



**PLANNING AND ACCESS COMMITTEE**

**MEETING: Wednesday 2<sup>nd</sup> December 2015**

<b>SUBMITTED BY:</b>	Head of Planning & Rural Development
<b>APPLICATION NUMBER:</b>	2015/0209/PPP
<b>APPLICANT:</b>	Rainbow Valley and Mr Iain Methven
<b>LOCATION:</b>	Land to the Rear of Gartocharn Church, Gartocharn
<b>PROPOSAL:</b>	Erection of 3No. dwellinghouses and erection of a building comprising therapy centre and short term accommodation (Class 8 - Residential Institution)

<b>NATIONAL PARK WARD:</b>	4
<b>COMMUNITY COUNCIL AREA:</b>	Kilmaronock
<b>CASE OFFICER:</b>	Name: Erin Goldie Tel: 01389 722137 E-mail: <a href="mailto:erin.goldie@lochlomond-trossachs.org">erin.goldie@lochlomond-trossachs.org</a>

**1 SUMMARY AND REASON FOR PRESENTATION**

1.1 This application for Planning Permission in Principle\* is for the erection of 3 houses and a therapy centre including short term accommodation for use by patients and their families/carers.

\*Refer to section 3.4 of this report for a description of 'Planning Permission in Principle.'

1.2 In accordance with sections 5.3 and 5.7 of the Scheme of Delegation, relative to planning, this application is being referred to the Committee for determination because:

- The adopted Local Plan does not provide specific guidance on the principle of development for a 'therapy centre' and;
- The application has been the subject of a significant level of valid objection.

**2 RECOMMENDATION**

**That Members:**

1. **Refuse** the application for the reasons set out in Appendix 1.

### 3 BACKGROUND

#### ***Site Description:***

- 3.1 The site is an undeveloped part of a field to the north (rear) of Gartocharn Church and Millennium Hall and to the east of France Farm. It is located outwith, but adjacent to, the settlement boundary of Gartocharn. The site is within the Loch Lomond National Scenic Area. Access to the field is currently from the lane to the east of the Millennium Hall via Church Road. This existing access is proposed to be used to serve the development site with speed reduction measures proposed on Church Road. The lane to the east of Millennium Hall is also part of the 'Aber Path,' a core footpath and claimed right of way that travels north to the Loch Lomond National Nature Reserve and Special Protection Area (approx. 1 kilometre north of the site).

#### ***Environmental Impact Assessment (EIA):***

- 3.2 For the purposes of the Environmental Impact Assessment (Scotland) Regulations 2011 the National Park is identified as a 'Sensitive Area'. As a 'Competent Body' the National Park Authority has a statutory duty to consider whether proposals for development should be subject to the EIA process. In this particular instance it has been determined that an EIA is not required.

#### ***Description of Proposal:***

- 3.3 Planning Permission in Principle (PPP) is sought for the erection of 3 'open market' homes and a building comprising a therapy centre and short term accommodation for use by patients and their families/carers.
- 3.4 A Permission in Principle application, as the title suggests, does not include details of the buildings proposed to be erected. It seeks to establish the acceptability of a potential new use of a site. The application site requires to be outlined in red, and in this case, an indicative site layout has also been provided. (See figure 1 in section 3.8).
- 3.5 In the event that permission in principle was granted, then a subsequent planning application (known as 'Matters Specified in Conditions') would be required to be submitted. This would seek approval of the detail of the development proposal. This would be considered as a separate application for Planning Permission. No development could take place until both stages were concluded.
- 3.6 This application has been submitted jointly by two applicants:
- 1.) Rainbow Valley. A charity seeking Permission in Principle for a therapy centre for use by cancer patients and;
  - 2.) Mr Iain Methven. Mr Methven has stated he will facilitate an offer of land to Rainbow Valley to enable construction of the therapy centre, at the indicated location on figure 1 in section 3.8 of this report, provided Permission in Principle is granted for the 3 houses that he is proposing.

- 3.7 Notwithstanding the two applicants in this case and the two aspects to the proposal, a **single**

Agenda Item 3

application for Planning Permission in Principle has been submitted and the proposals must be considered together, as a whole, and not separately. The applicants supporting submission (summary provided in section 7 of this report) emphasises the interlinked nature of the therapy centre and housing elements of the proposal.

3.8

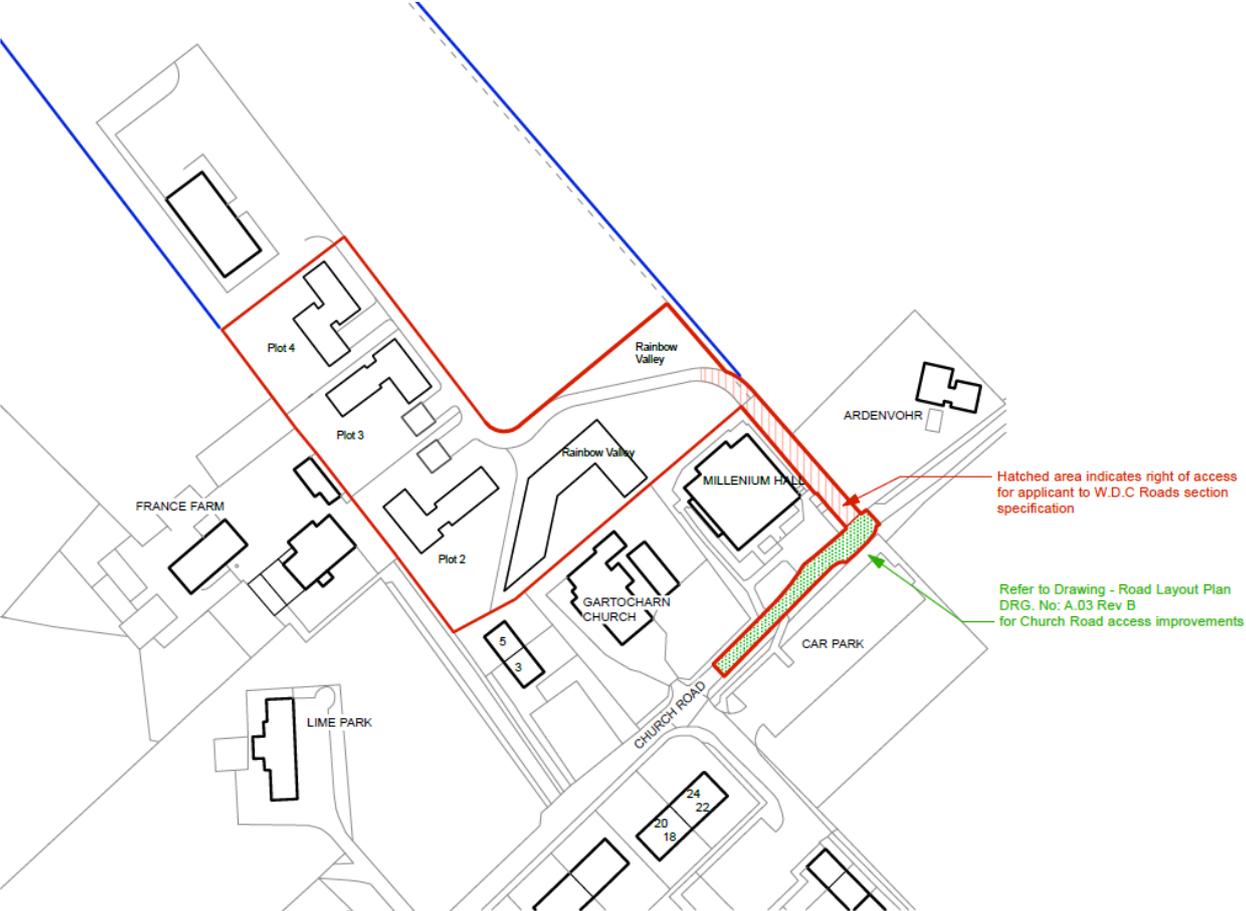


Fig.1. Extent of application site outlined in red and indicative site layout contained within. Other land owned by the applicant is outlined in blue. Claimed right of access is hatched.

3.9 The use of the proposed therapy centre element of the proposal falls within Class 8 ‘Residential Institution’ as defined by the Town and Country Planning Use Classes (Scotland Order) 1997. Consideration of the use class has been captured under section 8 ‘planning assessment’ of this report.

**Planning History:**

- 3.10
  - 2011/0062/PPP- Planning Permission in Principle application for the erection of residential development. **Withdrawn** on May 2011.
  - 2011/0256/PPP- Planning Permission in Principle application for the erection of a housing development incorporating affordable/local needs **refused** by notice dated 28 June 2012. Note that the above withdrawn application comprised a larger site area and a different site layout to this application.
  - 2012/002/REF- Appeal to the Scottish Ministers against the above refusal. Appeal **dismissed** by notice on 7 December 2012.

## Agenda Item 3

- 2012/0390/NOT- 'Prior Notification' application for the erection of an agricultural building submitted under the terms of Part 6, Class 18 Agricultural Buildings and Operations of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Application **disposed of** on 1 February 2013. It was determined the proposal was not 'permitted development' as it did not meet the mandatory criteria and conditions to qualify in terms of the provisions of the above noted legislation.
- 2014/0206/NOT - 'Prior Notification' application for the erection of an agricultural building. **Permitted development** under Part 6, Class 18 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992. Decision issued 5 September 2014. Further evidence was provided of the agricultural operation to qualify for agricultural permitted development rights.
- 2014/0303/DET - Planning application for the construction of an agricultural access track and retrospective ground engineering works associated with development of the agricultural shed (erected under 'permitted development' rights as noted in the above point). **Approved** by notice on 12 March 2015.

## 4 CONSULTATIONS

### Summary of Responses to Consultations:

#### 4.1 **Scottish Natural Heritage (SNH) dated 17 July 2015**

##### **No objection.**

It is the view of SNH that any potential noise disturbance impacts, of constructing the proposed development, on the Greenland white-fronted geese (the qualifying feature of the Special Protection Area (SPA)), which are known to feed nearby in the lower fields of Middle Gartocharn Farm (around 300-400m from the proposed development site) can easily be avoided if its construction takes place when the wintering geese are absent from the area (i.e. between April and September).

#### 4.2 **West Dunbartonshire Council (WDC) Roads Authority dated 2 July 2015**

##### **No objection.**

WDC Roads Authority has provided comments relating to sightlines which would be required at the junction with Church Road and can be achieved. It is advised that an adoptable road and a turning area (to enable vehicles to manoeuvre and exit the site in forward gear) would be required to service the development from the current public road boundary with Church Road (the extent as hatched red on the location plan (see figure 1 above)). As the proposed road would be a shared surface (for use by vehicles and pedestrians) all the speed reduction measures as illustrated on the proposed road layout plan would be required. The applicant would need to demonstrate that access is still possible through the speed control bend on Church Road for appropriate vehicles (e.g. refuse truck, fire engine etc.). Suitable parking provision would be required.

#### 4.3 **West Dunbartonshire Council (WDC) Environmental Health dated 16 July 2015**

##### **No objection.**

WDC Environmental Health recommends conditions to address issues such as noise, dust,

## Agenda Item 3

contamination and external lighting in the case of planning permission being granted.

### 4.4 **West of Scotland Archaeology Service (WoSAS)**

#### **No objection.**

WoSAS has recommended that a condition be imposed if planning permission is granted requiring the developer to secure the implementation of a programme of archaeological works. Whilst no recorded sites are contained within the application area, this absence may be the result of inadequate survey, investigation and recording in the past and may not be due to a genuine absence of archaeological sites in the area.

### 4.5 **Scottish Water**

No written response has been received from Scottish Water however it has been advised that the site is located within the Loch Lomond catchment which Scottish Water abstract from near Ross Priory. The closest watercourse to the development site appears to be Blairennich Burn, which then flows into Endrick Water before entering Loch Lomond. Scottish Water advises that the proposal is unlikely to have an impact on water quality at the abstraction point, however, the developer should be aware if any pollution incidents occur at the site then Scottish Water should be notified without delay.

Separately, Scottish Water would require the developer to complete the appropriate development impact assessment application forms and technical details before a connection can be given. Subject to this, Finlas Water Treatment Works and Gartocharn Waste Water Treatment Works may have capacity to service this proposed development. A totally separate Sustainable Urban Drainage system (SUDS) would be required with surface water discharging to a suitable outlet.

### 4.6 **Kilmaronock Community Council**

#### **Object.**

Kilmaronock Community Council has submitted two formal objections to the application and their comments have been captured under section 'Summary of Representations Received' in section 5 below.

## 5 **REPRESENTATIONS**

5.1 The following sections seek to capture the breadth of the comments that have been submitted to the National Park both in support and opposition to the application. Whilst a high volume of notes of support have been recorded, many of these are to a standard letter template and consequently the range of specific points addressed is relatively limited. In terms of the notes of objection, the majority of these have been presented as individual letters and consequently the range of unique points covered is more extensive. This is noted in order to explain any perceived imbalance of space allocated to each section.

5.2 A total of 1429 representations comprising 1231 in support and 198 in objection to the application have been received at the time of writing this report. All the representations are available to view on our public website. The link is provided in section 'background documents' following the conclusion in section 8.

#### **Summary of support for application**

5.3 586 of the 1231 representations of support are signatures to the same standard letter template addressed to the National Park Authority. The letter makes several statements regarding the

## Agenda Item 3

proposals. These statements have been summarised for the purposes of this report and are as follows:

- This would be a dedicated cancer centre, away from hospital grounds providing residential and day holistic courses for anyone affected by Cancer. It would be the first of its kind in Scotland and benefit the Scottish community for many generations.
- The offer by Mr Methven of a free gift of land gives Rainbow Valley the opportunity to build and deliver a facility in a tranquil location.
- The proposal meets all planning policies required to gain support for this type of development, bar one housing policy. However, the Rainbow Valley facility will bring overwhelming benefits to anyone affected by cancer and will be a massive benefit to Gartocharn and the surrounding community.
- The site directly borders land allocated within the current local development plan for the residential development of both affordable and private housing.
- The indicative layout in the proposal makes the best use of the available land and ties in with the settlement pattern whilst also protecting the views north from the Millennium Hall.
- Mr. Methven is gifting the large area of land (marked as plot 1 on the proposed plan) to Rainbow Valley, for their new facility along with additional title deed rights, completely free of any financial cost in respect of the land ownership transfer. Mr. Methven already owns the land and has already made significant financial investment in the new road, services / infrastructures, associated with such works, all of which Rainbow Valley obtain a direct benefit from. Mr Methven's request for 3 private residential plots is conservative considering the amount of land he is gifting to Rainbow Valley.
- Until Rainbow Valley build their new facility, Mr. Methven actually gains nothing. He can only develop the private housing element of this proposal once Rainbow Valley is complete.
- The building of this amazing facility is only achievable through the generosity of Mr Methven's enabling housing mechanism, which allows Rainbow Valley to obtain a piece of land which would usually be out with their financial reach.

### **Support for therapy centre**

334 of the 1231 representations document support for the therapy centre but make no reference to the housing element of the proposals. Of these, there is a range of general supportive comments and comments that cover issues material to the consideration of the application. Both types of comment can be summarised as follows:

#### *Supporting comments for the therapy centre material to the consideration of the application*

- The site is directly accessible by car and public transport including bus from major cities throughout Scotland. It is also close to Glasgow airport, the M8 motorway and Balloch Train Station.
- The site is in close proximity to hospitals providing cancer care such as the Beatson West of Scotland Cancer Centre and Queen Elizabeth University Hospital.
- The site is in close proximity to the Millennium Hall, Ross Priory and Ardoch House and Rainbow Valley could use these facilities when additional accommodation is needed or space to accommodate larger groups for courses as required.

### Agenda Item 3

- There is direct access to the Aber path and the countryside beyond which offers therapeutic benefits and promotes wellbeing.
- The therapy centre would create jobs in a rural area.
- The therapy centre would provide economic benefit to local business as people attending courses would access the facilities available.
- In their development of the centre, Rainbow Valley would be sensitive to the fact that there is a requirement to enhance the cultural and natural heritage of the area.

#### General supporting comments for therapy centre

- This is a fantastic opportunity to help those in need in a peaceful environment; there is no place better suited for this project and to help those who are in desperate need.
- Rainbow Valley courses about coping with cancer are amazing. The opportunity to do this in a beautiful place, able to relax, and have space is really beneficial to people coping with cancer and their families.
- Sadly there are not enough places like this. This is a much needed resource for the terminally ill that could be delivered in a beautiful setting.
- There is a massive gap within the aftercare for people post cancer diagnosis. The proposed facility to be built by Rainbow Valley will deliver a vital service to people from across Scotland.
- Research and studies have found that natural landscapes were found to give a stronger and more positive health effect compared with urban landscapes.

#### **General supportive comments for application as a whole**

97 of the 1231 representations have documented support for the application as submitted:

- This proposal can only be good for the community, creating jobs where there aren't many in the local rural area. The whole plan, including the 3 houses should be approved as the Rainbow Valley project will bring happiness and peace to many.
- The application for houses and a therapy centre is fully supported. People need the services of such a centre right now to treat cancer. People currently have to make do with distance courses they are unable to travel to.
- Please support the Rainbow Valley planning application. Do not take the NIMBY attitude to this project.

#### **Support for application without comments**

214 records are in support of the application but provide no further comment.

#### **Key letters of support**

Within supporting paper 'Response to Objections' submitted on 1 September 2015 by Katherine Sneed of Jigsaw Planning, as captured in section 7.3 of this report, it is noted that the representations from the following individuals should be highlighted.

- Professor Hollyoake: Clinical and Research Professor of Haematology at Gartnavel
- Maxine Dadd: Occupational Therapist, Hospice

## Agenda Item 3

- Jo Bolt: Community Oncology Nurse
- Penny Brohn Cancer Care: The centre in Bristol that Rainbow Valley works with.

These representations can be viewed in the public file using the web link provided in section 'background documents' that follows section 8 of the report, however, their comments are considered to be represented within the supporting summaries already provided under the relevant topic headings.

### **Summary of objection to application**

- 5.4 The points of objection have been grouped together under topic headings for clarity and can be summarised as follows:

#### ***Local plan policy***

- The application site is outwith the settlement boundary of Gartocharn and the housing element of the proposal is not in accordance with adopted local plan policy HOUS3 as the houses are not 'affordable.'
- The planning agent representing the applicants acknowledges the proposal is contrary to policy HOUS3
- Policy HOUS1 direct new housing development to the settlements
- The proposal does not offer a financial contribution to affordable housing
- There is insufficient justification for a departure from the adopted local plan
- The proposal is contrary to the policies of the emerging local plan (Proposed Local Development Plan)
- There are 2 house sites in Gartocharn as identified in the Proposed Local Development Plan so there is no exceptional or overwhelming reason for development on this site.
- There is no locational 'need' for any development on this site.
- The application is contrary to the aims of the National Park, particularly the first and third aims as the proposal would not conserve or enhance the natural and cultural heritage of the area and to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public.
- Approving this application contrary to policy would set a precedent for other such development outwith the settlement boundary. It would make it difficult to refuse similar applications to build out with areas identified for development.
- The supporting statement submitted by the applicant acknowledges the proposal does not fit with local plan policy.
- There is no business plan to support this application for a therapy centre.

#### ***Planning history***

- Another application for housing on this site was refused and the reasons for refusal still apply for this case. The applicant appealed against the decision and the application was refused by the Scottish Ministers.

## Agenda Item 3

### **Residential amenity**

- The development would impact on the visual amenity of neighbouring houses and public premises such as the Millennium Hall.
- Impact to neighbours during construction phase.
- The development would result in light and noise pollution.
- Noise from the Millennium Hall during events and the noise from France Farm as an operational farm and shop would impact on the tranquil experience sought for the therapy centre.
- The open space indicated for the therapy centre would be directly overlooked by the Millennium Hall thereby impacting on privacy.

### **Landscape**

- The proposal is contrary to policy NP1 of the Adopted Local Plan that states “*only development which contributes towards the collective achievement of the National Park Aims will be supported. Where proposals are likely to create conflict between the first aim and any other three aims, greater weight will be given to the conservation and enhancement of the natural and cultural heritage of the area (aim 1).*” The LVIA (Landscape and Visual Impact Assessment) concludes there would be long term visual effects upon visual receptors and that there would be locally, moderate, adverse and significant effect upon landscape character based on the introduction of the proposed built form.
- The Drymen and Gartocharn Landscape Capacity Assessment 2010 by David Tyldesley and Associates for the National Park deemed the proposed development site unsuitable for development.
- The proposal is contrary to policy L1 (Conserving and Enhancing the Diversity and Quality of the Park’s Landscapes) of the Adopted Local Plan as it would erode the distinctive landscape, its historic dimension and its visual and scenic qualities and the quality of the landscape experience at this location.
- The viewpoint photomontage on the LVIA is narrow and angled to expose a very limited panorama whereas the true impact would include more of the proposed construction
- Views in the LVIA portrayed with and without mitigation barely differ
- The proposals would impact adversely on the experience of users of the community Millennium Hall. Its setting and outlook should be protected.
- The proposal would impact on the ancient rural field system.
- Views from the north (Ross Loan) towards the site and the village would be adversely affected.
- The buildings cannot be integrated into the landscape or built environment. Landscape

## Agenda Item 3

and visual amenity would be fundamentally affected.

- The development would introduce an urban character to the rural landscape.
- The proposed buildings would be prominent and highly visible.

### ***Traffic and access***

- The narrow access is not suitable for emergency vehicles or refuse lorries.
- The narrow access to the side of the Millennium Hall could not cope with additional traffic.
- Concerns are expressed regarding traffic frequency, parking for visitors and staff and those attending training events at the proposed therapy centre.
- It would be impossible to manoeuvre a construction vehicle from Church Road to the access lane to the side of the Millennium Hall.
- The site offers very poor public transport links and this would encourage use of the private car.
- The site access has restricted visibility and therefore safety issues.
- The roads around the site are already busy and the proposals would exacerbate this.

### ***Natural environment***

- The Greenland white-fronted geese (qualifying feature of the Special Protection Area) would be displaced as a result of the proposed development.
- The site is an essential conservation and public access resource with a direct relationship with the National Nature Reserve to the north of which the development would impact.

### ***Aber footpath***

- The proposal is at odds with TRAN7 (Encouraging Outdoor Access) of the Adopted Local Plan. The proposed shared vehicle and pedestrian access would result in the development having a negative impact on existing access to the Aber Path.
- The increased traffic on the shared access to the side of the Millennium Hall would have an adverse impact on pedestrian safety both during construction and due to traffic serving the development.
- The character of the access to the Aber Path would be eroded as a result of the proposed development.

### ***Services and utilities***

- There are limited public services in Gartocharn and it would be difficult to provide for the application site.

## Agenda Item 3

### ***Matters not material\* to the consideration of the planning application.***

A number of issues raised are not considered to be material to the consideration of the planning application. Nevertheless, a summary has been captured below to offer a flavour of some of these issues.

- There is a risk for cancer patients being exposed to farm animals for risk of infection.
- The cancer therapy proposal should be an extension to Robin House or developed on land at Ardoch house in Gartocharn.
- Approving this application would set a precedent for farmers to 'team up' with a charity to get housing on their land.
- The development would impact on the viability of the Millennium Hall.
- Rainbow Valley is tied to a legal agreement with Mr Methven which means they cannot consider other land.
- The access track to the agricultural building has not been completed.
- The material used to construct the agricultural access track to the shed is potentially non-compliant with SEPA's standards.
- Mr Methven's activities on the application site have impacted on bookings at the Millennium Hall. Namely, the construction of the track, fences, barb wire, poles with cameras and the mud area created by the pigs sited directly in front of the hall.

\* The range of considerations which might be considered 'material' in planning terms is very wide but can be determined in the context of the case. They must relate to the development and use of land and should fairly and reasonably relate to the particular application. Consequently, material considerations in this case include (for example) local plan policy, planning history of the site, landscape considerations, environmental impacts, vehicular and pedestrian access, views of statutory and other consultees.

## **6 POLICY CONTEXT**

### ***National Park Aims:***

6.1 The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:

- (a) to conserve and enhance the natural and cultural heritage of the area;
- (b) to promote sustainable use of the natural resources of the area;
- (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- (d) to promote sustainable economic and social development of the area's communities.

6.2 Section 9 of the Act then states that these aims should be achieved collectively. However, if in relation to any matter it appears to the National Park Authority that there is a conflict between the first aim, and the other National Park aims, greater weight must be given to the conservation and enhancement of the natural and cultural heritage of the area.

### ***Development Plan:***

6.3 **National Park Local Plan 2010-2015 (Adopted 2011)**

## Agenda Item 3

This Plan sets out a range of policies and proposals to guide development and is the primary document against which development proposals are assessed. Those policies that are relevant to the current application are captured below.

Relevant Policies:

- **HOUS3**- New Housing Development Adjacent to Settlements

*“Exceptionally, new housing development outside the settlements will be supported where it meets identified housing needs for affordable housing in perpetuity and where it is demonstrated that there are limited opportunities within the settlement boundary. In these instances the proposed development should be:*

- (a) Located either immediately adjacent to or in close proximity to the settlement boundary in order to avoid the need for car journeys to access services and facilities;*
- (b) Located within an appropriate landscape setting and capable of being successfully integrated with the surrounding built and natural environment;*
- (c) Of an appropriate scale to the size of the host community.”*

- **COM1**- New Community Facilities

*“New and/or improved community facilities will be supported where they are*

- (a) Located within or immediately adjacent to settlements;*
- (b) Compatible with existing or proposed adjoining land uses; and*
- (c) Readily accessible by public transport (where available), walking and cycling.”*

- **L1**- Conserving and Enhancing the Diversity and Quality of the Park’s Landscapes
- **ENV1**- European Sites (SAC’s and SPA’s)
- **TRAN3**- Impact of New Development on the Road Network
- **TRAN7**- Encouraging Outdoor Access
- **ENV27**- Sites with Unknown Archaeological Potential
- **ENV21**- Listed Buildings

Full details of the policies can be viewed at:

<http://www.lochlomond-trossachs.org/planning/adopted-local-plan/menu-id-904.html>

### 6.4 **National Park Proposed Local Development Plan (LDP)**

The ‘Proposed Local Development Plan’ (Proposed LDP) was approved by the National Park Board on 27<sup>th</sup> April 2015. The ‘Proposed Plan’ has since been through a six-week period of public consultation and is due to be submitted to Scottish Ministers for consideration of the outstanding representations in December. At this time the ‘Proposed Plan’ is a material consideration in the assessment of planning applications, depending on the policies that would be applied to the proposal. A link to information on the Local Development Plan process can be found below.

<http://www.lochlomond-trossachs.org/planning/local-development-plan/menu-id-951.html>

The Proposed Plan, along with the recommendations approved by the Authorities Board at its October meeting, provides the most up to date site allocations and policy position to guide decisions that should be considered with the Adopted Local Plan and any representations to the LDP. In this respect, the following policies are relevant:

- Overarching Policy 1 - Strategic Principles
- Overarching Policy 2 - Development Requirements

## Agenda Item 3

- Overarching Policy 3 - Development Contributions
- Housing Policy 1 - Providing a Diverse Range of Housing
- Housing Policy 2 - Location and Types of New Housing Required  
Part (b) Sites Adjacent or Close to Towns and Villages
- Community Facilities Policy 1: Supporting New and Existing Community Facilities
- Transport Policy 3: TP3 - Impact Assessment and Design Standards of New Development
- Natural Environment Policy 1- NEP1 (National Park Landscapes, seascape and visual impact)
- Natural Environment Policy 2- European Sites (Special Areas of Conservation and Special Protection Areas)
- Historic Environment Policy 1: Listed Buildings
- Historic Environment Policy 8: Sites with unknown Archaeological potential

### ***Proposed development sites in Gartocharn:***

- Site code H1- Burnbrae Farm allocated for housing
- Site code H2- France Farm allocated for housing

Where new policy considerations are raised by the above, these are assessed within section 8 'Planning Assessment' of this report.

### ***Other Material Considerations:***

#### 6.5 National Park Partnership Plan (2012-2017)

All planning decisions within the National Park also require to be guided by the policies of the Partnership Plan, where they are considered to be material, in order to ensure that they are consistent with the Park's statutory aims. In this respect the following policies are relevant:

Con Policy 2: Natural Heritage

Con Policy 3: Landscapes

Con Policy 6: Cultural Heritage

RD Policy 2: Spatial Development Strategy

#### 6.6 Supplementary Guidance

##### *Adopted Supplementary Planning Guidance*

- Housing Development Supplementary Planning Guidance (adopted Nov 2012)
- ##### *Draft Supplementary Guidance & Planning Guidance*
- Draft Housing Supplementary Planning Guidance (dated May 2015)

It should be noted that the current housing SPG has been reviewed as part of the proposed Local Development Plan process. A draft SG (Supplementary Guidance) was consulted upon with the Proposed Local Development Plan in May and June 2015. Where new considerations are raised by the above, these are assessed within section 8 (Planning Assessment) of this

## Agenda Item 3

report.

- 6.7 Drymen and Gartocharn Landscape Capacity Assessment 2010 by David Tyldesley and Associates was prepared as part of the preparation of the current Adopted Local Plan.

And:

Gartocharn Landscape Capacity Assessment 2014 by Loch Lomond and the Trossachs National Park corroborates the findings of the 2010 Study noted above by further considering the Special Qualities, Landscape Character, Visual Amenity and Landscape Experience of Gartocharn including the application site and other sites brought forward through the 'Call of Sites' process of the Proposed Local Development Plan.

## 7 SUMMARY OF SUPPORTING INFORMATION

- 7.1 The agent for the applicants has submitted the following information in support of the planning application:

- A jointly submitted supporting statement ***'proposed Cancer Charity Facility and Enabling Housing Development'*** dated 25 June 2015 by Katherine Sneed of **Jigsaw Planning** promotes and explains the interlinked nature of the development proposals and the 'enabling' case which is the applicants justification for the proposed development. Details of the 'enabling' case are further set out in section 8.17 - 8.20 of this report.
- The supporting statement as noted above is supplemented by information provided in the form of 6 appendices that can be summarised as follows:
  - **Appendix 1** is a meeting note recorded by the National Park Authority dated 7 May 2014. To put this in some context, this was after the 2012 refusal and appeal of the previously proposed housing development but prior to the issuing of the 'permitted development' decision on the agricultural building (see section 3- Planning History). The note was a result of a meeting at the application site, requested by Mr Methven, for the purposes of his understanding the landscape considerations in the event of considering any future proposals. The NP Landscape Officer explained the sensitivities of the site from a landscape perspective and it was noted, that purely from a landscape perspective, there may be some scope for development clustered in the South West corner of the site. Notwithstanding this advice, planning officers highlight the importance of other policy considerations, with particular reference to housing policies and the Scottish Government reporters decision to refuse the 2011 planning application (Refer to section 3 - planning history). Furthermore, the meeting note states that officers referred to the two housing sites identified, at that time, in the Main Issues Report– namely France Farm and the new site at Burnbrae Farm and note that the latter is a less sensitive site at the southern side of the main road through the village, which is favoured for delivering housing.
  - **Appendix 2** advises that any previous advice by SNH that development within the general area of the proposed development site could potentially affect the Greenland White Fronted Goose population (which is one of the qualifying interests of the nearby Loch Lomond Special Protection Area (SPA) and that screening would be required to mitigate this) is superseded by their new position that neither the 2011 application proposals or the current application proposals would adversely affect the integrity of the Loch Lomond SPA and that no screening would be required.

## Agenda Item 3

- **Appendix 3** appears to be a legal agreement between both applicants whereby, in the event of planning permission in principle being granted, Mr Methven will offer land to Rainbow Valley, at no financial cost. If, however, planning permission is refused and Mr Methven therefore cannot build the houses proposed then the land will not be offered to Rainbow Valley.
- **Appendix 4** is a land Ownership Certificate verifying that Mr Methven's wife owns the application site.
- **Appendix 5** is a letter dated 27 April 2015 from SNH addressed to Mr Methven in response to an enquiry sent by him regarding the current proposals. The content of the letter is similar to the consultation response received from SNH in section 4.1 of this report.
- **Appendix 6** is a letter by Mr John Warren (former agent for Mr Methven for planning application 2011/0256/PPP) addressed to West Dunbartonshire Council (WDC) Roads Authority dated 1 November 2012 which seeks to clarify and agree the details of their consultation response for the above referenced application. No response to this letter by the Roads Authority has been provided.

7.2 A separate supporting statement submitted by **Rainbow Valley, a 'Site Assessment' dated August 2015** outline their site assessment criteria to meet the needs of the charity:

- 1.) Location accessible by car and public transport from all key city locations;
- 2.) Outwith a hospital Health care environment;
- 3.) Central Belt location;
- 4.) Tranquil location;
- 5.) All required services either within or adjacent to desired site with required title deed rights to access and connect to such services;
- 6.) Land/development gifted to Rainbow Valley at no capital cost;
- 7.) Local amenities such as local shop, petrol station, post office etc.

Rainbow Valley considers the application site to meet their criteria. Having already held residential courses at Ardoch House, Rainbow Valley had identified Gartocharn as being the preferred location for their therapy centre. A site evaluation matrix accompanying the supporting statement is available in the public file for viewing.

It is also noted in the standard supporting letter template, as referred to in section 5.3 of this report, that the application site is also favoured for the following reasons:

- Close proximity of other venues, such as the Millennium Hall which is only a couple of minutes' walk away, allowing additional space to be rented for courses when larger groups are attending.
- Rainbow Valley's land adjoins the Aber Path providing them direct access from the site to the Path, which then gives direct access onto the Ross Loan walk (locally known as the Horse Shoe walk). There is also full pedestrian access to the Duncryne Hill, bringing huge therapeutic value which promotes a sense of health and wellbeing with cancer.
- Rainbow Valley will have the opportunity to keep 3 or 4, hand reared calves, within the field area directly in front of their new facility in the summer months and within Mr Methven's agricultural shed in the winter months. This would present huge therapeutic value to attendees.
- The site is close by to other amenities such as Ardoch House (already used for courses by Rainbow Valley) and Ross Priory for holding larger residential courses.

## Agenda Item 3

- 7.3 A paper headed '**Response to Objections' submitted on 1 September 2015 by Katherine Sneed of Jigsaw Planning**, as the title suggests, is a response to the representations submitted in objection to the application and can be viewed in the public file using the web link provided in section 'background documents' that follows section 8 of the report.
- 7.4 A **Landscape and Visual Impact Assessment (LVIA) by Brindlay Associates dated 1 September 2015** has been submitted in support of the application. This document presents an appraisal of the site context and an analysis of the potential landscape and visual impacts. The report concludes that:
- *"The therapy centre's location has been chosen to associate the building with similarly scaled Millennium Hall and Gartocharn Church; therefore it can be considered that the location of the Centre is appropriate with reference to the settlement grain and the wider landscape of the study area."*
  - *"Whilst there will be long term visual effects in close proximity to the site, appropriate scale residential development can be achieved at the proposed development site without resulting in significant effects upon landscape and visual amenity. Opportunities should be explored during detailed design to ensure that building finishes, roof pitches and detailed landscape treatments are developed to minimise effects upon close receptors and to ensure the integration of the proposed development with the settlement."*

The National Park's response to this assessment is included within section 8 'planning assessment of this report.

## **8 PLANNING ASSESSMENT**

- 8.1 This application is unusual in having two joint applicants and two distinct elements (housing and therapy centre) to the proposal. Nevertheless, as indicated in paragraph 3.7 of the report, a single application has been submitted and the proposals must be considered together as a whole and not separately. However, in order to best understand and balance the range of policy considerations that apply, the proposal is first assessed in terms of its individual elements and then conclusions are drawn on the proposal as a whole.
- 8.2 The main determining issues with this application are as follows and will be considered in turn:
- Principle of housing element of proposal
  - Principle of therapy centre element of proposal
  - Landscape assessment
  - Listed building setting
  - Impact on adjacent buildings
  - Public access
  - Natural heritage
  - Consultation responses
  - Representations

### **Principle of housing element of proposal**

- 8.3 This application seeks to establish the principle of developing the site for a therapy centre for use by cancer patients and 3 open market houses.
- 8.4 The planning system is intended to be plan led. This is enshrined in Section 25 of the Town and Country Planning (Scotland) Act 1997 which states that where a planning authority is making a determination of a planning application as submitted under the planning acts, the

### Agenda Item 3

determination shall be made in accordance with the development plan unless material considerations indicate otherwise. For the avoidance of doubt, in the context of this application the 'Development Plan' is the Adopted Local Plan. And so, the key issues are:

- 1.) Whether the proposals are consistent with the development plan and;
- 2.) If not, whether other material considerations justify a development plan departure.

#### Housing policy assessment

- 8.5 The development strategy and Policy HOUS1 of the Adopted Local Plan both seek to direct any new housing to appropriate sites within settlement boundaries. This is the first choice within the sequential approach for new housing in the Adopted Local Plan.
- 8.6 In the case of this application, the site is adjacent to the settlement boundary of Gartocharn and Policy HOUS3 applies. The policy states that "*exceptionally, new housing development outside the settlements will be supported where it meets identified housing needs for **affordable housing**\* in perpetuity and where it is demonstrated that there are limited opportunities within the settlement boundary.*" This policy was included within the Local Plan to cover situations where it had not been possible to identify housing sites within the boundaries of settlements in the Park. In such cases, it supports the consideration of affordable housing on appropriate sites adjacent to settlements.
- \*Scottish Government planning policy defines affordable housing as '*housing of a reasonable quality that is affordable to people on modest incomes*' Affordable housing can be delivered through methods such as social rented, mid-market rent, shared equity, shared ownership and discounted sale or a mix of these options.
- 8.7 To comply with policy HOUS3, the proposal needs to be for 100% affordable housing and it needs to be demonstrated that there are limited opportunities for housing within the settlement boundary as quoted in the above paragraph. The policy then sets out an additional criteria based approach (as detailed in section 6.3 of this report) but it is unnecessary to consider the further criteria in this case as the proposal does not comply with the first element of the policy. This is because; the proposal is for 3 open market houses. The language of the policy is designed to conditionally enable the provision of affordable housing where necessary. It does not say anything about open market housing.
- 8.8 In addition, Gartocharn has two housing sites identified in the Proposed Local Development Plan (Proposed LDP). France Farm, located directly west of the application site, and Burnbrae Farm. France Farm has an estimated capacity for delivering 6 house units and Burnbrae Farm, 10 house units. The former site was not developed during the period of the current local plan being adopted to present day and has therefore been carried through to the Proposed Plan. The latter site is a newly identified site included in the Proposed LDP. This is on account of the need to increase the number of housing opportunities in Gartocharn and because development could be well accommodated within the landscape. Both sites provide opportunities to deliver both affordable and open market housing within the settlement of Gartocharn.
- 8.9 Consultation as part of the Proposed LDP secured support from the Community Council for both France Farm and Burnbrae Farm. Only one objection was made to Burnbrae Farm on road safety grounds. West Dunbartonshire Council as Roads Authority has, however, assessed this site and no raised any objections regarding road access or safety. The National Park Authority is therefore still recommending retention of this site and this will be determined by the reporter appointed by the Scottish Ministers to conduct an examination of the Proposed LDP.
- 8.10 Considering that the proposal is for open market housing and there are opportunities to deliver housing elsewhere within the settlement boundary of Gartocharn, it can be concluded that the housing element of this application is fundamentally contrary to policy HOUS3 of the Adopted

## Agenda Item 3

Local Plan.

### Planning history relative to housing proposed on the site

- 8.11 Previous planning decisions in relation to the site are material to the consideration of this application. As noted in section 3.10 of this report, a previous application for Planning Permission in Principle (Ref. 2011/0256/PPP) for a housing development on the application site was refused. One of the reasons was that the application was contrary to policy HOUS3 of the Adopted Local Plan. The applicant appealed the decision and the reporter, appointed by the Scottish Ministers, upheld the Authorities decision on 7 December 2012, meaning that the application was refused. The policy position in relation to the current housing proposal is unchanged and there are no changes in relation to the condition or characteristics of the site that would raise any new planning considerations. Nevertheless, the new Proposed LDP has, in the interim, increased the number of housing sites in the village of Gartocharn from one to two, so there is considered to be more choice for housing now than at the time of the 2011 application.

### Proposed Local Development Plan (Proposed LDP) process in the housing context

- 8.12 A key stage in the Proposed LDP process is the 'Call for Proposed Sites.' This is an opportunity for developers, landowners and other interested parties to put forward, to the National Park Authority, sites that they believe are suitable for development for homes, jobs or other uses. In essence, it is a technical exercise aimed at identifying potential sites for development. Mr Methven, land owner and applicant (one of) in the case of this application, engaged in this exercise and put the current application site forward for the Park's consideration as a site to be included within the Proposed LDP to be developed for 4 houses. It was determined that the site, on the edge of the Gartocharn settlement and within the National Scenic Area, "*is highly visible within the landscape and considered very sensitive in landscape terms.*" It was therefore concluded that it was not appropriate to propose to allocate the site for development in the Main Issues Report. Instead the Main Issues Report proposed that the France Farm site be retained and that an additional site be identified at Burnbrae Farm as noted in section 8.8 above. It should be noted that the 'Call for Proposed Sites' process was concluded early in 2014 and before the submission of this application.
- 8.13 It should also be noted that it was open to Mr Methven to object to the non-inclusion of the site at the Main Issues Report and Proposed LDP stages of consultation. No objection was received in this respect.
- 8.14 In summary of the above paragraphs, the application site was considered for housing during the preparation of the Proposed LDP and was not favoured because of its sensitivity from a landscape perspective and because there were alternative, more appropriate sites for development.
- 8.15 Housing Policy 2 and the relevant section b) of the Proposed LDP does not raise any new policy considerations relative to the proposed development but does state that sites adjacent to settlements would be considered "*where there have been proven difficulties in delivering housing sites within the town or village.*" Whilst France Farm was not developed during the period of the current Local Plan being adopted to present day, it should be noted that there is no evidence to suggest that it is not intended to be developed with the owners carrying their site forward into the Proposed LDP as a site to be developed for housing. Burnbrae Farm is considered to be effective as it has been promoted by the landowner and has secured developer interest. It could be developed immediately pending the outcome of the Proposed LDP examination.
- 8.16 In addressing point 1 of the 'key issues' as identified in section 8.4 of this report, it can be concluded that the housing element of the proposal is not consistent with the development

## Agenda Item 3

plan. Whether or not other material considerations may justify a development plan departure is now considered.

### Applicants 'enabling' case relative to the housing proposal

- 8.17 The interlinked nature of the two elements of this application (3 houses and therapy centre) is emphasised throughout the applicants supporting statement. It is explained that the housing element of the proposal is a unique 'enabling' mechanism to facilitate the development of the proposed therapy centre. In essence, the meaning of 'enabling' in this case can be explained as follows. If planning permission was granted and Mr Methven was able to build the 3 houses proposed, then, on this condition, he would gift land to Rainbow Valley to enable them to build the therapy centre.
- 8.18 Whilst there is no clear definition of 'enabling' in planning legislation, it is a word that is most typically used in cases of historic environment proposals which have a built heritage element. For example, paragraph 114 of the Scottish Planning Policy (SPP) on the topic of listed buildings states "*Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building. The resulting development should be of a high design quality, protect the listed building and its setting and be the minimum necessary to enable its conservation and re-use. The new development should be designed to retain and enhance the special interest, character and setting of the listed building.*" An example, to help put this into some context, would be where the conversion of a listed building was found to be unviable and where a new and associated development would be the financial mechanism to 'enable' the listed building to be brought back into use. This context of enabling development is also recognised in the Proposed LDP within the framework of the Historic Environment policies.
- 8.19 Considering the above paragraph and with 'enabling' being considered in a recognised planning context, it has been concluded that the building of the proposed houses **does not** 'enable' the building of the therapy centre. Specifically, there is no indication the revenue from the houses would be used to finance the building of the therapy centre. The development of the therapy centre would be wholly dependent on funding from other sources. In any case the land could, in theory, be gifted to Rainbow Valley to enable development without the housing element of the proposal. It is therefore concluded that the housing proposal does not enable the land to be developed for a therapy centre but rather it is a condition of a proposed land transfer.
- 8.20 Considering the above paragraphs, the 'enabling' case is unconvincing from a planning perspective and, in addressing point 2 'material considerations' of section 8.4 of this report, does not justify a departure from policy HOUS3 of the Adopted Local Plan.

### Policy conclusion for housing proposal

- 8.21 Before the policy assessment of the therapy centre and other matters relative to this application are considered in the subsequent paragraphs, it is important to recognise that regardless of what these assessments conclude, the application as it has been presented, is contrary to Adopted Local Plan policy HOUS3 and therefore cannot be supported on this point alone. This is a single application encompassing two interlinked proposals that are required to be considered together and not separately.

### ***Principle of therapy centre element of the proposal***

#### Background to Rainbow Valley

- 8.22 Rainbow Valley is a registered charity dedicated to exploring and offering holistic therapies, both innovative and established to cancer patients. These therapies complement hospital

### Agenda Item 3

treatments. It is paramount to their vision that such therapies are provided outwith a hospital and in an environment that promotes health and wellbeing with access to the open countryside. Rainbow Valley currently operates successful courses including short stay residential courses at Ardoch House, Gartocharn. It is the vision of the charity to have their own purpose built facility to offer therapies, self-help and wellbeing courses including residential, short stay courses. The supporting information submitted states that such a facility would be the first of its kind in Scotland. Section 7.2 of the report details the objectives of the charity and why they consider the application site to meet these objectives.

- 8.23 Rainbow Valley has advised that their strategy is not to invest their funds in the purchase of a site/land. They believe the funds would be better used providing the services that would benefit those affected by cancer. Rather than purchase a development site, they have been looking for an opportunity to acquire a site through a gift of land. Mr Methven offered the charity land to construct a purpose built therapy centre provided planning permission in principle is obtained for not only the therapy centre but for 3 houses he proposes to construct and so a joint application for planning permission in principle was submitted.
- 8.24 It is fully recognised that a therapy centre, as described, could perform a valuable social service bringing assistance to those affected by cancer where there is an apparent need and benefit. This benefit would be spread throughout the catchment area of the users of the facility which would be expected to be, but not limited to, the whole of the West of Scotland. The value of such a service has been widely expressed by the level of public support that has been registered. That said, as stated in section 8.4 of this report the application must be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The following paragraphs are therefore an assessment of the therapy centre against the relevant policies of the Adopted Local Plan and Proposed LDP.

#### Therapy centre policy assessment

- 8.25 There is no Local Plan policy which specifically considers such a bespoke proposal for a therapy centre. The most relevant policy to assess this proposal against is considered to be COM1- New Community Facilities of the Adopted Local Plan and Community Facilities Policy 1 of the Proposed LDP as the therapy centre would be a facility for those affected by cancer serving not just the local community but anyone outwith the community who was willing to travel to gain access to its services.
- 8.26 Policy COM1- New Community Facilities of the Adopted Local Plan supports community facilities where they are:
- a) *“Located within or immediately adjacent to settlements;*
  - b) *Compatible with existing or proposed adjoining land uses; and*
  - c) *Readily accessible by public transport (where available), walking and cycling.”*

The proposed site for the therapy centre is adjacent to the settlement of Gartocharn and within the context of other community uses such as the Millennium Hall and church. It is accessible by car and bus. It is next to a network of core footpath links and is in relative proximity to National Cycle route 7. It can therefore be concluded that the principle of the proposal of the therapy centre is broadly compatible with Policy COM1 of the Adopted Local Plan.

- 8.27 Notwithstanding the above assessment, however, in order to protect the Park’s landscapes, the local plan generally does not support the principle of development in rural and highly sensitive sites such as this. The application site is within the National Scenic Area in an elevated and exposed position within the landscape. The ‘Landscape Assessment’ of this report (sections 8.34-8.40) explains why the proposals, as presented, are not supported from a landscape perspective and why the application is at odds with policy L1 of the Adopted Local Plan.

### Agenda Item 3

- 8.28 It should be noted that the landscape policy position in the Proposed LDP does not raise any new policy considerations.
- 8.29 Community Facilities Policy 1 of the Proposed LDP supports new community facilities which contribute to the qualities of a successful place and where they are located within towns, villages or within small rural communities. This is a change in policy position from policy COM1 of the Adopted Local Plan that applies more flexibility, considering locations within or immediately adjacent to settlements. The reason for this change is to direct community facilities, by the nature of their intended function to serve communities, to the heart of settlements. In other words, within the identified settlement boundaries. Considering the site for the proposed therapy centre is outwith the settlement boundary of Gartocharn, the proposal is at odds with Community Facilities Policy 1.

#### Policy conclusions for the therapy centre

- 8.30 For the avoidance of doubt, had the application been solely for a therapy centre, only then would the merits of that proposal have been weighed up and balanced against both of these community facility policies and the range of other relevant policies, most particularly policy L1, to arrive at a considered outcome on whether the proposal could be supported. However this is not a matter that can be further considered in the determination of this application as this is a single application with two interlinked proposals that are required to be considered together and not separately, meaning an assessment must consider the relevant housing policies.

#### Availability of alternative sites

- 8.31 No alternative sites were considered by Rainbow Valley prior to the submission of the application because there were no other offers of land. It is understood that there have been no other offers of land since the submission of this application.
- 8.32 Whilst Rainbow Valley has set out their preference for a Gartocharn location within the supporting statement as detailed in section 7.2 of this report. There is nothing in that statement that identifies a specific need to site the centre at the proposed location. The main reason that this site is preferred appears to be that it has the prospect of being secured free of charge subject to the approval of a housing development.

#### Use class of therapy centre

- 8.33 It should be noted that the proposed therapy centre falls within Use Class 8 of the Town and Country Planning (Use Classes) (Scotland) Order. The provisions of this order are designed to give a freedom of control where proposals are made to change from one activity to another within a broader grouping of similar uses. Use Class 8 includes hospitals, hospices, nurseries and maternity homes, boarding schools and residential colleges. By grouping these together, the government has indicated that planning permission is not needed for example, to use a hospital as a residential college, or vice versa.

#### **Landscape Assessment**

- 8.34 The National Park's (NP's) Landscape Adviser has considered the Landscape and Visual Impact Assessment (LVIA) submitted in support of the proposal. A summary of the findings of the LVIA is summarised in section 7.4 of this report. The two key documents that the NP Landscape Adviser has assessed this proposal against are The Drymen and Gartocharn Landscape and Capacity Study 2010 and Gartocharn Landscape Capacity Assessment 2014. The context of the site within the National Scenic Area (NSA) and National Park are significant

### Agenda Item 3

to the assessment.

- 8.35 The 2010 study assessed Gartocharns character and concluded that it is a “*small, intimate agricultural village that sits neatly within the surrounding rolling landscape*” (pg.39), and has an established “*sensitive village edge.*” It goes on to state (on pg.70) that “*the village form is therefore sensitive to any development which is out of scale or dilutes the predominant layout of the existing village character*” and that “*development beyond sensitive village edges should be avoided.*”
- 8.36 The 2014 assessment by the National Park’s Landscape Adviser supplements the 2010 study and provides some further consideration on the character of the site and surrounding area within the setting of Gartocharn. It corroborates the findings of the 2010 Study by further considering the Special Qualities, Landscape Character, Visual Amenity and Landscape Experience of the site in comparison to other sites brought forward in the Main Issues Report as per the emerging Proposed LDP. This confirms that ‘this is one of the sensitive village edges abutting directly into the walled boundary with the church and Millennium Hall’ but also that ‘there are spectacular views afforded from the site; to the north, to the Highlands and from the Aber Path as it leads down from the hall towards the Loch’ and it acknowledges that ‘additionally important vistas across to the village from Ross Priory road highlight the importance of the setting of the village of Gartocharn and its form as it meets the rolling farmland’ This assessment included the Designed Landscape of Ross Priory and the sensitivity of the sequential route along Ross Loan with the contribution of the key features and their prominence in the landscape.
- 8.37 Whilst there is agreement with the LVIA conclusion that the wider landscape impacts of the proposed development would not be significant, it is considered that the localised impact of the development would still have significant impacts on the landscape character of the area. The development would extend out into the landscape setting of the village with an adverse effect on the “rolling farmland with estates” Landscape Character Type as identified in Drymen and Gartocharn Landscape and Capacity Study 2010 and subsequently in the Gartocharn Landscape Capacity Assessment 2014. The proposed development would erode an ancient and distinctive rural field system. The proposal would adversely affect the setting of the linear village at a location important in its public enjoyment, considered in the context of the Millennium Hall, Church and Aber footpath. These impacts would potentially be exacerbated by street lighting. For these reasons, the proposal is at odds with policy L1 of the Adopted Local Plan.
- 8.38 It should be noted that it is considered that the mitigation as proposed in the LVIA to ‘screen’ the proposed development would add to the loss of local landscape character, key village setting, qualities and visual amenity due to the fragmentation of the site with associated internal roading, fencing and gardens. In summary, the proposed screening is not a solution to make an otherwise unacceptable development in landscape terms, acceptable.
- 8.39 It is relevant to consider, as part of the landscape assessment, the implications of recent developments which have taken place within the vicinity of the application site, namely the construction of an agricultural shed to the immediate north of the site and an access track connecting it to the field boundary gate adjacent to the Millennium Hall. The agricultural shed was erected under ‘agricultural permitted development rights.’ It has been ‘cut’ into the landform to significantly reduce its landscape impact from the Aber path, Millennium Hall, church and France Farm and on the village setting when viewed from Ross Loan ‘horseshoe’ road to the north. Sheds are familiar features of the agricultural landscape, whereas the development as proposed would absorb agricultural land and detract from the local context. Consequently, these recent agricultural developments do not alter the terms of the landscape assessment at para 8.37 above.

## Agenda Item 3

- 8.40 Appendix 1 of the applicants supporting statement as summarised in section 7.1 of this report is a written note prepared by the National Park following a meeting where the National Park's Landscape Adviser offered comments to Mr Methven about the capacity for development from a landscape perspective at the application site. It is worth taking the opportunity to clarify the context of those comments. Whilst the meeting note states that the south west corner of the site was less sensitive than the rest of the application site and that there might be some scope for a small scale development, this was caveated by making it clear that any development would need to be located and designed in such a way as to 'read' with France Farm, not impact on the setting of the church and by its scale and character not have any localised impacts on the landscape setting. The proposals as presented in this application, however, do not in any way address these conditions and cannot be supported for the reasons detailed in section 8.37 of this report.

### ***Listed Building setting***

- 8.41 Gartocharn Church is a Category B listed building. The National Park's Built Environment Adviser's assessment is that the application proposals would impact adversely on its current setting by removing its open aspect to the north and curtail important views of the church from the Ross Loan- the horseshoe road which is used by residents and visitors to the caravan park and Ross Priory and walkers/cyclists. If planning permission was granted in principle then further consideration would be essential at the subsequent application stage to the siting, scale and height of the proposed buildings and their materials, landscaping and access from the church to the fields beyond in order to minimise adverse effects on the setting of the listed church. On balance it is considered that the potential impacts could be mitigated to protect the setting of the church and that this is not therefore a key determining factor in the consideration of this application for planning permission in principle.

### ***Impact on adjacent buildings***

- 8.42 The application could have an impact on the amenity of neighbouring properties in terms of outlook and privacy. If the application was approved contrary to the recommendation then matters including siting, massing, orientation of building and windows, lighting and noise would need to be considered in the subsequent application with a view to protecting the amenity of neighbours. It is considered, however, that these matters could be addressed by detailed design and are not an overriding reason for recommending refusal of the application.

### ***Public access***

- 8.43 Within part of the site is the core footpath which links the village of Gartocharn with Loch Lomond National Nature Reserve. The route is a claimed right of way with strong evidence of popular use. The path line roughly follows the eastern edge of the field, part of which, is within the application site boundary. The National Park's Recreation and Access Adviser notes that if planning permission is granted in principle then consideration will have to be given at the subsequent phase as to how the public accessing the core path and vehicles\* accessing the proposed development site can do so safely without conflict. Furthermore, if the application is granted then opportunities exist for the entire core path within the application site to be improved.

\*Note there has been no objection to the proposals by West Dunbartonshire Council as Roads Authority (refer to section 4.2).

- 8.44 In the supporting statement it is noted that if planning permission in principle is granted, then Mr Methven would offer the National Park Authority control over the section of the Aber Path within his title deeds and that this could be achieved through a legal agreement between the two parties. For the avoidance of doubt, this is a separate matter and the National Park has not discussed this to date with Mr Methven or Rainbow Valley and this should not be given any weight in the assessment of this application.

## Agenda Item 3

### ***Natural heritage***

- 8.45 SNH and the National Park's Natural Heritage Officer have concluded that the proposals should have no adverse impact on the qualifying features (Greenland white-fronted geese) of the nearby SPA provided construction of any development in this location is restricted to when the wintering geese are absent from the area (i.e. between April and September).

### ***Consultation responses***

- 8.46 There are no objections recorded in the statutory consultation responses as noted in section 4 of this report. Any recommendations made could reasonably be addressed by conditions should members be minded to approve the application against the recommendation.

### ***Representations***

- 8.47 A significant number of representations were submitted in relation to this application and the level of public support is acknowledged as is the concerns of the local community. All points 'material' to the consideration of this application and have been summarised and acknowledged in section 5 of this report. The key determining issues and the corresponding planning assessment are captured under this section (section 8) of the report and the balance of considerations are drawn together in the conclusion.

### ***National Park Aims***

- 8.48 It is considered that the proposal does not collectively meet the National Park's four statutory aims (as set out at para 6.1). Whilst those accessing the therapy centre would benefit from the enjoyment of the special qualities of the area, it is considered the proposal would largely be at odds with the third aim as the introduction of development extending into the landscape setting at this location would adversely affect the experience of the special qualities of the National Scenic Area from established public areas such as the Millennium Hall and Aber Path as it leads down from the side of the Millennium Hall to the field. The proposal does not meet the first aim as the proposal would neither conserve or enhance the natural and cultural heritage of the area. Instead, it is considered that it would erode the local landscape character, the traditional field pattern, public views, landscape and public access experience that are part of the areas cultural heritage. Accordingly, the proposal also conflicts with local plan policy NP1 which requires development to be consistent with all four statutory aims of the National Park.

### **Conclusion**

- 8.49 The Authority is required by planning law to determine planning applications in accordance with the Local Plan unless material considerations indicate otherwise. This proposal does not comply with the Plan, and other material planning considerations identified do not justify a departure from the Plan.

The Adopted Local Development Plan does not identify this site for development and when the Plan's policies are applied they do not support the proposal. It is stressed that in recent years there has also been an extensive process to update our Local Plan, including considerable public engagement and formal consultation. As part of that process potential sites for development (including this site) were considered. Out of that process future favoured development sites in Gartocharn were identified. Due to its landscape sensitivity this site was not included in this list of future favoured development sites.

Through the assessment of this proposal the conclusion that this site remains sensitive to new development has been confirmed. Development of this scale, and the proposed mixed use, is not appropriate on this site. Key considerations taken into account when reaching this

## Agenda Item 3

recommendation have included the type of housing, the type of facility, the proposed 'enabling' development, landscape capacity and character, locational need and consistency with the aims of the National Park. Careful consideration has also been given to the representations received, both in support and objection. It is of no doubt that the cancer care therapy centre is a worthwhile project (as evidenced by the considerable level of public support) and that the National Park is a good location for a facility of this type. However, this proposal cannot be supported at this location alongside a housing development which is not regarded as enabling the therapy centre.

Approving the application contrary to these conclusions would set an undesirable precedent for further developments within this National Scenic Area that do not comply with Local Plan policy and which do not have a specific locational need to be within this area; making it difficult to resist further proposals for development.

### ***Advice for Members***

8.50 If members are minded to approve this application contrary to the recommendation then it is advised that the decision on the application be deferred to agree the following matters:

- A schedule of planning conditions
- The phasing of development
- A development contribution by the applicant towards affordable housing off site. Housing Policy 2 (iii) of the Proposed Local Development Plan states that "Within the accessible rural town and villages (of which Gartocharn is one) sites of up to 3 homes, including single dwellings will provide either an affordable home or alternatively make a financial contribution towards affordable housing provision elsewhere within the local area. If planning permission is approved then the housing element of this proposal should not be exempt from this requirement.

**Background** <http://www.lochlomond-trossachs.org/planning/>

**Documents:** ***Click on view applications, accept the terms and conditions then enter the search criteria as***

**List of** ***Appendix 1: Reasons for Refusal***  
**Appendices:**

## Agenda Item 3

### Appendix 1: Reasons for Refusal:

1. The proposal does not comply with policy HOUS3 of the Adopted Local Plan. The three houses are not for affordable needs and there is one site identified within the Adopted Local Plan and a new site in the Proposed Local Development Plan that are suitable for the delivery of both affordable and open market housing. The case that the housing development will 'enable' the delivery of a therapy centre does not provide a convincing justification for an exceptional approval.
2. The proposal would erode the distinctiveness of the local landscape character (*rolling farmland with estates*); the historic dimension of the local landscape; the visual and scenic qualities of the landscape; and the quality of landscape experience. As a result, it is judged that the application would neither conserve nor enhance the special landscape qualities of the Park and the proposal would not comply with policy L1 of the Adopted Local Plan.
3. The proposal would not collectively meet the four statutory aims of the National Park (in particular the first and third aims) and, as a result, would not comply with policy NP1 of the Adopted Local Plan.
4. Approval of the proposal would set an undesirable precedent for substantial new development within the rural areas of the National Park and National Scenic Area which would not have a specific locational need to be within these areas and would make it difficult to resist further proposals for development on the land remaining within the application field.