

Reference Number: 08/01995/NMA
Applicants Name: Heather Monteith
Application Type: Non-material amendment
Application Description: Erection of rear roof dormer with balcony, rear entrance porch and installation of roof lights and domestic wind generator on rear roof (amendment to Permission 04/02400/DET incorporating addition and omission of windows and rooflights and changes to dormer and porch design).
Location: Flat 4, Craighenure Flats, Shore Road, Innellan, PA23 7TL.

(A) THE APPLICATION

- (i) Proposed non-material changes to Planning Permission 04/02400/DET:
- Addition and omission of windows and rooflights
 - Changes to dormer extensions and entrance porch design
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(B) RECOMMENDATION

It is recommended that the changes detailed above be treated as non-material amendments to Planning Permission 04/02400/DET under Section 64 of the Town and Country Planning (Scotland) Act 1997.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) **Development Plan Context:**

This application seeks minor design changes to planning permission 04/02400/DET which was approved consistent with Development Plan policy.

The proposed design changes are considered to be minor in nature and consistent with policy POL BE 9 of the Cowal Local Plan 1993 and policy LP ENV 19 of the Argyll & Bute Local Plan Post Inquiry Modifications.

(ii) **Representations:**

One objector has submitted two letters of representation.

(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.

N/A.

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

No.

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

No.

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

No.

(viii) Has a sustainability Checklist Been Submitted:

No.

Angus J Gilmour
Head of Planning
26th January 2009

Author: John Irving, Tel: 01369 708621 **Date:** 13th January 2009
Reviewing Officer: David Eaglesham, Tel 01369 708608 **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

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 08/01995/DET

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Cowal Local Plan 1993

Policy POL BE 9 '*Layout & Design of Urban Development*' seeks to achieve a high standard of layout and design where new urban developments are proposed.

Argyll & Bute Local Plan Post Inquiry Modifications (November 2008)

Policy LP ENV 19 '*Development Setting, Layout & Design*' sets out the requirements in respect of development setting, layout and design.

Policy HOU 5 'House Extensions' will be supported where they cause no significant detriment to the building, neighbours or the immediate vicinity.

Note (i): The applicable elements of the above Policies have not been objected to 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 03/02291/DET approved on 1st June 2004 for the conversion of roofspace as a studio incorporating dormer extension and external alterations.

Non-material amendment 04/02137/NMA approved on 25th November 2004 for erection of rear roof dormer with balcony and rear entrance porch (relative to permission 03/02291/DET).

Planning permission 04/02400/DET approved on 2nd February 2005 for the erection of rear roof dormer with balcony, rear entrance porch and installation of three rooflights and domestic wind generator on rear roof slope.

Non-material amendment 05/01918/NMA approved on 21st October 2005 for the modification to window sizes and installation of additional side window to porch (relevant to planning permission 04/02400/DET).

Enforcement Investigation 08/00261/ENFOTH1 commenced on 23rd July 2008 following complaint received regarding alleged unauthorised works on site.

(iii) CONSULTATIONS

Area Building Standards Manager/Area Officer (memo dated 27th November 2008 and e-mail dated 5th December 2008): I can confirm that a formal 'amendment to warrant' would be required for the changes and deviations from the approved plans.

- There should not be an unprotected area in a wall within 500mm from a boundary (porch door).
- The access balcony appears to provide the minimum 1200 x 1200mm as required for the common entrance to buildings containing flats.
- Assuming the lighting as existing was not emergency lighting supplied by a protected circuit, we would have no requirement for upgrading.
- The original warrant was supported by an SER certificate. As the applicant has deviated from the approved plans we would be looking for an amendment to warrant and written confirmation from the structural engineer that he is satisfied with the 'as-built' structure.

(iv) PUBLICITY AND REPRESENTATIONS

No formal advertisement or notification is required. Two letters of representation received from Steven McMillan (dated 19th & 25th November 2008), 5 Craigenure Flats, Innellan, Dunoon, A23 7TL. The points raised are copied below:

1. Mr Gavin Thomson's letter dated the 11th November 2008 fails to mention not only has the porch width increased by 110mm but the length has increased by 540mm. This is only shown on the plans and including the additional width is an increase in floor area of 1.046m² i.e. just under a quarter of the original permitted floor area. By increasing the size of the porch it completely dominates the rear elevation of the building and certainly is not sympathetic to or keeping with design and proportion of the original building as quoted in the " Council's Design Guide for Extensions and Alterations to Existing Buildings".

Comment: *This application seeks to regularise these changes which are considered to be entirely acceptable and non-material in nature.*

2. The main superstructure of the porch has already been constructed to the larger dimensions shown on the plans included in the non-material amendment application (ref:08/01995/NMA) and the use of respective planning permission is being utilised as a way to push the design amendments through without allowing proper consultation to have taken place before hand. All be it this practice is perfectly legal but it is generally more difficult to change something which has been wrongly constructed than not.

Comment: *This application has been assessed entirely on its own merits.*

3. The increased porch length now means the finished external face of the porch is within 250mm of the property boundary line and the eaves is on the boundary line. This also brings the porch directly next to the head of the stairwell which is the sole fire escape route from my property. As a result this increases the risk of spread of fire between properties and significantly reduces my means of escape should a fire occur in the porch. This problem is compounded by the fact the porch is constructed from low fire resistant material and is intended to be used partly as a coal storage area. Should a fire occur in this area at best I may have to

travel a distance of 18m from my front door to a place of safety at the north gable rather than the balcony, and at worst I could be trapped in my property.

Comment: *This is a matter for Building Standards who have confirmed that the changes undertaken can be approved as a formal 'amendment to warrant'.*

4. In Mrs Monteith's letter dated 04th December 2004 it was stated the main purpose of the porch was to overcome an access problem and provide a sheltered space to put things down prior to entering her flat. Mrs Monteith stated it was awkward to take in "coal, shopping, art / craft equipment and materials". Now that the porch has been extended to the head of the stairwell this may obstruct access to my property by persons standing in the shared access / fire escape route with the afore mentioned material at their feet while they open the porch door.

Comment: *This is a matter for Building Standards who have confirmed that the changes undertaken can be approved as a formal 'amendment to warrant'.*

5. The proximity of the porch entrance to my toilet window may cause my rights of privacy to be diminished from what previously existed. Previously people would have moved to the left hand side of the stairwell head to approach the porch but may now congregate directly outside my toilet window before entering the porch. Every individual is entitled to their privacy particularly on such sensitive matters as this. Likewise should the occupants of flat 4 Craigenure require moving any large items of furniture to or from the flat they may now require to encroach onto my property to do so. Again invading my privacy.

Comment: *The bathroom window is fitted with opaque glass and therefore there can be no reduced level of privacy associated with this bathroom. Encroachment on to the objector's property is an entirely civil matter to be resolved between both parties and does not fall under the jurisdiction of the Planning Authority.*

6. Access to my property at night has now become a health and safety hazard as the foot of the rear stairwell is now in darkness as a result of the extended porch now blocking out the light from the 1st floor landing. Mr Thomson himself has made a haphazard attempt at moving the only light on the balcony closer to my property to accommodate his porch, but this is insufficient and although digressing should have been carried out by a certified electrical contractor. Suitable external lighting would require to be designed and installed by a competent contractor at the applicants cost.

Comment: *The repositioning or removal of this external light does not require planning permission. Building Standards Authority have advised that assuming the lighting, as existing, was not emergency lighting, supplied by a protected circuit, there is no requirement for upgrading.*

7. On inspection of applications 04/02400/DET and 08/01995/NMA I cannot find any structural engineer design calculations for permissible loading on the balcony floor. In the absence of these calculations I would question if the balcony is capable of carrying the combined load of the porch and the significant storage of coal over a period of time.

Comment: *This is a matter for Building Standards. The original building warrant was supported by an Structural Engineers Certificate, as the applicant has deviated from the approved plans Building Standards will require written confirmation from the structural engineer that he is satisfied with the 'as-built' structure.*

The applicant has submitted a letter of support dated 3rd January 2009. The points raised are summarised below:

1. The external walls of the porch are erected some 16mm back from the line shown on the plans approved by the Councils for building warrant and not all forward of the line as contended by the objector.
2. The length of the porch has only increased by some 61mm as a result of the external slate cladding. This small increase is taken up entirely within my property where the porch reaches to the far extremity of my balcony away from my neighbour.
3. In terms of the points above, there are no grounds whatsoever for the objectors false assertions that the porch length has increased by 540mm.
4. The keeping of coal in the porch does not represent a fire hazard. Coal is not subject to spontaneous combustion and the keeping of coal within this porch is a normal domestic occurrence.
5. There are no grounds for the objector's assertion that the planning process has been manipulated by me to achieve a 25% increase in floor space. This is wholly untrue.
6. There is no loss of privacy to the objector's bathroom. The window is fitted with opaque glass.
7. The project has been held up for several months now as a result of complaints to the Council. That is why its appearance in several respects remains ungainly where it has not been possible to proceed with the external wall finishes and trim to the porch, nor replace the temporary external door with the permanent one or install permanent lighting.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 08/01995/DET

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site is within the Settlement Zone.

B. Location, Nature and Design of Proposed Development

This application seeks to regularise minor design changes to planning permission 04/02400/DET. These variations include the following:

- Minor increase to dimensions of rear entrance porch along with change to roof pitch angle.
- Additional rooflight window installed on front elevation of building.
- Circular window removed from front elevation dormer window.
- Square window installed onto rear elevation dormer window.

The proposed design changes are considered to be minor and crucially '*non-material*' in nature, consistent with policy POL BE 9 of the Cowal Local Plan 1993 and policy LP ENV 19 of the Argyll & Bute Local Plan Post Inquiry Modification (November 2008).

In addition, the changes included within this non-material amendment application do not present any adverse privacy or amenity issues with neighbouring properties.

Concerns raised regarding the structural soundness of the development fall under the jurisdiction of the Building Standards Service and a request for an amendment to the approved building warrant has been requested to regularise the changes.

The proposal is considered to be consistent with policy POL BE 9 of the Cowal Local Plan and policy LP ENV 19 & Appendix A of the emerging Local Plan.

C. Built Environment

Policy LP HOU 5 of the emerging local plan seeks to permit housing extensions providing there is no significant detriment to the building, neighbouring buildings and surrounding vicinity. This application represents minor design changes to a planning permission which was approved on the basis that it did not detract from the overall character of the building or surrounding environment. The non-material changes included with this application do not unduly impact on the overall character and design of this building.

The proposal is considered to be consistent with policy LP HOU 5 of the emerging Local Plan.

CONCLUSION.

While an objection has been received against this development, this application represents very minor changes to the size and design of the rear entrance porch and dormer windows. These changes are entirely acceptable in design terms with little to no impact on neighbouring properties. As such, it is recommended that this application be approved.