

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR  
PROPOSED ALTERATIONS TO WIDEN  
DRIVEWAY ENTRANCE AT 50 CHARLOTTE ST,  
HELENSBURGH, G84 7SR**

**PLANNING APPLICATION REFERENCE  
NUMBER 23/01046/PP**

**LOCAL REVIEW BOARD REFERENCE  
NUMBER 24/0005/LRB**

**21<sup>st</sup> March 2024**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Ms Dawn Anderson ('the appellants') with representative Mr Chris Devlin of Andreson Strathern LLP ('the agent').

The planning application, reference number 23/01046/PP, for proposed alterations to widen driveway entrance at 50 Charlotte Street, Helensburgh ("the appeal site") was refused under delegated powers on the 11<sup>th</sup> December 2023. The planning application has been appealed and is subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE**

The application site is located within the settlement of Helensburgh within a residential area. The site relates to a dwelling which is a converted former coach house, known as 50 Charlotte Street, at the rear of 48 Charlotte Street known as Hapland. Both Hapland and the former coach house are included in the same listed building designation, which is Category B. The application site is also within the Upper Helensburgh Conservation Area.

### **SITE HISTORY**

The planning history of the site and locality is detailed in Section D of the Report of Handling.

Attention is drawn to the enforcement case and notice that was served – 22/00171/ENFCON – relating to removal of the grass verge and replacement with hardstanding to widen the existing access and create an area for parking vehicles. Photos are included in the appendix of the works at the time of the enforcement case and Members should note that investigations relating to this case have paused while this review is pending. Members should note that since June 2023, the appellant has not made any steps towards rectifying the breach but if this appeal was allowed then investigations would be close and further enforcement action would not be required.

### **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, 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 alterations to widen the driveway would cause a road safety issue.**
- **Whether alterations to widen the driveway would cause a pedestrian safety issue.**
- **Whether alterations to widen the driveway harm the Upper Helensburgh Conservation Area.**
- **Whether alterations to widen the driveway harm the sense of place and character of the place.**

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

### **REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING**

It is considered that no new information has been raised in the appellants' submission. The issues raised were covered in the Report of Handling which is contained in Appendix 1, including a summary of the representation submitted from 1 objector. 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 APPELLANTS' SUBMISSION**

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

- 1. The appellant's agent has set out an alternative case to the matters considered by officers in setting out Reason for Refusal no. 1 which considers the whether there is a need for the widening in principle.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-section headed 'Road Safety and within this sub-section it is noted the position expressed by the Council's Roads officers' which is summarised also in Section D of the report of handling. The appellant claims that the additional width will enable two cars to park comfortably and pedestrians to access/exit. It should be noted that the proposed width is 6.5m and a standard car is 2.4m wide, so two cars is 4.8m wide. It should be noted that whether it is two cars or even one car, cars should not be using a driveway as a parking area so the current access is wide enough for entry into the courtyard/internal garage by both a car and a pedestrian.

- 2. The appellant has set out their own view that the proposed widening would not cause any displacement from the grass verge, contrary to the matters considered by officers in setting out Reason for Refusal no. 2.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-sections headed 'Pedestrian Safety'.

- 3. The appellant has set out their view the widening of the access does not affect the character of the Conservation Area.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-section headed 'Built Environment'. The applicant has provided photographs of examples of other driveways in the vicinity which mainly are no wider than 3.5m the stipulated roads authority requirement for accesses into private dwellings. The examples illustrate how important the grass verge is to the character of the conservation area. One of the photos has a car parked on the driveway illustrating how obtrusive parked cars along the verge can appear. Widening of a driveway as explained in the report of handling would only encourage parking on this verge area.

- 4. The appellant has set out the view that any concerns in relation to sense and quality of place.***

It is noted that officer's assessment of this aspect of the proposal is set out within Section P of the main report of handling and is primarily addressed under the sub-section headed 'Design, quality and place'. Referring specifically to Policy 10 it is clear that the proposal has not an appropriate response to the character of the area as it will facilitate and encourage parking on the verge.

- 5. The appellant has raised matters in relation to equality duty and building (Scotland) regulations 2004 in relation to fire and rescue service access.***

The officer's report of handling does not cover this issue but it should be noted that the access currently is wide enough to support a car and a pedestrian entering by a wheelchair without the need for widening. The fire and rescue can reach properties as much as 45m from a public road.

## **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.

## Adoption of the Argyll and Bute Local Development Plan 2 (28.02.2024)

It is highlighted that subsequent to planning permission being refused (on 11.12.23) that the Argyll and Bute Local Development 2 has been adopted on 28<sup>th</sup> February 2024. As of that date, the 'Development Plan' for Argyll and Bute (excluding the area covered by the Loch Lomond and the Trossachs National Park Authority) is National Planning Framework 4 and LDP2 which require to be applied holistically with preference afforded to LDP2, as the most recent expression of policy, in the event of any conflict between the two policy documents. For the avoidance of doubt, it is also confirmed that the Argyll and Bute Local Development Plan 2015 and its associated Supplementary Guidance are now superseded and accordingly should not be afforded significant material weight in planning determinations.

It is understood that the determination of these LRB proceedings will accordingly require to be made with regard to the updated 'Development Plan' position. The report of handling includes commentary that identifies the provisions of LDP2 which were relevant to the determination of this application and offer a view on how each of these policy matters relate to the proposal. It is confirmed that the adoption of LDP2 does not give rise to any substantive change to the matters considered within the assessment previously undertaken by officers in respect of this particular application.

### Summary Commentary on Key Material Considerations:

- **Whether alterations to widen the driveway would cause a road safety issue.**

The site is located at the top of Charlotte Street where there is a bend and poor visibility as the road turns to become East Rosdhu Drive. The house is a modest 2 bedroom house with adequate off-street parking. Parking on the street verge and reversing on to the road at this location would give rise to a road safety issue given the poor visibility. The Council's Roads officer has recommended refusal on these grounds. The sub-section 'road safety' of the report of handling highlights the relevant policy consideration of LDP2 which is Policy 35. Policy 35 of the adopted plan relates to the 'Design of new and existing, public roads and private access regimes'. The report of handling explains how the current access arrangements are adequate to provide safe pedestrian access/egress, without any need for alterations to widen to accommodate pedestrian access/egress. The proposal is contrary to this policy as it involves carrying out of unnecessary works to an existing access that are not to the satisfaction of the Roads Authority and the Planning Authority (as per part 2 of Policy 35). The appellant argues that the proposal should not be considered widening of the existing access but an extension to allow pedestrians to access the property. It should be noted that the description of what has been applied for is alterations to widen the driveway and that by merely renaming it to be an extension, does not mean the driveway will not be widened to allow two cars to park. The

driveway is not meant to be used for parking vehicles but to safely access and egress the internal courtyard and garage where parking can take place for the dwelling. If the section of driveway crossing the grass verge is maintained clear of parked vehicles then it would remain available to readily facilitate pedestrian access.

- **Whether alterations to widen the driveway would cause a pedestrian safety issue.**

It is officer's view that the widening of the driveway will encourage cars to be parked on the verge which will displace pedestrians on to the carriageway.

- **Whether alterations to widen the driveway harm the Upper Helensburgh Conservation Area.**

The site is within Upper Helensburgh Conservation Area. The broad grass verges is one of the major aspects of the townscape and a crucial element of its character. The widening of the driveway will encourage parking on the verge which would detract from the character of the Conservation area and in turn be contrary to Policy 7 of NPF4 and also Policy 15 of LDP2 which do not support proposals that affect the character of the conservation area.

- **Whether alterations to widen the driveway harm the sense of place and character of the place.**

The site is located within the Helensburgh identified as Settlement Area in the Argyll and Bute Local Development Plan 2 2024 (LDP2) wherein the provisions of Policy 01 serve to give support of development provided that such development is appropriately sited, is of a scale and design which fits within the context of the locale, is compatible with the character and amenity of its surrounds and, does not give rise to adverse access or servicing implications. Policy 05 states that proposed should comply with the placemaking criteria including be of a design that develops the area's sense of identity by understanding its surroundings and where the site contains natural features that contribute to the character and identity of the wider area, these should be retained and sensitively integrated into the design. Policy 10 is in relation to design of all development and it states that proposal should consider and response to the wider context and character. Whilst this location within the residential area with many driveways, officers have reached the view that the widening, which would encourage parking on the verge, does not satisfactorily respect the character and appearance of the surrounding area.

The proposal is accordingly considered to be contrary to NPF4 Policy 14, and LDP2 Policies 05 and 10.

Taking account of the above, it is respectfully requested that the request for a review be dismissed.

**Appended documents:**

Report of Handling

Photos from Enforcement Investigation taken May 2023