

MINUTES of MEETING of ARGYLL AND BUTE LOCAL REVIEW BODY held in the COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD on THURSDAY, 1 MARCH 2012

Present: Councillor Daniel Kelly (Chair)
Councillor Rory Colville Councillor Robin Currie

Attending: Charles Reppke, Head of Governance and Law (Adviser)
Fiona McCallum, Committee Services Officer (Minute Taker)

1. APOLOGIES FOR ABSENCE

Due to the sudden death of Councillor Al Reay, Councillor Robin Currie agreed to step in and fill the vacancy on the Local Review Body.

2. CONSIDER NOTICE OF REVIEW: 22 JANE STREET, DUNOON, ARGYLL, PA23 7HX

The Chair welcomed everyone to the meeting and advised that parties to the Review were not permitted to address the Local Review Body (LRB). He advised that the only participants entitled to speak would be the Members of the LRB panel and Mr Reppke who would provide procedural advice if required.

The Chair advised that his first task would be to establish whether or not the LRB felt they had sufficient information before them to reach a decision on the Review.

Councillor Colville referred to the Agent's statement that their client intended to retain ownership of the flat and garage with the view to renting the flat out to an employee. Councillor Colville asked if this was the case, would it be possible to have a Section 75 Agreement drawn up to say that the flat could only be used by an employee.

Mr Reppke stated that this would be a reasonable request and advised that the LRB could invite the Planning Officer to comment on the possibility of a Section 75 Agreement in order to restrict occupation of the property to employees of the garage only. He also advised the LRB to invite the Appellant to advise whether or not he would agree to such at Section 75 Agreement.

Councillor Currie advised that he could not see any reason to refuse planning permission.

Councillor Colville advised that he did not think a site visit was required and that the only other issue to take into consideration would be the loss of car parking spaces for the existing garage from the existing off street car parking area in the lane east of Jane Street. He referred to another Local Review Body he had been involved with in Dunoon and stated that

Planning had advised then that as long as there was adequate access to public parking nearby and the property was within walking distance of the town centre then a lack of parking would not be an issue and that Policy LP TRAN 6 Appendix C allowed for a degree of flexibility. Councillor Colville advised that, in his opinion, a lack of car parking would not be a show stopper in this case.

Mr Reppke advised Members that if they might be minded to grant the application then they would require to have a competent motion and conditions and reasons would have to be attached to the consent. It was therefore suggested by Members that it would be appropriate in the circumstances to have the Planning Department submit draft conditions and reasons for consideration by the Members at a further meeting of the LRB in order that a final decision could be made.

Decision

The LRB agreed:-

1. To request Planning to provide comment on the possibility of a Section 75 Agreement that would restrict occupation of the property ie for occupation by employees of the garage below the property only;
2. To request from the Applicant's Agent comment from the Applicant on whether or not they would agree to such a Section 75 Agreement as detailed at 1 above;
3. To request from Planning appropriate conditions and reasons to be attached to any consent should the LRB be minded to approve the Notice of Review request; and
4. To adjourn the meeting and reconvene on Thursday 5 April 2012 in Oban.

The Argyll and Bute Local Review Body re-convened on Thursday 5 April 2012 at 3.15 pm in the Kerrera Suite, Corran Halls, Oban

Present: Councillor Daniel Kelly (Chair)
Councillor Rory Colville
Councillor Robin Currie

Attending: Charles Reppke, Head of Governance and Law (Adviser)
Iain Jackson, Governance Officer

The Chair welcomed everyone to the meeting and advised that parties to the Review were not permitted to address the LRB. He advised that the only participants entitled to speak would be the Members of the LRB and Mr Reppke who would provide procedural advice if required.

The Chair advised that his first task would be to establish whether or not the LRB felt they had sufficient information before them to reach a

decision on the Review and they all confirmed this to be the case. The Members of the LRB went on to determine the merits of the case and took into consideration all information received including the details of a possible section 75 legal agreement which restricted occupancy of the flatted dwellinghouse to a person employed by Cowal building supplies and whose principal place of employment is the workshop below the flat and whose work activities and or profession is directly related to the activities of the ground floor premises. The agreement could also require the flatted dwellinghouse and the garage workshop to be retained in the same ownership in all time coming so that neither would be disposed of or beneficially occupied separately from the other.

Decision

The LRB unanimously agreed that with provision of the Section 75 legal agreement to secure the referred to occupancy and ownership restrictions, to grant planning permission subject to the following conditions and reasons:-

1. The development shall be implemented in accordance with the details specified on the application form dated 6 July 2011 and the approved drawing reference numbers: SS C 00 03 01; SS-L-003 Rev C; SS-L-004 Rev D; SS/0509/G2; SS/0509/G1, F1 SS 02A 01 RevC, SS 02A 02 RevA and H3 SS 02A 09, unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. Prior to the first occupancy of the flat hereby approved, the rear courtyard enclosed by 22, 24 and 24a Jane Street shall be fully landscaped with an external drying green as shown on approved drawing ref. H3 SS02A09.

Reason: In order to provide suitable external amenity space.

3. Prior to the first occupancy of the flat hereby approved, 4 off-street car parking spaces shall be provided within Jane Street lane to serve the upper flat and ground floor garage. The actual location of these car parking spaces shall be agreed in writing with the Planning Authority in consultation with the Area Roads Manager and shall be suitably delineated and marked for the use of the flat and garage only and thereafter be retained in perpetuity for such a dedicated purpose.

Reason: In order to provide the requisite number of off-street car parking spaces for existing and proposed uses.

4. Notwithstanding the submitted hours of operation, the ground floor garage shall only operate within the following hours :

Monday to Friday 08:00 to 6.00pm; Saturday 08:00 to 17:00 pm, and

not at all on Sundays.

Reason: In order to safeguard the amenity of the upper floor flat.

5. To control noise from the motor vehicle repair garage, a competent person shall advise on the method of construction and choice of materials for the shared floor/ceiling to ensure that the construction is capable of maintaining 40Db for a living room in the day and 35Db for a bedroom between 23:00 and 07:00. The method of construction and materials chosen should meet the requirements of the Building Standards Department. The choice of materials used for doors and windows for the garage must also be chosen to contain noise within the building during noisier operations to avoid disturbance to the neighbourhood.

Reason: In order to safeguard the amenity of the upper floor flat.

6. Ventilation ducting from the garage should discharge above eaves level and away from any velux windows to prevent odour/fume nuisance.

Reason: In order to safeguard the amenity of the upper floor flat.

(Reference: Notice of Review and Supporting documentation and written submissions, submitted)