

PLANNING AND ACCESS COMMITTEE

MEETING: Monday 25th May 2020

SUBMITTED BY:	Director of Rural Development and Planning
APPLICATION NUMBER:	2018/0247/DET and 2018/0248/LBC
APPLICANT:	Western Ferries
LOCATION:	Kilmun Pier
PROPOSAL:	Construction of overnight berth and crew access, and installation of fenders and bollards

NATIONAL PARK WARD:	Ward 1 (Argyll Forest Peninsula)
COMMUNITY COUNCIL AREA:	Kilmun
CASE OFFICER:	Name: Alison Williamson Telephone: 01389 722 610 Email: alison.williamson@lochlomond-trossachs.org

1. SUMMARY AND REASON FOR PRESENTATION

- 1.1. The proposed development is the construction of an improved overnight berth and crew access and the installation of fenders and bollards at Kilmun Pier. Kilmun Pier and the associated buildings are B Listed and both planning permission and listed building consent are required for the proposed development. Given the level of representation (26 representations, 20 made to the planning application and 6 to the listed building consent application) in accordance with the scheme of delegation the planning application requires to be determined by the Planning and Access Committee. This report has been written to cover both the planning and listed building consent applications.
- 1.2. It is important to note that, as (by its nature) the pier projects from the land into the waters of Holy Loch, the proposed development at Kilmun Pier is controlled by both terrestrial and marine planning systems. The National Park as the 'Terrestrial' Planning Authority is responsible for all land based planning matters down to Mean Low Water Springs. In the intertidal zone, between low and high water springs, terrestrial planning authority overlaps with Marine Scotland's responsibilities for the marine area.
- 1.3. This means that in terms of the proposed development the Park Authority's jurisdiction for both planning permission and listed building consent ends below the mean low water mark. However, as the proposed development is connected to the land, those parts that are below the mean low water mark but above the level of the water are part of these applications.

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- 1.4. A Marine Licence is required from Marine Scotland for the development within the marine planning zone. A Marine Licence for the proposed development has been granted by Marine Scotland, however this is entirely separate from the requirements for planning permission and listed building consent.



Figure 1: Site plan which shows the location of the proposed structures and identifies Mean High Water springs and Mean Low Water Springs.

2. RECOMMENDATION

2.1. That Members:

1. **APPROVE** both the planning and listed building consent applications subject to the conditions set out in **Appendix 1** of the report.

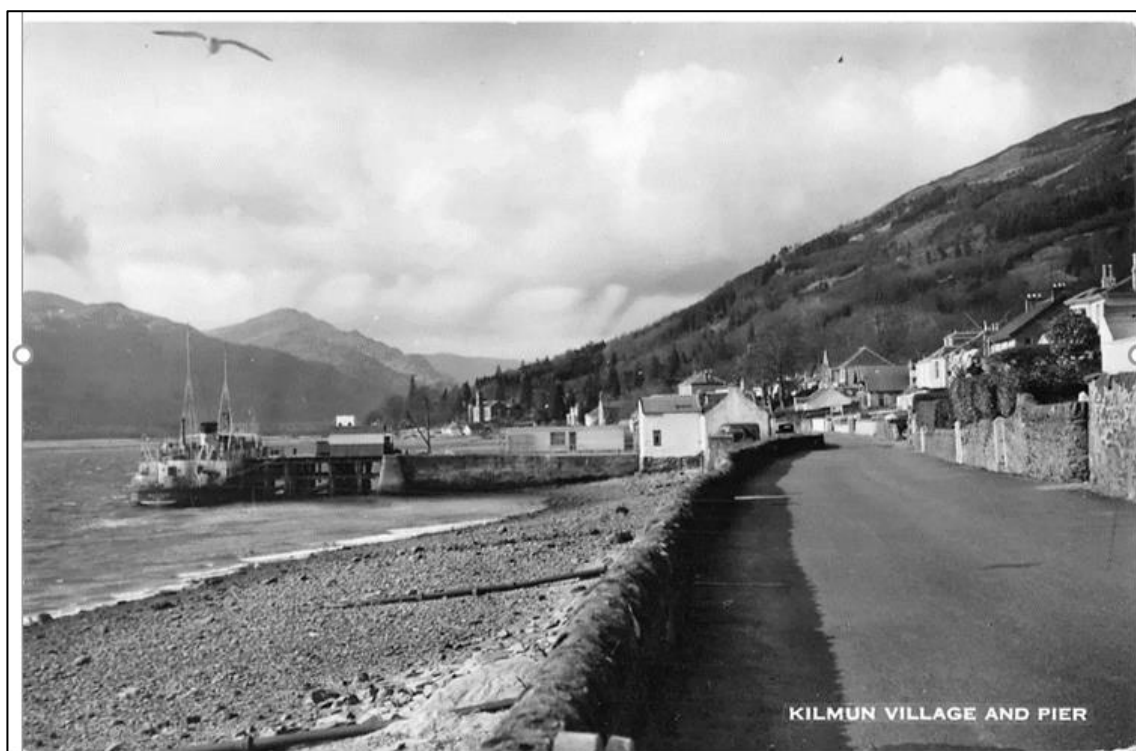


Figure 3: Historical Image of Kilmun Pier

- 3.3. Kilmun Pier and the associated buildings are B Listed and are of interest due to their connection to the marine engineer and entrepreneur David Napier and the opening of the Clyde to tourist traffic, as well as the survival of the stone buildings. The telephone kiosk adjacent to the shore end buildings is also B listed.
- 3.4. The pier is in use by Western Ferries as an overnight berth for their vessels providing a service from Hunters Quay at Dunoon. The service connects Hunter's Quay to McInroy's Point in Gourock across the Firth of Clyde connecting Glasgow with the Cowal Peninsula. Western Ferries vessels also moor at Kilmun pier when not needed or during bad weather. As many as 3 vessels can be moored to the pier side by side. The timber buildings on the pier are used by Western Ferries and the stone buildings at the shore end include former public toilets and two holiday cottages.
- 3.5. Currently, the vessels berth directly against the timber structure. The spring ropes are moored to the existing bollards installed to the top deck of the pier. Bow and stern ropes are connected to the mooring anchors on the beach. Crew access/egress the vessels to/from the pier via a 6 metre gangway.



Figure 4: Photograph of the existing pier from the A880 to the east of the pier.

Description of Proposal

- 3.6. The proposed development is the construction of an overnight berthing facility off-set from the existing timber pier, including the installation of mooring piles, fenders and bollards and a crew access gangway.
- 3.7. A series of five tubular mooring piles fitted with fenders would be installed 6.5 metres from the existing timber pier. The mooring piles would be 7.4 metres from each other, extending a total width of 29.6 metres. The height of the proposed mooring piles would be 7.39 metres from chart datum, that being 2.2 metres higher than the existing timber pier and no more than 1 metre higher than the top of the existing timber piles at the front face of the timber pier which vary in height. The proposed mooring piles would be 1.2m in diameter and would be steel, filled with concrete.

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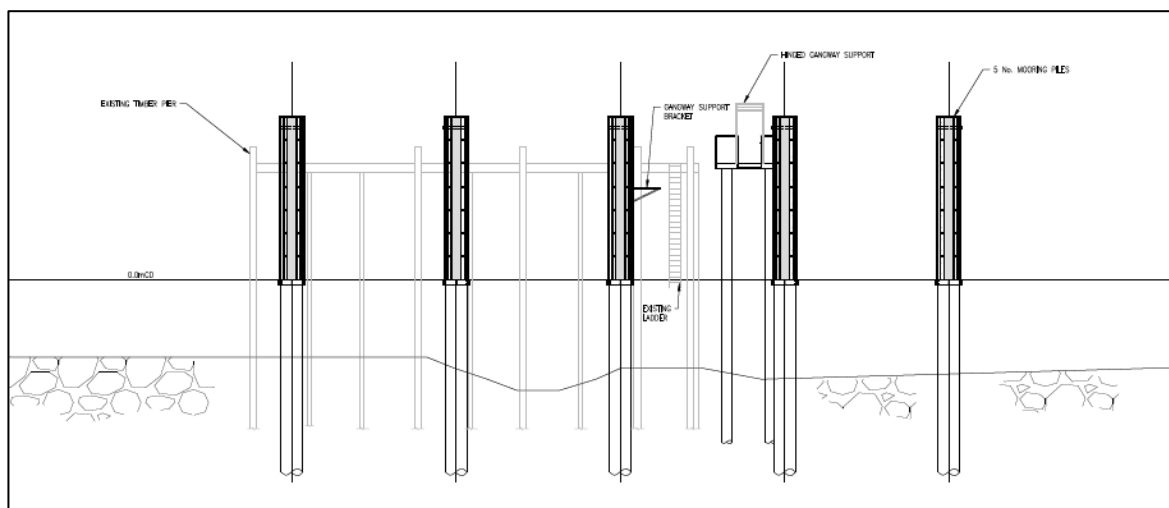


Figure 5: Proposed Mooring Piles

- 3.8. A crew access gangway is proposed to provide access to/from the existing masonry section of the pier to and from the vessels. The gangway proposed is a steel structure on steel piles/supports comprised of a short landing platform supported on four steel piles, a steel walkway 12 metres in length connecting to a further landing platform, from which a hinged telescopic gangway would span between the fixed platform and a vessel. A support frame is required for the hinged gangway.

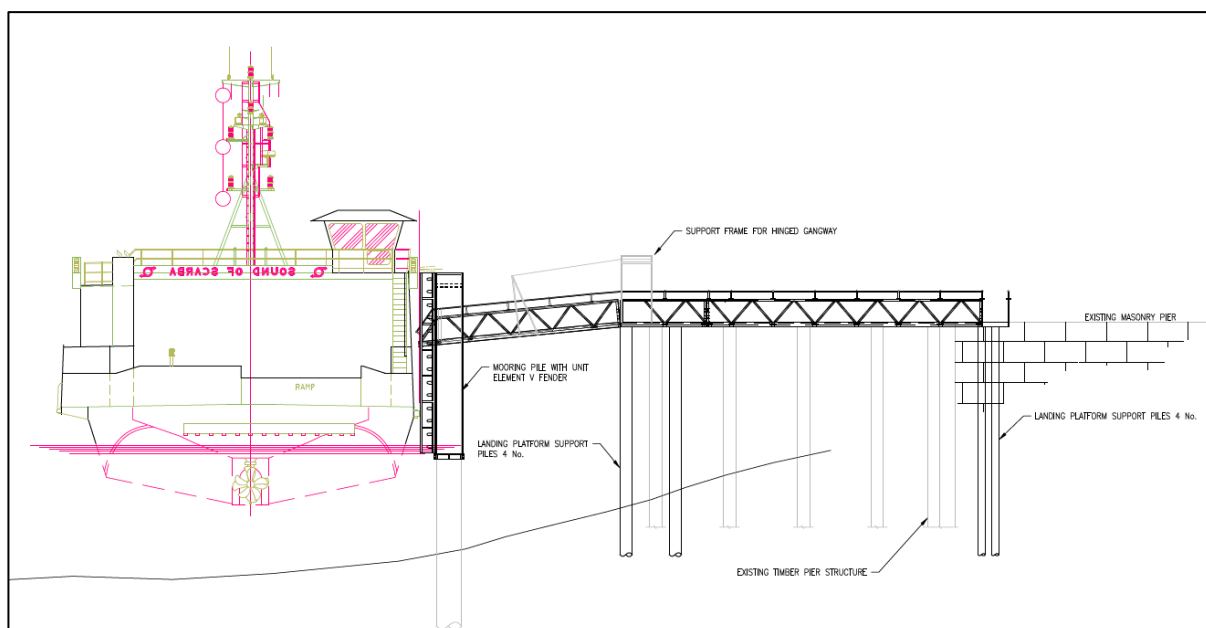


Figure 6: Section of the proposed development.

- 3.9. Two new mooring bollards would be installed on the shoreline to the east and west of the pier. These bollards would be 67cm above existing ground level and would be installed with a concrete foundation, 2 piles and a rock anchor. Mooring ropes would be tied to these bollards to secure the vessels at the pier.

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- 3.10. A gate is proposed to be installed at the entrance to the crew access gangway from the existing masonry pier for security reasons. The gate would be 2.4 metres in height and would have supporting sections of railings on either side.

Planning History

- 3.11. The planning and listed building consent applications for the proposed development at Kilmun Pier were submitted in August 2018. Photomontages were requested from the applicant in December 2018 however accurate photomontages were not provided by the applicant until March 2020 resulting in a delay to the determination of the applications.
- 3.12. Prior to the current applications for the proposed development, there have been a number of applications at Kilmun pier relating to the erection of two replacement storage huts on the pier and alterations to the shore end buildings which are now used as holiday lets.

4. ENVIRONMENTAL IMPACT AND HABITAT REGULATIONS ASSESSMENT

Environmental Impact Assessment (EIA)

- 4.1. The National Park is identified as a 'Sensitive Area' within the Environmental Impact Assessment (Scotland) Regulations 2017. 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.
- 4.2. In this instance the proposal falls under Schedule 2 of the regulations within the Infrastructure Projects 10 (g) Construction of harbours and port installations, including fishing harbours. The proposal has been screened and it was considered that it is not likely that there would be significant environmental effects and therefore an EIA was not required. The screening opinion is available to view as part of the application file.

Habitat Regulations Assessment (HRA)

- 4.3. The Habitats Regulations require that where an authority concludes that a development proposal is likely to have a significant effect on a European site (SPA or SAC) it must undertake an Appropriate Assessment (AA) of its implications for the European site in view of the site's conservation objectives.
- 4.4. In this instance there are no European sites which would be affected by the proposal and therefore a Habitats Regulations Assessment was not required.

5. CONSULTATIONS AND REPRESENTATIONS

Responses to Consultations

Clyde Port Authority

- 5.1. No objections however the applicant will require a Clydeport Works Licence and Notice to Mariners.

Marine Scotland

- 5.2. Advised that the works proposed below mean high water springs (MHWS) will require a marine licence.

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SEPA

- 5.3. No objections. SEPA consider the proposals to constitute a water compatible use, which have an essential operational need to be located in the coastal floodplain, and therefore have no objection to the proposed development on flood risk grounds.

SNH

- 5.4. Marine Cetaceans and seals

The original documentation submitted with the application described the use of an impact hammer to install the mooring piles and SNH commented that the piling works proposed have the potential to cause injury and disturbance to marine mammals and advised that a European Protected Species (EPS) licence for disturbance would be required. The applicant later advised that the proposed method for installing the mooring piles was to use a drill/core method. SNH have advised that an EPS licence would therefore not be required as this method of construction would produce much less noise and the risk of disturbance to cetaceans is very low.

- 5.5. Priority Marine Features (PMFs)

SNH records indicate that there may be PMFs present within the vicinity of the development. Priority Marine features include seabed habitats such as mudflats and marine species such as harbour porpoise. SNH advise that there is potential for interaction with PMFs, however, in this instance advise that impacts are unlikely to be significant with no effect on national status. SNH advise that the applicant, should follow best practice to minimise impacts to sea, particularly during the construction phase of the development.

- 5.6. Terrestrial birds and mammals

SNH advise that the proposal is unlikely to affect any important terrestrial species.

Argyll and Bute Council Environmental Health

- 5.7. No objections to the development subject to conditions and notes to applicant being attached to any consent including a noise management plan to minimise disturbance during construction and recommendations for working hours during construction. Appropriate conditions have been recommended in line with the advice from Environmental Health.

Argyll and Bute Council Floods

- 5.8. Due to the nature of the development the site lies within the coastal floodplain, however the proposed development has been designed for water compatible use, having an essential operational need. No flood risk assessment is therefore required.

Historic Environment Scotland (HES)

- 5.9. In relation to the application for listed building consent HES advised that they had no comments to make.

Kilmun Community Council

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- 5.10. Kilmun Community Council submitted comments neither objecting nor supporting the development.

Clyde Marine Planning Partnership

- 5.11. The Clyde Marine Planning Partnership confirmed that the Clyde Marine Plan is not yet statutory and they will not therefore respond to consultations. The Clyde Marine Planning Partnership advised that they would encourage consideration of the National Marine Plan to ensure that its policies have been taken into consideration with regard to terrestrial planning applications for coastal developments. (Refer also paras 7.12 and 9.3).

6. Representations Received

- 6.1. A total of 20 representations were made in relation to the planning application and 6 representations were made in relation to the listed building consent application.

- 6.2. No representations in support of the applications were received.

- 6.3. In summary, the matters raised in **objection** are:

6.4. **Proposal is contrary to the National Park Aims**

- first statutory aim of the National Park to conserve the cultural heritage of the area

Officer Response: This is addressed in the planning assessment in Section 9.

6.5. **Proposal is contrary to the National Park Partnership Plan**

- Conserving and enhancing the built and historic environment

Officer Response: This is addressed in the planning assessment in section 9.

6.6. **Proposal is contrary to the Local Development Plan**

- The area is not identified for development
- Proposal is contrary to Historic Environment Policy 3
- Proposal is contrary to ENV21

Officer Response: These matters are addressed in section 9.2 Principle of Development and section 9 planning assessment. ENV21 is a reference to a policy of the National Park Local Plan 2011 which is no longer applicable, although Historic Environment policy 3 of the current Local Development Plan contains similar provisions.

6.7. **Disturbance during construction (noise, vibration, traffic, machinery)**

- To wildlife
- To local residents and visitors
- Loss of earnings to local businesses during construction

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Officer Response: See section 9.20-9.24 Protected Species and section 9.26-9.27 Amenity. Loss of earnings for local businesses is not something which is a material planning consideration.

6.8. **An alternative site/location should be used**

Officer Response: The National Park can only assess the proposal which has been presented.

6.9. **The drawings submitted are inaccurate and misleading**

Officer Response: The drawings submitted are an accurate representation of the proposed development – note that updated supporting visuals have been secured through the course of determining the application.

6.10. **The photomontages submitted are inaccurate and misleading**

Officer Response: Whilst there has been some difficulty in obtaining photomontages from the applicant, the photomontages recently submitted are considered to be an accurate representation of the proposed development.

6.11. **Concern about the condition and maintenance of the existing timber pier**

- Western Ferries obligation to maintain the pier
- The statement that Western Ferries intend to “offload” the existing pier
- No maintenance has been undertaken by Western Ferries

Officer Response: The applicant has a responsibility for the repair and maintenance of the existing pier. The statement that the applicant intends to “offload” the existing pier is understood to refer to removing the impact of mooring the vessels against the existing structure. The existing pier requires to be maintained and the applicant has committed to doing so. To ensure that appropriate repairs and maintenance are undertaken a condition on permission, if granted, has been recommended. This would require that a survey is undertaken and the required repairs and maintenance are thereafter carried out.

6.12. **Questioning the proposed future use of the pier by Western Ferries**

- Future commercial, maintenance or passenger use?

Officer Response: It is not for the planning authority to speculate upon the potential

future use of the pier. The planning authority can only consider the proposal under consideration. The applications as submitted are for crew access and overnight berthing and should the applicant wish to extend use for other activities a further planning application would be required.

6.13. **Impact of the proposal on the view- significant visual impact**

Officer Response: See section 9.15-9.19 on Landscape/visual impacts.

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6.14. Ferries are not just berthed overnight but are also there during the day

Officer Response: It is acknowledged that the pier is used as an overnight berth but also when ferries are not in use or there is bad weather ferries may be berthed at the pier. There is no restriction on the use of the pier in terms of berthing.

6.15. Suggestions for alternative proposals

Officer Response: The National Park can only consider the proposal which has been put forward by the applicant. Some discussion was held with the applicant at an early stage of the assessment with regard to scope for a different proposal. Through the course of considering the applications, some minor changes have been made to improve the design of the proposal, such as removing proposed bollards on mooring piles.

6.16. It would be more appropriate to repair the existing timber pier

- Has a structural survey been undertaken?
- What will the impact of the proposal be on the structure of the timber pier?

Officer Response: The applicant has explained that the timber pier was not designed to take the mooring forces associated with the vessels that are used by Western Ferries. The proposal is therefore to reduce the dependence on the existing pier for overnight berthing and safeguard the existing structure. A condition has been recommended requiring a condition survey to be undertaken and repairs and maintenance carried out.

6.17. The pier is of significance to local history and that needs to be preserved

Officer Response: As above, the proposed development would remove the mooring forces from the existing pier and ensure that the historic fabric of the pier is maintained and repaired. The proposed development would be clearly separate from the existing pier so that the historic pier and the proposed development are read separately.

6.18. There would be no benefit to Kilmun or tourism from the proposal

Officer Response: The benefit to Kilmun and tourism would be the preservation and maintenance of the existing historic pier.

6.19. The proposed development is completely inappropriate

- The development would be completely out of character
- Detrimental appearance
- Size of the proposal is out of proportion with the existing pier
- Materials are not sympathetic
- Proposals are over-engineered

Officer Response: See Planning Assessment, section 9 of this report.

6.20. The impact of the proposal on wildlife

Officer Response: See section 9.20-9.24, Protected Species

- 6.21. Note – the above is a summary of representations received. 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 '2018/0247/DET' and '2018/0248/LBC').

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 (SG).

Local Development Plan (2017-2022)

- 7.2. The Local Development Plan (LDP) sets out the vision for how the National Park should change over the next 20 years. The LDP covers the period from 2017 to 2026 and is updated every 5 years.
- 7.3. The following LDP Policies are relevant to the determination of this application:
- Overarching Policy 1: Strategic Principles
 - Overarching Policy 2: Development Requirements
 - Natural Environment Policy 1: National Park Landscapes, Seascape and Visual Impact
 - Natural Environment Policy 4: Legally Protected Species
 - Natural Environment Policy 5: Species and Habitats
 - Natural Environment Policy 11: Protecting the Water Environment
 - Natural Environment Policy 13: Flood Risk
 - Natural Environment Policy 15: Coastal Marine Area
 - Historic Environment Policy 1: Listed Buildings

- 7.4. Full details of the policies can be viewed at: <http://www.lochlomond-trossachs.org/planning/planning-guidance/local-development-plan/>

Supplementary Guidance

- 7.5. The adopted Supplementary Guidance provides support to the policies of the LDP and carries the same weight in the determination of applications. The Supplementary Guidance of relevance to this application comprises:
- Design and Placemaking

Other Material Considerations

National Park Aims

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7.6. 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.

7.7. 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.

Planning Guidance

7.8. The National Park's Planning Guidance of relevance to this application comprises:

- Listed Buildings and Conservation Areas

National Park Partnership Plan (2018-2023)

7.9. 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 consistent with the Park's statutory aims. The following outcomes and priorities of the Partnership Plan are relevant:

- Outcome 1: Natural Capital
- Conservation Priority 1.2: Species
- Outcome 2: Landscape Qualities
- Conservation Priority 2.1 Landscape and Heritage
- Outcome 10: Placemaking
- Rural Development Priority 10.2 Built Heritage
- Rural Development Priority 12.3 Local Services

Scottish Planning Policy (SPP)

7.10. The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. It is non-statutory but directly relates to the determination of planning applications and appeals. As a statement of Ministers' priorities, the content of the SPP is a material consideration that carries significant weight, though it is for the decision-maker to determine the appropriate weight in each case.

7.11. Relevant sections of the SPP are as follows:

- 87. Coastal Planning. Terrestrial planning by planning authorities overlaps with marine planning in the intertidal zone. On the terrestrial side, mainland planning authorities should work closely with neighbouring authorities, taking account of the needs of port authorities and aquaculture, where appropriate. On the marine side, planning authorities will need to ensure integration with policies and activities

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arising from the National Marine Plan, Marine Planning Partnerships, Regional Marine Plans, and Integrated Coastal Zone Management, as well as aquaculture.

- 137. Valuing the historic environment. Planning should enable positive change in the historic environment which is informed by a clear understanding of the importance of the heritage assets affected and ensure their future use. Change should be sensitively managed to avoid or minimise adverse impacts on the fabric and setting of the asset, and ensure that its special characteristics are protected, conserved or enhanced.
- 141. Listed Buildings. Change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting.

7.12. Scotland's National Marine Plan

Relevant policies in the National Marine Plan are as follows:

- GEN 6 Historic environment: Development and use of the marine environment should protect and, where appropriate, enhance heritage assets in a manner proportionate to their significance
- 4.22 Marine planning should help to ensure that future marine activities and developments can be carried out in a way that respects the marine historic environment and the setting of important coastal heritage assets.
- GEN 7 Landscape/seascape: Marine planners and decision makers should ensure that development and use of the marine environment take seascape, landscape and visual impacts into account.
- GEN 13 Noise: Development and use in the marine environment should avoid significant adverse effects of man-made noise and vibration, especially on species sensitive to such effects.
- 12.16 Heritage tourism: Historic buildings around the Scottish coast, maritime museums, historic ships and festivals of the sea enhance the distinctiveness of coastal areas and play an important role in sustaining Scotland's remote and rural coastal and island communities.
- TRANSPORT 4: Maintenance, repair and sustainable development of port and harbour facilities in support of other sectors should be supported in marine planning and decision making.

7.13. Regional Marine Plan (Clyde Marine Plan)

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The Clyde Marine Plan is currently in pre-consultation draft format and therefore is not yet statutory.

8. **SUMMARY OF SUPPORTING INFORMATION**

8.1. The applicant has submitted the following documentation in support of the planning application:

- Ecology Survey Report
- Marine Mammals Sighting Report
- Marine Mammal Risk Assessment
- Photomontages
- Topographical Survey
- Design Statement

9. **PLANNING ASSESSMENT**

9.1. The key issues for consideration in the determination of these applications are: principle of development, design and built heritage, landscape, protected species, flood risk and residential amenity. Each is considered in turn below.

Principle of Development

- 9.2. The key local development plan policy which the proposed development requires to be assessed against is Natural Environment policy 15: Coastal Marine Area. Support is provided for development along the coastline where it is (a) in alignment with the National and Regional Marine Plan policies and objectives and (b) is sensitive to any cumulative impacts from existing development in the area; and (c) is outside the natural foreshore unless the development is considered essential for public utility services, water-based leisure or recreational uses in accordance with other local plan policies; and (d) is able to protect public access to and along the coast.
- 9.3. In terms of (a), the National Marine Plan, the proposed development would accord with the relevant policies and guidance by protecting and enhancing the heritage asset and would not significantly affect the setting of the listed structure. Significant adverse effects on species would be avoided and heritage tourism would be supported through the maintenance and continued use of the existing heritage asset.
- 9.4. In terms of part (b) of the policy there are no existing developments nearby which would result in cumulative impacts with the proposed development. Clearly the proposed development requires to be within the water and part of the development would be within the foreshore (between mean low water and mean high water). With regard to part (c) of the policy it is accepted that the development requires to be in this location. Public access to and along the coast would not be altered by this proposal and the proposed development therefore accords with part (d) of Natural Environment Policy 15.

Design and Built Heritage

- 9.5. Kilmun Pier and the associated buildings are B Listed. As described in the background section (3. above) the pier is noted for its connection with the marine engineer and entrepreneur David Napier and the opening of the Clyde to tourist traffic.
- 9.6. The Design Statement submitted by the applicant details that the berthing at the pier is causing deterioration to the historic fabric. The applicant considered a number of design options including doing nothing and continuing to use the timber pier, decommissioning the timber pier and replacing it or the chosen option which is to construct a new berth offset from the existing pier which will be maintained and preserved.
- 9.7. The creation of a new berth is a sustainable solution as it will reduce the impact on the existing historic pier. The Design Statement recognises that Western Ferries would continue to have a duty to maintain the historic pier and this is crucial. A condition survey should be undertaken of the existing pier with any recommended repairs being carried out. A condition has been recommended in this regard.



Figure 7: Photograph of the existing timber pier from Holy Loch

- 9.8. The proposed development is of a simple and functional design. It would clearly be a modern intervention, providing separation between the historic fabric and the modern addition. It would be different to and distinguishable from the heritage structure and would allow the historic pier to still be clearly seen (and maintained).
- 9.9. Recognising the importance of the listed structure, through discussions with the agent, some minor changes have been made to the design of the proposed new works, such as the removal of the bollards originally proposed to be attached to the top of the mooring piles. These have been replaced with a more discrete mooring hook which would hold the mooring ropes. The diameter of the mooring piles was also reduced marginally and the

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height of the proposed fenders lowered in order to refine the design as much as possible within the limitations of the other legislation that the applicant is required to meet.

- 9.10. Due to the nature of the proposal there are standards that require to be met such as the Safety in Docks code of practice which limits the design parameters of the development. Although the existing pier is a listed structure noted for its heritage interest it is not devoid of elements relating to its operational use such as security fencing, lighting poles and gate and gangway structures of a similar nature to those proposed as part of the development. The western part of the pier is separated from the eastern part by a high metal fence and gate as can be seen in figure 8.



Figure 8: Photograph of the existing pier showing existing gate and fence

- 9.11. The proposed development of the berthing facility with associated crew access gangway would be alterations to a listed building and is therefore assessed under part (a) alterations and extensions of Historic Environment Policy 1: Listed Buildings of the Local Development Plan. This part of the policy states that: development which alters or extends a listed building will only be supported where it can be demonstrated that: (i) Proposals will protect, conserve and/or enhance the character, integrity and setting of listed buildings, and (ii) The layout, design, materials, scale, siting and use shall be appropriate to the character and appearance of the listed building and its setting whilst not inhibiting quality contemporary and/or innovative design. It is considered that this proposal meets part (i) of this policy by way of protecting the heritage structure from further significant deterioration. It is considered that this proposal meets part (ii) of this policy as the layout, design, materials and scale are appropriate to its purpose; the siting is appropriate to the character by way of providing separation of the two elements and therefore legibility between the historic fabric and the modern addition. The design is considered to be of sufficient quality and contemporary for this use.

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- 9.12. It is considered that there is no significant adverse effect on the setting of the listed structure. The proposed development is the most appropriate of the design options considered and has been refined within the parameters of the other design requirements of a structure of this nature, such as health and safety legislation.
- 9.13. Further information is required on the connection between the proposed security gate and the adjacent timber hut, as well as the materials and finish of the gate and railings. A condition has been recommended to ensure appropriate details are agreed with the planning authority.
- 9.14. The proposed development would accord with the requirements of Historic Environment Policy 1 of the Local Development Plan and the Listed Building and Conservation Areas Planning Guidance.

Landscape

- 9.15. Kilmun Pier and the associated buildings are a distinctive feature of this area in the Cowal peninsula. The Special Landscape Quality for Argyll Forest takes cognisance of the seaside architecture of Kilmun and Blairmore due to the views they offer to the lochs and also the fact that “piers and jetties emphasise the history and past importance of sea-borne traffic “.
- 9.16. Overarching Policy 2 and Natural Environment Policy 1 of the Local Development Plan require that developments safeguard visual amenity and important views, protect and/or enhance rich landscape character and protect the Special Landscape Qualities of the National Park.
- 9.17. Photomontages were requested from the applicant to demonstrate the visual impact of the proposed development. Images were produced from three viewpoints and have been reviewed by the National Park Landscape Adviser. The existing and proposed images in figures 9 to 12 establish that the coastal views of the Holy Loch would be unaffected by the proposed addition to the working pier and there would not be a significant landscape or visual impact.



Figure 9: Existing view from east of the pier

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Figure 10: Photomontage of the proposed development from the east of the pier



Figure 11: Existing view from west



Figure 12: Photomontage of proposed development from the west of the pier

- 9.18. The National Park Landscape Adviser has commented that the materials and colours of the gangway are in keeping with the existing fence and do not appear to be intrusive. The final details of colouring of the piles and supporting structures should be agreed with the

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planning authority to ensure landscape fit. A condition has been recommended to ensure the final design details are further agreed.

- 9.19. The proposed development is therefore acceptable in landscape terms and would accord with Natural Environment Policy 1 and the requirements of the overarching policies of the Local Development Plan.

Protected species

- 9.20. Natural Environment Policy 4: Legally Protected Species seeks to safeguard protected species. The applicant carried out a Marine Mammal risk assessment and submitted a Marine Mammal sighting report in support of the planning application. Although only one common seal was observed during the survey, marine mammals such as harbour porpoise and seals are known to be present in Holy Loch.
- 9.21. In terms of marine mammals, following confirmation from the applicant that the proposed piles will be installed by drilling/coring instead of impact hammer, SNH have advised that this will produce much less noise and the risk of disturbance to cetaceans will be very low. This change in methodology will also minimise any impacts on seals. However, given the known presence of marine mammals in Holy Loch in order to ensure that there would be no disturbance caused by the development pre-works checks should be undertaken for the presence of cetaceans and seals. With appropriate pre-works checks and mitigation in place the proposed development can be undertaken without adverse impact on marine mammals. A condition has been recommended in this regard.
- 9.22. The intertidal habitats at the head of the Holy Loch that have been identified as a favoured foraging site for wading birds are situated at least 350 metres away from the proposed development. A wader survey was undertaken as part of the Ecology Report submitted by the applicant and very few wading birds were observed. Given the separation distance between the development site and this area there will be no significant disturbance to wading birds during the construction of the development.
- 9.23. An otter survey was carried out in January 2018 and no evidence of otter activity was recorded during the survey. Given the time that has passed since the otter survey was undertaken it is recommended that a pre-works otter survey is undertaken to identify if the use of the area by otters has changed and the need for any additional mitigation to avoid/minimise any impacts. A condition has been recommended in this regard.
- 9.24. The submitted assessments on ecological impact have established that the proposed development will have limited impact on the natural heritage of the area subject to a pre-work otter survey and pre-works survey for marine mammals being undertaken. The proposed development would accord with Natural Environment Policy 4.

Flood Risk

- 9.25. Given the nature of the proposal, being within the waters of Holy Loch the application site is within the floodplain and is at risk of flooding. Both SEPA and Argyll and Bute Council Flood Prevention have advised that the proposed development is an essential operational and water compatible use and there are no objections on flood risk grounds. The development would therefore accord with Natural Environment Policy 13: Flood Risk which supports development if essential for operational purposes within the floodplain.

Residential Amenity

- 9.26. The proposed development has the potential to cause disturbance to residents and visitors during the construction period, through noise, vibration, construction traffic and general disturbance. The applicant has advised that the likely construction period is 6 months with the most significant element of the works being the installation of the berthing-piles which will cause noise and vibration – but note the confirmed change in method at section 9.21 of the report above, which will reduce this impact. This part of the works would take approximately two weeks.
- 9.27. Disturbance to residents and businesses is an unfortunate element of developments, during construction, however such nuisance is transient and temporary and - with suitable conditions on working hours and the submission of a Construction Environmental Management Plan (including a construction method statement and management plans for sources of disturbance) - the development can be controlled to ensure that there is no significant adverse effect on amenity in accordance with Overarching Policy 2.

National Park Aims

- 9.28. The proposal must be assessed as to whether it contributes to the National Park aims, as required by Local Development Plan Overarching Policy 1: Strategic Principles which states that all development should contribute to the National Park being a successful, sustainable place by contributing to the collective enhancement of the 4 aims of the National Parks (Scotland) Act. The proposed development would conserve the natural and cultural heritage, would be sustainable in terms of both natural resources and economic development and would not impact on the enjoyment of the Special Landscape Qualities of the National Park. The proposed development would therefore contribute to all 4 of the National Park aims.
- 9.29. The proposed development would accord with the relevant outcomes and priorities of the National Park Partnership Plan in conserving the Special Landscape Qualities, conserving and securing investment in the historic environment and supporting local infrastructure.

10. Conclusion

- 10.1. In conclusion, the proposed development of the overnight berth and crew access would accord with the relevant policies of the National Marine Plan and the National Park Local Development Plan. The principle of the development is supported by Natural Environment Policy 15: Coastal Marine Area.
- 10.2. The proposed development, supporting an existing established use of the pier, would secure the retention of the listed pier and its ongoing maintenance and would not result in a significant adverse impact on the setting of the listed structure in accordance with Historic Environment Policy 1 of the Local Development Plan.

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- 10.3. The representations received in relation to both applications have been fully considered. It is nevertheless concluded that there would be no significant adverse landscape or visual impact in accordance with Natural Environment Policy 1 of the Local Development Plan. With appropriate mitigation measures in place there would be no disturbance to protected species and limited impact on species and habitats.
- 10.4. To ensure no significant adverse impacts on amenity, construction hours are proposed to be limited by condition and a Construction Environmental Management Plan - including a construction method statement and management plans for potential sources of nuisance - is also required by condition. With these safeguards in place, the development can be undertaken without adverse environmental or amenity impacts.
- 10.5. It is therefore recommended that both planning permission and listed building consent are approved subject to the conditions detailed in Appendix 1.

Appendix 1: Conditions

Planning Permission 2018/0247/DET

1. Otter Survey: Prior to the commencement of the development a survey for otters shall be undertaken and the results, together with a scheme of protection/mitigation measures, shall be submitted to, and approved in writing by, the Planning Authority. The survey methodology shall be submitted to and approved in writing by the Planning Authority before the survey commences. The scheme of measures shall be implemented in full accordance with a timescale to be agreed in writing with the Planning Authority.

Reason: To safeguard protected species and nature conservation interests and to accord with the first statutory aim of the National Park to conserve and enhance the natural heritage of the area.

2. Marine Mammals: A Marine Mammal Observer (MMO) must check for the presence of cetaceans and seals prior to the commencement of in-water works. If any cetaceans or seals are observed within 500m of the works, in-water works must be delayed until any animals are a safe distance away and making sure that there are no animals trapped between the works area and where the River Eachaig enters the Holy Loch. Additional pre-work searches will also be required if there is a break in operation of the initial sound source of 10 minutes or more and continuous monitoring by the MMO has not been in effect. The results of the pre-works surveys shall be made available to the Planning Authority on request.

Reason: To ensure that no offences are committed under protected species legislation and minimise the impact of the works on marine mammals in accordance with Natural Environment Policy 4 of the Local Development Plan.

3. Construction Environmental Management Plan: Prior to the commencement of development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted for the consideration of the Planning Authority (in consultation with Argyll and Bute Council Environmental Health). The written approval of the Planning Authority for the CEMP must be received prior to the commencement of development on site. Thereafter, all works shall be carried out in accordance with the approved CEMP. The CEMP shall include a Construction Method Statement and the identification and assessment of all potential sources of nuisance including noise, vibration, dust and temporary lighting which may cause disturbance to nearby residents during the construction phase. This shall include consideration of intended hours of operation, movement of vehicles, use of plant and storage of equipment and materials on site. For all potential sources of nuisance, a management plan shall be provided with details of suitable control measures to be put in place to ensure that the construction does not cause adverse environmental impacts or adverse impacts on the amenity of residents.

Reason: In order to ensure an environmentally sensitive standard of development and to avoid sources of nuisance in the interest of residential amenity.

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4. Construction Hours: Unless otherwise agreed in writing by the Planning Authority no construction shall take place outwith these hours:

Monday to Friday 8:00 – 18:30

Saturday 8:00 – 13:00

Sundays and Public Holidays – no construction permitted.

Reason: In order to avoid sources of nuisance in the interest of amenity and in accordance with Overarching Policy 2 of the Local Development Plan.

Listed Building Consent 2018/0248/LBC

1. Survey Report: Prior to the commencement of development, a condition survey should be undertaken of the existing pier. This survey should identify any immediate repairs required to maintain the existing pier and should also set out a maintenance programme for ongoing maintenance works. A report setting out the results and recommendations of the survey shall be submitted in writing to the Planning Authority for approval. Thereafter, identified repairs and maintenance works shall be undertaken.

Reason: To safeguard the character and appearance of this Category B Listed Building and to ensure that the development meets the first aim of the National Park, which refers to cultural heritage.

2. Security Gate: Prior to the installation of the security gate and associated railings, full details of their design and specification shall be submitted to, and approved in writing by, the Planning Authority. This shall include details of the relationship between the gate/railings and the adjacent timber building. Thereafter the security gate and associated railings shall not be installed otherwise than in full accordance with that written approval unless amended in writing by the Planning Authority.

Reason: To safeguard the character and appearance of this Category B Listed Building in accordance with Historic Environment Policy 1 of the Local Development Plan.

3. Agreement of Materials and Specifications: Prior to the commencement of development, a further detailed specification of the proposed materials of the structures, shall be submitted to, and agreed in writing by, the Planning Authority. This shall include the material and colour for the berthing mono-piles, fenders, mooring hooks, bollards, access gangway (including support piles), telescopic gangway, support frame and landing platforms. Thereafter the specification and materials as may be approved in accordance with this condition shall be undertaken and used respectively in the completion of the project.

Reason: To safeguard the character and appearance of this Category B listed building in accordance with Historic Environment Policy 1 of the Local Development Plan.