

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

12/0017/LRB

**REFUSAL OF PLANNING PERMISSION FOR THE
DEMOLITION OF A DETACHED STORE AND
ERECTION OF AN EXTENSION TO AN EXISTING
COMMERCIAL GARAGE**

GARAGE, TOBERMORY, ISLE OF MULL

**PLANNING PERMISSION REFERENCE NUMBER
12/01227/PP**

18 DECEMBER 2012

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is John MacKay('the appellant').

Planning Permission Reference Number 12/01227/PP for the demolition of a detached store and the erection of an extension to an existing commercial garage at the Garage, Tobermory, Isle of Mull('the appeal site') was refused under delegated powers on 21.09.2012.

The planning decision has been challenged and is subject of review by the Local Review Body.

DESCRIPTION OF SITE

The site sits in a set-back position adjacent to a public car park. This area accommodates retail businesses, the distillery and visitor centre and pub all overlooking the car-park with the addition in recent years of The Tobermory Harbour Association Headquarters building being built at the south east of the car park beside a large slipway which serves Tobermory Harbour. To the north west of the garage is the Tobermory Distillery and visitor centre and to the south east is a pub. The public car park is to the north east opposite the garage whilst a steep scrub bank rises up some distance to the rear (south west). These buildings are quite hemmed in with limited space for expansion. The public car park is the main parking area for Tobermory in conjunction with a parking strip which runs along the Main Street.

The site lies within the Tobermory Conservation Area as per the adopted Local Plan. Additionally the site lies within the allocated Main Town Centre and the Tobermory Town Centre and Bay Area for Action (AFA) (reference 6/1).

SITE HISTORY

98/01055/DET

Erection of new structural frame with cladding over existing, granted on 29th of September 1999.

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 the proposed development requires the provision of car parking spaces to serve the additional work space which would intensify the overall commercial activity of the garage business.
- Whether the proposal to use the parking spaces on the adjacent public carpark is an acceptable arrangement for the proposed development.

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.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

It is not considered that any additional information is required in light of the appellant's submission. 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 small-scale, has no complex or challenging issues and has not been the subject of any public representation, it is not considered that a Hearing is required.

COMMENT ON APPELLANTS' SUBMISSION

The appellant contends that the Roads Engineer has made his assessment as if the proposed development was a new building rather than an extension to an existing building

Comment: The Roads Engineer assesses all proposed developments against the same criteria which is contained within the Local Plan and Planning Advice Note (PAN) 75 which recommends the use of national minimum parking standards for new developments. In order to calculate any additional parking spaces that may be required by the proposed development the Roads Engineer has assessed the existing parking provisions and has found them to be insufficient. The proposed extension will intensify the overall commercial activity of the garage business as it is to be used for mechanical works on vehicles whereas it has previously been used as a store. Whilst it is unreasonable to retrospectively apply car parking standards to the existing garage operation, it is considered that it is reasonable to request 4 car parking spaces at the very least; plus employee parking; as per the provisions of adopted Local Plan policy LP TRAN 6 and the car parking standards outlined in Appendix C of the Local Plan.

The appellant contends that the proposed additional working bay will reduce the time cars spend on the public car park.

Comment: The Council cannot ensure that this will be the case. This is not founded on any documented evidence. The additional bays will likely enable a quicker turnover of vehicles but will also increase the capacity of the business to accept custom, which would be just as likely to increase vehicles seeking adjacent parking between being dropped off and collected by customers.

The appellant contends that the Council's parking requirements have not been applied consistently to surrounding commercial premises

Comment: On investigation of Council records, the following planning permissions have been granted by the Council and the Roads Engineers recommendation is given for your information:

02/01726/DET

Environmental Improvements: Boat Park, Slipway, Landing Stage and Enclosed Storage Compound, and south of Ledaig Lodge, Area Roads Engineer raised no objections and no conditions attached to grant of permission, planning permission issued 18.11.2002.

06/00833/DET

Erection of Showers, Toilets, Visitors Centre, Offices and Extension to Pontoons, Boat Park, Area Roads Engineer raised no objections and recommended no conditions, Additional parking was not part of the proposal and roads were satisfied that there would be no effect on the public highway. Roads also passed the comment that proposals were being prepared for charging to be implemented in the Ledaig car par, planning permission granted 13.06.2006.

06/01002/DET

Erection of interactive police information point, Car park, Ledaig, Area Roads Engineer did not provide a response, planning permission granted 15.06.2006.

11/02388/PP

Erection of extension, Tobermory Harbour Association Office, Area Roads Engineer not required to be consulted, planning permission granted 10.02.2012.

12/01496/PP

Siting of mobile trailer and formation of hardstanding (retrospective), Explore Mull, Area Roads Engineer consulted and no objections and no conditions requested, planning permission granted 12.10.2012.

Other commercial premises that the appellant has referred to in submissions are established businesses which would not have been assessed against current roads legislation and the Development Plan. The policies in the Council's Development Plan were adopted in August 2009 and therefore would not have been applicable to any planning applications prior to this date.

The appellant contends that the store that is proposed to be demolished was previously a shop and so the proposed extension would replace an existing commercial space rather than creating a new commercial space.

Comment: The building to be demolished is currently a storage area and has been in recent years to the knowledge of the Planning Service. The current use of the building does not fall within use class 1 (retail) of The Town and Country Planning (Use Classes) (Scotland) Order 1997 but is a Class 6 store.

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.

Whilst the development proposed would support the existing business expansion and provide a small but positive input on the local economy, it is not consistent with adopted Local Plan policy and it will have an adverse impact in terms of lack of service provision. The proposed development therefore does not accord with Policy LP ENV 1, LP BUS 1, LP TRAN 6 and Appendix C of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission. The proposal is not consistent with the requirements within AFA 6/1 to which proposals in this area should aspire to.

Taking account of the above, it is respectfully requested that the review be dismissed and the original refusal be upheld.

APPENDIX 1

Argyll and Bute Council
Development and Infrastructure

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: 12/01227/PP

Planning Hierarchy: Local Development

Applicant: Mr John MacKay

Proposal: Demolition of existing detached store and erection of extension to existing commercial garage

Site Address: Garage, Tobermory, Isle of Mull

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Demolition of existing store
 - Erection of extension to commercial garage
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be refused for the reasons attached to this assessment.

(C) HISTORY:

98/01055/DET – Erection of new structural frame with cladding over existing, granted on 29th of September 1999.

(D) CONSULTATIONS:

Area Roads Manager

Report dated 24.07.12, Recommendation of refusal on the grounds that the existing building has insufficient parking. 4 spaces are required per work bay and one space is required per 2 employees. A minimum of 18 parking spaces is required to be provided within the site boundaries for the entire garage operation. An agreement would be required to be reached with Roads regarding the number of additional spaces required for car sales.

Environmental Health

Email dated 21/09/12

No objections to the application.

(E) PUBLICITY:

The proposal has been advertised in terms of conservation Advert procedures, closing date 23rd of August 2012.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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

- | | | |
|-----|--------------------------------------------|-----------|
| (i) | Is a Section 75 agreement required: | No |
|-----|--------------------------------------------|-----------|
-

- | | | |
|-----|----------------------------------------------------------------------|-----------|
| (I) | Has a Direction been issued by Scottish Ministers in terms of | No |
|-----|----------------------------------------------------------------------|-----------|

Regulation 30, 31 or 32:

(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 SI 1 – Sustainable Development

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment
LP ENV 14 – Development in Conservation Areas and Special Built Environment Areas
LP ENV 19 – Development Setting, Layout and Design
LP BUS 1 – Business and Industry Proposals in Existing Settlements
LP TRAN 4 – New and Existing Public Roads and Private Access Regimes
LP TRAN 6 – Vehicle Parking Provision
Appendix A – Sustainable Siting and Design Principles
Appendix C – Access and Parking Standards

(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
Scottish Planning Policy, SPP, 2010
Planning Advice Note, PAN, 75 – Planning for Transport

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing:

No

(P) Assessment and summary of determining issues and material considerations

This is a proposal for the demolition of an existing detached store and erection of an extension to an existing commercial garage at MacKay's Garage, Tobermory, Isle of Mull.

The site lies within the Tobermory Conservation Area as per the adopted Local Plan. Additionally the site lies within the allocated Main Town Centre and the Tobermory Town Centre and Bay Area for Action (AFA) (reference 6/1). The proposal will allow for the extension of an existing general garage operation offering servicing and maintenance works, fuel and car sales. The extension itself will provide an additional workshop for general mechanical works. The site sits in a set-back position adjacent a large Argyll and Bute Council public car park. This area accommodates several retail businesses, the distillery and visitor centre and pub all overlooking the car-park with the addition in recent years of The Tobermory Harbour Association Headquarters building being built at the south east of the car park beside a large slipway which serves Tobermory Harbour. To the north west of the garage is the Tobermory Distillery and visitor centre and to the south east is a pub. The public car park is to the north east opposite the garage whilst a steep scrub bank rises up some distance to the rear (south west). These buildings are quite hemmed in with limited space for expansion. This area is the main car parking area for the town in conjunction with a parking strip which runs along the Main Street.

STRAT DC 1 of the approved Structure Plan gives encouragement to small scale development serving a local community of interest on appropriate infill, rounding-off and redevelopment sites. An existing detached store at the site presents an opportunity for redevelopment which would provide a service to the local community and so the principle of the proposed development accords with the provisions of STRAT DC 1 of the Structure Plan.

It is proposed to demolish a small existing pitched roof store to the south east of the main garage workshop building and erect an extension to the existing workshop. This store is fairly small and rectangular in form with a pitched roof. The extension will sit at the same height as the garage and will be slightly set back in a recessive manner measuring 8.5m x 10m – the existing garage unit measures 12.5m x 13.5m. The extension represents a general floor area increase of just less than 50%. The walls will be finished in corrugated metal cladding painted dark blue to match the existing upper cladding of the existing garage and the roof will be finished in a dark blue PVC coated corrugated metal sheet. The elevation facing onto the public car-park will incorporate a large rolling steel door to match the existing garage. Overall the proposed extension is of a suitable scale and mass so as not to dominate the existing structure. The increase in footprint is considered appropriate given the limited space available but further increases will be difficult to achieve without adversely impacting on surrounding buildings including the pub to the south east and the distillery to the north west.

The applicant intends to extend an existing garage repair facility within the Settlement Zone of Tobermory. Therefore policy BUS 1 of the adopted Local Plan is applicable.

This policy is generally supportive of the principle of extending existing industrial and business/office enterprises in this development control zone subject to specific criteria. Criterion (E) of this policy requires proposals for new or extended facilities to comply with the technical standards in terms of:

- Parking,
- Traffic circulation,
- Vehicular access,
- Servicing, and
- Pedestrian access.

The Area Roads Engineer has been consulted and has recommended that this proposed development be refused on the grounds that the existing business has insufficient parking. The proposed extension should provide 4 spaces with one space per employee. No details have been provided on how jobs will be created by this extension or how many people will work within the extended workshop. Overall the garage operation should provide a minimum of 18 parking spaces to provide for the workshops and employees. It is understood that the garage operation currently spills out into the public car park whereas it should be self contained. The use of the public car park for such a purpose is unauthorised. Further spaces for car sales will also need to be provided but the exact provision will have to be agreed directly with the Area Roads Engineer. It is considered unreasonable to retrospectively apply car parking standards to the entire existing garage operation therefore the Planning Service does not consider it appropriate to request 18 spaces. Therefore, given that the application is for an extension it is considered reasonable to request 4 spaces plus employee parking to be provided – this request is consistent with the provisions of adopted Local Plan policy LP TRAN 6 and the car parking standards outlined in Appendix C. The proposal does not intend to supply any car parking spaces and therefore the application is contrary to LP BUS 1, LP TRAN 6 and Appendix C of the adopted Local Plan.

The site lies within designated Area for Action (AFA) ref no 6/1 within which the application site has been identified as being an area to consider:

- The potential extension of marine facilities,
- The potential extension of harbour interests,
- Traffic management,
- Access and parking issues, and
- To consider town centre and waterfront enhancement potential.

The proposed development is a redevelopment proposal which would provide further accommodation to an existing commercial business. There is an issue with regards to the lack of parking spaces for the proposed development. The proposal therefore does not accord with the guidance contained within the Schedule for AFA 6/1.

No objections or concerns have been raised by interested third parties. The Council's Environmental Health Service raised no objection to the application. There were no other consultees to this proposal.

The development proposed is not consistent with adopted Local Plan policy and it will have an adverse impact in terms of lack of service provision. The proposed development therefore does not accord with Policy LP ENV 1, LP BUS 1, LP TRAN 6 and Appendix C of the adopted Local Plan which sets out a general basis for consideration of all applications for planning permission. The proposal is not

consistent with the requirements within AFA 6/1 to which proposals in this area should aspire to.

(Q) Is the proposal consistent with the Development Plan: No

(R) Reasons why planning permission should be refused

1. The proposed development does not provide any additional car-parking spaces to serve the additional work space which will intensify the overall commercial activity of the garage business. The Area Roads Engineer has been consulted and has recommended refusal on the grounds that parking provision is insufficient and so the proposed development is therefore contrary to LP BUS 1, LP TRAN 6 and Appendix C of the Local Plan which sets out the Council's parking requirements and Planning Advice Note (PAN) 75 which recommends the use of national minimum parking standards for new developments. The provision of 4 spaces for the additional work station is required plus 0.5 spaces per employee. The applicant has not provided any parking facilities within this application. The applicant is reliant on the adjacent public car park and so the development would result in an unacceptable off-site parking consequence and encourage further unauthorised use of the public car park.
2. The site lies within designated Area for Action (AFA) ref no 6/1 within which the application site has been identified as being an area to consider:
 - The potential extension of marine facilities,
 - The potential extension of harbour interests,
 - Traffic management,
 - Access and parking issues, and
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The proposed development is a redevelopment proposal which would provide further accommodation to an existing commercial business. There is an issue with regards to the lack of parking spaces for the proposed development. The proposal therefore does not accord with the guidance contained within the Schedule for AFA 6/1.

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

N/A – the proposal is being recommended for refusal due to the reasons outlined within Sections (P) and (R) above.

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Lesley Cuthbertson

Date: 19.09.12

Reviewing Officer: David Love

Date: 21/09/12

**Angus Gilmour
Head of Planning**

GROUND OF REFUSAL FOR PLANNING APPLICATION REF 12/01227/PP

1. The proposed development does not provide any additional car-parking spaces to serve the additional work space which will intensify the overall commercial activity of the garage business. The Area Roads Engineer has been consulted and has recommended refusal on the grounds that parking provision is insufficient and so the proposed development is therefore contrary to LP BUS 1, LP TRAN 6 and Appendix C of the Local Plan which sets out the Council's parking requirements and Planning Advice Note (PAN) 75 which recommends the use of national minimum parking standards for new developments. The provision of 4 spaces for the additional work station is required plus 0.5 spaces per employee. The applicant has not provided any parking facilities within this application. The applicant is reliant on the adjacent public car park and so the development would result in an unacceptable off-site parking consequence and encourage further unauthorised use of the public car park.
2. The site lies within designated Area for Action (AFA) ref no 6/1 within which the application site has been identified as being an area to consider:
 - The potential extension of marine facilities,
 - The potential extension of harbour interests,
 - Traffic management,
 - Access and parking issues, and
 - To consider town centre and waterfront enhancement potential.

The proposed development is a redevelopment proposal which would provide further accommodation to an existing commercial business. There is an issue with regards to the lack of parking spaces for the proposed development. The proposal therefore does not accord with the guidance contained within the Schedule for AFA 6/1.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application 12/01227/PP

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B) Has the application been the subject of any non-material amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C) The reason why planning permission has been refused.

1. The proposed development does not provide any additional car-parking spaces to serve the additional work space which will intensify the overall commercial activity of the garage business. The Area Roads Engineer has been consulted and has recommended refusal on the grounds that parking provision is insufficient and so the proposed development is therefore contrary to LP BUS 1, LP TRAN 6 and Appendix C of the Local Plan which sets out the Council's parking requirements and Planning Advice Note (PAN) 75 which recommends the use of national minimum parking standards for new developments. The provision of 4 spaces for the additional work station is required plus 0.5 spaces per employee. The applicant has not provided any parking facilities within this application. The applicant is reliant on the adjacent public car park and so the development would result in an unacceptable off-site parking consequence and encourage further unauthorised use of the public car park.
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The proposed development is a redevelopment proposal which would provide further accommodation to an existing commercial business. There is an issue with regards to the lack of parking spaces for the proposed development. The proposal therefore does not accord with the guidance contained within the Schedule for AFA 6/1.