

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: 12/02412/PP

Planning Hierarchy: Local

Applicant: Cowal Care Services Ltd

Proposal: Change of Use of Flatted Dwelling to Office (retrospective).

Site Address: Greenwood, Flat 5, 231 Alexandra Parade, Kirn

DECISION ROUTE

(i) Local Government (Scotland) Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

Change of use of a flatted dwellinghouse to an office (class 4)

(ii) Other specified operations

(B) RECOMMENDATION:

It is recommended that Planning Permission be granted subject to the conditions reasons and advisory notes set out below.

(C) HISTORY:

Planning permission was granted in 1996 for the erection of a pitched roof over flat 4 at the rear of Greenwood (96/00750/DET). The villa was evidently in use as 6 flats at that time.

A complaint was received in 2007 (07/00066/ENFOTH) that flat 5 was being used for office purposes but at that time it was assessed that the principal use of the flat remained residential as only one room was then devoted to office use and the flat was still occupied.

(D) CONSULTATIONS:

Public Protection (Response dated 15.02.13.) No objections.
Roads (Response dated 29.05.13) – No objections

(E) PUBLICITY:

The proposal was advertised in the Dunoon Observer 8 February 2013 (Expiry date 1.03.13).

(F) REPRESENTATIONS:

6 letters of representation have been received.

Mrs M McCormick, Flat 6, Queens View, 9B Marine Parade objects on grounds of traffic impact on Alexandra Parade.

Comment: The proposed development is not assessed to be of a scale likely to have a material impact on traffic flows on Alexandra Parade or to pedestrian or vehicular safety.

Mr Strongman and Ms Hart (now Mrs Strongman) residents of Flat 4 object to the proposed development. The objectors are concerned about the hours of operation and general disturbance and levels of intrusion resulting from the need for Community based staff to visit the property. The objectors state that Cowal Care Ltd staff visit the property seven days a week from early morning until late at night in order to hand in time sheets and deposit pool car keys in the key safe. Staff sometimes drive up the shared driveway in order to do this. The objectors state that regular staff meetings take place at the property and when these meetings take place staff has stood outside the windows of flatted properties in order to smoke and talk.

When client family members, District Nurses and interviewees visit Greenwood they often cannot find Cowal Care Ltd and find it necessary to knock on doors to ask flat residents for direction. On some occasions visitors have walked straight into flats by mistake. The objectors state that the levels of activity are injurious to residential amenity and privacy and should not be permitted.

The objectors also query if the applicant has maintained the requisite buildings insurance cover since the office use is unauthorised.

Comment: This objection cannot easily be reconciled with the operational statement lodged by the applicant. The objectors paint a picture of a relatively intensive operation and activities and hours of operation likely to cause disturbance and harm to the privacy and amenity of neighbouring residents.

The concerns expressed about possible insurance cover problems for the building are understandable as the building appears to be unfactored and each individual owner is responsible for maintaining buildings insurance. This is considered to be civil matter and not a material planning consideration. If the office use is not compatible with the title deeds of the property or has the potential to compromise arrangements for building insurance cover, the objectors should pursue available legal remedies.

Mr G Harran resident of Flat 6 Greenwood objects to the application on very similar grounds to Mr and Mrs Strongman. Mr Harran shares the common close with Flat 5 and is disturbed by the levels of activity which he also states span from very early morning until late at night.

The objector is concerned that Cowal Care Ltd visitors do not exercise sufficient consideration and can leave the building insecure and also take up residents' car parking.

Martin Goldie and Janice Goldie residents of Flat 1 Greenwood object on similar grounds. In essence the hours of operation, levels of visitors and activity cause unwanted disturbance and inconvenience to residents.

Ms L MacFarlane resident of Lyric Bank Cottage and owner of Flat 2 Greenwood objects to the application on the following grounds:

The objector is concerned about the increasingly number of visitors to the common close serving flats 2, 5 and 6. Although the office has been established for five years the business has grown over the period and the level of disturbance to neighbours has intensified.

The owners are unable to secure the common close door because of the large number of visitors to Flat 5. Cowal Care Ltd staff also congregates outside the building to smoke and leave discarded cigarettes to litter the ground. Staff visiting the property can look into the ground floor properties and also regularly drive into the rear parking court causing inconvenience to residents. The objector disputes the operational statement and alleges that hours of operation span from around 6.00am until 10.00pm and the disturbance around the business due to staff and visitors threatens the peace and amenity of residents.

Mr MacDonald owner of Flat 3 Greenwood objects to the application because of high numbers of visitors to Greenwood including staff and other individuals.

Comment: All the objections submitted have a common theme. Residents are concerned about the hours of operation and the numbers of visitors and strangers introduced into an otherwise settled residential environment. The owners and residents of the flats that share the common close with Flat 5 appear to be particularly aggravated by the use of the flat as an office because of disturbance and occasional intrusion caused mainly by staff visiting at unusual hours.

(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 eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: Yes**

Applicant's supporting written submissions and supplementary statement received on 18 March 2013 describes the business function at the application site and has confirmed that the flat has now been in business use for five years.

An operational statement indicates the premises are normally used during business hours 8.30am to 5.00pm, Monday to Friday with very occasional weekend use. The office is used for central administrative purposes and would normally only be staffed by 2 persons full time and one part time worker. Clients do not need to visit the office and deliveries are directed to the Director's home address.

The operational statement also refers to staff meetings every few months. Staff also visits the premises to deposit/collect pool car keys and complete a vehicle log both of which are located on the upper landing which is accessed via a main door also serving Flats 2 and 6.

The applicant advises that visiting staff are instructed to park on the street and observe a number of precautions to minimise disturbance to nearby residents. The applicant maintains that the use of the flat as an office is low key and unlikely to impact negatively upon neighbours.

In response to the objections submitted by the owners and residents of the adjoining flats, the applicant has submitted a supplementary statement. The applicant for the most part disputes the factual basis of the objections and denies that staff or visitors to Cowal Care Ltd use the private lane or take up residents' car parking. The applicant believes the majority of objections regarding levels of activity and disturbance are exaggerated and misleading but offers up a number of possible solutions to mitigate the risk of disturbance. The applicant proposes to relocate the pool cars and key collection to another (unstated) location, and suggests that planning conditions could be used to restrict use of the premises for staff meetings. The applicant considers that such conditions regulating the development would assuage the concerns of the objectors and would be enforceable.

(H) PLANNING OBLIGATIONS

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

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- (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

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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

Argyll and Bute Local Plan 2009

Policy LP ENV 1: Development Impact on the General Environment

Policy LP BUS 1: Business and Industry Proposals in Existing Settlements

Policy LP LP TRAN 6: Vehicle Parking Provision

- (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.**

Representations.

(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 (PAN41 or other): No

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

The application relates to an upper floor flat at 231 Alexandra Parade, Kilm, also known as 'Greenwood', which is a once modest villa now converted and extended to form 6 individual flatted properties. Flat 5 is one of two flats in the converted first floor and is accessed from a close entrance on the southern elevation which is shared with two other flats. There is vehicular access from Alexandra Parade to an informal parking area at the rear.

The applicant is a company engaged in the provision of Home Care and support services. The business appears to support retained staff levels of around 20 persons. The company now seeks retrospective planning permission to use the flat as an office in order to regularise a breach of planning control.

The siting of a commercial or office use is not usually held to be incompatible with a residential environment. In many cases the two uses can sit alongside each other without problems arising. The wider locality is not overwhelmingly residential. The property immediately to the South is a Nursing Home and shops, cafe and former garden centre are also located nearby. The character of the site and grounds is however residential, settled and peaceful. It is assessed that neighbouring residents will be

relatively sensitive to and concerned by any change of use likely to result in a change of character.

Local Plan Policy LP BUS 1 offers general support for new business/office enterprises within the settlement zone providing various criteria are met. In this case, the introduction of visitors, with associated upturn in activity levels and general disturbance associated with the office use in an upper floor flat that shares a communal access with two other flats, has caused a problem resulting in complaints to the Planning Authority and six objections to the current application. However, it is considered that an office use should be capable of operating within a residential area, and that the concerns expressed can be addressed by granting a temporary planning permission with restrictive conditions.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why Planning Permission should be granted

The proposal accords with Policy LP BUS 1 of the 'Argyll and Bute Local Plan' 2009 and there are no material considerations, including those matters raised by persons making representations, which would justify refusal of planning permission.

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

Not applicable.

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

Author of Report: David Eaglesham **Date:** 13 May 2013

Reviewing Officer: Richard Kerr **Date:** 30 May 2013

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF: 12/02412/PP

1. The development shall be implemented in accordance with the approved drawing, Site Plan (1 of 16), Floorplan (2 of 16), and Photographs (3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 of 16) unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. This permission shall cease on or before 30 June 2015 unless, on application, a permission has been granted for the continuance of the temporarily permitted use beyond that date .

Reason: This permission being a temporary use only and in order to enable the Planning Authority the opportunity to assess the likely effect of the use on the surrounding area and in order to allow the premises to revert to residential use on the expiry of the permission..

3. The permission hereby granted shall enure for the benefit of the applicant only.

Reason: To allow the Council as Planning Authority to control any future use of the land, upon its vacation by the named person, in order to protect the amenities of the area.

4. The premises shall only be used as administrative offices for the applicant's business and shall not be used for the collection or return of pool cars or their keys or for meetings of operational staff.

Reason: In order to safeguard the amenity of the users and occupiers of the property within the surrounding area.

5. The use to which this consent relates shall not take place except on Mondays to Fridays between the hours 08.00 and 17.00.

Reason: In order to safeguard the amenity of the users and occupiers of the property within the surrounding area.

6. Before 31 July 2013, a scheme of directional signage for the business shall be submitted for the approval of the planning authority and such signage as may be approved shall be displayed no later than 31 August 2013.

Reason: In order to direct visitors to the premises without unduly intruding on the amenity of the users and occupiers of neighbouring properties.

APPENDIX– RELATIVE TO APPLICATION NUMBER: 12/02412/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application relates to an upper floor, two bedroomed flat (Flat 5) at 231 Alexandra Parade, Kirn, also known as 'Greenwood'. Greenwood is a once modest villa which has been converted and extended to form 6 individual flatbed properties. The building is served by a private vehicular access from Alexandra Parade and benefits from communal landscaped gardens to the front. A communal car parking court and ageing and derelict outbuildings are sited to the rear. Access is taken via a gravel vehicular driveway that runs up the southern boundary of the property. Some properties benefit from main door access while other properties are accessed via a common close arrangement. The application property shares an access and common close entry with Flats 2 and 6 which are situated on the ground floor.

It is proposed to use the flat as an office under Class 4 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. The applicant is a private limited company engaged in the provision of Home Care and support services. The business appears to support retained staff levels of around 20 persons. It is understood that Cowal Care Ltd is contracted by private clients and Argyll and Bute Council to provide support to clients in need of home care assistance. On 21 February the company advertised for an additional member of staff to provide care in the community. The advert invited applications from candidates to undertake personal care and domestic duties and maintain client records with sleepover cover as and when required.

The flat has been in use as an office for some time without consent. Planning records confirm that a complaint was received some years ago but Flat 5 appeared at the time to remain mainly in residential use and the case was not pursued further. The applicant states that the office is not generally open to the visiting public but offers administrative support to community based staff. This office use falls under Class 4 and not Class 2 of the Town and Country Planning (Use Classes) (Scotland) Order 1997. Community based staff appear to visit the office to pick up mail, attend briefings, submit timesheets, complete vehicle logs and return pool car keys. The applicant advises that most training is presently conducted at Dunoon Community Hospital.

The siting of a commercial or office use is not usually held to be incompatible with a residential environment. In many cases the two uses can sit alongside each other without problems arising. The wider locality is not overwhelmingly residential. The property immediately to the South is a Nursing Home and shops, cafe and former garden centre are also located nearby. Greenwood appears originally to have been a villa that has been converted to flats. The character of the site and grounds is residential, settled and peaceful. It is assessed that neighbouring residents will be relatively sensitive to and concerned by any change of use likely to result in a change of character.

In this case, the introduction of visitors, with associated upturn activity levels and general disturbance associated with the office use in an upper floor flat that shares a communal access with two other flats, has resulted in complaints to the Planning Authority and six objections to the current application.

While some limited disturbance may be tolerable within normal business hours, several objectors have stated that the applicant's employees have visited the property quite late

in the evening. The objectors' comments are rebutted by the operational statement submitted by the applicant but, although the office space is only used during business hours, the applicant has acknowledged that Cowal Care Staff visit clients' homes throughout the day and evening and also offer a "tuck-in" service which is likely to be quite late. The company's most recent advert states that some sleepover cover may also be offered. As the provision of personal care services cannot reasonably be restricted to conventional hours and if community based staff are required to visit the office at the beginning or end of a shift to collect or return a pool car or hand in a time sheet, this will likely have an impact on neighbours.

It is very difficult to distinguish the Cowal Care premises from the other flats. There is currently no signposting and, given the layout of the flatted development, some confusion is to be expected which may have exacerbated the intrusion experienced by some residents. This could be resolved by the use of appropriate signage.

The applicant has mooted a number of possible modifications to existing working practices to address the objectors' concerns. However, he has failed to explain fully where the pool cars could be parked or how the administrative and staff management aspects of the business can be dealt with without the requirement of members of staff to visit Greenwood. As a Home Care business of this type normally operates outside normal business hours, there is a question as to the extent that this business could comply with conditions restricting the manner in which the use is operated in the interests of residential amenity. Although conditions regulating numbers of visitors or hours of operation may present some practical difficulties involved to detect non-compliance, it is likely that neighbouring residents will alert the any infringement to the Council. A temporary permission restricted to the applicant's business only is warranted along with conditions to control the manner in which the use operates, so that experience can determine whether the business can be conducted in a manner compliant with conditions, and this will afford the Council the opportunity of re-visiting the situation in the light of that experience.

B. Conclusion.

Local Plan Policy LP BUS1 offers general support for new business/office enterprises within the settlement boundary providing various criteria are met. In this case it is assessed that the use currently erodes residential character and affects the Greenwood residents adversely, by virtue of the hours of operation and number of visits. The use as it is operating at the moment is assessed to fail criteria C of the Policy LP BUS1 and accordingly can only be supported subject to conditions restricting the intensity of use and hours of operation. In addition, a temporary consent will allow the activity to be monitored and, if necessary, terminated should revised working practices not alleviate residents' concerns.