

Reference Number: 09/00436/DET
Applicants Name: Claire Kinna
Application Type: Detailed
Application Description: Alterations to Dwellinghouse to Include Additional Upper Floor
Location: Letters Lodge North, Strathlachlan, by Strachur

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Formation of pitched roof over existing building to form additional accommodation
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(B) RECOMMENDATION

Having due regard to development plan policy and other material considerations it is **recommended that planning permission be granted** subject to the attached condition and reason.

(C) SUMMARY OF DETERMINING ISSUES AND MATERIAL CONSIDERATIONS

(i) Development Plan Context:

The premises lie in the Settlement Zone of Strachur as shown in the Argyll & Bute Local Plan Proposals for Adoption 2009.

The design of the extension is considered satisfactory and it is not considered that the impact of the proposal on adjacent properties in relation to either sunlight and daylighting considerations or privacy is such as to warrant refusal of permission.

The proposals are considered to conform to Policies POL BE 9 of the Cowal Local Plan and LP HOU 5 and LP ENV 19 of the Argyll & Bute Local Plan.

(ii) Representations:

Objections to the application have been received from 8 households.

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

The number of representations would not justify a hearing.

(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:**
No.
- (vi) **Does the Council have an interest in the site:**
No.
- (vii) **Need and Reason for Notification to Scottish Ministers.**
None.
- (viii) **Has a sustainability Checklist Been Submitted:**
No.

Angus J Gilmour
Head of Planning
23 July 2009

Author:	Steven Gove	01369 708603	Date: 23 July 2009
Reviewing Officer:	David Eaglesham	01369 708608	Date: 23 July 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 09/00436/DET

1. The development to which this permission relates must be begun within five years from the date of this permission.

Reason: In order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 09/00436/DET

MATERIAL CONSIDERATIONS AND ADVICE

(i) POLICY OVERVIEW AND MATERIAL ADVICE

Adopted Cowal Local Plan 1993

Policy POL BE 9 seeks to achieve a high standard of layout and design where new urban developments are proposed and schemes should have regard to the Council's published design guidelines and development standards.

Design Guide D '*Extensions and Alterations to Existing Buildings*' puts forward basic principles in terms of alterations to existing properties and seeks to promote design which is sympathetic to its context and setting. In terms of flat roofs, it states that "*raising the roof*" may be an acceptable solution but only where the new design does not conflict with the massing or design of nearby properties.

Argyll and Bute Local Plan Proposals For Adoption (June 2009)

Policy LP ENV 19 seeks to ensure that new developments harmonise with their surroundings in terms of their setting, layout and density. Detailed considerations are included in Appendix A of the Plan.

Appendix A states the following:

"14.1 Householders can legitimately expect a reasonable amount of direct daylight into all or at least some living room windows and this should be protected as far as possible in order to maintain reasonable levels of household amenity.

14.2 When considering an extension to an existing house, applicants should ensure that the house will not significantly affect daylight and direct sunlight to existing neighbouring properties. Applicants should refer to 'Site Layout Planning for Sunlight and Daylight' BRE 1991.

14.3 Where a proposed development has a significant adverse effect on daylight and direct sunlight to existing neighbouring properties, planning permission will be refused".

Policy LP HOU 5 states that house extensions where they cause no significant detriment to the building, the neighbours or the immediate vicinity will generally be acceptable provided they comply with the relevant siting and design principles as set out in Appendix A; and also satisfy the following specific design considerations:

- a. Extensions should not dominate the original existing building by way of size, scale, proportion or design;
- b. External materials should be complementary to the existing property;
- c. Extensions should not have a significant adverse impact on the privacy of neighbours, particularly in private rear gardens.

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

The neighbouring Courtyard Cottage in 1993 appears to have been an outbuilding associated with the attached property to the north east, Letters Farm House. An application (ref: 01/93/0679) was submitted by Mr T Paton to convert this outbuilding to form an extension associated with the existing house. The existing plans submitted showed one window facing into the courtyard (serving a store). The proposed plans showed the provision of three ground floor windows and two upper floor windows. The application was approved on 6th October 1993.

In 1999, Dorothy Brown applied to use the outbuilding (upon which some works had taken place) as a separate dwellinghouse. The permission (ref: 99/01273/COU) was approved on 21st September 1999. The approved drawings showed the provision of three ground floor windows and three upper floor windows.

It should be noted that both these permissions included a condition requiring the lower part of any windows in the northwest elevation to be obscure glazed.

(iii) CONSULTATIONS

None

(iv) PUBLICITY AND REPRESENTATIONS

As a result of Article 9 Neighbour Notification procedures, four representations have been received from Mr Robert Brown, Courtyard Cottage, Letters Farm, by Strachur (letter dated 10th April 2009 and e-mails dated 30th May, 10th June and 8th July 2009). He has also submitted a report on Daylight availability by Crawford Grier (dated 9th July 2009). Eight further letters of objection have been received from parties remote from the site, as follows:

- A and M McPhail *The Birches The Bay Strachur Argyll PA27*
- Mr & Mrs R Spiers *Cnoc Cottage Leachd Strathlachlan Cairndow PA27*
- Mr & Mrs G Neish *Failte No3 The Bay Strachur PA27*
- Helen and Jim Moffat *6 Swedish Houses Glenbranter By Strachur Argyll PA27*
- Mr J Gauley *Flat 4 Stronechrevich Highhall Strachur Argyll*
- Mrs Heather Grier *Poll School House St Catherines Cairndow Argyll PA25 8AZ*
- Mr & Mrs MacPherson *30 Forest View Strachur Argyll PA27 8DQ*
- GJ Thomas *Kilkatrine St Catherines Cairndow Argyll PA25 8AZ*

The points raised can be summarised as follows:

- 1) The proposed roof will have a length of 12 metres and a vertical height of 3.7 metres, an area of 44.4 square metres which would reduce the daylight of Courtyard Cottage by 555%. These calculations are based on the vertical impact only. Were the angle of pitch to be taken into account, the % reduction in daylight factor would be 795% leaving the west elevation of the property in permanent twilight.
- 2) The objector and his wife purchased Courtyard Cottage as a semi-converted ruin in 1996 and received planning permission to complete the unfinished conversion three years later. The main requirement of the planning department was that all of the new windows which had been installed were removed and replaced with much smaller aperture windows. This single act dramatically reduced the daylight factor, particularly on the ground floor. The objector earns his living as an artist and produces paintings from a studio within his home. For a reduction of light of almost eight times that which exists at the moment, there would be a significant devaluation in the property, relegate the occupants to living in a less comfortable environment, possibly conceal a significant health impediment as the objector and his wife are both

pensioners and seriously threaten the objector's ability to produce the type of artwork that he has become known for over the past ten years.

- 3) The applicant's calculations and drawings relate to direct sunlight and, whilst it may be accurate, its relevance is questioned as DOE and Right to Light legislation advise that all lux or equivalent daylight factor measurements within a property should be taken during an overcast day.
- 4) All domestic apartments should have a minimum level of illumination measured in lux in the centre of the apartment, on an imaginary horizontal plane and at a height of 0.85 metres above floor height. A minimum of 50% of that lux measurement should be daylight factor with the balance being artificial light.

Daylight factor is measured as a percentage of lux where the accepted measurement of lux on the horizontal plane outside the building is 5000. To therefore achieve 10% daylight factor on the horizontal plane inside the building would give a reading of 500 lux on a lux meter.

The objector has provided a list of recommended minimum lux levels for specific rooms courtesy of the I.E.S. and has also had measurements carried out within his own property by a professional consultant. These show that the existing lux levels within his property do not come close to the minimum recommended levels and this would be under threat of further massive reduction should the application be successful.

- 5) The applicant has submitted pages from one quoted architectural publication (which the Council may already have) which seeks to reinforce her argument regarding sunlight but which completely ignores the many pages of information relating to daylight factor.
- 6) The applicant continues with extracts from the Metric Handbook which relate in the main to sunlight exposure and building shadow and bear no relation to the adjoining proprietors' right to light which are enshrined in the 1959 Right to Light Act and the prescription Act which state that if a window has had 20 years of unobstructed light, it has earned the right to light. The windows of Courtyard Cottage have not changed (by demand of the Planning Department) but simply have been replaced over the years and there has been a dwelling on its footprint dating back at least to the 16th century.
- 7) The applicant's comments regarding the width of the courtyard betrays a cramped city lifestyle and takes no account of the fact that the courtyard belongs to the objector, it abuts her property as any other garden may otherwise do and, therefore, cannot be taken account of in relation to a public highway.

Comment: The issue of the impact of the proposal on the daylight of Courtyard Cottage is addressed in the '*Assessment*' section below.

- 8) The applicant and her partner have stated that the proposed project is to provide them with a holiday home. The property is, therefore, likely to be occupied for 30% of the year leaving the objector to suffer the effect of its increased mass while it lies empty for the remaining 70% of the year.

Comment: The premises would appear to have lawfulness as a dwellinghouse and no planning permission is required to use the property as a holiday home.

- 9) Any disproportionate look the building has in relation to its surroundings has been there for 58 years without opposition and the applicant's statement regarding the appearance of the building is a purely objective view. Her desire to make Letters Lodge North and Letters Lodge South aesthetically more pleasing to the eye shows absolutely no regard for Courtyard Cottage which sits immediately behind them.

Comment: The aesthetics of the proposal will be addressed in Appendix B.

- 10) One would trust that there is an incumbency on any applicant to carry out sufficient research prior to making an application so as to ensure that no other person will be disadvantaged physically, psychologically or financially by their personal desires.

Comment: From a procedural perspective, the only requirement relates to the carrying out of neighbour notification.

- 11) At over fifty years old, this must be the most long term temporary measure in building history. There are a great many flat roof contractors who practice in Scotland and offer guarantees on their work. If the design of the roof on Letters Lodge North is flawed, and if the previous owners did spend thousands of pounds on repairs perhaps they were using the wrong people.

Comment: The issue of the condition of the flat roof does not have a material bearing upon the planning aspects of the case.

As mentioned above, a report has been prepared by Mr Crawford Grier on behalf of the applicant and the following are the conclusions contained within that report:

- 1 The angular criterion for building heights for a new development of 25* would not be exceeded.
- 2 The spacing distance between the buildings (13.4metres) could perhaps be argued as inadequate because of the inclusion of a roadway between the two buildings.
- 3 The clear sky area available to Mr Brown's windows would be reduced by from 89% as it is at present to 40% if the Application were successful – a reduction of 49%. and representing a total loss of approximately 60% of the clear sky available.
- 4 External Daylight Factors are low because of the enclosed courtyard design.
- 5 Internal Daylight Factors are so poor that to attempt a calculation of the detrimental affects that the proposed development would cause would be pointless as all light levels were found to be 5% or less of the recommended minimum for a habitable dwelling. What can be said, is that the proposed development would not enhance the situation in any way.
- 6 Average Internal Daylight Factors again show a corresponding drop in light values demonstrating a basic insufficiency of natural daylight within the building.
- 7 If the light measurements had been taken earlier in the day or in the morning under similar cloud conditions then the light levels would have been even further reduced as the building façade would have been in shade due to the angle of the sun.
- 8 Overshadowing has not been measured but the proposed development will have a substantial effect. Mr Brown's property façade faces almost due North West (320* Magnetic) and is effectively parallel to the proposed development building. Direct sunlight available to Mr Brown's windows is limited, particularly in winter, due to the adjacent Barn building to his left and the low angle of the sun. The proposed development will compound this situation by causing courtyard shadow during late afternoons and summer evenings. Family meals on the patio as they are enjoyed now will become a thing of the past with a household amenity destroyed and a corresponding property value lost.
- 9 The fact that individuals have a right to natural daylight may not be legally enforceable in Scotland but a right to light was established in Britain prior to the Middle Ages so this should be a concern taken in to account, particularly as in Argyll, daylight is more often than not reduced by partial or even total cloud cover. The fact that existing light levels are already well below the recommended minimum should be strong argument for not making the situation worse.

APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted information in support of the application (letters 14th May and 6th June 2009 and e-mail dated 18th May 2009). The following is a summary of the points that have been made:

- The house was originally two storeys with a pitched roof but the upper storey was destroyed in a fire 50 years ago. At some stage, the roof was replaced partly with a flat roof and partly with a small pitched roof. The building now looks disproportionate and the addition of a traditional pitched roof would greatly enhance the appearance of both Letters Lodge North and the adjoining property;
- The property to the rear is concerned that the addition of a pitched roof would impair their quality of light. However, Letters Lodge North faces north/north west and the concerned property sits parallel 13.4 metres behind. A block plan has been included showing the path of sunlight which shows that any shadow which could be cast would actually come from the adjoining two storey building in the late summer afternoons. Photographs have also been submitted from 9th May 2009 between 2 p.m. and 5 p.m. which shows that any shadows cast would not affect the concerned property;
- Letters Lodge North has been purchased for weekend and holiday use with a view to gradually relocating there on a permanent basis. The internal planning has been redesigned to create a large study/studio with the bedrooms upstairs to make living and working there possible within the next five years;
- The calculations provided by the objector have no bearing upon the actual situation as they do not take into account the orientation of the sun, the adjoining two storey building and the distance between the two properties;
- At present, the two upper level bedrooms are so small that they are of no practical use and the application seeks to provide the same opportunities that neighbours have had to create a useable home that will allow the applicant to establish herself in the community;
- The flat roof is a flawed design and it is believed that it was originally installed as a temporary measure. The previous owners spent thousands of pounds over the years trying to make it watertight but with no success as it is highly impractical in the West of Scotland;
- Information has been submitted which seeks to demonstrate that the proposal conforms to Building Research Establishment recommendations on daylight.

APPENDIX B – RELATIVE TO APPLICATION NUMBER: 09/00436/DET

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The premises lie in the Settlement Zone of Strachur as shown in the Argyll & Bute Local Plan Proposals for Adoption 2009.

B. Location, Nature and Design of Proposed Development

It is proposed to undertake alterations to the north eastern half of a semi-detached block of dwellinghouses. The existing property is predominantly single storey with a small upper floor space used for accommodation. The majority of the building has a flat roof.

The proposal involves providing accommodation on the ground floor (living room, dining area, kitchen, bathroom and studio/occasional room) and the first floor (two bedrooms). The principal external alteration would be the formation of a pitched roof over the main living part of the building. A dormer window with French Doors and a balcony is to be erected on the front elevation whilst the gable is to be formed with a glazed window.

The size and design of the alterations and their impact on the existing and neighbouring building are considered acceptable as they would reflect the scale of the adjoining building to the south west (Letters Lodge South). In this sense, the proposals are considered to conform to Policies POL BE 9 of the Cowal Local Plan and LP HOU 5 of the Argyll & Bute Local Plan.

The main issue in respect of the proposal is its impact upon the daylight of the property to the rear, Courtyard Cottage. This is a one-and-a-half storey dwellinghouse located approximately 13.5 metres to the rear of the subject building. It has three ground floor windows and three upper floor windows facing the application site. The windows face onto a courtyard that is bounded by two buildings of comparable scale to Courtyard Cottage on the north-eastern and south-western sides respectively.

One of Mr Brown's (the objector) main points relates to '*right to light*' and associated legislation. Such legislation (including the Prescription Act 1832 and Right of Light Act 1959) is essentially a legal matter between the parties concerned and does not have a material bearing upon the planning aspects of the case.

In seeking to address the daylight issue, the applicant has submitted information in respect of advice contained within BRE publications. One of the exercises is to draw a section perpendicular to each affected main window wall of the existing building. If none of the new development subtends an angle to the horizontal (measured from the centre of the lowest window) greater than 25 degrees, it is unlikely to have a substantial effect on the diffuse daylighting of the existing building. In this case, and based upon information submitted by the applicant, the new roof would not project above the 25 degree angle.

The objector contends that the rooms within his property do not meet the recommended minimum lux levels but, whilst this may be unfortunate, this is an existing situation. Based upon all of the information that has come to hand during the processing of the application, it is considered that the new roof would not detrimentally affect the daylight to a significant degree.

The proposals are considered to conform to Policies LP HOU 5 and LP ENV 19 of the Argyll & Bute Local Plan.

CONCLUSION.

The design of the extension is considered satisfactory and it is not considered that the impact of the proposal on adjacent properties in relation to either sunlight and daylighting considerations or privacy is such as to warrant refusal of permission.