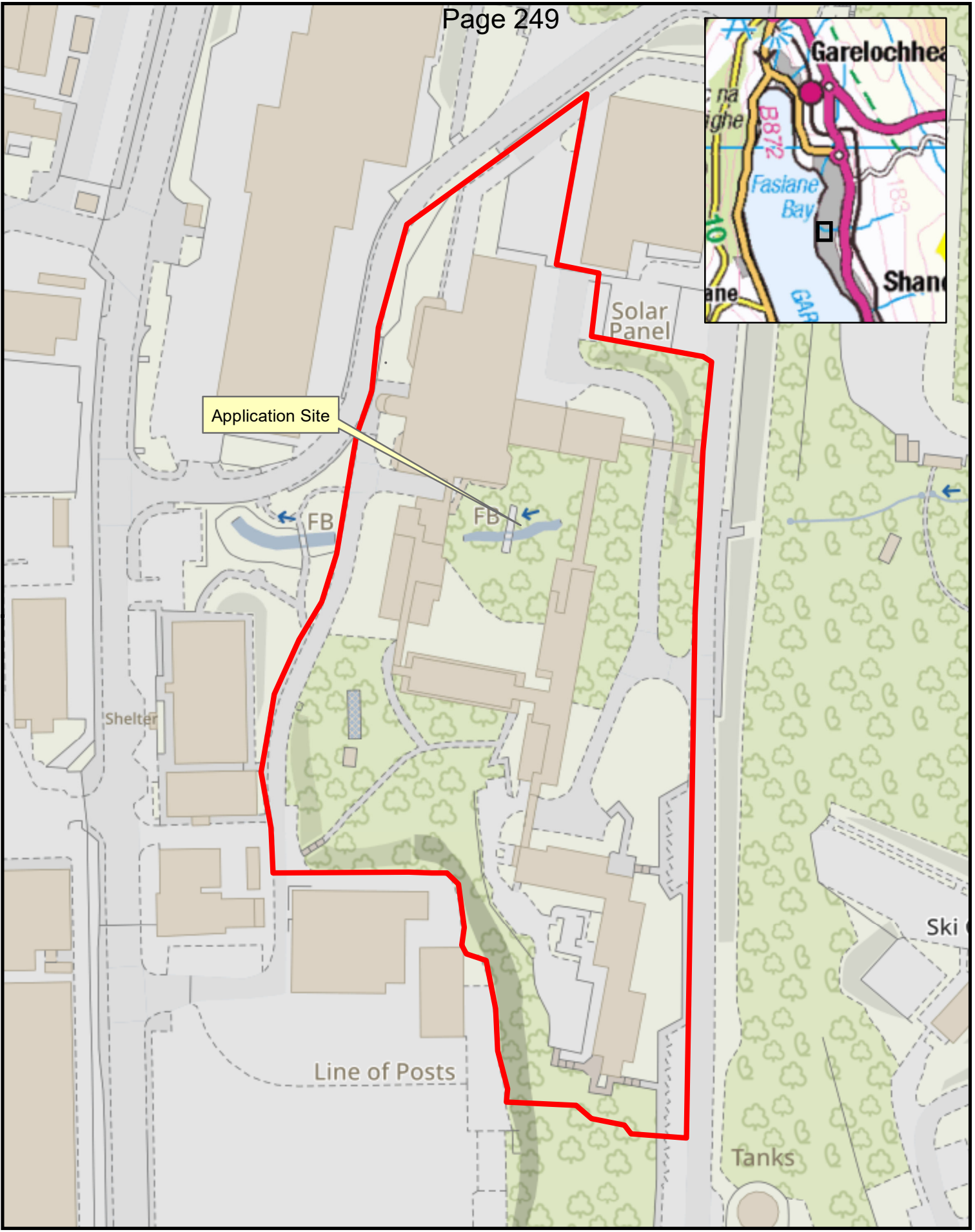
Reviewing Officer: Sandra Davies

Date: 9th May 2024

Fergus Murray
Head of Development and Economic Growth



Application Site



Location Plan Relative to Planning Application: 24/00580/PAN



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Argyll and Bute Council
Development and Economic Growth

PROPOSAL OF APPLICATION NOTICE (PAN)

Reference: 24/00661/PAN

Applicant: Laggan Properties/Bairds Malt

Proposal: Proposal of Application Notice for: Harvesting of peat moss for use in malt whisky production and restoration of previously drained sites

Site Address: Land at Laggan Moss, Bowmore, Isle of Islay

1.0 INTRODUCTION

Proposal of Application Notices only relate to National and Major Applications as defined by the Government's planning hierarchy and are a statutory requirement prior to the submission of the planning application in line with the provisions of the Planning etc (Scotland) Act 2006. The PAN marks the start of a minimum 12 week period to allow for community consultation before an application can be lodged and this PAN was made valid on 10.4.2024.

In considering this item, Members should restrict comments to issues relating to the material considerations which may be relevant in the determination of the proposed development and should refrain from expressing opinion as to the likely acceptability of development in advance of any subsequent application being presented for determination. Any opinions or views expressed by Councillors at the pre-application stage must be made mindful of the overarching requirements of fairness, impartiality and of keeping an open mind. The process provides opportunity for Officers to give feedback to the prospective applicant on issues which Members would wish to see addressed within the planning application submission.

The submitted information includes:

- Proposal of Application Notice
- Location Plans
- Copy of newspaper adverts draft notices which will be published in The Oban Times and The Ilead newspapers no less than 7 days before the proposed consultation events.

The Proposal of Application Notice describes the proposed development as "*proposed peat harvesting and associated works at Laggan Moss*".

The applicant has confirmed the following consultation steps will be undertaken:

- a) Correspondence will be issued to Islay Community Council and Kintyre and the Isles Elected Members, advising them of the consultation event and inviting them to participate

- b) Properties and landowners neighbouring the proposal site will be issued with correspondence advising them of the consultation activities and the applicant will liaise with the Community Council and other local organisations who may be willing to assist with publicising the event on social media.
- c) Two public meetings will be held at Islay Gaelic Centre, Gartnatra, Isle of Islay on 3rd June 2024 and 17th June 2024 from 3pm to 7pm.
- d) A press notice will be published in the Oban Times and The Illeach, advertising the consultation events at least 7 days prior to each event and proofs of these press notices have been provided.

Officers consider that the steps set out in the PAN are acceptable and in accordance with the requirements of the Regulations to ensure appropriate community consultation is undertaken.

The proposal requires an Environmental Impact Assessment (EIA) Screening Opinion and Scoping Opinion as the future application site area at 12.32ha would exceed the 2ha Mineral extraction threshold set out in the Schedule 2 Part 8 of 2017 EIA Regulations.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

Based on the description of the development contained within the proposal of application notice, the forthcoming application is anticipated to comprise of the following:

- Full details of peatmoss extraction proposals including depths, area, volume and timescales;
- Details of net effects on carbon emissions and loss of carbon and proposed mitigation measures;
- Details of impacts on habitats and biodiversity and proposed mitigation measures;
- Comprehensive peat restoration proposals for previously drained and worked areas within the site (including details of any proposed off-set financial mechanisms for future restoration/mitigation); and
- Associated new access.

3.0 SITE DESCRIPTION

The proposed peat extraction area of Laggan Moss comprises 110ha blanket bog which has historically been used for peat harvesting. The proposal site, as identified on the submitted plans, comprises approximately 12ha of open peat mossland at Laggan Moss, Bowmore. The site is located approximately 3 kilometres southwest of Bowmore and is served by a single access road that leads from the A846 Port Ellen to Bowmore road and also serves the Bowmore waste water treatment works and the Bowmore landfill and waste reclamation site.

The site is located within a Countryside Zone. The entire site lies within both Laggan Bay and Peninsula designated Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA). The site is designated a SSSI for its blanket bog habitat and the presence of Greenland barnacle goose (*Branta leucopsis*) and similarly designated a SPA for the presence of the Greenland Barnacle Goose and the White-fronted Goose (*Anser albifrons flavirostris*).

The site is also subject to the following constraints: Surface and Riparian Flooding (REF: SEPA Flood Maps) (Parts of the site appear to be within medium probability of surface flooding), Deep Peat and Safeguarding Zone 15 - Islay Airport (HIAL).

4.0 DEVELOPMENT PLAN POLICY

This is not a planning application and therefore does not require evaluating and determining in accordance with Section 25 of the Planning Act against the Development Plan and its policies. However, in considering the merits of this PAN, a number of Development Plan Policy considerations are relevant. The policies to be considered include:

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

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 7 – Historic Assets and Places
NPF4 Policy 13 – Sustainable Transport
NPF4 Policy 20 – Blue and Green Infrastructure
NPF4 Policy 22 – Flood Risk and Water Management
NPF4 Policy 25 – Community Wealth Building
NPF4 Policy 26 – Business and Industry
NPF4 Policy 29 – Rural Development
NPF4 Policy 33 – Minerals

Argyll and Bute Local Development Plan 2 (adopted 28th Feb 2024)

Policy 02 – Outwith Settlement Areas
Policy 04 – Sustainable Development
Policy 06 – Green Infrastructure
Policy 14 – Bad Neighbour Development
Policy 21 – Sites of Archaeological Importance
Policy 22 – Economic Development
Policy 35 – Design of New and Existing, Public Roads and Private Access
Policy 36 – New Private Accesses
Policy 39 – Construction Standards for Private Access
Policy 41 – Off Site Highway Improvements
Policy 55 – Flooding
Policy 61 – Sustainable Drainage Systems (Suds)
Policy 62 – Drainage Impact Assessments
Policy 63 – Waste Related Development and Waste Management
Policy 73 – Development Impact on Habitats, Species and Biodiversity
Policy 79 – Protection of Soil and Peat Resources

Land Use Designations in LDP 2:

- Zoned as Countryside
- Within Economically Fragile Area (Diagram 5)

Other Relevant Policy Considerations:

- ABC Technical Note – Biodiversity (Feb 2017)

5.0 POTENTIAL MATERIAL CONSIDERATIONS

In respect of this proposal, it is considered that the following matters will be material considerations in the determination of any future planning application:

- Landscape and visual issues;
- Climate change mitigation and adaptation;
- Conservation, restoration and enhancement of biodiversity;
- Impacts on biodiversity inc. designated sites, habitats and species;
- Impacts on natural, built and / or historic or archaeological sites and their settings;
- Peat and Soils;
- Traffic and transport;
- Flood Risk, Water Quality and Drainage;
- Amenity impacts (waste, noise, vibration, light and odour);
- Public access and recreation;
- Economic Impact;
- The views of statutory consultees in respect of any formal planning application (including the views of NatureScot, RSPB and SEPA); and
- Any other material considerations raised within representations.

6.0 CONCLUSION

The report sets out the information submitted to date as part of the PAN. Summarised are the policy considerations, against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. The list is not exhaustive and further matters may arise as and when a planning application is received and in the light of public representations and consultation responses.

7.0 RECOMMENDATION

That Members note the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN to allow these matters to be considered by the applicant's in finalising any future planning application submission.

Author of Report: Shelley Gould

Date: 9 May 2024

Reviewing Officer: Sandra Davies

Date: 9 May 2024

Fergus Murray
Head of Development and Economic Growth

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ARGYLL AND BUTE COUNCIL
DEVELOPMENT AND ECONOMIC GROWTH

PPSL COMMITTEE
22 MAY 2024

SIMPLIFIED PLANNING ZONES: PROPOSED CLOSURE OF PROJECT

1.0 EXECUTIVE SUMMARY

- 1.1 The purpose of this report is to advise PPSL of the proposed closure of the Scottish Government Simplified Planning Zones (SPZ) Pilot Project, which was being progressed jointly by Development Policy (Planning and Regulatory Services) and Housing (Community and Culture) in association with a private developer on behalf of the Scottish Government.
- 1.2 The Simplified Planning Zone project was brought to the [PPSL Committee on the 15th March 2017](#), which endorsed the principle of preparing an SPZ Scheme for a site in Lochgilphead and another site on Mull. This was to investigate the use of an SPZ Scheme to enable the delivery of self/custom build homes in differing situations.
- 1.3 A number of issues arose during the course of the project which have impacted adversely on its delivery. These included issues relating to flooding, access, sustainable development, market changes and changed economic and policy environment. These issues mean that the feasibility of progressing a successful SPZ Scheme is now unlikely. Therefore continuation with this approach is not considered to be a practical solution. However, there still remains good potential to develop both sites more effectively outwith this project through the normal planning process, including for self/custom build homes. The option to close the project was discussed with the Scottish Government. Given the significant issues the Scottish Government would permit the closure of the project. A requirement of closing the project would be the return of any unspent grant money.
- 1.4 Recommendations
- It is recommended that the members of PPSL:
- i) note and consider the information in the Report;
 - ii) recommend to the Policy and Resources Committee, the closure of the project with the return of unspent monies to the Scottish Government; and
 - iii) continue to support the development of the sites through the normal planning process, utilising information gained during the project where possible.

ARGYLL AND BUTE COUNCIL
DEVELOPMENT AND ECONOMIC GROWTH

PPSL COMMITTEE
22 MAY 2024

SIMPLIFIED PLANNING ZONES: CLOSURE OF PROJECT

2.0 INTRODUCTION

- 2.1. The Scottish Government sought projects from local authorities to assist with a pilot study into the use of the Simplified Planning Zone (SPZ) process. The aim was to investigate the potential for an SPZ Scheme to assist in the delivery of self/custom build housing. A Simplified Planning Zone is an area where the need to apply for planning permission is removed for certain types of development.
- 2.2. Argyll and Bute proposed a project for the Scottish Government pilot that consisted of a remote rural island location (Mull) with a green field site in private control and a Main Town (Lochgilphead) location on a brown field site in Council ownership. Due to a range of issues it has become unfeasible to progress the project to a successful conclusion. The closure of the project would require the remaining grant monies to be reimbursed to the Scottish Government.

3.0 RECOMMENDATIONS

3.1 Recommendations

It is recommended that the members of PPSL:

- i) note and consider the information in the Report;
- ii) recommend to the Policy and Resources Committee, the closure of the project with the return of unspent monies to the Scottish Government; and
- iii) continue to support the development of the sites through the normal planning process, utilising information gained during the project where possible.

4.0 DETAIL

- 4.1 An SPZ Scheme may be used to promote self/custom build housing delivery. However, in the case of the 2 sites piloted within Argyll and Bute the issues encountered during the progression of the scheme significantly reduced the viability of the approach.
- 4.2 The issues include:
- Flooding – full modelling of the Lochgilphead site highlighted issues that were difficult to resolve within an SPZ Scheme.
 - Access – constraints at Lochgilphead that may be better overcome using land outwith the Scheme.
 - Sustainable development – constraints resultant from a Scheme are liable to reduce delivery capacity and result in a less effective use of a valuable town centre site.
 - Market changes – the Scheme is not easily amended and may constrain development in changing market conditions.
 - Changed economic and policy environment - the Scheme has experienced significant delays related to the pandemic and SEPA cyber attack. There are new options for the delivery of self build/custom housing with greater policy support mechanisms.
- 4.3 The benefits of having taken part in the pilot have been the raising of awareness of self and custom build options with developers and communities, assisting in developing national policy and technical survey work undertaken on the Council owned Lochgilphead site.
- 4.4 Both sites from the project can progress successfully without the use of an SPZ Scheme. The Mull site is a designated housing allocation and the Lochgilphead site is within a Main Town Centre near infrastructure and key facilities.

5.0 CONCLUSION

- 5.1 The issues with the SPZ Scheme are such that the sites are not liable to achieve their full potential through this approach. In addition, market conditions are subject to change and it is considered that the SPZ Scheme is not as responsive to this as the normal planning process. The recommended approach is to close the project and support the delivery of the sites through the normal planning process.

6.0 IMPLICATIONS

- 6.1 Policy – None
- 6.2 Financial – Unused grant monies totalling £37,099.09 require to be returned to the Scottish Government.

- 6.3 Legal – There is a requirement to return unused grant monies to the Scottish Government.
- 6.4 HR - None
- 6.5 Fairer Scotland Duty: None
 - 6.5.1 Equalities - protected characteristics – None
 - 6.5.2 Socio-economic Duty – None
 - 6.5.3 Islands - None
- 6.6 Climate Change – None
- 6.7 Risk – Failure to close the project would utilise additional resource on potentially abortive work and is liable to result in a less effective route to delivery of development on the project sites.
- 6.8 Customer Service – None
- 6.9 The Rights of the Child (UNCRC) - None

Kirsty Flanagan,

Executive Director with responsibility for Development and Economic Growth

Policy Lead Cllr Green

07/02/24

For further information contact:

Sybil Johnson 01546 604308 sybil.johnson@argyll-bute.gov.uk

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

22nd May 2024

SCOTTISH GOVERNMENT CONSULTATION: MASTERPLAN CONSENT AREA
REGULATIONS

1.0 EXECUTIVE SUMMARY

- 1.1 The aim of this report is to advise PPSL of the [Scottish Government Masterplan Consent Areas - draft regulations: consultation](#) and seek approval for the proposed response to the consultation (see **Appendix 1**). The response is due by 22nd May 2024.
- 1.2 The Planning (Scotland) Act 2019 introduced Masterplan Consent Areas (MCAs) as a new upfront consenting mechanism for development proposals. As well as planning consent an MCA can also potentially grant Roads Construction Consent, Conservation Area Consent and Listed Building Consent.
- 1.3 The proposed regulations principally add procedural detail to the existing MCA legislation introduced by the 2019 Act and it is considered that, on the whole, they do not represent undue requirements above what could be reasonably expected for a process that provides a consenting regime of this nature. It is anticipated that further guidance will be issued by the Scottish Government relating to the MCA process. Whilst some matters are raised as concerns or questions within the draft consultation response (**appendix 1**) the overall content of the proposed regulations do not raise significant concerns.
- 1.4 Whilst it is not anticipated that the proposed regulations themselves would add significantly to the resources required to create an MCA the potential overall resource and cost implications of such a process should be noted.

RECOMMENDATIONS

It is recommended that the PPSL:

- i) note this report and the implications of the proposed regulations.
- ii) approve the response on this consultation to the Scottish Government in **Appendix 1**.

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

22nd May 2024

SCOTTISH GOVERNMENT CONSULTATION: MASTERPLAN CONSENT AREA
REGULATIONS

2.0 INTRODUCTION

- 2.1 The Scottish Government is consulting on [Master Plan Consent Area Regulations](#). The proposed regulations are part of the Scottish Government's implementation of the Planning (Scotland) Act 2019. The proposed response to this consultation is set out in **Appendix 1**. The response should be submitted by 22nd May 2024.
- 2.2 The Planning (Scotland) Act 2019, which made changes to the Town and Country Planning (Scotland) Act 1997, introduced Masterplan Consent Areas (MCAs) as a new upfront consenting mechanism for development proposals. The 2019 Act amends the 1997 Act to insert new sections and a new Schedule relating to MCAs. These (aside from one specific element relating to the duty on planning authorities to consider making an MCA) have not yet been commenced and therefore do not yet have legal effect. A separate report is with this PPSL that relates that duty on planning authorities to consider making an MCA and to publish a statement of their decision.
- 2.3 An MCA would grant planning consent for the development set out within the MCA Scheme documents, subject to any conditions attached. MCAs are similar to Simplified Planning Zones that are already provided for in the 1997 Act but with expanded powers. MCAs are broader in scope as they can potentially give authorisation for Planning Consent, Roads Construction Consent, Conservation Area Consent and Listed Building Consent (if the scheme so provides). Within an adopted MCA, development could be brought forward without the need for an application for the above types of consent if it is in line with the agreed scheme.
- 2.4 The 2019 Act also amends the 1997 Act to provide a bar to the creation of new Simplified Planning Zones and whilst part that has not yet commenced it is the intention to do this at the same time as the MCA regulations coming into force. This effectively means that MCAs will replace SPZs as the consenting regime for any such future projects.
- 2.5 The proposed regulations add detail to the MCA legislation introduced by the 2019 Act. The legislation requires Scottish Ministers to set out certain provisions

within regulations whilst there are some other aspects that Scottish Ministers have discretion to regulate on.

2.6 Two sets of draft regulations have been prepared.

- The Town and Country Planning (Masterplan Consent Areas) (Scotland) Regulations 2024 which provide procedural detail about preparing MCA schemes.
- The Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 which provide procedural detail regarding Environmental Impact Assessments where an MCA scheme should require one.

2.7 There is no actual requirement on the Council to make an MCA although through the legislation introduced by the 2019 Act Scottish Ministers can direct a local planning authority to make one. There is also a requirement on the local planning authority to consider, once within each 5 year period, whether to would be desirable to either make a new MCA or alter an existing one and to publish a statement of their decision (this matter is addressed within a separate report which is with this PPSL).

3.0 RECOMMENDATIONS

3.1 It is recommended that the PPSL:

- i) note this report and the implications of the proposed regulations.
- ii) approve the response on this consultation to the Scottish Government in **Appendix 1**.

4.0 DETAIL

4.1 A consultation paper has been published that provides more information about the proposed regulations or, where Scottish Ministers have decided not regulate, the reasonings for not doing so. The consultation paper poses a series of questions relating to these matters for both sets of draft regulations. The draft Council response to these questions is set out at **Appendix 1**.

4.2 The consultation paper sets out that Scottish Ministers have worked to the principle that regulations are kept to the minimum necessary and that to provide for maximum flexibility and resilience much of their expectations for implementation of the new system will be set out in guidance. Consultation question 1 relates to this. It is considered that this principle is agreeable as it helps provide local flexibility and opportunity to provide up to date assistance to local authorities.

4.3 As set out in Section 2 of this report, whilst the MCA legislation introduced by the 2019 Act allows Scottish Ministers to regulate on various aspects of the MCA process there are some aspects they have elected not to (at this point). None of the aspects to which Ministers have elected not to regulate on raise significant

concerns. However, it is considered that one aspect should be raised as a question within the response and this is in relation to certain places where MCAs cannot be made. These places are already set out within the 2019 Act and include various environmental designations such as National Scenic Areas. Ministers are not proposing to regulate to amend the existing list, however this list does not include National Nature Reserves of which there are a number in Argyll and Bute. The consultation response to the related question 3 (**Appendix 1**) raises the question as to why National Nature Reserves have been excluded. It is however considered a relatively minor issue as the extent of the NNRs in Argyll and Bute are almost entirely covered by SSSI designations which are on list of areas where an MCA would not be permissible.

- 4.4 The regulations that Scottish Ministers have decided to bring forward are largely in relation to the process of creating an MCA or altering an existing one and they include aspects relating to; publicity and consultation, hearings, publication of information notices and information to be placed on the planning register.
- 4.5 There is one matter where it is considered necessary to disagree with the proposed regulations and this relates to requirements in relation to the publication of an MCA scheme once it has been made (adopted). The regulation requires that a decision notice must be published on the internet and within a local newspaper and sets out the information that this notice must contain. This information includes; statements about the scheme, the reasons for the decision, information about the public participation undertaken and the right to challenge the validity of the decision and the process for doing so.
- 4.6 This raises two matters, with regards to challenging the validity of the decision it is not clear on what basis this proposed requirement is being made. The draft consultation response questions the need for this information to be contained in the decision notice and requests that if Scottish Ministers are minded to include the requirement that further clarity is provided through the regulations or associated guidance. Secondly, the actual amount of information required to be contained in the decision notice raises concerns in relation to publishing it as newspaper advertisement. Whilst there is no significant objection to publishing this information within a decision notice to be placed on the internet the corresponding newspaper advert with the same information would likely be lengthy and potentially unduly costly. It is considered that a more proportionate approach would be to publish the decision notice with the information required on the internet and to require a newspaper advertisement to inform of the decision and to direct interested parties to where the full decision notice maybe inspected. The proposed response is contained at question 15 within **appendix 1**.
- 4.7 Consultation question 14 (**Appendix 1**) does not relate to the MCA regulations but instead to part of the 2019 Act that gives Scottish Ministers powers to direct planning authorities to notify them when an MCA is proposed or proposed to be altered. The consultation paper sets out that Scottish Ministers intend to issue a direction to accompany the regulations that they be notified of proposed MCA schemes in certain circumstances. These circumstances generally relate to

certain types of development and the consultation paper indicates that these are to ensure consistency with scrutiny on planning applications. The intended direction raises no significant concerns.

- 4.8 With regards to The Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024, these raise no significant concerns and whilst the response to consultation question 19 (**Appendix 1**) sets this out it does also pose some questions relating to the actual content of the wording.
- 4.9 The consultation is accompanied by a range of impact assessments the content of which raise no concerns.
- 4.10 The 2019 Act has already introduced the legislative framework to make a Masterplan Consent Area and to undertake such a process would involve Council resources. The proposed regulations principally add procedural detail to the existing MCA legislation and it is considered that, on the whole, they do not represent undue requirements above what could be reasonably expected for a process that provides a consenting regime of this nature. The consultation paper indicates the potential for planning authorities to work in partnership with development partners who may be able to provide some of the resources. In addition, there is the potential ability for local authorities to charge for development within an MCA. This matter is being addressed within the concurrent Scottish Government consultation on resourcing Scotland's planning system.
- 4.11 The impact assessment estimates that the potential costs of an MCA may range from £15,000 to £200,000 depending on the size and features of the scheme and whilst the potential for partnership working and the possibility that local authorities might be able to charge for development might mitigate some of these costs the overall potential resource and cost implications of the MCA process should be noted. Taking forward an MCA could potentially divert Development Policy resources away from supporting the wider delivery of LDP2 and the future development of LDP3 within the appropriate timescales. The decision as to whether to make an MCA under the legislation and proposed regulations remains principally with the planning authority (unless directed otherwise by Scottish Ministers).

5.0 CONCLUSION

- 5.1 The Planning (Scotland) Act 2019 introduced Masterplan Consent Areas (MCAs) as a new upfront consenting mechanism for development proposals. As well as planning consent an MCA can also potentially grant Roads Construction Consent, Conservation Area Consent and Listed Building Consent.
- 5.2 The proposed regulations principally add procedural detail to the existing MCA legislation and it is considered that, on the whole, they do not represent undue requirements above what could be reasonably expected for a process that

provides a consenting regime of this nature. It is anticipated that further guidance will be issued by the Scottish Government relating to the MCA process. Whilst some matters are raised as concerns or questions within the draft consultation response (**appendix 1**) the overall content of the proposed regulations do not raise significant concerns.

- 5.3 Whilst is not anticipated that the proposed regulations themselves would add significantly to the resources required to create an MCA the potential overall resource and cost implications should be noted.

6.0 IMPLICATIONS

6.1 Policy

This is a consultation. Once in place these regulations will provide detail as to how an MCA should be created or altered.

6.2 Financial

None as a result of this paper. However, there would be a resource implication in the creation of a Masterplan Consent Area.

6.3 Legal

The consultation relates to a statutory regulation. However, there is no requirement to create a Masterplan Consent Area unless directed to by Scottish Ministers.

6.4 HR

None as a result of this consultation

6.5 Fairer Scotland Duty:

6.5.1 Equalities - protected characteristics

None as a result of this consultation

6.5.2 Socio-economic Duty

None as a result of this consultation

6.5.3 Islands

None as a result of this consultation

6.6 Climate Change

None as a result of this consultation

6.7 Risk

None as a result of this consultation

6.8 Customer Service

None as a result of this consultation

6.9 The Rights of the Child (UNCRC)

None as a result of this consultation

Kirsty Flanagan

Executive Director with responsibility for Development and Economic Growth

Policy Lead Kieron Green

8th May 2024

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APPENDICES

Appendix 1 Proposed Response

Appendix 1

Question 1: A) To what extent do you agree with the principle that regulations be kept to the minimum necessary and that more advice be offered in guidance and kept updated?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The principle is agreeable as it will help provide local flexibility and opportunity to provide up to date assistance through the use of guidance.

Question 2: A) We are not proposing to regulate to exclude any form of development from having potential to be within a MCA. To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The ultimate decision as to whether to create an MCA remains with the local authority or Scottish Ministers (if they choose to direct the local authority to do so) and as such there would be sufficient scrutiny to assess whether the MCA approach for a particular development type would be appropriate on a case by case basis. In addition, there would be sufficient assessment and control of any proposed scheme by the Council or Scottish Ministers, as the case may be, as well as relevant stakeholder involvement before any final creation of a scheme. Should it become apparent that certain types of development are not appropriate for an MCA then regulations can be brought forward by Scottish Ministers in the future.

Question 3: A) We are not proposing any changes to the designations listed in schedule 5A (paragraph 3(4)). To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Neutral – National Nature Reserves are not specified within the list. Whilst most NNRs in Argyll and Bute are mostly covered by SSSIs their boundaries are not always co-terminus meaning that some parts of NNRs are not within a SSSI. Consideration to adding NNRs to the list would potentially help provide consistency.

Question 4: A) To what extent do you agree that the matters above in relation to the statement be set out in guidance rather than regulations?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – This would be a proportionate approach and allow for some local tailored approaches.

Question 5: A) Draft Regulation 3(4) specifies that planning authorities must consult with community councils before determining the content of any MCA proposals which may be publicised. To what extent do you agree with this?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – This is a reasonable and proportionate approach and leaves discretionary options to the planning authority to carry out wider consultation.

Question 6: A) Draft Regulation 3 provides how consultation for possible proposals for a MCA scheme is to be undertaken, including notification and the requirement to undertake two public events, with opportunity to make comments to the planning authority. To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – This is a reasonable and proportionate approach and leaves discretionary options to the planning authority to carry out wider consultation.

Question 7: A) To what extent do you agree that the regulations should require reasons for conditions to be set out in the MCA scheme?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – It would help provide transparency and better align with requirements on planning consents.

Question 8: Are there any further aspects you consider should be required to be included in a MCA scheme? Please specify and explain why.

No.

Question 9: A) Draft Regulation 4(3) and Schedule 1 of the draft MCA Regulations specify those who a planning authority must consult with before determining the content of any MCA proposals which may be publicised. To what extent do you agree with these groups?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – These appear to be aligned with the requirements for planning applications and therefore are a reasonable requirement. It is questioned however with regards to paragraphs 3 (1) d and 3 (2)

d whether the line after the comma that starts "or which is otherwise" should be on a separate line as that appears to be the case in the associated Development Management regulations.

Question 10: A) Draft Regulation 4(2) provides how consultation in relation to a MCA scheme is to be undertaken. To what extent do you agree with this approach?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The requirements are proportionate and reasonable.

Question 11: A) Draft Regulation 4(5) sets a 30 day period for representations if they are to be treated as valid representations. To what extent do you agree with this period?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The 30 day period is reasonable and does allow for potential alignment with the EIA report (if required).

Question 12: A) To what extent do you agree with the required circumstances, i.e. that where the scheme would authorise a national development, that there be a requirement for a hearing, as set out within Draft Regulation 5(1)?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The requirement is considered to be proportionate.

Question 13: A) To what extent do you agree with the proposals for those who must be given an opportunity to appear before and be heard by a committee of the planning authority at a hearing as set out within Draft Regulations 5(2) and (3)?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view

Agree – The requirements are appropriate in that they focus the right to appear at the hearing on those that have actually formally responded to the consultation on the proposed scheme itself.

Question 14: A) To what extent do you agree that a Notification Direction be issued requiring that in the above circumstances such MCA schemes be notified to the Scottish Ministers?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The requirements are a reasonable approach and appear to align suitably with planning application procedures.

Question 15: A) To what extent do you agree with the proposed requirements in relation to the publication of MCA schemes and the decision notice as set out in Draft Regulation 7?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Disagree – With regards to the requirement to provide information relating to the right to challenge the validity of the decision and the procedures for doing so, it is not clear on what basis this proposed requirement is being made. The need for this information to be contained in the decision notice is questioned. If Scottish Ministers are minded to include this requirement then further clarity is sought either through the regulations or associated guidance.

The notice to be published in a local newspaper through the requirements (particularly in parts b and c) could result in a lengthy formal public notice which might be unreasonable in terms of the amount of information for the public to navigate and also in terms of the cost of publication given the amount of words it might contain. It would be preferable that the regulations require the publication of the notice on the internet and for a newspaper advertisement to inform of the decision and direct interested parties to where the full decision notice can be inspected.

Question 16: A) To what extent do you agree with the proposed requirements in relation to the planning register as set out in Draft Regulation 9?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The inclusion of MCAs on the planning register is considered appropriate as they would grant planning consent for development and as such this would help align with planning application processes.

Question 17: A) To what extent do you agree with the proposals for the procedures for altering a MCA scheme, as set out in Draft Regulation 8?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The regulations appear to be appropriate for the purpose.

Question 18: A) To what extent do you agree with the approach not to prescribe forms of notices within the Draft Regulations?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – Prescribed forms are not necessary within the regulations as Local Planning Authorities are well placed to write required notices in respect of any regulations. Examples of recommended forms within guidance would though be helpful if provided.

Question 19: A) To what extent do you agree with the proposed process set out in the Draft Masterplan Consent Area Scheme (Environmental Impact Assessment) (Scotland) Regulations 2024 contained within Annex B?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The proposed regulations raise no significant concerns. It is questioned however why at various points the regulations specify the “planning authority” (e.g. paragraph 11) whereas other aspects specify “a planning authority or the Scottish Ministers, as the case may be”. On the basis that the 2019 Act allows for Scottish Ministers to make an MCA scheme themselves it is questioned whether all of the associated EIA process should actually relate to “a planning authority or the Scottish Ministers, as the case may be” as it will potentially be Scottish Ministers carrying out the EIA and all associated processes in those cases where Scottish Ministers make a scheme. It is also questioned at paragraph 22 (5) whether the wording should refer to Masterplan Consent Areas rather than planning permission.

Question 20: A) To what extent do you agree with our approach to the impact assessments?

a) Strongly Agree b) Agree c) Neutral d) Disagree e) Strongly Disagree

B) Please explain your view.

Agree – The impact assessments raise no significant concerns.

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

22nd May 2024

MASTERPLAN CONSENT AREA STATEMENT

1.0 EXECUTIVE SUMMARY

- 1.1 The Planning (Scotland) Act 2019 introduced Masterplan Consent Areas (MCAs) as a new upfront consenting mechanism for development proposals. As well as planning consent an MCA can also potentially grant Roads Construction Consent, Conservation Area Consent and Listed Building Consent.
- 1.2 A separate report is with this PPSL that addresses the proposed response to the Scottish Government consultation on the proposed Masterplan Consent Area Regulations.
- 1.3 The 2019 Act introduces a duty on planning authorities to periodically (at least once in each 5 year period) consider the desirability of making an MCA scheme for a part or parts of their district and to publish a statement of how they have fulfilled this duty.
- 1.4 The proposed statement at appendix 1 provides background information on MCAs and sets out that, given that the MCA regulations are not yet in force, the planning authority has not identified or assessed potential MCA locations but that this will be reconsidered once the legal basis is in place and at an appropriate point in the monitoring of Local Development Plan 2.

RECOMMENDATIONS

It is recommended that the PPSL:

- i) approve the publication of the statement set out at **appendix 1** relating to the duty to consider the desirability of making an MCA scheme.

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE SERVICES
AND LICENSING COMMITTEE

DEVELOPMENT AND ECONOMIC GROWTH

22nd May 2024

SCOTTISH GOVERNMENT CONSULTATION: MASTERPLAN CONSENT AREA REGULATIONS

2.0 INTRODUCTION

- 2.1 The Planning (Scotland) Act 2019, which made changes to the Town and Country Planning (Scotland) Act 1997, introduced Masterplan Consent Areas (MCAs) as a new upfront consenting mechanism for development proposals. The 2019 Act amends the 1997 Act to insert new sections and a new Schedule relating to MCAs.
- 2.2 An MCA would grant planning consent for the development set out within the MCA Scheme documents, subject to any conditions attached. MCAs are similar to Simplified Planning Zones that are already provided for in the 1997 Act but with expanded powers. MCAs are broader in scope as they can potentially give authorisation for Planning Consent, Roads Construction Consent, Conservation Area Consent and Listed Building Consent (if the scheme so provides). Within an adopted MCA, development could be brought forward without the need for an application for the above types of consent if it is in line with the agreed scheme.
- 2.3 A separate report is with this PPSL that addresses the proposed response to the Scottish Government consultation on the proposed Masterplan Consent Area Regulations.
- 2.3 There is no actual requirement on the Council to make an MCA although through the legislation introduced by the 2019 Act Scottish Ministers can direct a local planning authority to make one. The 2019 Act does introduce a duty on planning authorities to periodically (at least once in each 5 year period) consider the desirability of making an MCA scheme for a part or parts of their district:

“5(1)Each planning authority must, at least once in each 5-year period, consider whether it would be desirable to—

- (a) make a scheme for a part or parts of their district,*
- (b) alter a scheme that relates to an area in their district.”*

3.0 RECOMMENDATIONS

3.1 It is recommended that the PPSL:

- i) approve the publication of the statement set out at **appendix 1** relating to the duty to consider the desirability of making an MCA scheme.

4.0 DETAIL

4.1 The measurement of the 5 year period within which the planning authority must consider whether it would be desirable to make an MCA scheme is set out in the 2019 Act and begins with the 5 year period from the day on which the Act received Royal Assent (25th July 2019). The first 5 year period therefore ends on 24th July 2024.

4.2 To provide transparency to the consideration and decision, planning authorities are required to publish a statement as a formal record of how they have fulfilled the duty. This statement needs to set out what has been decided and the reasons for the decision:

“5(3)After each occasion on which an authority consider the matters mentioned in sub-paragraph (1), they must publish a statement setting out— (a) what they decided, and (b) the reasons for their decision.”

4.3 Although most of the MCA provisions in the 2019 Act have not yet been commenced (and therefore do not yet have legal effect) the provision relating specifically to the duty to consider making an MCA has been brought into force in order that authorities are able to publish their first statement within that 5 year time frame.

4.4 The Chief Planning Officer for Scotland has issued a letter to planning authorities setting out the importance of planning authorities publishing their statement by the deadline to preserve and provide for when the 5-year clock for the next statement runs from.

4.5 The letter from the Chief Planning Officer includes some guidance and suggested text to assist planning authorities in publishing their first statement. The suggested text provides wording relating to background information on MCAs and two potential approaches regarding the duty to consider making MCA schemes. In summary, these two suggested potential approaches are:

- Either, to publish information regarding any initial discussions that may have taken place with landowners or such like regarding an MCA and any intentions to take these forward once the legal provisions to create MCAs are in force.
- Or, given that the MCA regulations (subject to the current consultation) are not yet in force that potential locations for an MCA have not yet been identified or assessed and that this will be reconsidered once the legal basis is in place.

- 4.6 Whilst the Council is free to take its own approach the latter suggested approach within the Chief Planner's letter is considered appropriate as; there have been no discussions to date with landowners or other interested parties regarding the making of an MCA scheme, the MCA regulations are not yet in place and no potential locations have been identified or assessed. Appropriate consideration will need to be made during the next 5 year period at which point the legal basis (through the full implementation of the 2019 Act and the proposed associated regulations) will be in place. This assessment can also be made at an appropriate point in relation to the monitoring of adopted Local Development Plan 2.
- 4.7 The proposed statement to be published is set out at **appendix 1**. The wording, with some amendments, draws from that set out within the suggested text contained in the letter from the Chief Planning Officer.

5.0 CONCLUSION

- 5.1 The Planning (Scotland) Act 2019 introduced Masterplan Consent Areas (MCAs) as a new upfront consenting mechanism for development proposals. As well as planning consent an MCA can also potentially grant Roads Construction Consent, Conservation Area Consent and Listed Building Consent.
- 5.2 The 2019 Act introduces a duty on planning authorities to periodically (at least once in each 5 year period) consider the desirability of making an MCA scheme for a part or parts of their district and to publish a statement of how they have fulfilled their duty.
- 5.3 The proposed statement at appendix 1 provides background information on MCAs and sets out that, given that the MCA regulations are not yet in force the planning authority has not identified or assessed potential locations but that this will be reconsidered within the next 5 year period once the legal basis is in place and at an appropriate point in relation to the monitoring of adopted Local Development Plan 2.

6.0 IMPLICATIONS

- 6.1 Policy

None

6.2 Financial

None

6.3 Legal

There is a legal requirement to consider making an MCA scheme and to publish a statement of the decision.

6.4 HR

None

6.5 Fairer Scotland Duty:

6.5.1 Equalities - protected characteristics

None

6.5.2 Socio-economic Duty

None

6.5.3 Islands

None

6.6 Climate Change

None

6.7 Risk

None

6.8 Customer Service

None

6.9 The Rights of the Child (UNCRC)

None

Kirsty Flanagan

Executive Director with responsibility for Development and Economic Growth

Policy Lead Kieron Green

8th May 2024

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APPENDICES

Appendix 1 Proposed MCA statement

Appendix 1

Background / Introduction

[Part 2 \(Section 15\) of the Planning \(Scotland\) Act 2019](#) introduced Masterplan Consent Areas (MCAs) as a new proactive consenting mechanism.

Argyll and Bute Council will in future be able to prepare Masterplan Consent Area schemes (within the Council area outside of Loch Lomond and the Trossachs National Park) as part of a placemaking approach to planning and consenting. MCA schemes are a potential new way for the Council to shape new development in our area – enabling the type and quality of development we wish to come forward through a consenting masterplan, and to support delivery of development that can support local needs, priorities and outcomes.

Unlike planning applications which are typically led by a developer, the preparation of an MCA scheme would be led by the planning authority, but can be taken forward through collaboration.

The new provisions will allow the Council to prepare a MCA ‘Scheme’ setting out for particular places, the detail of what they are giving consent for, through the MCA scheme. There will be requirements for publicity and consultation on individual schemes.

MCA schemes can streamline consent, allowing issues to be considered as part of a joined up approach, they can grant:

- planning permission,
- roads construction consent,
- listed building consent, and
- conservation area consent.

Within adopted MCA areas, development could be brought forward without the need for a full application as long as it is in line with the agreed scheme.

More details about Masterplan Consent Areas are available in the [Consultation Paper on the draft MCA Regulations](#) – the Scottish Government’s consultation closed on 22 May 2024.

Consideration of the Duty to periodically consider making MCA schemes

[Part 2 of the 2019 Act \(Section 15\)](#) sets out the legal framework for preparing MCAs. The full provisions from the Act relating to MCAs and the associated regulations are not yet in force. It is anticipated that the MCA provisions will be fully in place later in 2024.

However, [Schedule 5A Paragraph 5](#) specifically has been brought into force and this requires planning authorities to consider whether it would be desirable to make a scheme for a part or parts of their district, and to publish a statement as to their consideration of that, by 25 July 2024.

Statement

As the MCA regulations are not yet in place, the Council has not yet identified or assessed potential locations for which it may be desirable to bringing forward an MCA scheme. The Council will reconsider this within a 5 year period commencing from the date of the publication of this statement once the legal basis for preparing MCAs is in place and at an appropriate point in time in relation to the monitoring of the delivery of [Local Development Plan 2](#) (adopted on 28th February 2024).

This Statement fulfils the Council’s legal requirements under Schedule 5A Paragraph 5 of the Town and Country Planning (Scotland) Act 1997, as amended.

<Insert publication date>

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**ARGYLL AND BUTE COUNCIL
DEVELOPMENT AND ECONOMIC GROWTH**

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

**UPDATE ON RECENT SCOTTISH MINISTERS SECTION 36 NARACHAN WIND FARM
DECISION**

OUR REFERENCE: 20/00212/S36

ECU REFERENCE: ECU00001884

DPEA REFERENCE: WIN-130-6

**CASE DETAIL: ERECTION OF 11 TURBINES OF UP TO 180M TO BLADE TIP AND
ASSOCIATED INFRASTRUCTURE**

SITE ADDRESS: NARACHAN HILL, LAND EAST OF TAYINLOAN

APPLICANT: ENERGIEKONTOR UK LTD

STATUS: REFUSED BY SCOTTISH MINISTERS ON 8TH MARCH 2024

1. INTRODUCTION

- 1.1 In Scotland, any application to construct or operate an onshore power generating station, with an installed capacity of over 50 megawatts (MW) requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Any ministerial authorisation given includes a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of a consultee along with various other consultation bodies. It is open to the Council to either support or object to the proposal, and to recommend conditions it would wish to see imposed if authorisation is given by the Scottish Government.
- 1.2 Argyll & Bute Council did not object to this application, consequently, a Public Inquiry was not required on these grounds. However, the Electricity Act provides that where the Scottish Ministers are not required to cause a Public Inquiry to be held, if other objections have been received, they shall be considered together with all other material considerations by the Scottish Ministers with a view to determining whether a Public Inquiry should be held. NatureScot, a statutory consultee, objected to the proposed development on the basis of the significant adverse daytime and night time effects it would have on the Special Qualities of the North Arran National Scenic Area. The Applicant disagreed that the NSA would be compromised. The Scottish Ministers decided that while the proposed Development has the potential to make a valuable contribution to renewable energy targets, the importance of the NSA and the desirability of safeguarding its character was a significant consideration. Consequently, Ministers considered that it was appropriate to cause a Public Inquiry to be held.
- 1.3 The Inquiry, which Officers participated in was conducted by a Reporter(s) appointed by the Directorate for Planning and Environmental Appeals (14th – 17th March 2023).

- 1.4 This report summarises the decision made by Scottish Ministers to REFUSE Section 36 consent and deemed planning permission for Narachan wind farm.

2. RECOMMENDATION

- 2.1 Members are asked to note the contents of the report.

3. REPORTERS CONCLUSIONS AND RECOMMENDATION TO SCOTTISH MINISTERS

Reporter's Conclusions

- 3.1 It is clear that there is now increased support within national policy and guidance for onshore wind developments in order to meet net zero ambitions and address the climate and nature crises. This proposal would make a valuable contribution towards meeting national and UK renewable energy targets, tackling climate change and achieving net zero. In particular, it would assist in the "mission critical" delivery of onshore wind towards the Scottish Government's target of 20 GW of installed onshore wind capacity by 2030. As a proposal having National Development status these benefits are of national importance.
- 3.2 National policy also gives support to such developments where net economic impact, including local and community socio-economic benefits would be maximised. It is predicted that during the construction phase the proposal would have short term, minor, beneficial socio-economic effects at the regional and national scale and would have minor adverse effects on tourism. However, no assessment was made of the significance of the longer term direct and indirect socio-economic effects and it has not been demonstrated that local economic benefits would be maximised.
- 3.3 The policy context of NPF4 and OWPS make it clear that larger turbines are to be now expected. While NPF4 gives strong support for onshore wind developments outwith National Scenic Areas and recognises that significant landscape and visual impacts are to be expected it does not suggest that such effects will always be acceptable.
- 3.4 Where impacts are localised and/or appropriate design mitigation has been applied, they will generally be considered to be acceptable.
- 3.5 The Reporter concluded that there would be significant adverse daytime visual and cumulative effects and there would be potential for short term effects on residential properties due to construction noise. These effects would remain even with mitigation in place, albeit the construction effects would be short term.
- 3.6 The Reporter found that the daytime significant visual and cumulative effects would not be sufficient to constitute an evident and material change to the special landscape qualities of the North Arran NSA. However, the Reporter concluded that the effects of the aviation lighting as proposed, would have significant adverse effects on the special landscape qualities of the North Arran NSA and would compromise the integrity and objectives of the designation of the NSA. The Reporter was not satisfied that the applicant's proposed aviation lighting would mitigate the adverse effects on the NSA.
- 3.7 The effects of the wind farm as currently proposed would be neither localised nor mitigated. In order to comply with NPF4 Policy 4 ii) the significant adverse effects on the NSA require to be clearly outweighed by social, environmental or economic benefits of national importance.

- 3.8 The NSA is a resource of recognised national importance. NatureScot recommends a cautious approach be taken given the uncertainties involved in relation to the mitigation of aviation lighting. As the specialist advisors to the Scottish Ministers on landscape and natural heritage matters, the Reporter gives weight to NatureScots position on that matter.
- 3.9 NatureScot places particular importance upon this NSA due to its proximity and accessibility to the main centres of population and the combination of high scenic quality and wildness which is considered to be unusual in a south of Scotland context. While the Reporter acknowledges the high scenic quality of this NSA there is no hierarchy of importance that applies to these designated areas. The proposal requires to be considered in terms of its effects upon this particular NSA.
- 3.10 In balancing the factors for and against the proposal it is the Reporters conclusion that the effects of the proposed aviation lighting would be sufficiently adverse that they would outweigh the positive aspects of the proposal, including those of national importance. However, the Reporter is satisfied that the incorporation of an Aircraft Detection Lighting Scheme would acceptably mitigate those effects. Therefore the Reporter recommended that consent be granted subject to a suspensive planning condition requiring that the aviation lighting to be used at this wind farm shall incorporate and utilise an aircraft detection lighting system.
- 3.11 The Reporter acknowledged that there could potentially be a delay in obtaining approval from the CAA for such aviation lighting. The Reporter considered that a delay in implementing the consent, if granted by Ministers, would be outweighed by the importance of protecting the NSA. Any need to vary the five years commencement period is permitted within the terms of the proposed conditions, subject to the approval of the Scottish Ministers.
- 3.12 Should Ministers disagree with the Reporters findings regarding the requirement for an aircraft detection lighting system then it is the Reporters recommendation that consent be refused.

Reporters Recommendation to Scottish Ministers

- 3.13 The Reporter recommended that consent should be granted under section 36 of the Electricity Act 1989 and planning permission should be deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended), subject to the conditions listed in Appendix 1. Consent may not be granted prior to the satisfactory completion of an Appropriate Assessment in relation to the effects of the proposal on the Kintyre Goose Roosts Special Protection Area.

4.0 The Scottish Ministers' Conclusions

Reasoned Conclusions on the Environment

- 4.1 The Scottish Ministers are satisfied that the EIA Report and its AI 2021, AI 2022 and SEI have been produced in accordance with the EIA Regulations, and that the relevant procedures regarding publicity and consultation laid down in those Regulations have been followed.
- 4.2 The Scottish Ministers have fully considered the EIA Report, AI 2021, AI 2022, the consultation responses, representations, the findings, conclusions, and recommendation of the PI Report and are satisfied that the environmental impacts of

the proposed Development have been sufficiently assessed. The Scottish Ministers have taken the environmental information into account when reaching their decision.

- 4.3 Taking the above assessment into account the Scottish Ministers consider that the proposed Development would have significant adverse localised landscape impacts and significant visual and cumulative impacts that go beyond localised which cannot be mitigated. There are also significant impacts on the SQs of the North Arran NSA as a consequence of the proposed Development's aviation lighting which are not mitigated by the currently proposed aviation lighting scheme.
- 4.4 The Scottish Ministers are satisfied, having regard to current knowledge and methods of assessment, that this reasoned conclusion addresses the likely significant effects of the proposed Development on the environment. The Scottish Ministers are satisfied that this reasoned conclusion is up to date.

The Scottish Ministers Determination

- 4.5 As set out above, the seriousness of climate change, its potential effects and the need to cut carbon dioxide emissions, remain a priority for the Scottish Ministers. Scotland's renewable energy and climate change targets, energy policies and planning policies are all relevant considerations when weighing up the proposed Development. NPF4, Scotland's Energy Strategy and the Onshore Wind Policy Statement make it clear that renewable energy deployment remains a priority of the Scottish Government. These are all matters which should be afforded significant weight in favour of the proposed Development.
- 4.6 The Scottish Ministers consider that the proposed Development, if deployed, would create net economic benefits and deliver renewable energy benefits that would contribute to supporting climate change mitigation and are wholly in accordance with Scottish Government's climate change ambitions. The proposed Development in these respects would contribute to sustainable development and this has been taken into account when reaching a decision. These benefits however must be considered carefully in the context of the negative impacts on the natural environment and whether or not, on balance, they are acceptable.
- 4.7 The Scottish Ministers acknowledge, in accordance with both NPF4 and the OWPS, that meeting our climate ambitions will require a rapid transformation across all sectors of our economy and society, however this does not negate the continuing requirement to ensure that the right development happens in the right place.
- 4.8 The Scottish Ministers, having considered the Application, the EIA Report, AI 2021, AI 2022, SEI, consultation responses and public representations alongside the Reporter's considerations and subsequent conclusions, consider that although the significant visual impacts of the proposed Development would be overall outweighed when balanced against the net economic benefits and the renewable energy benefits that would be delivered if the proposed Development were to be deployed, the significant adverse effects on the SQs of the North Arran NSA would not. The Scottish Ministers do not consider that the social, environmental or economic benefits of the proposed Development can be construed as significant or nationally important to the extent that they clearly outweigh the significant adverse effects on the SQs for which the North Arran NSA has been designated.
- 4.9 The Scottish Ministers have carefully considered the option of imposing a suspensive condition to secure the installation of an ADLS, prior to construction of the proposed Development, but do not find that the evidence provided to date on the matter affords

sufficient assurance that either method would be capable of being installed on the proposed Development within the next 5 years. As such, taking account of the resulting uncertainty on timescales for the deployment of the proposed Development if it were to be consented, the Scottish Ministers consider it would not be appropriate in this case to impose the suspensive condition proposed by the Reporter to mitigate the effects of the proposed Development's lighting on the SQs of the North Arran NSA.

- 4.10 This leads the Scottish Ministers to the conclusion that despite the many factors in favour of the proposed Development this is not the right Development in the right place and the proposed Development is therefore not acceptable overall.
- 4.11 The Scottish Ministers therefore consider the Application for consent under Section 36 of the Electricity Act 1989 for the construction and operation of Narachan Wind Farm, wholly within the planning authority area of Argyll & Bute Council, should be refused.
- 4.12 The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine applications for consent.
- 4.13 The Reporters Inquiry Report and Scottish Ministers decision can be viewed on the DPEA (Directorate of Planning Environmental Appeals) website at the following link:

[Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/Topics/Planning/Environmental%20Appeals/Case%20Details)

5.0 IMPLICATIONS

Policy: None.
Financial: None.
Personnel: None
Equal Opportunities: None

Author: Arlene Knox **Date:** 29th April 2024

Fergus Murray
Head of Development and Economic Growth

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Argyll and Bute Council
Development and Economic Growth

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE – 22nd May 2024

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

22/00678/PPP – Site West of Ruanda, Shore Road, Peaton, Argyll and Bute

(A) INTRODUCTION

This report summarises a recent decision by Scottish Ministers following the above application being appealed.

(B) RECOMMENDATION

It is recommended that Members note the content of this report.

(C) BACKGROUND – 22/00678/PPP

This report refers to planning application reference 22/00678/PP for the erection of a dwelling house in principle and formation of a new access at a site West of Ruanda, Shore Road, Peaton on the Rosneath peninsula within Helensburgh and Lomond area.

Planning permission was refused at Planning, Protective Services and Licensing Committee on the 23rd of November 2023 due a number of reasons including the house not being in keeping with the settlement pattern, part of the development (the access) being outside the settlement area, the impact on the undeveloped coast and finally the impact on biodiversity and woodland. The proposal would have resulted in an unacceptable development contrary to NPF4 Policies 3, 6, 19 and 14 and also LDP2 Policies 01, 02, 04, 05, 08, 10, 28, 73 and 77.

An appeal was subsequently submitted to the Planning and Environmental Appeals Division (PEAD).

SCOTTISH MINISTERS' DECISION

Scottish Ministers dismissed the appeal and concluded that the planning permission should be refused.

In summary the key points are as follows:

- Settlement Pattern – the assessment found that the predominant settlement pattern on the western shore is of large, detached homes on the landward side of the road, with minimal shorefront development. Then they go on to conclude that the existing settlement pattern and character of Peaton itself would not be respected, and that the character of the settlement would be detrimentally altered by the appeal proposal. Development on the shore side of Shore Road appears to be the exception, and not the dominant development pattern in this area.

- Development Outside Settlement Area – it is concluded that the access as currently proposed would not meet the required visibility splays and sightlines on the B833 Shore Road and it would introduce a built element into the countryside.
- Coastal Development – the assessment agrees that the site is on a stretch of undeveloped coast, although within the settlement area. It states that there would be an adverse impact on views from sea to land, as the setting of Peaton would be detrimentally altered with the introduction of a new dwelling on the shore, which would be out of keeping with the established character of the settlement.
- Biodiversity – the assessment states that even though a preliminary appraisal has been submitted to support the proposal, it does not indicate measures to demonstrate biodiversity enhancement, nor does it demonstrate that there would be no impact on habitats.
- Woodland – the assessment concludes, that following the site inspection, it difficult to envisage how any development could take place without the removal of trees to facilitate the required access, visibility splays, parking and garden areas.

Therefore, every reason for refusal was upheld and it was considered contrary to the provisions of NPF4 and LDP2.

Full details of the appeal documents and decision can be viewed on the PEAD website under the reference PPA-130-2088:

[Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/Topics/Planning/Development-Permits/PPA-130-2088)

(D) IMPLICATIONS

Policy: None

Financial: None

Personnel: None

Equal Opportunities: None

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Fergus Murray

Head of Development and Economic Growth

ARGYLL AND BUTE COUNCIL

**PLANNING, PROTECTIVE SERVICES &
LICENSING COMMITTEE**

LEGAL AND REGULATORY SUPPORT

22 MAY 2024

PRIVATE HIRE CARS AND TAXIS LICENSED IN ARGYLL & BUTE

1.0 EXECUTIVE SUMMARY

The Planning, Protective Services and Licensing Committee agreed at their meeting on 18 November 2020 that Officers should prepare periodic reports at least every six months providing updates on the number of private hire cars and taxis across the licensing authority's area.

ARGYLL AND BUTE COUNCIL

PLANNING, PROTECTIVE SERVICES &
LICENSING COMMITTEE

LEGAL AND REGULATORY SUPPORT

22 MAY 2024

PRIVATE HIRE CARS AND TAXIS LICENSED IN ARGYLL & BUTE

2.0 INTRODUCTION

2.1 Following publication of the Scottish Government's best practice guidance on the power to refuse to grant private hire licences on the grounds of over provision, consideration was given to a report inviting Members to amend the procedure for determining private hire car licence applications.

The Committee agreed at their meeting on 18th November 2020:

- a) that all future unopposed applications for private hire car licences may be granted by Officers on a delegated basis; and
- b) that Officers should prepare periodic reports at least every six months, for the Planning, Protective Services and Licensing Committee providing updates on the number of private hire cars and taxis across the licensing authority's area.

The last report was considered by the Committee on 18th October 2023.

3.0 RECOMMENDATIONS

3.1 That the members note the number of private hire cars and taxis across the licensing authority's area as detailed in Appendix 1 and 2.

4.0 DETAIL

4.1 The purpose of this report is to provide an update on the numbers.

5.0 CONCLUSION

5.1 An update of these figures will be provided on a 6 monthly basis.

6.0 IMPLICATIONS

6.1 Policy: None

6.2 Financial: None

6.3 Legal: None

6.4 HR: None

6.5 Fairer Scotland Duty:

6.5.1 Equalities - protected characteristics

6.5.2 Socio-economic Duty

6.5.3 Islands

6.6 Climate Change: None

6.7 Risk: none

6.8 Customer Service: None

Douglas Hendry

Executive Director with responsibility for Legal and Regulatory Support

Policy Lead Kieron Green

25 March 2024

For further information contact: Sheila MacFadyen Ext: 4265

Appendix 1 – Statistics on Number of Taxi Licences

Appendix 2 – Statistics on Number of Private Hire Car Licences

Appendix 1

STATISTICS ON NUMBER OF TAXI LICENCES – ARGYLL AND BUTE – April 2024

Area	No. Taxis referenced in LVSA Report 2019	No. Licences lapsed since LVSA report	New licences granted since LVSA report	Licences surrendered since LVSA report	Current Total	No. Licences as at March 2024
Bute & Cowal	57 Mistake on report Actual no. 54	0	1	0	55	55
Helensburgh & Lomond	48	5	16	6	53	49
Mid Argyll, Kintyre & Islay	24	1	2	1	24	23
Oban, Lorn & Isles	52	3	4	3	50	51

Appendix 2

STATISTICS ON NUMBER OF PRIVATE HIRE CAR LICENCES (with addresses in the areas) – ARGYLL AND BUTE –April 2024

Area	No. Private Hire Car referenced in LVSA Report 2019	No. Licences lapsed since LVSA report	New licences granted since LVSA report	Licences surrendered since LVSA report	Current Total	No. as at March 2024
Bute & Cowal	1	2	5	0	4	4
Helensburgh & Lomond	14	8	8	6	8	8
Mid Argyll, Kintyre & Islay	37	11	16	5	37	33
Oban, Lorn & Isles	16	3	2	4	11	10

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