



24/00280/PPP – PLANNING PERMISSION IN PRINCIPLE TO ERECT HOUSE. CREATE ACCESS. INSTALL PRIVATE DRAINAGE SYSTEM, AT 10 KNEEP, UIG, ISLE OF LEWIS

Report by Chief Planning Officer

PURPOSE

- 1.1 The planning application is considered by the Appointed Officer to raise sensitive issues; it is therefore referred to the Board for a decision.

EXECUTIVE SUMMARY

- 2.1 The application relates to a Planning Permission in Principle (PPP) proposal to erect a house, create a vehicular access and install a private drainage system on a site within croft 10 Kneep, located south-east of the developed settlement of Kneep, Uig, Isle of Lewis.
- 2.2 Save for the route of the proposed access to the site, a Planning Permission in Principle application for the same development at the same site was the subject of a refusal by the Planning Applications Board with the refusal decision issued on 04 May 2023. (Reference 22/00493/PPP – Erect House. Create Access. Install Private Drainage System). That refusal decision was not appealed by the applicant.
- 2.3 The current application site for a proposed house extends to 0.1ha with a further 0.07ha for a new access track of approximately 70 metres length. The proposed house siting is identified as being on the side of a grassy hillock while the proposed track would traverse a stretch of machair ground, from the public road, and travel up a relatively steep section of land before entering the proposed house site.
- 2.4 The site is classed as 'Outwith settlement' in terms of the Comhairle's Development Strategy and within a Remote Rural Area in terms of the Scottish Government's 6-fold Urban Rural Classification 2020 which is referenced in the NPF4 policies on Rural homes and Rural development.
- 2.5 The application site is bounded on all sides by machair, designated the Tràigh na Berie Special Area of Conservation and as the proposed development is not related to the conservation objectives of the site, an Appropriate Assessment is required under the Habitats Regulations to determine whether the proposed project will adversely affect the integrity of the designated site.
- 2.6 Further the site is located within the South Lewis, Harris and North Uist National Scenic area; and is in an area advised by the Archaeological Service as highly likely to host archaeological remains, for which a pre-determination evaluation is requested. Further topographical information and levels would also be required for SEPA to be able to confirm the absence of flood risk.
- 2.7 The machair lands opposite the proposed house site, lying between the public road and the Tràigh na Berie beach, are authorised for use as a camping and caravanning site between April and September each year, with the machair regenerating over the winter months. In addition to the formal campsite, numerous parcels of land associated with Kneep crofts, are also used for the stationing of up to three caravans each over the summer season.
- 2.8 Save for the 'facilities block' which serves the campsite, and an original croft house, there are no other buildings within the Tràigh na Berie Special Area of Conservation (SAC).
- 2.9 The site for the proposed house is approximately 0.5km south, by road, from the developed areas in

the village of Kneep. The proposed development of a house on the proposed site would be outwith the developed settlement of Kneep within an area of designated machair and is assessed to introduce an unacceptable change to the landscape character and visual amenity in the immediate area.

- 2.10 Further, approval of this development risks a precedent for incremental development that would permanently alter the landscape character of this area and diminish the quality of the machair environment within the designated Special Area of Conservation in an area where agricultural activity and seasonal caravan use are the established land uses.
- 2.11 On balance, it is considered that the merits of developing a single house on the proposed site do not outweigh the harm to the landscape character and machair environment and the risk of exacerbating these harms by setting a precedent for permanent development in this area of machair and would be contrary to the objectives and intent of Policies DS1: Development Strategy - Rural Settlements and NHB1: Landscape, of the Outer Hebrides Local Development Plan 2018.
- 2.12 Material considerations which include the recent refusal to grant planning permission for the development of a dwellinghouse at this location do not lend weight in favour of the grant of this planning permission and the conclusion and recommendation is that the application be refused.

RECOMMENDATION

- 3.1 It is recommended that the planning application be **REFUSED** for the reason set out in Appendix 1 to this Report.

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Appendix 1: Reasons for Refusal
 Appendix 2: Location and Site Plan
 Appendix 3: Consultation Responses
 Background Papers: Report to Planning Applications Board 02 May 2023

IMPLICATIONS

- 4.1 The following implications are applicable in terms of the Report.

Resource Implications	Implications/None
Financial	None
Legal	None
Staffing	None
Assets and Property	None
Strategic Implications	Implications/None
Risk	None
Equalities	None
Corporate Strategy	None
Environmental Impact	None
Consultation	None
Strategic Implications	Implications/None
Risk	None
Equalities	None
Corporate Strategy	None
Environmental Impact	None
Consultation	None

BACKGROUND

Application summary

- 5.1 The planning application was registered as valid on 02 August 2024. The planning application is for permission in principle to erect a house; create a vehicular access; and install a private drainage system. This will also inherently entail the creation of a domestic curtilage and associated works. The site is within the designated SAC at Traigh na Berie, Uig, Isle of Lewis.

SITE CONTEXT AND PROPOSAL

Description of site and its context

Site Context

- 6.1 The site area extends to approximately 0.17ha, comprised of 0.1ha for development of a house and 0.07ha for the formation of a 70-metre-long vehicular access. The site is within a small croft and the proposed house would be sited on the rear slope of a grassy hillock; the proposed track would traverse quite a steep, public facing area of machair ground, running perpendicular to the public road. The site is bounded on all sides by undeveloped machair, with a low lying wet silted area, Loch na Cuilc, immediately to its rear.
- 6.2 The application site has a Landscape Character Classification of Machair and is within an area designated a Special Area of Conservation (SAC) – Tràigh na Berie SAC, the protected feature of which is machair habitat.
- 6.3 The SAC descriptor notes that *‘Tràigh na Berie is one of four sites selected for machair in the Western Isles, and is the sole representative on Lewis and Harris, which together form the largest island in this group. The machair grassland within the site is linked to the beach (the source of its sand supply) by marram dune and two types of semi-fixed dune. The inland transitions are atypical and particularly varied, with superb climbing machair-like grassland where sand is blown to considerable heights, enabling plants such as stoneworts to thrive in shallow lochs at 50 metres above sea level. The wetland transitions on lower ground are also rich and varied, and a large hollow in the east of the site supports an area of dune slack vegetation which is rare in the Western Isles. Orchids are varied and numerous, with the frog orchid Coeloglossum viride particularly common. A crimson sub-species of the early marsh orchid Dactylorhiza incarnata coccinea, often known as the ‘dune orchid’, occurs, as well as unusual hybrids between orchid genera. Other noteworthy plants include the northern gentian Gentianella amarella septentrionalis. The machair system as a whole at Tràigh na Berie is particularly notable for its rich botanical diversity, including machair grassland with five types of sand dune vegetation as well as inundation grassland and a range of traditional cultivation types and their fallows.’* (Joint Nature Conservation Committee).
- 6.4 The site is also within the area designated as the South Lewis, Harris and North Uist National Scenic Area (NSA).
- 6.5 There are two Scheduled Ancient Monuments in proximity to the development site – Berie settlement (Scheduled Monument ref. SM3991) and the Norse Loch Baravat horizontal water-mills (Scheduled Monument ref. SM5460).
- 6.6 The public road that sweeps round the coast is unclassified and located just to the north-east of the application site. The machair land opposite the proposed house site, lying between the public road and the Tràigh na Berie beach is authorised for use as a camping and caravanning site between April and September each year, with the machair land left to regenerate over the winter months. In addition to the formal campsite, numerous parcels of land in the control of different crofters, are also used for the stationing of up to three caravans each, over the summer season.

- 6.7 Save for a 'facilities block' to serve the campsite, sited on lower ground 150 metres distant from the proposed house site, and an original croft house, there are no other buildings within the Tràigh na Berie Special Area of Conservation (SAC).
- 6.8 In terms of the Development Strategy of the Outer Hebrides Local Development Plan 2018 (the Plan), the application site is located in an area assessed to be 'Outwith Settlement'. Uig is classed a 'remote rural area' in terms of The Scottish Government's 6-fold Urban Rural Classification 2020 which is referenced in the NPF4 policies on Rural homes and Rural development.

Description of development

- 6.9 The proposal is to erect a house and ancillary area for amenity, parking and turning; a private wastewater treatment system; and a new vehicular access.
- 6.10 The application is in principle only and therefore is not accompanied by details such as that of the design of a proposed house or how it would integrate with the site topography and surrounding landscape.

LEGISLATIVE CONTEXT

- 7.1 The Town and Country Planning (Scotland) Act 1997 (the Act) is the principal legislation. Sections 25 and 37(2) of the Act require that planning decisions be made in accordance with the Development Plan unless material considerations indicate otherwise. The weight to be attached to any relevant material consideration is for the judgment of the decision-maker. Two main tests are used when deciding whether a consideration is material and relevant:
- It should serve or be related to the purpose of planning. This means it should relate to the development and use of land.
 - It should fairly and reasonably relate to the particular application being determined.
- 7.2 This Report sets out an assessment against the policies and provisions of the Development Plan and has regard to all relevant material planning considerations, to inform a conclusion and recommendation as to the determination.
- 7.3 In terms of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, the class and scale of development is such that it falls within the classification of a 'Local Development'.

PLANNING HISTORY

- 8.1 There have been two previous applications for planning permission on the site:
- Planning application reference 07/00668/OUT – Erect single storey dwellinghouse – Withdrawn.
 - Planning application reference 22/00493/PPP – Erect House. Create Access. Install Private Drainage System – Refused – Date of refusal: 04 May 2023.

CONSULTATION ADVICE

- 9.1 Statutory consultation was undertaken as required by Regulations. The detailed response of statutory and other consultation bodies can be viewed at Appendix 3 to this Report but is summarised as follows.
- **Comhairle Roads, Bridges and Streetlighting (Comhairle Roads section):**
The access should be constructed in accordance with Drawing 24/00280.

- **Comhairle Archaeologist:**

The potential for significant archaeological features and deposits to be encountered is at such a high level that the Archaeology Service recommends that this application is refused. However, if the Comhairle approves planning permission for this site, a program of archaeological works including predetermination desk-based assessment and archaeological evaluation works as a minimum.

- **Comhairle Floodrisk officer:**

Given that no additional information has been provided [since the previous application] and the location of the development has not changed, the only change being the route of the access road, I have no comments to make from a flooding perspective.

- **SEPA:**

Holding objection on flood risk grounds, subject to submission and confirmation of site levels in relation to ordnance datum. Finished floor level would require to be above 3.88mAOD plus minimum freeboard allowance of 0.6m, resulting in a minimum of 4.48mAoD finished floor level.

- **Scottish Water:**

Raise no objection. Water in vicinity. No foul sewer available.

- **NatureScot:**

The site is within the Traigh na Berie Special Area of Conservation (SAC). We advise that the proposal is likely to have a significant effect on the site, as there would be permanent loss of machair habitat. An appropriate assessment is therefore required. We further advise that, considered by itself, this proposal is not likely to have an adverse effect on the integrity of the site. The development site area, within the red line boundary, is 0.2Ha. This includes the proposed access. Of this, actual loss of habitat to the development footprint is about 0.09Ha. Total area of the SAC is 153.54Ha, of which 30.74Ha is machair habitat. The proposal therefore represents permanent loss of habitat of 0.06% of the total area of the site, and 0.29% of the qualifying habitat. This magnitude of loss does not represent an adverse impact on the integrity of the site. The Sand Dune Survey of Scotland (Dargie, 1998) has classified the development location, under the national vegetation classification, as SD8e. This vegetation type is widespread within the SAC and beyond, so we do not consider that the proposal would cause loss of a locally scarce habitat. Were further development proposals of this nature to come forward, a point may be reached where the magnitude of cumulative impacts become significant enough to affect the integrity of the site, which would be reflected in our advice.

- **Historic Environment Scotland (HES):**

No comments to make on the proposals.

PUBLIC PARTICIPATION

- 10.1 The planning application was advertised for public comment in the public notices section of the Stornoway Gazette in the publication dated 15 August 2024 as required by regulations.
- 10.2 There were no notifiable neighbours.
- 10.3 No representations had been received at the time of writing this Report.
- 10.4 The applicant has indicated his intention to submit a supporting statement setting out a justification for the location of the proposed house site. At the time of writing this Report no submission had been received. If received prior to consideration of the Report it will be circulated as additional information.

POLICY CONTEXT

The 'Development Plan'

- 11.1 In Scotland, the planning system is 'plan-led' and sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (the Act) require that planning decisions be made in accordance with the 'Development Plan' unless material considerations indicate otherwise.
- 11.2 Following the enactment of a provision of the Planning (Scotland) Act 2019 on 13 February 2023, the statutory 'Development Plan' for the administrative area of Comhairle nan Eilean Siar is comprised of [National Planning Framework 4 \(NPF4\) \(2023\)](#) and the [Outer Hebrides Local Development Plan \(OHLDP\) 2018](#) and its Supplementary Guidance.
- 11.3 NPF4 comprises the 'National Spatial Strategy for Scotland' up to 2045 and also provides the Scottish Government's updated statement of National Planning Policy. The OHLDP sets out the strategic land use policy and provides the local framework to develop and sustain the communities of the Outer Hebrides. Section 24(3) of the Act provides that in the event of any incompatibility between a provision of NPF4 and a provision of the LDP that whichever of them is the later in date, is to prevail.
- 11.4 The Development Plan policies with particular relevance to the application are:

NPF4:

- Policy DS1: Development Strategy – Outwith Settlement
- Policy PD1: Placemaking and Design
- Policy PD2: Carparking & Roads Layout
- Policy PD3: Housing
- Policy PD4: Zero and Low Carbon Buildings
- Policy EI1: Flooding
- Policy EI2: Water and Wastewater
- Policy NBH1: Landscape
- Policy NBH2: Natural Heritage
- Policy NBH5: Archaeology

OHLDP:

- Policy 1 – Tackling the climate and nature crises
- Policy 2 – Climate mitigation and adaptation
- Policy 3 – Biodiversity
- Policy 4 – Natural places
- Policy 7 – Historic assets and places
- Policy 10 – Coastal Development
- Policy 17 – Rural homes

PLANNING ASSESSMENT

The Development Plan

Development Strategy – Outwith Settlement

- 12.1 The preamble to the Development Strategy in the Outer Hebrides LDP describes each of the 'settlement' categories. The category of 'Outwith Settlement' is described as follows: *"These areas act as a separation between settlements which helps to retain distinctiveness. They have some local and strategic resource functions, supporting a diverse range of development activities and largely non-residential uses, which include agriculture, recreation activities, mineral extraction, energy development and storage/waste depots. Generally, these areas have dispersed development in a more open landscape, encompassing various landscape character types with machair, moorland and some upland. Development proposals are likely to be mainly resource or tourism based. There may be*

capacity for a limited amount of development where siting and design are critical to mitigate impacts on landscape.”.

- 12.2 LDP Policy DS1: relating to the Outwith Settlement areas states that the principal policy objective *‘is to direct appropriate resource-based activity and ensure development has a quality of siting and design suitable to a more open and rural setting.’* The policy requires that *‘development proposals for houses must be of a high quality in terms of design, scale, siting and materials to integrate positively with the surrounding landscape and achieve a sympathetic fit and that all development proposals will be assessed against the capacity of the surrounding landscape to accommodate the development.’* The policy also provides that development proposals should avoid raised or high-level locations to minimise visual impact.
- 12.3 The village of Kneep is situated on the Valtos peninsula in Uig, adjoining Valtos and separated from Reef. The application site is located on machair away from the existing housing development in the village and therefore the site is assessed as being located ‘outwith settlement’. The surrounding machair area is largely undeveloped (save for a modest facilities block relating to a seasonal camping site) and the machair separates the village of Kneep from the village of Reef which helps retain the distinctiveness of each.
- 12.4 The policy provides that ‘there may be capacity’ for a limited amount of development where siting and design are critical to mitigate impacts on landscape, but the principal policy objective is to accommodate appropriate resource-based activity.
- 12.5 While the level of detail submitted with the application for planning permission in principle does not allow for a formal assessment of the quality of siting and design or the capacity of the machair landscape to accommodate the proposed house, the proposed development of a house at this location does raise concerns on account of the sensitive nature of the machair environment, the absence of other housing development in this part of the village, the visual impact arising from a single house sited on a more elevated site than the nearby campsite facilities building and that the proposed development would encroach into an area of land that creates the separation between the villages of Reef and Kneep.
- 12.6 While design details and a landscape assessment are not available at the date of assessment, (and have not been requested as additional information), it is considered that based on a review of the information available, together with a visual inspection by the Planning service of the site and its environs, that the application would not satisfy the provisions of Policy DS1 – Development Strategy for housing development to be sited in an outwith settlement area.

Natural Places and Landscape

- 12.7 The preamble to LDP Policy NBH1 – Landscape notes that the *‘landscapes of the Outer Hebrides are a valuable resource for our island communities, shaping the distinctiveness and identity of place, the cultural heritage and the quality of people’s everyday lives. Encompassing some of Scotland’s most scenic images, they are a unique asset and offer a competitive advantage in an international market place. As a critical element of the ‘tourism product’ they underpin a growth industry for the islands and the contribution they make to the wider economy is increasingly recognised and valued. The Plan has a key role to play in managing change in the landscape whilst maintaining and enhancing its distinctive character’.* It goes on to note that as different landscapes have a different capacity to accommodate new development, *‘the siting and design of new development should be informed by its landscape character...’* The preamble notes that there are fifteen distinct character types including *‘On the west side of the islands lie the flat and fertile coastal plains known as ‘machair’. The machair habitat of the Outer Hebrides is considered a ‘rare’ type in terms of the biodiversity it sustains.’*
- 12.8 The LDP Policy requires development proposals to relate to the specific landscape and visual characteristics of the local area, ensuring that the overall integrity of landscape character is

maintained. It notes that *'Development proposals should not have an unacceptable significant landscape or visual impact'*. If such an impact would result, the developer will be required to provide mitigation measures demonstrating how a satisfactory landscape and visual fit can be achieved.

- 12.9 NPF4 – Policy 4 Natural Places and LDP Policy NBH1 provide that development which affects a National Scenic Area (NSA) will only be permitted/supported where the objectives of the NSA designation and the overall integrity of the area will not be compromised; or any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by benefits of national importance.
- 12.10 The site is within the South Lewis, Harris and North Uist National Scenic Area (NSA) and the NSA description includes that *'The west coast is comprised of wide sandy machair-backed beaches, the bright clear colours of which lighten the dark greys and browns of inland hills and moors. These superb beaches are further enhanced by views across the vividly coloured inshore waters to islands and the North Harris mountains, which add not only visual interest but scale and enclosure. The rocky headlands that separate the bays have been sculptured by the ocean with geos and stacks.'*
- 12.11 The special qualities of the NSA include as distinct qualities:
- a rich variety of exceptional scenery
 - the close interplay of the natural world, settlement and culture, and
 - extensive machair and dune systems with expansive beaches.
- 12.12 The site also lies within an area identified as a Machair landscape character type (LCT) per the NatureScot Western Isles Landscape Character Assessment.
- 12.13 The Machair Landscape Character Type is characterised by *'the sweeping curves of coastal beaches, and the low headlands, backed by dune systems, which protect expansive machair grasslands. The flat to gently rolling landscape of the Machair plains, which lie behind the long sweeping beaches and dune systems, spread eastwards, giving way eventually to the Low-Lying Crofting areas and moorlands. ... A diverse range of habitats, archaeological and landscape features have evolved as a product of low intensity farming systems. These have developed as a result of the need to achieve a balance between the crops and livestock the land can maintain, and the need to maximise production in order to sustain a living. The fertile, free draining nature of the Machair, has meant that these areas have long been the focus of traditional low intensity agricultural activity, primarily to produce winter fodder for stock... Landuse on the Machair is closely related to traditional crofting land management'*.
- 12.14 The proposed development would incorporate a new access track across the machair. It is reasonable to envisage that works would require the removal of existing vegetation and ground cover, the provision of hard surfacing, and also require some change in ground levels, to provide the engineering works required to support the development.
- 12.15 The planning application is in principle and, while it is supported by minimum details and not possible to fully assess the impacts on the NSA. However, it is generally considered unlikely that a single house appropriately scaled and designed would be such that it would compromise the special qualities for which the NSA has been designated.
- 12.16 However, it is considered that the proposed development of a single house on this isolated machair site has potential to diminish the landscape character of the immediate area of machair directly through the engineering works required to develop the house and through the introduction of permanent modern residential development into what is an area of machair which has been designated for its habitat and is framed by a beach with dune system to the east and a series of hills to its west. Given the characteristics of the site currently, it is assessed that the proposal would lead to a significant alteration to the appearance of the site, with a consequent marked change in landscape character.

- 12.17 A house on the proposed site would potentially appear in views from the road as you drive north-westwards from Reef passing low lying reed beds and taking in full views of the machair. From this direction the site would be viewed against the backdrop of land. On leaving the village of Kneep as the road starts to descend towards the undeveloped machair and the beach at Tràigh na Berie the proposed house would be located broadly opposite the campsite and has the potential to be highly visible when viewed from within the surrounding machair and dunes. Given the largely undeveloped context for houses in the area and the very distinct break the machair creates between the villages of Kneep and Reef, it is considered that the proposed development will introduce a significant visual change to the site directly and in contained views of the machair.
- 12.18 The Policy states that *'Where there is good reason to suggest that a European Protected Species (EPS)* is present on site, or may be affected by a proposed development, the Comhairle will require any such presence to be established and, if necessary, a mitigation plan provided to avoid or minimise any adverse impacts on the species, prior to determining the application'*. As the nature of the site and recent NatureScot reviews of the Tràigh na Berie area indicate presence of otter, further survey or assessment work would be required should there be an intention to grant consent. Where disturbance is not continuous, otters will be able to return to the area when the site is inactive. A single house is therefore not considered likely to have a long-term impact on any otter population, as the works would not block or inhibit access to the sea or any watercourse and would not affect significant habitat. Key considerations will be the impact of the construction period and ensuring mitigation is built in as appropriate. Having considered the above, it is considered that, while the long-term nature and use of the development would not unduly impact upon otter which utilise the wider area, a presence or absence survey and mitigation proposals would be required to ensure suitable management during any construction period to ensure no undue disturbance of an EPS.
- 12.19 Having regard to the wider site context, it is considered that the development of a house in this location would result in harmful effect on the character of the surrounding machair landscape and that this contained area of machair landscape does not have capacity to accommodate the introduction of a house. The development is therefore assessed to not be in accordance with LDP Policy NBH1 nor in accordance with NPF Policy 4 – Natural Places.

Placemaking and Design

- 12.20 The preamble to LDP Policy PD1 provides that *'the siting and design of development is important in contributing to the quality and sustainability of the environment within which we live and work and is also a practical means of achieving a wide range of social, economic and environmental goals - making settlements that can be both successful and sustainable'* The policy seeks a *'quality of place-making, siting, scale and design that respect and reflect positive local characteristics and will complement or enhance the surrounding built and natural environment'*.
- 12.21 While the proposal contains no details to allow consideration of the quality of design, including scale, mass and materials, it is considered that the development of a house on the largely undeveloped machair in this location, remote from the existing housing in the settlement, would not reflect the positive local characteristics of the nearby village of Reef or Kneep or the characteristics of the open machair environment.
- 12.22 The development of a house on the machair is not considered to enhance the natural environment of land which is designated as a special habitat and is largely an area absent of buildings.
- 12.23 Taking the above into consideration, it is concluded that the proposed development would not meet the overall intentions of LDP Policy PD1 or NPF4 - Policy 4 Natural Places.

Car parking and roads layout

- 12.24 LDP Policy PD2 sets out the Comhairle approach to parking, roads and interactions with the existing

public road network. The Comhairle Roads section has been consulted on this application and has advised that a condition requires to be imposed relating to the design of the access, in order to ensure it does not negatively impact upon road safety. Conditions would require to be attached to any consent regarding the access details and parking requirements. The proposal would be capable of compliance with Policy PD2: Car Parking and Roads Layout.

Tackling the climate and nature crises; Climate mitigation and adaptation; and Zero and Low Carbon Buildings

12.25 NPF4 requires that when considering all development proposals, significant weight will be given to the global climate and nature crises, and that developments should be designed to reduce, minimise, or avoid greenhouse gas emissions. The proposed building would require to meet modern insulation and heat loss standards, which will largely be achieved as a result of the requirements of the Building Warrant application process and the development would likely result in a neutral impact on global climate change.

12.26 The development is of a local classification in planning terms. Due to the current building regulations regarding insulation and energy use, the building should not be undue in the wider context of climate change. Building regulations will also now require that the development includes for electric car charging provision. Information relating to Zero or Low Carbon Buildings would require to be obtained but it is likely that an appropriately designed and sited proposal would be able to comply with LDP Policy PD4.

Flooding, Flood Risk and Coastal development

12.27 The preamble to LDP policy EI1 – Flooding, notes that the Outer Hebrides has a range of low-lying areas of land potentially at risk of flooding, from the sea and/or other sources and that the risk of flooding from all sources is likely to increase with projected climate change. The policy approach aims to minimise any potential risk that might arise from a flood event.

12.28 NPF4 - Policy 10 - Coastal development seeks to protect coastal communities and assets and support resilience to the impacts of climate change. The policy provides that development proposals will only be supported where the proposal does not result in an increase in the risk to people of coastal flooding or coastal erosion, including through the loss of natural coastal defences including dune systems; and it is anticipated to be supportable in the long term, taking into account projected climate change. The site is landward of the public road and, subject to appropriate techniques to restore the verges of the proposed track and soil disturbed in development works, unlikely to suffer from or lead to coastal erosion at a level that would be of concern.

12.29 Based on ordnance survey mapping the application site is indicated as having areas of low-lying ground immediately to the south and west of the proposed house site, including Loch na Cuilc. The indicative SEPA 1:200-year coastal flood mapping indicates that the area indicated as the siting of the proposed house would be outwith the flood risk area but abuts the mapped indicative flood area.

12.30 SEPA was consulted as is required and has submitted a holding objection pending receipt of confirmation via a site-specific survey referenced to ordnance datum that the minimum finished floor levels could be achieved. While no site-specific levels are available, (as the plan references a local and non-standardised datum point), SEPA has advised that if a finished floor level of 4.48m above ordnance datum could be achieved, it is likely that adverse impacts from flood risk could be addressed, albeit at the expense of the proposed house being sited on a hillock and therefore elevated in the machair landscape. The proposed development would be unlikely to increase the probability of flooding on adjoining land.

12.31 Therefore, subject to the required survey information confirming the above levels can be achieved and in turn SEPA's withdrawal of their holding objection it is likely that the development would be able to comply with Policy EI 1 Flooding and NPF Policy 4 – Flood risk and NPF Policy 10 Coastal development.

Water and Wastewater

- 12.32 A public water supply is available, and as there is no foul sewer in the area, the proposal is to provide a private foul sewage system. Surface water management details have not been included at this time but as sand is highly permeable it is unlikely that surface water managed appropriately would present a barrier to development on this site. It is therefore likely that subject to submission of further details, the proposed development of one house could be adequately serviced and achieve compliance with LDP Policy EI2.

Natural Heritage and Natural Places

- 12.33 LDP Policy NBH2 and NPF4 Policy 4 address natural places and the approach to development in protected sites. The application site is within the Tràigh na Berie SAC where the Joint Nature Conservation Committee (JNCC) describe the site and its key features as follows: *‘Tràigh na Berie is one of four sites selected for machair in the Western Isles, and is the sole representative on Lewis and Harris, which together form the largest island in this group. The machair grassland within the site is linked to the beach (the source of its sand supply) by marram dune and two types of semi-fixed dune. The inland transitions are atypical and particularly varied, with superb climbing machair-like grassland where sand is blown to considerable heights, enabling plants such as stoneworts to thrive in shallow lochs at 50 metres above sea level. The wetland transitions on lower ground are also rich and varied, and a large hollow in the east of the site supports an area of dune slack vegetation which is rare in the Western Isles. Orchids are varied and numerous, with the frog orchid Coeloglossum viride particularly common. A crimson sub-species of the early marsh orchid Dactylorhiza incarnata coccinea, often known as the ‘dune orchid’, occurs, as well as unusual hybrids between orchid genera. Other noteworthy plants include the northern gentian Gentianella amarella septentrionalis. The machair system as a whole at Tràigh na Berie is particularly notable for its rich botanical diversity, including machair grassland with five types of sand dune vegetation as well as inundation grassland and a range of traditional cultivation types and their fallows.’*
- 12.34 A site designated an SAC is a Natura site and, as per LDP Policy NBH2 and NPF4 Policy 4, the competent authority is required to consider if a development is likely to have a significant effect on a Natura site. The development of a house is not directly connected with or necessary to the conservation management of the Natura site and following the advice of NatureScot it is concluded that the proposal is likely to have a significant effect on the site, as there would be permanent loss of machair habitat. Under the Habitats Regulations an Appropriate Assessment is required and was carried out in April 2023 for the previous submission on this site. As the site has only minimally altered, it remains valid for the purposes of assessing this further application. It has been concluded that while there will be an effect on the area of the land developed for the house, the proportion of the overall designation impacted is very minimal and the magnitude of loss would not represent an adverse impact on the integrity of the overall SAC site.
- 12.35 While this is the conclusion arrived at in relation to the current proposal, were further development proposals of this nature to come forward at this location, NatureScot advise that a point may be reached where the magnitude of cumulative impacts would become significant enough to affect the integrity of the site. Considering the nature of the site, surroundings, and pressures to develop new builds capitalising on views in the Uig area, the precedent of a house development in this area is considered undesirable in terms of the settlement strategy.
- 12.36 It is therefore the case that the proposal is unlikely to have an adverse impact on the integrity of the overall Tràigh na Berie SAC.

Biodiversity

- 12.37 NPF4 – Policy 3 – Biodiversity provides that development proposals will contribute to the enhancement of biodiversity, and integrate nature-based solutions, where possible, and that proposals for local development will include appropriate measures, proportionate to the nature and scale of

development to conserve, restore and enhance biodiversity, in accordance with national and local guidance. At this time biodiversity enhancement proposals proportionate to the impact a single house could have in this location have not been sought but could be any relevant measures indicated in the guidance note [NatureScot's 'Developing with Nature Guidance' \(2023\)](#).

Historic Assets - Archaeology

- 12.38 LDP Policy NBH5 – Archaeology and NPF4 Policy 7 – Historic assets and places look to protect important archaeology and monuments. Consultation with the Comhairle Archaeologist has indicated known archaeological remains within the immediate area of the proposed development.
- 12.39 NPF4 Policy 7 provides that non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts.
- 12.40 The wind-blown nature of machair soil is such that the archaeology service advises that there is a high potential for further unknown archaeological material to be present including potential for multi-period settlement features.
- 12.41 Furthermore, the location of the proposed site on the more elevated land above Loch na Cuilc is such that the grassy knolls may have been the sites of former settlements. The Archaeology Service therefore advises that the areas around the current perimeter of this loch may potentially contain waterlogged archaeological deposits beneath the machair sand.
- 12.42 The Archaeology Service has recommended that the application be a pre-determination desk-based assessment and archaeological evaluation works be undertaken in order to assess the proposed development and inform whether further archaeological mitigation will be required. At the time of writing this Report a pre-determination archaeological evaluation has not been requested from the applicant since it is not considered reasonable to do so ahead of concluding on a decision on the acceptability in principle of the site for the development of a house.
- 12.43 NPF4 policy strengthens the national position and goes further than LDP Policy NBH5: Archaeology in that it explicitly states that evaluation would be required at an early date, consistent with the advice of the Comhairle Archaeologist.
- 12.44 There are two scheduled monuments approximately 500m away to the south and east of Loch na Cuilc; the historic Berie settlement (Scheduled Monument ref. SM3991) and the Norse Loch Baravat horizontal water-mills (Scheduled Monument ref. SM5460). However, it is unlikely that the setting of these monuments would be unduly compromised.

Housing, Quality homes and Rural homes

- 12.45 It is anticipated that sites identified by the LDP will be the main means of delivering annual housing targets. LDP Policy 3 – Housing makes provision for housing development to be permitted where the development accords with the Policy DS1 – Development Strategy and meets one of five criteria. In this instance the proposed house site satisfies one of the relevant criteria in that it is for small-scale (not more than 4 dwellings) at an appropriate density. The Policy states further that *'A development proposal which does not accord with the above (e.g. does not comply with the Development Strategy) will not be acceptable unless it is demonstrated that there is a need for housing in the area, or the site-specific development issues, combined with the overriding public benefit of the development of the site, would justify the proposal.'*
- 12.46 NPF4 - Policy 16 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations with the policy stating that proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances

which include compliance with the policy on rural homes. NPF Policy 17 on rural homes seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable rural homes in the right locations and provides that development proposals for new homes in remote rural areas will be supported where the proposal supports and sustains existing fragile communities and supports identified local housing outcomes; and is suitable in terms of location, access, and environmental impact.

12.47 Together NPF4 Policies 16 and 17 lend support to new homes in rural areas such as Uig but with some over-riding provisions, namely that the site is suitable in terms of location, access, and environmental impact, that the house is suitably scaled, sited and designed to be in keeping with the character of the area. These policies reinforce that while development 'outwith settlement' can be supported in certain circumstances, it should comply with the Development Strategy and not be at the expense of harm to landscape character or the environment.

12.48 As noted in response to Policy 1 Development Strategy, the development is assessed to not be in accordance with LDP Policy DS1 and in turn it would not satisfy LDP Policy PD3.

12.49 Further it is concluded that the policy test on harm to landscape character is not met and that on this count NPF Policies 16 and 17 do not favour approval of the development proposal.

Material Planning Considerations

Planning History

12.50 A planning application for a dwellinghouse on the same site, with a different access route, was the subject of a refusal to grant planning permission by the Planning Applications Board on 02 May 2023. This previous refusal decision is a material consideration that carries significant weight in the determination of this application.

Precedent

12.51 Each planning application requires to be determined upon its own merits. However, it is a concern in this instance that the development of a single house site would set a precedent for development on an area of machair where current permanent residential development is absent. The seasonal siting of caravans on multiple pieces of land across the machair are illustrative of the large number of different land parcels in this area under the control of different parties, which could increase the risk of a proliferation of development across the machair with harm to landscape and the natural environment.

REASONED CONCLUSION

13.1 Planning Authorities are required to determine planning applications in accordance with the Development Plan unless material planning considerations indicate otherwise.

13.2 An assessment against the Outer Hebrides Local Development Plan 2018, concludes that the proposed development of an access track of 70m in length and a house, which would require to be sited above flood risk levels, on a raised knoll on machair involving engineering works and the introduction of a modern house into an area currently absent of housing development would have potential harmful visual impact, have a direct and indirect adverse effect on landscape character contrary to policies DS1, PD1 and NHB1 of the Outer Hebrides Local Development Plan. NPF4 Policies 16 and 17 Quality Homes and Rural homes reinforce this position.

13.3 The assessment and consultation advice identified a need for further information to resolve matters in relation to flood-risk mitigation (site and finished floor levels), archaeology (pre-determination evaluation) and impacts on protected species (absence/presence survey of otter) to demonstrate compliance with the relevant policies on those matters. This additional information has not been requested as, based on the information available, it has been assessed that the proposal would not comply with the Settlement Strategy; Placemaking and Design; and Landscape policies, and as such it

is concluded that prior to consideration of these other issues, the proposal would not be in accordance with the Development Plan.

- 13.4 Material considerations, including the planning history of the site, risk of setting an undesirable precedent and the matters raised in the applicant's supporting statement, do not lend weight to approval of the development in this location. Having taken all planning matters into consideration it is concluded that material considerations do not result in a different view to that concluded following the assessment against the Development Plan and, in these circumstances, it is recommended that the application should be refused.

RECOMMENDATION

- 14.1 The proposal is recommended for refusal for the reasons set out in Appendix 1 to this Report.