

APPENDIX

Response to Question 5.2: Reasons why the land is considered abandoned or neglected

There was mature woodland habitat at the site in Cumberland Avenue until 2011 when the owners cleared the site of trees. According to Iona Hyde, an Arboricultural and Environmental Consultant (see Attachment 6. Cumberland Avenue, Helensburgh Public Consultation Report and Concept Plan June 2017) "map evidence suggests that this site has been wooded for at least 160 years (and probably much longer) until it was felled in 2011." The 1st Edition OS Map of 1865 shows the area as predominantly broadleaf woodland with a path running North to South from what is now Cumberland Avenue. By the time of the 2nd Edition of the OS Map published in 1899 the site had been under-planted with conifers and the site supported a mixed woodland. A natural pathway through the woodland running North to South between Cumberland Avenue and West King Street (adjacent to the Macaulay tower) was still in use for public access up until the owners closed the site in 2007. This area has long been designated by Argyll and Bute Council as an Open Space Protected Area, and, in view of Part 1 of the Land Reform (Scotland) Act 2003, it is reasonable to assume that the owners would have ensured it remained in safe condition for public access.

In 2011 the owners began clearing larch trees on the basis of safety to neighbouring properties. This "safety" based maintenance resulted in more than 300 trees being cut down. No felling licence was sought by, or granted to the owners prior to the felling. The site was effectively cleared of trees, except for some mature trees on a narrow strip of land that does not belong to the owners (see photograph Attachment 7.).

Alongside the larch trees, the owners also felled over 100 non-larch trees that were protected by Argyll and Bute Council Tree Preservation Order 16/04 (see Attachment 8. which shows the site at Cumberland Avenue annotated as W2). This resulted in Argyll and Bute Council serving a replanting-notice on the owners. The owners appealed the replanting notice and the Reporter finally served notice that 28 trees should be replanted by the owners. The owners refused even to do this, and the 28 trees were finally replanted by Argyll and Bute Council. The owners took no action to reinstate the site to allow public access, despite pressure from the Council under Part 1 of the Land Reform (Scotland) Act 2003. Instead they have ensured the site remains closed to public access on the basis of public-safety.

According to a letter from their solicitors (McArthur Stanton) to Argyll and Bute Council, dated 9 March 2017 (see Attachment 9.), the owners themselves consider the land to be in a dangerous condition. The letter was sent in the context of a longstanding dispute between the local authority and the owners, dating back to 2008, on whether public access to the land should be reopened under the Land Reform (Scotland) Act 2003. The letter states: "We would make it very clear that our clients do not accept your assessment that the site is now safe and they remain of the view that there would be a significant risk to public safety should public access be allowed . . . Mr Paterson knows the area of land in question very well and indeed visited the site and entered the same as recently as 15 February this year. He

describes the land as being treacherous under foot. He has explained to us that there are four bunds spread across the full site . . . the bunds have started to decay and in our clients view this makes the site even more hazardous. Our clients do not accept the view contained within your letter of 7 February that "it is very unlikely that even children would attempt to climb on these piles because of the brambles". In the event that public access is permitted to the site, our clients view is that there would be a reasonably foreseeable risk of members of the public or dogs being walked in the area suffering injury due to the nature of the site. Our clients have contacted P .C. Redacted (Crime Reductions Officer) requesting his professional opinion as to whether the site is likely to pose a hazard to members of the public especially children. If necessary, our clients will involve the health and safety executive. As you will no doubt appreciate, they are extremely anxious to avoid liability for loss or injury suffered by members of the public accessing the site which is in their ownership. In these circumstances, they will vigorously oppose any notice issued by Argyll and Bute Council requiring them to open the access to public access."

Mr Paterson and Mrs Osborne have owned the land since 2004, and its physical condition has remained fundamentally the same in recent years. The land has long been designated by Argyll and Bute Council as an Open Space Protection Area. It is covered by Tree Preservation Order, and recognised by Helensburgh Community Council as a Key Environmental Feature of the town. It sits within a well-established residential area that is home to young families as well as older people, making active and sensitive management of the land a legitimate expectation of both its immediate neighbours and the wider community. However, since the former woodland was felled in 2011, the owners have undertaken no significant work on the land other than to remedy breaches of planning control as directed by a series of planning enforcement notices, and to carry out some limited topping of rushes and other course grasses immediately adjacent to boundaries, although this appears to stop about 2/3's of the way along the site where the vegetation is now so thick it is impenetrable.

An earlier attempt by the local planning authority to secure the removal of the bund nearest the road failed on appeal in 2015, as the Reporter did not consider it to be visually incongruous or obtrusive. Irrespective of any arguments around the visual merits of the bunds, it is likely that an active management regime would by now have dispersed the tree stumps, roots, felled logs and branches contained within them around the site, or have removed much of this material altogether.

Whatever the owners' reasons for keeping the land in what they themselves consider to be a dangerous condition, and irrespective of their longstanding dispute with Argyll and Bute Council on public access, it is contended that their behaviour represents a fundamental breach of Principle 4 of the Scottish Government's Land Rights and Responsibilities Statement (Ref.1) which expects that "The holders of land rights should exercise these rights in ways that take account of their responsibilities to meet high standards of land ownership, management and use. Acting as the stewards of Scotland's land resource for future generations they contribute to sustainable growth and a modern, successful country." The Statement adds "Those who own, manage or use land are responsible for the good stewardship of that land, and ensuring that, in line with sustainable development, Scotland's land and

associated buildings and infrastructure are well looked after and, where possible, improved.”

It might be argued that the land at Cumberland Avenue is regenerating of its own accord and requires no further management by its owners. However, such a view contradicts the specific advice given by Scottish Natural Heritage (SNH) on Woodland Condition (Ref.2). Under the heading ‘Neglect or lack of management’, SNH states “Most of Scotland’s woods have been managed in some way during their lifetime – for timber, charcoal, grazing or other products and services. Their structure and make-up today result from centuries of interaction with people and livestock. The cost of management, and the low value of many woodland products, means that it’s often not economically viable to continue to manage woods. This doesn’t always lead to a decline in their value for wildlife, but it may do. Woodlands that aren’t managed may:

- become more vulnerable to overgrazing or invasive species
- suffer the loss of ground flora species or decline of mature trees due to shading out or competition from the uncontrolled growth of young trees.”

At Cumberland Avenue, invasive non-native species are now colonising the land, providing clear evidence of management neglect. These include Buddleia, Pampas Grass, and most worryingly, Himalayan balsam, which has begun to spread rapidly from the corner of Cumberland Avenue and Empress Drive.

The GB Non-Native Species Secretariat (Ref 3.) describes Himalayan balsam as a “Glabrous annual herb with stout succulent, reddish-translucent hollow stems to 2.5 m; leaves opposite or in whorls of 3, 5-18 cm long and 3-7 cm wide; flowers with short spur, helmeted upper petal, deep purplish-pink to white, strong balsam smell.” Significantly, it is one of the five key plant species targeted by the Scottish Invasive Species Initiative (Ref 4.). This is a four-year partnership project costing £3.24 million and funded by SNH, the Heritage Lottery Fund along with in-kind support from partners and volunteers, which is seeking to control invasive non-native species in an area of 29,500 km² in Northern Scotland. In view of the national importance of controlling Himalayan balsam, it is especially worrying that the landowners have allowed it to spread at Cumberland Avenue.

Neither has any action been taken by the owners to prevent fly-tipping on the site. It is apparent that garden waste is now being regularly dumped on the land from Cumberland Avenue, which is likely to aggravate the problem of invasive non-native species colonising the land. Here, the land is also still scarred by metal remnants of the former fencing on to Cumberland Avenue.

Please see the attached report, ‘Update on Site Condition November 2019’ by Iona Hyde MSc, AA Tech. Cert., an Arboricultural and Environmental Consultant (Attachment 10.). She concludes “The value of the site as woodland habitat has significantly deteriorated since it was clear felled in 2011. Although not recorded on the Ancient Woodland Register because of its small size (less than 2ha), map evidence suggests that this site had been wooded for at least 160 years (and probably much longer) until it was felled in 2011. The disruption to the woodland habitat through felling and subsequent colonisation of the site by inappropriate species combined with an absence of appropriate management and misuse of the

area (e.g. by tipping), is leading to significant and rapid deterioration of the site as a potential native woodland. The more aggressive non-native, non-woodland plants that are colonising the site are likely to outcompete the woodland ground flora which has the ability to persist on the site and in the site seedbank for some time without woodland cover and should be controlled as soon as possible to allow restoration of the site. Further delay in restoration will significantly increase the costs of restoration and on-going management to eradicate invasive species. The success of the natural regeneration and replacement tree planting that has taken place provides a positive indication that the site can successfully regenerate and, with the correct on-going management recommended in the Cumberland Avenue, Helensburgh Public Consultation Report and Concept Plan 2017, has the potential to be restored to a diverse and valuable urban amenity woodland and important green space.”

The land at Cumberland Avenue currently has no active use, but is held speculatively by the current owners (and has been since 2004) in the hope that they will eventually succeed in overcoming longstanding Council planning policy, which designates the land as an Open Space Protection Area.

Due to the closure of the land by the owners, the local community can no longer use the land. The current physical condition of the land suggests that significant work will be required across the majority of the site to make it suitable once more for public access.

In summary, it is argued that the owners' own assessment of the physical condition the land combined with the increasing encroachment of non-native invasive species and general lack of management provide very strong evidence of abandonment and neglect across the whole of the site. The lack of action to remedy this is particularly negligent given the location of the site within an established residential area and its long-protected status as urban greenspace.

Response to Question 8.1: Explanation of how the CB proposes to use, develop and manage the land to which this application relates.

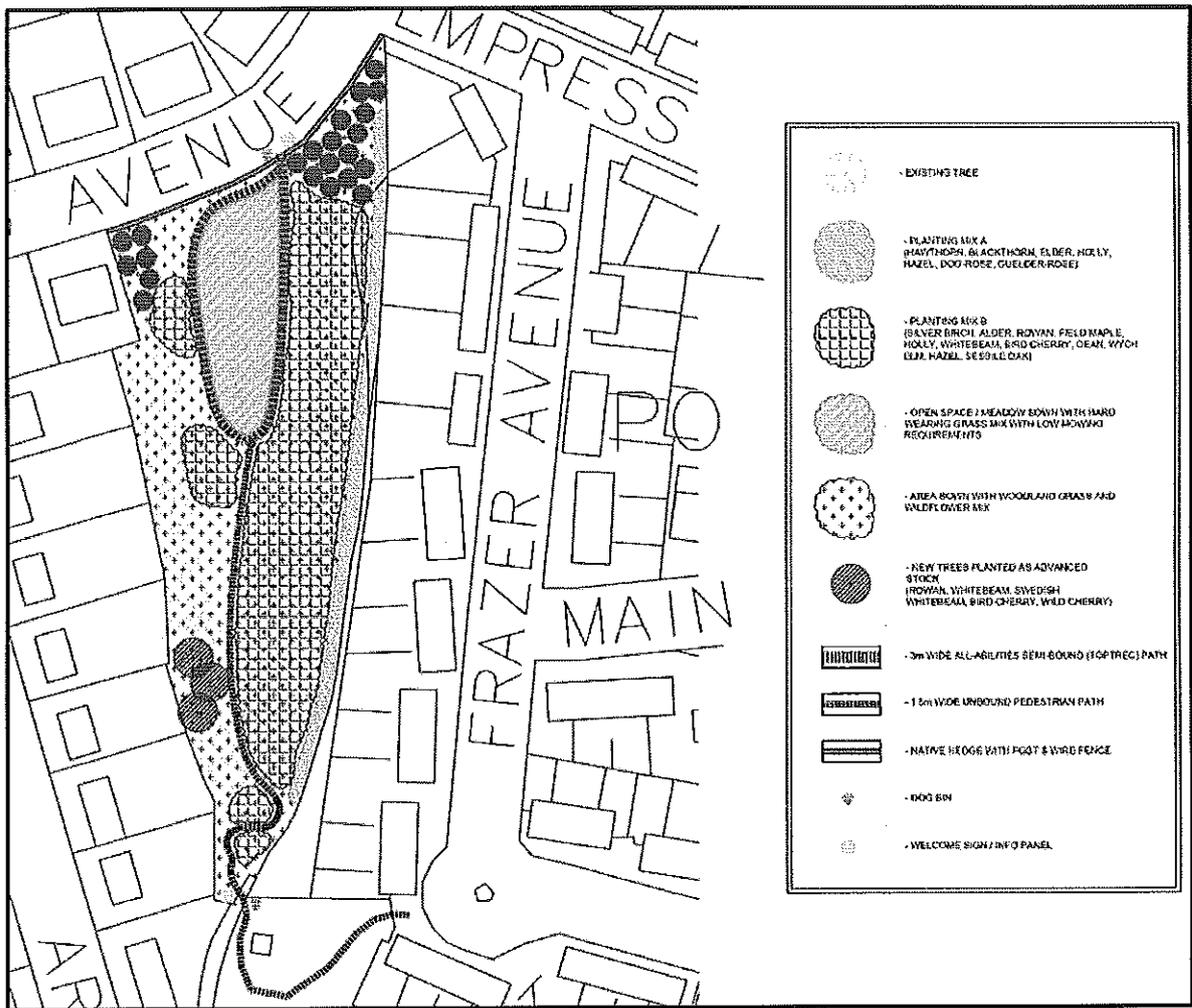
HCWG has already prepared detailed proposals to transform the land at Cumberland Avenue, having commissioned Iona Hyde MSc, AA Tech. Cert., an Arboricultural and Environmental Consultant, to lead a public consultation event and prepare a management plan for the land at Cumberland Avenue. This ‘charrette-style’ event, which took place in May 2017, was widely publicised in the local area and was attended by around 40 local people, including two of the four local ward councillors. Following detailed analysis of all comments received and questionnaires completed at or following the event, we published a wide-ranging 40-page Public Consultation Report and Concept Plan in December 2017 (Ref 5. and see Attachment 6.), setting out clearly how we intend to use, develop and manage the land. This report also includes the long narrow strip of deciduous woodland in uncertain ownership between the land currently owned by Mrs Osborne and Mr Paterson and the rear gardens of the house in Ardencaple Drive, which HCWG also hopes to acquire.

Specifically, HCWG will:

1. Carry out site clearance activities to cut back existing tall ruderal vegetation and scrub growth.
2. Rake up and chip/mulch arisings from previous felling operations and/or remove from site.
3. Manage the site to remove all Himalayan balsam and ensure that it remains free from all invasive non-native species, including garden escapees
4. Treat cut stumps to prevent coppice regrowth (where undesirable).
5. Manage site boundaries to ensure on-going security and privacy of neighbouring properties while ensuring that site amenity is not compromised
6. Encourage active, on-going community involvement in development and management of the site.
7. Reinstate and manage the area to maintain broadleaved woodland throughout most of the site at varying densities
8. Reinstate public access through the site, particularly by creating a link path from Cumberland Avenue to West King Street
9. Create a circular all-abilities path within the northern part of the site
10. Create and maintain a managed open meadow area within the north of the site
11. Enhance the biodiversity value of the site by managing the developing woodland to provide habitat for associated woodland species
12. Create and maintain a species rich herb layer within the developing woodland to encourage colonisation of the site by native pollinators and other invertebrates
13. Encourage responsible use of the site by dog-owners.

As an integral part of this work, we will remedy the legacy of abandonment and neglect by removing the bunds, making the site safe, tackling invasive species, and opening up public access with a newly-planted hedge and all-ability access point to Cumberland Avenue, replacing the contentious wooden fence and locked gate.

Our broad concept for the land is shown in the diagram below:



We have carried out a detailed costing of our proposals in conjunction with a professional woodland consultant with many years experience in this type of activity, namely Mark Hamilton Landscape Services. We appreciate that the pace of implementation of our plans will be dependent upon the availability of the necessary funds and therefore we have made a costing assessment based upon a phased approach. Items 1-5 noted above require an estimated spend of approximately £13,000 that we plan to implement within the first year of ownership. There will be some variation depending upon the level of material removal required. Items 6-13 will require a further £28,000 and we plan to implement the majority of this within years two-three from ownership. Following completion of the project work, annual maintenance cost is estimated to be approximately £700 but we would also be looking to carry out further woodland management work and community activities that would be valued at approximately £3000 annually. Please note these costs can be offset by volunteering, and much of the spend will be discretionary.

We have researched a significant number of grant sources and are very confident, based upon initial exploratory discussions, and the experience of many other Community Woodlands Association members, that we will raise the necessary funds.

One of the key potential funding sources currently available is via Scottish Forestry and The Forestry Grant Scheme (FGS). As a pre-requisite, the land for which funding is being applied for requires to be registered under the Integrated Administration and Control Scheme (IACS) which we will do. In particular, this will then allow us to access the FGS Woodland In And Around Towns (WIAT) fund. Currently there is a limit of £100,000 for this grant against each registered body. WIAT applications are initially judged on a set scoring criteria based on the benefits being offered by the proposals outlined and we will score well against these.

We are also eligible to apply to the Scottish Landfill Communities Fund (SCLF) due to the location of Cumberland Avenue in relation to landfill sites in our area. Funds from the SCLF are awarded by a number of organisations and separate applications can be made to each. Concurrent awards can be made. LandTrust (based in Glasgow), SUEZ Communities Trust and EB Scotland are three that we will apply to initially. All of these are focused on promoting community involvement in habitat restoration and development projects. The values can be significant, for instance the SUEZ Primary Fund can award up to £50,000 towards the overall cost of a project.

We also intend to apply to the Armed Forces Covenant Fund. There is a strong bond between this fund and Argyll & Bute Council due to the presence of the naval facilities in the Helensburgh area. Cumberland Avenue is near to the naval families accommodation at Bannachra Drive and funding is available to promote community integration projects. Involving the residents of Bannachra Drive in the development plans for the woodland and promoting volunteering/play opportunities that help bind the local communities together are important objectives for HCWG.

Potential awarding bodies also include a range of lottery funding – The National Lottery Community Fund (Scotland), the Heritage Lottery Fund, The Health Lottery and the Peoples Postcode Lottery.

We are members of Funding Scotland, run by the Scottish Council for Voluntary Organisations and this gives us visibility of a wide range of potential funding. There are many smaller funding sources that we can apply to. As an example The Hugh Fraser Foundation awarded HCWG a grant of £1,000 in May 2019 to assist us with the costs of our postal ballot.

We recognise the importance of having a structured approach to funding applications and to assist us with our effectiveness we will be attending Funding Training arranged by Argyll & Bute Council in Helensburgh on the 3rd December 2019.

In summary, HCWG will not only tackle the legacy of years of abandonment and neglect, detailed in response to Question 5.2, we will transform the structure, quality and accessibility of the woodland to create a community-based environmental asset of real benefit to the people of Helensburgh and beyond.

Response to Question 8.2: Explanation of how the acquisition by the CB of the land to which this application relates is compatible with furthering the achievement of sustainable development in relation to the land to which this application relates.

In their earlier representations on our successful application in 2016 to register a community interest in the land at Cumberland Avenue under Part 2 of the Land Reform (Scotland) Act 2003, the landowners mistakenly conflated the concept of 'sustainable development' with the much narrower definition of 'development' under the Planning Act. We therefore note that the Scottish Government supports the Brundtland definition of sustainable development as "Development that meets the needs of the present without compromising the ability of future generations to meet their own needs" (see Scottish Planning Policy) Ref.6.

The same document also confirms the Government's continued support for the five guiding principles, originally set out in the UK's Shared Framework for Sustainable Development, namely

- Living within environmental limits
- Ensuring a strong, healthy and just society
- Achieving a sustainable economy
- Promoting good governance
- Using sound science responsibly.

Taking this broad view of sustainable development, we note that in 2015 Scotland became one of the first countries in the world to UN's Global Goals for Sustainable Development (Ref 7.). We consider that five of these 17 goals are especially relevant to what we intend to achieve at Cumberland Avenue. These are as follows:

Goal 3: Ensure healthy lives and promote well-being for all at all ages

There is now widespread recognition of the value of urban greenspace to physical and mental health, as extensively demonstrated by research and best practice. We intend to provide an immediately-accessible and safe opportunity for daily exercise, right in the heart of the local community. While we are confident this will appeal to all ages, we are especially conscious of the growing elderly population in the immediate vicinity of Cumberland Avenue, for whom a walk to the nearby Duchess Woods is too far. With this in mind, we intend to participate in the Paths for All (Ref 8.) project to encourage regular walking, especially among the elderly population. The social benefits of providing such a local focus for day-to-day contact should also not be underestimated.

The delivery of this will be through setting up a Health Walk (Ref 9.) group. There are currently no Health Walks set up within the Helensburgh area and we intend to change that. Health Walks are short, safe, social, fun and accessible low level walks led by trained volunteers. The proximity of the site at Cumberland Avenue to the seafront esplanade and the Kidston Car Park means that woodland walks become more accessible to those that are only capable of short walks on low level terrain. Linking the site at Cumberland Avenue to the nearby Castle Woods and Duchess Woods will provide further development potential for the walking routes. Training is provided through the Paths For All project and; by coordinating with our local

wellbeing hub (Jean's Bothy), the Helensburgh medical centre, and other local groups such as Grey Matters, we will ensure a joined up approach in promoting this service. We have initiated discussion with Colin Ward, the Paths For All development officer for our area, and we will take this forward once we are in a position to apply for grant funding and project support from Paths For All (see Attachment 11.).

Moreover, our plans for Cumberland Avenue will also contribute directly to the delivery of the first four outcomes of the 'A More Active Scotland: Scotland's Physical Activity Delivery Plan'(Ref 10.), published by the Scottish Government in 2016, namely:

- Outcome 1: We encourage and enable the inactive to be more active Supporting Paths for All to deliver our National Walking Strategy Action Plan
- Outcome 2: We encourage and enable the active to stay active throughout life
- Outcome 3: We develop physical confidence and competence from the earliest age
- Outcome 4: We improve our active infrastructure – people and places

Goal 4: Quality education

Local schools will be encouraged to use Cumberland Avenue as the focus for practical environmental education. We would intend to work closely with our schools, producing, for example, an educational pack for the woodland compiled by and for local teachers and children, achieving one of the many objectives under Curriculum for Excellence.

The process of transforming the land will also enable members of the local community to obtain new work skills, for example, in arboriculture, silviculture, and practical woodland skills

Please see the attached email (Attachment 12.) dated 5th November 2019 from Mr REDACTED a teacher and "Woodland Leader" at Hermitage Primary in Helensburgh, in which he describes the woodland-based topics that he wishes to teach locally. He states "in any given week I take 400 children outdoors so establishing contact with you (HCWG) is very helpful for me to move forward with the activities and objectives that I will be focusing on." In relation to our application to take ownership of the site at Cumberland Avenue and the neighbouring Castle Woods he states "If these areas were to become community assets then we would like to utilise them in this way to enhance the teaching and learning of the children." Should HCWG gain ownership of the land at Cumberland Avenue, we will ensure that Hermitage Primary and other schools within the area have the opportunity to shape the development plan and management regime within the woodland.

The process of transforming the land will also enable members of the local community to obtain new work skills, for example, in arboriculture, silviculture, and practical woodland skills.

Through our membership of the Community Woodlands Association and our locality to Loch Lomond and the Trossachs National Park we have access to training on Woodland Management, Strimmer Use, Control of Invasive Species, Use of

Pesticides, Chainsaw Use, and First Aid courses. Funding for these is available from a number of sources including the Scottish Forestry Communities Fund and the National Heritage Fund Scheme. Cormonachan Community Woodlands (www.cormonachan-woodlands.co.uk) are a very good example of how volunteers can be developed through these methods. As fellow members of the Community Woodlands Association we have access to direct advice from them on how best to organize and train our volunteers, and our volunteer plan will be developed from their experience.

Goal 11: Make cities inclusive, safe, resilient and sustainable

The importance of preserving and enhancing open space within settlements, and of the contribution they make to sustainable development, is widely recognised both within and beyond Scotland. This is reflected in the planning policies of the Scottish Government and the local planning authority. At a Scottish Government level, transforming Cumberland Avenue into a valued environmental asset, owned and managed by the local community will contribute to the aspirations of the National Planning Framework 3 (Ref 11.) to make Scotland both a successful, sustainable place (for example, through the creation of well-designed places that balance the built and natural environments), and a natural, resilient place (for example, through the protection of natural assets).

Moreover, we will also contribute to the delivery of the Scottish Government's Scottish Planning Policy, (Ref 6.) which states that: "Green infrastructure and improved access to open space can help to build stronger, healthier communities. It sees this as an essential part of our long-term environmental performance and climate resilience" (paragraph 219) and states that "Local development plans should identify and protect open space identified in the open space audit and strategy as valued and functional or capable of being brought into use to meet local needs" (paragraph 224).

We will specifically help to deliver the following policies in this document:

- Protecting trees covered by Tree Preservation Order (paragraph 216)
- Creating new woodland and planting native trees (paragraph 217)
- Supporting the Scottish Government's Control of Woodland Removal Policy, (Ref 12.) which includes a presumption in favour of protecting woodland (paragraph 218)
- Improving access to open space (paragraph 219)
- Protecting, enhancing and promote green infrastructure, including open space and green networks, as an integral component of successful placemaking (Paragraph 220).

At local authority level, we note that the importance of sustainable development is recognised within POLICY LDP STRAT 1 of the Argyll and Bute Local Development Plan (LDP – Ref 13.) 2015. Other important policies, which we will help deliver include SG LDP ENV 6 - Development Impact on Trees / Woodland and SG LDP REC/COM 2 on Safeguarding Sports Fields, Recreation Areas and Open Space Protection Areas

These policies are reflected in the designation of the land at Cumberland Avenue as an Open Space Protection Area, as well as its protection through a Tree Preservation Order. We applaud the Council's commitment and determination over many years to uphold these policies in the face of speculative land pressure. However, achieving sustainable development requires such resistance to be reinforced by positive action to transform the land at Cumberland Avenue, creating an urban greenspace that can be readily accessed by local people. We therefore intend to support the local authority's planning policies with practical action on the ground.

The result of the public ballot carried out within the local community area demonstrated that 90% of the respondents were in favour of a community acquisition of the open space at Cumberland Avenue. Successful delivery of this, along with the subsequent restoration and management of the land on behalf of the community will be a positive implementation of the policies described above.

Goal 13: Take urgent action to combat climate change and its impacts

We recognise that our plans to protect, manage and enhance the woodland at Cumberland Avenue are very minor in comparison with the global challenge of combatting climate change, but by providing an opportunity for local people to take local action, they make an immediate connection to part of what needs to be done at a far greater scale. We will contribute, for example, to the intention expressed in the Corporate Plan 2017-22 (Ref 14.) of the Scottish Environmental Protection Agency (SEPA) to "help establish Scotland as a global leader in successfully delivering environmental success in ways that also create economic and social success" (see page 10).

Goal 15: Life on land

We will contribute to achieving three key outcomes set by Scottish Natural Heritage in its Corporate Plan 2018-22, (Ref 15.) namely:

- More people across Scotland are enjoying and benefiting from nature
- The health and resilience of Scotland's nature is improved.
- There is more investment in Scotland's natural capital and its management to improve prosperity and wellbeing (see page 5).

By restoring the land at Cumberland Avenue in line with the Public Consultation and Concept Plan (Attachment 6.) we will be carrying out the principles of this goal in line with direct input from our local community.

Specifically, we will select planting species that are native to Scotland and enhance biodiversity. We will also provide opportunities through volunteering for members of the community to be engaged in an important local project, not only in its initial establishment but also in its long-term maintenance and management. As discussed in Goal 3. above, we will promote the use of the land for Health Walks through collaboration with Paths For All, and we will ensure this site becomes a key element within the developing paths network within Helensburgh. The geographical location of the site means that it will become a natural link between the seafront esplanade, and the woodlands at Castle Woods and the adjoining Duchess Woods. This will

open up an extensive woodland path network. This will have a significant impact on enhancing social capital in the area.

Following the initial restoration and development of the site, including installation of robust high-specification pathways (see Attachment 6. Page 40), the future maintenance requirements will be relatively minimal. There has been woodland on this site for at least 160 years. The development plan that we will implement will result in a balanced native woodland ecosystem that will provide biodiversity, natural habitat and a peaceful green space for local residents and visitors to enjoy long into the future.

Response to Question 8.3: Explanation of how the achievement of sustainable development in relation to the land to which this application relates, would be unlikely to be furthered by the owner of the land continuing to be its owner.

The current owners, who were previously in business as local builders, bought the land in 2004 with the intention of building houses there. Although the land is designated by Argyll and Bute Council as an Open Space Protection Area, and is covered by a Tree Preservation Orders, and recognised as a Key Environmental Feature of the town, the owners have never shown any interest in managing the land as an urban greenspace and are unlikely to do so in future. Instead, they have fought a series of unsuccessful planning battles with the local authority, as set out below.

2005	Application 05/00514/DET for planning permission for 7 houses refused
2006	Application 06/01317/DET for planning permission for 6 houses refused. Owners appeal to Scottish Government's Directorate of Planning and Environment Appeals (DPEA).
2007	Application 06/02621/TPO to fell trees refused. Owners appeal to DPEA.
2007	Owners formally object to designation of land as Open Space Protection Area in draft Local Plan
2007	Public local inquiry lasting for four days into appeal against refusals on 06/01317/DET and 06/02621/TPO
2008	DPEA Reporter dismisses appeals on 06/01317/DET and 06/02621/TPO
2008	DPEA Reporter rejects objection to draft Local Plan and upholds designation of land as Open Space Protection Area
2011	Owners controversially fell woodland on grounds of safety
2012	Application 12/00570/PP for planning permission for one house and

formation of community woodland – this application still remains undermined

- 2013 Council serves Tree Replacement Notice 11/00107/ENOTH2 requiring replanting of 109 trees, alleged to have to removed, uprooted or destroyed in contravention of TPO. Owners appeal to DPEA. Subsequently, DPEA Reporter reducing number of trees required to be replanted to 28.
- 2014 Following refusal of owners to implement Tree Replacement Notice, Council enters land and replants 28 trees itself
- 2014 Council serves Enforcement Notice 13/00384/ENOTH3 requiring wooden fence on to Cumberland Avenue to be reduced in height to one metre
- 2014 Council serves Enforcement Notice 13/00093/ENOTH3 requiring removal of building materials unlawfully stored on the land. Owners appeal to DPEA.
- 2014 DPEA Reporter dismisses appeal against Enforcement Notice 13/00093/ENOTH3
- 2014 Council serves Amenity Enforcement Notice 14/00218/ENOTH3 requiring removal of stored log pile and bund nearest to Cumberland Avenue. Owners appeal to DPEA. Subsequently, DPEA Reporter dismisses appeal on stored log pile but uphold appeal on bund

These battles have consumed significant public resources both from the local authority and from the Scottish Government's Directorate of Planning and Environment Appeals. Yet, despite the lack of success over the past 15 years in overturning the protective status of the land, the owners appear determined to continue to fight against well-established planning policy.

This became apparent in a series of discussions took place in the summer of 2018 between HCWG, the landowners and their representatives on the future on the land at Cumberland Avenue (along with that at Castle Woods). During the course of the discussions, the owners tabled proposals to build three houses on the frontage to Cumberland Avenue and offered to gift the land behind to HCWG. Following consultation with members, HCWG was unable to accept this offer as (1) it represented yet another attempt by the owners to breach longstanding planning protections on the land, and (2) the remaining land would be too small and too enclosed to function effectively as a community woodland. Subsequently, HCWG met with planning officers from Argyll and Bute Council who, while unaware of the owners' proposals, remained strongly opposed to any housing development at Cumberland Avenue.

During the course of the discussions with the landowners in 2018, HCWG offered to pay them open market value for the land at Cumberland Avenue, involve them in creating a community woodland there, and name the new area after them. This offer was rejected by the owners at a meeting on 12 September 2018. The minutes of the meeting note (see Attachment 13.) that “Mr Paterson replied that he was not interested and that he did not live in Helensburgh nor was he interested in the current open market value of the site”, subsequently stating at the same meeting that “Planners and permissions could change.” As this indicates, the owners’ intentions appear to be to hold on to the land at Cumberland Avenue for however long it takes to overturn its longstanding planning status as a protected area of urban greenspace. This speculative behaviour is the main impediment to the achievement of sustainable development at Cumberland Avenue. If allowed to continue, it threatens to consume further public resources and undermine local community confidence.

Yet, despite the owners’ intentions, a detailed analysis of the housing land supply shows there is no need, either now or in the foreseeable future, to use the Cumberland Avenue site, or any part of it, for housing development. The Argyll and Bute Local Development Plan (LDP – Ref 13.), adopted in 2015, sets out the housing land requirement for five and ten years ahead, both for the local authority area as a whole, and for its four constituent parts. For Argyll and Bute as a whole, the five-year requirement is provide land for 3,725 homes, while the ten-year requirement is for 7,450 homes. The respective figures for the Helensburgh and Lomond area are 600 over five years, and 1,200 over ten years (see page 22).

Within Helensburgh and Lomond, the plan identifies land for 967 new homes on ten major allocations (see page 65). It specifies that a minimum of 252 of these new homes will be required to be affordable to achieve the policy set out in the Supplementary Planning Guidance (Ref 16.), which specifies that 25% of units on development of eight or more homes must be affordable (see page 73). Alongside the ten major allocations, four more potential development areas are identified for mixed use development including housing, again with a 25% affordability ratio. The plan describes its overall level of housing provision as “effective, highly flexible and generous” and explains that “this level of new housing will help reverse the projected population decline forecast by the General Register Office for Scotland.” It promises that “The scale of uptake and level of provision will be kept under annual review through an annual housing land audit with the aim of ensuring sufficient land is identified to promote the sustainable growth of communities throughout Argyll and Bute” (see page 21).

Subsequent and successive housing land audits have cast doubt on the need for such an extensive local land supply. The latest 2018 Housing Land Audit (HLA – Ref 17.) shows annual completions over the nine-year period up to and including 2017-18 to average 245 units for Argyll and Bute as a whole, and 31 units for Helensburgh and Lomond. The HLA is accompanied by three detailed sets of tables, setting out the capacity of every potential housing site in Argyll and Bute. On the basis of this information, the effective housing land supply in the Helensburgh and Lomond area is assessed as shown in the table below:

	2018/19 to 2022/23	Post 2022/23	Total
Local Development Plan allocations	694	218	912
Potential development areas & windfalls on large sites	216	85	301
Windfalls on small sites	50	16	66
Total	960	319	1279

To set these figures in context, if the rate of new housing development in Helensburgh and Lomond were to continue at the established level of 31 units per annum, the current effective supply would last for just over 41 years. Even if optimistically, the local housebuilding rate could be doubled, the supply would still last for over 20 years. It is therefore not surprising to find that, as part as reviewing the Local Development Plan, Argyll and Bute Council reconsidered whether the scale of housing allocations made in 2015 was really justifiable. Specifically, the Main Issues Report (Ref 18.) for the next LDP, published in 2017, described the overall ten-year housing land target of 7,450 units set in 2015 as “unrealistically high” and states that “The current Housing Needs and Demand Assessment, even using a growth scenario sets a much more realistic ten year housing land target of 3,000 homes when compared with average completion rates” (see page 12). Rather than adding new sites to the housing land supply, it was proposed that the next LDP may actually remove some of the allocations made in 2015. In consequence, the draft Local Development Plan 2, approved for consultation by Argyll and Bute Council in September 2019 specifies a requirement for only 1,143 new homes in Helensburgh and Lomond over the 2020-29 period, compared to the figure of 1,279 for the 2018-23 period, contained within the above table. Significantly, the land at Cumberland Avenue is again retained as an Open Space Protection Area within the draft LDP2 and not included within the housing supply.

As this analysis shows, there is clearly no need to sacrifice the protected greenspace at Cumberland Avenue, or any part of it, for housebuilding. According to the 2018 Housing Land Audit, there are already 20 other housing sites in Helensburgh and Lomond, with capacity ranging from 5 up to 300 new homes, and around another 40 with capacity of less than 5 (see HLA Appendices 1-3 for detailed lists of all housing sites). The overall capacity of all these sites means that there’s already more than enough housing land available in Helensburgh and Lomond to satisfy building needs for many years to come without encroaching on the Cumberland Avenue site.

In this context, HCWG contends that the achievement of sustainable development on Cumberland Avenue land will come about only through a change in ownership from those with a speculative desire to breach longstanding planning protections to a new owner committed to realising the potential of the land as urban greenspace.

Response to Question 9.1: Explanation of why the exercise by the CB of the right to buy under Part 3a is in the public interest.

HCWG considers that bringing the former woodland at Cumberland Avenue into community ownership will serve the public interest by bringing the following benefits:

1. Environmental and amenity benefits
 - We will regenerate a neglected former woodland, realising its amenity potential, promoting bio-diversity, and enhancing environmental sustainability. To achieve this, we will encourage native natural regeneration and planting. This will provide more light to the woodland floor in the winter and ensure greater environmental and ecological benefits, including native woodland flora and shrubs.
 - We would intend to provide safe paths within and through the land for all abilities to enhance the local environment and encourage exercise.

2. Social, educational and health benefits
 - Transforming this area will be achieved through practical collaboration and greater mutual understanding between local people involved in the project, which will generate local social capital.
 - We will promote the new woodland Woods as an educational resource, building connections with local schools and encouraging its use in environmental education. Please see the attached email dated 5th November 2019 from Mr REDACTED a teacher and “Woodland Leader” at Hermitage Primary School in Helensburgh as an example of this.
 - We will also promote the woods as a outdoor workspace, enabling local people to develop practical skills in different aspects of woodland management through volunteering. Through our membership of the Community Woodlands Association and our proximity to Loch Lomond and the Trossachs National Park we have access to training on woodland management, strimmer use, control of invasive species, use of pesticides, chainsaw use, and first aid. Funding for these is available from a number of sources including the Scottish Forestry Communities Fund and the National Heritage Fund Scheme. Cormonachan Community Woodlands (www.cormonochan-woodlands.co.uk) are a very good example of how volunteers can be developed through these methods. As fellow members of the Community Woodlands Association we have direct access to advice from them on how best to organise and train our volunteers, and our volunteer plan will be developed from their experience.
 - We will place strong emphasis on realising the potential of the Cumberland Avenue land to improve the physical and mental wellbeing of local residents and visitors. In this context, it should be noted that the immediate area surrounding the land contains a significant elderly population for whom a walk even to Duchess Wood can be too far. Having an accessible and safe area of open space in immediate proximity will be particularly beneficial to this age group. We will work with Paths for All and liaise with local medical centres and practitioners to develop specific health walks, durations and frequencies to encourage more active lifestyles.
 - Jean’s Bothy, a mental health and wellbeing hub in Helensburgh with over 100 members has expressed a desire to look at some partnership

opportunities to deliver benefits to their members. (Please see Attachment 14 from REDACTED, local Development Manager for ENABLE Scotland). We will be actively promoting use of the site at Cumberland Avenue for Branching Out activities, an innovative development supported by Scottish Forestry to deliver mental health improvement opportunities in Scotland.

3. Economic benefits

- Before the current landowners blocked off access, it was possible to climb up from the Cumberland Avenue land to Ardencaple Castle and thence to Castle Woods and beyond. We hope to restore this essential 'missing' link in the local footpath network, connecting the seafront, Duchess Woods and the countryside beyond, so helping to create an attractive circular visitor walk around Helensburgh.
- We would intend to use local contractors as well as community volunteers with appropriate skills or with the desire and ability to learn. We have carried out a detailed costing analysis of our restoration and development plans in conjunction with a professional woodland consultant (Mark Hamilton Landscape Services) and have estimated a project works cost of £46,000 if we implement all of the infrastructure improvements. We expect there to be some volunteer contribution to the work (e.g. removal of invasive species) but most will need to be contracted out. This will potentially create valuable economic activity and sustain local employment.
- Bringing this land back into beneficial use will have a positive effect on economic confidence in the area and will remove what has become a prominent eyesore, which serves as negative local externality in economic terms.

We therefore believe that transforming this badly neglected corner of Helensburgh into an environmental asset of significant benefit to the local community is clearly in the public interest, especially as such action is fully in accordance with relevant national and local planning policies. To elaborate this argument further, we refer in the table below to the Scottish Government's National Performance Framework (Ref 19.) and set out how our proposals relate to the intended National Outcomes for Communities, Economy, Environment, Health and Human Rights.

National Outcome	Key Message	Vision includes	HCWG contribution at Cumberland Avenue
Communities	We live in communities that are inclusive, empowered, resilient and safe	We believe that access to greenspace, nature and other leisure activities positively enhances our lives and health.	Transforming this area will be achieved through practical collaboration and greater mutual understanding between local people involved in the project, which will generate

			local social capital
Economy	We have a globally competitive, entrepreneurial, inclusive and sustainable economy	We regard the green economy and our rich ecological capital as a valuable development opportunity and actively progress advancements in these areas.	Bringing this land back into beneficial use will have a positive effect on economic confidence in the area and will remove what has become a prominent eyesore, which serves as negative local externality in economic terms.
Environment	We value, enjoy, protect and enhance our environment	We ensure all communities can engage with and benefit from nature and green space. We are committed to environmental justice and preserving planetary resources for future generations. We promote active travel, cycling and walking	We will regenerate a neglected woodland, realising its amenity potential, promoting bio-diversity, and enhancing environmental sustainability. To achieve this, we will encourage native natural regeneration and planting.
Health	We are healthy and active	We are active and have widespread engagement with sport and exercise	We will better local opportunities for daily exercise, especially among the elderly and will work directly to encourage this
Human Rights	We respect, protect and fulfil human rights and live free from discrimination	We recognise and protect the intrinsic value of all people and are a society founded on fairness, dignity, equality and respect. We demonstrate our commitment to these principles through the way we behave with and treat each other, in the rights, freedoms and protections we provide, and in the democratic, institutional	HCWG believes strongly that it is now time to call a halt on 15 years of land speculation at Cumberland Avenue, and instead respect the longstanding wishes of the democratically-elected local authority and the overwhelming desire of local people to see the site retained and enhanced as urban

		and legal frameworks through which we exercise power	greenspace
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In summary, as an important area of protected open space within Helensburgh, it is essential that this land should be the focus of sustainable land management. However, there is no evidence that the current owners have any serious interest in achieving this. Without active community ownership and management, it is likely the land will continue to suffer, visually as well as ecologically. Early action to avoid this potential negative outcome through promoting a change of ownership is vital to secure the future of the land at Cumberland Avenue and restore local community confidence in the area.

List of internet links above with detail of internet addresses

Ref 1. Land Rights and Responsibilities Statement

<https://www.gov.scot/publications/scottish-land-rights-responsibilities-statement/>

Ref 2. Scottish Natural Heritage (SNH) Advice on Woodland Condition.

<https://www.nature.scot/professional-advice/land-and-sea-management/managing-land/forests-and-woodlands/woodland-condition>

Ref 3. GB Non-Native Species Secretariat

<http://www.nonnativespecies.org/factsheet/factsheet.cfm?speciesId=1810>

Ref 4. Scottish Invasive Species Initiative

<https://www.invasivespecies.scot/invasive-plant-project>

Ref 5. Public Consultation Report and Concept Plan June 2017

<https://www.hcwq.co.uk/wp-content/uploads/2017/12/cumberland-avenue-consultation-report-2017.pdf>

Ref 6. Scottish Planning Policy

<https://www.gov.scot/publications/scottish-planning-policy/>

Ref 7. UN's Global Goals for Sustainable Development

<https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

Ref 8. Paths for All

<https://www.pathsforall.org.uk/>

Ref 9. Health Walk

<https://www.pathsforall.org.uk/walking-for-health/health-walks/what-is-a-health-walk>

Ref 10. 'A More Active Scotland: Scotland's Physical Activity Delivery Plan',

<https://www.gov.scot/publications/active-scotland-delivery-plan/>

Ref 11. National Planning Framework 3

<https://www.gov.scot/publications/national-planning-framework-3/>

Ref 12. Scottish Government's Control of Woodland Removal Policy

<https://forestry.gov.scot/support-regulations/control-of-woodland-removal>

Ref 13. Argyll and Bute Local Development Plan

https://www.argyll-bute.gov.uk/sites/default/files/written_statement_0.pdf

Ref 14. SEPA Corporate Plan 2017-22

<https://www.sepa.org.uk/media/286930/2017-2022-corporate-plan.pdf>

Ref 15. SNH Corporate Plan 2018-22,

<https://www.nature.scot/sites/default/files/2018-08/Publication%202018%20-%20Corporate%20Plan%202018-22.pdf>

Ref 16. Argyll and Bute Local Development Plan Supplementary Planning Guidance

https://www.argyll-bute.gov.uk/sites/default/files/Unknown/supplementary_guidance_adopted_march_2016_env_9_added_june_2016.pdf

Ref 17. Argyll and Bute 2018 Housing Land Audit

<https://argyll-bute.maps.arcgis.com/apps/MapJournal/index.html?appid=6abc8a68852a4b09a64d09de38ea8408>

Ref 18. Argyll and Bute Local Development Plan Main Issues Report

https://www.argyll-bute.gov.uk/sites/default/files/ldp_2_main_issues_report_draft_august_2017_formatted_on_121017_web4.pdf

Ref 20. National Performance Framework

<https://nationalperformance.gov.scot/>