

**STATEMENT OF CASE**

**FOR**

**ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR  
DEMOLITION OF EAST GABLE CHIMNEY  
STACK, VICTORIA BANK, PIER ROAD,  
TARBERT**

**LOCAL REVIEW BODY REF. 12/0012/LRB**

**PLANNING PERMISSION APPLICATION  
REFERENCE NUMBER 12/00342/PP**

**23<sup>rd</sup> August 2012**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Mr Iain Johnstone and Mrs Anne Logan. ('the appellants').

The planning application, reference number 12/00342/PP, for the demolition of the east chimney stack at Victoria Bank, Pier Road, Tarbert ("the appeal site") was refused under delegated powers on the 2<sup>nd</sup> July 2012. The planning application has been appealed and is subject of referral to a Local Review Body.

## **DESCRIPTION OF SITE LOCATION**

The appeal site is an unlisted, detached villa property that has previously been subdivided into an upper and lower flat, and which is located within the Tarbert Conservation Area. The refused application specifically sought planning permission in relation to the demolition of the eastern chimney stack on the property to below roof level.

## **SITE HISTORY**

There is no relevant planning history in relation to either the appeal site or the immediate locale.

## **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, 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 or not the proposal is consistent with the Council's policies relating to the management of change in the historic environment Strategy' as set out in the Development Plan, in this instance policies STRAT DC 9, and LP ENV 14.

The Report of Handling (Appendix 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 and other consultees (Appendix 2) are attached for the purpose of clarity.

## **POLICY BACKGROUND**

The appeal relates to an unlisted, residential property located within the Tarbert Conservation Area – the following policy considerations are relevant to the determination of this matter:

### *Structure Plan Policy DC 9 – Historic Environment and Development Control*

*Protection, conservation, enhancement and positive management of the historic environment is promoted. Development that damages or undermines the historic, architectural or cultural qualities of the historic environment will be resisted: particularly if it would affect a Scheduled Ancient Monument or its setting, other recognised architectural site of national or regional importance, listed building or its setting, conservation area or historic garden and designed landscape. More detailed policy and proposals for the historic environment will be set out in the Local Plan.*

### *Local Plan Policy LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas*

*There is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting, or a Special Built Environment Area.*

*New development within these areas and on sites forming part of their settings must be of the highest quality, respect and enhance the architectural and other special qualities that give rise to their actual or proposed designation and conform to Scottish Historic Environment Policy 2008 together with Appendix A of this Plan.*

*Outline planning applications ... n/a*

*The contribution of trees ... n/a*

### *Justification text for Policy LP ENV 14*

*The aim of this policy is to maintain or when possible enhance the character and amenity of existing and proposed Conservation Areas in accordance with current guidance and legislation. New development, which is well designed, respects the character of the area and contributes to its enhancement, will be welcomed. Argyll and Bute has 32 Conservation Areas of which 13 have been classified by Historic Scotland as “outstanding” for grant aid purposes. The boundaries of the Conservation Areas are shown on the Main Proposals Maps.*

*Conservation Areas form an important physical record of the architectural development and historic growth of an area. They are an irreplaceable cultural and economic resource that contributes to the distinctive character and unique quality of Argyll and Bute and therefore must be protected.*

*When considering applications for new development within Conservation Areas, the Council's priority will be to have regard for the special architectural and other special qualities that are the reason for the area's designation.*

...

#### *Appendix A of the Argyll and Bute Local Plan*

*16.3 In the case of Listed Buildings, Conservation Areas and Special Built Environment Areas the Council will apply the advice contained in the Scottish Historic Environment Policy (SHEP) 2008. This guidance refers to all types of development from replacement windows to new houses or commercial buildings.*

*Note SHEP 2008 has been updated and is now referred to as SHEP 2011.*

#### *Scottish Planning Policy*

*115. Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. A proposed development that would have a neutral effect on the character or appearance (i.e. does no harm) should be treated as one which preserves that character or appearance. The design, materials, scale and siting of new development within a conservation area, and development outwith the conservation area that will impact upon its appearance, character or setting, should be appropriate to the character and setting of the conservation area. Planning permission should normally be refused for development, including demolition, within a conservation area that fails to preserve or enhance the character or appearance of the area.*

#### *Historic Scotland – Inform – Domestic Chimneys & Flues – May 2008*

*The chimney and flue system are an integral part of the structure, function and aesthetic composition of a traditional building and often the streetscape in which the building sits. They are structural elements that require care and maintenance, although due to location this is frequently omitted.*

#### *Historic Scotland – Managing Change in the Historic Environment – Roofs – October 2010*

*This note sets out the principles that apply to altering the roofs of historic buildings. It should inform planning policies and the determination of applications relating to the historic environment, and replaces the equivalent guidance in the Memorandum of Guidance on Listed Buildings & Conservation Areas 1998.*

*The wide variety of historic roofs reflect variations in local climate and the availability of materials, construction and detailing of roofs make a substantial contribution to the character of any historic building or area. In practical terms,*

*roofs are clearly critical to protecting the structural components and interiors of historic buildings from the weather. Collectively roofscapes and skylines are often key features of historic cities, towns and villages.*

*The interest of a historic roof is derived from a number of factors including its shape or form, structure, covering materials, and associated features (e.g. chimney stacks and heads). The roof can play an important part in the architectural design of a historic building, and craftsmanship can also contribute to its interest. Traditional roofs were usually constructed by local tradesmen using local materials and techniques. This local distinctiveness is frequently a key element of the interest of the building.*

*Historic Chimneys can make an important contribution to the character of a roof and should be retained. Where repair is required, this should respect the original form and materials. If the structural stability of the chimney is unsound, like for like reconstruction should be encouraged.*

*Historic Scotland - Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 (superseded by October 2010 publication on Roofs, above, but provides more detailed guidance than updated publication in relation to the treatment of chimney heads and stacks)*

#### **1.5.6 Chimney Heads and Chimney Stacks**

*Chimneyheads and chimney stacks, whether they occur at the gable, at the ridge of the roof or at the wallhead, contribute greatly to the profile of the building and to the interest of the roofscape, and in most instances are an integral part of the architectural design. They should therefore always be retained, or restored to their original width and height if they have been removed or shortened, regardless of whether the flues are in use or not. This also applies to chimneyheads and chimneystacks on elevations not normally seen by the public, such as those facing enclosed courtyards, back greens and closes, unless these areas have lost their original character completely.*

*If they are structurally unsound, original ashlar chimney heads and chimney stacks should be taken down and rebuilt in the same material and to the same dimensions.*

...

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

The issues raised were covered in the Report of Handling which is contained in Appendix 1. 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 'local' development, 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 part (7) of the appellant's submission the following comments are noted for the record in respect of the specific issues raised:

1. The appellants seek to justify a precedent for the removal of the east chimney stack by reference to a property to the rear of Victoria Bank and a new build property on the opposite side of Tarbert Harbour which only have one chimney stack.

It is noted that the Report of Handling prepared by Officers in respect of the determination of this matter identifies that the subject property is part of a linear grouping of buildings predominantly of similar, two storey, hipped roof villa design on Pier Road wherein the presence of chimney stacks on both gables are a prevalent and prominent feature of the roofscape of this part of the village. The chimney stacks add a sense of vertical emphasis to the gables of these hipped roof properties and as such constitute a strong architectural feature element which is prevalent, although not ubiquitous, within the identified grouping of buildings along a section of Pier Road.

For the purpose of clarity it is advised that the linear grouping of some 15 buildings comprised primarily of hipped roofed villas referred to within the Report of Handling extends from Seaview (to the east of the Calmac Pier) and terminates at Fasgahd (to the west of the Old Pier). The appellants Notice of Review submission appears to identify properties which lie outwith this area of common architectural characteristic and is therefore considered an irrelevant comparison with that of the appeal site and its immediate neighbours along on Pier Road.

It is further noted that during the course of processing the application, the appellant's were advised of Officers concerns in relation to the degradation of the built environment and invited to provide further justification as to the necessity of demolishing rather than repairing the chimney in this instance. In the event that such reasoned justification could be provided then further consideration would have been given by Officers in their determination to the full suite of options available to the applicant, including the viability/affordability of repair/replacement and weighing these against the perceived degradation of the historic built environment which would arise with the demolition of the chimney. In this instance the appellant declined to provide any such further detailed justification in support of their proposals to demolish the chimney.

## **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 proposal is for the demolition of a gable chimney which is a common architectural feature within an identified grouping of buildings in the Tarbert Conservation Area. The removal of the chimney stack will not only effect the symmetry of the building but will render it incongruous within the context of adjoining properties and as such will have a detrimental effect upon the overall character and appearance of the Conservation Area. Furthermore, the unjustified and unnecessary removal of an architectural feature which contributes to the character and appearance of the historic environment is contrary to the relevant provisions of the Scottish Planning Policy, Historic Scotland's guidance and the provisions of Argyll and Bute Council's Development Plan policies STRAT DC 9 and LP ENV 14 which all seek to resist development that will not preserve or enhance the character or appearance of a Conservation Area.

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

## Appendix 1 – Report of Handling

Argyll and Bute Council  
Development Services

**Delegated or Committee 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 or Planning Permission in Principle**

**Reference No:** 12/00342/PP

**Planning Hierarchy:** Local Development

**Applicant:** Messrs Logan and Johnstone

**Proposal:** Demolition of East Gable Chimney Stack

**Site Address:** Victoria Park, Pier Road, Tarbert, Argyll

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### **DECISION ROUTE (delete as appropriate)**

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

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### **(A) THE APPLICATION**

(i) **Development Requiring Express Planning Permission**

- Demolition of Chimney

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### **(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission in principle be refused subject to the conditions and reasons appended to this report.

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### **(C) HISTORY:**

No history relevant to this particular site.

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### **(D) CONSULTATIONS:**

Public Protection

Memo dated 01/03/12 advising no objection to the proposal.



Conservation Officer

Email dated 30<sup>th</sup> March 2012 advising that removal of the chimney stack will be detrimental to the special interest of the building and the character and appearance of the conservation area.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Conservation Area procedures, closing dated 30/03/12.

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**(F) REPRESENTATIONS:**

There has been one email of representation received regarding the above application.

Jenny Carlile, Tarbert and Skipness Community Council

**Summary of issues raised:**

The proposed development would be out of keeping with the Conservation Area.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

- |       |  |           |
|-------|--|-----------|
| (i)   | <b>Environmental Statement:</b>  | <b>No</b> |
| (ii)  | <b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>   | <b>No</b> |
| (iii) | <b>A design or design/access statement:</b>  | <b>No</b> |
| (iv)  | <b>A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | <b>No</b> |

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**(H) PLANNING OBLIGATIONS**

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|-----|--|-----------|
| (i) | <b>Is a Section 75 agreement required:</b> | <b>No</b> |
|-----|--|-----------|

- 
- |     |   |           |
|-----|---|-----------|
| (I) | <b>Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:</b> | <b>No</b> |
|-----|---|-----------|

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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.**

Argyll and Bute Structure Plan 2002

STRAT DC 1 – Development within the Settlements

STRAT DC 9 – Historic Environment and Development Control

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 14 – Conservation Areas and Special Built Environment Areas

LP ENV 15 – Demolition in Conservation Areas

- (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.**

Argyll & Bute Sustainable Design Guidance (2006)

The Town & Country Planning Act (Scotland) 1997

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

SHEP, 2011

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(K)	<b>Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:</b>	<b>No</b>
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(L)	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
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(M)	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
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(N)	<b>Does the Council have an interest in the site:</b>	<b>No</b>
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(O)	<b>Requirement for a hearing (PAN41 or other):</b>	<b>No</b>
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(P)	<b>Assessment and summary of determining issues and material considerations</b>
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Planning permission is sought for the demolition of a chimney stack at Victoria Bank, Pier Road, Tarbert, Argyll, which is unlisted and located within the Tarbert Conservation

Area. The dwellinghouse as existing is a large villa type property which has been converted into an upper and lower flat.

Argyll and Bute Structure Plan Policy STRAT DC 9, Historic Environment and Development Control require that the protection, conservation, enhancement and positive management of the historic environment are promoted. Development that damages or undermines the historic, architectural or cultural qualities of the historic environment will be resisted particularly if it would affect a listed building or its setting or a conservation area or its setting.

The site is located within the Tarbert Conservation Area where Policy LP ENV 14, Development in Conservation Areas, applies a presumption against development that does not preserve or enhance the character or appearance of the Conservation Area or its setting.

The proposal is to demolish a chimney stack on the east elevation to below the existing roof level. Therefore, the main issue in respect of the proposal is the impact on the removal of the chimney on the Conservation Area.

Historic Scotland's Scottish Historic Environmental Policy (SHEP) 2011 states that historic buildings are a highly visible and accessible element of Scotland's rich heritage. In assessing an application within a Conservation Area, special regard should be had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. SHEP further states that, where possible repairs should be made on a like for like basis.

The current application does not provide any written justification for the proposed down taking of the chimney other than its current poor state of repair has been identified as a potential source of water ingress to the building – the details provided would suggest that repair of the chimney as an alternative solution has not been fully considered in this instance.

In this instance the subject property is within a linear development along Pier Road where the chimney stacks are prominent features and add a vertical emphasis to the gables of these hipped roof properties and as such constitute a strong architectural feature element. The removal of this chimney stack will not only affect the symmetry of the existing building but will render it incongruous within the context of adjoining properties and as such will detrimentally affect the overall character and appearance of the Conservation Area. This assessment has been reached following consultation with the Council's Conservation Officer.

It is therefore considered that the proposal will be detrimental to the wider Conservation Area and does not comply with policy STRAT DC 9 of the Argyll and Bute Structure Plan or LP ENV 14 of the Argyll and Bute Local Plan and therefore, I recommend that planning permission be Refused.

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<b>(Q)</b>	<b>Is the proposal consistent with the Development Plan:</b>	<b>Yes</b>
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<b>(R)</b>	<b>Reasons why planning permission should be refused</b>
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The proposal is contrary to Development Plan policy for the reasons for refusal detailed below

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland:

No

Author of Report: Judith Stephen Date: 15<sup>th</sup> June 2012

Reviewing Officer:



Date: 15<sup>th</sup> June 2012

Angus Gilmour  
Head of Planning

#### REASON FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 12/00342/PP

1. The proposed development is situated within the Tarbert Conservation Area which is recognised for its special historic character and appearance and which is highly sensitive to change. It is considered that the proposed demolition of the chimney stack would not only affect the appearance and special interest of the building but would render it incongruous within its immediate context and consequently would detract from both the character and appearance of the Conservation Area. The proposal is therefore contrary to Policies STRAT DC 1 and STRAT DC 9 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 14 and LP ENV 15 of the adopted Argyll and Bute Local Plan, and there are no other material considerations of sufficient weight, which would warrant anything other than the application being refused.

#### APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application 12/00342/PP

(A) Has the application been subject to any 'Non-Material Amendment' during consideration?

No

(B) The reason why planning permission has been refused.

1. The proposed development is situated within the Tarbert Conservation Area which is recognised for its special historic character and appearance and which is highly sensitive to change. It is considered that the proposed demolition of the chimney stack would not only affect the appearance and special interest of the building but would render it incongruous within its immediate context and consequently would detract from both the character and appearance of the Conservation Area. The proposal is therefore contrary to Policies STRAT DC 1 and STRAT DC 9 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 14 and LP ENV 15 of the adopted Argyll and Bute Local Plan, and there are no other material considerations of sufficient weight, which would warrant anything other than the application being refused.

## Appendix 2 – Statutory and other Consultee Comments

### Other Consultees:

- **Argyll and Bute Council – Conservation Officer 30<sup>th</sup> March 2012**

**From:** Robertson, Lynda  
**Sent:** 30 March 2012 10:54  
**To:** Stephen, Judith  
**Cc:** Bain, Peter  
**Subject:** RE: 12 00342 pp planning applciation

Hi Judith

This building is within a conservation area and in an impressive row of similarly nice villas of the same period and style. Removal of this chimney stack from the building in question would be detrimental to the special interest of the building and the character and appearance of the conservation area. Aesthetically chimneys are as fundamental to the design of a building as windows, doors, fences, boundary walls and any decorative detailing. Technically chimneys are also fundamental to the design of a building, forming an important part of a building's ventilation system. Blocking up chimneys can lead to poor air quality and damp problems.

The costs to erect scaffold, clear and dispose of the damaged chimney stack, repair and re-slate the surrounding area is unlikely to be vastly different to the costs involved in the erection of a scaffold to carry out any repairs that might be required. If repairs are required, I recommend that the chimney is repaired on a like for like basis with the original, and in a way that is sympathetic to the fabric and appearance of the building. A roofer skilled in traditional slating and masonry work should be sought.

This proposal is contrary to policy LP ENV 15 (and therefore Policy LP ENV 13(b)). Equally SHEP's managing change guide guidance notes states:

*“Chimneys*

*4.13 Historic chimneys can make an important contribution to the character of a roof and should be retained. Where repair is required, this should respect the original form and materials. If the structural stability of the chimney is unsound, like for like reconstruction should be encouraged.”*

<http://www.historic-scotland.gov.uk/roofs.pdf> :

Chimney stacks are integral to the design of a building, to remove them will not “preserve the building its setting, and any features of special architectural interest”. The loss of historic features integral to these types of building will impact negatively on the character and appearance of the conservation area.

For the above reasons I would recommend the refusal of this application.

The following short advice notes will be helpful:

<http://www.historic-scotland.gov.uk/informguide-chimneys.pdf>

<http://www.nfrc.co.uk/docs/initiatives/inform-roofingleadwork.pdf>

<http://www.historic-scotland.gov.uk/informguide-limeandcement.pdf>

Kind regards

Lynda

Built Heritage Conservation Officer  
Tel: 01546 604277

Argyll & Bute Council  
Development and Infrastructure Services  
1A Manse brae  
Lochgilphead  
PA31 8RN

<http://www.argyll-bute.gov.uk/>

- **Tarbert & Skipness Community Council – 19<sup>th</sup> March 2012**

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**MacDonald, Rory**

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**From:** maki, planning [planning.maki@argyll-bute.gov.uk]  
**Sent:** 19 March 2012 08:51  
**To:** MacDonald, Rory; MacDonald, Katherine  
**Subject:** FW: Ref 12/00342/PP Victoria Bank Pier Road Tarbert  
**Attachments:** Pier\_Road\_B.jpg; Big\_Brae\_1.jpg

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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**From:** [jennycarlile2@aol.com](mailto:jennycarlile2@aol.com)[SMTP:JENNYCARLILE2@AOL.COM]  
**Sent:** Monday, March 19, 2012 8:49:00 AM  
**To:** maki, planning  
**Cc:** [bmearnstarbert@googlemail.com](mailto:bmearnstarbert@googlemail.com); [peterstarbertharbour@btconnect.com](mailto:peterstarbertharbour@btconnect.com);  
[ianmacintyre-0066@tiscali.co.uk](mailto:ianmacintyre-0066@tiscali.co.uk)  
**Subject:** Ref 12/00342/PP Victoria Bank Pier Road Tarbert  
**Auto forwarded by a Rule**

Good morning  
Here are the comments from Tarbert and Skipness Community Council regarding the proposal to take down the chimney stack.

I attach two photos which help to explain our conclusions.

These images show that, on both sides of the (listed) Columba Hotel, there are at least 8 villas that have the same characteristics as the building in question. These are symmetrical 3-bay wide houses with a central front door. They all have hipped roofs, with chimney stacks on each side - all of which still remain.

The villas which are spaced out along the road set the character for this part of the conservation area (see attachment Pier Road B), even though they are interspersed by an equally symmetrical and intact terrace of smaller villas and the Columba. Their scale, massing and detailing are all consistent. These villas not only provide cohesion to Pier Road but also present a regular rhythm along the foreshore.

The special character of this part of the conservation area is all the more marked because just along the road the character is quite different. The villas that are informally set around the foot of the castle and up Big Brae are still symmetrical, but are only one and a half storeys high, with dormer windows that are sometimes highly decorative (see attachment Big Brae 1). The transition between these two areas occurs at the ferry pier where there are villas of both types.

So, while we are sympathetic to anyone who has a chimney in need of repair, we suggest that consent to demolish a chimney stack be refused in this case because of its impact on the character and appearance of the conservation area.

Regards  
Jenny Carlile





