

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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14 December 2011

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 21 DECEMBER 2011** at **10:30 AM**, or at the conclusion of the PPSL Committee at 9.30 am, whichever is the later, which you are requested to attend.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. MINUTES**
 - (a) Planning, Protective Services and Licensing Committee 23 November 2011 (10.00 am) (Pages 1 - 8)
 - (b) Planning, Protective Services and Licensing Committee 23 November 2011 (10.30 am) (Pages 9 - 18)
- 4. ARDKINGLAS ESTATE: ERECTION OF MIXED DEVELOPMENT COMPRISING 16 DWELLING HOUSES, 7 COMMERCIAL UNITS, CHILDCARE CENTRE AND INSTALLATION OF SEWAGE SYSTEMS AND ACCESS IMPROVEMENTS: LAND ADJACENT TO ARDKINGLAS SAWMILL, CLACHAN, CAIRNDOW (REF: 09/00385/OUT)**
Report by Head of Planning and Regulatory Services (Pages 19 - 62)
- 5. NATIONAL GRID PROPERTY: SITE FOR THE ERECTION OF RETAIL STORE (CLASS 1) WITH ASSOCIATED DEVELOPMENT INCLUDING ACCESS, CAR PARKING AND LANDSCAPING: LAND AT FORMER GASWORKS, ARGYLL STREET/HAMILTON, DUNOON (REF: 11/00689/PPP)**
Report by Head of Planning, and Regulatory Services (Pages 63 - 126)

6. **CWP PROPERTY DEVELOPMENT AND INVESTMENT: ERECTION OF CLASS 1 FOODSTORE WITH ASSOCIATED DEVELOPMENT TO INCLUDE CAR PARKING, ACCESS ROAD, ROAD BRIDGE, PETROL FILLING STATION AND ENGINEERING WORKS: 361 ARGYLL STREET, DUNOON (REF: 10/00222/PPP)**
Report by Head of Planning and Regulatory Services (Pages 127 - 200)
7. **MR DUNCAN CAMPBELL: SUB DIVISION OF GARDEN GROUND, ERECTION OF DWELLINGHOUSE AND DETACHED GARAGE AND FORMATION OF NEW ACCESS: 7 LAGGARY PARK, RHU, HELENSBURGH (REF: 11/00784/PP)**
Report by Head of Planning and Regulatory Services (Pages 201 - 220)
8. **WAITROSE LTD AND WANDERING WILD LTD: ERECTION OF CLASS 1 FOODSTORE, PETROL FILLING STATION, ACCESS, PARKIING, LANDSCAPING AND ANCILLARY DEVELOPMENT: LAND SOUTH OF HERMITAGE ACADEMY, CARDROSS ROAD, HELENSBURGH (REF: 11/01422/PP)**
Report by Head of Planning and Regulatory Services (to follow)
9. **MR AND MRS J URQUHART: ALTERATIONS AND EXTENSION TO DWELLINGHOUSE: 64B COLQUHOUN STREET, HELENSBURGH (REF: 11/01590/PP)**
Report by Head of Planning and Regulatory Services (Pages 221 - 232)
10. **COUNCILLOR LEN AND MRS BEVERLEY SCOULLAR: ALTERATIONS AND EXTENSION TO DWELLINGHOUSE INCLUDING REPLACEMENT ROOF TILES AND NEW SOLAR PANELS: 45 CRAIGMORE ROAD, ROTHESAY (REF: 11/02175/PP)**
Report by Head of Planning and Regulatory Services (Pages 233 - 240)
11. **COMMUNITY COUNCIL LIAISON MEETINGS**
Report by Head of Planning and Regulatory Services (to follow)
- E1 12. **ENFORCEMENT CASE: 10/00319/ENAMEN**
Report by Head of Planning and Regulatory Services (Pages 241 - 244)

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 Gordon Chalmers
Councillor Robin Currie
Councillor Mary-Jean Devon
Councillor David Kinniburgh
Councillor Donald MacMillan
Councillor Alister McAlister
Councillor Alex McNaughton
Councillor Al Reay

Councillor Rory Colville
Councillor Vivien Dance
Councillor Daniel Kelly
Councillor Neil Mackay
Councillor Bruce Marshall
Councillor Roderick McCuish
Councillor James McQueen

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 23 NOVEMBER 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Rory Colville	Councillor Donald MacMillan
Councillor Vivien Dance	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor David Kinniburgh	Councillor James McQueen
Councillor Bruce Marshall	Councillor Al Reay
Councillor Neil Mackay	

Attending: Charles Reppke, Head of Governance and Law
Graeme Forrester, Solicitor
Mark Aikman, Applicant
Stuart Cordner, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Gordon Chalmers, Robin Currie and Alister McAlister.

2. DECLARATIONS OF INTEREST

None declared.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF BOAT HIRE LICENCE: LOCH LOMOND BOAT HIRE (TARBET, ARROCHAR)

The Chair introduced himself and invited those present at the meeting to do likewise and then outlined the procedure that would be followed.

Mr Forrester advised that 3 late letters of objection had been received out with the time period allowed by the Civic Government (Scotland) Act 1982 for making objections or representations. The first 2 late objections were received from the Arrochar & Tarbet Community Council and from Simon Lewis of Friends of Loch Lomond and the Trossachs. Mr Forrester advised that both of these Objectors had been invited to attend the meeting to explain their reason for the lateness of their objections.

Mr Reppke advised that if the Committee wished to take these late objections into consideration then they would need to adjourn to another day to allow the proper period of notice (14 days) to the Applicant unless the Applicant waived his right to have 14 days to consider these. It was confirmed that neither Objector was in attendance to explain the lateness of their representations.

Mr Forrester also advised of a late objection received from the Passenger Boat Association which had been received less than 14 days since notification of the hearing taking place had been given. He advised that if the Committee wished

to take this objection into consideration Members would have to agree to continue consideration of the application to allow the Passenger Boat Association to receive at last 14 days notice of a hearing taking place.

The Chair ruled, and the Committee agreed, that they would not take into consideration either of the 3 late representations on the basis that there appeared to be no reasonable explanation for the late submissions.

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

Applicant

Mr Aikman of Silvers Marine, operating under the Trading Name of Loch Lomond Boat Hire spoke to the terms of his application for a Boat Hire operators' licence to allow him to operate from premises at Tarbet. He referred to his submitted list of vehicles that he wished to use and advised that he felt misunderstood by Objectors. He advised that although the list was extensive it was not his intention to use all of the vehicles at Tarbet and confirmed that the first 3 vehicles on the list would be operating from Balloch and not Tarbet. He advised that it was only his intention to operate 1 – 4 ribs from Tarbet.

The Chair invited the Objector to ask the Applicant questions.

Questions to Applicant

Mr Corder asked the Applicant if it was his intention to operate self drive boats from Loch Lomond shore and not Tarbet and Mr Aikman replied yes.

Mr Corder asked the Applicant to confirm how many ribs he intended operating from Tarbet and Mr Aikman confirmed that this would be a maximum of 3.

The Chair then invited the Objector to speak in support of his objection.

Objector

Mr Corder of Cruise Loch Lomond Ltd advised that he had 2 main areas of concern. He referred to Tarbet pier having recently undergone extensive refurbishment and that this had resulted in a loss of a 3rd of its capacity and that there was no capacity for any further commercial activity at Tarbet. He also advised that he had huge concerns regarding ribs sharing the same channel of water as large commercial passenger vehicles up to 60 tonnes in weight, other private vehicles and families. He advised that this was a recreational area for locals and visitors and that to operate ribs from Tarbet pier would not make for a safe environment. He advised that he had asked the Loch Lomond and the Trossachs National Park to carry out a risk assessment for ribs and that to date this has not been done. He also referred to the impeccable safety record of the Commercial Boat Operators' Association. He advised that he was part of a working group looking at byelaws for the area. He queried what instruction or qualifications will determine whether or not a member of the public will be suitably qualified to drive self hire vessels. He referred to the Inversnaid ferry capsizing in 2006 and 3 local fishermen losing their lives in 2008 and advised that both incidents had involved experienced local users. He advised that a great deal of work has been done to build up the tourism sector of Loch Lomond

and that he felt that this could be put into jeopardy if self drive vessels and ribs were allowed to operate near a recreational area. He also referred to the Tarbet Visitor Centre being used to operate the Applicant's activities and questioned the size of the building and whether it was fit for this purpose and did not think this was the right environment to operate self drive vessels and ribs. He also queried the storage of fuel for the boats and advised that a separate licence would be required for this. He referred to the numbers of visitors to Tarbet pier in the peak summer period (150 – 200) and to the lack of car parking available in the area and the restricted access to the pier both for people wishing to cruise and for emergency vehicles. He referred to other Associations he was involved with and that their main aim was to ensure Loch Lomond remained a safe and tranquil location for users. He referred to Lake Windermere Cruises which operate both self drive vessels and cruises and that these activities were operated in different places and not in close proximity to each other. He also referred to Sweeney Cruises in Balloch previously operating both types of activities but that this had ceased due to it being too risky. He advised that there was a danger in having self drive vessels in close proximity to cruises.

The Chair invited the Applicant to ask the Objector questions.

Questions to Objector

Mr Aikman asked Mr Cordner if it was his view that ribs were more of a danger than 60 tonne passenger vehicles and Mr Cordner replied yes and explained his reasons for this, referring to the Caribbean where people have lost their arms through being hit by fast moving vessels and that it was his opinion that these types of vessels were a higher risk to the public than large passenger vessels.

Mr Aikman referred to being governed by strict speed restrictions which would mean the ribs would approach the pier at the same speed as passenger vessels and advised that he struggled to understand why skippered vessels would not prove a greater risk and asked Mr Cordner to convince him of this further. Mr Cordner referred to the safety record for self drives and the experienced skippers of passenger vessels and that they would operate safely in the waters around Tarbet.

Mr Aikman asked if Mr Cordner was aware of any instances involving collisions with leisure vessels in the UK. Mr Cordner referred to an incident on the Thames involving a passenger boat. Mr Aikman asked what the findings of the MCA were on this and Mr Cordner advised that the investigation was ongoing.

Mr Aikman asked Mr Cordner if he was aware of other self drive hires on Loch Lomond and he replied yes.

Mr Aikman asked Mr Cordner if he was aware of self drive hires on Windermere and he replied yes.

Mr Aikman asked Mr Cordner if he was aware of self drive hires in the South of England and he replied yes.

Mr Aikman asked if Mr Cordner was aware of any incidents involving self drive hires in any of the above locations and he replied no.

Mr Aikman asked for clarification on Mr Cordner's understanding of the capacity of the pier at Tarbet. Mr Aikman referred to there being 2 commercial berths at Tarbet pier and asked Mr Cordner to explain why he thought there was a problem with capacity. Mr Cordner advised that given the size of the pier and the volume of users it was beyond saturation.

Mr Aikman asked Mr Cordner if he was familiar with power boat operators at Luss and he replied yes.

Mr Aikman asked Mr Cordner if he was familiar with issues of car parking at Luss and he replied yes.

Mr Aikman asked Mr Cordner if he was aware of other rib operators within a 30 mile radius and he replied other than one similar type of operator no.

The Chair invited Members to ask the Applicant and Objector questions.

Members' Questions

Councillor Reay asked Mr Aikman about the speed restrictions of the 8 self drive ribs. Mr Aikman advised that the self drives were not ribs and explained the speed the restrictions of these.

Councillor Reay asked Mr Aikman if the hirer had to have qualification to operate the self drives and Mr Aikman replied no advising that there was no industry requirement for this.

Councillor Reay asked Mr Aikman what type of fuel his boats would be using and what the arrangements would be for fueling the boats. Mr Aikman replied that they were powered by petrol and that there was self contained fuel tanks on board the boats and explained how these were operated. He advised that the fuel tanks would be refuelled at petrol stations.

Councillor McCuish asked for clarification on whether these 8 boats would operate from Tarbet Pier. Mr Aikman advised that only 3 ribs would operate from Tarbet pier.

Councillor McCuish referred to Mr Cordner's objection on the grounds of Health and Safety and his concern about the general public operating hire vessels with no experience, berthing at the same pier as large commercial passenger vessels up to 60 tonnes in weight and asked if the fact that these types of vessels will not be operating from Tarbet pier satisfied him. Mr Cordner advised yes it did if the master of the craft had qualifications. He referred to his continued concern about self drive hire vessels still entering the water at Drumkinnon Bay needing to be addressed.

Councillor Devon asked if discussions had taken place with Loch Lomond and the Trossachs National Park regarding the Applicant being a tenant at Tarbet Pier and Mr Aikman confirmed that he had permission and he had a licence.

Councillor Devon asked if the National Park had raised any objections and Mr Aikman replied no.

Councillor Devon referred to Mr Cordner's statement that a risk assessment had not been carried out by the National Park and asked if the National Park had shown any concerns regarding the increase in vessels around Tarbet and boats being operated by non experienced people. Mr Cordner replied that this issue had been raised in the group he was involved with looking at bye laws and that it was an ongoing concern.

Councillor Devon referred to the MCA regulations that would have to be followed by the Applicant and Mr Aikman agreed that this would be the case.

Councillor Mackay referred to the concerns raised by Mr Cordner about the capacity of the premises to be used by the Mr Aikman at Tarbet pier and asked Mr Aikman what the premises would be used for. Mr Aikman advised that the premises would be used for ticket sales and storage of waterproof clothing and life jackets. He confirmed that fuel would not be stored on the premises.

Councillor Mackay asked the Applicant to confirm how long he had been operating his business and if there had been any incidents in this time. Mr Aikman replied that he had been operating for 5 months and that the only incident involved one of the safety boats which had broken speed restrictions at Balloch when they were retrieving belongings that had fallen off the boat of one of their self hire drive vessels. He advised that he had since arranged to have the safety boat exempt from speed restrictions.

Councillor Mackay referred to the refurbishment of Tarbet pier and the reduction in capacity and asked Mr Cordner to explain how capacity would be infringed by other operators using the pier. Mr Cordner advised that from experience members of the public hiring self drive vessels were given tuition at the pier and that this did not make for a safe environment. However, he acknowledged that the goal posts had changed as the Applicant would now only be running ribs from the pier and not self drive hire vessels. He advised that he had concerns about members of the public being instructed on self drive boats but understood that this work would now be undertaken at Drumkinnon Bay.

Councillor Colville asked whether the boats being used by the Applicant were new or second hand. Mr Aikman advised that he had one second hand vessel and the rest had been purchased and been in use since 2005.

Councillor Colville asked if the operators of the ribs will be existing operators or if the Applicant would be hiring new staff. Mr Aikman advised that all his staff were experienced and had been operating the vessels since 2005. He advised that if there was great demand then there was the possibility of employing more staff in the future.

Councillor Colville asked Mr Cordner if the opening hours of his business were the same as Mr Aikman's and he replied he operated from 8 am – 6 pm.

Councillor Kelly sought clarification from Officers on what exactly on the application the Committee were dealing with today. Mr Reppke advised that the operation of self drive vessels from Tarbet was no longer part of the application and that the Committee were only being asked to consider the 4 ribs. He explained that the self drive vessels would be operating out of Drumkinnon Bay which was in the West Dunbartonshire Council area and that they would be the

subject of a separate application to Argyll and Bute Council if the Applicant wished to enter the waters of Loch Lomond within this Council area.

Councillor Marshall referred to Mr Cordner's objections being centred around the grounds of Health and Safety and suggested that may be his main reason was because of competition with his business. Mr Cordner replied that this was certainly not the case and that Mr Aikman's business would be for a completely different market of people. He advised that his main concern was about Health and Safety and the infrastructure at Tarbet Pier as the channel of water at Tarbet was used by private users and swimmers.

Councillor Dance referred to the National Park raising no concerns, the Applicant catering for a different market, the operation of the 3 ribs and self drive vessels no longer being an issue and asked Mr Cordner to explain his concerns in light of this and to explain his concerns about the premises to be used by the Applicant. Mr Cordner advised that Cruise Loch Lomond Ltd looked to advise the National Park and offer their professional opinion on boat users. He advised that the National Park were very keen on self policing. He advised that he was concerned that the premises to be used by the Applicant were not fit for purpose and that the size of the building was limited.

Councillor Dance asked Mr Aikman how long he had been in business and to respond to the concerns about the premises at Tarbet pier being fit for purpose. Mr Aikman advised that he had been the owner of Silvers Marine for 3 years and that Silver's have been in business in their own right for over 100 years operating out of Rosneath all of this time. He advised that the kiosk at Tarbet was 200% bigger than a similar kiosk and storage area used by an operator on Loch Ness.

Councillor Dance asked Mr Aikman if he believed his operation was for a different market to Mr Cordner's. Mr Aikman replied yes but that there may be a cross over and that he was there to satisfy demand.

Councillor Reay asked if the Committee were now not concerned with the self drive boats. Mr Reppke replied yes and that they would be operating out with the Council area at Drumkinnon Bay and that there may be a further application if the boats were to come into the Argyll and Bute Council area.

Councillor McCuish referred to Mr Cordner's objections and asked if 5 out of the 8 of these were no longer valid as the self drive vessels were no longer part of the application. Mr Cordner advised that he would be still concerned about the ribs being operated in close proximity to swimmers, kayakers and the large passenger vessels.

Councillor McCuish asked was it not illegal to jump off the pier at Tarbet and were there not signs advising of this. Mr Cordner advised there were no signs and that it would be difficult to police.

Councillor Mackay asked Mr Aikman if his company was involved with any of the organisations mentioned early by Mr Cordner. Mr Aikman advised that his company had not been invited to join the Commercial Boat Owners' Association.

Councillor Mackay asked Mr Aikman if he had applied to join the Association and he replied no.

Councillor Devon asked Mr Cordner if he agreed that the MCA regulations for commercial passenger vessels was very stringent and he replied yes and that they were in the process of reviewing and recommending regulations for smaller passenger vessels for 12 or less people.

Councillor Devon asked Mr Cordner did it not give him comfort that the MCA had these strict regulations in place. Mr Cordner advised that at the moment the regulations did not cover passenger vessels operating for 12 passengers or less and that they were not responsible for these types of vessels.

Having established there were no further questions the Chair invited the Objector and Applicant to sum up.

Summing Up

Mr Cordner summarised his concerns about safety and the ribs being operated in close proximity to other users of Tarbet pier. He acknowledged that the operation of self drive vessels at Tarbet was no longer an issue.

Mr Aikman advised that he wished to operate the ribs from Tarbet in order to bring a new tourist activity to the area and that the drivers of these ribs would not be charging into the Pier at great speeds and that there was not a greater safety risk operating at Tarbet or anywhere else in Loch Lomond.

The Chair invited the Applicant and Objector to confirm that they had received a fair hearing and both confirmed this to be the case.

Debate

The Chair advised that from what he had heard today and the fact that the application was now only for ribs to operate from Tarbet Pier with experienced helmsmen he saw no reason why the application could not be granted.

Decision

It was unanimously agreed to grant Mr Aikman's request for a Boat Hire Licence and that he would be informed of this decision within 7 days.

(Reference: Report by Head of Governance and Law, submitted

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**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 23 NOVEMBER 2011**

Present: Councillor Daniel Kelly (Chair)

Councillor Rory Colville	Councillor Neil Mackay
Councillor Gordon Chalmers	Councillor Donald MacMillan
Councillor Vivien Dance	Councillor Roderick McCuish
Councillor Mary-Jean Devon	Councillor Alex McNaughton
Councillor David Kinniburgh	Councillor James McQueen
Councillor Bruce Marshall	Councillor Al Reay

Attending: Charles Reppke, Head of Governance and Law
Angus Gilmour, Head of Planning and Regulatory Services
Ross McLaughlin, Development Manager

The Chair ruled, and the Committee agreed, to consider the business dealt with at item 12 of this Minute as a matter of urgency by reason of the need to have a formal written procedure agreed on the Council's requirements for the preparation and submission (including consultation arrangements) of Masterplans in accordance with the provisions of the current Development Plan and national guidance.

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Robin Currie and Alister MacAlister.

2. DECLARATIONS OF INTEREST

Councillor James McQueen declared a financial interest in the planning application dealt with at item 9 of this Minute as he is a shareholder and retired employee of Scottish Gas.

Councillor Bruce Marshall declared a non financial interest in the planning application dealt with at item 9 of this Minute as he has previously made his feelings known on a related planning application.

Councillor Marshall and Councillor McQueen left the room and took no part in the discussion of this item.

3. MINUTES

(a) The Minutes of the Planning, Protective Services and Licensing Committee of 10 October 2011 (11.00 am) -

The Head of Governance and Law advised that he had received representations regarding the accuracy of these Minutes and the competency of the Committee's decision taken at the discretionary hearing held in respect of Planning Application Ref: 11/00887/PP. He

referred Members to page 13 of these Minutes and advised that a comma had been misplaced and that “£11500,” should read as “£11,500”. He also advised Members it was his opinion that the Motion agreed at the hearing was competent given that it had been dealt with in accordance with the Council’s procedure for said matters and invited Members to approve the Minutes as a correct record.

Councillor Reay referred to page 18 of the Minutes and advised that the word “optimistic” should read “opportunistic”.

The Minutes of the Planning, Protective Services and Licensing Committee of 10 October 2011 (11.00 am) were approved as a correct record subject to the changes referred to above.

- (b) The Minutes of the Planning, Protective Services and Licensing Committee of 10 October 2011 (2.00 pm) were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee of 19 October 2011 (9.30 am) were approved as a correct record.
- (d) The Minutes of the Planning, Protective Services and Licensing Committee of 19 October 2011 (10.00 am) were approved as a correct record.
- (e) The Minutes of the Planning, Protective Services and Licensing Committee of 19 October 2011 (10.30 am) were approved as a correct record.
- (f) The Minutes of the Planning, Protective Services and Licensing Committee of 21 October 2011 were approved as a correct record.
- (g) The Minutes of the Planning, Protective Services and Licensing Committee of 9 November 2011 (11.00 am) were approved as a correct record.

4. ARDKINGLAS ESTATE: ERECTION OF MIXED DEVELOPMENT COMPRISING 16 DWELLINGHOUSES, 7 COMMERCIAL UNITS, CHILDCARE CENTRE, INSTALLATION OF SEWAGE TREATMENT SYSTEMS AND ACCESS IMPROVEMENTS: LAND ADJACENT TO ARDKINGLAS SAWMILL, CLACHAN, CAIRNDOW (REF: 09/00385/OUT)

The Development Manager spoke to the terms of supplementary report number 4 which advised of the receipt of additional documentation from the Applicant and a further third party representation in light of the PPSL Committee’s decision to continue consideration of this application following the discretionary hearing which took place on 21 October 2011. He also spoke to the terms of a further supplementary report number 5 which was tabled at the meeting and alerted Members to the receipt of 3 further representations and further supporting documentation from the Applicant in respect of visibility splays. He summarised the proposal and ran through the presentation slides and highlighted various aspects of the new Masterplan which had been submitted by the Applicant on 27

October 2011 and circulated to Members.

The Head of Governance and Law referred to an email he had received from one of the objectors, Mr Pound, regarding his view that there were inaccuracies in the Minute of the hearing and also expressed concerns about the procedures being followed and this was circulated to Members. He advised that in his opinion the Minute was accurate and that the question regarding whether or not the application could be treated as a minor departure from the Local Plan had, in fact, been raised by Councillor MacMillan and not Councillor Marshall as suggested by Mr Pound. He confirmed that Councillor MacMillan's question and Mr McLaughlin's reply to this had been recorded in the Minute. He confirmed that the Minute was not a verbatim record of the hearing but as much detail as possible was included. He also referred to Mr Pound's concerns about the new Masterplan and he advised Members that if they wished to take this Masterplan into consideration then a period of public consultation should be undertaken prior to taking a decision on it.

Decision

The Committee agreed :-

1. To continue consideration of this Application to allow a period of public consultation to be undertaken in respect of the new Masterplan submitted by the Applicant;
2. To note that local consultation had already been ongoing since submission of the Masterplan on 27 October 2011;
3. That consultation on the Masterplan be advertised in the local press from 1 December 2011 advising that representations on this should be submitted to the Head of Planning and Regulatory Services prior to the 20 December 2011; and
4. That this application and any further representations received will be considered by the Committee on 21 December 2011.

(Reference: Report by Head of Planning and Regulatory Services dated 14 September 2011, Supplementary Report 1 dated 20 September 2011, Supplementary Report 2 dated 13 October 2011, Supplementary Report 3 dated 20 October 2011 and Supplementary Report 4 dated 2 November 2011, submitted and Supplementary Report 5 dated 22 November 2011, tabled)

- 5. MR DUNCAN CAMPBELL: SUB-DIVISION OF GARDEN GROUND, ERECTION OF DWELLINGHOUSE AND DETACHED GARAGE AND FORMATION OF NEW ACCESS: 7 LAGGARY PARK, RHU, HELENSBURGH (REF: 11/00784/PP)**

It was agreed at the PPSL Committee on 19 October 2011 to continue consideration of this application to this meeting to allow Officers to clarify with the Applicant which set of plans he wished to put forward for consideration and whether or not he wished to see the original proposal determined, or whether he proposed to withdraw this current application and submit a new application in respect of an alternative proposal. The Development Manager spoke to the

terms of supplementary planning report number 2 advising that the Applicant would be pleased to secure planning permission for either of the two site layouts and would like to discuss this further with Planning Officers.

Decision

Agreed to note the terms of the report and to continue consideration of the Application to allow the Applicant to have further discussions with Planning Officers.

(Reference: Report by Head of Planning and Regulatory Services dated 2 September 2011, Supplementary Report 1 dated 19 September 2011 and Supplementary Report 2 dated 3 October 2011, submitted)

6. EE-USK: REMOVAL OF CONDITION 4 RELATIVE TO LISTED BUILDING CONSENT 10/01817/LIB (DEMOLITION NOT TO COMMENCE UNTIL CONTRACT LET FOR RE-DEVELOPMENT): ARGYLL HOTEL, CORRAN ESPLANADE, OBAN (REF: 11/01019/LIB)

This application was continued from the PPSL Committee on 19 October 2011 in order to invite the Applicants to meet with Officers to establish whether the suggestion of a legal agreement between the Applicants and the Council could safeguard the positions of both parties and potentially enable the condition in question to be removed. The Head of Planning and Regulatory Services provided a verbal update to Members on the contents of supplementary planning report number 2 which advised of the current position of the structural condition of the building and presented the conclusions of the review of the Applicant's structural report by the Council's Building Standards Manager and consultant engineers employed by the Council which had been referred to in supplementary planning report number 1. He advised that the outcome of the review had resulted in a significant material change in circumstances and in view of ongoing safety concerns it was now recommended that the listed building consent condition at issue be removed in order to allow demolition to proceed before further deterioration in the structure presented an uncontrolled safety risk. Legislation provides that in deleting a condition, there is opportunity to modify or add conditions arising as a consequence of that a deletion, so condition 3 of the original listed building consent has been amended to include the requirement for hoarding installation and retention.

Decision

Agreed that Listed Building Consent be granted subject to clearance being given by Historic Scotland prior to the decision being issued and to the following conditions and reasons:

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 20 of the Planning etc. (Scotland) Act 1997.

2. Before the demolition hereby permitted is first commenced, the developer in consultation with the Planning Authority shall draw up a schedule of

materials and items which shall be reclaimed from the site during or prior to demolition. This shall include the reclamation of existing slate from the building. These materials and items shall be satisfactorily set aside, stored and/or used in a manner which shall first be agreed with by the Planning Authority, prior to any demolition taking place.

Reason: In order to protect and save materials and items which can reasonably be retrieved, in the interests of the historical and architectural qualities of the building to be demolished.

3. Prior to the commencement of demolition, a scheme shall be submitted to and approved by the Council as Planning Authority for the temporary reinstatement of the cleared site. The scheme shall include *inter alia* details of surface treatment, the treatment of newly exposed building gables, and the screening of the site by means of hoardings, including a timetable for the demolition and reinstatement. The development shall proceed in accordance with the duly agreed scheme and the timetable for its implementation. Hoardings required by virtue of this condition shall be of a material, height, location and colour and with any signage or graphics all being agreed in advance of demolition works being commenced, and these hoardings shall remain in place and shall be maintained free of advertisements, posters or graffiti following the completion of demolition operations, until such time as construction works are commenced on the redevelopment of the site.

Reason: To ensure that the cleared site does not compromise further the settings of the adjacent category B listed buildings and/or downgrade the environmental quality of the Special Built Environment Area of which it is a part.

4. Prior to the commencement of demolition, a Demolition Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with, Historic Scotland and Transport Scotland. The Demolition Method Statement address intentions in respect of:
 - Demolition Methodology - Type and sequence of demolition and site establishment;
 - Hazardous Materials - special arrangements required for the potential removal and disposal of any asbestos;
 - Notification of demolition to adjacent property owners and local residents;
 - Dust & Noise Reduction Strategy - steps to be taken to minimise the risk and nuisance to adjoining land, building or road users
 - Proximity to Other Structures - Trunk Road, Public Footpath, Public Right of Way (Pend), Access Rights of Adjacent Properties (Pend), Regent Hotel (Category B listed building), Oban Inn (Category B listed Building) and Charles Street (Category B listed buildings)
 - Traffic Management

Reason: To protect the structural integrity of the adjacent listed buildings, the character of the Special Built Environment Area, in the interests of Public Health and Safety and, to maintain the safe and free flow of traffic and pedestrians on the Trunk Road during demolition.

(Reference: Report by Head of Planning and Regulatory Services dated 1 October 2011 and Supplementary Report 1 dated 7 November 2011, submitted and Verbal Update on Supplementary Report 2.)

7. BUTE COUNTY CRICKET CLUB: CHANGE OF USE OF LAND FOR SITING OF STORAGE CONTAINER: CAR PARK TO NORTH OF SWIMMING POOL 118 HIGH STREET, ROTHESAY (REF: 11/01453/PP)

The Development Manager spoke to the terms of his report advising that this was a Council interest application for the proposed siting of a storage container within the confines of the car park at the Rothesay Swimming Pool. The container will store equipment in association with Bute Country Cricket Club, who play their home matches at The Lade recreation ground adjacent to the car park. He advised that the proposal accorded with policies STRAT DC 1 of the Argyll and Bute Structure Plan 2002 and LP REC 1, LP ENV 10 and LP ENV 19 of the Argyll and Bute Local Plan 2009 and raised no other material considerations and recommended approval of the application.

Decision

1. Agreed to grant planning permission and delegated to the Head of Planning and Regulatory Services, in consultation with the Chair and Vice Chair of the PPSL Committee, to impose a suitable condition to ensure that the colour of the container blends in with its surroundings and subject to the following conditions and reasons:-

- (a) The development shall be implemented in accordance with the approved drawings: Location Plan (scale 1:2500); Site Plan (scale 1: 500); and Elevation Details (scale 1:50) 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.

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

- (b) Unless the further written consent of the Planning Authority is obtained, the storage container hereby approved shall be removed from the site within three years of the date of the container being sited on the land.

Reason: In the interests of visual amenity and parking having regard to the essentially temporary nature and appearance of the container.

2. Agreed that the Note to Applicant should stress the need for the Applicant to ensure a longer term solution for the storage of the equipment is sought prior to the end of the three year consent.

(Reference: Report by Head of Planning and Regulatory Services dated 3 November 2011, submitted)

8. DAVID MOONEY: ERECTION OF DWELLINGHOUSE AND FORMATION OF NEW ACCESS: PLOT 3, LAND TO THE REAR OF LIMEKILN COTTAGE, FERRY ROAD, ROSNEATH (REF: 11/01550/PP)

The Development Manager spoke to the terms of his report advising that the application site was within the settlement zone of Rosneath and close to a Category A listed building. He also referred to a supplementary planning report which was tabled at the meeting and alerted Members to the receipt of 2 further letter and email contributions from the Applicant and addressed a number of clarifications from the original report principally relating to the Application not being part of the Rosneath Conservation Area. He recommended that planning permission be refused as per the original planning report dated 16 November 2011 and revised reason for refusal as detailed in the supplementary report. He advised that in the event that Members were minded to support the recommendation to refuse, then it was not considered that a discretionary hearing would add value to the process due to the overwhelming number of local objectors who agreed with the Officer recommendation. He advised that if Members were minded to support the applicant contrary to the recommendation, then a discretionary local hearing was recommended.

Decision

Agreed to refuse planning permission for the reason outlined below:-

The proposal would reduce the existing curtilage of the dwellinghouse occupying Plot 1 by approximately 23m in width and 290 square metres in total, as defined implemented consent 08/00895/DET. The size and shape of the proposed plot is insufficient to accommodate a dwellinghouse in keeping with the character of the streetscape of this part of Rosneath Village. The plot of land is situated at the end of a line of 2 newly built detached dwellinghouses which are set within generous rectangular shaped plots of approximately 26 metres in width and approximately 40 metres in depth giving an area of approximately 1040 square metres. The proposed plot size would measure only 23 metres in width and 23 metres in depth giving an area of approximately 529 square metres, which around 50% smaller than curtilage of Plot No 2. The proportions and design of the dwellinghouse proposed would appear to be too large for this triangular plot, crammed to boundaries with only a 2 metre separation from boundary walls and trees, which would be out of keeping with the character of its surroundings. Consequently, the combination of the sub-division of the existing plot and the introduction of a detached dwellinghouse with smaller curtilage into a block of detached dwellinghouses with generously proportioned plots, would not be capable of being integrated satisfactorily within its surroundings, and, when juxtaposed with the existing properties would be visually discordant and would have a detrimental impact on the character and amenity of adjoining properties, the settlement pattern and the wider street scene. This would be contrary to adopted Local Plan Policies LP ENV1, LP ENV 19, LP HOU1 and Appendix A, which require that new development should integrate with its setting, should be compatible with its surroundings and respect the character of existing streetscape.

(Reference: Report by Head of Planning and Regulatory Services dated 17 November 2011, submitted and Supplementary Report 1 dated 22 November 2011, tabled)

Having previously declared an interest Councillors McQueen and Marshall left the room and took no part in the discussion of the following item.

9. REPORT ON TIMESCALES FOR CONSIDERATION OF FURTHER INFORMATION REQUESTED IN RESPECT OF PLANNING APPLICATION FROM NATIONAL GRID PROPERTY: SITE FOR THE ERECTION OF RETAIL STORE (CLASS 1) WITH ASSOCIATED DEVELOPMENT INCLUDING ACCESS, CAR PARKING AND LANDSCAPING: LAND AT FORMER GASWORKS, ARGYLL STREET/HAMILTON STREET, DUNOON (REF: 11/00689/PPP)

This application was considered at a PAN 41 hearing on 9 November 2011 and it was agreed at this hearing to continue consideration of the Application and request from the Applicant information as proposed in condition 14 detailed in the Planning Officer's supplementary report number 2. The Development Manager spoke to the terms of supplementary report number 3 confirming the timetable for bringing this requested information to the PPSL Committee.

Decision

Noted the contents of the report and that the Application will be reported to the PPSL Committee on 21 December 2011 with additional flood risk information and comments from SEPA, Flood Risk Manager and any other contributors.

(Reference: Supplementary Report 3 dated 16 November 2011, submitted)

Councillor McQueen returned to the meeting.

10. DEVELOPMENT CONSENT FOR MARINE ALGAL FARMS

Since April 2007, new aquaculture sites and modifications to existing aquaculture developments have required planning consent from Argyll and Bute Council under the provisions of the Town and Country Planning Marine Fish Farming (Scotland) Order 2007 and applied to the placement of equipment in the sea, on the seabed or on the foreshore below MWHS out of 12 nautical miles. The original definition of "fish farming" in the Town and Country Planning (Scotland) Act 1997 was restricted to breeding, rearing or keeping of fish or shellfish (including any kind of crustacean or mollusc). Article 8(2) of the 2007 Order amended this definition to include sea urchins which effectively means that development proposals for seaweed farms in coastal waters do not require planning consent, even though the type and scale of development is very similar to that of mussel farm developments.

The Committee considered a report advising that Marine Scotland will be consulting on proposals to introduce new legislation on improving management measures for farmed fish and that this was an opportunity for the Scottish Government to consider bringing seaweed farming under local authority planning control by amending the definition of "fish farming" to include seaweed.

Decision

Agreed to support the view that marine algal farm developments should be

brought under local authority planning control and agreed to the Head of Planning and Regulatory Services making representation to the Scottish Government for this option to be considered in the current development of the new Aquaculture Bill.

(Reference: Report by Head of Planning and Regulatory Services, submitted)

11. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING DECISION

A report advising of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals was considered.

Decision

Noted that the Appeal against the refusal for Planning Permission Ref: 10/02000/PP was dismissed by the Reporter.

(Reference: Report by Head of Planning and Regulatory Services dated 7 November 2011, submitted)

Councillor Marshall returned to the meeting.

12. GUIDANCE ON THE USE OF MASTERPLANS

A report setting out the Council's requirements for the preparation and submission of Masterplans in accordance with the provisions of the current Development Plan and national guidance was considered.

Decision

1. Agreed that:-

- (a) Where proposals for development of Potential Development Areas are submitted that these should be accompanied by a Masterplan which demonstrates how the proposed development will relate to the wider area and any parts of the Potential Development Area which do not form part of the application site, and that the publicity and consultation arrangements for the Masterplan and planning application run concurrently for a minimum 21 day period;
- (b) That where proposals for development are accompanied by a Masterplan the description of the proposal should make reference to the availability of the Masterplan and be advertised accordingly;
- (c) That where a Masterplan for a Potential Development Area is not submitted at the same time as a planning application, then the developer will be required to cover the costs of advertisement and consultation arrangements, and that as a minimum these would be an advertisement in the local newspaper and a minimum 21 day consultation period;
- (d) That where a Masterplan is required for a major phased urban expansion or regeneration project being taken forward by the

Council prior to the submission of any planning consent that publicity and consultation will be for a minimum of a 28 day period; and

2. Noted that the Head of Planning and Regulatory Services would be flexible with these provisions where justified.

(Reference: Report by Head of Planning and Regulatory Services, tabled)

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

Proposal: Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

Site Address: Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

SUPPLEMENTARY REPORT 5

1.0 SUMMARY

The purpose of this supplementary report is to alert Members of the receipt of three further representations and further supporting documentation from the applicant in respect of visibility splays onto the A83(T) .

2.0 FURTHER REPRESENTATION

Three further emails of objection have been received from:

Mr. J.B. Rowlands, Old School, Cairndow (email dated 19th November 2011);

Mr. Ken Pound, Cairndow (email dated 22nd November 2011);

Mrs. Elaine Pound, Cairndow (email dated 22nd November 2011);

The points raised in the objection letters are summarised below:

Mr. Rowlands comments that it was made quite clear at the Hearing that the existing masterplan in relation to this application had been withdrawn. A new revised masterplan has now been submitted. It is quite clear that no consultation with relevant bodies including the community has taken place regarding this masterplan. The Planning department cannot rely on comments relating to a masterplan which no longer exists and that some have never seen. The only observations and comments relate to 'The erection of 16 dwellings 7 commercial units and childcare centre, not the masterplan.

Comment: The new masterplan or spatial context plan CDA 06A (which is an amended version of an earlier version) was circulated to Local Members and Cairndow Community Council on receipt on the 31st October 2011. An earlier version of Masterplan CDA 06 was submitted on 19th October 2010 to consultees. The principal alterations to the Masterplan is that housing development in the Sawmill Field that would be outwith PDA 9/13 has been removed. For the avoidance of doubt, the new Masterplan which was submitted following the Hearing has not been the subject of consultation from the statutory consultees or a newspaper advert.

The further email received from **Ken Pound** (email dated 22nd November 2011) makes the following comments:

1. *The Minutes of the PPSL Public Hearing dated 21 October 2011 failed to reflect Bruce Marshall's question to Ross McLaughlin "is this a minor or major departure from the Local Plan". Ross McLaughlin replied "this cannot be considered a minor departure, this is a major departure from the Local Plan". Head of Governance and Law agreed to review the minutes and reflect the correct record.*

Comment : This matter is currently being investigated by the Head of Governance and Law.

2. *Acknowledge the clarification that the PPSL was requesting a copy of the Masterplan to be submitted to the PPSL following the revised motion tabled by Bruce Marshall. Head of Governance and Law advised that whilst members may yet be minded to approve the application at the next PPSL on 23 November 2011, the Masterplan submitted must be subject to public consultation which is consistent with your comment as minuted following the Hearing. However, the consultation must include statutory consultees and the community and follow the statutory procedure. I advised that the community had not at any time been consulted on any of the Masterplans submitted to planners which is contrary to PAN 81 and, now upon reflection, the Masterplan must also be subject to neighbour notification.*

In the interests of propriety, the Masterplan submitted to Planning on 27 October 2011 cannot be considered as an amended Masterplan. This is a new Masterplan, the former having been withdrawn by the applicant and Bruce Marshall's motion is flawed when he moved that an 'amended' Masterplan should be submitted as there was no Masterplan on the table to be amended and Ross McLaughlin confirmed at the public hearing that this had been withdrawn at the request of the developer. Therefore, the withdrawal of the Masterplan renders planning application 09/00385/OUT invalid as it no longer had a Masterplan attached. Neither the application nor the Masterplan can be considered in isolation which is a requirement of the statutory process. Even if the application were considered valid - and it cannot - and even after full consultation, the PPSL are not empowered in law to approve a 30 hectare Masterplan under a 'local' application. Vivian Dance was wrong in her assertion at the Hearing that the other 28 hectares could be dealt with on a future occasion (which was omitted from the Minutes) and should be familiar that an application cannot be considered given the absence of a Masterplan.

This new Masterplan must now fall within the Town & Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and is required to be classed as a 'major' application. With the Masterplan being in excess of 2 hectares, and having been submitted post August 2009, this fails to comply with the Local Development Plan, Planning etc. (Scotland) Act 2006 and Town & Country Planning (Scotland) Act 1997 and Circular 4/2009 – Development Management Procedures. Also, the application falls within the requirements of an Environmental Impact Assessment – Schedule 2 refers – which clearly states that a hotel/tourist accommodation in excess of 0.5 hectare must have an EIA and housing in excess of + 50 houses/specified industrial floor space.

PDA's within the local plan have no lawful status until they comply with the constraints of the respective PDA within the Local Plan and it would be impossible to 'screen' a PDA for an EIA or Environmental Statement without a detailed Masterplan being submitted which is required to give diagrammatic detail including landscape assessment, density, massing or population equivalent estimations, etc as specified in PAN 83. The newly submitted Masterplan of 27 October 2011 falls woefully short of the criterion identified within PAN 83 and to which the Supplementary Report 4 dated 2 November 2011 refers. The EIA regulations are equally clear on the statutory requirements including sensitive countryside. In addition, statute requires the submission of a Sustainability Checklist and an Area Capacity Evaluation both of which have not been provided.

The PPSL are determined to consider this application as a 'local' application when it is not. Notwithstanding that this is a 'major departure' from the Local Development Plan which Ross McLaughlin affirms, this application can only be determined as a major application and if it

does not comply with PAN 83 falls outside the powers of the PPSL vested to them by Scottish Ministers. Ross McLaughlin in his letter of 18 February 2011 to the developer requested that "a revised application is submitted with a new larger red line boundary to ensure strategic planting is included along with a reduction in density. Finally, greater detail is afforded to the Masterplan to allow a meaningful consultation with stakeholders, consultees and community. Due to the elongated timescales in processing this application there shall be no fee payable on this revised application but it is likely to be treated as a 'major application' [which it should have been from the outset] under 26A of the Town and Country Planning (Scotland) Act 1997 if the application site exceeds 2 hectares" which it clearly does with a 30 hectare Masterplan.

It is Government policy that a Masterplan is approved from the outset after which applications could then and only then be submitted piecemeal conforming with the approved Masterplan - this is statutory practice - and this is now supported with reference to Supplementary Report 4 which recommends to Members that a protocol for the handling of cases where masterplans are required but they have not been submitted at the time the related application was submitted and advertised on the basis that consultation ought to be carried out in respect of such plans received during the time an application is under consideration. This application is no exception to the suggested protocol and it is paramount that this application must be the forerunner of that protocol and cannot and should not be considered outside of the proposed protocol. I am sure that had it not been for the failings of the application and shortcomings of the statutory procedure, this protocol would not have even been considered.

Members must also be reminded that they have an abiding and lawful responsibility to the policies, Local Development Plan and statutory requirements and only once compliant with those obligations can they consider any material considerations. It was not the Scottish Government's remit to local authorities for any departure – let alone a major departure - from statutory planning policy in any event.

Comment : Whilst a revised Masterplan (omitting housing from the Sawmill Field site) has been submitted in support of the proposal, the application site boundary remains the same size as submitted and still less than 2 hectares. This matter was discussed at the Hearing and verbalised as representation during contributions.

- 3. Affordable Housing – Consistent with the Government's 25% housing affordability mandate, it is important to remind the Council that the 25% affordability must be applied to all residential development however large or small in excess of the minimum requirement and therefore it follows that given this Masterplan development of 30 hectares - with yet unspecified housing numbers - it is a statutory requirement for the developer to identify his ability to deliver the 25% affordability and it follows that this must be across the entire 30 hectare site – the statute does not provide for any compromise on this and makes no provision for aspirational Masterplanning - and yet even now the developer seeks to dictate to Planners how and when he will deliver the 25% affordability for "16 houses" the subject of "the application". The developer has stated that this will be 'on site' and can be imposed as a condition for a 2 hectare development - thereby imposing his own agenda – but it is a mandatory requirement under the planning laws to confirm how the 25% affordability will be delivered from the outset.*

Comment : The precise mechanism to secure 25% affordability on the application site only could be secured via a suspensive planning condition that would be consistent for an application for planning permission in principle. This matter was discussed at the Hearing.

- 4. Throughout the 2 ½ years of this planning application there has been a consistent failure by both the developer and Planners to comply within the statutory process. More recently, these concerns have become more apparent and I will advise you that until propriety in all aspects of the planning procedures are complied with, I will continue to challenge the Council even if this results in an application for a judicial process.*

Comment : The processing of the application were discussed at the Hearing and both the Councils Complaints Procedure and Judicial process have been discussed with the contributor and Council's Officers.

5. *Planning sent an e-mail to Cllrs Marshall, Simon, McNaughton and Daniel Sumsion, the CCC Convenor and brother of the developer, on 8 November 2011 advising that 'amended' Masterplan CDA 06A had been submitted to the Council. As advised above, this was not an 'amended' Masterplan - as the previous Masterplan had been withdrawn - and, to date, there has still been no consultation with the community or Community Councillors on any Masterplan – including CDA 06A - even though there was a CC meeting on 9 November 2011. If that e-mail was intended to be the consultation process, the information has been suppressed and the next CC meeting is not scheduled until January 2012. I request that you take note of this and that the content of this e-mail forms part of a Supplementary Report to the PPSL for tomorrow's meeting.*

Comment : Statutory consultees have not been issued with a copy of newly submitted Masterplan Drawing however they have seen and commented upon an earlier version in 2010. The revised Masterplan omits housing from the Sawmill Filed site as this is outwith the boundaries of PDA 9/13.

The further email received from **Elaine Pound** (email dated 22nd November 2011) makes the following comments in relation to Supplementary Report 4 dated 2 November 2011 and supporting documentation from the developer dated 27 October 2011:

- *Supplementary Report 4 - Point 2.0*

Footpath - I do not believe a planning condition can be imposed upon the footpath between the development site and Loch Fyne Oyster Bar complex as apparently the footpath does not form part of the application. It was confirmed in Supplementary Report 3 dated 20 October 2011 that "the footpath adjacent to the access road and internal development is included within this application. The footpath connecting the LFO site and application site is not".

The above statement was as a result of an e-mail dated 18 October 2011 which is quoted in that Supplementary Report 3 and, for ease, stated:

"You have not advised why the footpath has not been included within the red line boundary on this application? The footpath must be delineated by the red line which takes the site application well in excess of the 2 hectares. The footpath is referred to in your summarised report - Supplementary Report 2. Please advise".

Therefore, there would appear to be inconsistencies within the Reports/application related to the footpath. The footpath is also incorrectly stated in the letter dated 27 October 2011 (page 1 - section a) from the developer referring to conditions and section 4 - Zones - Phase 2 where it is stated when the footpath will be implemented when it does not appear to form part of the application. Perhaps you can clarify.

Comment : For clarity, the proposed footpath linking the application site to Loch Fyne Oysters complex is outwith the application site boundary but shown on Masterplan Drawing CDA 06A as a 'potential footpath and cycle route'. The eventual details of this footpath and cycle route could be secured by the imposition of a suspensive planning condition as the line of the footpath lies wholly within the applicant's control.

- *Transport Scotland Visibility/Access*

a. Access - Transport Scotland's conditions for the access and layout were quite clear in their response dated 25 August 2011. Point 3 of that letter stated that "prior to any development

commencing a new junction shall be constructed by the applicant to a standard as described in the Department of Transport Advice Note TA 41/95.... complying with Layout 3".

However, the developer has advised in his letter of 27 October 2011 (page 1 - section C) that Layout 3 "will be required before the occupation of any residential units but will not be required for the development of commercial units or a childcare centre". This is totally incorrect as Transport Scotland - as statutory consultee - has made it quite clear that prior to any development the access has to be improved to Layout 3 to comply with safety regulations. It would be foolish to consider HGV's and +80 cars turning into the current access without complying with Transport Scotland's requirements and this condition needs to be addressed and a response to the developer.

The Council should also be reminded that Transport Scotland confirmed that for any Masterplan Layout 3 would be superseded to conform to Layout 5 - a right turn lane - and this condition also needs to be addressed with the developer - this was confirmed and referred to in Supplementary Report 2.

b. Visibility - As advised previously, the visibility splays of 215m required by Transport Scotland are not on land owned by either Transport Scotland or the developer and this has still not been demonstrated as requested by Planning. Whilst photographs have been provided at high tide, they have not been provided at low tide where it is clear that an island exists in the Fyne which is outside of the control of the developer (and could have trees within it) and as already stated that area is owned by the adjoining Estate and does not fall within the developer's blue line. Therefore, suspensive conditions cannot be implemented and a Section 75 Agreement cannot be fulfilled.

Comment : Matters relating to visibility and junction improvements were discussed at the Hearing but the applicant has confirmed categorically that he has full control of the sightlines specified by Transport Scotland in their response dated 25th August 2011 (refer to supporting information below). In terms of junction improvements, it would be expected that prior to any development, a new junction shall be constructed to comply with Layout 3, irrespective of the phasing of the mixed development and contrary to the applicants comments of 27th October 2011.

3.0 Further Supporting Information from Applicant

An email from the applicant with photographs attached was received on 15th November 2011. This information is intended to illustrate that an island in the River Fyne is below high tide level and therefore part of the foreshore of Loch Fyne. The applicant confirms that as owner of all of the land on the west bank of the river and estuary, he is in a position to satisfy the conditions requested by Transport Scotland in respect of visibility splays where the ownership of the river and foreshore near the bridge has no bearing on the visibility splays.

Comment : The applicant has confirmed that he has ownership of all required visibility splays and can provide the necessary sightlines on a very fast section of the trunk road within . While a Section 75 Agreement would normally be the method to secure visibility splays outwith the red line boundary, the applicant's ability to control all of the land within the specifies sightlines could therefore be dealt with via suspensive condition if minded to approve.

4.0 Conclusion

Whilst the content of these letters does not alter the department's recommendation, the planning related views made by the objectors and applicant are material considerations in a determination of the proposal.

5.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused as per the original planning report dated 14th September 2011 and

amendments to reason for refusal no. 3 contained in Supplementary Report dated 20th September 2011.

Author: Brian Close/ David Eaglesham
Contact Point: David Eaglesham 01369 708608

Angus J Gilmour
Head of Planning & Regulatory Services

22nd November 2011

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

Proposal: Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

Site Address: Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

SUPPLEMENTARY REPORT No 4

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of additional documentation from the applicant and a further third party further representation, in the light of the Committee's decision to continue consideration of the application at the Hearing held on 21st October 2011.

2.0 OUTCOME OF LOCAL HEARING

The PPSL Committee convened a discretionary Hearing on 21st October 2011 in Strachur Village Hall in order to assess the above application.

During deliberation at the hearing, Cllr Kelly moved the Officer's recommendation for refusal of the application as Chairman; however there was no seconder. An amendment was suggested by Cllr Marshall and seconded by Cllr Dance. The Head of Governance and Law, Charles Reppke confirmed that, in his view, the motion as it stood was not competent as it did not address all the development plan policies which were material to the assessment of the application, including the need for a Masterplan as required by the Local Plan in respect of Potential Development Areas, and that the Committee needed to take this into consideration if they were minded to grant the application.

Following a recess, the Committee agreed to continue the application to the next PPSL Committee on 23rd November 2011, subject to the submission of a revised masterplan document for PDA 9/13 'Cairndow-Inverfyne' in support of the proposed development.

Given the content of debate and the motion that was moved by Cllr Marshall, some preliminary consideration has been given as to the means by which issues discussed thus far could be addressed in the event that Members resolve to approve the application. It is considered that the imposition of planning conditions could address such specific matters as affordable housing, provision of a footpath between the development site and Loch Fyne Oysters complex, tree planting and the provision of sightlines onto the A83(T) which would, in the event of an approval, preclude the requirement for a Section 75 Agreement.

3.0 FURTHER THIRD PARTY REPRESENTATION

One further emails of representation has been received from:

Mr. Alexander Miles, Rubha Beag, Cairndow (email dated 20th October 2011);

The points raised in the email are summarised below:

- Mr. Miles comments that he was listed in the documentation as an objector to this application which he stresses he is not. His intention was to convey that this development would be likely to increase the pedestrian/cycle traffic between the existing village and the head of the loch and that adequate provision should be made for this by the creation of a footpath/cyclepath between the two.

Comment: Points noted and a footpath is proposed to serve the residential phase of the development. Refer to conditions below.

4.0 FURTHER DOCUMENTATION

As requested, the applicant submitted a 'masterplan/comprehensive approach' on 27th October 2011.

The masterplan drawing is supported by a letter and supporting text which draws together the various documents submitted in the course of this application and provides site analysis, constraints, general design principles, layout and a phasing plan.

The supporting text outlines a number of development zones that could come forward as applications for permission in principle, which are likely to be split into phases.

In essence they comprise a first phase of the mixed use residential, commercial and childcare use at the centre/ entrance to the PDA, the subject of the current application. Beyond that there is limited expansion potential for commercial uses. Holiday accommodation and recreational uses could form future phases clustered around the lochan. Further longer term residential units could be provided adjacent to the lochan and there is potential for a hotel or holiday accommodation along the north western boundary of the PDA.

The Statement goes onto provide:-

- In essence buildings will be within a restricted development footprint, single, 1.5 and 2 storeys in height, clustered around a loose courtyard arrangement, orientated to achieve maximum solar gain, planting undertaken will be native species.

- Architectural design will be characteristic of Argyll, linear buildings with pitched roofs, designed as a cohesive group.
- The palette of materials will comprise:
 - Roofs - corrugated steel (colour coated), standing seam metal sheeting or natural slate.
 - Wall finishes - timber cladding (larch or oak) or acrylic render in different shades.
 - Windows and Doors - high performance redwood - painted different colours.
- The council's 25% affordable housing policy will be met on site. The buildings shall be designed to have a high performance in terms of sustainability.

Comment: Whilst the planning department broadly welcomes the submission of this documentation, it is still considered to fall short of a masterplan / comprehensive approach as outlined in the Local Plan. The submission would be better described as a spatial layout drawing which shows in shading terms broad areas of land use. There is no landscape assessment, density, massing or population equivalent estimations which would be required in order to constitute a truly comprehensive approach. In addition, in order that any masterplan can be given meaningful weight in the consideration of associated proposals it is considered that it ought to be available in the public domain and be the subject of consultation in order that interested parties have the opportunity to comment upon the contents before it is weighed in the balance as a material consideration.

Members might like to note that this matter is to be the subject of a future report to Committee suggesting a protocol for the handling of cases where masterplans are required but they have not been submitted at the time the related application was submitted and advertised, on the basis that consultation ought to be carried out in respect of any such plans received during the time an application is under consideration. In this way matters advanced in support of a proposal can be the subject of scrutiny and comment by third parties prior to Members according weight to them as material considerations in decision-making.

5.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report, but that planning permission be refused as per the original report. The planning department considers the newly submitted documentation from the applicant does not constitute a 'masterplan' as required by Local Plan policy, and therefore all three recommendations for refusal should be retained.

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Angus J Gilmour
Head of Planning & Regulatory Services

2nd November 2011

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Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

Proposal: Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

Site Address: Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

SUPPLEMENTARY REPORT 3

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of further representations and to note the absence of Transport Scotland at the Hearing.

2.0 FURTHER REPRESENTATION

Three further emails of objection have been received from:

- Mr. Douglas Fraser, Stagecoach Inn, Cairndow (email dated 15th October 2011);
- Mr. Ken Pound, Cairndow (email dated 18th October 2011);
- Mr. J.B. Rowlands, Old School, Cairndow (email dated 18th October 2011);

The points raised in the letters of support are summarised below:

- Mr. Fraser suggests that it has always been the "Common Sensical" view that any development would be within the confines of Cairndow village. A recent application for 12 houses and Childcare facility within the village was acceptable to planning and seemed promising – "the sensible option" until Transport Scotland objected on the village access. It has since transpired that even 3 plots will overload the access roads. So, is the sensible option to create a new village ? Especially when the access on a long fast bend on the A83 which will involve substantially more traffic. Yet it is the 'sensible option' to locate the industrial units at the proposed site. Just now the childcare facility is based in the village hall where children can walk to safely. Is it prudent to place a crèche at the Old Sawmill with commercial traffic from the Hydro Board, Bonnar Sand and Gravel and proposed industrial units ? Also has a concern over the River Fyne as there has been a noticeable lack of salmon.*

Comment: The proposals for the Kilmorich PDA 9/6 which Mr. Fraser refers to had unresolved siting and design issues in addition to junction improvements required by Transport Scotland. It would be inaccurate to state that the proposals were acceptable to planning in that form at that stage. Other proposals within the existing village of Cairndow will be assessed on their individual merits.

- *Mr. Rowlands comments that the development as indicated by the masterplan would create a new village some two miles away from the existing traditional and historic village of Cairndow thereby dividing the community into two separate entities.*
- *The proposed development which includes the masterplan is a major development in sensitive rural area and is in contravention of many of the requirements of both area and local plans.*
- *Supporters of the scheme have cited affordable housing in support of the scheme. They may have overlooked the fact that the applicants other site currently under construction on Pheasant Field has provision for affordable housing and homes to rent, whereas I can see no defined affordable housing in this scheme.*
- *I would add further that there is currently one empty house available for rent within walking distance of the fish farm and hatchery and there is further empty house for sale/rent within walking distance of Loch Fyne Oysters*

The further email received from Ken Pound (email dated 18th October 2011) concerning his original email of 12th October 2011 makes the following comments:

- *You have not advised why the footpath has not been included within the red line boundary on this application? The footpath must be delineated by the red line which takes the site application well in excess of the 2 hectares. The footpath is referred to in your summarised report - Supplementary Report 2. Please advise.*
- *You have stated that Scottish & Southern have been notified as owner of part of the application site - hence the red line is shown on the road owned by Scottish & Southern. I presume the Council has confirmation that the developer has permission from Scottish and Southern to up-grade the private road and access as there is a difference between applying for planning permission on land which you do not own and having permission to change/upgrade that land.*
- *The red line has not been shown on the visibility splays for either the private access (old A83) or the access on the A83 which I understood was a requirement? I would refer you to the access arrangements, Note 11 (page 7) of the Guidance Notes relevant at the time the application was submitted which stated:*
- *"Access Arrangements - If it is intended as part of the application to construct or alter a vehicular access or to use an existing access this section should be completed as appropriate. When a change is proposed to the access arrangements, full details of width, type of bellmouth and available visibility splays should be given on the application drawings".*
- *Also, in your Supplementary Report 2, you state under 'Comment' that "The visibility splays and the improvements to the junction of the access road onto the A83 required by Transport Scotland are on land either controlled by the applicant or by Transport Scotland".*
- *Firstly, the red line boundary and visibility splays have been omitted from the drawings. Can you please explain why and, secondly, I do not believe the visibility splays are "on land either controlled by the applicant or Transport Scotland".*
- *Transport Scotland have confirmed that they have control over the land on the road from parapet/fence to parapet/fence on the bridge; the applicant's blue line is to the edge of the river only (see CDA 02A dated 3 March 2009 & CDA 02B revised 26 April 2010) and the land within the visibility splays - including the island in the middle of the river - is owned by the estate of Achadunan, an objector to this application so perhaps you could clarify.*

- *With regards to the recent letter of support from The Tree Shop, you should note that The Tree Shop is owned by the developer so it is tantamount to sending a letter of support for your own development.*

Comment: The footpath adjacent to the access road and internal development is included within this application. The footpath connecting the LFO site and application site is not. Whilst it is shown on CDA04B it is clearly outside the redline boundary and therefore is not considered part of the application. The applicant has stated that a Deed of Servitude is in place between SSE and Arkinglas Estate providing unrestricted access rights and right to carry out any necessary improvements to road. The creation of visibility splays are not usually classed as development and therefore do not require to be within the redline area. They can be secured via Section 75 agreement or suspensive condition if the land is within the applicants control – as in this case. If the visibility splay does constitute development as an engineering operation then a separate application must be submitted for the splay itself. The applicant has confirmed that he, SSE and trunk roads possess title over all the land required to obtain appropriate visibility splays.

Whilst the content of these letters does not alter the department's recommendation, the planning related views made by the objectors are material considerations in a determination of the proposal.

3.0 Consultees

It should be noted that the department invited Transport Scotland to attend the Hearing but they have declined owing to staff shortages but feel that their letter and submissions dated 6th October 2011 provides a full explanation to their earlier response dated 25th August 2011.

4.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused.

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Angus J Gilmour
Head of Planning & Regulatory Services

20 October 2011

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Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

Proposal: Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

Site Address: Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

SUPPLEMENTARY REPORT 2

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of updated consultation responses and further representations.

2.0 CONSULTATIONS

A letter from **Transport Scotland** (dated 6th October 2011) clarifies the wording of conditions recommended in their revised consultation response dated 25th August 2011 (not 25th August 2009 as originally reported). Transport Scotland considers that an explanation of their suggested conditions would avoid the need a representative being present at the Hearing.

The first two conditions relate to visibility from the junction and forward visibility on the trunk road on the approach to the junction. To ensure that these visibility splays can be obtained then maintained in perpetuity, it will be necessary for the applicant to demonstrate that these can be achieved without any interference from obstructions and also gain assurance that nothing would be built or allowed to grow in the future which may impede the required visibility. Transport Scotland considers the only means of ensuring this is via a suspensive condition as detailed in the response dated 25th August 2011.

The third condition relates to the layout of the junction to ensure that it complies with the appropriate standards within the Design Manual for Roads and Bridges. Transport Scotland considers that the current layout does not comply with these standards as defined by Layout 3 of TA 41/95 (Vehicular Access to All-Purpose Trunk Roads) and therefore this condition is required to bring the junction up to the necessary standard.

The additional traffic which would be generated if all the development in the masterplan was implemented would be in excess of the level of traffic required for a right turn lane.. As a result, a condition was recommended to highlight that a right turn lane would be required.

Comment: The visibility splays and the improvements to the junction of the access road onto the A83(T) required by Transport Scotland are on land either controlled by the applicant or by Transport Scotland. Therefore suspensive planning conditions could be used to achieve required sightlines.

In terms of the requirement for the right hand turning lane, this would only be applicable if the greater masterplan scheme was to be developed and not for the development proposed within the scope of the current planning application.

3.0 FURTHER REPRESENTATION

Six further letters of support have been received from:

Alexander Pettit, formerly of Ballure, Cairndow (letter received 23rd September 2011);
Mrs Frances Bremner, 11 Kilmorich, Cairndow (email dated 26th September 2011);
Mr Bruce Davidson, Loch Fyne Oysters Ltd, Clachan Cairndow (email dated 29th September 2011);
Mr Neil Colburn, The Tree Shop Clachan Cairndow (email dated 4th October 2011);
Mr Neil Colburn 4 Hydro Houses Cairndow (email dated 4th October 2011);
Mrs. Alison Hutchins, 12 Kilmorich, Cairndow (email dated 5th October 2011).

The points raised in the letters of support are summarised below:

- *Proposed development is desperately needed in our village. There has been no new housing for about 18years since Kilmorich was built and that was very successful. We have a thriving community with many businesses but not enough housing meaning many people have to travel many miles from far away as Glasgow to work in Cairndow. A purpose built child care facility would be fantastic. For the past few years they have had to do with the village hall which has been fine but a purpose built building would be much better for all. Also, some people are setting up their own new businesses and a few units here would be fantastic to keep employment local. There is a growing community of elderly and young people in the village whose accommodation may not be suitable for them after a time, the choice of different housing would be greatly sought after.*
- *The Tree Shop supports this development and believes the proposed development will not have an adverse impact on the landscape at the head of Loch Fyne due to existing trees and shrubs providing adequate screening from the A83. The Tree Shop would welcome additional small businesses in the area. The Planning Department's emphasis on a formal masterplan for the whole of PDA 9/13 as a policy stipulation prior to the development of this small part of the PDA is unnecessary and impracticable. The density and scale of development proposed in the Outline Application is appropriate for the context and consistent with the aim of providing affordable residential and commercial accommodation.*
- *Loch Fyne Oysters support the application. Staff accommodation near their site is an ongoing problem for our staff and feels that the proposal is appropriate to the existing environment and infrastructure. Keen to support more affordable residential accommodation and recognise the need for small commercial units in the area. We do not feel that there will be any adverse visual impact from the development for visitors to our site. Continued support for the childcare facility and if it moves to the new site may strengthen ties between us and be of added benefit to our staff. The planned footpath would also be an added benefit.*
- *Support for the proposed development where the extra housing is needed due to the continuing expansion of the local businesses.*
- *Letter from Alexander Pettit explains why the lack of suitable residential accommodation and office space resulted in his family leaving the Cairndow area. Finds it frustrating that so many homes in the area are holiday or second homes and that the daily lives of Cairndow residents and workers can be impacted upon by non or partial residents. Cairndow and villages like it must move with the times in an attempt to retain, improve and encourage economic growth.*
- *Without housing, childcare and the ability to create business opportunities could turn Cairndow into a retirement village.*

A further objection has been received from Ken Pound (email dated 12th October 2011) making the following points:

- *Within the proposed site plan, the red line boundary embraces the access road but the road is owned by Scottish and Southern Electricity - not the developer - CDA 02A dated 30 March 2009 & CDA 02B revised 26 April 2010 refers - and therefore this application is invalid. I further note that the footpath between the proposed development and Loch Fyne Oysters should be within the red line boundary. Whether this is an oversight by planners or the developer matters not, the red line must incorporate the footpath and I trust this will be corrected as this would automatically render this application invalid.*
- *I note from recent correspondence that letters of support appear totally obsessed by "housing need" in Cairndow yet the supporters choose appropriately to ignore the fact that the developer has already secured approval under application 09/00463/DET (Pheasant Field) for 15 houses delivering the "housing need". The houses are currently being built. This development was approved sighting special circumstances, the first being the Government grant secured under RHfR which contributed GBP 650,000 of tax payers money to the development and secondly that it delivered 100% affordability. In accordance with the Argyll and Bute's Housing Need and Demand Assessment (HNDA) report this development well exceeds the 12 houses deemed needed in Cairndow. There are no such special circumstances or material considerations in relation to the above development at Clachan and the Council's statistics are quite clear.*
- *It is of significant note that the developer, Councillors Marshall, Simon, Messrs Murray, Lodge, Convery and Close from the Planning Department and importantly Alan Brandie, who was responsible for publishing the findings of HNDA report, all attended the Local Plan Workshop for Bute and Cowal held on the 24th May 2010 at Dunoon as Consultees and following these consultations determined where and to what extent housing was needed throughout A&B. The conclusion of those consultations was that Cairndow need 12.*
- *The above application has from the outset failed to deliver even the minimum 25% affordability requirement and it is only now, following the planners supplementary statement to the PPSL, that this failure has been acknowledged but clearly there is no agreement in place with the developer on how the 25% affordable housing can be delivered. ... Notwithstanding the many quoted reasons for refusal by the Head of Planning and without a clear agreement with A&B in place, this is a fundamental flaw in the planning process and the committee must recommend refusal.*
- *The developer has clearly stated this application is the first stage of what is intended to be the new village of Clachan - letter to Fergus Murray dated 30 March 2010 refers (attached), with further staged development covering an area of 30 hectares in total. This application for 16 houses, 7 industrial units and childcare centre cannot possibly be considered by the PPSL in isolation - which has been confirmed by the Scottish Government - as the A&B Local Plan must be looked at and considered as a whole which means that the Masterplan is a fundamental requirement of PDA 9/13 and that the mini-brief relating to this PDA has to be complied with. As confirmed by the developer, this application is Phase 1 of a proposed new village - it should therefore have proper consultation with the community, consultees and neighbours, and comply with the Local Plan, Structure Plan and Policies which have been put in place to protect the public and to which Councillors have been elected to uphold.*
- *Regarding the childcare centre, the developer has maintained throughout that this is for "indicative purposes only", with no certainty or commitment whatsoever of it ever being retained or completed. Interest has been shown by Cairndow Community Childcare which is run by a family member of the developer, but this is only one of a number of alternative locations being considered for re-location. Any proposal to build the childcare would have to be funded by private investors or funded by A&B.*
- *I am in support of planners decision to refuse this application. There is not a "housing need" in Cairndow as this is more than satisfied by the Pheasant Field development currently under construction. I therefore object to this application and if the PPSL have read the Local Plan, Structure Plan and policies of Argyll and Bute and do not uphold the refusal by Head of Planning, I would expect and request that this application be called in by Ministers to avoid making a mockery of A&B planning policy, Planning Department and Council.*
- *Lastly, I would reiterate Ross McLaughlin's letter of 18 February 2011 to the developer requesting that "a revised application is submitted with a new larger red line boundary to ensure strategic planting is included along with a reduction in density. Finally, greater detail is afforded to the Masterplan to allow a meaningful consultation with stakeholders, consultees and community. Due to the elongated timescales in processing this application there shall be no fee payable on this revised application but it is likely to be treated as a 'major application' under 26A of the Town & Country Planning (Scotland) Act 1997 if the application site exceeds 2 hectares" which it clearly does.*

Whilst the content of these letters does not alter the department's recommendation, the views made by the supporters and objector are material considerations in a determination of the proposal.

4.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused.

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Angus J Gilmour
Head of Planning & Regulatory Services

13 October 2011

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

Proposal: Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

Site Address: Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

SUPPLEMENTARY REPORT

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of updated consultation responses and further representations

2.0 CONSULTATIONS

A revised response from **Transport Scotland** (dated 25 August 2009, received 14 September 2011) taking account of the submitted Masterplan now requires forward visibility splays to be provided and a new (upgraded) junction to be constructed to the Trunk Road. A greater improvement would be required if the development was extended to include the masterplan proposals.

My original report omitted a response from **Public Protection** (dated 14 May 2009). However, a revised response (dated 19 September 2011) raises no objections in principle to the application. However, further information is required regarding the proposed Private Water Supply and the impact of existing ambient noise levels on the proposed development.

3.0 FURTHER REPRESENTATION

A further representation from Elaine Pound, Shore Cottage, Cairndow (e.mail dated 20 September 2011) raises the following points:

- This application is currently unlawful due to the incorrect status reported on the PDA re: housing - which suggests the PDA is flawed - and the red line boundary
- The Report to the Committee omits Transport Scotland's report dated 25 August 2011 which requires access improvement on the A83 and visibility splays, neither of which are included within the red line boundary
- PDA 9/13 'mixed use' never included housing - it was an extension of the original hub, ie the Oyster Bar & Tree Shop, has no modification number and was not amended in the Reporter's Written Report for the Local Plan 2009 to include housing - hence housing density was shown as 'not applicable' ; there was no consultation to include housing for PDA 9/13 - this has to be unlawful.
- A Green Transport Plan has not been provided
- Landscape & Visual Assessment and Sustainability Checklist have not been provided
- An Area Capacity Evaluation (ACE) has not been provided in an area of Sensitive Countryside/Panoramic Quality and an Environmental Statement has not been provided

- The developer's consultant/mediator's letter of 16 June 2011 requested the Council to supply to the PPSL the location of the 'objectors'. If this is to be provided, please also provide to the PPSL the location of the 'supporters' - all of which are either related or connected by either tenancy or employ. The 'objectors' are all independent from the developer - some of which are aware that this PDA was not designated for housing - and the 'objectors' either have adjoining Estates/land and/or businesses - stakeholders within the community - who employ local staff.
- the Report states that the 'affordable housing' mechanism will be under RHOG - RHOG was withdrawn by the Government in the budget of April 2011 - and therefore no longer exists - and RHfR was a pilot scheme by the Government (which provided + £650k for development at Pheasant Field) and does not apply to this application. There are also no special circumstances for this application.

A further supportive representation from John Smart, Stalkers Cottage, Glen Fyne, Cairndow (e.mail dated 20 September 2011) reports that two families have left the area because of the lack of suitable accommodation and advises that the proposed development will make a small but significant contribution to keeping Cairndow as an alive and vibrant community.

One further objecting representation was received (dated 20th September 2011) from Jamie Delap as Director of Fyne Ales limited which operate on the other side of the Fyne Valley to the proposed development. He is supportive of small number of commercial units but opposes strongly to new residential dwellings and a whole new village (masterplan) which is proposed. He considers this will seriously undermine the character of the area and also his business' provenance.

3.0 RESPONSE

- 3.1 The application was accepted as valid when submitted. The application boundary (red line) prepared by the applicant encompassed an appropriate area within which development was proposed. This area was less than 2 hectares and, in any event, there was no statutory definition of "major development" at the date of submission. Consequently, there is no lawful impediment to the Council determining the application.
- 3.2 The revised response from Transport Scotland taking account of the submitted Masterplan was only received after my original report had been prepared. The revised visibility splays now required may affect land outwith the applicant's control so a s.75 agreement may be required if Members were minded to approve the application.
- 3.3 Regardless of its derivation, PDA 9/13 in the adopted Local Plan is for "Mixed Use – Business/Housing/Recreation" as set out in the original report. In the Plan it is common for mixed use PDAs with a housing component not to specify densities.
- 3.4 The request for a Green Transport Plan was only included in an agenda for a meeting with the applicant prior to validation of the applicant.
- 3.5 The absence of a Landscape & Visual Assessment and Sustainability Checklist underline concerns in my report that a masterplan for the PDA needs to be better developed.
- 3.6 Although the site is within an Area of Panoramic Quality and the Sensitive Countryside development control zone, its inclusion within a PDA and AFA render the Area Capacity Evaluation (ACE) technique inappropriate. The application has not been screened as an EIA application so does not require an Environmental Assessment.
- 3.7 The addresses of all contributors, where available, are included in the original report.
- 3.8 Section D of the original report identified that the method for delivering affordable housing had not yet been secured. Despite the demise of schemes suggested in the report, an appropriate level of affordable housing could be secured by either a suspensive condition or section 75 agreement if the application was to be approved. It must be noted that whilst we are accepting of this flexible approach at this stage it is a significant weakness of the proposal especially in this climate where RSLs have significant funding reductions. A minimum of 4 affordable units must be constructed but as yet no clear mechanism for delivery has been afforded.

4.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused.

Based on the above representations from Transport Scotland and Public Protection we would also seek to insert the words:- '**Trunk Road Access, Private Water**' into Reason for Refusal 3 (contained on page 54 of PPSL Pack). The full reason for refusal shall now read:-

3. A Masterplan approach for is advocated for the development of PDA's within the Argyll and Bute Local Plan (August 2009) and progression with large scale and sensitive area development in general in National Guidance. The lack of a sufficiently detailed Masterplan in this instance has resulted in an objection from SEPA and inability for the planning department to fully assess this 2ha gateway / phase 1 application in the context of the wider > 30ha development site and relationship with future phases. It is therefore considered to be contrary to paragraphs 11.14 and 11.15 of the written statement of the Argyll and Bute Local Plan (August 2009) and Planning Advice Note 83 – 'Masterplanning'. There is an inability to plan for the future in a coordinated and comprehensive manner with the potential for adverse landscape biodiversity infrastructure **Trunk Road Access, Private Water** and servicing implications in this area of sensitive countryside and panoramic quality.

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Angus J Gilmour
Head of Planning & Regulatory Services

20 September 2011

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Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 09/00385/OUT

Planning Hierarchy: Local application

Applicant: Ardkinglas Estate

Proposal: Erection of mixed development comprising 16 dwellinghouses, 7 commercial units, childcare centre and installation of sewage systems and access improvements.

Site Address: Land adjacent to Ardkinglas Sawmill, Clachan, Cairndow, Argyll

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 16 dwellinghouses (indicative details only, minimum 25% affordable housing requirement);
- Erection of 7 commercial units (potential business/industrial uses – indicative only Units A-D Use Class 4, Units E-G Use Class 5);
- Erection of childcare centre (indicative details only);
- Associated car parking, turning and servicing;
- Installation of two sewage treatment plants with outfall to River Fyne.

(ii) Other specified operations

- Tree planting and landscaping (within and outwith application site);
 - Boundary treatments;
 - Improvements to existing private access road;
 - Proposed footpath to Loch Fyne Oyster Bar alongside A83(T).
-

(B) RECOMMENDATION:

It is recommended that

- i) planning permission be **refused** for the reasons set out overleaf
 - ii) a discretionary local hearing being held prior to the determination of the application in view of the number of representations received in the context of a small community.
-

(C) **HISTORY:**

No planning history for the application site.

There have been permissions for adjacent commercial uses including Bonnar Sand and Gravel Co Ltd at Clachan Quarry and 'Here We Are' Wood Shed.

(D) **CONSULTATIONS:**

Scottish Natural Heritage (response dated 2nd April, 22nd July 2009, 12th August 2009, and 9th September 2009): No objections in principle but recommend conditions in respect of natural heritage interests affected i.e. European Protected Species - otters and bats, Red Squirrels, breeding birds and planting and screening. Otters and bats are likely to be recorded within and adjacent to the development footprint. Recommend that a repeat survey for otters be carried out prior to any works commencing on site. Additionally, the plantation woodland to be felled should be surveyed for red squirrel dreys.

Scottish and Southern Energy (responses dated 23rd March, 29th June 2009 and 18th October 2010): Now withdraw previous holding objection based on safety issues associated with adjacent power station and tail race. Whilst SSE broadly welcomes the proposal, the applicant has intimated that he will erect a chain link fence along the western boundary of the tail race. An agreement requires to be reached with the developer or via planning conditions. SSE confirms that their concerns have now been resolved with the estate.

Most recent letter received suggests that the operation of the hydro scheme will have to be taken into account when decisions on effluent dilution are being considered. (Applicant confirms that reduced flows have been taken into account during the CAR authorisation from SEPA).

Scottish Environment Protection Agency (response dated 20th April 2009, 18th January 2011, 26th July 2011 and 8th September 2011): No objections in terms of foul drainage and surface water drainage as long as conditions and advisory notes which are recommended are attached to consent. They relate to SUDS and foul drainage.

SEPA confirm that the applicant has been issued with a CAR licence to discharge treated sewage effluent to the River Fyne however from their records it appears it is not in the same location as specified on the submitted planning application drawings. Whilst they consider a variation may be acceptable in principle they still require that a formal CAR application is made for the revised positioning.

SEPA's most recent letter dated 8th September objects to the Masterplan submitted for PDA 9/13. SEPA recommend the applicant submit the details of the waste water drainage and surface water drainage proposals for the overall masterplan area, to establish if they are acceptable for the whole development taking into account any cumulative impact and to resolve our objection to the waste water drainage proposals. They note this is imperative to avoid unnecessary delay and/or further objection from SEPA during future phases.

Argyll District Salmon Fishery Board (responses dated 28th July 2009, 4th June 2010, 9th December 2010) Object to the sewerage arrangements until reassurances can be given from then Council and SEPA that the treatments are foolproof and beyond risk.

Area Roads Manager (response dated 11th November 2009): No objections subject to conditions and advisory notes. Conditions recommended regarding visibility splays, access design, car parking, and designation of housing courts. Roads confirm that the developer will be responsible for the provision of street name plates and raising the Traffic Regulation Order. Roads also confirm that the proposed development will be subject to Roads Construction Consent, Road Bond and Road Opening Permit.

West of Scotland Archaeology Service (response dated 6th April 2009): No known archaeological issues raised.

Operational Services (Flood Team) (response dated 9th April 2009): Proposals for surface water discharge and associated SUDS are acceptable in principle. Other calculations, construction details and confirmation of wayleave still required.

Sustainable Travel Co-ordinator/ Core Paths Team (email dated 28th April 2009): Suggest that a direct link be created with an off-road footpath between the site and Loch Fyne Oysters.

Transport Scotland (response dated 30th April 2009): No objections subject to a condition regarding visibility splays.

Scottish Water (response dated 29th May 2009): No objections in principle but unable to reserve capacity at water and wastewater treatment works in advance of a formal agreement being reached. There are no public sewers or public water mains in the vicinity of the development site.

(E) PUBLICITY:

The proposal was been advertised as a *Potential Departure* to policies POL RUR1, HO8 and HO10 of the 'Cowal Local Plan' 1993 (in force at the time of submission but now superseded), advertisement published 10th April 2009 (expiry date 1st May 2009); under Section 34 Bad Neighbour and Article 9 Vacant Land advertisement published 10th April 2009 (expiry date 24th April 2009).

(F) REPRESENTATIONS:

Letters/emails of representation have been received from the following:

Objectors

Elaine Pound, Shore Cottage, Cairndow (facsimile message dated 16th April 2009, letter dated 6th January 2010, e.mail dated 21st December 2010, e mail dated 4th April 2011, e mail dated 5th April, e mail dated 18th May 2011);

J M Turnbull, Glen Kinglas Hydro Ltd, Strone Estate, Cairndow (letter dated 8th April 2009);

Alexander Miles, Rubha Beag, Cairndow (e.mail dated 23rd April 2009);

Tuggy Delap, Fyneales, Cairndow (email dated 3rd August 2009, e mail dated 5th September 2011);

Marya Egerton-Warburton, Ard-na-Slaite, St. Catherines (letter dated 23rd December 2010);

Peter Egerton-Warburton, Mulberry House, Bentworth, Alton, Hants (letter dated 17th December 2010);

Anastasia Delap, Achadunan Farm, Cairndow (letter dated 7th December 2010, letter dated 22nd July 2011);

Mr. and Mrs. R. J. Hammond, (e.mail dated 8th December 2010).

Supporters

Frances, Alistair & Kirsty Bremner, 11 Kilmorich, Cairndow (letter dated 7th April 2009);

Sarah Sumsion, Bachie Bhan, Cairndow (e.mail dated 22nd April 2009);

Janet and Nigel Callander, Mid Lodge Rear, Cairndow (letter received 27th April 2009);

Christine MacCallum, Clachan Farm (letter dated 28th April 2009);

Alice and Walter Beattie, Garage Cottage, Cairndow (letter dated 19th May 2009);

Alexander Pettit, Ballure, Cairndow (e.mail dated 8th June 2009);

Cairndow Community Childcare, Cairndow Hall, Cairndow (e.mail dated 23rd April 2009);

Stewart MacCallum, Cairndow (e-mail dated 24th February 2010);

John Smart, Stalkers Cottage, Glen Fyne, Cairndow (e.mail dated 15th December 2010);
Jon Pope, (e.mail dated 16th January 2011)
Ms Kathryn Dunn, Cairndow Community Childcare, Cairndow Village Hall, Cairndow (e-mail dated 13th September 2011).

Cllr Ron Simon, (e mail dated 29th August 2011)

(i) Summary of issues raised

The concerns and issues raised in the letters of objection can be summarised as follows -:

- *Whilst Clachan is a better option for any future housing rather than Cairndow village, the current proposals are not sensitive to the prominent location at the head of the loch and require greater emphasis on design and layout;*
- *Misinformation in Supporting Document regarding Community Council meetings;*
- *Prominent location requires enhanced design;*
- *Loss of tranquillity through urbanisation;*
- *Application should be detailed instead of outline;*
- *Loss of plantation woodland likely to leave site exposed and more prominent.*
- *Proposals contravene Cowal Local Plan policies RUR1, HO8 and HO10.*
- *Otters and Bats present and detailed survey required before permission is granted.*
- *Sea Trout and Salmon enter the River Fyne to spawn. No waterway should be blocked and the appropriate fisheries authority consulted.*
- *Any demand for new housing in the Cairndow area should be within the existing village.*
- *There are a number of agricultural and commercial buildings adjoining the existing woodland and therefore the site lends itself more to commercial units rather than housing.*
- *Fast stretch of A83 Trunk Road very dangerous for pedestrians. Development should not go ahead unless a pedestrian access is provided from Cairndow village;*
- *Agree that there is a housing demand but this should be restricted to Cairndow;*
- *Site exceeds 2 hectares and as such requires Environmental Impact Assessment;*
- *Proposal not sufficiently backed by an acceptable Masterplan;*
- *Masterplan not had sufficient community consultation;*
- *Status of Potential Development Areas and hierarchy of policies;*
- *Application 'out of control' and existing proposal 'exploded out of all proportion';*
- *Loch Fyne Oyster complex cannot meet day to day shopping needs;*
- *Affordable provision for this area already satisfied in respect of development at the Pheasant Field;*
- *Status of industrial/commercial units as 'bad neighbour Class 5 developments;*
- *Status of Suds in terms of proposed land uses;*
- *Impact on the River Fyne*
- *CAR Licence does not conform to submitted plans;*

The concerns and issues raised in the letters of support can be summarised as follows -:

- *Plans to provide affordable homes and small business units appear viable compared to other local developments and would have less of an impact on the existing village of Cairndow;*
- *This type of housing is much needed to allow people to live in rural areas;*
- *Small workshops would give opportunities for new businesses to develop and enhance the mix of people wishing to live in the area;*
- *Great need for affordable housing in the Cairndow area and such a development will fill that need;*
- *Availability of affordable office space;*
- *Proposals have been ongoing for over two years;*
- *Indicative masterplan is fit for purpose;*
- *Majority of objectors do not work in area*

- *Cairndow Community Childcare is hoping to move to purpose built premises. The site fits many of the criteria required for a successful building.*

Comments: Observations on the above issues are contained in the Assessment section below

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes

Protected Species Survey by Quadrat May 2009

Surveys carried out identified that there are protected species present i.e. otter, red squirrel and bats and that there may be impacts to these species as a result of current proposals. Mitigation measures include moving the proposed sewage outfall away from an existing otter holt and creating a cordon around another holt. Bats have also been sited in the plantation woodland and it is recommended that felling be kept to a minimum and any felling to be carried on outside the breeding season.

- (iii) **A design or design/access statement:** Yes

Supporting Statement by Ardkinglas Estate 10 March 2009

Supporting statement includes background information, site details, residential and commercial needs, site appraisal, projections of occupancy and leases, PDA9/13 masterplan and other sites, programme, design solution, detailed design, services, operational statement and summary.

Revised Supporting Statement by Ardkinglas Estate 19 October 2010

Applicant confirms that the mechanism to provide affordable housing will be selected at the detailed stages where the present options are either private rented housing under an extension of the RHfR scheme, or self-build under RHOG. Also confirmed that the footpath linking the site with Clachan Farm complex will be built at the time of the new housing being developed.

Comments regarding potential house types, heights, materials and orientation of houses to maximise solar gain. No details regarding Childcare Centre and commercial units at this stage.

- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

Drainage Impact Assessment JIG Ltd. February 2009

Drainage Impact Assessment outlines best methods for treatment of surface water. Source control methods (i.e. porous paviers) could result in 'urban' solutions for a semi-rural environment. This has resulted in a surface water collection system for Area 1 (residential and daycare facility) leading to a filter trench designed for adoption by the roads authority.

No impermeable surfaces are proposed for Area 2 (light industrial/commercial) at this stage and all roads and other surfaces would be free draining. Any future proposals to provide impermeable hard standings will be expected to provide further levels of treatment and also subject to SEPA licence in respect of the Water Environment (Controlled Activities)(Scotland) Regulations 2005.

During discussions, it was agreed that attenuation was not required of the system owing to its tidal discharge point.

Two waste-water treatment plants are proposed with calculations based on maximum occupancy. For effluent standards to be applicable, the discharge location needs to be

to the River Fyne as opposed to tidal waters. The outfall requires to be secured at a location ensuring discharge into the flow of the watercourse even during low-flow conditions.

Separate CAR authorisation will be required from SEPA for the housing and light industrial components, and potentially engineering works associated with the outfall.

(H) PLANNING OBLIGATIONS

(i) 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.

'Argyll and Bute Structure Plan' 2002:

STRAT SI 1 - Sustainable Development;
STRAT DC5 - Development in Sensitive Countryside;
STRAT DC7 – Nature Conservation and Development Control;
STRAT DC8 – Landscape and Development Control;
STRAT DC10 – Flooding and Land Erosion;
STRAT FW2 – Development Impact on Woodland;
STRAT HO1 – Housing – Development Control Policy;
PROP TRANS1 - Development Control, Transport and Access;

'Argyll and Bute Local Plan' (August 2009)

The application site is located within PDA9/13 and AFA 9/4 within Sensitive Countryside where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;
LP ENV6 Development Impact on Habitats and Species;
LP ENV7 Development Impact on Trees/Woodland;
LP ENV8 Development Impact on Local Nature Conservation Sites;
LP ENV10 Development Impact on Areas of Panoramic Quality;
LP ENV12 Water Quality and Environment;
LP ENV19 Development Setting, Layout and Design (including Design Guidance);
LP BUS 2 Business and Industry Proposals in the Countryside Development Control Zones;
LP BAD1 Bad Neighbour Development;
LP HOU1 General Housing Development;
LP HOU2 Provision of Housing to meet Local Needs including Affordable Housing Provision;
LP SERV1 Private Sewage Treatment Plants and Wastewater Systems;
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);
LP SERV3 Drainage Impact Assessment (DIA);
LP SERV4 Water Supply;
LP SERV8 Flooding and Land Erosion;
LP TRAN1 Public Access and Rights of Way;
LP TRAN2 Development and Public Transport Accessibility;
LP TRAN3 Special Needs Access Provision;
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;

LP TRAN5 Off site Highway Improvements;
LP TRAN6 Vehicle Parking Provision;
Technical Note PDA 9/13 – Cairndow / Inverfyne Mini Brief

Note :The Full Policies are available to view on the Council’s Web Site at www.argyll-bute.gov.uk

(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 4/2009.

The following advice and guidance from Central Government includes:

- | | |
|----|---|
| a) | Scottish Planning Policy (February 2010)'; |
| b) | Planning Advice Note 44 – ‘Fitting New Housing
Development into the Landscape; |
| c) | Planning Advice Note 67 – ‘Housing Quality’; |
| d) | Planning Advice Note 68 – ‘Design Statements’; |
| e) | Planning Advice Note 72 – ‘Housing in the
Countryside’; |
| f) | Planning Advice Note 74 – ‘Affordable Housing’; |
| g) | Planning Advice Note 83 – ‘Master Plans’ |

(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) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing (PAN41 or other): Yes

15 letters/emails of objection have been received from 9 individuals and 12 letters/emails of support from 16 parties. Whilst the overall numbers of representations are relatively low the split between those ‘in favour’ and those who ‘oppose’ are evenly balanced. Furthermore, given the number of representations received in the context of the relatively small size of Clachan / Carindow it is considered there would be merit in convening a pre-determination hearing (PAN 41) at a local community venue.

(P) Assessment and summary of determining issues and material considerations

In the ‘Argyll and Bute Local Plan’, the application site is located within sensitive countryside, but forms part of Potential Development Area PDA 9/13 ‘Cairndow-Inverfyne’ where a mixed use - business/housing/recreation use is supported, and Area For Action AFA 9/4 ‘Inverfyne’ where strategic, business and environmental improvements are encouraged.

Whilst concern is noted with the specific density, structural planting and layout of the proposed mixed development, the general principle of clearfelling the conifer plantation and creating a mix of housing, childcare centre and commercial units on the site is broadly acceptable.

The submitted masterplan drawings have been considered 'for indicative purposes only' as the applicant does not wish them to be subject to consultation or to form part of this application for review. Whilst the masterplan illustrates long term aspirations for PDA 9/13 and AFA 9/4, these currently have no planning status and do not form sufficient basis for the planning authority or statutory consultees to comment upon them, nor do they meet the aspirations of the Council's Local Plan, which seeks a masterplan approach to be adopted when bringing forward PDA sites. This 'future proofing' and strategic approach is even more important in scenarios such as this, where a long term phased development is sought (current application relates to a 2ha gateway point / phase 1 development of > 30ha PDA in sensitive area). Whilst some aspects of these long term proposals and masterplan may be encouraged or supportable by the department, the current level of detail afforded is insufficient to allow full consideration and to be able to express a view whether this application (i.e. phase 1) would sit comfortably as a foundation for future comprehensive development of the PDA.

Acceptability of the current proposal will be fully dependent on the successful integration of the development in its landscape context through structured tree planting and retention of key landscape features. This is shown on the updated Masterplan drawing by the retention of three grazing fields (Clachan Field nos. 1, 2 and 3) to act as an appropriate landscape buffer between the application site and the Loch Fyne Oysters complex. It is proposed to retain deciduous trees along the southern boundary of the application site and along the field boundary running westwards from the site. This will be augmented by proposed tree planting within the application site itself and outwith the site along a thick belt on the northern side of Clachan Field no.3. Further off-site, tree retention and planting around the walker's car park and approach to the site is proposed with a large area of replanting proposed on the eastern side of the Sawmill Field. Off-site tree and shrub planting is also proposed adjacent to the A83(T) running from the application site to Loch Fyne Oysters complex. The indicative tree/shrub planting and retention of landscape features is considered to be insufficient to screen the site and integrate it within its surroundings in its current form. Tree belts / shelter belts are considered too narrow to provide adequate context, screening or backdropping for their exposed location. Notwithstanding this, it is considered that an appropriate scheme of tree planting and landscaping could be provided in terms of species, density and location as part of a wider detailed masterplan if one were to be progressed (see para above). A detailed planting schedule along with a Section 75 legal agreement to secure the offsite planting proposed would be required in the event the application were to be approved.

The additional development aspirations shown on the Masterplan layout require to be taken through the ongoing Local Plan process in terms of proposed land uses and intensification of earlier concepts. Approval or refusal of this application would not therefore imply that any of the areas shown on revised masterplan layout CDA 06 have any formal status.

Original design ideas for dwellinghouses raised concern but the applicant has confirmed that these are only for indicative purposes at this stage. Other design options have been explored with examples of modern sustainable house types submitted for indicative purposes. Should permission be granted, the applicant will require to address those design concerns raised thus far.

Of greater concern is the density and layout of the proposals. The presence of the PDA and AFA do not supersede or take precedence over other policies in the plan and it is therefore essential to achieve a balance of scale and density that respects this highly prominent area identified as 'Sensitive Countryside' and also as having Panoramic Quality. Both Local Plan Policies on sensitive countryside and areas of panoramic quality require the highest standards of design, siting, landscaping, boundary treatment and materials in new developments. Consequently, it is considered at present that the proposed development of housing, workshops and childcare facility is too dense and inappropriate for this rural location and context. Furthermore, the wider potential residential, tourism and commercial areas shaded on the masterplan exceed expectation for the rural context and would not be supported. There is also likely to be 'bad neighbour' land use tensions arising from the close proximity of industrial uses and residential properties with only small / narrow tree belts for mitigation.

There is also a potential for 'bad neighbour in reverse' situation from the new dwellings being developed adjacent to the quarry access road, agricultural shed and weighbridge

In terms of consultation responses, no major objections subject to conditions have been raised for the application site itself, however SEPA have raised objection to the masterplan based on its current lack of detail.

In summary, whilst the components of the mixed-use scheme are considered to be compatible with PDA 9/13, the submitted Masterplan drawings and themes are not sufficiently well-developed in terms of the brief for PDA 9/13 and AFA 9/4 to ensure this application can proceed on the basis of a first phase of a much larger scheme. Given the comments above, it is considered that the proposals in their current form may prejudice the greater wider aspirations of PDA 9/13 and AFA 9/4. This in combination with the concerns noted about density, render the proposal inconsistent with the relevant policies contained in the Argyll and Bute Structure Plan and Argyll and Bute Local Plan, by virtue of inappropriate siting and design, and failure to respect landscape character and the settlement pattern to the detriment of the designated area of sensitive countryside and the area of panoramic quality.

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

(R) Reasons why Planning Permission in Principle should be Refused

1. Having regard to the siting and design of the proposed mixed use development, the concentration and proximity of the proposed buildings to each other and existing commercial / agricultural uses is considered too dense and inconsistent with the character of the surrounding rural settlement pattern. This would detract from the designated area of sensitive countryside and the area of panoramic quality within which the development would be located. Additionally, the lack significant structural planting on-site will result in a development that would be out of context, incongruous and exposed in its rural surroundings. Such a development would therefore be contrary to Scottish Planning Policy (February 2010); to Policies STRAT SI 1, STRAT DC 1, STRAT HO 1 of the 'Argyll and Bute Structure Plan' 2002; and to Policies LP ENV 1, LP ENV 10 and LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4); and, LP HOU 1 of the 'Argyll and Bute Local Plan' (August 2009), all of which presume against the nature of the development proposed.
2. Having regard to the density of the proposed development in terms of the inclusion of 16 homes and 7 commercial units within a 2ha site and also the positioning of existing commercial activities and quarry access road adjacent to the site, it is considered that the development would give rise to 'bad neighbour' and 'bad neighbour in reverse' tensions between incompatible uses. Additionally, the lack significant structural planting on-site would result in a development that may expose the proposed new residential units to noise, dust and vibration from both on-site and external commercial activities. Such a development would therefore be contrary to Policies LP BAD 1 and BAD 2 of the 'Argyll and Bute Local Plan' (August 2009), both of which presume against the nature of the development proposed.
3. A Masterplan approach is advocated in devising proposals for the development of all PDA's identified by the 'Argyll and Bute Local Plan' (August 2009), in order to ensure that development is planned for on a comprehensive basis and that phased development, where required, is able to proceed in the knowledge that it will not conflict with, or compromise, the future development of the remainder of a PDA. The lack of a sufficiently detailed Masterplan in this instance has resulted in an objection from SEPA and has prevented the planning department from being able to assess fully this 2ha gateway / phase 1 application in the overall context of the wider > 30ha development site designated as a PDA, and has not enabled a proper assessment of its acceptability in terms of its relationship with future phases. The proposals are therefore considered to be contrary to

paragraphs 11.14 and 11.15 of the Written Statement of the 'Argyll and Bute Local Plan' (August 2009) and to government advice given in Planning Advice Note 83 – 'Masterplanning'. The inability to plan for the future in a co-ordinated and comprehensive manner gives rise to potentially adverse landscape, biodiversity, infrastructure and servicing implications in this the designated area of sensitive countryside and area of panoramic quality.

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

n/a

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

Author of Report: Ross McLaughlin

Date: 13th September 2011

Reviewing Officer: Richard Kerr

Date: 14th September 2011

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

1.

REASONS FOR REFUSAL RELATIVE TO APPLICATION 09/00385/OUT

1. Having regard to the siting and design of the proposed mixed use development, the concentration and proximity of the proposed buildings to each other and existing commercial/agricultural uses is considered too dense and inconsistent with the character of the surrounding rural settlement pattern. This would detract from the designated area of sensitive countryside and the area of panoramic quality within which the development would be located. Additionally, the lack significant structural planting on-site will result in a development that would be out of context, incongruous and exposed in its rural surroundings. Such a development would therefore be contrary to Scottish Planning Policy (February 2010); to Policies STRAT SI 1, STRAT DC 1, STRAT HO 1 of the 'Argyll and Bute Structure Plan' 2002; and to Policies LP ENV 1, LP ENV 10 and LP ENV 19 (including Appendix A Sustainable Siting and Design Principles and Sustainable Design Guidance 1-4); and, LP HOU 1 of the 'Argyll and Bute Local Plan' (August 2009), all of which presume against the nature of the development proposed.
2. Having regard to the density of the proposed development in terms of the inclusion of 16 homes and 7 commercial units within a 2ha site and also the positioning of existing commercial activities and quarry access road adjacent to the site, it is considered that the development would give rise to 'bad neighbour' and 'bad neighbour in reverse' tensions between incompatible uses. Additionally, the lack significant structural planting on-site would result in a development that may expose the proposed new residential units to noise, dust and vibration from both on-site and external commercial activities. Such a development would therefore be contrary to Policies LP BAD 1 and BAD 2 of the 'Argyll and Bute Local Plan' (August 2009), both of which presume against the nature of the development proposed.
3. A Masterplan approach is advocated in devising proposals for the development of all PDA's identified by the 'Argyll and Bute Local Plan' (August 2009), in order to ensure that development is planned for on a comprehensive basis and that phased development, where required, is able to proceed in the knowledge that it will not conflict with, or compromise, the future development of the remainder of a PDA. The lack of a sufficiently detailed Masterplan in this instance has resulted in an objection from SEPA and has prevented the planning department from being able to assess fully this 2ha gateway / phase 1 application in the overall context of the wider > 30ha development site designated as a PDA, and has not enabled a proper assessment of its acceptability in terms of its relationship with future phases. The proposals are therefore considered to be contrary to paragraphs 11.14 and 11.15 of the Written Statement of the 'Argyll and Bute Local Plan' (August 2009) and to government advice given in Planning Advice Note 83 – 'Masterplanning'. The inability to plan for the future in a co-ordinated and comprehensive manner gives rise to potentially adverse landscape, biodiversity, infrastructure and servicing implications in this the designated area of sensitive countryside and area of panoramic quality.

Note to Applicant

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:

1:2500 Location Plan as existing CDA 02 RevB received 28th April 2010;
1:1000 Site Layout Plan as proposed CDA 04 RevB received 20th October 2010;
1:2500 PDA 9/13 masterplan (provisional draft) CDA 06 received 20th October 2010
+Supporting Design Statement Section 9.0 dated 19th October 2010 and 'Notes accompanying drawing no. CDA 06' received 20th October 2010.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00385/OUT

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

This application is for a mixed-use development comprising 16 dwellinghouses, 7 commercial units and a childcare community building within a conifer plantation site between Bonnar's weighbridge office and existing farm shed at the head of Loch Fyne, west of the private road leading to Clachan Power Station.

In the 'Argyll and Bute Local Plan', Cairndow is identified as a minor settlement, with dispersed residential development located around the head of Loch Fyne. Clachan is primarily a commercial/tourist area that has developed over the past few years with the success of Loch Fyne Oysters and more recently The Tree Shop and "Here We Are". Further dispersed residential, commercial and agricultural uses are located inland at Inverfyne and Achadunan at the entrance to Glen Fyne.

In the 'Argyll and Bute Local Plan', the application site is located within the southern part of Potential Development Area PDA 9/13 'Cairndow-Inverfyne' where a mixed use - business/housing/recreation use is supported, and Area For Action AFA 9/4 'Inverfyne' where strategic, business and environmental improvements are encouraged.

The mini development brief for PDA 9/13 outlines a variety of potential development options that include estate development to consolidate existing business activity at the Oyster Bar/Tree Shop, recreational facilities within the re-instated gravel workings, provision of small workshop units and environmental improvements for the farm/sawmill buildings where structural landscaping and planting will be required. At the time of the 'Argyll and Bute Modified Finalised Draft Local Plan' (June 2006), an adjacent PDA 9/14 was deleted due to flooding issues on part of that site, but the residential component absorbed by PDA 9/13.

In terms of STRAT DC5 of the 'Argyll and Bute Structure Plan', 'medium scale' development (defined as between 6 and 30 units) in open countryside zones would generally be discouraged, unless particular opportunities reveal themselves through the development process, where a special case is appropriate and consistent with other policies of the Structure Plan and in the Local Plan. In this case, whilst special circumstances have been established in principle through the presence of PDA 9/13 in the Local Plan, the density of development as proposed is considered to be out of character within the local settlement pattern. It is considered that a high density form of development comprising 16 dwellinghouses, 7 commercial units and a childcare community building within a 2ha site (of a < 30ha PDA) would be incongruous in terms of the local development pattern, and starkly out of place at the exposed head of Loch Fyne. Whilst mitigation to a degree can be obtained through structural planting, the current proposals are nevertheless considered too concentrated and dense for this rural location within sensitive countryside and would be at odds with the existing rural settlement pattern.

Moreover, the site is also located within an 'Area of Panoramic Quality' where an even greater design, locational and scale criteria must be adhered to. Policy LP ENV 10 states that '*in all cases the highest standards of location, siting, landscaping, boundary treatment and materials..... will be required*'. This further emphasises our concerns about the density and cohesion of differing uses in this sensitive landscape.

The development is identified as Potential Development Area 9/13 which offers support for mixed use development however the density and intensification of use is contrary to STRAT DC1, DC5 and HO1 of the Argyll and Bute Structure Plan and Policy LP HOU 1 and LP ENV 10 of the Argyll and Bute Local Plan.

B. Location, Nature and Design of Proposed Development

The proposal involves the clear-felling of plantation woodland and erecting a mixed development that includes 16 dwellinghouses, 7 commercial units and a childcare centre. The application site measures 1.90 hectares and is therefore not a 'major' application in the planning hierarchy, nor does it warrant Environmental Impact Assessment.

Indicative layouts display that the residential development would be situated in the southern portion of the site and could take the form of two courtyard clusters both accessed from a new vehicular access off the existing private road. The dwellinghouses include a mix of detached (2 units), semi-detached (8 units) and terraces (6 units). The dwellings tend to be orientated with their main elevations facing south to maximise daylight and aspect. Plots 1-6 are arranged around a car parking courtyard with plots 7-16 arranged around a larger car parking courtyard.

The focal point of the development would be the proposed Cairndow Community Childcare building that would be located immediately south of the existing quarry office and weighbridge. No details have been submitted at this stage, but the indicative layout shows a turning area off the private road with car parking and dropping-off area.

Seven commercial/industrial units are proposed in the northern portion of the site and contained within five industrial buildings. Two larger units (Unit A and Unit B/C/D) are located close to the housing development and accessed via a new separate vehicular access south of the existing workshop and sawmill building. These units are proposed for light industrial uses (Use Class 4) due to proximity to proposed housing. A further three industrial units (units E, F and G) are proposed in the northern portion of the site that would also share this access. These units are proposed for small/medium general industrial uses (Use Class 5).

In terms of LP BUS 2 'Business and Industry Proposals in the Countryside Development Control Zones', commercial and industrial development is supported by PDA 9/13 where Appendix A 'Sustainable Siting and Design Principles' outlines design criteria for Isolated Industrial and Commercial Development that includes, scale, visual impact from key viewpoints, setting, integration within the landscape, screening, design, colour and materials.

The proposal must be assessed against the provisions of Policy LP ENV 19 - Development Setting, Layout and Design of the Argyll and Bute Local Plan where a high standard of appropriate design is expected in accordance with the Council's design principles. Moreover, the site is also located within an Area of Panoramic Quality and must therefore be assessed against Policy LP ENV 10 – Development Impact on Areas of Panoramic Quality also. This policy resists development where there is a significant adverse effect on the character of a landscape and stipulates in all cases that the highest standards in terms of location, siting, landscaping, boundary treatment and materials must be adhered to.

This is further explored in Appendix A 'Sustainable Siting and Design Principles' where in terms of 'Design of New Housing in Countryside Development Zones', the design and construction of new dwellings within this landscape must respect local identity and the environment and should be designed taking the following advice into account:

- *Location – houses must be carefully located within the landscape to complement their surroundings and should make the minimum possible physical impact;*

The proposed development requires the clear felling of the conifer plantation woodland. This will result in the retention of a limited number of mature deciduous trees along the southern and western perimeter of the site, in a thin and exposed linear belt. The removal of the plantation woodland will remove a solid unnatural mass from the general landscape and open up views into Glen Fyne. It will also, however, expose the site to the south and in particular from the A83 (T), and to a lesser degree from the private road up Glen Fyne. By default, it would also leave the deciduous tree belt to the south west somewhat unprotected.

The current indicative scheme (this is a planning application in principle) lacks design flair and displays suburban qualities in terms of the courtyard parking areas, orientation of buildings, design of buildings and relationship to other proposed and existing uses. There is also a major concern that the interrelationship between commercial and residential uses could result in a 'bad neighbour' situation, with amenity conflicts between uses which could prove incompatible at close quarters. .

The submitted details are, however, considered *'for indicative purposes only'* at this stage and would need major modifications in respect of the overall concept and rationale for future development if the application for permission in principle were to be approved in its current form. Natural features and sympathetic structured tree planting need to be used to better effect to integrate the proposed development within its rural surroundings which are identified as 'sensitive countryside' in the current Local Plan.

The location of the industrial/light industrial buildings in the northern portion of the site adjacent to existing similar uses is generally acceptable in principle, but would also require refinement in terms of siting, design, materials and screening.

- *Siting – must respect existing landforms and development patterns and the amenity of other dwellings;*

The proposal would (with the clearing of the conifer plantation), introduce new forms of development into an open countryside location. Careful positioning, design and screening would help to integrate such a proposal into the landscape. The submitted drawings do not however demonstrate sufficiently that such a mixed development could be achieved at the suggested density and with the proposed level of on-site planting. Furthermore, the relationship with this phase 1 development and latter phases remains unknown, due to lack of details in the form of a detailed masterplan. To this extent, the current mix of development at the density proposed cannot be supported, as siting would be incompatible with adjacent uses and settlement pattern.

Notwithstanding this, the principle of establishing a residential neighbourhood with commercial activities in the northern portion beyond a buffer zone is generally acceptable in terms of the aspirations for PDA 9/13. However, to re-emphasise, trying to achieve this in the current 2ha site could only be achieved by way of an incongruous form of development which would unacceptably compromise its rural surroundings.

- *Principles of Design – High standards of design are expected where scale form, proportions, materials, detailing, colour must all work together to enhance the existing built form and landscape;*
- *Materials and Detailing – materials and detailing should be compatible with the traditions of the area and be sympathetic to the landscape;*
- *Outbuildings – should relate to the main building in form and design and be carefully positioned on the site, relating to the house;*

The submitted drawings indicate simple forms of residential development that would require to be improved in terms of vernacular or contemporary designs forming a cohesive theme for the development. The drawings indicate a simplistic scheme that merely establishes servicing and infrastructure requirements. The submitted drawings indicate buildings with unbalanced fenestration, awkward roof detailing and monotonous elevations that would look out of context in their rural surroundings. However, as the submissions merely provide indicative options of how the site could generally be developed, this would need to be further explored in terms of establishing key viewpoints around the site, in order to establish landmark features to devise a suitable form of development that could successfully integrated into this rural landscape.

- *Landscaping and Boundaries – where privacy and amenity is important, built form should be screened from viewpoints using appropriate native planting. Hard-landscaping should be kept to a minimum. Boundaries will either integrate a site or alienate it;*

It is proposed to retain deciduous trees along the southern boundary of the site and along the field boundary running westwards from the site. This will be strengthened by tree planting within the site itself and outwith the site along a thick belt on the northern side of Clachan Field no. 3. Further tree retention and planting around the walker's car park and approach to the site is proposed, with a large area of replanting proposed on the eastern side of the Sawmill Field to provide effective screening for properties in Achadunan. Tree planting is also shown along a new proposed footpath connecting the site to the Loch Fyne Oysters complex. Whilst no precise details have been submitted in respect of proposed boundary treatments and planting, it is considered that conditions and a Section 75 legal agreement could control landscaping and screening of these sites within their rural context in the event of permission being granted. However, in its current form, the onsite tree belts are insufficient to adequately screen or backdrop the proposed new buildings and are insufficient to integrate the development proposed within this rural location.

- *Parking – car parking areas should not be dominant features which are highly visible from access ways or dominate views from within buildings.*

Indicative car parking and turning arrangements are shown for the residential and industrial components of the scheme. These are likely to change as the scheme develops at the detailed stage. Roads have no objection in principle but recommend standards in respect of car parking and design of housing courts/parking areas.

In terms of design, the overall solution is considered to be at odds with the development plan in terms of locational aspirations, siting and scale. Whilst it is accepted that micro-siting, building design, materials, access and landscaping can be addressed to a degree at an Approval of Matters Specified in Conditions (AMSC) application or by way of a Section 75 agreement, there are fundamental density issues on what is a relatively small 2ha site, especially when viewed in context of the overall >30ha PDA. Other infrastructure shortcomings have not been identified by consultees, however the impacts from the wider masterplan remain unknown due to lack of submitted detail. At this stage, it is therefore considered that, overall, the proposed development is inconsistent with the provisions of Policies LP ENV 10, ENV19 and Appendix A of the Argyll and Bute Local Plan together with the Council's Design Guide.

Having due regard to the above the proposal is considered to be consistent with Policies STRAT SI 1 and STRAT DC5 of the Argyll and Bute Structure Plan and Policies LP ENV 10, LP ENV 19 and LP HOU1 (including Appendix A and LP BUS2 of the Argyll and Bute Local Plan.

C. Natural Environment

Quadrat Scotland has carried out a joint survey of the applicant's development sites at Clachan and The Pheasant Field (ref. 09/00463/DET currently under consideration) and JDC ecology has submitted findings in terms of protected species including otter, bat and red squirrel.

In terms of otter, an existing holt was located close to the proposed sewage outfall. It was recommended that the outfall be relocated away from this holt and this has been done in the revised layout drawing ref. CDA 04 RevB. It is also suggested that further mitigation measures should include suitable screening around this and another holt to avoid disturbance. Whilst no signs of roosts were found, bats were present close to the woodland or within the old sawmill. It is suggested that the abundance of similar habitat should not have a significant impact on foraging activity through the loss of the woodland. There is no mention of red squirrels in the survey that applies to The Pheasant Field only.

Whilst SNH has no objection in principle to the development, it is recommended that repeat surveys be undertaken for otter, bat and red squirrel. On the basis that disturbance impacts to otters are considered significant during and after construction, a licence to disturb otters should be sought for works in addition to conditions recommended in respect of suitable mitigation

measures. Comprehensive advisory advice is provided in respect of SNH guidance with regards European Protected Species.

In landscape and visual terms, SNH recommends that extensive native broadleaf planting within the application site should be designed to integrate the development more sensitively in the landscape and that any boundary features such as drystone dykes, native woodland and isolated trees should be retained where possible.

The applicant has also confirmed that CAR authorisation has been issued for the discharge of treated sewage effluent into the River Fyne and this authorisation took full account of migratory fish and other aquatic flora and fauna. Whilst SEPA currently feel that the CAR Licence is shown in an erroneous position on the submitted plans they have provided that they are likely to approve a variation as long as discharge shall not increase.

On the basis of general acceptance and the imposition of necessary safeguarding planning conditions, the proposal is considered to be consistent with Policy STRAT SI 1, STRAT DC7, STRAT DC8, STRAT FW2 of the Argyll and Bute Structure Plan, and policies LP ENV 6, ENV7, ENV8 of the Argyll and Bute Local Plan.

D. Affordable Housing

Whilst figures are not available for individual communities within each housing market area, research from the Draft Housing Needs and Demand Assessment indicates that for the Cowal Housing Market area (of which Cairndow forms part) there is a total housing requirement over the next ten years for 984 units. The previous housing market study in 2002 estimated a need for up to 12 affordable rented houses in Cairndow, and recommended more detailed research in to meeting shortfalls for owner occupied housing in Cairndow by way of small scale mixed tenure developments.

In the original Supporting Statement, it was stated that Ardinglas Estate has applied for grant funding under the Rural Homes for Rent (RHfR) pilot scheme launched by the Scottish Government that aims to provide affordable private rented housing in rural areas. Within the current proposal, ten dwellinghouses (plots 1, 2, 3 and 10-16) are the subject of the RHfR application. The applicant envisages that plots no. 4-9 would be offered for sale as serviced plots with detailed planning permission. If the RHfR application is unsuccessful, an alternative proposal will be sought. For the purposes of this application, it is proposed that 25% affordability is accepted and, if the RHfR project proceeds, then affordability would be 62%.

The updated Supporting Statement indicates that the mechanism to provide affordable housing will be selected at the detailed stages where the present options are either private rented housing under an extension of the RHfR scheme, or self-build under Rural Homes Ownership Grants (RHOG). At the time of writing, it is not possible to confirm the status of RHfR scheme from the Scottish Government, and therefore a recommended planning condition allows a degree of flexibility in respect of securing a mechanism to deliver a minimum of 25% affordable housing on this site, as prescribed by the Argyll and Bute Local Plan.

Whilst the final mechanism has not yet been secured, in the event of an approval, a suspensive condition or Section 75 legal agreement could require an acceptable level and variety of affordable housing to be provided on site and implemented in harmony with the mainstream housing proposed. Consequently, the proposal is considered to be consistent with the provisions of Policy LP HOU 2 of the Argyll and Bute Local Plan.

E. Archaeological Matters

No known archaeological issues are raised by West of Scotland Archaeology Service (WoSAS).

Given the above, it is considered that the proposal is consistent with the provisions of Policy LP ENV17 of the Argyll and Bute Local Plan.

F. Flooding

The Drainage Impact Assessment states that the River Fyne is influenced by the operations of a major hydro-electric scheme whilst the large ponded area to the north is a remnant of sand and gravel quarrying activities still in operation further north. SEPA's Indicative Flood Map reveals the likelihood of flooding on significantly lower lying ground near the site, but not on the site at any point.

Para. 2.3 of SEPA's latest letter (8th September 2011) suggests the addition of a condition relating to units E-G to incorporate SuDS.

Given the above, it is considered that the proposal is consistent with the provisions of Policy STRAT DC 10 of the Argyll & Bute Structure Plan and Policy LP SERV 8 of the Argyll and Bute Local Plan.

G. Road Network, Parking and Associated Transport Matters

Roads have no objections in principle to the proposed scheme subject to conditions regarding visibility splays, access design and gradient, responsibility for housing courts, parking standards and street name plates. It is noted that all roads and footways will be the subject of Roads Construction Consent (S21), Road Bond (S17) and Road Opening Permit (S56). Roads comment that the existing road serving the site and sections of the old A83 will require significant improvements in respect of widening, passing places, visibility splays and drainage.

Transport Scotland recommends a condition regarding visibility splays for the access onto the A83 Trunk Road.

Pedestrian links are proposed that would link the site to Clachan. This would be consistent with the Core Paths Group aspirations for a path network in the area.

Having due regard to the above the proposal is considered to be consistent with Policies LP TRAN 1, LP TRAN 2, LP TRAN 3, LP TRAN 4 and LP TRAN 6 of the Argyll and Bute Local Plan.

H. Infrastructure

SEPA have no objections in principle but offer advisory comments regarding foul drainage, surface water drainage, waste management and regulatory advice.

SEPA find the surface water drainage proposals contained in the Drainage Assessment acceptable but recommend that a condition be included in respect of a phased provision for SuDS schemes.

SEPA confirm that the applicant has been issued with a CAR licence to discharge treated sewage effluent to the River Fyne however from their records it appears it is not in the same location as specified on the submitted planning application drawings. Whilst they consider a variation may be acceptable in principle they still require that a formal CAR application is made for the revised positioning.

In an email dated 12th September the applicant has rebutted SEPA's conclusions stating that a CAR licence for what is proposed has been approved. He goes on to state that two CAR licences, - one for the housing and childcare buildings (CAR/L/1036411 dated 17 July 2009) and one for the Commercial Area (CAR/R/1035832 dated 3 April 2009) were applied for and granted by SEPA. He confirms that it was always proposed that the two systems would share a common outfall.

His latest e-mail correspondence has also been forwarded to SEPA for their comment.

SEPA's most recent letter dated 8th September objects to the Masterplan submitted for PDA 9/13. SEPA recommend the applicant submit the details of the waste water drainage and surface water drainage proposals for the overall masterplan area, to establish if they are acceptable for the whole development taking into account any cumulative impact and to resolve our objection to the waste water drainage proposals. They note this is imperative to avoid unnecessary delay and/or further objection from SEPA during future phases.

Having due regard to the above the proposal is considered to be consistent with Policies LP SERV 1: Private Sewage Treatment Plants and Wastewater (i.e. drainage systems); LP SERV 2 Sustainable Drainage Systems; LP SERV 3 Drainage Impact Assessment and LP SERV 4: Water Supply, of the Argyll and Bute Local Plan.

I. Master planning

The Scottish Government most commonly refers to Masterplans being, *'a plan that describes and maps an overall development concept, including present and future land use, urban design and landscaping, built form, infrastructure, circulation and service provision. It is based upon an understanding of place and it is intended to provide a structured approach to creating a clear and consistent framework for development'*. (PAN 83)

The Scottish Government endorses the use of masterplanning in general, but considers that it is especially useful for large sites and in areas/sites which are going to undergo substantial change, have multiple uses, or are sensitive in terms of environmental or landscape terms. We certainly consider this PDA location at Inverfyne which is over 30ha in size aligns with all of these scenarios and would benefit from a co-ordinated and comprehensive approach to current and future development.

Masterplanning the site would allow the landowner to articulate future development aspirations / aims of the PDA and receive feedback from the statutory consultees, local authority and the local community in order that this Phase 1 building block (current application) can be set on the most stable of foundations possible. It would also allow infrastructure (such as roads, sewage, water) considerations to be given proper assessment so it can be planned and phased ensuring that this application does not sterilise or inhibit future development potential of the remainder of the PDA. Given the sensitive countryside and landscape qualities of the site, a masterplan approach would also afford a clearer indication of long-term planting which will be essential to integrate all physical development in the PDA with its wider landscape context. Moreover, given the mixed use nature of this PDA, it will be essential to this phase and others that there are no land use tensions arising from incompatible adjacent forms of development.

Overall, we endorse the Scottish Government's promotion of masterplans as a discipline to ensure that well conceived and long term development frameworks are created for sites which are environmentally sensitive, are subject to significant change, and which are intended to host a variety of differing land uses; all of which are the case with this large PDA. This is embedded in our Local Plan and it is specified in the Supplementary Development Briefs that this site should be masterplanned.

This aspect and requirement for a masterplan has always been made clear to the applicant and was acknowledged by their own consultants as long ago as 2005. During submission to the local plan process made by CKD Galbraith (the applicants agent at the time), dated 13th July 2005 in respect of PDA 9/13 it was provided that:-

Ardkinglas Estate welcomes the proposed PDA at Cairndow – Inverfyne as a broad indication from Argyll & Bute Council that subject to a detailed ACE and the compliance of any proposals with all relevant Structure and Local Plan policies, that the potential for medium scale development, in particular that linked to the existing Loch Fyne Oyster operation could be realised on this site. The Estate are keen to work with Argyll and Bute Council in overcoming the

noted access and road safety constraints as well as with the preparation of the proposed comprehensive Master Plan approach.

Whilst a sketch masterplan has been submitted for 'indicative purposes only' it falls far short of the level of detail the Council, statutory consultees and the community can comment upon or take comfort from that the design, landscaping, quality, mix of uses and overall sense of place for the whole PDA has been comprehensively considered.

It would be the Council's intention to either endorse any suitable masterplan that is submitted alongside Phase 1 application or adopted it as supplementary planning guidance, both of which are recommended in PAN 83. This would also give the applicant a degree of certainty and security in planning for future phases of development. However, at present, the masterplan has only been submitted for indicative purposes only and is not of sufficient detail or quality to satisfy PAN 83 or the provisions of the Argyll and Bute Local Plan.

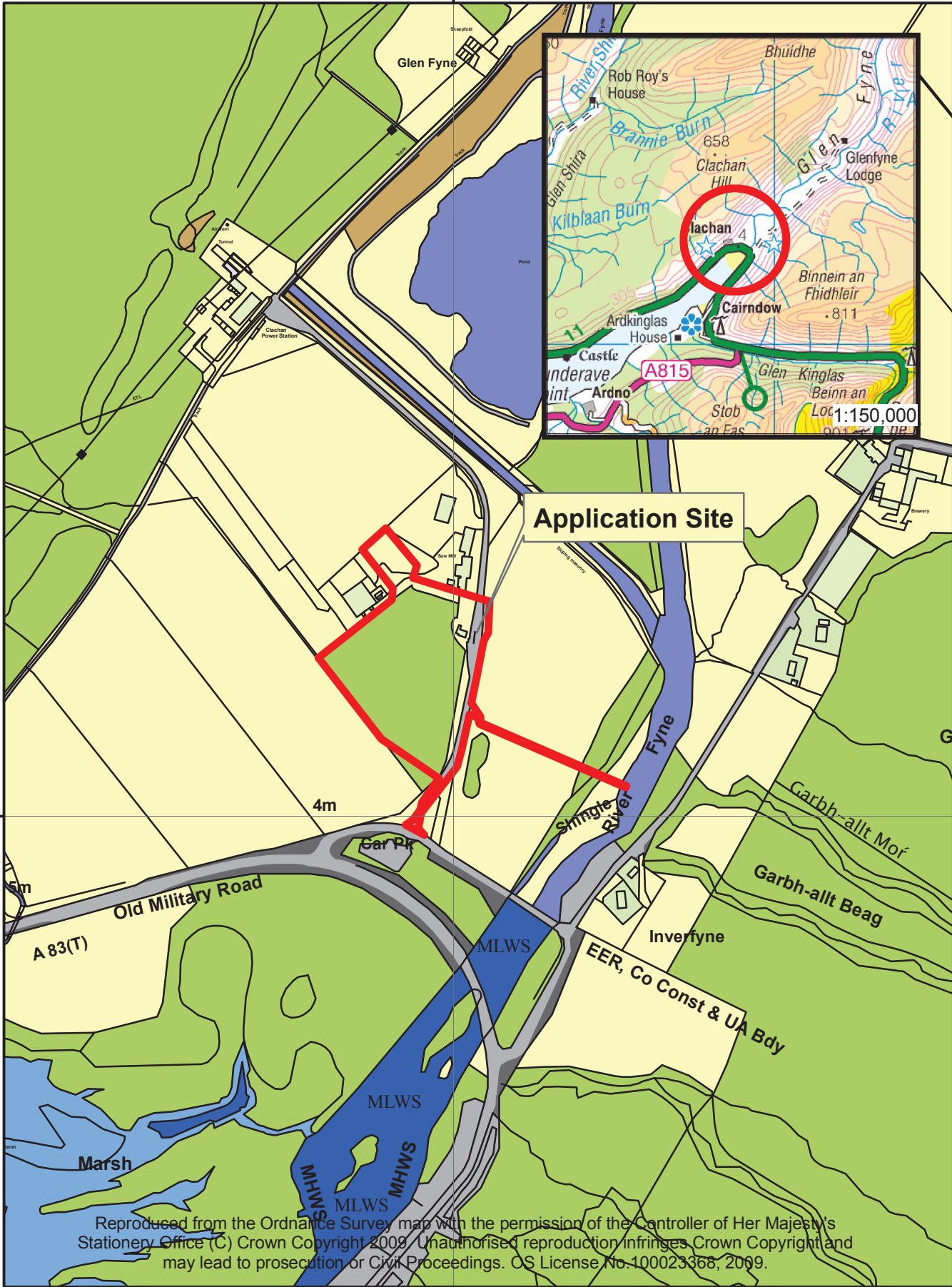
It is therefore considered to be contrary to paragraphs 11.14 and 11.15 of the written statement of the Argyll and Bute Local Plan (August 2009) and Planning Advice Note 83 – 'Masterplanning'. There is an inability to plan for the future in a coordinated and comprehensive manner with the potential for adverse landscape biodiversity infrastructure and servicing implications in this area of sensitive countryside and panoramic quality

J. Conclusions

Whilst the components of the mixed-use scheme are considered to be compatible with PDA 9/13, the submitted Masterplan drawings and themes are not sufficiently well-developed to give comfort in terms of the brief for PDA 9/13 and AFA 9/4. The proposal may prejudice the greater development of PDA 9/13 and AFA 9/4 and detailed concern is noted on the intensification and density of the proposal in this sensitive countryside location and giving cognisance of the relatively dispersed settlement pattern in the surrounding area. Furthermore, we note concerns about the proximity of both existing and proposed commercial activities and quarry vehicle traffic movements to the proposed dwellings which may give rise to 'Bad Neighbour' conflicts. At this 'in-principle' stage, the proposal is therefore considered to be contrary to the policies of the Argyll and Bute Structure Plan and Argyll and Bute Local Plan.

It is worth noting that the Scottish Government recently extended an invitation to the applicant and Council to discuss this application in a mediation capacity and in order to seek a mutually agreeable outcome. This invitation was declined by the applicant however the Council still consider the idea of using the Scottish Government Planning Division to be of benefit to both the Council and the applicant in order to unlock this PDA. From the applicant's perspective they will have the benefit of being able to access Scottish Government specialist staff / resources and we as a Planning Authority can use this as a test case to develop "best practice guidance" which can be rolled out in other PDA applications to ensure that this information request i.e. Masterplan is proportionate and delivers "added value" benefits to the applicant, the local community and the Planning Authority.

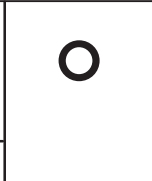
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**Location Plan relative to
Application Ref: 09/00385/OUT**



Date: 26.11.10

Scale: 1:5,000

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00689/PPP

Planning Hierarchy: Local

Applicant: National Grid Property

Proposal: Site for the erection of retail store (Class 1) with associated development including access, car parking and landscaping.

Site Address: Land at former Gas Works Argyll Street/Hamilton Street, Dunoon, Argyll

SUPPLEMENTARY REPORT 3

1.0 Summary

This application was considered by the PPSL Committee at a Hearing in the Queen's Hall, Dunoon on 9th November 2011 when Members resolved to continue consideration of the application.

This Supplementary No 3 should be read in conjunction with other supplementary reports.

The purpose of this supplementary report is to confirm a timetable for the submission of information as requested at the Hearing.

2.0 Request for further Information

At the PPSL Committee at a Hearing in the Queen's Hall, Dunoon on 9th November 2011 Members resolved to continue the application to:-

1 - Request information from the applicant as proposed in condition 14 detailed in the Planning Officer's supplementary planning report number 2 and as detailed below:-

Prior to the commencement of any works, full details of all flood mitigation measures shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA and the Council's Flood Risk Management. The compensatory flood storage scheme shall be designed to include the 200 year plus 50% culvert blockage scenario. The detail design peak water levels shall be based on the 0.5% annual exceedence probability (AEP) event given in Carl Bro Report December 2006 and, in particular, the design shall take heed of the report's recommendations for the gas works site particularly the training wall at Hamilton Street bridge. The storage requirements for 50% culvert blockage shall also be based upon the Carl Bro report figures. All works shall be carried out in accordance with the approved scheme.

2 - That a report should be submitted to the next meeting of the PPSL Committee on 23rd November 2011 advising on progress with production of the information detailed at 1 above and a timescale for when the application would be brought back to the Committee for consideration.

This supplementary is therefore specified and prepared in accordance with point 2 above.

3.0 Timetable

The timetable for submitting the requested information is as follows:-

- **16th November 2011**- *Gregor Muirhead (SLR Consulting), Fergus Adams (Dougal Baillie) and Grant Whyte (ABC Technical Officer) met to discuss requirements of above request*
- **2nd December 2011** – *Applicant to submit full details of all flood mitigation measures which shall be put out for consultation with SEPA and the Council's Flood Risk Management. The report will include additional modelling to plus supporting information (drawings and narrative) which will respond to all comments raised at the Hearing. It shall also be made publically available online.*
- **21st December 2011** – *Application to be reported to PPSL with additional flood risk information and comments from SEPA, Flood Risk Manager and any other contributors.*

4.0 RECOMMENDATION

It is recommended that Members note the content of this report and view the timescales as acceptable in order to receive the requested information.

Author: Ross McLaughlin, Development Manager

**Angus J Gilmour
Head of Planning & Regulatory Services
16th November 2011**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00689/PPP

Planning Hierarchy: Local

Applicant: National Grid Property

Proposal: Site for the erection of retail store (Class 1) with associated development including access, car parking and landscaping.

Site Address: Land at former Gas Works Argyll Street/Hamilton Street, Dunoon, Argyll

SUPPLEMENTARY REPORT 2

1.0 Summary

The purpose of this supplementary report is to confirm the receipt of a late letter of objection, to suggest amended conditions, confirm submission of a marginally altered layout plan following a pre-hearing meeting and to update Committee on the submission of a recent application made by Morrison's that may have a bearing on the proposal.

A comparative assessment has also been provided for ease of reference.

2.0 Additional Representations

A late objection (email dated 27th October 2011) has been received from Mr. George Johnstone who is writing on behalf of his family to register their objection to the proposal. The reasons for objection are as follows:

- 1. We find it morally offensive that the National Grid is attempting to steal the commercial research and concept of CWP. Equally that Council planners appear to be bending over backward to allow this to happen;*
- 2. The old Gasworks site simply does not pass the sequential test in that it doesn't provide sufficient space to accommodate the size and character of the supermarket as proposed by CWP, nor can it accommodate a petrol filling station;*
- 3. Unlike the CWP detailed and researched application, we seriously doubt whether the National Grid will ever attract a commercial sponsor;*
- 4. In terms of town planning and needs of the community, we believe the gasworks site would more readily lend itself to a leisure complex.*

Comment : George Johnstone has a family interest in PDA 2/5 Dunlsokin that, subject to the successful conclusion of a Section 75 Agreement, Kier Homes will have planning permission for 74 dwellinghouses. The lower part of this housing PDA has however been offered up to CWP for a large foodstore site, the subject of live application ref. 10/00222/PPP.

In terms of the comments raised above, the department considers that the CWP and National Grid are wholly different schemes in respect of support through the adopted Argyll and Bute Local Plan and that the National Grid proposal does satisfy policy LP. Furthermore, the agent for the National Grid scheme has submitted evidence that supports ongoing commercial interest in their site for a smaller foodstore without a petrol filling station.

3.0 RECOMMENDED CONDITIONS NEW LAYOUT PLAN

Following recent discussions with the applicant's agents, it is suggested that suggested that recommended conditions 14 and 15 be amalgamated and revised to request full details of all flood mitigation measures to allow flexibility in the choice of the most appropriate sustainable flood mitigation measures. The agents comment that the flood modelling carried out predicts worst case scenarios but it may be impractical to suggest precise methods of mitigation until more detailed surveys are carried out.

Following similar discussions with our Roads Department the applicant has submitted a revised layout plan showing 125 car parking spaces (original 123) and new location access approximately 10 meters to the west.

Comment: The department is agreeable to this request and a reworded condition 14 is included in the list of recommended conditions in Appendix A below. The Roads department have requested the alterations to the layout / access plan to increase distance to Hamilton St / Argyle St junction.

4.0 OTHER MATERIAL CONSIDERATIONS

An application has just been submitted by Wm Morrison Supermarkets Plc (ref. 11/02015/PP) Morrisons for the erection of an extension to the existing food store, altering the main access and extending the existing car park by the demolition of an industrial/storage building on George Street. The proposed side extension onto the eastern gable of the foodstore will result in an increase of 782 sqm i.e. a 38% increase (net floorspace as well from 914 sqm to 1514 sqm). The increase in the store will also result in a larger car park with an additional 32 spaces taking it from 125 spaces to 157.

As it is in a town centre location, there is a general presumption in favour of retail development, and as the proposed extension is less than 1000 square metres there is no requirement for a Retail Impact Assessment as such.

Comment: A Retail Statement has been submitted in support of this scheme and while this application is yet to be determined, the following concluding statements are made that pertinent to the proposed foodstore by National Grid.

- *We are aware of two other development proposals for retail development in the Dunoon area; namely the application by CWP application (10/00222/PPP) and the National Grid application at the former Gas Works site on Victoria Road (11/00689/PPP). With regards to the former, this site is not identified as a retail location. In relation to the latter site, the Argyll and Bute Council Main Issues Report (MIR) suggests that this site is suitable for redevelopment. The MIR indicates that this site should be identified as a redevelopment opportunity but not specifically for retail. The site is identified within an edge of centre location in the adopted local plan.*
- *In reviewing both of the supporting retail impact assessments, it is noted that each proposal also relies heavily upon an assumption that the Morrisons is overtrading in order to justify trade diversion and turnover. In addition, both proposals will cause trade diversion and retail impact on the town centre. Whilst the impact on individual stores is*

less of a consideration compared to the overall impact on the town centre in overall terms, an inevitable consequence of retail development outwith the main town centre is a degree of retail impact.

- *The proposed extension of the Morrisons store represents part of a long term programme of improvement and investment in Dunoon by Morrisons. This investment programme was highlighted in representations submitted (26 July 2010) to application reference 10/00222/PPP. The proposed extension will provide an improved retail offer including a range of qualitative improvements – as discussed above.*
- *Finally, the additional retail floorspace within the new enlarged Morrisons will result in a reduction in any available expenditure within the Dunoon catchment due to a higher turnover of the store – and therefore also a higher level of town centre turnover in overall terms. This will also render any assumptions in relation to over trading at the store obsolete and will not be applicable in the justification for out of town centre retail proposals under consideration at this time. The effect of this is that less expenditure available will lead to higher levels of impact from out of town centre retail proposals.*

Comment: While this application has just recently been submitted, Members should be aware of the Retail Statement submitted by Morrisons and the implications for reduced available expenditure and current assessments based on potential overtrading.

Currently the National Grid and CWP retail statements indicate the turnover of existing convenience floorspace to be between £21,472,989 and £22,551,965, which would give a residual convenience expenditure of between £10,560,636 and £9,481,659.

As the Morrison's store and its proposed extension is within the Town Centre identified in the Adopted Local Plan, in retail policy terms there are no objections to this proposal. This presumption in favour should be taken into consideration when calculating capacity to accommodate an edge of town centre application such as the former gas works site, and then an out of town centre location such as the Walkers site.

The proposals, if approved, would result in an additional 600 square meters of retail floorspace, and as Morrisons have not indicated what the actual turnover of their Dunoon store is, we will have to assume that for purposes calculating capacity that they are trading at their average turnover levels. These average turnover levels are detailed in table 9 of the Retail Impact Assessment for application 10/00222/PP. This indicates that Morrisons have an average convenience turnover of £ 11,814 per square metre and comparison of £ 8,801 per square metre.

The extended Morrisons store would reduce the residual convenience expenditure of between £10,560,636 and £9,481,659 to between £9,134,003 and £8,212,507. This level of expenditure would represent an additional floor space of between 763 and 686 square metres using the average turnover of the top four foodstore operators.

Ultimately our calculations indicate there is still an element of leakage even if the Morrison's extension was approved and therefore it's pragmatic to progress towards determination for a new store. Both retail consultants have been made aware of this issue but consider the impact is negligible given over estimations in terms of floorspace, fact there is still leaked expenditure even if approved and extended store is still likely not to compete with new modern superstore

5.0 COMPARATIVE SUMMARY

It is appreciated that there is a high degree of technical information spanning a number of months presented before Members. To this extent and to assist deliberations and

referencing, a comparative summary has been provided below. We would stress this must still be considered in conjunction all the previous reports relating to application 10/00222/PPP (CWP) and 11/00689/PPP (National Grid).

- **Total Available Expenditure in Dunoon** – £33.9M for convenience and £48M for comparison;
- **Leaked expenditure** – CWP consider this to be £11.1M compared the NG = estimation that the figure is £10.4M. The difference can be largely attributed to the assumption by NG that the Co-op is trading at a higher level.

There are a number of other assumptions made by both NG and CWP which relate to turnover and whilst these differ it must be noted that, realistically, both proposals are after the same store so regardless of the estimates in either retail impact assessment, at the end of the day all the factors will be determined by the actual operator and will be the same for any proposal.

	National Grid	CWP	Commentary
Location Designation /	Vacant Site - Edge of Town Centre & Area For Action	Part operational garden centre, part Greenfield which is a PDA for Housing.	CWP site is located outside Town Centre and Edge of Town Centre locations.
Gross Floor Area	3,200 m sq (34.4k sq ft)	3,716 m sq (40k sq ft)	CWP is larger by approx 500sq m
Sales Floor Area	2,000 m sq (21.5k sq ft)	2,228 m sq (24k sq ft)	CWP is larger by approx 300sq m
Convenience Sales	1,448 m sq (15.6k sq ft)	1,448 m sq (15.6k sq ft)	Identical everyday purchase floorspace
Comparison Sales	552 m sq (5.9k sq ft)	780 m sq (8.4k sq ft)	CWP is larger by approx 230sq m
Estimated Clawback of Leaked Convenience Expenditure	50%	60%	The CWP application assumes more clawback of leaked expenditure given the larger store/better offer. NG contest CWP's assumptions and consider a store of 3,716 m sq and offering same convenience floorspace as theirs cannot clawback 60% from the likes of Tesco Extra in Greenock which has much larger range of goods.
Convenience impact on Town Centre (inc Morrisons)	20.5%	19%	The marginal difference is based on the above difference in estimated clawback. Both stores principal impact in Town Centre convenience is on Morrison's
Comparison Impact on Town Centre	2.8%	3.2%	The marginal difference is based on the difference in estimated clawback and comparison floorspace which is higher for CWP. Noted that Local traders

			have not submitted a formal representation to NG application. They objected to CWP proposal.
Overall Impact on Town Centre	9.5%	7.9%	Overall the impacts are relatively similar with the biggest impacts on Morrison's. Different clawback assumptions are made due to difference in comparison floorspace.
Car Parking	125 spaces	238 spaces	Both figures are within thresholds identified in Appendix C of Local Plan
Planning Gain	Not less than £100,000 (TBC)	£276,000 for Town Centre Improvements + contribution for loss of 9 affordable units (TBC)	In principle, NG have confirmed they shall provide planning gain for Town Centre, however, their organisation cannot confirm amount until an appropriate board meeting is convened. CWP have tabled a generous offer of no less than £276,000. A lower figure has been apportioned to NG site due to opportunity for link trips and physical proximity to town centre.

This table hopefully allows consideration of the two proposals on a level playing field and highlights the key differences in assumptions as the opinions on the clawback of leaked expenditure.

In retail assessment terms the principle difference is the larger size of the CWP proposal in comparison terms which has led them to assume they can clawback more leakage from the larger stores in Inverclyde which offer foodstores with large convenience and comparison ranges, ample car parking and petrol filling stations and cafes. The CWP proposal also aim's to relocate / expand the existing Walkers Garden Centre (although application not submitted), provide a petrol filling station and considers the proposal will lay infrastructure to enable housing development in the vicinity. Their £276,000 offer + offsetting of affordable housing as part of a planning gain contribution is also considered to be generous.

Both proposals are commendable in that they both address leakage and lost expenditure the Bute and Cowal.

Notwithstanding this, the opening rows of the table above reiterate to Members the current designations of National Grid site as a vacant brownfield Area for Action within the identified 'Edge of Town Centre' which in planning terms is sequentially preferable.

Officer's retain the position that approval of the National Grid application would promote the use of a prominent vacant 'brownfield' site within a sequentially preferable site within an edge of centre location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential

to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre (no less than £100,000) would mitigate against perceived impact on the existing town centre.

6.0 CONCLUSION

The recent application by Morrisons could have a significant impact on the assessments made in support of this proposed development and that of the CWP scheme. The applicants are aware of this new application but will provide additional details at the Hearing where they will be able to fully explain the impact of the Morrisons extension, proposed flood mitigation measures and car parking issues.

7.0 RECOMMENDATION

It is recommended that planning permission be approved as per the original report subject to the rewording of one of the conditions (new condition 14). Appendix A overleaf includes the revised planning condition list.

Author: Brian Close 01369 708604
Contact Point: David Eaglesham 01369 708608

Angus J Gilmour
Head of Planning & Regulatory Services
8th November 2011

APPENDIX A

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/00689/PPP

1. This permission is granted in terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application for planning permission in principle and the further approval of Argyll and Bute Council or of the Scottish Minister on appeal shall be required with respect to the under-mentioned additional matters (to be applied for within an application/s of matters specified in conditions) before any development is commenced.

- a. The siting, design and external appearance of the proposed development.
- b. The landscaping of the site of the proposed development.
- c. Details of the access arrangements.
- d. Details of the proposed water supply and drainage arrangements.

Reason: To comply with Section 59(1) of the Town and Country Planning (Scotland) Act 1997.

2. In the case of the additional matters specified in (1) above, an application/s for compliance with this condition, in terms of Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 must be made to Argyll and Bute Council before whichever is the later of the following :

a) the expiration of a period of 3 years from the date of this permission.

b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.

c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b and c above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

Reason: In accordance with Section 59(1) of the Town and Country Planning (Scotland) Act 1997

3. In the case of the application for approval of matters specified in condition (1) above, the development to which the permission relates must be begun within 2 years of the date of this approval; or in the case of there being other matters remaining outstanding 2 years from the date of such further approval; or such other period as the planning authority may determine, provided that such a further application can be submitted in accordance with the approved timelines specified in the ongoing planning permission in principle.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.

4. The development shall be implemented in accordance with the details specified on the application form dated 5th May 2011 and the approved drawing reference numbers: 1:1250 Location Plan (PL)001, 1:500 Illustrative Foodstore Layout (PL)002 RevB, 1:250 Proposed Foodstore Illustrative Elevations (SK)004, 1:500 Former Gas Works Site Survey GJ169/CDA/02 Rev0, 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.

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

5. The net convenience sales area of the development shall not exceed 1448 sq.m. and the net comparison sales area shall not exceed 552 sq.m.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the submitted retail assessment.

6. The level of noise emanating from the site shall not exceed 40dB(A) $L_{\text{night, outside}}$ nor 45dB $LA_{\text{eq}(5 \text{ mins})}$ nor 60 dB LA_{max} between 23:00 hours and 07:00 hours and must not exceed 50 dB $LA_{\text{eq}(1 \text{ hour})}$ at any other time. The level of noise from the site is to be measured at the facade of the nearest noise sensitive receptor for daytime noise.

Reason: In the interests of public health and amenity.

7. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from fixed plant and/or machinery has been submitted to and approved in writing by the Planning Authority. The development shall not commence until the measures in the approved noise prevention scheme operate to the satisfaction of Public Protection.

Reason: In the interests of the amenity of surrounding properties.

8. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from service yard activity has been submitted to and approved in writing by the Planning Authority. Such a scheme shall provide for an acoustic barrier or other similar noise control measures. The development shall not commence until the acoustic barrier or other measures in the approved noise prevention scheme shall be installed in its approved form prior to the start of any other construction process on site.

Reason: In the interests of the amenity of residents at McArthur Street.

9. Prior to any works commencing on site, the applicant shall have regard to the Scottish Executive Guidance Note Controlling Light Pollution and Reducing Light Energy Consumption (March 2007) and follow the lighting design process described in the Guidance Note. The information recorded should be of good standard to enable the lighting submission proposal to be evaluated. All lighting proposals shall be submitted to and approved in writing by the Planning Authority in consultation with Public Protection.

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

10. No development or any works whatsoever shall take place on site until an assessment of the condition of the land has been undertaken and has been approved in writing by the Planning Authority in consultation with the Public Protection Unit. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites. Where such risks are identified then a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be prepared, and is subject to the approval of the Planning Authority in consultation with the Public Protection Unit. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

11. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any development with the exceptions of those actions required to carry out remediation, unless otherwise agreed, in writing, with the Planning Authority, in consultation with the Public Protection Unit. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation shall be produced, and subject to approval in writing of the Planning Authority in consultation with the Public Protection Unit.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

12. In the event that contamination was not previously identified is found at any time when carrying out the approved development it shall be reported in writing immediately to the Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is deemed necessary then a remediation scheme shall be prepared in accordance with the requirements of condition 8 above which is subject to the approval in writing by the Planning Authority. Following completion measures identified in the approved remediation scheme a verification report shall be prepared which is subject to the approval in writing by the Planning Authority in accordance with condition 10 above.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

13. Before development commences, an Environmental Action Plan shall be submitted to and approved in writing by the Planning Authority. This plan shall address issues such as foul drainage, contamination, the potential for dust, mitigation measures to be adopted and the methods of monitoring and recording matters relating to dust control, all to the satisfaction of the Planning Authority in consultation with the Head of Public Protection.

Reason: In the interests of public health and amenity.

14. Prior to the commencement of any works, full details of all flood mitigation measures shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA and the Council's Flood Risk Management. The compensatory flood storage scheme shall be designed to include the 200 year plus 50% culvert blockage scenario. The detail design peak water levels shall be based on the 0.5 % annual exceedence probability (AEP) event given in Carl Bro Report December 2006 and in particular, the design shall take heed of the report's recommendations for the gas works site particularly the training wall at Hamilton Street Bridge. The storage requirements for 50% culvert blockage shall also be based upon the Carl Bro report figures. All works shall be carried out in accordance with the approved scheme.

Reason: In order to maintain the capacity of the floodplain and in order to prevent flooding.

15. Prior to submitting the detailed design, a site investigation including CCTV to locate and identify existing pipe work shall be carried out. Full details including a marked up site plan identifying any implications to adjacent roads drainage shall be submitted to the Planning Authority in consultation with the Roads Authority for written approval

Reason: In order to assess this aspect in detail and in order to prevent flooding.

16. The pathway for overland flow during 1:200 AEP at Hamilton Street Bridge shall be designed and submitted to the Planning Authority in consultation with the Roads Authority for written

approval. Such information shall show the pathway for overland flow re-entering Milton Burn as close to the bridge as possible. The designer is advised to liaise directly with the Council's Design Services (refer to Advisory Note 6 below).

Reason: In order to assess this aspect in detail and in order to prevent flooding.

17. Any details pursuant to Condition 1 (d) above shall provide for full drainage details including foul drainage details, and a SuDS scheme with methods to deal with surface water drainage of the site. Prior to the commencement of any works, such a SuDS scheme shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.

Reason: In order to provide for sustainable development of the site, and to protect existing and proposed development from the effects of potential increased surface water run-off to surrounding areas.

18. Within a minimum of two months from the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved method statement.

Reason: To control pollution of air, land and water.

19. Any details pursuant to Condition 1 (b) above shall provide for a full tree survey, landscaping scheme and boundary treatment incorporating a plan (at a scale of 1:200 or greater) to indicate all trees, shrubs and other features to be retained, felled and replanted. This scheme shall specifically include the age species and location of tree planting as suitable screen planting around the application site (that shall be planted as heavy standards) and method to protect surrounding/overhanging trees during and after construction. No trees shall be felled without prior written approval of the Planning Authority in advance of approval of a tree planting scheme.

Reason: In order to integrate the proposed development within its surroundings.

20. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the site foul drainage system can be connected to the public sewerage system.

Reason: In order to provide for sustainable development of the site, and to avoid any unacceptable adverse impact on the water environment.

21. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the proposed development can be served with a water supply from the public mains system.

Reason: In order to ensure that the proposed development can be connected to the public water main.

22. No works in connection with the development hereby approved shall take place unless a Waste Management Plan for the site has been submitted to and approved in writing by the Planning Authority in consultation with Protective Services and the Scottish Environment Protection Agency. This plan shall include details of the arrangements for the storage, including the design and location of all bin stores together with the separation and collection points for waste from the site or roadside collection points, including provision for the safe pick up by refuse collection vehicles. The approved Waste Management proposals shall be carried out in accordance with the approved scheme.

Reason: To ensure the waste from the proposed site is dealt with in a sustainable manner in accordance with the National Waste Strategy for Scotland and the Area Waste Plan for Argyll & Bute.

23. No development, including any site works, shall commence until a detailed design for the junction between Hamilton Street and Argyll Street has been submitted to and approved in writing by the Planning Authority in consultation with Roads. Such detailed design shall mitigate the reduced junction capacity due to the predicted traffic volumes generated by the development and the base line traffic.

Reason: In the interests of road safety.

24. The visibility splays required for the Hamilton Street access shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road. Additionally, a minimum of 25 metres is required as forward visibility from Argyll Street onto Hamilton Street.

Reason: In the interests of road safety.

25. The Hamilton Street access shall be a minimum width of 6 metres with radii of 6 metres. The gradient of the access shall not exceed 5% for the first 10 metres or 8% for the remainder. The location of this access is some 35 metres from Argyll Street junction, the access should be moved as far from Argyll Street as the site will permit.

Reason: In the interests of road safety.

26. The visibility splays required for the service access on Argyll Street shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road.

Reason: In the interests of road safety.

27. The gradient of the service access onto Argyll Street shall not exceed 5% for the first 10 metres or 8% for the remainder. Provision shall be made within the service bay to ensure that all vehicles must be able to enter and leave in a forward manner.

Reason: In the interests of road safety.

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Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00689/PPP

Planning Hierarchy: Local

Applicant: National Grid Property

Proposal: Site for the erection of retail store (Class 1) with associated development including access, car parking and landscaping.

Site Address: Land at former Gas Works Argyll Street/Hamilton Street, Dunoon, Argyll

SUPPLEMENTARY REPORT 1

1.0 Summary

1.1 The purpose of this supplementary report is to confirm the receipt of a revised response received from Flood Risk Management, email from the agent, email and attachment from Dougal Baillie, letter from Colliers, emails from applicant and emails from CWP/Kaya regarding potential flooding issues.

2.0 Additional Consultee Response

2.1 The revised response from Flood Risk Management (dated 13th September 2011) is a direct result of a series of emails received from Kaya Consulting on behalf of CWP who have questioned the methodology and outcomes of the flood risk assessment carried out by Dougal Baillie Associates on behalf of National Grid Property.

The response from Flood Risk Management incorporates findings in the Carl Bro report and comments made by SEPA in their responses dated 25th July and 23rd August 2011. The Flood Risk Management team considers that the scheme is acceptable in principle at this stage but the full extent of training walls and compensatory flood storage will require to be fully designed at the detailed stage using the Carl Bro report, Dougal Baillie report and SEPA'S requirements.

A condition in the original planning report will however require to be amended to reflect the nature of discussions between Kaya, Dougal Baillie and SEPA. This suspensive condition is imposed on the basis that the flood risk details submitted are considered to be acceptable at this stage.

3.0 Additional Representations

3.1 James Barr submitted a letter from Colliers (dated 1st September 2011) that questions the geotechnical and environmental status of the site in respect of costs to effect development on the site. Colliers comment that the site is not included in the DTZ September brochure (*note: the site currently has for sale boards on site by DTZ*). Colliers state that they are making arrangements to relocate the existing Walkers business on an alternative site to enable the business to expand. Stress that the CWP site is the only site that would be attractive to the main retailers.

3.2 An email dated 13th September 2011 has been received from the agents Montagu Evans in response to the letter from Colliers dated 1st September 2011. Montagu Evans expresses surprise that Colliers have commented on the geotechnical and environmental status of the site, given the consultee responses. Also query the relocation of Walker's Garden Centre and why CWP have not submitted a parallel application for such a relocation proposal. Montagu Evans notes that CWP previously approached National Grid in relation to relocating Walkers Garden Centre.

3.3 Email from Kaya Consulting (dated 10th September 2011) highlights issue of differences in the predicted peak water levels between the Carl Bro (CB) model and Dougal Baillie (DB) model and potential effect of overland flow paths in case of culvert blockage. Kaya consider that the proposal contravenes SPP where the extent of the compensatory flood storage is unknown at this stage and that the standard precautionary approach has not been adopted by the Council.

3.4 In respect of issues raised by Kaya Consulting, Dougal Baillie Associates (DBA) contacted the Council's Flood Risk Management (emails dated 12/13 September 2011) to confirm that their Flood Risk and Drainage Assessment April 2011 addresses culvert blockage and Appendix E includes Drawing No. 11027(49)03 which details the flood compensatory area within the site.

DBA also confirm that there are overland flow paths provided to ensure that, should the Argyll Street or Hamilton Street bridges block, there will be no risk of flood waters reaching the store. Any overland flooding, as a result of blockage to the culverts, will be limited to the north-west corner of the car park or the service yard, which could flood to a maximum depth of 250mm. DBA confirm that this should not significantly affect the operation of the store, however the flow paths could be refined during the detailed design stage.

3.5 Emails (dated 12/14/15 September from CWP challenges the Council's '*in principle*' acceptance of the findings of SEPA and Flood Risk Management Team. CWP consider that the extent of the functional flood plain affected and amount of compensatory flood storage provided to satisfy SPP have not been determined.

CWP question whether the Council have the detailed information at this stage to enable confirmation whether a store of the size proposed on the National Grid site can be accommodated and will not contravene SPP and be acceptable to SEPA.

4.0 ASSESSMENT

4.1 Whilst CWP and their flooding consultants Kaya challenge the approach taken by the Council, it is acknowledged that the Carl Bro report is a much more in depth and detailed assessment than the DBA report. Whilst the two reports do not explicitly conclude the exact same measurements it is the Council's view that they do dovetail sufficiently in terms of their being a technical solution available to allow development on the National Grid. SEPA have also noted the concerns of CWP/Kaya on the flooding matter and suggested what they consider to be an acceptable condition which is understood to be more stringent than would usually be applied in terms of an increased blockage scenario.

4.2 DBA did not have a copy of the CB report prior to their submission but now have a copy whose figures would be expected to be used for a Flood Risk Assessment for a detailed scheme. SEPA require compensatory storage for the 0.5% AEP event. However SEPA also require in this particular instance the storage of flood waters when the culvert itself is 50% blocked, which is more stringent. However, the figure of 50% suggested by SEPA may be capable of being reduced if the designer can convince SEPA of any mitigating factors i.e. extent of training walls, design of overland flow path and additional compensatory storage.

The major factor from the Council's flood assessment is that according to the CB model, the building of a training wall and diversion of overland flood waters at Hamilton St bridge back into the burn stops the entire gas works site flooding at 0.5% AEP plus CC (climate change) allowance. Furthermore, the model identifies no further increase in water level due to 0.5% AEP plus CC allowance after the building of the training wall.

4.3 A compensatory storage area has been identified by DBA, and considered by the Council's Flood Risk Management as suitable for any minor loss of flood storage area due to the building of the training wall. However, DBA could design a scheme to accommodate the 50% blockage scenario (based on CB's figures) which is still to be calculated, or try to negotiate a lower blockage rate with SEPA.

5.0 CONCLUSION

5.1 Despite SEPA and the Council's acceptance of the submitted information on flood risk of the site, CWP/Kaya remain unconvinced that the proposal has been properly considered and potential flooding of the site and other land has not been resolved. The applicant's agents have however at this stage satisfied both SEPA and the Council that the site can accommodate development on a scale which is proposed but there remain various options which require to be fully explored at the detailed design stage to allow refinement of the submitted flood risk measures. The revised condition suggested by SEPA and the Council's Flood Risk Management takes on board comments made by Kaya and considered to be appropriate to allow this application for Planning Permission in Principle to be recommended for approval.

The applicants agent has confirmed that National Grid will provide additional details at a Hearing where they will be able to present further details on the flood mitigation measures proposed.

6.0 RECOMMENDATION

6.1 It is recommended that planning permission be approved as per the original report subject to the rewording of one of the conditions (new condition 14). Appendix A overleaf includes the revised planning condition list.

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Angus J Gilmour
Head of Planning & Regulatory Services
20th September 2011

APPENDIX A

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/00689/PPP

1. This permission is granted in terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application for planning permission in principle and the further approval of Argyll and Bute Council or of the Scottish Minister on appeal shall be required with respect to the under-mentioned additional matters (to be applied for within an application/s of matters specified in conditions) before any development is commenced.

- a. The siting, design and external appearance of the proposed development.
- b. The landscaping of the site of the proposed development.
- c. Details of the access arrangements.
- d. Details of the proposed water supply and drainage arrangements.

Reason: To comply with Section 59(1) of the Town and Country Planning (Scotland) Act 1997.

2. In the case of the additional matters specified in (1) above, an application/s for compliance with this condition, in terms of Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 must be made to Argyll and Bute Council before whichever is the later of the following :

a) the expiration of a period of 3 years from the date of this permission.

b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.

c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b and c above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

Reason: In accordance with Section 59(1) of the Town and Country Planning (Scotland) Act 1997

3. In the case of the application for approval of matters specified in condition (1) above, the development to which the permission relates must be begun within 2 years of the date of this approval; or in the case of there being other matters remaining outstanding 2 years from the date of such further approval; or such other period as the planning authority may determine, provided that such a further application can be submitted in accordance with the approved timelines specified in the ongoing planning permission in principle.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.

4. The development shall be implemented in accordance with the details specified on the application form dated 5th May 2011 and the approved drawing reference numbers: 1:1250 Location Plan (PL)001, 1:500 Illustrative Foodstore Layout (PL)002 RevB, 1:250 Proposed Foodstore Illustrative Elevations (SK)004, 1:500 Former Gas Works Site Survey GJ169/CDA/02 Rev0, 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.

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

5. The net convenience sales area of the development shall not exceed 1448 sq.m. and the net comparison sales area shall not exceed 552 sq.m.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the submitted retail assessment.

6. The level of noise emanating from the site shall not exceed 40dB(A) $L_{\text{night, outside}}$ nor 45dB $LA_{\text{eq}(5 \text{ mins})}$ nor 60 dB LA_{max} between 23:00 hours and 07:00 hours and must not exceed 50 dB $LA_{\text{eq}(1 \text{ hour})}$ at any other time. The level of noise from the site is to be measured at the facade of the nearest noise sensitive receptor for daytime noise.

Reason: In the interests of public health and amenity.

7. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from fixed plant and/or machinery has been submitted to and approved in writing by the Planning Authority. The development shall not commence until the measures in the approved noise prevention scheme operate to the satisfaction of Public Protection.

Reason: In the interests of the amenity of surrounding properties.

8. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from service yard activity has been submitted to and approved in writing by the Planning Authority. Such a scheme shall provide for an acoustic barrier or other similar noise control measures. The development shall not commence until the acoustic barrier or other measures in the approved noise prevention scheme shall be installed in its approved form prior to the start of any other construction process on site.

Reason: In the interests of the amenity of residents at McArthur Street.

9. Prior to any works commencing on site, the applicant shall have regard to the Scottish Executive Guidance Note Controlling Light Pollution and Reducing Light Energy Consumption (March 2007) and follow the lighting design process described in the Guidance Note. The information recorded should be of good standard to enable the lighting submission proposal to be evaluated. All lighting proposals shall be submitted to and approved in writing by the Planning Authority in consultation with Public Protection.

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

10. No development or any works whatsoever shall take place on site until an assessment of the condition of the land has been undertaken and has been approved in writing by the Planning Authority in consultation with the Public Protection Unit. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites. Where such risks are identified then a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be prepared, and is subject to the approval of the Planning Authority in consultation with the Public Protection Unit. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

11. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any development with the exceptions of those actions required to carry out remediation, unless otherwise agreed, in writing, with the Planning Authority, in consultation with the Public Protection Unit. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation shall be produced, and subject to approval in writing of the Planning Authority in consultation with the Public Protection Unit.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

12. In the event that contamination was not previously identified is found at any time when carrying out the approved development it shall be reported in writing immediately to the Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is deemed necessary then a remediation scheme shall be prepared in accordance with the requirements of condition 8 above which is subject to the approval in writing by the Planning Authority. Following completion measures identified in the approved remediation scheme a verification report shall be prepared which is subject to the approval in writing by the Planning Authority in accordance with condition 10 above.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

13. Before development commences, an Environmental Action Plan shall be submitted to and approved in writing by the Planning Authority. This plan shall address issues such as foul drainage, contamination, the potential for dust, mitigation measures to be adopted and the methods of monitoring and recording matters relating to dust control, all to the satisfaction of the Planning Authority in consultation with the Head of Public Protection.

Reason: In the interests of public health and amenity.

14. Prior to the commencement of any works, full details of a compensatory flood storage scheme (designed to include the 200 year plus 50% culvert blockage scenario) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA and the Council's Flood Risk Management. The detail design peak water levels shall be based on the 0.5 % annual exceedence probability (AEP) event given in Carl Bro Report December 2006 and in particular, the design shall take heed of the report's recommendations for the gas works site particularly the training wall at Hamilton Street Bridge. The storage requirements for 50% culvert blockage shall also be based upon the Carl Bro report figures. All works shall be carried out in accordance with the approved scheme.

Reason: In order to maintain the capacity of the floodplain.

15. No development shall commence until a condition survey of the training walls that are to be retained on site has been carried out and submitted to and approved in writing by the Planning Authority. Such a study shall include full details of any remedial works to be carried out and these works addressed as part of the proposed development.

Reason: In order to assess this aspect in detail and in order to prevent flooding.

16. Prior to submitting the detailed design, a site investigation including CCTV to locate and identify existing pipe work shall be carried out. Full details including a marked up site plan

identifying any implications to adjacent roads drainage shall be submitted to the Planning Authority in consultation with the Roads Authority for written approval

Reason: In order to assess this aspect in detail and in order to prevent flooding.

17. The pathway for overland flow during 1:200 AEP at Hamilton Street Bridge shall be designed and submitted to the Planning Authority in consultation with the Roads Authority for written approval. Such information shall show the pathway for overland flow re-entering Milton Burn as close to the bridge as possible. The designer is advised to liaise directly with the Council's Design Services (refer to Advisory Note 6 below).

Reason: In order to assess this aspect in detail and in order to prevent flooding.

18. Any details pursuant to Condition 1 (d) above shall provide for full drainage details including foul drainage details, and a SuDS scheme with methods to deal with surface water drainage of the site. Prior to the commencement of any works, such a SuDS scheme shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.

Reason: In order to provide for sustainable development of the site, and to protect existing and proposed development from the effects of potential increased surface water run-off to surrounding areas.

19. Within a minimum of two months from the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved method statement.

Reason: To control pollution of air, land and water.

20. Any details pursuant to Condition 1 (b) above shall provide for a full tree survey, landscaping scheme and boundary treatment incorporating a plan (at a scale of 1:200 or greater) to indicate all trees, shrubs and other features to be retained, felled and replanted. This scheme shall specifically include the age species and location of tree planting as suitable screen planting around the application site (that shall be planted as heavy standards) and method to protect surrounding/overhanging trees during and after construction. No trees shall be felled without prior written approval of the Planning Authority in advance of approval of a tree planting scheme.

Reason: In order to integrate the proposed development within its surroundings.

21. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the site foul drainage system can be connected to the public sewerage system.

Reason: In order to provide for sustainable development of the site, and to avoid any unacceptable adverse impact on the water environment.

22. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the proposed development can be served with a water supply from the public mains system.

Reason: In order to ensure that the proposed development can be connected to the public water main.

23. No works in connection with the development hereby approved shall take place unless a Waste Management Plan for the site has been submitted to and approved in writing by the

Planning Authority in consultation with Protective Services and the Scottish Environment Protection Agency. This plan shall include details of the arrangements for the storage, including the design and location of all bin stores together with the separation and collection points for waste from the site or roadside collection points, including provision for the safe pick up by refuse collection vehicles. The approved Waste Management proposals shall be carried out in accordance with the approved scheme.

Reason: To ensure the waste from the proposed site is dealt with in a sustainable manner in accordance with the National Waste Strategy for Scotland and the Area Waste Plan for Argyll & Bute.

24. No development, including any site works, shall commence until a detailed design for the junction between Hamilton Street and Argyll Street has been submitted to and approved in writing by the Planning Authority in consultation with Roads. Such detailed design shall mitigate the reduced junction capacity due to the predicted traffic volumes generated by the development and the base line traffic.

Reason: In the interests of road safety.

25. The visibility splays required for the Hamilton Street access shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road. Additionally, a minimum of 25 metres is required as forward visibility from Argyll Street onto Hamilton Street.

Reason: In the interests of road safety.

26. The Hamilton Street access shall be a minimum width of 6 metres with radii of 6 metres. The gradient of the access shall not exceed 5% for the first 10 metres or 8% for the remainder. The location of this access is some 35 metres from Argyll Street junction, the access should be moved as far from Argyll Street as the site will permit.

Reason: In the interests of road safety.

27. The visibility splays required for the service access on Argyll Street shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road.

Reason: In the interests of road safety.

28. The gradient of the service access onto Argyll Street shall not to exceed 5% for the first 10 metres or 8% for the remainder. Provision shall be made within the service bay to ensure that all vehicles must be able to enter and leave in a forward manner.

Reason: In the interests of road safety.

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00689/PPP

Planning Hierarchy: Local

Applicant: National Grid Property

Proposal: Site for the erection of retail store (Class 1) with associated development including access, car parking and landscaping.

Site Address: Land at former Gas Works Argyll Street/Hamilton Street, Dunoon, Argyll

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of Class 1 foodstore (2,932sq m / 31,560sq ft gross external floor area – 3,225sq m / 34,714sq ft gross internal floor area);
- Formation of car parking (125 spaces);
- Formation of vehicular access from Hamilton Street;
- Formation of delivery access and service yard from Argyll Street;
- Formation of bus lay-by on Argyll Street.
- Provision of compensatory flood storage area (indicative);
- Landscaping and tree planting (indicative);
- Erection of timber screen fencing along southern boundary (indicative).

(ii) Other specified operations

- Connection to public sewer and public water supply;
 - Demolition of redundant single storey building;
 - Demolition of brick boundary wall;
-

(B) RECOMMENDATION:

It is recommended that Planning Permission in Principle be granted as a 'minor departure' to development plan policy subject to

- 1) the conditions and reasons together with '*notes to the applicant*' set out overleaf;
- 2) a Section 75 Agreement to address an appropriate developer contribution to mitigate a potential adverse impact on Dunoon town centre;

- 3) A PAN 41 hearing being held prior to the determination of the application in view of the number of representations received relative to a prospective departure to the provisions of the development plan.
-

(C) HISTORY:

The application site was formerly Dunoon Gas Works but this was demolished in the early 1990s. Following a programme of site assessment and investigation during the late 1990s, ground remediation was undertaken between 2004 and 2008.

A planning application ref. 01/00619/OUT for a change of use of land to retail by Lattice Property Holdings was withdrawn on 1st May 2001.

Planning permission ref. 04/00252/DET for temporary engineering and enabling works to facilitate environmental improvements and erection of boundary wall by Secondsite Property Holdings Ltd was granted on 7th May 2004 and has been implemented.

Related applications:

Planning permission ref. 07/00674/DET for the construction of flood defence works from Hamilton Street to Alexandra Parade by Argyll and Bute Council was granted on 8th June 2007 and is currently underway.

09/00003/PAN Proposal of Application Notice for erection of a Class 1 foodstore and associated development to include car parking, access road, road bridges, petrol filling station and engineering works on the site of Walkers Garden Centre and land to the rear by CWP Property Development and Investment submitted 16th September 2009 and Pre-Application Consultation process carried out.

An application ref. 10/00222/PPP for the erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works on the site of Walkers Garden Centre and land to the rear by CWP Property Application continued by Committee following a local hearing on April 2011 and PPSL Committee on 18th May 2011 in order to enable that application to be considered concurrently with this application.

(D) CONSULTATIONS:

Public Protection (response dated 3rd June 2011): Note that the site has undergone extensive works to remediate contaminated land but it is important that the remediation is appropriate to the intended use. Recommend conditions in respect of contamination of site, noise from development, and lighting. Conditions recommended in respect of noise, lighting and contamination.

Flood Alleviation Management (responses dated 16th May, 16th August, and 31st August 2011): No objections subject to conditions and advisory note. Comments regarding the detailed design and means of access to the watercourse for inspection purposes. A condition survey of the training walls to be carried out detailing any remedial works to be carried out. Prior to submitting a detailed design, a site investigation including CCTV to locate and identify existing pipework should be carried out with any impacts identified on adjacent roads drainage. Pathway at Hamilton Street Bridge to be designed and provided. CAR Licence required from SEPA.

Updated comments in response to letter from James Barr / Kaya – Confirm that a copy of the Milton Burn Flood Risk Assessment was supplied to Kaya and to Dougal Baillie Associates. Satisfied with the information submitted at this stage but expect a detailed proposal to take cognisance of the Carl Bro report. Additionally, a detailed scheme should investigate fully the responsibility of riparian owners to maintain the adjacent watercourse

to reduce possibilities of culvert blockage at Argyll Street and access to the watercourse to allow the Council to carry out its duties under the Flood Risk Management Act 2009.

Scottish Environment Protection Agency (responses dated 6th June, 25th July, 23rd August 2011): Initial objection based on lack of information on flood risk. Updated response removes objection on flood risk grounds but recommend conditions regarding compensatory flood storage, submission of a SuDS scheme, submission of a Construction Method Statement and Regulatory Advice regarding requirement for CAR licence, pollution prevention and waste management proposals.

Updated comments in response to letter from James Barr / Kaya – SEPA confirm that the submitted Flood Risk Assessment met their minimum requirements and therefore acceptable to inform the development management process. Given the nature of the site it was accepted in this case that level for level compensatory storage could not be provided and as such pre and post modelling has been undertaken which confirms that the proposal should have a neutral effect on flood risk based on the information provided at this stage. In terms of compensatory flood storage SEPA recommend that the 200 year plus 50% culvert blockage flood extent should be adopted and considered as essentially functional floodplain and that this aspect should be covered by a planning condition. Flood Risk advice supplied for the applicant.

Scottish Water (response dated 13th May 2011): No objections in principle. Due to size of development Scottish Water will have to assess impact on existing infrastructure. Potential capacity issues. Separate surface water drainage system required. Advisory comments.

Area Roads Manager (response dated 5th September 2011): No objections subject to conditions and advisory notes. Detailed design for junction at Hamilton Street/Argyll Street required. Road Opening Permit required. For full details refer to report below.

(E) PUBLICITY:

The application was advertised under Regulation 20(1) Advert Statement (publication date 13th May 2011, expiry date 3rd June 2011).

(F) REPRESENTATIONS:

Representations: 72 letters/emails of objection and 1 of support.

Supporters

The person who has expressed support is listed in Appendix B to this report.

Objectors

Those persons who have raised objections are listed in Appendix B to this report.

The grounds of objection may be summarised as follows:

- Traffic problems due to locations and junctions close by;
- We have a sufficient small supermarket (the co-op) which has met our needs;
- Dunoon needs a larger supermarket as proposed on the Walkers site to fill the shopping gap we have;

- Whilst the National Grid shows there is demand for a new supermarket in Dunoon, only the Walkers scheme can provide the supermarket the area needs;
- I prefer your application to that of the National Grid site;
- No better than existing two supermarkets;
- Walkers scheme promises more car parking and will help to deliver houses to the rear;
- Proposed development would cause a loss of jobs at the Co-op;
- Proposed development is directly across from an existing Co-op supermarket;
- Proposed development would not attract larger chains to aid cost savings and choice for the consumer;
- A smaller store would be limited in shopping diversity;
- Any supermarket should go ahead on the Walkers site offering more to the community and retain the existing garden centre/coffee shop and keep the fuel station open offering competitive prices;
- If Walkers closed, a new petrol station will be required and the proposed development cannot provide this;
- Bigger store needed to compete with larger supermarkets in Inverclyde;
- Due to the location there would be public transport problems with longer stops delaying traffic;
- Has any operator shown an interest in the proposed foodstore;
- Issues of noise and light pollution from proposed development;
- Close proximity of loading bays to houses on McArthur Street with little scope for screening;
- Loss of privacy for some surrounding residential properties;
- Delivery times and impact on residential amenity;
- Traffic hazards with large vehicles accessing the site from Argyll Street;
- Turn the gas works site into a rugby/shinty pitch;
- Use the gas works site for affordable housing;
- Flooding issues from Milton Burn;
- Possible previous ground contamination;
- Fairness in dealing on a 'first submitted first dealt with' basis.

Comment - One of the salient issues raised is the protection of residents in McArthur Street from noise and activities arising from the proposed service yard and delivery area. An acoustic barrier is proposed by the applicants which could be designed to mitigate any noise from this part of the site and the subject of a condition.

Letters of objection (dated 4th July & 6 September 2011) from James Barr Ltd. include comments on the submitted Retail Statement, Transportation Assessment. The points raised are summarised below and also addressed in the main report under appropriate sections.

- Retail Statement is largely based on the Planning and Retail Statement by James Barr and relies heavily on the data and assumptions contained therein;
- The proposal is not an alternative site to the CWP proposal – CWP proposal includes a 40,000sqft foodstore with petrol filling station and 238 car parking spaces – National Grid proposes a 34,000sqft foodstore with no petrol filling station and 123 car parking spaces;
- National Grid site cannot accommodate the CWP proposal;
- Feedback received from retailers to CWP and their agents Colliers (refer below) suggest that the optimum retailer requirements for Dunoon and Cowal are a 40,000sq.ft foodstore with appropriate levels of car parking and petrol filling station;
- Proposal seeks to draw support from CWP proposal but cannot offer the same retailing, parking or petrol filling station provision;
- Proposed internal floorspace arrangements leave a smaller amount of back of house/storage than normally required to make a foodstore operate effectively;
- The proposal represents a significant under-provision of car parking spaces which is not comparable to the CWP proposal;
- The proposal lack a petrol filling station which is a key component of rural foodstore developments;
- Issue of the health of Dunoon Town Centre – regarded as healthy or not?
- CWP and National Grid roughly agree on leaked expenditure contrary to the views of the planning department;

Comment: this alludes to the fact that officers have questioned the validity of the assumptions in both RIA's that the developments will be capable of clawing back 40% of leaked expenditure.

- Despite the National Grid site being sequentially preferable, it cannot accommodate the CWP proposal therefore unsuitable in sequential terms;
- Comparison floorspace between National Grid and CWP proposal not significant;
- No evidence to support turnover of proposed development where planning department previously considered that company averages should be used ;
- Proposal cannot claw back the same level of leakage expenditure as it does not offer the full range of facilities that CWP proposes and a higher percentage of trade diversion will require to come from the town centre and edge of centre locations;

- Proposed foodstore will have a higher impact on town centre than CWP proposal due to its inferior offer despite net convenience floorspace being the same;
- 8% negative impact on town centre is incorrect and should include impact on Morrisons making the %impact comparable with the CWP proposal;

Comment: As the Morrisons store is located within the defined town centre, diversion of trade from that store should be taken into account in calculating the overall impact on the town centre. Doing so produces a 20.5% impact in terms of convenience spend, but when comparison spend is included, this reduces to an overall impact of 9.5% upon the town centre as a whole.

- Department's previous views of 'ambitious' retention of convenience expenditure;
- Overall negative impact (convenience and comparison) on town centre of 9.5% represents an under-estimate of retail impact- 8% previously regarded by planning department as significant.

Comment: Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate against any perceived impact on the existing town centre. The basis on which the figure of 8% impact on the town centre was calculated for the CWP proposal was regarded as an under-estimate by the planning department given the larger scale and nature of their proposals.

Objection letters (dated 8th July, 2nd August, 23rd August, and 31st August 2011) have also been received from James Barr/Kaya Consulting Ltd. on flood risk modelling and responses made by the applicant's consultants, SEPA and the Council's Flood Alleviation Team. Kaya suggest that the Carl Bro (CB) modelling study is more likely to provide a better representation of the impact of the bends in the river on flood levels at the site. Additionally, limiting the amount of land that can be raised for development and maintaining existing overland flow paths will reduce the size of the proposed development which could affect the viability of the development. Kaya consider that the DBA model under-predicts water levels, that the site may not be capable of accommodating sufficient compensatory flood storage, overland flow paths could be affected by culvert blockage and it would be premature to make a decision on the flooding risk aspects without addressing these concerns.

A letter from James Barr Ltd. (dated 25th July 2011) with supporting information from Colliers (dated 20th July 2011) disagrees with conclusions reached in the DTZ letter dated 7th June 2011. The agents confirm that their dedicated in-house retail team are actively involved in live transactions on behalf of developers with three of the four main retailers. Based on these discussions, Colliers advise that their optimum requirements for a store in Dunoon have been confirmed to be approximately 40,000sq ft with adequate car parking, servicing and a petrol filling station.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes -. Design Statement submitted 22nd June 2011 and outlines site development strategy, flood risk management, building modelling and finishes, soft landscaping and accessibility (refer to Report).
- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

'Retail Statement' dated August 2011 by Montagu Evans; concludes that the proposed development:-

- *is acceptable in the context of National, Strategic and Local planning policy;*
- *represents a significant brownfield redevelopment opportunity close to Dunoon Town Centre;*
- *the brownfield site has been remediated for development;*
- *is consistent with Strategic and Local Plan policies in respect of the sequential approach to retailing;*
- *the site is sequentially preferable in retail terms to that of the CWP proposal;*
- *there is both a qualitative and quantitative deficiency for a modern retail foodstore within the catchment;*
- *residual expenditure is considerable and being spent elsewhere either within the catchment (over trading) or outwith (leakage);*
- *main sources of trade diversion will be from the existing Morrisons foodstore provision;*
- *limited impact on convenience retail provision within Dunoon Town Centre which is regarded as being relatively healthy;*
- *is likely to claw back a significant portion of the residual expenditure being leaked from the catchment;*
- *locating a new foodstore in an edge of centre location enhances the proportion of linked trips (both retail and service related).*

'Transportation Assessment' dated May 2011 by Dougal Baillie Associates;

The Transportation Assessment assesses the potential for minimising private car usage by public transport and an assessment of existing pedestrian, cycle and public transport facilities have been carried out.

It is concluded that the proposed development site is located adjacent to existing public transport facilities with bus stops located on Argyll Street. The site is well served by existing footway network on Hamilton Street and Argyll Street providing access to local residential areas and local public transport facilities. The proposed development is in accordance with SPP Transport and Planning being easily

accessible by a range of transport modes from many locations within the surrounding area.

Findings conclude that the existing roads network can operate without the need for signalisation.

125 car parking spaces are proposed which complies with National Parking Standards for retail development and therefore acceptable, especially given the proximity of the site to the town centre. Cycle parking will also be catered for within the development.

Additional supporting transportation information dated 22nd August 2011 by Dougal Baillie Associates;

Following a meeting with Council Officers, additional information submitted on access position, forward visibility at junction, junction design and need for signalisation, parking ratio, pick-up/drop-off, service bay diameter and bus stop layout (refer to report for details).

'Flood Risk and Drainage Assessment' dated April 2011 by Dougal Baillie Associates;

Hydrological and hydraulic studies conclude that the majority of the site is at little or no risk of fluvial flooding from the Milton Burn. A small area of the site on the western side is at risk of flooding and the area is therefore classed as being active functional flood plain with a medium to high risk of flooding. To ensure that the site is not at risk of flooding, it is recommended that a minimum floor level of 12.95m AOD includes a freeboard allowance which will also require a degree of land raising within the functional flood plain. To ensure a neutral impact, compensatory flood storage provisions are incorporated into the scheme design to replace lost capacity. The design, specification and corresponding calculations demonstrating performance of the compensatory flood storage provisions should be undertaken at a detailed design stage and any works within the watercourse will require authorisation by SEPA through a licence issued under CAR.

Foul drainage will be discharged into the existing Scottish Water combined sewer network which traverses the site.

It is proposed to discharge surface water run-off to the adjacent Milton Burn as this will be at least equal to natural Greenfield runoff release rates and will be provided by using a range of SUDS source control measures.

'Response to SEPA letter dated 6th June 2011' by Dougal Baillie Associates dated 29th June 2011 including Hydraulic Model Output – longitudinal profile and cross sections.

Further clarification on the linear reservoir routing used on the sub-catchment upstream of Loch Loskin; clarification on sensitivity analysis of Argyll Street bridge; provision of long profile and cross sections from hydraulic modelling; consideration of alternative development location within the site which negate the need for land raising; further information on the mitigation measures related to the flooding of the north-west corner and further information on proposed land raising.

Additional supporting flooding information dated 22nd August 2011 by Dougal Baillie Associates;

Following a meeting with Council Officers, additional flood information has been submitted regarding differences in the Milton Burn flood level estimations and flood inundations maps as outlined in the DBA report when compared to Carl Bro Flood Risk Assessment, flood hydraulics in the event of bridge blockage and surface water drainage and attenuation storage (refer to report).

'Site Condition Statement' by WSP Environmental dated 17th June 2011 who confirm that a programme of remediation was successfully undertaken between 2004 and 2008 and validated to the approval of the regulator. Confirm that the site is considered suitable for redevelopment and consider that the current indicative design would not be at risk from potential residual contaminants.

A letter of support has also been received from DTZ dated 26th August 2011 incorporating comments from Kennedy & Co who confirm the following:

- *The National Grid site is a prepared brownfield site which is available for sale;*
- *Unlike the CWP site, National Grid are not displacing or extinguishing an existing employment generating business including an existing petrol filling station business;*
- *Understand that the Property Director of the major firm that Colliers represent has visited Dunoon and prefers the location of the National Grid site;*
- *Aware that the cost associated with infrastructure works including bridging the burn, site levelling and compensating the owners of the CWP site are significant and to date no operator is associated with the CWP application;*
- *Can confirm that over a number of years, National Grid and their agents has received notes of interest from a number of retailers, developers and property companies, including CWP;*
- *Only today, we received an inquiry from Eric Young & Co regarding the site and a number of developers have approached us.*
- *One of the consistent points made against the National Grid application is that it does not show a petrol filling station. There is no need to have a petrol filling station as that role is already fulfilled at the outlet provided by Walkers. If their application is inappropriate and not considered suitable and refused by the Committee then the Walkers business and petrol filling station will remain in situ this providing the need for that purpose.*

A letter from Dundas & Wilson (dated 25th August 2011) on behalf of National Grid requests that: *both the current application and the CWP application (ref. 10/00222/PPP) should be considered at the same Committee and the National Grid scheme should be considered first given that it occupies a sequentially preferable "edge of centre" location and recognised by the Council as being a "significant material consideration" in the determination of the CWP scheme. Additionally, one of the reasons of refusal for the CWP application was that "an alternative, sequentially better site is available within the edge of centre" i.e. the National Grid application site. In letters to James Barr from the Council, it reinforced officers' views that the National Grid application is very material to the determination of the CWP application, where Members endorsed this view. Furthermore, it was stated by the Council that "the planning department do consider that there is a sequentially preferable site in Dunoon".*

It is suggested that James Barr also consider the National Grid to be a significant material consideration in determination of the CWP application which would explain why they are seeking to have the applications determined at different committees.

Dundas & Wilson state that it is imperative that both applications are considered at the same committee and as the "sequentially preferable site" and "new material consideration" the National Grid application should be determined by Members before any decision is

taken on the non-policy compliant CWP alternative. To do otherwise would be illogical, perverse and leave the Council exposed to legal challenge.

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes - A Section 75 Agreement is required to address an appropriate developer contribution to mitigate a potential adverse impact on Dunoon town centre.

(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.

'Argyll and Bute Structure Plan' (2002)

STRAT SI 1 - Sustainable Development;
STRAT DC1 - Development Within the Settlements;
STRAT DC10 – Flooding and Land Erosion;
PROP SET2 – Town Centres and Retailing;
PROP TRANS1 - Development Control, Transport and Access.

'Argyll and Bute Local Plan' (August 2009)

The application site is located within the main town settlement of Dunoon within the Edge of Town Centre zone and within Area for Action AFA 2/2 where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;
LP ENV19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance;
LP RET 1 Retail Development in the Towns – The Sequential Approach;
LP SERV1 Private Sewage Treatment Plants and Wastewater Systems;
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);
LP SERV3 Drainage Impact Assessment (DIA);
LP SERV7 Contaminated Land;
LP SERV8 Flooding and Land Erosion;
LP TRAN2 Development and Public Transport Accessibility;
LP TRAN3 Special Needs Access Provision;
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;
LP TRAN5 Off site Highway Improvements;
LP TRAN6 Vehicle Parking Provision;

(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 4/2009.

- Scottish Planning Policy (February 2010), paras. 52-65
- Planning Advice Note 52 – 'Planning in Small Towns';
- Planning Advice Note 59 – 'Improving Town Centres';
- Planning Advice Note 69 – 'Planning and Building Standards Advice on Flooding';

- Planning Advice Note 79 – ‘Water and Drainage’;
 - Consultee Responses;
 - Third Party Representation;
 - Scottish Government - Town Centre and Retailing Methodologies: Final Report (2007);
 - GOAD retail database;
 - James Barr Retail Impact Assessment / CWP proposal.
-

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact 1999 Assessment: Yes

As an urban development project exceeding 0.5 hectares in size, the proposal would represent Schedule 2 development under the Regulations. In determining whether the proposal represents EIA development, the Council has considered the selection criteria set out in Schedule 3 of the Regulations. With regard to the characteristics of the development and the environmental sensitivity of the location, it is noted that remediation works have been undertaken on the site to remove contamination associated with the former use of the site as Dunoon Gasworks. Additionally, the approved Milton Burn Flood Defence proposals and flood defence proposals currently under construction will contribute to the alleviation of any significant concerns regarding potential flooding of the site or loss of functional floodplain. The proposal is supported by technical studies in respect of flood risk and contamination and represents development of a prominent brownfield site earmarked in the Argyll and Bute Local Plan for development including retail. For these reasons, it is considered that the proposed development does not require an EIA.

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

(M) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing (PAN41 or other): Yes.

In view of the complexity of the proposal, the volume of objections (72) and the prospective departure from the provisions of the development plan, it is recommended that Members should hold a PAN 41 hearing before determining the application.

(P) Assessment and summary of determining issues and material considerations

In the ‘Argyll and Bute Local Plan’ (August 2009), the proposed retail development is located on the former Dunoon Gas Works site that is situated within the Main Town settlement of Dunoon. While the ‘brownfield’ site lies outwith the identified Dunoon Town Centre, which is identified as the preferred location for new retail investment, it is located within the defined ‘edge of town centre’ zone, which in the absence of suitable town centre sites, is the next sequentially preferred location for retail development.

In line with Scottish Planning Policy and ‘Argyll and Bute Structure Plan’ Prop SET 2, ‘Argyll and Bute Local Plan’ policy LP RET 1 establishes a presumption in favour of retail development within town centres, and adopts a sequential approach to retail development outwith town centres, firstly to sites within identified ‘edge of town centre’ locations, and then to other sites which are accessible or can be made accessible by a choice of means

of transport elsewhere within the town. The policy requires that in any of these cases that there is no significant detrimental impact on the vitality or viability of existing town centres, and the proposal is consistent with the other structure and local plan policies. The policy allows for a retail impact assessment to be requested to demonstrate the anticipated impact of the proposal on the town centre.

The applicants have therefore submitted a Retail Statement which seeks to address the policy issues in relation to both the sequential test issue and the retail impact on the town centre.

The applicants consider that the proposal represents a significant brownfield redevelopment opportunity close to Dunoon Town Centre, is sequentially preferable in retail terms to that currently proposed by CWP for a foodstore (to the rear of Walkers Garden Centre, ref. 10/00222/PPP) and represents a better alternative in policy and settlement strategy. The applicants believe that while there is demand for a further foodstore in Dunoon, the proposal by CWP for a larger foodstore with petrol filling station does not reflect operator's requirements and therefore should not preclude the consideration of the former gas works site, as being sequentially preferable and a realistic and achievable proposal.

Whilst the proposed store is smaller (2,932 sq m gross external floorspace) than the CWP proposal (3,716sq m), it contains a mezzanine floor for plant and staff accommodation and no petrol filling station. The applicants comment that the former gas works site has been promoted for development throughout the process in preparing the adopted 'Argyll and Bute Local Plan' and recent remediation works confirm this commitment to developing the site. The applicants also suggest that the location of the proposed smaller foodstore closer to Dunoon Town Centre (than the out-of-town centre CWP proposal) will also result in far greater linked retail and service trips and hence no significant loss of footfall, as would be the case with the CWP proposal.

The proposed foodstore would be larger than Morrisons (by approx 787sq m gross external floor area) but smaller than the proposed foodstore by CWP (by approximately 784sqm). The applicants have submitted a retail assessment which seeks to demonstrate the capacity of the catchment area to support additional retail floorspace, to calculate the potential to clawback leaked expenditure, and to assess the likely impacts on existing shops within the town centre. They have suggested that the proposed store is unlikely to trade at company averages and more likely to trade below that figure. A figure of 80% of company averages has been used in their Retail Statement.

The assessment of the relative impacts of the current proposals and those of CWP on the town centre relies upon the judgements made by the respective applicants consultants as to the degree to which expenditure currently lost from Dunoon could be attracted back to the town. CWP have argued that they need a larger store in order to compete with stores outwith the catchment. In their RIA they anticipate 60% of their stores turnover coming from retention of leaked expenditure. This equates to £7,019,570 or 62.7% of leaked expenditure as detailed in their assessment. As the current application is for a smaller store the applicant's agents have stated that 50% of the stores turnover will come from clawback of leaked expenditure. This would be £6,018,178 or 57.7% of the leaked expenditure.

The applicants feel that the proposal will keep nearly 58% of the current trade diversion within Dunoon and that this would significantly reduce the number of trips made outwith Dunoon for main food shopping and keep this lost expenditure within the town.

The applicants consider that a smaller foodstore in such a central location will impact primarily on the largest foodstore in Dunoon (i.e. Morrisons) with expected 22% convenience trade diversion and 8% on other convenience outlets in the town centre. The impact on the Co-op has not been assessed as this store is outwith the town centre and

does not enjoy the same degree of protection afforded by Local Plan Retail Policy as the town centre as a whole. With regard to comparison expenditure there is estimated to be a 2.8% impact on the turnover of town centre comparison good retailing. The impact on the town centre convenience and comparison retailing are calculated to be 9.5% on the town centre as a whole (including Morrisons) While the two retail assessments cannot be compared directly with each other because different approaches have been used the CWP proposals estimate that their larger store will trade at 75% of company averages with a 15% impact on Morrisons and 8% on the other town centre convenience shops. In relation to comparison retailing they estimate a 3.7% impact, and overall an 8% impact on town centre retailing.

Given all of the above, the application is considered to represent a 'minor departure' to Policy PROP SET2 of the Argyll and Bute Structure Plan and Policy LP RET 1 part (D) of the Argyll and Bute Local Plan where there will still be convenience/comparison trade diversion from the town centre but this has to be balanced with the potential increased footfall by linked trips to a new foodstore on a prominent vacant brownfield site within walking distance of the existing town centre and expected clawback from outwith the catchment.

No objections have been raised from statutory consultees in respect of transportation matters, flood risk, contamination and environmental concerns and safeguarding conditions are recommended below to address any concerns.

(Q) Is the proposal consistent with the Development Plan: No – 'minor departure' to part (D) of Policy LP RET 1 of the Argyll and Bute Local Plan.

(R) Reasons why Planning Permission in Principle should be Granted

The proposal is considered consistent with parts (B), and (E) of Policy LP RET 1 of the 'Argyll and Bute Local Plan' in that it would promote the use of a prominent vacant 'brownfield' site within a sequentially preferable site within an edge of centre location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate against any perceived impact on the existing town centre.

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

The proposal is considered consistent with parts (B), and (E) of Policy LP RET 1 of the Argyll and Bute Local Plan in that it would promote the use of a prominent vacant 'brownfield' site within a sequentially preferable site within an 'edge of town centre' location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate such a degree of anticipated impact on the existing town centre, and therefore a 'minor departure' to Policy LP RET 1 is justifiable in these circumstances.

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

Reviewing Officer: David Eaglesham

Date: 7th September 2011

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/00689/PPP

1. This permission is granted in terms of Section 59 of the Town and Country Planning (Scotland) Act 1997 and Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 on the basis of an application for planning permission in principle and the further approval of Argyll and Bute Council or of the Scottish Minister on appeal shall be required with respect to the under-mentioned additional matters (to be applied for within an application/s of matters specified in conditions) before any development is commenced.

- a. The siting, design and external appearance of the proposed development.
- b. The landscaping of the site of the proposed development.
- c. Details of the access arrangements.
- d. Details of the proposed water supply and drainage arrangements.

Reason: To comply with Section 59(1) of the Town and Country Planning (Scotland) Act 1997.

2. In the case of the additional matters specified in (1) above, an application/s for compliance with this condition, in terms of Regulation 10 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 must be made to Argyll and Bute Council before whichever is the later of the following :

a) the expiration of a period of 3 years from the date of this permission.

b) the expiration of a period of 6 months from the date on which an earlier application for the requisite approval was refused.

c) the expiration of a period of 6 months from the date on which an appeal against such refusal is dismissed.

and in the case of b and c above only one such application can be made after the expiration of the period of 3 years from the original planning permission in principle.

Reason: In accordance with Section 59(1) of the Town and Country Planning (Scotland) Act 1997

3. In the case of the application for approval of matters specified in condition (1) above, the development to which the permission relates must be begun within 2 years of the date of this approval; or in the case of there being other matters remaining outstanding 2 years from the date of such further approval; or such other period as the planning authority may determine, provided that such a further application can be submitted in accordance with the approved timelines specified in the ongoing planning permission in principle.

Reason: To comply with Section 59 of the Town and Country Planning (Scotland) Act 1997.

4. The development shall be implemented in accordance with the details specified on the application form dated 5th May 2011 and the approved drawing reference numbers: 1:1250 Location Plan (PL)001, 1:500 Illustrative Foodstore Layout (PL)002 RevB, 1:250 Proposed Foodstore Illustrative Elevations (SK)004, 1:500 Former Gas Works Site Survey GJ169/CDA/02 Rev0, 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.

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

5. The net convenience sales area of the development shall not exceed 1448 sq.m. and the net comparison sales area shall not exceed 552 sq.m.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the submitted retail assessment.

6. The level of noise emanating from the site shall not exceed 40dB(A) $L_{\text{night, outside}}$ nor 45dB $LA_{\text{eq}(5 \text{ mins})}$ nor 60 dB LA_{max} between 23:00 hours and 07:00 hours and must not exceed 50 dB $LA_{\text{eq}(1 \text{ hour})}$ at any other time. The level of noise from the site is to be measured at the facade of the nearest noise sensitive receptor for daytime noise.

Reason: In the interests of public health and amenity.

7. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from fixed plant and/or machinery has been submitted to and approved in writing by the Planning Authority. The development shall not commence until the measures in the approved noise prevention scheme operate to the satisfaction of Public Protection.

Reason: In the interests of the amenity of surrounding properties.

8. The development shall not commence until a scheme for protecting residents in nearby properties from noise emanating from service yard activity has been submitted to and approved in writing by the Planning Authority. Such a scheme shall provide for an acoustic barrier or other similar noise control measures. The development shall not commence until the acoustic barrier or other measures in the approved noise prevention scheme shall be installed in its approved form prior to the start of any other construction process on site.

Reason: In the interests of the amenity of residents at McArthur Street.

9. Prior to any works commencing on site, the applicant shall have regard to the Scottish Executive Guidance Note Controlling Light Pollution and Reducing Light Energy Consumption (March 2007) and follow the lighting design process described in the Guidance Note. The information recorded should be of good standard to enable the lighting submission proposal to be evaluated. All lighting proposals shall be submitted to and approved in writing by the Planning Authority in consultation with Public Protection.

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

9. No development or any works whatsoever shall take place on site until an assessment of the condition of the land has been undertaken and has been approved in writing by the Planning Authority in consultation with the Public Protection Unit. The assessment shall determine the nature and extent of any contamination on the site and identify any potential risks to human health, the water environment, property or designated ecological sites. Where such risks are identified then a detailed remediation scheme to bring the site to a condition suitable for the intended use shall be prepared, and is subject to the approval of the Planning Authority in consultation with the Public Protection Unit. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

10. The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of any development with the exceptions of those actions required to

carry out remediation, unless otherwise agreed, in writing, with the Planning Authority, in consultation with the Public Protection Unit. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation shall be produced, and subject to approval in writing of the Planning Authority in consultation with the Public Protection Unit.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

11. In the event that contamination was not previously identified is found at any time when carrying out the approved development it shall be reported in writing immediately to the Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is deemed necessary then a remediation scheme shall be prepared in accordance with the requirements of condition 8 above which is subject to the approval in writing by the Planning Authority. Following completion measures identified in the approved remediation scheme a verification report shall be prepared which is subject to the approval in writing by the Planning Authority in accordance with condition 10 above.

Reason: In the interest of public health and amenity as previous site investigation has concluded that contamination is present that may pose a hazard to the development.

12. Before development commences, an Environmental Action Plan shall be submitted to and approved in writing by the Planning Authority. This plan shall address issues such as foul drainage, contamination, the potential for dust, mitigation measures to be adopted and the methods of monitoring and recording matters relating to dust control, all to the satisfaction of the Planning Authority in consultation with the Head of Public Protection.

Reason: In the interests of public health and amenity.

13. Prior to the commencement of any works, full details of a compensatory flood storage scheme (designed to include the 200 year plus 50% culvert blockage scenario) shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved scheme.

Reason: In order to maintain the capacity of the floodplain.

14. No development shall commence until a condition survey of the training walls that are to be retained on site has been carried out and submitted to and approved in writing by the Planning Authority. Such a study shall include full details of any remedial works to be carried out and these works addressed as part of the proposed development.

Reason: In order to assess this aspect in detail and in order to prevent flooding.

15. Prior to submitting the detailed design, a site investigation including CCTV to locate and identify existing pipe work shall be carried out. Full details including a marked up site plan identifying any implications to adjacent roads drainage shall be submitted to the Planning Authority in consultation with the Roads Authority for written approval

Reason: In order to assess this aspect in detail and in order to prevent flooding.

16. The pathway for overland flow during 1:200 annual exceedence probability (AEP) at Hamilton Street Bridge shall be designed and submitted to the Planning Authority in consultation with the Roads Authority for written approval. Such information shall show the pathway for overland flow re-entering Milton Burn as close to the bridge as possible. The designer is advised to liaise directly with the Council's Design Services (refer to Advisory Note 6 below).

Reason: In order to assess this aspect in detail and in order to prevent flooding.

17. Any details pursuant to Condition 1 (d) above shall provide for full drainage details including foul drainage details, and a SuDS scheme with methods to deal with surface water drainage of the site. Prior to the commencement of any works, such a SuDS scheme shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA.

Reason: In order to provide for sustainable development of the site, and to protect existing and proposed development from the effects of potential increased surface water run-off to surrounding areas.

18. Within a minimum of two months from the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the Planning Authority in consultation with SEPA. All works shall be carried out in accordance with the approved method statement.

Reason: To control pollution of air, land and water.

19. Any details pursuant to Condition 1 (b) above shall provide for a full tree survey, landscaping scheme and boundary treatment incorporating a plan (at a scale of 1:200 or greater) to indicate all trees, shrubs and other features to be retained, felled and replanted. This scheme shall specifically include the age species and location of tree planting as suitable screen planting around the application site (that shall be planted as heavy standards) and method to protect surrounding/overhanging trees during and after construction. No trees shall be felled without prior written approval of the Planning Authority in advance of approval of a tree planting scheme.

Reason: In order to integrate the proposed development within its surroundings.

20. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the site foul drainage system can be connected to the public sewerage system.

Reason: In order to provide for sustainable development of the site, and to avoid any unacceptable adverse impact on the water environment.

21. No development, including any site works, shall commence until the written agreement of Scottish Water has been received confirming that the proposed development can be served with a water supply from the public mains system.

Reason: In order to ensure that the proposed development can be connected to the public water main.

22. No works in connection with the development hereby approved shall take place unless a Waste Management Plan for the site has been submitted to and approved in writing by the Planning Authority in consultation with Protective Services and the Scottish Environment Protection Agency. This plan shall include details of the arrangements for the storage, including the design and location of all bin stores together with the separation and collection points for waste from the site or roadside collection points, including provision for the safe pick up by refuse collection vehicles. The approved Waste Management proposals shall be carried out in accordance with the approved scheme.

Reason: To ensure the waste from the proposed site is dealt with in a sustainable manner in accordance with the National Waste Strategy for Scotland and the Area Waste Plan for Argyll & Bute.

23. No development, including any site works, shall commence until a detailed design for the junction between Hamilton Street and Argyll Street has been submitted to and approved in writing by the Planning Authority in consultation with Roads. Such detailed design shall

mitigate the reduced junction capacity due to the predicted traffic volumes generated by the development and the base line traffic.

Reason: In the interests of road safety.

24. The visibility splays required for the Hamilton Street access shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road. Additionally, a minimum of 25 metres is required as forward visibility from Argyll Street onto Hamilton Street.

Reason: In the interests of road safety.

25. The Hamilton Street access shall be a minimum width of 6 metres with radii of 6 metres. The gradient of the access shall not exceed 5% for the first 10 metres or 8% for the remainder. The location of this access is some 35 metres from Argyll Street junction, the access should be moved as far from Argyll Street as the site will permit.

Reason: In the interests of road safety.

26. The visibility splays required for the service access on Argyll Street shall be 42 metres in each direction from a 2.4 metre setback. All walls, hedges and fences within the visibility splays shall be maintained at a height not greater than 1.0 metre above the road.

Reason: In the interests of road safety.

27. The gradient of the service access onto Argyll Street shall not to exceed 5% for the first 10 metres or 8% for the remainder. Provision shall be made within the service bay to ensure that all vehicles must be able to enter and leave in a forward manner.

Reason: In the interests of road safety.

ADVISORY NOTES TO APPLICANT RELATIVE TO APPLICATION: 11/00689/PPP

3. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
4. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
5. In respect of conditions 15, 16 & 17 above, the applicant/developer is advised to liaise directly with the Council's Design Services. It is also advised that digital copies of the as built drainage system must be supplied on completion of the works. Periodically the Local Authority must inspect the watercourse therefore a means of access to the Milton Burn should be provided in the detailed design (refer also to condition 16). Please contact the Council's Flood Risk Management Team in the first instance. Contact Mr. Grant Whyte, Blairvadach House, Shandon, tel 01436-658868.
6. The attention of the applicant/developer is drawn to the comments received from SEPA in their response letters dated 6th June, 25th July, and 23rd August 2011. SEPA highlight various issues regarding flood risk, surface water drainage (SuDS), pollution prevention and environmental management, space for waste management provision within the site layout, submission of a Construction Method Statement and Regulatory Advice regarding works within the floodplain and/or watercourse that will require authorisation via a CAR licence from SEPA through the Controlled Activities Regulations (Scotland) Act. The applicant/developer is strongly advised to contact SEPA prior to making detailed designs for the scheme. Please contact Nicola Abrams, Senior Planning Officer, Planning Service, Aberdeen Office, Inverdee House, Baxter Street, Torry, Aberdeen AB11 9QA, tel. 01224 266698 or by e-mail at planning.aberdeen@sepa.org.uk.
7. The applicant/developer is advised that in terms of construction noise the Public Protection Service will use powers under the Control of Pollution Act 1974 to control the noise from construction work.

It is envisaged that, in order to comply with the above controls, construction operations within the site may require being restricted to the hours of 0800 to 1800 Monday to Saturday only and at no times on Sundays and Bank Holidays.

In addition, all vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.

Prior to the commencement of any construction or engineering works, the applicant is requested to discuss with the Council's Public Protection Unit (Mrs. Jo Rains, tel. 01369 707120 ext 24) measures that will be put in place to control noise from the site. It should be noted that any agreement made at this time will not preclude any action being taken under Section 60 of the Control of Pollution Act 1974 should it be deemed necessary.

8. Notwithstanding the extensive work to remediate contaminated land, the Council's Public Protection Service advises that the remediation must be appropriate to the intended use. Given the nature of the use of the site, there is still potential for contamination to exist and specific conditions (9-11) have therefore been imposed on this permission. Should the applicant/developer wish to discuss matters relating to possible contamination of the site and the submission of a Remediation Plan, he should liaise directly with Mrs. Jo Rains, Area Environmental Health Manager, tel. 01369-707124) regarding these issues.
9. The applicant is advised by Scottish Water that :

- Scottish Water has no objection to this planning application. Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk.
- In terms of planning consent, Scottish Water does not object to this planning application. However, please note that any planning approval granted by the Local Authority does not guarantee a connection to our infrastructure. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received. Approval for connection can only be given by Scottish Water when the appropriate application and technical details have been received.
- Due to the size of this proposed development it is necessary for Scottish Water to assess the impact this new demand will have on our existing infrastructure. With any development of 10 or more housing units, or equivalent, there is a requirement to submit a fully completed Development Impact Assessment form. Development Impact Assessment forms can be found at www.scottishwater.co.uk.
- Loch Eck Water Treatment Works currently has capacity to service this proposed development.
- Dunoon (Alexandra) Wastewater Treatment Works – at present there is limited capacity to serve this new demand. The Developer should discuss their development directly with Scottish Water.
- In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the Developer will require to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.
- Scottish Water is funded to provide capacity at Water and Waste water Treatment Works for domestic demand. Funding will be allocated to carry out work at treatment works to provide growth in line with the Local Authority priorities. Developers should discuss delivery timescales directly with us. Developers should discuss delivery timescales directly with us.
- If this development requires the existing network to be upgraded, to enable connection, the developer will generally meet these costs in advance. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules. Costs can be reimbursed by us through Reasonable Cost funding rules
- A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.
- These proposals may involve the discharge of trade effluent to the public sewer and may be subject to control as defined in Part II of the Trade Effluent Control and Charging Scheme. No substance may be discharged to the public sewerage system that is likely to interfere with the free flow of its content, have detriment to treatment / disposal of their contents, or be prejudicial to health.

- An appropriate water storage system Water storage equivalent to 24 hours usage is recommended for commercial premises. Details of such storage installations must be forwarded can be discussed to Scottish Water's Customers Connections department at the above address.
- It is possible this proposed development may involve building over or obstruct access to existing Scottish Water infrastructure. On receipt of an application Scottish Water will provide advice that advice that will require to be implemented by the developer to protect our existing apparatus.
- There may be contaminated land issues relevant to the development of this site. The developer must ensure that satisfactory precautionary measures are taken to protect public water and sewer pipes from any possible contamination. The developer may have to submit a full soil investigation report to Scottish Water. Customer Connections will be able to provide advice on this subject. on request.
- Should the developer require information regarding the location of Scottish Water infrastructure they should contact our Property Searches Department, Bullion House, Dundee, DD2 5BB. Tel – 0845 601 8855.

For the advisory notes above, the applicant/developer is advised to contact Scottish Water directly (Planning and Development Services, 419 Balmore Road, Glasgow G22 6NU, Stephen Kelly, Customer Connections, Tel. 0141 355 5511 or at www.scottishwater.co.uk)

10. The applicant is advised by the Council's Roads Engineer that :

- Dropped kerbs are required to provide a safe crossing point for pedestrians, provision for pedestrian crossing points will be required to be agreed by Roads;
- Traffic Management is required within the site along with a defined drop off and pick up point;
- A positive surface water drainage system to be provided to prevent water running on to the footway and carriageway;
- No signs will be allowed to be within visibility splays and if illuminated unable to shine directly onto passing traffic;
- If gates are to be fitted they must be over 15 metres back to allow HGVs to pull completely off the carriageway. Dropped kerbing to be provided on the radii for safe pedestrian access;
- A Road Opening Permit (S56) will be required for all works on or adjacent to the road;
- Suitable boundary treatments are required to provide safe pedestrian access and screening to reduce potential of headlights within car park dazzling other road users.

The applicant is advised to contact the Area Roads Manager (Mr. Paul Farrell (tel. 01369 708613) directly on these matters.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00689/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Argyll and Bute Structure Plan policy STRAT DC 1 supports development that serves a wide community of interest including 'large scale' development on appropriate infill, rounding-off and re-development sites. Developments which do not accord with this policy are those which are essentially incompatible with the close configuration of land uses found in settlement e.g. development which results in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.

PROP SET 2 of the 'Argyll and Bute Structure Plan' seeks to sustain the viability and vitality of town centres where a sequential approach to retail development will be adopted. Policy LP RET 1 of the 'Argyll and Bute Local Plan' states a presumption in favour of retail development (Use Classes 1, 2 and 3) provided it is within a defined town centre or where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre. Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport and that there would be no significant detrimental impact on the vitality or viability of existing town centres and the proposal is consistent with other Structure and Local Plan policies.

The application site lies within the 'Main Town' settlement of Dunoon and within the 'Edge of Town Centre' zone as defined in the 'Argyll and Bute Local Plan' (August 2009).

The application site also lies within Area for Action AFA 2/2 as identified in the 'Argyll and Bute Local Plan'. AFA 2/2 – Dunoon-Argyll Street/Hamilton Street/Victoria Road is identified as a local area for action with development and environmental enhancement prescribed. Such areas should be the focus for partnership or community action and may include investment and funding packages, land assembly and asset management programmes, development and redevelopment proposals, infrastructure provision, and environmental enhancement proposals.

Schedule R1 of Policy LP RET 1 of the 'Argyll and Bute Local Plan' defines 'large scale' retail development as being in excess of 1000sq m gross floor space (the proposal is for 2,932sq m sq m gross external / 3,225sq m gross internal). In addition, Structure Plan Policy PROP SET 3 promotes the use of 'brownfield' sites over 'greenfield' sites in the interests of sustainable development.

Dunoon currently has two large scale retail foodstores, Morrisons and the Co-op, located in the Main Town Centre and Edge of Town Centre zones respectively. In terms of the retailing policies above, and on the basis that no suitable sites exist within the town centre, the proposed large scale retail foodstore is within the preferred 'Edge of Town Centre' zone.

In terms of settlement strategy, development of this 'brownfield' site would be consistent with the aspirations of AFA 2/2 in developing a prominent Edge of Town Centre site located adjacent to Argyll Street and in close proximity to Dunoon Town Centre.

Accordingly, in terms of the settlement strategy, the proposal would be consistent with policies STRAT SI 1, STRAT DC1, PROP SET2, PROP SET3, PROP SET5 of the 'Argyll and Bute Structure Plan', and policies LP ENV1, LP ENV 19 and LP RET 1 of the 'Argyll and Bute Local Plan'.

B. Location, Nature and Design of Proposed Development

i) Location

The application site (1.12 ha) comprises the former Dunoon Gas Works site that is bounded by Hamilton Street to the north and A885 Argyll Street to the east. The site falls by some 4m southwards and westwards from the junction of Argyll Street and Hamilton Street. The Milton Burn runs north to south along the western and southern boundaries of the site. Beyond the Milton Burn to the west lie Council Depots and dwellings on Victoria Road that overlook the application site from a higher level. Residential properties on the northern side of McArthur Street are in close proximity and overlook the application site from the south. The site is bounded to the north by residential dwellings on Hamilton Street, a vacant funeral directors and vacant garage on Argyll Street. To the east of the site are the Co-op foodstore, Queen Street junction, monumental sculptor's yard, residential flats on Argyll Street/ Argyll Road junction and Dunoon Police Station.

ii) Nature and Design of Proposed Development

The proposal involves the erection of a large scale retail foodstore (2,932 sq m / 31,560 sq ft gross external floor area). An indicative layout shows a rectangular footprint of a building some 61 x 45 metres on the southern portion of the site, orientated north-south with its main entrance frontage facing north towards Hamilton Street and long side elevation facing Argyll Street. Indicative elevational details have also been submitted at this stage.

The main vehicular access is proposed from Hamilton Street utilising the existing access. A secondary service access leading to a service yard is proposed off Argyll Street at the southern end of the site to the rear of the proposed building. A large car parking area is proposed between the foodstore building and Hamilton Street that would provide 125 parking spaces including wider bays for disabled spaces.

Whilst no end-user has been identified, the Retail Statement confirms that supermarket operators have expressed a direct interest in the site based upon the development of a store of the size proposed without a petrol filling station. The nature of the store will be predominantly focused on convenience goods to provide for main food shopping requirements but will also include a limited range of comparison goods. The proposed store has a gross internal floor space of 3,225 sq m / 34,714sq ft which includes a mezzanine floor of 393sq m/ 4230sq ft for plant and staff accommodation only.

The ground internal floor area of 2,832 sq .m will comprise an estimated 1,448 sq m net convenience goods floor space and 552 sq m comparison goods floor space (i.e. a 72/28 convenience/comparison split).

Policy LP ENV19 of the 'Argyll and Bute Local Plan' includes in Appendix A Sustainable Siting and Design Principles design guidance relative to 'Isolated/Commercial Development'; Whilst the location of the application site is not regarded as isolated, it is in a prominent edge of centre location and therefore the design criteria are considered to be relevant.

18.1 the appearance of the development should be considered. The form and pattern of the landscape will largely determine the acceptability of the proposal..... The extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor.

18.2 When assessing the appearance of isolated commercial development, the Planning Authority will take the following into consideration:

- The size and extent of the proposal. This includes the visual impact of the scheme and the distance/location from which it is visible;*

- *The location of the proposal and its landscape setting, including the way in which the development has used the natural contours of the site is of prime importance. A large building must be absorbed by the landscape as much as possible, whether by excavating and building into the landform, using existing landforms to mask the development or screening by new trees;*
- *The design and colour of the development(s) and ancillary structures can be used to minimise their perceived bulk and visual impact. Natural materials such as timber and stone will help to fit a large building into the landscape, as will dark natural colours (particularly on the roof).*

In their Design Statement, the applicants comment that the position of the building was determined by the width and configuration of the site, site levels with the higher part of the site at the northern end, site levels to suit servicing, location of service yard and level access from Argyll Street.

In terms of flood risk, the building will be designed to incorporate specific mitigation measures to set the ground floor level of the building above anticipated maximum flood level and to ensure that sufficient volume of flood relief capacity is retained on site. An area of lowered soft landscaping in the central western portion has been designated for flood relief.

The functional requirements of a supermarket dictate a simple rectangular form with glazed public entrance and canopy presented to face the car park. The location of the entrance allows convenient access from Argyll Street for both pedestrians and bus users. A bus lay-by is proposed on Argyll Street adjacent to the main entrance. Tree and screen planting is proposed along the Argyll Street elevation to conceal the service yard and to break up the long eastern elevation of the building.

Although a planning permission in principle application, the building is proposed to have a low-pitched powder coated profiled metal roof, screened behind parapet walls. External walls are proposed as a facing brickwork dado with a smooth metal panel system. The entrance lobby and adjacent shop frontage will be aluminium framed glazed screens/curtain wall with the frontage canopy clad in smooth metal panels.

A landscaping strategy is proposed to replace the self seeded specimens with strategically planted trees which will maintain and strengthen the wooded backdrop to the site whilst not impeding floodwater flow. Along the eastern edge of the site, it is proposed to locate trees with a shrubs/hedge to screen the eastern elevation of the building with a low brick screening wall around the car park.

All public access points and escape points will give directly level access from both the car park and footpath on Argyll Street.

It is acknowledged that the application is in principle only at this stage where only indicative building footprint and elevations have been submitted. Whilst the site of the building appears in an acceptable position, siting, design and materials will all be addressed in a detailed application. Given the indicative proposals above, it is considered that a proposed supermarket building could be accommodated on the site with scope for screening and to integrate with the wide variety of building types and uses that surround the site.

At this stage, it is considered that the proposal is consistent with the provisions of Policy LP ENV 19 and Appendix A of the 'Argyll and Bute Local Plan' together with the Council's Design Guide.

C. Retail Policy Considerations

In policy terms, policy LP RET 1 of the Argyll and Bute Local Plan is the principal policy against which the proposal should be assessed.

i) The Sequential Approach to Retail Development in Towns

Scottish Planning Policy (SPP), 'Argyll and Bute Structure Plan' Proposal PROP SET 2 and 'Argyll and Bute Local Plan' Policy LP RET 1 set out that a sequential approach to site selection for retail development will be undertaken to ensure that new development does not undermine the vitality and viability of existing town centres. The SPP and Local Plan sets out that site locations should be assessed in the following order:

- Town centre sites;
- Edge of centre sites;
- Other commercial centres identified within the development plan;
- Out of centre sites in locations that are, or can be made, easily accessible by a choice of transport modes.

Policy LP RET 1: Retail Development in the Towns – The Sequential Approach

There will be a presumption in favour of retail development (Use classes 1, 2 and 3) provided:

- (A) It is within a defined town centre; OR,
- (B) Where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre; OR,
- (C) Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport; AND IN ANY OF THESE CASES,
- (D) There is no significant detrimental impact on the vitality or viability of existing town centres ... AND,
- (E) The proposal is consistent with the other Structure and Local Plans policies.

The first aspect of LP RET 1 which requires to be considered is the availability of sites within Dunoon town centre, and then edge of town centre locations. Given the traditional nature of Dunoon town centre, it is accepted that there are no suitable sites within the town centre itself. Accordingly, the application site is considered to be the sequentially preferable site in locational policy terms and consistent with parts (A) and (B) above.

Despite suggestions by CWP that the former gas works is too small to accommodate a sufficiently sized foodstore, awkward site configuration and flooding issues, the applicants consider that their site represents a sequentially preferable site for retail development. Contrary to statements by CWP, they consider that neither the linear shape of the site nor the existence of a watercourse across it would detract from the marketability of the site to a modern foodstore operator nor inhibit its development. The agents confirm that the application site represents a significant brownfield redevelopment opportunity in close proximity to Dunoon Town Centre, sequentially preferable in retail terms to the site of the proposed out-of-town development by CWP. The owners of the site have confirmed that it would be available for retail development and confirm that the site has generated interest from supermarket operators.

In this instance, the Argyll and Bute Local Plan specifically included the former gas works site within the Edge of Town Centre zone as a potential redevelopment site and in the absence of a suitably large site within the town centre itself becomes the preferred site and therefore complying with criteria (B) of Policy LP RET 1 of the Argyll and Bute Local Plan in locational

terms. The remediation works carried out to this site have enabled the site 'ready' for development and the development of such a prominent 'brownfield' site is welcomed and consistent with policies STRAT S11 Sustainable Development of the Argyll and Bute Structure Plan and Policy LP ENV1 of the Argyll and Bute Local Plan.

ii) **Appropriate Scale and Location**

One of the main thrusts of Scottish Planning Policy is the recognition that *"town centres are a key element to the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilitiesthe range and quality of shopping, wider economic and social activity, integration with residential areas and the quality of the environment are key influences on the success of a town centre"*. (para 52).

The SPP also highlights the need for a hierarchical approach to town centres and that any significant changes in the evolving role and functions of centres should be addressed through development plans rather than changes being driven by individual applications. The SPP focuses on town centre strategies and states that the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. This should involve the use of vacant land and under-used land or premises. Actions to support improvements in town centres and to create distinctive and successful places are encouraged and these can range from small scale public realm works to assembly of larger scale development sites which aid regeneration.

The Argyll and Bute Structure Plan also stresses the importance of Dunoon Town Centre as an important shopping focus for the Main Town settlement and wider catchment. The retailing sector is an important component of the economy and fulfils a critical role in sustaining the viability and vitality of the Town Centre. Land use policies which support the competitive retail market have to be balanced with the need to secure the economic integrity of town centres and to support the use of public transport. The sequential test with a preference for retail developments over 1000sqm gross floorspace to be located in the town centres is appropriate given the limited size of the Argyll and Bute towns and their retail catchment populations.

Furthermore, the CHORD project has recently focussed investment within Dunoon Town Centre and this emphasises the role of the town centre as an economic, retail and tourist hub.

In conclusion, the proposed foodstore would be readily accessible by shoppers on-foot and is within easy walking distance from the existing town centre area enabling a greater number of linked trips. Additionally, given the comments in sections (i) and (iii) such a scale and location would be seen to generally complement rather than compete with the existing town centre.

iii) **Impact on Vitality and Viability of existing Dunoon Town Centre**

The applicants generally concur with the findings of the CWP/James Barr Town Centre Health Check Appraisal that the existing town centre of Dunoon provides goods and services to meet generally daily needs of local residents. The applicants also concur with the CWP/James Barr findings that Dunoon town centre has a very healthy occupancy rate with relatively few vacancies and that the nature and range of comparison retailers will continue to be a draw to the town centre. Whilst there are some convenience units within the town centre, the main provision is the existing Morrisons store located within the town centre. Both Morrisons and the Co-op exhibit visible signs of over-trading with goods being sold directly from the sales floor. Over-trading is suggestive of wider qualitative deficiencies within the catchment. The Morrisons store has been refurbished recently indicating a facility trading well.

Unlike the CWP proposal to site a foodstore out of town, a new retail foodstore in an 'edge of centre' location creates more opportunity to encourage a linking of trips which will ultimately encourage greater support to the town centre as customers visit both for their main food shop, specialist retail shopping and services and comparison retailing.

The applicants also support the view taken by CWP that a high proportion of residents undertake their main food shopping outwith the catchment at centres including Inverclyde and West Dunbartonshire. The applicants suggest that given the nature of Dunoon's catchment, there will always continue to be a leakage of expenditure to higher order centres particularly for comparison goods. This trade leakage is estimated in both RIA's to be of the order of 40%, although a degree of scepticism is warranted as regards the assumptions leading to such a conclusion, as it is not based upon empirical evidence gathered in similar circumstances based upon experience with previous developments elsewhere. As it is essentially a forecast of the aggregated consequences of individuals' future spending decisions, it necessarily has some element of doubt surrounding it.

A retail impact assessment attempts to estimate the potential impact of a new retail development on existing retail provision (particularly within town centres). This involves defining the catchment area of the town, establishing the population of the area, and then calculating the average retail expenditure of the catchment population. This is then compared with an assessment of the turnover of the retail floorspace within the catchment area. Where a surplus is identified this is either considered as export expenditure or attributed as additional expenditure for existing retailers within the catchment area. Having quantified the level of turnover of existing retailers and the available expenditure within the catchment, and the amount exported to other centres, it is then possible to establish if there is sufficient expenditure to support additional floor space. There are a considerable number of variables in these calculations, and a number are based on averages and estimates, and others are relatively subjective.

The following table provides extracts from the tables in the revised retail statement submitted by the applicants in support of their application:

	2010	2014
a. Population of Catchment	15,412	15,465
b. Convenience expenditure per capita	£2,079	£2,195
c. Total convenience expenditure a x b	£32,033,624	£33,941,967
d. Comparison expenditure per capita	£2,735	£3,109
e. Total comparison expenditure a x d	£42,155,285	£48,067,043
f. Estimated convenience turnover in catchment	£22,551,965	£23,514,611
g. Estimated comparison turnover in catchment	£25,000,000	£25,000,000
h. Surplus convenience expenditure c – f	£9,481,659	£10,427,356
i. Surplus comparison expenditure e - g	£17,155,285	£23,067,043

The surplus expenditure is generally taken to represent the amount of money spent by residents of the catchment area in shops outwith Dunoon and Cowal, and in theory would be available to support additional floorspace within the catchment. However, the extent to which this exported expenditure can be retained or clawed back depends on a number of factors, and varies between convenience and comparison goods, and proximity and size of competing retail centres. For the purposes of the assessment of retail impact, the effects of tourism expenditure on the catchment have not been considered.

The Retail Statement suggests that, given the limited nature of the existing convenience retail provision within the defined town centre, a proportion of trade will be diverted from Morrisons

and the Co-op. Due to its current share of the market, the main town centre impact will be on Morrisons and it is likely that the impact upon Morrisons will readjust its market share and lower its turnover ratio. The proposed larger foodstore will 'claw back' a significant proportion of that expenditure lost from the catchment as residents instead utilise the new foodstore for their main food shop.

In the context of the proposed development, given the rural nature of the catchment and existing provision, the proposed store would, in all likelihood, trade below any individual operator average, or indeed culmination of operators averages. An example is Tesco in Campbeltown who accepted that their store would trade at 75% of the national company average. For the purposes of their retail analysis, a figure of 80% of the national company averages has been used by the applicants. The following table outlines the effect of these two different approaches on the floorspace of the store as envisaged in the retail analysis:

Floor space	Average turnover ratio	80% of Average turnover ratio	Turnover based on Average ratio	Turnover based on 80% of average ratio
Convenience 1,448sq.m.	11,545	9,236	16,717,160	13,373,728
Comparison 552sq.m.	4,618	4,618	2,549,136	2,549,136
Total turnover	-	-	19,266,296	15,922,864

Using the 80% of company average turnover, it is estimated that the turnover of the proposed retail foodstore would be in the region of £15.9m with the convenience element being £13.3m. It is assumed that the scale of the proposed foodstore will draw a small proportion of trade from outwith the primary catchment. Assuming that 10% of trade is drawn from outwith the catchment, the turnover of the proposed store would equate to some £14.33m being derived from the primary catchment, £12.04m of which relates to convenience expenditure. This 10% of trade is likely to include a proportion of tourist trade.

When compared to the turnover of existing convenience retail provision within the catchment, there appears to be a surplus of around £10.42m of available convenience expenditure from within the catchment at 2014. This surplus expenditure is either spent in shops outwith the catchment area and is referred to as leakage from the catchment, or is spent in shops within the catchment area where it is assessed as overtrading. This £10.42m surplus expenditure equates to some 30% of total available convenience expenditure and is considered potentially available to support additional retail provision within the catchment.

The applicant's RIA estimates that the proposal would have an 8% negative impact upon the existing town centre. This calculation does not include the existing Morrisons store which is also located in the town centre so should be included for the purposes of assessing vitality and viability, in which case a negative impact of 20.5% is produced. However, if both convenience and comparison turnover is taken into account (which is legitimate in terms of assessing the overall vitality and viability of a centre) then the anticipated negative impact on the centre overall reduces to 9.5%. The impact of the CWP proposal on the town centre is estimated in their RIA to be 8.0% but because of differing assumptions employed in the production of these assessments (percentage of average turnovers attributed by the consultants to the proposed stores and also differences in the proportion of turnover attributed to clawback of leaked expenditure), no reliable comparisons may be drawn between the two assessments (officers did not accept some of the principles underpinning the CWP retail impact assessment). What is clear is that an out-of-town development with a greater floorspace and with a higher proportion of comparison sales, by virtue of its peripheral location, its scale and its greater competition with goods sold by smaller retailers in the town, will necessarily have more impact upon trading in the town centre than this lesser scaled proposal in a sequentially preferable location which poses less competition with

existing comparison outlets and a greater potential for linked trips with other businesses in the town.

Assessment

In addition to assessing the expenditure capacity of the catchment area population, the applicant's retail impact assessment seeks to calculate the likely impact of the proposed new floorspace on the existing retail provision within the catchment, and more particularly Dunoon town centre. In assessing the impact on existing floorspace consideration has been given to a number of factors. These include; the amount of expenditure currently spent outwith the area; an assessment of the capacity of the new store to claw back that expenditure; and the extent to which the new store will compete with existing retail floorspace thereby diverting trade from them to be spent in the new shop. Also to be taken in to consideration, is the extent to which tourism expenditure and trade from people living outwith the primary catchment area e.g. Inveraray contribute to the expenditure available to support retailing in Dunoon. These variables could have a significant effect on the predicted impact on the town centre.

Table 1 below includes a compilation of floorspace comparison figures extracted from the Retail Statement to illustrate some of the comments made in this section and scale/impact of the proposed foodstore.

	Proposed Store	Proposed CWP Store	Existing Morrisons	Existing Co-op	Town Centre Shops	Out of Centre Shops
Gross Floor Area	2,932sqm	3,716sqm	(2,145sqm*)	(1,250sqm*)	-	-
Net Retail Area	2,000sqm	2,228sqm	1,035sqm	1,000sqm	500sqm	200sqm

**Gross external floor area taken from GIS plan, not from agent figures.*

The applicants have submitted figures which demonstrate the effect that they believe the new store will have on the turnover of existing stores. This indicates that taking all of the above factors into consideration, that the proposed store will have an impact of 22% on Morrisons and 8% on the turnover of convenience stores within the town centre, based on 80% of company averages. On this basis the convenience impact on the town centre as a whole would be 20.5% The impact on the turnover of other convenience stores in Dunoon outwith the town centre (including the Co-op) and convenience shops in villages has not been calculated as it does not enjoy the same degree of policy protection. Expected comparison trade diversions on the town centre (including Morrisons) is 2.8%. The overall impact on the town centre (convenience and comparison) is 9.5% If company averages are used then the convenience impact on Morrisons would be 28% and 10% on other convenience outlets in the town centre.

By comparison, the CWP scheme anticipated a 14.7% impact on convenience shops within Dunoon Town Centre and 3.7% impact on comparison goods.

Methodology

For the purposes of retail impact assessment and in any comparison with the CWP proposal, base year is taken to be 2010 with a forecast year of 2014 and prices are based at 2007.

Whilst the applicant's agents have used information from the James Barr Planning and Retail Statement, it is still considered that information derived from the National Survey of Local Shopping Patterns (NSLSP) is not sufficiently robust to be applied at a local level and is not an appropriate tool for estimating the turnover of existing retail floorspace. A well designed household survey (Scottish Government's 2007 research paper) is deemed more reliable

where key matters such as specific stores used by main food shoppers, reason for visiting certain stores, how they travel, whether they are undertaking linked trips and how much they spend in each store can all be quantified.

In terms of NSLSP, it is considered that company average turnover rates should be used to model the turnover of existing and proposed retail floorspace and for a robust estimate of retail impact to be gauged. However the applicants have preferred to use 80% company averages in their retail assessment as compared to 75% used in the CWP scheme. This is one of the reasons why the two assessments cannot be directly compared with each other.

Similar to the CWP scheme, it is considered that the Retail Statement has not adopted a broad-based approach but instead has attempted detailed calculations or forecasts of a sector's growth where small variations or assumptions can lead to a wide range of forecasts. In relation to the Retail Statement, the turnover of the proposed store has been estimated as 80% of the average of the top 4 supermarket retailers. It is considered that it may have been more appropriate to use the average turnover of these four retailers, in terms of predicted impact rather than a percentage of their average turnovers.

The applicants concur with the views expressed by CWP/ James Barr on the Town Centre Health Check Appraisal. However, no supporting information has been submitted to justify the agent's comments that "the town centre does appear to be very healthy" as they have not provided details of comparable towns which could provide a basis for their assessment. It was previously considered that the CWP's Town Centre Health Check was subjective in nature and did not reflect the more fragile nature of Dunoon's High Street and other retailing areas where vacant units, charity shops and poor shop frontage design should perhaps result in a lower score. It should also be recognised that a significant amount of works have been undertaken on town centre renewal projects to promote an otherwise fragile town centre. The town centre will continue to be the focus for such projects in an attempt to revitalise the town centre area. The departments own survey work on the health of Argyll and Bute town centres reveals that Dunoon sits somewhere in the middle of these with regard to a range of indicators (vacant shops, condition of shop front, signage etc) town centre health.

Conclusions

The Retail Statement confirms that the main source of trade diversion will be predominantly from Morrisons (22% at 80% company average) but also from the Co-op store (% impact not stated as an out-of-town centre location) and will also have an expected 8% impact on other convenience stores within Dunoon Town Centre

The size of the proposed foodstore, that would be larger than Morrisons and more than twice the floorspace of the Co-op, has been designed by the applicants specifically not to 'compete with the larger CWP foodstore proposal in terms of the sequential test but does represent a realistic and commercially attractive proposal of an appropriately sized foodstore, car park and service yard for the site. However, given the smaller size of the foodstore, it would still be capable of arresting a significant amount of leaked convenience expenditure outwith the catchment (where the CWP scheme had greater comparison floorspace) but would introduce a third supermarket to Dunoon which would compete directly with existing supermarkets.

Given all of the above, it is considered that the proposed foodstore and associated development is consistent with the adopted Argyll and Bute Local Plan policy LP RET 1 part B, as no suitable sites are available within Dunoon Town Centre and the application site is within the defined Edge of Town Centre. However it is not entirely consistent with part (D) in that there would still be an impact on the town centre as a result of the proposed development. However, the scale and location of the store would result in greater linked trips within the town centre and edge of centre zones and is well located in terms of pedestrian accessibility and public transport routes. Given the retail analysis, it is considered that the main impact would be on the existing Morrisons store but with a further lesser impact (8%) on smaller town centre convenience shops and 2.8% on town centre comparison shops. Overall

the impact would be 9.5% on the vitality and viability of retailing in the existing town centre. It is however considered that a developer contribution for town centre improvements could help to offset some of this predicted negative impact.

On the basis of the above and in terms of the Retail Sequential Test and impact on Dunoon Town Centre and other retail outlets, the proposal is considered to represent a 'minor departure' from Policy LP RET 1 part (D) of the Argyll and Bute Local Plan (August 2009) by virtue of a predicted negative impact on the existing town centre. This scale of this negative impact would be offset in this case by the proposed store's edge of centre location within walking distance of the town centre and with potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre would mitigate anticipated impact on the existing town centre, and therefore a 'minor departure' to Policy LP RET 1 is justifiable in these circumstances.

F. Road Network, Parking and Associated Transport Matters

The submitted Transport Assessment concludes that the proposed development has a potentially significant impact during one time period on the Hamilton Street and Argyll Street priority junction but this impact can be mitigated with the installation of traffic signals. The proposed development is located adjacent to existing public transport facilities with a bus stop on Argyll Street. The site is well served by the existing footway network on Hamilton Street and Argyll Street providing access to local residential areas and local public transport facilities. The site is easily accessible by a range of transport modes. Car parking levels complies with National Parking Standards and cycle parking will be provided.

In terms of junction design, various options have been tested including 'as existing', mini-roundabout, give-way signs, right hand turning lane but the provision of traffic signals appears to be the preferred option and the eventual phasing has still to be agreed with Roads.

A revised site layout plan incorporates changes suggested by Roads and these include moving the main vehicular access further west to maximise queuing space, increased car parking spaces, provision of a bus lay-by on Argyll Street adjacent to the entrance to the foodstore and provision of a pick-up / drop-off point at the front of the store.

Roads have accepted the diameter of the service bay on the basis that delivery vehicles must enter and leave the service yard in a forward manner.

Roads have no objections in principle to the proposed scheme subject to conditions outlined below.

On the basis of general acceptance and the imposition of necessary planning conditions, the proposal is considered to be consistent with Policies LP TRAN 1, TRAN 2, TRAN 3, TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan (August 2009).

G. Flooding and Surface Water Drainage

A 'Flood Risk and Drainage Assessment' submitted by the applicants' consultants Dougal Baillie Associates (DBA) concludes that the majority of the site is at little or no risk of fluvial flooding from the Milton Burn. A small area of the site on the western side is at risk of flooding and the area is therefore classed as being active functional flood plain with a medium to high risk of flooding. To ensure that the site is not at risk of flooding, it is recommended that a minimum floor level of 12.95m AOD includes a freeboard allowance which will also require a degree of land raising within the functional flood plain. To ensure a neutral impact, provision on-site compensatory flood storage is incorporated into the scheme design to replace lost capacity, with an identified location for such, although it is intended that the specification and

corresponding calculations demonstrating performance of the compensatory flood storage provisions will be undertaken at the detailed design stage. Any works within the watercourse will require authorisation by SEPA through a licence issued under the Controlled Activities Regulations (CAR authorisation).

It is proposed to discharge surface water run-off to the adjacent Milton Burn as this will be at least equal to natural Greenfield runoff release rates and will be provided by using a range of SUDS source control measures.

SEPA considered the revised proposals acceptable subject to conditions regarding the provision of compensatory flood storage, SuDS scheme, a construction method statement and advice on waste management, flood risk, SuDS, pollution prevention and CAR licence for any land raising in the functional flood plain.

The Council's Flood Alleviation Team also found the proposals acceptable subject to conditions regarding the detailed design and means of access to the watercourse for inspection purposes, a condition survey of the training walls detailing any remedial works to be carried out, a site investigation including CCTV to locate and identify existing pipework with any impacts identified on adjacent roads drainage and pathway at Hamilton Street Bridge to be designed and provided. CAR Licence required from SEPA.

Letters of objection have been received from James Barr / Kaya Consulting Ltd. On behalf of the CWP proposal that raise issues on the validity of the flood risk assessment by DBA, the existence of another flood risk assessment by Carl Bro (CB) and responses received from SEPA and the Council's Flood Alleviation Group.

Kaya suggest that DBA undertook their flood risk assessment without reference to the more extensive flood modelling study undertaken by Carl Bro where their predicted flood levels are around 0.65m above the DBA levels at the downstream end of the site. Any overtopping would result in a greater part of the site being flooded and the Council should have either investigated the reasons for conflicting reports or accepted the higher predicted flood levels. Additionally, limiting the amount of land that can be raised for development and maintaining existing overland flow paths will reduce the size of the proposed development which could affect the viability of the development.

DBA have provided additional supporting information in respect of the matters raised by Kaya. In respect of differences in the Milton Burn flood level estimations as outlined in the DBA Report when compared to the CB FRA at the Argyll Street Bridge inlet, DBA consider that the modelling was carefully developed to ensure that head losses associated with the sharp bends immediately downstream of the Argyll Street bridge were modelled as accurately as possible and that the simulation predicts a water level that is very close to the CB estimate.

In respect of differences in the Milton Burn inundation maps as outlined in the DBA Report when compared to the CB FRA, DBA consider that the DBA findings are based on a present day (2011) survey and watercourse corridor cross sections and the survey work for the CB modelling is believed to be undertaken around 8 years ago. Since that time, changes in site topography have occurred through remediation of the site and that a footbridge across the Milton Burn no longer exists. Given that the footbridge no longer exists afflux associated with this structure will be lost and water levels / flooding extent upstream will be lower than that estimated in its presence. DBA are satisfied that their flood inundation mapping represents the most accurate estimate of areas at risk of flooding based on current survey data.

In respect of bridge blockage scenario, DBA consider that the probability of flooding will be negligible given the dimensions of the bridges at Argyll Street and Hamilton Street and canalised reach from Argyll Street.

In respect of surface water drainage, DBA confirm that the FRA states that post-development surface water discharges from the site are limited to the 2-year Greenfield run-off rate. DBA

also confirm that the indicative geocellular storage areas/volumes take cognisance of flood levels in the Milton Burn and impacts that high water levels will have on the outfall hydraulics.

Given the supporting information from DBA revised response from SEPA, it is considered that the flood risk and any loss of the functional flood plain can be addressed by suitable conditions. Objection letters received from Kaya primarily refer to the Carl Bro modelling study that may offer a more thorough assessment of flood risk but these comments have been incorporated in SEPA's response and addressed by a planning condition.

In terms of Policies LP SERV 2, SERV 3 and SERV 8 of the Argyll and Bute Local Plan (August 2009), the indicative flood risk/surface water drainage strategy is considered to be acceptable at this stage and could be addressed by planning conditions.

H. Waste Management

No details have been submitted on waste management but the service yard is of an appropriate size to accommodate and facilitate the pick-up of waste material by refuse collection vehicles, which will have access to the yard at scheduled times.

In terms of Policy LP SERV 5 of the Argyll and Bute Local Plan (August 2009), the indicative strategy is considered to be acceptable at this stage and could be addressed by planning condition.

I. Public Water Supply

It is proposed to connect to the public water supply.

Scottish Water has confirmed that they would have no objections in principle and Loch Eck Water Treatment Works currently has capacity but comment that the scale of the development will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

In terms of Policy LP SERV 4 of the Argyll and Bute Local Plan (August 2009), the indicative public water supply strategy is considered to be acceptable at this stage and could be addressed by planning condition.

J. Foul Water Arrangements

Foul drainage will be discharged into the existing Scottish Water combined sewer network. Scottish Water has confirmed that they would have no objections in principle but Dunoon (Alexandra) Wastewater Treatment Works currently has limited capacity to serve the new demand. Due to the scale of the development, the applicant will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

In terms of Policy LP SERV 1 of the Argyll and Bute Local Plan (August 2009), the in principle agreement to connect to the public sewer system is considered to be acceptable at this stage and could be addressed by planning condition.

K. Contamination

A supporting statement has been submitted by WSP Environmental who were commissioned to remediate the former gas works site and undertake geotechnical investigation for potential future development. WSP confirm that while the risk from potential residual contaminants is

unlikely to be increased as a result of the proposed development, the design and foundations of the proposed building will require consideration during design. Public Protection acknowledge that the site has undergone extensive work to remediate contaminated land but recommend conditions to ensure that remediation is appropriate to the intended use.

In terms of Policy LP SERV 7 of the Argyll and Bute Local Plan, it is considered that suspensive planning conditions could address the contaminated land issues raised.

L. Noise, Dust, Lighting and Operational Hours

In terms of potential impact on surrounding land uses, Public Protection recommend conditions in respect of minimising noise from the development, minimising the effect of noise from construction, and details of control of lighting.

It is proposed to erect a timber boundary fence around the service yard to screen it from properties on McArthur Street and Argyll Street. Following objections from residents on McArthur Street regarding potential amenity issues and noise from the service yard, the agents confirm that their client would be agreeable to developing an acoustic fence around the service yard to mitigate any noise related issues and would be happy to accept a condition on any planning permission in this respect.

In terms of Policy LP BAD 1 of the Argyll and Bute Local Plan, it is considered that suspensive planning conditions could address the environmental concerns raised.

M. Conclusion

The consideration of this application is more complex than assessing it purely on its individual merits in isolation. Due to the submission of another foodstore application by CWP for a larger store to the rear of Walkers Garden Centre (that has been recommended for refusal but currently 'on-hold' following a Local Hearing and PPSL Committee), this application must also be assessed against that scheme in terms of the sequential test to retailing and comparative retail impact analysis.

In their submission, CWP suggest that the gas works site is too small and awkwardly configured to accommodate a suitable foodstore and petrol filling station to clawback leaked expenditure and that the site has flooding and ground condition problems. CWP therefore dismissed the gas works as unsuitable for their proposed foodstore in terms of the sequential test.

The recommendation of refusal for the CWP proposal is based on the sequential test not being satisfied in terms of the gas works site given that is considered to be sequentially preferable in land use terms, that the location of the CWP foodstore is at the edge of the settlement not easily accessible for pedestrians and that the retail impact analysis suggest an unacceptable level of impact (14.7% on convenience and 3.7% on comparison in the town centre) on the vitality and viability of Dunoon Town Centre. The proposed development anticipates a predicted impact of 8% impact on convenience (excluding Morrisons) and 2.8% impact on comparison (excluding Morrisons) within the town centre.

Whilst the predicted impact on the town centre by the two stores is broadly comparable in terms of impact upon convenience retailing (based on available statistics), the CWP proposal by virtue of its greater scale and its larger proportion of comparison goods has greater potential to impact upon the smaller outlets in the town centre which predominantly rely on the sale of comparison goods. A key factor of the National Grid proposal is that it would satisfy the sequential test by utilising a 'brownfield' site within a preferred 'edge of town centre' zone with greater potential for linked trips to be made to and within the town centre. This and the fact that it is a smaller convenience floorspace than the CWP proposal, is seen to complement the town centre function rather than to compete against it. The lack of objections

from shopkeepers for the current proposal may suggest that they do not feel as threatened by this scale of development and by a lesser comparison goods component, as compared to the strength of objection received for the CWP proposal, as a large out-of-centre store selling a wider range of goods. Officers still have reservations about the amount of achievable clawback from outwith the catchment, but believe that any major impact will be on the existing foodstores, and on the Morrisons store in the town centre in particular, which over-trades and which could sustain additional competition whilst still remaining viable. The argument made for the CWP proposal is that their larger foodstore would be better placed to clawback expenditure from outwith the catchment and also facilitate a housing development. This scheme, however, is not favoured primarily due to its scale, the size of its comparison goods component and its 'out-of-town' location which would be likely to draw trade and shoppers from the town centre, with a reduced likelihood of 'linked trips'.

There are demonstrable advantages inherent in the National Grid proposal in terms of its 'edge of town centre' location, its sequential preferability to the CWP site, and a lesser amount of proposed comparison goods sales than the CWP proposal. The location of the site closer to the town centre gives it a significant advantage in that it provides the opportunity for linked trips with the remainder of the town centre, to the benefit of its vitality and viability. Although it does not include a petrol filling station as the CWP proposal would, if the CWP site were not to be redeveloped for retail purposes then the existing filling station would remain, so this facility would not be lost within the town. Whilst less car parking is achievable at the National Grid site, it nonetheless complies with the Council's standards, has not deterred operator interest, and it would be better placed to deliver Green Travel Plan obligations due to better pedestrian connectivity with the rest of the town centre.

Subject to conditions and the recommended legal agreement, the proposed development satisfies various policy criteria in respect of land use issues, flood risk, transportation matters and contamination. On this basis and with the developer contribution to assist environmental improvements within Dunoon Town Centre, the Department on balance considers that the proposal should be accepted as a 'minor departure' to Local Plan policy LP RET 2 and that there are no reasonable grounds, including the matters raised by third parties, which would warrant the refusal of planning permission.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 11/00689/PPP

REPRESENTATIONS:

Against

1. Mr John Bellaby 2 Marina View, Pier Road, Sandbank Dunoon (email dated 13 June 2011);
2. Aileen McDermott (email dated 14 June 2011);
3. Mr Dennis Robson Islay Cottage 26 King Street Dunoon (letter received 13 June 2011);
4. Margaret Blackwood 54 Fairhaven Kirn Dunoon (email dated 13 June 2011);
5. Mrs Norma Birtles Seaford Cottages 74a, Shore Road Innellan (email dated 11 June 2011);
6. E McKay 46 The Glebe Dunoon (email dated 16 June 2011);
7. William, Margaret and Caroline Rankin 32 Sandhaven, Sandbank Dunoon (email dated 11 June 2011);
8. Michael Fulton (email dated 14 June 2011);
9. Dwina Taylor (email dated 14 June 2011);
10. James B Bell on behalf of Hunter's Quay Community Council Lucinda 61 Hunter Street Kirn (letter dated 17 June 2011);
11. Mrs A Anderson Santana Lizvale Terrace 58G Shore Road Innellan PA23 7TP
12. Mrs J G Bryson 67 Alexandra Parade Dunoon PA23 8AQ
13. Mr H R Bennett 1 Shore Road Innellan (email dated 16 June 2011);
14. Richard and Fiona Biggart Rimrock 4 Calderwood Cluniter Road Innellan (email dated 16 June 2011);
15. Mr A Gardner 223 Edward Street Dunoon (email dated 16 June 2011);
16. John and Marion Paterson 67 Sandhaven Sandbank Dunoon (email dated 17 June 2011);
17. John and Shirley Donald Ferndene 4B Broughallan Park Kirn Brae (email dated 14 June 2011);
18. Pat Lynn Duncreggan View Blairmore (email dated 15 June 2011);
19. Catherine Fraser Hunter's Quay (email dated 15 June 2011);
20. Sheila Munro 2 St Andrews Square Dunoon Argyll (email dated 15 June 2011);
21. Neil McLean 55 Alexandra Parade Dunoon (letter dated 12 June 2011);
22. Capt Robin Coles 199 Victoria Road Dunoon Argyll (email dated 15 June 2011);
23. Jenny Gray 3 McLennan Cottage Shore Road Dunoon (email dated 14 June 2011);
24. Mr Robert Trybis Stoneywood Toward Dunoon (email dated 11 June 2011);
25. Sheena McCloy 3 Gerhallow Bullwood Road Dunoon (email dated 11 June 2011);
26. Mrs A M Clark 3 Cherryhill Hunter Street Kirn Dunoon (letter dated 11 June 2011) * with attached letter from CWP prompting 'Walkers Customer & Supermarket Suporter);

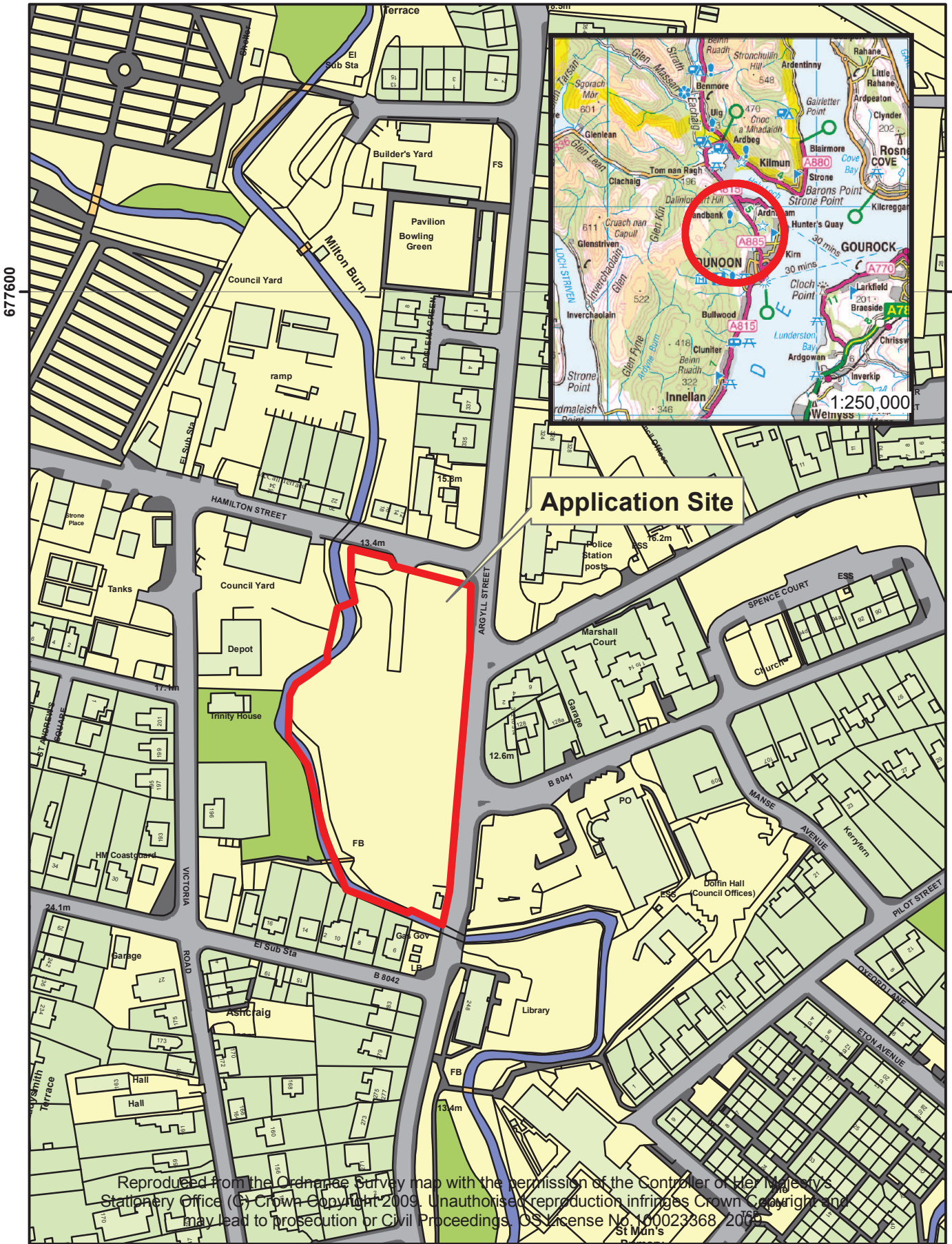
27. Jennifer Godbert 5 Bogleha Green Argyll Street Dunoon (email dated 15 June 2011);
28. John and Anne Mundie 7 Pilot Street Dunoon (email dated 15 June 2011);
29. John Fairman Blartulloch 131 Alexandra Parade Dunoon (letter received 17 June 2011);
30. Mrs Margaret Sinclair Elmwood 63 Hunter Street Kirn Dunoon (letter received 17 June 2011);
31. Mrs A Anderson Santana Lizvale Terrace 58G Shore Road Innellan (letter dated 12 June 2011);
32. Mrs J G Bryson 67 Alexandra Parade Dunoon (letter received 17 June 2011);
33. Ann and Robert McLaren 33 Cowal Place Dunoon (email dated 14 June 2011);
34. Wn W Craig 3 Brae Cottages Sandbank (email dated 14 June 2011);
35. Mr Craig Houston 14 McArthur Street Dunoon (email dated 16 May 2011);
36. Dina McEwan Sydney Cottage 8 McArthur Street Dunoon (letter dated 17 May 2011);
37. James Barr (on behalf of CWP Property Development and Investment) 226 West George Street Glasgow G2 2LN (letters and e-mails dated 25 May, 4, 8 & 25 July, 4, 23 & 31 August and 6 and 12th September 2011)
38. Mrs Karen Bancks Norwood House Hunter Street Kirn (email dated 13 May 2011);
39. David McLucas (email dated 27th June 2011);
40. A J Henderson 4 Dhalling Park, Kirn (email dated 30th June 2011) ;
41. L O'Hare 7 Hunter Street Kirn (letter dated 23rd June 2011);
42. Mr and Mrs Waddell Ormidale, Hunter Street Kirn (letter dated 23rd June 2011);
43. A Linden 7 Hunter Street Kirn (letter dated 23rd June 2011);
44. M Lanigan Flat 1 106 Argyll Street Dunoon (letter dated 23rd June 2011);
45. Catherine and Donald Ross
46. Mrs J Duffy 18 Charles Gardens Argyll Road Kirn (letter received 21st June 2011);
47. Alistair Baird Shearwater Marine Services (email dated 21st June 2011);
48. W Sinclair Sutherland Drum Cottage Kilfinan Tighnabruaich (email dated 21st June 2011);
49. Mr George Macdonald 8 King Street Dunoon (email dated 23rd June 2011);
50. Audrey MacDougall (email dated 22nd June 2011);
51. Fiona MacDonald 2 Portanstick Blairmore Dunoon (email dated 22nd June 2011);
52. Mary Hackett H W Chartered Accountants 231/233 St Vincent Street Glasgow (email dated 23rd June 2011);

53. Kevin Lynch (email dated 4th July 2011);
54. Kirsty Fairman 3 Lorimer Terrace Sandbank (email dated 6th July 2011);
55. Mrs U Paton (email dated 6th July 2011);
56. Alistair Baird 47B Hunter St, Kirn, Dunoon (email dated 19th July 2011)
57. H Donaldson 5 Newton Park Innellan
58. S. Lyon? 13 Cromwell Street Dunoon Dunoon
59. Molly Macdonald 20 Park Road Kirn Dunoon
60. Owner/Occupier 38 Cowal Place Dunoon Argyll
61. M T Thomson Kerry Farm Strone
62. Owner/Occupier 91 Argyll Road Kirn Dunoon
63. Hilda Galloway 58 Ardenslate Road Kirn Dunoon
64. M Muir 39 Valrose Terrace Dunoon
65. Alexander C Muir 9 Westfield Strone Dunoon
66. Owner/Occupier 9 Westfield Strone Dunoon
67. S Walsh 7 Shuna Gardens Kirn
68. Owner/Occupier 209 Alexandra Parade Dunoon
69. Colin Miller 99 Alexander Street Dunoon
70. Suzanne Welsh 12 Pilot Street Dunoon
71. Dawn Miller 99 Alexander Street Dunoon
72. K Walsh 7 Shuna Gardens Kirn
73. Ms Catherine Livingstone (email dated 2nd September 2011).

Support

1. Miss Katriona Maclean 4 Old Police Station Argyll Road Dunoon (email dated 12 May 2011).

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Application Site

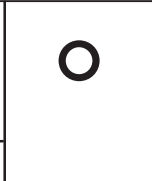
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Location Plan relative to Application Ref: 11/00689/PPP

Date: 13.07.11

Scale: 1:2,500



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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT No. 7

1.0 SUMMARY

This application was considered by the PPSL Committee at a Hearing in the Queen's Hall Dunoon on 8 April 2011 when Members resolved to continue consideration of the application. The application was considered by the PPSL Committee on 18th May 2011 but continued until the application for the erection of a retail store at the former Gasworks Site at Argyll / Hamilton Street, Dunoon (ref. 11/00689/PPP) could be reported. Both applications were considered at the PPSL Committee on 21st September 2011 where it was recommended that both applications be continued with the National Grid scheme to be determined at a Hearing on 9th November 2011 and the CWP scheme determined thereafter.

This Supplementary No 7 should be read in conjunction with other supplementary reports.

The purpose of this supplementary report is to confirm the receipt of further correspondence which has arisen since the previous supplementary was prepared and to confirm the submission of a planning application by Morrisons for an extension to their foodstore which could have significant implications for the proposal. A comparative summary of both proposals has also been afforded.

For the avoidance of doubt, Officer's consider the new information submitted by Morrison's is material and should be given cognisance however it is not of such importance to postpone the determination of this application.

2.0 FURTHER REPRESENTATION

An e-mail dated 26th October 2011 has been received from the applicant's agent providing a comparison of the CWP scheme and retail assessment against the National Grid scheme for clarity.

In summary the agent comments that:

- *population, expenditure and total available expenditure are the same for both schemes;*
- *the turnover of existing floorspace is different in that CWP adopted different data from the National Grid and arrived at slightly different conclusions but not considered to be significant;*
- *Leaked expenditure figures were also derived from different sources but arrived at a broadly similar leakage figure;*
- *Both assessments consider the turnover of comparison floorspace to be the same;*
- *Assuming the same data sources and assumptions to the point of trade diversion / clawback the following estimates of impact can be observed and compared*

National Grid – convenience impact 20.5%, comparison impact 2.8%, total impact on town centre = 9.5%

CWP – convenience impact 15.2%, comparison impact 3.2%, total impact on town centre = 7.9%

The agent considers that “Dunoon suffers from leakage to Inverclyde and beyond where Dunoon and Cowal shoppers seek a better level of provision currently on offer in Dunoon. The main beneficiaries of this leakage are the large stores in Inverclyde. These are full offer foodstores with large convenience and comparison ranges, ample car parking and petrol filling stations and cafes. As previously noted, we identified this leaked expenditure as our key market and to provide a better foodstore offer in Dunoon and Cowal. Clearly it was not appropriate to propose a 100,000sq.ft Tesco Extra in the town but are of the opinion that the town needs to have the largest store possible whilst being sympathetic to the town centre. We consider we have offered a proposal that strikes that balance. We have estimated some £11M of local convenience expenditure and £23M of comparison expenditure is spent outwith the catchment and outwith Argyll and Bute. National Grid agrees with those estimates.

In order to successfully clawback the highest proportion of leaked expenditure possible it is our clear opinion that the foodstore offer has to be significantly better than that currently on offer in the catchment. This in our view requires a medium sized store, with ample car parking, cafe, petrol filling station and a good comparison floorspace. It is our view that only with those components can any confidence be expressed about the clawback of leakage. This, in our opinion, is the key difference between our proposal and the NG proposal. The NG proposal is compromised and does not provide the same level of foodstore offer and hence why we discounted the site. Its ability to be attractive and successfully clawback as much leaked expenditure as possible is compromised. It is for this reason that we have estimated a higher clawback of expenditure to NG (and to be fair why they have assessed a lower level of clawback than us) and consider this to be a logical and robust assumption. Regardless of the exact clawback figure estimated it is surely understood that the quality of the retail foodstore offer (size of convenience, size of comparison, in-house cafe, pfs, ample car parking) has a direct relationship to the stores ability to successfully clawback leakage”.

Comment – This comparison note has been forwarded to the National Grid for their interpretation of the comparison but this aspect of the retail impact assessment will undoubtedly form one of the key areas of discussion between National Grid and CWP at the Hearing.

3.0 OTHER MATERIAL CONSIDERATIONS

An application has just been submitted by Wm Morrison Supermarkets Plc (ref. 11/02015/PP) Morrisons for the erection of an extension to the existing food store, altering the main access and extending the existing car park by the demolition of an industrial/storage building on George Street. The proposed side extension onto the eastern gable of the foodstore will result in an increase of 782 sqm i.e. a 38% increase (net floorspace as well from 914 sqm to 1514 sqm). The increase in the store will also result in a larger car park with an additional 32 spaces taking it from 125 spaces to 157.

As it is in a town centre location, there is a general presumption in favour of retail development, and as the proposed extension is less than 1000 square metres there is no requirement for a Retail Impact Assessment as such.

Comment: A Retail Statement has been submitted in support of this scheme and while this application is yet to be determined, the following concluding statements are made that a pertinent to the proposed foodstore by CWP.

- *We are aware of two other development proposals for retail development in the Dunoon area; namely the application by CWP application (10/00222/PPP) and the National Grid application at the former Gas Works site on Victoria Road (11/00689/PPP). With regards to the former, this site is not identified as a retail location. In relation to the latter site, the Argyll and Bute Council Main Issues Report (MIR) suggests that this site is suitable for redevelopment. The MIR indicates that this site should be identified as a redevelopment opportunity but not specifically for retail. The site is identified within an edge of centre location in the adopted local plan.*
- *In reviewing both of the supporting retail impact assessments, it is noted that each proposal also relies heavily upon an assumption that the Morrisons is overtrading in order to justify trade diversion and turnover. In addition, both proposals will cause trade diversion and retail impact on the town centre. Whilst the impact on individual stores is less of a consideration compared to the overall impact on the town centre in overall terms, an inevitable consequence of retail development outwith the main town centre is a degree of retail impact.*
- *The proposed extension of the Morrisons store represents part of a long term programme of improvement and investment in Dunoon by Morrisons. This investment programme was highlighted in representations submitted (26 July 2010) to application reference 10/00222/PPP. The proposed extension will provide an improved retail offer including a range of qualitative improvements – as discussed above.*
- *Finally, the additional retail floorspace within the new enlarged Morrisons will result in a reduction in any available expenditure within the Dunoon catchment due to a higher turnover of the store – and therefore also a higher level of town centre turnover in overall terms. This will also render any assumptions in relation to over trading at the store obsolete and will not be applicable in the justification for out of town centre retail proposals under consideration at this time. The effect of this is that less expenditure available will lead to higher levels of impact from out of town centre retail proposals.*

Comment: While this application has just recently been submitted, Members should be aware of the Retail Statement submitted by Morrisons and the implications for

reduced available expenditure and current assessments based on potential overtrading.

Currently the National Grid and CWP retail statements indicate the turnover of existing convenience floorspace to be between £21,472,989 and £22,551,965, which would give a residual convenience expenditure of between £10,560,636 and £9,481,659.

As the Morrison's store and its proposed extension is within the Town Centre identified in the Adopted Local Plan, in retail policy terms there are no objections to this proposal. This presumption in favour should be taken into consideration when calculating capacity to accommodate an edge of town centre application such as the former gas works site, and then an out of town centre location such as the Walkers site.

The proposals, if approved, would result in an additional 600 square meters of retail floorspace, and as Morrisons have not indicated what the actual turnover of their Dunoon store is, we will have to assume that for purposes calculating capacity that they are trading at their average turnover levels. These average turnover levels are detailed in table 9 of the Retail Impact Assessment for application 10/00222/PP. This indicates that Morrisons have an average convenience turnover of £ 11,814 per square metre and comparison of £ 8,801 per square metre.

The extended Morrisons store would reduce the residual convenience expenditure of between £10,560,636 and £9,481,659 to between £9,134,003 and £8,212,507. This level of expenditure would represent an additional floor space of between 763 and 686 square metres using the average turnover of the top four foodstore operators.

Ultimately our calculations indicate there is still an element of leakage even if the Morrison's extension was approved and therefore it's pragmatic to progress towards determination for a new store. Both retail consultants have been made aware of this issue but consider the impact is negligible given over estimations in terms of floorspace, fact there is still leaked expenditure even if approved and extended store is still likely not to compete with new modern superstore.

4.0 COMPARATIVE SUMMARY

It is appreciated that there is a high degree of technical information spanning a number of months presented before Members. To this extent and to assist deliberations and referencing, a comparative summary has been provided below. We would stress this must still be considered in conjunction all the previous reports relating to application 10/00222/PPP (CWP) and 11/00689/PPP (National Grid).

- **Total Available Expenditure in Dunoon** – £33.9M for convenience and £48M for comparison;
- **Leaked expenditure** – CWP consider this to be £11.1M compared the NG = estimation that the figure is £10.4M. The difference can be largely attributed to the assumption by NG that the Co-op is trading at a higher level.

There are a number of other assumptions made by both NG and CWP which relate to turnover and whilst these differ it must be noted that, realistically, both proposals

are after the same store so regardless of the estimates in either retail impact assessment, at the end of the day all the factors will be determined by the actual operator and will be the same for any proposal.

	National Grid	CWP	Commentary
Location / Designation	Vacant Site - Edge of Town Centre & Area For Action	Part operational garden centre, part Greenfield which is a PDA for Housing.	CWP site is located outside Town Centre and Edge of Town Centre locations.
Gross Floor Area	3,200 m sq (34.4k sq ft)	3,716 m sq (40k sq ft)	CWP is larger by approx 500sq m
Sales Floor Area	2,000 m sq (21.5k sq ft)	2,228 m sq (24k sq ft)	CWP is larger by approx 300sq m
Convenience Sales	1,448 m sq (15.6k sq ft)	1,448 m sq (15.6k sq ft)	Identical everyday purchase floorspace
Comparison Sales	552 m sq (5.9k sq ft)	780 m sq (8.4k sq ft)	CWP is larger by approx 230sq m
Estimated Clawback of Leaked Convenience Expenditure	50%	60%	The CWP application assumes more clawback of leaked expenditure given the larger store/better offer. NG contest CWP's assumptions and consider a store of 3,716 m sq and offering same convenience floorspace as theirs cannot clawback 60% from the likes of Tesco Extra in Greenock which has much larger range of goods.
Convenience impact on Town Centre (inc Morrisons)	20.5%	19%	The marginal difference is based on the above difference in estimated clawback. Both stores principal impact in Town Centre convenience is on Morrison's
Comparison Impact on Town Centre	2.8%	3.2%	The marginal difference is based on the difference in estimated clawback and comparison floorspace which is higher for CWP. Noted that Local traders have not submitted a formal representation to NG application. They objected to CWP proposal.
Overall Impact on Town Centre	9.5%	7.9%	Overall the impacts are relatively similar with the biggest impacts on Morrison's. Different clawback assumptions are made due to difference in comparison floorspace.

Car Parking	125 spaces	238 spaces	Both figures are within thresholds identified in Appendix C of Local Plan
Planning Gain	Not less than £100,000 (TBC)	£276,000 for Town Centre Improvements + contribution for loss of 9 affordable units (TBC)	<p>In principle, NG have confirmed they shall provide planning gain for Town Centre, however, their organisation cannot confirm amount until an appropriate board meeting is convened.</p> <p>CWP have tabled a generous offer of no less than £276,000.</p> <p>A lower figure has been apportioned to NG site due to opportunity for link trips and physical proximity to town centre.</p>

This table hopefully allows consideration of the two proposals on a level playing field and highlights the key differences in assumptions as the opinions on the clawback of leaked expenditure.

In retail assessment terms the principle difference is the larger size of the CWP proposal in comparison terms which has led them to assume they can clawback more leakage from the larger stores in Inverclyde which offer foodstores with large convenience and comparison ranges, ample car parking and petrol filling stations and cafes. The CWP proposal also aim's to relocate / expand the existing Walkers Garden Centre (although application not submitted), provide a petrol filling station and considers the proposal will lay infrastructure to enable housing development in the vicinity. Their £276,000 offer + offsetting of affordable housing as part of a planning gain contribution is also considered to be generous.

Both proposals are commendable in that they both address leakage and lost expenditure the Bute and Cowal.

Notwithstanding this, the opening rows of the table above reiterate to Members the current designations of National Grid site as a vacant brownfield Area for Action within the identified 'Edge of Town Centre' which in planning terms is sequentially preferable.

Officers retain the position that approval of the National Grid application would promote the use of a prominent vacant 'brownfield' site within a sequentially preferable site within an edge of centre location. Whilst the expected impact of trade diversion from town centre convenience and comparison outlets is estimated to be of the order of 9.5%, this would be offset by its edge of centre location within walking distance of the town centre and potential to create more linked trips. This and a developer contribution to fund improvements in Dunoon Town Centre (no less than £100,000) would mitigate against perceived impact on the existing town centre.

5.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused as per reasons 1, 3, and 4 of the original report and with reason 2 amended in Supplementary Note 6. Appendix A below contains an updated list of the reasons for refusal for clarity.

Author: Brian Close / Ross McLaughlin
Contact Point: David Eaglesham 01369 708608

Angus J Gilmour
Head of Planning & Regulatory Services

8th November 2011

APPENDIX A

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 10/00222/PPP

1. The proposed development would undermine the settlement strategy that supports Dunoon Town Centre and its edge of centre locations as preferred locations for retail purposes. The proposal to site a major foodstore in an 'out-of-town' location could have the potential to undermine and potentially harm the character and status of Dunoon Town Centre as an established traditional town centre location and function. Accordingly, the proposed development would be contrary to Policy STRAT SI 1, STRAT DC1, PROP SET 2, PROP SET3 and PROP SET4 of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19 and P/PDA 1 of the Argyll and Bute Local Plan (August 2009).
2. The proposal is considered to be contrary to the policy LP RET 1 of the 'Argyll and Bute Local Plan' (August 2009). The proposed foodstore is outwith Dunoon Town Centre, an alternative sequentially better site is available within the edge of town centre, and there is a significant detrimental impact on the vitality and viability of the town centre. The proposal is not consistent with Development Plan Policy, as the sequential test has not been satisfied, and that it would be possible to provide a smaller store, more appropriate to the catchment area's available expenditure either within the defined town centre, or edge of town centre areas.

Accordingly, the proposed development would be contrary to Scottish Planning Policy (February 2010, paras. 52-65), to PROP SET 2 of the 'Argyll and Bute Structure Plan' (November 2002), and to policy LP RET 1 of the 'Argyll and Bute Local Plan' (August 2009).

3. The proposed foodstore and car parking area is located partly within Potential Development Area (PDA 2/5) identified in the Argyll and Bute Local Plan (August 2009) for housing, and consequently it is therefore not consistent with the other local plan policies relating to development of PDAs and to housing. Notwithstanding the above conflict with retail policy, an application with an indicative layout for 74 houses had been submitted, the proposed layout submitted shows 42 houses on the rear part of the site, a loss of 32 units. This is a considerable reduction and a clear conflict with the local plan policy for the development of PDAs. Policy LP HOU 2 on affordable housing would also apply to this PDA in its entirety. The layout for the development of the site for housing shows 74 houses, the affordable housing policy requires 19 of these to be affordable, and the proposal would result in the loss of 8 of these.

Accordingly, the proposed development would be contrary to Policy STRAT SI 1, STRAT DC1, PROP SET 2, PROP SET3 and PROP SET4 of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19, HOU1, HOU2 and P/PDA 1 of the Argyll and Bute Local Plan (August 2009).

4. The development proposes a major foodstore on the upper (west) part of the site adjacent to Dunoon Cemetery and adjacent to an area of woodland that is considered to be a key landscape feature. The siting of the building in this upper and highly prominent part of the site would require ground engineering (and retaining features) to re-grade the slopes to accommodate the large commercial building. The

commercial building itself would be located in a dominant position at the back of the site and lacks any traditional design features. The indicative curved metal clad roof and bland elevational treatment are typical of a unit within a retail park and do not befit the semi-rural nature of the application site. The provision of a large car park area in front of the superstore presents an equally bland and urbanised design feature that does not integrate well within the immediate surroundings. Furthermore, the proposed development would diminish the environmental quality of any housing development in the remaining part of Potential Development Area (PDA 2/5) identified in the Argyll and Bute Local Plan.

Accordingly, the proposed development would be contrary to Policies STRAT SI 1, STRAT DC1, of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19 (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance) and HOU1 of the Argyll and Bute Local Plan (August 2009).

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT No. 6

1.0 SUMMARY

This application was considered by the PPSL Committee at a Hearing in the Queen's Hall Dunoon on 8 April 2011 when Members resolved to continue consideration of the application. This Supplementary No 6 should be read in conjunction with Supplementary No 5 dated 8th September 2011.

The purpose of this supplementary report is to confirm the receipt of further emails of representation and correspondence which have arisen since the previous Supplementary was prepared and to clarify pertinent matters.

This application is intrinsically linked to Application 11/00689/PPP (agenda item 7) for construction of a retail store at the former Gasworks Site at Argyll / Hamilton Street, Dunoon which is also referred to in this Supplementary (National Grid Site).

2.0 FURTHER REPRESENTATION

There have been multiple email's issued to the Council (dated 12th, 14th, 15th, 16th and 19th September) by the Applicant and their specialist agent's relating to retail impact matters relevant to their own site and flooding matters at the National Grid site.

It is understood the Applicant (Mr Bruce C Weir) has issued PPSL Members with a letter dated 19th Sept summarising his specialist's concerns and alleging that the Council has acted *'inconsistently and unfairly'* with a bias towards the National Grid application over his own.

Council Officers strongly refute these allegations and wish to address them within this Supplementary Report. It is noteworthy that concerns the Council's review of the applicants Retail Impact Assessment were not raised as a concern during the Hearing process.

3.0 FLOODING

Concerns over flooding issues principally relate to the applicants specific / specialised objections to the National Grid site. All of the technical objections from this applicant have been assessed and recorded on the planning file by the Council's Flood Management Officer and SEPA. There has been recent significant correspondence relating to this and a dedicated Supplementary Report for Application 11/00689/PPP (National Grid Application) has been prepared for PPSL.

To summarise, CWP consider that the extent of the functional flood plain affected and amount of compensatory flood storage provided to satisfy SPP have not been determined. CWP question whether the Council have the detailed information at this stage to enable confirmation whether a store of the size proposed on the National Grid site can be accommodated and will not contravene SPP and be acceptable to SEPA.

In response, both SEPA and the Council's Flood Management Officer are satisfied that the site can accommodate development on a scale which is proposed but there remain various options which require to be fully explored at the detailed design stage to allow refinement of the submitted flood risk measures. The revised condition suggested by SEPA and the Council's Flood Risk Management takes on board comments made by Kaya (CWP's Flood Risk Consultant) and considered to be appropriate to allow this application for Planning Permission in Principle to be recommended for approval.

National Grid have confirmed that they will provide additional details on flood mitigation at a Hearing should Members be minded to continue their application as recommended by Officers. At a Hearing for the National Grid site CWP shall be able to put their own specialist case forward as an objector to the scheme.

4.0 RETAIL IMPACT

The applicants email / letter dated 19th September is accompanied by an email of the same date from his Retail Planning Consultant (*Alex Mitchell*). His consultant identifies 5 areas of concern which shall be addressed in turn:-

- 1) The Council's assessment of the proposal properly requires that the sequential test is followed, but goes on in reason for refusal No. 2 to identify significant detrimental impact upon the vitality and viability of the town centre and other retail outlets. This indicates consideration being given to impacts upon the Co-op and other retail outlet not in the town centre which is inappropriate as the policy position is directed solely at safeguarding town centres. It also favours the National Grid proposal given that the report on that application make it clear that retail uses outwith the town centre are not afforded the same degree of policy protection as town centres .

Comment: In terms of assessing whether the scale of the proposed development is appropriate, I consider that it is also necessary to take into account the expenditure which is spent outwith the town centre but within the catchment. While the retailing outwith the town centre is not subject to the vitality and viability test, its existence will have an effect on what scale of development is appropriate. Reason for refusal No. 1 is consistent with development plan policy. The second reason for refusal refers to LP RET 1 of the Argyll and Bute Local Plan. This policy relates to the application of the sequential test and contains a presumption in favour of retail development firstly within defined town centres, and then if no suitable sites are available, secondly within the defined edge of town centre locations. The policy requires that any proposals for development do not have a detrimental impact on the vitality and viability of existing town centres. It is concluded that the development proposed will have such an effect.

However, it is accepted that the wording for reason for refusal No. 2 does refer to 'a significant detrimental impact on the vitality and viability of the town centre and other retail outlets' and that this wording is not appropriate in the context of Policy LP RET 1. Accordingly, reference to "and other retail outlets" should be deleted from this part of the reason for refusal, as per the recommendation at the end of this report.

- 2) The requirement for a Household Survey is disputed in this case, given that the catchment is not a complicated one and retail choice is limited. Such a survey has not been requested for the National Grid site, suggesting that the applicants for this site are not being treated fairly.

Comment: Whilst a household survey would have introduced additional reliability beyond the assumptions underpinning both retail impact assessments, and the applicants were asked to consider providing one, it has been accepted that the absence of such a survey is not fatal in either case to the assessment of the respective proposals.

- 3) Whilst there are differences in the retail impact assessments as to the percentage of national average turnovers used in the respective assessments (CWP 75%, National Grid 80%) the former has been contested by officers whereas the latter has been accepted with no evidence provided, which again indicates unfairness..

Comment: For the purpose of modeling likely retail impacts, I consider that average turnovers should be used, these are what are normally attributed to existing shops within the catchment, and for a new store where the operator is known, that operators average turnover can be used. Where the operator is not known then the average turnover of the top 4 operators should be used. I note that in the Applicants revised planning and retail statement, their Table 9 referred to the top 5 foodstore company average turnovers. Included in this list is Waitrose, which has a much lower presence in Scotland than Morrisons, Sainsburys ASDA and Tesco. James Barrs original Planning and Retail Statement attributed the turnover /floorspace ratios for Morrisons and the Co-op to the average company turnovers from Retail Rankings, although in subsequent amendments to their Retail Statement, this is one of the elements which changed. In relation to James Barrs use of 75% of company averages, this figure is contained in their Retail Statement of September 2010 and subsequent amendments. It is a figure which they have sought to justify by referring to table 9 of that Retail Statement where they have provided details of the proposed turnovers of selected foodstores in rural locations in support of their argument for not applying the average of the turnovers of the top four supermarket operators as advocated by this Department. Since this is the basis of their assessment they must be happy with this figure, and it is the information in their retail assessment which is being relied upon in drawing conclusions as to the acceptability of the development.

- 4) The content of the National Grid retail impact assessment is disputed in terms of detail and not just in matters of opinion. In particular, the predicted convenience impact on the town centre (excluding Morrisons) is stated to be 8%, whereas when Morrisons are properly included as a town centre business, this rises to a 20.5% impact.

Comment: The committee report for the National Grid development largely draws on the information which was provided by Montagu Evans and presents the figures which they submitted in support of their application. These are different from the judgements which James Barr makes in support of this application. We have to accept that both parties will be seeking to present the argument in favour of their application in the best possible light. However, the report clearly point out that the

convenience impact on the town centre as a whole would be 20.5%. In the case of both developments it is accepted that there would be convenience impacts on the town centre of similar significance, which is unsurprising given that they both propose the same floorspace.

- 5) The National Grid committee report seeks to draw a significant difference in comparison impact between the two proposals and goes on to suggest that the retail impact assessment for the CWP proposal represents an under-estimation of impact. Given that the National Grid RIA uses a much lower turnover ratio, a similar conclusion could equally be drawn about that proposal, but it is not, again suggesting unfairness.

Comment: The table below provides an extract from the retail assessments for both this application and that for the National Grid Site. This provides a comparison of the floor space proposed in both applications and the turnover which the respective retail consultants estimate their proposed stores will have. Each has made different assumptions on the turnovers per square metre of comparison and convenience floorspace, and the amount of trade diverted from existing town centre shops to the proposed new stores. Both specialist retail agents have argued that their approach to the assumption of turnover ratios is correct in the context of their proposals.

	CWP Convenience	CWP Comparison	National Grid Convenience	National Grid Comparison
Square metres (net)	1448	780	1448	552
Turnover per square metre	£8977	£6180	£9236	£4618
Total turnover	£12,998,696	£4,820,400	£13,373,728	£2,549,136
Overall turnover of store (convenience and comparison)		£17,819,096		£15,922,864

In conclusion, concerns have been raised with regard to the methodology and the conservative findings of the retail assessment which accompanies this application. However, in the absence of our own retail impact assessment, we are not sufficiently resourced to rebut these with our own predictions (nor is there certainty that a further assessment would clarify matters rather than simply introduce additional uncertainty into the process). It is important that Members appreciate that Retail Impact Assessments should be regarded as an art rather than an exact science, and this is evidenced by the different approaches taken by James Barr in support of the CWP application and those of Montagu Evans in relation to the application on the National Grid site. It must be accepted that each consultant will seek to present his client's proposal in the most favourable light based on the available data and those assumptions which can reasonably be made, and in turn, the conclusions which can be drawn, in the context of the particular catchment area and the nature of the development proposed. Neither approaches should be regarded as being definitive, but a broad indication of the likely level of impact. Accordingly some degree of disparity between assessments for these competing proposals must be accepted as an unavoidable feature of the decision-making process

5.0 RECOMMENDATION

It is recommended that Members note the content of this supplementary report and planning permission be refused as per reasons 1, 3, and 4 of the original report and with reason 2 amended to read as follows:

2. The proposal is considered to be contrary to the policy LP RET 1 of the 'Argyll and Bute Local Plan' (August 2009). The proposed foodstore is outwith Dunoon Town Centre, an alternative sequentially better site is available within the edge of town centre, and there is a significant detrimental impact on the vitality and viability of the town centre. The proposal is not consistent with Development Plan Policy, as the sequential test has not been satisfied, and that it would be possible to provide a smaller store, more appropriate to the catchment area's available expenditure either within the defined town centre, or edge of town centre areas.

Accordingly, the proposed development would be contrary to Scottish Planning Policy (February 2010, paras. 52-65), to PROP SET 2 of the 'Argyll and Bute Structure Plan' (November 2002), and to policy LP RET 1 of the 'Argyll and Bute Local Plan' (August 2009).

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Contact Point: David Eaglesham 01369 708608

Angus J Gilmour
Head of Planning & Regulatory Services

19 September 2011

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT No. 5

1.0 SUMMARY

This application was considered by the PPSL Committee at a Hearing in the Queen's Hall Dunoon on 8 April 2011 when Members resolved to continue consideration of the application. At a subsequent meeting of the Committee on 18 May 2011, Members again agreed to continue determination of the application to allow for consideration of planning application number 11/00689/PPP relating to a further application for a supermarket on another site in the town and to allow for assessment of that site's availability and deliverability.

The purpose of this supplementary report is to confirm the receipt of a further letter of representation and information which has arisen since the matter was last considered by Committee.

2.0 FURTHER REPRESENTATION

One further letter of support has been submitted since Supplementary Report 4. This is from Mr and Mrs Baldock who advise that "Walkers is a very useful store and the cafe is well supported so they deserve to be relocated."

3.0 FURTHER CLARIFICATION REGARDING GAS WORKS SITE & APPLICATION

A planning application for the construction of a 34,000 sq ft supermarket on the site of the former Dunoon gas works was submitted on 6th May 2011 (ref 11/00689/PPP). A report on that application appears elsewhere on this agenda. While that application falls to be considered on its merits, consultation responses suggest that there is no technical barrier to accommodating a store of that scale on the site. As the site has been cleared and remediated, it can be considered to be effective and capable of ready implementation. The site owners have confirmed their willingness to make the

site available for such a development and have confirmed that they have expressions of interest in the scale of development proposed by potential occupiers of the site.

4.0 FURTHER INFORMATION FROM APPLICANT ON PLANNING GAIN

Members also continued the determination of the application for clarification on planning gain matters which were offered verbally by the applicant during the informal hearing. Elements of planning gain were explored in response to anticipated impacts on the town centre and in relation to the partial loss of Potential Development Area (PDA 2/5) amounting to around 34 residential units, inclusive of 9 affordable units.

The Head of Governance and Law has advised that, should Members be minded to approve the application, the applicants have indicated that they would agree to a developer contribution of £276,000 in mitigation of assessed impact on Dunoon town centre. Such a contribution would have to be secured by way of a Section 75 legal agreement, as would any assessed contribution in relation to the loss of 9 affordable housing units on Potential Development Area (PDA 2/5).

5.0 RECOMMENDATION

It is recommended that planning permission be refused as per the original report.

Author and Contact Point: David Eaglesham 01369 708608

**Angus J Gilmour
Head of Planning & Regulatory Services**

8 September 2011

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT 4

1.0 SUMMARY

This application was considered by the PPSL Committee at a Hearing in the Queen's Hall Dunoon on 8 April 2011. Members resolved to continue consideration of the application. The purpose of this supplementary report is to confirm the receipt of further letters of representation and information.

Most notably it confirms that an application for a supermarket on the National Grid site has been submitted and provides clarification that National Grid do not wish to assemble land with adjoining landowners to provide a larger store. Further information has also been provided by the applicant of this application in response to the recent submissions by National Grid and he has also confirmed details of planning gain available to offset impacts on affordable housing and town centre as verbally discussed at the Hearing.

For the avoidance of doubt, only the 10 Members who were present at the Queens Hall Hearing are able to debate / vote on this item due to substantive evidence and information that has already been provided to them.

To clarify at the outset and to obtain perspective this application is for the construction of a 40,000 sq ft store, the National Grid application proposes to erect a 32,000 sq ft (up to 34,000 sq ft if mezzanine included) store and to aid comparison the existing Morrisons store is roughly 21,000 sq ft.

2.0 FURTHER REPRESENTATIONS

Eleven further letters of objection in a standard format similar to many previously received have been submitted since Supplementary Report 3. These are from:

- Richard McFadden 8 Nelson Street Dunoon Argyll And Bute PA23 7EL
- Sheina McFadden 8 Nelson Street Dunoon Argyll And Bute PA23 7EL
- Dr Pryne Strachurmore Farm Strachur PA27 8DW
- Rhona Galbraith 4 Gordon Street Dunoon PA23 7EJ
- Renee Bischoft 4 Gordon Street Dunoon Argyll And Bute PA23 7EJ
- Liz Dow 7 Letters Way Mid Letters Strachur PA27 8DP
- Dorothy Bryden 141 Victoria Road Dunoon Argyll And Bute
- Decie McConnochie Broom Lodge 19 Wyndham Road Innellan Dunoon PA23 7
- Linda Andrews 20 Ros-Mhor Gardens Sandbank Dunoon PA23 8
- G Thomson 108 Dixon Avenue Kirn Dunoon PA23 8
- Alex Ferguson, K4 Hafton, Hunters Quay, Dunoon

One e-mail of support has been received from Audrey Forrest, 131 Argyll Road, Dunoon.

The further letters of representation raise no new issues.

3.0 FURTHER CLARIFICATION REGARDING GAS WORKS SITE & APPLICATION

A planning application for the construction of a new 32,000 sq ft supermarket was submitted on 6th May (ref 11/00689/PPP). At time of writing a full validation check of the application had not been completed but on initial sight it appeared to have sufficient information to be registered. A verbal update on the progress of this application shall be provided to Members at the Committee.

This is obviously a significant material consideration demonstrating National Grid's intent and belief that their site is deliverable and is of an adequate size to accommodate a commercially viable supermarket.

The recent submission of an application supplements a letter dated 21 April 2011 from Montagu Evans on behalf of National Grid Property which confirms that:-

- The former gas works site could easily accommodate a standard retail food store format extending to in the region of 32,000 sq ft gross (not including any additional land outside their ownership)
- Feasibility work presupposes a net convenience retail element of the size proposed by CWP in their application. Assuming a 60/40 gross to net floorspace split, and in the region of a 80/20 convenience/comparison ratio on a store of 32,000 sq ft
- Therefore, CWP's assertions in relation to the retention of leakage apply equally to a foodstore proposal (convenience floorspace) of this scale on the NGP site
- Agents acting on behalf of NGP have been in discussions with supermarket operators who have indicated that their requirement for Dunoon would be more in line with that proposed at the NGP site
- National Grid have recently taken a strategic decision that sites such as the former gas works site can be marketed for development. National Grid are

committed to the development of the former gas works site and has promoted it for development through the process to prepare the Argyll and Bute Local Development Plan.

- National Grid have remediated the site and recent ground investigation confirms that there are no abnormal ground conditions which would prevent or restrict development or require the use of non-standard methods of ground works and construction
- Consultants acting on behalf of National Grid have discussed the principle of access to the site from Hamilton Street with the Council. The Council were content at that time that adequate junction sightlines could be achieved. *(This was confirmed to National Grid's consultants at a meeting on 5th Oct 2010, subject to a Traffic Impact Assessment and detailed design.)*
- Extensive work has now been undertaken by consultants concluding that the residual risk of flooding at the site is low and that the presence of the Milton Burn within the vicinity of the site will not significantly preclude or indeed compromise redevelopment of the site.
- The NGP site is sequentially preferable in retail terms to that of the CWP proposal. Indeed the NGP site is acknowledged within the retail statement (revised) submitted in support of the CWP proposals as a sequentially preferable site by virtue of its consideration in section 5.0 of the assessment. On the basis of the above it is entirely competent to consider the NGP site as being a comparable proposal in the context of the application of the sequential approach. Failure to fully afford appropriate weight to the availability of such a sequentially preferable, suitable and deliverable alternative could result in there being grounds for a legal challenge.

An email on 5th May also confirmed:-

- A store of 40,000 sqft gross could be accommodated on a wider site, which would include the NG site, together with additional land to the west of Milton Burn. However, there would be issues in the development of a suitable store format, given the nature of its shape and resultant technical issues including traversing the burn. For these reasons, NG do not intend to build a store of 40,000 sqft gross, but rather will apply for planning permission to develop a store of some 34,000 sq ft gross (inclusive of a mezzanine floor which does not require planning consent)

While this proposal may be broadly comparable to the current application by CWP in terms of convenience floorspace, it would deliver substantially less comparison floorspace than of the CWP proposal. Furthermore, it does not include a petrol filling station. Consequently, it may be argued that it would fail to deliver the clawback of retail expenditure spent outwith Dunoon upon which CWP seeks to justify its proposal. Nevertheless, the submission on behalf of NGP does indicate that the potential of the gasworks site to address the retail needs of Dunoon as a sequentially preferable option has not been adequately addressed in the current application.

In response to the further information from National Grid the applicant in a letter dated 4th May 2011 has provided:-

There (National Grid) feasibility work suggests that the car parking numbers for this size of store would be 123 spaces. This is a complete contradiction in terms as the operators would never even contemplate taking a foodstore of this size with that number of car parking spaces. This is why we have always maintained that a store of 20,000 sq ft with 120 car parking spaces would be the maximum size that could be accommodated on this site as the operators

will not compromise the car parking ratio due to the direct affect it has on their ability to trade successfully. They must have a clear balance between the store size and the number of spaces required.

I am at a loss as to why Montagu Evans continue to maintain that the operators would consider a store of this size in Dunoon with that number of car parking spaces. I can only suggest that it is a continued attempt to try and derail our proposals and given that they have not submitted a planning application this assertion is further compounded.

I would like to reiterate that our planning application, which is for 40,000 sq ft with 240 car parking spaces and a petrol filling station reflects the operators requirements and fits within the definition of a "standard retail foodstore format".

Montagu Evans make a number of other assertions about the sites availability, access and flood risk but again there is no hard evidence that these issues can be resolved

Whilst the the above is explicit in terms of the applicant's position and recent appeal decisions also highlight that a degree of cognisance should be afforded to operator requirements, Members must note that this does not prejudice their ability to consider any site below 40,000sq ft as a viable alternative. The viability of any store smaller than the 40,000sq ft threshold will be dependent on market forces including range of goods (comparison and convenience), location and demographics.

What is clear from the recent information is that a store of a size comparable to the current proposal cannot be accommodated on the sequentially preferable National Grid site either in isolation or in partnership with adjacent landowners. Notwithstanding this, the Planning Department still retains the original recommendation for refusal viewing the National Grid as a effective site closer to the town centre, albeit on a smaller scale that the current proposal.

Members should refresh themselves with the original officers report section C(ii) which provides a retail impact assessment for both the proposed store and a representative smaller (27,000 sq ft) store and concludes:-

.....as a store of 2500 sqm (27,000 sq ft) gross which would equate to about 1600 sqm net, with a 75% convenience and 25% comparison goods split, would more than accommodate the available expenditure. As such, it is considered that the applicants have not met the requirements of the sequential test, in discounting the former gas works site which is located in a sequentially preferable edge of town centre location.

4.0 FURTHER INFORMATION FROM APPLICANT ON PLANNING GAIN

Members also continued the determination of the application for clarification on planning gain matters which were verbally offered by the applicant during the hearing. Elements of planning gain were explored in response to impacts on the town centre and in relation to the partial loss of Potential Development Area (PDA 2/5) amounting to around 34 residential units inclusive of 9 affordable units.

As such, the developer has written confirming that they would provide planning gain should Members be minded to approve the application in order to assist and mitigate the loss of the affordable units and address impacts on the vibrancy of town centre. The magnitude of these contributions amount to:-

- £80,000 for town centre environmental improvements; and

- £67,000 (£7,500 per unit) for loss of affordable housing to be invested in Strategic Housing Fund

The affordable housing contribution has been calculated by a residential estate agent on behalf of the developer who considers the plot value for each unit in this location and nature to be £7,500

In the Planning Departments opinion this is a disproportionately low contribution toward realistically delivering affordable housing. In our view, the calculation of a commuted sum, instead of onsite provision, should be based upon the value of serviced land for the provision of housing, acquired on the open market. We need more evidence to demonstrate that it is possible to acquire serviced land for general housebuilding at these levels. It would be normal practise to get the District Valuer to provide these figures, with the applicant expected to pay his fees.

Any contributions for town centre improvements are most likely to be delivered through CHORD which currently proposes £2m worth of environmental improvement in Dunoon. The developer seeks to calculate their contribution taking note of the recently Member approved Tesco Campbeltown store as a benchmark. Given that the Tesco store was 60,000 sq ft with a planning gain of £147,000 to mitigate negative impacts on the town centre the applicant has afforded a pro rata calculation to this smaller 40,000 sq ft store resulting in a proposed payment of £80,000.

In assessing this £80,000 figure against the benchmark of Tesco Campbeltown (£147,000) it is imperative to note some key differentials. Firstly, in Campbeltown the proposal was for the closure of the existing out of town store and replacement within a sequentially preferable location closer to the town centre. Secondly, the application was linked to and enabled the relocation of the Campbeltown Creamery to a new modern facility which had already been approved thereby retaining / facilitating employment and economic activity of a major employer in the area which required a new facility. Whilst the applicant for the current proposal has intimated there is an aspiration and legal agreement on the sale of the site to relocate the current Walkers store within Dunoon there is currently no certainty over the current provision nor any planning control over this matter. This aspect could however be controlled via Section 75 if Members are minded to approve requiring the construction or opening of a new store similar to the one which is being displaced prior to commencement of works at the existing site.

Finally and most importantly, the economic and retail impact upon both of the respective town centers varies significantly. In Campbeltown whilst the store was larger it was assessed to only have an 5.5% impact on convenience goods and no impact on comparison goods in relation to the town centre again taking cognizance of it being a replacement store closer to the town. However in Dunoon, this smaller store in an out of town location shows an anticipated impact on convenience shops within the town centre of 14.7% and 3.7% impact on comparison goods – overall 8%. This overall level of impact is considered to be significant. The retail impact assessment (shown in full at section C of the original report) does not justify a third large foodstore within Dunoon to directly compete with Morrisons and the Co-op that have Main Town Centre and Edge of Centre locations respectively, in addition to the impact on other convenience/comparison outlets in the Town Centre and surrounding areas. Furthermore it must be noted that the assumption that significant leakage can be arrested by proposing a superstore that is more than twice the size of Morrisons does not square with the discrepancies in terms of trips made outwith the peninsula to undertake main food shopping which may be ancillary to trips outside of Cowal for employment or leisure. To this extent it is considered that the impact on Dunoon's

town centre is significantly greater and more challenging to mitigate than the impact identified in Campbeltown and therefore should have a bearing on level of contribution required to offset the deflection from the existing businesses in the town centre and assist with town centre improvements.

In conclusion it is considered that the proposed £67,000 for affordable housing and £80,000 for town centre improvements is insufficient to adequately mitigate the significant adverse impacts predicted to bring it within a threshold that could be viewed as consistent with the Local Plan or even as a minor departure

5.0 Conclusion

The additional information and submission of an application has clarified National Grid's position that whilst they can only deliver a store with a maximum gross floor space of around 32,000 sq ft (34,000 sq ft inc mezzanine) but maintain this is of a sufficient size to address leakage in Dunoon without significantly affecting the town centre. It has also confirmed that they do not wish to proceed with land assembly in conjunction with adjacent landowners to increase the physical size of a potential store on their site and they are confident about delivering a store that shall be of interest to operators and have submitted a planning application to this extent although invalid at this stage.

From the developers perspective they have rebutted the claims by National Grid that their site can deliver anything around 30,000 sq ft and maintain their position that the 40,000 sq ft is most commercially viable, operator efficient / attractive and will address the leakage in Dunoon by providing a wider range of goods especially comparison and petrol station whilst unlocking the wider residential site. They have also offered £147,000 in planning gain to mitigate the loss of 9 affordable units and negative impact on the town centre.

Whilst the new information has clarified certain issues as requested by Members the Officers recommendation remains as per the original report as one for refusal and listed 4 reasons for refusal as per section 'R'.

In direct response to the new information the retail impact assessment in the original report assessed a retail unit of approximately 27,000 sq ft as a sequentially preferable alternative and noted that this medium sized store would adequately accommodate leaked expenditure in the area and is in a sequentially preferable location.

Nevertheless, there is still rebuttal and doubt expressed by the applicant that the National Grid site can be progressed due to constraints afforded by flooding, parking, access and configuration to actually to deliver a commercially viable supermarket that adequately addresses retail leakage. **Given an application has now been submitted for the National Grid land it may be prudent to consider this new application and assess the site's effectiveness / deliverability before the current application is determined.** The period of time to assess the new application (11/00689/PPP) is likely to be in the region of 2 months.

Notwithstanding this, the current level of planning gain, as proposed by CWP for the Walkers site, is not considered to be of a level that will meaningfully offset the loss of 9 affordable units or contribute towards town centre improvements of a scale relative to the potential significant impact.

It is therefore recommended that planning permission be refused as per the original report.

If Members are minded to approve giving merit to current level of planning gain offered and disregard of sequentially preferable site then we would recommend the application to be a significant departure from the Local Plan thereby requiring Full Council endorsement.

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**Angus J Gilmour
Head of Planning & Regulatory Services**

9th May 2011

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT 3

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of further letters of representation and a plan from Montague Evans on behalf of National Grid.

2.0 FURTHER REPRESENTATIONS

Seven further letters of support and one letter of objection have been submitted since Supplementary Report 2. These are from:

Support

- William Rankin & family, 32 Sandhaven, Sandbank (e-mail dated 2 April 2011)
- Catherine Fraser, Dunoon (e-mail dated 5 April 2011)
- Tom & Sue McKillop, Broxwood Cottage, Sandbank (e-mail dated 6 April 2011)
- Audrey Forrest, 131 Argyll Road, Dunoon (e-mail dated 6 April 2011)
- Mr & Mrs Trybis, Toward (e-mail dated 6 April 2011)
- Douglas McCallum, Hoop House Flat4, 109 Bullwood Road, Bullwood By Dunoon (e-mail dated 6 April 2011)
- Nick & Karen Bancks, Norwood House, Hunter Street, Kirm, Dunoon (letter received 7 April 2011)

Object

- Neil And Pauline Colburn, 4 Hydro Cottage, Cairndow (letter dated 2 April 2011)

The further letters of representation raise no new issues.

4.0 FURTHER PLAN

The plan submitted by Montague Evans (received 7 April 2011) shows a potential development on the former gas works site at Hamilton Street. While this has not been assessed in terms of either retail impact or practicability (access, parking, flood risk etc), it demonstrates a smaller store than proposed in the present application.

5.0 RECOMMENDATION

It is recommended that planning permission be refused as per the original report.

Author: David Eaglesham 01369 708608

Contact Point: David Eaglesham 01369 708608

**Angus J Gilmour
Head of Planning & Regulatory Services**

7 April 2011

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT 2

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of late letters of representation containing petition letters of objection, one further letter from the applicants agent and to clarify some previous information contained in the original planning report dated 4th March 2011 and Supplementary Report 1 dated 15th March 2011.

2.0 FURTHER REPRESENTATIONS

Three further petitions of 484 letters of objection and 11 individual letters of objection (all in pro forma style) have been submitted since Supplementary Report 1. These are from:

- Dinah McDonald, Bookpoint, 6 Deer Park, Glen Massan, Dunoon (letter dated 24th March 2011 enclosing 202 petition letters of objection);
- Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 28th March 2011 enclosing 277 petition letters of objection);
- Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 30th March 2011 enclosing 5 petition letters of objection);
- Claire Conlon, 110 Sandhaven, Sandbank (letter dated 16th March 2011);
- John Nicol, 1 Cherryhill, Hunter Street, Kirn (letter dated 17th March 2011);
- Margaret Nicol, 1 Cherryhill, Hunter Street, Kirn (letter dated 17th March 2011);
- Robert McChlery, 8 Wellington Street, Dunoon (letter dated 22nd March 2011);
- C.A.P McChlery, 8 Wellington Street, Dunoon (letter dated 22nd March 2011);
- G. Judd, Roslea, Wyndham Road, Innellan (letter dated 15th March 2011);
- J. Judd, Roslea, Wyndham Road, Innellan (letter dated 15th March 2011);

- Kenneth McRoberts, 3 Royal Crescent, Dunoon (letter dated 22nd March 2011);
- Fiona McRoberts, 3 Royal Crescent, Dunoon (letter dated 22nd March 2011);

These pro-forma letters of objection state that the signatories “*object to the proposal to build a large out-of-town supermarket selling a similar wide range of non-food goods currently sold in our local high street shops. If this proposal were allowed to go ahead it could result in many of our town centre high street shops and other small shops around the town closing and could decimate our town centre within a few years. Considerable loss of trade from local high streets to new out-of-town supermarkets has already been demonstrated in other small towns such as Dumfries, Dingwall and Alloa.*”

- Mr. R Wall, Stonefield, Strone (letter dated 10th March 2011) objects on the basis that:

*Twenty years ago, the town was much more vibrant and since then we have lost butchers, fishmongers and delicatessens, wholefood shops etc;
The existing shops are already threatened by the existing supermarkets;
The proposed location threatens a precedent to extend the town and kill the centre;
The proposal will destroy native woodland and increase the threat to the small stream;
The paved area of car park and extensive roof area will add to the storm water burden on the sewers and result in more pressure on the sewage system;
The proposal may offer jobs (low paid unproductive) but it will threaten and remove more from existing employment;
Rural shoppers may not be enticed into the town and tourists may stay away.*

- Ben Mitchell (email dated 23rd March 2011) objects on the basis that :

The proposed development would have a deleterious effect on the local community – currently most of the local commerce and services for Dunoon and surrounding area are located within walking distance of a well defined town centre, this plan would fragment that nexus. Cannot see how it would provide any mitigating benefit to the local populace – we already have more than enough developments of this kind.

A further letter has been received from James Barr on behalf of the applicant (dated 30th March 2011). The letter contains statements from CBRE (dated 21st March 2011) clarifying methodology employed using the NSLSP survey information.

3.0 CLARIFICATION INFORMATION

For clarification it should be noted that the original petition received from Walkers Garden Centre (letter dated 28th October 2010) contained 860 letters of petition, not 850 as stated in the letter. It should also be clarified that this standard petition letter included the following:

“I support CWP’s plans to bring a new supermarket to Dunoon on the site of Walker Home and Garden Centre and land to the rear. This will bring added choice, more competition and 280 new local jobs and will allow Walkers to relocate and expand their business in Dunoon”.

As an addendum to Supplementary Report 1, the following objections were not included in the list of objectors in Appendix B;

- KRM Adams, 54 Shore Road, Innellan (letter dated 4th September 2010);
- Miss N J Potts, Kilmun (email dated 22nd October 2010);
- Mrs. P Evans, Bhenn Tower, Ardenslate Road, Kirn (email dated 26th October 2010);

An email was also received from Brian Chennell (dated 13th September 2010) confirming that the Dunoon and Cowal Business Association conducted another survey amongst its members regarding the proposed supermarket development and the results of this secret ballot were:

For development – 25
Against development – 35
No decision – 16.

4.0 ASSESSMENT

Given the late batches of representations, it may be beneficial to update Members of representations received to date.

Objections

387 petition letters (under cover letter 10th March 2011)
202 petition letters (under cover letter 24th March 2011)
277 petition letters (under cover letter 28th March 2011);
5 petition letters (under cover letter 30th March 2011);
14 individual petition letters;
29 non-standard letters.

914 Total number of letters of objection

Support

860 petition letters (under cover letter 28th October 2010);
205 petition letters received individually;
3 non-standard letters (not included in Appendix B of Supplementary Report 1);
17 non-standard letters.

1085 Total number of letters of support.

5.0 RECOMMENDATION

It is recommended that planning permission be refused as per the original report.

Author: Brian Close 01369 708604

Contact Point: David Eaglesham 01369 708608

**Angus J Gilmour
Head of Planning & Regulatory Services**

30 March 2011

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Argyll and Bute Council
Development and Infrastructure Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

SUPPLEMENTARY REPORT 1

1.0 SUMMARY

The purpose of this supplementary report is to confirm the receipt of late letters of representation containing supporting information from James Barr (agents for CWP) in respect of this application and from local residents.

The first of these (dated 3rd March 2011) relates to matters discussed at a meeting on 15th February 2011 and recent correspondence received from agents representing the National Grid site (Montagu Evans) and the Co-op (G L Hearn). The second, (also dated 3rd March 2011) contains further information on potential development of the National Grid site with an indicative layout as supporting information.

5 individual letters of objection and a petition of 387 letters of objection, all in pro forma style, have been submitted. These are from

- Dina McEwen, Sydney Cottage, 8 McArthur Street, Dunoon (letter dated 10th March 2011).
- Noel Fitzpatrick, Upper Hansville, Innellan, Dunoon (letter dated 10th March 2011).
- Kenneth Barr, 11 Dixon Avenue, Kirn, Dunoon (letter dated 13th March 2011).
- Charles M Gardiner, 11 Fairhaven, Kirn, Dunoon (letter dated 12th March 2011).
- Robert Waters, Glenrest, 19 Broomfield Drive, Dunoon (letter dated 12th March 2011).
- Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 15th March 2011 enclosing 387 letters).

These pro-forma letters of objection state that the signatories "*object to the proposal to build a large out-of-town supermarket selling a similar wide range of non-food goods currently sold in our local high street shops. If this proposal were allowed to go ahead it could result in many of our town centre high street shops and other small shops*

around the town closing and could decimate our town centre within a few years. Considerable loss of trade from local high streets to new out-of-town supermarkets has already been demonstrated in other small towns such as Dumfries, Dingwall and Alloa.”

- A letter of support for the application on unspecified grounds has been received from G.F. Johnstone, Dunloskin Cottage, Dunloskin Farm, Sandbank High Road, Dunoon (letter dated 10th March 2011).

I also attach at Appendix B a listing all representations received which was omitted from inclusion with my original report.

2.0 FURTHER SUPPORTING INFORMATION

James Barr note the recent submission by National Grid in terms of developing the gasworks site for retail purposes but consider that this does not alter CWP's position on the site's potential. The submission of a Proposal of Application Notice (PAN) is questioned for a site that is under 2 ha and development under 5,000 sqm. James Barr confirms their position that the site is not suitable or appropriate for the proposed development as per the Planning and Retail Statement and that the actual developable part of their landholdings is around 1 hectare. James Barr dispute the comment made by Montagu Evans that the gasworks site would be capable of accommodating a standard retail format footsore extending to 3,000 sqm that would also be capable of providing car parking and servicing for a store of that size, due to site configuration and relationship to the Milton Burn. For these reasons, CWP has dismissed the National Grid site as a suitable option. For a site to be attractive to modern foodstore operators, the requirement for retailers for a store in Dunoon is a minimum of 40,000 sqft with a petrol filling station, together with appropriate servicing and car parking, which is considered necessary to the level of leakage and clawback.

James Barr also refutes information submitted by Montagu Evans that includes a list of schemes that CWP have been involved with. Some of the information relates to foodstore and non-food retail proposals and other sites had particular requirements. James Barr have cited case law where the retailer's own site requirements need to be taken into consideration in the sequential approach and that an edge of centre site in Dalry was not deemed sequentially preferable as it could not meet the operational needs of the retailers.

James Barr consider that there is no evidence to support the claim that the National Grid site is deliverable and the Council must satisfy itself that it can be delivered in technical terms such as layout, servicing, access, car parking, building footprint, infrastructure, contamination and flooding.

James Barr considers that further objections made on behalf of the Co-op add no new information or matters for consideration.

In relation to a department memo dated 17th February 2011, James Barr suggests that this memo contains inaccurate and misleading information in respect of the average turnover approach taken in the retail assessment. James Barr considers that their application is being judged on inaccurate information and unjustified statement based on inaccurate information.

Department Comment – In relation to the above, the applicants have pointed out that the department had erroneously referred to their original retail impact assessment using average turnovers for all supermarket operators. It is confirmed that the

applicants had suggested a convenience turnover figure of £9000 per sqm in their assessment dated January 2010, and that it was in paragraph 4.42 of their assessment dated September 2010 that they refer to an average convenience turnover of £11,970 per sqm and comparison turnover of £8241 sqm. The applicants have submitted three complete retail assessments, comprising 32 appendices, and 63 tables, as well as numerous other supplementary documents to correct errors which were previously pointed out to them in their original assessments. In the departmental memo, the most relevant information was extracted to help inform the decision making process and primarily referred to the applicant's retail assessments of September 2010 and the revised assessment of January 2011, in as much as it relates to their proposals for a smaller store, and different convenience /comparison floorspace ratios.

James Barr suggests that the department has expressed comments that appear to pre-determine a development before an application is made for the gasworks site. The suggestion that the figures make a case for a smaller store on the gasworks site is prejudicial in terms of specific site location.

Department Comment – In respect of the above, James Barr letter, it is stated that paragraph 15 of the departmental memo is biased against their client's proposal and pre-supports a development proposal which has not yet come forward for determination. The last sentence of paragraph 15 states "*I consider that the applicants have not met the requirements of the sequential test, in discounting the former gas works site, which is located in a sequentially preferable edge of town centre location.*" It is a matter of fact that the former gas works site is within an edge of town centre location as defined in Dunoon Town Centre Map in the Adopted Argyll and Bute Local Plan and is therefore in a sequentially preferable location.

James Barr comments that information contained in the revised Planning and Retail Statement is wrong where the scenario for a smaller store is estimated to clawback expenditure at 40% and not 30% as stated. Additionally, the level of clawback suggested by the department of 50% is at odds with what was previously agreed at 60%. James Barr suggests that the assumption that a smaller store is better placed to clawback leakage than a larger store is not a reasonable position to adopt. This is based on statements regarding 'ambitious' and 'robust' retained convenience expenditure where the difference between assumptions accounts for only 4.25% of a difference.

Department Comment – In respect of the implication that the departmental memo referred to a store of 1045 sqm. convenience floorspace as being acceptable, this is not the case. Comments in the memo referred to the James Barr estimate that the gas works site could accommodate a store of 2500 sqm with 1600 sqm net, and then stated that such as development would be capable of more than accommodating the available expenditure. It should be noted that this amount of floorspace being acceptable was never stated, as any application would have to be accompanied by its own retail assessment, and would be dependent on a number of factors with regard to potential impact. The important aspect of this being that their subsequent points in relation to turnover and clawback of a smaller store and the impact on the town centre and tables 16a, 16b, 17a, 17b, and 18b as attached to their letter dated 3rd March are based on their assumption on level of floorspace, which would be considered acceptable.

James Barr considers that the difference of predicted impact is negligible when compared with estimates by the department considered to be acceptable and this

slight difference in predicted impact could be mitigated through a contribution to the CHORD project.

3.0 ASSESSMENT

In considering the above, Members should be aware that the production of Retail Impact Assessments (RIA) (or 'Planning and Retail Statement' in this case) is not a precise science, due to the variables and assumptions involved in the production of conclusions. It is for that reason that Scottish Planning Policy advocates the 'broad based approach' referred to above. Ultimately, in reaching a conclusion on the merits of the application, it is for Members to conclude what weight to place upon the conclusions of the applicant's RIA and the officers' rejection of its conclusions - a view also expressed by third parties - on the basis of a critique of that RIA.

The department's view remains that the applicant's RIA is ambitious in its assumptions and that the potential impact on Dunoon Town Centre is unacceptable, while any form of mitigation measures would not reduce this impact to an acceptable degree. The department has researched the submitted figures in the RIA thoroughly in the context of the Dunoon and Cowal catchment, and that reliance may be placed upon its conclusions in reaching a decision on the unacceptable nature of the application, notwithstanding the critique presented in letters from James Barr on behalf of the applicant.

4.0 RECOMMENDATION

It is recommended that planning permission be refused as per the original report.

Author: Brian Close 01369 708604

Contact Point: David Eaglesham 01369 708608

Angus J Gilmour

Head of Planning & Regulatory Services

15th March 2011

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 10/00222/PPP

REPRESENTATIONS:

Support

1. Thomas MacIntyre, 29 Valrose Terrace, Dunoon (letter dated 13th August 2010);
2. Susan MacIntyre, 29 Valrose Terarace, Dunoon (letter dated 13th August 2010);
3. Mr D Allison, 207 Alexandra Parade, Dunoon (letter dated 12 August 2010);
4. Catherine Docherty, 12 Hafton Court, Dunoon (letter dated 11th August 201);
5. Mrs Barbara Gray, 55 The Glebe, Dunoon (letter dated 11th August 2010);
6. Mr Kevin Gray, 55 The Glebe, Dunoon (letter dated 11th August 2010);
7. Suzanne Nugent, 10 Douglas Cottages, Park Road, Dunoon (letter dated 7th August);
8. Ryan Nugent, 10 Douglas Cottages, Park Road, Dunoon (letter dated 7th August 2010);
9. Scott Marshall, The Hermitage, 20 Park Road, Dunoon (letter dated 7th August 2010);
10. Frances MacDonald, The Hermitage, 20 Park Road, Dunoon (letter dated 7th August 2010);
11. Jill English, Ashton View, 5b George Street, Hunters Quay (letter dated 10th August 2010);
12. David Crowe, Ashton View, 5b George Street, Hunters Quay (letter dated 10th August 2010);
13. Laura Sands, 30 Cromwell Street, Dunoon (letter dated 10th August 2010);
14. Louise Murphy, 105/109 Bell Street, Glasgow (letter dated 10th August 2010);
15. Ross Ferrier, 105/109 Bell Street, Glasgow (letter dated 10th August 2010);
16. Yvonne Lamb, 97 Snadhaven, Dunoon (letter dated 10th August 2010);
17. Shelia M Cameron, 2 Tom Nah Ragh, Dalinlonghart (letter dated 11th August 2010);
18. Janet Gillespie, 14 Victoria Road, Dunoon (letter dated 11th August 2010);
19. Sarah Anderson, 39c Glenmorag Crescent, Dunoon (letter dated 11th August 2010);
20. Steven Galloway, 4 Kilbride Road, Dunoon (letter dated 11th August 2010);
21. Abbey McMaster, 39 Glenmorag Crescent, Dunoon (letter dated 11th August 2010);
22. Colin Miller, 99 Alexander Street, Dunoon (letter dated 7th August 2010);
23. Dawn Miller, 99 Alexander Street, Dunoon (letter dated 7th August 2010);
24. Christopher Gray, 55 The Glebe, Dunoon (letter dated 7th August 2010);
25. William Quinn, 135 Alexander Street, Dunoon (letter dated 5th August 2010);
26. Lynn MacFarlane, 103 Auchamore Road, Dunoon (letter dated 5th August 2010);
27. Michelle Allison, 55 The Glebe, Dunoon (letter dated 6th August 2010);
28. Sarah MacFarlane, 103 Auchamore Road, Dunoon (letter dated 5th August 2010);
29. Martin Allison, 207 Alexandra Parade, Kirn, Dunoon (letter dated 7th August 2010);
30. Margaret MacFarlane, 103 Auchamore Road, Dunoon (letter dated 5th August 2010);
31. Karen Quinn, 135 Alexander Street, Dunoon (letter dated 5th August 2010);
32. Carol Mullen, 142 Victoria Road, Dunoon (letter dated 11th August 2010);
33. Amanda Arden, 147 Alexander Street, Dunoon (letter dated 11th August 2010);
34. Turner, 133 Alexander Street, Dunoon (letter dated 11th August 2010);
35. Moira Newall, 31 Fountain Quay, Kirn, Dunoon (letter dated 12th August 2010);
36. Taylor Currie, 96 Bullwood Road (letter dated 12th August 2010);
37. Honor McCutcheon, 141 Bullwood Road (letter dated 12th August 2010);
38. Scott Currie, 141 Bullwood Road (letter dated 12th August 2010);
39. Kerri Pullar, Earltan, High Road, Sandbank, Dunoon (letter dated 12th August 2010);
40. Abbie Ewart, 82 Sandhaven, Sandbank (letter dated 12th August 2010);
41. Alexis Ewart, 82 Sandhaven, Sandbank, Dunoon (letter dated 12th August 2010);
42. Stefan Toremar, 1 Eachaig, Kilmun (letter dated 12th August 2010);
43. Gail Galloway, 9 Dhalling Road, Dunoon (letter dated 12th August 2010);
44. Moira Roberston, 57 Alexander Street, Dunoon (12th August 2010);
45. Glenis Coles, 199 Victoria Road, Dunoon (letter dated 12th August 2010);

46. Bobbie Davie, 68 Queen Street, Dunoon (letter dated 12th August 2010);
47. Chris-Elaine Davie, 68 Queen Street, Dunoon (letter dated 12th August 2010);
48. Kirsty Lauder, 137 Argyll Road. Dunoon (letter dated 13th August 2010);
49. Ms R. Templeton, 1 Machair Cottage, Toward (letter dated 12th August 2010);
50. Catherine MacIntyre, 38 Cowal Place, Dunoon (letter dated 8th August 2010);
51. Devon Dupre-Smith, Hamilton House, 7 Wellington Street, Dunoon (letter dated 8th August 2010);
52. Irene McKendrick, 6 Kilmun Court, Kilmun, Dunoon (letter dated 12th August 2010);
53. Laura MacKendrick, 6 Kilmun Court, Kilmun, Dunoon (letter dated 12th August 2010);
54. E. Smith, Hally Cottage, 6 Clyde Street, Dunoon (letter dated 13th August 2010);
55. D.J. Black, 13 Tigh-Na-Cladach, Bullwood Road, Dunoon (letter dated 16th August 2010)
56. Eileen Brand, 2 Thornwood, Innellan (letter dated 16th August 2010);
57. H. Mathieson, 84c Shore Road, Innellan (letter dated 16th August 2010);
58. Douglas A. Lauffer, North Campbell Road, Innellan (letter dated 16th August 2010);
59. Nigel Potts, 20 Newton Park, Innellan (letter dated 16th August 2010);
60. Vanessa Davie, 68 Queen street, Dunoon (letter dated 17th August 2010);
61. James Elsby, 2 Eton Avenue, Dunoon (letter dated 13th August 2010);
62. Lauren Davie, 68 Queen Street, Dunoon (letter dated 18th August 2010);
63. Sarah Love, 21 Wellington Street, Dunoon (letter dated 17th August 2010);
64. Gavin Galloway, 12 Dixon Avenue, Kirn, Dunoon (letter dated 10th August 2010);
65. Myra Campbell, 53 Queen Street, Dunoon (letter dated 16th August 2010);
66. Christopher Dickson, 7 Lorimer Terrace, Sandbank (letter dated 12th August 2010);
67. Winniefred Sommerville, Flat 1, 129 Edward Street, Dunoon (letter dated 12th August 2010);
68. Kerry MacIntyre, Cairnfield, 125 Edward Street, Dunoon (letter dated 12th August 2010);
69. Edward MacIntyre, 29 Valrose Terrace, Dunoon (letter dated 12th August 2010);
70. Laura Jane Carmichael, 136b Alexander Street, Dunoon (letter dated 12th August 2010);
71. Kelly Marie Walker, 18 Valrose Terrace, Dunoon (letter dated 12th August 2010);
72. Christine Dickson, 7 Lorimer Terrace, Sandbank (letter dated 12th August 2010);
73. Claire Dickson, 38 Cowal Place, Dunoon (letter dated 12 August 2010);
74. M. Hall, 46 Alexander Street, Dunoon (letter dated 8th September 2010);
75. M. McEwan, 9 The Glebe, Dunoon (letter dated 8th September 2010);
76. Mrs Lynn Stewart, Lilybank, 6A Alfred Street, Dunoon (letter dated 23 August 2010);
77. Karen Keith, Madiera Lodge, 32 Edward Street, Dunoon (letter dated 25th August 2010);
78. Kirsten Oliphant, 7 Park Avenue, Dunoon (letter dated 25th August 2010);
79. Patricia MacAlister, 132 John Street, Dunoon (letter dated 25th August 2010);
80. Mary Blincow, 31D Park Road, Dunoon (letter dated 25th August 2010);
81. Billy Stewart, Hope Cottage, Blairmore, Dunoon (letter dated 1st September 2010);
82. Ronald Stokes, 15 Hunter's Grove, Hunters Quay (letter dated 1st September 2010);
83. Melanie Douglas, 46 Alfred Street, Dunoon (letter dated 23rd August 2010);
84. Penny Galloway, Bentre, King Street, Dunoon (letter dated 20th August 2010);
85. Donald Mackay, 130 Fairhaven, Kirn (letter dated 20th August 2010);
86. Peter Campbell, 28 Valrose Terrace, Dunoon (letter dated 8th September 2010);
87. David McMillan, 20 Johnston Terrace, Dunoon (letter dated 9th September 2010);
88. Joan Berndt, 40 Cowal Place, Dunoon (letter dated 9th September 2010);
89. Mrs M. Wilson, Ashton View, 177 Edward Street, Dunoon (letter dated 9th September 2010);
90. Agnes Kerr, 6 Ardyne Terrace, Innellan (letter dated 8th September 2010);
91. Owner/Occupier, 2 Wallace Court, Sandbak (letter dated 8th September 2010);
92. Margaret Munro, 12 Lochan Avenue, Kirn, Dunoon (letter dated 8th September 2010);
93. Craig, 43 Victoria Road, Dunoon (letter dated 8th September 2010);
94. V. Graham, 201 Victoria Road, Dunoon (letter dated 8th September 2010);
95. J. Stewart, 6 Allan Terrace, Sandbank, Dunoon (letter dated 8th September 2010);
96. Owner/Occupier, 213 Edward Street, Dunoon (letter dated 8th September 2010);
97. Macleod, Flat 2/2, Woodford, Dunoon (letter dated 8th September 2010);

98. J. Degning, 6 Ardyne Terrace, Innellan (letter dated 8th September 2010);
99. M. Fergusson, 58 Shore Road, Innellan (letter dated 8th September 2010);
100. Kathie Cameron, 1 Dalriada Grove, Shore Road, Innellan (letter dated 8th September 2010);
101. Barbara McLauchlan, 6 Dalriada Grove, Innellan (letter dated 8th September 2010);
102. Patrick James Burns, 87 Marine Parade, Kirn (letter dated 8th September 2010);
103. Karina Lilika, 73 Alexandra Parade, Dunoon (letter dated 25th August 2010);
104. Liva Krastina, 73 Alexandra Parade, Dunoon (letter dated 25th August 210);
105. Nancy Laursen, 5 Glenmorag Avenue, Dunoon (letter dated 25th August 2010);
106. Crawford, 166 John Street, Dunoon (letter dated 25th August 2010);
107. Alexis Rithchie, Ardvaine, High Road, Sandbank (letter dated 8th August 2010);
108. Shelley Anthony Davies, Cambrai, Green Bank Lane, Kirn (letter dated 2nd August 2010);
109. Rita McKenzie, 56 Ardenslate Road, Kirn (letter dated 3rd August 2010);
110. Sarah Campbell, 41 Eton Avenue, Dunoon (letter dated 3rd August 2010);
111. Owner/Occupier, Flat ½, 133 John Street, Dunoon (letter dated 5th August 2010);
112. Dean Morrison, 1/3, 106 John Street, Dunoon (letter dated 5th September 2010);
113. Susan Pochetta, 13 Hill Street, Dunoon (letter dated 4th September 2010);
114. Ashleigh McKenzie, 30 Dixon Avenue, Kirn (letter dated 6th September 2010);
115. William Honeyball, 16A Clyde Street, Dunoon (letter dated 4th September 2010);
116. Mrs Honeyball, 16A Clyde Street, Dunoon (letter dated 4th September 2010);
117. Johan Jacobs, 3 Kilbride Road, Dunoon (letter dated 3rd September 2010);
118. Jennifer Barron, 29 Marine Parade, Dunoon (letter dated 3rd September 2010);
119. Owner/Occupier, 12 Clyde Street, Kirn, Dunoon (letter dated 2nd September 2010);
120. Jill Emmerson, Eckvale, Sandbank (letter dated 1st September 2010);
121. Mrs A. Henderson, 12 Arthur Terrace, Dunoon (letter dated 23rd August 2010);
122. David Stewart, 151 George Street, Dunoon (letter dated 23rd August 2010);
123. Emma Stewart, 151 George Street, Dunoon (letter dated 23rd August 2010);
124. Angela Kay, 12 Jonston Terrace, Dunoon (letter dated 7th September 2010);
125. Nancy Paterson, 45 Alexandra Parade, Dunoon (letter dated 2nd September 2010);
126. Jannette Reid, 1 Dixon Avenue, Kirn, Dunoon (letter dated 2nd September 2010);
127. Megan Carmichael, 2 Victoria Road, Hunters Quay, Dunoon (letter dated 2nd September 2010);
128. Chloe Dalton. 9 Robertson Terrace, Sandbank (letter dated 2nd September 2010);
129. MR Ian Stewart, Lilybank, 6A Alfred Street, Dunoon (letter dated 23rd August 2010);
130. Joanne McAllister, 24 Ardenslate Crescent, Kirn, Dunoon (letter dated 4th September 2010);
131. Nancy Malcolm. 25 Eton Avenue, Dunoon (letter dated 4th September 2010);
132. Ciorstaidh Dornan, Top Flat, Dalriada, Ferry Brae, Dunoon (letter dated 4th September 2010);
133. J. Birtles, 16 Dixon Avenue, Kirn (letter dated 4th September 2010);
134. Linda McGregor, 0/2, 3 Woodford Grove, Dunoon (letter dated 3rd September 2010);
135. Mathew Maccoll, Flat ½, 8 Argyll Terrace, Dunoon (letter dated 2nd September 2010);
136. Stephen Cole, 6 Ardmhor Road, Dunoon (letter dated 2nd September 2010);
137. Ileen Stokes, 15 Hunter's Grove, Hunters Quay (letter dated 1st September 2010);
138. Michelle McDonald, 90 Dixon Avenue, Dunoon (letter dated 1st September 2010);
139. Owner/Occupier, 4 Kirn Gardens, Kirn (letter dated 1st September 2010);
140. Owner/Occupier, 4 Kirn Gardens, Kirn (letter dated 1st September 2010);
141. Rachell Glendigging, c/o 99 Alexander Street, Dunoon (letter dated 29th August 2010);
142. Robert Glendigging, c/o 99 Alexander Street, Dunoon (letter dated 28th August 2010);
143. Sinitia Mezeiko, 39 Fairhaven, Kirn (letter dated 25th August 2010);
144. Linda Holdurn, 3 Victoria Crescent, Kirn Brae, Dunoon (letter dated 23rd August 2010);
145. Kirsteen McCarron, 11 Bencorrum Brae, Dunoon (letter dated 6th August 2010);
146. Michelle Gray, 207 Alexandra Parade, Kirn (letter dated 6th August 2010);
147. Martin Allison, 207 Alexandra Parade, Kirn (letter dated 6th August 2010);
148. Ian Wilson, 60 Edward Street, Dunoon (letter dated 7th August 2010);

149. Richard Longster, 164 John Street, Dunoon (letter dated 10th August 2010);
150. Roberston, 21 Miller Court, Dunoon (letter dated 10th August 2010);
151. Angela Roberston, Flat 1/3, 59 John Street, Dunoon (letter dated 10th August 2010);
152. James Hamilton, 5 Dixon Place, Kirn (letter dated 18th August 2010);
153. N. Roberston, 9 Johnston Terrace, Dunoon (letter dated 9th August 2010);
154. Alan g. Alan, 58 Argyll Road, Kirn (letter dated 18th August 2010);
155. Alan Stewart, Brackley Cottage, Toward (letter dated 1st September 2010);
156. AM. Houston, 14 McArthur Street, Dunoon (letter dated 18th August 2010);
157. Alison Marshall, 82 Mary Street, Dunoon (letter dated 18th August 2010);
158. Lorraine Galbraith, 32 Dixon Avenue, Kirn (letter dated 18th August 2010);
159. Bruce Thomson, 9A Jane Street, Dunoon (letter dated 18th August 2010);
160. Galloway, Hafton Court, 58 Ardenslate Road, Kirn (letter dated 10th August 2010);
161. Hilda Galloway, Hafton Court, 58 Ardenslate Road, Kirn (letter dated 10th August 2010);
162. John Allison, 207 Alexandra Parade, Kirn (letter dated 10th August 2010);
163. Valerie Kent, 7 Gerhallow, Bullwood, Dunoon (letter dated 6th August 2010);
164. Suzanne Roberston, 164 John Street, Dunoon (letter dated 6th August 2010);
165. Santa Mezeiko. 39 Fairhaven, Kirn (letter dated 25th August 2010);
166. Sintia Fomina, 3 Regent Terrace, Dunoon (letter dated 25th August 2010);
167. David McDermot, 2/3, 53 John Street, Dunoon (letter dated 18th August 2010);
168. David Whyte, 3 Ash Gardens, Kirn (letter dated 18th August 2010);
169. Brian Gray, 8 Dixon Avenue, Kirn (letter dated 18th August 2010);
170. Douglas Ross Gray, 115B Edward Street, Dunoon (letter dated 18th August 2010);
171. John Cargill, 55 Ardenslate Crescent, Kirn (letter dated 8th September 2010);
172. R. Sherville, 27 Fairhaven, Kirn (letter dated 8th September 2010);
173. Graeme Macpherson, 7 Leven Lane, Kirn (letter dated 8th September 2010);
174. Darren Lauffer, 6 Heatherbloom Place, Strone (letter dated 8th September 2010);
175. David Hughes-Barr, 49 Sandhaven, Sandbank (letter dated 7th September 2010);
176. Linda Hughes-Barr, 49 Sandhaven, Sandbank (letter dated 7th September 2010);
177. Elaine Appleby, 15 Fairhaven, Kirn (letter dated 18th August 2010);
178. Irene Allison, 207 Alexandra Parade, Kirn (letter dated 6th August 2010);
179. Patricia McCann, 4 Bogleha Green, Argyll Street, Dunoon (letter dated 18th August 2010);
180. Hazel Galloway, 45 Kilbride Road, Dunoon (letter dated 25th August 2010);
181. Christine Boyle, 193 Alexandra Parade, Dunoon (letter dated 18th August 2010);
182. Sandy MacAlister, 132 John Street, Dunoon (letter dated 25th August 2010);
183. Richard Salisbury, 47 Forest View, Strachur, Cairndow (letter dated 25th August 2010);
184. K.R.M. Adams, Dunadd, 54 Shore Road, Innellan (letter dated 23rd August 2010);
185. Chris Talbot, 12 McKinlay's Quay, Sandbank, Dunoon (letter dated 18th August 2010);
186. Lorna Rae, 58 Dixon Avenue, Kirn (letter dated 13th August 2010);
187. Calum Rae, 58 Dixon Avenue, Kirn (letter dated 14th August 2010);
188. John and Marion Paterson, 67 Sandhaven, Sandbank (letter dated 14th August 2010);
189. Nicola Rae, 58 Dixon Avenue, Kirn (letter dated 13th August 2010);
190. Margaret Holgate, St. Abbs, 24 Shore Road, Innellan (letter received 16th August 2010);
191. Deborah Rycroft, 4 Broxwood Place, Sandbank (letter dated 15th August 2010);
192. Kivanc Altin, 13 Albert Place, Sandbank (letter dated 15th August 2010);
193. Rhona Atlin, 13 Albert Place, Sandbank (letter dated 15th August 2010);
194. John McCombe, 33 Johnston Terrace, Dunoon (letter dated 12th August 2010);
195. Mr D Robson, 29 King Street, Dunoon (letter dated 12th August 2010);
196. Ishbel Fairman, 29 Sandhaven, Sandbank (letter dated 11th August 2010);
197. Mrs. May Gill, 18 Dalriada Grove, Innellan (letter dated 12th August 2010);
198. Doreen MacDonald, 3 Dhailing Park, Kirn (letter dated 10th August 2010);
199. Fiona Morrison, 6 Strawberry Field Road, Crosslee (letter dated 10th August 2010);
200. Melanie Gladwell and Gordon Drummond, 197 Edward Street, Dunoon (letter dated 10th August 2010);
201. Edwina Carter, 38 Park Road, Kirn (letter dated 10th August 2010);

202. Ormonde Ross Carter, 38 Park Road, Kirn (letter dated 10th August 2010);
203. W S Sutherland, Drum Cottage, Kilfinnan (letter dated 10th August 2010);
204. Kevin Lynch, 19 Drumadoon Drive, Helensburgh (letter dated 11th August 2010);
205. Delia Blackmore, Fingal House, 35 Argyll Road, Dunoon (letter dated 10th August 2010);
206. J. Hutchison, 2 Victoria Crescent, Kirn (letter dated 30th July 2010);
207. M. Smith and M. McBride, Ashmore, 9 Brandon Street, Dunoon (letter dated 27th July 2010);
208. Mr. J. Douglas McCallum, Hoop House, Flat 4, 109 Bullwood Road, Innellan (letter dated 16th July 2010);
209. Email
210. Maurice Bianchi, Kilmun (email dated 10th August 2010);
211. Donald Ross and Catherine Ross, 104 Sandhaven, Sandbank (email dated 10th August 2010);
212. W. Craig, 3 Brae Cottages, Sandbank (email dated 27th July 2010);
213. Margaret Holgate, St. Abbs, 24 Shore Road, Innellan (email dated 15th July 2010);
214. Dr. Ann P. Carter and Mr. Clive C. Carter, 4 Hunters Grove, Hunters Quay (email dated 24th July 2010);
215. Susan Watling, Springfield Cottage, Wellington Street, Dunoon (email dated 24th July 2010);
216. Mrs. Lorna Rae, 58 Dixon Avenue, Kirn (email dated 27th July 2010);
217. May Finnie, 11 Cammesreinach Crescent, Hunters Quay (email dated 20th July 2010);
218. Fiona Morrison, 3 Dhalling Park, Kirn (email dated 15th July 2010);
219. Ailsa Allaby, Braehead Cottage, Tighnabruaich (email dated 21st July 2010);
220. Richard McGilvray, Innellan (email dated 20th July 2010);
221. Helen Hackett, Lynnburn, 21 Bullwood Road, Dunoon (email dated 20th July 2010);
222. Mrs. K.B. Wallace (email dated 16th July 2010);
223. Mario Pellicci (email dated 16th July 2010)

Against

1. GVA Grimley representing Wm Morrison Supermarkets plc (letter dated 27th July 2010);
2. GL Hearn representing the Co-operative Group (letters dated 20th May 2010, 27th October 2010 & 23 February 2011);
3. Montagu Evans representing National Grid Property Holdings Ltd. (letters dated 23rd April and 6th May 2010);
4. Mackays Stores Limited trading as M&Co (letter dated 7th September 2010)
5. John C. MacLeod, The Paint and Hardware Shop, 124/126 Argyll Street, Dunoon (letter dated 28th July 2010);
6. Jennifer A. Harrison and Anthony S. Watkins – The Swallow Café, 172 Argyll Street, Dunoon (letter dated 27th July 2010);
7. Jack Gibson – Steven Gibson Ltd. 96 Argyll Street, Dunoon (letters dated 19th June and 20th July 2010);
8. Alan Livingstone, Highland Stores, 152-6 Argyll Street, Dunoon (letter dated 6th December 2010)
9. P. Hegarty and Mhairi Hegarty – Montgomery Butchers, Argyll Street, Dunoon (letter received 20th July 2010);
10. Scott Docherty – The Codfathers Fishmongers, Argyll Street, Dunoon (letter received 20th July 2010);
11. Dinah McDonald – Bookpoint 6 Deer Park, Glen Massan (letters dated 1st June 2010 & 7 February 2011);
12. Brian Cunningham – ECO Health Shop, 40 Cromwell Street, Dunoon (email dated 26th July 2010);
13. Norman Wright - Wrights Clothing, 192 Argyll Street, Dunoon (email dated 22nd July 2010);
14. Murray – Cothouse Services, by Sandbank (email dated 27th July 2010);
15. Email
16. Alastair & Nora Cameron, 2 Avondale Lane, Bullwood Road, Dunoon (letter dated 8th October 2010);
17. John Nicol, 1 Cherryhill, Kirn (letter dated 26th July 2010);
18. Owner/Occupier, 1B Eccles Road, Hunters Quay, Dunoon (letter received 20th July 2010);
19. Vivien Hill, Rosehill, Strachur (letter received 20th July 2010);
20. D. Manson, 3 West Street, Dunoon (letter dated 2nd July 2010);
21. Gordon and Marjorie Roberts, 103 Shore Road, Innellan (letter dated 21st June 2010);
22. Lillian Gardner, Dalchruin, Baycroft, Strachur (letter dated 12th June 2010);
23. Councillor Bruce Marshall (email dated 27th July 2010);
24. Margaret Saidler (emails dated 16th June and 20th July 2010);
25. Gwyneth Maskell (email dated 29th June 2010);
26. Jean Maskell (email dated 9th June 2010);
27. John Quirk, Dunmore House, 203A Alexandra Parade, Dunoon (email dated 26th July 2010);

Representation

- J. Hutchison, 2 Victoria Crescent, Kirn (letter received 30th July 2010).

Argyll and Bute Council
Development and Infrastructure Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 10/00222/PPP

Planning Hierarchy: Major

Applicant: CWP Property Development and Investment

Proposal: Erection of Class 1 foodstore with associated development to include car parking, access road, road bridge, petrol filling station and engineering works.

Site Address: 361 Argyll Street, Dunoon.

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of Class 1 foodstore (3,716 sqm / 40,000sqft gross retail floorspace);
- Formation of car parking (238 spaces);
- Formation of access road and road bridge;
- Erection of petrol filling station;
- Ground engineering works to re-grade site;
- Timber crib retention along banks of Milton Burn.

(ii) Other specified operations

- Connection to public sewer and public water supply
 - Demolition of existing Garden Centre and associated storage and commercial buildings.
-

(B) RECOMMENDATION:

It is recommended that:

- (a) a discretionary local hearing be held, and
 - (b) planning permission be refused for the reasons set out below (in section R).
-

(C) HISTORY:

92/0498/DET001 Change of use and alterations to form garden centre granted 1992;
93/00297/DET Extend retail premises, erect unit & relocate petrol station granted 1993;

94/00385/DET Erection of garage forecourt shop (amended proposals) granted 1994;

05/02264/DET Erection of 2 warehouse storage buildings (Class 6) granted on 27th July 2006. The proposal was never implemented;

07/02189/COU Use of land for the siting of storage containers (retrospective) granted 3 June 2008 and implemented.

09/00003/PAN Proposal of Application Notice for erection of a Class 1 foodstore and associated development to include car parking, access road, road bridges, petrol filling station and engineering works by CWP Property Development and Investment

07/01903/DET Detailed planning application by Kier Homes for a 74 house development on PDA 2/5. This application is currently being considered awaiting additional supporting information.

(D) CONSULTATIONS:

Area Roads Manager (response dated 16th September 2010): No objections subject to conditions and advisory notes. Roads Construction Consent, Road Bond and Road Opening Permit all required. For full details refer to report below.

Public Protection (response dated 25th October 2010): Recommend conditions in respect of contamination of site, noise from development, dust, lighting and operational hours.

Scottish Environment Protection Agency (responses dated 19th March, 14th April 2010): Original objection removed due to submission of revised flood risk information. No objections in principle subject to conditions regarding land raising, site levels and flood management measures including finished floor levels. Advisory notes.

Scottish Water (response dated 25th February 2009): No objections in principle. Due to size of development Scottish Water will have to assess impact on existing infrastructure. Potential capacity issues. Advisory comments.

Flood Alleviation Manager (response dated 31st March and 18th August 2010) :Confirm that proposals in Flood Risk Assessment are acceptable on the understanding that the 'Summary and Conclusions' are implemented and that allowances for freeboard and volumes of surface water discharge to Milton Burn are agreed with the Flooding Authority.

Additional technical comments on Drainage Overview to be incorporated into proposals.

Scottish Natural Heritage (responses dated 29th October 2009, 12th May 2010, and 23rd August 2010): Recommend that a repeat survey be carried out for bats, otters, red squirrel, water vole and breeding birds. In terms of Sea Trout, SNH have forwarded details to Argyll District Salmon Fishery Board.

On the basis of an updated Ecology Report, SNH now satisfied with the conclusions and mitigation measures for otters and breeding birds.

Local Biodiversity Officer (response dated 13th May 2010, 23rd August 2010, and 11th October 2010): Reserve judgement initially. Comments regarding bat and otter surveys and recommend that red squirrel and woodland birds are monitored. Comments regarding Sea Trout and bridge construction in terms of contamination. Recommend that a detailed landscaping plan to include species of biodiversity interest be submitted for the car park and the area around the proposed supermarket.

On the basis of the updated Ecology Report, now satisfied with conclusions but would like to see bat boxes placed on retained trees near where felling has take place.

Argyll District Salmon Fishery Board (response dated 27th November 2009): Original comments lodged as part of the Pre Application Consultation process. Comments regarding CAR regulations and mitigation requirements for trout and eels that are present in the Milton Burn that flows from Loch Loskin.

West of Scotland Archaeology Service (response dated 11th March 2010): Comment that the site lies within an area of some archaeological sensitivity based on the presence of recorded sites and finds from various periods. Recommend that a site evaluation be carried out prior to taking a decision. Alternatively a suspensive condition is recommended to establish that a programme of archaeological works be agreed and implemented.

Dunoon Community Council (response received 12th March 2010): Object on the basis of traffic congestion in the area, sightlines, noise and light pollution and flooding.

(E) PUBLICITY:

The application was advertised under Regulation 20(1) Advert Statement (publication date 5th August 2010, expiry date 27th August 2010).

(F) REPRESENTATIONS:

Representations: Around 1100 representations have been received with 30 letters/emails of objection and 1070 letters/emails of support. Refer to Appendix for full list of representations.

Supporters

The persons who have written letters of support (1070) are listed in an appendix to this report. The majority of these letters of support take the format of a standard petition letter. Canvassing by Walkers Garden Centre has resulted in a petition with 850 names, and a doorstep campaign by a local business owner has resulted in petition letters totalling approximately 160 names. The grounds of support are summarised as follows:

- The new supermarket will improve the quality of food retail provision in the area;
- The new supermarket will improve choice and bring lower prices for shoppers;
- The new supermarket will provide new job opportunities (standard petition letter.)
- It will save time and money travelling out of Dunoon;
- Proposal will increase the number of people shopping in Dunoon;
- Existing supermarkets are too small and constricted by lack of space;
- Primary opposition appears to be local traders in Argyll Street;
- Many people in Dunoon and Cowal regularly travel across the water for shopping – significant economic gain if this spending could be kept in Dunoon;
- Wish to see large modern supermarket with plenty of choice and toilets;
- Desire to do a single shopping in one store than driving from one supermarket to another;
- Being able to shop, get petrol, coffee and the toilet in one place would be a bonus;

It should be noted that a letter from Kier Homes (dated 15th December 2010) confirms that Kier's contract with the landowners allows for the development of the site as part of a mixed-use development to include a foodstore development as proposed. On this

basis, Kier Homes wish to confirm that approval of the proposed foodstore development would not impeded the construction of housing on the remaining part of the site and would potentially rationalise infrastructure provision. In this context. Kier Homes remain committed to the delivery of housing at Dunloskin.

Objectors

Those who have raised objections (30) are listed in an appendix to this report. These include objections from the existing supermarkets, the owners of the Gasworks site and many of the town centre retailers.

- The proposal in an out of centre location will promote unsustainable shopping patterns and will not support Dunoon Town Centre;
- the former Dunoon Gasworks site is in a sequentially preferable location and available for medium scale retail development and therefore the proposal is contrary to PROP SET2 of the Structure Plan and policy LP RET1 of the adopted Argyll and Bute Local Plan;
- the proposal will prejudice the delivery of housing allocations PDA 2/5 and 2/6; the retail impact assessment underestimates the net floorspace and company average of Morrisons and underestimates the turnover of the existing Co-op store that is considerably higher than the figures suggested;
- also feel that company average turnover applied to other convenience floorspace in the catchment are overly conservative;
- do not feel that future projected population growth should be used in the estimation of retail capacity;
- the turnover of the proposed store has been underestimated and the turnover ratios used are much lower than the company average figures for the main foodstores in the UK;
- no justification to support the position that the proposed store would trade at a level significantly below company average levels;
- Surplus of convenience expenditure in the catchment area is not sufficient to support a store of the scale proposed without having a significant adverse impact upon Dunoon Town Centre;
- Maximum trade leakage lower than forecasted based on existing convenience expenditure;
- Proposal would be contrary to SPP8 in that the development would have a detrimental impact on the vitality and viability of Dunoon Town Centre;
- Proposed development is a departure from the Local Plan
- Dunoon currently has two supermarkets, both of which have the potential for expansion;
- Introducing a third supermarket located so far out of town will have result in a drastic decline in footfall in the town centre (town centre shops will see a decrease in turnover of 9.4%).
- Findings in the Retail Impact Study are misleading and biased.
- An independent Retail Impact Study should be carried out to gain an accurate assessment of the impact the development would have on town centre retailers;
- Experience shows that out of town centres have a detrimental impact on traditional town centres;
- The proposal could lead to the closure of one of the existing supermarkets;
- Closure of retail outlets in Dunoon Town Centre will have a detrimental effect on the number of day visitors visiting Dunoon;
- Current economic climate already affecting Dunoon Town Centre in terms of closed shops and struggling businesses;
- Any employment created would be short lived with cumulative impact of closed shops and loss of jobs from existing supermarkets;

- The present regeneration of Dunoon Town Centre would be seriously undermined by an out of town development;
- Morrisons provide a facility for linked trips where its proximity within the town centre allows shoppers to purchase goods from a range of town centre shops from a central parking facility;
- Alternative land uses should be promoted through the local plan process;
- Catchment area cannot sustain three supermarkets and town centre shops;
- Large retailers compete against every type of business trading in the area;
- Contradictions and misleading information in the Planning and Retail Statement;
- Applicant has acknowledged that the store is out of centre and that there will be significant trade diversion from Dunoon town centre;
- Visitors come to Dunoon want to wander the shops in the town centre, not to visit another supermarket;
- Object to the desecration of large areas of natural landscape;
- "The Health of the High Street" by the British Shops and Stores Association stresses the importance of a health High Street and there is a move nationally to revitalise and promote our town centres;
- Suggested similar examples e.g. Huntly are actually experiencing serious problems with an edge of town supermarket competing with town businesses and in breach of convenience only planning conditions;
- Proposed development will exacerbate existing traffic congestion problems;
- Dunoon need improved leisure and social facilities, not another supermarket;
- New junction will cause traffic flow problems especially at peak times;
- Surrounding uses requiring a quick exit i.e. Fire Station, Emergency Ambulance and Hospital;
- Bridges across the Milton Burn are a potential for flooding;

The owners of the Gasworks site (National Grid Property) have confirmed (letter dated 28th February 2011) that their site is available for redevelopment for an appropriate use on vacant land that is sequentially preferable to the CWP proposal. NGP also confirm that they are actively considering submitting a Proposal of Application Notice (PAN) with the intention of submitting a retail planning application in due course.

NGP state that the gasworks site has been remediated in readiness for beneficial reuse and feasibility works undertaken shows that the site could easily accommodate a standard retail foodstore extending in the region of 3,000sqm (32,000sqft) gross.

Contrary to CWP's assertions, NGP do not consider that either the linear shape of the gasworks site or the existence of a watercourse represent insurmountable constraints to redeveloping the site for retail use.

NGP have submitted details from a range of retail schemes that CWP have been involved with where a site of the size of the gasworks site would be attractive to modern food store operators.

In terms of suggestions that the site is at risk of flooding, appropriate mitigation measures can be accommodated which would protect proposed development at the site whilst not increasing the risk of flooding elsewhere.

The Co-operative Group (represented by GL Hearn) in their letter dated 24th February 2011 state that the revised retail statement continues to rely upon data sourced from the National Survey of Local Shopping Patterns (NSLSP) patterns to support the views on the turnover of existing retail floorspace and the leakage of trade stores outwith the catchment area. It is suggested that the NSLSPIS not sufficiently robust to be applied at a local level and is not an appropriate tool for estimating the turnover of existing retail floorspace. A well designed household survey is considered to provide more accurate information such as: - specific stores used by main food shoppers, reason for visiting certain stores, how they travel, whether they are undertaking linked trips and how much they spend in each store. These views are supported by the Scottish Government's 2007 research paper on retail planning which establishes that only well designed

household surveys can be used to provide estimates of the turnover of existing floorspace and even then, that household surveys cannot provide 100% accurate information on expenditure flows and turnover rates.

It is concluded that there is no justification for a large out-of-centre foodstore and the scale is likely to have a significant adverse impact on the vitality and viability of the existing shopping facilities in Dunoon town centre. Despite revising their Retail Impact Analysis, the applicants have not offered any meaningful justification to support their view that the proposed store will trade below company average levels and will have a limited impact on Dunoon town centre.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** Yes.

Revised Design and Access Statement (December 2010) states that *the topography of the site has dictated the orientation and location of the building. Existing and proposed screening in addition to excavation and use of a curved roof will all help to integrate the building into the landscape. While buildings are indicative at this stage, careful use of materials for the foodstore building and petrol filling station will reduce any perceived bulk. The organisation of the car park into rows makes navigating in and out of the store easy for vehicles and customers. The extruded entrance lobby can be clearly identified giving legibility to the scheme. The statement concludes that the proposed development aims to achieve the qualities of successful, places as highlighted by PAN67: to be welcoming, adaptable, easy to get to and move around, safe and pleasant, resource efficient and distinctive.*

- (iv) A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

'Planning and Retail Statement' (Revised) dated January 2011 by James Barr;
Concludes that the proposed development:-

- *is acceptable in the context of National, Strategic and Local planning policy;*
- *is consistent with the aims and objectives of the PDA allocation as it seeks to assist in the delivery of housing units;*
- *can be considered consistent with policy PROP SET 2 and Policy LP RET1 of the Local Plan;*
- *meets the sequential approach as there are no suitable sites or vacant premises located within or adjacent to the town centre and the site is an out of centre site that is easily accessible by a choice of modes of transport, particularly walking;*
- *will meet both a quantitative and qualitative deficiency within catchment and town;*
- *will improve customer choice where retail provision is limited for main food shopping;*
- *is easily accessible by pedestrians and public transport;*

- *will not have a significant adverse impact on Dunoon Town Centre; and,*
- *will provide additional employment opportunities in the local area.*

'Transport Assessment' dated February 2010 by Savell Bird & Axon; The Transport Assessment confirms that the local road network will continue to operate within capacity with the addition of traffic associated with the proposed development. The proposal includes a number of features to improve accessibility e.g. footway along the southern side of the supermarket access road, replacement footway along Argyll Street frontage, provision of cycle stands and retention and relocation of two bus stops on Argyll Street. A Travel Plan will also require to be developed and agreed with the Council.

The 'Design and Access Statement' (revised December 2010) states that the building and external works aim to be welcoming, flexible inclusive and convenient for all regardless of age or disability. A continuous pedestrian route will be provided from Argyll Street into the site and along the frontage without ramps or stairs. Cycle stands, accessible parking spaces and parent and child parking spaces are all proposed.

'Flood Risk Assessment' dated 21st January 2010 by Kaya Consulting Ltd.; This assessment considered flood risk from the Milton Burn, from three unnamed tributary watercourses and from surface water run-off generated from outwith the site. The areas proposed for the superstore and petrol filling station are outwith the predicted functional floodplain. However, a number of minor drainage issues can be addressed satisfactorily during the detailed design stage. The eventual bridge design can also be modelled to avoid flood risk to others.

'Site Flooding/Sustainable Drainage Overview Study Rev A' by Scott Bennett Associates dated August 2010; This report incorporates the findings of the Kaya Flood Risk Assessment and contains proposals for flood risk, SUDS measures including surface water storage attenuation below the car park, swales, filter strips and porous paving. The report concludes that based on the strategy and surface water management proposed, there would be no significant flood risk to either the development or to adjacent properties.

'Ecology Report Rev 03' dated July 2010 by CB Consulting and Wild Surveys. The report confirms no statutory designated sites or non-designated sites within or adjacent to the site. Desk and field studies identify otter activity, bats, water voles and breeding birds and appropriate mitigation measures are proposed to avoid or minimise impacts.

'Consultation Report Stage II' dated 1st October 2010 by James Harbison & Co; While not a formal requirement, this document demonstrates the commitment to engage with the communities of Dunoon and Cowal. Further consultations show a cumulative support for the proposals and as at 1st October 2010 1750 names have been gathered from a wide spectrum of the Dunoon and Cowal community based on returns received from public exhibition, Dunoon and Cowal Business Association, Community Council Debate, Senior Citizens' Group. Local survey, Walker's customer petition plus website support and Facebook support.

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:** No. Application is recommended for refusal.
-

- (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.**

'Argyll and Bute Structure Plan' (2002)

STRAT SI 1 - Sustainable Development;
STRAT DC1 - Development Within the Settlements;
STRAT DC7 – Nature Conservation and Development Control;
STRAT HO1 – Housing – Development Control Policy;
STRAT DC8 – Landscape and Development Control;
STRAT DC9 – Historic Environment and Development Control;
STRAT FW2 – Development Impact on Woodland;
STRAT DC10 – Flooding and Land Erosion;
PROP SET2 – Town Centres and Retailing;
PROP TRANS1 - Development Control, Transport and Access.

'Argyll and Bute Local Plan' (2009)

The application site is located within the extended settlement boundary of Dunoon and partly within PDA 2/5 where the following policies are applicable:

LP ENV1 Development Impact on the General Environment;
LP ENV6 Development Impact on Habitats and Species;
LP ENV7 Development Impact on Trees/Woodland;
LP ENV17 Development Impact on Sites of Archaeological Importance;
LP ENV19 Development Setting, Layout and Design (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance;
LP HOU1 General Housing Development;
LP HOU2 Provision of Housing to meet Local Needs including Affordable Housing Provision;
LP HOU4 Housing Green Space;
LP BAD1 Bad Neighbour Development;
LP RET 1 Retail Development in the Towns – The Sequential Approach;
LP SERV1 Private Sewage Treatment Plants and Wastewater Systems;
LP SERV2 Incorporation of Natural Features/Sustainable Drainage Systems (SuDS);
LP SERV3 Drainage Impact Assessment (DIA);
LP SERV7 Contaminated Land;
LP SERV8 Flooding and Land Erosion;
LP TRAN1 Public Access and Rights of Way;
LP TRAN2 Development and Public Transport Accessibility;
LP TRAN3 Special Needs Access Provision;
LP TRAN4 New and Existing, Public Roads and Private Access Regimes;
LP TRAN5 Off site Highway Improvements;
LP TRAN6 Vehicle Parking Provision;

(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 4/2009.

- Scottish Planning Policy (February 2010), paras. 52-65
 - Planning Advice Note 2/2010 – ‘Affordable Housing’;
 - Planning Advice Note 52 – ‘Planning in Small Towns’;
 - Planning Advice Note 59 – ‘Improving Town Centres’;
 - Planning Advice Note 67 – ‘Housing Quality’;
 - Planning Advice Note 68 – ‘Design Statements’;
 - ‘A Policy Statement for Scotland - Designing Places’;
 - Consultee Responses;
 - Third Party Representation;
 - Scottish Government - Town Centre and Retailing Methodologies: Final Report (2007);
 - EKOS (Economic and Social Development) – Dunoon Locality Socio-Economic Baseline Report.
-

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes

As an urban development project exceeding 0.5 hectares in size, the proposal would represent Schedule 2 development under the Regulations. In determining whether the proposal represents EIA development, the Council has considered the selection criteria set out in Schedule 3 of the Regulations. With regard to the characteristics of the development and the environmental sensitivity of the location, it is noted that part of the site is occupied by commercial buildings and the western half of the site allocated in the Argyll and Bute Local Plan for housing development with an application currently being processed. For these reasons, it is considered that the proposed development does not require an EIA.

(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes

‘Pre-application Consultation Report’ dated 27th January 2010 by James Harbison & Co; The Pre-application Consultation (PAC) Report confirmed that a public exhibition was held in Queens Hall on 16/17 October 2009 where approximately 400 people visited and filled out questionnaires. Despite 74% doing their main food shopping in Dunoon, 61% felt that a new supermarket is needed in Dunoon and 70% supported the proposal for a new supermarket on the proposed Argyll Street site. Findings demonstrate a significant leakage of food shoppers who choose to undertake their main weekly shop outside Dunoon and research indicates that the market share to town centre food retailers (excluding Morrisons and the Co-op) is 7%.

(M) Has a sustainability check list been submitted: Yes - received 11th May 2010.

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

(O) Requirement for a hearing (PAN41 or other): Yes

The proposal represents a departure from the Development Plan and is recommended for refusal. In view of the complexity of the proposal, its potential impacts on the landscape and environment of a wider area, and the volume of representations by consultees, affected local businesses and individuals, it is recommended that a discretionary local hearing be held before finally determining the application.

(P) Assessment and summary of determining issues and material considerations

The proposed retail development is located on the north western outskirts of Dunoon, and includes part of a Potential Development Area (PDA 2/5) at Dunloskin Farm identified in the Argyll and Bute Local Plan as suitable for medium density housing (including 25% affordable) development. The site is outwith the identified town centre which is identified as the preferred location for new retail investment. It is also outwith the defined edge of town centre location, which in the absence of suitable town centre sites, is the sequentially preferred location for retail development.

The applicant suggests that there is currently significant trade diversion (or leakage) out of the Dunoon catchment area due to existing choice and quality of main convenience shopping within Dunoon. The applicant feels that a large foodstore at the edge of the Dunoon settlement will arrest that trade diversion offering competition, choice, lower prices and new jobs to Dunoon.

The application site lies within the main town settlement of Dunoon but outwith Dunoon Town Centre and the Edge of Centre zone as identified in the Argyll and Bute Local Plan (August 2009). The proposal is therefore considered as an 'out-of-town' location.

In line with Scottish Planning Policy and the Argyll and Bute Structure Plan policy Prop Set 2, the Argyll and Bute Local Plan establishes a presumption in favour of retail development within town centres, and adopts a sequential approach to retail development outwith town centres, firstly to sites within identified edge of town centre locations, and then to other sites which are accessible or can be made accessible by a choice of means of transport (see policy LP RET 1) elsewhere within the town. The policy requires that in any of these cases that there is no significant detrimental impact on the vitality or viability of existing town centres, and the proposal is consistent with the other structure and local plan policies. The policy allows for a retail impact assessment to be requested to demonstrate the anticipated impact of the proposal on the town centre.

The applicants have therefore submitted a Planning and Retail assessment which seeks to address the policy issues in relation to both the sequential test issue and the retail impact on the town centre. The applicants suggest that the only available alternative site is the former Dunoon Gasworks site on Argyll Street/Hamilton Street, but this site has been discounted due to its size and configuration.

The proposal is also regarded by the applicants as a method to facilitate a residential development in the rear part of Potential Development Area 2/5 Dunloskin Farm, which is currently the subject of an application for 74 houses for the entire site by Kier Homes. The current application must therefore also be assessed on its impact on this potential housing site with almost half of the PDA site proposed for the foodstore and associated buildings and land.

The proposed foodstore would be more than double the size of the existing Morrisons Store and have a petrol filling station and large car park adjacent. The applicants feel that the proposal will keep the trade diversion within Dunoon that would significantly

reduce the number of trips made for main food shopping and keep this lost expenditure within Dunoon.

Around 1100 representations have been received with 30 letters of objection and 1070 letters in support of the application, as detailed in appendices. Many of these indications of support take the form of a petition. Objections have been received from many town centre traders including the two existing supermarkets and the owners of the former Gasworks site who have confirmed that they wish to develop their site for supermarket usage.

The proposal is considered to be contrary to the settlement strategy for Dunoon with policies to support the town centre function as the focus for retailing. It is also considered that the scale and location of the proposed development would have a significant detrimental impact on the viability and vitality of Dunoon Town Centre and other retail outlets. It is considered that the protection of Dunoon Town Centre and its established retailing outlets as a retailing centre and tourist centre outweigh any drawback of perceived leakage to areas outwith the catchment.

Given all of the above, the application is considered to be contrary to policies contained in National Planning Policy Guidance, the Argyll and Bute Structure Plan and the Argyll and Bute Local Plan and does not justify the grant of planning permission.

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

(R) Reasons why Planning Permission in Principle should be refused

1. The proposed development would undermine the settlement strategy that supports Dunoon Town Centre and its edge of centre locations as preferred locations for retail purposes. The proposal to site a major foodstore in an 'out-of-town' location could have the potential to undermine and potentially harm the character and status of Dunoon Town Centre as an established traditional town centre location and function. Accordingly, the proposed development would be contrary to Policy STRAT SI 1, STRAT DC1, PROP SET 2, PROP SET3 and PROP SET4 of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19 and P/PDA 1 of the Argyll and Bute Local Plan (August 2009).
2. The proposal is considered to be contrary to the policy LP RET 1 of the Argyll and Bute Local Plan (August 2009). The proposed foodstore is outwith Dunoon Town Centre, an alternative sequentially better site is available within the edge of town centre, and there is a significant detrimental impact on the vitality and viability of the town centre and other retail outlets, The proposal is not consistent with Development Plan Policy, as the sequential test has not been satisfied, and that it would be possible to provide a smaller store, more appropriate to the catchment area's available expenditure either within the defined town centre, or edge of town centre areas.

Accordingly, the proposed development would be contrary to Scottish Planning Policy (February 2010, paras. 52-65), to PROP SET 2 of the Argyll and Bute Structure Plan (November 2002), and to policy LP RET 1 of the Argyll and Bute Local Plan (August 2009).

3. The proposed foodstore and car parking area is located partly within Potential Development Area (PDA 2/5) identified in the Argyll and Bute Local Plan (August 2009) for housing, and consequently it is therefore not consistent with the other local plan policies relating to development of PDAs and to housing.

Notwithstanding the above conflict with retail policy, an application with an indicative layout for 74 houses had been submitted, the proposed layout submitted shows 42 houses on the rear part of the site, a loss of 32 units. This is a considerable reduction and a clear conflict with the local plan policy for the development of PDAs. Policy LP HOU 2 on affordable housing would also apply to this PDA in its entirety. The layout for the development of the site for housing shows 74 houses, the affordable housing policy requires 19 of these to be affordable, and the proposal would result in the loss of 8 of these.

Accordingly, the proposed development would be contrary to Policy STRAT SI 1, STRAT DC1, PROP SET 2, PROP SET3 and PROP SET4 of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19, HOU1, HOU2 and P/PDA 1 of the Argyll and Bute Local Plan (August 2009).

4. The development proposes a major foodstore on the upper (west) part of the site adjacent to Dunoon Cemetery and adjacent to an area of woodland that is considered to be a key landscape feature. The siting of the building in this upper and highly prominent part of the site would require ground engineering (and retaining features) to re-grade the slopes to accommodate the large commercial building. The commercial building itself would be located in a dominant position at the back of the site and lacks any traditional design features. The indicative curved metal clad roof and bland elevational treatment are typical of a unit within a retail park and do not benefit the semi-rural nature of the application site. The provision of a large car park area in front of the superstore presents an equally bland and urbanised design feature that does not integrate well within the immediate surroundings. Furthermore, the proposed development would diminish the environmental quality of any housing development in the remaining part of Potential Development Area (PDA 2/5) identified in the Argyll and Bute Local Plan.

Accordingly, the proposed development would be contrary to Policies STRAT SI 1, STRAT DC1, of the Argyll and Bute Structure Plan (November 2002), and to policies LP ENV1, ENV19 (*including Appendix A Sustainable Siting and Design Principles*) and Sustainable Design Guidance) and HOU1 of the Argyll and Bute Local Plan (August 2009).

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

No, the application is recommended for refusal.

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

Author of Report: Brian Close

Date: 4th March 2011

Reviewing Officer: David Eaglesham

Date: 4th March 2011

**Angus Gilmour
Head of Planning**

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/00222/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site lies within the Main Town settlement of Dunoon, as defined in the Argyll and Bute Local Plan. In the Argyll and Bute Structure Plan, policy STRAT DC 1 supports development that serves a wide community of interest including 'large scale' development on appropriate infill, rounding-off and re-development sites. Developments which do not accord with this policy are those which are essentially incompatible with the close configuration of land uses found in settlement e.g. development which results in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.

Schedule R1 of Policy LP RET 1 of the Argyll and Bute Local Plan defines 'large scale' retail development as being in excess of 1000sqm gross floor space (the proposal is for 3,716 sqm gross). Dunoon already has two large scale retail foodstores located in the Main Town Centre and Edge of Town Centre. In addition, Structure Plan Policy PROP SET 3 promotes the use of Brownfield sites over Greenfield sites in the interests of sustainable development.

PROP SET 2 of the Argyll and Bute Structure Plan seeks to sustain the viability and vitality of town centres where a sequential approach to retail development will be adopted. Policy LP RET 1 of the Argyll and Bute Local Plan states a presumption in favour of retail development (Use Classes 1, 2 and 3) provided it is within a defined town centre or where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre. Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport and that there would be no significant detrimental impact on the vitality or viability of existing town centres and the proposal is consistent with other Structure and Local Plan policies.

In terms of the retailing policies above, the proposed large scale retail foodstore is at the edge of the settlement of Dunoon but outwith the preferred Main Town Centre and Edge of Centre zones.

The application site includes the eastern half of Potential Development Area 2/5 '*Dunloskin*' that is identified in the Argyll and Bute Local Plan for medium density housing with 25% affordability. An application (ref. 07/01903/DET) for 74 dwellinghouses is currently being considered for PDA 2/5 which proposes an alternative river crossing across the Milton Burn north of Walker's Garden Centre.

It is considered that in land use terms, the location of a third supermarket within Dunoon to serve the convenience shopping needs throughout the Cowal catchment is inconsistent with the Settlement Strategy set out in the Development Plan. The location of a large foodstore at the edge of the settlement has the potential to compete with Dunoon Town Centre and Edge of Centre zone to the detriment of the town centre function. The choice of this particular location at the edge of the settlement is assessed below in terms of the 'sequential approach' to retail development set out in the Scottish Planning Policy (SPP).

Additionally, the proposal would have a significant impact on PDA 2/5 that has been allocated for housing purposes to meet housing provision under PROP SET4 and settlement plans under PROP SET5 of the Argyll and Bute Structure Plan.

Accordingly, in terms of the settlement strategy, the proposal would be inconsistent with policies STRAT SI 1, STRAT DC1, PROP SET2, PROP SET3, PROP SET4 and PROP SET5 of the Argyll and Bute Structure Plan, and policies LP ENV1, LP ENV 19, LP HOU1 and LP RET 1 of the Argyll and Bute Local Plan.

B. Location, Nature and Design of Proposed Development

(a) Location

The application site (2.26 Ha) comprises Walker's Garden Centre and Filling Station and associated commercial and storage units, and a field to the west across the Milton Burn.

The application site is bounded by Dunloskin Farm amongst grazing fields and woodland to the north, A885 Argyll Street and Dunoon Hospital to the east, Dunoon Fire Station, Hamilton Street Yard and Dunoon Cemetery to the south and grazing fields with woodland to the west. The Milton Burn runs through the site from north to south. The site slopes from west to east but lessens towards the Milton Burn where the developed eastern portion of the site is relatively level.

In policy and land use terms, the application site includes the eastern half of Potential Development Area PDA 2/5 'Dunloskin' that is identified for medium density housing with 25% affordability. A proposal for a residential development of 74 houses (ref. 07/01903/DET) is currently being considered but the current proposal would result in the loss of 32 units (including the site's attenuation pond). This scheme involves a different access and would be located north of the existing petrol filling station and potentially involve the re-routing of the Milton Burn.

(b) Nature and Design of Proposed Development

The proposal necessitates the demolition of the entire Walker's Garden Centre site including the petrol filling station and associated commercial, industrial and storage uses.

The proposal involves the erection of a large scale retail foodstore (3,716 sqm / 40,000sqft gross retail floorspace) on the site of the garden centre and land to the west, adjacent to Dunoon Cemetery. An indicative site layout shows the rectangular footprint of a building some 70 x 55 metres, orientated with its long main elevation facing eastwards with the southern gable located a few metres away from the cemetery wall. Images depict a typical modern supermarket building with glazed entrance feature and curved metal roof. A large car parking area is proposed between the foodstore and the Milton Burn that would provide 238 parking spaces including 14 disabled spaces. A new main vehicular access is proposed from the A885 Argyll Street (on the site of the existing Walkers Garden Centre) across the Milton Burn via a new bridge and serving the car park, foodstore service yard and remainder of PDA 2/5 to the west. The proposal also includes the erection of a new petrol filling station with car wash close to the site of the existing facility.

Whilst no end-user has been identified, the applicant comments that the proposed foodstore is aimed at a retail occupier from one of four mainstream food retailers – Tesco, Morrisons, ASDA and Sainsburys. The nature of the store will be predominantly focused on convenience goods to provide for main food shopping requirements but will also include a limited range of comparison goods. The proposed store has a gross external floor space of 3,716 sqm with a total net retail area of 2,228 sqm. This will comprise an estimated 1,448 sqm net convenience goods floor space and 780sqm comparison goods floor space (i.e. a 65/35 convenience/comparison split). It is indicated that a mainstream store such as this could carry over 20,000 lines of goods for sale. This will predominantly concentrate on 'brand' labels but will also include 'own label' brands. Convenience goods provided in the store will include fresh foods such as breads, fruit and vegetables, meats, dairy produce and fish. The store will also have large ranges of pre-packed and frozen foods. A limited range of comparison goods could include such items as CD/DVDs, textiles, towels and bedding. It is suggested that the development could create 280 new permanent jobs in a mixture of full and part-time plus 60 construction jobs.

Policy LP ENV19 of the Argyll and Bute Local Plan includes in Appendix A Sustainable Siting and Design Principles design guidance relative to 'Isolated/Commercial Development';

18.1 the appearance of the development should be considered. The form and pattern of the landscape will largely determine the acceptability of the proposal..... The extent to which the proposal would be clearly visible from public roads, viewpoints and neighbouring local communities is also an important factor.

18.2 When assessing the appearance of isolated commercial development, the Planning Authority will take the following into consideration:

- The size and extent of the proposal. This includes the visual impact of the scheme and the distance/location from which it is visible;*
- The location of the proposal and its landscape setting, including the way in which the development has used the natural contours of the site is of prime importance. A large building must be absorbed by the landscape as much as possible, whether by excavating and building into the landform, using existing landforms to mask the development or screening by new trees;*
- The design and colour of the development(s) and ancillary structures can be used to minimise their perceived bulk and visual impact. Natural materials such as timber and stone will help to fit a large building into the landscape, as will dark natural colours (particularly on the roof).*

In their Design and Access Statement, the applicants comment that the topography of the site has dictated the orientation and location of the building. Existing and proposed tree planting in addition to excavation and use of a curved roof will all help to integrate the building into the landscape. While buildings are indicative at this stage, careful use of materials for the foodstore building and petrol filling station will reduce any perceived bulk.

The proposed metal-roofed supermarket building would be located adjacent to Dunoon Cemetery to the rear of an expansive car parking area. In terms of siting, the Flood Risk Assessment confirms that the proposed superstore and petrol filling station are outwith the predicted functional floodplain of Milton Burn and other watercourses. Accordingly, the siting of the foodstore at the rear of the site will require ground engineering works to re-grade the slopes with potential retaining structures to address the topography of the site. In terms of design, neither the supermarket building nor the car park pays any respect to the semi-rural surroundings and the overall effect is to urbanise the area. The lack of suitable screening and proposed siting, scale, design and materials of the proposed superstore would not be absorbed by the landscape but represent an incongruous feature that would appear alien in its relationship to Dunoon Cemetery and potential housing development to the rear.

Additionally, the location of the supermarket at the rear of the site has the potential to seriously compromise a suitable setting and layout for housing on the remainder of PDA 2/5. The loss of 32 residential units from the 74 houses proposed in the Kier Homes application has implications for resulting site density and ability to produce a harmonious layout in terms of plot ratios, landscaping and integration of key natural features.

It is considered that the proposed development does not respect the landscape character or setting of the area with an incongruous layout and design that is inconsistent with the provisions of Policy LP ENV 19 and Appendix A of the Argyll and Bute Local Plan together with the Council's Design Guide.

Although these issues could be mitigated during consideration of any detailed submission for either the supermarket or the housing within the remainder of the PDA, , **the proposal is considered to be contrary to Policy STRAT SI 1 of the Argyll and Bute Structure Plan 2002 and to Policies LP ENV 1 and ENV 19 and Appendix A of the Argyll and Bute Local Plan (August 2009).**

C. Retail Policy Considerations

In policy terms the retail policy LP RET 1 of the Argyll and Bute Local Plan is the principal policy against which the proposals should be assessed. Also of relevance is the fact that the site of the supermarket and its associated car park forms part of a larger Potential Development Area (PDA 2/5) identified as suitable for housing development, subject to addressing master plan and access constraints.

(i) The Sequential Approach to Retail Development in Towns

Scottish Planning Policy (SPP), Argyll and Bute Structure Plan Proposal PROP SET 2 and Argyll and Bute Local Plan Policy LP RET 1 set out that a sequential approach to site selection for retail development will be undertaken to ensure that new development does not undermine the vitality and viability of existing town centres. The SPP and Local Plan sets out that site locations should be assessed in the following order:

- Town centre sites;
- Edge of centre sites;
- Other commercial centres identified within the development plan;
- Out of centre sites in locations that are, or can be made, easily accessible by a choice of transport modes.

Policy LP RET 1 Retail Development in the Towns – The Sequential Approach

There will be a presumption in favour of retail development (Use classes 1, 2 and 3) provided:

(A) It is within a defined town centre; OR,

(B) Where the developer demonstrates that no suitable sites within defined town centres are available, on the edge of a defined town centre; OR,

(C) Where the developer demonstrates that no suitable sites are available within defined town centres, or on the edge of defined town centres, elsewhere in the town in a location that is or can be made accessible by a choice of means of transport; AND IN ANY OF THESE CASES,

(D) There is no significant detrimental impact on the vitality or viability of existing town centres (the Council may request an assessment at the developer's expense, as it considers necessary, to establish this, and may require applications to be accompanied by a reasoned statement of the anticipated impact of the proposal on the town centre); AND,

(E) The proposal is consistent with the other Structure and Local Plans policies.

The first aspect of LP RET 1 which requires to be considered is the availability of sites within Dunoon town centre, and then edge of town centre locations. Given the traditional nature of the town centre, it is accepted that there are no suitable sites within the town centre its self. However, within the edge of town centre designation the former Dunoon Gasworks site bounded by Argyll Street, Hamilton Street and the Milton Burn and south of Walkers Garden Centre has been assessed by the applicants in terms of the retail sequential test. This site (1.21 Ha / 12,100 sqm) has recently undergone remediation works to cleanse the site of contamination associated with its former use. The site proposed by the

applicants at Walkers/Dunloskin is approximately twice the size of the gas works site, and consequently the applicants are proposing a foodstore with a gross floorspace of 3716 sqm and a net floorspace of 2228 sqm.

The applicants estimate that the smaller former gas works site within the edge of town centre would only be able to accommodate a foodstore of approximately 2500 sqm. They have therefore dismissed the former gas works site as incapable of accommodating the size of the store they propose due to size, configuration and potential flood risk. On this basis, and the fact that no other Edge of Centre locations are available, the applicants consider that it is appropriate to consider the application site as an out-of-centre location that is acceptable in terms of its accessibility by public transport and pedestrians.

While it is acknowledged that part of the former gas works site has been identified in the SEPA Indicative Flood Map as forming part of the functional floodplain of the Milton Burn, this should not in itself rule out any potential development of the site. While the site could be improved by the proposed Milton Burn Flood Prevention Scheme, suitable flood defence mechanisms and compensatory flood storage would still have to be designed into any potential development of the site.

The owners of the gas works site (National Grid Property Holdings) comment that their site represents a sequentially preferable site for retail development. Contrary to the applicant's statement, they consider that neither the linear shape of the site nor the existence of a watercourse across it would detract from the marketability of the site to a modern foodstore operator nor inhibit its development. They have also stated that there is the potential for further land assembly around their landholding. The site, which has recently been subject to a level of remediation, is surplus to National Grid's operational requirements and it is their intention to submit an application proposing retail development at the site. The agents confirm that the Victoria Road site represents a significant brownfield redevelopment opportunity in close proximity to Dunoon Town Centre, sequentially preferable in retail terms to the site of the proposed development. The owners of the site have confirmed that it would be available for retail development.

Given this recent interest shown by the owners of the gasworks site and that an application for retail development may be imminent, it is considered that the former gas works site is available for retail development, and therefore cannot be dismissed solely on the basis of the size of store proposed. It should accordingly be given more detailed consideration in the retail impact assessment which the applicants have submitted in support of their application and is assessed in more detail below.

A retail impact assessment attempts to estimate the potential impact of a new retail development on existing retail provision (particularly within town centres). This involves defining the catchment area of the town, establishing the population of the area, and then calculating the average retail expenditure of the catchment population. This is then compared with an assessment of the turnover of the retail floorspace within the catchment area. Where a surplus is identified this is either considered as export expenditure or attributed as additional expenditure for existing retailers within the catchment area. Having quantified the level of turnover of existing retailers and the available expenditure within the catchment, and the amount exported to other centres, it is then possible to establish if there is sufficient expenditure to support additional floor space. There are a considerable number of variables in these calculations, and a number are based on averages and estimates, and others are relatively subjective.

The following table provides extracts from the tables in the revised retail impact assessment submitted by the applicants in support of their application:

	2010	2014
Population of Catchment	15,411	15,463
Convenience expenditure per capita	£2,079	£2,195
Total convenience expenditure	£32,033,624	£33,941,967
Comparison expenditure per capita	£2,735	£3,109
Total comparison expenditure	£42,155,285	£48,067,043
Estimated convenience turnover in catchment	£21,472,988	£22,752,202
Estimated comparison turnover in catchment	£25,000,000	£25,000,000
Surplus convenience expenditure	£10,560,636	£11,189,766
Surplus comparison expenditure	£17,155,285	£23,067,043

The surplus expenditure is generally taken to represent the amount of money spent by residents of the catchment area in shops outwith Dunoon and Cowal, and in theory would be available to support additional floorspace within the catchment. However, the extent to which this exported expenditure can be retained or clawed back depends on a number of factors, and varies between convenience and comparison goods, and proximity and size of competing retail centres.

In addition to expenditure available from residents within the catchment area, the applicants have made reference to the value of tourism expenditure based on the EKOS report – Dunoon Locality Socio-Economic Baseline. This concludes that tourism is worth £6,300,000 to the area, of which it is estimated by Visit Scotland, 10% or £630,000 would be retail expenditure. The applicants have not incorporated this figure in to their assessment but have stated that this would potentially also be available to support retailing in Dunoon,

In deriving the turnover of the retail floor space within the catchment, the company average turnovers are used for supermarkets and large national multiples, and this approach is normally also used to calculate the turnover of any new store. Where an operator is known, this is usually the companies' average, and where the operator is not known, an average of the top 5 operators is usually used. As this is a company average, there will be stores which trade at under this level and stores which trade at over this level. The level of trading of individual stores depends on a number of factors such as size of store and location, and extent of competition locally. However as retail impact assessments are based on using averages for existing floor space, using these for new proposals helps to retain consistency. There are some instances where using different figures from the average may be justified, for example, where the existing retailers in the town are prepared to disclose a stores actual turnover, or where a proposed operator is known, and where they propose to transfer the actual turnover of an existing store to a new one (such as in the case of Tesco in Campbeltown) and they are therefore well placed to make an assessment of the turnover of the new store.

In relation to this application, the applicants' original retail impact assessment used an average turnover approach for all supermarket operators, where as in the revised retail impact assessments they have adopted a turnover which is 75% of company averages. The following table outlines the effect of these two different approaches on the floorspace of the store as envisaged in the original and first revised retail impact assessment:

Floor space	Average turnover ratio	75% of Average turnover ratio	Turnover based on Average ratio	Turnover based on 75% of average ratio
Convenience 1,858	11,970	8,977	22,240,260	16,679,916
Comparison 557	8,241	6,180	4,590,237	3,442,511
Total turnover	-	-	26,830,497	20,122,427

It should be noted that the applicants have submitted a second revised retail impact assessment based on a reduction of net floorspace by just over 200 sqm but an increase in the proportion of space given over to comparison retailing as follows.

Floor space	75% of Average turnover ratio	Turnover based on 75% of average ratio
Convenience 1448 square metres	£8,977	£11,699,283
Comparison 780 square metres	£6,180	£4,338,676
Total turnover		£16,037,958

While the reduction in the proportion of floorspace given over to convenience and the use of 75% of company average turnover has resulted a reduction of turnover by £5 million, it is considered that this merely reinforces the case for a smaller store located on the former gas works site, as a store of 2500 sqm gross which would equate to about 1600 sqm net, with a 75% convenience and 25% comparison goods split, would more than accommodate the available expenditure. As such, it is considered that the applicants have not met the requirements of the sequential test, in discounting the former gas works site which is located in a sequentially preferable edge of town centre location.

(ii) Appropriate Scale and Location

One of the main thrusts of Scottish Planning Policy is the recognition that *“town centres are a key element to the economic and social fabric of Scotland, acting as centres of employment and services for local communities and a focus for civic activity, and make an important contribution to sustainable economic growth. Town centres should be the focus for a mix of uses including retail, leisure, entertainment, recreation, cultural and community facilitiesthe range and quality of shopping, wider economic and social activity, integration with residential areas and the quality of the environment are key influences on the success of a town centre”*. (para 52).

The SPP also highlights the need for a hierarchical approach to town centres and that any significant changes in the evolving role and functions of centres should be addressed through development plans rather than changes being driven by individual applications. The SPP focuses on town centre strategies and states that the planning system has a significant role in supporting successful town centres through its influence on the type, siting and design of development. This should involve the use of vacant land and under-used land or premises. Actions to support improvements in town centres and to create distinctive and successful places are encouraged and these can range from small scale public realm works to assembly of larger scale development sites which aid regeneration.

The Argyll and Bute Structure Plan also stresses the importance of Dunoon Town Centre as an important shopping focus for the Main Town settlement and wider catchment. The retailing sector is an important component of the economy and fulfils a critical role in sustaining the viability and vitality of the Town Centre. Land use policies which support the competitive retail market have to be balanced with the need to secure the economic

integrity of town centres and to support the use of public transport. The sequential test with a preference for retail developments over 1000sqm gross floorspace to be located in the town centres is appropriate given the limited size of the Argyll and Bute towns and their retail catchment populations.

Despite the applicant stating that the out of centre site is '*easily accessible*' for public transport and pedestrians, the following points should be noted:

- The application site is located approx. 1.2km from the core of the primary retail area taken from the top of Moir Street on Argyll Street; approx 1.1km from Morrisons and approx 0.8km from the Co-op;
- Whilst the site can be made accessible by public transport, it is not particularly accessible for pedestrians walking from the Town Centre or even Edge of Centre areas. The site of the foodstore at the rear of Dunoon Cemetery is not well linked and lacks pedestrian permeability to surrounding residential neighbourhoods;
- The proposed new store is actually located approx 300 metres from the proposed access from Argyll Street with pedestrian access either across the large car park or main junction serving the store;
- Major food shopping tends to favour car borne shoppers than the ability to shop daily from a more accessible town centre location.

In conclusion, the proposed large foodstore would not be readily accessible by shoppers on-foot and is not within easy walking distance from the existing town centre area. Additionally, given the comments in sections (i) and (iii) such a scale and location would compete rather than complement the existing town centre.

(iii) Impact on Vitality and Viability of existing Dunoon Town Centre

The Applicant's Case

The applicants consider that the existing town centre of Dunoon provides goods and services to meet generally daily needs of local residents. The applicants also suggest that Dunoon town centre has a relatively healthy occupancy rate with evidence of investment from a small number of national retailers and strong occupancy levels of independent business. The applicant's feels that Dunoon town centre appears to be well utilised particularly for Class 1, Class 2 and Class 3 services and that the town centre appears healthy with low vacancy rates (12 vacant units/7%), high pedestrian flows and retailers continuing to invest and trade along Argyll Street and throughout the wider town centre area.

The applicants suggest that there are qualitative deficiencies in the available offer in Dunoon and that the new superstore will meet these and result in improved retail options within the town. The RIA notes that Dunoon Town Centre comprises a total of 165 units with a variety of Class 1,2,3,5,7, 10, 11 and sui generis uses (public houses, hot food takeaway etc). Of the Class 1 shops (55%), 43% sell comparison goods, 7% sell food/convenience and 5% sell bulky goods.

The Retail Impact Assessment (RIA) submitted by the applicants suggests that Dunoon suffers from a significant level of convenience expenditure leakage and there is a need for quantitative and qualitative improvement, particularly relating to main food shopping. It is suggested that this level of leakage points to lack of provision, choice and variety meaning that residents and shoppers from Dunoon and Cowal choose to make trips to other locations outwith the Dunoon catchment area to undertake main food shopping. As a consequence, the proposed development does not aim to compete with the existing town centre but aims to recapture the locally derived expenditure (leakage) lost to Inverclyde and

beyond. The RIA suggests that Morrisons retains around 40% of the local convenience expenditure whilst overall the town centre accounts for 65% of the locally derived expenditure. The applicants suggests that the most significant factor is the level of leakage which is estimated at 33% of locally derived expenditure which is almost the same amount of money spent in Morrisons being spent outwith the Dunoon and Cowal catchment. The RIA anticipates that the proposed store would account for 34% of the available convenience expenditure with the small amount of comparison floorspace being insignificant in terms of comparison turnover from the catchment.

Assessment

In addition to assessing the expenditure capacity of the catchment area population, the retail impact assessment submitted by the applicants seeks to calculate the likely impact of the proposed new floorspace on the existing retail provision within the catchment, and more particularly Dunoon town centre. In assessing the impact on existing floorspace consideration has been given to a number of factors. These include; the amount of expenditure currently spent outwith the area; an assessment of the capacity of the new store to claw back that expenditure; and the extent to which the new store will compete with existing retail floorspace thereby diverting trade from them to be spent in the new shop. Also to be taken in to consideration, is the extent to which tourism expenditure and trade from people living outwith the primary catchment area e.g. Inveraray contribute to the expenditure available to support retailing in Dunoon. These variables could have a significant effect on the predicted impact on the town centre.

Table 1 below includes a compilation of floorspace comparison figures extracted from the RIA to illustrate some of the comments made in this section and scale/impact of the proposed foodstore.

Table 1 : Comparison of floor space (extract from submitted Retail Impact Assessment)

	Proposed Store	Existing Morrisons	Existing CO-OP	Town Centre Shops	Out of Centre Shops
Gross floor area	3,716sqm	(2,145sqm*)	(1,250sqm*)	-	-
Net retail area	2,228sqm	1,035sqm	1,000sqm	500sqm	200sqm

**Gross external area taken from GIS plan, not from agent figures.*

The applicants have submitted figures which demonstrate the effect that they believe the new store will have on the turnover of existing stores. This indicates that taking all of the above factors into consideration, that the proposed store will have an impact of 14.7% on the turnover of convenience stores within the town centre. There would also be a 34.2% impact on the turnover of other convenience stores in Dunoon outwith the town centre, and an impact of 9.2% on the turnover of convenience shops in villages. These levels of impacts assume that 60% of the new stores turnover can come from the clawback of exported expenditure. This would mean that the proposed new store and the existing convenience floorspace would be expected to retain 88% of the convenience expenditure which is currently spent outwith Dunoon. The retention of this level of exported convenience expenditure may be ambitious, particularly because the applicants have predicated their argument that the proposed store requires to be in the order of 4000 sqm gross to allow it to be of a size and a scale which is large enough to enable it to compete with the superstores in Inverclyde and West Dunbartonshire where people from Cowal

currently shop. Indeed, the applicants have provided an alternative scenario of a smaller store with a net convenience floorspace of 1045 sqm where they expect only 30% of the turnover to come from clawback of leakage, and this would equate to only 18.8% of the leaked expenditure, this level of clawback is low, and has been used to demonstrate the applicants opinion that a smaller store would have a greater impact on convenience retailing in the town centre than the store they have proposed. A more robust assumption might be to assume a 50% clawback of leaked expenditure.

The revised January 2011 retail impact assessment is based upon a smaller store where convenience floorspace has been reduced by 406 sqm and comparison floorspace is increased by 223 sqm. This has the effect of increasing the comparison floorspace from 23% of sales floorspace to 35% (previously a 77:23 convenience/comparison split but now a 65:35 split). The proposed turnover of comparison goods increases to £4,820,751 with £4,338,676 or an extra £896,165 from the catchment as a result. The applicants have indicated that they expect the majority (75%) of the comparison turnover of the new store to come from the clawback of expenditure which is spent outwith Dunoon. Twenty per cent of comparison turnover or £867,735 is expected to come from existing shops in the town centre, and this would equate to a 3.7% reduction in the turnover of comparison shops in the town centre. These figures are based on the revised retail impacts' assessment that currently the total amount of comparison expenditure retained in Dunoon is £23,400,000 or 48.7% with just over half being spent in higher order centres such as Glasgow, Braehead, Greenock or Clydebank. The proposed development is based on increasing the retained comparison expenditure to £26,842,511 or 55.8% of all comparison expenditure from the catchment population. Typically, smaller town centres elsewhere can be expected to retain 50% of their catchment area's comparison expenditure. The extent to which currently exported comparison expenditure can be retained is unknown. If the proposed new store was unable to achieve its target of 75% of its comparison turnover from the clawback of exported expenditure, then the impact of the town centre could be much more significant.

Methodology

The Co-op's agents suggest that information derived from the National Survey of Local Shopping Patterns (NSLSP) is not sufficiently robust to be applied at a local level and is not an appropriate tool for estimating the turnover of existing retail floorspace. A well designed household survey (Scottish Government's 2007 research paper) is deemed more reliable where key matters such as specific stores used by main food shoppers, reason for visiting certain stores, how they travel, whether they are undertaking linked trips and how much they spend in each store can all be quantified.

In terms of NSLSP, the Co-op's agents consider that company average turnover rates should be used to model the turnover of exiting and proposed retail floorspace and for a robust estimate of retail impact to be gauged. In the revised RIA, there is no justification for the application of turnover ratios that are significantly below published national average rates where these lower than average turnover ratios hide the true retail impact of the proposed supermarket.

It is considered that the RIA has not adopted a broad-based approach but instead has attempted detailed calculations or forecasts of a sector's growth where small variations or assumptions has led to a wide range of forecasts. In relation to the RIA, the applicant has indicated that the proposed store is aimed at a retailer from ASDA, Morrisons, Sainsburys and Tesco. However the turnover of the proposed store has been estimated as an average of all retailers. It is considered that it may have been more appropriate to use the average turnover of these four retailers, in terms of predicted impact rather than the average of all retailers, given that the applicant has stated that it is the intention to market it to these retailers.

The smaller store shows an anticipated impact on convenience shops within Dunoon town centre of 14.7% (previously 17.1%), and 3.7% (previously 3.7%) impact on comparison

goods. Contrary to the applicant's statement that the proposal will not have a significant impact on Dunoon Town Centre, this overall level of impact 8% (previously 9.1%) is considered to be significant. Furthermore, using revised population and expenditure figures would increase this impact, as would attributing the average turnovers of the prospective operators to the store, further still.

In terms of population of the catchment area and calculation of available expenditure, the applicant's population projections shows a population of 15387 in 2008 increasing slightly to 15455 in 2012. Whilst the department may be prepared to accept this projected increase in population, other recent projections indicate a declining population over the same period. Accordingly, and in line with the advice in paragraph 65 of SPP, it is considered that future growth in population based on housing allocations in the Argyll and Bute Local Plan should not be factored in. Take-up of these housing allocations has slowed considerably over the last two or three years, and it is therefore highly likely that not all of the units planned for will be delivered within the plan period. Furthermore, household sizes in Argyll and Bute continue to fall, and as such even with a high rate of housing completions as factored in to the Local Plan, population levels are likely to remain stable, rather than increase at the rate which the applicant suggests.

In terms of the applicant's Town Centre Health Check Appraisal, the overall score has now been reduced to 3.13 (previously 3.28) and now regarded as fair instead of good. Many factors have been assessed as "very good" or "good" but there is no comparable town to assess this comparison against i.e. how does Dunoon compare to Oban or Helensburgh? It is considered that the applicant's Town Centre Health Check is subjective in nature and does not reflect the more fragile nature of Dunoon's High Street and other retailing areas where vacant units, charity shops and poor shop frontage design should perhaps result in a lower score. It should also be recognised that a significant amount of works have been undertaken on town centre renewal projects to promote an otherwise fragile town centre. The town centre will continue to be the focus for such projects in an attempt to revitalise the town centre area. The presence of an out of town superstore could undermine any ongoing and future proposals to enliven Dunoon Town Centre. Furthermore, the proposed population projections coupled with ambitious take-up of housing allocations and declining household sizes cannot support the forecasted expenditure and growth rates suggested by the applicant.

Conclusions

The RIA confirms that the main source of trade diversion will be predominantly from Morrisons but also from the Co-op store. Whilst the planning system seeks to encourage competition in the market place, this should not be done at the cost of weakening the trading positions of existing convenience and comparison retail outlets within Dunoon Town Centre and Edge of Centre locations. The size of the proposed foodstore, that would be approximately twice the floorspace of Morrisons, has been designed by the applicants specifically to '*compete with the larger stores that shoppers use elsewhere outwith the catchment*'. It is considered that such a scale of foodstore would compete directly with existing supermarkets and have a significant adverse impact on not only Dunoon Town Centre but isolated retail outlets.

Reducing the amount of net floorspace by just under 1000sqm has resulted in an increase in the amount of comparison floorspace (previously a 77:23 convenience/comparison split but now a 65:35 split). Despite the applicants suggestion that almost 50% of comparison expenditure is spent outwith the Dunoon catchment, the potential impact on existing comparison retailers has not been sufficiently demonstrated and the figures provided suggest that this would be a significant and unacceptable trade diversion.

It is interesting to note that, in the Pre-Application Consultation process, the applicant' claim that a '*significant*' number (25%) of residents choose to shop outwith Dunoon and Cowal.

Accordingly, this would mean that the majority of the town and catchment (75%) are happy to shop locally. In any event, the number of responses made at the Pre-application Consultation exhibition (409 responses) and number of representations received as part of this application (1100) are not wholly representative of a town with a population of approximately 10,000 residents within the Dunoon area. The statements in the petition letters are very basic and do not provide an accurate picture of retailing trends in the Dunoon and Cowal areas. Despite the statistics, tables and statements submitted, the shopping trends of Cowal residents are more complex than and not as easy to predict as the submitted RIA would suggest. It would therefore be wrong to assume that the majority of Cowal residents make shopping trips outwith the peninsula for convenience purposes only. Proximity to Inverclyde, Paisley and Glasgow coupled with a deficiency in local employment opportunities, indoor leisure activities and peninsular lifestyles mean that residents will continue to make journeys out of the Cowal area for business, leisure, cultural, social and retail activities. Contrary to the applicant's statements, the provision of a third large foodstore in Dunoon will not arrest the trend of residents wishing to shop locally during the week but planning trips outwith the peninsula at weekends that may also include convenience shopping.

Weakening a high street that already suffers from a number of vacant premises could also have the potential to undermine the tourism strategy that depends on visitors and shoppers to the town centre. The creation of a larger third foodstore will not increase visitor numbers but may well result in a loss of local and niche market retail outlets that combine to give Dunoon town centre its traditional and particular charm.

Given all of the above, it is considered that the proposed foodstore and associated development is contrary to the adopted Argyll and Bute Local Plan policy LP RET 1 part A, as it is outwith the defined town centre; to part B in that the developer has not satisfactorily demonstrated that the former gasworks site within the defined edge of town centre is not suitable; and part D that the size of the proposed store is too large for the available expenditure within the catchment area without having a detrimental impact on the vitality and viability of retailing in the existing town centre. Additionally, it should also be noted that as the western portion of the site is identified as a Potential Development Area for housing in the adopted Local Plan, the proposal would not accord with LP RET 1 part E.

In summary, the retail impact assessment does not justify a third large foodstore within Dunoon to directly compete with Morrisons and the Co-op that have Main Town Centre and Edge of Centre locations respectively, in addition to the impact on other convenience/comparison outlets in the Town Centre and surrounding areas. The assumption that significant leakage can be arrested by proposing a superstore that is more than twice the size of Morrisons does not square with the discrepancies in terms of trips made outwith the peninsula to undertake main food shopping.

On the basis of the above and in terms of the Retail Sequential Test and impact on Dunoon Town Centre and other retail outlets, the proposal is considered to be contrary to Policy LP RET 1 of the Argyll and Bute Local Plan (August 2009).

D. Natural Environment and Biodiversity

The applicant's submitted Ecology Report identified otter activity with regular sprainting along the watercourses within the site, several bat species recorded locally, twenty three species of birds breeding and foraging within the riparian and woodland habitats and water vole recorded locally although field surveys identified no suitable habitat and no presence within the site or adjacent areas. Mitigation measures are proposed to avoid or minimise impacts on otter, breeding birds and the ecological receptors identified.

Both SNH and the Local Biodiversity Officer find the proposals acceptable in principle provided the mitigation measures can be fully implemented.

On the basis of general acceptance and the imposition of necessary safeguarding planning conditions, the proposal could be considered to be consistent with Policy STRAT DC7 of the Argyll and Bute Structure Plan 2002, and policies LP ENV 2 and ENV 6 of the Argyll and Bute Local Plan (August 2009).

E. Impact on Woodland / Landscape Character

There is currently a belt of deciduous trees along the western bank of the Milton Burn that help screen the field to the west, but these are to be removed. An area of mixed deciduous trees to the rear (west) of the proposed foodstore comprises a key landscape feature in the current proposals to develop the entire PDA 2/5 for residential purposes (under application ref. 07/01903/DET). This central woodland feature is anticipated to provide the centrepiece for this development providing commensurate active/ passive open space and recreational areas with a network of paths improving the site for pedestrians. The presence of a large commercial building at the edge of this woodland would not only compromise the habitat of the central woodland but would provide it with a hard urban edge that might not be capable of producing the quality central landscaped/woodland feature expected to be delivered as part of the housing development for the entire site.

While the proposed development, due to its scale and location, would urbanise the site to the detriment of existing habitats along the Milton Burn and central woodland feature and also compromise the layout of an acceptable housing layout for the remainder of PDA 2/5, these issues could be mitigated during consideration of any detailed submission for the supermarket or for the remainder of the housing within the PDA.

Accordingly, the proposed development is not considered to be contrary to Policies LP ENV 1, ENV 7 and ENV 19 of the Argyll and Bute Local Plan (August 2009).

F. Affordable Housing and Revised Housing Layout on PDA 2/5

The current application for a residential development (ref. 07/01903/DET) by Kier Homes requires a 25% affordability provision which in terms of the proposed 74 units represents 19 affordable units. The current proposal if built to the masterplan layout proposed by the applicant would result in the loss of 32 units to the front (east) of the site and deliver only 11 affordable homes (i.e. a net loss of 9 units). The 25% affordability applies to the entire PDA 2/5 and the loss of 9 affordable homes from the currently proposed 74 unit scheme (being considered under current application ref. 07/01903/DET) would require to be compensated for: that could include off-site provision or commuted payments. The applicant has not addressed the shortfall of affordable units.

The overall loss of affordable housing on the site and lack of a chosen mechanism to address the reduction of affordable units is considered to be contrary to the provisions of Policy LP HOU 2 of the Argyll and Bute Local Plan (August 2009).

G. Archaeological Matters

West of Scotland Archaeology Service (WoSAS) comments that the site lies within an area of some archaeological sensitivity based on the presence of recorded sites and finds from various periods in the surrounding landscape. It is recommended that an initial assessment followed by archaeological field evaluation be carried out. Alternatively, in terms of PAN42, a suspensive condition is suggested.

Whilst no information has been submitted at this stage, the applicant confirms a preference to accept a suspensive condition to address any potential archaeological concerns.

It is considered that the imposition of such a condition would allow the applicant/developer the ability to deal with such matters once planning permission has been secured and accordingly consistent with the provisions of Policy ENV 17 of the Argyll and Bute Local Plan (August 2009).

H. Road Network, Parking and Associated Transport Matters

A Transport Assessment has been prepared and discussed with Roads. The Transport Assessment confirms that the local road network will continue to operate within capacity with the addition of traffic associated with the proposed development.

Policy LP TRAN 2 of the Argyll and Bute Local Plan requires development of this scale to take account of public transport accessibility as well as providing suitable routes for pedestrians and cyclists. The applicant has addressed this issue and the following would be provided:

Measures to improve accessibility:

- A 2 metre wide footway along the southern side of the supermarket access road;
- A replacement footway along Argyll Street frontage;
- Provision of 4 cycle parking stands providing spaces for up to 8 cycles;
- Retention and relocation of two bus stops on Argyll Street (locations to be agreed);

Measures that may form part of the eventual Travel Plan:

- Implementation of car share strategies;
- Provision of Travel Information Centre within the development relating to promotion of travel modes other than by private car;
- Negotiations with local suppliers to obtain discounts for outdoor clothing, cycle equipment and travel passes;
- Provision of secure cycle parking, shower and changing facilities;
- Provision of cycle and motorcycle training courses;
- Negotiations with bus operators to improve services and facilities; and
- A Travel Plan incentive pack and personal attack alarm to encourage employees to walk, cycle or use public transport on a regular basis.

Roads have no objections in principle to the proposed scheme subject to conditions outlined below. It is also noted that the access road will require to be adopted; this will require the road including the footways to be constructed as per the Council's Development Guidelines and would be subject to a Road Construction Consent; Road Bond and Road Opening Permit. Roads also note that a puffin crossing (precise location to be agreed) should be installed on Argyll Street, this will require a Section 75 Agreement and consultation with Argyll and Bute Council Roads Department is required as per precise location. A "hurry call" should be installed in to the pedestrian crossing for the nearby fire station.

- *The required sightlines of 2.4 x 42 metres are attainable in both directions on to Argyll Street;*
- *The required sightlines of 2.4 x 42 metres are attainable in both directions from car park, filling station and service access on to access road. All walls, hedges fences within the sightlines to be maintained at a height not greater than 1 metre above road level. Land within visibility splays will be included in the adoption boundary. Nothing else should be placed within these visibility splays, i.e. signs etc.;*

- *Dropped kerbs will be required at all junctions including the main access to allow safe passage of pedestrian traffic;*
- *The gradient of the access road not to exceed 5% for the first 5m and 8% for the remainder. Access to superstore parking area not to exceed a gradient of 5% for the 1st 5 metres and 8% for the remainder, and a system of surface water drainage will be required to prevent water running on to the public road (new site access road). Petrol station access as above. Service access as per car park access – if gates are to be used they must not open out on to the public road, must be set back far enough for an articulated lorry to sit while not obstructing the public road;*
- *Parking requirements – 1.0 spaces per 25m² – for 3995m² requires minimum of 160 parking spaces, maximum number of 285 – with a 4% designated for disabled users for this development;*
- *Parking bays to be a minimum of 2.5 x 5 metres for aisle width of 6 metres;*
- *A bus stop on the access road is required outside the supermarket; this should be designed as a bus “pull in” to avoid obstructing sightlines. An area suitable for turning a bus should be provided on the new access road. Developer to contact councils public transport department regarding additional mileage payments for 1st year, should routes require to be changed to accommodate, a legal agreement will be required to achieve this. Bus stops/pull ins should include high kerbs, design to be agreed with Council roads dept;*
- *The developer should appoint a travel plan co-ordinator. Once the store has been open for a period of 6-7 months an updated model should be shown to the council, highlighting any necessary changes/issues.*
- *No lights for supermarket signage should shine directly towards pedestrians or motorists.*
- *The access to be constructed prior to other works starting on site.*

On the basis of general acceptance and the imposition of necessary planning conditions and potential Section 75 Agreement, the proposal is considered to be consistent with Policies LP TRAN 1, TRAN 2, TRAN 3, TRAN 4 and TRAN 6 of the Argyll and Bute Local Plan (August 2009).

I. Flooding and Surface Water Drainage

With regard to Policy LP SERV 8 which deals with flooding and land erosion, SEPA advise that the site lies partially within the fluvial elements of the indicative limits of flooding shown on the Indicative River and Coastal Flood Map (Scotland) for floods with a 1 in 200 year return period (i.e. a flood with a 0.5% chance of occurring in any single year).

A Site Flooding/Sustainable Drainage Overview Study in conjunction with a Flood Risk Assessment in accordance with Policies LP SERV 2 and LP SERV 3 considered flood risk from the Milton Burn, from three un-named tributary watercourses and from surface water run-off generated from outwith the site. The areas proposed for the superstore and petrol filling station are outwith the predicted functional floodplain. However, a number of minor drainage issues can be addressed satisfactorily during the detailed design stage. The eventual bridge design can also be modelled to avoid flood risk to others.

Following amendments and further clarification, this is considered acceptable to SEPA and the Council's Flood Alleviation Manager subject to conditions regarding successful implementation of 'Summary and Conclusions' in the Flood Risk Assessment, allowances are made for freeboard and volumes of surface water discharge to Milton Burn are agreed with the Flooding Authority.

In terms of Policies LP SERV 2, SERV 3 and SERV 8 of the Argyll and Bute Local Plan (August 2009), the indicative flood risk/surface water drainage strategy is considered to be acceptable at this stage and could be addressed by planning conditions.

J. Waste Management

Waste collection from the site is to be made from a dedicated screened bin area located within the service yard, of a size appropriate to the foodstore. The service yard has an indicative layout that would be capable to facilitate the pick-up of waste material by refuse collection vehicles, which will have access to the yard at scheduled times.

In terms of Policy LP SERV 5 of the Argyll and Bute Local Plan (August 2009), the indicative strategy is considered to be acceptable at this stage and could be addressed by planning condition.

K. Public Water Supply

Scottish Water has confirmed that they would have no objections in principle and Loch Eck Water Treatment Works currently has capacity but comment that the scale of the development will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

In terms of Policy LP SERV 4 of the Argyll and Bute Local Plan (August 2009), the indicative public water supply strategy is considered to be acceptable at this stage and could be addressed by planning condition.

L. Foul Water Arrangements

Scottish Water has confirmed that they would have no objections in principle but Alexandra Parade Outfall currently has limited capacity to serve the new demand. Due to the scale of the development, the applicant will require the applicant to submit a Development Impact Assessment Form. The applicant is also advised of impact on existing apparatus and service.

In terms of Policy LP SERV 1 of the Argyll and Bute Local Plan (August 2009), the in principle agreement to connect to the public sewer system is considered to be acceptable at this stage and could be addressed by planning condition.

M. Contamination

Due to the existing industrial and commercial uses on the site, Public Protection recommend conditions in respect of contaminated land.

In terms of Policy LP SERV 7 of the Argyll and Bute Local Plan (August 2009), it is considered that suspensive planning conditions could address the contaminated land issues raised.

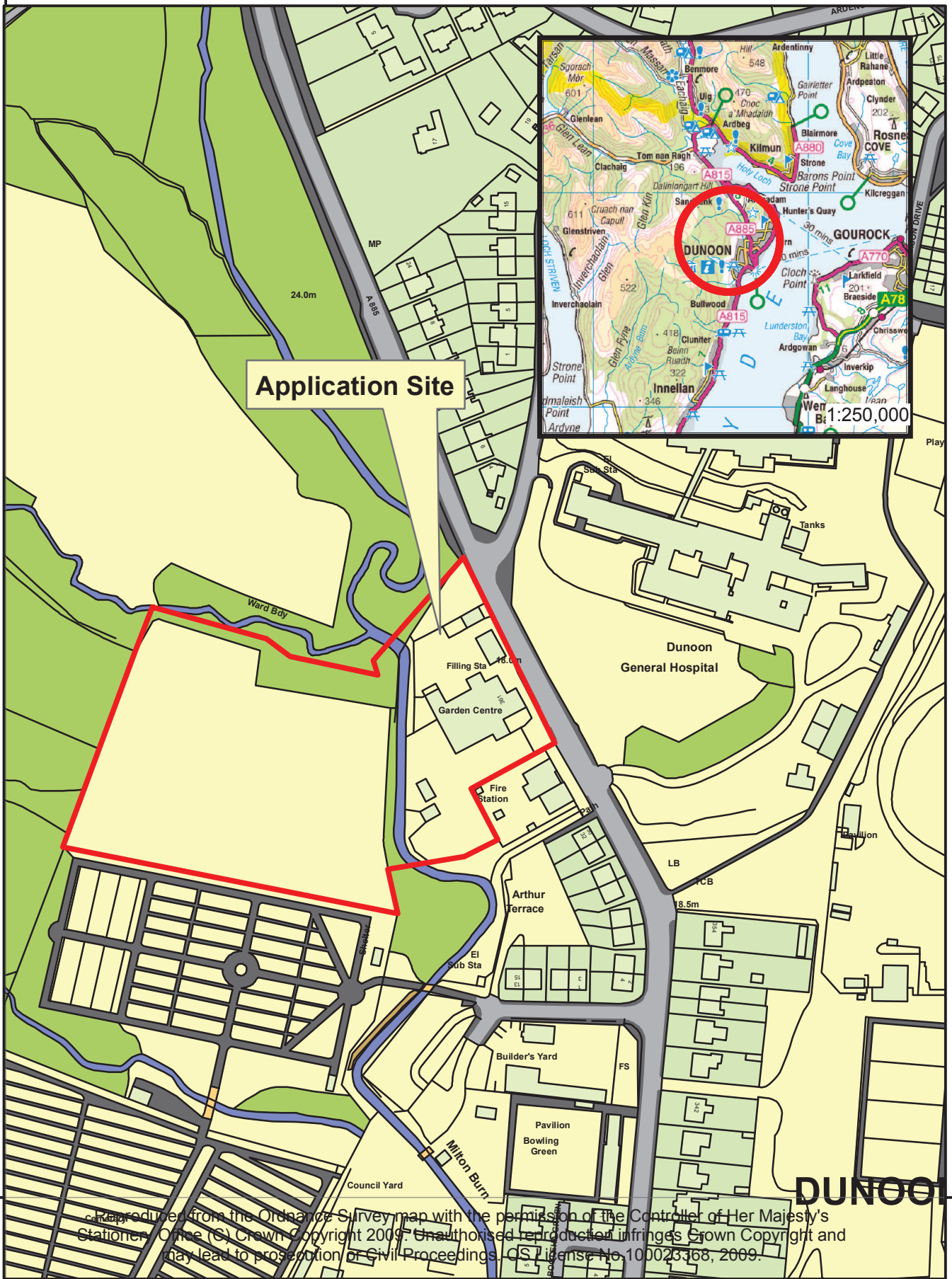
N. Noise, Dust, Lighting and Operational Hours

In terms of potential impact on surrounding land uses, Public Protection recommend conditions in respect of minimising noise from the development, minimising the effect of noise and dust from construction, details of control of lighting and operational hours to reduce night-time noise in the area.

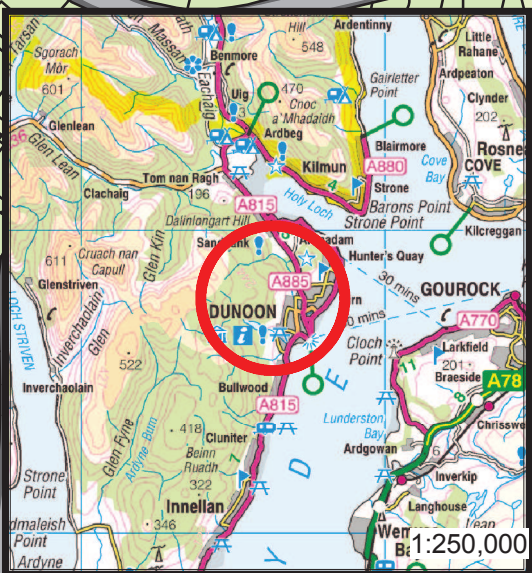
In terms of Policy LP BAD 1 of the Argyll and Bute Local Plan (August 2009), it is considered that suspensive planning conditions could address the environmental concerns raised.

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217000



Application Site



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**Location Plan relative to
Application Ref: 10/00222/PP**



Date: 18.02.11

Scale: 1:2,500

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00784/PP

Planning Hierarchy: Local Application

Applicant: Mr Duncan Campbell

Proposal: Sub-division of garden ground, erection of dwellinghouse and detached garage and formation of new vehicular access.

Site Address: 7 Laggary Park, Rhu, Helensburgh

SUPPLEMENTARY REPORT NO.3

1.0 SUMMARY

Members will recall that it was agreed at the October Committee to continue consideration of this application to the next meeting to allow officers to clarify with the applicant which set of plans he wished to put forward for consideration, and whether or not he wished to see the original proposal determined, or whether he proposed to withdraw this current application and submit a new application in respect of an alternative proposal.

The applicant's agent has since advised that he would be pleased to secure planning permission for either of the two site layouts. Consequently, he would like to discuss both layouts further with officers to see if there is an appropriate compromise that could be reached in a bid to secure a favourable recommendation.

2.0 RECOMMENDATION

It is recommended that Members note the terms of this report and agree to continue the application for further discussions at the request of the applicant.

Author: Stephanie Spreng 01436 658889
Contact Point: Richard Kerr 01546 604845

Angus J Gilmour
Head of Planning & Regulatory Services

03 October 2011

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Argyll and Bute Council
Development and Infrastructure Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00784/PP

Planning Hierarchy: Local Application

Applicant: Mr Duncan Campbell

Proposal: Sub-division of garden ground, erection of dwellinghouse and detached garage and formation of new vehicular access.

Site Address: 7 Laggary Park, Rhu, Helensburgh

SUPPLEMENTARY REPORT NO.2

1.0 SUMMARY

Members will have received a submission from the applicant regarding the above application. The key points are summarised and assessed below.

- Is the proposed development inconsistent with the conservation area or unattractive? Does the loss of two trees impact significantly on the conservation area? Tree density in the area remains very high and the number of trees on site remains higher than similar homes in the conservation area. Moreover, of the two trees that require removal, the larger has a cavity, and this weak point predicts the major limb falling. Additionally, both trees shed leaves onto the steep road reducing tyre traction in autumn and winter and leading to blockage of the burn running under the road leading to flooding.

Comment: The application site forms part of a larger area which is a TPO and which successfully integrates and softens the impact of existing residential development into its wider landscape setting. The applicant's tree survey submitted with the application indicates 13 trees within the site and one on the boundary. Of these 6 are in good condition, 6 in fair condition, 1 in poor condition and 1 dead tree. Under the original plans the dead tree will be removed while 6 others would need to be removed to accommodate proposals. Of these 6, 4 are in fair condition and 2 in good condition. Additionally, another tree in good condition may be affected by the proposals. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. The state of the trees and the issue of leaves causing traction issues and flooding is the responsibility of the owner. The planning authority would look sympathetically on any appropriate works to a protected tree.

- Thirteen objections have been raised of which two people have objected twice. Of the objectors five will not be able to see the proposed development.

Comment: Anyone can object to an application. The objections are on legitimate planning grounds and are a material consideration in the assessment of the proposal along with the previous refusal of planning permission on this site.

- Along this area of Station Road there is a mixed style of housing. Directly opposite are 34 local authority houses and a modern estate. Further along the road to the south is a period house, Laggary Lodge, which is already flanked on two sides by modern houses. To the north and adjacent to the proposed site is Laggary Cottage which sits directly opposite the modern estate on Glebe Road. Next to that is the Coach House which is directly opposite a modern detached house with integral garage (Glebe Cottage), followed by the modern houses of Torr Crescent

Comment: Station Road presents two distinct "sides" one traditional, one more modern, and clearly marks a boundary between different types of housing. It is not a transition zone but two markedly different areas. While the plot itself follows the pattern of the adjacent properties to the north east of the site, these houses are traditional lodge/gate houses sited to the very front of their sites abutting Station Road. Both the design and position of the proposed house does not reflect this existing character, instead proposes the house to be at an angle within the grounds which is out of character with the area. The applicant has indicated a potential amended footprint with the proposed house sitting gable end on to the road. This is reinforced by a simulated picture of the proposed house shown with replacement planting. It is difficult to say if the perspective is accurate in terms of depth of field but it does confirm that even with this amended footprint it will still be visually intrusive, visually discordant and contrary to policy. Sub-dividing the plot and siting a new house of modern design set back from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

- Approximately half of the entire site is cultivated, set to lawn and used as a family garden. The proposed development involves only the rear, unmaintained, overgrown half of the land. We propose to build a quality 4 bedroom dwellinghouse of an identical design to a house already built 400m further along Station Road. The boundary wall would be rebuilt in stone. We also propose to re-plant sympathetically trees/shrubs in order to maintain the character of the road.

Comment: The planting of replacement trees and shrubs around part of the plot will not be sufficient to retain the woodland character of the site in either the short or the long term. The site is covered by a Tree Preservation Order and the proposal will prevent significant regeneration and replanting of trees by reducing the area available for tree cover and changing the character of the site from woodland to suburban garden. The loss of trees and other vegetation cover and their replacement with a substantial dwelling, hardstanding and other associated suburban development will clearly neither preserve nor enhance the character of the area as required by development plan policy. This is reinforced by the simulated picture of the proposed house which in this location and this part of the conservation area will be visually intrusive, visually discordant and contrary to policy.

- The previous planning refusal raised a number of concerns. The first of these was precedent as there was concern that there could be copycat development at number 3 and 5 Laggary Park. This is not the case as the frontage of these

gardens could not allow for the permissible sight lines deemed necessary for a vehicular access.

Comment: Whilst each case is judged on its merits, if permission is granted, it could well set a precedent for copycat proposals, particularly as permission was previously refused on this site. It is likely that appropriate access could be provided should other development be proposed.

- The second reason for refusal under the previous application related to the detrimental impact on amenity and landscape quality. The site does not have public access and amenity can only be viewed as a balance between the appearance of trees and available light for homes and gardens. The proposal would reduce tree density and would improve light to the front gardens of several smaller family homes opposite.

Comment: Amenity is defined, inter alia, as the pleasant or normally satisfactory aspects of a location which contribute to its overall character and the enjoyment of residents or visitors. As such lighting is only one minor aspect of this. Trees form an important part of our environment and in the delivery of sustainable development. They contribute considerably to the amenity of the landscape and streetscene, add maturity to new developments, make places more attractive, and help soften the built environment by enhancing pleasant views, by breaking up view lines and by screening unattractive buildings and undesirable views. A planning authority has a legal duty to protect trees. In this case the loss of trees and other vegetation cover and their replacement with a substantial dwelling, hardstanding and other associated suburban development will clearly neither preserve or enhance the character of the area and critically undermine the amenity of adjoining properties and the surrounding area. This was clearly recognised in the previous refusal on this site.

- The third concern under the previous refusal was that the introduction of a structure into a position immediately adjacent to Station Road would detract from the established streetscape and at odds with the original design concept of Laggary Park which places no property in direct roadside position to Station Road other than long established properties. The proposed development would be outwith and unseen from Laggary Park. It would be directly opposite an estate of ex local authority housing and the modern housing (Glebefield Road) which was developed sometime after Laggary Park. This does not constitute historic or long established buildings.

Comment: This previous reason for refusal and the others are correct and still relevant. As indicated above Station Road presents two distinct "sides" and clearly marks a boundary between different types of housing. It is not a transition zone but two markedly different areas. While the plot itself follows the pattern of the adjacent properties to the north east of the site, these houses are traditional lodge/gate houses sited to the very front of their sites abutting Station Road. Both the design and position of the proposed house does not reflect this existing character, instead proposes the house to be at an angle within the grounds which is out of character with the area. Sub-dividing the plot and siting a new house of modern design set back at an angle from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

2.0 RECOMMENDATION

It is recommended that whilst the contents of this report are noted, they do not change the recommendation contained in the original report of handling and that planning permission should be refused for the reasons set out in that report.

Author: Howard Young 01436 658888
Contact Point: Richard Kerr 01546 604845

Angus J Gilmour
Head of Planning & Regulatory Services

03 October 2011

**Argyll and Bute Council
Development & Regulatory Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00784/PP

Planning Hierarchy: Local Application

Applicant: Mr Duncan Campbell

Proposal: Sub-division of garden ground, erection of dwellinghouse and detached garage and formation of new vehicular access

Site Address: 7 Laggary Park, Rhu, Helensburgh

SUPPLEMENTARY REPORT No 1

A. INTRODUCTION

This report makes a minor change to reason for refusal recommended in the original report for the purposes of clarity. The underlying grounds of refusal remain unaltered.

B. GROUNDS OF REFUSAL RELATIVE TO APPLICATION 11/00784/PP

The site is located in the rear garden area of 7 Laggary Park. The existing character of Laggary Park is of substantial dwellings set within large garden areas around Laggary House, an imposing Category B Listed Building. The proposed dwellinghouse is sited on a wooded area of garden ground which is covered by a Tree Preservation Order and is within the Rhu Article 4 Conservation Area. The application site forms part of the setting of the Laggary Park development and has amenity value in the immediate area and wider Conservation Area due to its mature tree cover and woodland appearance successfully integrating and softening the impact of existing residential development into its wider landscape setting. The proposed development would result in the loss of six mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. In addition, the existing character of Laggary Park is of large dwellings set within large garden areas around Laggary House, a Category B Listed Building. Along this area of Station Road, the only other existing houses are long established, are associated with Laggary House and run parallel with the adjoining road. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long

established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. The proposal is therefore contrary to Policies STRAT DC 9 and STRAT FW 2 of the Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 7, LP ENV 14, LP ENV 19, LP HOU 1 and Appendix A of the Argyll & Bute Local Plan. These require, inter alia, that proposals provide a high standard of building and landscape design, prevent the loss of trees, contribute to environmental quality and maintain or enhance the amenity of the surrounding area. Proposals which unacceptably detract from the character or appearance of Conservation Areas or their setting will be resisted.

NOTE TO APPLICANT

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 16/05/2011 and the refused drawing reference numbers Loc Rev A, 01 Rev. B, 02 and 03.

Author of Report: Howard Young

Date: 19/09/2011

Reviewing Officer: Richard Kerr

Date: 19/09/2011

Angus Gilmour
Head of Planning & Regulatory Services

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

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Site Address: 7 Laggary Park, Rhu, Helensburgh

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Erection of garage
- Formation of new access
- Alterations to boundary wall
- Erection of 1.8 metre timber fence

(ii) Other specified operations

- Connection to existing public water supply
 - Connection to existing public sewer
-

(B) RECOMMENDATION:

It is recommended that planning permission be refused for reasons given overleaf.

(C) HISTORY: C9209 – Erection of dwellinghouse (outline) – Refused 25/11/1992

(D) CONSULTATIONS:

Area Roads Engineer	27.06.2011	No objections subject to conditions.
Scottish Water	14.07.2011	No objections

Scottish Natural Heritage No response, time expired

Horticultural Services No response, time expired

(E) PUBLICITY: Listed Building/Conservation Advert (expiry date 24.06.2011)

(F) REPRESENTATIONS:

Thirteen letters of objection have been received from the following:

Stuart Graham, Laggary Cottage, Station Road, Rhu (letter dated 08/06/2011)

Miss Karen Young, 28 Laggary Road, Rhu (letter dated 17/06/2011 and email dated 21/06/2011)

K I Thompson, Laggary Lodge, Pier Road, Rhu (letter dated 15/06/2011)

Mr John and Mrs Elizabeth Reid, 29 Laggary Road, Rhu (letter dated 14/06/2011)

James and Susan Miller, 8 Laggary Park, Rhu (letter dated 13/06/2011)

Jim and Katy Findlay, 4 Laggary Park, Rhu (letter dated 21/06/2011)

Mrs JPC Whitaker, 10 Laggary Park, Rhu (letter dated 20/06/2011)

D Reid 31 Laggary Road, Rhu (letter dated 18/06/2011)

B M Petchey, 30 Laggary Road, Rhu (letter received 21/06/2011)

Michael Hamill, 9 Laggary Park, Rhu (letter dated 10/06/2011)

Alan Pyke and Alison Hatrick, Coach House, Cottage Station Road, Rhu (letter received 24/06/2011)

John J Reid and Mrs Elizabeth Reid, 29 Laggary Road, Rhu (26/06/2011)

Mrs Christine Henderson, 6 Laggary Park, Rhu Helensburgh (email dated 19/06/2011)

(i) Summary of issues raised

This area of ground has been neglected and left to deteriorate over the years. This may have been intentional in order to improve the possibility of gaining planning permission.

Comment: Any application is judged on its own merits and determined against Development Plan Policies and other material considerations.

There are road traffic issues as an opening at this location would be dangerous due to the speed of traffic and the inadequate visibility sightlines.

Comment: The Area Roads Manager has no objections.

It is proposed to remove 6 or 7 trees to clear the site. Most of these are in fair to good condition and amongst the tallest on site. The removal of these trees would be detrimental to the area.

Comment: See my assessment.

Development is restricted in this area through the deeds of each property.

Comment: This is a civil matter.

The stone wall contributes to the character of the conservation area and this part of station road. Its removal should be resisted.

Comment: The proposal will reduce the height of the wall and reposition it slightly. The new wall will be built using stone duntakings from the existing wall. This will be similar in character to the dwelling next door and it is not considered that this will have a detrimental impact on the character of the area.

There is a problem with water run-off in the area already. Should this be allowed the areas of hardstanding would increase this water run-off.

Comment: Should the application be approved a SuDS condition would be placed on the consent to ensure that an acceptable scheme of surface water drainage was implemented.

A previous application on this site 12-15 years ago was turned down by Dumbarton District Council.

Comment: An application was refused in 1992 and is a material consideration in the assessment of this application. See also my assessment.

If this is granted it could set a precedent.

Comment: Each case is judged on its own merit.

The development will have an adverse affect on the character and amenity of the area.

Comment: See my assessment.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** Yes
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No

Summary of main issues raised by each assessment/report

Design/Access Statement

The application site is the rear portion of garden ground located to the north-west of the main house at 7 Laggary Park, Rhu. The existing property is a sizeable detached

dwellinghouse with a total curtilage of almost 3000sqm. The application site is outwith the maintained parts of the garden ground and do not contribute to the amenity of the house in terms of useable garden ground.

The site measures 30m x 36m, has a small stream running through it and is located at the north-west corner of Station Road. At 1109 sqm, being within an established residential area and having scope for a separate vehicular entrance, it is deemed appropriate to consider the formation of a new house plot.

The aim is to sub-divide the rather isolated and under used section of their rear garden, to remove some of the overgrown trees and scrub growth and to open up the area along side Station Road, and to introduce a new family sized house in a way that externally reflects the traditional scale and character of the better properties within the locality, it will look attractive and well maintained without detracting from the privacy of the main house or other neighbouring properties and as such it will generally enhance the overall residential and visual amenity of the locality.

In terms of external materials and finishes, a series of roof planes will add visual interest and character, clad in natural slate, with rendered walls and window/door openings offering a strong vertical emphasis. The house design is

The house and garage positions have been established in conjunction with the findings of the Tree Survey to ensure the suggested Construction Exclusion Zones can be adhered to. The site is fairly flat and there will be no need for significant underbuilding. In so doing these design criteria, in conjunction with re-built natural stone walling to either side of the entrance with appropriate replacement landscaping, will ensure clear visibility of cars or pedestrians travelling along Station Road whilst also offering a greater sense of privacy to occupants of the proposed house.

In order to comply with roads guidelines the existing wall will be taken down and re-built to provide the required visibility splays. The access will bridge over the underground stream. There will be sufficient scope for 2 or more vehicles to enter, turn and leave the property in forward gear and without encroaching on the public highway.

With regards to other landscaping works upon completion it is proposed to create grassed lawns around the house with the trees and bushes around the perimeter being protected by fencing during the period of construction and thereafter retained. In this way they will continue to offer a mature landscape screening between the existing and proposed houses.

The services are on site and readily available. The surface water will be routed for attenuation to new drainage/soakaway channels introduced around the proposed house.

(H) PLANNING OBLIGATIONS

(i) **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.**

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control
STRAT FW 2 – Development Impact on Woodland

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 7 – Impact on Tree/Woodland
LP ENV 14 – Conservation Areas and Special Built Environment Areas
LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 6 – Vehicle Parking Provision

Appendix A – Sustainable Siting and Design Principles

- (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 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)

-
- (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) Has a sustainability check list been submitted: No**
-

- (N) Does the Council have an interest in the site: No**
-

- (O) Requirement for a hearing (PAN41 or other):** Although 13 letters of representation have been submitted permission for the development of this site has previously been refused and is recommended for refusal again. As such it is not considered that a hearing is required in this instance.
-

- (P) Assessment and summary of determining issues and material considerations**

Planning permission is sought for the erection of a dwellinghouse and garage within the lower garden area of 7 Laggary Park, Rhu. This is a detached dwellinghouse within the Rhu Article 4 Conservation Area and the site also has a Tree Preservation Order in place. The proposal is to subdivide the plot with the northern part being used for the new dwellinghouse. This would give the proposed new dwellinghouse a direct road frontage onto Station Road. The formation of the access would involve the reduction in height of the existing stone boundary wall in order to allow the required sightlines.

The plot is large enough to accommodate a new dwellinghouse and the design is considered acceptable. However, the proposal would result in the loss of seven mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. As originally submitted, the proposal would also have resulted in the loss of two other mature trees. Although amended plans have indicated that the trees will remain on site, the proximity of the proposed dwellinghouse to these trees could mean that they might become a nuisance, could have their root system undermined and could potentially result in their loss as well. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. Moreover, sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north, would undermine the established character and settlement pattern of this area.

An application for the same plot (although for outline consent) was refused in 1992. The reasons for refusal were that the development would have a detrimental impact on the amenity and landscape quality of Rhu Conservation Area as it would intrude on the area of woodland which is an important aspect of Laggary Park and establishes the character and amenity of this part of the village; that a structure in this area would significantly detract from the streetscape of the area; and that the development could set a precedent. While this refusal was a number of years ago, it is still considered a material consideration in the determination of this application and that the underlying principle against development remains.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted N/A

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

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

Author of Report: Stephanie Glen

Date: 31/08/2011

Reviewing Officer: Howard Young

Date: 02/09/2011

Angus Gilmour Head of Planning & Regulatory Services

GROUNDS OF REFUSAL RELATIVE TO APPLICATION REF. NO. 11/00784/PP

The site is located in the rear garden area of 7 Laggary Park. The existing character of Laggary Park is of substantial dwellings set within large garden areas around Laggary House, an imposing Category B Listed Building. The proposed dwellinghouse is sited on a wooded area of garden ground which is covered by a Tree Preservation Order and is within the Rhu Article 4 Conservation Area. The application site forms part of the setting of the Laggary Park development and has amenity value in the immediate area and wider Conservation Area due to its mature tree cover and woodland appearance successfully integrating and softening the impact of existing residential development into its wider landscape setting. The proposed development would result in the loss of seven mature trees as well as numerous mature shrubs including rhododendron and cherry laurel which are important to the character and appearance of this part of the Conservation Area. As originally submitted the proposal would also have resulted in the loss of two other mature trees. Although amended plans have indicated that these trees will remain on site, the proximity of the proposed dwellinghouse to these trees could mean that they might become a nuisance, could have their root system undermined and could potentially result in their loss as well. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. In addition, the existing character of Laggary Park is of large dwellings set within large garden areas around Laggary House, a Category B Listed Building. Along this area of Station Road, the only other existing houses are long established, are associated with Laggary House and run parallel with the adjoining road. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area. The proposal is therefore contrary to Policies STRAT DC 9 and STRAT FW 2 of the Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 7, LP ENV 14, LP ENV 19, LP HOU 1 and Appendix A of the Argyll & Bute Local Plan. These require, inter alia, that proposals provide a high standard of building and landscape design, prevent the loss of trees, contribute to environmental quality and maintain or enhance the amenity of the surrounding area. Proposals which unacceptably detract from the character or appearance of Conservation Areas or their setting will be resisted.

NOTE TO APPLICANT

For the purpose of clarity it is advised that this decision notice relates to the details specified on the application form dated 16/05/2011 and the refused drawing reference numbers Loc Rev A, 01 Rev. B, 02 and 03.

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is within the settlement boundary of Rhu as defined by the adopted Local Plan. The site is also within the Rhu Article 4 Conservation Area and is covered by a Tree Preservation Order. Within the settlement boundary there is a presumption in favour of development subject to site specific criteria being met. In this instance, the development must maintain or enhance the character and appearance of the Conservation Area and it must not have an adverse impact on trees within the site.

B. Location, Nature and Design of Proposed Development

The site is located in the rear garden area of 7 Laggary Park. The existing character of Laggary Park is large dwellings set within large garden areas around Laggary House, an imposing Category B Listed Building. The curtilage of 7 Laggary Park is large measuring approximately 2950 square metres. The proposed house plot is an unused area at the bottom (north-west) of the applicant's garden measuring approximately 1150 square metres. It is bounded by Station Road to the north-west and on all other sides by residential properties and would therefore have a direct road frontage. There is a mix of house types in the area, with Laggary House, a listed building to the east and ex local authority housing to the west of the site.

The proposed house would be located towards the rear of the plot at an angle with the road. As originally submitted it was also intended to erect a double garage 7 metres south-west of the dwelling. However, amended plans submitted for discussion indicate the garage removed. The dwellinghouse itself will be 1½ storeys, with a central gable feature with dormer windows to either side of this. The windows will have a vertical emphasis with mullions between the windows to the front elevation and the house will be finished in wet dash render with smooth banding around the window and door openings and it will have a natural slate roof.

The site is within the Rhu Article 4 Conservation Area. In accordance with Policy LP STRAT DC 9 of the Structure Plan and Policy LP ENV 14 of the adopted Local Plan, all development must maintain or enhance this area. It is considered that the scale, design and choice of materials of the dwellinghouse is acceptable. In accordance with Policy LP ENV 19 of the adopted Local Plan, the proposed new dwelling should be sited so as to pay regard to the context in which it is located, should be of a density compatible with the surrounding area and be designed to be compatible with its surroundings. The development should not create any amenity issues to neighbours or the surrounding area by way of overlook, overshadowing, loss of daylight and so on. While the new house will not raise any amenity issues with neighbours, it is considered that the siting of the house is not in keeping with the settlement pattern of the area. While the plot itself follows the pattern of the adjacent properties to the north east of the site, these houses are traditional lodge/gate houses sited to the very front of their sites abutting Station Road. The position of the proposed house does not reflect this existing character, instead proposes the house to be at an angle within the grounds which is out of character with the area. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north would undermine the established character and settlement pattern of this area. It would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

C. Impact on Woodland/Access to Countryside.

The proposed application site is currently overgrown with shrubs and is wooded containing a number of trees. This wooded area continues along Station Road and Laggary Park forming a larger Tree Preservation Order known as No. 8 Laggary. Part of the site is also scheduled Ancient Woodlands. Policy LP ENV 7 of the adopted Local Plan states that the Council will protect trees and resist development which is likely to have an adverse impact on them.

The trees are spread over the site and because of the driveway, dwellinghouse and garage, most of the trees within the site will need to be removed to make way for the development, with just the perimeter trees remaining.

A tree survey was undertaken to determine the condition of the trees on site. Of the 13 trees identified it was considered that 6 would have to be removed to make way for the proposals, and one should be felled as it is dead. Of all of the trees to be removed, none are in poor condition and in fact all are described as in fair or good condition. It is considered that these trees are an important feature of the area and contribute towards the character and amenity of the Conservation Area. Two trees in particular are of importance, these are a 16 metre high Common Lime and a 27 metre high Beech tree. In the tree survey these trees are described as Category B1 which means that they are of moderate quality and value and are in such a condition that they can make a significant contribution. Category B1 also means that these trees may have been included in the higher category had it not been for their slightly impaired condition. Regardless of their slightly impaired condition (one has a weak fork and the other has decay affecting a main fork), these trees are still considered to be able to make a significant contribution, with a minimum of 20 years suggested.

It is considered that the removal of these trees, especially the two identified above, cannot be justified. A Tree Preservation Order was placed on the site to ensure their protection and while in some instances, it may be appropriate to allow the removal of trees and their replanting, in this instance it cannot be justified. Even taking into account the amended layout proposed, while the two largest trees will not be removed, the proximity of the proposed dwellinghouse to these trees could mean that they were a nuisance, could undermine their root system and could potentially result in their loss as well. In addition, most of the trees and shrubs on site are to be removed and their replacement with a dwellinghouse, hard standing, fences and other associated suburban development would be visually intrusive, visually discordant and would not maintain or enhance the character of the area.

D. Road Network, Parking and Associated Transport Matters.

The proposed dwellinghouse will have a frontage onto Station Road and as such will take vehicular access from this point. This part of the site is bounded by a 2 metre high stone wall which continues southwards down Station Road. This is a traditional stone wall which would have been listed had Laggary House not been subdivided prior to it being listed. In order to facilitate the sightlines required by the Area Roads Manager, this wall will have to be taken down to one metre in height and slightly relocated. The wall will then be re-built using the duntakings from the existing wall. While it is considered that the wall does contribute to the character and appearance of the area, reducing the height of it at this location would not detrimentally affect the amenity of the area as this would be of a similar manner to the adjacent property.

E. Infrastructure

Scottish Water has no objections to the proposal.

F. Conclusion.

The development would result in the loss of protected trees which contribute to the character and appearance of the Conservation Area and this part of Rhu. The loss of the trees and shrubs and their replacement with a dwellinghouse, hard standing and other associated suburban development would be visually discordant and would not maintain or enhance the character of the conservation area. In addition, the existing character of Laggary Park is of large dwellings set within large garden areas around Laggary House, a Listed Building. Along this area of Station Road, the only other existing houses are long established, are associated with Laggary House and run parallel with the adjoining road. Sub-dividing the plot and siting a new house, however well designed, set back at an angle from the adjoining road and outwith the building line of the long established properties to the north, would undermine the established character, amenity and settlement pattern of this area contrary to development plan policy.



**Location Plan relative to
Application Ref: 11/00784/PP**

Date: 24.08.2011

Scale: 1:2,500



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**Argyll and Bute Council
Development & Regulatory Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/01590/PP

Planning Hierarchy: Local Application

Applicant: Mr and Mrs J Urquhart

Proposal: Alterations and extension to dwellinghouse

Site Address: 64B Colquhoun Street, Helensburgh

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of extension to front of dwellinghouse
- Erection of 1.8 metre high wall

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

It is recommended that planning permission be approved subject to the attached conditions and reasons.

(C) HISTORY:

03/00205/DET - Erection of extension to domestic garage – Permitted 07.03.2003
07/01218/DET - Erection of 1 1/2 storey extension – Refused 03.09.2008

(D) CONSULTATIONS:

Helensburgh Community Council – 19/09/2011 – Objects as follows:

- The site is within a residential area and not zoned for commercial activity. HCC has no quarrel with the existing B & B we do not condone its expansion to the detriment of neighbours.
- HCC believes that further development of this site will lead to overcrowding and will not preserve or enhance the character of the Conservation Area
- The north east corner if this site is already overcrowded and further development would lead to an even greater imbalance. This is contrary to Policy LP ENV 19.
- The position of the extension would lessen the light to Thorndean and also affect its views. This again is contrary to Policy LP ENV 19.

(E) PUBLICITY: Listed Building/Conservation Advert (expiry date 23.09.2011)

(F) REPRESENTATIONS:

11 letters of objection have been received from the following:

Miss Gemma Greaves, Thorndean, 64 Colquhoun Street, Helensburgh (email dated 19/09/2011)

John and Anne Stewart, 2 Millig Street, Helensburgh (letter dated 11/09/2011)

Mrs Maureen Morison, 4A Millig Street, Helensburgh (letter dated 10/09/2011)

Dr James Greaves and Mrs Christine Greaves, Thorndean, 64 Colquhoun Street, Helensburgh (letters dated 5/09/20211 and 19/11/2011)

Gordon Elbrid, 39A Colquhoun Street, Helensburgh (letter dated 08/09/2011)

Tony and Ann Morris, 66A Colquhoun Street, Helensburgh (letter received 08/09/2011)

Sheena and Angus Savage, 45A Colquhoun Street, Helensburgh (letter dated 5/09/2011)

Alan J Baillie, 107 Sinclair Street, Helensburgh (letter dated 16/09/2011)

Mr and Mrs G Smith, Amberwood, 2A Stafford Street, Helensburgh (letter dated 10/09/2011)

Mr and Mrs K F Moos, 43 Colquhoun Street, Helensburgh (letter dated 12/09/2011)

(i) Summary of issues raised

The reason for extending the house is to extend their business.

Comment: One B & B letting room and the applicants' own bedroom are to be extended. It is not considered that this will lead to intensification of their existing legitimate business. Any proposal to increase the number of letting rooms would require to be the subject of a separate application and would be considered on its merits in the light of relevant policies and any other material considerations.

Any increase in the number and size of the letting rooms will create more traffic, noise and parking issues within this quiet residential area.

Comment: The number of letting rooms is not increasing and therefore there has not been any requirement to consult with the Area Roads Manager. The property

has two letting bedrooms, one of which is to be increased in size, however, it is not considered that this will increase traffic or parking problems.

This is a commercial business within a residential area and is contrary to the Local Development Plan as this area is not zoned for commercial activity.

Comment: The use of a dwellinghouse to provide bed and breakfast accommodation up to the limits established by the Town and Country Planning (Use Classes) (Scotland) Order 1997 does not require planning permission.

Balmillig was first run as a bed and breakfast with two letting rooms which is acceptable within a residential area. This has since been increased to three letting rooms which brings it into the realms of a commercial business which is not acceptable. The extension also allows for internal alterations to bedroom 4 which could allow this to be used as a letting room.

Comment: Under the Town and Country Planning (Use Classes) (Scotland) Order 1997, a dwellinghouse can be used as a bed and breakfast provided it does not use more than 1 bedroom where the house has less than 4 bedrooms, and a maximum of 2 bedrooms where the house has 4 or more bedrooms. If this limit is exceeded, then planning permission will be required for a change of use to Class 7 (Hotels and Hostels) or the occupancy of the property would become liable to enforcement action.

It appears that the property has had 3 bedrooms occupied for B & B purposes in the past, and therefore the third letting bedroom has been occupied without the benefit of planning permission. The applicants have been advised of the legislative position and have confirmed that the number of letting bedrooms has since been reduced from 3 to 2. Further to that assurance, a Planning Contravention Notice has been served on the owners in order that they are obliged to make a formal declaration as to their occupation of the property. Failure to truthfully disclose the actual use would constitute an offence.

On the basis that no more than two rooms are made available for occupation on a bed and breakfast basis, there is no change of use and the application is solely for the extension of the building.

This property is creeping farther forward on the plot which will detract from the view of Thorndean from Colquhoun Street. Any further building would be over development of the site. Planning permission was refused for an extension in 2008. The reasons for this refusal are still valid.

Comment: See my assessment. The proposed extension has been significantly reduced in scale and it is therefore considered that this will alleviate any amenity issues that were associated with the previous application.

The building of a 1.8 metre high wall adjacent to the boundary with Thorndean will cause an issue with lack of amenity to this house. It is also an issue that this wall could be used for future development.

Comment: It is not considered that the erection of this wall will adversely affect the amenity of the adjoining property. There are already dense shrubs and a fence between both properties and the proposed wall will be no higher than this. Should any proposal for further development be submitted this will be judged on its own merits.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
 - (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
 - (iii) **A design or design/access statement:** No
 - (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
-

(H) PLANNING OBLIGATIONS

- (i) **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.**

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements
STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 14 – Conservation Areas and Special Built Environment Areas
LP ENV 19 – Development Setting, Layout and Design

LP HOU 5 – House Extensions

Appendix A – Sustainable Siting and Design Principles

- (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 4/2009.**

Argyll & Bute Sustainable Design Guidance (2006)

- (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) Has a sustainability check list been submitted: No

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

(O) Requirement for a hearing (PAN41 or other): Although representations have been received from the community council and letters have been received on behalf of 16 individuals, most of the matters raised relate to the use of the building (which is not at issue on the basis of current occupancy) rather than the extension for which permission is sought. Accordingly, a discretionary local hearing is not recommended in that circumstance.

(P) Assessment and summary of determining issues and material considerations

Planning permission is sought for the erection of an extension to the front of this detached dwellinghouse at Balmillig, 64 B Colquhoun Street, Helensburgh. This is within the settlement boundary of Helensburgh and within the Upper Helensburgh Conservation Area.

A previous application for the erection of an extension (ref: 07/01218/DET) was refused in 2008. This was refused because the massing and scale of the extension was considered overbearing and would have lead to a loss of amenity for the neighbouring property (Thorndean). It would also have lead to loss of daylight to Thorndean and its size would have been over dominant and would have adversely affected the character and appearance of the conservation area.

This new application seeks to extend the property in a manner which overcomes the shortcomings of the original proposal. The extension will be smaller in scale than the previous refused application with a footprint of approximately 9 square metres, rather than 23 square metres as previously refused, and extending 2 metres out from the front of the dwelling, rather than the 5.3 metres which was previously proposed. This will mean that the extension will no longer have the same adverse affect on the amenity of the adjoining property or the character or appearance of the conservation area. It is therefore now considered that the design, massing and scale of the proposal are acceptable.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The scale and design of the proposal are acceptable and in keeping with the existing dwellinghouse. The proposal will have minimal impact on the amenity of adjoining properties and will preserve the character and appearance of the Conservation Area. This is in accordance with Policies LP ENV 1, LP ENV 14, LP ENV 19, LP HOU 5 and Appendix A of the Argyll and Bute Local Plan.

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

N/A

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

Author of Report: Stephanie Glen

Date: 01/12/2011

Reviewing Officer: Howard Young

Date: 01/12/2011

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/01590/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 22/08/2011 and the approved drawing reference numbers 2027..31, 2027..32 and 2027..33 unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

3. Development shall not begin until samples of materials to be used on external surfaces of the buildings and in construction of the wall has been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out 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.

NOTES TO APPLICANT

1. **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/01590/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site is located within the settlement boundary for Helensburgh and is also within the Upper Helensburgh Conservation Area as defined by the adopted Local Plan. Within such areas there is a presumption in favour of development subject to all development plan policies being complied with. Within the Conservation Area there is also a requirement that new development should preserve or enhance the character and appearance of the Conservation Area.

B. Location, Nature and Design of Proposed Development

The site is within the Upper Helensburgh Conservation Area, the main characteristics of which are large traditional villas set within generous plots. Approximately 11 years ago, the plot of the neighbouring property, 'Thorndean', was subdivided and 'Balmillig' - the subject of this application - was then built. The house is a moderately sized 1 ½ storey dwelling of traditional design and is subsidiary to its neighbouring property. This property is used as a bed and breakfast. It has two letting rooms and two private bedrooms.

The dwelling is rectangular in plan with a wrap around conservatory to the south and west elevations. The proposed extension will be to the south elevation and will have a footprint of approximately 9 square metres. It will extend two existing bedrooms - one letting room on the first floor and the master bedroom below. The extension will have a pitched roof to tie in with the existing dwelling and is to be finished in white wet dash render with a natural slate roof and timber windows, all to match the existing.

The view to the site from Colquhoun Street has an open aspect, with the larger traditional villa of Thorndean to the rear and the more subsidiary building of Balmillig to the north of the site. The proposed extension will be at right angles to the existing house and will project out to the front to a point slightly in front of Thorndean. This extension will be 2 metres long and approximately 3.9 metres to eaves and 6.9 metres to ridge height. This extension will therefore protrude approximately 1.75 metres in front of Thorndean when viewed from Colquhoun Street. While Thorndean is not a listed building, it is traditional and does contribute to the character of the area. Policy LP ENV 14 of the adopted Local Plan presumes against development that would not preserve or enhance the character or appearance of the conservation area and all development in these areas must be of the highest quality. It is considered that while the proposed extension will obscure the view of part of Thorndean, this is only very slight and will not impact on the overall character and appearance of the conservation area. It is therefore considered that the proposal accords with this policy in that it will preserve the character of the conservation area.

Policy LP ENV 19 and Appendix A sets out guidance on development setting, layout and design. This also sets standards in relation on positioning of new development adjacent to existing dwellings and guidance to protect privacy, daylight and the amenity of existing properties. As mentioned, this proposal is a re-submission of a previous application refused under reference 07/01218/DET. This was an application for an extension which measured 5.3 metres in length, 4.4 metres wide and 7 metres to the ridge. The main reason for refusal was the fact that the proposed extension extended in front of two habitable room windows of Thorndean. It was considered that the massing and scale of this would have a negative impact on the amenity of the adjoining neighbours as the development would mean that the outlook from these windows would be to a blank wall.

Furthermore, the size of the extension would lead to a loss of daylight to the kitchen of this adjacent property. This current application has addressed these issues. The length of the extension has been reduced by 3.3 metres and as such does not extend in front of these windows. Therefore, daylight will not be affected, and while there may be a minimal loss of view (which is not a material planning consideration) there will be no loss of amenity as the outlook will not be to a blank wall. It is therefore considered that the proposal accords with this policy.

The proposal also includes the erection of a 1.8 metre high wall adjacent to the extension which will be 4.3 metres in length. Many of the letters of objection have stated that this wall could be used for further development of the site. It is considered that this wall is to be erected for the privacy of Balmillig, as the proposal will include French doors leading from the master bedroom. However, should any further application be submitted, this will be judged on its own merits.

C. Built Environment

The application site is within the Upper Helensburgh Conservation Area. It is bounded to the west by Colquhoun Street and to the north by Millig Street. To the east of the site is Thorndean, a detached traditional 2 storey villa. The application site once formed the curtilage of Thorndean until it was subdivided and permission was given to erect Balmillig, the subject of this application. Three previous applications were made to erect a dwelling on this site and each was refused and their appeals dismissed. This is because it was considered that the loss of the Colquhoun Street frontage would detract from the setting and character of Thorndean to an unacceptable degree and that the development of the site would not maintain or enhance the character and amenity of the conservation Area.

The approved dwelling was therefore sited so that the openness of the Colquhoun Street frontage would be retained. This proposed extension would extend slightly in front of Thorndean, however this will only be by 1.75 metres and it is considered that the impact would be slight and within acceptable limits. This is in accordance with Policy LP ENV 14, LP ENV 19 and Appendix A of the adopted Local Plan.

D. Road Network, Parking and Associated Transport Matters

Since the application seeks only to increase the size of two existing bedrooms and does not propose any new rooms, the Area Roads Manager was not consulted regarding this application. It is not considered that the proposal would generate any increase in traffic or increase road safety concerns.

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Location Plan relative to Application Ref: 11/01590/PP

Date: 07.12.2011

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

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/02175/PP

Planning Hierarchy: Local

Applicant: Councillor Len and Mrs Beverley Scoullar

Proposal: Alterations and extensions to dwellinghouse including replacement roof tiles and new solar panels

Site Address: 45 Craigmore Road, Rothesay

DECISION ROUTE

Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Alterations and extensions to dwellinghouse including replacement roof tiles and new solar panels

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

It is recommended planning permission be granted subject to conditions and reasons.

(C) CONSULTATIONS:

West Of Scotland Archaeology Service (e-mail dated 9th November 2011)

No substantive archaeological issues raised by the proposal.

(D) HISTORY:

There is no relevant planning history.

(E) PUBLICITY:

Neighbour Notification (closing date 28th November 2011).
Conservation Area Advert (closing date 9th December 2011)

(F) REPRESENTATIONS:

No letters of representation have been received at the time of writing.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- | | | |
|-------|--|----|
| (i) | Environmental Statement: | No |
| (ii) | An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994: | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development | No |
-

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

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

- (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.**

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas

LP ENV 19 – Development Setting, Layout and Design

LP HOU 5 – House Extensions

- (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 4/2009.**

- N/A
-

- (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) **Has a sustainability check list been submitted:** No
- (N) **Does the Council have an interest in the site:** No. However, one of the applicants is the Local Member for the Bute Ward.
- (O) **Requirement for a hearing (PAN41 or other):** No
-

(P) Assessment and summary of determining issues and material considerations

45 Craigmore Road is a modest, two-bedroomed detached dwellinghouse located within the Rothesay Conservation Area. The proposal incorporates the erection of a domestic office on the west-facing elevation; the expansion of the porch into a utility room on the north-facing elevation; the removal of the existing rolled concrete tiles and their replacement with grey-coloured smooth interlocking concrete tiles; and the installation of solar panels on the south-facing roof slope.

Policy LP HOU 5 of the Local Plan specifically deals with proposals to extend dwellinghouses. The main precepts are as follows:

- Extensions should not dominate the original building by way of size, scale, proportion or design;
- External materials should be complementary to the existing property;
- Extensions should not have a significant adverse impact on the privacy of neighbours;
- Flat-roofed extensions will not be permitted where they do not complement the existing house style and design.

The proposed extensions in this particular case fulfil all of the above criteria. Whilst the utility room on the north-facing elevation will have a flat-roof design, this entirely reflects the form of the existing porch at this location. There are no issues with the new roof covering whilst the solar panels are to be welcomed in relation to the current drive towards renewable energy.

Policy LP ENV 14 requires that proposals in conservation areas should either preserve or enhance the character and appearance of the designated areas. This small scale proposal does not detract from the conservation area and on the basis of all of the foregoing, the proposal is considered to be acceptable.

-
- (Q) Is the proposal consistent with the Development Plan:** Yes
-

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

The proposal accords with policies LP ENV 1, LP ENV 14, LP ENV 19 and LP HOU 5 of the Argyll and Bute Local Plan (2009) and the proposal raises no other material consideration which would justify refusal of permission.

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

N/A

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

Author of Report: Steven Gove **Date:** 24th November 2011

Reviewing Officer: David Eaglesham **Date:** 24th November 2011

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/02175/PP

1. The development shall be implemented in accordance with the approved drawings as follows: Drawing Number 45CR/SP; Drawing Number 45CR/SPE; Drawing Number 45CR/SPP; Drawing Number 45CR/NEE; Drawing Number 45CR/SEE; Drawing Number 45CR/EEE; Drawing Number 45CR/WEE; Drawing Number 45CR/FPE; Drawing Number 45CR/RPE; Drawing Number 45CR/NEP; Drawing Number 45CR/SEP; Drawing Number 45CR/EEP; Drawing Number 45CR/WEP; Drawing Number 45CR/PFPP; Drawing Number 45CR/PRPP; and Drawing Number 45CR/CD unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

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

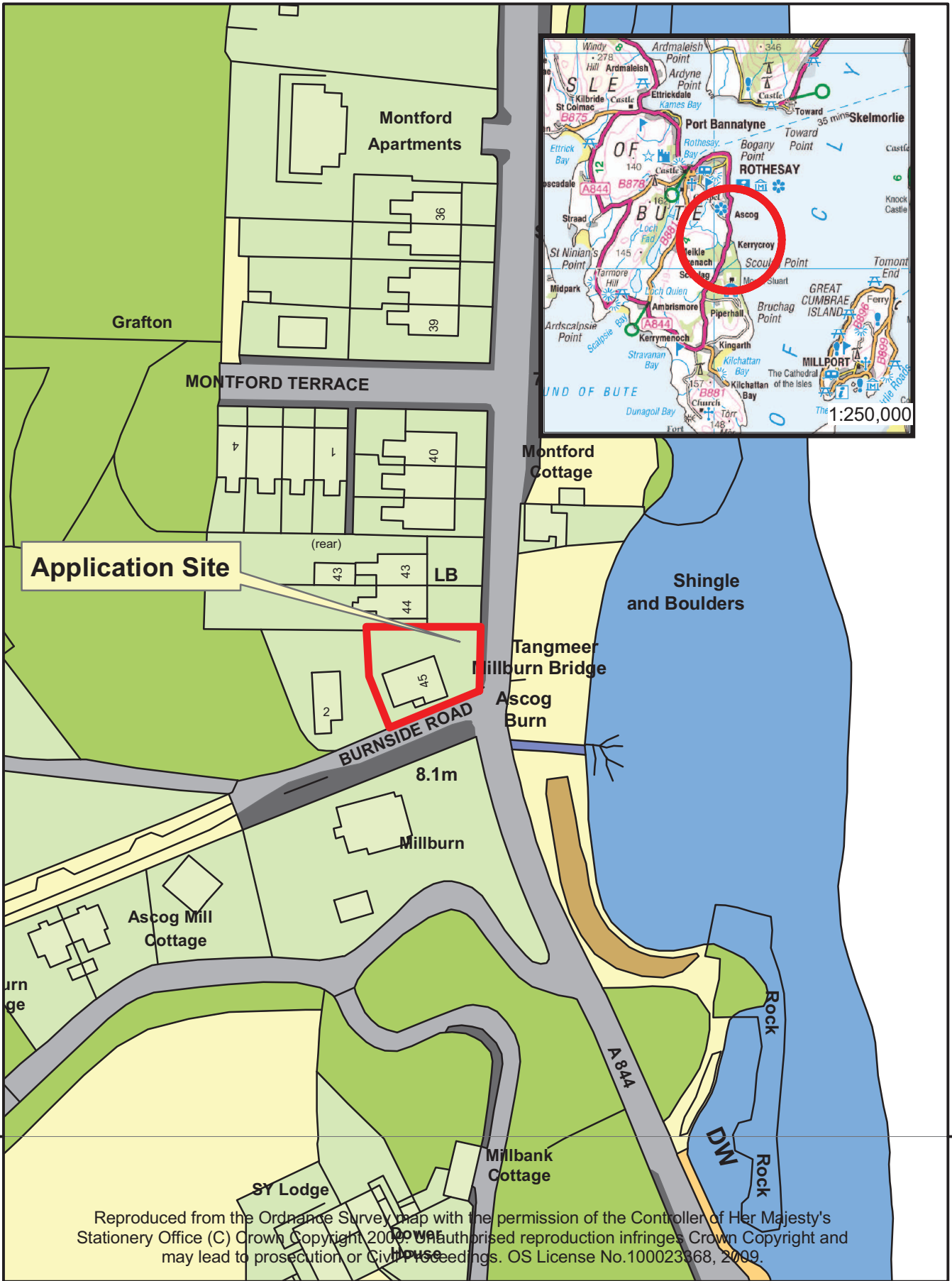
2. A sample of the proposed roofing tile shall be submitted to and approved in writing by the Council as Planning Authority prior to development being commenced. The development shall be completed using the duly approved sample.

Reason: In order to secure an appropriate appearance in the interests of maintaining the character and appearance of the conservation area.

NOTES TO APPLICANT

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

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**Location Plan relative to
Application Ref: 11/02175/PP**



Date: 28.11.11

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