

Public Document Pack

Argyll and Bute Council
Comhairle Earra Ghaidheal agus Bhoid

Customer Services
Executive Director: Douglas Hendry



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16 September 2014

SUPPLEMENTARY PACK 1

Reconvened meeting of **ARGYLL AND BUTE LOCAL REVIEW BODY - COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY 24 SEPTEMBER 2014** at **9:30 AM**.

Douglas Hendry
Executive Director - Customer Services

BUSINESS

- 1. APOLOGIES FOR ABSENCE**
- 2. DECLARATIONS OF INTEREST (IF ANY)**
- 3. CONSIDER NOTICE OF REVIEW REQUEST: 16 JUBILEE TERRACE, LOCHGILPHEAD PA31 8NT**
 - (a) Notice of Review and Supporting Documentation (Pages 1 - 26)
 - (b) Comments from Interested Parties (Pages 27 - 42)

ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Gordon Blair
Councillor Richard Trail

Councillor David Kinniburgh

Contact: Hazel MacInnes Tel: 01546 602156

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Ref:
AB1

ARGYLL AND BUTE COUNCIL
WWW.ARGYLL-BUTE.GOV.UK/**

OFFICIAL USE

19 May 2014

H. M. / r.r.g.

Date Received

NOTICE OF REVIEW

Notice of Request for Review under Section 43(a)8
of the Town and Country Planning (Scotland) Act 1997 and the Town and
Country Planning (Schemes of Delegation and Local Review Procedure)
(Scotland) Regulations 2013

Important – Please read the notes on how to complete this form and use
Block Capitals. Further information is available on the Council's Website.
You should, if you wish, seek advice from a Professional Advisor on how to
complete this form.

(1) APPLICANT FOR REVIEW

Name

Address

Postcode

Tel. No.

Email

(2) AGENT (if any)

Name

Address

Postcode

Tel. No.

Email

(3) Do you wish correspondence to be sent to you or your agent

(4) (a) Reference Number of Planning Application

(b) Date of Submission

(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

16 Jubilee Terrace,
Lochgilnhead,
Argyll,
PA31 8NT

(6) Description of Proposal

Proposed Extension

(7)

Please set out the detailed reasons for requesting the review:-

Applicant considers that taking into account the information submitted and the various discussions and site visits held that it was demonstrated that the application should have been approved.

see enclosed applicants response to refusal of planning permission.



(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

- (a) Dealt with by written submission
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

Schedule of documents submitted with Notice of Review (Note: 3 paper copies of each of the documents referred to in the schedule below must be attached):

No.	Detail
1	Copy of Planning application form dated 13 th Feb. 2013
2	Copy of Planning refusal dated 20 th Feb. 2014
3	Copy of Application drawing Site-locality Plan
4	Copy of Application drawing Plans and elevation as existing
5	Copy of Application drawing Plans as proposed
6	Copy of Application drawing Elevations as proposed
7	Copy of the Applicants response to the refusal notice.
8	
9	
10	

If insufficient space please continue on a separate page. Is this is attached? (Please tick to confirm)

Submitted by
(Please Sign)



Dated

14th May 2014

Important Notes for Guidance

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – www.argyll-bute.gov.uk/
4. If in doubt how to proceed please contact 01546 604392/604269 or email localreviewprocess@argyll-bute.gov.uk
5. Once completed this form can be either emailed to localreviewprocess@argyll-bute.gov.uk or returned by post to *Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT*
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604392/604269 or email localreviewprocess@argyll-bute.gov.uk

For official use only

Date form issued

Issued by (please sign)

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	Mr & Mrs	Ref No.	
Forename	Kenneth	Forename	Tom
Surname	Crawford	Surname	Grant
Company Name		Company Name	Tom Grant Architects
Building No./Name	16	Building No./Name	24
Address Line 1	Jubilee Terrace	Address Line 1	Argyll Street
Address Line 2		Address Line 2	
Town/City	Lochgilphead	Town/City	Lochgilphead
Postcode	PA31 8NT	Postcode	PA31 8NE
Telephone	01546 602325	Telephone	01546 603050
Mobile		Mobile	07770 538 661
Fax		Fax	01586 551727
Email		Email	tom_grant@btconnect.com
3. Postal Address or Location of Proposed Development (please include postcode)			
16 Jubilee Terrace, Lochgilphead, Argyll, PA31 8 NT			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
4. Type of Application			
What is the application for? Please select one of the following:			
Planning Permission		<input checked="" type="checkbox"/>	
Planning Permission in Principle		<input type="checkbox"/>	
Further Application*		<input type="checkbox"/>	
Application for Approval of Matters Specified in Conditions*		<input type="checkbox"/>	
Application for Mineral Works**		<input type="checkbox"/>	
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:	<input type="text"/>	Date:	<input type="text"/>

****Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.**

5. Description of the Proposal

Please describe the proposal including any change of use:

Proposed front extension to existing terraced house

Is this a temporary permission? Yes No

If yes, please state how long permission is required for and why:

Have the works already been started or completed? Yes No

If yes, please state date of completion, or if not completed, the start date:

Date started: Date completed:

If yes, please explain why work has already taken place in advance of making this application

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal? Yes No

If yes, please provide details about the advice below:

In what format was the advice given? Meeting Telephone call Letter Email

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes No

Please provide a description of the advice you were given and who you received the advice from:

Name: Date: Ref No.:

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha): Square Metre (sq.m.)

8. Existing Use

Please describe the current or most recent use:

Dwelling House

9. Access and Parking

Are you proposing a new altered vehicle access to or from a public road? Yes No

If yes, please show in your drawings the position of any existing, altered or new access and explain the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access? Yes No

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application site?

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements? Yes No

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

- Yes, connecting to a public drainage network
- No, proposing to make private drainage arrangements
- Not applicable – only arrangement for water supply required

What private arrangements are you proposing for the new/altered septic tank?

- Discharge to land via soakaway
- Discharge to watercourse(s) (including partial soakaway)
- Discharge to coastal waters

Please show more details on your plans and supporting information

What private arrangements are you proposing?

- Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
- Other private drainage arrangement (such as a chemical toilets or composting toilets)

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water? Yes No

Note:- Please include details of SUDS arrangements on your plans

Are you proposing to connect to the public water supply network? Yes No

If no, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site)

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding? Yes No

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your planning authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? Yes No Don't Know

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site? Yes No

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling) Yes No

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? Yes No

If yes how many units do you propose in total?

Please provide full details of the number and types of units on the plan. Additional information may be provided in a supporting statement.

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace? Yes No

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes No Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes No

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes No

If you have answered yes please provide details:

DECLARATION

I, the applicant/agent certify that this is an application for planning permission The accompanying plans/drawings and additional information are provided as part of this application.

I, the applicant/agent hereby certify that the attached Land Ownership Certificate has been completed

I, the applicant /agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes No N/A

Signature:

Name:

Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

67 Chalmers Street Ardrishaig PA30 8DX

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED)
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(SCOTLAND) REGULATIONS 2013

REFUSAL OF PLANNING PERMISSION

REFERENCE NUMBER: 13/01493/PP

Mr Kenny Crawford
Tom Grant Partnership Lochgilphead
24 Argyll Street
Lochgilphead
Argyll

I refer to your application dated 2nd July 2013 for planning permission under the above mentioned Act and Regulations in respect of the following development:

Erection of extension. at 16 Jubilee Terrace Lochgilphead Argyll And Bute PA31 8NT

Argyll and Bute Council in exercise of their powers under the above mentioned Act and Regulations hereby refuse planning permission for the above development for the reason(s) contained in the attached appendix

Dated: 20 February 2014



Angus J. Gilmour
Head of Planning and Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION NUMBER 13/01493/PP

1. The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale, massing and relationship to the adjoining dwellinghouse, 15 Jubilee Terrace. The proposed extension would give rise to a significant adverse effect to the residential amenity of 15 Jubilee Terrace through loss of daylight to living apartments having due regard to the applicable minimum standards relating to "Developments Affecting Daylight to Neighbouring Properties" as defined in the Sustainable Siting and Design Principles set out in Appendix A of the Argyll and Bute Local Plan 2009.
2. The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale and massing which would give rise to an 'over-development' of the available curtilage area having due regard to the development density of the immediate locale, and the applicable Sustainable Siting and Design Principles relating to "Open Space/Density" as set out in in Appendix A of the Argyll and Bute Local Plan 2009.

NOTES TO APPLICANT (1) RELATIVE TO APPLICATION NUMBER 13/01493/PP

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under Section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months from the date of this notice. A Notice of Review request must be submitted on an official form which can be obtained by contacting The Local Review Body, Committee Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT or by email to localreviewprocess@argyll-bute.gov.uk
2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and it cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the landowner's interest in the land, in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application 13/01493/PP

- A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): **No**

If Yes: The terms of the Section 75 obligation may be viewed on the Council's website at www.argyll-bute.gov.uk by recalling the application reference number on the Council's Public Access Module and then by "Clicking" Section 75 Obligation under the attached correspondence or by viewing the Public Planning register located at Planning Services, Dalriada House, Lochgilphead, Argyll, PA31 8ST.

- B) Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**

- C) The reason why planning permission has been refused:

The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale, massing and relationship to the adjoining dwellinghouse, 15 Jubilee Terrace. The proposed extension would give rise to a significant adverse effect to the residential amenity of 15 Jubilee Terrace through loss of daylight to living apartments having due regard to the applicable minimum standards relating to "Developments Affecting Daylight to Neighbouring Properties" as defined in the Sustainable Siting and Design Principles set out in Appendix A of the Argyll and Bute Local Plan 2009.

The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale and massing which would give rise to an 'over-development' of the available curtilage area having due regard to the development density of the immediate locale, and the applicable Sustainable Siting and Design Principles relating to "Open Space/Density" as set out in in Appendix A of the Argyll and Bute Local Plan 2009.

**Response to Refusal of Planning Permission 13/01493/PP.
16 Jubilee Terrace Lochgilphead**

The Planning Authority have refused the application on 2 grounds.

- 1 That the proposed extension is detrimental to the amenity of the adjoining property number 15 Jubilee Terrace because it would affect the daylighting into the adjoining property.
- 2 That the proposed development would lead to over development of the site.

It is important to consider the reasons for the proposed extension.

- 1 My client requires the additional accommodation because of his family size and he has put the house on the market for 12 months without any interest having been generated.
- 2 The extension cannot go the rear of the house because of the internal arrangement and the fact that the house at number 15 has a right of access along the rear wall of my client's house for refuse purposes and access to the rear garden.
- 3 There are defects in the front wall of the house causing dampness and the best solution would be to protect the front wall with an extension of modern construction.
- 4 The economic situation caused by the above prevents my client from improving his way of life and he must therefore take all necessary steps to improve the situation but has been prevented from doing so because of the lack of interest in the house sale and the councils attitude to the proposed development.

Daylighting to the adjoining property number 15

- 1 The proposed extension protrudes 3m from the existing face of the front elevation and extends to the front of the curtilage of the ground in Mr Crawford's ownership.
- 2 The roof of the extension is steeply sloping to merge with the existing roof structure and the angle allows daylight penetration to number 15.
- 3 It should also be considered that the existing window to number 15 faces due south and takes full advantage of the available daylight and sunlight. If the window faced north I could see the point of a reduction of daylight and sunlight being an issue but in this case the proposed extension will only affect the lighting in the early morning when the sun is low in the east.
- 4 The planning authority have given permission for 2 extensions at union street Lochgilphead which affect the daylight and sunlight into the living rooms and which protrude further from the front elevation. The orientation is very similar to number 14 and 15 Jubilee Terrace. Why was this permission granted? **See photographs below.**
- 5 The existing owners of number 15 have not objected to the extension and consider that the extension will act as a windbreak and form a sun trapped patio to the front of their house.
- 6 The planning authority feel that the daylighting does not comply with the documents they have put forward as affecting daylight to neighbouring properties but this document is for recommendation only and does not take into account the orientation of the windows in question.

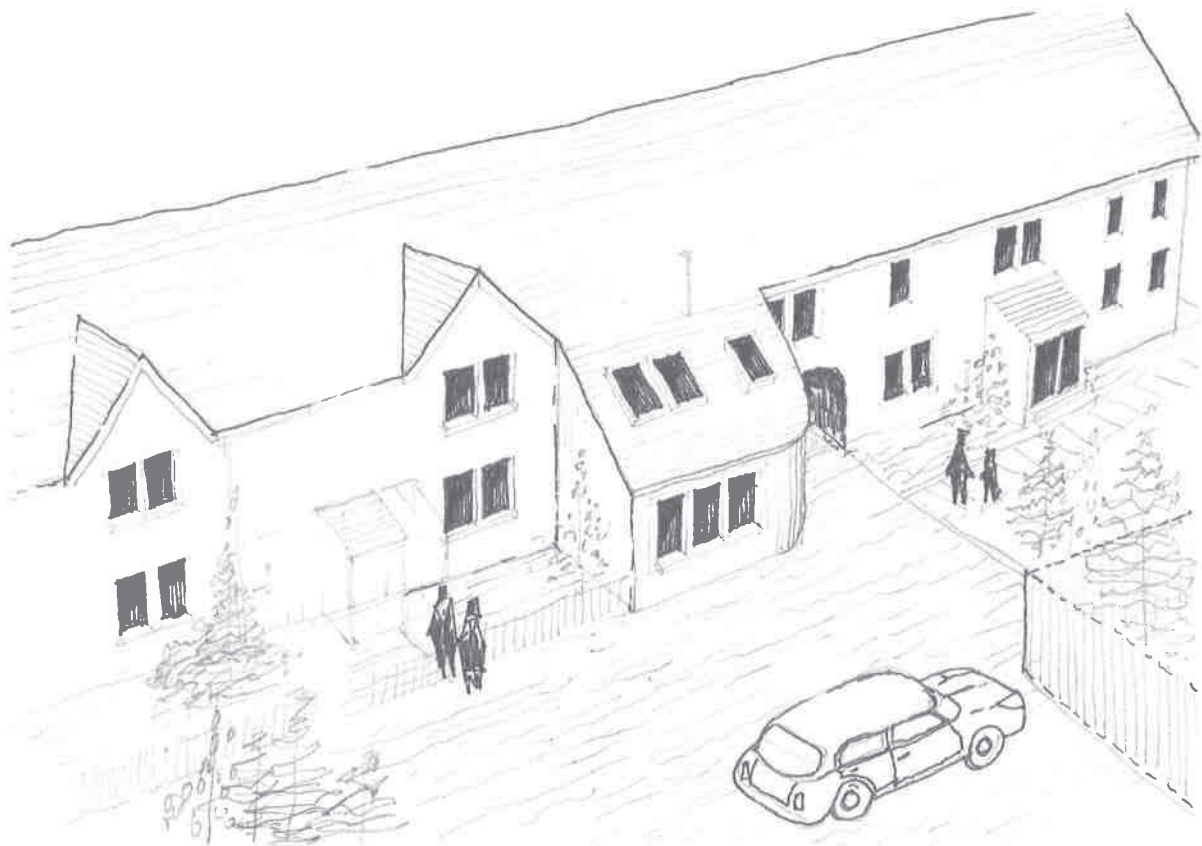


Porch Extensions in Union Street Lochgilphead which are larger than the proposed extension and which clearly overshadow the living room windows.

Proposed over development of the site.

The Planning authority indicate that they consider the development to be too large and over develops the site. My clients do not agree with this for the following reasons.

- 1 Lochgilphead is a town full of townhouse development built hard against the front boundary which is the main character of the area. This extension is built to the boundary and enhances the character of the large courtyard on to which face the rear of the adjoining properties.
- 2 Consideration should be given to the points indicated in the reasons for the proposed extension namely, Client requirement for additional accommodation, problems in selling and the restrictions because of rights of access to the rear.
- 3 The proposed extension provides a visual restriction to the access pend and the 3 new houses and creates a defensible space for them discouraging access only to visitors and owners.
- 4 The large courtyard which has recently been surfaced and car parking formed is overlooked by the rear of the adjoining houses which architecturally detract from the amenity of the area. It is hoped with the formation of the extension other extensions will be encouraged which will provide a more interesting space and make the courtyard a more user friendly area with additional planting and safe play areas.
- 5 The proposed extension extends the house by 14sq.m floor area which is one tenth the area of a new bungalow and is considered small.



Perspective of front elevation



Elevation of number 15 and 16 and new pend

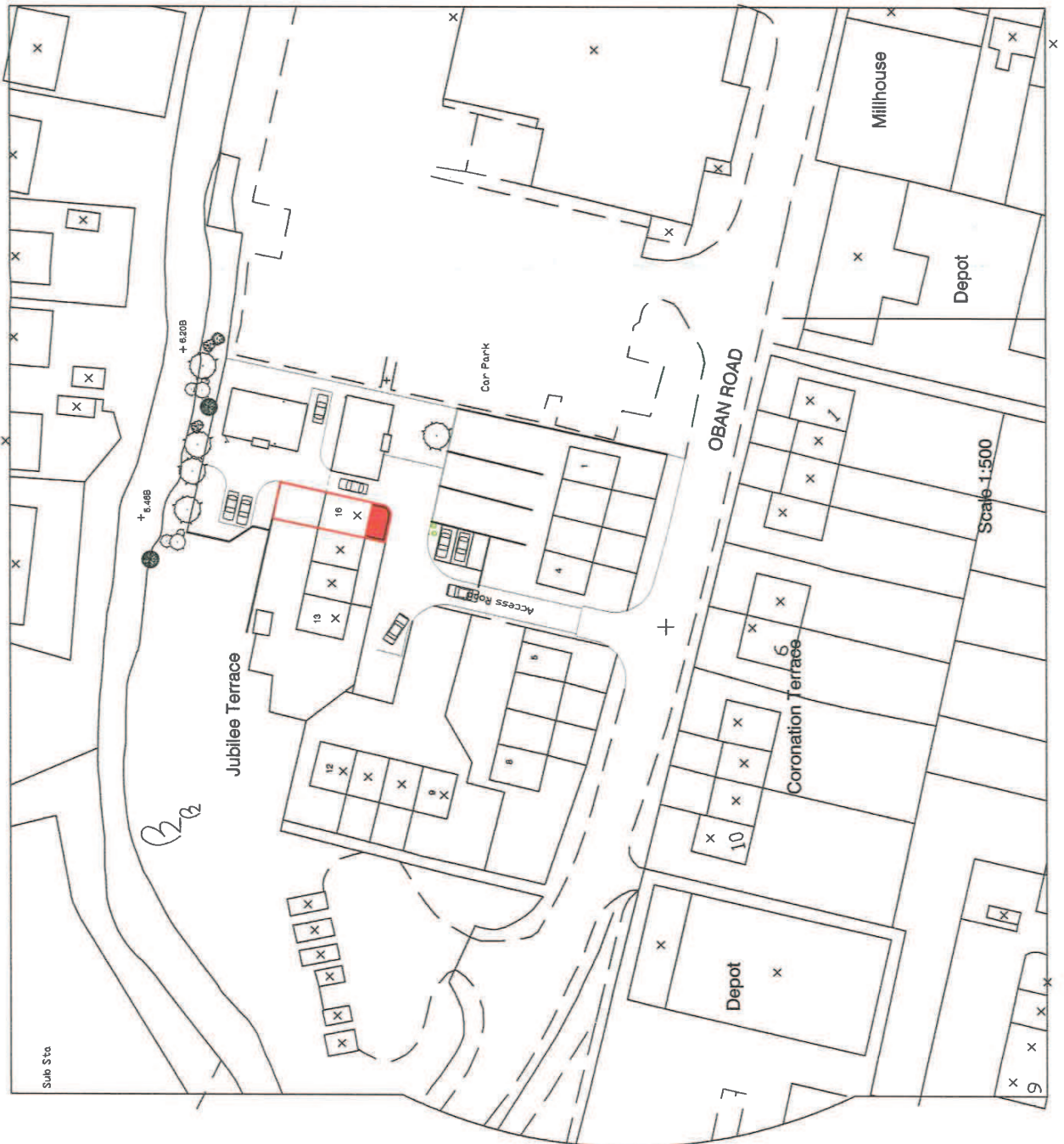


Courtyard with the rear of the adjoining houses.

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LOCALITY PLAN 1:2500

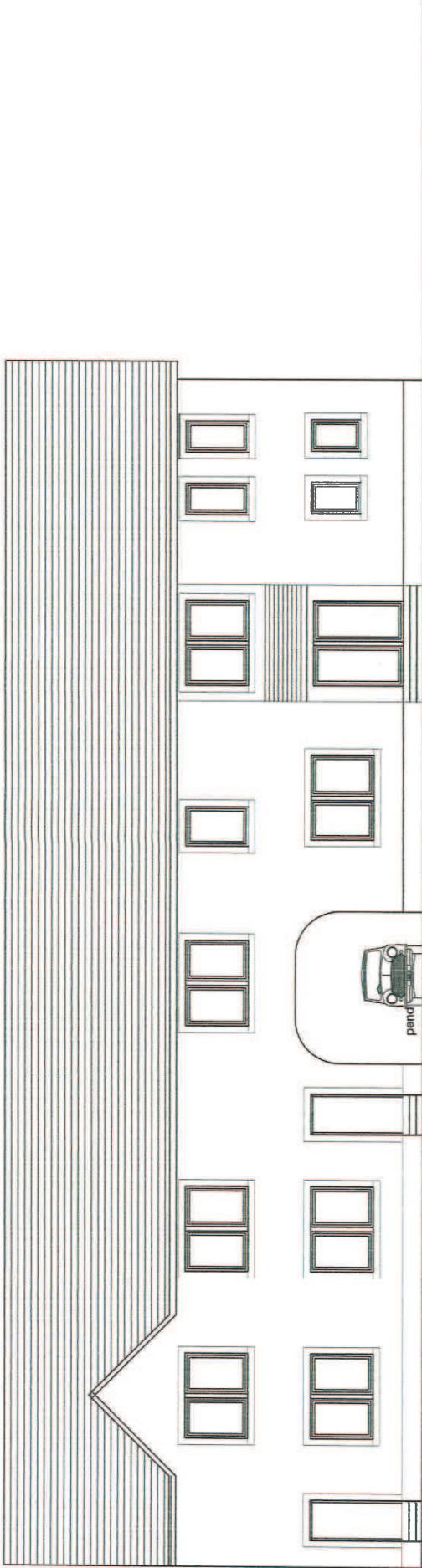


SITE PLAN

Tom Grant ARCHITECTS
 31 ARGYLL STREET, ARGYLL HEAD ARGYLL, PA28 6ER
 TEL: 01846 683650 FAX: 01846 683665
 41 LONGROW, CAMPBELLTOWN ARGYLL, PA28 6ER
 TEL: 01886 584727 FAX: 01886 551727

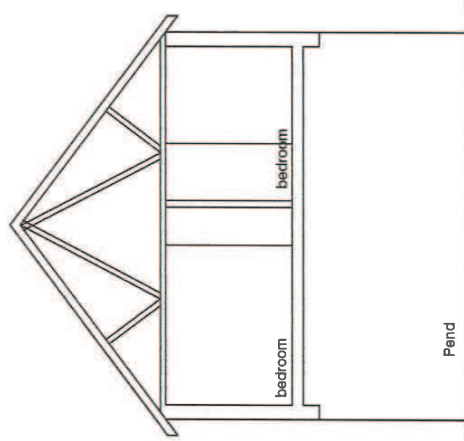
CLIENT	Mr Kenny Crawford
PROJECT	Proposed extension to Jubilee Terrace, Longburghhead
DRAWING	Site Layout Locality Plan
job no.	L1129
scale	1:800
date	12th February 2013
drawn by	1128/P/1

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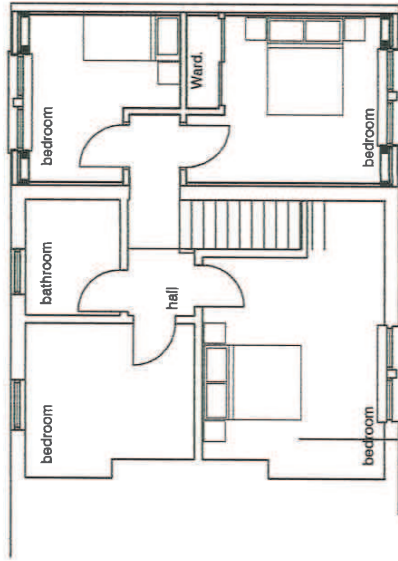


15 Jubilee Terrace

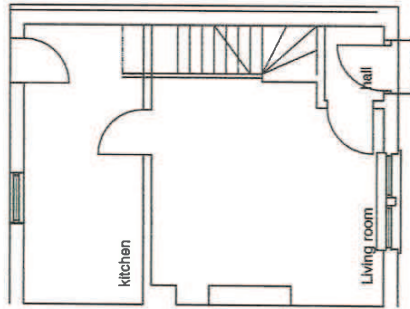
16 Jubilee Terrace



East Elevation section through pend as existing



First floor plan as existing

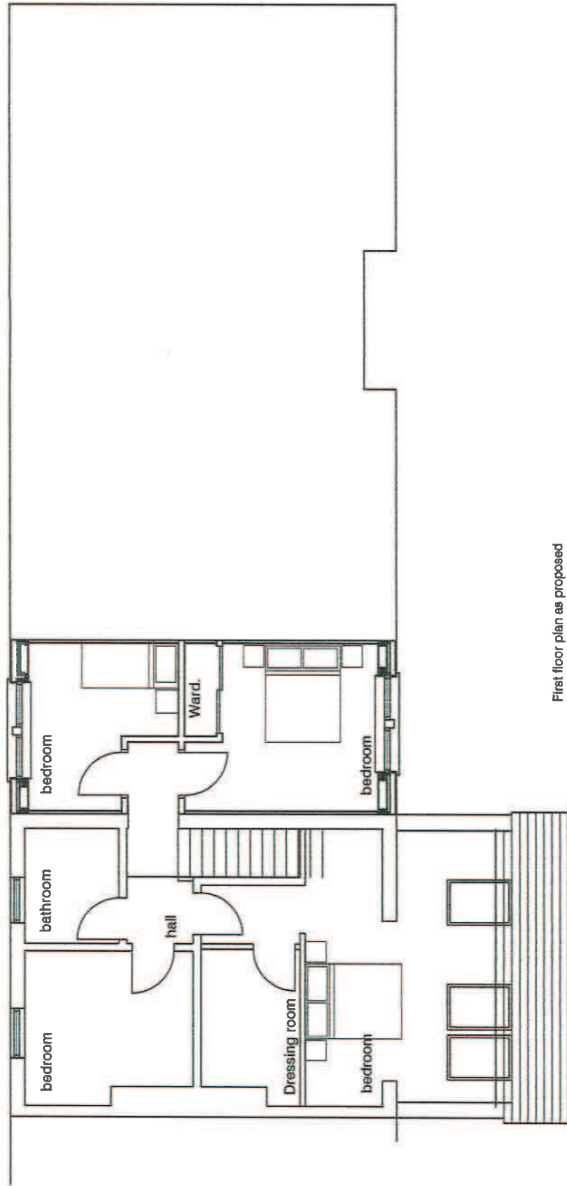


Ground floor plan as existing

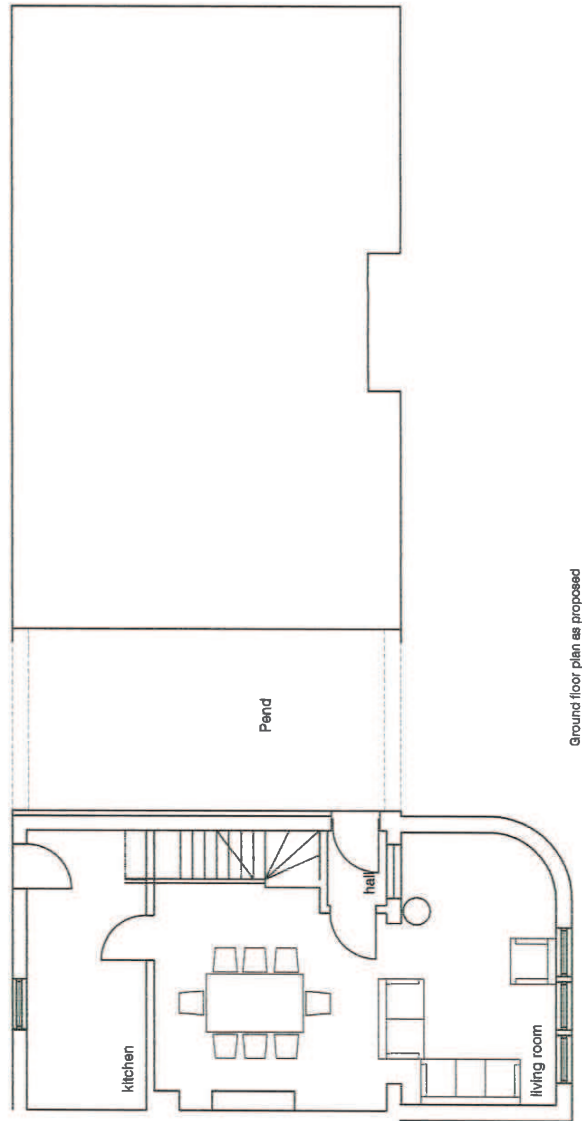
Tom Grant ARCHITECTS
24 ARGYLL STREET LITCHFIELD ARGYLL, PA31 8NE TEL: 01546 603050
 41 LONGROW CAMPBELLTOWN, ARGYLL, PA28 6FR TEL: 01866 554727 FAX: 01866 551727

CLIENT Mr and Mrs Kenny Crawford	job no L1129	scale 1:100
PROJECT Proposed extension to 18 Jubilee Terrace	date 12th Jan 2013	drawn 1129/P/2-B
DRAWING Plans and elevations as existing		

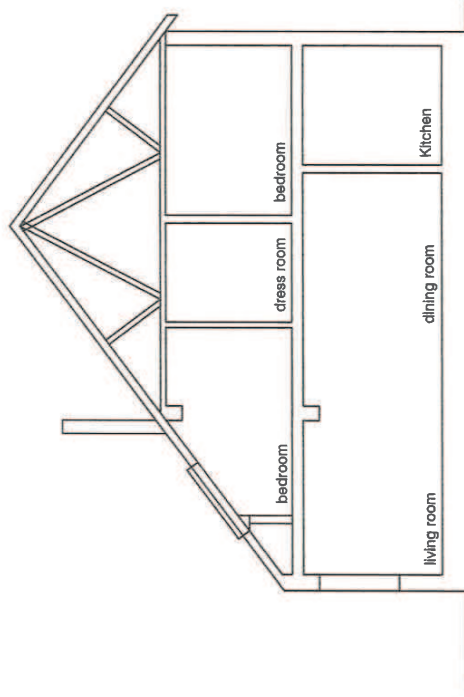
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First floor plan as proposed



Ground floor plan as proposed

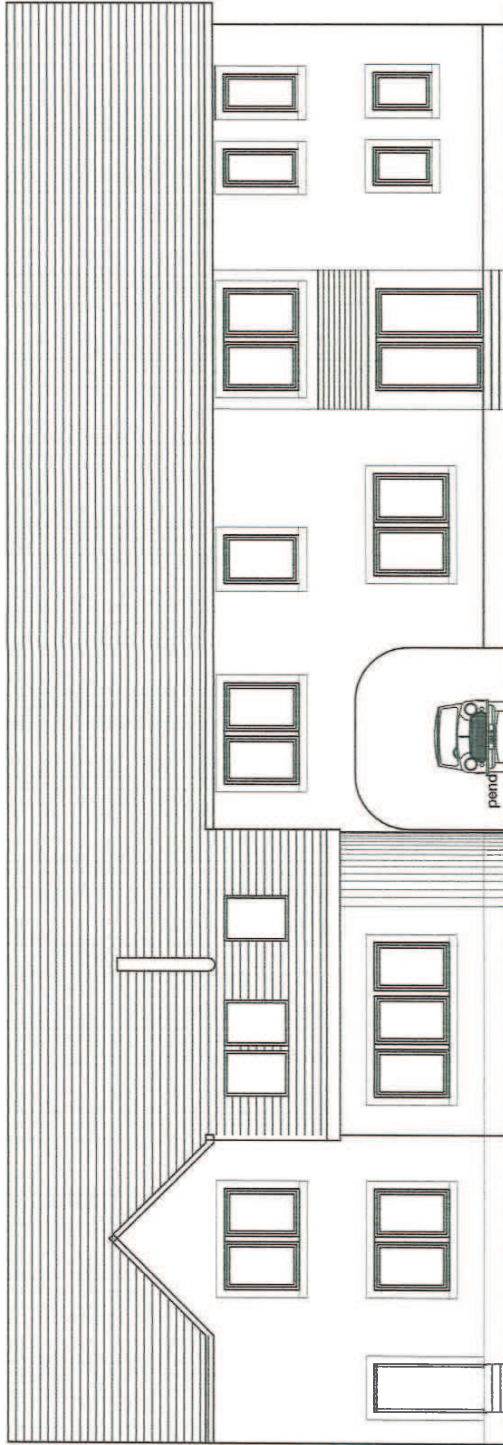


SECTION A-A PROPOSED

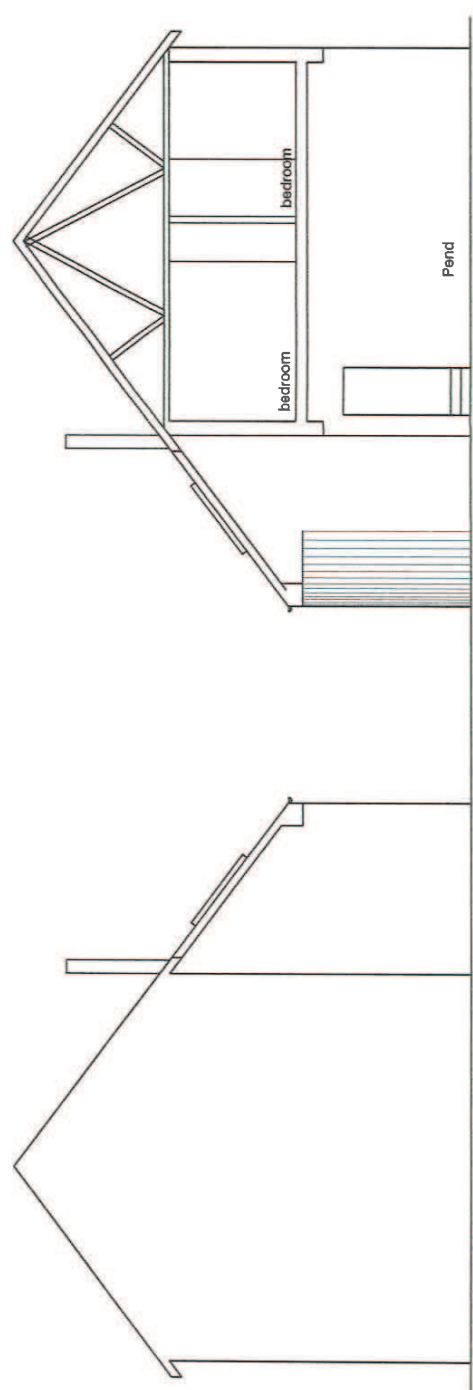
Tom Grant ARCHITECTS
 24 ARGYLL STREET LOCHGILPHEAD ARGYLL, PA31 8NF
 TEL: 01546 660030
 41 LONGROW CAMPBELLTOWN, ARGYLL, PA28 6ER
 TEL: 01586 554727 FAX: 01586 551727

CLIENT Mr and Mrs Kenny Crawford	job no. L1129
PROJECT Proposed extension to 16 Jubilee Terrace	scale 1:100
	date 12th Jan 2013
DRAWING Plans as proposed	
	draw no. 1129/P/3-A

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SOUTH ELEVATION AS PROPOSED



WEST ELEVATION AS PROPOSED

EAST ELEVATION SECTION THROUGH PEND AS PROPOSED

Tom Grant

ARCHITECTS

24 ARGYLL STREET LOCHGILHEAD ARGYLL, PA31 8NE
 TEL: 01546 603050
 41 LONGHROW CAMPBELLTOWN, ARGYLL, PA38 6ER
 TEL: 01586 54727 FAX: 01586 551727

CLIENT Mr and Mrs Kenny Crawford

job no. L1129

PROJECT Proposed extension to
16 Jubilee Terrace

scale 1:100

date 12th Jan 2013

DRAWING Elevations as proposed

dwg no. 1129/P/4-A

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR
THE ERECTION OF AN EXTENSION AT 19
JUBILEE TERRACE, LOCHGILPHEAD**

LOCAL REVIEW BODY REF. 14/0004/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 13/01493/PP**

2nd June 2014

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs K Crawford. ('the appellants').

The planning application, reference number 13/01493/PP, for the erection of an extension ("the appeal site") was refused under delegated powers on the 20th February 2014. The planning application has been appealed and is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE LOCATION

The site in question is '16 Jubilee Terrace' - a terraced, two-storey dwellinghouse located within the settlement of Lochgilphead. The principal elevation, which was proposed to be extended, addresses an access road and car parking area and forms part of a wider 'courtyard' of four separate terraces which makes up Jubilee Terrace as a whole. A small area of garden ground at the front of the house is bounded by a brick wall.

SITE HISTORY

07/00800/DET – Erection of 2 dwelling houses and upgrading of access – permitted: 27.05.2008 – This application for 2no. dwellinghouses included a first floor extension (an access road occupies the ground level) of the dwelling which is the subject of this review. This development has subsequently been implemented in full.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town & Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether or not the proposal is consistent with Development Plan policies LP ENV 19 and LP HOU 5, with regard to the impact on the residential amenity of the neighbouring dwelling, 15 Jubilee Terrace, through loss of daylight.
- Whether or not the proposal is considered to be an 'over-development' of the available curtilage and therefore inconsistent with Development

Plan policies LP ENV 19 and LP HOU 5, with regard to its location, scale and massing.

- Whether or not the proposal raises any material considerations which would warrant a departure from the provisions of the currently adopted Development Plan.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations.

POLICY BACKGROUND

The appeal relates to a house extension within a designated 'Settlement Zone' – the following policy considerations are relevant to the determination of this matter:

Structure Plan Policy STRAT DC 1 – Development Within the Settlements

- A) *Within the Main Towns to development serving a wide community of interest, including large scale development, on appropriate infill, rounding-off and redevelopment sites.*
- B) *Within the Small Towns and Villages to development serving a local community of interest, up to and including medium scale development, on appropriate infill, rounding-off and redevelopment sites; in exceptional cases large scale development may be supported.*
- C) *Within the Minor Settlements to small scale development which is compatible with an essentially rural settlement location on appropriate infill, rounding-off, and redevelopment sites; in exceptional cases medium or large scale development may be supported.*
- D) *Developments which do not accord with this policy are those outwith A), B) and C) above and urban bad neighbour developments which are essentially incompatible with the close configuration of land uses found in settlements eg. mineral extraction development or development which results in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.*
- E) *Developments in settlements are also subject to consistency with the other policies of this Structure Plan and in the Local Plan.*

Local Plan Policy LP ENV 19 – General Housing Development

The Council will require developers and their agents to produce and execute a high standard of appropriate design in accordance with the design principles set out in Appendix A of this Local Plan, the Council's sustainable design guide and the following criteria:-

Development Setting

- (A) *Development shall be sited and positioned so as to pay regard to the context within which it is located.*

Development Layout and Density

- (B) *Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Layouts shall be adapted, as appropriate, to take into account the location or sensitivity of the area. Developments with poor quality or inappropriate layouts or densities including over-development and over-shadowing of sites shall be resisted.*

Development Design

- (C) *The design of developments and structures shall be compatible with the surroundings. Particular attention shall be made to massing, form and design details within sensitive locations such as National Scenic Areas, Areas of Panoramic Quality, Greenbelt, Very Sensitive Countryside, Sensitive Countryside, Conservation Areas, Special Built Environment Areas, Historic Landscapes and Archaeologically Sensitive Areas, Historic Gardens and Designed Landscapes and the settings of listed buildings and Scheduled Ancient Monuments. Within such locations, the quality of design will require to be higher than in other less sensitive locations.*
- (D) *The design of buildings shall be suitably adapted to meet the reasonable expectations for special needs groups.*
- (E) *Energy efficient design and sustainable building practice is strongly encouraged.*

Local Plan Policy LP HOU 5 – House Extensions

House extensions where they cause no significant detriment to the building, the neighbours or the immediate vicinity will generally be acceptable provided they comply with the relevant siting and design principles as set out in Appendix A; and also satisfy the following specific design considerations:

- (A) *Extensions should not dominate the original existing building by way of size, scale, proportion or design;*
- (B) *External materials should be complementary to the existing property;*
- (C) *Extensions should not have a significant adverse impact on the privacy of neighbours, particularly in private rear gardens.*
- (D) *Flat-roofed extensions, and multiple dormer window extensions, which give the appearance of a flat roof will not be permitted where they do not complement the existing house style and design.*

Excerpts from Local Plan Appendix A – Sustainable Siting and Design Principles

“4.2 - ...all developments should have some private open space (ideally a minimum of 100 sq m), semi-detached/detached houses (and any extensions) should only occupy a maximum of 33% of their site, although this may rise to around 45% for terrace and courtyard developments.”

“8.2 – Alterations and extensions should be in scale and designed to reflect the character of the original dwelling house or building, so that the appearance of the building and the amenity of the surrounding area are not adversely affected. Approval will not be granted where the siting and scale of the extension significantly affects the amenity enjoyed by the occupants of adjoining properties, taking into account sunlight, daylight and privacy. Proposal to construct two storey extensions onto single storey buildings will need special consideration. Care should be taken not to over-develop the site”

“14.1 – Householders can legitimately expect a reasonable amount of direct daylight into all or at least some living room windows and this should be protected as far as possible in order to maintain reasonable levels of household amenity.

14.2 – When considering a site for a new house, or an extension to an existing house, applicants should ensure that the house will not significantly affect daylight and direct sunlight to existing neighbouring properties. Applicants should refer to published standards “Site Layout Planning For Sunlight and Daylight” – BRE 1991.

14.3 – Where a proposed development has a significant adverse effect on daylight and direct sunlight to existing neighbouring properties planning permission will be refused.”

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The issues raised were covered in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is 'local' development, has no complex or challenging issues and has not been the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLANTS' SUBMISSION

Having regard to the 'Response to Refusal of Planning Permission 13/01493/PP' appended to the Notice of Review, a detailed assessment of the

proposal and relevant material planning considerations is set out in the appended report of handling, the following summary comments are noted for the record in respect of the specific issues raised in the request for a review:

Daylighting to the adjoining property number 15

Paragraph 4 – The extension referred to at 53-55 Union Street, Lochgilphead (planning permission ref. no. 00/00622/DET) was a joint proposal for 2no. adjoining dwellings to erect porches onto their principal elevations. As such, it is confirmed that any restrictions of daylight would have impacted upon the applicants own windows and not those of any neighbouring dwelling, and as such would not be a relevant material consideration.

Paragraph 5 – The owners of number 15 Jubilee Terrace, despite being ‘neighbour notified’, did not make any written representations to the planning application. It is therefore not considered that the applicant’s assertions of support from the owners of number 15 Jubilee Terrace within this paragraph can be given any material weight.

Paragraph 6 – The proposed extension was assessed against the relevant documentation referred to – “Site Layout Planning Sunlight and Daylight” BRE 1991. It is the view of the Planning Authority that, based on the criteria set out in this guidance, the proposed extension shall have a significant adverse impact on daylight to the neighbouring dwelling.

Proposed over development of the site

Paragraph 1 – The proposed extension was assessed in terms of form and character against the immediate streetscape and wider area within which it sits. It is considered that the extension would represent an ‘over-development’ of the application site and therefore would not enhance the character of the ‘courtyard’ area.

Paragraph 4 – It is the view of the Planning Authority that the replication of this type of development within the ‘courtyard’ is not a desirable aim and, if any other extensions were proposed within this area, each would be assessed against relevant planning policy and determined on their own merits.

Paragraph 5 – The issue of the size of the proposed extension in relation to the application site is addressed in detail within the case officer’s report, appended to this Statement of Case.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed extension shall have a materially detrimental effect on the amenity of the occupiers of the neighbouring, adjoining dwelling house, 15

Jubilee Terrace. Due to the scale and proximity of the extension to number 15, it would overshadow the nearest ground floor window of this dwelling, reducing natural daylight to an unacceptable level.

Additionally, the scale of the proposed extension is such that it would have a materially detrimental effect on the character of the host dwelling and the wider streetscape, and would represent 'over-development' of the curtilage of 16 Jubilee Terrace.

Due to the above issues, the proposal is contrary to policies LP ENV 19 and LP HOU 5 of the Development Plan. It is not considered that there are any material considerations which would warrant a departure from the provisions of the Development Plan and, as such, it is respectfully requested that the appeal be dismissed.

Appendix 1 – Report of Handling

**Argyll and Bute Council
Development & Infrastructure Services**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 13/01493/PP
Planning Local
Hierarchy:
Applicant: Mr Kenny Crawford
Proposal: Erection of extension.
Site Address: 16 Jubilee Terrace, Lochgilphead

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission**
 - Erection of extension to principal elevation of dwelling.
 - (ii) Other specified operations**
 - N/A
-

(B) RECOMMENDATION:

That planning permission be refused for the reasons appended to this report.

(C) CONSULTATIONS:

Council's Area Roads Team – responded: 09.09.2013 – No objection.

(D) HISTORY:

07/00800/DET – Erection of 2 dwelling houses and upgrading of access – permitted: 27.05.2008 – This application for 2no. dwellinghouses included a first floor extension (an access road occupies the ground level) of the dwelling which is the subject of the current application. This development has subsequently been implemented in full.

(E) PUBLICITY:

None required.

(F) REPRESENTATIONS:

(i) Representations received from:

- None received.

(ii) Summary of issues raised:

- N/A
-

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) Environmental Statement:** No
- (ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) A design or design/access statement:** No
- (iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
-

(H) PLANNING OBLIGATIONS

Is a Section 75 agreement required: No

- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
-

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
LP ENV 19 – Development Setting, Layout and Design

LP HOU 5 – House Extensions

Appendix A – Sustainable Siting and Design Principles

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

- ABC Sustainable Design Guidance
- Building Research Establishment document, "*Site Layout Planning For Sunlight and Daylight*", BRE 1991.

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing: No

(P) Assessment and summary of determining issues and material considerations

This application relates to a terraced, two-storey dwelling located within the settlement of Lochgilphead. It is proposed to alter the dwelling by erecting an extension to its principal elevation.

The proposed extension shall have a footprint of approximately 17m², covering the entirety of the existing front curtilage of the dwelling. With the proposed roof extending down from the eaves of the existing terrace, the extension shall incorporate a living room on the ground floor and extend an existing bedroom within the roofspace. The plans indicate window layout/materials and a roof covering which matches the terrace as a whole. Incorporated within the design is a curved wall where the south elevation meets the east, a detail which complements the arched pend immediately to the east of the extension. Additionally, there would be no adverse impact on the privacy of neighbouring dwellings.

In general terms of its design, the proposed extension is of subservient scale

and appearance relative to the significant mass of the existing dwellinghouse and the extended terraced row within which it sits, it is however noted with concern that the proposed extension would occupy all of the available front curtilage of the property and as such is not a form of development which could be readily replicated elsewhere on the terrace without affect to residential and visual amenity.

Daylighting Concerns

Policies LP ENV 19 and LP HOU 5 of the Local Plan also seek to resist development which does not comply with the relevant siting and design principles contained within Appendix A of the same.

With regard to house extensions, paragraph 8.2 of Appendix A states the following:

*“8.2 - Alterations and extensions should be in scale and designed to reflect the character of the original dwelling house or building, so that the appearance of the building and the amenity of the surrounding area are not adversely affected. **Approval will not be granted where the siting and scale of the extension significantly affects the amenity enjoyed by the occupants of adjoining properties, taking into account sunlight, daylight and privacy.** Proposal to construct two storey extensions onto single storey buildings will need special consideration. Care should be taken not to over-develop the site”.*

Additionally, Section 14 relates specifically to daylighting considerations:

“14.1 – Householders can legitimately expect a reasonable amount of direct daylight into all or at least some living room windows and this should be protected as far as possible in order to maintain reasonable levels of household amenity.

*14.2 – When considering a site for a new house, or an extension to an existing house, applicants should ensure that the house will not significantly affect daylight and direct sunlight to existing neighbouring properties. Applicants should refer to published standards “**Site Layout Planning For Sunlight and Daylight**” – BRE 1991.*

*14.3 – **Where a proposed development has a significant adverse effect on daylight and direct sunlight to existing neighbouring properties planning permission will be refused.**”*

The methods of assessment set out in the Building Research Establishment's (BRE) guide vary in complexity. Some or all of these methods may be used depending upon the specific circumstances of the development criteria. In this case the relevant methodology is the '45 degree' approach which assumes that no part of a proposed development should cross an imaginary line drawn at a 45 degree angle (both in elevation and plan) from the centre of the closest habitable room window of neighbouring properties.

In this case, the proposed extension would fail the '45 degree' test both in plan (i.e. the forward projection of the extension) and in elevation (i.e. the height of the proposed extension, taken from the mid-point of the slope in the roof) in proximity to the position of the nearest ground floor living room window of

number 15 Jubilee Terrace.

It is concluded that the proposed extension would have a significant and materially detrimental effect upon the amenity of the occupiers of the existing adjoining dwellinghouse 15 Jubilee Terrace by creating an unreasonable obstruction of daylight. In this respect, the proposal is therefore contrary to Local Plan policies LP ENV 19 and LP HOU 5 of the Local Plan.

Over-development concerns

In addition to the issues detailed above with regard to daylighting, it is the view of the Planning Authority that the proposed extension would represent an 'over-development' of the curtilage of the existing dwellinghouse. Policy LP ENV 19 of the Local Plan states the following:

*"Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Layouts shall be adapted, as appropriate, to take into account the location or sensitivity of the area. **Developments with poor quality or inappropriate layouts or densities including over-development and over-shadowing of sites shall be resisted.**"*

As noted in the section above, policies LP ENV 19 and LP HOU 5 of the Local Plan seek to resist development which does not comply with the relevant siting and design principles contained within Appendix A of the same. Paragraph 8.2 of Appendix A states:

*"8.2 - **Alterations and extensions should be in scale and designed to reflect the character of the original dwelling house or building, so that the appearance of the building and the amenity of the surrounding area are not adversely affected.** Approval will not be granted where the siting and scale of the extension significantly affects the amenity enjoyed by the occupants of adjoining properties, taking into account sunlight, daylight and privacy. Proposal to construct two storey extensions onto single storey buildings will need special consideration. Care should be taken not to over-develop the site".*

Whilst the subject property was originally constructed as an end-terrace which enjoyed the benefit of an extensive corner plot curtilage area the resultant development of this area to provide two additional dwellings and a previous extension to the subject property have resulted in the reduction of available curtilage to an extent where this is now directly comparable with the adjacent mid terraced properties (14 & 15) and now constitutes approximately 60sqm available curtilage (18sqm to the front and 42sqm to the rear).

Paragraph 4.2 of Appendix A in the Local Plan sets out guidance on respect of open space/density and advises that *"all development should have some private open space (ideally a minimum of 100sqm) semi-detached/detached dwellings (and any extensions) should only occupy a maximum of 33% of their site, although this may rise to around 45% for terraced and courtyard developments."* In this instance the current application would result in a property with a footprint which occupies some 60% of its plot area, this figure would increase to 66% if the previous first floor extension above the pend were to be taken into account.

As the proposed extension to 16 Jubilee Terrace shall occupy the entirety of the front curtilage of the dwellinghouse and will reduce the already limited curtilage by a third, it is considered that this would result in an unacceptable over-development of the plot which would adversely affect the character of both the host dwelling and the wider terrace. Additionally, the approval of an extension this size within its courtyard location could set an undesirable precedent – if other dwellings within the row and courtyard were to extend in the same manner it would compromise the character of this wider area.

Given the above, it is considered that the scale of the proposed extension renders it incompatible and inconsistent with policies LP ENV 19 and LP HOU 5 of the Local Plan.

Summary

For the reasons stated above, the proposed development is considered to be contrary to policies LP ENV 19 and LP HOU 5 and therefore it shall be recommended for refusal.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:

The proposed extension shall have a materially detrimental effect on the amenity of the occupiers of the neighbouring, adjoining dwellinghouse, 15 Jubilee Terrace. Due to the scale and proximity of the extension to number 15, it would materially overshadow the nearest ground floor window of this dwelling, reducing natural daylight to an unacceptable level.

Additionally, the scale of the proposed extension is such that it would have a materially detrimental effect on the character of the host dwelling and the wider streetscape, and would represent 'over-development' of the curtilage of 16 Jubilee Terrace.

Due to the above issues, the proposal is contrary to policies LP ENV 19 and LP HOU 5 of the Development Plan.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Rory MacDonald **Date:** 29.01.2014

Reviewing Peter Bain **Date:** 19th February 2014

Officer:

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO. 13/01493/PP

1. The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale, massing and relationship to the adjoining dwellinghouse, 15 Jubilee Terrace. The proposed extension would give rise to a significant adverse effect to the residential amenity of 15 Jubilee Terrace through loss of daylight to living apartments having due regard to the applicable minimum standards relating to “Developments Affecting Daylight to Neighbouring Properties” as defined in the Sustainable Siting and Design Principles set out in Appendix A of the Argyll and Bute Local Plan 2009.
2. The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale and massing which would give rise to an ‘over-development’ of the available curtilage area having due regard to the development density of the immediate locale, and the applicable Sustainable Siting and Design Principles relating to “Open Space/Density” as set out in in Appendix A of the Argyll and Bute Local Plan 2009.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **13/01493/PP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): **No**

If Yes: The terms of the Section 75 obligation may be viewed on the Council's website at www.argyll-bute.gov.uk by recalling the application reference number on the Council's Public Access Module and then by "Clicking" Section 75 Obligation under the attached correspondence or by viewing the Public Planning register located at Planning Services, Dalriada House, Lochgilphead, Argyll, PA31 8ST.

- (B) Has the application been the subject of any "non-material" amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing. **No**

- (C) The reason why planning permission has been refused:

The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale, massing and relationship to the adjoining dwellinghouse, 15 Jubilee Terrace. The proposed extension would give rise to a significant adverse effect to the residential amenity of 15 Jubilee Terrace through loss of daylight to living apartments having due regard to the applicable minimum standards relating to "Developments Affecting Daylight to Neighbouring Properties" as defined in the Sustainable Siting and Design Principles set out in Appendix A of the Argyll and Bute Local Plan 2009.

The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale and massing which would give rise to an 'over-development' of the available curtilage area having due regard to the development density of the immediate locale, and the applicable Sustainable Siting and Design Principles relating to "Open Space/Density" as set out in Appendix A of the Argyll and Bute Local Plan 2009.

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