

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

Customer Services  
Executive Director: Douglas Hendry



Kilmory, Lochgilphead, PA31 8RT  
Tel: 01546 602127 Fax: 01546 604435  
DX 599700 LOCHGILPHEAD  
e.mail –douglas.hendry@argyll-bute.gov.uk

23 February 2012

## NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **THURSDAY, 1 MARCH 2012** at **3:00 PM**, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW: 22 JANE STREET, DUNOON, ARGYLL, PA23 7HX**
  - (a) Notice of Review and Supporting Documents (Pages 1 - 20)
  - (b) Comments from Interested Parties
    - (i) Comments from Planning Authority (Pages 21 – 44)
    - (ii) Comments from Representee (Pages 45 - 48)
  - (c) Applicant's Response to Comments from Interested Parties (Pages 49 - 50)

## ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Rory Colville  
Councillor Al Reay

Councillor Daniel Kelly (Chair)

Contact: Fiona McCallum Tel: 01546 604406

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Ref:  
AB1

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

**OFFICIAL USE**  
(All paperwork)

23 January 2012

Date Received  
*Melanie*

## 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 Procedures  
(Scotland) Regulations 2008

**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

22 JANE STREET  
DUNOON  
ARGYLL  
PA23 7HX

(6) Description of Proposal

ALTERATIONS TO GARAGE TO  
PROVIDE 1 FLAT AT UPPER LEVEL  
AND EXTERNAL ALTERATIONS TO 22  
JANE STREET, DUNOON

(7)

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

PLEASE NOTE THAT OUR CLIENT PREVIOUSLY OBTAINED PLANNING PERMISSION FOR THE ERECTION OF A PITCHED ROOF (REF NO. 09/00633/DET) FOR THIS PROPERTY AND NOW LOOKS TO THE INCLUDE CONSTRUCTION OF 1NO. FLAT WHILST CARRYING OUT THESE WORKS. OUR CLIENT FULLY INTENDS TO RETAIN THE OWNERSHIP OF THE GARAGE AND FLAT WITH THE VIEW TO RENTING THE FLAT OUT TO AN EMPLOYEE.

THE EXISTING GARAGE WILL ONLY BE USED FOR SERVICING OUR CLIENTS OWN BUSINESS VEHICLES AND WILL NOT BE OPENED TO THE PUBLIC.

I CAN ADVISE THAT ANY CONCERNS REGARDING NOISE HAVE BEEN DEALT WITH DURING THE BUILDING WARRANT APPROVAL (REF NO. 10/00930/ERD) RECEIVED FOR THE PREVIOUS FOR 2NO. FLATS PROPOSAL.

PLEASE ALSO NOTE THAT OUR CLIENT ALSO OWNS THE NEIGHBOURING BUILDERS MERCHANT'S YARD AND NUMBER 24 & 24A JANE STREET WHICH HAVE RECENTLY RECIEVED PLANNING PERMISSION TO BE CONVERTED IN 4NO. AND 2NO. FLATS.





(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	LOCATION PLAN
2	EXISTING BLOCK PLAN
3	PROPOSED BLOCK PLAN
4	EXISTING FLOOR LAYOUT
5	EXISTING ELEVATIONS
6	PROPOSED FLOOR LAYOUTS
7	PROPOSED ELEVATIONS
8	PREVIOUSLY APPROVED FLOOR LAYOUT
9	PREVIOUSLY APPROVED ELEVATIONS
10	

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

Submitted by  
(Please Sign)

*Jerald M. Mac (Dunn) Ltd*

Dated

16/12/11

**Important Notes for Guidance**

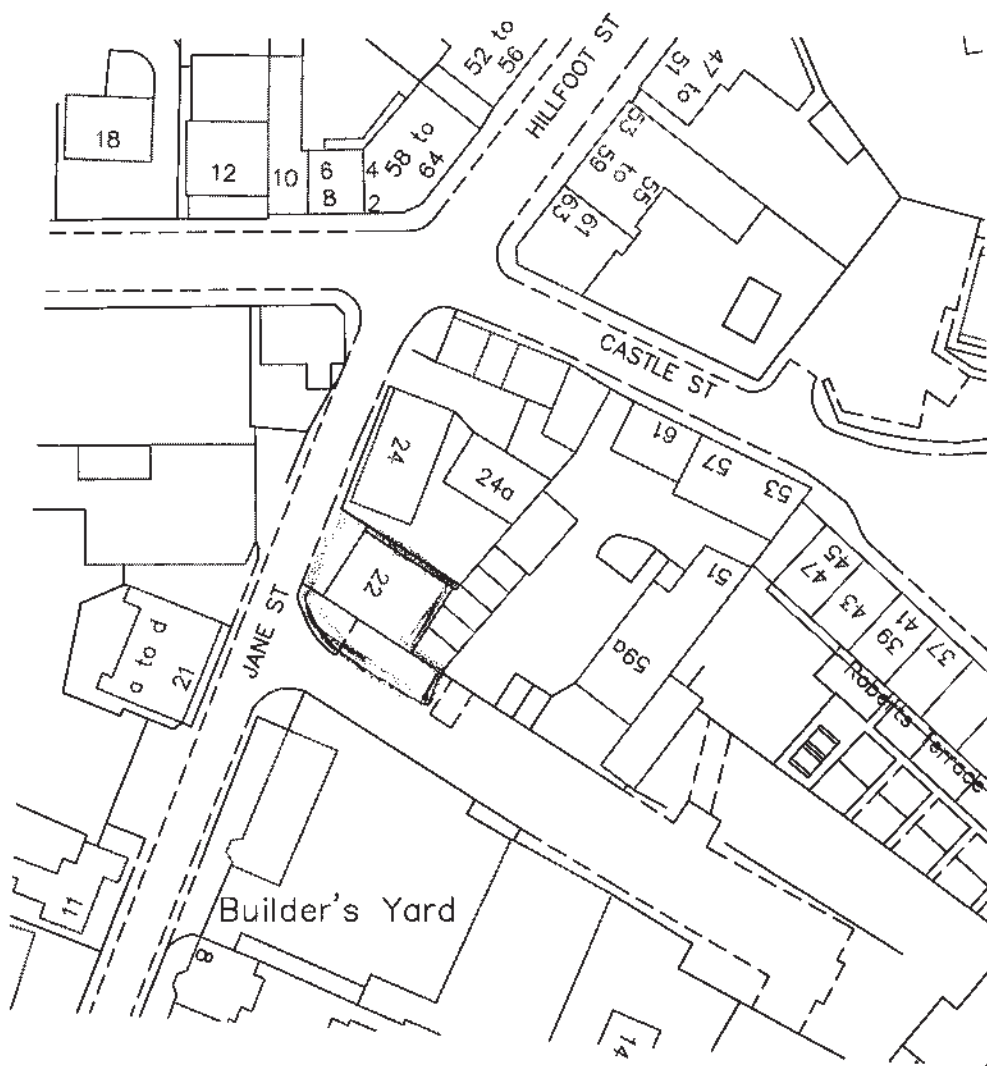
1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 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/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto: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 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

**For official use only**

Date form issued

Issued by (please sign)



revisions



Project  
24 Jane Street, Dunoon

Drg.No.  
SS C 00 03 01



Title  
Location Plan

Scale  
1:1000 @ A4






Signed as true copy relative  
to the application by  
Stewart McNeen (Dunoon) Ltd  
Date \_\_\_\_\_  
Signed: \_\_\_\_\_  
(Agent)

 <p><b>McNEE</b> BUILDING CONTRACTORS</p>	<b>Job Title</b> 22 Jane Street, Dunoon		<b>Scale</b> 1:250	<b>Rev No</b> C
	<b>Drawing Title</b> Existing Block Plan		<b>Drawn By</b> gj	<b>Drawing No.</b> SS-L-003
		<b>Checked by</b> _____	<b>Date</b> May 11	
				



Signed as true copy relative to the application by Stewart McNea (Dunrobin) Ltd  
 Date: \_\_\_\_\_  
 Signed: \_\_\_\_\_ (Agent)

	<b>Job Title</b> 22 Jane Street, Dunoon Drawing Title Proposed Block Plan		<b>Scale</b> 1:250	<b>Rev No</b> D
	<b>Drawn By</b> gj	<b>Checked by</b>	<b>Drawing No.</b> SS-L-004	(3)
<b>Date</b> May 11				

EX. HATCH  
Roof

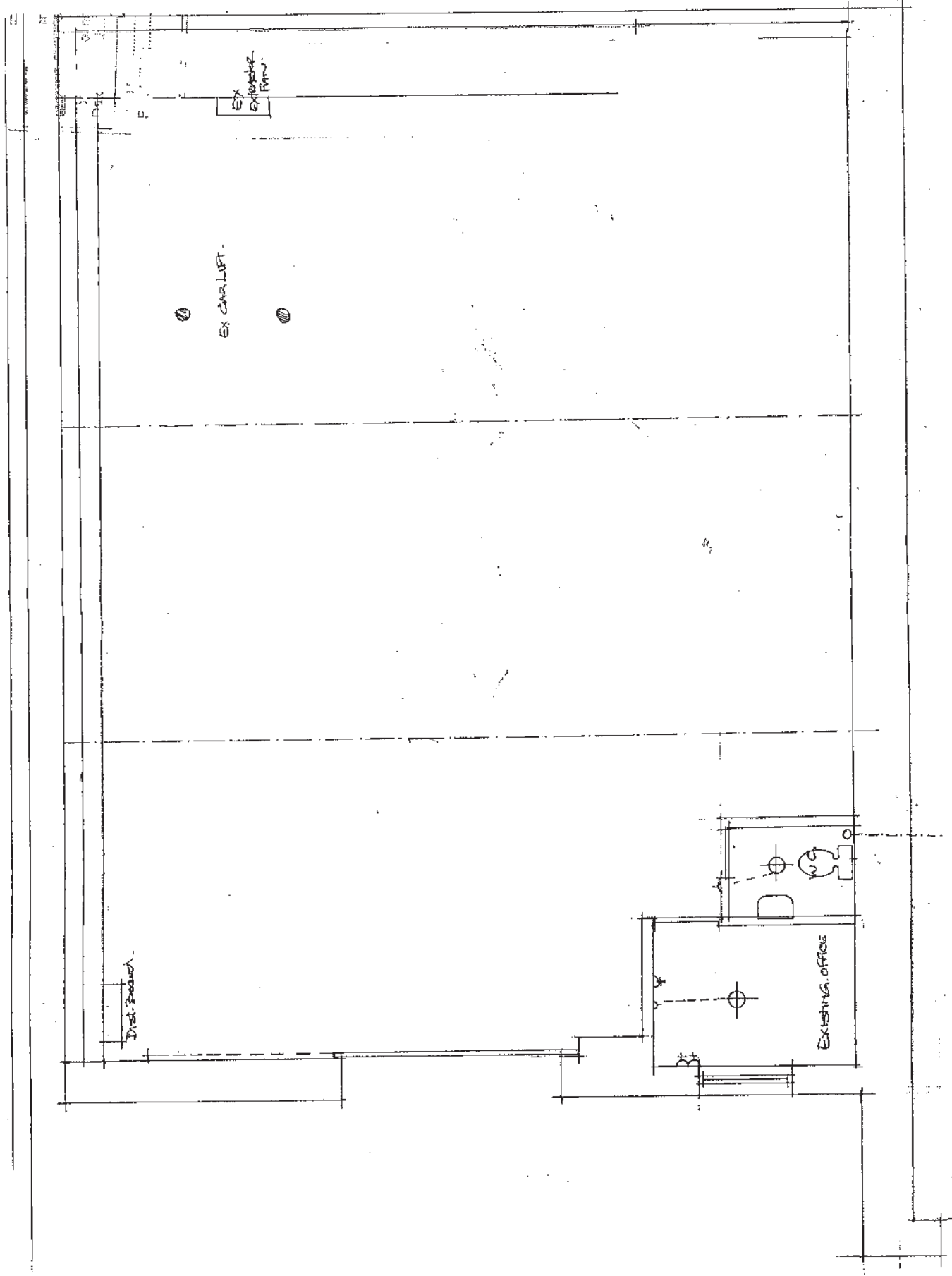
EX  
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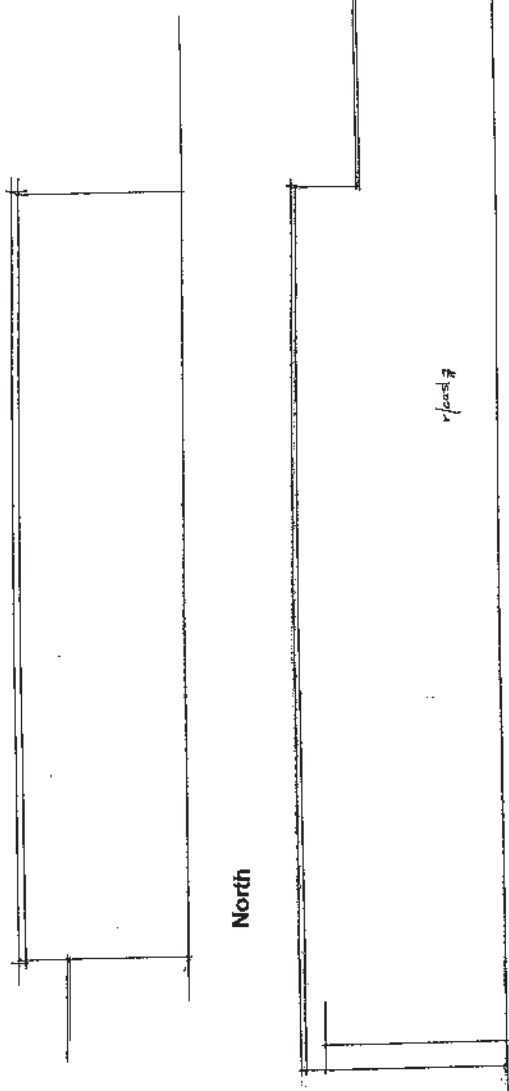
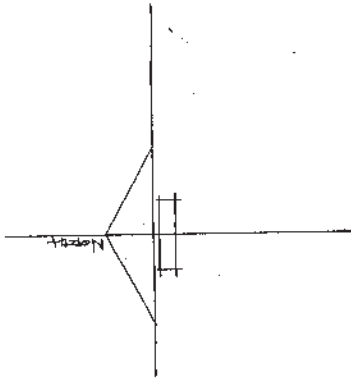
EX CHARLIER

Dist. Board

EXISTING OFFICE

Existing Plan 1:

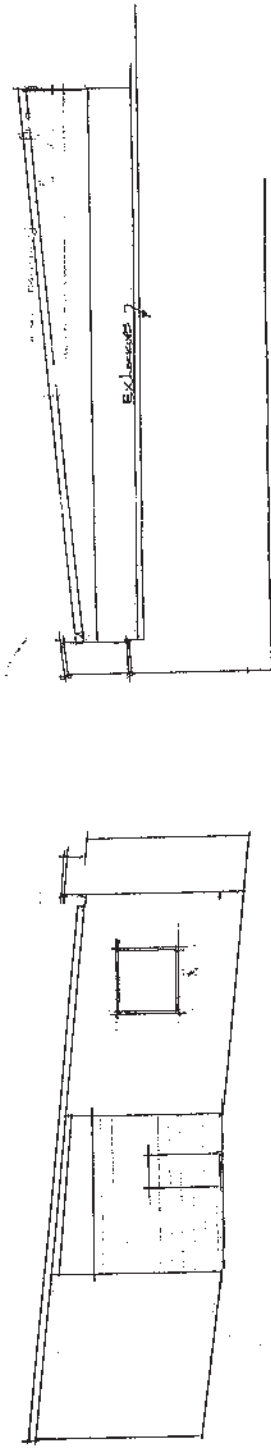




North

North

South



West

East

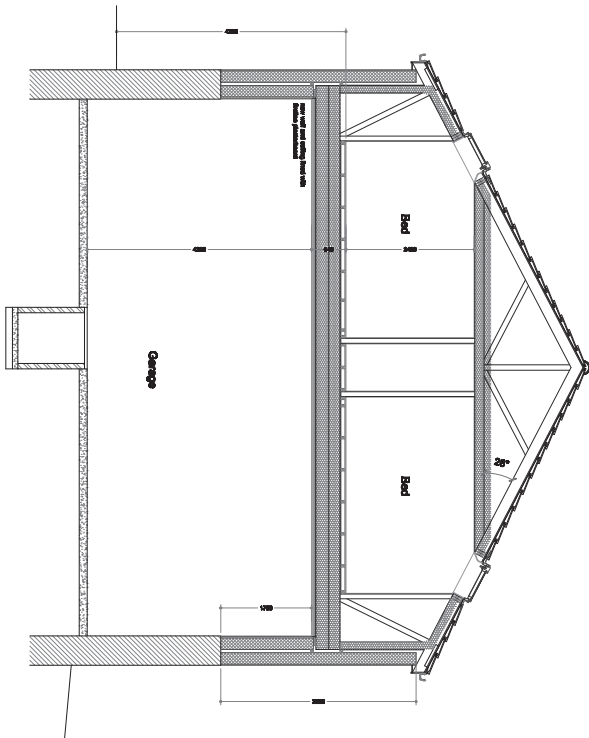
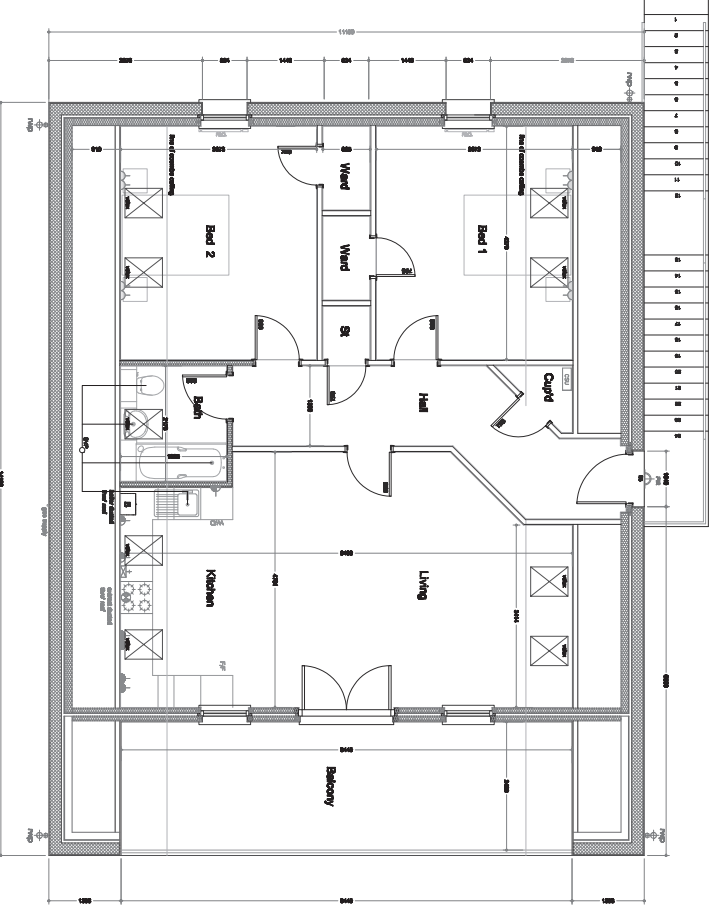
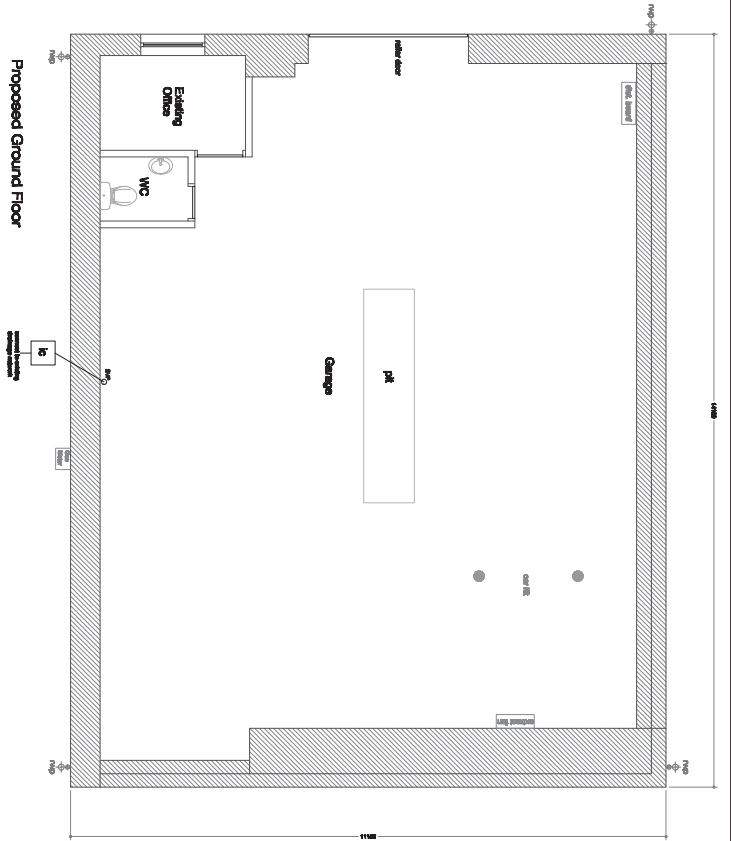
Existing Elevations

1:100

Proposed refurbishment of Garage at Jane Street, Dunoon for Cowal Building Supplies Ltd

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- NOTES**
- 1) Proposed floor to finish
  - 2) Proposed door opening finish
  - 3) All work to be completed in accordance with the Building Regulations
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**REVISIONS**

No.	Description	Date
000011	Submitted for planning	
000012	Revised and resubmitted	
000013	Final approved drawings	
000014	As built	



**Job Title:**  
CBPS  
21 Lane Street  
Dunoon

**Drawing Title:**  
General Arrangement - Floor Plans & Section

Drawn By	Checked By	Date	Scale
GD		July 10	1:50

**F 1 SS 02A 01 C**

All drawings to be checked by the architect or structural engineer.  
The drawing is the property of Stewart McNeel Building Contractors Ltd.

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Signed as true copy relative  
to the application by  
Stewart McNeel (Dunoon) Ltd  
Date:  
Signed: (Agent)

NOTES:

REVISIONS	
No.	Description



Job Title:  
CBPS  
22-24 Jane Street  
Dunoon, Argyll

Drawing Title:  
Proposed Rear Courtyard Layout

Drawn by	gj	Date	Aug 11
Checked by		Scale	1:100

H 3	SS	02 A	09 -
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All dimensions to be brought to the attention of the client.



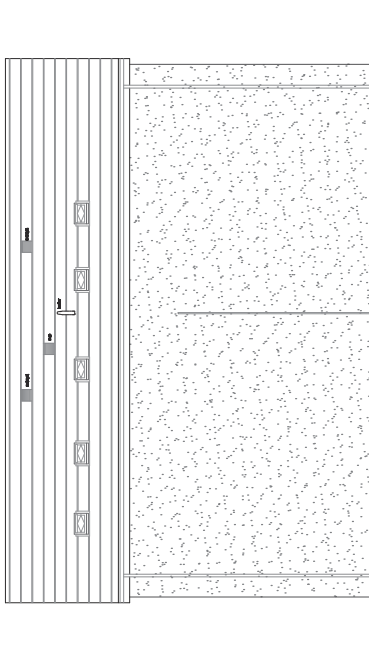
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Signed as true copy relative  
to the application by  
Stewart McNeve (Dunoon) Ltd  
Date :  
Signed : ( Agent )

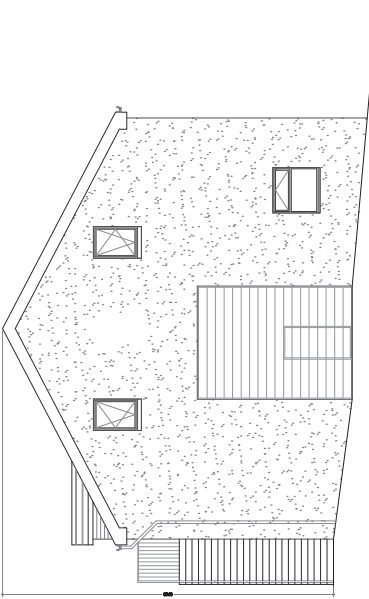
**NOTE:**

**PROPOSED MATERIALS :**

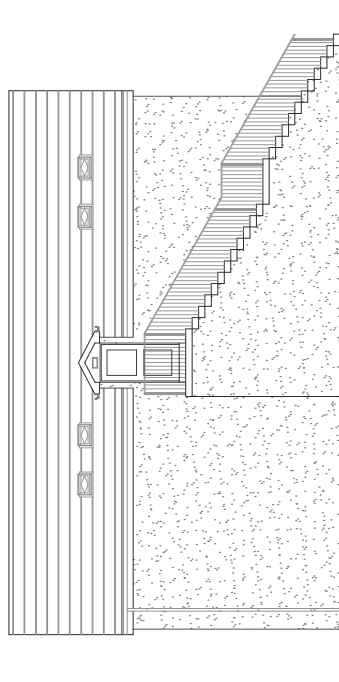
- Roof : Concrete Tiles - Colour : Slate Grey
- Walls : Wet Dash - Colour : Painted White
- Windows : uPVC - Colour : White
- External/Frame : Timber - Colour : White
- Rainwater Goods : uPVC - Colour : Black



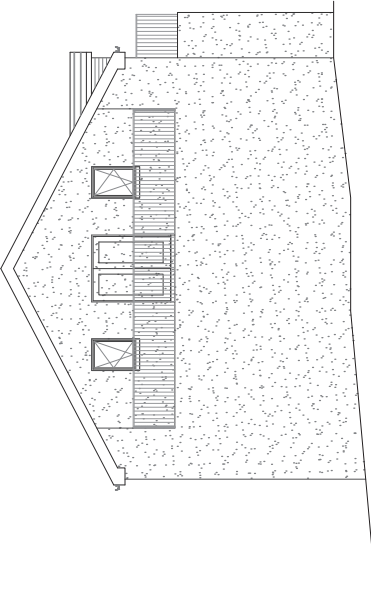
Proposed Side Elevation



Proposed Front Elevation



Proposed Side Elevation



Proposed Rear Elevation



**Job Title :**

CBPS  
21 Jane Street  
Dunoon

**Drawing Title :**

General Arrangement- Proposed Elevations

Drawn By	gj	Date	July 10
Checked by		Scale	1:100

F 1	SS 02 A 02	Rev No	A

All discrepancies to be brought to the attention of the above office.  
This drawing is the copyright of Stewart McNeve (Dunoon) Ltd

06/07/11	Revised to a single flat	A	gj
Date:			

**R E V I S I O N S**

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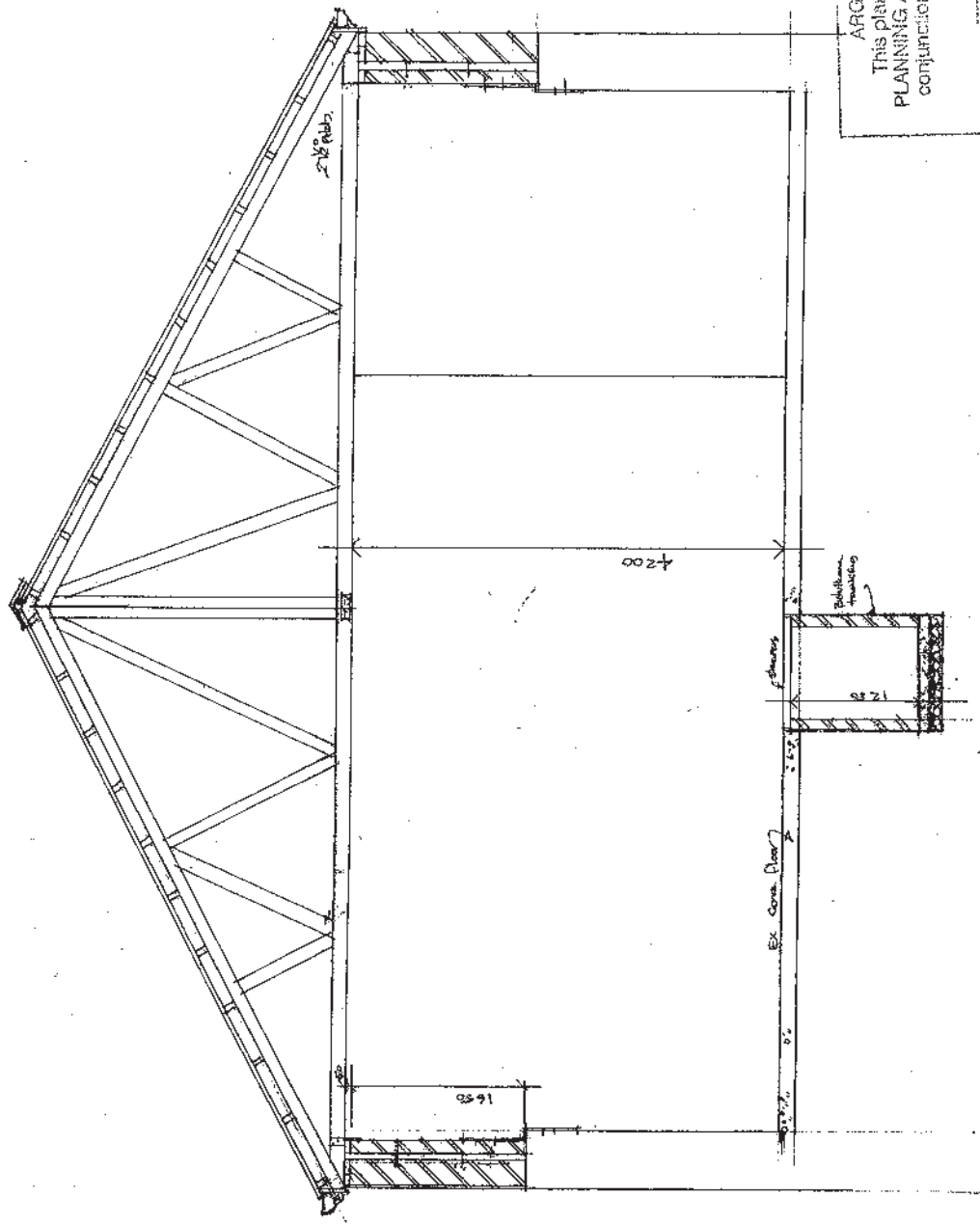
Argyll and Bute Council  
Planning Services

Application no. 09/00/633/DE?

Date received: 4.5.09

Plan no: 4.5.5 MAY 2009

P.O. initials: P



- Down battings -  
Remove existing roof covering and remove all joists and steel structures.  
Reduce wallhead to a height of 2.450mm and level off.
- Rebuild -  
Erect 225mm brick, 50mm cavity, 100mm brick on top of existing wallhead. Cavity tray to be installed.  
Brickwork tied to ex. Stone with metal angles at 1800 mm cbs  
Exterior rendered with 22mm wet dash.  
Roof timber trusses @ 1200mm cbs with 100 x 50mm purlins on top @ 600mm cbs.  
To hold insulated profile metal sheeting.  
Sheeting also to be cladding on gable of roof on 50 x 50mm battens horiz.  
100mm deep flow gutters.
- Pit  
Ex. Concrete floor breached to form 900mm wide pit x 4.0mm long.  
Ramp ladder at one end and ramp formed at other end.
- 13 amp plug sockets as shown served by wiring enclosed in conduit.
- Access door. Roller door strung along rafters.  
Surface water dispersal to existing drain via trap.

ARGYLL AND BUTE COUNCIL  
This plan has been APPROVED by the  
PLANNING AUTHORITY and MUST be read in  
conjunction with the Planning Conditions of  
the application.

09/00/633/DE?

Argyll J. Jones  
Head of Planning

Date: 09 JUN 2009

Proposed Section 1 : 50

Argyll and Bute Council  
Planning Services

09/00633/041  
MAY 2009  
3/6  
Doc

ARGYLL AND BUTE COUNCIL  
THIS PLAN HAS BEEN APPROVED BY THE  
PLANNING AUTHORITY and MUST be read  
in conjunction with the Planning Conditions  
conferred on the site.

09/00633/041

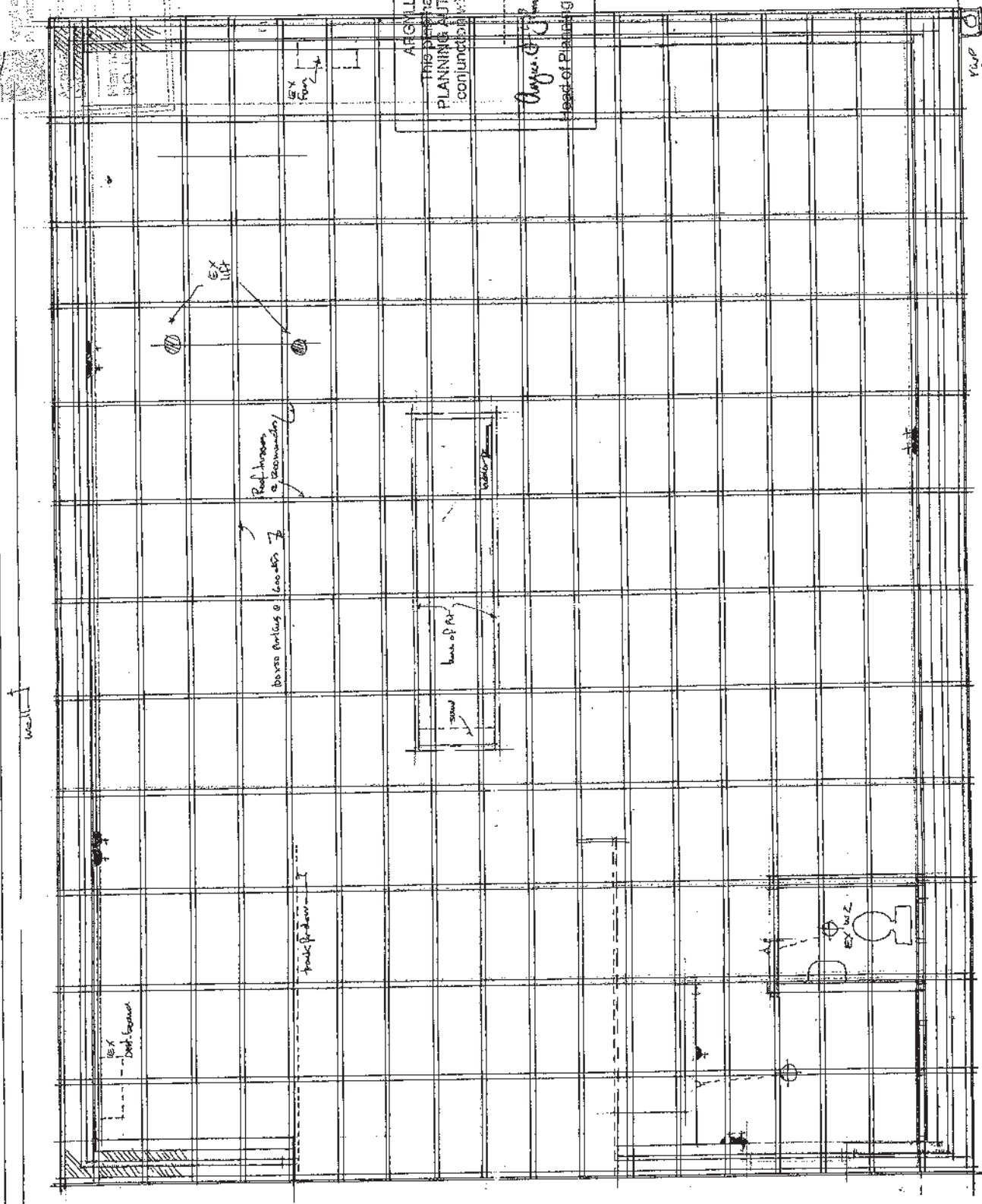
09 JUN 2009  
Date

Angus G.  
Head of Planning

EX  
Trench  
Roof

SS/0509/03

EX  
Trench  
in October 2008



Proposed Plan 1:50



Down takings :-  
 Remove existing roof covering and remove all joists and  
 Steel structures.  
 Reduce wallhead to a height of 2.450mm and level off.

Rebuild :-

Erect 225mm brick, 50mm cavity, 100mm brick on top of  
 Existing wallhead. Cavity tray to be installed.  
 Brickwork tied to ex. Stone with metal angles at 1800 mm c/s  
 Exterior rendered with 22mm wet dash.  
 Roof timber trusses @ 1200mm c/s with 100 x 50mm purlins on top @ 600mm c/s.  
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 Sheeting also to be cladding on gable of roof on 50 x 50mm battens horiz.  
 100mm deep flow gutters.

Pit

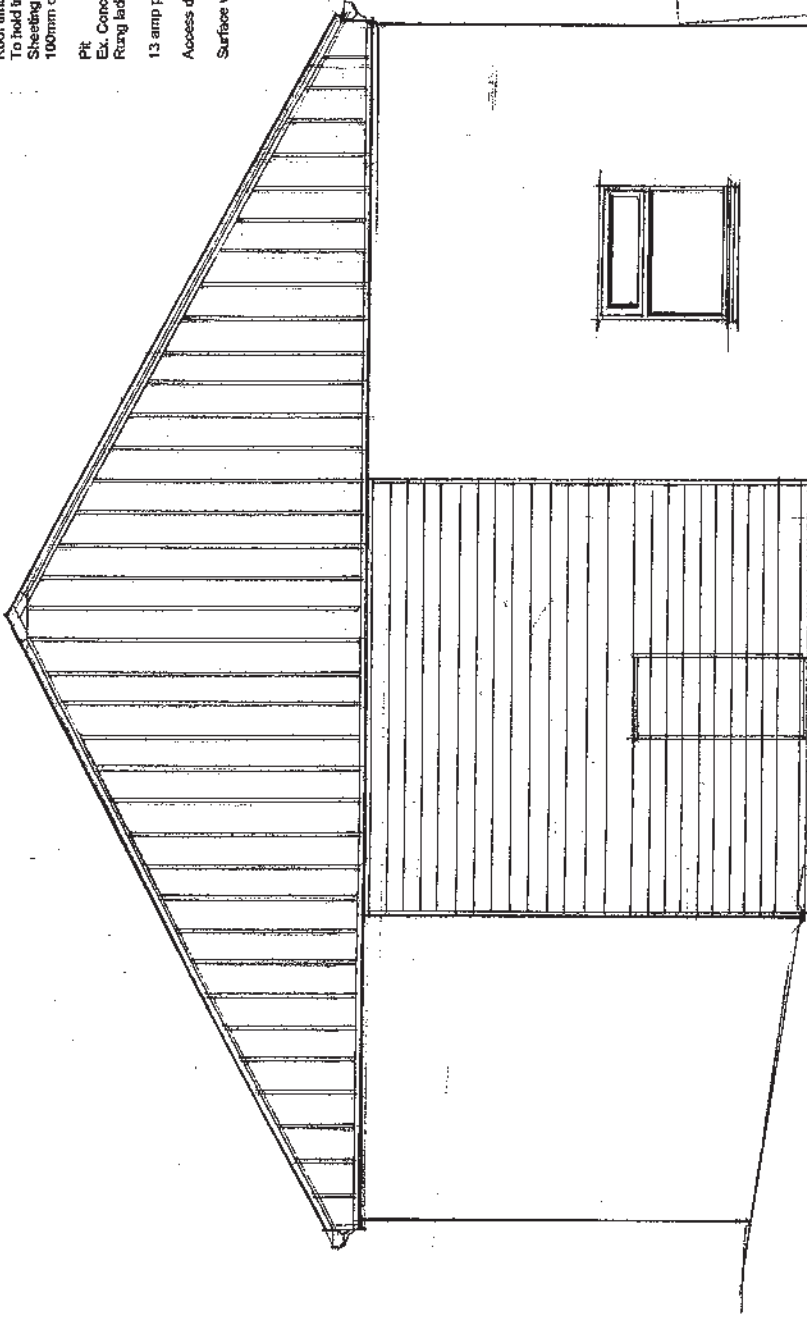
Ex. Concrete floor breached to form 900mm wide pit x 4.0mm long.  
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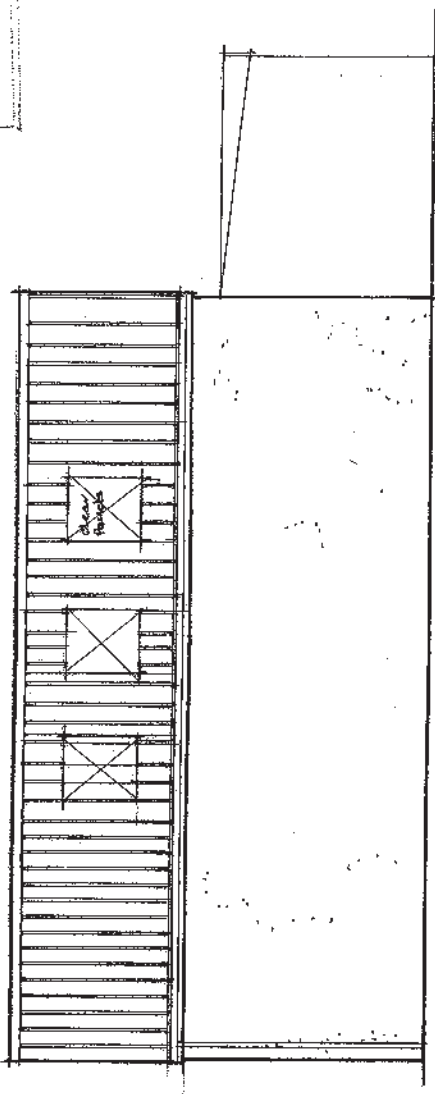
West Elevation 1:50

09/00.633/021  
 15 MAY 2009  
 6/6  
 bc

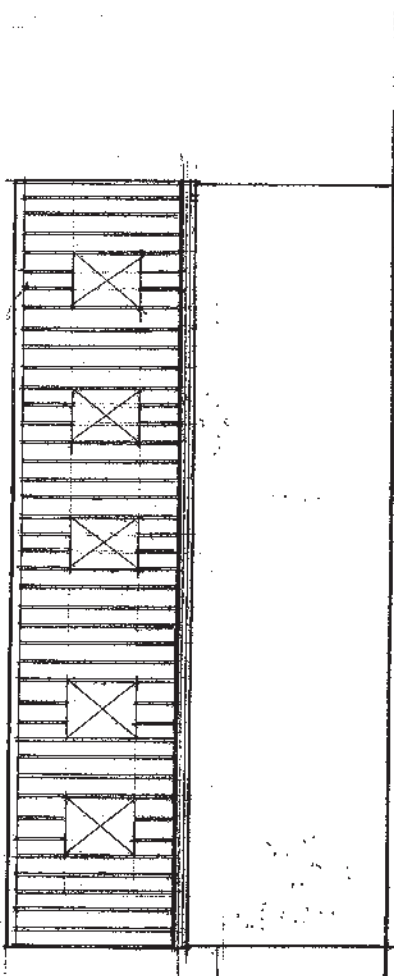
ARGYLL AND BUTE COUNCIL  
 This plan has been APPROVED by the  
 PLANNING AUTHORITY and MUST be read in  
 conjunction with the Planning Conditions of  
 09/00.633/021.  
 Approved: [Signature]  
 Head of Planning 09 JUN 2009  
 Date

APCO 31000 (Basic Contract)  
 Products Services

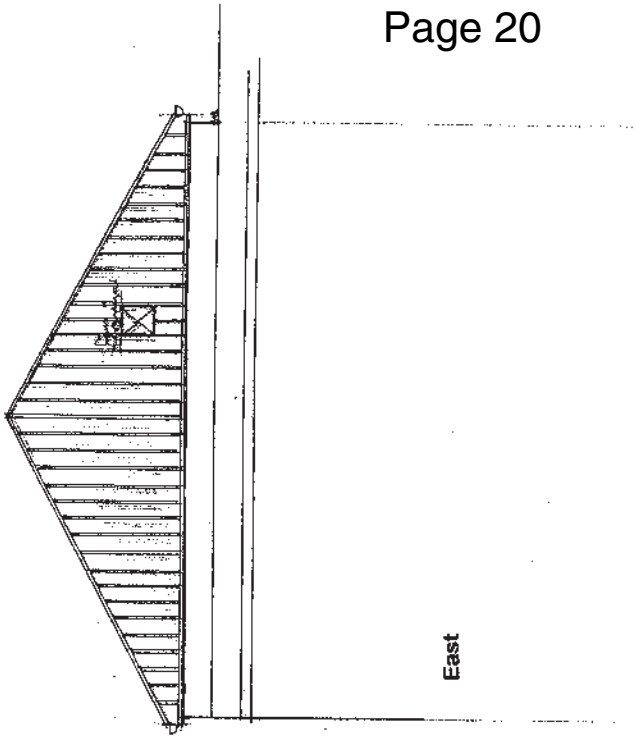
Application No: 09/000633/DA  
 Date Issued: 15 MAY 2009  
 Date: 3/6  
 P.O. Address:



South



North



East

APCO 31000 (Basic Contract)  
 This plan has been APPROVED by the  
 PLANNING AUTHORITY and MUST be read in  
 conjunction with the Planning Conditions of  
 the relevant Planning Permission.

09/000633/DA

Head of Planning Date 09 JUN 2009

Proposed Elevations 1 : 100

**STATEMENT OF CASE  
FOR  
ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR ALTERATIONS TO  
GARAGE TO PROVIDE 1 FLAT AT UPPER LEVEL AND EXTERNAL  
ALTERATIONS AT 22 JANE STREET, DUNOON, ARGYLL, PA23 7HX.**

**APPEAL REF. NO. 12/00001/REFPLA**

**LOCAL REVIEW BODY REF. 12/0004/LRB**

**PLANNING PERMISSION APPLICATION**

**REFERENCE NUMBER 11/01281/PP**

**WRITTEN SUBMISSIONS**

**27<sup>th</sup> January 2012**

## STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Cowal Building and Plumbing Supplies.

An application for planning permission (ref. 11/01281/PP) for alterations to garage to provide 1 flat at upper level and external alterations at 22 Jane Street Dunoon (*the appeal site*) was refused under delegated powers on 28<sup>th</sup> October 2011. The planning application has been appealed and is the subject of referral to the Local Review Body.

### DESCRIPTION OF SITE

The subject of this appeal is a single storey garage repair workshop on Jane Street that is bounded by Cowal Building and Plumbing builder's yard to the south and west, to the north by a two-storey building formerly in use as a guest house and to the east by lock-ups and commercial businesses and yards. The garage is currently owned and operated by the applicants and the former guest house building and derelict building to the rear is also owned by the applicants in addition to other buildings surrounding the site.

The appeal site also includes off-street car parking spaces on a lane east of Jane Street. The applicants have stated that they own 12 off-street car parking spaces.

### SITE HISTORY

The subject premises were in use recently as a motor repair garage but closed in April 2009. The premises have been re-opened recently and used intermittently by the applicants to service their vehicle fleet. The lawful use is still a garage repair workshop (Class 5).

Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations to the garage was granted on 9<sup>th</sup> June 2009 but has not been implemented.

An application (ref. 10/01434/PP) for alterations to garage to provide 2 flats at upper level and external alterations was refused on 12<sup>th</sup> November 2010 and a subsequent appeal to the Local Review Body (ref. 11/00001/LRB) was dismissed on 28<sup>th</sup> February 2011 by virtue of lack of amenity space for flats, bad neighbour in reverse in terms of compatibility with the existing garage below and loss of car parking spaces.

Planning permission (ref. 11/01115/PP) for alterations and conversion of the former guest house at 24 Jane Street into 4 flats was granted on 15<sup>th</sup> November 2011.

Planning permission (ref. 11/01168/PP) for alterations and change of use of outbuilding at 24a Jane Street to form 2 flats was granted on 18<sup>th</sup> November 2011.

### STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and 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, and 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 the proposed 2-bed flat above the existing garage will be able to enjoy full residential amenities given the scope of potential Class 5 operations that could take place in the premises below;
- Whether the proposed residential use above an existing Class 5 industrial use would result in 'bad neighbour in reverse' complaints from the noise sensitive property above;
- Whether the proposal would result in a loss of car parking spaces.

The Report of Handling (Production 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory consultees (Production 2) are attached for the purpose of clarity.

## REQUIREMENT FOR ADDITIONAL INFORMATION AND HEARING

It is considered that no new information has been raised in the appellants' submission which would result in the Planning Department coming to a different determination of this proposal. The issues raised were covered in the Report of Handling which is contained in the Appendix. 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 small-scale, 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 APPELLANT'S SUBMISSION

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following summary points are noted in response to the appellant's comments:

1. *The applicant's agent notes that their client previously obtained planning permission for the erection of a pitched roof (ref. 09/00633/DET) for this property and now looks to include the construction of one flat whilst carrying out these works. The client fully intends to retain the ownership of the garage and flat with the view to renting the flat out to an employee.*

**Comment:** Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations to the garage was granted on 9<sup>th</sup> June 2009 but has not been implemented. That proposal was to retain and improve the garage facilities for the servicing of the applicants' vehicle fleet. The proposal involved the removal of the existing monopitch roof and replacing it with a pitched and gabled roof. This would result in a raising of the wallheads and increasing the roof height. The roof was to be finished in grey metal cladding and walls finished in a wet dash render. The existing garage doorway would be replaced by a metal clad roller door. An existing window in the front (west) elevation would be replaced by a new upvc window. The maximum height of the roof would be approximately 7.5 metres to the apex (where the highest point at present is approximately 3.2 metres). The proposals were considered to be acceptable in terms of scale, design and materials as it related to an improvement to the existing garage

only. The agent appears to be amalgamating the previously approved garage alterations proposal with the refused scheme to build a residential flat above the garage. No residential accommodation was ever proposed for the alterations to the garage approved under permission ref. 09/00633/DET.

The agent's comments regarding renting the flat out to an employee was however considered and assessed in the report of handling in consultation with Public Protection. It was acknowledged that the planning system could not tackle existing noise problems directly but did have the task of guiding development to the most suitable locations and in regulating the layout and design of new development. The noise implications of development however are considered to be a material consideration in determining applications for planning permission. Given the requirements to safeguard the proposed residential unit from the existing lawful industrial use below, it was considered that planning conditions alone could not guarantee a level of amenity expected by future occupants of the flats from the range of industrial activities carried out below without any requirement for planning permission.

Members previously agreed with this recommendation for a similar scheme for two flats above the garage (application ref. 10/01434/PP & appeal ref. 11/00001/LRB) at the Local Review Body on 28<sup>th</sup> February 2011 (Production 4) where the previous proposal was unanimously refused on grounds of poor level of residential amenity, introducing a noise sensitive use and 'Bad Neighbour in Reverse' and loss of car parking spaces. The circumstances surrounding the mix of industrial and residential have not changed.

2. *The agent states that the existing garage will only be used for servicing their clients own business vehicles and will not be opened to the public.*

**Comment:** This aspect was considered and assessed in the report of handling in consultation with Public Protection and found to be unsupportable due to existing lawful use rights and powers available to address noise issues in a single unit containing an existing industrial unit on the ground floor and a proposed residential unit above.

3. *The agent advises that any concerns regarding noise have been dealt with during the building warrant approval (ref. 10/00930/ERD) received for the previous proposal for two flats.*

**Comment:** While a Building Warrant (ref. 10/00930/ERD) was previously approved for the two-flat scheme (ref. 10/01434/PP), Building Control confirm that the proposal was only assessed against a 'non-domestic' rating in the Building Regulations which is a very general category and not assessed against any specific noisy industrial uses that would have a significant impact on the proposed noise sensitive flats above. For this reason, approval of the Building Warrant does not address the comments made by Public Protection in their response dated 19<sup>th</sup> September 2011.

4. *The agent notes that his clients also owns the neighbouring builders merchants yard and nos. 24 & 24A Jane Street which have recently received planning permission to be converted into four and two flat properties.*

**Comment:** Ownership is noted and the department confirms that planning permissions have been granted recently for adjacent properties at 24 and 24a Jane Street (ref. 11/01115/PP & 11/01168/PP respectively). Unclear what point the agent is trying to make. The buildings that have approval could readily be converted and refurbished and served by a communal backcourt area without any need for the garage/residential proposal. The presence of the garage although not of great appearance would have no significant impact on the potential to convert the buildings to the north of the garage for residential purposes. A residential use on the garage site would however be preferable in terms of the overall streetscape and development of the street block.

It should also be noted that the applicant and his agent were advised at pre-application stage that it might be better to either demolish the garage and build a wholly residential development on the site or retain and improve the garage facility (email dated 16 May 2011) (Production 5).

### 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 attached Report of Handling clearly details why planning permission could not be supported due to the proposed residential use above an existing Class 5 industrial use due to related noise and activities,

For clarification, in a pre-application meeting and correspondence with the agent and his client, the department informed that planning permission may be likely to be supported for the conversion of buildings at 24 and 24 a Jane Street but not at 22 Jane Street over the existing garage. This was the subject of a previous application that was refused then dismissed on appeal by the LRB where the circumstance have not altered significantly since the appeal was turned down due to concerns relating to residential amenity, introducing a noise sensitive use and 'Bad Neighbour in Reverse' and loss of car parking spaces.

Both Roads and Public Protection recommended refusal to the loss of car parking spaces and incompatible mix of residential and industrial uses within one building.

On the basis of the above, the department considers that the applicant and his agent were offered factual and practicable planning advice at a pre-application stage that went unheeded. The submission of a similar scheme to one that was previously dismissed by the LRB (and within one year of that scheme being refused) has not altered either the department's views or that of Roads and Public Protection.

The department therefore feels that it was correct to recommend refusal a second time around as the proposal is still contrary to PAN 1/2011 "*Planning and Noise*", Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles, Policy LP BAD 2 'Bad Neighbour Development in Reverse' and LP TRAN 6 Vehicle Parking Provision of the Argyll and Bute Local Plan (August 2009).

Taking account of all of the above, it is respectfully requested that the appeal be dismissed.

**APPENDIX**

- Production No.1** Report of Handling dated 27<sup>th</sup> October 2011;
- Production No. 2** Consultation comments submitted by statutory consultees;  
- Roads and Public Protection;
- Production No.3** Photographs of the appeal site and car parking court taken 18<sup>th</sup> April 2011,  
9<sup>th</sup> August 2011 and 17<sup>th</sup> August 2011;
- Production No. 4** Extract from LRB Agenda and Minutes 28<sup>th</sup> February 2011 for refused  
scheme at 22 Jane Street ref.10/01434/PP;
- Production No. 5** Pre-application enquiry e-mail to agent dated 16 May 2011.

DC/BCL/27.01.2012



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

**Delegated 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.**

**Reference No:** 11/01281/PP  
**Planning Hierarchy:** Local application  
**Applicant:** Cowal Building and Plumbing Supplies  
**Proposal:** Alterations to garage to provide 1 flat at upper level and external alterations  
**Site Address:** 22 Jane Street, Dunoon, Argyll

**DECISION ROUTE**

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

**(A) THE APPLICATION**

- (i) **Development Requiring Express Planning Permission**  
Alterations to garage to provide an upper storey to accommodate one residential flat;  
External alterations to existing building;
- (ii) **Other specified operations**  
Allocation of car parking spaces (2 car parking spaces for proposed flat);  
Connections to public water supply and public sewer system.

**(B) RECOMMENDATION:**

It is recommended that planning permission be refused for the reasons set out below.

**(C) HISTORY**

Subject premises were in use recently as a motor repair garage but closed in April 2009. Lawful use is a garage repair workshop (Class 5).

Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations to the garage was granted on 9<sup>th</sup> June 2009 but has not been implemented.

An application (ref. 10/01434/PP) for alterations to garage to provide 2 flats at upper level and external alterations was refused on 12<sup>th</sup> November 2010 and a subsequent appeal to the Local Review Body (ref. 11/00001/REFPLA) was dismissed on 28<sup>th</sup> February 2011 by virtue of lack of amenity space for flats, bad neighbour in reverse in terms of the existing garage and loss of car parking spaces.

Associated planning applications ref. 11/01115/PP for alterations and conversion of guest house at 24 Jane Street into 4 flats and ref. 11/01168/PP for alterations and change of use of outbuilding at 24a Jane Street to form 2 flats have been submitted and currently being considered. These proposals intend to share a communal backcourt area with the current proposal.

**(D) CONSULTATIONS:**

**Public Protection** (response dated 19<sup>th</sup> September 2011): Recommend refusal based on the siting of a dwelling above industrial premises from noise, odours, dust and particulates. Insufficient details regarding ventilation from the garage. Consider that planning conditions cannot control the 'bad neighbour in reverse' to safeguard the dwelling above a lawful garage.

**Area Roads Manager** (response dated 22<sup>nd</sup> September 2011): Recommend refusal due to shortfall of car parking spaces and in particular for the existing garage.

**Scottish Water** (response dated 8<sup>th</sup> August 2011): No objections in principle. Potential wastewater capacity issues and separate surface water drainage system required. Advisory notes recommended.

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**(E) PUBLICITY:** The application was advertised under Regulation 20(1) Advert Statement (publication date 5<sup>th</sup> August 2011, expiry date 26<sup>th</sup> August 2011).

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**(F) REPRESENTATIONS:**

A letter of representation has been received from Steven Baird of West End Furniture, Tom-A-Mhoid Road, Dunoon (letter dated 8<sup>th</sup> August 2011) who comments that part of the ground within the red outlined area is in fact common ground owned by both the applicants and himself. Mr. Baird has taken this matter up with his lawyers and hopes that he can come to an arrangement with C.B.P.S. to allow the development(s) to go ahead.

**Comment** – This is considered to be a civil matter between affected parties.

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**(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:** Yes.

Operational Statement submitted 6<sup>th</sup> July 2011 stating that the garage is only to be used by Cowal Building & Plumbing vehicles and will not be a trading garage. The title for this property will be linked with the proposed flat so that neither can be in separate ownership. Operating hours will be flexible but no different to what the previous trading garage (Pearce & McKechnie) used to operate. Operating hours for the garage will be Monday to Friday 7.30am - 8pm, Saturday 7.30am – 6pm, Sunday 10am – 5pm.

A general Design Statement was submitted 5<sup>th</sup> August 2011 for development proposed by applications 11/01281/PP, 11/01115/PP and 11/01168/PP for conversion to flats that will be rented out by the property owner Stewart Shaw Ltd. It is intended that the existing rear courtyard area will be upgraded to provide access to some of these properties, a shared drying area, solid waste hard standing and a communal grassed area of approximately 65sqm. It is proposed to erect low level fencing to allow a reasonable distance away from ground floor windows.

The owner of these properties will also arrange for the general maintenance and upkeep of this area.

The flat at 22 Jane Street will have an external balcony of 20sqm.

The applicants agent considers that the amount of external amenity space proposed would be comparable to the new Cloch View flatted development that has virtually no amenity space.

- (iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No.

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**(H) PLANNING OBLIGATIONS**

(i) Is a Section 75 agreement required: No.

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

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**(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.

a) **Argyll and Bute Structure Plan 2002:** The following policies are applicable:

STRAT SI 1 - Sustainable Development;  
STRAT DC1 - Development Within the Settlements;

b) **Argyll and Bute Local Plan (August 2009)**

Policy LP ENV 19 Development Setting, Layout and Design (including Appendix A Sustainable Siting and Design Principles) and Sustainable Design Guidance;  
Policy LP HOU 1 General Housing Development;  
Policy LP BAD 2 Bad Neighbour Development in Reverse;  
Policy LP TRAN 6 Vehicle Parking Provision including Appendix C Access and Car Parking Standards.

(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.

Scottish Planning Policy (February 2010);  
Planning Advice Note 67 – 'Housing Quality';  
Planning Advice Note 68 – 'Design Statements';  
Planning Advice Note 1/2011 - 'Planning and Noise';  
'A Policy Statement for Scotland - Designing Places';

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

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

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

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

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**(O) Requirement for a hearing (PAN41 or other): No.**

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

Policy Considerations

In the Argyll and Bute Local Plan (August 2009), the premises are situated within the Main Town settlement of Dunoon within an Area For Action AFA 2/1, where policies LP ENV19, LP HOU1, LP BAD2 and LP TRAN6 are all applicable.

## Site and Surroundings

The subject of this application is a single storey garage repair workshop on Jane Street that is bounded by Cowal Building and Plumbing builder's yard to the south and west, to the north by a two-storey guest house and to the east by lock-ups and commercial businesses and yards. The garage is currently owned and operated by the applicants.

## The Proposal

The proposal is to add an additional storey to the garage building to provide accommodation within the roofspace for a two-bedroom flat. The walls of the existing building will be raised and surmounted by a new pitched and gabled roof of grey concrete tiles. The walls will be finished in white render.

An external staircase is proposed on the side (northern) elevation to the main entrance door serving the flat. An external balcony is proposed on the rear (east) elevation. No windows are proposed on the side (north and south) elevations with windows from habitable rooms on the front (west) and rear (east) elevations. Four rooflights are proposed on each roof slope.

The agent confirms that the garage is only to be used by the applicants for their vehicles and will not be a trading garage as before. The proposed hours of the garage will be flexible but no different to what the previous garage used to operate i.e. Monday to Friday 7.30am-8.00pm, Saturday 7.30am-6.00pm and Sunday 10.00am-5.00pm.

External alterations to the garage involve the installation of a new and enlarged roller door and installation of window.

It is proposed to redevelop the existing derelict courtyard that is enclosed by the garage/former guest house at 24 Jane Street and derelict building at 24a Jane Street into a communal courtyard area to serve the proposed 7 flats (1 flat above garage, 4 flats in guest house and two flats in derelict building). This shared external amenity space would also provide a hardstanding area for bin storage.

The applicants state that they own 12 off-street car parking spaces adjacent to the southern elevation of the premises. Two spaces are allocated for the flats but no provision has been made for the garage.

## Assessment

Policy LP HOU1 'General Housing Development' states a general presumption in favour of housing development unless there is an unacceptable environmental, servicing or access impact. Whilst the proposed flat would now have dedicated car parking spaces and a shared courtyard (proposed with adjacent properties at 24 and 24a Jane Street) for external amenity space in addition to the inclusion of an external balcony, it would be still be located above an existing repair garage within an industrial/commercial area. It is therefore considered that the creation of a residential flat above an industrial garage would be contrary to Policy LP HOU1.

As the proposal involves the creation of an additional residential storey above an existing industrial building, Policy LP BAD 2 'Bad Neighbour Development in Reverse' is crucial in an assessment of the proposal. This policy states a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to areas already containing developments classed as "Bad Neighbour" Developments.

Public Protection recommend refusal on the basis that situating dwellings above industrial premises such as a garage could be subject to nuisance from noise (vehicle engines, banging and grinding from repair work and machinery), odours (exhaust fumes, chemicals such as solvents and fuels) and to a lesser extent dust and particulates (exhaust fumes, repair work debris) unless appropriate safeguarding conditions can be put in place.

While it is noted that the garage is to be 'private use' by CBPS which will reduce disturbance from patron noise, it is assumed that the garage is still to be used for the maintenance of vehicles and repairs rather than purely secure storage. It is also noted that the applicant has submitted proposed hours of use for the garage (which are the same as the previous refused scheme).



PAN 1/2011 'Planning and Noise' advocates "a pragmatic approach to the location of new development within the vicinity of existing noise generating uses, to ensure that quality of life is not unreasonably affected". Public Protection are concerned that allowing new residential construction immediately above an existing industrial premises could not satisfactorily prevent or minimise the consequences of noise as it is unreasonable to restrict the opportunity for natural ventilation through opening windows in a domestic premises.

The garage building shows mechanical extraction for ventilation purposes but Public Protection note that there is insufficient detail provided as to where the ducting will discharge to the outside air. To prevent the possibility of nuisance from odour and fumes, any extraction from the garage should discharge above eaves level and, in addition, above any rooflight windows.

Public Protection considers that the introduction of a dwelling above an existing garage has the potential to create a bad neighbour development under LP BAD2. The commercial activities could affect the amenity of the residents through noise disturbance, odour, waste, and general disturbance (vehicle movements, deliveries, car parking etc.). The reverse applies where the business may require to amend its current operating arrangements to alleviate these issues, thus potentially affecting the viability of the existing garage.

Public Protection conclude that the proposal has the potential to be contrary to LP BAD2 and consider that the use of safeguarding planning conditions could not be applied that would adequately protect domestic occupants of the proposed first floor flat from potential nuisance from the activities of the existing legitimate usage of the garage premises.

It is acknowledged that the planning system cannot tackle existing noise problems directly but has the task of guiding development to the most suitable locations and in regulating the layout and design of new development. The noise implications of development however are considered to be a material consideration in determining applications for planning permission. Given the requirements to safeguard the residential unit from the existing lawful use below, it is considered that planning conditions alone could not guarantee a level of amenity expected by future occupants of the flats from the industrial activities below.

The department do not normally encourage schemes close to or part of 'Bad Neighbour' development. This proposal to create a flat above an existing garage could lead to a very poor level of amenity for the future occupants and lead to complaints regarding the existing use and other noisy surrounding uses. Dunoon has sufficient land and buildings for housing development or conversion and poor quality redevelopment proposals such as the current scheme should not be encouraged. Additionally, it has not been suitably demonstrated that the garage below could operate without significant impact to the occupants of flats above in terms of operation and ventilation.

Furthermore, the proposal involves the provision of car parking spaces for the proposed flat (and proposed flats for the associated adjacent applications) but no provision for the existing garage. It is interesting to note that the previous scheme for 2 flats above the garage allocated three spaces for the garage. The current proposal provides no car parking spaces for the garage where the existing off-street car parking spaces on the lane east of Jane Street are exclusively give over to parking for the proposed flats.

Roads recommend refusal based on the shortfall of car parking for the garage and would require three additional spaces to be created for the garage which must be contiguous with that building. All parking bays must be delineated for use by flats/garage only.

Given Roads response, it is considered that the loss of three existing spaces to serve the existing garage could result in parking deficiencies in an area that is already congested and parking is very limited.

One letter of representation has been received from the owner of adjacent commercial premises indicating that part of the red line boundary is in common ownership. This is considered to be a civil matter between affected parties.

#### Conclusion

It should be noted that the proposed development differs little from a previous scheme for two flats above the garage that was refused and a subsequent appeal dismissed by Members on 28<sup>th</sup> February 2011. Following that refusal, the applicants discussed the redevelopment proposals in May 2011 when the department again reinforced its previous concerns of creating a residential flat above an existing garage. It was also suggested that the garage could be demolished to make way for a wholly residential scheme that would avoid potential Bad Neighbour in Reverse issues.

The applicants have however submitted three separate applications for conversion of three existing buildings to create 7 flats with shared communal external amenity space. While the proposed flat could benefit from this shared courtyard and balcony to provide an element of external amenity space (an original reason for refusal 1 of 10/01434/PP), there are still other insurmountable reasons in terms of land use compatibility and existing lawful use and operations that cannot be safeguarded by the use of planning conditions and are highlighted above.

It is considered that despite the proposed shared external amenity spaces, balcony, reduction to one flat only and control of the garage by the applicants, that the proposal is still unacceptable and would be contrary to policies LP ENV19, LP HOU 1, LP BAD 2 and LP TRAN 6 of the Argyll and Bute Local Plan (2009) and does not justify the grant of planning permission.

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

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted. n/a**

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**(S) Reasoned justification for a departure from the provisions of the Development Plan n/a**

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

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**Author of Report: Brian Close**

**Date: 22<sup>nd</sup> September 2011**

**Reviewing Officer: David Eaglesham**

**Date: 27 October 2011**

**Angus Gilmour  
Head of Planning & Regulatory Services**

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application 11/01281/PP

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(A) The reasons why planning permission has been refused

1. Given the lawful use of the Class 5 activities within the existing repair garage, the creation of a two-bedroom flat above the garage would result in a poor standard of amenity for future occupants, given the range of uses which could be carried out without the benefit of planning permission, resulting in disturbance generated by noise, odours, dust, particulates and activities associated with such an industrial use.

Furthermore, the introduction of a residential use above the existing garage building with associated window openings and rooflights could result in nuisance from smell, fumes and odours from the garage use below without the benefit of a suitable ventilation system to clear the residential unit.

Accordingly, to introduce a noise sensitive use above an existing industrial building would be contrary to PAN 1/2011 "Planning and Noise", Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles and Policy LP BAD 2 'Bad Neighbour Development in Reverse' of the Argyll and Bute Local Plan (August 2009) which state that:

*"The PAN promotes the principles of good acoustic design and a sensitive approach to the location of new development. It promotes.....a pragmatic approach to the location of new development within the vicinity of existing noise generating uses, to ensure that quality of life is not unreasonably affected and that new development continues to support sustainable economic growth."*  
(Planning Advice Note 1/2011: Planning and Noise, para 2)

*"When considering applications for new noise sensitive development close to an existing noise source, the likely level of noise exposure at the time of the application and any increase that may reasonably be expected in the foreseeable future are likely to be relevant, as will the extent to which it is possible to mitigate the adverse effects of noise."*  
(Planning Advice Note 1/2011: Planning and Noise, para 18)

*" In all Development Control Zones there is a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to, areas already containing "Bad Neighbour" Developments. In circumstances of "Bad Neighbour" in reverse, Policy LP BAD2 seeks not to prejudice the operational integrity of safeguarded land use and operations."*  
(Policy LP BAD2 of the Argyll and Bute Local Plan (August 2009).

2. The intensification of the existing industrial building to provide a two-bedroom flat would result in 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. The proposal to create an additional flat, coupled with the loss of car parking provision for the existing garage at 22 Jane Street (where there is a shortfall of 3 off-street car parking spaces) would increase demand on the available unallocated on-street car parking in this part of Jane Street and exacerbate existing parking problems. Accordingly, the proposal would be contrary to Policy LP TRAN 6 Vehicle Parking Provision of the Argyll and Bute Local Plan (2009).

(B) Submitted Drawings

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:

- 1:1000 Location Plan SS C 00 03 01;
- 1:250 Existing Block Plan SS-L-003 RevC;
- 1:250 Proposed Block Plan SS-L-004 RevD;
- 1:100 Existing Elevations SS/0509/G1;
- 1:50 Proposed Floor Plans and Section F1 SS 02A 01 RevC;
- 1:100 Proposed Elevations F1 SS 02A 02 RevA;
- 1:100 Proposed Rear Courtyard Layout H3 SS 02A 09.

- (C) 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.

Yes. Additional information and plan submitted regarding proposed communal courtyard layout and access to amenity space.

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DEVELOPMENT & INFRASTRUCTURE SERVICES  
BUTE & COWAL AREA  
OBSERVATIONS ON PLANNING APPLICATION

Planning No: 11/01281/PP  
Contact: FARRELL PR  
Tel: 01369708600

Grid Reference: 217247 - 676476

Dated: 28/07/11

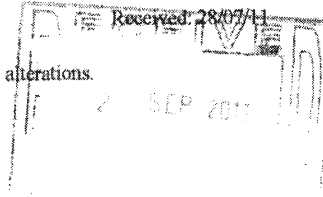
Applicant: Cowal Building and Plumbing Supplies

Proposed Development: Alterations to existing garage to provide flat at upper level and external alterations.

Location: 22 Jane Street, Dunoon

Type of Consent: PP

Ref No(s) of Drg(s) submitted: Location & Site Plans and details (6)



RECOMMENDATION		REFUSE			
Proposals Acceptable Y or N		Proposals Acceptable Y or N		Proposals Acceptable Y or N	
<b>1. General</b>		<b>3. New Roads</b> N/A		<b>4. Servicing &amp; Car Parking</b>	
(a) General impact of development	Y	(a) Widths		(a) Drainage	Y
(b) Safety Audit Required	N	(b) Pedestrian Provision		(b) Car Parking Provision	N
(c) Traffic Impact Analysis	N	(c) Layout (Horizontal/ Vertical alignment)		(c) Layout of Parking Bays/ Garages	Y
(d) Flooding Assessment	N	(d) Turning Facilities (Circles/Hammerheads)		(d) Servicing Arrangements/ Driveways	Y
<b>2. Existing Roads</b>		(e) Junction Details (Locations/Radii/Sightlines)		<b>5. Signing</b> N/A	
(a) Type of Connection (Road Junct/Footway Crossing)	Y	(f) Provision for PU		(a) Location	
(b) Location(s) of Connection(s)	Y			(b) Illumination	
(c) Sightlines 2.5 x 42 metres	Y				
(d) Pedestrian Provision	Y				

Item Ref	COMMENTS
1	The proposed development is accessed from U42 Jane Street, Dunoon, within an urban 30mph speed restriction. Sightlines to be 2.5 x 42 metres in both directions, this is currently attainable. All land within sightlines to be maintained at a height not greater than 1 metre above road level, and must be within the applicants control. Current connection on to public road from private road is acceptable.
2	
4	
	Parking provision for the garage is 4no. parking spaces per service bay. As plan detailed ramp and a pit, the workshop has been rated as having 2 service bays which coupled with 1no. space required per 2no. employees gives a requirement for 9no. spaces. Given that 4no. spaces may be available inside the garage; 2no. obtainable on the forecourt. There is a shortfall of 3no. spaces for the garage. The parking indicated on submitted plan only covers the proposals to provide 4no. 1 bedroomed unit at 24(6no. spaces), 2no. 2bedroomed units at 24a (4no. spaces) and 1no. 2 bedroomed unit at 22 (2no. spaces). Total 12no. required where provision is for 12no. 3no. more spaces are required for the garage. The parking provision for the proposed flat at 22 Jane Street is acceptable. Parking bays should be delineated for use for flats/garage only.

Item Ref	REASONS FO REFUSAL/CONDITIONS
2	Sightlines to be 2.5 x 42 metres in both directions, this is currently attainable. All land within sightlines to be maintained at a height not greater than 1 metre above road level, and must be within the applicants control. Current connection on to public road from private road is acceptable. The parking provision for the proposed flat at 22 Jane Street is acceptable.
4	
	Parking provision for motor trade is 4no. parking spaces per service bay. As plan detailed ramp and a pit, the workshop has been rated as having 2 service bays which coupled with 1no. space required per 2no. employees gives a requirement for 9no. spaces. Currently these spaces are available to the south of the site. But additional requirements have been made on these by the proposed flat and planning applications at 24 and 24a Jane Street. Given that 4no. spaces may be available inside the garage; 2no. obtainable on the forecourt. <i>There is a shortfall of 3no. spaces which must be addressed.</i> This parking should be contiguous to the site. The parking indicated on submitted plan only covers the proposals to provide 4no. 1 bedroomed unit at 24, 2no. 2bedroomed units at 24a and 1no. 2 bedroomed unit at 22. Parking bays must be delineated for use for flats/garage only.

Notes for Intimation to Applicant

(i)	Construction Consent (S21)*	Not Required
(ii)	Road Bond (S17)*	Not Required
(iii)	Road Opening Permit (S56)*	Not Required

\*Relevant Section of the Roads (Scotland) Act 1984

Signed: Paul Farrell

Date 22/09/11

Copies to: Planning  Maint  SOID  File

**ARGYLL AND BUTE COUNCIL**



**DEVELOPMENT AND INFRASTRUCTURE SERVICES**  
Head of Service: ANGUS GILMOUR

Area Office, 22 Hill Street,  
Dunoon. PA23 7AP  
e-mail address: jo.rains@argyll-bute.gov.uk

Telephone: 01369 707120  
Extension: 7124  
Fax: 01369 705948

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**INTERNAL MEMORANDUM**

Date: 19<sup>th</sup> September 2011

To: Head of Planning & Regulatory Services

Your Ref: 11/01281/PP

From: Jo Rains, Area Environmental Health Manager  
Bute and Cowal

Our Ref:

---

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**PROPOSAL: ALTERATIONS TO GARAGE TO PROVIDE 1 FLATS AT UPPER LEVEL AND**  
**EXTERNAL ALTERATIONS**  
**ADDRESS: 22 JANE STREET, DUNOON, ARGYLL AND BUTE PA23 7HX**  
**GRID REFERENCE: 217247 676476**

I refer to the above application received to provide a single dwelling above a garage premises at 22 Jane Street. I have the following comments and observations to make concerning this application.

Any dwellings situated above an industrial premises such as a garage could be subject from nuisance from noise (patrons, vehicle engines, banging and grinding from repair work and machinery) odours (exhaust fumes, chemicals such as solvents and fuels) and to a lesser extent dust and particulates (exhaust fumes, repair work debris) unless appropriate safeguarding conditions are put in place.

It is noted from the supporting information that the garage is to be 'private use' by Cowal Building and Plumbing Supplies which will reduce disturbance from patron noise but it is assumed that the garage is still to be used for the maintenance of vehicles and repairs rather than purely secure storage. It is noted that the applicant has submitted hours of use.

Noise

The Planning Advice Note 1/2011 is promoting 'a pragmatic approach to the location of new development within the vicinity of existing noise generating uses, to ensure that quality of life is not unreasonably affected'. I am concerned that allowing new construction immediately above an existing industrial premises could not satisfactorily prevent or minimise the consequences of noise as it is unreasonable to restrict the opportunity for natural ventilation through opening windows in a domestic premises.

Odours/fumes



The garage building shows mechanical extraction for ventilation purposes. There is insufficient detail provided as to where the ducting will discharge to the outside air. To prevent the possibility of nuisance from odour and fume the extraction from the garage should discharge above eaves level and, in addition, above any velux window openings.

#### Bad Neighbour Assessment

The introduction of a dwelling above an existing garage has the potential to create a bad neighbour development under LP BAD 2. The commercial activities could affect the amenity of the residents through noise disturbance, odour, waste and general disturbance (vehicle movements, deliveries, car parking etc). The reverse applies where the business may require to amend its current operating arrangements to alleviate these issues, thus potentially affecting the viability of the existing usage.

#### Conclusion

I am of the opinion that the application has the potential to be contrary to the Council's Bad Neighbour Policy, although this will require to be considered by you in your planning considerations. Safe guarding conditions are not able to be applied to the proposed development that would adequately protect domestic occupants of the proposed first floor residential accommodation from potential nuisance from the activities of the existing legitimate usage of the garage premises.

I therefore would object to this application being granted.

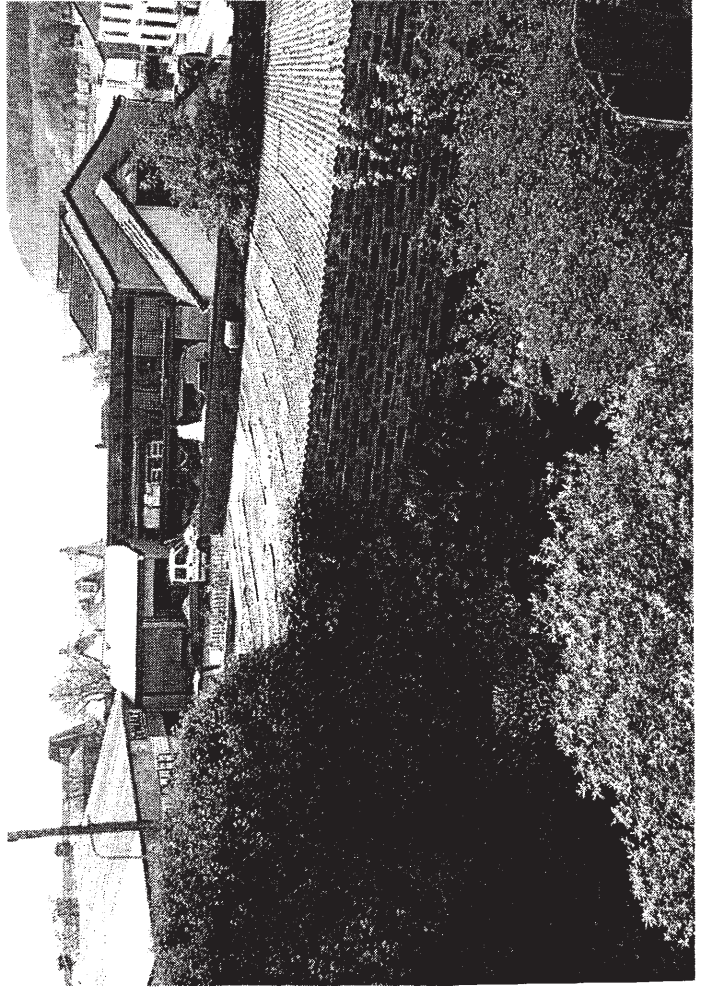
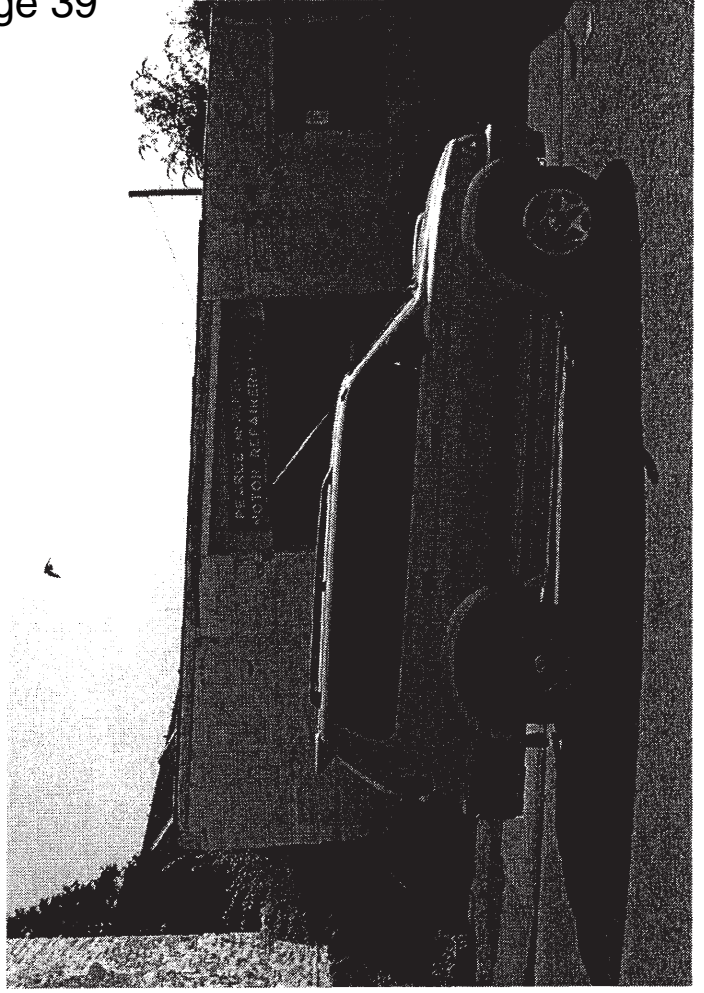
I trust that this information may be of some assistance to you. Should you require anything further, however, please do not hesitate to contact me direct.

Jo Rains  
Environmental Health Manager - East  
Bute and Cowal

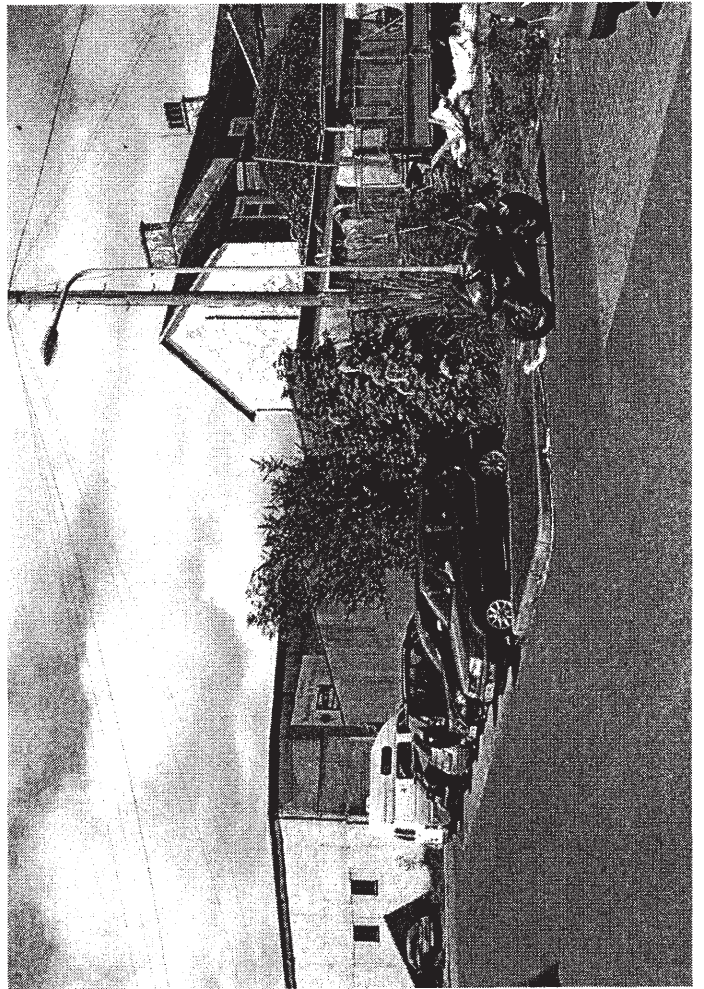


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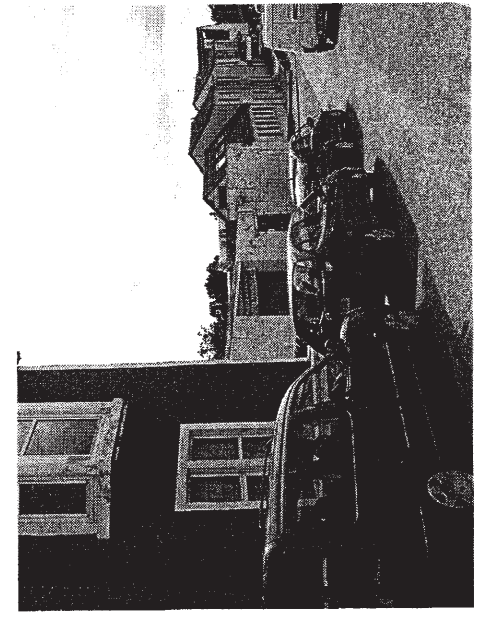
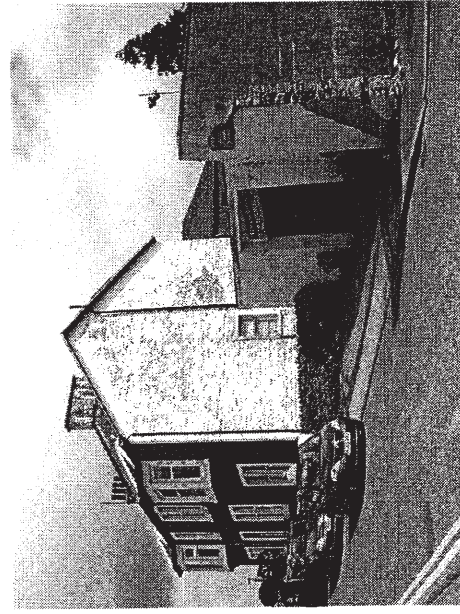
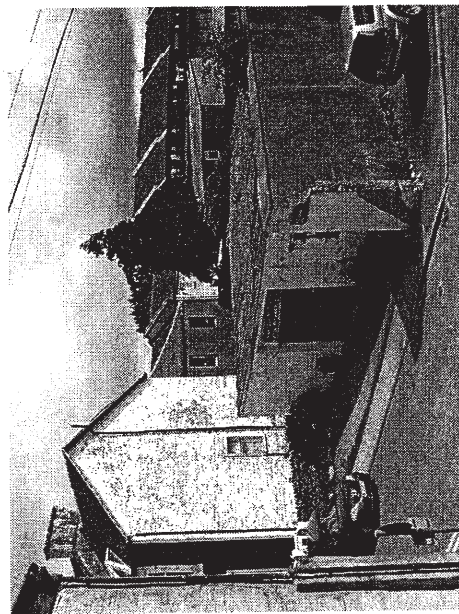
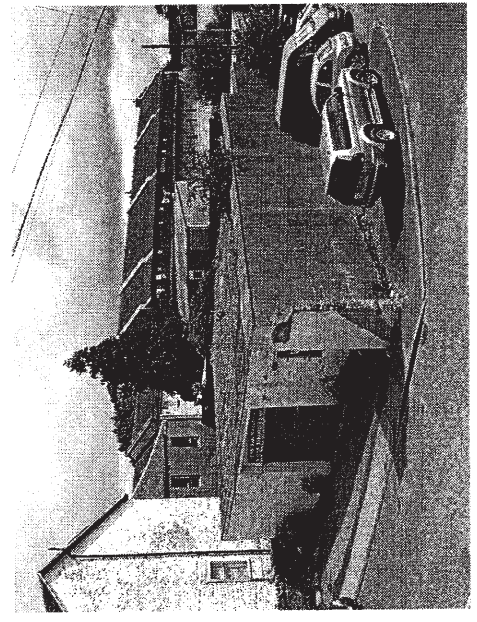
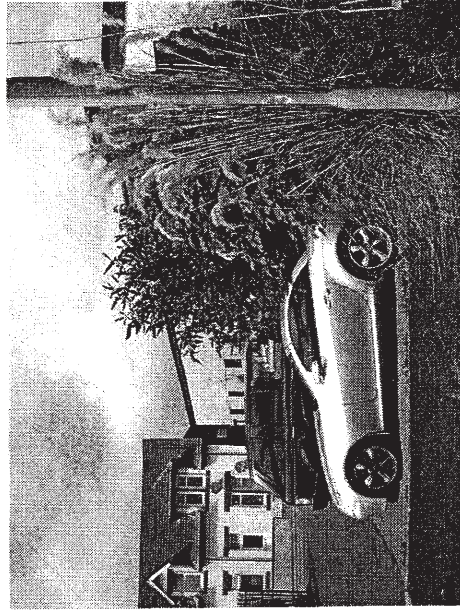
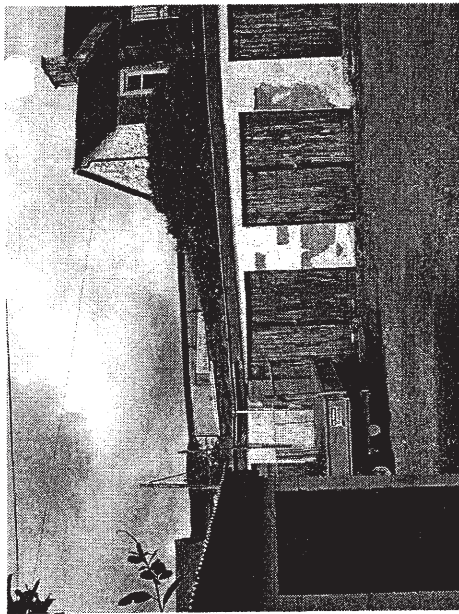
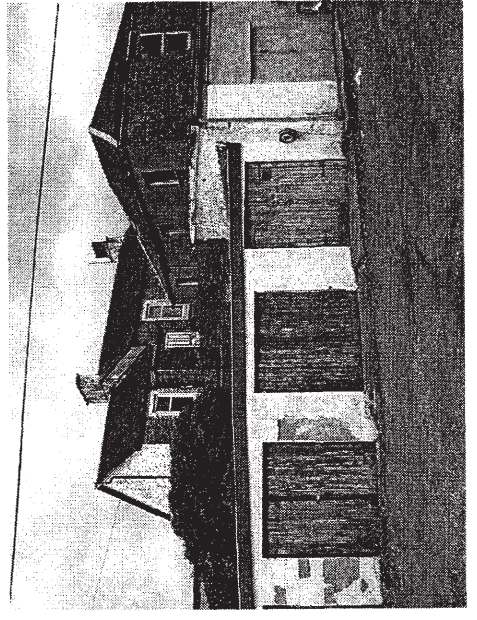
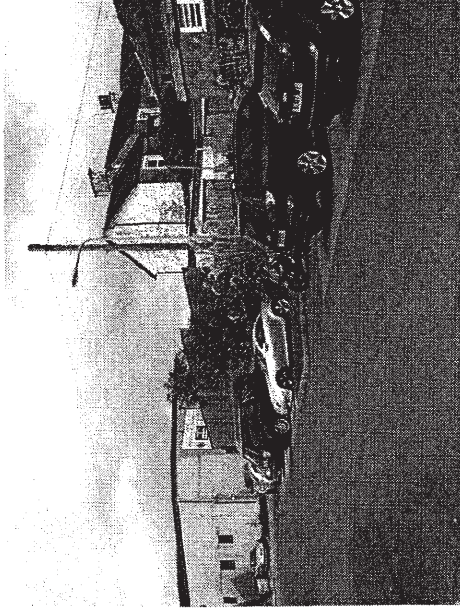
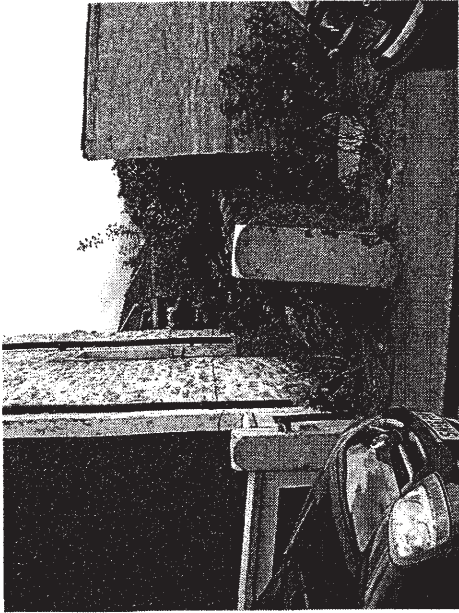








17/8/2010





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## Agenda and Minutes

ARGYLL AND BUTE LOCAL REVIEW BODY  
Monday, 28 February 2011 10:00 am

- o Agenda Frontsheet PDF 81 KB
- o Agenda reports pack PDF 4 MB
- o Printed minutes PDF 60 KB

Venue: Members' Room, Kilmory, Lochgilphead  
Contact: Fiona McCallum Tel: 01546 604406

Items

No. Item

### 2. DECLARATIONS OF INTEREST

Minutes:

None declared.

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

Minutes:

The Chair welcomed everyone to the meeting and advised that parties to the Review were not permitted to address the Local Review Body. 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 Chairman 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. The Board agreed unanimously that they had enough information to make a decision on the application and agreed to proceed to determine the case.

Councillor Kinniburgh advised that taking into consideration the plans and all other documentation before him, he fully understood the Planner's reasons for refusal of the planning application in respect of lack of residential amenity space and bad neighbour development in reverse. He noted the applicant's statement that they had not been given the opportunity to address these issues at the pre planning application stage but could still understand why the decision to refuse was made. He did not feel that a site inspection was necessary, as requested by the Applicant, as the copies of the plans and photographs provided to the LRB were sufficient.

Councillor Devon agreed that there would be a poor level of residential amenity space for future occupants of the proposed flats and that the applicant had not demonstrated that the garage would not have a significant impact for future occupants of the proposed flats. She also felt that delineating of the existing parking area would have an impact on the surrounding area.

Councillor McCuish agreed with all the reasons for refusal set out in the Planner's report and felt that the application was contrary to too many policies to differ from the Planner's recommendation.

### Decision

It was unanimously agreed to refuse the application on the following grounds:-

1. The creation of an additional storey over the existing garage to accommodate two flats largely within the new roof space of the heightened building would result in a poor standard of residential amenity for future occupants given the lack of external amenity space. The lack of any amenity space for such a new build scheme would be contrary to the provisions of Appendix A Sustainable Siting and Design Principles of the Argyll and Bute Local Plan (4.2) that requires that "all development should have some private space". Accordingly, the proposal for two flats without any private amenity space whatsoever would create a poor level of residential amenity and would be contrary to Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles and Policy LP HOU 1 of the Argyll and Bute Local Plan (2009);
2. Given the lawful use of the Class 5 activities within the existing repair garage, the creation of two flats above the garage would result in a poor standard of amenity for future occupants of the flats, given the range of uses which could be carried out without the benefit of planning permission, resulting in disturbance generated by noise, dust, particulates and activities associated with such an industrial use. Furthermore, the introduction of residential uses above the existing garage building with associated window openings and roof lights could result in nuisance from smell, fumes and odours from the garage use below without the benefit of a suitable ventilation system to clear the residential units. Accordingly, to introduce a noise sensitive use above an existing industrial building would be contrary to PAN 56 "Planning and Noise", Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles and Policy LP BAD 2 'Bad Neighbour Development in Reverse' of the Argyll and Bute Local Plan (August 2009); and
3. The intensification of the existing industrial building to provide two flats would result in the loss of three car parking spaces from the existing off-street car parking area in the lane east of Jane Street. The proposal to create two additional flats, coupled with the loss of three car parking spaces would increase demand on the available unallocated on-street car parking in this part of Jane Street and exacerbate existing parking problems. Accordingly, the proposal would be contrary to Policy LP TRAN 6 Vehicle Parking Provision of the Argyll and Bute Local Plan (2009).

(Reference: Notice of Review and Supporting Documents, Comments from Interested Parties, Applicant's Response to Comments from Interested Parties, submitted)

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**From:** Close, Brian [mailto:Brian.Close@argyll-bute.gov.uk]  
**Sent:** 16 May 2011 10:39  
**To:** Graeme Johnstone  
**Subject:** RE: Jane Street redevelopment

Graeme,

At this stage and on the basis of submitted drawings etc. we are unable to provide you with a detailed response. The onus is on you and your client to submit indicative proposal(s) that will be booked in formally as part of our new pre-application process.

We have issues regarding the potential to over-develop the site(s) with a lack of amenity spaces and juxtaposition of existing buildings. The former B&B at 24 Jane Street seems the safest option to redevelop for flats but would require sufficient external amenity space and have parking spaces allocated. The garage at 22 Jane Street continues to pose problems with a 'mixed' development of industrial on the ground floor and residential above. The best suggestion would be to demolish this garage and create a single residential building, or retain it solely for garage purposes but the residential/industrial mix is not a comfortable one. The derelict building to the rear of 24 Jane Street may have some potential but its relationship to 24 and 22 will need to be

fully explored. At this stage, I would suggest that you explore all of the options carefully and submit these for pre-application consideration. Our discussion on submitting a single application may be problematic if one or more components do not 'fit' comfortably. However, the separate developments should have some form of relationship and possibly shared facilities where the 'courtyard development' may offer a design option. I look forward to receiving further plans/sketches/options for consideration at your convenience.

Regards

Brian

**W.  
E.  
F.**

**FIONA**  
TOM-A-MHOID ROAD  
DUNOON, ARGYLL  
PA23 7HN

TEL/FAX No:  
01369 702551

28<sup>th</sup> Jan. '12

Dear Sir, Madam

In response to your letter dated 23-1-12 regarding planning application 11/01281/PP, I would like to stress that I would be happy to see this development go ahead, in fact I'm sure it will enhance the area.

The only problem for me, however, is that part of the area within the red boundary is ground shared and owned by both myself and the applicants.

I enclose a plan and mark the area in question with a blue cross.

I have initiated a meeting between C.B.P.S Ltd, and myself and I'm sure we can easily rectify this problem.

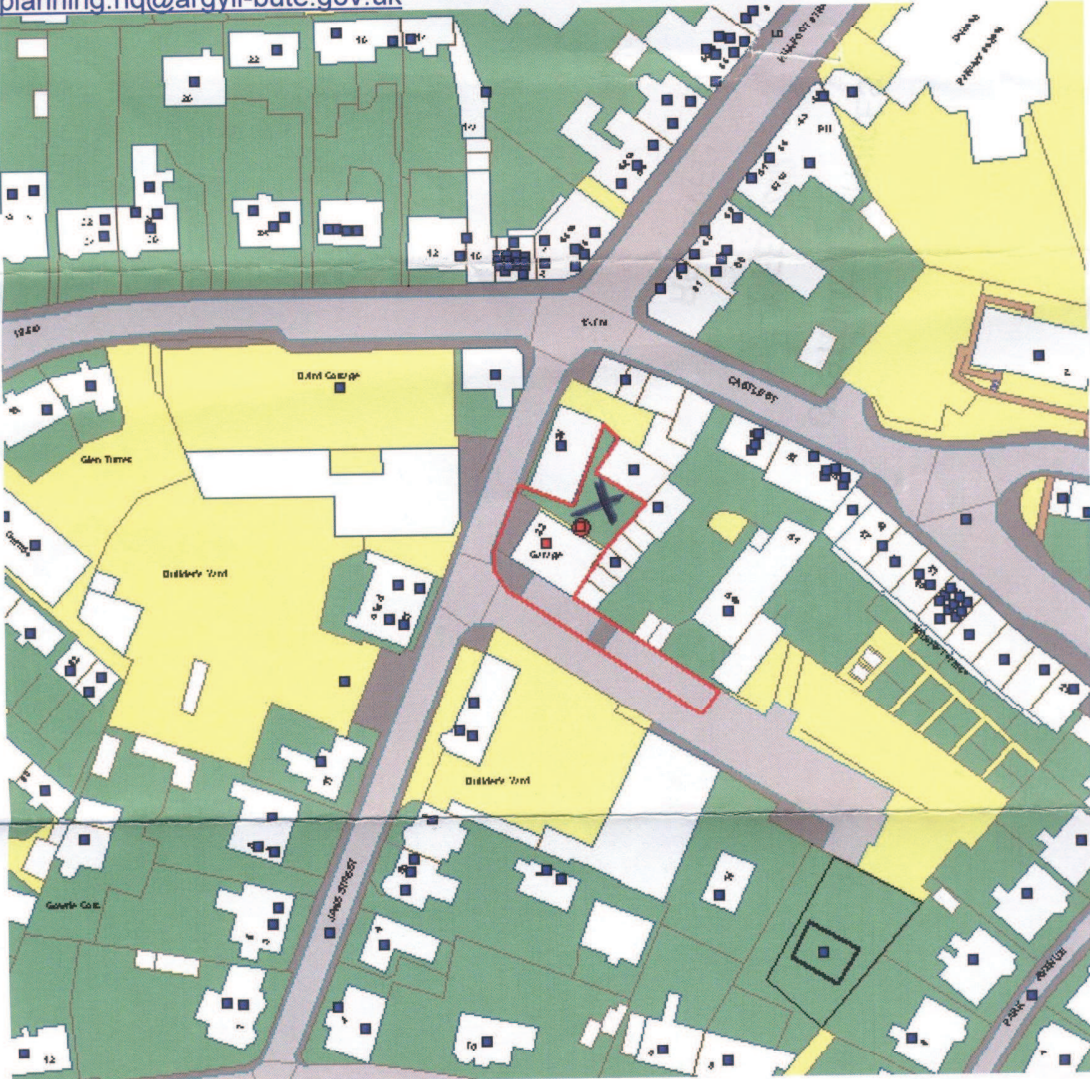
Yours Faithfully  
Stewart Baird

PROPRIETOR: S BAIRD



### Contact Details

If you have any questions please contact the Central Validation Team on 01546 604840 or email [planning.hq@argyll-bute.gov.uk](mailto:planning.hq@argyll-bute.gov.uk)







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## Stewart McNee (Dunoon) Ltd

Highland Avenue, Sandbank Business Park, Dunoon PA23 8PB  
 Tel: 01369 702578 Fax: 01369 706315  
 E-Mail : enquiry@stewartmcnee.co.uk Website : www.stewartmcnee.com



20th February 2012

Committee Services (Local Review Board)  
 Argyll & Bute Council  
 Kilmory  
 Lochgilphead  
 PA31 8RT

For the attention of: Fiona McCallum

Dear Fiona,

Proposed Additional Storey with a Pitched Roof and External Alterations to 22 Jane Street, Dunoon, PA23 - Ref No. 12/0004/LRB

Further to your notification of the statement of case submitted by the Planning Authority I would respond as follows.

The matters raised in the consultations can be easily dealt with as demonstrated by the detail of the previous building warrant approval.

With regards to the concern in relation to the provision of amenity space we would question exactly how much amenity space is required for a 1 bed flat with a large private balcony area. Please note that there is also significant public amenity spaces close by at either West Bay or the Castle Gardens. We also proposed to address this aspect through the inclusion of the rear amenity space for the property at 24 Jane Street, which as previously mentioned is owned by the applicant. There are generous garden grounds serving this property which can easily have accommodated communal amenity space for a 1 bed flat at 22 Jane Street and properties at 24 Jane Street.

I also note that the planning authority has considered the proposal as a bad neighbour in reverse and refused primarily on these grounds. The definition of bad neighbour in the adopted local plan is as defined in Schedule 7 of the Town and Country Planning General Development Procedure (Scotland) Order 1992 within which a car mechanics is not specified as a bad neighbour. Furthermore the area is mixed in character with residential properties neighbouring the application site. The schedule does specify developments that would affect residential property by reason of fumes, noise, vibration etc as bad neighbour however we would again state that Public Protection were satisfied that these matters could be addressed by means of condition and would suggest that the case officer should have provided us with the opportunity to address these if it was deemed that

SCOTTISH  
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NHBC



they may be of a concern beyond the terms of the conditions. The planning authority have stated in the report of handling that Policy LP Bad2 is crucial in the consideration of this application however it is clear that in the consideration that the proposal constitutes bad neighbour in reverse is unfounded. We would therefore consider that it is premature and inaccurate to refuse the application on the grounds that it is contrary to policy LP Bad2 as the matters could be adequately and to the satisfaction of the consultees be controlled by conditions, or by the submission of further information if it was requested, that would have adequately addressed these concerns and resulted in the proposal complying with this crucial policy.

In summary the consultation responses were favourable subject to conditions that could have been addressed.

Considering this we would consider that subject to appropriate conditions as suggested by the consultees the application would comply with the relevant policies of the adopted local plan and the application should therefore be approved by the review board.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Graeme Johnstone', written in a cursive style.

Graeme Johnstone