

Reference Number: 08/01759/COU
Applicants Name: Stewart Shaw Ltd
Application Type: Retrospective Change of Use
Application Description: Change of use of former milk tankers yard (Sui generis use) to builder supply yard incorporating cement mixing facility (Class 5 & 6 uses) (Retrospective).
Location: Yard 4A Colbeck Place Colbeck Lane Rothesay Isle of Bute PA28 0HB.

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Change of use of former milk tankers yard (Sui generis use) to builder supply yard incorporating cement mixing facility (Class 5 & 6 uses).

(ii) Other specified operations.

N/A.

(B) RECOMMENDATION

It is recommended that retrospective planning permission **be granted** subject to the attached conditions and reasons, along with the informative detailed overleaf.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

The site is located with Rothesay settlement zone as defined in the Structure Plan and emerging Local Plan. It is also located within an Area for Action as defined by the emerging Local Plan.

Policy STRAT DC 1 of the Structure Plan seeks to resist bad neighbour developments within settlements which are essentially incompatible with the close configuration of land uses found in the area. This site is located on the fringe of the industrial area of Rothesay with some neighbouring residential properties. However, owing to the site's previous industrial type usage and the proposed conditions to be attached to the grant of planning permission, the development is considered to be consistent with this policy.

With regards to policy LP BUS 1 of the emerging Local Plan, the development represents acceptable 'small scale' development within an established industrial location in Rothesay.

(ii) Representations:

Two letters of representation have been received.

(iii) Consideration of the Need for Non-Statutory or PAN 41 Hearing:

Not applicable.

(iv) Reasoned Justification for a Departure from the Provisions of the Development Plan.

Not applicable.

(v) Is the Proposal a Schedule 1 or 2 EIA development:

Not applicable.

(vi) Does the Council have an interest in the site:

No.

(vii) Need and Reason for Notification to Scottish Ministers.

Not applicable.

(viii) Has a sustainability Checklist Been Submitted:

No.

Angus J Gilmour
Head of Planning
26th January 2009

Author: John Irving, Tel: 01369708621
Reviewing Officer: David Eaglesham, Tel: 01369708608

Date: 15th January 2009
Date: 26th January 2009

NOTE: Committee Members, the applicant, agent and any other interested party should note that the consultation responses and letters of representation referred to in Appendix A, have been summarised and that the full consultation response or letter of representations are available on request. It should also be noted that the associated drawings, application forms, consultations, other correspondence and all letters of representations are available for viewing on the Council web site at www.argyll-bute.gov.uk

CONDITIONS AND REASONS RELATIVE TO APPLICATION: 08/01759/COU

1. Visibility splays measuring 35 metres from a 2.5 metre set back shall be free from all obstructions (including walls, fences, hedges, etc.) over one metre in height above the level of the road and thereafter maintained in perpetuity, unless consent for variation is obtained in writing from the Planning Authority, in consultation with the Area Roads Manager.

Reason: *In the interests of road safety.*

2. Within two months from the date of this permission, a turning area shall be provided within the site, suitable for all vehicles and the first 2.5 metres of the access behind the back of the footpath shall be constructed with a sealed surface.

Reason: *In the interest of road safety and to prevent debris from being deposited onto the footway and road.*

3. The unloading and uploading of all building materials shall only be undertaken within the yard (i.e. the defined application site) and shall not be undertaken on the public carriageway.

Reason: *In the interest of road safety.*

4. The yard shall only operate between the hours of 07:30 and 18:30 Monday to Friday and 08:00 and 17:00 on Saturdays. No operations (including vehicles started, moved or maintained) within the yard should occur outwith these defined hours including Sundays and statutory public holidays.

Reason: *To prevent any loss of amenity to local residents and/or nuisance as a result of the use of the yard.*

5. No cement mixing facility or associated operations shall occur within this yard, unless consent for variation is obtained in writing from the Planning Authority.

Reason: *To prevent any loss of amenity to local residents and/or nuisance as a result of the use of the yard.*

INFORMATIVES RELATIVE TO APPLICATION: 08/01759/COU

Surface Water

The Area Roads Manager has advised that a system of surface water drainage is required to prevent water running onto the road. Failure to address this matter would be contrary to Section 99 of the Roads (Scotland) Act 1984, which states that:

"(i) The owner and occupier of any land, whether or not that land is such as constitutes a structure over or across a road, shall prevent any flow of water, or of filth, dirt or offensive matter from, or any percolation of water through, the land onto the road."

A drainage system including positive surface water drainage measures should be agreed with the Area Roads Manager. The applicant is advised to contact the Area Roads Manager's representative (Mr. Paul Farrell on 01369 708613) directly in this regard.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 08/01759/COU

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Argyll & Bute Structure Plan 2002

STRAT DC 1 '*Development within the Settlements*' development which do not accord with this development are urban bad neighbour developments which are essentially incompatible with the close configuration of land uses found in settlements.

Bute Local Plan 1990

POL COM 6 '*Bad Neighbour Development*' seeks to resist development that is considered to have an adverse effect on the amenity of residential property.

Argyll & Bute Local Plan Post Inquiry Modifications 2008

LP BUS 1 '*Business & Industry in Existing Settlements*' seeks to encourage new or extensions to existing industrial enterprises within the settlements providing it is a form, location and scale.

LP BAD 1 '*Bad Neighbour Development*' seeks to resist development that is considered to have an adverse effect on the amenity of residential property including issues of odour, noise and traffic impact etc.

LP ENV 19 '*Development Setting, Layout & Design*' seeks to achieve a high standard of layout, setting and design where new developments are proposed.

LP TRAN 4 '*New and Existing, Public Roads and Private Access Regimes*' sets out the requirements for development in respect of new and existing public roads and private access regimes.

Note (i): The applicable elements of the above Policies have not been objected too or have no unresolved material planning issues and are therefore material planning considerations.

Note (ii): The Full Policies are available to view on the Council's Web Site at www.argyll-bute.gov.uk

(ii) SITE HISTORY

Planning permission 03/00023/OUT refused on 1st April 2003 for the erection of garage to store milk tankers, based on design and 'bad neighbour' issues.

Planning permission 03/00643/DET granted on 9th June 2003 for the erection of steel garage for the storage of milk tankers.

Variation of condition application 03/01921/VARCON granted on 19th December 2003 for the variation of condition 2 of planning permission 03/00643/DET to allow the starting of vehicles at 6am.

(iii) CONSULTATIONS

Area Roads Manager	25.11.2008	No objection subject to conditions, as long as all loading and unloading is carried out off the carriageway.
Area Environmental Health Manager	12.11.2008	No objection subject to conditions, providing the cement mixing operations cease.

(iv) PUBLICITY AND REPRESENTATIONS

Under Article 9 Neighbour notification procedure and potential departure advertisement, which expired on 7th November 2008, two letters of representation have been received from the following:

- Mr and Mrs J McGinnes, 2 Colbeck Place, Rothesay PA20 0HD, and
- Mr & Mrs Boyle, Mill Cottage Garden Centre Mill Street Rothesay Bute PA20 0BJ.

The points raised are summarised below:

i. A cement mixer is constantly parked in the yard and is on and off all day, sometimes 6 days out of 7. They start as early as 8am, finishing as late as 6pm. Forklift truck also causing disturbance to neighbours as this involves unloading deliveries on a regular basis.

Comment: See assessment below.

ii. The exiting vehicular access serving 4A Colbeck Lane is across the public footpath, is restricted in width and has no visibility splays.

Comment: See assessment below.

iii. The access can accommodate short rigid chassis lorries, subject to no obstructions by parked vehicles, but the articulated lorries now being used to bring materials in bulk to the island, cannot readily get parked and various local drivers of articulated lorries have stated they would only attempt to reverse into 4A Colbeck Lane if there were no vehicles parked in the vicinity.

Comment: The Area Roads Manager has raised no objection to this application subject to all loading and unloading being carried out off the carriageway.

iv. Delivery Lorries often unload on the public road using forklift trucks, causing an obstruction which causes chaos to traffic movement in Union Street and the surrounding streets and severely restricts access to our business and others in the area.

Comment: The Area Roads Manager has raised no objection to this application subject to all uploading and unloading being carried out off the carriageway.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 08/01759/COU

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The site is located with Rothesay settlement zone as defined by the Structure Plan and emerging Local plan. It is also located within an Area for Action as defined by the emerging local Plan.

Policy STRAT DC 1 of the Structure Plan seeks to resist bad neighbour developments within settlements which are essentially incompatible with the close configuration of land uses found in the area. This site is located on the fringe of a predominantly industrial area of Rothesay, with some neighbouring residential properties. However, owing to the site's previous industrial usage and the conditions proposed to be attached to the grant of planning permission, to combat any bad neighbour issues with this proposal, the development is considered to be consistent with this policy.

The Area Environmental Health Manager has undertaken a noise assessment which has found the cement mixing facility to be unacceptable. As such, a condition can be attached to the grant of planning permission which prevents the cement mixing operation on site. In addition, a condition will also be attached which restricts hours of operation. It is therefore considered that these conditions address the 'bad neighbour' elements of this development to safeguard established levels of amenity afforded to surrounding residential properties.

The site is less than 0.1 hectares in size and the existing building is just 144 square metres. This represents 'small scale' development as defined by Schedule B1 of policy LP BUS 1 from the emerging local plan. The development proposal represents acceptable 'small scale' development within an established industrial location in Rothesay. This application simply incorporates the change of use of the land and existing building and does not therefore introduce any new physical development that would visually change the character of the area. However, in terms of the potential bad neighbour issues detailed above, it is considered that the conditions attached to the grant of planning permission, which will crucially prohibit the cement mixing facility, will adequately address these concerns. For the same reason, the development is also considered to be consistent with policy POL COM 6 of the adopted Bute Local Plan and policy LP BAD 1 of the emerging Local Plan.

The proposal is considered to be consistent with policy STRAT DC 1 of the Structure Plan, policies LP BUS 1 and LP BAD 1 of the emerging Local Plan and policy POL COM 6 of the adopted Local Plan.

B. Location, Nature and Design of Proposed Development

The site is accessed from Union Street by a private access which leads to a small yard which boasts an existing large metal clad shed. The site is being used for the storage of building supply materials and as a cement mixing facility. The site is located on the fringe of a predominately industrial area and as such there are neighbouring residential properties.

This application seeks to regularise the current unauthorised use of this yard. There are no proposed physical developments or alterations within the site and as such this application only seeks to establish a new use of the site.

It is considered that restricting the site operating hours and preventing any further cement mixing operation will safeguard established levels of amenity afforded to the neighbouring residential properties

The proposal is considered to be consistent with policy LP ENV 19 the emerging Local Plan.

D. Road Network, Parking and Associated Transport Matters.

Representations have been received regarding lorries unloading and uploading on the public carriageway, at the entrance to the site, causing serious road safety issues. The Area Roads Manager has raised no objection to this application subject to a number of conditions and one which ensures the unloading and uploading of all building materials shall only be undertaken within the yard (i.e. the defined application site). On this basis, there is not considered to be any adverse road safety issues associated with this development.

The proposal is considered to be consistent with policy LP TRAN 4 of the emerging Local Plan.

CONCLUSION.

Given the previous industrial use of this site and its location within Rothesay, together with the associated conditions to be attached to the grant of planning permission, it is considered that the potential bad neighbour issues associated with this development can be resolved. Furthermore, the restrictive conditions imposed allow the Planning Authority to readily monitor and enforce any such unauthorised and unacceptable activities on site.