

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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20 June 2012

NOTICE OF MEETING

A meeting of the **PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 27 JUNE 2012 at 10:00 AM**, or at the conclusion of the Planning, Protective Services and Licensing 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**
Planning, Protective Services and Licensing Committee 30 May 2012 (Pages 1 - 16)
- 4. PRIVATE HIRE LICENSING - LIST OF APPROVED VEHICLES**
Report by Head of Governance and Law (to follow)
- 5. DUNLOSSIT ESTATE: ERECTION OF DWELLINGHOUSE AND DETACHED GARAGE: LAND TO SOUTH WEST OF LAGGAN BRIDGE, ISLE OF ISLAY (REF: 10/01931/PP)**
Report by Head of Planning and Regulatory Services (Pages 17 - 44)
- 6. MR AND MRS S BATE: SITE FOR THE ERECTION OF CROFT HOUSE: LAND EAST OF ACHARA, OBAN (REF: 11/02115/PPP)**
Report by Head of Planning and Regulatory Services (Pages 45 - 64)
- 7. MRS AILSA MORGAN: ERECTION OF 5KW WIND TURBINE (15 METRES TO HUB HEIGHT): LAND NORTH EAST TO TORRBREAC, DERVAIG, ISLE OF MULL (REF: 11/02492/PP)**
Report by Head of Planning and Regulatory Services (Pages 65 - 80)

8. **A'CHRUACH WIND FARM LIMITED: WINDFARM COMPRISING 21 TURBINES (126.5 METRES HIGH TO BLADE TIP), ERECTION OF 2 METEOROLOGICAL MET MASTS, SUB STATION, CONTROL BUILDING, CONSTRUCTION COMPOUNDS, ACCESS WORKS AND ANCILLARY DEVELOPMENT (AMENDED PROPOSAL): LAND AT A'CHRUACH, KILMELFORD FOREST, WEST OF MINARD (REF: 11/02520/PP)**
Report by Head of Planning and Regulatory Services (Pages 81 - 114)
9. **OSBORNE INTERIORS: REFURBISHMENT OF EXISTING BANDSTAND: KIDSTON PARK, RHU ROAD LOWER, HELENSBURGH (REF: 12/00094/PP)**
Report by Head of Planning and Regulatory Services (Pages 115 - 124)
10. **OBAN BAY MARINA LTD: FORMATION OF MULTI USE/SHORT STAY TRANSIT MARINA, PLUS DIESEL BERTH, MANAGER'S OFFICE, PROVISION FOR SMALL DAY BOATS/RIBS AND LIMITED USE FOR OVER WINTERING (AMENDED SCHEME RELATIVE TO PLANNING PERMISSION 08/01049/DET): OBAN BAY, OBAN (REF: 12/00678/PP)**
Report by Head of Planning and Regulatory Services (Pages 125 - 172)
11. **ARGYLL AND BUTE COUNCIL: ERECTION OF SINGLE STOREY EXTENSION AND FORMATION OF SECURE PLAY AREA: PARK PRIMARY SCHOOL, KERRERA TERRACE, OBAN (REF: 12/00703/PP)**
Report by Head of Planning and Regulatory Services (Pages 173 - 182)
12. **MR P ELLIS: ERECTION OF SINGLE STOREY EXTENSION (RETROSPECTIVE): 5 CAMMESREINACH CRESCENT, HUNTER'S QUAY, DUNOON (REF: 12/00716/PP)**
Report by Head of Planning and Regulatory Services (Pages 183 - 190)
13. **MR AND MRS SHAUN BATE: ERECTION OF DWELLINGHOUSE (RENEWAL OF PLANNING PERMISSION 07/00279/DET): LAND SOUTH OF HEATHERFIELD, ALBERT ROAD, OBAN (REF: 12/00834/PP)**
Report by Head of Planning and Regulatory Services (Pages 191 - 204)
- E1 14. **ENFORCEMENT REPORT: 10/00319/ENAMEN**
Report by Head of Planning and Regulatory Services (to follow)

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 1 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 Blair

Councillor Robin Currie

Councillor George Freeman

Councillor David Kinniburgh

Councillor Robert Graham MacIntyre

Councillor Alex McNaughton

Councillor Sandy Taylor

Councillor Rory Colville

Councillor Mary-Jean Devon

Councillor Fred Hall

Councillor Alistair MacDougall

Councillor Donald MacMillan

Councillor James McQueen

Councillor Richard Trail

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MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD
on WEDNESDAY, 30 MAY 2012

Present: Councillor Sandy Taylor (Chair)

Councillor Gordon Blair	Councillor David Kinniburgh
Councillor Mary-Jean Devon	Councillor Robert G MacIntyre
Councillor George Freeman	Councillor Alex McNaughton
Councillor Fred Hall	Councillor Richard Trail

Attending: Charles Reppke, Head of Governance and Law
 Angus Gilmour, Head of Planning and Regulatory Services
 Richard Kerr, Principal Planning Officer
 Sheila MacFadyen, Senior Solicitor
 Graeme Forrester, Solicitor

1. APOLOGIES FOR ABSENCE

Apologies for absence were intimated from Councillors Rory Colville, Robin Currie, Alistair MacDougall, Robert E Macintyre and Donald MacMillan.

2. DECLARATIONS OF INTEREST

Councillor George Freeman declared a non financial interest in respect of the business dealt with at item 10 of this Minute (Planning Application Ref: 12/00818/PP) as he has, in his capacity as the local Member, submitted an objection to this Application. He left the room and took no part in the discussion of this Application.

3. MINUTES

- (a) The Minutes of the Planning, Protective Services and Licensing Committee of 18 April 2012 (9.30 am) were approved as a correct record.
- (b) The Minutes of the Planning, Protective Services and Licensing Committee of 18 April 2012 (10.00 am) were approved as a correct record.
- (c) The Minutes of the Planning, Protective Services and Licensing Committee of 18 April 2012 (10.30 am) were approved as a correct record.

* **4. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: PUBLIC ENTERTAINMENT LICENCE**

Concerns have been expressed and representations received in relation to the impact of the amendment to the Civic Government (Scotland) Act 1982 by the Criminal Justice and Licensing (Scotland) Act 2010 in relation to public entertainment licensing whereby free to enter public entertainment events require to be licensed with effect from 1 April 2012. Consideration was given to a report regarding Standard Conditions for Public Entertainment Licences and setting fees for these licences.

Decision

Agreed to recommend to the Council that:-

- (a) The draft standard conditions attached at Appendix A to this report be approved and published on the Council's website;
- (b) No fee should be charged for a free to enter event if the event is organised by a formally constituted voluntary or charitable organisation on the basis that this exemption from payment of a fee only applying if the following criteria are met (i) there is no admission charge or fee; (ii) no charge for use of any of the facilities provided by the event organiser; and (iii) no donations are made towards the cost of running the event;
- (c) If entry to an event held by a voluntary or charitable organisation is not free there is no fee for the first 2 events held per year by the organisation with subsequent events held in the same year being charged a reduced fee of £40 per event.
- (d) There is a monitoring period of a year in relation to any change in the fees agreed in relation to voluntary and charitable based organisations with a further report being placed before the PPSL Committee to advise on cost implications in administering and any other issues in May 2013.

(Reference: Report by Head of Governance and Law, tabled)

5. M AND K MCLEOD LTD: TEMPORARY USE OF FORMER AMBULANCE DEPOT FOR CLASS 6 (STORAGE OR DISTRIBUTION): FORMER AMBULANCE STATION, MANSE BRAE, LOCHGILPHEAD (REF: 11/02280/PP)

The Principal Planning Officer spoke to the terms of a report advising that this proposal seeks retrospective planning permission for the change of use of a former ambulance depot (sui generis) to form a storage building with approximately 80 sqm of storage space with ancillary office accommodation. Notwithstanding the concerns raised by the Community Council and third party objectors, it is considered that whilst a permanent permission as applied for would be undesirable, a temporary permission sufficient to enable the site to serve the needs of the remainder of the housing development it currently serves and providing an opportunity to review the operation of the site in the light of experience would be an appropriate response to the situation. The proposal would be consistent with the relevant provisions of both the Argyll and Bute Structure Plan 2002 and the Argyll and Bute Local Plan 2009.

Decision

- 1. Noted the request from Councillor Douglas Philand that a site visit be undertaken in advance of determining this Application and agreed that this would not be necessary;
- 2. Agreed to grant planning permission on a temporary basis subject to the following conditions and reasons:-

- (a) This permission shall cease on or before 30th June 2015 other than in the event of a further permission for continued use having been granted upon application to the Planning Authority.

Reason: To define the permission and to provide opportunity to review the operation of the permitted use in the light of experience in order to protect the amenity of the locale.

- (b) The development shall be implemented in accordance with the details specified on the application form dated 10.11.2011 and the approved drawing reference numbers 1 to 8 of 8 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.

- (c) Notwithstanding the combined provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the Town and Country Planning (General Permitted Development) (Scotland) Order(s) 1992, Schedule 1, Class 12, the premises shall only be used for a class 6 (storage and distribution) use as defined in the Town and Country Planning (Use Classes)(Scotland) Order 1997, and the use of the premises subsequently for any class 4 (business) use shall be prevented by this condition, requiring separate planning permission for any such use.

For the avoidance of doubt, no preparation or working of materials by power or other tools shall be permitted within the site as this would constitute a change of use to Class 5 – General Industrial, which is not compatible with the existing mixture of uses surrounding the site, including noise sensitive uses.

Reason: The site is compact with limited car parking for which reason it will need to be assessed through a fresh planning application as to whether there is sufficient parking for any specific class 4 (business) use as might be proposed and in order to protect the amenity of the locale.

- (d) No materials, goods, containers, caravans, trailers or waste products shall be stored outside the building.

Reason: In the interest of neighbouring residential amenity and because of the limitations of the site.

- (e) The operation of the premises and the management of traffic to and from the premises shall conform to the applicants' site and traffic management plan as specified in the statement of the 9th February 2012 attached hereto.

Reason: In the interest of residential amenity.

- (f) Within three months of the date of this permission, the roadworks altering the bellmouth and kerb line of the site access with the private road shall be implemented in full in accordance with the details specified on drawing 3 of 8 (J568/C/01).

Reason: In the interests of highway safety.

- (g) Within three months of the date of this permission, the 4 on site car parking spaces and vehicle turning area as shown on drawing 2 of 8 (4482/102) shall be constructed and made available for use. Thereafter the approved car parking layout shall be retained for the parking, turning and manoeuvring of vehicles.

Reason: In the interests of highway safety.

- (h) The hours of operations for all delivery/dispatch activities shall be restricted to between 08.00 and 18.00 hours Monday to Saturday only with no activities permitted on Sundays or Scottish Public Holidays without the prior written approval of the Planning Authority.

Reason: To safeguard residential amenity.

- (i) No external lighting shall be installed without the details of it having being first submitted to and approved in writing by the Planning Authority in consultation with the Council's Environmental Health Officers. Any lighting as may be permitted pursuant to the requirements of this condition shall be installed and maintained in a manner which ensures no spillage of light onto neighbouring premises.

Reason: To safeguard residential amenity.

- (j) The land and premises shall be used in such a way that the existing core footpath on the western side of the private road, and the private road itself shall both remain surfaced and free of obstruction for the movement of pedestrians (on the core path) and the movement of vehicles (on the private road) through the site.

Reason: In the interest of pedestrian and highway vehicular safety.

(Reference: Report by Head of Planning and Regulatory Services dated 15 May 2012, submitted)

6. SCOTTISH POWER PLC: FORMATION OF A TEMPORARY CONTRACTOR'S SITE COMPOUND: LAND TO NORTH OF CRUACHAN POWER STATION, TAYNUILT (REF: 12/00213/PP)

The Head of Planning and Regulatory Services spoke to the terms of a report advising that the proposal seeks planning permission for the formation of a temporary contractor's site compound on land owned by the Council to the north of Cruachan Power station, by Taynuilt. Reference was also made to supplementary planning report number 1 which clarified the position of a mobile toilet portakabin on the site. Temporary planning permission was originally granted on 1 October 1996 by virtue of 96/00776/COU for the formation of a

contractor's compound and the siting of portakabins to serve works associated with the operation and maintenance of Cruachan Power Station. Since then there have been numerous applications granted to renew the temporary planning permission with the most recent having been granted on 10 April 2008 by virtue of 08/00425/DET which expired on 30 September 2011. Although the site lies within 'Very Sensitive Countryside' it benefits from a long established locational need related to a renewable energy development and it satisfies Parts A and B of Policy STRAT DC 6 and policies STRAT SI 1 and STRAT DC 8 of the Argyll and Bute Structure Plan 2002 and policies LP ENV 1, LP ENV 12, LP ENV 19, LP SERV 1, LP SERV 4, LP TRAN 4 and LP TRAN 6 of the Argyll and Bute Local Plan 2009. In the circumstances, it is recommended that permission be granted on a permanent rather than a further temporary basis subject to conditions and reasons detailed in the original report and to conditions and reasons detailed in the supplementary report in respect of the mobile toilet portakabin.

Decision

Agreed to grant planning permission subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 25th January 2012 and the approved drawing reference numbers:

- Plan 1 of 1 (OB.02.01/01)

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 and to ensure that the development is implemented in accordance with the approved details.

2. In the event that the site has not been occupied for its intended purpose during the course of a continuous period of 18 months, the permitted use shall be deemed to have ceased and all structures, containers and materials shall be removed from the site, unless otherwise agreed in writing by the Planning Authority, and immediately thereafter the land shall be reinstated in accordance with details which shall be submitted to agreed in writing in advance by the Planning Authority.

Reason: In the interests of amenity and to ensure that the site is reinstated to an appropriate and satisfactory standard.

3. This permission relates only to the use of the compound by contractors working within Cruachan Power Station and associated areas. Any structures, containers or materials shall only be sited on the land whilst maintenance or other contracted works are ongoing within Cruachan Power Station and shall be removed within 2 months from the completion of works on site.

Reason: In accordance with the use applied for.

4. Any structures shall be used only for site offices and storage accommodation and shall at no time be used for residential purposes.

Reason: In accordance with the use applied for.

5. No trees or shrubs within the application site as identified by the red line on Drawing No. (OB.02.01/01), shall be lopped, topped, felled or uprooted without the prior written approval of the Planning Authority.

Reason: The landscape features hereby protected, are important to the appearance and character of the development site and their retention ensures that the development is screened from existing properties in the immediately surrounding area.

6. Within 3 months from the date of this permission, the portable building providing toilet facilities hereby approved shall be painted in a recessive colour and thereafter shall be maintained as such. The proposed recessive colour to be used shall be agreed in writing by the Planning Authority prior to the portakabin being painted. Any replacement portable building shall be painted in the same colour as the original structure was required to be painted, unless any variation thereof has been agreed in writing in advance by the Planning Authority.

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

7. Permission is granted for the portable building providing toilet facilities and occupying the application site at the time of this permission for a period up to 30th May 2022, following which it shall be removed from the site, unless on application permission has been granted for its retention for a further period by the Planning Authority.

Reason This temporary structure is one of limited life expectancy, the future of which should be reviewed in the future in the interests of visual amenity.

(Reference: Report by Head of Planning and Regulatory Services dated 3 May 2012 and supplementary planning report number 1 dated 28 May 2012, submitted)

7. ARGYLL AND BUTE COUNCIL: ERECTION OF NEW VEHICLE WORKSHOP, WELFARE BUILDING, GLASSHOUSE AND BIKE SHELTER INCLUDING NEW VEHICLE ENTRANCE AND ADDITIONAL PARKING: COUNCIL MAINTENANCE DEPOT, LUSS ROAD, HELENSBURGH (REF: 12/00219/PP)

The Principal Planning Officer spoke to the terms of a report advising that this proposal seeks planning permission for the erection of a new vehicle workshop, welfare building, glasshouse and bike shelter including new internal vehicle entrance and additional parking within the Council's existing depot at Luss Road. There have been no objections received and it is considered that the scale and design of the proposed workshop building is acceptable and accords with Policies LP ENV 3, LP ENV 19, LP BAD 1, Appendix A and Appendix C of the

adopted Local Plan and, similarly, the welfare building and glasshouse are also acceptable and accord with Policy.

Decision

Agreed to grant planning permission subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 24/11/2011 and the approved drawing reference numbers L(--)001 Rev A, L(--)002 Rev A, L(--)003 Rev A, L(--)004 Rev a L(--)006 Rev A, L(--)010 Rev B and L(--)015 Rev A 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. Development shall not begin until details of a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
 - i) location and design, including materials, of walls, fences and gates;
 - ii) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub;
 - iii) a programme for completion and subsequent on-going maintenance.

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

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

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

3. The parking provision shown on the docquetted plans shall be in place prior to the buildings hereby approved being completed or brought into use and shall be retained as such thereafter.

Reason: In the interests of road safety.

4. Development shall not begin until samples of materials to be used on external surfaces of the buildings have 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.

(Reference: Report by Head of Planning and Regulatory Services dated 10 May 2012, submitted)

8. ARGYLL AND BUTE COUNCIL: INSTALLATION OF A BIOMASS BOILER INCLUDING PLANT ROOM AND WOODCHIP STORE: ISLAY HIGH SCHOOL AND BOWMORE PRIMARY SCHOOL, FLORA STREET, BOWMORE, ISLAY (REF: 12/00564/PP)

The Principal Planning Officer spoke to the terms of a report advising that this proposal seeks planning permission for a Biomass Heating Plant to serve the adjacent Islay High School and Bowmore Primary School. The proposal is consistent with the provisions of policy LP REN 3 which seeks to encourage non-wind renewable energy development where this is compatible with the amenity of its surrounds and does not give rise to an adverse impact upon infrastructure. Furthermore the proposal will not give rise to detrimental impacts upon the amenity of the locale and is of appropriate scale, design, finishes and siting having regard to the setting of the school buildings within the Bowmore settlement area.

Decision

Agreed to grant planning permission subject to the following conditions and reasons:-

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 13th March 2012; and the approved drawings numbered 1 of 7 to 7 of 7; and stamped approved by Argyll and Bute Council.

Reason: in order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

Standard Note: In terms of condition 1 above, the Council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non material amendment (NMA) should be made in writing to Planning Services, Dalriada House, Lochgilphead, PA31 8ST which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. It should be noted that only the original applicant can apply for an NMA under the terms of Section 64 of the Town and Country Planning (Scotland) Act 1997. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

2. The use hereby permitted shall not commence until full particulars and details of a scheme for the dispersion of atmospheric pollutants from the

development, including a calculation of the required flue heights from the boiler plant, has been submitted and approved by the Planning Authority and the development shall not be carried out otherwise than in accordance with any approval given.

Reason: In order that the Planning Authority may be satisfied as to the arrangements for preventing loss of amenity to neighbouring premises due to atmospheric pollutants.

(Reference: Report by Head of Planning and Regulatory Services dated 11 May 2012, submitted)

9. TOWARD SAILING CLUB: ERECTION OF 5 KILOWATT WIND TURBINE (15 METRES HIGH TO BLADE TIP): TOWARD SAILING CLUB, TOWARD, DUNOON (REF: 12/00663/PP)

The Principal Planning Officer spoke to the terms of a report advising that this application is for a small wind turbine to be sited on land owned by the Council close to Toward Sailing Club's clubhouse. Whilst the site of the wind turbine is flanked by the Category B listed Toward Quay and Category B listed Castle Toward Gate Lodge, the visual impact will be reduced by the presence of the Sailing clubhouse and other buildings, poles and masts and the use of a dark grey colour for the wind turbine which is not considered to present an obtrusive or conspicuous object in the landscape and is consistent with policies STRAT SI 1, STRAT DC 5, STRAT DC 8, STRAT DC 9, and STRAT RE 1 of the Argyll and Bute Structure Plan and to policies LP ENV 1, LP ENV 10, LP ENV 11, LP 13(a), LP ENV 19, LP BAD 1 and LP REN 1 of the Argyll and Bute Local Plan.

Decision

Agreed to grant planning permission subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 21 March 2012 and the approved drawing reference numbers: 1:10,000 Location Plan, 1:500 Block Plan, 0130-AD-00174 D, 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.

2. For the avoidance of any doubt, the monopole and turbine blades shall be painted in RAL 7000 Dark Squirrel Grey, unless otherwise agreed in writing by the Planning Authority.

Reason: In terms of visual impact and to integrate the wind turbine in its surroundings.

3. This permission shall be for a period of 20 years from the date of this permission. Within 6 months of the end of that period, or following the earlier cessation of use of the wind turbine for a continuous period in excess of 12

month, whichever is the earlier, the wind turbine and ancillary equipment shall be dismantled and removed from the site and the land reinstated in accordance with details to be submitted to and approved by the Planning Authority, unless a further planning application for the retention of the turbine is has been approved by the Planning Authority.

Reason: In order that the Planning Authority has the opportunity to review the circumstances pertaining to the consent, which is considered to be of a temporary nature and in the interests of the visual amenity of the area.

(Reference: Report by Head of Planning and Regulatory Services dated 4 May 2012, submitted)

Having previously declared an interest Councillor George Freeman left the room and took no part in the discussion of the following item.

10. MR AND MRS JOHN SMITH: ERECTION OF DWELLINGHOUSE, INSTALLATION OF PRIVATE SEWAGE TREATMENT FACILITY AND FORMATION OF NEW ACCESS: LAND NORTH WEST OF FINNART FARMHOUSE, FEUINS ROAD, PORTINCAPLE (REF: 12/00818/PP)

The Principal Planning Officer spoke to the terms of a report advising that this proposal seeks planning permission for the erection of a dwelling and the installation of an associated sewage treatment plant and access. Reference was also made to supplementary planning report number 1 which advised of a late representation received. The majority of the house plot (93%) site lies within the 'settlement' boundary of the minor settlement of Portincaple/Whistlefield as defined by the adopted Local Plan. The remaining 7% of the site which is located at the north western corner of the plot lies within an area defined as 'countryside around settlement'. There is a presumption against residential development in these areas in order to avoid pressure for development to creep beyond defined settlement boundaries. However, given the small size of the area, the fact that it is to form part of the garden, and will not accommodate any built development, and given the opportunity to preclude ancillary structures within the proposed curtilage can be justified as a 'minor departure' from Structure Plan Policy STRAT DC 2 and Local Plan Policy LP HOU 1. The site also lies within an area designated as an Area of Panoramic Quality. It is considered that the proposal would be acceptable in this regard given its siting, scale and design. It is recommended that this application be approved as a minor departure to development plan policy subject to conditions and a PAN 41 hearing.

Decision

Agreed to hold a PAN 41 hearing on a date and time to be determined.

(Reference: Report by Head of Planning and Regulatory Services dated 23 May 2012 and supplementary planning report number 1 dated 28 May 2012, submitted)

Councillor Freeman returned to the meeting.

11. NORTHERN ENERGY DEVELOPMENTS LIMITED: DEVELOPMENT OF LAND WITHOUT COMPLIANCE WITH CONDITION 1 OF PLANNING PERMISSION REFERENCE 08/00309/DET - ERECTION OF A WOOD FIRED COMBINED HEAT AND POWER PLANT AND FORMATION OF VEHICULAR ACCESS: LAND TO NORTH OF DALINLONGART WASTE DISPOSAL SITE, SANDBANK, DUNOON (REF: 12/00838/PP)

The Principal Planning Officer spoke to the terms of a report advising that planning permission (ref 08/00309/DET) was previously granted on 9 June 2008 for a wood fired combined heat and power plant within the Council's Waste Management facility at Dalinlonghart and is due to expire on 9 June 2013. The Applicant's agent has confirmed that due to unforeseen circumstances, delays in the procurement process and the offer of a grid connection date beyond 9 June 2013, a revised construction schedule has been adopted for the project. As a result, it may not be possible to implement this consent within the prescribed period and as a precautionary measure, the Applicant's request an extension to the approved permission by which development must commence by three years to 9 June 2016. The scheme is unchanged from the previous proposal and is still considered to be acceptable in terms of use, siting, design and materials subject to conditions detailed in the report.

Decision

Agreed that planning permission be granted subject to the following conditions and reasons:-

1. For the avoidance of doubt, the development shall be implemented in accordance with the details specified on the application form dated 16 April 2012 and accompanying site location plan no. MG372/PA/F/01; and to the following drawings approved under planning permission ref. 08/00309/DET – HG347/PA/F/01, HG347/PA/F/02, HG347/PA/F/09, HG336/PA/F/04, HG347/PA/F/06, HG347/PA/F/05, 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.

2. No development shall be commenced until a Construction Method Statement (CMS) has been submitted to and has been approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency. The development shall be implemented in accordance with the provisions of the duly approved CMS.

Reason: In order to ensure that construction activities have regard to pollution control and amenity considerations.

3. No development shall be commenced until a detailed Sustainable Urban Drainage (SuDS) Scheme (designed in accordance with the agreed Draft Drainage Assessment/SuDS Strategy) has been submitted to and has been approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency and Scottish Water. This shall have regard to the provisions of the outline drainage assessment submitted with

the application and shall seek to minimise surface water run-off from the site. The development shall be implemented in accordance with the provisions of the duly approved scheme.

Reason: In order to prevent potential pollution of controlled waters.

4. No development shall be commenced until a Site Waste Management Plan has been submitted to and has been approved in writing by the Planning Authority following consultation with the Scottish Environment Protection Agency. This shall address the intended means of dealing with waste arising during the construction process and during the operational phase of the development. The development shall be implemented and operated in accordance with the provisions of the duly approved management plan.

Reason: In the interests of waste minimisation and pollution control.

5. Prior to the commencement of development, samples and/or full details of the materials/colour finishes to be applied to the boiler/turbine building, the cooling plant, chimney, wood chip handling equipment and portable buildings shall be submitted to and approved in writing by the Planning Authority. These shall comprise recessive colours appropriate to a forested location (e.g. a non-reflective material, dark green in colour). The development shall be completed in accordance with the duly approved details and shall be retained as such unless any subsequent variation thereof is agreed in advance in writing by the Planning Authority.

Reason: In order to help assimilate the development into its landscape setting in the interests of visual amenity.

6. All emissions from the combined heat and power plant shall discharge from a chimney which shall not exceed an overall height of 30.0 metres.

Reason: In order to ensure that chimney height is limited to that necessary to safeguard air quality, in the interests of visual amenity.

7. Prior to the commencement of development, a dispersion modelling exercise shall be submitted to and approved by the Planning Authority to ensure that the air quality of the residential properties at Ballochyle and Sandhaven will not exceed stated objectives by the grounding of the plume from the 30-metre high stack.

Reason: In the interests of the amenity of the area and the protection of local air quality.

8. Prior to the commencement of development, a chimney height assessment using Technical Guidance Note D1 shall be submitted to and approved in writing by the Planning Authority, if the boiler is not to require authorisation as a prescribed process by SEPA.

Reason: In the interests of the amenity of the area and the protection of local air quality.

9. Prior to commencement of development, section drawings through the site

indicating a finished floor level for the boiler/turbine building relative to a fixed datum on the existing forestry road on the eastern boundary shall be submitted to and approved in writing by the Planning Authority. This shall also include full details of any cut and fill operations required and the development shall be implemented in accordance with the duly approved details.

Reason: In order to minimise the overall height of the building relative to surrounding ground levels in the interests of visual amenity.

10. No development shall commence until the developer has secured a programme for the management of woodland within 50m of the site boundary (including the selective felling, management and re-stocking of this area), in accordance with details to be submitted to and approved by the Planning Authority. Thereafter this area shall be retained and managed in accordance with the duly approved programme unless otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure tree management and replacement in the interests of visual amenity.

11. Prior to commencement of development, a Noise Impact Assessment for the chipping operation and operation of the plant shall be submitted to and approved in writing by the Planning Authority. The levels of noise arising from the operation of the combined heat and power plant shall not exceed the existing pre-determined background noise levels at the boundaries of the nearest noise sensitive properties (at Balagowan, Gleann Ban - and at An Creachan, Glen Kin) as agreed with the Planning Authority in consultation with Public Protection. All noise measurements shall be conducted in accordance with BS4142:1997.

Reason: In order to prevent noise disturbance to nearby properties.

12. Prior to the commencement of development, a scheme for the protection of the nearest residential properties from noise from the boiler/turbine plant and chipping operation shall be submitted to and be approved in writing by the Planning Authority. This scheme shall include details of any sound insulation to be provided on the western and northern elevations of the boiler/turbine building to achieve the noise limits specified in condition 11 above, and of any acoustic barriers to the site of the chipping operation. The development shall not be implemented and operated otherwise than in accordance with the duly approved details.

Reason: In order to ensure compliance with the terms of the permission.

13. Prior to the commencement of operation of the combined heat and power plant, a noise assessment plan shall be submitted and approved by the Planning Authority which shall include details of the monitoring to be carried out in order to ensure compliance with conditions 11 and 12 above.

Reason: In order to prevent noise disturbance to nearby properties.

14. Notwithstanding any submitted details, wood chipping shall only take place

between the hours of 0700 and 1800 hours Mondays to Fridays, excluding Scottish public holidays, unless otherwise agreed in writing with the Planning Authority in consultation with Public Protection.

Reason: In order to prevent noise disturbance to nearby properties.

15. Notwithstanding any submitted details, vehicle movements, collections and deliveries, and all other on-site external operations including the handling and loading of woodchips, to, from and within the site shall be limited to 0700 and 1800 hours Mondays to Fridays, excluding Scottish public holidays, unless otherwise agreed in writing with the Planning Authority in consultation with Public Protection.

Reason: In order to prevent noise disturbance to nearby properties.

16. The development shall only operate with the abatement equipment, including the electrostatic precipitator, in operation. In the event of failure of any abatement plant, the operator shall cease the combustion process as soon as reasonably practicable and the process shall not recommence until the abatement plant has returned to full working order.

Reason: In the interests of the amenity of the area and the protection of local air quality.

17. Prior to the commencement of development, details of the wood chip storage arrangements shall be submitted to and approved in writing by the Planning Authority, and the development shall not be operated other than in accordance with the duly approved details. These plans shall make particular reference to the management of dust on site.

Reason: In the interests of amenity.

18. Prior to work starting on site, full details of any external lighting to be used within the site and along its access shall be submitted to and approved in writing by the Planning Authority. Such information shall include full details of the location, type and angle of direction and wattage of each light, which shall be so positioned and angled to prevent any glare or light spillage outwith the site boundary. For the purposes of this condition, any external lighting installations shall be designed to conform with Scottish Executive Guidance Note Controlling Light Pollution and Reducing Lighting Energy Consumption and having regard to the Institute of Lighting Engineers Guidance.

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

(Reference: Report by Head of Planning and Regulatory Services dated 23 May 2012, submitted)

The Committee resolved in terms of Section 50A(4) of the Local Government (Scotland) Act 1973, to exclude the public for the following item of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 13 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

12. ENFORCEMENT UPDATE: 10/00319/ENAMEN

Consideration was given to an update on enforcement case 10/00319/ENAMEN.

Decision

Noted the contents of the report and agreed to continue consideration of this to the next meeting of the PPSL Committee.

(Reference: Report by Head of Planning and Regulatory Services dated May 2012, submitted)

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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: 10/01931/PP
Planning Hierarchy: Local
Applicant: Dunlossit Estate
Proposal: Erection of dwellinghouse and detached garage
Site Address: Land to the South West of Laggan Bridge, Isle of Islay

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of detached dwellinghouse;
- Erection of detached garage;
- Installation of private foul drainage system;
- Improvement of private vehicular access and connection to public road

(ii) Other specified operations

- Connection to public water supply;
 - Forest management plan (no details submitted for approval).
-

(B) RECOMMENDATION:

It is recommended that:

- i) The appended Area Capacity Evaluation (ACE) be adopted as a material consideration in the determination of this application and any future application within the defined area of common landscape character; and
 - ii) Subject to the Applicant entering into an appropriate Section 75 Legal Agreement, this application for planning permission be approved subject to the conditions and reasons set out in this report.
-

(C) CONSULTATIONS:

Scottish Natural Heritage		No comment
Core Paths		No reply received.
West Of Scotland Archaeologist Service	10.12.2010	No objection.
Scottish Water	09.12.2010	No objection.
Environmental Health	10.12.2010	No objection.
Area Roads Engineer	25.01.2011	No objection subject to conditions.

(D) HISTORY: None

(E) PUBLICITY:

The proposal was advertised in the local press under the provisions of Reg. 20 – expiry 6th January 2011.

(F) REPRESENTATIONS:

(i) Representations received from: None

(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: | Yes – Statement of locational/operational need |

(All supporting documentation is available to view in its entirety via the public access section of the Council website).

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes – required to tie the ownership of the development to the Applicant and to tie the occupancy of the dwelling to that of an person, or their dependents, employed by Dunlossit Estate in the capacity of a ‘River Watcher’ and who’s terms of employment include duties which seek to secure the security and monitoring of fish stocks within the Estate’s ownership of the River Laggan.

Reason for Refusal if S75 not completed within 3 months:

The proposal by virtue of its ‘open countryside’ location within a ‘sensitive countryside’ designation cannot be supported in the absence of sufficient means to underpin the claimed ‘locational/operational’ need having regard to the provisions of policy STRAT DC 5 of the Argyll and Bute Structure Plan 2002 and LP HOU 1 of the Argyll and Bute Local Plan 2009.

(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 5 – Development in Sensitive Countryside
STRAT AC 1 – Development in Support of Farms, Crofts and Estates

‘Argyll and Bute Local Plan’ 2009

LP ENV 1 – Impact on the General Environment
LP ENV 7 – Impact on Tree/Woodland
LP ENV 17 – Impact on Sites of Archaeological Importance
LP ENV 19 – Development Setting, Layout and Design
LP HOU 1 – General Housing Development
LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems
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.

- Area Capacity Evaluation (appended to this report and subject to Committee consideration before determining this application).

(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): No

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

The proposal seeks detailed planning permission for the erection of a detached single storey dwelling to be used as 'river watcher's/water bailiffs' accommodation to facilitate the management of this part of Dunlossit Estate.

The application site is located within an area of 'Sensitive Countryside' immediately to the south of, and largely contained by, a sharp bend in the Laggan River to the east of Laggan Bridge.

Settlement strategy policy STRAT DC 5 and Local Plan policy LP HOU 1 would normally offer a presumption against new residential development in this location. In this case, however, the applicant has made a claim that the proposed development is required on an operational / locational need basis, primarily for the management and monitoring of this stretch of the river and due to a significant and growing problem with the poaching of wild salmon over the length of the river which is readily accessible from the adjacent Laggan Bridge.

Development Plan policy STRAT DC 5 suggests that, in special cases, small scale residential development in the sensitive countryside may be supported where it has a locational need to be on or in the near vicinity of the proposed site, subject to it according with an Area Capacity Evaluation (ACE).

In this case, it is considered that sufficient locational need has been established to

outweigh the general policy presumption against such development in the sensitive countryside and a competent ACE has been carried out which demonstrates that the proposed site can support the development proposed without having any materially detrimental impact upon the key landscape characteristics of the identified ACE compartment.

In addition to the above, Policy STRAT AC 1 offers a general presumption in favour of appropriate small scale residential development which would sustain the operational integrity of estate land; normally to be limited to infill, rounding-off, redevelopment and change of use opportunities but more peripheral sites possibly proving acceptable subject to appropriate environmental assessment.

The scale and design of the proposed development is largely dictated by its unusual function and is considered acceptable given the specific requirements of the design brief, by the sheltered and well screened nature of the site and by a small yet significant element of design cohesion between the proposed dwelling, an existing fisherman's lodge building on the opposite side of the river bank, and an existing private dwellinghouse, being the closest substantial building to the application site. The proposed development raises no conflict with the Development Plan in this regard, notably with policies LP ENV 1 and LP ENV 17.

The proposed development raises no issues of access or servicing and would have no adverse impact upon any historically sensitive site or feature or on any ecologically important habitat, species or environment.

(Q) Is the proposal consistent with the Development Plan: Yes

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

As per P above.

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

Not applicable

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

Author of Report: Tim Williams **Date:** 30th May 2012

Reviewing Officer: Peter Bain **Date:** 6th June 2012

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 10/01931/PP

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 5th November 2010; and the approved drawings numbered 1 of 6 to 6 of 6; and stamped approved by Argyll and Bute Council.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

Standard Note: In terms of condition 2 above, the council can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997 although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non material amendment (NMA) should be made in writing to Planning Services, Dalriada House, Lochgilphead, PA31 8ST which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.

2. Prior to the commencement of development, details of the proposed finished floor levels of the dwellinghouse relative to an identifiable fixed datum located outwith the application site shall be submitted to and approved in writing by the Planning Authority. The development shall thereafter be implemented in accordance with the duly approved details.

Reason: In the interests of visual amenity and to assist in the integration of the development into its surroundings.

3. Development shall not begin until details of a woodland management programme and a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Planning Authority. The woodland management programme shall cover the area of land identified within a green line boundary appended to the plan hereby attached. The required details shall include:

- i) existing landscaping features, trees and vegetation to be identified and retained, except for those trees required to be removed in order to facilitate the development, these to be clearly identified;
- ii) location and design, including materials, of any walls, fences and gates;
- iii) soft and hard landscaping works, including the location, type and size of each individual tree and/or shrub;
- iv) programme for completion and subsequent on-going maintenance.

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

Any trees or plants within the identified woodland management area which within a

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

Reason: To ensure the implementation of a satisfactory scheme of landscaping and retention and management of existing trees in order to ensure that the development remains appropriately screened from view from the B8016 public road.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, (or any Order revoking and re-enacting that Order(s) with or without modifications), nothing in Article 2(4) of or the Schedule to that Order, shall operate so as to permit, within the area subject of this permission, any development referred to in Part 1 and Classes 1A, 1B, 1C, 1D, 2A, 2B, 3A, 3B, 3C, 3D and 3E of the of the aforementioned Schedule, as summarised below:

PART 1: DEVELOPMENT WITHIN THE CURTILAGE OF A DWELLINGHOUSE

Class 1A: Any enlargement of a dwellinghouse by way of a single storey ground floor extension, including any alteration to the roof required for the purpose of the enlargement.

Class 1B: Any enlargement of a dwellinghouse by way of a ground floor extension consisting of more than one storey, including any alteration to the roof required for the purpose of the enlargement.

Class 1C: The erection, construction or alteration of any porch outside any external door of a dwellinghouse.

Class 1D: Any enlargement of a dwellinghouse by way of an addition or alteration to its roof.

Class 2A: The erection, construction or alteration of any access ramp outside an external door of a dwellinghouse.

Class 2B: Any improvement, addition or other alteration to the external appearance of a dwellinghouse that is not an enlargement.

Class 3A: The provision within the curtilage of a dwellinghouse of a building for any purpose incidental to the enjoyment of that dwellinghouse or the alteration, maintenance or improvement of such a building.

Class 3B: The carrying out of any building, engineering, installation or other operation within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse.

Class 3C: The provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of that dwellinghouse or the replacement in whole or in part of such a surface.

Class 3D: The erection, construction, maintenance, improvement or alteration of any deck or other raised platform within the curtilage of a dwellinghouse for any purpose

incidental to the enjoyment of that dwellinghouse.

Class 3E: The erection, construction, maintenance, improvement or alteration of any gate, fence, wall or other means of enclosure any part of which would be within or would bound the curtilage of a dwellinghouse.

No such development shall be carried out at any time within this Part and these Classes without the express grant of planning permission.

Reason: To protect the sensitive area and the setting of the proposed dwellinghouse, in the interest of visual amenity, from unsympathetic siting and design of developments normally carried out without planning permission; these normally being permitted under Article 2(4) of the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011.

5. The proposed access shall be improved to provide visibility splays of 103.0 metres by 2.4 metres, formed from the centre line of the proposed access. Prior to work starting on site these visibility splays shall be cleared of all obstructions over 1.05 metres in height above the level of the adjoining carriageway and thereafter shall be maintained clear of all obstructions over one metre in height to the satisfaction of the Planning Authority.

Reason: In the interests of road safety.

6. Prior to work starting on site, the access hereby permitted shall be improved and formed in accordance with the Council's Highway Drawing No. SD 08/004 Rev.a. with a refuse collection point to be provided adjacent to the public road.

Reason: In the interest of road safety.

NOTE TO APPLICANT

- **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).
- 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.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application **10/01931/PP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): Yes

The terms of the Section 75 obligation may be viewed on the Council's website at www.argyll-bute.gov.uk by recalling the application reference number on the Council's Public Access Module and then by "Clicking" Section 75 Obligation under the attached correspondence or by viewing the Public Planning register located at Planning Services, Whitegates, Lochgilphead, Argyll, PA31 8ST.

- (B) Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. No

- (C) The reason why planning permission has been granted:

The proposal seeks detailed planning permission for the erection of a detached single storey dwelling to be used as 'river watcher's / water bailiffs' accommodation to facilitate the management of this part of Dunlossit Estate.

The application site is located within an area of 'Sensitive Countryside' immediately to the south of, and largely contained by, a sharp bend in the Laggan River to the east of Laggan Bridge.

Settlement strategy policy STRAT DC 5 and Local Plan policy LP HOU 1 would normally offer a strong presumption against new residential development in this location. In this case, however, the Applicant has made a claim that the proposed development is required on an operational / locational need basis, primarily for the management and monitoring of this stretch of the river and due to a significant and growing problem with the poaching of wild salmon over the length of the river easily accessible from the adjacent Laggan Bridge.

Development Plan policy STRAT DC 5 suggests that, in special cases, small scale residential development in the sensitive countryside may be supported where it has a locational need to be on or in the near vicinity of the proposed site, subject to it according with an Area Capacity Evaluation (ACE).

In this case, it is considered that sufficient locational need has been established to outweigh the general policy presumption against such development in the sensitive countryside and a competent ACE has been carried out which demonstrates that the proposed site can support the development proposed without having any materially

detrimental impact upon the key landscape characteristics of the identified ACE compartment.

In addition to the above, Policy STRAT AC 1 offers a general presumption in favour of appropriate small scale residential development which would sustain the operational integrity of estate land; normally to be limited to infill, rounding-off, redevelopment and change of use opportunities but more peripheral sites possibly proving acceptable subject to appropriate environmental assessment.

The scale and design of the proposed development is largely dictated by its unusual function and is considered acceptable given the specific requirements of the design brief, by the sheltered and well screened nature of the site and by a small yet significant element of design cohesion between the proposed dwelling, an existing fisherman's lodge building on the opposite side of the river bank and an existing private dwellinghouse, being the closest substantial building to the application site. The proposed development raises no conflict with the Development Plan in this regard, notably with policies LP ENV 1 and LP ENV 17.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 10/01931/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application relates to 'small scale' housing development, in this case tied to the management of Dunlossit Estate, the site area for which encompasses the 'Sensitive Countryside' designation as defined by the Argyll and Bute Local Plan 2009. The proposed site does not involve sufficient proximity to existing buildings and landscape containment to be considered as 'infill', 'rounding-off' or 're-development' as defined in the Local Plan Glossary and as such is considered to be 'open countryside development'.

The application site, including land required for provision of a private foul drainage system and road improvements relating to the private access, is located within 'sensitive countryside' wherein the provisions of policies STRAT DC 5 and LP HOU 1 set out a presumption against the development of open countryside sites except where these are supported by a valid locational/operational requirement and, is supported by the findings of an Area Capacity Evaluation (ACE).

The applicant has submitted a statement setting out a case for the proposed development on grounds of a specific locational/operational need. The relevant parts of this case are reproduced below:

"After a comprehensive analysis of their landholding, it became apparent to Dunlossit Estate that there was a need for an employee to live, monitor and 'police' this critical element of the catchment area of the Laggan River. This is particularly so, as it is the one unpoliced area of the river adjacent to a major island road which allows easy access and quick getaway for poachers.

It was agreed that it was important that the site should have easy access to the public road system (B8016) not least for sustainable and public transport reasons.

Similarly, it was agreed that the site should, for sustainable and economic reasons, be as close to the relevant mains services as possible.

The purpose of the building is not only to house a River Watcher, and their family, but also to enable the watcher and family to monitor the river on a 24/7 cycle. The watcher as part of their employment would patrol the river at specific periods during the day; however it is also critical that the watcher and their family can see as much as possible of the river whilst "off duty" at home.

In order that the brief can be properly met the house needs to fulfil the following criteria:

- It should be positioned on higher ground to maximise the view.*
- It should be within easy access of the river itself.*
- It should cover the maximum number of good or recognized pools in the river.*
- The river in the main runs east-west; hence the property should be on the south side of the river looking north which maximizes vision and visibility.*
- Inasmuch as there is a system of paths or tracks serving the river the property should be positioned within easy reach or access to these.*
- If possible the site should be provided with an accessible tower or vantage point to maximise viewing both visually and if appropriate via CCTV.*

The site should be as elevated as possible, however for aesthetic and landscaping reasons the building should not be too visually prominent. It should be masked by higher ground, trees or the like.

The length of the river was surveyed and a site was located which fulfilled the majority of the above criteria.”

Dunlossit Estate is a Conservation estate comprising 18,500 acres of arable, grazing and moorland on the Isle of Islay. The Estate includes a significant part of the catchment basin for the River Laggan, and contains the upper waters of the river itself. The river continues through Laggan Estate to an outlet in Loch Indaal. The river holds a thriving population of both salmon and sea trout, and the upper reaches and tributaries provide critical spawning grounds.

Dunlossit Estate is a member of the Laggan and Sorn Fishery Board and co-operates with Laggan Estate over fishing practices, river-watching, bailiff systems and good conservation practices.

None of the existing housing on Dunlossit Estate provides any direct view of the fishing areas of the river. Population patterns have shifted in the past and left the fishing grounds unprotected by any benevolent residential presence and none of the nearby housing is now in a situation to notice lights or movement on the river banks.

The construction of a house at this location would create a permanent Dunlossit (Laggan and Sorn) presence with panoramic view of the river. The proposals provide for a wide field of observation, and the addition of the observation ‘tower’ further underlines the role of the house. The accommodation is designed to suit most occupation patterns and to accommodate a ‘household’ rather than an individual: the greater the number of people in residence, the greater the deterrent to unauthorised visits to the river bank and the greater the protection given by the river watcher.

There is a need for a bailiff to monitor and ensure compliance with the ‘Catch and Release’ scheme for wild salmon that is currently in force over the whole length of the river.

There is a significant and growing problem with the poaching of wild salmon over the length of the river and it is critical if the stocks are to be preserved and sport/business continued that this is eradicated.

There has been sporadic and unintentional damage to the spawning streams by children and holidays makers. For the sake of the future stock it is important that this is brought under control.

There is a general need to monitor the stock in the river to ensure it remains healthy and at the appropriate level.

It is important that the Estates ‘Deer Management Policy’ is expanded into this area. In particular to protect the recently established native woodlands to the south of the river.

The construction of the building would create a further skilled job opportunity and would help retain people on or attract people to the island.

The Estate accepts that should consent be granted, it will be subject to a Section 75

Agreement in respect of its occupation by an estate employee and in fact that it could not be sold out of the Estate.”

The claimed operational/locational need has been examined and supporting evidence provided by the Laggan and Sorn District Salmon Fishery Board and by Donald James MacPhee the Estate Stalker. Although this evidence is, in part, somewhat anecdotal, it is considered, on the balance of the evidence available, that there is sufficient operational/locational need for this development to comply with the relevant part of settlement strategy policy STRAT DC 5 and Local Plan policy LP HOU 1. It is further considered that the proposed development is supported by an ACE which is appended to this report.

In addition to the above, Policy STRAT AC 1 offers a general presumption in favour of appropriate small scale residential development which would sustain the operational integrity of estate land; normally to be limited to infill, rounding-off, redevelopment and change of use opportunities but more peripheral sites possibly proving acceptable subject to appropriate environmental assessment.

It is considered that the acceptability tests associated with Policy STRAT AC 1 are met in this case.

B. Location, Nature and Design of Proposed Development

The application site measures approximately 0.22 hectares in area and lies within a wide area of ‘Sensitive Countryside’ (SA) immediately south of, and contained by, a series of meanders in the Laggan River. The application site is adjacent to (east of) the Laggan Bridge where the B8016 public road crosses the Laggan River and is located in the open countryside approximately 3 kilometres south east of Bowmore, 5 kilometres south of Bridgend and 12 kilometres north, north west of Port Ellen. The application site is on the extreme northern edge of an extensive area of commercial forestry plantation and is contained to the west by the public road. The application site would be very well screened from the public road by existing vegetation – both commercial forestry and scattered broadleaved trees. The application site is a broadly flat area of land just beyond the margins of the identified river flood plain and forms a very distinctive part of the river environs; a specific landscape character unique to the river margins and contained by the river geometry itself, by the public road and by the forest immediately to the south.

The location, nature and design of the proposed development is informed by a design and access statement, the relevant parts of which are reproduced below:

“It is assumed that the river watcher would be a family person as it’s recognized that the more people within the watcher’s house the more effective a deterrent it will be:

Given the above, the brief calls for a 3 bedroom family house with a reasonable standard of amenities.

As well as providing for a family the development should also allow for a garage and sufficient outbuilding space for a small workshop and fishing equipment store.

Given the use of the house the design should maximise the views of the river and its

immediate environs. This should include for a sheltered area outwith the house for use at night.

Similarly the viewing options should be maximised by providing a high level viewpoint within or adjacent to the house.

The building should be kept single storey to minimise its visual impact within the landscape and allow the potential for disabled use if appropriate.

The building should be sustainable and should utilize alternative energy sources such as heatpumps, solar energy, woodchip etc.

The building should sit comfortably within the landscape and should be constructed from sympathetic sustainable, and if appropriate, traditional materials.

A Woodland Management Plan should be prepared to ensure that the building remains screened from view from the south and west when the commercial woodlands to the south are felled. Existing native woodland has been established in this area however it may require enhancement, particularly to the north west.

The selected site is served by an historic track which runs to within a few meters of the actual location and continues on up the river as an access track for fitter people or riders on quadbikes.

The site is on a [slightly] raised knoll and has good panoramic views of the river over a 270° range.

The brief is met by erecting a built form with a simple square plan with verandas to the north and south elevations.

There is a central north south circulation route through the building with the main living rooms to the north and the bed and service rooms giving onto this central hall.

The simple pyramidal roof rises to a central lookout tower, positioned over the hall which provides light to this space and also by way of a ladder allows the river watcher to inspect and check the river from an elevated viewing point.

The veranda to the north provides for night time viewing and the living areas generally allow for a panoramic northerly view of the river.

The veranda to the south provides a covered ramp/wood store area and also provides a front porch giving access to the property.

A new single vehicle garage is shown to the south of the property and this is sized to allow for a simple workshop along with incidental storage.

The building will be timber framed with walls clad in cedar boarding with a "corrugated iron" shallow pitched roof. As such the building will be unobtrusive and should blend in well with its immediate environs. Corrugated iron and wooden boarding are traditional materials on the Island and it is felt in this case they would be the most appropriate and would allow the building to sit comfortably and unobtrusively within the landscape."

Although the proposed design is somewhat unusual, its form follows the function for which it is designed to a large extent. The proposed building also picks up 'design cues' from two nearby buildings; an old fisherman's hut to the northern river bank and an existing dwellinghouse, 'Red Lodge', immediately south of the river but on the opposite (west) side of the public road.

The relatively shallow pitched roof and the use of natural cladding materials for the walls and traditional corrugated roof covering will help to reduce the impact of the development which will be further anchored in the landscape by a woodland management plan and landscaping scheme to be required by planning condition.

Although the applicant's statement refers to the need to site the building on 'elevated ground' and on a 'raised knoll', this ground is only slightly elevated with respect of the river (and therefore outwith its flood plain having regard to SEPA's 1:200 flood risk map). The site of the proposed dwelling is not significantly elevated with respect to the majority of the surrounding land and would be slightly below the level of the public road.

It is considered that the scale, form and design of the proposed building is acceptable and will have no materially adverse impact upon the character and appearance of the site or its surroundings, in compliance with Development Plan policies LP ENV 1 and LP ENV 19.

C. Archaeological Matters

The site of the proposed development abuts the edge of an archaeological consultation zone wherein the provisions of policy LP ENV 17 would seek to ensure the retention, protection and preservation of the archaeological heritage.

The West of Scotland Archaeology Service have been consulted on the proposed development and raise no substantive archaeological issues. The consultation trigger zone is centred on the site of a former bridge which crossed the river just east of the position of the current Laggan Bridge. Although the abutments of this former bridge still survive as visible features on both banks of the river, the proposed development is well clear of the remains of the bridge which should therefore remain unaffected by construction activities on the site.

Other remnants of previous occupation have been recorded in the vicinity of the application site, including the remains of a settlement comprising two longhouses with associated enclosures, a smaller building and a lime kiln, set upon a natural mound next to a tributary burn around 260 metres to the east-south-east of the plot. Again, however, the remains of this former settlement are unlikely to be directly affected by development of this site.

It is therefore considered that the proposed development is appropriate in terms of its impact upon the historic environment and will comply with Development Plan policy LP ENV 17.

D. Impact on Woodland

The application site is located at the northern edge of an area identified as an area of 'ancient woodland'. However, this is an historic designation and it appears that little or none of the ancient woodland currently exists on the site, the majority of the

designated area being covered by a modern commercial forest plantation. Certainly, there is no evidence of any ancient woodland existing within the development site itself and Scottish Natural Heritage have raised no objection to this aspect of the development.

In order to secure a longer term setting for the development it would be essential to secure the retention of deciduous woodland within the immediate vicinity of the dwellinghouse and augment this with additional tree planting of native deciduous species. The positive management of this woodland area within the application site and adjoining land within the ownership of the applicant can be satisfactorily achieved by planning condition.

There is, therefore, no conflict with Local Plan policy LP ENV 7 in this regard.

E. Road Network, Parking and Associated Transport Matters.

The application site is served by an existing forest access track which leads off the B8016 public road a short distance to the west of the development site.

This existing access is capable of being improved to a suitable standard and the Area Roads Manager has not raised objection to the current application subject to conditions requiring implementation of the necessary road improvements.

It is therefore considered that the proposal is consistent with the provisions of policies LP TRAN 4 and LP TRAN 6.

F. Infrastructure

The submitted details show provision of a private foul drainage system to serve the development comprising a biodisc and a clear water outflow to the river. Scottish Water have confirmed that mains sewerage is not available in this locality and as such this element of the proposal is considered to be consistent with the provisions of LP SERV 1 subject to the applicant/developer obtaining any necessary discharge consent from SEPA.

Water supply would be by connection to the public water main; Scottish Water have confirmed that the Torra Water Treatment Works may have capacity to serve the proposed development.

33m

APPLICATION SITE

Pipeline

Fishing Lodge

Weir

Laggan Bridge

Red Lodge

29m

Track

Ford Weir

FB

32m



0 30 60 120 Meters

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APPENDIX B - AREA CAPACITY EVALUATION

Land to the South East of Laggan Bridge, Isle of Islay – SC Islay 9

a) Purpose of the assessment

This assessment has been undertaken in accordance with the Interim Supplementary Planning Guidance approved by the Council on 19th February 2009.

In this instance, the Area Capacity Evaluation (ACE) is triggered in respect of current application reference 10/01931/PP which seeks planning permission for the erection of a 'river watcher's' dwellinghouse to be used for estate management by Dunlossit Estate, the site being within an area of 'Sensitive Countryside' (SC) and therefore would normally be considered contrary to policy unless sufficient operational/locational need exists to outweigh the normal policy presumption against such development.

The Council's adopted guidance requires that the findings should be made available to applicants and/or agents and to Members in advance of the determination of any related planning application(s) in order that, if necessary, there is an opportunity to prepare a response to the findings for consideration by Committee at the time the application(s) is/are determined and the ACE is given consideration as part of that determination process.

The area to be assessed should be identified as a wider 'area of common landscape character' within which the prospective development site(s) is/are located. ACE's will be considered by Members at the same time as the related development proposal(s) is/are being determined, and once endorsed will become a material consideration in respect of any future applications within that ACE compartment.

b) Area of Common Landscape Character

The application site lies within a wide area of 'Sensitive Countryside' (SC) immediately south of, and contained by, a series of meanders in the Laggan River. The application site is on the extreme northern edge of an extensive area of commercial forestry plantation and is contained to the west by the B8016 public road. The application site would be very well screened from the public road by existing vegetation – both commercial forestry and scattered broadleaved trees. The application site is a broadly flat area of land just beyond the margins of the identified river flood plain and forms a very distinctive part of the river environs; a specific landscape character unique to the river margins and contained by the river geometry itself, by the public road and by the forest immediately to the south.

Having regard to the above, the ACE compartment's northern, and eastern boundaries are therefore defined by the sweep of the Laggan River; the southern limit of the compartment is defined by the northern edge of the commercial forest plantation and the western limit of the compartment is defined by the public road.

The application site is thus located within, and contained by, a unique area of common landscape character, defined primarily by the river bend which forms the primary focus for the operational need advanced in support of the development proposed.

The ACE compartment is within an area categorised by the Scottish Natural Heritage Landscape Assessment of Argyll and the Firth of Clyde 1996 as "Marginal Farmland Mosaic" which is generally characterised by:

- Undulating, uneven landform with rocky outcrops on the lower margins of the upland moor;

- Indented rocky coastline with some small sandy bays;
- Diverse patchy mix of moorland, grassland, peaty marsh and woodland;
- Typically geometric fields, divided by broken stone walls on upper slopes and wire fences or straight drainage ditches on the valley floor;
- Some conifer plantations and deciduous woodland associated with larger farms and estates on sheltered valley slopes;
- many scattered small settlements and isolated farms and cottages;
- Archaeological sites.

In general, the main landscape issues that need to be considered, with regards to the proposed type of development, within this landscape type are:

- Cumulative loss of historic features such as stone walls, field patterns and traditional farmsteads;
- Built development should be in scale with the landscape, i.e. relatively small scale single and small clusters of houses sited in sheltered locations and at an angle to the road, considered in preference to linear or large scale built development of a homogenous character. Buildings should be either of local dark grey stone or finished in white harling;
- Wherever possible, new built development should be associated with small stands of native woodland to help integrate it within the wider landscape. It should also be closely linked to the existing historic pattern of stone walls, historic sites and the rich archaeological heritage of the area;
- Roads should take account of landform, following physical contours and avoiding rocky outcrops, stands of trees and archaeological sites.

Within the ACE compartment it is considered that there is essentially a single area of common landscape character as illustrated on the plans attached to this evaluation and detailed in the matrix below.

c) Key Environmental Features

The ACE compartment itself actually contains very few of the key characteristics associated with the Marginal Farmland Mosaic landscape type, by virtue of the fact that it occupies a somewhat unique and specific location within the close confines of the river margins. However, the Laggan River effectively cuts through an extensive and typical area of Marginal Farmland Mosaic from north-east to south-west and this larger area is characterised by a wide extent of moorland, grassland, peaty marsh and woodland; particularly commercial woodland, some of which overlays historical native woodlands with some evidence of broadleaved trees, particularly at its margins. Built development is scattered and sporadic and tends to occupy well contained sites with low visual impact.

The ACE compartment is compact and largely homogenous; contained by the bend in the river; on the edge of an extensive area of commercial forest plantation and abutting the public road. The ACE compartment is currently very well screened by existing vegetation with only glimpsed views of the site afforded from immediately north of

Laggan Bridge. There is considerable scope to retain much of this existing vegetation and this could reasonably be secured by a forest management plan providing for retention, enhancement and maintenance of the deciduous woodland.

The ACE compartment contains part of an archaeology consultation zone although the current development site itself would fall just outwith it with no issues having been raised by the West of Scotland Archaeology Service.

The compartment is flat and consists of unimproved grassland with significant broadleaved tree cover, particularly to its north western margins, together with small areas of marsh and sandy river beaches, with the river itself being cut into the landform in several places. The compartment is contained by significant forest plantation to the south and by the public road to the west.

Access to the compartment is via an existing private track which exits the B8016 public road and cuts through the northern edge of the existing commercial plantation before leaving the forest and emerging to the open woodland/grassland of the river margins.

d) Capacity to Absorb Development Successfully

The proposed development is driven by a somewhat unique operational need for a river watcher's / water bailiff's dwelling, located as close as feasibly possible to the river, in order to facilitate effective river management, monitor stock levels, control poaching at this vulnerable stretch of the river adjacent to Laggan Bridge and to facilitate improved deer management.

The ACE compartment and its surrounding land is designated as 'Sensitive Countryside' with no existing built development within the compartment and only occasional sporadic development outwith it.

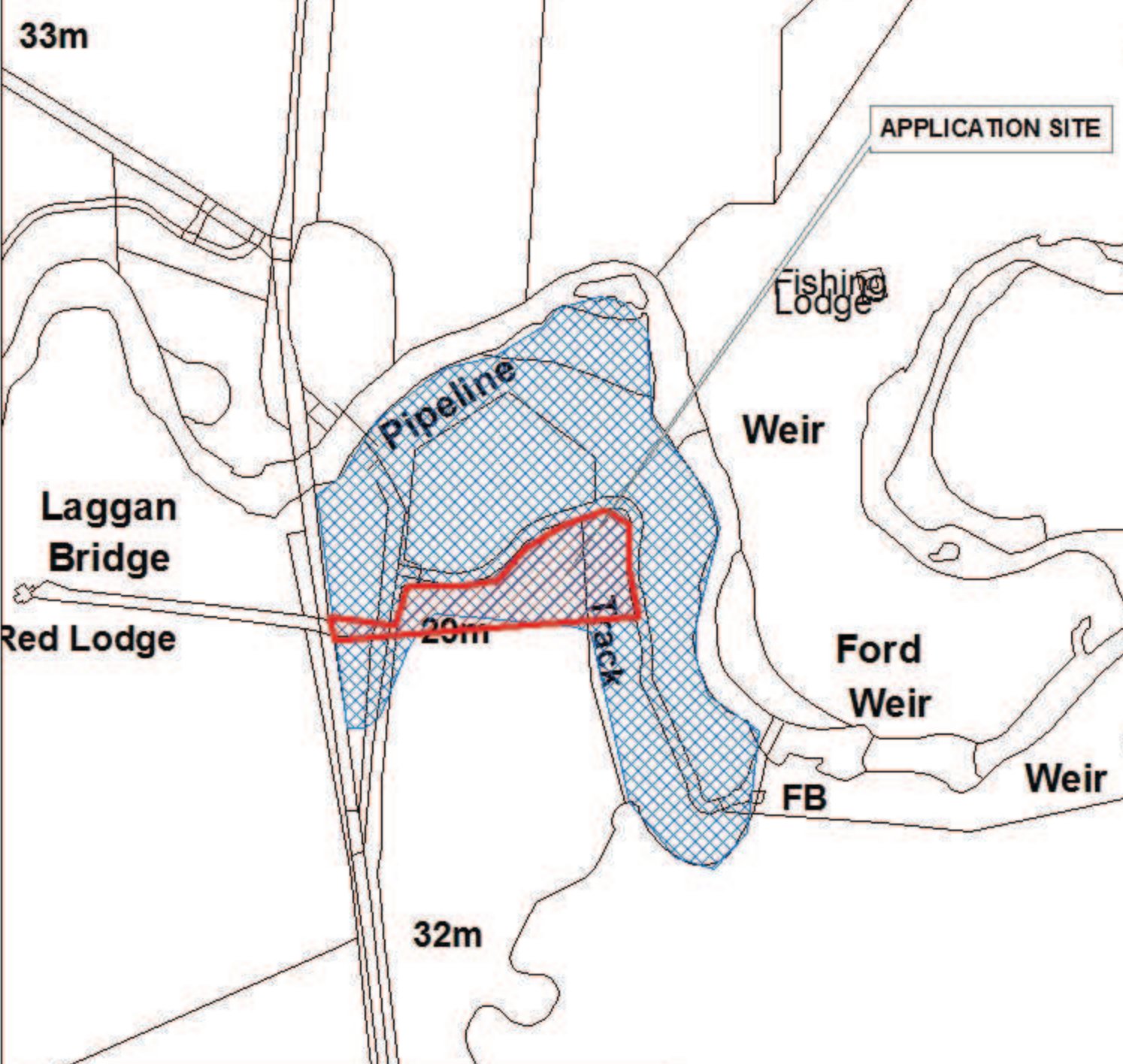
Structure Plan settlement strategy policy STRAT DC 5 and Local Plan policy LP HOU 1 would not normally permit new residential development within the identified compartment, unless there is a proven locational need to be on or in the vicinity of the proposed site.

In summary, and having due regard to the constraints relative to this location, it is considered that the ACE compartment holds no further capacity for additional built development over and above the river watcher's house currently proposed. Any additional development, beyond that of the identified site, would not be justified on any 'operational / locational need' basis, such need having been adequately satisfied by a residential presence for estate management purposes by way of this proposed single dwelling.

AREA CAPACITY EVALUATION MATRIX			
ACE Title		Land to the South East of Laggan Bridge, Isle of Islay	
Date	24.05.12	Location	Land to the South East of Laggan Bridge, Isle of Islay
Surrounding Strategic Planning Zones			
Town Village:		N/A	
Minor Settlement:		N/A	
Green Belt:		N/A	
Countryside Around Settlements :		N/A	
Rural Opportunity Area / Coast :		N/A	
Sensitive Countryside / Coast :		The site is situated within the Sensitive Countryside designation.	
Very Sensitive Countryside / Coast:		N/A	
Landscape Character			
Landform	Unimproved grassland with significant broadleaved tree cover, particularly to the north western margins, together with small areas of marsh and sandy river beaches, with the river itself being cut into the landform in several places.		
Land Cover	The majority of the area comprises unimproved grassland and marsh vegetation with gorse and whin scrub and significant tree cover, particularly to the south and west margins of the compartment.		
Development Pattern	<p>There is no built development within the compartment and only occasional, sporadic development outwith it.</p> <p>There is an existing longstanding 'fisherman's hut' to the north east of the application site and on the opposite river bank and an existing detached dwellinghouse approximately 240 metres to the west of the application site and some 120 metres due west of the western compartment boundary.</p>		
Notable Key Environmental Features			
Significant Historical Interest and Important Cultural Associations	Scheduled Monuments Unscheduled Monuments etc	None	
	Gardens & Designed Landscapes	None	
	Locations associated with people, events, art, literature, music culture	None	

Built Heritage Importance	Important individual buildings inc. Listed and other locally important buildings	None
	Important groups or areas of buildings including Conservation Areas	None
	Other important examples of built heritage including transport / industrial heritage	None
Nature Conservation Importance	Internationally important wildlife sites including SPAs and SPAs SACs Ramsar Sites	None
	Nationally important wildlife sites including NNRs, SSSI, Marine Consultation Zones	None
	Locally important habitats, -SINC, SNW	None
	Nationally and regionally important Geological / Geomorphological Sites	None
Access and Amenity Importance	Long distance routes trails, mountain routes and other designated paths and their immediate corridors	None
	Important local paths / networks and their immediate corridors	None
	Important views and prospects	None – glimpsed views only from public road north of Lagan Bridge
	Named and other waterfalls shown on OS	None
	Important car parks lay byes etc	None
	Valued landscapes including NSAs RSAs & LSAs	None
Health and Safety Constraints	Water catchment zones	None
	MoD Zones	N/A
	Air Safety - Airfield Safeguarding and CAA Consultation Zones	N/A
	Safety - Health and Safety Executive Consultation Zone	N/A
INFRASTRUCTURE		
Road Access	The area is accessed off a private forest track which connects to the single track B8016 public highway. Access to the site requires commensurate improvement of the junction with the public highway and private track.	

Water	Water is by connection to the public water main.
Sewerage	Private drainage arrangements
Electricity	No known constraints
DEVELOPMENT	
Proposed Development	Site for the erection of a single dwellinghouse (Class 9), tied to the operational needs of the Estate.
Other Issues/Notes	None



Key

ACE Compartment Boundary	
Current Application Ref. 10/01931/PP	



ACE Plan relative to 10/01931/PP - Erection of dwellinghouse and detached garage.



1:2,500

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SEARCH

Address Search

LOCATION

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Scale 1:2500

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TOOLS

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SHARE

Link Print

SUPPORT

Help



Site

Ace Compartment

Legend

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Argyll and Bute Council
Development 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: 11/02115/PPP

Planning Hierarchy: Local Development

Applicant: Mr and Mrs S Bate

Proposal: Site for the erection of croft house

Site Address: Land East of Achara, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Planning permission in principle for the erection of a dwelling house
- Upgrading of an existing access
- Installation of waste water treatment system
- Engineering (excavations) to form house site

(ii) Other specified operations

- Removal of trees
 - Landscaping and planting
-

(B) RECOMMENDATION:

It is recommended that, **subject to the prior conclusion of a Section 75 Agreement**, the application is granted as a minor departure from the adopted development plan for the reasons detailed in the report and also subject to the conditions detailed below.

(C) HISTORY:

08/01573/OUT – Site for the erection of dwelling house – Withdrawn
08/01577/OUT – Site for the erection of dwelling house – Withdrawn
09/00094/DET – Site for the erection of 4 dwelling houses – Withdrawn
11/00504/PPP – Site for the erection of 2 chalet letting units – Refused
11/00505/PP – Erection of chalet letting unit (retrospective) – Refused
11/00387/PPP – Site for the erection of croft house - Refused

(D) CONSULTATIONS:

Area Roads Manager - report dated 9/11/11 No objection subject to the following requirements:

- Existing access at junction of public road to be upgraded in accordance with Roads Services drawing SD08/006a
- No walls, hedges, fences etc will be permitted within 2m from the channel line of the public road,
- Visibility splays measuring 53m x 2.4m to be cleared and maintained,
- A system of surface water drainage is required to prevent water from passing onto the public road,
- Parking for vehicles commensurate with dwelling to be provided.

Scottish Water - letter dated 15/11/11 No objection.

Scottish Natural Heritage - email dated 18/11/11 No objection.

Crofters Commission - late consultation issued 22/12/11. Response dated 27/03/12. The Crofters Commission response confirms the current condition of the land, and the remaining croft land. This confirms that little crofting activity has been undertaken at the site since croft status was granted (which the applicant explained was due to a lack of planning permission for development), other than installation of a new access. Given the condition of the croft land, there is very limited agricultural potential other than what was proposed when the crofting status was approved – which was small scale market gardening under the cover of polytunnels. The sheltered land near the existing chalet is identified as the best location for polytunnels.

In terms of the proposed house site, at the northern end of the croft, the loss of this land for provision of a house will not affect the future agricultural activity.

In conclusion, the Convenor made no comments on the application.

Local Biodiversity Officer - memo dated 24/11/11 No objection. The applicant has sited bird boxes on almost every tree along the boundary

Please note under the previous application for a croft house (11/00387/PPP) concerns were raised regarding potential impact upon bats, a European Protected Species, and Red Squirrels, a UKLBAP species. The site has since been cleared of more trees. As a result, there is no longer any potential impact on either species as potential habitats have been removed. Given that the trees were not protected and enforcement of any infringement of the protection of European species and other protected species is not a Council responsibility, this is a matter that lies beyond the control of the Planning Authority.

(E) PUBLICITY:

The proposal has been advertised in terms of regulation 20, closing date 8/12/11.

(F) REPRESENTATIONS:

None

(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:
(If yes enter below) | No |
| (iii) | A design or design/access statement: | No |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | Yes |

General Supporting Statement
Additional Supporting Information

Summary of main issues raised by each assessment/report

The General Supporting Statement sets out the reasons for the application, including the history and the crofting nature of the application, with the land securing croft status in December 2010 following a hearing. It also requests that the Council sets aside the PDA policy covering the site, and requests instead that policy STRAT AC 1 and LP HOU 1 (provision of a croft house on a bareland croft) be given primacy by the Council in order to support the crofting enterprise on the land.

The Additional Supporting Information sets out that the main reason for the delay in implementing crofting activity on the site has been uncertainty regarding the applicant's proposals for a permanent house on the site. They have been raising chickens and pigs, but have sold their stock pending an outcome on the planning application for a house. A timeframe of 1-4 years has been indicated for erection of the house and polytunnels, and relocation of the existing chalet for use as a workshop. In years 4-7 one small holiday letting unit is proposed. In years 7-10, two further small holiday units are proposed. If finances allow, the development of the Croft Plan will be accelerated.

The applicants are agreeable to entering a Section 75 Agreement tying the house and croft together.

The windblown sitka spruce and larch have been cleared with the appropriate licences being obtained. 200 replacement beech and copper beech seedlings have been planted.

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:**

Yes

The proposed development has been recommended for approval on the basis of a locational need associated with the designation of the land as a bareland croft, in circumstances where policy considerations would otherwise preclude support being given for a house. Prior to planning permission being granted, a Section 75

Legal Agreement is required in order to ensure that the croft house and the registered bareland croft are retained in a single ownership. Without such a restriction, it would be open for the croft house to be sold separately from the bareland croft which it is intended to serve, or other further sub-division of the croft land asset, thereby leading to potential demand for a further croft house to serve the residual bareland croft, which would undermine the adopted development plan and be at odds with the wider Countryside designation.

(ii) Reasons for refusal in the event that the legal agreement is not concluded within four months

1. In the absence of a Section 75 Agreement to underpin the locational need argument submitted in support of the planning application; the application proposes piecemeal development within the confines of PDA 5/5 identified by the 'Argyll and Bute Local Plan' (2009) for golf course expansion with possible ancillary, low density, high amenity, small scale housing and a 25% affordable element, associated with and prompted by the proposed Oban Development Road, the general route of which is provided for by the plan. There is a presumption that PDA's are not immediately effective and should therefore be planned for on a comprehensive basis in order to address servicing, ownership and other potential development constraints, in order to ensure that the purposes behind their designation are not frustrated or inhibited by premature or piecemeal forms of development, which in turn, could undermine the long term aspirations of the development plan for such sites. The proposal does not constitute part of the required master-planned approach to the PDA designation within which it is situated, and is therefore contrary to the provisions of the 'Argyll & Bute Local Plan' and there are no other material considerations, in the absence of a Section 75 Agreement to underpin the croft status argument proposed in favour of the application, which would warrant the application being determined other than in accordance with the primary designation of the land as delineated in the local plan.

(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 7 – Nature Conservation and Development Control
STRAT DC 8 – Landscape and Development Control
STRAT AC 1 – Development in Support of Farms, Crofts and Estates
STRAT SI 1 – Sustainable Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment
LP ENV 2 – Impact on Biodiversity
LP ENV 6 – Impact on Habitats and Species

LP ENV 7 – Impact on Trees/Woodland
 LP ENV 19 – Development Setting, Layout and Design
 LP HOU 1 – General Housing Development
 LP SERV 1 – Private Sewage Treatment Plants and Wastewater Systems
 LP SERV 4 – Water Supply

LP TRAN 1 – Public Access and Rights of Way
 LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
 LP TRAN 6 – Vehicle Parking Provision

LP DEP 1 – Departures to the Development Plan

Appendix A – Sustainable Siting and Design Principles
 Appendix C – Access and Parking Standards
 Appendix E – Allocations, Potential Development Area Schedules and Areas for Action Schedules

PDA 5/5 Schedule – Golf course expansion with possible ancillary, low density, high amenity, small scale housing and 25% affordable element.

(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)
 The Town & Country Planning Act (Scotland) 1997
 The Planning etc. (Scotland) Act, 2006
 Scottish Planning Policy, SPP, 2010

(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: No

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

This application was due to be presented to the PPSL Committee in February 2012 recommended for refusal. On the request of the applicant, it was agreed that the application be continued to allow further information to be submitted. The information has now been supplied, including: a consultation response from the Crofters Commission; a further supporting statement from the agent explaining the delay in implementing the croft plan thus far; an indicative timeline to implement the croft development plan; and an indicative site plan informed by a site meeting on 13th March 2012 between the applicant and Stephen Fair, Area Team Leader for Oban,

Lorn and the Isles, to identify suitable sites for the polytunnel(s), workshop and holiday units referenced in the supporting evidence and submitted to the Crofters Commission at the time of the croft hearing, assuming the house were to be erected at the north-eastern end of the croft.

The site lies at the fringe of the existing settlement of Oban. It is located within Potential Development Area 5/5 adjacent the Oban 'settlement' zone along Glencruitten Road, immediately north-east of the golf course. The site has primarily been designated as a PDA to allow the golf course an opportunity to expand as a result of land which may be lost to facilitate the route of the Oban Development Road. The PDA schedule describes the PDA as "*Golf course expansion with possible ancillary low density high amenity small scale housing development.*" so there is recognition that some limited built development could be appropriate. The PDA Schedule requires a comprehensive masterplanned approach to include 25% affordable housing and address sewage and water supply constraints and road safety issues. The primary catalyst to development on this site is therefore the Oban Development Road and the displacement of part of the golf course. The PDA is adjoined to the south-west by an Open Space Protection Area (golf course) and to the north-east by 'countryside around settlement'.

The site is located to the north of Oban along Glencruitten Road in an area characterised by low density scattered housing development and undulating natural landscape. The site rises steeply from the public road edge to a significant height at the top of a knoll with a generally flatter top. It is proposed to locate a single dwelling house on the north eastern corner of the site, to the north-west of an existing unauthorised chalet. The applicant proposes to retain the chalet for family accommodation until the completion of the proposed croft house and then relocate it within the north-eastern end of the croft for ongoing use as a workshop associated with running the croft enterprise (market garden).

To the north-east of the site is the remainder of the undeveloped PDA, to the east are open fields and an undulating landscape, south is the golf course whilst west is the public road and a single house known as Achara. Much of the croft is extremely steep and has an existing agricultural access onto the public road that the applicant has recently upgraded under 'permitted development' rights.

The topography of the croft is such that it does not allow for the easy siting of a house consistent with the Council's Sustainable Design Guide. Planning Officers have advised that the most suitable location for a dwelling would be at the more contained north-eastern end of the croft, at the site of an existing unauthorised chalet. The chalet has been the subject of enforcement action since 2008 (currently held in abeyance pending determination of the planning application).

Following refusal of a dwelling in an inappropriately elevated, dominant and open location at the southern end of the croft in 2011, the applicant now proposes to locate a house to the north-west of the chalet, which is in accordance with Planning Officers' assessment of how to best accommodate a house within the confines of the croft. The existing chalet does not form part of this application and regardless of the outcome of this application will still remain unauthorised. However, if planning permission were in place for a house, and a lawful start had been made on such a house, then the chalet could remain on site as temporary accommodation under permitted development rights, for the duration of the house construction on the basis that it is removed following occupation of the new dwelling. Thereafter, the amended siting and use for a croft workshop would require separate consent.

The applicants secured croft status for the land in December 2010, which requires Structure Plan Policy STRAT AC 1 to be assessed. This supports the principle of a single house on a bareland croft on appropriate sites and diversification of crofts.

The Policy does, however, include other caveats and it is not generally considered STRAT AC 1 should override PDA allocations that require a comprehensive masterplanned approach. The Council's Development Plans officers confirm that a PDA status should generally take priority over a bareland croft status.

In the supporting documentation the applicant has submitted details of their croft development plan as supplied to the Crofters Commission. This information details intended polytunnels to grow fruit and vegetables on a commercial basis to sell to local hotels and also to have livestock within the croft. To date, there have been chickens and a pig on site, but no polytunnels and no working of the croft of any significance appears to be being undertaken. The applicants assert that this is due to the lack of certainty regarding a permanent house on the croft, but as they are already resident on the croft this can only be by virtue of a lack of desire to commit the finances rather than the inability to croft the site due to a lack of on-site presence.

Whilst there is a lack of evidence that the croft is being worked in accordance with the case for designation advanced to the Crofters Commission, the croft status still applies to the site, and this must be evaluated by the Planning Authority as required by STRAT AC 1 and LP HOU 1.

In response to recent Officer concerns regarding a lack of detail in terms of implementation of the Croft Development Plan, the applicant has provided further information, including an overall indicative site plan showing where the different elements of development could be successfully sited within the croft. This accords with the successful submission to the Crofters Commission (which secured the croft status) and demonstrates how the croft could be worked successfully.

Although polytunnels would also be best sited near the contained north-eastern end of the croft in order to gain best shelter, as highlighted by the Crofters Commission, a site visit has also identified a plateau near the centre of the site, where some softer ground could be cleared (with soil spread on remaining croft land) and a low rise structure such as a polytunnel or pair of polytunnels could nestle in taking advantage of surrounding knolls for containment and a degree of shelter. On balance, it is considered more important to site the permanent house in the best location, because it is the only place where a house could be comfortably accommodated, whereas there is an alternative position for the proposed polytunnel(s) that enables the croft development plan to be implemented. The applicant has now demonstrated how the polytunnels and a house can co-exist.

Similarly, the applicants have now backed up their verbal intention to have a workshop with an indicative plan showing where this could be sited. A site inspection in March 2012 confirms sufficient space exists within a sensible location of the site to position a workshop. The applicant intends to re-site the existing unauthorised chalet for ongoing use as a workshop on occupation of the new build house. Alternatively, a small purpose built workshop could be installed. Whatever arrangements are ultimately proposed, explicit planning permission will need to be sought at a later date. However, to avoid any future confusion over lawful usage, or accumulation of residential type buildings within close proximity at the northern end of the croft, it is considered necessary to apply an appropriate planning condition securing the removal of the chalet on occupation of the house currently proposed in principle, if such permission is to be granted.

The key policy matter to be decided is: a bareland croft argument in favour of the application, set against a PDA allocation requiring a wider, comprehensive approach.

In support of the application, the agent asserts that the elevated ridge is of a character that does not lend itself to the expansion of the golf course or the provision of the ODR across the site. Whilst forming part of the wider PDA, it is noted that this site is not itself likely to be crossed by the proposed ODR line. The site topography comprises steeply

sloping rocky banks rising up to an elevated ridge plateau croft. In this instance, it is accepted that the land does not form a functional or effective part of the wider PDA. In the individual circumstances that exist at this site, it is accepted that the land can be excluded from the wider PDA without compromising the ability of the PDA from being developed separately in a cohesive manner, and as such there remains little merit in insisting on a robust comprehensive masterplan being in place prior to determining the current application. Whilst a bareland croft status will not generally over-ride an allocated PDA, it is accepted that a special case has been made in this instance, whereby a croft house can be supported in principle.

The applicant has now supplied details of how the crofts development can be successfully accommodated within the site, in accordance with the details submitted to the Crofters' Commission to secure croft status, which gives an opportunity to rationalise the development with the council's adopted policies. Addressing these omissions from earlier submissions has enabled the balance to be tipped in favour of the provision of a house for the bareland croft. The proposal presents circumstances where a single croft house could be accommodated without physically preventing the PDA from being developed around the site or compromising the future viability of the PDA.

The applicants delay in implementing the Croft Development Plan is discussed earlier in this report. It is considered that if planning permission in principle is granted for a house, this would afford them full certainty as to the long term status of the land and their ability to actively croft the land. Achieving active crofting is the only way to underpin the special case that has been made for a house at the site. Accordingly, it is necessary to apply a suspensive planning condition preventing the house from commencing on site until the polytunnel(s) have been erected and are brought into use as a market garden enterprise and livestock have been re-introduced at the croft in accordance with the Croft Development Plan.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

The dwelling is required for operational purposes to service a bareland croft and is supported by an appropriate Croft Development Plan. The dwelling has been sited in a location which represents the best opportunity to accommodate a house within the holding. A carefully designed, low rise dwelling will be acceptable in terms of the established characteristics of built development in the surrounding area and access and servicing arrangements are appropriate. Subject to a legal agreement tying the ownership of the dwelling to the croft land in order to avoid demand for further croft subdivision, the development confirms to Structure Plan policy STRAT AC 1 and Local Plan policy LP HOU 1. There are no other material considerations, including issues raised by third parties, which would prevent the development being granted as a minor departure from the adopted development plan.

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

Although situated within PDA allocation 5/5, where a comprehensive approach to development is normally required, the individual circumstances and topography of the site mean it is unlikely to be required to allow for the Oban Development Road or the expansion of the adjacent golf course. As the site does not conflict with the objectives which underpin the PDA allocation, it is accepted that a croft house can be granted without undermining the PDA allocation in this instance. The adopted development plan applies a generally supportive position for the provision of single croft houses on

bareland crofts. Since the wider PDA can still be developed; the application proposes the house in the best location within the site (north-eastern section); and evidence has been submitted to show acceptable locations for all elements of development required to successfully implement the Croft Development Plan; the house can be accepted as a minor departure to the adopted development plan provisions in this instance.

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

Author of Report: Stephen Fair



Date: 14/06/12

Reviewing Officer: Ross McLaughlin

Date: 15/6/12

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 11/02115/PPP

1. That this permission is granted in terms of Section 59 of the undernoted Act for planning permission in principle and further approval of the Planning Authority shall be required for matters specified in conditions, such application must be made 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 of the Town and Country Planning (Scotland) Act 1997 (as amended).

2. No development shall commence on site until the following information has been submitted by way of an application(s) for approval of matters specified in conditions and approval has been given in writing by the Planning Authority:

- a) A detailed site layout plan at a scale of 1:500 showing the proposed dwellinghouse and residential curtilage.
- b) Access, parking, water supply and drainage arrangements.
- c) Plans and elevations of the proposed dwellinghouse which shall incorporate the following elements:
 - Be situated within the north-eastern end of the croft and not extending more than 40 metres away from the north-eastern site boundary at any point;
 - Be single storey in height (with or without rooms in the roof);
 - Incorporate windows with a strong vertical emphasis;
 - Have walls finished in timber cladding, white wet dash render or smooth cement render;
 - Have a symmetrically pitched roof finish of dark grey natural slate or high quality artificial slate; and,
 - If chimneys are proposed they will be set squarely on the building ridge.

Reason: In the interests of visual amenity and in order to maintain the character of the area and integrate the proposed dwellinghouse with its surroundings.

3. The occupation of the dwelling house hereby approved shall be limited to a person(s) carrying on, or last carrying on, the crofting activities at the croft at Highfield Croft, Glencruitten, Oban (Agricultural Code Number 174/0053) (the site), or a dependant of such person residing with him or her, or a widow or widower of such a person.

Reason: To underpin the locational/operational need which justified the approval of a house at the site, where a general presumption against housing applies in the adopted Development Plan.

4. No development shall commence or is hereby authorised until, the polytunnel(s) necessary for the crofting enterprise have been provided at the site and are in active use for the growing of market garden products, and livestock has been re-introduced to the croft all as per the Croft Development Plan. For the avoidance of doubt, this planning condition is not a substitute for planning permission or prior notification procedures as are necessary to authorise the erection of the said polytunnel(s) at the holding.

Reason: To ensure the credible working of the croft to underpin the special case proposed in support of the development.

5. As details pursuant to condition 2 above, full details of existing ground levels, proposed ground levels, and proposed finished floor levels for the house hereby approved, all relative to a fixed datum point, shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved prior to the initial occupation of the house hereby approved.

Reason: To ensure the development integrates with its landscape setting in an acceptable, unobtrusive manner.

6. As details pursuant to condition 2 above, full details of the proposed means of foul drainage including the capacity, treatment and outfall arrangements of the proposed private drainage system, shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved prior to the initial occupation of the house hereby approved.

Reason: To ensure that foul drainage arising from the development is safely and hygienically disposed of.

7. As details pursuant to condition 2 above, full details of the proposed means of surface water drainage disposed shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved prior to the initial occupation of the house hereby approved.

Reason: To ensure that surface water drainage arising from the development is adequately managed.

8. As details pursuant to condition 2 above, full details of the proposed means of boundary treatment to the residential curtilage (which shall not extend further than 40 metres away from the north-eastern site boundary at any point), shall be submitted to the Planning Authority. The development shall be completed in strict accordance with such details as are approved within one year of the initial occupation of the house hereby approved, and shall be so maintained thereafter in perpetuity.

Reason: To ensure development integrates with its landscape setting.

9. No development shall commence on site until the vehicular access at the junction with the public road has been constructed in accordance with the Council's Road Engineers Drawing Number SD 08/006a with visibility splays of 53m x 2.4m in each direction formed from the centre line of the proposed access and steps shall be taken to ensure that no surface water drainage is allowed to run onto the public road. Prior to work starting on site the visibility splays shall be cleared of all obstructions above the level of the adjoining carriageway and thereafter maintained to the satisfaction of the Planning Authority.

The vehicular access granted consent shall be constructed to at least base course level prior to any work starting on the erection of the dwellinghouse which it is intended to serve and the final wearing surface of the road shall be applied prior to the first occupation of the dwellinghouse hereby approved.

Reason: In the interests of road safety to ensure the proposed development is served by a safe means of vehicular access.

10. As details pursuant to condition 2 above full details shall be submitted to the Planning Authority, in plan form, of the number of car parking spaces within the site at a level commensurate with the size of dwelling proposed in accordance with Policy LP TRAN 6 of the adopted Argyll and Bute Local Plan. Such details as are approved will be fully implemented prior to occupation of the house hereby approved in principle and thereafter so maintained in perpetuity.

Reason: To enable vehicles to park clear of the access road in the interests of road safety.

11. Within one month of the initial occupation of the house hereby granted planning permission in principle, the existing unauthorised chalet within the site shall be entirely removed from the site.

Reason: To avoid over-development of the site which could otherwise occur and to avoid any future ambiguity regarding the lawful use of the chalet.

NOTES TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), 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 (as amended) 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: 11/02115/PPP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is within Potential Development Area 5/5 adjacent the Oban settlement zone along Glencruitten Road alongside the golf course. The site was designated as a PDA to allow the golf course expansion as a result of land due to be lost to the proposed route of the Oban Development Road. The PDA schedule describes the PDA as *“Golf course expansion with possible ancillary low density high amenity small scale housing development.”* The PDA also requires a comprehensive masterplanned approach, identifies sewage and water constraints and road safety issues. Therefore the catalyst to development of the PDA is the Oban Development Road and the reconfiguration of the golf course as a consequence.

The applicants secured croft status at the land in December 2010. Structure Plan Policy STRAT AC 1 supports the principle of a single house on a bareland croft on appropriate sites and also supports the diversification of crofts. The policy does not however generally override the PDA status which requires a comprehensive masterplanned approach.

An indicative masterplan has been submitted covering the land within PDA. This shows a possible route of the ODR, golf course expansion and some ‘medium scale’ housing development. However, what has been shown is entirely speculative and it is not understood that consultation has taken place with the other landowners involved, including the golf club. The PDA has been allocated as suitable for the golf course expansion with possible ancillary ‘small scale’ housing development only. The masterplan shows ‘medium scale’ housing development which in any event is not in conformity with the terms of the PDA. Due to the apparent lack of consultation and the inclusion of higher scale housing proposals than envisaged by the PDA it is not considered that the ‘masterplan’ is a sound basis on which to advance piecemeal development of the PDA. The agent has confirmed that the masterplan is speculative due to the different landownership interests and because there is no clarity in terms of the ODR being implemented. The role of the ODR as catalyst for the activation of this PDA and the wider issues to be overcome are the very reason for the land having been identified as part of the local plan process as a PDA, instead of being zoned as ‘settlement’ or identified as a housing or some other allocation.

However, the agent also asserts that the elevated ridge is of a character that does not lend itself to the expansion of the golf course or the provision of the ODR across the site. This argument is accepted in the context of the topography of the wider PDA and taking account of the specific topography and circumstances at this site. In the individual circumstances that apply in this instance, it is accepted that the site can be excluded from the PDA without hindering the cohesive development of the remaining PDA separately, and as such, there is little merit in insisting on the provision of a masterplan to enable the development of this single croft.

B. Location, Nature and Design of Proposed Development

The site is located to the north of Oban along Glencruitten Road in an area of low density scattered housing development, located within a natural undulating landscape. The croft land rises steeply from the road edge to a significant height at the top of a knoll with a flat top. It is proposed to locate a single dwelling house on the north eastern corner of the croft to the north-west of the existing unauthorised chalet. The chalet does not form part of this application and if planning permission in principle is granted for the current proposal, the applicant intends to retain the chalet for temporary accommodation

until the completion of the dwelling house. Planning conditions could then secure the removal of the chalet from the site.

To the north of the site is the remainder of the undeveloped PDA, to the east are open fields and an undulating landscape, south is the golf course whilst west is the public road and a property known as Achara. The site itself is extremely steep around the periphery and has an existing agricultural access onto the public road that the applicant has recently upgraded under 'permitted development' rights.

In this instance the topography of the croft does not allow for the easy siting of a house that would be consistent with the Council's Sustainable Design Guide. Permission has recently been refused for a dwelling in an inappropriately elevated dominant and open location at the southern end of the croft. The current submission presents the best opportunity to accommodate a house within the holding, in accordance with advice from Planning Officers. Although polytunnels would also be best sited near the contained north-eastern end of the croft in order to gain best shelter, as highlighted by the Crofters Commission, a site visit has also identified a plateau near the centre of the site, where some softer ground could be cleared (with soil spread on remaining croft land) and a low rise structure such as a polytunnel or pair of polytunnels could nestle in, taking advantage of surrounding knolls for containment and a degree of shelter.

An indicative plan has been supplied showing how a house, workshop, polytunnels and potential future holiday units could be successfully accommodated in the site, subject to successful low rise designs being devised. The current application is in principle only, and as such, no design details have been submitted at the present time.

C. Natural Environment

In terms of natural heritage, the Council's Biodiversity Officer has not objected to the proposal. It should be noted however that the applicant's own submissions during the previous application (11/00387/PPP), indicated the presence of Pipistrelle Bats, a European Protected Species, and Red Squirrels, a UK LBAP Priority Species. The site has since been cleared of vegetation and there is now little habitat for these protected species on the site. The applicant has however erected bird boxes around the site on almost every tree along the boundary. As the trees removed were not protected, and the enforcement of any infringement of the protection of European species and other protected species is not a Council responsibility, this is a matter that lies beyond the control of the Planning Authority.

The applicant has also submitted that the trees removed were largely wind blown sitka spruce and larch, and that 200 replacement beech and copper beech seedlings have been planted.

D. Built Environment

The area around the site is characterised as open, largely undeveloped countryside with the golf course to the south and a scattering of houses of different styles and sizes within 500 metres of the site. The applicant has indicated that he would like to provide a 3 bedroom bungalow.

E. Impact on Woodland/Access to Countryside.

The applicant, under agricultural 'permitted development' rights, has carried out works to open up various access routes into and around the site. In conjunction with this work, several mature trees were removed from the site. Those trees could have housed protected species and would have formed part of any habitat survey, but they were removed prior to such a survey being undertaken. Although the Planning Authority had

no direct power to prevent the tree felling, the loss of these trees has opened parts of the croft up to wider views which were not previously available.

F. Road Network, Parking and Associated Transport Matters

The Council's Area Roads Manager has responded with no objections subject to conditions addressing junction and visibility requirements, drainage and parking.

G. Infrastructure

The applicant intends to provide a private waste water treatment system and connect to the public water main. The PDA schedule states that these are two issues that need to be overcome for any comprehensive development. The applicant has been operating one unauthorised chalet on the site as a full time residence for some time and has not reported any issues with water or waste water drainage.

(Lawfulness is not established for the chalet and an enforcement notice was issued requiring its removal. Although that notice has been withdrawn due to a technical deficiency in its wording, retrospective permission has been refused for the chalet and it remains open to the Planning Authority to secure its removal. Service of a subsequent notice has been held in abeyance in order to allow this current application to be determined.)

H. Other Key Policy Matters

The applicants were awarded croft status on the land in December 2010 following a hearing by the Crofters Commission in November 2010. The supporting documentation provides details of the meeting when this was granted; "Note of Decision – Create a New Croft" states that it was the applicants' intention to grow fruit and vegetables on the croft.

The key policy matter to be decided is: a bareland croft argument in favour of the application, set against a PDA allocation requiring a wider, comprehensive approach.

The agent asserts that the elevated ridge is of a character that does not lend itself to the expansion of the golf course or the provision of the ODR across the site. This argument is accepted in the context of the topography of the wider PDA and taking account of the specific topography and circumstances at this site. As such, the site can be excluded from the PDA without compromising the ability of the remaining PDA from being developed comprehensively.

The applicant has now supplied details of how the crofts development can be successfully accommodated within the site, in accordance with the details submitted to the Crofters' Commission to secure croft status, which gives an opportunity to rationalise the development with the council's adopted policies. Addressing these omissions from earlier submissions has enabled the balance to be tipped in favour of the provision of a house for the bareland croft. The proposal presents circumstances where a single croft house could be accommodated without physically preventing the PDA from being developed around the site or compromising the future viability of the PDA.

I. Conclusion

In conclusion, the dwelling is required for operational purposes to service a bareland croft and is supported by an appropriate Croft Development Plan. The dwelling has been sited in a location which represents the best opportunity to accommodate a house within the holding. A carefully designed, low rise dwelling will be acceptable in terms of the established characteristics of built development in the surrounding area and access and servicing arrangements are appropriate. Subject to a legal agreement tying the ownership of the dwelling to the croft land in order to avoid demand for further croft sub-

division, the development confirms to Structure Plan policy STRAT AC 1 and Local Plan policy LP HOU 1.

Although situated within PDA allocation 5/5, where a comprehensive approach to development is normally required, the individual circumstances and topography of the site mean it is unlikely to be required to allow for the Oban Development Road or the expansion of the adjacent golf course. As the site does not conflict with the objectives which underpin the PDA allocation, it is accepted that a croft house can be granted without undermining the PDA allocation in this instance. The adopted development plan applies a generally supportive position for the provision of single croft houses on bareland crofts. Since the wider PDA can still be developed; the application proposes the house in the best location within the site (north-eastern section); and evidence has been submitted to show acceptable locations for all elements of development required to successfully implement the Croft Development Plan; the house can be accepted as a minor departure to the adopted development plan provisions in this instance.

APPENDIX TO DECISION NOTICE

Appendix relative to application **11/02115/PPP**

-
- (A)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

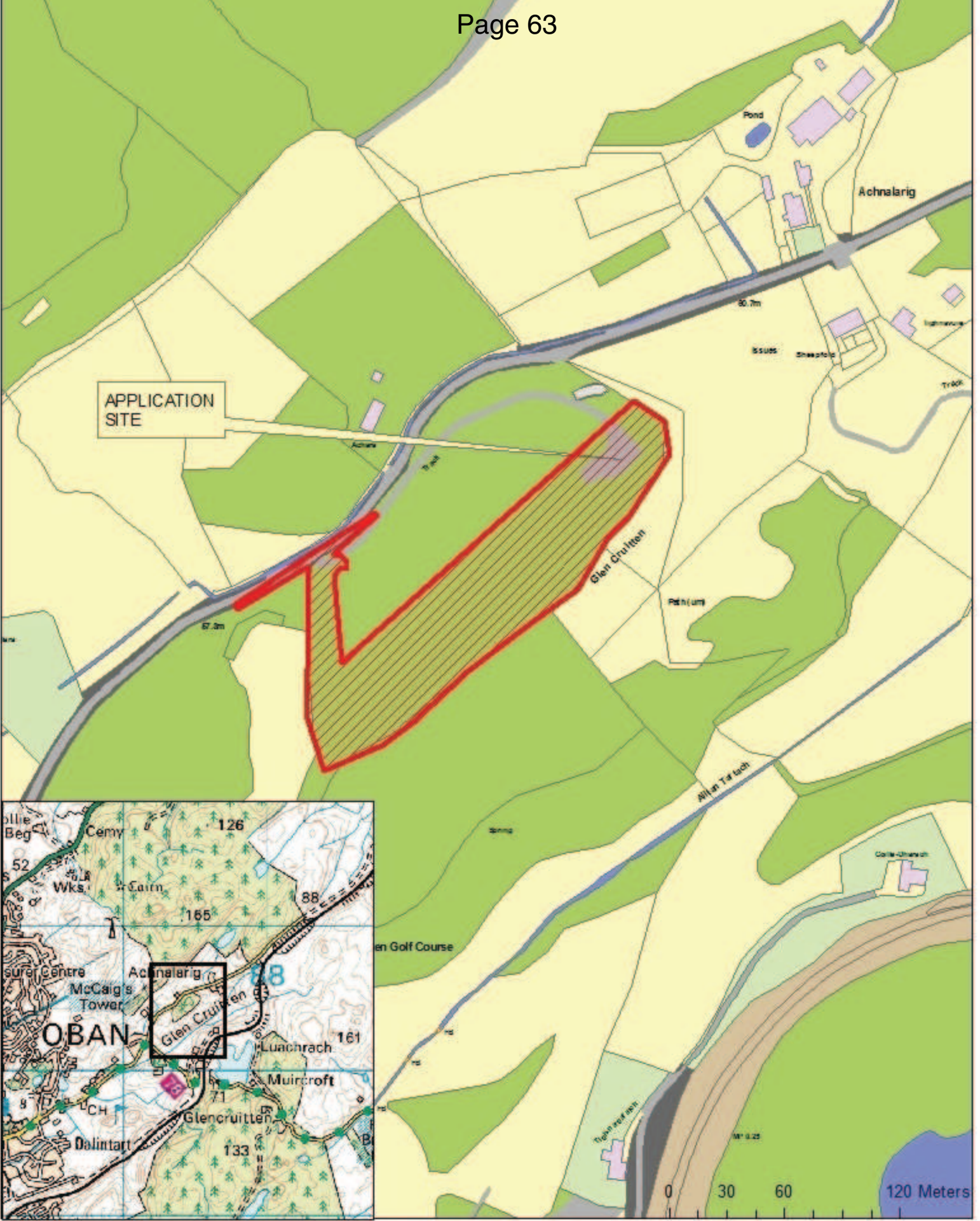
No

-
- (B)** The reason why planning permission has been granted.

The dwelling is required for operational purposes to service a bareland croft and is supported by an appropriate Croft Development Plan. The dwelling has been sited in a location which represents the best opportunity to accommodate a house within the holding. A carefully designed, low rise dwelling will be acceptable in terms of the established characteristics of built development in the surrounding area and access and servicing arrangements are appropriate. Subject to a legal agreement tying the ownership of the dwelling to the croft land in order to avoid demand for further croft subdivision, the development confirms to Structure Plan policy STRAT AC 1 and Local Plan policy LP HOU 1.

Although situated within PDA allocation 5/5, where a comprehensive approach to development is normally required, the individual circumstances and topography of the site mean it is unlikely to be required to allow for the Oban Development Road or the expansion of the adjacent golf course. As the site does not conflict with the objectives which underpin the PDA allocation, it is accepted that a croft house can be granted without undermining the PDA allocation in this instance. The adopted development plan applies a generally supportive position for the provision of single croft houses on bareland crofts. Since the wider PDA can still be developed; the application proposes the house in the best location within the site (north-eastern section); and evidence has been submitted to show acceptable locations for all elements of development required to successfully implement the Croft Development Plan the house can be accepted as a minor departure to the adopted development plan provisions in this instance.

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Argyll and Bute Council
Development and Infrastructure

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: 11/02492/PP

Planning Hierarchy: Local Development

Applicant: Mrs Ailsa Morgan

Proposal: Erection of 15 Metre (to hub) 5kw Wind Turbine

Site Address: Land Northeast of Torrbreac, Dervaig, Isle of Mull

DECISION ROUTE**Local Government Scotland Act 1973**

(A) THE APPLICATION**(i) Development Requiring Express Planning Permission**

- Erection of 15 Metre (to hub) 5kw Wind Turbine
-

(B) RECOMMENDATION:

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

(C) HISTORY:11/01690/PNMRE

Erection of 15 Metre (to hub) 5kw Wind Turbine – Prior Notification Refused and Planning Application Required: 13/10/11

(D) CONSULTATIONS:Scottish Natural Heritage

Letter dated 17/01/12 advising no objection stating that the proposed turbine is suitably small in scale and integrated among existing infrastructure which will ensure it does not detract from the overall landscape character.

Environmental Health Unit

Memo dated 20/12/11 advising no objection to the proposed development.

Royal Society for Protection of Birds

Letter dated 10/01/12 advising that given the location and small size of the proposed turbine, bird survey work will not be required to inform the application.

Biodiversity Officer

Letter dated 06/02/12 advising that a bat survey should be undertaken to assess and establish bat activities in the area around the wind turbine. Such a survey should detail any mitigation measures required to protect the species.

This survey has now been undertaken and has not identified any significant bat activity which would preclude development. The report recommends additional planting along the southeastern boundary which is considered a suitable mitigation measure to protect the species. This is something which can be adequately controlled by a suspensive condition attached to the grant of planning permission.

In an e-mail dated 11/06/12 the Biodiversity Officer has confirmed acceptance of the bat survey and proposed condition.

National Air Traffic Systems

E-mail dated 20/12/11 advising no safeguarding objection to the proposed development.

Ministry of Defence

No response at time of report and no request for an extension of time.

(E) PUBLICITY:

N/A

(F) REPRESENTATIONS:

12 representations have been received regarding the proposed development.

Mr Kearney, Riedenhholzstrasse 14, Zurich, Switzerland - (03/01/12)

Mrs J Trantum, 38 Hillberry Crescent, Warrington, Cheshire, WA4 6AF - (01/01/12)

Glen Foot, 2 Bosham Close, Lower Earley, Reading, Berkshire, RG6 4DG - (08/01/12)

Katherine Foot, 2 Bosham Close, Lower Earley, Reading, RG6 4UP - (08/01/12)

Mr Richard Fairbairns, Little Cuin Lodge, Dervaig, Isle of Mull, PA75 6QL - (11/02/12)

Bernard Lovell, Valentine Cottage, Dervaig, Isle of Mull, PA75 6QL - (03/01/12)

Mr Graham Dale Cuin Lodge Dervaig Isle of Mull Argyll PA75 6QL - (10/01/12)

Mrs Margaret Lovell, Valentine Cottage, Dervaig, Isle of Mull PA75 6QL
(29/12/11 & 08/02/12)

Mr & Mrs Abnett, Ardbeg House, Dervaig, Isle of Mull, PA75 6QJ - (03/02/12)

Mr David Woodhouse, Torr Buan House, Ulva Ferry, Isle of Mull, PA73 6LY - (11/02/12)

Ms Kaz Bailey, Camus Cuin, Dervaig, Isle of Mull, PA75 6QL - (07/01/12)

George & Betty Robertson, Glenview, Dervaig, Isle of Mull - (05/01/12)

(i) Summary of issues raised

- The proposed wind turbine will have an adverse impact on the current landscape.

Comment: The impact of the wind turbine on the landscape is fully assessed in Appendix A of this report.

- The proposal is contrary to various policies in the Local Plan including LP ENV 10 Areas of Panoramic Quality.

Comment: The site is not within an Area of Panoramic Quality and therefore the provisions of Policy LP ENV 10 do not require to be considered in the determination of this application.

- The granting of planning permission will set a precedent for future developments of this nature.

Comment: Each planning application is considered on its own merits. The granting of planning permission for this development in no way implies that the area is suitable for further wind turbine development.

- The proposed wind turbine will have an adverse impact on local wildlife.

Comment: Scottish Natural Heritage and the Royal Society for Protection of Birds have been consulted on the proposed development and have confirmed that the proposal will not have an impact on wildlife, designated sites or ornithology. The Council's Biodiversity Officer was consulted on the proposal, and whilst not raising any objection, requested that a bat survey be undertaken in support of the proposal. The applicant has had the necessary survey undertaken by an appropriately qualified person and no bat activity of any significance has been identified.

- The proposed wind turbine will have an adverse impact on the visual amenity currently enjoyed by surrounding residential properties.

Comment: Loss of view is not a material planning consideration whilst consequences for the wider visual amenity of the locale are assessed in Appendix A.

- The proposed wind turbine will have an adverse impact on surrounding residential properties and the health of residents due to the noise and shadow flicker it will create.

Comment: The Council's Environmental Health officers have been consulted on the proposed development with regard to both noise and shadow flicker. In their response they advised no objection to the proposed wind turbine having had regard to the supporting documentation submitted with the application on these issues.

- The proposed wind turbine is some distance from the property it is intended to serve.

Comment: It is considered that the applicant has demonstrated that the proposed turbine is as close to the property it is intended to serve as is safely and technically possible.

- The proposed turbine will require the construction of a substantial road.

Comment: The applicant has confirmed that there will be no permanent vehicular access formed to serve the proposed turbine.

- The proposed wind turbine will adversely affect the egg laying potential of poultry on a neighbouring smallholding.

Comment: This is not a material consideration in the determination of this planning application.

- There is no safety cut off with this model of wind turbine, therefore who would be responsible for shutting down the turbine during high winds etc.

Comment: This is not a material consideration in the determination of this planning application.

- The proposed wind turbine will have an adverse impact on the local tourism and economy by deterring visitors to the area.

Comment: There is no documented evidence to suggest that a single wind turbine will adversely impact on tourism in the local area.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(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 e.g. 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 4 – Development in Rural Opportunity Areas

STRAT DC 7 – Nature Conservation and Development Control

STRAT DC 8 – Landscape and Development Control

STRAT RE 1 – Wind Farm/Wind Turbine Development

STRAT SI 1 – Sustainable Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 6 – Impact on Habitats and Species

LP REN 2 – On site Commercial and Domestic Wind Turbines

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.

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

Annex to Planning Advice Note 45 : Renewable Energy Technologies

Micro Generation Domestic Turbines Briefing Note, 2010

Micro Renewables and the Natural Heritage, SNH, 2009

Argyll & Bute Landscape Wind Energy Capacity Study 2012

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(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: No

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

Planning permission is sought for erection of 1 No. 5 kilowatt, 15 metre (to hub) wind turbine on an area of land to the northeast of Torrbreac, Dervaig, Isle of Mull.

In terms of the adopted 'Argyll and Bute Local Plan' (2009), the site is situated within a Rural Opportunity Area where Policy STRAT DC 4 of the approved 'Argyll and Bute Structure Plan' (2002) gives encouragement to 'small scale' developments on suitable sites which, in terms of siting and design, will visually integrate with the landscape.

Policy STRAT RE 1 confirms wind energy proposals will be tested against Policies STRAT DC 7, 8 and 9, and will be supported if there is no significant adverse impact on local communities, natural environment, landscape character and visual amenity, historic environment, and telecoms infrastructure.

Local Plan Policy LP REN 2 On Site Commercial and Domestic Wind Turbines, states that on site commercial and domestic wind turbines will be supported in forms, scales and sites where the technology can operate efficiently, the development is located as close to the premises which it is intended to serve as is safely and technically possible, servicing and access implications are acceptable, and subject to specific proposals satisfactorily addressing all other material considerations.

It must be demonstrated that the proposed development will not have an unacceptable adverse impact directly, indirectly or cumulatively on the following criteria:

- § areas and interests of nature conservation (including local biodiversity, ecology and the water environment)
- § highly valued landscapes including Gardens and Designed Landscapes
- § sites of historic or archaeological interest and their settings
- § settlement character including conservation areas
- § visual, residential and general amenity
- § telecommunications, transmitting or receiving equipment

Appendix A of the adopted 'Argyll and Bute Local Plan' outlines why impact on the landscape is a major consideration when new development is proposed and all significant developments require to be assessed for their compatibility with the present landscape character as detailed in the SNH Landscape Character Assessment.

The Council's recently adopted Landscape Wind Energy Capacity Study (2012) provides guidance on the micro-siting of smaller turbines, and classifies this as a 'micro-small' turbine, being in the 12m to 20m typology. For this scale of development it recommends the need to secure association with built development and to have regard to the scale and shape of the landscape in siting turbines and the development accords with those principles.

It is considered that the applicant has demonstrated that the proposed wind turbine has been sited as close to the property it is intended to serve as is safely and technically

possible and therefore there is an appropriate association between them. The landscape and visual impacts of the development are not considered of such significance as to warrant refusal of the development and SNH in their consultation response are of the same view.

It is considered that the proposed is consistent with Policies STRAT DC 4, STRAT DC 7, STRAT DC 8, STRAT RE 1 and STRAT SI 1 of the approved 'Argyll and Bute Structure Plan' (2002) and Policies LP ENV 1, LP ENV 6 and LP REN 2 of the adopted 'Argyll and Bute Local Plan' (2009).

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why planning permission should be granted

It is considered that the applicant has demonstrated that the proposed wind turbine has been sited as close to the property it is intended to serve as is safely and technically possible and therefore there is an appropriate association between them.

It is considered that the proposed wind turbine will have no materially adverse impact upon the character and visual amenity of the site or its wider landscape context and is consistent with Policies STRAT DC 4, STRAT DC 7 and STRAT DC 8, STRAT RE 1 and STRAT SI 1 of the approved 'Argyll and Bute Structure Plan' (2002) and Policies LP ENV 1, LP ENV 6 and LP REN 2 of the adopted 'Argyll and Bute Local Plan' (2009). The scale and siting of the turbine accord with advice set out in the Council's Landscape Wind Energy Capacity Study 2012 in respect of 'micro-small' turbines.

Furthermore there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development 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: Fiona Scott **Date:** 31/05/12

Reviewing Officer: Richard Kerr **Date:** 01/06/12

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 11/02492/PP

1. No development shall commence on site until full details of the proposed finishing colours for the proposed tower, rotors and turbine are submitted and approved in writing by the Planning Authority. The development shall thereafter be installed and maintained in perpetuity in strict accordance with such details as are approved.

Reason: In the interests of visual amenity.

2. Upon the permanent cessation of the use of the wind turbine, or in the event of electricity not having been generated for a continuous period in excess of six months, the turbine and any ancillary equipment shall be dismantled and removed from the site and the land reinstated in accordance with details to be submitted and approved in writing by the Planning Authority.

Reason: In the interests of visual amenity on the basis of ensuring that the structure does not remain on the site beyond the period during which it is required for the purposes of electricity generation.

3. No development shall commence on site until full details of a landscaping scheme for the site has been submitted and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. Such a scheme shall show mixed planting in an informal fashion along the southeast boundary of the site incorporating the following species: Downy birch (d), Sessile oak (d), any of the following willow species (d), Woolly willow, Salix lanata, Downy willow, Salix lapponum; Rowan (d), Wild cherry (d) and Scots pine where soil conditions are suitable. The landscaping scheme shall incorporate tree tubes (approximately 1.2 metres high) to protect the deciduous species.

All planting shall be carried out in the first planting season following the commencement of the development unless otherwise agreed in writing by the Planning Authority.

Reason: In order to protect the natural heritage interests of the area.

4. The development shall be implemented in accordance with the details specified on the application form dated 05/12/11 and the approved drawing reference numbers:

Plan 1 of 6 (Location Plan at scale of 1:10000)
Plan 2 of 6 (Location Plan at scale of 1:10000 showing distances to properties)
Plan 3 of 6 (Site Plan at scale of 1:1250)
Plan 4 of 6 (Site Plan at scale of 1:1250 showing extent of built development)
Plan 5 of 6 (Turbine Elevation)
Plan 6 of 6 (Turbine Specification Data)

unless the prior written approval of the planning authority is obtained for for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

NOTE TO APPLICANT

- **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)].
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), 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 (as amended) 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 TO DECISION APPROVAL NOTICE

Appendix relative to application **11/02492/PP**

- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B)** Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C)** The reason why planning permission has been approved.

It is considered that the applicant has demonstrated that the proposed wind turbine has been sited as close to the property it is intended to serve as is safely and technically possible and therefore there is an appropriate association between them.

It is considered that the proposed wind turbine will have no materially adverse impact upon the character and visual amenity of the site or its wider landscape context and is consistent with Policies STRAT DC 4, STRAT DC 7 and STRAT DC 8, STRAT RE 1 and STRAT SI 1 of the approved ‘Argyll and Bute Structure Plan’ (2002) and Policies LP ENV 1, LP ENV 6 and LP REN 2 of the adopted ‘Argyll and Bute Local Plan’ (2009). The scale and siting of the turbine accord with advice set out in the Council’s Landscape Wind Energy Capacity Study 2012 in respect of ‘micro-small’ turbines.

Furthermore there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/02492/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted 'Argyll and Bute Local Plan' (2009), the site is situated within a Rural Opportunity Area where Policy STRAT DC 4 gives encouragement to small scale developments on suitable sites which, in terms of siting and design, will visually integrate with the landscape.

Policy STRAT RE 1 confirms wind energy proposals will be tested against STRAT DC 7, 8 and 9, and will be supported if there is no significant adverse impact on local communities, natural environment, landscape character and visual amenity, historic environment, and telecoms infrastructure.

Policy LP REN 2, On Site Commercial and Domestic Wind Turbines, states that on site commercial and domestic wind turbines will be supported in forms, scales and sites where the technology can operate efficiently, the development is located as close to the premises which it is intended to serve as is safely and technically possible, servicing and access implications are acceptable, and subject to specific proposals satisfactorily addressing all other material considerations.

It must be demonstrated that the proposed development will not have an unacceptable adverse impact directly, indirectly or cumulatively on the following criteria:

- § areas and interests of nature conservation (including local biodiversity, ecology and the water environment)
- § highly valued landscapes including Gardens and Designed Landscapes
- § sites of historic or archaeological interest and their settings
- § settlement character including conservation areas
- § visual, residential and general amenity
- § telecommunications, transmitting or receiving equipment

Appendix A of the adopted Argyll and Bute Local Plan outlines why impact on the landscape is a major consideration when new development is proposed and all significant developments require to be assessed for their compatibility with the present landscape character as detailed in the SNH Landscape Character Assessment. Advice on the scale and siting of 'micro-small' turbines is given in the Council's Landscape Wind Energy Capacity Study 2012.

B. Location, Nature and Design of Proposed Development

The site is an area of land situated approximately 210 metres to the northeast of Torrbreac, the property the turbine is intended to serve. The proposed turbine is approximately 185 metres from the nearest non-associated residential property.

The site for the proposed wind turbine benefits from a backdrop of rising moorland which will help provide a background to integrate it within the wider landscape. The proposed turbine is to be integrated within a landscape which benefits from a degree of built environment by virtue of the presence of dwellinghouses, polytunnel and power lines, which will help ensure that the proposed wind turbine will not be a sporadic feature or detract from the overall landscape character of the area.

The turbine measures 15 metres from base to hub and has three blades with an overall rotor diameter of 5.5 metres. The overall height of the turbine is 17.7 metres to vertical blade tip. It is intended to take Torrbreac off the national grid supply and allow Mucmara Lodge (in the ownership of the applicant) to take the supply from the grid. Information submitted by the applicant indicates that the proposed wind turbine has an annual output of approximately 9,000 kWh. As a comparison, information submitted in support of the application indicates the total annual usage of Torrbreac as approximately 8,500 kWh and therefore the turbine is appropriately scaled the annual energy demand of the property.

The proposal requires to be assessed against the provisions of Policy LP REN 2, On Site Commercial and Domestic Wind Turbines, which states that on site commercial and domestic wind turbines will be supported in forms, scales and sites where the technology can operate efficiently, the development is located as close to the premises which it is intended to serve as is safely and technically possible, servicing and access implications are acceptable, and subject to specific proposals satisfactorily addressing all other material considerations.

It must be demonstrated that the proposed development will not have an unacceptable adverse impact directly, indirectly or cumulatively on the following criteria:

§ ***areas and interests of nature conservation (including local biodiversity, ecology and the water environment)***

The proposed development is not located within or adjacent to any Nature Conservation designation.

During the processing of the application, it was highlighted that White-Tailed Eagles and Bats, both European Protected Species, were known to forage within the area proposed for the turbine. Accordingly, the Council's Biodiversity Officer requested that the applicant undertake a bat survey to assess and establish bat activities in the area around the proposed wind turbine.

This survey has now been undertaken and has not identified any significant bat activity which would preclude development. The report recommends additional planting along the southeastern boundary which is considered a suitable mitigation measure to protect the species. This is something which can be adequately controlled by a suspensive condition attached to the grant of planning permission.

§ ***highly valued landscapes including Gardens and Designed Landscapes***

The proposed development is not located within or adjacent to a Garden or Designed Landscape.

§ ***sites of historic or archaeological interest and their settings***

The site is not within the proximity of any sites of historic or archaeological interest.

§ ***settlement character including conservation areas***

The proposed development is not located within a Conservation Area and relates relatively well to the property it is intended to serve.

§ ***visual, residential and general amenity***

The turbine is to be sited in close proximity to the property which it is intended to serve, benefiting from a backdrop of rising moorland which will help integrate it into the wider landscape. The turbine is to be integrated amongst existing built development and will not create an isolated new focal point in the landscape, as it will benefit from association with existing buildings and other structures.

It is not considered that when viewed in relation to the surrounding landform and built development the proposed turbine will have a significant detrimental impact on the character of the surrounding area.

Whilst the proposed turbine will be visible from some vantage points along the unclassified Cuin public road, views into the site when heading north-west are limited by the topography of the area with the turbine visible over very short range views, or in a couple of short gaps over longer distances, where the turbine will not be a large or dominant feature in the expansive natural landscape.

There are more significant localised visual impacts, but these principally affect the applicant's own property and as such are deemed acceptable.

With regards to noise, the turbine is to be positioned approximately 210 metres from the property it is intended to serve and approximately 185 metres from the nearest non-associated residential property. The Council's Environmental Health Unit was consulted on the proposed development and in their response raised no objection as the supporting data identified that the noise (and shadow flicker) likely to be generated by the wind turbine would not have an adverse effect upon those noise sensitive residential properties.

§ ***telecommunications, transmitting or receiving equipment***

The proposed development will not impact upon any telecommunications, transmitting and receiving systems.

As detailed above, it is considered that the applicant has demonstrated that the proposed turbine is sited as close to the premises it is intended to serve without adversely affecting that property and there is an appropriate association between the two.

Furthermore, the site benefits from a backdrop of rising moorland and established built development which will help integrate it into the wider landscape when viewed from the main public vantage points. The turbine will not have a significant detrimental impact on the surrounding landscape.

It is therefore considered that the proposal is consistent with the terms set out in Policy LP REN 2.

C. Landscape Character

Structure Plan Policy STRAT DC 8, Landscape and Development Control, states that development which by reason of location, siting, scale, form design or cumulative impact, damages or undermines the key environmental features of a visually contained or wider landscape or coastscape shall be treated as 'non-sustainable' and is contrary to this policy.

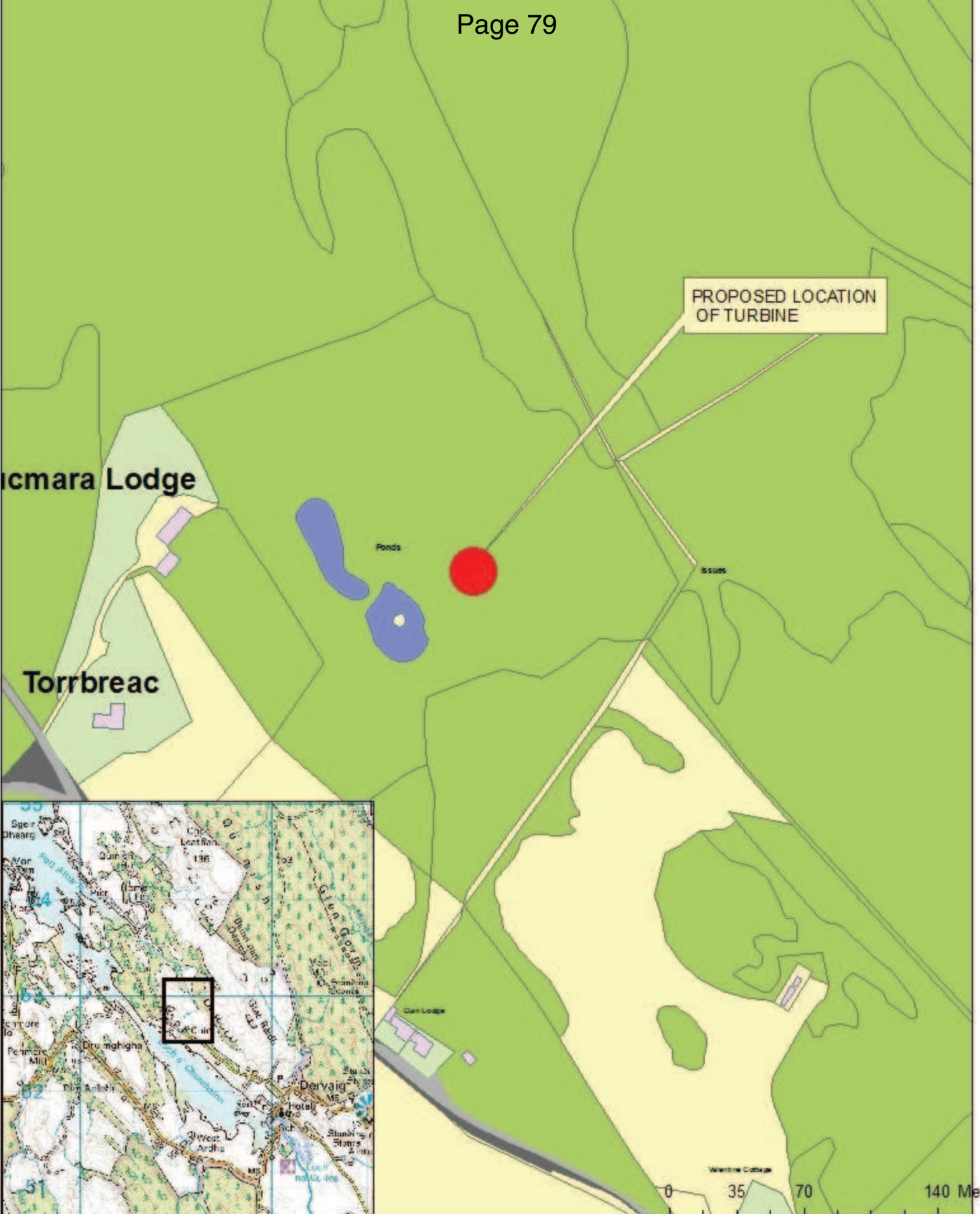
The association of the turbine with existing development, its small scale and its restricted impact upon public vantage points are such that it is not considered that it will undermine landscape character.

In terms of 'The Landscape Assessment of Argyll and the Firth of Clyde' (1996), it characterises the area around Dervaig as 'Basalt Lowland' landscape where particular focus is given to the 'indented coast with sheltered bays overlooked by narrow coastal roads'. Such areas are highlighted as being sensitive to change. However, Scottish Natural Heritage in their response has advised that the proposed turbine is suitably small in scale and integrated amongst existing infrastructure so as not to detract from the overall landscape character of the area. Advice on the scale and siting of 'micro-small' turbines is given in the Council's Landscape Wind Energy Capacity Study 2012 and the proposal accords with the principles advanced in that guidance.

In this regard, it is considered that the proposal complies with the criteria set out in Policy STRAT DC 8 which seeks to ensure that developments do not have an adverse impact on the character of the landscape.

E. Climate change considerations

In assessing any application associated with the generation of renewable energy, it is necessary to have regard to macro environmental consequences as a material consideration. Government and Development Plan policy supports renewable electricity generation in principle, in the interests of addressing climate change, provided that development does not impinge to an unacceptable degree upon its surroundings. As part of the decision making process, it is necessary to consider whether the advantages associated with the production of electricity from renewable sources, consequent CO₂ savings and the contribution which a development might make to the tackling of global warming. In this case, the turbine size at 5kW is limited and only capable of meeting the needs of a single property, and therefore the contribution which the development will make to climate change will inevitably be insignificant.



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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: 11/02520/PP

Planning Hierarchy: Major

Applicant: A'Chruach Wind Farm Limited

Proposal: Wind farm comprising 21 turbines (126.5 metres high to blade tip) erection of 2 meteorological met masts, substation, control building, construction compounds, access works and ancillary development (amended proposal).

Site Address: Land at A'Chruach, Kilmichael Forest, West of Minard by Lochgilphead

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of 21 No. 2.3 MW wind turbines with a hub height of 80.0 metres and a vertical blade tip height of 126.5 metres (48.3 MW total installed capacity);
- Formation of crane hardstandings serving each turbine (700m²)
- Formation of new access tracks (6.6km);
- On-site control building, substation and transformer (compound 45 x 15 metres);
- Underground cable connections between turbines and the sub-station including underground electricity connection between northern and southern arrays (20km total);
- Erection of 2 No permanent lattice wind monitoring masts (80.0 metres);
- Formation of 2 No. temporary construction compounds (each 2,500 m²);
- Formation of two temporary component laydown areas (each 3,750 m²);

(ii) Other specified operations

- Use of existing 10km forest haul road from the A816 (with any localised replacements existing of culverts/bridges subject to separate applications for planning permission);
- Working of 2 No, borrow pits (subject to separate mineral planning applications);
- Underground grid connection to existing 132kV line (subject to Electricity Act application)
- Felling of commercial forestry (with 100m clear-fell and short-rotation 15 metre high plantation out to 700m from turbine towers)

(B) RECOMMENDATION:

It is recommended that planning permission be granted subject to:

- a revised Section 75 Legal Agreement to secure: decommissioning bond, the implementation of a habitat management plan and the provision of a financial contribution to the Mountain Bothy Association, and;
- the conditions and reasons listed in the report.

(C) HISTORY:

07/01521/DET – erection of temporary 50m anemometer mast (approved 14.09.07).

07/01540/DET – erection of temporary 50m anemometer mast (approved 18.09.07).

07/02387/DET - Erection of 20 No. 2.5 MW wind turbines with tubular towers, three blades (82 metre rotor diameter, 70 metres to hub height and 110 metres to blade tip height) (approved 08.09.08).

08/00089/DET and 10/01057/PP – Formation of wood fuelled combined heat and power plant, Achnabreck (approved 08.05.08 and 22.11.10)).

11/00163/FDP Forest Design Plan consultation, Kilmichael Forest (no objection 24.02.11).

11/00461/PP – Retention of temporary 50m anemometer mast (approved 31.05.11).

11/00462/PP – Retention of temporary 50m anemometer mast (approved 31.05.11).

11/01610/PAN – Proposal of Application Notice, A'chruach Windfarm (18.08.11).

(D) CONSULTATIONS:

Scottish Natural Heritage (22.03.12 and 11.05.12) – no objection provided that changes/mitigation measures set out in the response are addressed (otherwise the response should be regarded as an objection). Comments are as follows:

- no objection with respect to European Protected Species (otter) subject to condition requiring the implementation of a mammal protection plan;
- conditions required to protect a confidential species of nature conservation concern within the water environment of the site, in order to safeguard its conservation status;
- habitat management plan required in respect of black grouse where forestry 'keyholing' and proposed surrounding short-rotation forestry offer good potential to provide positive enhancement;
- in comparison with consented scheme, the proposal introduces some turbines onto higher ground and utilises turbine model 16m taller, so introduces some additional visibility into the Knapdale National Scenic Area. New areas of visibility include Dunardry and Dunamuck (above Cairnbaan) and Crinan Wood and some possible effect on lower level areas such as the Moine Mhor/Bellanoch and Kilmichael Glen where blade tip views may be achievable. It is recommended that consideration be given to adjustment of height or location to address these concerns.

Royal Society for the Protection of Birds (09.02.12) – no objection as no unacceptable impacts upon birds of nature conservation concern identified due to the location of the site within commercial forestry plantation. However, request that conditions or a legal agreement are used to ensure habitat management areas are provided to offset any potential impacts on black grouse or hen harrier plus a programme of monitoring to record the effectiveness of such a measures.

Scottish Environment Protection Agency (01.02.12), 17.04.12 and 27.04.12) no objection provided conditions are attached to any consent requiring a site waste management plan, an environmental management plan, a site specific drainage scheme and a requirement for separate consent for borrow pit workings. It was also recommended that further information on wetlands be requested in respect of Groundwater Dependant Terrestrial Ecosystems (GWDTE's), to which the applicants have responded with a full NVC standard ecological survey, the contents of which have since been conveyed to SEPA.

West Of Scotland Archaeology Service (07.02.21) – No further comments beyond those in respect of original proposal. West of Scotland Archaeology (14.02.08) - noted that the impact on the setting of the scheduled dun east of Loch Glashan would be greater than indicated in the Environmental Statement should forestry be removed in the future. It is considered that impact on this feature could be of 'major' significance and Historic Scotland should be consulted for their view on this. It is considered that there is likelihood of uncovering archaeological interests during construction in this area, notwithstanding past forestry operations, and therefore a condition requiring the submission of a scheme of archaeological investigation, and the implementation of the same, be required by condition.

Argyll & District Salmon Fishery Board (07.02.12) – no objection. Welcomes steps identified by the developer to avoid pollution during the construction phase. Would wish to see enforcement of the requirement not to work near watercourses at certain times of the year and would like to see post-construction monitoring of fish populations in the River Add.

Area Roads Engineer (06.01.12) – no objection

Transport Scotland (20.01.12) – no objection

Environmental Health Officer (11.01.12) - the nearest occupied dwellings are Strone (currently a holiday cottage) and Garvachy Farm, approximately 3 kilometres south east

of the proposed development. Carron Bothy is also located just outside the development site to the north east but is used periodically as temporary accommodation by walkers rather than for permanent occupation. The latter is likely to be impacted upon by noise associated with the development, but the property will only be occupied on a sporadic basis. Satisfied with the assessment of environmental effects in the applicant's Environmental Statement although conditions are required in respect of noise limits, construction working hours and private water supply to serve the site.

Scottish Executive (07.02.12) – no comments

Historic Scotland (02.12.12) – no objection given that the changes to the consented scheme raise few additional concerns from a historic environment point of view.

Health & Safety Executive (27.01.12) – no comments.

Scottish Water (09.01.12) – no objection.

Ministry of Defence (20.02.12) – no objection subject to installation of aviation warning lighting and notification being given of commencement of construction.

National Air Traffic Services (28.12.11) – no objection.

Civil Aviation Authority (04.01.12) – no objection, general advice provided.

Highlands & Islands Airports Ltd (28.12.11) – no objection subject to installation of aviation lighting.

Ofcom (30.11.11) – no objection in respect of microwave fixed telecommunication links.

Forestry Commission – no response (site is in Forestry Commission ownership).

Scottish Rights of Way and Access Society (22.02.12) – no objection, but notes that right of way SA 25 coincides with the access route for a short distance and that a condition should be applied requiring that this path should remain open throughout the operational and decommissioning phases. The proposed improvement works to the Carron Bothy are welcomed and it is suggested that improving access to the bothy by clearing a section of known blockage to route SA 25 within the site would be appropriate mitigation for the construction and operational impacts on the right of way.

(Comment: A sum of £10k has been allocated by the developer to the Mountain Bothy Association for them to carry out works to the bothy and its surroundings, in recognition of the impact of the proposal on the wider landscape setting of this building).

Dunadd Community Council (13.01.12) – no objection

Lochgilphead Community Council (14.02.12) – fully supports the proposal.

(E) PUBLICITY:

Regulation 28 Environmental Assessment Advert – advert expired 10th February 2012

Regulation 20 Major Applications Advert – advert expired 3rd February 2012

(F) REPRESENTATIONS:

Four letters of representation have been received, one objecting, one raising a prospective concern, and two supporting the proposals as follows:

A Mitchell, Barochreal, Kilninver by Oban (08.01.12) objects on the following grounds:

- Argyll is already subject to too much windfarm development;

Comment: This site has already had consent for a commercial scale windfarm. Cumulative impact has been assessed as part of the applicant's Environmental Statement.

- Wind turbines are inefficient means of electricity production;

Comment: The development of wind turbines is promoted by the government as part of its energy generation mix. The effectiveness of wind technology is not a material planning consideration;

- Wind turbines despoil the countryside to the disbenefit of the tourist economy;

Comment: Given the conflicting results of published research into the perception of tourists relative to windfarms, it is not possible to be conclusive as to the scale of any deterrent effect their presence may have. It is unlikely that developments assessed as having landscape or cumulative impacts which are not considered to be significant would be likely to have any appreciable consequences for return visits by tourists.

N Hastings (01.05.12) 16d Ferguson Road Cumbernauld comments as follows:

- Would object if the proposal were to be visible from Loch Melfort where I intend to purchase a house;

Comment: There is no visibility of the development from the area around Loch Melfort.

Letters of support have been received from the following:

Mid Argyll Community Pool (13.01.12) supports the site which it considers is reasonably remote and well contained visually and which will support renewable energy in combating climate change, as the pool seeks to do with its own biomass boiler.

Wind Towers Ltd. PO Box 9623, Campbeltown (12.11.11) – supports the application given the possibility of components being sourced from the Machrihanish production facility to the benefit of the local economy.

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in this report, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at **Error! Hyperlink reference not valid.**

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** Yes
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** Not required

- (iii) **A design or design/access statement:** Contained within the Environmental Statement
 - (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Contained within the Environmental Statement
-

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: Yes, whilst the developers/landowners have already entered into an agreement previously in respect of the earlier 2007 application a revised Section 75 agreement will be required. This is due to the fact that the agreement has to be tied to the new planning reference number, and, in terms of the decommissioning bond the site is now larger, with more turbines of an increased height. In respect of the bond, the amount will need to be recalculated to ensure that the decommissioning costs are commensurate with the amended scale of the proposal. As before the Section 75 Legal Agreement will also be to secure off-site habitat survey and mitigation measures in respect of a confidential species identified by Scottish Natural Heritage, and to secure an element of funding towards the upkeep and improvement of the Carron Bothy. The requirements will continue to be of binding effect as they become an ongoing title burden on the land.

- (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

Policy STRAT SI 1 – Sustainable Development.

Policy STRAT DC 5 – Development in Sensitive Countryside

Policy STRAT DC 6 – Development in Very Sensitive Countryside

Policy STRAT DC 7 – Nature Conservation and Development Control

Policy STRAT DC 8 – Landscape and Development Control

Policy STRAT DC 9 – Historic Environmental and Development Control

Policy STRAT RE 1 – Wind Farm/Wind Turbine Development

'Argyll and Bute Local Plan' 2009

Policy LP ENV 1 – Development Impact on the General Environment

Policy LP ENV 2 – Development Impact on Biodiversity

Policy LP ENV 3 – Development Impact on European and Ramsar Sites

Policy LP ENV 5 – Development Impact on SSSI's

Policy LP ENV 6 – Development Impact on Habitats and Species

Policy ENV 9 – Development Impact on National Scenic Areas

Policy ENV 10 – Development Impact on Areas of Panoramic Quality

Policy ENV 17 – Development Impact on Sites of Archaeological Importance.

Policy LP REN 1 – Wind Farms and Wind Turbines.

The development lies predominantly within a 'Broad Area of Search' for windfarm development sites of over 20MW identified by the local plan 'Windfarm Policy Map' which also gives recognition to the development footprint of the preceding 2008 permission.

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.

- Scottish Planning Policy, associated advice and circulars;
- 'Argyll and Bute Landscape wind Energy Capacity Study' (2012)
- the design of the proposed development and its relationship to its surroundings;
- access, provision of infrastructure and planning history of the site;
- the environmental impact of the proposal informed by the accompanying Environmental Statement and informed by the views of statutory and other consultees;
- legitimate public concern or support expressed on relevant planning matters.

Scottish Planning Policy (2009) - supports sustainable economic growth which protects the quality of the natural and built environment as an asset for that growth. The key principles of sustainable development set out in policy include *inter alia* the development of renewable energy generation opportunities and the protection of the natural environment, including biodiversity and the landscape.

Positive change in the landscape is to be facilitated whilst maintaining and enhancing distinctive character. Landscapes are sensitive to inappropriate development and potential effects, including the cumulative effect of incremental changes, should be considered in planning decisions. Development that affects a National Scenic Area should only be permitted where it will not affect the integrity of the area or the qualities for which it has been designated, or any such effects are outweighed by social environmental or economic benefits of national importance.

Planning Authorities should establish a spatial framework for windfarm development over 20MW but should continue to determine applications whilst

policies are being updated. Guidance is provided on the criteria to be employed in the assessment of windfarm applications. Benefits provided by developers to communities in the vicinity of developments should not be treated as material considerations unless they meet the tests in Circular 1/2010 'Planning Agreements'

Planning Advice Note 45 (PAN 45 revised 2002) 'Renewable Energy Technologies' – provides advice in the delivery of renewable energy proposals.

The Council's recently approved 'Argyll and Bute Landscape wind Energy Capacity Study' (2012) provides landscape advice for various turbine typologies within defined Landscape Character Types. The development straddles the boundary between Type 6a (Loch Fyne Upland Forest-Moor Mosaic) and Type 7 (Craggy Upland) and gives cognisance to the consented development at A'Chruach which forms part of the baseline for the study's sensitivity assessment. Limited additional scope is identified for the accommodation of larger typologies (50m to 130m) provided that development remains clear of upland summits and does not influence smaller scale settled coastal landscapes.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No, EIA required and submitted.

(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes

(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): Not required

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

This application follows on from an unimplemented consent granted for a windfarm on this site in 2008 (Planning Permission 07/02387/DET). This application is for the development of an alternative design of wind farm and associated infrastructure on a forested site in a remote location in Kilmichael Forest, approximately 10 kilometres north east of Lochgilphead and 5 kilometres west, north-west of Minard. The previous proposal was to install 20 wind turbines, each with a nominal capacity of 2.3MW, hub height of 69 metres and rotor diameter of 82 metres, giving a maximum height to blade tip of 110 metres. The current proposal is to install 21 wind turbines, each with a nominal capacity of 2.3MW, hub height of 80 metres and rotor diameter of 92.5 metres giving a maximum height to blade tip of 126.5 metres. The layout of the wind turbines and the size of turbines has been amended in the light of continuing post-consent wind monitoring at the site, in order to be able to maximise the available wind resource, which appears to have been under-estimated by the pre-2007 application wind monitoring results.

The principle of windfarm development at this site is established by the previous consent, and the site lies substantially within a 'broad area of search' delineated by the local plan in respect of developments with a generating capacity in excess of 20 MW, where there is a general presumption in favour of windfarms subject to no significant environmental issues being identified. The principal issue to address in this case is whether the increased size of turbine, and the revised layout proposed, give rise to consequences beyond those associated with the consented scheme, which are of such magnitude so as to prevent consent being given for this alternative proposal.

None of the statutory or other consultees have objected to the proposal or have raised issues which cannot be addressed to their satisfaction by the imposition of relevant planning conditions. Scottish Natural Heritage has asked that consideration be given as to whether the layout can be modified to avoid any potential visual effects upon the margins of the Knapdale National Scenic Area. However, SNH have not raised an objection (as they would otherwise do if they considered national interests unduly prejudiced), secondly, the approved scheme already involved some limited visual encroachment into the area concerned, and thirdly, where there is additional visibility, it is restricted to a small number of blade tips outwith the main field of view for most receptors and from most vantage points.

The position of SNH that it would be desirable to see if any additional visibility could be mitigated is accepted, but in the light of the applicants consideration of the matter and their response, it is agreed that it would be impractical to do so in this case whilst maintaining the revised size of turbine which the applicant's consider necessary to exploit the available wind resource and to secure the viability of the overall project. Accordingly, it is not considered that the additional landscape and visual effects of the amended scheme are of such magnitude as to give rise to significant landscape or visual effects which would warrant refusal of this proposal.

There have been two letters of support for the application, one of objection and one further representation raising a question.

(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 proposal is for a commercial scale windfarm which is able to make a contribution towards international commitments and government targets aimed at reducing dependency on fossil fuels and the reduction of carbon emissions, in the interests of combating climate change. The environmental consequences of the development in respect of the receiving environment have been considered as part of the environmental impact assessment process and the views of relevant consultees have been sought. No significant adverse environmental impacts have been identified which are not capable of avoidance or mitigation, and controls are available by way of the imposition of planning conditions and the effect of a pre-existing legal agreement which confers obligations upon the prospective developers. The proposal is in compliance with the provisions of national policy and guidance and with the provisions of the Council's structure and local plans, and there are no other material considerations, including views expressed by third parties, which would warrant anything other than determination in accordance with the provisions of the approved development 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: Richard Kerr **Date:** 6th June 2012

Reviewing Officer: Angus Gilmour **Date:** 13/6/12

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION 11/02520/PP

1. Notwithstanding the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997, the wind farm hereby permitted shall be operational within five years from the date of this approval unless otherwise agreed in writing with the Council as Planning Authority, following which, by virtue of there having been no start on the development hereby permitted, this consent will be considered to have lapsed. Development which has been commenced but which remains uncompleted and has not resulted in an operational windfarm within this five year timescale (or otherwise agreed timescale) shall be fully restored in accordance with the applicant's statement of intentions (i.e. Environmental Statement dated December 2011) and as provided for by conditions attached to this permission.

Reason: In order to reduce unnecessary blight over wind catchment areas and other potential sites which, cumulatively, may result in an adverse environmental impact, but individually might otherwise receive the benefit of planning permission.

2. The permission shall be for a period of 25 years from the commencement of the commercial operation of the wind farm, the date of which shall be notified in writing to the Council as Planning Authority. Within 12 months of the end of that period, unless a further planning application is submitted and approved, all wind turbines, ancillary equipment and buildings shall be dismantled and removed from the site and the land reinstated in accordance with the applicant's statement of intentions and conditions listed below, to the satisfaction of the Planning Authority.

Reason: In order that the Planning Authority has the opportunity to review the circumstances pertaining to the consent, which is of a temporary nature and in the interests of the visual amenity of the area.

3. The development shall be implemented in accordance with the details specified on the application form dated 16/12/11 and the approved drawing reference numbers:

Plan 1 of 10 (Figure 1 Regional Location);

Plan 2 of 10 (Figure 2 Local Location);
Plan 3 of 10 (Figure 3 Application Site);
Plan 4 of 10 (Figure 4 Wind Farm Layout);
Plan 5 of 10 (Figure 5 Indicative Wind Turbine Design)
Plan 6 of 10 (Figure 6 Permanent Meteorological Mast);
Plan 7 of 10 (Figure 8 Substation Control and Operations and Maintenance Facility -Site Plan);
Plan 8 of 10 (Figure 8 Substation Control and Operations and Maintenance Facility - Plan);
Plan 9 of 9 (Figure 8 Substation Control and Operations and Maintenance Facility - Elevations);
Plan 10 of 10 (Figure 4b Microsited Layout around Turbine 8).

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 (as amended), and the operator shall at all times deal with the areas forming the subject of this approval in accordance with the provisions of the application and statement of intentions (i.e. Environmental Statement dated December 2011) except as otherwise provided by this approval, and shall omit no significant part of the operations provided for therein except with the prior written approval of the Planning Authority.

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

4. For the avoidance of doubt, this permission should not be construed as conferring consent for the working of any borrow pits within the application site, the provision of which would require to be the subject of separate applications to the Council as Planning Authority for mineral planning consent.

Reason: For the avoidance of doubt, and having regard to the need for separate planning permission.

5. Prior to development commencing, details of the turbine model selected for installation on the site and confirmation of the final micro-siting of turbines shall be submitted to the Council as Planning Authority. Prior to the turbines first being brought into use, the developer shall submit to the Council as Planning Authority, location details for each turbine as erected in the form of Global Positioning System co-ordinates.

Reason: In order to demonstrate that the windfarm has been constructed in accordance with the approved plans.

6. If, by reason of any circumstances not foreseen by the applicant, it becomes necessary or expedient during the continuance of the operations hereby approved to materially amend or abandon any of the provisions hereof, the applicant or operator shall forthwith submit to the Planning Authority an amended application, plans and statement of intentions but shall also adhere to and comply with this consent until such time as an amended application shall have been determined by the said Authority.

Reason: In order that the consent may be reconsidered should a change of intentions become necessary.

7. If, by reason of any circumstances not foreseen by the applicant or operator, any wind turbine fails to produce an electricity supply to a local grid for a continuous period of 12 months then it will be deemed to have ceased to be required and, unless otherwise agreed in writing with the Planning Authority, the wind turbine and its ancillary equipment shall be dismantled and removed from the site and the site restored in accordance with the agreed scheme, all to the satisfaction of the Planning Authority.

Reason: In accordance with the Council's policy to ensure that full and satisfactory restoration of the wind farm site takes place should it fall into disuse.

8. The wind turbines shall be finished in a matt grey white colour (RAL 9002 or RAL 7035), or such other colour as may be agreed in writing with the Planning Authority, and the colour and finish of the wind turbines shall not be altered thereafter without the written consent of the Council as Planning Authority.

Reason: To reduce the impact of the turbines and minimise reflection in the interest of visual amenity.

9. There shall be no illumination of the wind turbines hereby permitted, nor shall any symbols, signs, logos, or other lettering be applied to the turbines without the prior approval of the Planning Authority.

Reason: To protect the upland rural character of the area in the interests of visual amenity.

10. Before the cessation of the planning permission, a decommissioning plan shall be submitted for the written approval of the Council as Planning Authority in consultation with Scottish Natural Heritage. Within 12 months of the planning consent lapsing, unless any further permission has been granted for their retention for an additional period, the wind turbines and all ancillary structures shall be removed, and the turbine bases and adjoining hard standings covered in soil/peat and re-seeded with appropriate vegetation in accordance with the requirements of the approved plan.

Reason: To ensure that disturbed areas of the site are reinstated in a proper manner in the interests of amenity.

11. All wires and cables between the wind turbines and sub-station shall be located underground within the access track verges or within three metres of the access tracks unless otherwise agreed in writing with the Planning Authority, and the ground thereafter shall be reinstated to a condition equivalent to the land adjoining the trenches within two months of completion of cable laying to the satisfaction of the Planning Authority. This excludes the identified cable connection route between Turbine No. 21 and the site of the approved substation, which shall be implemented in accordance with the route shown on Figure 3.3 of the Environmental Statement where above ground of the River Add is provided for, unless any subsequent variation of that route is approved in advance by the Council as Planning Authority. (For the avoidance of doubt, the route of the grid connection between the substation and the existing electricity network is not authorised by this permission and is subject to a requirement for separate consent).

Reason: In the interests of visual amenity and nature conservation.

12. Within six months of the windfarm becoming fully operational, all temporary site offices, containers, machinery and equipment shall be removed, and the materials storage compounds/laydown areas shall be fully restored in accordance with a scheme detailing vegetation replacement techniques and timing, which shall be submitted to and approved in advance by the Council as Planning Authority unless otherwise agreed in writing with the Council as Planning Authority.

Reason :In order to secure appropriate reinstatement of those areas disturbed by construction in the interests of amenity.

13. At least two months prior to the commencement of development, an Environmental Management Plan (EMP) detailing all mitigation and pollution prevention measures to be implemented during construction and the lifetime of the development shall be submitted to

and agreed by the Council as Planning Authority in consultation with the Scottish Environment Protection Agency and Scottish Natural Heritage. This should address all aspects of the construction process which might impact on the environment, including in particular, excavations and other earthworks, a management/reinstatement scheme for peat areas, the construction works associated with upgraded watercourse crossings, the management of waste streams, the timing of works to avoid periods of high rainfall; along with monitoring proposals, contingency plans and reinstatement measures. The development shall be implemented in accordance with the provisions of the duly approved EMP or any subsequently agreed variation thereof.

Reason: In the interests of pollution control and protection of the water environment.

14. Prior to the commencement of development, full details of the drainage proposals for the site, including foul drainage arrangements for the control building, and drainage for the vehicle accesses, storage areas and compounds, together with the provisions for the avoidance of sedimentation and pollution from construction works and the storage and use of oils and other potential pollutants, and measures for the monitoring and mitigation of erosion, shall be submitted for the approval of the Council as Planning Authority in consultation with the Scottish Environment Protection Agency. The scheme shall include details relating to the methods for collection and treatment of surface run-off using sustainable drainage principles. The development shall be implemented in accordance with the duly approved details.

Reason: In order to prevent pollution of the water environment.

15. Prior to the commencement of development, full details of a Restoration Method Statement and Restoration Monitoring Plan shall be submitted for the approval of the Council as Planning Authority, in consultation with Scottish Natural Heritage. The restoration method statement shall provide restoration proposals for those areas disturbed by construction works, including access tracks, hardstandings and other construction areas. Restoration of construction disturbed areas shall be implemented within 6 months of the commissioning of the windfarm, or as otherwise agreed in writing with the Council as Planning Authority. The monitoring programme shall include a programme of visits to monitor initial vegetation establishment and responses to further requirements, and long term monitoring as part of regular wind farm maintenance.

Reason: To ensure that disturbed areas of the site are reinstated in a proper manner following construction in the interests of amenity, landscape character and nature conservation.

16. The control building shall be faced in natural stone/smooth cement or wet dash render painted a recessive colour (or other natural/recessive finish as agreed in writing by the Planning Authority) with the roof finished in natural slate or a good quality slate substitute, samples or full details of which shall be submitted for the prior written approval of the Planning Authority prior to building works commencing.

Reason: In order to secure an appropriate appearance in the interests of amenity and to help assimilate the building into its landscape setting.

17. Prior to the commencement of development, details of materials, external finishes and colours for all ancillary elements, including transformers, switchgear/metering building, compound and fencing shall be submitted to and approved by the Council as Planning Authority. The development shall be implemented in accordance with the duly approved details.

Reason: In order to secure an appropriate appearance in the interests of amenity and to help assimilate the structures into their landscape setting.

18. Prior to the commencement of development, details of a programme for monitoring wild fish populations in the River Add, and a bird monitoring programme, both of which should be undertaken for the years of operation 1 to 5 inclusive (plus year 10 in respect of bird monitoring only) shall be submitted to and be approved in writing by the Council as Planning Authority, in consultation with Scottish Natural Heritage and the Argyll District Salmon Fishery Board. Thereafter monitoring results for each period shall be submitted to the Council as Planning Authority within a four month period following each 12 month period of monitoring along with details of any mitigation measures required.

Reason: In the interests of nature conservation.

19. At the request of the Council, following a complaint to the Council relating to noise emissions from the wind turbines, the developer shall undertake an investigation of the complaint, carry out monitoring, prepare and submit a report upon the problem and advise of any necessary remedial action in accordance with the methodology set out in the report entitle "The Assessment and Rating of Noise from Wind Farms ETSU-R-97" produced by the Energy Technology Support Unit on behalf of the Department of Trade and Industry and take any such remedial action agreed to the satisfaction of the Council as Planning Authority.

Reason: To help to control and therefore, minimise possible noise pollution.

20. Prior to the commencement of the construction of the development, the Developer should agree with the Council as Planning Authority the working methods and operating times to be employed during the constructional phase, in order to prevent the occurrence of or minimise the effect of any nuisances.

Reason: To help to control and therefore, minimise possible noise pollution.

21. The level of noise from wind turbine noise shall not exceed 35 dB LA90 when measured at any residential property in accordance with the methodology of ETSU-R-97 or any successor standards. The noise should, in addition contain no audible tonal and/or impulsive components so as to cause nuisance to the occupiers of any residential dwelling.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

22. Prior to the commencement of the development hereby permitted, the applicant shall provide warranty to the satisfaction of the Council as Planning Authority that the noise from turbine operation will be broad-band with no discernable tonal characteristics.

Reason: To minimise the adverse impact of noise generated by the operations on the local community.

23. No development shall be commenced until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the developer, agreed by the West of Scotland Archaeology Service and approved in writing by the Council as Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Council as Planning Authority.

Reason: To enable the opportunity to identify and examine any items of archaeological interest which may be found on the site, and to allow any action required for the protection, preservation or recording of such remains.

24. Prior to the development commencing a full appraisal to demonstrate the wholesomeness and sufficiency of the private water supply to serve the development shall be submitted to and approved in writing by the Planning Authority. This assessment shall be carried out by

a qualified and competent person(s). Such appraisal shall include a risk assessment having regard to the requirements of Schedule 4 of the Private Water Supplies (Scotland) Regulations 2006 and shall on the basis of such risk assessment specify the means by which a wholesome and sufficient water supply shall be provided and thereafter maintained to the development. Such appraisal shall also demonstrate that the wholesomeness and sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, shall not be compromised by the proposed development. Furthermore, the development itself shall not be brought into use or occupied until the required supply has been installed in accordance with the agreed specification.

Reason: In the interests of public health and in order to ensure that an adequate private water supply in terms of both wholesomeness and sufficiency can be provided to meet the requirements of the proposed development and without compromising the interests of other users of the same or nearby private water supplies.

25. Construction traffic shall access the site from the A816 via the Achnabreck/Kilmichael Forest haul road in accordance with the route stipulated in Figure 12.4 of the Environmental Statement. Specifically, no windfarm construction traffic shall access the site using the existing forest haul route from the A83(T) at Birdfield, by Minard.

Reason: In the interests of road safety.

26. Throughout the construction and commissioning stages of the development, and during decommissioning, an appropriately qualified 'Ecological Clerk of Works' (as stipulated in Section 9.115 of the Environmental Statement) shall be available to direct the micro-siting of turbines, compounds and access tracks, to ensure that sensitive features are avoided, and that habitat enhancement works and all mitigation and restoration measures are fully implemented. The ECOW should liaise with Scottish Natural Heritage and the role of the ECOW should be clearly conveyed to all personnel prior to their commencement of work on the site.

Reason: In the interests of nature conservation.

27. Prior to the commencement of construction work, an otter survey should be carried out by an experienced and appropriately licensed surveyor. The results of the survey should be submitted to the Council as Planning Authority for consultation with Scottish Natural Heritage. Where otter are recorded by the survey, and disturbance to this species is concluded to be likely, the developer must identify appropriate mitigation where practicable, or seek a licence to disturb otters from the Scottish Government in order to be able to undertake operations within affected areas. Mitigation measures shall be submitted to and be approved in writing by the Council as Planning Authority in consultation with Scottish Natural Heritage and the development shall be implemented in accordance with the duly approved measures.

Reason: In order to avoid disturbance to protected species in the interests of nature conservation.

28. Prior to the commencement of construction work, including forestry operations, a Mammal Protection Plan shall be developed in consultation with Scottish Natural Heritage which shall inform any required mitigation in relation to Otter and it shall be submitted for written approval by the Council as Planning Authority in consultation with Scottish Natural Heritage. The plan shall provide for re-survey immediately prior to the commencement of construction and it shall be implemented at such time as forestry operations commence for the full duration of the construction phase of the development, in accordance with the duly approved measures, including any required mitigation measures identified by the plan.

Reason: In the interests of nature conservation.

29. Prior to the commencement of construction work, including forestry operations, a Breeding Bird Management Plan shall be developed in consultation with Scottish Natural Heritage and shall be submitted and be approved in writing by the Council as Planning Authority in consultation with Scottish Natural Heritage. This should include appropriate measures to mitigate against Black Grouse colliding with handrails and lower tower sections. The plan shall be implemented at such time as forestry operations commence, for the full duration of both the construction and operational phases of the development, in accordance with the duly approved measures.

Reason: In the interests of nature conservation.

30. Prior to the commencement of construction work, including forestry operations, a Black Grouse Habitat Management Plan shall be developed in consultation with Scottish Natural Heritage and shall be submitted and be approved in writing by the Council as Planning Authority in consultation with Scottish Natural Heritage. The plan shall provide details of the measures proposed to be employed, proposed management practices and techniques, intended timings, monitoring protocols and shall identify definitive management compartments. The plan shall be implemented at such time as forestry operations commence, for the full duration of both the construction and operational phases of the development, in accordance with the duly approved measures.

Reason: In order to support national and local biodiversity action plan species in the interests of nature conservation.

31. Notwithstanding the provisions of the approved plans, the Environmental Statement and the effect of condition 3 above, none of the following shall be permitted within 50 metres of any identified watercourse forming part of the Abhainn Bheag an Tunns catchment, unless otherwise agreed in writing by the Council as Planning Authority:
- i) areas to be used for the storage of chemicals;
 - ii) operations involving the maintenance or refuelling of vehicles, plant or equipment;
 - iii) the construction of any crane platforms or access tracks;
 - iv) the location of Turbine No. 8 and its associated track and platform, which shall be micro-sited to ensure that the turbine and its associated infrastructure is located a minimum of 50 metres from the nearest watercourse, in accordance with approved plan 10 of 10 (figure 4b), or such revision thereof as may be agreed in writing in advance by the Council as Planning Authority, in consultation with Scottish Natural Heritage..

Reason: In order to avoid sedimentation or pollution of watercourses in order to protect confidential species listed in the European Habitats Directive 1992 and afforded protection by the Wildlife and Countryside Act 1981 (as amended), in the interests of nature conservation.

32. Throughout the full duration of construction works, silt traps shall be used in all drains and culverts which discharge water into watercourses within the Abhainn Bheag an Tunns catchment.

Reason: In the interests of nature conservation.

33. A full baseline survey of the confidential species ecology identified by Cosgrove P and Farquhar J (2007) shall be carried out in accordance with their recommendations prior to the commencement of development. During construction/dismantling works on site all mitigation measures as detailed in Section 7.1 of that report shall be implemented in full. All harvesting operations associated with the development shall be carried out in accordance with best practice set out in the Forestry commission's 'Forest and Water Guidelines' (4th edition)

Reason: In order to ensure the implementation of identified mitigation measures in order to protect confidential species listed in the European Habitats Directive 1992 and afforded protection by the Wildlife and Countryside Act 1981 (as amended), in the interests of nature conservation.

34. Prior to the commencement of development, a Site Waste Management Plan shall be submitted for the approval of the Council as Planning Authority in consultation with the Scottish Environment Protection Agency. The development shall be implemented in accordance with the provisions of the duly approved plan.

Reason: In order to ensure that waste arising from the development is managed in a sustainable manner.

35. National Right of Way SA25 shall remain open and free of obstruction during the construction, operation, and decommissioning of the windfarm, unless any temporary closure is necessary in the interests of urgent health and safety considerations, in which case short-term diversion of the route shall be put in place as soon as reasonably practicable, with the original route being reinstated as soon as the circumstances prompting temporary closure have been remedied.

Reason: In order to safeguard uninterrupted access along a route recorded in the National Catalogue of Rights of Way.

36. Prior to the commencement of turbine tower erection, a baseline TV reception study shall be undertaken and submitted to the Council as Planning Authority. Within 12 months of the final commissioning of the windfarm, any claim by any person for TV picture loss or interference at their household, office, shop or other building shall be investigated by a qualified television engineer and the results submitted to the Council as Planning Authority. Should any impairment to the TV reception be attributable to the windfarm, such impairment shall be improved to an acceptable standard of TV reception, such that the standard at the household, office, shop or other building at the time of the baseline reception study is maintained

Reason: In order to avoid interference with television reception as a result of the operation of the windfarm.

- The terms of this permission shall be read in conjunction with the legal agreement pertaining to the site, concluded under Section 75 of the Town and Country Planning (Scotland) Act 1997 as amended, relating to the provision of a decommissioning bond, the implementation of a habitat management plan and the provision of a financial contribution to the Mountain Bothy Association.
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), 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 (as amended) 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
- The Planning Authority can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997, although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non-material amendment (NMA) should be made in writing to Planning Services, Whitegates, Lochgilphead, PA31 8SY which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. It should be noted that only the original applicant can apply for an NMA under the terms of Section 64 of the Town and Country Planning (Scotland) Act 1997. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.
- Defence Estates should be notified of the date that construction commences, the latitude and longitude of each turbine and the maximum height of construction equipment to be used on the site, The turbines shall be fitted with 25 candela red omni-directional aviation lighting or infra red lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms at the highest practicable point. Contact claire.duddy@de.MOD.uk for further advice.
- By virtue of their status as a European Protected Species, Otter present on the site are afforded protection by virtue of the Habitats Regulations 1994. Where it is proposed to carry out works affecting otters, or their shelter or breeding places, a licence will be required from the Landscapes and Habitats Division of the Scottish Government to authorise any such disturbance, which will only be consented in circumstances where the tests established by Regulation 44 are met. It is an offence to deliberately or recklessly injure, kill, capture, disturb or harass otters or to damage, destroy or obstruct resting or breeding sites.
- New or altered water crossings and any dewatering measures will require separate authorisation by the Scottish Environment Protection Agency. Contact: SEPA 2 Smithy Lane, Lochgilphead PA31 8TA 01546 602876.

REASONS FOR REFUSAL IN THE EVENT THAT SECTION 75 LEGAL AGREEMENT IS NOT CONCLUDED WITHIN 4 MONTHS.

1. A Section 75 Legal Agreement has not been concluded for this wind farm proposal. In order for the proposal to meet with the requirements of Development Plan Policy there is a requirement for a decommissioning bond to be secured by said Agreement.

Wind turbines are temporary structures, with an estimated life span in the region of 25 years, and decommissioning must be considered, to ensure that when the wind farm is no longer extant, the site is cleared and returned as closely as possible to its original state.

As the Section 75 Legal Agreement has not been concluded, no funds have been secured to ensure the proper decommissioning of this site contrary to the provisions of: Scottish Planning Policy, STRAT RE 1 – Wind Farm/Wind Turbine Development of the Argyll & Bute Structure Plan and Policy LP REN 1 – Wind Farms and Wind Turbines of the Argyll & Bute Local Plan.

2. A Section 75 Legal Agreement has not been concluded for this wind farm proposal. In order for the proposal to meet with the requirements of Development Plan Policy there is a requirement for the implementation of a Habitat Management Plan to be secured by said Agreement.

The Habitat Management Plan is necessary to ensure that details of the measures proposed to be employed, proposed management practices and techniques, intended timings, monitoring protocols and identification of definitive management compartments are secured to support national and local biodiversity action plan species in the interests of nature conservation.

As the Section 75 Legal Agreement has not been concluded, there is no instrument to ensure the implementation of a Habitat Management Plan, contrary to the provisions of Scottish Planning Policy; Policies STRAT DC 7 – Nature Conservation & Development Control and STRAT RE 1 – Wind Farm/Wind Turbine Development of the Argyll & Bute Structure Plan; and, Policies LP REN 1 – Wind Farms and Wind Turbines and LP ENV 6 – Development Impact on Habitats and Species of the Argyll & Bute Local Plan.

3. A Section 75 Legal Agreement has not been concluded for this wind farm proposal. In order for the proposal to meet with the requirements of Development Plan Policy there is a requirement for a financial contribution to be made to the Mountain Bothy Association.

As an element of 'planning gain', it was agreed that the developer would make a financial contribution to the Mountain Bothy Association towards the upkeep and improvement of the Carron Bothy, in recognition of the impact of the proposal on the wider landscape setting of this building.

As the Section 75 Legal Agreement has not been concluded, there is no mechanism to secure this planning gain contribution, contrary to the provisions of Policy LP PG 1 – Planning Gain of the Argyll & Bute Local Plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/02520/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy & Wind Farm Proposals Map

The application site straddles the boundary between the Sensitive Countryside zone delineated by the adopted local plan subject to the effect of Policy STRAT DC 5 of the 'Argyll & Bute Structure Plan', and the Very Sensitive Countryside zone delineated by

the adopted local plan subject to the effect of Policy STRAT DC 6 of the structure plan. Both policies are generally restrictive of development in these countryside locations, but provide exceptions for windfarm related development otherwise capable of being supported by virtue of development plan renewable energy policies. This site is separated into two parallel arrays with the northern array (14 turbines) being located in Very Sensitive Countryside and the southern array (7 turbines some 2km to the south) being located in Sensitive Countryside.

The development lies predominantly within a 'Broad Area of Search' for windfarm development sites of over 20MW identified by the local plan Windfarm Policy Map' which also acknowledges the consented development footprint of the preceding 2008 permission for 20 No 110m high turbines. The Council's recently approved landscape capacity study for wind energy developments recognises that there is some capacity for additional large scale typology development within the Craggy Upland landscape character type where 14 No. 126m turbines are now proposed rather than the 11 No. 110m turbines previously approved in the northern array. In the Loch Fyne Upland Forest-Moor Mosaic landscape character type, 7 No. 126m turbines are now proposed in place of the 9 No. 110m turbines previously approved in the southern array.

The principle of the suitability of the site for commercial scale windfarm development has been established by planning permission 07/02387/DET and is supported by both the local plan and the wind energy landscape capacity study. Therefore the primary issue under consideration in respect of this alternative proposal, is the environmental acceptability of the alternative size and disposition of the turbines now proposed, along with the addition of one extra turbine.

The likely environmental effects of the proposal and the extent to which they can be avoided or mitigated has been considered by way of the environmental assessment process, with the applicants having submitted an Environmental Statement and with relevant consultees having had opportunity to comment upon the validity of the conclusions reached and to identify conditions required to address their concerns in the event of planning permission being granted.

B. Location, Nature & Design of Proposed Development

The application relates to an upland area separating the west coast of Loch Fyne from the east coast of Loch Awe, approximately 10km north-east of Lochgilphead. In a more local context, the site is situated some 5 km to the west of the village of Minard and 1.5km north of Loch Glashan. The site lies 10km south of the nearest consented windfarm at An Suidhe, by Inveraray, which is now operational. It comprises around 800 hectares of land forming part of the extensive 80 sq. km. Kilmichael Forest; an area of mainly sitka spruce plantation owned by the Forestry Commission and managed by Forest Enterprise. The site comprises commercial forestry of varying ages, with some clear-felled areas and replanting is ongoing. Land to the south and west of the site is exclusively commercial forest. To the north and east there is open hill land forming part of the Cumlodden Estate for several kilometres, leading onto further forestry beyond on more upland ground. The forested areas contain extensive walking and cycling routes and public access is available, as far as forestry operations permit.

The proposed turbines are to be situated in two separate clusters separated by the intervening valley of the upper River Add and its tributaries. The river is at a level of about 130 metres AOD. The two arrays are to be situated on two NE-SW aligned ridges. The northernmost of these is the A'Chruach – Meall Reamhan ridge, at about 300 metres AOD. This is mainly mature forestry and has only recently become the subject of programmed felling operations. The southern parallel array is to be located on the Airigh

Ard ridge, at about 230 metres AOD, where systematic felling and restructuring is already taking place under the approved Forest Design Plan.

The proposal is to maintain the site in use for commercial forestry, by inserting the turbines within 100m diameter clearings known as 'keyholes'. The retention of forestry about the turbines will have consequences in terms of wind speed, turbulence and wind shear, which means that surrounding plantations cannot be allowed to continue to grow to optimum commercial heights. Therefore, a programme of short-rotation forestry (i.e. premature felling) is proposed, once trees have reached a height of 15 metres, followed by replanting of all areas other than the 'keyholes' and associated cable and access corridors. Replanting will be in accordance with the principles of the existing Forest Design Plan, and will incorporate more diverse conifer species, an increased proportion of native broadleaves and additional open ground which will benefit biodiversity..

There are no nature conservation or historic environment designations within the site. The nearest residential properties are at Strone and Garvachy Farm approximately 3 km away from the proposed windfarm, although there is a mountain bothy within 1km..

Access to the site is proposed to be taken from the A816 Lochgilphead – Oban road at Achanabreck, via an improvement of the existing principal forestry access route serving the Kilmichael Forest. This affords access currently to the locations of both arrays, but will need some limited upgrading to make it suitable for windfarm construction traffic. There would be two construction compounds, one located on the approach to either array. The control building, substation and associated transformer compound would be sited within the southern array. An underground cable would connect the two arrays to this single connection point. On-site access tracks would trend generally SW-NE along both ridges to serve both clusters, with spurs serving individual turbine locations.

The detailed layout of the site has been dictated by the following factors:

- The need to respect potential Black Grouse nesting areas;
- Avoidance of potential Golden Eagle habitat;
- Safeguarding of watercourses and the aquatic environment;
- Avoidance of blanket bog and steep slopes;
- The need to respect the setting of the Carron Bothy;
- Visual considerations.

Two on-site borrow pits are envisaged to provide an on-site source of stone to serve the needs of construction. These would need to be the subject of separate mineral planning consent applications. Cabling on the site would be underground following the alignment of access tracks wherever possible. The site would be connected to the grid by way of an underground link to the existing 132kv Port Ann – Inveraray transmission line to the east of the site, which would also be subject to the requirement for separate consent.

The construction period for the project is estimated at being 12 months following initial forestry operations. The windfarm would have a design life of 25 years following which it would be dismantled or re-powered, subject to any further planning permission being granted.

The application has been prompted by deficiencies in the original wind monitoring data which, on the basis of post-consent monitoring, apparently underestimated the available wind resource; coupled with the ability to use larger scale turbines now available commercially. The applicants estimate that the current proposal could improve upon the output of the 2008 consented layout by as much as 45% and that it would maximise the exploitation of the generation potential of the site whilst maintaining the envelope and scale of the development within environmental limits which are not dissimilar to those considered acceptable in relation to the original scheme.

C. Landscape Character & Landscape Impact

Landscape impacts may be considered in terms of the disturbance, damage or loss of individual features of landscape character, such as streams, woodlands and open moorland. Landscape character is a fundamental starting point for assessing whether a landscape is suitable for assimilating wind energy development successfully, without giving rise to unacceptable impacts upon the countryside. The development straddles two upland landscape character types which are currently very much influenced by the presence of large scale coniferous woodland of varying ages.

The site lies within a broad expanse of largely forested high ground separating Loch Awe from Loch Fyne. It forms part of a wider area of elevated landscape of open moorland and forestry, with increasing elevation to the north. This landscape forms an unpopulated backdrop to the inhabited coastal margins, and is in itself, an area of diversity and interest, with value for recreation and for its sense of relative remoteness; albeit that it has been devalued somewhat by the extent of the cyclical harvesting and replanting of trees and the associated forest infrastructure.

The location has been prompted in part by the absence of any landscape designation in respect of the site. Nonetheless, the introduction of a large scale windfarm in an elevated location would be expected to have significant visual impact upon the surrounding area. However in this case, the effect of topography around the site is such that it is afforded considerable screening from populated areas, transport routes and vantage points. The proposal has progressed through a series of iterations, originating with the gestation of the 2007 application, and culminating in the reconfiguration of a layout to accommodate larger turbines, balancing the potential landscape and visual effects and other environmental considerations, with the need to occupy an area of sufficient wind yield.

The development would give rise to a variety of consequences as a result of 'keyhole' felling, forest restructuring based on short-rotation, and the presence of the turbines themselves. Whilst the magnitude of change will be significant, the sensitivity of this ever changing receiving environment is relatively low and therefore the impact during both construction and operation are assessed in the Environmental Statement to be of 'moderate adverse' magnitude in the context of a receiving environment which is considered to be of 'low' sensitivity.

An examination of the consequences of the development for adjoining landscape character types, surrounding landscape designations and transport routes has been carried out over a range of 35km from the site. Despite the elevation of the two ridges accommodating the arrays, separated by the route of the River Add, the effect of topography to both the east and west of the development is such that it does not exert any influence of significance over the transport routes or settled margins of either Loch Awe or over west Loch Fyne. Other than at relatively close quarters, influence is mainly towards the west coast of Cowal (and then predominantly only from generally unfrequented elevated locations at around 10km rather than from the coast) and also to the south over Lower Loch Fyne, where its influence will also extend to elevated vantage points above Crinan, Lochgilphead and Tarbert on the fringe of the Knapdale National Scenic Area, at a range of 12km to 25km or beyond. More immediate effect is displayed in respect of Loch Glashan to the south (a promoted recreational area) around the Carron Bothy to the north, and also from the Auchindrain – Loch Awe forestry road, which is also promoted as a recreational route. However, effects on designated landscapes are low, whilst visibility from road corridors is mainly restricted or absent because most of these follow low ground on the margins of lochs where topography shields visibility of the turbines.

Potentially 'significant' visual effects are restricted to locations around 12 km of the site as established by analysis of viewpoints at Dunardry by Cairnbaan (12.2km), Loch Glashan (4.2km), Tom Soiller (high point north of the site) Lachlan Castle (on the east side of Loch Fyne) and the Carron Bothy (close to the site itself at less than 1.0km). These are either close to locations where impact of development of this scale is unavoidable, or elevated countryside locations, valued for recreation but not generally frequented by large numbers of people.

The site lies on the transition between Craggy Upland and Upland Forest Moor Mosaic but is largely screened from the remainder of the Craggy Upland landscape character type. Neither of the character types are subject to landscape designations and despite some recreational usage, both are of 'low' sensitivity to change where predominantly 'moderate' localised impacts will arise from the development. The effects on surrounding landscape character types will be limited. In terms of surrounding designations, no significant effects are identified by the Environmental Statement in respect of the National Park or NSA's, of which only the northernmost part of Knapdale lies within 15km of the site. Of the local plan designated Areas of Panoramic Quality, the only significant effect identified is on East Loch Fyne but this is restricted mainly to elevated and unfrequented areas rather than to the lower slopes of the Cowal coast.

In their consultation response, Scottish Natural Heritage has not objected to the proposal on landscape grounds, although has commented that the increased height of turbines and some more elevated positions of turbines compared with the previously consented scheme will result in some wider landscape impacts, particularly to the south towards the Knapdale NSA where elevated vantage points above Crinan and Cairnbaan, for example, will afford views of the site, and where some lower level blade tip views may be achievable from the Moine Mor and Kilmichael Glen areas. Consideration of these matters is detailed in the following section on visual impact.

D. Visual Impact

Visual impact relates to the proposal's visibility and its impacts on views, as experienced by people. In determining the proposal's visual impact, the layout of the wind farm has been assessed from key viewpoints. Visually sensitive viewpoints include those where there are views to, or from, designated landscapes; however, sensitivity is not confined to designated interests. Visually sensitive viewpoints can include those which are frequently visited by people (such as well-used transport corridors, tourist roads, or picnic spots), settlements where people live, other inhabited buildings or viewpoints which have a landscape value that people appreciate (and which they might visit for recreational pursuits or areas for hill walking, cycling or education).

In order to assess the visual impact, the developer has agreed to appraise a series of 26 viewpoints identified to reflect the sensitivity of receptors, re-visiting those locations assessed at the time of the previous application in 2007, thereby enabling relatively easy comparison between the visual consequences of both schemes. Some supplementary wireframes have also been supplied to inform concerns raised by Scottish Natural Heritage. The various viewpoints are located in local settlements, transportation corridors, places of cultural/historical interest and known popular viewpoints. It is accepted that photomontages and other visual information can only give an indication of the relative scale of the proposals in relation to the surrounding landscape, but these do form a useful tool in arriving at conclusions as to the visual effects of development.

There is no disguising the visual impact of the proposal at close quarters, as 126.5 metre tall structures will be clearly readily visible in the surrounding area. Higher ground to the north, east and west of the site provides effective separation from vantage points along Loch Fyne and Loch Awe, and also separation from the operational An Suidhe windfarm.

site further north. Consequently, available longer distance views are mainly from the water in Lower Loch Fyne, and from higher vantage points on the fringe of north Knapdale. Only 6 of the 26 viewpoints assessed have been evaluated by the Environmental Statement as experiencing a 'significant' impact, only one of which (Baillimore Designed Landscape, west Cowal) benefits from any form of landscape designation. It is important to note that visual impacts are contained to mainly shorter range views and that no visual impacts of significance have been identified beyond about 12km.

In their consultation response, Scottish Natural Heritage has not objected to the proposal on landscape grounds, although has commented that the increased height of turbines and some more elevated positions of turbines compared with the previously consented scheme will result in some wider landscape impacts. This is likely to be particularly the case to the south towards the Knapdale NSA, where elevated vantage points above Crinan and Cairnbaan, for example, will afford views of the site, and where some lower level blade tip views may be achievable from the Moine Mor and Kilmichael Glen areas.

These concerns have been raised with the developers who maintain that impacts on the fringe of the Knapdale NSA will not be significant due to any blade tip visibility being offset from any of the key views available from vantage points or transport routes. Theoretical visibility based on 'bare earth' modelling indicates some visibility between Cairnbaan and Bridgend, although in practice at 8 to 10 km with intervening vegetation and other features, any oblique views of blade tips from the A816 will not assume importance. The applicants consider that development will not have consequences of any significance for key historic assets such as Dunadd, the Crinan Canal, Kilmartin Glen or Carnasserie Castle, with any blade tip visibility being at a distance, and again lying outside the focus of views. From Kilmichael Glen, views will not be in the direction of travel along the glen, but will be oblique and most of the route along the glen will be unaffected. Where elevated views from vantage points are available (Dunardry and Crinan Wood for example) these are 360 degree panoramas, with the main interest being to the west over the sea rather than inland towards the windfarm.

The lack of topographical variation across the application site, other on-site constraints and the wind regime are such that further amendment to the layout or specification of turbines would, in the applicant's view, prejudice project viability and therefore they do not consider themselves able to eradicate entirely all visibility from the margins of the NSA.

In reaching a conclusion in the matter, officers have been influenced firstly by the fact that SNH have not raised an objection (as they would otherwise do if they considered national interests unduly prejudiced), secondly, that the approved scheme already involved some limited visual encroachment into the area concerned, and thirdly, that where there is additional visibility, it is restricted to a small number of blade tips outwith the main field of view for most receptors and from most vantage points. The position of SNH that it would be desirable to see if any additional visibility could be mitigated is accepted, but in the light of the applicants consideration of the matter and their response, it is agreed that it would be impractical to do so in this case whilst maintaining the revised size of turbine which the applicant's consider necessary to secure the viability of the overall project. Accordingly, it is not considered that the additional landscape and visual effects of the amended scheme are such as to give rise to adverse effects upon the NSA which are of such magnitude as to warrant refusal of the application.

E. Cumulative Impact

Cumulative impact is difficult to assess and can have significant land use planning implications, particularly in relation to noise, visual, aviation, landscape, ecological, and hydrological impacts. The acceptability of proposals depends on the nature and character of the location, and sensitive visual receptors, wildlife species, and habitats. The Cumulative Impact Assessment considers other existing or approved wind energy developments and those subject to a scoping opinion (where information about the development was available). The principal cumulative concerns in respect of this proposal would tend to be in terms of landscape and visual effects.

In this case, there is little contribution to cumulative impact as a result of this proposal. Operational sites at Clachan Flats (Cowal) An Suidhe (above Inveraray) and the site at Allt Dearg (under construction south of Ardrishaig) have potential to give rise to cumulative effects, but their spacing and separate settings are such that the addition of A'Chruach in a discrete location will not contribute to the overall perception of a windfarm influenced wider landscape. Accordingly, given the relatively remote and discrete location of the development and the relative containment of the extent of its likely landscape and visual influence, it is not considered that will raise significant sequential or cumulative effects in terms of the number or distribution of consented windfarms across Argyll.

F. Ecological Impact

Argyll & Bute is rich in natural heritage. Several areas of Argyll & Bute have been designated to reflect their international, national or local importance for the protection of species, habitats, geology, landforms, or a combination of these. However, there are other habitats and species of importance found outwith designated sites and proposals outwith designated sites can still affect species or areas of natural heritage protected under national or international designations. To assist in the consideration of the magnitude of ecological effects, Scottish National Heritage, the RSPB and The Argyll & District Salmon Fishery Board have been consulted.

The site comprises predominantly sitka spruce plantation of varying ages, with a low percentage of other mainly conifer species. Residual areas comprise mainly forest rides, river corridors, rocky or peaty areas unsuited to silviculture. There are some clear-felled areas where restructuring is taking place under an approved Forest Design Plan. The River Add bisects the site along with the Carron Burn and numerous smaller tributaries. There are two very localised blanket bog areas; although where peat is present it only occurs in shallow deposits. The site is not subject to, or within close influence of, any European or national nature conservation designation. In view of the preponderance of conifer plantation, the site is mainly of low nature conservation and biodiversity value. There is a small area of mixed semi-natural woodland along the River Add corridor, some wet areas associated with peat, and some acidic grassland along the Carron Burn, which are of limited ecological interest, but these have been avoided entirely, other than for the cable route linking the two arrays.

In terms of species, badger, water vole, pine martin, wildcat, otter, red squirrels, bats and butterflies are present in the general area, although not all have been confirmed as being present within the site itself. These species are of conservation value and would be susceptible to disturbance from construction and operation of the windfarm. Much of the consequence for these species would derive from the tree felling and forest restructuring proposals associated with the development. It should be noted however, that firstly, disturbance would arise anyway in the normal course of events from forest operations, and secondly, most of these species are predominantly nocturnal, when disturbance from construction would be limited. The Environmental Statement concludes that the most significant ecological consequence of the development as a whole would be the loss of some foraging habitat for red squirrels. As there is potential for bats to be affected

by sudden air pressure changes around rotating blades, on a precautionary basis, this effect is identified as 'significant' particularly as foraging areas will increase as tree felling takes place, although the bat population as a whole is not considered at risk.

The upper Add and its tributaries are recognised of importance for the spawning of trout and salmon. The Add is recorded as Grade A1 by Scottish Environment Protection Agency and capable of supporting a sustainable fish population. It is a Freshwater Fish Directive Salmonid Water under the jurisdiction of the Argyll Fisheries Trust. Such quality freshwater habitat is susceptible to silt run-off and sedimentation as a consequence of construction and transportation, and therefore as the District salmon Fishery Board points out, mitigation and careful site management is required in order to avoid any deterioration in water quality and habitat.

Mitigation measures would be employed, such as avoidance of the more ecologically sensitive areas (blanket bog/riparian habitat/ancient woodland), the implementation of a mammal protection plan, the employment of an Ecological Clerk of Works, and long-term retention of tree stands suitable as red squirrel territory. In particular, it is intended to maintain a 20 metre buffer zone from all watercourses, and a 50 metre zone in the case of the River Add the Carron Burn and the Abhainn Bheag an Tunns catchment (where there is particular nature conservation concern on the part of Scottish Natural Heritage about a confidential protected species). Operations likely to mobilise sediments would be limited to months which would not be especially sensitive in terms of the life-cycle of aquatic species. The ABSFB has suggested that a period of post-consent monitoring be carried out and this has therefore been recommended as a condition.

Scottish Natural Heritage considers that the proposal would have adverse ecological consequences for protected species which frequent the area unless conditions were to be imposed to overcome those concerns. In the absence of such conditions SNH would object to the proposal. Their requirements are therefore met in full by the conditions listed in this report.

SEPA has raised an issue about the potential effect of development upon Groundwater Dependant Terrestrial Ecosystems (GWDTE's). In response, the applicants have carried out an ecological survey to NVC standard in order to identify those areas within the site which are dependent upon groundwater. Those have proven to be limited to restricted areas, predominantly in the valley of the River Add between the two arrays, and no consequences of significance are envisaged as a result of development taking place.

G. Ornithological Impact

Development of a wind energy development can affect bird species either in terms of bird strikes or in terms of disturbance to foraging and nesting sites. Timing of the construction of turbines, tracks and ancillary development in areas frequented by breeding birds should be such that it avoids the nesting season. The risk of disturbance to bird species during operation also requires consideration.

The site has been the subject of a prolonged period of ornithological study dating back to 2006. Ornithological interest in the site is limited given that it is largely given over to commercial forestry. Species of high conservation importance recorded at the site are red and black throated diver, golden eagle, hen harrier osprey and crossbill. Species of lesser conservation status are black grouse, skylark and song thrush.

The Environmental Statement does not identify significant concerns in respect of golden eagle, which may fly over the site but tend to avoid forestry areas for hunting. This position is accepted by both SNH and the RSPB. The principal species of concern is Black Grouse which is a UK and Argyll & Bute Biodiversity Action Plan priority species,

as they use the existing woodland and open areas for feeding, nesting and roosting. The closest lek site is at Garvachy adjacent to the windfarm footprint. Both SNH and RSPB would wish to see habitat management measures to support Black Grouse by management of the areas to be 'keyholed' and their associated short-rotation forestry areas, and by increasing species diversity in replanting.

Although some disturbance and displacement of birds will be associated with the construction and decommissioning periods and during associated forestry operations, given the lack of nesting on the site and the recorded height of flights, it is not considered that collision risk during the operational phase will be significant at this particular location.

No works are identified in the Environmental Statement as being required to mitigate for impacts upon birds, although it is recognised that forestry works will provide opportunities to improve biodiversity and enhance conditions for Black Grouse and a monitoring programme covering years 1 to 5 and year 10 of the life of the windfarm is proposed.

H. Hydrological & Hydrogeological Impact

Hydrology and the potential effects of drainage from turbine, access tracks and other ancillary development require consideration, in terms of effects upon the water environment (fluvial and groundwater), on or adjacent to the application site.

A number of tributaries across the site discharge into the River Add which flows in the valley between the two proposed arrays. The Add supports both trout and salmon species. Habitat types within the site include blanket bog and other groundwater dependant terrestrial ecosystems (GWDTE's). Impacts can arise from dewatering, siltation, sedimentation, pollution and changes in acidity or run-off. However, no important adverse consequences for water resources are identified, subject to prudent construction practice and appropriate mitigation measures being employed, as identified in the Environmental Statement. Consequences for the water environment are considered by the Environmental Statement not to be 'significant', as there are no particularly sensitive features within the site, and risk from pollution and sedimentation can be avoided by appropriate mitigation measures during construction. In particular, buffer zones are to be established relative to species sensitive watercourses by way of conditions preventing construction storage or maintenance works within such zones.

SEPA do not object to the proposal subject to the imposition of recommended conditions and having been supplied with additional details by the applicants in respect of GWDTE's

I. Peat Slide Risk

Development in upland peat areas has the potential to destabilise peat deposits thereby presenting a risk of peat slide. This site is not subject to widespread peat deposits although small areas of blanket bog have been identified. An initial study for the purposes of peat slide risk has been carried out, which has concluded that the thin shallow deposits present do not pose a risk which merits a full scale peat stability assessment.

J. Built Heritage & Archaeological Impact

There are no Scheduled Ancient Monuments or listed structure within the site or within 100m of the site access route. There are, however, some non-statutorily protected features of archaeological interest, including the remains of a pre-improvement settlement at Auchleck and farmbuildings/shelings/sheepfold at Carron.

There are 23 Scheduled Ancient Monuments (forts/duns/stones) within 15 km which could have theoretical visibility of one or more turbines, and 13 listed buildings; including the Grade A Lachlan Castle, 7km away. Actual visibility will be influenced by the localised effects of topography, buildings and trees.

The presence of the windfarm is not anticipated to have a significant visual impact in respect of any scheduled or listed asset, primarily due to intervening forestry, and distance. The only sites predicted to have a significant impact on their settings will be:

- The Carron Standing stone (SMR non-statutory) on the River Add, 2km SW of Carron
- Allt an Dubhair Fort (SMR non-statutory), 0.9km west of Feorlin and
- Dun 260m east of Loch Glashan (SAM)

The above sites are, of course, already compromised to a degree by the presence of extensive afforestation. The Dun by Glashan is the most sensitive site by virtue of its national designation, but Historic Scotland has accepted that as a consequence of distance (3km) views being orientated away from the site and the effect of intervening topography, there would only be a small magnitude of change to the setting of this site to which they have not raised objections.

The sparse distribution of recorded sites, and previous agricultural and forestry use of the land, means that there is limited potential for the presence of prehistoric remains. Sites along access routes are already known to the forest operators and have been preserved in situ. The site is accordingly considered to be of low archaeological importance. However a scheme of archaeological investigation and mitigation is proposed in order to address any features of historic value which may arise. The development will have some adverse consequences at distance for the setting of the listed Lachlan Castle on the opposite side of Loch Fyne, where 4 turbines would be visible at a distance of around 7km. Accordingly a 'moderate' effect classed of significance has been accorded by the Environmental Statement.

Neither Historic Scotland nor WOSAS object to the development proposed.

K. Tourism, Recreation & Access to the Countryside Impact

Argyll & Bute's landscapes and townscapes are a major economic asset for the tourism industry. Published research into public attitudes towards windfarm development is rather inconclusive given that some of the findings are somewhat contradictory. However, it may be reasonably concluded that inappropriately sited windfarms with adverse landscape, visual and cumulative effects may be expected to give rise to some adverse consequences for tourism, given that in Argyll tourism is mainly resource and scenery based. It is, however, difficult to predict with confidence the scale of consequences of a particular development for the decisions of tourists and the likelihood of them returning having experienced windfarm developments in the landscape.

In this case, there will be some impacts at close quarters on recreational visitors to the Kilmichael Forest, where public access is available, notably along Right of Way SA 25 passing through the site. More distant consequences can be envisaged for users of Loch Fyne and the Crinan Canal corridor, albeit restricted to very specific locations in respect of the latter. The 2008 Scottish Government commissioned 'Economic Impacts of Wind

Farms on Scottish Tourism' concluded that hostility to windfarms at application stage tends to wane when developments are implemented, and whilst some individuals are vehemently opposed to windfarms in all locations, overall across the wider community, there is no evidence to conclude that windfarms have anything other than a marginal effect upon tourism.

Given that the landscape and visual consequences of the development proposed have not been found to be unacceptable, and that there are no unacceptable impacts identified on particular recreation, tourism or historic environment assets, it may be concluded that whilst there may be some adverse consequences for the tourism economy, these will not be of such magnitude to warrant resistance to the proposal on these grounds.

L. Noise, Air Quality and Shadow Flicker

Standards for operational noise from windfarms are recommended in Planning Advice Note 1/2011. These are derived from Department of Trade and Industry guidance on *'The Assessment and Rating of Noise from Windfarms'* (ETSU-R-97). This suggests that where predicted noise levels will be low at the nearest residential properties, noise should be limited to an L_{A90} level of 35 dB(A). The nearest residential properties in this case are around 3km away, and none fall within this noise contour. The highest predicted noise level at a residential dwelling would be at Strone at 32.4dB(A), whilst noise levels at Minard village (where ambient noise levels will be higher) would be well within the necessary standard.

The closest building to the site would be the Carron Bothy, which is not permanently occupied, but is in periodic overnight use by walkers. The nearest turbine would be within 1km of this building. As an element of 'planning gain', the windfarm developer has agreed to make a financial contribution to the Mountain Bothy Association towards the upkeep and improvement of the Carron Bothy, in recognition of the impact of the proposal on the wider landscape setting of this building.

The Environmental Statement concludes that predicted operational noise levels for the layout and turbine type proposed meet recognised standards in terms of night time noise limits and the lower amenity hours noise limits in all circumstances.

It is not anticipated that construction noise will be significant at this site, other than for traffic associated noise. Likewise, given the distance to residential receptors and the high rainfall in the locality, dust propagation will not pose an amenity issue. Mitigation measures will be included in the Construction Management Plan in order to protect surface waters and vegetation. In view of the distance between buildings and the turbines, these will be out of range of the potential disturbing effect of shadow flicker.

The Council's environmental health officers have recommended appropriate conditions to address noise considerations.

M. Aviation Issues

Tall structures such as wind turbines can potentially interfere with electromagnetic transmissions of aviation operations, depending on their size, shape, construction materials and location. Their support structure and rotating blades can have an effect on communication, navigation and surveillance by giving off false radar returns and masking (shadowing) genuine aircraft returns.

Consequently, the relevant bodies have been consulted about this proposal. None have any objections to the development subject to appropriate aviation lighting being fitted.

N. Telecommunications issues

Wind turbines produce electro-magnetic radiation, which can interfere with broadcast communications, micro wave links and other signals.

Consequently, the relevant bodies have been consulted about this proposal. None have any objections to the development.

O. Road Network, Parking and Associated Transport Matters.

The existing forest access onto the A83(T) at Birdfield would not be used for construction purposes. Construction and operational access would be taken exclusively from the A816 Lochgilphead – Oban road at Achnabreck, near Cairnbaan. This utilises a forestry standard access with good junction visibility and geometry with the public road. This would be upgraded to cater for abnormal loads over the 10km length up to the site (with any localised water crossing or other improvements being the subject of separate applications for planning permission as necessary).

Due to the intended sourcing of construction aggregate from on-site borrow pits, unnecessary vehicle movements will be avoided, although concrete, turbine components, associated equipment, and mobile cranes will require transportation to the site.

During the construction of the windfarm, it is estimated that there would be 160 abnormal loads within 600 HGV visits in all; peaking at 26 HGV's per day over a 40 day period at the height of construction activities, plus 20 non-HGV trips. The additional vehicle movements associated with the project are not significant in terms of the traffic capacity of the A816.

The Council's Roads Engineers and Transport Scotland are both satisfied that the access arrangements to the site from the public road are acceptable.

P. Macro-environmental considerations

In considering this proposal, in addition to having regard to local environmental issues, it is necessary to have regard to those macro-environmental factors which are material considerations in assessing the acceptability of renewable energy developments. EU Renewable Energy Directive 2009 sets a target for the UK to achieve 15% of energy consumed from renewable sources by 2020. The UK Climate Change Act 2008 sets a legally binding commitment to cut UK carbon emissions by 80% by 2050, with an intended minimum 34% reduction against a 1990 baseline by 2020. The UK Renewable Energy Strategy 2009 predicts that in order to meet targets, renewables should provide 30% of electricity generation by 2020, with two-thirds of that expected to be met by a combination of onshore and offshore windfarms.

In Scotland, the Climate Change (Scotland) Act 2009 seeks to cut greenhouse gas emissions by 42% by 2020 and by 80% by 2050. Given that Scotland is estimated to have 20% of the European wind resource, it is important that wind energy should be fully exploited where it does not compromise other overriding environmental considerations.

In terms of the most up to date expression of national planning policy, Scottish Planning Policy 2009 indicates that planning authorities should support the development of wind farms in locations where the technology can operate efficiently and environmental and cumulative impacts can be satisfactorily addressed. An emphasis is placed on the role of Development Plans in providing clear indication of the potential for development of wind farms of all scales, and setting out the criteria that will be considered in deciding applications for all wind farm developments, including extensions. The criteria will vary depending on the scale of development and its relationship to the characteristics of the surrounding area, but are likely to include: landscape and visual impact; effects on the natural heritage and historic environment; contribution of the development to renewable energy generation targets; effect on the local and national economy and tourism and recreation interests; benefits and disbenefits for communities; aviation and telecommunications; noise and shadow flicker, and cumulative impact. The design and location of any wind farm development should reflect the scale and character of the landscape. In the absence of a spatial framework established by the Development Plan, planning authorities should continue to determine applications whilst policies are being updated to meet the new approach set out in the guidance.

In terms of Development Plan policy, Structure Plan Policy STRAT RE 1 reflects government policy in expressing support for the development of windfarms provided that they do not have adverse consequences for landscape assets, the historic environment, nature conservation interests, local communities or telecommunications installations. Likewise, Local Plan Policy REN 1 supports exploitation of the available wind resource provided that there are not environmental or other constraints which would have an adverse impact directly, indirectly or cumulatively on the economic social or physical aspects of sustainable development.

The net emission savings from the development proposed are estimated to be;

Between 37,346 and 75,915 tonnes of CO²
Between 37.6 and 275 tonnes of NO_x
Between -2.2 and 115 tonnes of SO²

It is estimated that the CO² associated with the life of the windfarm would be paid back between 5,4 and 12.2 months.

The macro-environmental benefits of the proposal, along with the economic and employment benefits associated with the construction phase, are material considerations weighing in favour of the proposal.

Q. Grid Network

The best wind speeds are often some distance from a national grid connection point requiring the construction of a grid connection and substation. There are often also issues relating to the capacity of the grid, and although these are not planning matters directly but which may determine when a project is in a position to proceed. It is important to limit the life of permissions so that unimplemented consents do not act as an unnecessary cumulative constraint upon other proposals which are better placed to proceed to implementation.

It is intended in this case that this site be connected to the existing 132kv Port Ann - Inveraray overhead line, but that connection is to take place by underground connection (subject to separate consent).

R. Forestry

The windfarm site covers approx. 741 hectares, with elevations between 130m to 300m AOD afforested with commercial plantation of varying age, of which 82% is sitka spruce. The site is in the control of the Forestry Commission. One of the two arrays is to be sited on the A'chruach ridge which is a first rotation forest planted between 1972 and 1988, whilst the second array is on the site of a 1950's forest which has undergone restructuring. Management of the forest is proceeding in line with an approved Forest Design Plan. Development is to take place on the basis of 169 hectares of forest clearance, plus the removal of a further 73 hectares over the life of the windfarm. Turbines are to be 'keyholed' within 100m clearings and short-rotation forestry (i.e. premature felling regime) is to take place beyond that out to 700m, with growth not permitted to exceed 15m. Access to the site is to be obtained by the upgrading of an existing timber extraction route in the Forestry Commission's control.

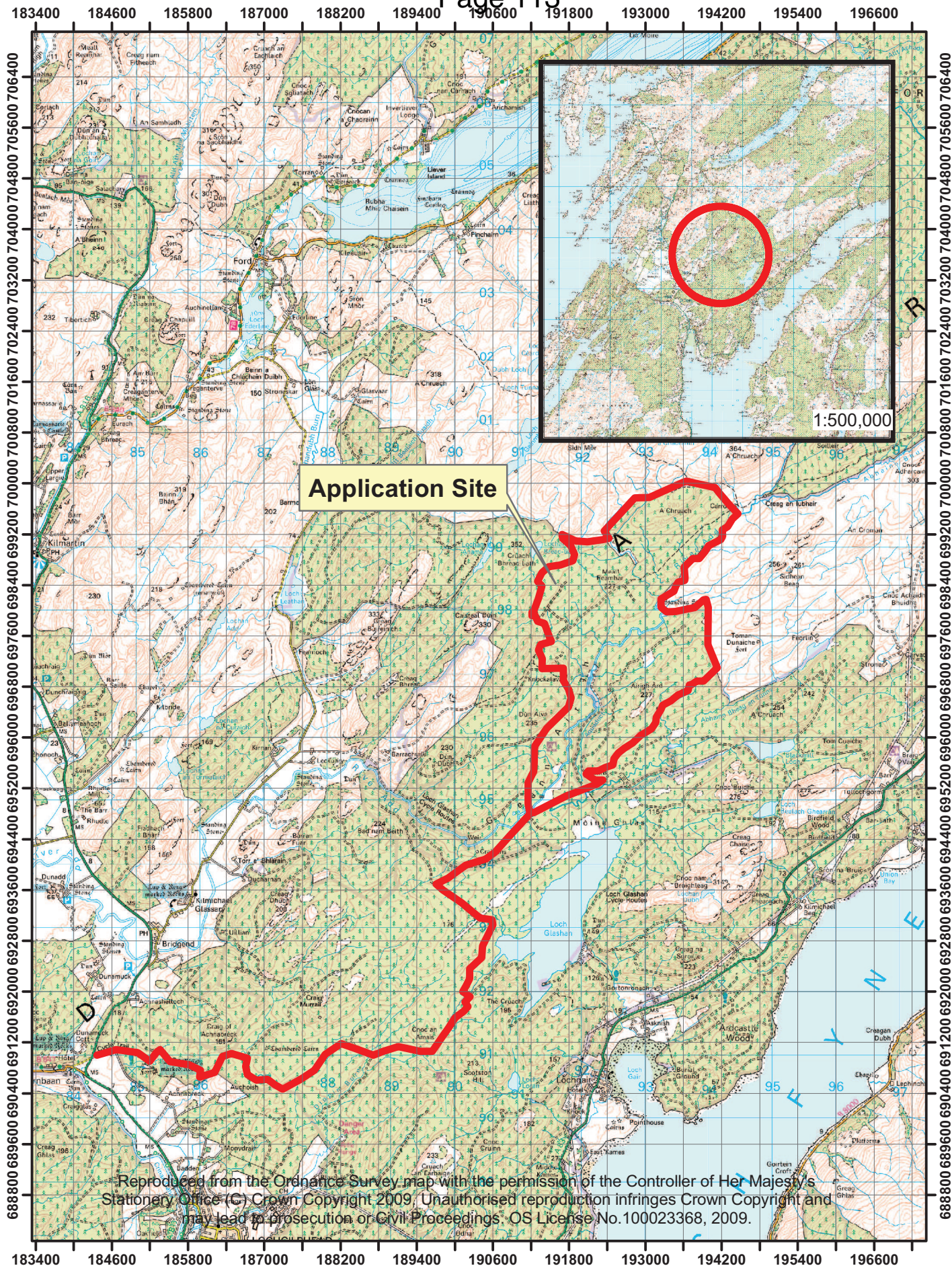
S. Community Benefit

This issue is not to be considered as a 'material planning consideration' in the determination of this proposal. In the event that permission were to be granted, the negotiation of any community benefit, either directly with the local community or under the auspices of the Council, would take place outside the application process.

T. Decommissioning

Wind turbines are considered to be temporary structures, with an estimated life span in the region of 25 years, and decommissioning needs to be considered.

A requirement for a bond covering decommissioning and site clearance costs was attached to the previous 2008 permission by way of a Section 75 legal agreement. Based on the fact that the revised site is larger, and, there are more turbines of a greater height, the bond will need to be recalculated and the Section 75 legal agreement will require to be amended accordingly in the event that this alternative proposal were to be granted permission.



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Location Plan relative to Application Ref: 11/02520/PP

Date: 12.06.12

Scale: 1:80,000



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Argyll and Bute Council
Development 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: 12/00094/PP

Planning Hierarchy: Local Application

Applicant: Osborne Interiors

Proposal: Refurbishment of existing bandstand

Site Address: Kidston Park, Rhu Road Lower, Helensburgh

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Refurbishment of existing bandstand

(ii) Other specified operations

None

(B) RECOMMENDATION:

It is recommended that planning permission be approved subject to the attached conditions and reasons.

(C) HISTORY:

- 00/01083/COU- Change of use of land for siting of snack bar (withdrawn)
- 05/01696/NID- Demolition of existing public toilets and erection of replacement public toilets and cafe facility (withdrawn)
- 07/1376/COU - Part Change of Use of car park to site mobile snack caravan from 0700 to 2000 (withdrawn)
- 11/02227/PP - Change of use from public toilet to cafe with associated terrace/play area (approved 18/01/2012)

(D) CONSULTATIONS:

Helensburgh Community Council – letter dated 30/01/2012

The Helensburgh Community Council (HCC) warmly welcomes the application for a bandstand to be built in the town in a traditional Victorian style.

However we are very keen that it should be sited where it will be most used by residents and visitors. There are two alternative sites much nearer the centre of Helensburgh than Kidston Park, where a new bandstand would be a real focal point, fit in beautifully with proposed plans for the development of the town and where it would receive a very great deal of appropriate use.

The first of these is in Colquhoun Square, in the heart of Helensburgh. Sited here, it would take a prominent part in the CHORD Project plans to use the Square as a meeting place for townspeople and visitors and a destination for music, theatre and other entertainment events. It would also be a hugely successful addition to the proposed Outdoor Museum in the Square.

The second suggestion is that it be sited on the pierhead as part of the extensive development plans for the site. Again, it would be a focal point near the centre of town for planned events for both residents and visitors. I enclose a photocopy of a photograph which shows the Waverley arriving at Helensburgh Pier pre – 1914, and at the lower left hand corner, part of the Victorian Bandstand sited there.

HCC wishes to emphasise that we welcome the idea of the bandstand, but pleads that it be sited where it will be of more use to the community as a whole.

Comment: The points made by the Community Council are noted. However, the proposal is for the refurbishment of the bandstand at Kidston Park. It was proposed as part of the mitigation for the loss of open space on land at 19 to 37 Cumberland Avenue, Helensburgh under application 11/00887/PP, for the erection of 3 dwellinghouses. As such, the application is judged on its merits as submitted and the issue of alternative locations is not a major material planning consideration.

(E) PUBLICITY:

LREG20 - Regulation 20 Advert Local Application (expiry date 17/02/12)

(F) REPRESENTATIONS:

None

(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

Kidston Park was opened in 1877 and it is likely that the bandstand was also erected during this year. It is the intention to erect a new bandstand on the existing stone base to replicate the original in as much detail as possible. The bandstand cupola will sit on 8 decorative circular iron columns and have a zinc finish.

(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 Local Plan' 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP REC 2- Safeguarding of Recreational Land and important Open Spaces

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: Yes, as landowner.

(O) Requirement for a hearing (PAN41 or other): No

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

Planning permission is sought for the refurbishment of the bandstand within Kidston Park, Helensburgh. It is within the settlement boundary and is designated in the Local Plan as an Open Space Protection Area (OSPA).

The remaining bandstand comprises a stone plinth. The proposal is to reconstruct the bandstand to a similar design to the original structure. The remaining original ironwork will be removed and the proposed cupola will sit on 8 decorative circular iron columns inserted into existing slots. The refurbished bandstand was proposed as part of the mitigation for the loss of open space at Cumberland Avenue under application 11/00887/PP, for the erection of 3 dwellinghouses on land at 19 to 37 Cumberland Avenue, Helensburgh. That application was approved on 15 December 2011.

The refurbished bandstand will be on the site of the original one, the base of which still exists, and is of acceptable design and finish. It is considered that it would be a positive addition to the facilities at Kidston Park and could contribute to the overall attraction of the park and encourage more tourist activity. In relation to the above therefore it is considered that the proposal is an acceptable use within Kidston Park and would comply with the overall provisions of Policies LP ENV 1, LP ENV 19, LP REC 2 and Appendix A of the Argyll and Bute Local Plan.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why planning permission or a Planning Permission in Principle should be granted

It is considered that the refurbished bandstand in this location would be a positive addition to the facilities at Kidston Park and could contribute to the overall attraction of the park and encourage more tourist activity. In relation to the above therefore it is considered that the proposal is an acceptable use within Kidston Park and would comply with the overall provisions of Policies LP ENV 1, LP ENV 19, LP REC 2, 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: Howard Young

Date: 08/06/2012

Reviewing Officer: Ross McLaughlin

Date: 12/06/2012

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 12/00094/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 10/01/12 and the approved drawing reference 2139..104, 2139..101, 2139..102 and 2139..103 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. Details of the type and colour of the proposed materials to be used on the development hereby granted consent shall be submitted to and approved in writing by the Planning Authority prior to any work starting on site.

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

3. Notwithstanding the details on the docketed plans and Condition 2 above, the cupola of the refurbished bandstand hereby approved will be finished in zinc.

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

4. Details of how the bandstand hereby approved shall be maintained shall be submitted to and approved in writing by the Council prior to works commencing on site.

Reason: In order to ensure on-going maintenance of the bandstand in the interests of visual amenity.

INFORMATIVES

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: 12/00094/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site is within the settlement boundary as defined by the Argyll and Bute Local Plan. Within such areas there is a presumption in favour of development subject to all development plan policies being complied with. It is also designated as an Open Space Protection Area (OSPA) and Policy LP REC 2 is applicable. This policy, *inter alia*, presumes against the development or redevelopment of OSPAs. It will only be allowed where redevelopment helps retain or enhance facilities, there would be no loss of amenity and alternative provision is made available.

B. Location, Nature and Design of Proposed Development

Planning permission is sought for the refurbishment of the bandstand within Kidston Park, Helensburgh. It is within the settlement boundary and is designated in the Local Plan as an Open Space Protection Area (OSPA).

Policy LP REC 2 presumes against the development or redevelopment of OSPAs. It will only be allowed where:

- (i) The retention or enhancement of the facilities can best be achieved by the redevelopment of part of the site which will not compromise its amenity value;
- (ii) There would be no loss of amenity and alternative provision of equal community benefit and accessibility would be made available.

In this case the remaining bandstand comprises a stone plinth. The proposal is to reconstruct it to a similar design to the original. The remaining original ironwork will be removed and the proposed cupola (dome/roof) will sit on 8 decorative circular iron columns inserted into existing slots. The cupola will be of zinc construction. The refurbished bandstand was proposed as part of the mitigation for the loss of open space on land at 19 to 37 Cumberland Avenue, Helensburgh under application 11/00887/PP, for the erection of 3 dwellinghouses. The application was approved on 15 December 2011.

The applicants have not indicated how the refurbished bandstand will be maintained and by whom. They have suggested either the Council or a specially set up group/organisation similar to Friends of Victoria Hall could carry out on-going maintenance. However, under application 11/00887/PP referred to above, when the concept of a refurbished bandstand was first mooted, the Project Manager, Roads and Amenity Services indicated they would not want to take responsibility for this. As such a condition has been added requiring details of a maintenance regime to be submitted and agreed prior to works commencing on site.

It is considered that it would be a positive addition to the facilities at Kidston Park and could contribute to the overall attraction of the park and encourage more tourist activity. In relation to the above therefore it is considered that the proposal is an acceptable use within Kidston Park and would comply with the overall provisions of Policies LP ENV 1, LP ENV 19, LP REC 2 and Appendix A of the Argyll and Bute Local Plan.

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Location Plan relative to Application Ref: 12/00094/PP

Date: 22.02.2012

Scale: 1:1,250



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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: 12/00678/PP

Planning Hierarchy: Local

Applicant: Oban Bay Marina Ltd

Proposal: Formation of multi-use/short stay transit marina, plus diesel berth, manager's office, provision for small day boats/ribs and limited use for overwintering (amended scheme relative to planning permission 08/01049/DET).

Site Address: Oban Bay, Oban

DECISION ROUTE

(i) Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Installation of concrete floating breakwater secured by steel piles;
- Installation of pontoon system comprising 54 finger berths, 6 berths on inside of breakwater, and 20 day boat/rib berths on inside of north and east pontoons, with over-wintering restricted to 20 berths;
- Formation of pedestrian access to the Esplanade;
- Installation of fuelling berth with pump and diesel tank;
- Installation of manager's office and waste collection facilities.

(ii) Other specified operations

- Marine dredging and retaining works (subject to licensing by Marine Scotland);
 - Provision of dedicated on-street loading bay (subject to separate traffic regulation order);
 - Alterations to listed wall (subject to requirement for separate listed building consent);
 - Connection to public water supply.
-

(B) RECOMMENDATION:

It is recommended Planning Permission be granted subject to the attached conditions and reasons.

(C) HISTORY:

08/01049/DET - Formation of multi-use short stay/transit marina comprising 60 berth pontoons, Oban Bay – application approved 12th November 2008.

11/02443/PP - Formation of multi-use/short stay transit marina, plus diesel berth, managers office, provision for small day boats/ribs and limited use for over-wintering (amended scheme relative to planning permission 08/01049/DET), Oban Bay – application withdrawn in favour of current proposal 26th March 2012

(D) CONSULTATIONS:

Marine & Airports Manager (15th May 2012) - Initially recommended that the application be deferred, raising concerns relating to the impact of the armoured slope on the integrity of the slipway and the proximity of the attenuator to the overhang on vessels berthed on the North Pier. Furthermore, that the actions identified in the pre-application risk workshop should be integrated into planning conditions to ensure compliance for the safe operation of the marina. Subsequent response (29th May 2012) following discussions with the applicants, confirming no objection providing conditions are attached to any grant of planning permission relating to the exact positioning of the external attenuator immediately adjacent to the North Pier, and the submission of a cross-section and method statement to ensure that the 'Armorflex' slope will not undermine the integrity of the North Pier and slipway.

Northern Lighthouse Board (11th April 2012) – note the latest changes in the design and layout of the marina from the previous application 11/02443/PP submitted in 2011. They have no objections to the revised application and would advise that their navigational lighting and marking recommendations as per their previous response dated 15th December 2011 still stand. In their 15th December 2011 response they had no objection to the proposal, but advised from a navigational safety perspective that, the south-west corner of the floating breakwater (i.e. the entrance to the marina) is marked by navigation lighting. Further comments re other required navigational marks and requirements for notice of works being carried out and chart recording of development.

Caledonian Maritime Assets Ltd (20th April 2012) – Caledonian Maritime Assets Ltd (CMAL) is the Statutory Harbour Authority (SHA) for southern part of the bay where the proposal is intended and where the access and egress for marina traffic is planned. As SHA, CMAL are accountable for the safety of navigation within their Harbour Area and its approaches. Their concern at the impact the additional traffic movements in addition to the close proximity to the Ferry berthing activity has been expressed to Oban Bay Marine.

CMAL advise that they require certain conditions to be included within any planning permission to ensure continued safe operation of the Port as a whole and in particular the Lifeline Ferry operations. If these conditions are not included or not met by the applicant CMAL can, as Statutory Harbour Authority, and will if necessary, refuse to allow the development to proceed through their Statutory Harbour Powers as it may compromise their obligations under law. These conditions are as follows:

The construction risks will require to be addressed as part of the design and build Program and a CMAL representative must be included in the project team to ensure their interests are protected and risks managed appropriately; The operational risks will require agreement of a suitable Safe Management System by the operators of the Marina that satisfies CMAL of its robustness and that the financial resources will be available for the on-going management of the marina.

Caledonian MacBrayne - no response received at time of writing.

Maritime & Coastguard Agency - no response received at time of writing.

Marine Scotland (14th May 2012) - confirms that the proposal will require a Marine Licence under the Marine (Scotland) Act 2010.

Marine And Coastal Development Manager (17th April 2012) – comments focus on the proposed changes to the marina development from that granted planning permission in 2008 and the new amendments made since the application in December 2011. In particular, comments are made in respect of: access to the bay for other users, the design of the office building, piling works, landscape and visual assessment, risk management report, overwintering proposals, use restriction, environmental management, marine invasive non-native species and bio security measures. Conditions are recommended in respect of: details of the office building, piling works, marina's management plan, and restriction to use of the marina.

Pier Master Oban (15th May 2012) – concerns are: the amount of space available when a large vessel is berthed on the North Pier; more detail is needed on the rock armour slope; and to ensure that the development will comply will all the recommendations from the pre-application risk assessment workshop.

Scottish Environmental Protection Agency (11th April 2012) - advise that they commented previously on Planning Application reference 11/02443/PP (now withdrawn). They note that the revised application has been submitted with a revised site boundary incorporating the following amendments: - reducing the extent of dredging and re-positioning of the armoured slope to the north, and changing the specification of the armoured slope. SEPA have no objection to the amended planning application, but have some additional advice to their previous response on the proposal relating to: marine licences, pollution prevention, the diesel berth, oil storage regulations, piling and potential noise disturbance, accidental introduction of marine non-native species, waste management, sewage disposal and dredging.

Outdoor Access Team (19th April 2012) – consider it is important that easy access to the water with a canoe or kayak should still be achievable at all times at this site, and special consideration must be given to the access between the existing slipway adjacent to George Street and the proposed new Launching Steps identified in the application. The access between the slipway and Launching Steps needs to be graded and finished so as safe and easy access to the water can be achieved by persons with a canoe or kayak otherwise the Launching Steps may be of little use. Subsequent response (14th May 2012) that provided the amended drawings show that safe access to and from the beach is possible at all states of the tide for sea kayaks, and other water sports users then there are no objections..

Scottish Natural Heritage (18th April 2012) – have no comments to make regarding the amendments to the proposal. They did however; provide advice as part of their consultation response to preceding planning application reference 11/02443/PP (now withdrawn) which is still considered relevant. They support the economic benefit that this proposal will bring to the local community and advise that the proposal does bring an opportunity to benefit local wildlife and retain the biodiversity of the area. Black guillemots nest in the drains along the coastal wall every year and there is potential to put tubing along this stretch and around the development to facilitate nesting birds in the future. This would also mitigate any potential disturbances.

Royal Society for the Protection of Birds (9th May 2012) – no objection subject to a condition requiring provision and maintenance of nest boxes for Black Guillemots being attached to any grant of planning permission.

Scottish Water (10th April 2012) – no objection, advisory comments.

Strathclyde Fire & Rescue (21st May 2012) - no objection.

Transport Scotland (12th April 2012) – request that conditions relating to: the Traffic Regulation Order and redesignation of the existing parking bays to a Service Lay-by and restriction of advertisements within the Trunk Road Boundary be attached to any permission. They also advise that: the surface at the service lay-by should be reinstated with a material resistant to diesel spillage and overwintering berthing should be restricted to a period when the Transit Marina is closed to transient vessels and there should be no servicing or repair of boats undertaken in the interests of limiting vehicle movements in association with the development.

Area Roads Oban (17th May 2012) – Note that the proposal is situated off the A85 Oban-Tyndrum Trunk Road within an urban 30mph speed restriction. Despite the original intentions that this would be a short stay marina, limited over-wintering, is now proposed. The re-designation of the 3 parking bays is supported, however they advise that the traffic order may take the best part of a year to process. A condition should be attached to any grant of planning permission restricting overwintering of vessels between the beginning of October and the end of March. The reason for this condition is to prevent owners working on their boats all year round, as during the winter period there will sufficient parking available.

Environmental Health (10th April 2012) – No objection. On the original 2008 application the Environmental Health Officer advised that conditions relating to noise and lighting should be attached to any grant of Planning Permission and it is considered that these requirements remain relevant.

Trading Standards - advise that the applicant should ensure that they contact Trading Standards with regard to the Liquid Fuel Measuring Instrument (Diesel Pump) they intend to install, prior to purchase. This measuring instrument must be fit for trade as the applicant intends to supply fuel to the public. .

Crown Estates Commissioners) – no response received at time of writing, .however they did respond to the preceding (now withdrawn) 2011 application and advised that they had no objections, as owners, to Oban Bay Marine Limited submitting a planning application for the proposed development.

(E) PUBLICITY:

Listed Building/Conservation Advert – advert expired on the 26th April 2012

(F) REPRESENTATIONS:

At the time of writing this report a total of 136 letters of representation have been received (see Appendix B). This total is made up of 131 letters of support and 5 letters of objection. A summary of the key points raised is provided below, full copies of the letters of representation can be viewed on the Council's website.

LETTERS IN SUPPORT

- The Marina is a long overdue facility which will secure a continuing successful marine industry;
- It is unbelievable that the major town and transport hub at the gateway to one of the best and most well know yacht cruising areas in the world has no shore side facilities;

- The facility will be well used and offers a more convenient method of stocking up on provisions, refuelling and other supplies;
- The existing facilities for cruising yachts close to Oban are inadequate;
- The facility will provide somewhere safe and accessible for visiting in all weathers;
- The proposal would be a very welcome development for the leisure sailor, providing a useful overnight stop and crew-change facility;.
- Many yachtsmen/women currently avoid Oban due to lack of walk ashore marina facilities;
- The marina would be very useful for boats transiting the Caledonian Canal, as well as resident boats and people sailing in the area;
- The proposal will provide easy access to Oban's excellent public transport links, (railhead, bus terminus and ferry port) which can be utilised for crew changes;
- The proposal will bring positive economic benefits. The revenue it would bring through sightseeing, spend in bars, restaurants, and shops, B&B /hotels would be a significant boost to local businesses;
- The proposal will have a positive impact on employment in the town, especially in the area of marine leisure;
- The proposal will be a smart focal point to the town centre, improve the appearance of the waterfront, and it will make the sea front more interesting;
- The proposal will bring this area of the town alive, people love looking at boats and hearing the sound of rigging in the wind;
- If Oban's marine infrastructure is improved it will attract more tourism, a major employer in the area. The presence of the Transit Marina will in itself be a great attraction to land bound visitors;
- There is no doubt that the proposal will greatly enhance the town of Oban as a prime destination for tourists and water sports enthusiasts;
- With this facility in place Oban will be able to host a variety of boating events (sea fishing, diving, sea life watching, small/day boat gatherings etc) throughout the year that will attract more visitors, not just yachts;
- Its development will surely provide a boost to the community and an additional attraction for users and sightseeing visitors alike. Marinas not only attract visiting sailors, but in many cases provide a tourist attraction for the considerable number of people who simply like looking at boats.
- Many other towns on the west coast have benefited from the establishment of facilities for visiting small yachts, with the resulting boost to local business, shops, and restaurants. Tobermory provides an excellent example of how the provision of some transit pontoon facilities can bring about economic advantages to the area;

- Oban's natural harbour accesses one of the most beautiful sailing areas in the world and the proposal would greatly enhance the attractiveness of Oban as a sailing or leisure boating destination. This can only be an asset to the water front and will improve the appearance and character of the town and will bring vibrancy to the sea front which is currently lacking in Oban;
- The ability for pleasure boats to dock at Oban, to collect guests from the station/ferry and to shop (including diesel), would be appreciated by many skippers;
- The facility will allow local boating businesses a great platform to operate from and may even encourage more to start up creating new local jobs;
- To have to moor on Kerrera and take the ferry over is time-consuming, and often there is no alternative;
- The marina will fill a corner of the bay that is unattractive at low water and add a facility that is itself a point of interest;
- What happens in Oban has a knock-on effect on the rest of the area; if visitors come to Oban many will go on to visit other places and the benefits will permeate the Lorne area and beyond;
- A marina is an asset that will attract people directly and add to the image of the town as a modern, up-to-date centre that is worth a visit;
- The proposal will also enhance the appearance of the area while not detracting from the view across to Kerrera.

LETTERS OF OBJECTION

- Oban's main attraction is in the open aspect of the bay as seen from the pavements and road at George Street. Locals and tourists alike value the uninterrupted vista of the bay. The proposal will have an adverse impact on the clear view of Kerrera from George Street, which will be spoilt by the masts of the yachts. The clear line of the beach and sea front in this area is very attractive and it is lovely to have a place in the centre of the town for people to play on the beach. This proposal clutters the bay, so reducing visual amenity and the scale of the development is unacceptable, both in terms of capacity and in terms of size. This proposal would fundamentally change the character of the town to the great deprivation of visitors and residents as it will drastically alter Oban's spectacular waterfront.

Comment: The principal of a marina within Oban bay has been established by the previous granting of planning permission, so consideration is to be confined to the changes proposed in this amended scheme and the environmental consequences thereof which are addressed in the Assessment at Appendix A.

- Oban harbour is already very busy and additional traffic in the form of small yachts could cause a lot of problems with the essential ferry services. It is certainly better to keep the majority of leisure traffic to the far side of the bay so that bigger boats operating in the main harbour have less disruption. When I have used that beach it has only been in very small boats (e.g. kayaks) that can keep well out of the way of the ferries in the shallows. But even with them the ferry services is very busy and hard to avoid. Yachts would certainly cause many more problems. The ferries and larger boats that operate from Oban are one of

Oban's core businesses and an essential service. Anything that could potentially disrupt these should be avoided..

- This proposal reduces further the berthing options and capacity for fishing boats at the Railway Pier. It will restrict the manoeuvrability of Calmac ferries berthing at Railway Pier (especially longer vessels e.g. The Clansman) and leaves insufficient space for the common practice of multiple berthing at North Pier, when vessels often extend beyond the southern end of the Pier.

Comment on points above: The proposal has been the subject of pre-application discussion with all other relevant harbour interests by way of a risk workshop. Those parties have been consulted subsequently in respect of the application details and have not raised objections on safety or navigational grounds, subject to the imposition of recommended conditions.

- The pedestrian egress point from the pontoons onto George Street is at a pinch-point in the esplanade pavement that, in summer, is very busy with tourists. The new loading area beside the new access is created from the existing pavement. This is ridiculous considering how busy this pavement is, as well as the street. In fact much more pedestrian area is needed in the town centre.

Comment: Transport Scotland as Trunk Roads Authority are responsible for the Esplanade. They do not object to the proposal and are willing to make the loading bay close to the pontoon entrance available as a dedicated facility subject to the necessary traffic regulation order being obtained.

- There are still no details of the obtrusive traffic lights needed for the operation of the pontoons. Any lighting should be minimal to avoid excessive light pollution and visual intrusion for residents.

Comment: Lighting will be limited to that required for navigational safety and for the safety of pontoon users. Details of this can be controlled by means of condition.

- Dredging and the creation of an armoured slope and introduction of pontoons will alter wave dynamics and sediment movement such that there is likely to be a loss of sand-sized material from the beach fronting the sea-wall, with loss of amenity. The rip-rap forming the armoured slope must be of country (i.e. local) rock so as to avoid visual intrusion; this will be either Easdale Slate or Lorn Plateau Volcanics. Flotsam will accumulate between the pontoons and the esplanade wall requiring frequent removal to avoid reduction in visual amenity.

Comment: Dredging and retention is an essential element of the establishment of a marina in an area of shallow water and sediment accumulation. The principal of a marina in this location has already been established. 'Armourflex' is now being proposed in lieu of rock armour. This is a proprietary concrete mattress revetment system designed for installation in circumstances where erosion control is necessary.

- The south east corner protrudes below the line of the south west corner, in order to provide a bay for one or two extra large boats (on the south side of the manager's office). This brings it too close to the shingle beach both in a physical sense and a visual one. Instead the pontoon should end so that the south east side is more or less in line with the south west side. It might be argued by the proposers that this makes the entrance narrower, but this would be solved if the protrusion from the south east corner to the west were of a size for a small boat (as per other berths on the eastern side) rather than for a large boat. The NE corner should be angled like the NW corner, rather than a sharp right angle.

Comment: These comments relate to the overall shape of the marina relative to the shoreline and are prompted by improving further separation for the shore and access around the perimeter by kayaks. The applicants have already withdrawn and resubmitted the application with a modified layout in an attempt to alleviate this and would not support further change in overall configuration.

- Although Oban might benefit from visiting sea-farers, offering a town-based alternative to Kerrera and Dunstaffnage, the pontoons would best be located to the north of North Pier;

Comment: The availability of potential alternative locations is not material to the acceptability or otherwise of the submitted proposal under consideration, which falls to be considered on its own merits.

- This proposal will reduce water access for people launching small boats. Access for groups of kayakers of all abilities from the beach must be preserved. No consideration has been given to absorbing wave energy reflected by the concrete breakwaters - choppy waters too difficult for novice kayakers.

Comment: The applicants have taken steps available to them to help meet the requirements of the sea kayak community, not least by withdrawal and resubmission to improve passage between the development and the North Pier by those entering the sea from the Esplanade and by improving access from the shore. The Scottish Canoe Association have commented on the proposal and have not objected. It is a matter for instructors and kayak users to consider whether they are sufficiently experienced to encounter prevailing conditions.

- The position of the new access is very detrimental as well as the new manager's office and fuel store and bins adjacent to the listed walls. The proposed modular office building and oil tank are ugly, and not suited to a town centre waterfront development. They should be changed, moved or at least disguised. At least negotiate to relocate the manager's office to somewhere on the south pier.

Comment: It is accepted that there is advantage to the operation of the marina to have some small scale office accommodation for a manager on the pontoon system itself as opposed to elsewhere as this allows ready interaction with users and visiting yachts, It is also understandable that that a fuel dispensing capability is desirable, as this is a feature of many marinas. The application details however show utilitarian structures not suited to this open location and therefore conditions are recommended to control colour, materials and final design.

- The statements on sewage in particular and noise are weak. The number and type of boats mean that there will be regular 'accidental' sewage and waste discharges, and rigging noise, especially from over-wintering boats will not be controllable. Yachts tend not to have holding tanks in Scotland and rules about not emptying in ports are very rarely followed.

Comment: There are no dedicated shore facilities provided within what is intended to be a transit facility with limited overwintering, although access to facilities in the town will be available in view of the location in the town centre. The Council does not have any control over discharges from vessels at sea. Management of the facility and restrictions upon users will be a matter for the marina operators who have indicated that they intend to enforce a no discharge policy strictly.

- The proposed toilet and shower facilities in Argyll Street should be available to the general public, on payment of course.

Comment: This is not a reasonable requirement relative to the proposal at hand.

- It might also be more sensible to position the disabled hoist at the south east corner, rather than along the central part of the pontoon. Similarly, perhaps the diesel dispenser. In the documents there is a warm statement about the facility being accessible to all, with the implication that it would be an extra attraction to the general public. This is somewhat belied by the card controlled entry across the walkway, and there should be some agreement about public access to the pontoons.

Comment: It will be at the operators' discretion whether to allow any form of public access. Marinas tend to be made secure for reasons of security and safety.

- This resubmission of a planning application does not significantly change any of the objections I previously made. It seems to me rather a good way of removing objectors, as we tire of repeatedly saying the same thing.

Comment: The application was withdrawn and resubmitted for procedural reasons relative to an amended site boundary in order to address concerns raised by third parties in respect of the previous application, and not for reasons of seeking to undermine the position of objectors.

- There is no need for an additional marina given the facilities over on Kerrera and the excellent water taxi they lay on. For significantly less cost and disruption, facilities there could be extended and the water taxi increased.

Comment: The applicants are not required to demonstrate need in respect of their proposal for planning purposes.

- Oban lives on tourism. A marina is the equivalent of a floating car park and is not what visitors wish to see. Day boats and ribs alone would be a different matter.

Comment: There are differing views as to the pros and cons and the attractions or otherwise of having a marina in the town, as the range of third party responses indicates, so it is not possible to be conclusive as to the likely attitude of visitors as a whole. It is however likely that the positive tourism and economic benefits of such a facility in the town will outweigh the deterrent effect of the presence of the marina.

- The whole pontoon system has been moved northwards so it now appears to occupy the entire bay. This leaves no room for birds (swans and other birds regularly take shelter in the bay) and no room for kayaks to enter the bay from Oban Kayak School in Argyll Street. This could threaten the business of the Kayak School so they may have to leave Oban – a great shame as it is a big asset to the town.

Comment: Whilst the local kayak school takes access to the sea from the Esplanade, which is convenient for their operating base nearby, they are not restricted to the use of this single point of access to the sea. The applicants have taken steps to reduce any impediment their development might pose to kayakers and whilst it is a planning consideration to have regard to access to the water by the public as a whole, the planning process does not have a role in safeguarding the commercial interests of individual businesses.

- There will be considerably more noise and visual intrusion right in front of businesses such as self-catering and bed and breakfasts, even compared to the previous application (the approved one). This application is even worse than the

previous one in terms of adverse affect on amenity for residents, businesses and tourists.

Comment: The proposal now involves access from the Esplanade rather than the Railway Pier as originally proposed, and additional infrastructure is now included so the impact on the George Street waterfront will indeed increase to a degree as a result of this application.

- The new access will mean part demolition of the Listed Harbour wall – even small demolitions of listed structures should always be resisted, especially in such a prominent position.

Comment: In the event of planning permission being granted, a separate listed building consent application would follow for the detail of the connection to the listed harbour wall, including the downtakings required to form a pedestrian access onto the pontoons. That would be the subject of consultation with Historic Scotland and would be publicised and made available for third party comment.

- The operator of Sea Kayaks Oban states that he does not consider that the further application addresses the shortcomings of the original proposal. The slope of the armoured slope is still too great and the pontoons are still really narrow so no rooms for sea kayaks on those as there is only room to walk along them. Still plan to use the inside of the landward pontoon for power boats. Of course biggest of all is that there will still be lots of pollution from all the boats without sewage storage tanks pumping sewage straight into the harbour.

Remaining concerns and issues raised above are addressed in the main body of this report at Appendix A

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in this report, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

(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 - Detailed Design Statement, March 2012
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**
 - Detailed Design Statement, March 2012
 - Environmental & Planning Statement March 2012
 - Management Plan March 2012

- Caledonian Maritime Assets Limited Safety Management System Development Oban Bay HIRA Study Report May 2011

(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, Proposals & Strategy considerations taken into account in assessment of the application.

Argyll & Bute Structure Plan (approved 2002)

Proposal SI 2: Oban investment and expansion potential
Policy STRAT DC 1: Development within Settlements
Policy STRAT SI 1: Sustainable Development
Policy STRAT DC 7: Nature Conservation and Development Control
Policy STRAT DC 8: Landscape and Development Control
Policy STRAT DC 9: Historic Environment and Development Control

Argyll & Bute Local Plan (adopted 2009)

Policy LP ENV 1: Development Impact on the General Environment
Policy LP ENV 2: Development Impact on Biodiversity
Policy LP ENV 6: Development Impact on Habitats and Species
Policy LP ENV 12: Water Quality and Environment
Policy LP ENV 13a: Development Impact on Listed Buildings
Policy LP ENV 13b: Demolition of Listed Buildings
Policy LP ENV 15: Demolition in Conservation Areas
Policy LP ENV 19: Development Setting, Layout and Design
Policy LP CST 1: Coastal Development on the Developed Coast (Settlements & Countryside Around Settlements)
Policy LP CST 4: Development Impact on the Natural Foreshore
Policy LP BAD 1: Bad Neighbour Development
Policy LP TOUR 1: Tourist Facilities and Accommodation, including Static and Touring Caravans
Policy LP SERV 4: Water Supply
Policy LP SERV 5: Waste Related Development and Waste Management in Developments
Policy LP TRAN 1: Public Access and Rights of Way
Policy LP TRAN 2: Development and Public Transport Accessibility
Policy LP TRAN 3: Special Needs Access Provision
Policy LP TRAN 8: Piers and Harbours
Policy LP REC 1: Sport, Leisure and Recreation
Appendix A: Sustainable Siting and Design Principles
Appendix F: Allocations, Potential Development Area Schedules and Areas for Action Schedules

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

- Scottish Planning Policy (SPP);
- the environmental impact of the proposal;
- the design of the proposal and its relationship to its surroundings;
- access, provision of infrastructure and planning history of the site;
- views of statutory and other consultees;
- legitimate public concern or support expressed on relevant planning matters

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

A 'Screening Opinion' exercise was undertaken for this proposal which concluded that in terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations the proposal falls within 'Schedule 2 Development' for Marinas, where the recommended threshold for consideration as to whether an Environmental Impact Assessment ought to be required is: 'enclosed water surface exceeding 1,000 square metres'.

Having assessed the proposal, the characteristics of the receiving environment and the magnitude of likely environmental effects, it was considered that in this case the submission of a formal Environmental Impact Assessment was not required. The proposal is not located in a 'sensitive area' or subject to any environmental designations; furthermore, it was considered that the proposal would not have give rise to any significant environmental effects by virtue of its size, nature or location, and that potential impact and the identification of appropriate mitigation measures could be achieved outwith the environmental impact assessment process.

(L) Has the application been the subject of statutory pre-application consultation (PAC): Not required for this scale of development.

(M) Has a sustainability check list been submitted: Yes this is contained within the Environmental & Planning Statement, March 2012.

(N) Does the Council have an interest in the site: Yes, the Council is one of the Statutory Harbour Authorities, and also owns the sea wall which is to be altered to accommodate access to the marina.

(O) Requirement for a local hearing: Despite the number of representations received, there is no necessity for a discretionary hearing in the event that Members are minded to approve the application. Despite there being a significant number, these are predominantly in support of the proposal, with 131 in support and 5 against. Only in the event that the Committee was minded to refuse the application would a hearing be warranted, having regard to the magnitude of support expressed for the proposal.

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

(i) Development Plan Context:

'Argyll & Bute Structure Plan' (approved 2002)

The Settlement Strategy identified in the Argyll and Bute Structure Plan identifies Oban as a 'Main Town' where support is provided for up to and including substantial or major development. The proposal is therefore considered to be consistent with the Structure Plan Settlement Strategy.

'Argyll & Bute Local Plan' (adopted 2009)

This site has been identified as 'Area for Action 5/2: George Street/North Pier' (AFA 5/2) in the Argyll & Bute Local Plan. In the Argyll and Bute Finalised Draft Interim Action Plan a more detailed account of what is expected of AFA 5/2 is provided. The Action Plan states that this AFA is closely associated with AFAs 5/1: Oban – South Pier/railway and 5/3: Oban – Esplanade and 5/4: Oban Bay and that certain points under AFA 5/1 should be noted, which are to pursue an area for action which will support the Structure Plan proposal PROP SI 2 relating to "Oban Investment and Expansion Potential".

The proposed Marina is considered to be consistent with the overall development strategy for Oban.

The proposal seeks the formation of multi-use/short stay transit marina, plus diesel berth, manager's office, provision for small day boats/ribs and limited use for over wintering (amended scheme relative to planning permission 08/01049/DET).

The application has been subject to pre-application discussion with other harbour interests and consultees are satisfied with the proposal subject to some recommended planning conditions. There is significant representation in support of the application, largely based on marine, leisure, tourism and economic considerations, including spin-offs from the presence of a marina in the town. There are four objectors largely concerned with harbour safety, appearance, traffic, pollution and impediments to small boat users.

The principal planning considerations in this case are:

- the consequence of the presence of the development in terms of: the settlement strategy and other policies identified in the Development Plan;
- the environmental consequences of the amendments to the original scheme relative to that approved in 2008;
- its acceptability in terms of design details, including its potential impact in terms of water depth and dredging, impact on the existing wave climate;
- potential impact on the natural environment and biodiversity (ecological & ornithological issues);
- potential impact on the historic environment (listed structures);
- potential visual impact and landscape impacts including tourism interests;

- potential impact on the piers and the harbour as a whole, including in particular navigational safety in relation to the existing/future operations of ferries, fishing vessels, other commercial craft, pleasure boats and sea kayaks;
- potential impact in terms of access, parking and associated transport matters;
- consequences of proposed limited overwintering of boats; potential impact on existing access to the bay and the safety of adjacent structures;
- potential impact on amenity (noise, light pollution, waste).

Assessment of these key potential impacts along with the advice of relevant consultees, as well as the information submitted in support of the application has led to the conclusion that the proposal does not conflict with the Development Plan and that there are no other material considerations, including the views expressed by objectors, which would warrant anything other than planning permission being granted. The reasoning for this conclusion can be found in the review of relevant considerations in Appendix A to this report. All technical details and advice provided by relevant consultees can be addressed by way of planning condition and/or informative as appropriate.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why Planning Permission should be granted:

This proposal is consistent with the provisions of the Development Plan. All other 'material' planning issues have been taken into account in the determination of this application, including views expressed by third parties. None of these are of such weight that any potentially adverse impacts cannot be overcome by suitable planning conditions securing, appropriate mitigation measures or submission of further information to be agreed by the Planning Authority in consultation with relevant consultees.

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

This proposal does not constitute a departure from the Development Plan.

(T) Need for notification to Scottish Ministers or Historic Scotland:

None.

Author of Report: Arlene H Knox **Date:** 31st May 2012

Reviewing Officer: Richard Kerr **Date:** 1st June 2012

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO: 12/00678/PP

1. The proposed development shall be carried out in accordance with the details specified in the application form dated 22nd March 2012; and the approved drawings numbered: L03 (B) – Site Plan; L-01 (B) – Plan As Proposed; and, L02 (B) – Sections A-A & B-B As Proposed; and stamped approved by Argyll and Bute Council.

Reason: In order to ensure that the proposed development is carried out in accordance with the details submitted and the approved drawings.

2. The use of the marina shall be restricted to short-stay/transient 60 berth pontoons and no single vessel shall berth at the pontoons for a period longer than 7 days within any calendar month, with the exception of over-wintering vessels, which shall be limited to a maximum number of 20 berths at any one time, which shall only be occupied for such purpose between the beginning of October and the end of March. Vessels over-wintered shall not be used to provide live-aboard residential accommodation. An up to date detailed log of the arrival and departure of all vessels using the marina shall be kept for the lifetime of the development and shall be made available to the Planning Authority for inspection upon request.

Reason: In accordance with the use applied for, in that a permanent berth marina in this location by reason of lack of onshore facilities and car parking would be unacceptable.

3. Prior to the use of the pontoon system for the over-wintering of boats, engineering evidence shall be submitted to substantiate the marina's structural integrity to accommodate 20 boats (maximum length 14 metres) during the over-wintering period provided for by condition 2 above. This evidence shall be accepted in writing by the Council as Planning Authority prior to any use of the pontoon system for the purposes of over-wintering during that period

Reason: It has not been confirmed beyond doubt that the marina is designed to a sufficient specification allowing for any additional stress to the pontoon structure when overwintering boats are berthed during storm conditions, in circumstances where loss of integrity could compromise navigational safety.

4. Prior to commencement of development, a detailed a design & build programme incorporating a site specific Construction Method Statement shall be submitted to and agreed in writing by the Planning Authority in consultation with SEPA, SNH and CMAL. The method statement shall be prepared in consultation with CMAL in its capacity as Statutory Harbour Authority and shall address construction risks and indicate the timing, duration, method and expected noise levels in relation to the proposed piling operations. It shall also address management of waste, control of pollution and minimisation of disturbance to wildlife. Once agreed, all piling and other construction works shall comply with the duly approved details.

Reason: In the interests of safeguarding amenity and in the interests of nature conservation as insufficient information has been provided in respect to these works and to ensure that Statutory Harbour Authority interests are protected and construction risks are managed effectively.

5. Prior to commencement of development, a Safe Management System which manages the hazards and risks along with any preparations for emergencies shall be prepared in accordance with the Department of Transport Marine Safety Code (October 2009) and shall be submitted for the further written approval of the Planning Authority, in consultation with CMAL. Thereafter, the Safe Management System shall be implemented and maintained in accordance with the final approved

details to the satisfaction of the Planning Authority.

Reason: To secure a systematic way of identifying hazards and controlling risks and provide assurance that risk controls are effective in the interests of safety in accordance with the Risk Management Report, developed by Abbott Risk Consulting, May 2011 and the Department of Transport Marine Safety Code (October 2009)

6. The operators of the marina shall participate in any Marine Safety Risk Assessment Workshop as may be convened periodically by the Council on behalf of users of Oban harbour in order to address ongoing issues relating to navigation interests and marine safety. In the event that any specific risks arising from the presence and operation of the marina facilities are identified, the operator should implement any management control measures (physical & operational) identified by the Risk Assessment Workshop, in accordance with details and a programme of implementation to be approved in writing by the Council as Planning Authority immediately following the conclusion of that Risk Assessment Workshop.

Reason: To ensure that the operators of the marina, as stakeholders within Oban harbour, can in partnership with other stakeholders, contribute to the safe development of marine interests in the harbour, and to provide a framework within which future operational risks can be identified and mitigated so as not to risk the future safe operation of the marina and Oban harbour.

7. Prior to commencement of development, the exact positioning of the external attenuator immediately adjacent to the North Pier along with a cross-section of the 'Armorflex' and a method statement for its installation shall be submitted for the further written approval of the Planning Authority. The development shall be implemented wholly in accordance with the duly approved details.

Reason: In the interests of navigational safety and to ensure that any damage to the North Pier and slipway is prevented in the interests of public safety.

8. Prior to commencement of development, the intended provision of Black Guillemot nest boxes to be provided within the site shall be submitted to and approved in writing by the Planning Authority. This shall comprise a plan showing the numbers positions and construction of those nest boxes. Within 1 month of the substantial completion of the development, the nest boxes shall be provided and they shall be maintained thereafter in a useable condition for the purpose for which they are intended.

Reason: In the interests of nature conservation.

9. Unless otherwise agreed in writing by the Planning Authority, prior to commencement of use of the development hereby approved, the exterior of the polyethylene banded diesel tank shall be painted/treated in a grey colour recessive finish and shall be so maintained in a neat and tidy condition at all times to the satisfaction of the Planning Authority.

Reason: In the interests of the appearance of the development and visual amenity of the area.

10. Notwithstanding the details show on the submitted plans and the effect of condition 1 above, installation of the structure intended to provide manager's accommodation shall not take place until detailed drawings and specifications of an amended design for the proposed office have been submitted and approved in writing by the Planning Authority. The design shall be recessive in colour and finished in traditional materials.

Reason: The proposed modular building is not considered to be an acceptable design solution for this site, and would be detrimental to the setting of nearby listed buildings.

11. Prior to commencement of development, a Waste Management Plan for the operational phase of the development shall be submitted to and approved in writing by the Planning Authority in consultation with the Scottish Environment Protection Agency. This plan shall include details of the arrangements for the storage, separation and collection of waste from the site and its r collection point, including provisions for the safe pick-up by refuse collection vehicles. The approved Waste Management Proposals shall be carried out in accordance with the duly approved scheme.

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

12. Prior to commencement of the development, an assessment shall be carried out of the noise likely to be created by the operation of this facility. In particular, this should consider noise arising between the hours of 22:00 – 06:00 daily and should inform the production of a Noise Management Plan. This plan must identify all steps to be taken to prevent/minimise noise likely to arise from the operation of this facility. A copy of this plan shall be submitted for the written approval of the Planning Authority in consultation with the Environmental Health Officer, and thereafter the development shall be operated in accordance with the duly approved details, including any mitigation measures identified by the Plan

Reason: In order to control noise and disturbance created by operations in the interests of amenity.

13. Prior to commencement of the development, full details of any external lighting to be used on the site shall be submitted to the Planning Authority for approval in writing. The submission shall include the location of each light unit, the footprint of the illuminated area and the wattage of each light unit. With the exception of lighting required for the purposes of navigational safety, all lighting provided at the pontoons, breakwater, and access bridge shall be the minimum required for the purpose, shall be of the lowest wattage required for the purpose each light unit, and shall be so positioned, angled, controlled and shrouded so as to prevent spillage of light and glare beyond the site boundary. Guidance issued by the Institution of Lighting Engineers shall be followed in this respect.

Reason: In order to protect the amenity of the land adjoining the development from unnecessary light pollution.

14. Prior to commencement of development, detailed drawings (plans & elevations) of the proposed pedestrian access to the pontoons, including the access gate, bin storage area and access bridge shall be submitted for the further written approval of the Planning Authority in consultation with the Roads Authority. The development shall be implemented in accordance with the duly approved details.

Reason: In the interests of pedestrian safety

15. Prior to development commencing, a method statement detailing the management arrangements for all deliveries of plant and materials to the site shall be submitted for the approval of the Planning Authority, in consultation with the Roads Authority. The development shall be implemented in accordance with the duly approved details unless any subsequent variation thereof is agreed in writing by the Planning Authority.

Reason: To minimise interference with the safety and free flow of traffic on the trunk road and to ensure the safety of pedestrians on the trunk road and footway.

16. Prior to development commencing detailed drawings shall be submitted which demonstrate that the access between the existing slipway adjacent to George Street and the proposed Launching Steps shall be graded and finished so as safe and easy access to the water can be achieved by persons with a canoe, kayak or other water sports users at all states of tide has been submitted to and approved in writing by the Planning Authority in consultation with the Outdoor Access Team. The development shall be implemented in accordance with the duly approved details unless any subsequent variation thereof is agreed in writing by the Planning Authority.

Reason: To ensure that safe and easy access to the water for canoe, kayak and other water sport users is achievable at all times.

NOTES TO APPLICANT

- **Length of this planning 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)].
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), 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 (as amended) 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.
- The Trunk Road Authority advises that there shall be no advertising signage erected within the Trunk Road boundary along the length of the esplanade adjacent to Oban Bay advertising commercial activities operating from the Marina. It should also be noted that any signage will also require separate advertisement consent from the Council as Planning Authority.
- The Planning Authority can approve minor variations to the approved plans in terms of Section 64 of the Town and Country Planning (Scotland) Act 1997, although no variations should be undertaken without obtaining the prior written approval of the Planning Authority. If you wish to seek any minor variation of the application, an application for a non-material amendment (NMA) should be made in writing to Planning Services, Whitegates, Lochgilphead, PA31 8SY which should list all the proposed changes, enclosing a copy of a plan(s) detailing these changes together with a copy of the original approved plans. It should be noted that only the original applicant can apply for an NMA under the terms of Section 64 of the Town and Country Planning (Scotland) Act 1997. Any amendments deemed by the Council to be material, would require the submission of a further application for planning permission.
- Transport Scotland further notes that the surface at the service lay-by on the A85(T) should be reinstated with a material resistant to diesel spillage to their satisfaction before the roadside fuelling point is brought into use.

- This consent is for the purposes of Town and Country Planning legislation only. Works to the Esplanade wall to facilitate pedestrian access will require separate Listed Building Consent, and no part of this development shall be implemented until such time as this has been cleared by Historic Scotland and the decision notified in writing.
- The developer's attention is drawn to 'Green/Blue' which is a joint environment programme created by the British Marine Federation and Royal Yachting Association and helps boat users and boating businesses to reduce their impact on coastal and inland waters. The marina should be operated in accordance with these principles in order to avoid unnecessary pollution within the restricted confines of Oban Bay.
- The developer is encouraged to develop bio-security measures as part of the management plan for the development, such as protocols and risk assessments to manage and mitigate the potential introduction spread and eradication of invasive non-native species, which is a known problem associated with boat traffic at marinas. The pontoon system should be constructed so as to facilitate periodic lifting for inspection and drying out for the purposes of eradication of non-native species.
- A copy of consultation advice received from SEPA is appended to this decision for information.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.
- The developer should contact the Council's Trading Standards Officer, Oban with regard to the Liquid Fuel Measuring Instrument (Diesel Pump) intended for installation prior to purchase. This measuring instrument must be fit for trade as it is intended to supply fuel to the public.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/00678/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The Settlement Strategy identified in the Argyll and Bute Structure Plan, identifies Oban as a Main Town where support is provided for up to and including substantial or major development. Oban bay is also shown as a water related “tourist development opportunity” in the Structure Plan “Tourist Infrastructure” Diagram.

This site has been identified as ‘Area for Action 5/2: George Street/North Pier’ (AFA 5/2) in the Argyll & Bute Local Plan. In the Argyll and Bute Finalised Draft Interim Action Plan, May 2005, a more detailed account of what is expected of AFA 5/2 is provided. The Action Plan states that this AFA is closely associated with AFAs 5/1: Oban – South Pier/railway and 5/3: Oban – Esplanade and 5/4: Oban Bay and certain points under AFA 5/1 should be noted, which are: to pursue an area for action which will support the Structure Plan proposal PROP SI 2 relating to “Oban Investment and Expansion Potential”.

Structure Plan proposal PROP SI 2 relates to the provision of an action programme to fulfil the potential of Oban bay and the town centre, harbour, and waterfront areas for marine berthing, moorings and for commercial development allied to the various harbour, ferry and fishing interests.

In terms of Coastal Planning Policy, the site is located within an area of ‘developed coast’. In such areas, development is generally supported where it: requires a coastal location; is of a form, location and scale consistent with the Structure Plan Settlement Strategy, provides economic and social benefits to the local community; respects the landscape/townscape character and amenity of the surrounding area; and is in accordance with Local Plan policy relating to the development’s impact on the general environment.

A master plan exercise for Oban (bay, waterfront and town centre) has been underway since determination of the previous 2008 Oban Bay Marine application. The main outcome of this exercise is envisioned to be a plan to aid, guide and inform the management, promotion, regeneration and revitalisation of the bay, waterfront and town centre areas.

In light of the status of the master plan at the time the 2008 application was determined, and consequent uncertainty as to its priorities, it was deemed appropriate to restrict the permission to a period of only 5 years. The rationale behind this was to enable the development of the bay to be re-evaluated on completion of the master plan exercise (intended to be concluded within that timescale). This was to ensure that the marina was not detrimental to the proper planning of the wider bay area, and, did not prejudice a more sustainable scenario for the inner harbour, should one emerge as part of the exercise.

Despite the time which has elapsed since determination of the 2008 application, the master plan exercise still remains to be concluded, the present position being that in 2011 the Council gained approval to progress a business case for Oban bay/harbour, and, part of that approval involved the task of “refreshing” the previously published Oban Action Plan. This has been undertaken, but is not yet finished as the Council is awaiting finalisation of another study (South Pier). It is now understood that the refresh of Oban Action Plan supports the development of marine leisure infrastructure and that this would not compromise other aspects of the plan.

In light of the fact that it has now been clarified that the Oban Action Plan supports marine leisure infrastructure in Oban Bay, it is not considered necessary to limit the current proposal to a 5 year temporary period.

Having due regard to the above it is considered that this proposal is consistent with the provisions of the Argyll & Bute Structure Plan’s Settlement Strategy,

PROP SI 2: OBAN INVESTMENT AND EXPANSION POTENTIAL and Policy STRAT DC 1: Development within the Settlements, as well as Policies LP CST 1: Coastal Development on the Developed Coast (Settlements and Countryside Around Settlements) and Policy LP ENV 1: Development Impact on the General Environment of the Argyll & Bute Local Plan.

B. Amendments

This Planning Application follows on from an unimplemented Planning Permission and a subsequent withdrawn application. This new application proposes various amendments to the originally approved development 08/01049/DET which formed the basis of Planning Application: 11/02443/PP (since withdrawn), together with further amendments which resulted from consultee and third party feedback to that application.

The amendments to Planning Permission 08/01049/DET are:

- changing the marine entrance from the north to the south of the pontoons;
- changing the pedestrian access from the Railway Pier to the Esplanade;
- introduction of a diesel fuelling berth, pump and storage tank;
- introduction of a manager's office;
- Introduction of small day boat/RIB berthing to the inside of the north and east pontoons – 20 boats;
- Introduction of limited over-wintering – 20 boats;
- Changing 3 parking bays to a loading/unloading bay;
- Securing pontoons with steel piles rather than anchors.

Additional amendments since Planning Application: 11/02443/PP (now withdrawn) are:

- Reducing the extent of dredging
- Repositioning of the armoured slope to the north
- Changing the specification of the armoured slope

The applicant has informed Development and Infrastructure Services that the additional amendments since withdrawal of recent Planning Application 11/02443/PP should result in improved access for small boat users, including kayaks, to and from the beach to the water at all states of the tide.

C. Location, Nature and Design of Proposed Development

The proposal is to install a pontoon system in Oban Bay to accommodate visiting yachts throughout the year as well as providing some limited over-wintering (20 vessels) when transit vessels are unlikely to be visiting the marina.

The layout consists of two main legs of pontoons running north-south, supporting finger piers which are aligned east-west and linked together at their north end. The berths will mostly be at finger piers, which allow berthing on both sides at dedicated spaces. 54 dedicated berths are provided by the proposals, and it will be possible to provide a further 6 on the inside of the attenuators during busy periods. The water depth and berthing spaces have been planned to allow for a large proportion of vessels of 12 metres in length and above, with some provision for vessels of 10 metres in length and under.

Around the western perimeter attached to the pontoons, floating concrete attenuators are arranged to protect the pontoons from the westerly waves. Yachts will access their berths between the southern end of these attenuators and the Railway Pier. Small day boats/RIBs will access their berths on the north and east of the inner most pontoon, via the entrance to the North Pier, where provision is maintained for a drying berth.

Pedestrian access to/from the marina from the Esplanade (rather than the Railway Pier as approved previously) is proposed via a walkway to the innermost pontoon. At the top of this walkway provision is made for refuse and recycling as this would otherwise be impractical to be wheeled up from the lower level of the pontoons. This area and access bridge to the pontoons will be secured with a gate which will require swipe card access. The provision of the gate to access the marina will require partial demolition (approximately 2 metres) of the sea wall, which is a category C(s) listed structure. Consequently, an application for listed building consent will also be required and it will not be possible for any works to the wall to be undertaken until such time as separate listed building consent has been obtained for the detail of this work (no application for listed building consent has been submitted to date). The applicant has been aware of this requirement since before this planning application and the previous 2011 planning application were submitted.

The manager's GRP kiosk and polyethylene banded diesel tank are proposed to be located at the bottom of the walkway, with the diesel berth and disabled hoist being situated at the end of the outer pontoon.

The manager's kiosk is proposed to be a flat roofed structure approximately 9.3m². As part of the planning submission the applicant has provided specifications for contemporary modular buildings, which contain some detail and specifications of 'typical' kiosks which can be provided with a variety of panels and colours. However, no detailed plans have been provided for this structure. It is considered by officers, the Council's Marine and Coastal Manager and third party objectors that the type of structure proposed is not an acceptable design solution for this site, which, is located adjacent to the waterfront area and numerous listed buildings. It is considered that an alternative design better suited to the location could be secured, or alternatively, consideration could be given to having a moored vessel as an office. This is therefore the subject of one of the recommended conditions.

Details have been submitted for the polyethylene banded diesel tank, which indicate that it will be bottle green in colour, with a diameter of approx. 2.6 metres and a height of approx. 2.13 metres. It is considered by Development and Infrastructure Services that 'bottle green' may not be the most appropriate colour for this tank in a marine environment and that a colour such as grey or dark blue may be more sympathetic and would blend in better with the surroundings. Officers have been assured by the applicant that it is possible to 'finish' the tank in an alternative colour. This is therefore also the subject of one of the recommended conditions.

At the head of the walkway the 3 existing car parking spaces on the Esplanade are proposed to be reallocated as a loading/unloading bay. It should be remembered of course that given the function of this pontoon system to act as a transit marina most arrivals and departures will be by sea and will not involve vehicles. However crew changeovers and visits to overwintering boats will involve some degree of access by road. Within this bay it is proposed to install a spillage free drybreak connection with an oil interceptor chamber for the delivery of diesel fuel. From here the fuel will pass below the pavement and walkway bridge in protected double skin pipework to the banded fuel tank.

Existing toilet and showering facilities are available at the North Pier but it is also intended that additional provision will be made in premises in Argyll Street for the sole use of the transit marina, with access via swipe card.

The proposal will result in the occupation of approximately 0.9 hectares of sea bed and foreshore. It is considered that the new pontoons and breakwater and their associated access structure are compatible with surrounding land uses which are predominantly influenced by the marine environment. A detailed design statement (dated March 2012),

Planning and Environmental Statement (March 2012) and Sustainability Checklist have been submitted for the proposal.

The proposal has been sited and positioned so as to pay regard to the context within which it is located and it shall (providing conditions are satisfactorily discharged should permission be granted) effectively integrate with its setting. The design of the structure is compatible with its surroundings subject to the effect of recommended conditions.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy STRAT SI 1: Sustainable Development of the Argyll & Bute Structure Plan and Policies LP ENV 1: Development Impact on the General Environment and LP ENV 19: Development Setting, Layout and Design of the Argyll & Bute Local Plan.

D. Detailed Design

The pontoons and finger piers will be of galvanised steel frame construction with hardwood or GRP decking and rubber fendering. All connections between units and between units and fingers will be hinge type connections, which will be attached to the pontoon frames with bolts for ease of removal. Floats will be closed cell polystyrene with polyethylene or concrete coverings.

Each finger pier will be equipped with a service bollard to provide localised area lighting and power and water outlets. The floating attenuators will be of concrete construction with robust connections that allow angular movement but no horizontal movement between units. Pontoons and attenuators will be restrained in position by 19 or 20 tubular steel piles of 500mm diameter with Rylacast or similar self-lubricating pile guides. The piles will be epoxy coated and painted black with white conical caps. The access bridge will be of galvanised steel and equipped with a vertical pivot and horizontal hinges at the platform end, and with wheels and locating rails at the outer, pontoon end.

The Marine & Coastal Development Manager has provided advice on the piling operations, and has advised that due to the fact that limited information is provided on the proposed piling works, it is recommended that a method statement outlining timing, duration and expected noise levels is agreed with the Council prior to works being started. A condition has been recommended to address this and to prevent overwintering until the integrity of the pontoon system to handle additional stresses imposed by winter storm conditions has been demonstrated satisfactorily.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy STRAT SI 1: Sustainable Development of the Argyll & Bute Structure Plan and Policies LP ENV 1: Development Impact on the General Environment and LP ENV 19: Development Setting, Layout and Design of the Argyll & Bute Local Plan.

E. Water Depth, Dredging & 'Armorflex'

The required depth, varying between 2 and 3 metres below the lowest astronomical tide, will be produced by dredging. A full geophysical and bathymetric survey has been carried out including core sampling and trial digging to establish the bed conditions. It is expected that the dredge will be carried out by plough dredger, dragging the material into deeper water to the west. The slope, which will be created at the perimeter of the dredge, is proposed to be protected with 'Armorflex' cellular block mats or an alternative proprietary concrete mattress revetment system designed for installation in circumstances where erosion control is necessary. The marine dredging and retaining works will be subject to licensing by Marine Scotland rather than subject to planning control.

Caledonian Maritime Assets Ltd (CMAL) in its capacity as Statutory Harbour Authority has advised that there are certain activities, which, will result in unacceptable hazards even when existing operational controls and mitigative factors are implemented. One of these activities is dredging. They have confirmed that the area of plough dredging and disposal operations are to be modelled at the design stage to demonstrate they will not cause long term adverse effects on the depth of water due to the altered silting patterns, or identify what remedial measures will be in place to address this issue. CMAL do not object to the planning application providing conditions securing a design & build program and a suitable Safe Management System (to be agreed by them) are attached to any grant of planning permission.

The Marine & Airports Manager and Pier Master are concerned that the armoured slope could possibly undermine the slipway at the North Pier. However, the Marine & Airports Manager has confirmed that he does not object to the proposal providing a condition is attached to any grant of planning permission to secure the submission of a cross-section and method statement prior to the commencement of any development by Oban Bay Marine in the interests of public safety.

F. Wave Climate

Oban Bay is exposed to wave action from the southwest through to the northwest (clockwise). The wave climate in severe conditions would be unsuitable for yachts or pontoons without some form of protection.

Oban Bay is already subject to a substantial amount of marine traffic with car ferries, the fishing fleet and other craft all berthing in the near vicinity. As a consequence the available space for this proposal is limited. Oban Bay Marine have advised that in light of this, floating attenuators have been chosen to be used as they require to occupy a small part of the available area, thus, maximising the area for berthing. It is known that the effectiveness of floating attenuators in calming wave action depends on the nature of the wave climate at the site.

A study of wave climate at Oban Bay has been carried out to determine the likely conditions in extreme events. The detailed findings of the study were the subject of an earlier report entitled "Interpretation of Wave Study" (2008 Planning Application). The study shows that the wave climate at the site in extreme conditions is within the operating range of floating concrete attenuators with a width of 4 metres. These units are expected to reduce the extreme wave height of 1.2 metres to less than 0.5 metres. Whilst this reduction is a major improvement, it is also proposed to align the berths running east-west and place the entrance at the south end in order to provide the most comfortable conditions and maximum protection.

G. Maintenance & Management

A maintenance regime will be required for this proposal. The connections between pontoon units and between pontoon units and finger piers are expected to require replacement after 10 – 12 years, and will be bolted to the pontoon frames to allow ease of removal. The connections between attenuators are expected to require replacement after 10 years. Inspection of these connections should be made after severe wave conditions are experienced. Chain risers to pontoons and attenuators are expected to require replacement after 8-10 years. The hardwood decking on pontoons and fingers has a normal life expectancy of 20 years. The access bridges and piled support might require routine maintenance after 20 years.

A management plan accompanies this application (dated March 2012). This Management Plan explains: aims and objectives; facility management; risk assessments; rule book, and information for visiting sailors. Prior to operation of the pontoon facility, a programme of rigorous risk assessment for facility management will

be undertaken, using best practice including: use of the pontoons; use of the attenuators; use of the access walkway; use of the fuel berth; waste and pollution control; maintenance requirements; traffic signal controls; adverse weather controls; fire and lifesaving; control of public access arrangements and security; waste management plan; noise management plan; health and safety; and navigation and harbour bye-laws.

A marine manager with assistant staff will be employed on a permanent basis and will be responsible for the day to day running of the facility. The marina manager will be in regularly contact with other port users, will be permanently available by VHF and mobile phone, and will report directly to the Board of Directors. OBM has a duty of care for the area of Oban Bay which it will occupy, and intends to put in place a series of Management Protocols for the various elements of the project.

No details are provided within any of the management plan of when the marina manager will be present in the proposed office building, i.e. daily hours, days available or whether they will be employed all year round. However, the agent has advised that the manager's availability will be 7 days a week morning to night but not overnight.

H. Natural Environment

The construction of this proposal will not result in the loss of any habitat above the tidal areas. No part of the site or areas adjacent to it is designated for their nature conservation value. There may be disturbance to fauna and otters during construction, but overall, the impacts are not predicted to be significant. Implementation of best management practices and mitigation measures will help to minimise impacts. No particularly sensitive species has been identified which might be affected by additional people, vessels or noise once the marina is operational.

SNH has advised that Black Guillemots nest in the drains along the coastal wall every year and that there is potential to put tubing along this stretch and around the development to facilitate nesting birds in the future. This would also mitigate any potential disturbances.

The RSPB has advised that their main concern would also be the potential that the development may displace Black Guillemots from their current breeding sites due to increased disturbance & isolation from the sea. However, they have no objection to the proposed marina providing a mitigation condition is attached to ensure that nest boxes for Black Guillemots are provided and maintained in good condition for breeding Black guillemots for the lifetime of the development.

In light of the advice provided by SNH and the RSPB a condition is recommended to ensure the provision and maintenance of nest boxes for Black Guillemot.

The impact of the proposal on nature conservation interests has been carefully assessed, and the objectives and targets set by the Local Biodiversity Action Plan (LBAP) will not be compromised. It must therefore be concluded that there will be no adverse impact on species listed under the Habitat Directive, UK Biodiversity Action Plan or the Local Biodiversity Action Plan.

Having due regard to the above this proposal is therefore considered to be consistent with the provisions of Policy STRAT DC 7: Nature Conservation and Development Control of the Argyll & Bute Structure Plan (approved 2002) and Policies LP ENV 2: Development Impact on Biodiversity and LP ENV 6: Development Impact on Habitats and Species of the Argyll & Bute Local Plan.

I. Archaeology & Built Environment

The proposal is located adjacent to George Street where there are a number of listed buildings, including the castellated part of the Esplanade harbour wall which is listed category C(s). Part of this wall is required to be demolished to accommodate the new walkway access for this pontoon development. Pre-application discussions have been held between Development Management and Historic Scotland regarding the partial demolition of the sea wall and Historic Scotland did not raise any concerns/objections.

According to the application plans approximately 2 metres in length of the listed wall will require to be demolished to facilitate access to the pontoons. However, this is required to be the subject of a separate application for listed building consent, where exact details and specifications will require to be submitted for consideration. The applicant has been advised that this is the case, furthermore, that no works to the wall will be able to be undertaken until such time as listed building consent for any demolition works has been granted.

Based on the site visit, photomontages provided and assessment against the relevant policies it is considered that the development is acceptable and will not have any significant negative impact on the settings of any of the other listed buildings.

No archaeological sites have been identified which will be affected by the works. Contractors will be required by the applicants to develop procedures which will be implemented if any artefacts or archaeological remains are discovered in the course of the marine works. They will also be required to set out a mitigation strategy prior to the beginning of the works to safeguard any undiscovered wrecks etc which may be uncovered. Marine archaeology is not a material planning consideration in the same way as terrestrial archaeology is.

Having due regard to the above it is considered that this proposal is consistent with the provisions of Policies STRAT DC 8: Landscape and Development Control and STRAT DC 9: Historic Environment and Development Control of the Argyll & Bute Structure Plan (approved 2002) and Policies LP ENV 13a: Development Impact on Listed Buildings; LP ENV 13b: Demolition of Listed Buildings; LP ENV 15: Demolition in Conservation Areas and Appendix A: Sustainable Siting and Design Principles of the Argyll & Bute Local Plan (adopted 2009).

J. Water Environment

The Planning and Environmental Statement which accompanies this application states that no impacts are predicted to surface water abstractions, discharges or water courses in the vicinity of the proposal and that no lowering of groundwater is expected. Furthermore contractors will be required to consult with the SEPA and to adhere to best management practices for any temporary site drainage that is proposed, in order to reduce the risk of impact to a minimum.

The Planning and Environmental Statement also details proposed mitigation measures relating to Water Quality and Drainage. These relate to: site surface water and sub-soil drainage discharges; sediment transport; fuel tanks; oil and fuel storage; temporary and permanent pollution control measures; particulate or chemical contamination during construction; method statements; fuel storage; contingency plans; oil pollution prevention; plant and vehicle use; storage of materials; earth bunds and spoil storage; surface water; waste; diesel fuel supply, and post construction seabed survey.

SEPA has no objection the proposal, but has advised that due to recent changes in marine licensing and changes to the proposed dredging footprint and rock armouring, Marine Scotland should be consulted on these proposals (Marine Scotland have been consulted).

SEPA has also provided advice in regard to pollution prevention. They advise that to safeguard pollution prevention and marine ecology interests it is vital that good working practices are adopted and appropriate steps taken to prevent water pollution and minimise disturbance to sensitive receptors. Particular attention should be paid to PPG5, Works and Maintenance in or near water. With regard to the diesel berth Oban Bay Marine should refer to SEPA's Pollution Prevention Guidelines (PPGs) in particular PPG7 - Refuelling Facilities. Oil Storage Regulations do not apply but SEPA would expect that Harbour Authorities to have similar requirements. SEPA recommend Oil storage precautionary measures for this development in the event that this aspect is not covered by the Harbour Authority. An informative is recommended to relay this advice from SEPA.

Marine Scotland as the marine licensing authority have been consulted on this application. They have confirmed that the proposal will require to be licensed under the Marine (Scotland) Act 2010, which came into force in April 2011. They are aware of the plans within Oban Bay although no formal application has been received by them yet. This is a separate regulatory procedure outwith the planning process.

In response to the 2008 application SEPA recommended that a condition be attached to any grant of planning permission requiring a site specific method statement to be agreed by the Planning Authority in consultation with them prior to commencement of works on site. This is in order to prevent water pollution and would have to be implemented in full during works on site. The method statement was required to address the following matters: Waste, Surface water run-off; Timing of works; Fuel or Chemicals and Foul Drainage Provision. Development Management consider that it would be appropriate to continue to recommend this condition be attached to any grant of planning permission.

The Marine & Coastal Development Manager has provided advice in terms of Environmental Management and draws attention to the Green/Blue which is a joint environment programme created by the British Marine Federation and Royal Yachting Association and helps boat users and boating businesses to reduce their impact on coastal and inland waters. Oban Bay Marine should be encouraged to follow this good practice advice and guidance during the operation of the marina. An informative is recommended to draw the applicant's attention to this.

The Marine & Coastal Development Manager also advises that new marina developments can present a risk to the spread of marine invasive non-native species. Non-native species can be accidentally transported to another location in ballast or bilge water or hitch a ride on a boats' hull, propeller, anchor, or chain. Recent experience from locations where invasive species have become established in existing marinas suggest that the most appropriate option for mitigating the spread of invasive species is through considering a design structure of pontoons that would allow efficient and effective eradication. The new proposal to fix pontoons with piles may present an opportunity to construct the pontoons in such a way that sections of pontoons can be easily lifted above the water level for short periods.

This would allow sections of the pontoons to dry out which is currently viewed as an effective method of eradicating established invasive non-native species should SNH, Marine Scotland or SEPA require the emergency eradication of a marine invasive species. Oban Bay Marine have confirmed that if pontoons are ever required to be lifted out, individual pontoons can be uncoupled, floated to a suitable lifting out location and craned out.

Finally, the Marine & Coastal Development Manager advises that Oban Bay Marine are encouraged to develop bio-security measures as part of their management plan, such as protocols and risk assessments to manage and mitigate the potential introduction spread and eradication of invasive non-native species. SEPA have also provided advice on Marine Non-Native Species. Given that the accidental introduction of Marine Non-Native

Species has been highlighted as a risk for water body degradation, they recommends that controls should be included in development planning and marine licensing for Marine Non-Native Species in line with Water Framework Directive and Marine Strategy Framework Directive objectives, and EU Biodiversity Strategy targets.

SEPA further advise that accidental introduction of MMNS occurs via attachment to boats, construction plant, specialised equipment and moorings as these are moved from one area to another, SEPA recommends that method statements produced as part of the marine licence application process should also include measures that will be adopted to minimise these risks before the constructional, operational or decommissioning phases of a project commence. Guidance that may draw upon includes: - The alien invasive species and the oil and gas industry guidance produced by the Oil & Gas industry; SNH web-based advice on Marine non-native species, and Marine non-native guidance from the GreenBlue (recreation advice). Oban Bay Marine have confirmed that they are familiar with the Green Blue guidance and intend to incorporate such guidance into their management procedures.

SEPA's response on Marine Non-Native Species identifies the need to take account of water body status under WFD and states that controls should be included in development planning. There is a lack of clear guidance for regulators as to what measures are needed and SEPA should be contacted to ask what controls they felt would be necessary. Oban Bay Marine are happy to consult with SEPA as part of the development of their Management Procedures documentation but do not consider this to a planning issue.

In light of the above it is considered that if managed effectively this proposal will not have any adverse impact on the water quality of Oban Bay.

Having due regard to the above it is considered that this proposal is consistent with the provisions of Policy LP ENV 12: Water Quality and Environment of the Argyll & Bute Local Plan, 2006.

K. Landscape Character

The areas to the north and south of the site are extensively developed, with piers, slipways, ferry terminals and associated commercial buildings, the site itself, in the gap between existing maritime developments, provides the foreground to Oban Bay and the islands of Kerrera and Mull to the west. The site does not fall within any area designated for its landscape value; however, it does form a key part of Oban and the town's character. How the Oban looks and is perceived is vitally important in terms of tourism and for the local population.

The issue of Landscape and Visual Impact has been included in the Environmental and Planning Statement. In terms of landscape it states that: construction materials will be chosen to help blend the new structures into the surrounding landscape and that method statements will be drawn up to identify how the construction of the pontoons, breakwaters and associated development are appropriate to the environment in which they will be located and furthermore, that lighting will be designed to minimise light spill into the surrounding environment.

Photomontages have been provided from the ferry to George Street and from Specsavers retail unit to the Ferry Pier in support of the application. The photomontages show how the view of the marina will be experienced from these locations.

The Marine & Coastal Development Manager has provided advice in terms of Landscape and Visual Assessment. In this regard he advises that the new photomontages provide a more accurate representation of the development as viewed from 'Specsavers' and the Calmac linkspan and the revised Environmental and Planning

Statement clarifies the extent of armoured slope that will be exposed at MLWS. Consequently, he has no objections to the proposal in terms of landscape and visual impact.

Based on the fact that neither the Marine & Coastal Development Manager and SNH have raised any concerns about adverse impact on the landscape, the landscape and visual impact assessment within the Planning and Environmental Statement, consideration of the photomontages, and comparison with the previously approved scheme, and having regard to policy and views expressed by third parties, officers have concluded that the proposal will not, by reason of location, siting, scale, form or design, damage or undermine the key environmental features of the area.

Having due regard to the above it is considered that this proposal is consistent with the provisions of Policy STRAT DC 8: Landscape & Development Control of the Argyll & Bute Structure Plan (approved 2002) and Policy LP ENV 1: Development Impact on the General Environment of the Argyll & Bute Local Plan (adopted 2009).

L. Piers and harbours

Development within harbour areas is encouraged providing it ensures the retention of the harbour for commercial marine related uses. This proposal requires a harbour side location and is ancillary to activities taking place in the harbour itself.

The Marine & Airport Manager has no objection to the location of the proposal within Oban Bay, but has raised matters which will require to be addressed by planning condition relating to the design of the attenuator (vessels are known to overhang whilst berthed at the North Pier) and stability of the slipway at the North Pier. The Pier Master has been consulted and has advised that the Marine & Airport Manager has responded on her behalf and she concurs with his advice.

It is considered that if managed effectively the proposal will contribute positively to maintaining a viable, thriving and stable harbour area for Oban Bay. Furthermore, that the proposal will not have any adverse impact on the fishing fleet (the proposal has been redesigned following discussions with them) or other harbour based concerns.

It has been confirmed by the relevant consultees that subject to compliance with their recommended conditions, the proposal will not compromise the current efficient working of the harbour, including the provision of ferry services.

It should be borne in mind, however, that the assessment of marine and operational risk is not a 'static' task requiring to be undertaken once, but has to be a 'dynamic' process, which keeps in step with both current and future prospective vessel types and the requirement for future movements within the harbour. Following recent discussion with CMAL, it is therefore proposed that a further Marine Safety Risk Assessment / Workshop shall be held to consider Oban Bay in its totality later this month, to which OBM will be invited to contribute. In the absence of a single Harbour Authority, such a proposal is probably the most coherent and effective vehicle to manage marine safety going forward at this time.

It would be an expectation that if specific risks and appropriate management control measures (physical & operational) are identified through the risk workshop process, relevant parties with responsibility for undertaking control measures/actions would commit to undertaking them to agreed dates, resource these actions as appropriate and to confirm when complete. With that in mind it is appropriate to include a condition within any consent requiring OBM's participation within this process on an ongoing basis, along with an associated requirement to undertake any subsequent safety related control/measures which are identified through the process.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy LP TRAN 8: Piers and Harbours of the Argyll & Bute Local Plan (adopted 2009).

M. Navigational Safety

The Marine & Airport Manager has raised concerns with regard to navigational safety. These relate to the proximity of the attenuator to the overhang on vessels berthed on the main berth of the North Pier (Vessels of up to 100m are known to berth on this pier). Despite the navigation lights effectively controlling vessel movement there will still be a visibility issue and it is suggested that the attenuator should be tapered back to create a safer access. In order to alleviate the Marine & Airport Manager's concerns regarding the position of the external attenuators it is recommended that a condition is attached to any grant of planning permission to ensure that prior to the commencement of any development the exact positioning of the external attenuator immediately adjacent to the North Pier be agreed with Argyll and Bute Council.

In relation to Navigational Safety the Marine & Airport Manager also requires that Oban Bay Marine comply with all the recommendations from the pre-application risk assessment workshop and that these are integrated into the conditions of planning to ensure compliance for the safe operation of the marina. The Pier Master was consulted but has advised that the Marine & Airport Manager has responded on her behalf and she concurs with his advice.

The Northern Lighthouse Board has no objections to the proposal providing their navigational lighting and marking recommendations are complied with. From a navigational safety perspective they advise that, the South West corner of the floating breakwater (i.e. the entrance to the marina) should be marked by navigation light exhibiting characteristics Flash Red once every five seconds (Fl R 5s). There is no requirement for the planning authority to condition the provision of this light or other navigational markings as they will be controlled by the Northern Lighthouse Board.

Caledonian Maritime Assets Ltd (CMAL) Caledonian Maritime Assets Ltd (CMAL) is the Statutory Harbour Authority (SHA) for southern part of the bay where the proposal is intended and where the access and egress for marina traffic is planned. As SHA, CMAL are accountable for the safety of navigation within their Harbour Area and its approaches. Their concern at the impact the additional traffic movements in addition to the close proximity to the Ferry berthing activity has been expressed to Oban Bay Marine.

With respect to this planning application CMAL require certain conditions to be attached to any grant of planning permission to ensure continued safe operation of the Port as a whole and in particular the Lifeline Ferry operations. If these are not included or not met by Oban Bay Marine CMAL can as Statutory Harbour Authority, and will if necessary, refuse to allow the development to proceed through their Statutory Harbour Powers as it may compromise their obligations under law.

CMAL request a condition to ensure that the construction risks will be addressed as part of the design and build Program and a CMAL representative must be included in the project team to ensure their interests are protected and risks managed appropriately. CMAL request a condition to ensure that the operational risks will require agreement of a suitable Safe Management System by the operators of the Marina that satisfies CMAL of its robustness and that the financial resources will be available for the on-going management of the marina.

The Marine & Coastal Development Manager has confirmed that he supports the recommendation outlined in the Risk Management Report developed by Abbott Risk Consulting that control measures identified are incorporated into the Marina's Management Plan, which should be agreed with the Planning Authority prior to the operation of the marina.

N. Diesel Berth & Fire Safety

The Public Protection, Trading Standards Officer (Petroleum) was consulted on this application in light of the fact that it is proposed to provide a diesel tank/berth. It has been advised that the applicants should ensure that they contact the Trading Standards Officer, Oban with regard to the Liquid Fuel Measuring Instrument (Diesel Pump) they intend to install prior to purchase. This measuring instrument must be fit for trade as the applicant intends to supply fuel to the public. The storage of petroleum spirit only requires licensing by Public Protection, and they have no involvement in the storage of other fuels unless Petroleum Spirit is also stored on the Premises. It is proposed to relay this information to the applicant by means of an informative/note attached to any grant of planning permission.

Strathclyde Fire & Rescue were also consulted on this application in light of the fact that it is proposed to provide a diesel tank/berth. They have however confirmed that they have no objection to the proposal. Consequently, it is deemed that the proposal is acceptable to the fire brigade in terms of fire safety.

O. Road Network, Parking and Associated Transport Matters

The Area Roads Manager does not object and has advised that the Trunk Road Authority will provide advice on this proposal, which, is situated off the A85 Oban-Tyndrum Trunk Road. The Area Roads Manager has requested a condition be attached to any grant of planning permission restricting over wintering of vessels between the beginning of October and the end of March. The reason for this condition is to prevent owners working on their boats all year round as during the wintertime there will be less demand and sufficient parking available. This has been included in the recommended conditions.

Transport Scotland has advised that the proposal is acceptable subject to two conditions being attached to any grant of planning permission relating to the Traffic Regulation Order redesignating the existing parking bays to a Service Lay-by and the restriction of advertisements within the Trunk Road Boundary. The latter would not be a competent condition so is being addressed by way of a note to the applicant. Transport Scotland further note that the surface at the service lay-by should be reinstated with a material resistant to diesel spillage. Furthermore, they also have also noted that that over wintering berthing should be restricted to a period when the Transit Marina is closed to transient vessels, and that minor repairs and maintenance should be prevented.

In response to the comments made by Transport Scotland Oban Bay Marine have advised that they accept both proposed conditions but would prefer Condition 1 to be adjusted to the effect that prior to operation of the facility rather than prior to commencement on site. Furthermore, they advise that both Transport Scotland and the Roads Department have indicated to them that they would welcome the re-designation and Oban Bay Marine considers that their suggestion would save time in the pre-contract period. Also, if the existing surface is tarmac and not block paving, Oban Bay Marine accepts that this will need to be changed. Oban Bay Marine do not accept that the overwintering of a restricted number of vessels should be at the expense of the continued use by transit vessels or that minor repairs and maintenance should be prevented, as such a use will have minimal impact on traffic movement. They consider that few movements would take place in the overwintering period and that incidental

maintenance (there are no maintenance facilities included in the marina) would not lead to road related difficulties. Such a condition would seriously affect the viability of the marina.

Transport Scotland has responded further advising that the reason that Condition 1 is caveated with 'Prior to any works commencing on site

is should this order attract an objection that culminates in the re-designation Traffic Regulation Order (TRO) from not going being implemented would effectively remove the servicing provision for the Marina. As this Service Lay-by provides a diesel discharge point for tanker deliveries as well as refuse collection area without the re-designation these facilities would not be available. In addition the absence of an enforceable TRO designating the Service Lay-by may encourage indiscriminate parking on the Trunk road and subsequent delay to the free flow of traffic as service vehicles may attempt to double park. This situation would be unacceptable to Transport Scotland.

Oban Bay Marine accepts Transport Scotland's clarification and confirms that they are simply concerned about further delay resulting from the Traffic Regulation Order application. The indicators are that the application would not be unsuccessful and Oban Bay Marine would prefer to be able to make a start whilst the Traffic Regulation Order application is being processed and carry the risk of having to make alternative arrangements for servicing in the very unlikely event of the application failing. Oban Bay Marine cannot envisage a situation where vehicles would attempt to double park on this busy Trunk Road - especially as Queens Park Place is so close.

Transport Scotland further confirmed that during early discussions with Oban Bay Marine they were advised that servicing and repair would not to be undertaken at the Transit Marina and these facilities would be available at other more suited locations where there are available facilities elsewhere along the coast. Transport Scotland would not be supportive of such activities from the Marina as this could intensify the demand on the limited Service Bay parking and encourage indiscriminate parking. In addition materials used for servicing may be deposited on the footway adjacent to the pedestrian access gate for uplift causing obstruction and hazard to pedestrians using the Esplanade. Oban Bay Marine has responded to this comment by stating that: *"Minor servicing and repair is an everyday activity on boats - maintenance might be a better description. Clearly, major servicing and repair is a different matter and might have the effect described by Transport Scotland. It has always been Oban Bay Marine's position that such work would require the services of a boat yard and they would not permit this activity to be carried out, but clearly Oban Bay Marine would resist any restriction on normal day to day servicing and repair of a minor nature. Oban Bay Marine considers that this proposed condition is too restrictive"*.

Transport Scotland advise that with regards to the operation of the Marina their understanding from the outset was that it would encourage vessels to stop for short periods (up to 72 hours) to visit Oban. This concept whilst supported by Transport Scotland has over time altered somewhat in so far as the operators have introduced commercial activities operating from the marina, proposing servicing and maintenance of vessels and overwintering. Transport Scotland acknowledges the need to make the Transit Marina financially sustainable however not to the detriment of the safe and free movement of traffic and pedestrians. The Transit Marina is located in a high amenity area which limits what activity can be undertaken without causing interference with safety and free movement of pedestrians and traffic on the Trunk Road.

In response to this Oban Bay Marine advise that they have not intensified their original goals other than to introduce the limited overwintering of a few boats. It was never intended that commercial vessels would be barred from using the marina or that day to day maintenance would be prevented. Use of the marina for transit vessels out of season will obviously be very limited, and the overwintering of a few boats will not significantly intensify the usage or be a detriment to the free flow of traffic and

pedestrians, indeed from a visual perspective it would provide some interest from that of an empty marina. Oban Bay Marine confirms that no live aboard or major servicing or repair works would be permitted on overwintering vessels.

Oban Bay Marine has advised that the existing 3 car parking spaces are tarmac so will need some resurfacing in block paving. Oban Bay Marine are concerned that Transport Scotland are being over protective, based on a fear over intensification of use from that intended by Oban Bay Marine - who have a common interest in not causing a nuisance to the flow of traffic or pedestrians.

The re-surfacing of the layby will come under the jurisdiction of Transport Scotland as work undertaken adjacent to a Trunk Road, there is therefore no requirement to condition this. With regard to their note on restricting overwintering to when the Transit Marina is closed, it is likely that the marina will be quiet during this period and as they have not recommended this restriction be dealt with by condition, none have been attached. With regard to their final note regarding service and repair, there will be no facilities at the marina to undertake such works, and consequently in the absence of a specific requirement from Transport Scotland to condition this, it is not considered that the imposition of a condition is necessary.

Transport Scotland is a statutory consultee and Development Management largely agrees with their advice, despite Oban Bay Marine's dissatisfaction towards their recommendation, they have not objected to the proposal but have recommended approval subject to conditions. The relevant conditions as detailed above are therefore included in the recommendation. Should permission be granted for the proposal as recommended, the applicant has the right to appeal any conditions felt to be unreasonable or unnecessary

There are no relevant Transport Policies in the Structure or Local Plan relating to the Transport issues associated with this proposal. However, the proposal is consistent with the general aims and objectives of the Development Plan in this regard as well as National Policy/Guidance providing the conditions recommended by Transport Scotland are attached

P. Use of Marina & Overwintering

The Marine & Coastal Development Manager further advised that additional information is needed on what types of vessels are being considered for overwintering and whether this includes live aboard boats. Should overwintering of vessels be granted it may be necessary to require such vessels to be hauled out, inspected and antifouled once a year to limit risk of spreading marine invasive non-native species. Following further discussions with Oban Bay Marine the Marine & Coastal Development Manager has confirmed that if vessels are not going to be permanently berthed it is agreed that there does not need to be a requirement for boats to be removed from the water, cleaned and antifouled.

The Marine & Coastal Development Manager also advised that consideration should also be given to limiting the size and/or type of vessel that can be overwintered. If berthing of vessels continuously over the winter months (3-4 months) is permitted then a planning condition should be considered that covers the maximum number of vessels to be overwintered at any one time and the maximum length of stay. Oban Bay Marine has confirmed that they envisage a limited number of overwintered boats and have previously discussed a figure of 20. Furthermore that overwintering might extend from end of September to end of March.

The Marine & Coastal Development Manager further advises that a condition should be considered covering the maximum length of stay in relation to short stay vessels as included in the original consent. On this matter the Marine & Coastal Development

Manager agrees with Oban Bay Marine's comments that 3 days within one month (as per original condition) is too short and that at least 7 days would be more reasonable. Oban Bay Marine intend that the marina be used as a short stay/transit marina throughout the year (although winter use will obviously be very limited), plus a limited number of overwintered boats

The Marine & Coastal Development Manager has further advised that it has not been confirmed whether the marina is designed to a specification that allows for any additional stress to the pontoon structure when overwintering boats are berthed during storm conditions. As overwintering of vessels is a new aspect of the development this should be confirmed by Oban Bay Marine. Oban Bay Marine has confirmed in writing that the design of the pontoons and management will be fit for purpose which includes a suitable construction for use in winter. Despite this, no engineering evidence has been provided to substantiate the structure's integrity to accommodate 20 boats, it is therefore considered prudent to attach a condition which ensures the submission of such evidence prior to overwintering accommodation being provided.

Oban Bay Marine has confirmed that the maximum size of vessel to be overwintered is restricted by the size of pontoon fingers and would be limited to 14m in length. There is no intention that the transit marina be used as a permanent berth marina and overwintering will not permit live-aboard usage.

Q. Infrastructure

Scottish Water has confirmed that they have no objection to the proposal; however, a separate application should be made to them for connection to their infrastructure should full planning permission be granted. It is intended to connect to the public water supply and consequently, this proposal is consistent with this policy.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy SERV 4: Water Supply of the Modified Finalised Draft Local Plan.

R. Access

Whilst access to and from the water from the beach is available to kayaks and other small boat users at all states of the tide to either side of the pontoons, at MLWS approximately half a metre of armoured slope will be exposed around the pontoons. The proposed repositioning of the armoured slope therefore increases the area available at all states of tide, plus launching steps are now incorporated into the slope, and at half tide and above, the armoured slope is fully covered, providing unhindered access across the whole area.

In relation to access to the bay for other users, the Outdoor Access Team has advised that they feel it is important that easy access to the water with a canoe or kayak will still be achievable at all times at this site, and special consideration must be given to the access between the existing slipway adjacent to George Street and the proposed new Launching Steps identified in the application. In the plans there appears to be a drop of approximately 1 metre from a spot height of 3 metres near the slipway down to 2 metres near the top of the rock armour. The access between the slipway and Launching Steps needs to be graded and finished so as safe and easy access to the water can be achieved by persons with a canoe or kayak otherwise the Launching Steps may be of little use.

In response to the Outdoor Access Team's comments, the applicant has advised that this is a misinterpretation of the drawings. The top of the armoured slope is not level but follows the contours of the beach. There is no such drop and the natural beach surface will be maintained providing safe and easy access as at present. In response to this the

Outdoor Access Team has further advised that provided the amended drawings show that safe access to and from the beach is possible at all states of the tide for sea kayakers and other water sports users, they think that the developer will be able to satisfy the condition. A condition is recommended in accordance with the advice of the Outdoor Access Team.

In relation to access, the Marine and Coastal Development Manager advises that Oban Bay is well used by local residents and visitors as a public space and an access point for water-based recreation. Sea Kayak Oban and the National Kayak School use Oban Bay to access coastal waters and the access rights of individuals and these businesses need to be considered to allow continued use and access from Oban Bay. The amended proposal, changing the position of rock armour on the north shore and provision of steps to improve access to the bay are welcomed and should help to improve access for kayakers, compared to the previous plans. Consideration could still be given allowing sea kayak access from the pontoons. Pontoon structures have been used for launching kayaks/canoes by British Waterways and further information on design can be provided.

In response to the applicant has advised that in principle Oban Bay Marine would be happy to accept sea kayakers on the pontoons on a commercial basis but do not see this as an appropriate subject for condition.

New development proposals should safeguard important public access routes. Where they will be prejudiced by a development, including during construction and upon completion, then the developer is expected to incorporate appropriate alternative or modified public access provisions. Access rights are a material consideration in considering planning applications, however, in light of the above it has been concluded that the public access needs to the water will not be unduly compromised and that access will still be achievable.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy LP TRAN 1: Public Access & Rights of Way of the Argyll & Bute Local Plan

S. Tourism Impact

There is a presumption in favour of new recreation facilities such as this proposal provided that in the settlements, the development is of a form, location and scale consistent with Policy STRAT DC 1: Development within the Settlements of the Argyll and Bute Structure Plan 2002; they respect the landscape/townscape character and amenity of the surrounding area; they are readily accessible by public transport where available, cycling and on foot; they are located close to where people live and reduce the need to travel and the proposal is consistent with other policies contained in the Structure and Local Plan. The proposal is considered to meet all of these criteria and is therefore acceptable as a tourist facility. The proposal will clearly provide a facility which will help support the tourist economy of the town, although third parties suggest that its presence could also be a deterrent to some visitors who might consider the bay despoiled by the presence of pontoons, boats and ancillary structures. As it is difficult to anticipate the attitudes of potential visitors it is not considered that the adverse consequences on tourism are so demonstrable as to caution against the granting of the application, as was the conclusion with the planning permission for the previous scheme.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy STRAT DC 1: Development within Settlements of the Argyll & Bute Structure Plan, (approved 2002) and Policy LP REC 1: Sport, Leisure and Recreation of the Argyll & Bute Local Plan.

T. Bad Neighbour

This proposal constitutes a potential 'bad neighbour' development by virtue of introducing significant change in an established area. However, it is considered that there will be no unacceptable adverse effects on the amenity of neighbouring residents which cannot be mitigated by conditions to control noise, light and waste.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Policy LP BAD 1: Bad Neighbour Development of the Argyll & Bute Local Plan (adopted 2009).

U. Waste

The supporting documentation states that: "it is not expected that significant quantities of any waste materials will be generated during construction" as it mainly comprises the delivery and installation of components and marine works. Prior to commencement of the dredging operations a quantity of debris and disused sewer pipes and their surrounds will be removed from the foreshore. Contractors will be required to dispose of these materials to approved disposal sites, where recycling proves impractical.

Dressing the slopes of the dredged area will be achieved by re-grading the existing material to the current slope and contractors will be required to carry out the re-grading as a cut and fill operation which generates no surplus material. The dredging operation and installation of moorings, pontoons and breakwaters are not expected to generate any waste beyond replacement items for plant, such as filter cartridges, oil drums and any excess steel piles. Contractors will be required to provide full details of their recycling and disposal procedures for all such waste items.

It is expected that significant quantities of waste refuse will be generated by the proposal in the form of refuse and sewage. It is proposed to provide two large refuse collection bins and recycling bins within the secure gate at the head of the access bridge, and through use of information boards, encourage all users to recycle where possible. Users will be required to observe the prohibition of refuse dumping at sea.

Dedicated toilets, showers and laundry facilities are to be made available via a swipe card system in premises in Argyll Street, opposite the walkway, and there are also public toilets on the North Pier.

It is not proposed to provide any facilities for the disposal of sewage, as the pontoons are not intended for long-term occupation. The berths are intended to be occupied for only short periods by visiting cruising yachts. It is proposed that a limited number of berths (a maximum of 20) may be used for over wintering during the winter months, but, strictly for non-residential use. The discharge of on-board toilet facilities into the bay will be prohibited by OBM. A list of all sewage disposal points in the area will be made available at information points.

Details of the arrangements for the storage, separation and collection of waste from the site or roadside collection point have been provided and will allow for the safe pick-up by refuse collection vehicles.

SEPA has advised that in accordance with Scottish Planning Policy (SPP) - "residential commercial and industrial properties should be designed to provide for waste separation and collection."

In accordance with SPP, and PAN 63: Waste Management Planning, space should be designed within the planning application site layout to allow for the separation and collection of waste, consistent with the type of development proposed. This includes provision to separate and store different types of waste, collection and centralised facilities for the public to deposit waste for recycling or recovery ("bring systems"). SEPA further advise that consultation should be undertaken with the council's waste

management team to determine what space requirements are required within the application site layout for a development of this nature.

In response to the concerns raised by SEPA with regard to sewage, the applicant has further commented that: In common with other transit marinas, it is not proposed to include holding tank sewage disposal facilities. Indeed they are unaware of any permanent berth marinas on the west coast with such facilities. It is normal practice to discharge whilst offshore.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Scottish Planning Policy, PAN 63: Waste Management Planning, Policy LP SERV 5: Waste Related Development and Waste Management in Development of the Argyll & Bute Local Plan (adopted 2009).

V. Noise

The applicant has advised that the noise generated by the dredging operation is likely to be similar in level and in character to the noise already experienced by residents from fishing vessels, car ferries and cruise boats. The noise generated by the slope reshaping and armouring is not expected, with modern plant correctly silenced, to exceed the general background noise from traffic along the Esplanade. The installation of 19 or 20 piles will involve rock coring with perhaps 3 or 4 piles requiring to be driven by a vibrating hammer into soft material. Whilst this plant generates noise of an intrusive character, the short duration of its use and the masking effect of background road and marine traffic noise will limit the intrusion.

The noise created by the occupation of the pontoons during the day over the season of operation is not expected to be noticeably higher than the level of noise currently experienced due to land-based and sea-borne traffic.

Overnight, when other sources of noise are absent, it is anticipated that on windy night's noise will be created by rigging slapping yacht masts. This noise, while of low level, is known to be obtrusive in character. Mitigation measures are proposed in the form of instructions to all visitors to ensure their rigging is properly adjusted and, if necessary, secured against slapping.

SEPA has noted that the installation works will involve piling, and trust that SNH have been consulted with regard to potential noise disturbance. SNH have been consulted and have not made any comments regarding noise, neither has the Environmental Health Officer. However, it is recommended that the noise conditions that were attached to the 2008 decision are attached to any planning permission.

The Environmental Health Officer has not raised any objection to this proposal in terms of noise, vibration or air quality. However, in respect of the 2008 application the Environmental Health Officer recommended a condition requiring the production of a Noise Management Plan identifying measures which will be put in place to minimise/eliminate potential noise problems from the operation of the facility, such as that identified to control rigging noise. Also, the location of the proposed site and the complex nature of the construction of the facility may give rise to noise problems during the construction phase of the development. The previously recommended condition has therefore been included in the recommendation. Consequently, the proposal should not have any adverse noise impacts.

W. Lighting

The Environmental Health Officer has no objection to this current planning application. In response to the 2008 application the Environmental Health Officer also had no objection

but, did recommend a condition relating to provision of details of the proposed method of lighting. The issue of light pollution has been raised by objectors, and it is considered by Development Management that this could be a potential nuisance and cause for concern. Consequently, a condition is recommended to secure details of the external lighting, ensuring that, with the exception of navigation lighting, the guidance issued by the Institution of Lighting Engineers is followed to limit glare and light pollution beyond the site boundary.

X. Other Scottish Government Advice

In regard to Coastal Planning, Scottish Planning Policy states that “The coast of Scotland is of national, and in some parts international, significance containing many areas of special landscape and ecological significance. A large proportion of Scotland’s population live on or near the coast and it is a major focus for economic activity, recreation and tourism. The sustainable development of coastal areas is an important contributor to sustainable economic growth”. It is considered that the proposal is a sustainable (and potentially reversible) development of a maritime asset which is capable of being implemented without significant adverse effects on the receiving environment and which will bring economic benefit to the town of Oban.

Having due regard to the above it is considered that the proposal is consistent with the provisions of Scottish Planning Policy.

APPENDIX B – REPRESENTATIONS RELATIVE TO APPLICATION NUMBER: 12/00678/PP

LETTERS OF OBJECTION (4)

Mr David Leslie	18A Morningside Road Edinburgh EH10 4DA	17/04/2012	O
Elaine Paterson	Argyll Mansions George Street Oban PA34 5SD	26/04/2012	O
Professor Ian Reid	Firgrove Villa Ardconnel Rd Oban PA34 5DW	22/04/2012	O
Dr Pauline Thompson	TFL 62 Blackford Avenue Edinburgh EH9 3ER	18/04/2012	O
Stuart Wagstaffe	Sea Kayaks Oban, Argyll Street, Oban	13/06/2012	O

LETTERS OF SUPPORT (132)

Mr Charles Jack	1 Lorn View Lismore Oban PA34 5UL	22/04/2012	S
Mr Iain Watt	1 Rose Court Easter Park Drive Edinburgh EH4 6SE	26/04/2012	S
Mr Cameron Petrie	10 Ballencrieff Steading Ballencrieff Longniddry EH32 0QH	21/04/2012	S
Mr Andrew Lawson	10 Lambs Farm Road Horsham, West Sussex RH12 4DJ	21/04/2012	S
Mr Paul Sloan	10 Stevenson Street Oban PA34 5SD	23/04/2012	S
Mr Peter Westwood	101 Albert Road West Bolton BL1 5ED	22/04/2012	S
Mr Robert Mullins	11 Crossley Grove Mirfield WF14 0JX	23/04/2012	S
Mr Derek Grier	12D Longsdale Terrace Oban PA34 5JS	23/04/2012	S
Mr Duncan Morrison	13 Haddon Road Perth PH2 7JA	22/04/2012	S
Mr Andrew Challis	15 Bushy Close Oxford OX2 9SH	21/04/2012	S

Mr Ian Pirrie	15 Priory Wynd Kilwinning KA13 6AU	22/04/2012	S
Mr Martin Downing	15 The Gardens Aberlady East Lothian EH32 0SF	18/04/2012	S
Mr Peter Rowland	16 Pavilion Way Gosport Hants PO12 1FE	21/04/2012	S
Iain Annan	171 Colinton Road Edinburgh EH14 1BE	11/05/2012	S
Mr Alexander Paul Robin Cooper	19, Lester Way Littleport Ely CB6 1FW	21/04/2012	S
Mr Miles Stratton	2 Ardenconnel Way Rhu G84 8LX	21/04/2012	S
Mrs Kathy Bowles	2 Cnoc Beag Balvicar Oban PA34 4TH	21/04/2012	S
Mr Jonathan Dunseath	2 Lamb Lea Lazonby Penrith CA10 1BB	21/04/2012	S
Mr Chris Smith	2 Rath Cuan Downpatrick BT33 0HN	21/04/2012	S
Mr Nick Bowles	2, Cnoc Beag Balvicar Oban PA34 4TH	21/04/2012	S
Mr Pete Cooper	20 Seton Terrace Skelmorlie PA175AX	21/04/2012	S
Mr Graeme Hunt	22 Sandale Close Gamston Nottingham NG2 6QG	21/04/2012	S
Chris Holdstock	23 Juniper Drive Milton Of Capsie	26/04/2012	S
Mr Jason Chamberlin	24 Auclum Close Burghfield Common Reading	21/04/2012	S
Mr Jason Chamberlin	24 Auclum Close Burghfield Common Reading RG7 3DY	21/04/2012	S
Mr David Simpson	25 Majors Loan Falkirk FK1 5QG	22/04/2012	S
Mr Andrew Carnduff	29 Hawkcraig Road Aberdour, Fife Burntisland KY3 0XB	23/04/2012	S
Mr Alex Leeson	29 Maple Drive Lincoln LN5 9NS	21/04/2012	S
Mr James Loxham	3 High Waterhead Coniston Cumbria LA21 8AH	23/04/2012	S
Mr James Loxham	3 High Waterhead Coniston Cumbria LA21 8AH	23/04/2012	S

Mr Adrian Lauder	3 Kiel Croft Benderloch Oban PA37 1QS	22/04/2012	S
President British Marine Federation Scotland	3/7, 354 Meadowside Quay Walk Westgate Glasgow G11 6ED	21/04/2012	S
Secretary Scottish Boating Alliance	3/7, 354 Meadowside Quay Walk Westgate Glasgow G11 6ED	21/04/2012	S
Mr Ken Munn	32 Arlington Gardens London W4 4EY	22/04/2012	S
Dr David Vass	33 Ochloch Park Dunblane FK15 0DX 33 Temple Road Dorridge Solihull	25/04/2012	S
Mr Richard Power Mr James Henderson	B93 8LE 35 Wentworth Avenue Leeds LS17 7TN	22/04/2012	S
Robin Wills	40 Shaftesbury Way Strawberry Hill Tickenham London	27/04/2012	S
Robin Wills	40 Shaftesbury Way Strawberry Hill Twickenham London	26/04/2012	S
Mr Colin McEwen	42 Mandeville Rd Canterbury CT2 7HD	21/04/2012	S
Mr David White	42 Stoke Park Road Bishopstoke Eastleigh SO50 6BZ	23/04/2012	S
Mr Douglas Marke	43 Croft Rise Nottingham NG13 8PS	21/04/2012	S
Dr Ken McCulloch	47 Lilyhill Terrace Edinburgh EH8 7DR	21/04/2012	S
Mr Roy Ryder	47 Rostherne Close Warrington WA5 1BW	25/04/2012	S
Mr James Heward	5 Benvoullin Gardens Oban PA34 5DL	21/04/2012	S
Mr J H (Ian) Wallace	5 Creran Gardens Oban PA34 4JU	23/04/2012	S
Mr Neil Mcdonald	5 Kinloch Park Clathymore Perthshire PH1 1WR	21/04/2012	S
Mr Wil Bailey	5 warminster road monkton combe bath ba2 7hz	21/04/2012	S
Mr Alastair Pugh	6 Observatory Road Edinburgh EH9 3HG	22/04/2012	S
Miss Fran McCloskey	66 Lorn Road Oban PA371QQ	22/04/2012	S
Mr David Warburton	7 Caddon Haugh Clovenfords	22/04/2012	S

Mr Simon Beveridge	Galashiels TD1 3LE 7 Cross Strett Southport Merseyside		
Mr Donald MacDonald	PR8 1HZ 7 Dean Crescent Riverside Stirling	22/04/2012	S
Mr Simon Eves	FK8 1UT 71 Woodside Drive Waterfoot Glasgow	25/04/2012	S
Mr Ashley Smith	G76 0HD 72 Glen Shee Avenue Neilston Glasgow	21/04/2012	S
Mr Richard Scott	G78 3QB 8 Baycroft Strachur Cairndow	22/04/2012	S
Dr Robin Drysdale	PA27 8BW 8 Chapelton Avenue Bearsden Glasgow	23/04/2012	S
Mr Ian Houston	G61 2RE 8 Manor Forstal New Ash Green Longfield	21/04/2012	S
Mr Paul Surtees	DA3 8JG 86 St Mary Street Kirkcudbright	22/04/2012	S
Mr Calum MacLachlainn	DG6 4EJ 8A Baliscate Tobermory	22/04/2012	S
Mr Russ Johnston	PA75 6QA 9 Bay Willow Court Cambuslang	23/04/2012	S
Mr Eddie Crawford	G72 7AD 93 Bonhill Road Dumbarton	21/04/2012	S
Mrs Tove Knight	G82 2DU Achavraid Clachan Tarbert	21/04/2012	S
Mr Andy Carter	PA29 6XN Aird Dell Farrl Inverness	23/04/2012	S
Ms Jenifer Moffat	IV2 6XG Airdeny Chalets Taynuilt	22/04/2012	S
Mr Rocyn Williams	PA35 1HY All Saints' Rectory Park Street Lydd	22/04/2012	S
Mr Robin Marshall	TN29 9AY Allt Mhaluidh Glenview Dalmally	21/04/2012	S
Mr John Cooper	PA33 1BE Am Fasgadh Ardentallen Oban	22/04/2012	S
Mr Stephen Pickles	PA34 4SF An Teallach Jerviswood Drive Cleghorn	23/04/2012	S
Mr Twig Olsen	ML11 7RT Ardchuan Taynuilt	23/04/2012	S
		26/04/2012	S

Mr Murray MacDonald	PA351HY Ardura Duncraggan Road Oban		
Mr John Maclean	PA34 5DU Aros Ard Croft Road Oban	22/04/2012	S
Mr David Walter	PA34 5JN Balthayock By Perth	21/04/2012	S
Mr Simon MacLellan	PH2 2LG Bracarina House Invermoriston	23/04/2012	S
Mr Ian Ross	IV63 7YA Brick Kiln Farm Brewers Lane, West Tisted Alesford	22/04/2012	S
Mr R Maclaurin	SO24 0HH Broomfield Benderloch	22/04/2012	S
Mr Norman Smith	PA37 1SA c/o Creran Marine Barcaldine Nr Oban	01/05/2012	S
Mr Colin Crawford	PA37 1SG Cairnmore Rowan Road Oban	21/04/2012	S
Mr Gordon MacIntyre	PA34 5TY Caolas North Ballachulish Fort William	23/04/2012	S
Mr Robin Hall	PH336RZ Cherrycroft Liphook Road Headley, Bordon	26/04/2012	S
Mr William Oliver	GU35 8LL Cladach Ardlarach Road Ardfern	22/04/2012	S
Mr Struan Smith	PA31 8JA Coastal Connection LLP Shiol, Lerags Oban	21/04/2012	S
Mr James Battison	PA34 4SF Cologin Lerags Glen Oban	22/04/2012	S
Mrs Linda Battison	PA34 4SE Cologin Lerags Glen Oban	22/04/2012	S
Mr Michael Lewin-Harris	PA34 4Se Conquest Farm Norton Fitzwarren Taunton	22/04/2012	S
Dr Ernest Armstrong	TA 2 6 PN Craiglora Connel Oban	22/04/2012	S
Mr Mark Turnbull	PA37 1PH Creag an Tuirc House Balquhidder Lochearnhead	22/04/2012	S
Mr Paul Tucker	FK19 8NY Davaar West Aands North Queensferry Fife	23/04/2012	S
		21/04/2012	S

Mr Robert Lewis MacLean	Duart House West Tirindrish Spean Bridge PH34 4EU	13/04/2012	S
Mr Iain Saunders	Duine Ardfern PA31 8QN	22/04/2012	S
Mr Andrew Knox	Eilean Mor Oakfield Road Ardrishaig PA30 8EE	22/04/2012	S
Mrs Ruth Knox	Eilean Mor Oakfield Road Ardrishaig PA30 8EE	22/04/2012	S
Mt Kenneth MacColl	Flat 2L, 24 Alexandra Place Corran Esplanade OBAN, Argyll PA34 5PU	21/04/2012	S
Ms Alison Chadwick	Ganavan House Ganavan Oban, Argyll PA34 5TU	23/04/2012	S
Alastair Currie	Gilnockie 21 Edinburgh Road Biggar ML12 6AX	30/04/2012	S
Mr Graeme Strachan	Glenburnie Corran Esplanade Oban Argyll And Bute PA34 5AQ	22/04/2012	S
Mr Ralph Leishman	High Tower Lochwinnoch Road Kilmacolm PA13 4DU	21/04/2012	S
Mr. Eddie Palmer	Hillhead North Mains of Kinnettles Forfar DD8 1XF	20/04/2012	S
Mr Philip Siddall	Inniveagh, Breadalbane Street Tobermory Isle of Mull PA75 6PX	22/04/2012	S
Mr Ewan Kennedy	Kinloch Degnish Road Kilmelford PA34 4XD	22/04/2012	S
Mr David Sillar	Knock Cottage Lochgair Lochgilphead PA31 8RZ	21/04/2012	S
Mr Colin Mossman	Lagnakeil Lodges Lerags Oban PA34 4SE	21/04/2012	S
Dr Alan Drayson	Loakmill Steading Bankfoot Perth PH1 4EB	21/04/2012	S
Mr Colin Craig	Markland Kilkerran Road Campbeltown PA28 6JL	23/04/2012	S
Mr Peter Hutchison	Monkrigg Garden Cottage Haddington EH41 4LB	21/04/2012	S
Mr Hugh Kilpatrick	Monzievairst House Crieff PH7 4JX	22/04/2012	S
Mr Robert Kincaid	Mount Stuart Gallanach	29/03/2012	S

Mr Keith McMillan	Oban PA34 4QJ Mull Terrace Soroba Oban		
Mr. Robert Clement	PA34 4YB Number 10, Letterwalton Benderloch Oban	21/04/2012	S
Mr John Milloy	PA37 1SA Old Schoolhouse Logie Durno Pitcaple	19/04/2012	S
Mr Boyd Holmes	AB51 5EJ Old Vicarage Hayton Brampton	21/04/2012	S
Mr William Hogg	CA8 9HR Oriol House Leigherton Tetbury	21/04/2012	S
Mr Tony Hill	GL8 8UW Seafari Adventures (Oban) Easdale Oban	21/04/2012	S
Mr Ferguson Anderson	PA34 4RF Seaview Tayvallich Lochgilphead	26/04/2012	S
Mr Owen Maze	PA31 8PJ Sheigra 27 Aitken Street Airdrie	30/04/2012	S
Mr Tim Bleazard	ML6 6LT	21/04/2012	S
Mr Michael Rodgers	Sonas Dalmally PA33 1AE South Flobbets Croft St Katherines Inverurie	22/04/2012	S
Mr Ian D Gibson	AB51 8SS Strontoiller Schoolhouse Glen Lonan Oban	22/04/2012	S
Mr Eric Chapman	PA34 4QE Suilven 58 Nant Drive Oban	23/04/2012	S
Mr Robert Sweetman	PA34 4NL Taigh Mohr Kilmartin Lochgilphead	23/04/2012	S
Mr Roger Woodford	PA31 8RQ The Boathouse Crinan Harbour Lochgilphead	22/04/2012	S
Mr David Wheatley	PA31 8SW The Castle Isle of Whithorn Newton Stewart	21/04/2012	S
Captain Norman Martin	DG8 8LP The Longhouse Glenmore Oban	21/04/2012	S
Mr Neil Cameron	PA34 4PG The Moorings Camusnagaul, Treslaig Nr Fort William	24/04/2012	S
	PH33 7AJ	24/04/2012	S

Mrs Jeanne Carss	The Moorings Old Shore Road Connel PA37 1PT	19/04/2012	S
Mr Joey Gough	The Old Railway Station Duror Appin PA38 4BW	25/04/2012	S
Mrs Etonella Christlieb	The Pier Melfort Pier & Harbour Killmelford PA344XD	21/04/2012	S
Mr Alistair Nicol	The Pines North Connel Oban PA37 1QX	21/04/2012	S
Professor Toby Sherwin	The Tarns 8 Badlacr Hill Dawlish EX7 9AY	22/04/2012	S
Prof. Colin Davidson	Tigh nan Eilean ARDFERN Lochgilphead PA31 8QN	13/04/2012	S
Mr Nevin Blackwood	Torren Aredconnel Hill Oban PA34 5DY	26/04/2012	S
Mr Michael B Balmforth	Westgate, Toward Westgate Dunoon PA23 7UA	21/04/2012	S

APPLICATION SITE



220 Meter



Committee Plan Relative to Planning Application 12/00678/PP



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Argyll and Bute Council
Development and Infrastructure

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: 12/00703/PP

Planning Hierarchy: Local Development

Applicant: Argyll and Bute Council

Proposal: Erection of Single Storey Extension and Formation of Secure Play Area

Site Address: Park Primary School, Kerrera Terrace, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of single storey extension
- Formation of secure play area

(ii) Other specified operations

- Alterations to existing internal layout
 - Connection to public water main
 - Connection to public drainage system
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted as a 'minor departure' to the provisions of the development plan, subject to the conditions and reasons appended to this report.

(C) HISTORY:

No recent relevant history.

(D) CONSULTATIONS:

Area Roads Manager

Report dated 15/05/12 advising no objection to the proposed development.

Scottish Water

Letter dated 15/05/12 advising no objection to the proposed development but providing advisory comments for the applicant.

Environmental Health Unit

Memo dated 22/05/12 raising no objection but advising they have contacted the applicant directly regarding further details required for their purposes regarding food safety etc for the proposed kitchen facilities within the pre-five unit.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 31/05/12.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(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 e.g. 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

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 19 – Development Setting, Layout and Design

LP COM 1 – Community Facility Development

LP REC 2 – Safeguarding of Recreational Land and Important Open Spaces

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)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	Yes
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The school is in the ownership of Argyll and Bute Council.

(O)	Requirement for a hearing:	No
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(P) Assessment and summary of determining issues and material considerations

This application seeks planning permission for the erection of an extension to the rear elevation of Park Primary School, Oban.

In terms of the adopted 'Argyll and Bute Local Plan' the site is located within the Settlement Zone of Oban where Policy STRAT DC 1 of the approved 'Argyll and Bute Structure Plan' gives encouragement within the main towns to development serving a wide community of interest.

The proposal involves the erection of a single storey extension to the north elevation of the school with a floor area of approximately 125 square metres. The extension will provide a pre-five unit with secure play area and one additional classroom. The extension is a simple flat roofed structure finished in vertical timber cladding with a single ply membrane roof. It is considered that the proposed extension is of a suitable scale and design which will not detract from the character of the existing school building and will not be prominent when viewed from any public vantage point. In order to accommodate the proposed extension, minor changes to the internal layout, are proposed.

As the site is in long term educational use incorporating associated sports facilities, part of the site has been designated by the local plan as an Open Space Protection Area where physical development is generally resisted by virtue of the effect of Policy LP REC 2, except where the development of part of a designated site would not compromise its sporting potential or its amenity value.

In this case, the proposed extension is required to support the expansion of the school to provide a pre-five unit with secure play area and one additional classroom. The extension is to be located to the rear of the existing school building where it will result in the loss of a small area of ground currently used as playground facilities, but will not impact on the sports pitch.

In support of the application, Community Services have advised that the school currently has 6340 square metres of available playground which will reduce to 6215 square metres as a result of the proposed extension. They further advise that the design capacity for the school is 264 pupils with the new roll (including pre-5 intake) proposing 258 pupils. The Education Department has advised that there is no policy in place setting the level of playground space which should be provided to serve the school.

Given the requirements of the school to make provision for pre-five education facilities, and the minimal area of playground that will be lost to the proposed extension, it is considered that the proposal can be supported as a 'minor departure' to Policy LP REC 2, in order to help the adaptation of the school to meet the needs of the wider community. This conclusion has regard to the fact will be no material detriment to the availability of external areas to serve the operational needs of the school and that there will be no adverse amenity consequences as a result of what will be a minor incursion of development into the area of protected open space.

The application indicates water and drainage via connection to the public systems to which Scottish Water has raised no objection. The proposal is therefore acceptable under Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why planning permission should be granted

It is considered that the proposed extension is of a suitable scale, form and design which will not detract from the setting of the existing school building and there are no infrastructure constraints which would preclude the proposed development.

The proposal accords with Policies STRAT DC 1 of the approved Argyll and Bute Structure Plan and Policies LP COM 1, LP ENV 1, LP ENV 19 and can be justified as a 'minor departure' from Policy LP REC 2 as the loss of a small part of a playground

included will not be of material detriment to the availability of external areas to serve the operational needs of the school and there will be no adverse amenity consequences as a result of what will be a minor incursion of development into the area of protected open space

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

The proposed extension is required to allow the school to make provision for pre-five education facilities to help support the local community. Given the minimal area of playground that will be lost to the proposed extension, and given that there is no suitable alternative location for the proposed extension, it is considered that the wider community benefits in the adaptation of the school facilities to meet current needs outweighs the incursion into an open space protection area, and accordingly the proposal may be accepted 'minor departure' to the effect of policy LP REC 2 of the 'Argyll and Bute Local Plan' (2009).

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

Author of Report: Fiona Scott **Date:** 31/05/12

Reviewing Officer: Richard Kerr **Date:** 31/05/12

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 12/00703/PP

1. No development shall commence on site until full details of all external finishing materials have been submitted and approved in writing by the Planning Authority. Thereafter the development shall be implemented in accordance with the duly approved details.

Reason: In the interests of visual amenity to ensure the proposed extension integrates with its surroundings.

2. The development shall be implemented in accordance with the details specified on the application form dated 28/03/12 and the approved drawing reference numbers:

Plan 1 of 7 (Drawing Number L(00)001)
Plan 2 of 7 (Drawing Number L(00)002)
Plan 3 of 7 (Drawing Number L(00)003)
Plan 4 of 7 (Drawing Number L(00)003)
Plan 5 of 7 (Drawing Number L(00)004)
Plan 6 of 7 (Drawing Number L(00)005)
Plan 7 of 7 (Drawing Number D(9-)001)

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 (as amended).

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

NOTE TO APPLICANT

- **Length of this planning 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)].
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), 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 (as amended) 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 TO DECISION APPROVAL NOTICE

Appendix relative to application 12/00703/PP

- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B)** Has the application been the subject of any non-material amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

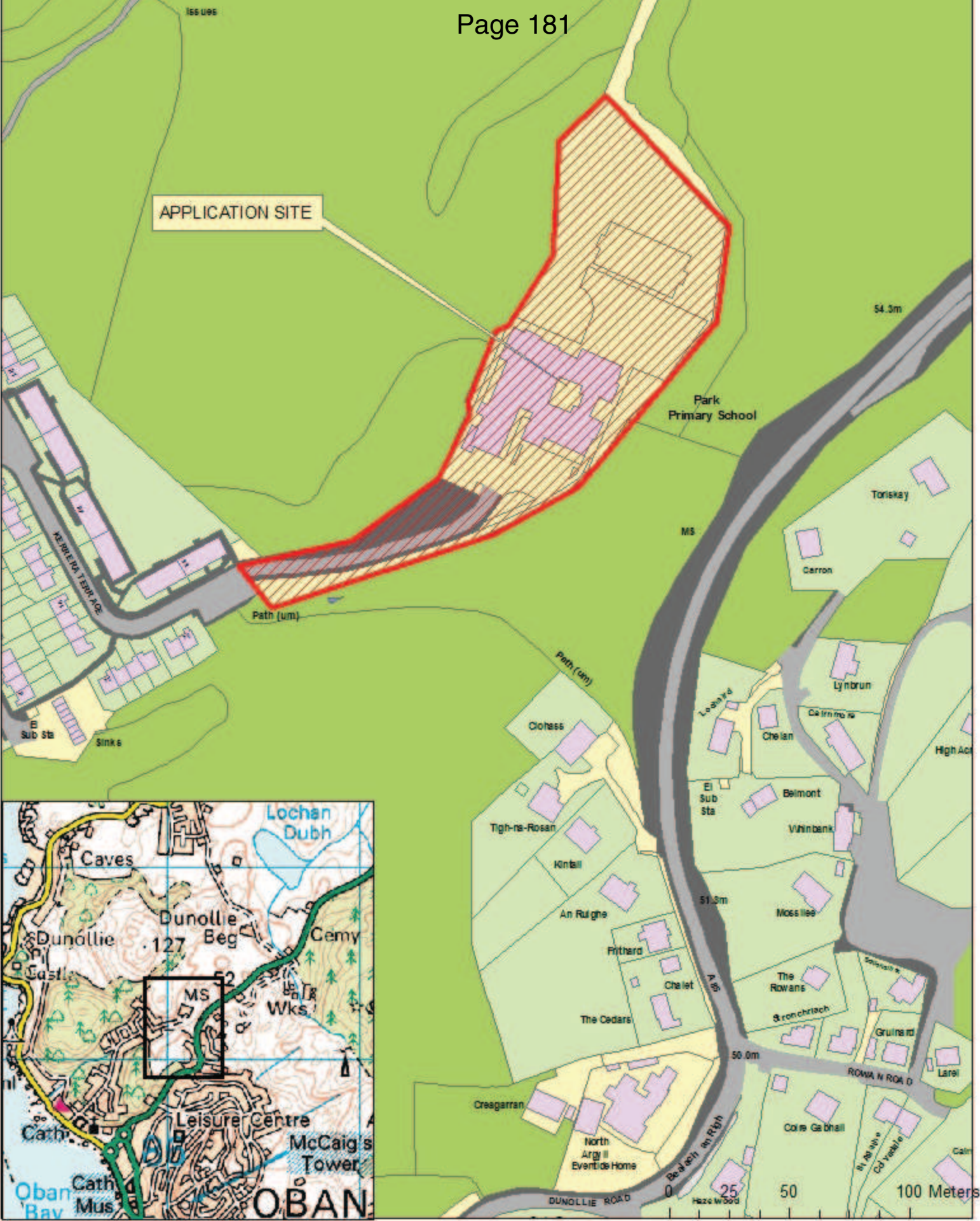
- (C)** The reason why planning permission has been approved.

It is considered that the proposed extension is of a suitable scale, form and design which will not detract from the setting of the existing school building and furthermore there are no infrastructural constraints which would preclude the proposed development.

The proposal accords with Policies STRAT DC 1 of the approved Argyll and Bute Structure Plan and Policies LP COM 1, LP ENV 1, LP ENV 19 and can be justified as a 'minor departure' from Policy LP REC 2 as the loss of playground is a small part of a wider proposal to support the ongoing growth and needs of the school.

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APPLICATION SITE



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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: 12/00716/PP

Planning Hierarchy: Local application.

Applicant: Mr P Ellis

Proposal: Erection of single storey extension (retrospective)

Site Address: 5 Cammesreinach Crescent, Hunter's Quay, Dunoon

DECISION ROUTE

(i) Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of single storey rear extension

(ii) Other specified operations

- Upfilling of land to achieve level access;
 - Formation of a vehicular driveway and concrete hard standing;
 - Installation of site drainage.
-

(B) RECOMMENDATION:

It is recommended that Planning Permission be granted subject to the condition and reason listed in the report.

(C) HISTORY:

10/02078/PP – erection of extension and alterations to dwellinghouse. The extension was shown as 20.5sq.m situated 1m from the boundary with 7 Cammesreinach Crescent. Applicant advised 5 January 2011 that extension represented 'permitted development'.

(D) CONSULTATIONS:

Area Roads Manager – Response 11.04.12, No objections.

(E) PUBLICITY: None required

(F) REPRESENTATIONS:

One letter of objection has been lodged by Mr Rai Barbour, 7 Cammesreinach Crescent, on the following main grounds:

- The architect's plans are inaccurate. The building height and proximity to boundary are not accurately depicted on the architectural drawings;

Comment: This has been rectified by way of amended drawings which do reflect the location and size of the extension as built.

- The extension has involved land raising which is causing water run-off onto the objector's property. The applicant has also connected his roof drainage to the objector's rainwater goods without the consent of the adjoining proprietor;
- The height and massing of the extension overshadows the objector's property.

Comment: The response to these points is outlined in the assessment 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:** No
 - (iii) **A design or design/access statement:** No
 - (iv) **A report on the impact of the proposed development e.g. 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 Local Plan' 2009

Policy LP ENV1 – Impact on the General Environment
Policy LP ENV 19 – Development Setting, Layout and Design
Policy LP HOU 5 LP HOU 5 – House Extensions
Policy LP ENF 1 – Enforcement Action

(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 and Bute Council Local Plan - Appendix A;
- Letter from Occupational Health in support of development;
- 'Permitted development' rights.

(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:** Yes – financial grant award.

(O) **Requirement for a hearing (PAN41 or other):** No

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

Background

The application property is a single storey semi-detached bungalow situated on Cammesreinach Crescent, Hunter's Quay. The surrounding area is mainly characterised by similar residential properties. The land to the north of the application site is a small chalet park.

Retrospective planning permission is sought for a large (4.78m x 4.43m) single storey rear extension and other operations to provide level access and adapted accommodation. The extension accommodates a large wet room (bathroom) and mobility equipment. The extension is located on the northern (rear) elevation of the property. It is of flat roof construction involving roof alterations to the original building. The rear and side gardens have undergone partial upfilling and grading to achieve level access and a substantial area of concrete hard standing has been formed for the parking and manoeuvring of motor vehicles. The applicant has submitted a supporting letter from an Occupational Health worker outlining the applicant's medical condition and the need for the adaptation. The applicant's personal circumstances and need for the adapted accommodation is accepted.

Construction of the extension commenced in October 2011. However, following receipt of a complaint in March 2012, an inspection revealed that the extension had been built approximately 0.5m higher than had been shown at the time the proposal had been assessed to be 'permitted development' and with its flat roof cut into the rear roof slope of the property. By introducing an alteration to the existing roof, the extension therefore required planning permission under the Town and Country Planning (General Permitted Development (Scotland) Order) 1992, which was in effect at that time.

Whilst revised 'permitted development' rights introduced from 6th February 2012 would permit the alteration to the roof, the extension would still require planning permission because of other changes to the legislation, principally by exceeding a new definition of

height to eaves (limited to 3 metres) and by exceeding a 4 metre projection within 1 metre of the common boundary.

The works to the driveway and hardstanding commenced in December 2011 and are deemed to be 'permitted development' under Class 4 of the General Permitted Development (Scotland) Order 1992 - in force at the time the works were commenced.

Policy Assessment

Policy LP HOU 5 'House Extensions' supports house extensions where they cause no significant detriment to the building, the neighbours or the immediate vicinity, provided they comply with the relevant siting and design principles as set out in Appendix A, and also satisfy the following considerations:

- (a) Extensions should not dominate the original dwelling by way of size, scale, proportion or design;

Comment: The rear extension exceeds 'permitted development' limits. The extension is necessarily large in order to fulfil its function to provide adapted living accommodation to meet the special needs requirements of the occupier. As a consequence, the extent of under building and the height of the extension is of significance in terms of the presence of the extension on the boundary with the attached bungalow. However, the impact is restricted to the rear of the property and given the extension only marginally exceeds what could be constructed without planning permission by virtue of 'permitted development' rights, it is not considered that the additional scale is such as to render the development unacceptable. .

- (b) External materials should be complementary to the existing property;

Comment: The external walls are to be finished to match the existing property

- (c) Extensions should not have a significant adverse impact on the privacy of neighbours, particularly in private rear gardens;

Comment: There is no window opening facing the neighbouring property, so privacy will not be diminished.

- (d) Flat-roofed extensions and multiple dormer window extensions which give the appearance of a flat roof will not be permitted where they do not complement the existing house style and design.

Comment: The attached property already has a single storey flat roofed extension attached to its gable end, so there is a precedent for flat roofed extensions on this pair of bungalows. Given that the extension for which permission is being sought is at the rear of the building, it does not have implications for the wider area in the way that an extension visible from the front of the property might.

Appendix A further advises that "Approval will not be granted where the siting and scale of the extension significantly affects the amenity enjoyed by the occupants of adjoining properties taking into account sunlight, daylight and privacy."

Loss of privacy is not an issue in this case. The massing and height of the new extension at 3.65m measured at its highest point where closest to the mutual boundary with No 7 Cammesreinach Crescent is not ideal. The presence of the extension in proximity to the boundary with the attached bungalow will necessarily have some impact upon the neighbour's north facing rear bedroom window and patio, but that impact is not judged to be so significant as to warrant refusal of the application, particularly given the marginal difference between what could be constructed without the need for planning permission. .

Drainage

There will be some natural water run-off from the application site towards the objector's property due to ground level difference. However, a large extent of the application site is now under hard standing and the ground water run-off is captured and taken to the surface water drainage system. This should not present a significant risk to the objector's property providing the existing drainage arrangements are appropriately sized to accept the discharge from the additional roof area and hard standing surface. Building Standards have inspected and passed the construction, including underground drainage.

The roof drainage now partially discharges to the adjoining property's rainwater goods. The right to oversail or make connection to services located in another property is a civil and not a planning matter.

Other Material Considerations

'Permitted Development' - As set out above, the extension could have been completed as "permitted development" but for the 0.5m increase in height introduced during the course of construction. Under new 'permitted development' regulations introduced recently, the extension could also be constructed without the need for planning permission with only slight reductions in external dimensions.

Adapted Living - The extension and other operations are required to provide level access and adapted accommodation to meet the applicant's health needs. The alterations from the original design were necessary to achieve a level floor plan and to bring the driveway and hard standing finished level up to finished floor level to achieve level access.

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

(R) Reasons why Planning Permission should be granted

The development is only marginally beyond limits which would have rendered it exempt from the need to obtain planning permission by virtue of the operation of 'permitted development' rights. Having regard to the scale and height of the extension and its proximity to the boundary, and balancing any loss of amenity to the neighbouring property against the special accommodation requirements of the applicant, it is considered that notwithstanding the views expressed by a third party, there are no justifiable reasons for withholding planning permission in the particular circumstances of the case.

(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: Martin Hannah Date: 15 June 2012

Reviewing Officer: David Eaglesham Date: 15 June 2012

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

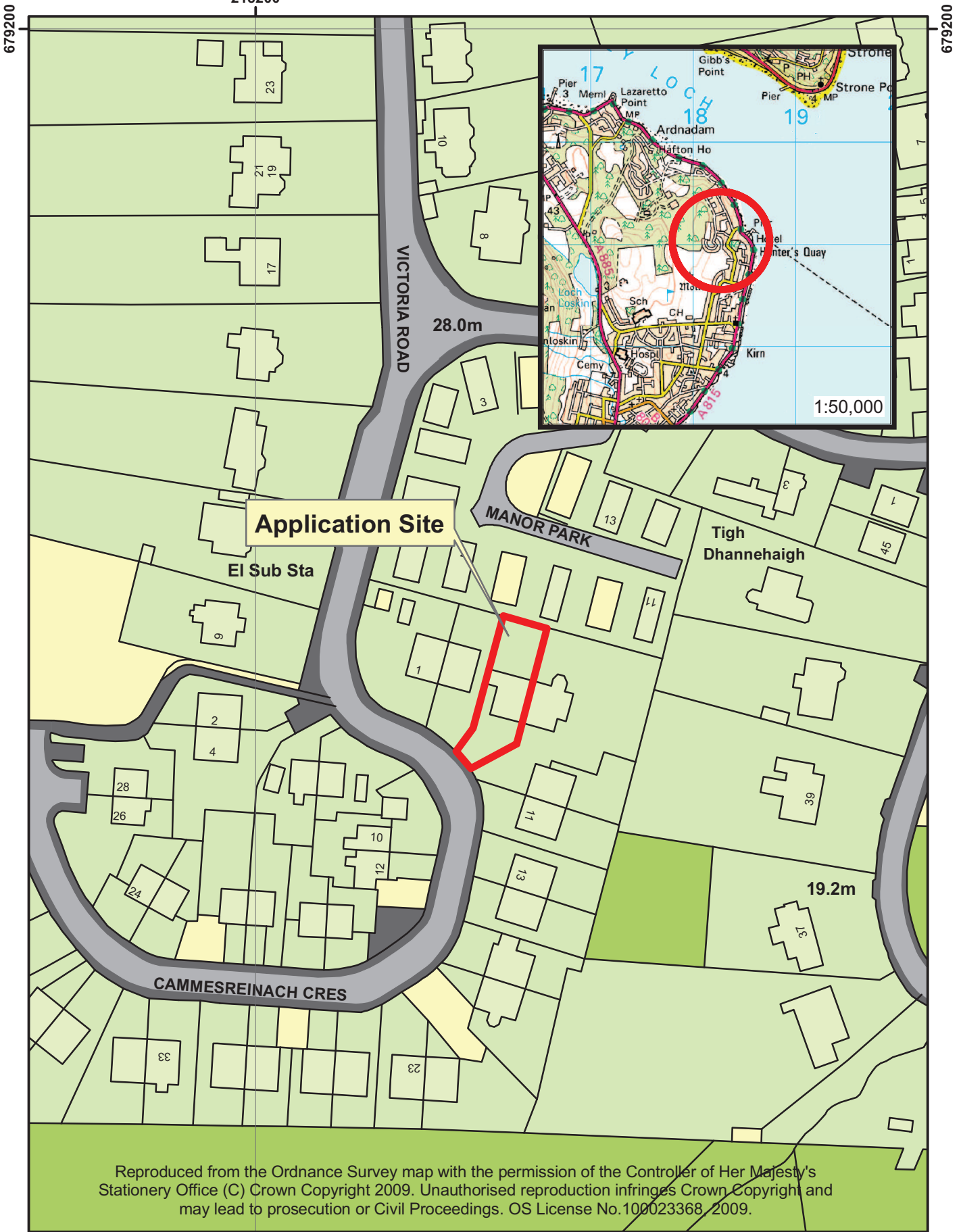
CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO 12/00716/PP

1. The development shall be implemented in accordance with drawing numbers 1655-04A and 1655-05 and stamped as approved by Argyll and Bute Council as the Planning Authority.

Reason: To define the terms of the permission and to ensure that the development is implemented in accordance with the approved details.

NOTES TO APPLICANT

1. 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.
2. It may be necessary to reach agreement with neighbouring proprietors for certain features of the development. This grant of planning permission should not be taken to imply that such agreement will necessarily be given.
3. Full implementation of this planning permission will regularise a breach of planning control. Failure to implement this planning permission in accordance with the approved plans as required by condition 1 above may result in Enforcement action by the Council as Planning Authority.



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**Location Plan relative to
Application Ref: 12/00716/PP**

Date: 12.06.12

Scale: 1:1,250



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Argyll and Bute Council
Development and Infrastructure

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: 12/00834/PP

Planning Hierarchy: Local Development

Applicant: Mr and Mrs Shaun Bate

Proposal: Erection of Dwellinghouse
(Renewal of Planning Permission 07/00279/DET)

Site Address: Land South of Heatherfield, Albert Road, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwellinghouse
- Upgrade/amendment of existing vehicular access

(ii) Other Operations

- Connection to public drainage system
 - Connection to public water supply
-

(B) RECOMMENDATION:

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

(C) HISTORY:

12/00368/PP

Erection of dwellinghouse (renewal of 07/00279/DET) – Withdrawn: 20/04/12, to be replaced with current application, as site boundary required amendment to accurately reflect details granted planning permission under 07/00279/DET.

07/00279/DET

Erection of dwellinghouse (renewal of 01/00706/DET) - Granted: 20/04/07

01/00706/DET

Erection of dwellinghouse – Granted: 03/07/02

(D) CONSULTATIONS:

Area Roads Manager

Report dated 15/05/12 advising no objection to the proposed development subject to a condition regarding parking and turning arrangements and also advising that the existing Section 75 Agreement should remain in force.

The Section 75 referred to was concluded as part of the original planning application and removed the use of Heatherfield House as a restaurant. This ensured that the volume of vehicular traffic accessing the site would be significantly reduced and the introduction of one dwellinghouse would not represent an intensification of use of the established access. The Section 75 Agreement remains in effect.

Scottish Environment Protection Agency

Letter dated 17/04/12 reiterating the advice in their previous response to application 12/00368/PP that they have no site specific advice but direct the agent to their Technical Guidance Note: On-site Management of Japanese Knotweed.

Scottish Water

Letter dated 27/04/12 advising no objection to the proposed development but providing advisory comments for the applicant.

West of Scotland Archaeology Service

Letter dated 17/04/12 advising no substantive archaeological issues raised by the proposed development.

Oban Airport

No response at time of report and no request for extension of time.

Horticultural Officer

E-mail dated 04/05/12 advising no objection to the proposed development but highlighting that Japanese Knotweed is present on the site.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 17/05/12.

(F) REPRESENTATIONS:

9 representations have been received regarding the proposed development:

Mr G. D. Bell, Heatherfield House, Albert Road, Oban, PA34 5EJ (02/05/12)
Mrs S. E. Bell, Heatherfield House, Albert Road, Oban, PA34 5EJ (04/05/12)
Mr D. G. Creese, Heatherfield House, Albert Road, Oban, PA34 5EJ (23/04/12)
Mr Terry Just, 126b George Street, Oban, PA34 5NT (01/05/12)
David Maclachlan, 126 George Street, Oban, PA34 5NT (02/05/12)

The above letter from Mr Maclachlan has been reproduced and endorsed with the following signatures:

Craig McLachlan
Jacquiline McLachlan
Doreen Maclachlan
Mark Penrose

(i) Summary of issues raised

- At the time of the previous planning permission, the site was in the ownership of Heatherfield House. This is now not the case and this change in ownership is a material consideration in the determination of this current planning application.

Comment: The change in land ownership is not a material consideration in the determination of this planning application.

- The development site has no vehicular access with the applicant only having a servitude right to cross the existing access serving Heatherfield House. This area cannot be obstructed.

Comment: This is a private matter between the relevant parties. Any obstruction to the access would be a private civil matter between the parties. Should obstruction of the public road become an issue, this would be a matter for the police. Improvement and upgrading of the access to form a shared access is part of the previous approval and these details have not changed. The securing of the required legal rights to access a site is a separate civil matter outwith the planning remit. If such rights are not available and cannot be secured, then those persons controlling the access would be in a position to frustrate the implementation of the development, irrespective of any planning permission given.

- Road safety issues regarding the proposed development

Comment: The Area Roads Manager was consulted on the proposed development and raised no objection. In his response he has highlighted that due to the poor visibility, the Section 75 Agreement preventing the restaurant at Heatherfield House re-opening should remain in force. (This relates to an Agreement concluded prior to the original 2001 consent being issued). The effect of the Agreement is that the use of the access would not increase as a result of a single additional house. The agreement is a title burden which transfers with the ownership of the land, so is of effect in respect of successive owners and not just the party with whom the agreement was concluded.

- In order to achieve the required visibility splays, the garden wall of 126 George Street, Oban would require to be removed.

Comment: The Area Roads Manager was consulted on the proposal and sought no requirement for the removal of the wall to achieve visibility. The poor visibility was addressed in a previous Section 75 Agreement which prevented the Heatherfield Restaurant coming back into use, thus reducing the volume of traffic utilising this road. This is a historic access where the Area Roads Manager was satisfied regarding the intensity of use of the access. This formed the basis on which the details were granted in 2001 and 2007.

- Japanese Knotweed is present on site.

Comment: The Scottish Environment Protection Agency was consulted on this matter. In their response they advise that they have no site specific advice but direct the agent to their Technical Guidance Note: On-site Management of Japanese Knotweed. A condition is recommended requiring the submission of a Japanese Knotweed Eradication Plan for the site.

- Unauthorised gabion baskets and fill material await removal from this site.

Comment: This is noted and is currently being pursued by Building Standards. Planning enforcement powers would also be potentially available but it is not appropriate to deploy these whilst the Council is addressing the matter using other powers. This is a separate matter from the renewal application in hand and is being pursued irrespective of the planning decision.

These works do not form a lawful part of the works associated with 07/00279/DET because the developer did not satisfy a pre-start planning condition attached to that consent. If he had discharged the condition and had made a meaningful start lawfully on the development, planning permission 07/00279/DET would remain live in perpetuity and there would be no need to seek a renewal of that permission.

- The original application stated that the site had 8 existing on-site parking spaces and proposed an additional 2. However, the 8 spaces belonged to Heatherfield House and were not included within the development site. This current application only proposes 4 parking spaces which is not possible.

Comment: The original applicant owned the house application site and the guest house, and as such, when he completed the application form, certified that the site contained 8 existing spaces with two additional spaces proposed for the new house. The original 2001 consent was amended in 2007 when planning permission was again given for a house, with an adjusted shared access, and on-site parking and turning. The current application seeks to renew the details granted planning permission in 2007. The current applicant does not own both properties, so it is not appropriate to detail the 8 guest house spaces when certifying the parking spaces, as existing or as proposed, within the site. In the application, the agent confirms that 4 spaces are to be provided as part of the development proposed.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(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 e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
-

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:**

No, although an existing Section 75 agreement is in effect and will remain as such

- (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

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)

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

Appendix C – Access and Parking Standards

- (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)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

(K)	Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:	No
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(L)	Has the application been the subject of statutory pre-application consultation (PAC):	No
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(M)	Has a sustainability check list been submitted:	No
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(N)	Does the Council have an interest in the site:	No
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(O)	Requirement for a hearing:	No
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(P) Assessment and summary of determining issues and material considerations

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 3 July 2002, which was subsequently renewed under planning permission 07/00279/DET on 20 April 2007 and which remained live until 20 April 2012. In planning terms, that permission could have been lawfully commenced, subject to the satisfaction of a pre-start condition requiring approval of a roof finish sample, at any time up to and including 20th April 2012.

This application represents a timeous renewal of the previous permission as it was validly submitted prior to the expiry of the 2007 consent.

In the consideration of this renewal, it is necessary to make an assessment as to whether there has been a material change in circumstance since the time of the previous approval. Since 2007 there has been a change of Local Plan with the Argyll and Bute Local Plan being adopted in 2009, however, the main policy background within this area remains unchanged and it is supportive of the principle of residential development within the settlement. There have been no material changes in circumstances in the surrounding area since the last permission was granted.

No changes are proposed to the previously approved design, scale, access or servicing arrangements and therefore, taking into consideration the above, it is considered that there has been no material change of circumstances in policy terms, in the locality or in the proposal details since the original planning permission was granted.

Accordingly, subject to the conditions appended to this report, there are no objections to a further planning permission being granted. The conditions must replicate those attached to 07/00279/DET and it is recommended that additional conditions be imposed relative to the more recent issue concerning appropriate eradication of non-native and invasive Japanese Knotweed.

(Q)	Is the proposal consistent with the Development Plan:	Yes
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(R) Reasons why planning permission should be granted

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 03/07/02, and then by planning permission 07/00279/DET on 20/04/07. This current application represents a timeous renewal of the previous permission.

The dwellinghouse proposed is considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates with its landscape setting and furthermore there are no infrastructural constraints which would preclude the development of this site.

The proposal accords with Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 19, LP HOU 1, LP TRAN 4 and LP TRAN 6 of the adopted 'Argyll and Bute Local Plan' and there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development 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: Fiona Scott **Date:** 28/05/12

Reviewing Officer: Stephen Fair **Date:** 28/05/12

Angus Gilmour
Head of Planning and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 12/00834/PP

1. No development shall commence on site until full details of a scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Planning Authority. The scheme shall include a timetable for implementation and clearly identify the extent of the Japanese Knotweed on a scaled plan.

Reason: To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-native invasive species through development works.

2. No development shall commence on construction of the dwellinghouse until the approved scheme and timetable for the eradication of Japanese Knotweed referred to in condition 1 above have been implemented in full, and a validation report confirming details the remediation treatment carried out and that the site is free of Knotweed has been submitted to and approved in writing by the Planning Authority.

Reason: To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-native invasive species through development works.

3. No development shall commence on site until full details, including a sample, of the proposed roof covering has been submitted for the written approval of the Council as a Planning Authority. Such details shall show natural slate or a good quality slate substitute.

Reason: In the interests of visual amenity in order to integrate the development into its surroundings.

4. The proposed on-site vehicular parking and turning areas shall be formed in accordance with the approved plans and brought into use prior to the first occupation of the dwellinghouse hereby approved.

Reason: To enable vehicles to park clear of the access road in the interests of road safety by maintaining unimpeded vehicular access over that road.

5. The development shall be implemented in accordance with the details specified on the application form dated 12/04/12 and the approved drawing reference numbers:

Plan 1 of 3 (Drawing Number 918/01 Revision A)
Plan 2 of 3 (Drawing Number 918/10 Revision F)
Plan 3 of 3 (Drawing Number 918/16 Revision E)

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 (as amended).

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

NOTE TO APPLICANT

- **Length of this planning 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)].
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), 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 (as amended) 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.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application 12/00834/PP

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B) Has the application been the subject of any non-material amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C) The reason why planning permission has been approved.

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 03/07/02, and then by planning permission 07/00279/DET on 20/04/07. This current application represents a timeous renewal of the previous permission.

The dwellinghouse proposed is considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates with its landscape setting and furthermore there are no infrastructure constraints which would preclude the development of this site.

The proposal accords with Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 19, LP HOU 1, LP TRAN 4 and LP TRAN 6 of the adopted Argyll and Bute Local Plan and there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/00834/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted Argyll and Bute Local Plan, the site is identified as being within the Settlement Zone of Oban where Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives general support to developments on an appropriate infill, rounding off and re-development basis.

Policy LP HOU 1 gives encouragement to housing development provided it will not result in an unacceptable environmental, servicing or access impact or development underpinned by an operational need and Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

Policy LP ENV 19 states that development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

B. Location, Nature and Design of Proposed Development

Planning permission is sought for erection of a dwellinghouse on an area of land to the south of Heatherfield House, Albert Road, Oban.

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 03/07/02 and then by planning permission 07/00279/DET on 20/04/07. The current application represents a timeous renewal of the previous permission.

The site is an area of ground which previously formed part of the garden ground of Heatherfield House situated to the north. The site is considered to represent a suitable opportunity for infill development consistent planning policy, as verified by the two previous approvals of a house on this site. The most recent approval could have been lawfully commenced at any time up to and including 20th April 2012. The current application was valid on 16th April 2012.

The dwellinghouse proposed is a three and a half storey contemporary designed structure finished in white render, natural slate and white timber windows, all as previously approved on the site. The dwellinghouse proposed is considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates with its surroundings and will not detract from the character and appearance of the wider area. Furthermore, there are no infrastructure constraints which would preclude the development of this site.

Given the current circumstances, it would be appropriate to grant permission for the dwellinghouse as a timeous renewal to the previously approved planning permission, using conditions per 07/00279/DET updated to account of the subsequent requirement for the eradication of Japanese Knotweed.

The proposal is considered to be acceptable under Policies LP ENV 1, LP ENV 19, LP HOU 1 and Appendix A.

C. Road Network, Parking and Associated Transport Matters.

The application proposes to utilise the existing vehicular access which currently serves Heatherfield House and which the applicant has a right of servitude over. The access needs to be the subject of some additional works alongside the existing entrance as illustrated in the plans and as previously approved.

The original permission was granted following the conclusion of a Section 75 Agreement extinguishing the use of Heatherfield House as a restaurant. This ensured that the volume of vehicular traffic accessing the site would be significantly reduced and the introduction of one dwellinghouse would not represent an intensification of use of the historic site access. The Section 75 Agreement remains in place.

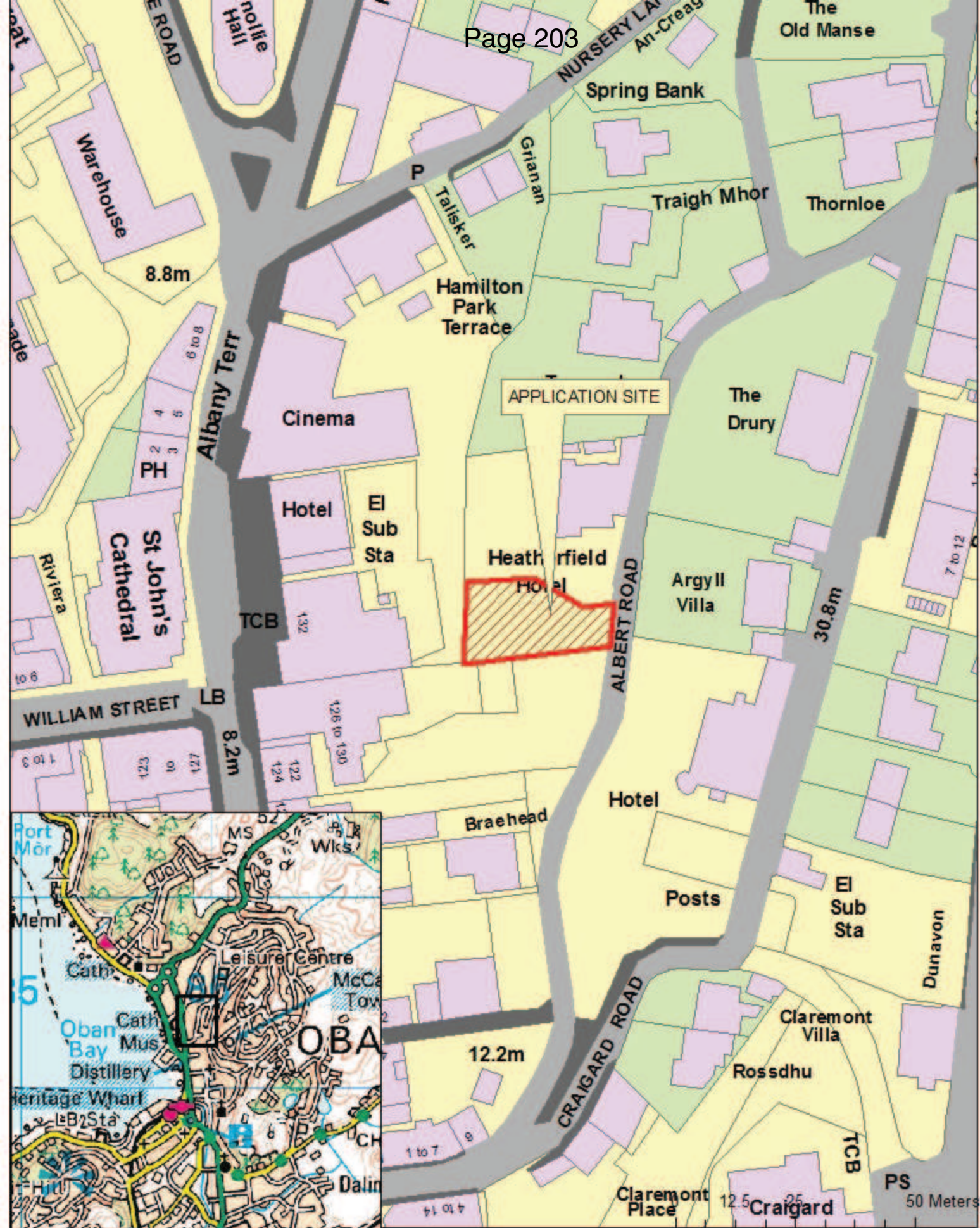
The Area Roads Manager was consulted on this application for renewal of the previous permission. In his response he raised no objection subject to a condition regarding parking and turning arrangements and also advised that the existing Section 75 Agreement should remain in force.

On this basis, the proposal is considered to be acceptable from a road safety perspective and complies with the terms of Policies LP TRAN 4 and LP TRAN 6 which seek to ensure that developments are served by an appropriate means of vehicular access and have a sufficient parking and turning area provided.

D. Infrastructure

Water supply and drainage are via connection to the public systems. Scottish Water, whilst raising no objection, advised that augmentation of the system at the developer's expense may be required.

The proposal complies with the terms of Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.



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