



**23/00452/PPD – CONSTRUCT COASTLINE PATH, MELBOST TO AIGNISH, POINT, ISLE OF LEWIS**

Report by Chief Planner

**PURPOSE**

- 1.1 Since the planning application is considered by the Appointed Officer to raise sensitive issues, in accordance with the provisions of the Scheme of Delegation, it is referred to the Planning Applications Board for decision.

**EXECUTIVE SUMMARY**

- 2.1 The Report recommends approval subject to conditions of a planning application to create, widen and extend a coastal footpath, along the north side of the Braighe, Melbost, Point, Isle of Lewis.
- 2.2 The Report sets out a description of the proposed development, the site and its context together with the advice of consultees and the contributions submitted by the public; this is followed by an assessment of the proposed development against the policies and provisions of the Development Plan and has regard to all relevant material planning considerations.
- 2.3 The key issues raised through representation, consultees and the policy assessment are the principle of the development of a public footpath on common grazing land that includes field parcels in active use and readily accessible to shareholders, and the impact on coastal erosion arising from the proposed footpath cutting through a coastal dune system.
- 2.4 The conclusion and recommendation are for approval, subject to conditions that will mitigate effects on the dune system through the planting of marram grass and manage conflict and potential disturbance to stock on common grazing through measures including signage, stock proof fencing and gates. The planning assessment concludes that the proposal as sited, designed and conditioned would not result in a significant loss of grazing land and would not lead to adverse effects on the continuation of crofting. The recommendation recognises the role of the Crofting Commission in Planning, as well as the sustainable transport, public health and recreational benefits of extending the network of public access footpaths.

**RECOMMENDATIONS**

- 3.1 **It is recommended that the planning application be APPROVED subject to the conditions set out in Appendix 1 to this Report.**

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Appendix 1: Schedule of proposed conditions  
Appendix 2: Plans  
Appendix 3: Consultation responses  
Appendix 4: Representations  
Background Papers: None

## IMPLICATIONS

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

<b>Resource Implications</b>	<b>Implications/None</b>
Financial	None
Legal	None
Staffing	If approved, future discharge of Planning Conditions, construction stage condition compliance/post construction monitoring.
Assets and Property	None
<b>Strategic Implications</b>	<b>Implications/None</b>
Risk	None
Equalities	None
Corporate Strategy	None
Environmental Impact	None corporately
Consultation	None

## BACKGROUND AND PROPOSAL

### Background

- 5.1 This Report relates to an application for Planning Permission, registered as valid on 02 November 2023, to create, widen and extend a coastal footpath, along the north side of the Braighe, Melbost, Point, Isle of Lewis.
- 5.2 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.

### Description of development

- 5.3 The application proposes the creation, widening and extension of a coastal footpath on land within crofting tenure along the north side of the Braighe, a narrow stretch of land, linking Point (the Eye Peninsula) and the villages of Branahue and Melbost. The total length of the footpath is 1345 metres and a formal footpath of 2-3m width would be formed within a 6m working corridor. New fencing is proposed along the southern side of the footpath where it would border with common grazing land.
- 5.4 The construction of the footpath is to be 300mm Type 1 on a Terram 1000 or similar on top of the natural sandy ground with a Bennadrove Fines Finish on top.
- 5.5 The submitted plans set out the detail of the route, proposed construction access, fencing and gates in three 'sections': the Melbost section (Sheet 1 - Chainage 0.00 to 4.00), the middle section (Sheet 2 - Chainage 4.00 to 8.70) and the Aignish section (Sheet 3 - Chainage 8.70 to 12.60).
- 5.6 From the Melbost end, the proposed path will follow the existing route of an informal footpath running from the existing slipway and car parking area, along the north coast frontage where the terrain is sand but raised from the beach level. Here the footpath surface is proposed to extend to 3m with raised verges. Two new gates, a 3 metre wide gate and a 1.5 metre wide pedestrian self-closing gate are proposed adjacent to the Melbost slipway. A new fence is proposed along the south side of the 6m construction corridor.
- 5.7 In the middle section the proposed footpath will transition from sand onto Melbost common grazing and will closely follow the top of the coastal slope. Midway along this section a new gate (3 metres wide) with a pedestrian self-close gate (1.5 metres wide) is proposed as the path transitions into the Aignish Common Grazing land and leads off to the east towards Aignish.

- 5.8 Within the middle section, as the path goes past the disused workings to the east of the existing car park and public conveniences, there is a dune system to be navigated. The proposals for the route through the dune system (Chainage 650 to 750) are detailed on a submitted topographical survey. An area of infill is proposed to level the sand dunes out to enable a safer and more level path to be created along this section. Additional fenced areas are proposed where marram grass planting is required to bind the dunes to prevent erosion. The extent of marram grass planting proposed is detailed on the topographical survey and the fencing will prevent pedestrians and dogs from disturbing these areas and will also separate path users from the grazings land.
- 5.9 Additionally, within the middle section, a 6m corridor will be formed running north/south from the existing car park and public conveniences (located centrally on the Braighe to provide the construction access. This corridor will be narrowed down to a 2/3m footpath width once construction is complete. A new padlocked field gate and a 1.5 metre wide pedestrian gate with self-closer gate is proposed to be installed on the northern edge of the existing car park and also where the footpath transitions from the land within Melbost Common Grazings through to the land within Aignish Common Grazings.
- 5.10 In the Aignish section, the route of the path runs along the northern edge of the Eye Cemetery (Aignish Cemetery) boundary and then runs straight across a field to meet the public road on the Aignish end of the path. A new 3m field gate and a 1.5 metre wide pedestrian gate with self-closer gate is proposed to be installed on the eastern end of the path which exits close to where an existing slipway runs onto the shore. A new 3.3m field gate is also proposed to be installed from the footpath into the field parcel lying to the east of the Cemetery.

#### **Description of Site and its context**

- 5.11 The site is located on the north side of the Braighe between Melbost and Aignish. The site runs between grid reference points 147230 (E), 932644 (N) at the Melbost end (west) of the path and 148373 (E), 932162 (N) at the Aignish end (east) of the path. The site in a broader context is located between Stornoway and the peninsula of Point on the Isle of Lewis.
- 5.12 The development area is on an area of common grazings land amounting to 0.81 hectares. The site is located on land which is subject to crofting tenure. The site is within the Melbost and Branahuie grazings and the Aignish Common Grazings. The grazings areas are classified by the Crofting Commission as being grazing areas capable of improved grassland; a good area for stock management and rotation, and with good accessibility for grazings shareholders. The area is actively used for grazing.
- 5.13 The site is not within any environmental or landscape designations but there are some mature dune systems on the coast with a part of the site.
- 5.14 There is an existing informal footpath route along the north side of the Braighe and the proposed route broadly follows this route along the western Melbost end of the footpath. After the public toilets and carpark which are located roughly centrally across the Braighe, the proposed route seeks to go through an area of coastal sand dunes.
- 5.15 The Melbost (west) end of the path starts at the slipway and car park. At this end of the path there is an existing gravel path. As you walk along the path towards the Aignish end (east) you have the sea to the north with sand and shingle beach and coastal protection measures. To the south are common grazings land which is made up of grass, sand and dune systems with marram grass.
- 5.16 Halfway along the path between the two common grazings (Melbost and Branahuie common grazings and Aignish common grazings) is a car park area with a public toilet building. In this location the path is proposed to run south from the path running along west – east to the car park.

- 5.17 To the east of the carpark, more mature dune systems begin to develop with an existing informal path running up the dune system. There is no existing formal path in this location but a worn path through the grazings and dunes is evident.
- 5.18 Within the Aignish section, the proposed path will bound the Aignish Cemetery over a distance of approximately 250 metres. The Cemetery boundary to the north is fenced. The existing path in this section is not a formal path and again is a worn path over grazings with short grass and sand evident in this location on the north side of the Cemetery. There are overhead lines on telegraph poles along this section.
- 5.19 Further to the east of the Aignish Cemetery there are mature dune systems which range in height with some dunes measuring 3.5 metres high above the seawall. In this location there is a worn path visible across the common grazings.
- 5.20 Beyond the end of the footpath, 50 metres to the west, stand the historic remains of St Columba's Church which is a designated Scheduled Monument together with the Ui Church Graveyard (St Columba's) which is designated a Category A Listed Building. The application site does not fall within either designated area but has potential to affect the setting of these heritage assets.

#### **Variations made prior to determination**

- 5.21 Multiple variations have been made during the application process to date including reducing the width of the path adjacent to the northern boundary of the, providing a topographic survey covering the area through the dunes, provided section drawings through the dune area and how the land will change as part of the proposed development and providing marram grass planting details.

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

- 5.22 At its scale and location, the nature of the proposed development is not a development type that triggers Screening under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (the EIA Regulations).

#### **Habitats Regulations – Appropriate Assessment**

- 5.23 Not required.

#### **PLANNING HISTORY**

- 6.1 No relevant planning history.

#### **PLANNING HIERARCHY**

- 7.1 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', therefore the applicant was not required by Planning Regulations to undertake formal pre-application consultation with the local community.

#### **POLICY CONTEXT**

##### **The Development Plan**

- 8.1 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 \(LDP\) 2018](#) and its supplementary guidances. 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.

8.2 The Development Plan policies with particular relevance to the application are:

LDP:

- Policy DS1: Development Strategy – Rural Settlements & Outwith Settlement
- Policy PD6: Compatibility of neighbouring uses
- Policy EI6: Coastal erosion
- Policy EI7: Countryside and coastal access
- Policy NBH1: Landscape
- Policy NBH4: Built heritage
- Policy NBH5: Archaeology
- NPF4 – Annex D – Six Qualities of Successful Places - Quality 3 – Connected Places

NPF4:

- Policy 1 – Tackling the climate and nature crises
- Policy 2 – Climate mitigation and adaptation
- Policy 3 – Biodiversity
- Policy 7 – Historic assets and places
- Policy 10 – Coastal development
- Policy 13 – Sustainable Transport
- Policy 29 – Rural development
- Policy 30 - Tourism

LDP Supplementary Guidance

No relevant supplementary guidance.

**Other Relevant National Guidance**

8.3 None.

**CONSULTATIONS**

Historic Environment Scotland

9.1 No comments to make on the proposals.

Scottish Water

9.2 No objection to this planning application. Scottish Water records indicate that there is live infrastructure in the proximity of the development area that may impact on existing Scottish Water assets. The applicant must identify any potential conflicts with Scottish Water assets and contact us for an appraisal of the proposals. The applicant should be aware that any conflict with assets identified will be subject to restrictions on proximity of construction. Written permission must be obtained before any works are started within the area of Scottish Water apparatus.

SSEN

9.3 No objections to the proposed works. The works will be in proximity to existing 11'000V overhead lines, low voltage & high voltage underground cables. All works need to be in accordance with the HSE guidance notes GS6 & GS47. SSEN request that the applicant or their appointed contractor contact the local SSEN depot to arrange an on site meeting in advance of works commencing on site to confirm the required safety precautions applicable during the construction phases of the project.

NATS

9.4 The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

#### Comhairle Archaeologist

- 9.5 The Braighe has several known significant archaeological sites identified on the Historic Environment Record, most significant buried archaeological layers with the machair dunes. It is noted on the submitted plans that no excavation, such as cut, fill or borrow pits are proposed for the coastal pathway beyond facilitating the topsoil strip for the 300mm foundation layer. If additional excavation beyond this is anticipated, further consultation with the Archaeology Service is recommended. It is also worth noting that the Scheduled Monument, St Columba's Church, Aiginis (SM1684) and its Category A Listed Graveyard (LB19210), are located approximately 115m to the northeast extent of the proposed pathway. Historic Environment Scotland should be consulted regarding this application. Please be advised that the Archaeology Service has no issues with this proposed application as it is presented.

#### Comhairle Engineering (Assets) (regarding Coastal Erosion)

- 9.6 Content with the application following revisions and marram planting.

#### Comhairle Engineering (Assets) (regarding Road safety)

- 9.7 No objection.

#### Crofting Commission

- 9.8 The Crofting Commission wish to make the following observations to assist the Comhairle nan Eilean Siar Planning Authority to determine the application at hand.

- 9.9 The proposed development is being carried out on land which is subject to crofting tenure. Namely Melbost and Branahuie common grazings and Aignish common grazings.

- 9.10 Both these common grazing areas are considered to be vitally important to the crofting activities and active shareholders within both townships due to:

- both its better grazings potential.
- Stock management and rotation.
- accessibility due to being located beside the relevant crofting township.

- 9.11 Both these common grazings are understood to be used actively by shareholders for stock management and grazing purposes, with both grazings always returning a properly appointed and active grazings committee to manage the common grazings areas.

#### Land Capability for Agriculture

- 9.12 The Commission has used the MacAulay Land Capability for Agriculture (LCA) classification, which is the system which ranks land, based on its productivity and cropping potential as determined by factors such as soil type, climate, and elevation. The LCA is a seven-class system with Class 1 (highest productivity potential) to Class 7 land which is of limited agricultural value.

- 9.13 The proposed development is being carried out on an area designated as being in the 5.1 range, which is described as land capable of use of improved grassland.

- 9.14 Establishment of a grass sward and its maintenance present few problems, and potential yields are high with ample growth throughout the season. Patterns of soil, slope or wetness may be slightly restricting but the land has few poaching problems. High stocking rates are possible.

- 9.15 It is noted that proposal should be sited to use the least amount of productive croft land where practical and should not fragment the croft in such a way that affects its potential for cultivation or purposeful use. Cultivation within crofting legislation is inclusive of the practice of grazing livestock.

## Observations and Concerns

- 9.16 If planning permission were to be granted, it should be made clear to the applicant that this does not entitle the applicant to proceed, without first following a recognised avenue within crofting legislation for such a development to proceed with legal certainty ...an approximate measurement would indicate that potentially 0.5 hectares would be removed from Melbost and Branahuie common grazings and a further potential 0.4 hectares would be removed from Aignish common grazings.
- 9.17 It should be noted that both these common grazings are relatively small in nature compared to other common grazings and have a considerable number of shareholders, and so the removal of these significant areas would not be considered appropriate.
- 9.18 It is unclear at this juncture, what the justification or the need for the proposed development is, as there is no evidence provided within the planning application.
- 9.19 From the evidence supplied within the planning application photographs, there already appears to be sufficient access and a path for amenity purposes as well as a beach.
- 9.20 The Crofting Commission has received correspondence from the Aignish grazings committee who have expressed a high degree of concern about the proposed development and who have also confirmed there is already adequate access for members of the public to access and enjoy the area.
- 9.21 Given the above uncertainties and concerns, the Crofting Commission does not support the proposed development within this planning application and would request that the application be refused.

## REPRESENTATIONS

- 10.1 One representation was received objecting to the development. This letter was received from the previous Chair of the Aignish Grazings Committee. There was some dispute that the letter was sent without knowledge of the committee, but the main issues raised within the representation are nevertheless considered. These are:
- Delay in Aignish Grazings committee being notified about the proposal.
  - Interference in crofting matters.
  - There is existing public access to the footpath and grazings.
  - Aignish being one of the smallest Common Grazings in Lewis and will be reduced by the proposals.
  - Introduction of more hard-surfacing and impact on grazings.
  - Increasing number of footpaths being proposed across Point for recreation and tourism use.
- 10.2 The issues are addressed in the Appraisal section of this Report.

## OTHER STATEMENTS SUBMITTED

- 11.1 Three supporting documents were submitted with the planning application:
- Planning Justification Statement.
  - Proposed Marram Grass Planting Statement.

## PLANNING APPRAISAL

### Principle of Development

- 12.1 The spatial strategy for the Outer Hebrides contained within the Outer Hebrides Local Development Plan (LDP) as sets out in Policy DS1. The path would provide a pedestrian link between two rural

settlements, Melbost and Aignish and would pass through an area of common grazing land, outwith these settlements.

- 12.2 Policy DS1 provides that rural settlements are primarily residential and agricultural areas. Development in rural settlements must have a siting and design appropriate to the established rural character and settlement pattern of the local area. Development on croft land should not adversely affect the operational use and sustainability of the croft, unless the development is required for reasons of over-riding public interest. Proposal sites should be sited to use the least amount of productive croft land where practical and should not fragment the croft in such a way that its potential to be used for cultivation or other purposeful use. Proposals should ensure access to the croft is maintained and of a suitable width for agricultural machinery to access. At a minimum this should be 4 metres in width.
- 12.3 The principal policy objective of development outwith settlement is to direct appropriate activity and ensure development has a quality of siting and design suitable to a more open and rural setting. All development proposals will be assessed against the capacity of the surrounding landscape to accommodate the development.
- 12.4 The National Planning Policy Framework 4 (NPF4) Policy 29 provides that the spatial strategies should set out an appropriate approach to development in rural areas which reflect the identified characteristics. It further states that the Scottish Government's 6-fold Urban Rural Classification 2020 (URC 2020) should be used to identify remote rural areas. The site would be classed as a 'remote rural area' and therefore NPF4 Policy 29 part c applies. Part c of the policy states that development proposals in remote rural areas, where new development can often help to sustain fragile communities, will be supported where the proposal is suitable in terms of location, access, siting, design and environmental impact.
- 12.5 The development is a form of coastal development and as such policies EI6 of the OHLPD and Policy 10 of the NPF4 apply. Policy EI6 of the LDP states that development proposals on areas liable to coastal erosion will only be permitted when the applicant can demonstrate that the development will not exacerbate coastal erosion at the development site or elsewhere along the coast and where the applicant can demonstrate that the development will not give rise to, or require, defence measures.
- 12.6 Policy 10 of the NPF4 also states that development proposals in undeveloped coastal areas will only be supported where they are required for the wellbeing of communities and do not require the need for further coastal protection measures. Development proposals should not result in the need for further coastal protection measures or increase the risk of coastal erosion through the loss of natural coastal defences including dune systems.
- 12.7 Policy 30 of the NPF4 states that tourism related development will take into account compatibility with the surrounding area in terms of the nature and scale of the activity and impacts of increased visitors and opportunities to provide access to the natural environment.
- 12.8 The Crofting Commission was consulted on the application proposed and raised concerns with the development and recommended that the application be refused. However, their concerns relate to an area potentially extending to 0.5 hectares removed from Melbost and Branahuie common grazings and a further potential 0.4 hectares removed from Aignish Common Grazings. They note that both these common grazings are relatively small in nature compared to other common grazings in the Western Isles and have a considerable number of shareholders, and so the removal of these areas is not considered appropriate by the Crofting Commission. A similar representation was made by a shareholder who indicated the views as being representative of shareholders, although this was called into question by others.



- 12.9 The application site is located on the Braighe isthmus - a narrow stretch of land - linking Point Peninsula and the villages of Branahuaie and Melbost. To the north of the Braighe road there is a sandy beach and to the south a pebble beach.
- 12.10 The site of the footpath is largely outwith settlement but will provide a connection between the rural settlements of Aignish and Melbost. The land includes common grazing land for both the crofting townships of Melbost and Aignish. Access to the common grazings is to be retained as part of the proposal and new gates (lockable) are proposed as part of the works.
- 12.11 Whilst the concerns of the Crofting Commission are noted, the path broadly follows an existing informal path route across the Braighe along the top edge of the coastal defences where the land is bare sand with remnants of old sections of timber which formed part of a previous boardwalk along the western end of the path closest to Melbost. There is very limited grass suitable for livestock grazing along the path corridor site. As the path goes past the central car park and public conveniences and then through the dune system this becomes more of a section of path to be created and extended as there is not really any formal path in this location but rather a series of paths around existing marram grass in the dune system. In this location there would be no suitable grazing for livestock.
- 12.12 As such, and notwithstanding the view expressed by the Crofting Commission and one contributor, the planning assessment concludes that the sustainability of crofting and the associated common grazings would not be affected by the proposals in a significant way such that this would justify a refusal of the application.
- 12.13 In terms of coastal development and coastal erosion, Comhairle Engineering (Assets) were consulted on the application scheme and raised concerns the potential for coastal erosion with the initial path routing proposed; particularly to the west of the Aignish Cemetery where there is a mature dune system and to the north of the Aignish Cemetery where there is a younger dune system. In order for the path to run across the whole of the Braighe from Melbost across to Aignish, the path will need to formalise and create a section of path through the dune systems. Comhairle Engineering (Assets) advised that the previous path route would have disrupted the dune systems in such a way that it would increase risk of wind and erosion effects.
- 12.14 Further information on how the path is proposed to cut through the more mature area of dunes to the west of the Aignish Cemetery was provided which shows 'cut and fill' through the dune system which will create the opportunity to construct a suitable width footpath through the dunes. Due to the 'cut and fill' proposed there are concerns with regard to future additional erosion. The applicant has confirmed that they are willing to revegetate the edges of the path so as to attempt to bind the remaining dune systems to protect both the path and the remaining dune systems. Fenced areas for the planting of additional marram grass are shown on the submitted plans and following further consultation advice with Comhairle Engineering (Assets) are considered to be an acceptable mitigation. It is considered necessary to put signs up to ensure that users of the path are kept off the paths to allow the marram grass to take and start binding the dunes with its roots. Details of the signage is required by way of condition.

#### **Compatibility of neighbouring uses and coastal access**

- 12.15 The land, which is subject to the application, incorporates some land which is common grazings land. The Crofting Commission has the responsibility for regulating common grazings under legislation. Common grazings are using by crofters and others who hold a right to graze stock.
- 12.16 Policy PD6 of the LDP covers compatibility of neighbouring uses and states that all development proposals shall ensure that there is no unacceptable adverse impact on the amenity of neighbouring uses. Where appropriate, proposals should include mitigation measures to reduce the impact on neighbouring uses.

- 12.17 Policy E17 of the LDP covers countryside and coastal access and states that development proposals must be located to ensure that the Hebridean Way, the Core Path network and established and function access points to water are kept free of obstruction. Proposals for improvements to, and expansion of, the existing path network (including the improvement of access to the Core Path network) that facilitates greater access and enjoyment of key natural and built heritage resources (e.g. beaches, coastline, archaeological and historic sites) are encouraged and will be required to accord with the Outer Hebrides Outdoor Access Strategy and the Scottish Outdoor Access Code; and demonstrate appropriate consideration has been given to the need for associated way marking, information boards, car parking and other facilities.
- 12.18 Representation was received from the previous Chair of the Aignish Grazings Committee which made reference to Crofting legislation, the role of the Crofting Commission and disputes between Point Community Council (the Applicant) and the Aignish Grazings Committee. This is not a matter for the Planning Authority to become involved in. This would be a civil matter between parties. In the event that planning permission is granted for the development, the developer will be required to enter an access agreement with those who own or have an interest in the land.
- 12.19 Nevertheless, it is acknowledged that there is the potential for a conflict of users on the site due to the different uses which occur in close proximity to the path site including crofting and livestock grazing, dog walking and walkers, cyclists and runners, for example.
- 12.20 A new fence is proposed along the southern side of the path so that the common grazings are separated from path users by a stockproof fence. Details of the new fence will be required by condition to ensure that the height and fence type is appropriate to manage potential conflicts. Gates are proposed which will provide access to both the grazings for crofters and also pedestrian gates to provide access for path users. The pedestrian gates will be self-close gates and details of all gates proposed will also be required by condition.
- 12.21 Once the path has passed the dune system it comes to the northern boundary of the Aignish Burial Ground where there is a narrow section of very short grass between the boundary wall of the Cemetery and the edge of the path on top of the coastal defences which drops down to the beach. On the edge of the defences are a set of young dunes system which are to be retained in situ with the path adjacent. In this location there is very limited grazing as the grass is short and trodden. A narrower corridor for the path is proposed in this location due to the adjacent young dune system on the edge of the coastal defences. Once the path has passed the Cemetery boundary fence the path is to go straight across the grazings land to avoid the young dune system. In this location the grass is also very short on account of the sandy nature of the ground here.
- 12.22 As such the Planning Authority does not agree with the Crofting Commission's assertion that the removal of the proposed section of common grazings for use of a more formal path across the Braighe will lead to a detrimental loss of common grazings land.
- 12.23 The Scottish Outdoor Access Code (managed by NatureScot) sets out management techniques and promotional campaigns which include practical management tips for the use of beaches and foreshore areas; controlling dogs in public areas; gates, fences and other means of enclosure; walking and access to areas; protecting wildlife; signage; and visitor planning. There is good practice guidance for outdoor access which sets out and encourages simple positive signs which play an important role in responsible and effected access management; particularly during lambing period, when young livestock are in an area or during wildlife breeding periods. The guidance includes information for dog walkers.
- 12.24 The path does not form part of the Core Path network but there is an existing mapped path which is classed as part of the wider path network which runs broadly in line with the proposed path which is to be created, widened or extended. The more formalised path which is proposed by this application will work positively towards ensuring suitable access is provided to coastal areas for both residents

and for tourists. An informative is proposed to ensure the developer is aware of the provisions of the Outer Hebrides Outdoor Access Strategy and the Scottish Outdoor Access Code.

12.25 A condition is proposed to seek details and locations of any proposed signage along the course of the path. It would be particularly encouraged to think about suitable signs to encourage dogs to be kept on leads; walkers to keep to the path; gates to be closed and secured; livestock and other wildlife not to be disturbed; walking on the dunes to be avoided; and keeping access restricted in areas of new marram grass planting as required.

12.26 It is concluded that the proposed path as sited and designed and managed by condition would satisfy the requirements of Policies PD6 and EI7 of the LDP.

#### **Placemaking and Sustainable Transport**

12.27 NPF4 – Annex D – Six Qualities of Successful Places identifies as Quality 3 – Connected Places: *“Supporting well connected networks that make moving around easy and reduce car dependency: active travel by encouraging more walking, wheeling and cycling; connectivity including strategic cycle routes, local cycle routes, footpaths”*.

12.28 Policy 13 – Sustainable transport - policy intent is to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably. Policy 13 lends support to proposals to improve, enhance or provide active travel infrastructure.

12.29 The proposed path will provide a segregated route from vehicular traffic on the exposed Braighe public road and provide an opportunity for people commuting to Stornoway from Point to use the proposed route. It will also provide a traffic free route for people walking for leisure and health reasons and gains support from NPF4 policies on Placemaking and Sustainable Transport.

#### **Landscape**

12.30 Policy NBH1 of the LDP covers landscape and states that development proposals should relate to the specific landscape and visual characteristics of the local area, ensuring that the overall integrity of the landscape character is maintained.

12.31 The landscape character of the site is classed as gently sloping crofting. The characteristic qualities of the gently sloping crofting landscape character type which are applicable to the application site include dividing buffers of common land between townships and remains of chapels and burial grounds.

12.32 In terms of landscape impact, the creation of new parts of a footpath, widening of parts of a footpath and extension to parts of a footpath, the footpath will be of low profile being that the development is at ground level. A new fence is proposed as well as access gates; details of which are required by condition, which is likely to be of a low height (approximately one metre or slightly higher but no higher than a metre and a half in height). These new/replacement gates and fences should be in keeping with other stock proof type fences found across the island and as such will not be out of keeping with the rural area.

12.33 The footpath is to be constructed using a crushed hardcore which is typical of many other formal rural paths found across the island and will not adversely affect the overall landscape character. There was one representation which made reference to a bound material being used for the construction of the paths. This is not correct and no further comment on this is to be made.

12.34 It is concluded that the proposal would not have a negative impact on landscape and visual characteristics of the local area and that landscape character would be maintained in accordance with Policy NBH1 of the LDP.

### **Archaeology and built heritage**

- 12.35 The NPF4 policy to protect historic assets and places (Policy 7) says that proposals should be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records.
- 12.36 Policy NBH4 of the LDP deals with built heritage and states that development which preserves or enhances the commemorative or historic significance of built heritage assets will be supported. All proposals shall have special regard to the desirability of preserving any heritage assets and their settings or any features of special historic, architectural or cultural interest.
- 12.37 To the east of the Aignish end of the footpath is the St Columba's Church (Scheduled Monument reference: SM1684). The monument is of national importance as representing one of the principal medieval parish churches in Lewis and one of the best preserved medieval churches in the Western Isles. Its importance is enhanced both by the survival of architectural evidence for the internal liturgical division of the nave and chancel, and of two significant Macleod tombstones of the late fifteenth and early sixteenth centuries. In addition, the below-ground archaeological remains have the potential to shed further light on the building history and use of the church, and on the activities that took place on the site before the present church was constructed.
- 12.38 The Ui Church Graveyard (St Columba's) is classed as a Category A Listed Building (reference: LB19210). The graveyard is partly enclosed by concrete walls and surrounds Scheduled Monument Reference: SM1684 (detailed above) which is excluded from the listing. It contains a number of headstones.
- 12.39 Historic Environment Scotland were consulted on the application and raised no objections to the development.
- 12.40 Given the distance between the proposed footpath and these heritage assets, it is considered that the application would not result in any significant or demonstrable harm to these heritage assets. In terms of the setting of the heritage assets, the setting is viewed quite closely around the site due to the varying uses and topography around the site. The church is located on an elevated piece of land above the beach and is separated from the Braighe common grazings area by a slipway and road down to the slipway. As such the setting is more closely associated with the buildings themselves within the boundary walls with some enjoyment of the heritage assets being enjoyed more generally with the coastal context of the area.
- 12.41 The proposed footpath is not considered to result in any significant and demonstrable harm to the setting of the heritage assets. In terms of access, walkers can park in one of the few existing local car parks and walk towards the heritage assets, allowing people to read and understand the heritage assets in their wider context.
- 12.42 The Comhairle also seeks to manage the special historic and cultural interest of war memorials, and commemorative sites of local importance. In close proximity to the site are the Aignish Cemetery which is a Commonwealth War Graves site as well as the Aignish Farm Raiders Monument. The development is not considered to adversely affect the commemorative sites as the area to the north of the Cemetery is already well used by walkers so the formalisation of this footpath route with materials which are considered to be appropriate for the setting is not considered to cause any significant harm. The footpath is also not likely to adversely affect the setting of these commemorative sites.
- 12.43 Policy NBH5 deals with archaeology and requires development proposals to preserve, protect and enhance the archaeological significance of heritage assets, including their settings.
- 12.44 Comhairle Archaeology was consulted on the application and raised no objections to the development.

12.45 Whilst there are a few marked historic environment records on the Braighe and particularly to the eastern end of the path towards the St Columba's Church and the Ui Church Graveyard (St Columba's) the nature of the path and the low depth required for path foundations, the development is unlikely to impact on any archaeology buried at depths. As such no mitigation is required or considered necessary.

#### **Climate and nature crises, climate mitigation and adaptation and biodiversity**

12.46 Policies 1 and 2 of the NPF4 state that when considering all development proposals, significant weight will be given to the global climate and nature crises. Development proposals will be sited and designed to adapt to current and future risks from climate change. In terms of the NPF4 policies links to the development proposal, the site is located in a coastal area which is vulnerable to the climate and weather conditions, being in an exposed location where the wind plays a key role in creating the dunes systems which form part of the application site. Dune systems are particularly sensitive to climate change and as such any development should carefully consider how those dunes may evolve and adapt over time.

12.47 Policy 3 of NPF4 plays a critical role in ensuring that development will secure positive effects for biodiversity and promotes investment in nature-based solutions. The coastal nature of the site means that the site is vulnerable to climate change. Given this and the requirement of development to conserve, restore and enhance biodiversity, it is considered necessary to impose a condition on this consent requiring biodiversity to be considered both during construction of the footpath and post-construction. Additional marram grass planting is required by condition in order to protect the existing dune systems present on the site and this additional marram grass planting is also considered to work towards maintaining, improving and increasing biodiversity interest in the site.

#### **CONCLUSION AND REASONS FOR RECOMMENDATION (REASONED CONCLUSION)**

13.1 The application is for the creation, widening and extension of a coastal footpath on the north side of the Braighe.

13.2 The site is classed as 'outwith settlement' but spans between and will provide a pedestrian walking route between two rural settlements Melbost and Aignish, Point. The proposal will contribute to 'Connected Places' one of the six qualities of successful places. The proposal will provide a sustainable transport route, between rural settlements, segregated from vehicular traffic aiding walking, wheeling and cycling and promote opportunities to access the outdoors, an aim of NPF4.

13.3 The scale and nature of the development is such that it would have a limited landscape and visual impact as the path is at ground level.

13.4 The site includes some areas of common grazings and while concerns have been expressed regarding loss of accessible grazings in regular use by shareholders, concerns of path users, and dogs resulting in worrying of sheep, adequate mitigations are proposed in terms of stock fencing and gates, details of which are required by way of condition. These boundary treatments will help to manage and suitably guide users of the footpath to act responsibly around livestock using the adjoining common grazings land. The Crofting Commission has concerns with an area of common grazings being taken out of grazings potential, however, the planning assessment concludes that the extent of land affected by the proposed footpath holds insignificant potential for livestock grazing.

13.5 Further, signage is required by way of condition to convey measures necessary for responsible use of the footpath in respect of coastal and countryside access. This will help management and limit the potential for a conflict between neighbouring land uses.

13.6 The proposed development is coastal and in the absence of mitigation could lead to coastal erosion. A section of the path proposes some cut and fill through a dune system to create a level area of path. To mitigate against coastal erosion, additional marram planting is proposed in this location and will be

managed by condition and details are required to be submitted to the Planning Authority prior to use of that section of path.

- 13.7 Subject to conditions to mitigate the potential for adverse impacts, the proposal is considered to comply with Policies DS1, PD6, EI6, EI7, NBH1, NBH4 and NBH5 of the Outer Hebrides Local Development Plan and Policies 1, 2, 3, 7, 10, 13, 29 and 30 of the National Planning Framework 4.

#### **PLANNING OBLIGATION**

- 14.1 None required.

#### **DIRECTIONS**

- 15.1 None required.

#### **RECOMMENDATION**

- 16.1 It is recommended that the application be approved subject to the conditions set out in Appendix 1 to this Report.