

PLANNING AND ACCESS COMMITTEE
MEETING: Monday 28th October 2019

SUBMITTED BY:	Director of Rural Development and Planning
APPLICATION NUMBERS:	2016/0387/DET; 2016/0388/DET; 2016/0389/DET; 2016/0390/DET; 2016/0391/DET; 2016/0392/DET; 2016/0393/DET; 2016/0394/DET.
APPLICANT:	Luss Estates Company
LOCATION:	Various locations between Luss and Arden

PROPOSAL:	Erection of Housing
NATIONAL PARK WARD:	Lomond North Ward and Helensburgh and Lomond South Ward
COMMUNITY COUNCIL AREA:	Luss & Arden
CASE OFFICER:	Name: Caroline Strugnell Tel: 01389 722148 E-mail: caroline.strugnell@lochlomond-trossachs.org

1. SUMMARY AND REASON FOR PRESENTATION

- 1.1. The purpose of this report is to introduce eight detailed planning applications for housing development which have been submitted by Luss Estates Company. The applications are being presented together within this overarching report because, collectively, they form a package of proposals which aims to address some strategic development objectives for the West Loch Lomondside area.
- 1.2. In accordance with paragraph 5 of the Scheme of Delegation, these applications are being presented to the Planning and Access Committee because:
- The three applications for development proposed in the Muirlands area (application refs. 2016/0390/DET, 2016/0392/DET and 2016/0394/DET) have been the subject of a significant level of valid objection, and;
 - The Community Council has formally objected on valid planning grounds in relation to the three applications in the Muirlands area (application refs. 2016/0390/DET, 2016/0392/DET and 2016/0394/DET) and the officer recommendation is to approve, and;
 - The Planning Authority has decided that in this case the particular circumstances of the remaining applications, which would in the normal course of events be dealt with under the Scheme of Delegation, are such that the applications should be

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determined by the Planning and Access Committee because all eight applications, together, form an interdependent package of proposals that would be linked by a Section 75 legal agreement.

2. **RECOMMENDATION Loch Lomondside**

2.1. That Members:

- 1) **APPROVE** all eight applications subject to the imposition of the conditions set out in the individual Reports of Handling contained at **Appendix 1** of this report and the conclusion of a section 75 agreement/planning obligation incorporating the Heads of Terms summarised in **Appendix 2**

3. **BACKGROUND**

The West Loch Lomondside Area and Strategy

- 3.1. The application sites are all located within the West Loch Lomondside area. In terms of the relevant strategy document this is the expanse of land situated to the west of Loch Lomond stretching from Inverbeg in the north to just south of Arden and west to the boundary of the National Park (Figure 1). The area covers the village of Luss and a number of smaller rural communities in the surrounding countryside including Aldoclay, Porte O' Rossth, Arnburn and Muirlands.

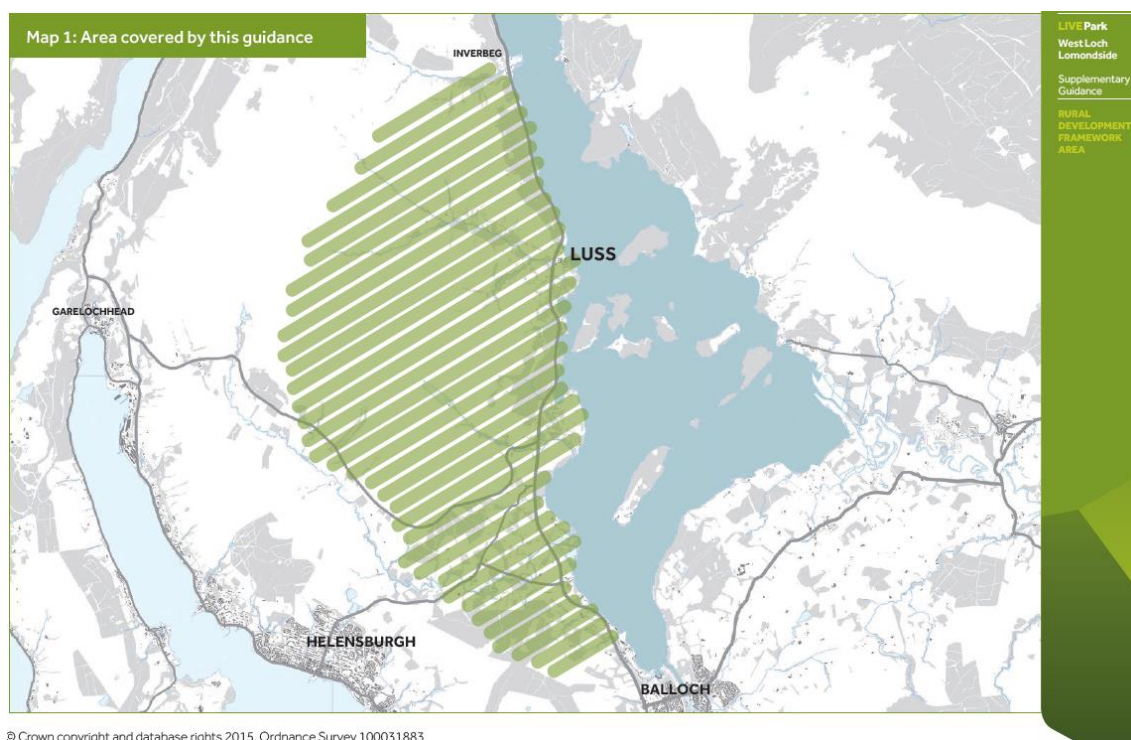


Figure 1: The West Loch Lomondside Area

- 3.2. Like many rural areas within the National Park this area suffers in general from an ageing and declining population, a lack of family and affordable housing and high house prices as a result of pressure from tourism and second homes. This has had associated impacts on the sustainability of local primary education provision and the area's rural economy through lack of working-age resident population. There are also issues related to a lack of appropriate infrastructure to support communities and address local tourism pressure, particularly within Luss Village.

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- 3.3. The entire West Lochlomondside area is predominantly within the ownership of the applicant, Luss Estates who is a significant employer in the area. In 2013 Luss Estates initiated a Community Charrette (an interactive design-led stakeholder workshop) to consider some of the issues affecting the area's communities and how they could best be addressed. This culminated in the preparation, by Luss Estates Company, of their Strategic Development Framework (SDF) for the area in October 2013.
- 3.4. Subsequently the SDF was progressed into the National Park's West Loch Lomondside Rural Development Framework Area Supplementary Guidance ("the RDF") which was adopted in June 2017 and forms part of the Local Development Plan. The RDF integrates the Luss Estates SDF with the aims and aspirations of the LDP, the National Park Partnership Plan and visitor priorities for the Luss area. The RDF governs decisions on development proposals within the West Loch Lomondside area and provides the primary policy basis for consideration of these applications.
- 3.5. The RDF represents an alternative strategy for delivering sustainable rural development by approaching the whole area strategically i.e. by not viewing the area as 'settlement' and 'countryside' with a separate planning approach for each, but treating it as a whole and applying the LDP policy more flexibly. As set out on page 4 of the RDF this approach is designed to allow for different sites and development types to be 'packaged' together to help cross fund and bring forward development where this helps achieve an agreed overall development strategy to stimulate and strengthen the rural economy and sustain the local population.
- 3.6. The RDF sets out a Development Strategy for the area which is described in Chapter 3 of the document. The Development Strategy has three main strands:
 1. **To increase economic activity** within the village, through high quality tourism offering alongside commercial and economic development in Luss, and appropriate rural diversification and economic development in the wider rural area;
 2. **To increase the supply of housing** especially family and affordable homes. This will help retain and attract population through a mix of open market and affordable housing provision; and
 3. **To provide new and improved infrastructure** within Luss village to better manage and orientate visitors and achieve better balance between local residents way of life and coping with influx of large volumes of visitors.
- 3.7. The package of application proposals under consideration seek to directly address the latter two objectives.
- 3.8. The strategy for increasing the supply of housing is set out in Chapter 2 of the RDF. This is underpinned by a recognition that the housing policies of the LDP that preceded the publication of the RDF are not sufficiently flexible to support housing delivery in the area. The requirements for affordable housing (100% in rural areas such as this) allied to the absence of public subsidy and no flexibility to enable new market housing within countryside areas were seen as insurmountable obstacles to delivery.
- 3.9. In response the RDF adopts a more flexible approach. It states that:

"Flexibility in the LDP housing policies within this area will be supported to allow variance of the policy [affordable housing] requirements at each site. This will enable individual sites to be developed within a wider strategic context as part of a package of development for the area as a whole."

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- 3.10. This application 'package' is the first to be submitted under the RDF's bespoke strategy for the West Loch Lomondside area.

The Package of Proposals

- 3.11. The applicant first submitted these eight applications for housing development in December 2016. Over the course of the last three years the applicant has worked with officers to progress the applications through a number of positive design and layout iterations in response to statutory consultee and community feedback. Some of the issues arising have resulted in changes to the initial scheme designs and consequent review of the overall package of proposals across the remaining sites. The applicant has undertaken extensive additional survey work over this period to ensure all the technical aspects of these detailed proposals have been appropriately addressed and statutory consultee objections satisfied. The assessment of the applications has involved in-depth scrutiny of the financial aspects and economic viability, in respect of the overall application package and compliance with the RDF. The evolving nature of the applications within the package under assessment and the complexity of the financial aspects of the scheme (which has necessitated involvement of the District Valuer) have meant that this process has taken some time to draw to conclusion.
- 3.12. The applications within the package now presented to Members comprise a total of 23 market houses and 6 affordable houses across eight application sites which are shown in Figure 2.
- 3.13. A detailed description of each proposal is contained within the relevant Report of Handling at **Appendix 1**.

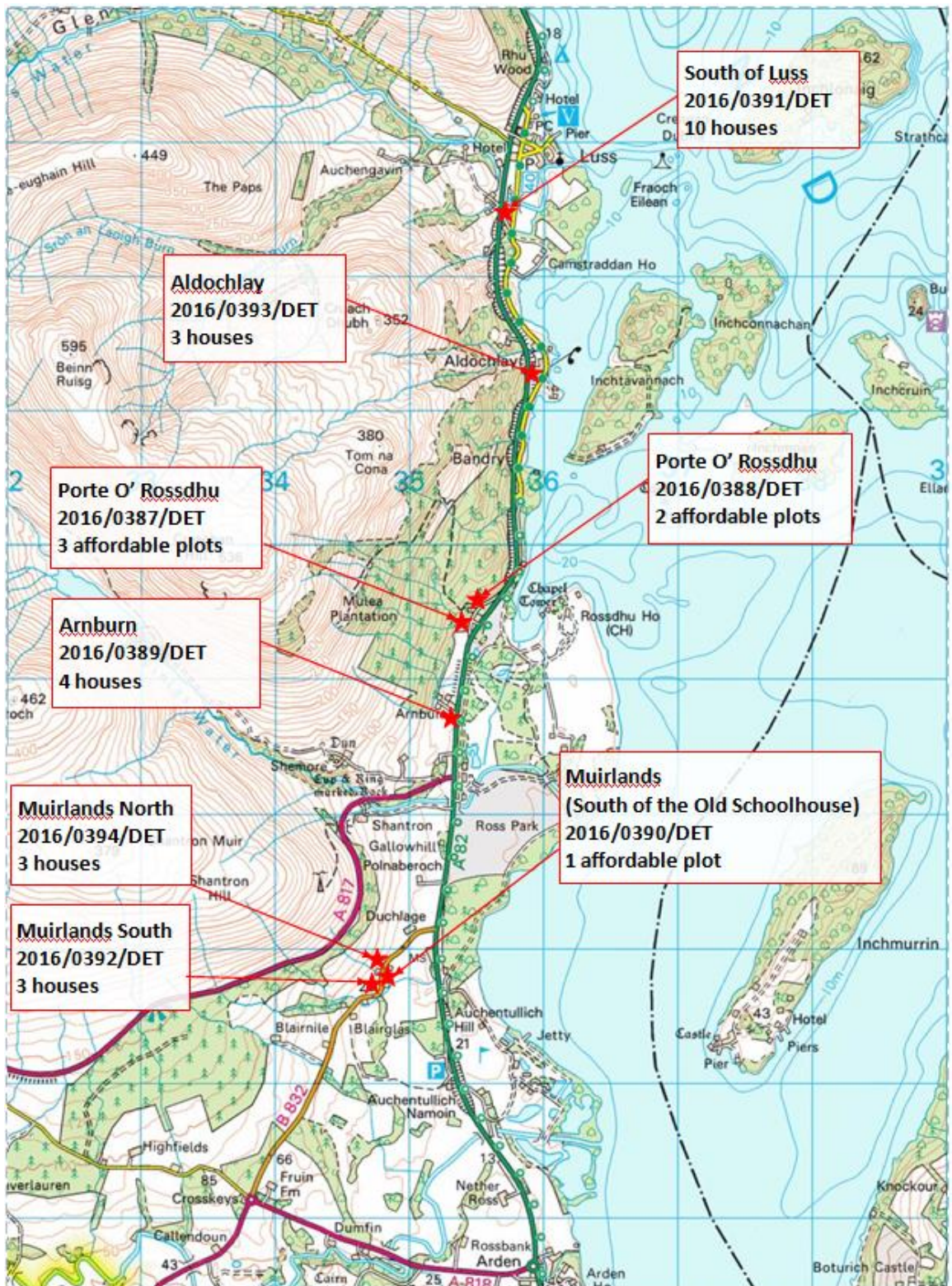


Figure 2: Location of the application sites

3.14. As part of the package of proposals, linked to the delivery of the housing, the applicant proposes provision of a community village green within Luss. This would be situated on the south side of Pier Road and would link the Lomond Arms Hotel on Old Luss Road with the Village Hall and other local attractions and facilities to the east (Figure 3).



Figure 3: Luss Village Green (photographs of the site from the Memorial Oak and as viewed from old Luss Road (old A82) looking east).

- 3.15. Planning permission for the village green has already been granted (application ref. 2015/0240/DET) and work initiated with the implementation of the Queen's Jubilee Memorial Oak and setting in the north western corner (photograph above). The remainder of the proposal, including the laying out of the green, provision of pathways and new tree planting has yet to be implemented. A detailed plan of the proposal is included at **Appendix 3** of this report.
- 3.16. The final element of the package of proposals is the provision of land and financial assistance to Link Housing Group to facilitate the delivery of 5 no. affordable houses at the site to the north of the Lomond Arms Hotel (LDP housing allocation reference H2) (Figure 4). This scheme was granted planning permission in 2016 (reference 2015/0441/DET) and completed on site in September 2017.
- 3.17. The relative timing of this aspect of the application package represents a significant commitment by the applicant since the land and finance has been provided in advance of (and with no guarantee of) the cross subsidy that would be generated by the market housing proposals currently under consideration (as explained later in this report).



Figure 4: Link Housing Group - 5 Affordable Houses (site location and nearing completion in 2017)

4. PLANNING HISTORY

- 4.1. There is no relevant planning application history pertaining to any of the application sites.

5. ENVIRONMENTAL IMPACT ASSESSMENT AND HABITAT REGULATIONS

Environmental Impact Assessment (EIA)

- 5.1. For the purposes of the Environmental Impact Assessment (Scotland) Regulations 2017 the National Park is identified as a 'Sensitive Area' and the National Park Authority has a statutory duty to consider whether proposals for development of a type that falls within Schedule 2 of the regulations should be subject to the EIA process.
- 5.2. Housing development can be considered an 'urban development project' under the 'infrastructure projects' category (10b) of Schedule 2 and the applications have therefore been screened. The screening concludes that the proposals, neither individually nor collectively, are of a scale or nature that is likely to give rise to significant environmental effects and an EIA is not therefore required. The screening opinion is available to view as part of each application file.

Habitat Regulations Assessment (HRA)

- 5.3. Not applicable.

6. CONSULTATIONS AND REPRESENTATIONS

Statutory Consultee Responses

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- 6.1. The statutory consultee responses for each application are summarised in each of the Reports of Handling at **Appendix 1**. There are no objections by Statutory Consultees to any of the applications presented.
- 6.2. In relation to all eight applications Luss and Arden Community Council affirms their continuing **support** for the wider aims of the current Local Development Plan for Luss and Arden, including the appropriate and scaled development of market and affordable housing and **support** for the provision of public spaces and amenities. They highlight a need for a 'Project Programme' commitment to de-risk non-realisation of the affordable housing commitment and for a 'Primary Residence' requirement for open market housing to prevent sale for holiday-home use.
- 6.3. The Community Council maintains **objection** to the three applications in Muirlands (2016/0390/DET, 2016/0392/DET and 2016/0394/DET) on the grounds of elevated road safety risk on the B832.
- 6.4. The Community Council's comments in respect of individual applications are considered within the Reports of Handling.

Public Representations

- 6.5. At the date of publication of this report the following number of representations to the applications had been received from contributors (note that the number of representations is higher in some instances as some contributors made more than one representation):

Ref.	Location	Representations	Contributors
2016/0391/DET	South of Luss	1	1
2016/0393/DET	Aldochlay	1	1
2016/0389/DET	Arnburn	3	2
2016/0387/DET	Porte O' Rossdhu north (affordable)	3	3
2016/0388/DET	Porte O' Rossdhu south (affordable)	3	3
2016/0392/DET	Muirlands South	119*	110
2016/0394/DET	Muirlands North	117*	106
2016/0390/DET	Muirlands south of the Old Schoolhouse (affordable)	118*	109
<i>*Of which 101 were submitted on 'petition-style' templates</i>			

- 6.6. A summary of the matters raised in respect of each application are set out within the Report of Handling at **Appendix 1**. In relation to the principle of the approach relating to the eight applications that is considered within this Overarching Report, the following public comments are relevant:
 - Concern that the open market houses would be used as second homes without necessary safeguards;
 - Concerns that the 'marketing' of the affordable plots would not secure their ultimate development for affordable housing;
 - The 50%/50% ratio of market to affordable housing should be maintained;
 - A 'credit' for three additional affordable units in lieu of the £79,000 financial assistance to Link Housing Group is double counting and the credit should equate to what was delivered (i.e. five units);

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- The linked proposal for the village green does not contribute, affect nor facilitate the delivery of housing envisaged by the overarching framework and should not be credited against affordable housing.

6.7. The full content of the representations is available to view on the National Park Authority's Public Access website (<http://www.lochlomond-trossachs.org/planning/> Click on view applications, accept the terms and conditions then enter the search criteria as the application reference '2016/....').

7. **POLICY CONTEXT**

The Development Plan

7.1. Section 25 of the Town and Country Planning (Scotland) Act 1997 states that planning applications are to be determined in accordance with the Development Plan unless other material considerations indicate otherwise. The Development Plan comprises the Loch Lomond & The Trossachs National Park Local Development Plan (LDP) (adopted 2017) and Supplementary Guidance (RDF).

Local Development Plan (2017-2022)

7.2. The policies of the LDP relevant to each application are set out in the individual Reports of Handling at **Appendix 1**. The LDP policies can be read in full at: <http://www.lochlomond-trossachs.org/planning/planning-guidance/local-development-plan/>

Supplementary Guidance

- The West Loch Lomondside Rural Development Framework
- Housing
- Design and Placemaking

Other Material Considerations

National Park Aims

7.3. 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:

1. to conserve and enhance the natural and cultural heritage of the area;
2. to promote sustainable use of the natural resources of the area;
3. to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
4. to promote sustainable economic and social development of the area's communities.

7.4. Section 9 of the Act 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.

National Park Partnership Plan (2018-2023)

7.5. All planning decisions within the National Park require to be guided by the Partnership Plan, where they are considered to be material, in order to ensure that they are

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consistent with the Park's statutory aims. In this respect the following outcomes and priorities of the Partnership Plan are relevant.

- Outcome 2: Landscape Qualities
- Outcome 10: Placemaking
- Outcome 12: Sustainable Population National Park Planning Guidance

8. Summary of Supporting Information

- 8.1. The applicant has submitted documentation and technical information in support of each of the eight planning applications. Details of these are contained within the Report of Handling for each application appended to this Report.
- 8.2. The applicant has also submitted an overarching Supporting Statement (November 2018) setting out the background, rationale and justification for the eight applications demonstrating how the applicant believes the proposed developments and approach complies with the West Loch Lomondside Rural Development Framework Supplementary Guidance. This is accompanied by a confidential Business Case and associated financial information.

9. PLANNING ASSESSMENT

- 9.1. This section of this overarching report is set out in three parts. The first part considers the principle of development of the overall package of application proposals against the policies of the RDF. The second part of the Report focusses on the three applications in Muirlands that are the subject of a Community Council objection and a significant level of community representation. The third part considers the remaining application proposals. A detailed description of each application proposal and assessment against the relevant policies of the Local Development Plan can be found within the separate Reports of Handling at **Appendix 1**

Part 1: The Principle of Development

- 9.2. This section considers the principle of development for the eight collective application proposals having regard to the relevant Development Plan policy, namely the West Loch Lomondside Rural Development Framework Supplementary Guidance ("the RDF") and the Housing policies of the Local Development Plan (LDP).

West Loch Lomondside Rural Development Framework Supplementary Guidance

- 9.3. As outlined in Section 3 of this Report the policies governing decisions on development proposals within the Luss and Arden area are set out within the West Loch Lomondside RDF. This states:

"Development proposals within Luss and the West Loch Lomondside Area shown on Map 1 [Figure 1 in this Report] will be guided and determined via the following planning policy sequential approach:

(a) Development proposals will be supported where they accord with the policies in the LDP;

(b) New housing will be supported on the basis that the overall provision ... will collectively deliver 50% affordable housing and 50% open market housing; and

(c) Where a proposal represents a departure from (a) and (b) above support will be given where the proposal demonstrates;

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- i. That it will help fulfil the overall Development Strategy (Section 3 of the RDF); and*
- ii. That there are other public/community gains; and*
- iii. That any market elements help cross subsidise the delivery of the gains.*

Applications that are related in terms of delivery will be tied legally through a Planning Obligation.”

- 9.4. In relation to (a) above the Housing Policies of the LDP are relevant. Policy H2(b) concerns new housing on sites adjacent or close to towns and villages and H2(c) concerns new housing located in small rural communities and building groups in the countryside. Both policies require proposals in such locations to be sensitive to the scale and character of the host community and be for 100% affordable housing. All the application sites fall within locations to which either Policy H2(b) or (c) apply.
- 9.5. Three applications propose affordable housing within building groups (building groups being defined in the Housing Supplementary Guidance (HSG) as groups of buildings that contain at least one existing residential property). These are the two applications at Porte O’ Rossdhu (2016/0387/DET, 2016/0388/DET) and the application at Muirlands to the south of the Old Schoolhouse (2016/0390/DET). These proposals have been assessed as being acceptable in terms of their sensitivity in scale and siting (see the individual Reports of Handing) and, as they are all for 100% affordable housing, they comply with Policy H2(c) and are therefore acceptable in principle under part (a) of the RDF policy above.
- 9.6. However the remaining five applications (2016/0391/DET south of Luss, 2016/0389/DET Arnburn, 2016/0393/DET Aldochly, and 2016/0394/DET 2016/0392/DET Muirlands north and south) propose exclusively open market housing in locations where only affordable housing is permitted under LDP Policies H2(b) or (c). As these proposals do not accord with Part (a) of the RDF policy it is relevant to consider Part (b) as follows. This part supports new housing proposals that do not accord with the LDP where collectively they would deliver 50% affordable housing and 50% market housing. This part of the policy effectively overrides the LDP’s more restrictive approach to market housing in countryside locations within the West Lochlomsnside area provided affordable housing makes up half of the provision overall.
- 9.7. The proposed 23 open market houses and 6 affordable houses is approximately an 80%/20% market to affordable housing ratio which falls short of the requisite 50%. However the applicant has advanced a case that the overall package of proposals achieves close to a 50% balance in ‘equivalent’ provision through investment in community infrastructure (village green) and the provision of land with finance. This approach is now considered.

Approach to Affordable Housing Provision

The Applicant’s Case

- 9.8. The applicant’s Supporting Statement asserts that the land provided to Link Housing Group (for £1) following the submission of these applications, facilitated delivery of 5 affordable houses at the site in Luss and these should be credited against the requirement. When these five houses are taken into account this would result in a market to affordable housing ratio of 23 to 11 (or 68%/32%).

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- 9.9. The completion of the Link Housing scheme required a further £80,000 in additional finance which was provided by Luss Estates. The applicant considers this additional financial assistance to be equivalent to a further 3 affordable houses based on contributions per unit of £27,500. This figure reflects the per-unit sum outlined in the HSG where financial contributions for off-site affordable housing are accepted in lieu of on-site provision in the Accessible Rural and/or Loch Lomondside areas. If this contribution 'in lieu' approach is accepted then it would result in a market to affordable housing ratio of 23 to 14 (or 62%/38%).
- 9.10. Finally the applicant contends that the works to provide and maintain the new village green in Luss, at an estimated cost of £137,500, would be equivalent to 5 affordable houses at £27,500 per unit. If this community infrastructure in lieu approach is accepted then this would bring the market to affordable housing ratio to 23/19 (or 55%/45%). The applicant's Supporting Statement explains that it is not commercially viable to meet the full 50% and a detailed confidential financial appraisal of the overall project accompanies their submission.

Discussion

- 9.11. Some objectors to the applications have stated that the 50%/50% ratio of market to affordable housing should be maintained, that a 'credit' for three affordable units in lieu of the £80,000 financial assistance to Link Housing Group is double counting and the credit should equate to what was delivered (i.e. five units). They also say that the linked proposal for the village green does not contribute, affect, nor facilitate the delivery of housing envisaged by the overarching framework, and should not be credited against affordable housing.
- 9.12. It is acceptable for the five affordable houses at the Link Housing site to be credited against the overall 50% requirement since these represent direct on-site affordable housing provision facilitated by the applicant and at a cost to them (in land value and finance terms). The overall ratio of direct market to affordable housing provision resulting from these eight applications would therefore be 23/11 (68% to 32%). This falls 12 units (or 18%) short of the 50% required.
- 9.13. An 'equivalent' or 'in lieu' approach to affordable housing provision is not expressly supported within the Policy of the RDF (criteria b) which envisages actual affordable housing delivery. The policies of LDP also lend no support to this approach with the HSG denying the option of financial contributions in lieu of on-site provision on sites adjacent to villages and within building groups. The RDF provides no guidance on the circumstances in which contributions might be accepted in the West Loch Lomondside Area acknowledging its specific locational constraints do not permit accordance with the LDP. It is the Planning Officer's assessment that, in the absence of specific guidance, the 'equivalent' approach is acceptable since it accords with the overall spirit of the RDF which is to support and facilitate cross-funded proposals which deliver the Development Strategy.
- 9.14. Irrespective of whether the £80k of finance (equivalent to 3 affordable dwellings) and the Village Green (equivalent to 5 affordable dwellings) are accepted as contributing to the overall ratio or otherwise, the amount of affordable housing (or equivalent) provided still falls short of the 50% required under the RDF policy criteria (b).

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- 9.15. The RDF Policy (c) states that where a proposal represents a departure from (a) and (b) above (which is the case here) then support will be given where the proposal complies with each of the criteria specified in (i), (ii) and (iii) of part (c) above; namely that the proposal would help fulfil the development strategy for Luss as set out in Section 3 of the RDF (see Section 3 of this Report), that other public/community gains would be delivered and that any open market elements of the proposal would help cross-subsidise their delivery. Compliance with these aspects of the policy is now examined.

Would the proposal help fulfil the Development Strategy?

- 9.16. The three key strands of the Development Strategy are set out at para 3.x of this report. The second of these is to: *“increase the supply of housing especially family and affordable homes to help retain and attract population through a mix of open market and affordable housing provision”*.
- 9.17. This proposal would directly address the lack of family-sized homes within the West Loch Lomondside area by seeking to make available 23 new, three bedroomed homes for open market sale. These would be large enough for families but in the ‘mid-market’ rather than ‘executive’ category so as to remain accessible to working families on median incomes.
- 9.18. Some objectors have raised concerns that the open market housing would not fulfil the Development Strategy as they are likely to be purchased as second homes or holiday /retirement homes and not by local families employed in the area who would contribute to maintaining the local school roles. Whilst these concerns are acknowledged there is no local or national policy basis to impose a restriction on the occupancy of open market units. Nevertheless the proposed homes would be available for local people to purchase on the open market if they so choose and the proposals would contribute positively to increasing the supply of family housing in the West Loch Lomondside area in accord with the Development Strategy.
- 9.19. In relation to affordable housing provision, the applicant is proposing six affordable housing plots that would be serviced and made available at a discounted price. The provision of land rather than completed houses is proposed following unsuccessful efforts by the applicant to secure Housing Association interest in developing the sites. For example, one of the Muirlands sites was offered to Link Housing Association but the offer was rejected due to site-specific costs making the site commercially unviable in their opinion. With the small-scale nature of potential development sites in the area’s rural communities being unviable for social rent it is accepted that reliance on social housing providers to deliver affordable housing on the ground is unrealistic. The provision of serviced land at a discount is therefore considered a reasonable and practical alternative approach to facilitate the delivery of affordable housing in the area.
- 9.20. The six affordable plots would be serviced by the applicant prior to being marketed as ‘ready-to-build’ plots. This would involve site clearance, access creation, installation of connections to electricity, water and new (shared) sewage system (and in one instance the re-routing of the overhead power lines). Servicing the plots removes some of the associated costs and risks that might otherwise be a disincentive to self-builders.
- 9.21. Each serviced plot would be made available at a 30% discount from the open market value which would be secured through a Section 75 legal agreement. The level of discount has been informed by an independent valuation of the serviced plots which has

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been undertaken by the District Valuer. The houses ultimately built on the serviced plots would be required to meet the HSG definition of affordable housing (i.e. they would also be subject to a discount of from the open market value in-perpetuity. The HSG advises that the level of discount would generally be between 20 and 40% and will be “*set following the open market valuation of the District Valuer taking account of the land and build costs with the discounted sale not being less than the build costs to ensure the build remains viable.*” Based on the costs and the anticipated end-value, as assessed by the District Valuer, in this case a 30% discount would be applied. In accord with the HSG the occupation of the houses would also be limited to ‘main residence only’ which would prevent their use as holiday lets. The size of the affordable dwellings for which planning permission is sought is also restricted to 100sqm in order to comply with the requirements of the HSG for affordable houses to be ‘modest’ in scale.

- 9.22. The delivery of the affordable housing plots will be secured against the market housing occupations in the S75 legal agreement to ensure that an appropriate balance is maintained overall. In this regard ‘delivery’ of affordable housing means an obligation on the applicant to service and market the plots for sale at the discounted price. The proposed delivery triggers are set out in the Section 75 Heads of Terms at **Appendix 2** and are discussed further at paragraphs 9.39 to 9.45 of this Report.
- 9.23. The Section 75 would therefore de-risk the non-delivery of the affordable housing and village green and this addresses the Community Council’s and others’ concern that only the market housing would be implemented. Objectors have also suggested that the ‘marketing’ of the affordable plots would not secure their ultimate development. In the absence of public subsidy the applicant has no alternative but to turn to the market to deliver the affordable housing elements. The applicant has sought to facilitate affordable housing by making available discounted and ready-to-build plots which should incentivise development. However, if this did not occur, placing associated restraints on the delivery of market housing would not assist. Non-delivery of housing on the affordable plots ultimately is a risk, but accepting some risk is reasonable in order to support the delivery of rural housing and achieve the Development Strategy’s broader aims.
- 9.24. In summary the application proposals would provide new open market family housing and increase the opportunities for the development of affordable housing within the West Loch Lomondside area. The proposals would therefore help address this strand of the Development Strategy.
- 9.25. The third strand of the Development Strategy is to: “*provide new and improved infrastructure within Luss village to better manage and orientate visitors and achieve better balance between local residents’ way of life and coping with influx of large volumes of visitors.*”
- 9.26. The proposals would collectively facilitate delivery of a new community village green for Luss. The village green would occupy the northernmost part of a large field currently used for grazing which is located outwith the settlement boundary to the south of Luss but directly adjacent to it. The green would link the Lomond Arms Hotel on Old Luss Road to the Village Hall and other amenities to the east. The village green was granted planning permission under delegated authority in 2015 and has been part-implemented.
- 9.27. The proposal for the village green originally emerged out of the community charrette and featured in the Luss Estates’ Strategic Development Framework for Luss & Arden which

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was prepared in October 2013. The intention was to create an attractive arrival experience for the visitor that would provide a sense of place and also improve access and circulation at the southern end of the village with new pedestrian links into the historic core of Luss.

- 9.28. Latterly the West Loch Lomondside RDF supports the creation of a more sensitive southern edge of the village through *“Establishing community amenity space, such as a village green, improved play area and new footpaths to link the land between the Loch Lomond Arms Hotel and the Village Hall.”* The proposal would directly deliver this aspect of the Development Strategy and create a useable public space with paths and seating for members of the community and tourists alike to gather, walk and recreate. It would also enhance the visual amenity of this part of the village, especially when viewed from the former A82 roadway on the approach from the south.
- 9.29. The provision of the new village green would be secured in the legal agreement against the occupations of the proposed market housing. The proposal therefore helps to deliver this strand of the Development Strategy.

Would there be other public/community gains that would be delivered as part of the Development Strategy?

- 9.30. There would be inherent public and community gain arising from the unique opportunity to deliver new market and affordable housing in accordance with the RDF and the completion of the village green as also envisaged by the RDF Development Strategy.
- 9.31. Additionally the construction of the housing could provide local employment opportunities. There would be some additional spending in the local economy arising from the new housing making a positive contribution to supporting existing and future shops, community services and facilities locally.
- 9.32. New family housing in the area would also assist in attracting and retaining younger families who could make a positive contribution to maintaining the pupil role at Luss Primary School.

Would the open market housing help cross subsidise the delivery of the gains?

- 9.33. The aim of this policy criterion is to ensure that there would be no unfair financial gain resulting from any under provision of affordable housing against the 50% requirement and that any private housing approved would be solely to enable the delivery of the affordable housing and community infrastructure by cross-subsidy.
- 9.34. The applicant argues in their Supporting Statement that even the more flexible 50% affordable housing ratio provided in the RDF, if rigidly applied, is likely to lead to none or very few of the proposed developments taking place. They state that, in effect, smaller developments in rural areas will continue to be financially unviable unless there is a degree of flexibility in this ratio so that a greater private sector contribution can be generated to create the requisite subsidies for the affordable sites.
- 9.35. In support of the package of proposals (which amounts to 45% affordable housing if the ‘equivalent’ provision in lieu is accepted and 32% otherwise) the applicant has submitted a confidential financial appraisal. This details all anticipated revenues and costs associated with the delivery of the market housing, the serviced affordable plots and also the completion of the village green. The Supporting Statement highlights that the costs

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exclude those expended on the preparation of the Strategic Development Framework and the professional planning, design and legal costs associated with these applications.

- 9.36. The commentary accompanying the financial appraisal asserts that whilst it might initially be perceived as being a profitable exercise to achieve planning permission for market housing, the actual profit from each plot is significantly lower than might be expected. This is due to a combination of the low economies of scale and therefore relatively substantial on-off costs of servicing sites for small numbers of units and the sub-optimal (constrained) and disparate location of the sites (with prime development sites already built out historically). If all the sites are ultimately developed or sold in the manner envisaged, the anticipated return to the applicant as landowner would be substantially lower than what might normally be expected, to the extent that the applicant views this not as a financial venture but as an essential project to try to redress the current imbalances in population and housing provision.
- 9.37. It is agreed that, following scrutiny of the financial aspects, the financial appraisal demonstrates that the viability of the project as a whole represents a fairly marginal commercial proposition. The financial appraisal shows that without the cross-subsidy provided by the market housing sales, there would be no commercial incentive to provide the village green or to undertake to service plots to facilitate affordable housing delivery, with the upfront cost and risk that this entails. It is therefore also accepted that to seek further affordable housing or contributions in lieu to achieve the 50% sought by the policy may tip the balance of commercial viability and risk non-delivery of the project along with the associated public/community gains.
- 9.38. On balance therefore it is concluded that it has been adequately demonstrated that the open market housing proposals are needed to subsidise the delivery of affordable housing (and village green) in accord with criterion (iii) of the RDF. In this regard Members should be mindful when considering the individual applications, that refusal has potential to undermine the overall deliverability of the package of proposals.

Section 75 Legal Agreement

Development Phasing

- 9.39. Since the acceptability of development in principle relies on the overall package of proposals delivering a balance between market and affordable housing (or equivalent) a legal agreement is required to secure delivery of the affordable plots and village green against the market housing occupations.
- 9.40. The agreed phasing below accepts that the 5 Link affordable housing units along with the additional finance (equivalent in combination to 8 affordable houses) are 'in hand' and so delivery obligations are attached from the 9th market house onwards:
1. Not less than 1 (one) of the affordable self-build plots shall be serviced and marketed for sale at the discounted price prior to the occupation of the 9th market house.
 2. Not less than 2 (two) of the affordable self-build plots shall be serviced and marketed for sale at the discounted price prior to the occupation of the 11th market house.

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3. Not less than 5 (five) of the affordable self-build plots shall be serviced and marketed for sale at the discounted price prior to the occupation of the 14th market house.
 4. Prior to the occupation of the 20th market house all 6 (six) of the affordable self-build plots shall have been serviced and marketed for sale at the discounted price and the village green shall have been completed.
 5. If at any point prior to the occupation of the 14th market house, the village green is confirmed in writing by the planning authority to have been completed then the occupation triggers for 1 to 3 above will increase by 5 (five) occupations.
- 9.41. The applicant has indicated that the sites would be introduced as 8 separate developments over the next two to five years depending on market interest and take-up. The triggers above are therefore designed to provide flexibility in relation to the sequence in which the developments would be implemented.
- 9.42. No. 5 above allows the ability for the village green (equivalent to 5 affordable houses) to be implemented prior to the affordable housing plots, but in any event all six of the serviced affordable plots and the village green would be required to be delivered before the occupation of the 20th market house (out of the total 23 proposed).

Woodland Compensation

- 9.43. The Section 75 agreement would also secure a scheme of compensation planting to mitigate for the loss of some 1.3ha of woodland across three of the application sites (2016/0393/DET – Aldochlay, and the Porte 'O Rossdhu sites 2016/0387/DET and 2016/0388/DET).
- 9.44. Woodland compensation would normally be secured by planning condition. However in this instance, because the mitigation spans three application sites and is needed in association with all three, it is considered that a Section 75 agreement provides a more effective way to manage and administer its delivery.
- 9.45. The compensation planting site would be located within the National Park and would establish at least an equivalent area of new native woodland to ensure that there is no net loss of woodland within the National Park as a result of these development proposals. The requirement includes a 10 year maintenance programme to ensure that the woodland is properly established.

Conclusion

- 9.46. The package of development proposals, comprising these eight planning applications, have been put forward with the aim of addressing key strategic development objectives for the West Loch Lomondside Area as set out in the RDF.
- 9.47. The proposals, comprising 23 market houses and six serviced plots for affordable housing development have undergone extensive consideration, negotiation and scrutiny since submission in December 2016. Although the balance of housing falls short of the 50% affordable housing sought by the RDF, a robust viability case has been presented by the applicant which justifies the overall balance proposed taking reasonable account of the land and finance already expended and equivalent provision 'in lieu'.
- 9.48. The finalised package of proposals, linked by a Section 75 agreement, would collectively help address the need for new family and affordable housing in the area in accordance

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with the Delivery Strategy and would also secure a new village green for Luss as one of the stated delivery objectives of the RDF.

- 9.49. The Planning Assessment concludes that the package of proposals accords with, and is acceptable in principle, under the terms of the RDF subject to the completion of a Section 75 legal agreement/planning obligation incorporating the Heads of Terms (1 (Phasing) and 2 (Affordable Plot Obligations) summarised in **Appendix 2**.

APPENDIX 1: Reports of Handling

APPENDIX 2: Draft Section 75 Heads of Terms

Definitions

‘Affordable Houses’ are houses built on the ‘Affordable Plots’.

‘Affordable Plots’ are those 6 residential building plots collectively permitted under planning permissions 2016/0387/DET, 2016/0388/DET and 2016/0390/DET.

‘Discounted Price’ is a value set at 30% below the open market value.

‘Serviced’ means cleared and provided with vehicular access and connections to electricity, water and foul and surface drainage.

‘Market House(s)’ are each of those 23 units collectively permitted under planning applications 2016/0389/DET, 2016/0391/DET, 2016/0392/DET, 2016/0393/DET and 2016/0394/DET).

‘Marketed’ means advertised for sale at the discounted price.

‘Village Green’ is the ‘public realm’ scheme of landscape works that is the subject of the planning permission ref. 2015/0240/DET (or any approved variation thereto).

1. *Phasing*

- a) Not less than one of the Affordable Plots shall be Serviced and Marketed for sale at the discounted price prior to the occupation of the 9th Market House.
- b) Not less than two of the Affordable Plots shall be Serviced and Marketed for sale at the discounted price prior to the occupation of the 11th Market House.
- c) Not less than five of the Affordable Plots shall be Serviced and Marketed for sale at the discounted price prior to the occupation of the 14th Market House.
- d) Prior to the occupation of the 20th Market House all six of the Affordable Plots shall have been Serviced and Marketed for sale at the discounted price and the Village Green shall have been completed.
- e) If at any point prior to the occupation of the 14th Market House, the Village Green is confirmed in writing by the planning authority to have been completed then the occupation triggers for 1 to 3 above will increase by 5 occupations.

2. Affordable Plot and Affordable House Obligations

Affordable Plots are to be disposed of at no more than the Discounted Price.

The Affordable Houses must only be occupied in accordance with the terms of the Discount Sale Agreement [this is a standardised draft of a Section 75 legal agreement for discounted sale affordable housing] (i.e. they must remain as a primary residence and be subject to an affordable discount of 30% from the open market value which shall be applied in perpetuity).

3. Woodland Compensation Scheme

Prior to the commencement of development (including site clearance works) on any of the sites which are the subject of planning permission refs. 2016/0393/DET, 2016/0387/DET and 2016/0388/DET a scheme for compensatory tree/woodland planting shall be submitted to and approved in writing by the Planning Authority.

The scheme shall include:

- a) Identification of an area of suitable land for woodland planting no less than 1.3ha in area within the National Park,
- b) A planting plan (no. of species of tree, spacing, establishment methods/protection) which shall include native woodland species) including methods for establishment,
- c) A 10 year maintenance plan.

The scheme shall be implemented in full within 12 months of the commencement of development on any of the sites that are subject to planning application refs 2016/0393/DET, 2016/0387/DET and 2016/0388/DET.

APPENDIX 3: Luss Village Green Proposals

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