

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

13/0011/LRB

**REMOVAL OF CONDITIONS 1 AND 2 RELATING TO
PLANNING PERMISSION FOR THE DEMOLITION OF
AN EXTENSION AND ERECTION OF A
REPLACEMENT EXTENSION**

**NO 2 ARGYLL TERRACE, TOBERMORY, ISLE OF
MULL**

**PLANNING PERMISSION REFERENCE NUMBER
13/00678/PP**

25th July 2013

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council (“the Council”). The appellant is Tony and Alison Spillane (“the appellant”).

Planning application 13/00678/PP which proposed the demolition of an extension and erection of a replacement extension at No 2 Argyll Terrace, Tobermory, Isle of Mull (“the appeal site”) was approved under delegated powers on 7th June 2013. This appeal relates to the removal of conditions 1 and 2 of the permission.

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

DESCRIPTION OF SITE

The property is situated within Tobermory Conservation Area and forms part of a terrace adjacent to Tobermory Parish Church which is a Category C(s) Listed Building. The property lies in the upper part of the Conservation Area where there is a classic grid pattern commanding spectacular views over the sheltered bay. Each building within the terrace has a long narrow area of garden ground to the rear which sits at a higher level. The terrace buildings have originally been set down into the land resulting in the rear gardens being at a higher level to the buildings. Many of the buildings are served by small outbuildings/bothys to the very rear of the rear gardens, which is then bounded by a lane. The existing development within this area is characterised by a mixture of houses, b&b’s, guesthouses and self catering units

SITE HISTORY

No history relevant to this appeal.

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 and determination shall be made in accordance with the development plan unless material considerations indicate otherwise. This is the test for this planning application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether the material considerations asserted by the appellant are sufficient to warrant the removal of conditions 1 and 2 of planning permission ref 13/00678/PP which were attached in the interests of preserving the character of a building within a designated Conservation Area.

The Report of Handling (Appendix 1) sets out Planning Services assessment of the planning application in terms of policy within the current adopted development plan 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 within Appendix 1. As such it is considered that the Council has all the information required to determine this particular planning application. Given the above and that the proposal is small scale in nature, constitutes a Local Development, 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 APPELLANT'S SUBMISSION

1. The appellant has submitted a Design Statement in support of their request for a Local Review Body. This Design Statement is dated 20th May 2013 and was submitted in support of the planning application ref 13/00678/PP. This Design Statement was taken into consideration in the determination of this planning application. The Design Statement highlights a number of examples of various developments within, and on the periphery of, the Tobermory Conservation Area in similar finishes to that of the proposed development. It was considered that given that the extension is contained at the rear of the terrace in a very well hidden spot, the proposed timber finish could be accepted on balance. The proposed materials however should complement the existing property and the wider Conservation Area environment. It should also be noted that there is an existing listed building adjacent the terrace that should be considered in the assessment of this appeal.

It was considered that the appliance of vertical timber cladding would only be acceptable if it were to be finished in white stain in order to visually connect the proposed extension with the existing building and thus complimenting the building and wider terrace. Without this appropriate finish the extension may appear incongruous and out of scale with the existing building and wider environment. Further to this it was also considered that the roof of the proposed extension should be finished in blue grey natural slate in order to blend into the Conservation Area and again complement the existing terrace. The roof is the most visible part of the extension from outwith the site boundary and all rear projections at the rear of the terrace comprise a slate roof finish. For this reason it was considered that a profiled sheet roof would not be consistent with its surroundings. Although the use of modern materials is generally supported by planning policy it should be noted that this is only in places where it is considered to complement the existing built environment. Although there are examples of similar materials being used elsewhere each tends to complement the existing building. Further to this each proposal is assessed against its own merits with due regard to the adopted development plan and all other material considerations. It was considered that the appliance of untreated vertical timber cladding and profiled sheeting would neither preserve nor enhance the character or appearance of the designated Conservation Area as is required by STRAT DC

9 of the Structure Plan, policies LP ENV 13(a) and LP ENV 14 of the Local Plan and Scottish Historical Environmental Policy.

The existing extension that is to be demolished compliments the existing building and the terrace and its replacement with an extension finished in materials of a poorer quality would be insensitive and would make the proposed replacement extension stand out. The preferred finishing materials, i.e. untreated vertical timber larch and metal profiled sheeting, pay no regard to the buildings original fabric and would in no way provide the building with any enhancement.

Conservations Areas form an important physical record of the architectural development and historical 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 are afforded protection at a national level through Scottish Historical Environmental Policy.

Where intervention is necessary to preserve buildings, either by way of internal alterations, partial demolition, or by the addition of new work, it is important it should be carried out in a contemporary manner that does not distort history. The solution should not challenge the authenticity and integrity of the original building, or its neighbours within the wider setting of streets and open spaces. The emphasis should be on managing change rather than prevention of development to allow conservation areas to remain alive and prosperous whilst ensuring that any new development accords with the areas' special architectural and visual qualities. New development which is well designed, not as an individual entity, but as part of the established character of an area and contributes positively to its enhancement should be encouraged.

CONCLUSION

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

In conclusion the proposal to erect an extension clad in untreated vertical timber larch with a metal profile sheet roof would neither preserve nor enhance the character or appearance of the designated Conservation Area. This would result in a mismatch of materials when viewing the building from the rear. The extension to be demolished adds to the buildings character and it is considered that a replacement extension should be of similar quality and appearance. The applicant has not provided any new information to justify the removal of conditions 1 and 2 of planning permission ref 13/00678/PP. The proposal is contrary to the existing adopted development plan and there are no material considerations of such weight that have been identified to justify the proposal. It is respectfully requested that the review be dismissed and the original grant of permission be upheld with all conditions previously imposed.

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: 13/00678/PP

Planning Hierarchy: Local Development

Applicant: Mr Tony and Alison Spillane

Proposal: Demolition of existing extension and erection of replacement extension

Site Address: No 2 Argyll Terrace, 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 extension
 - Erection of replacement extension
-

(B) RECOMMENDATION:

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

(C) HISTORY:

12/02570/PREAPP

Demolition of extension and erection of replacement extension, Advice issued 08.01.2013

(D) CONSULTATIONS:

Environmental Health

(E) PUBLICITY:

The proposal has been advertised in terms of Conservation Procedures, closing date 16.05.2013.

A Conservation Advert was displayed at the site on 02.05.2013 which expired on 23.05.2013.

(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:
Yes | |
| (iv) | A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |
-

(H) PLANNING OBLIGATIONS

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

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

(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 - Development in Conservation Areas and Special Built Environment Area

LP ENV 19 – Development Setting, Layout and Design

LP HOU 5 – House Extensions

Appendix A – Sustainable Siting and Design Principles

- (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)

SPP, Scottish Planning Policy, 2010

Scottish Historic Environmental Policy (SHEP) 2011

Historic Scotland (Managing Change in the Historic Environment – Extensions)

(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 extension and erection of a replacement extension at No 2 Argyll Terrace, Tobermory, Isle of Mull

The property is situated within Tobermory Conservation Area and forms part of a terrace adjacent to Tobermory Parish Church which is a Category C(s) Listed Building. The property lies in the upper part of the Conservation Area where there is a classic grid pattern commanding spectacular views over the sheltered bay. Each building within the terrace has a long narrow area of garden ground to the rear which

sits at a higher level. The terrace buildings have originally been set down into the land resulting in the rear gardens being at a higher level to the buildings. Many of the buildings are served by small outbuildings/bothy's to the very rear of the rear gardens, which is then bounded by a lane. The existing development within this area is characterised by a mixture of houses, b&b's, guesthouses and self catering units.

Argyll and Bute Structure Plan policy STRAT DC 9, Historic Environment and Development Control, requires 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. Local Plan policy LP ENV 14, Development in Conservation Areas and Special Built Environment Areas, sets out a presumption against development that does not preserve or enhance the character or appearance of a Conservation Area or its setting.

Scottish Historic Environmental Policy (SHEP) 2011 requires that the planning authority and any other authority concerned, including Scottish Ministers, to pay special attention to the desirability of preserving or enhancing the character and appearance of the area when exercising their powers under the planning legislation and under Part 1 of the Historic Buildings and Ancient Monuments Act 1953.

No 2 Argyll Terrace is 1¾ storey with a traditional pitched roof and wallhead dormers. There is an existing rear extension that will be demolished. This extension has a hipped roof set below the ridge of the main house with the eaves level consistent between house and extension. The existing extension is set down into the land with the rear garden and lane sitting at a higher level, giving very good containment to this part of the site. The first floor will be entirely demolished.

The proposed replacement extension will extend 4.7 metres in length compared to the existing 2.2 metres in length. The proposed extension will have a pitched roof to the same height as the existing extension roof. The new first floor overspans the existing ground floor extension and creates a covered external area supported on steel posts. It is proposed to finish the exterior walls of the extension in untreated vertical timber cladding. The roof will be clad in slate grey coloured corrugated metal roofing. It is considered that the proposed extension is suitable in terms of overall size and scale in that it would play a subordinate role on the original building. The proposed extension is reflective of the size and scale of the existing extension of which it is proposed to replace. The proposed extension will maintain balance on the rear facing elevation. The proposed finishing materials to be applied are not in keeping with the original building, but the Design Statement aims to justify the chosen design and finish. It highlights a number of examples of various developments within and on the periphery of the Tobermory Conservation Area in similar finishes. Given that the extension is contained at the rear of the house in a very well hidden spot, the proposed finishes can be accepted on balance. However it is considered that the appliance of vertical timber cladding will only be acceptable if it were to be finished in white stain in order to visually connect the proposed extension with the existing building. White stained or painted vertical timber cladding would be considered acceptable. Further, all rear projections in the row adjacent to the site comprise a slated roof finish. As such, it is considered that the roof (which is the most visible part of the extension from outwith the site boundary, must also have a natural slate roof finish to fit into the Conservation Area. With conditions, the proposed development will accord with the provisions of STRAT DC 9 of the Structure Plan and policies LP ENV 13(a) and LP ENV 14 of the Local Plan. The proposed development also accords with the Scottish Historical Environmental Policy (SHEP) 2011.

The proposal accords with Policies LP ENV 1, ENV19, HOU 5 and Appendix A of the adopted Argyll and Bute Local Plan 2009. There are no other material considerations, including issues raised by third parties, which are considered to have decisive weight that would warrant anything other than the application being determined positively in accordance with the provisions of the development plan.

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

(R) Reasons why planning permission should be granted

Subject to conditions, the proposed development is considered acceptable at this location without causing any unacceptable impact on the wider area and there are no infrastructural constraints which would preclude the proposed development at the site.

The proposal accords with Policy STRAT DC 1 and STRAT DC 9 of the adopted Argyll and Bute Structure Plan 2002, Policies LP ENV 1, ENV14, ENV 19 and HOU 5 of the adopted Argyll and Bute Local Plan 2009. There are no other material considerations, including issues raised by third parties, which are considered to have decisive weight that would warrant anything other than the application being determined positively in accordance with the provisions of the development plan.

(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: Lesley Cuthbertson Date: 04.06.2013

Reviewing Officer: Stephen Fair Date: 06/06/13

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 13/00678/PP

1. Notwithstanding the details illustrated on the approved plans, the roof of the extension hereby approved shall be finished in blue grey natural slate to the satisfaction of the Planning Authority. No work shall commence or is hereby authorised until a sample of the roof slate has been submitted for the written approval of the Planning Authority. The development shall thereafter be completed in strict accordance with such details are approved.

Reason: In the interests of preserving the character of a building within a designated Conservation Area, given that the roof of the extension is the most visible part of the project from outwith the site, and all other rear projections in the row of properties adjacent to this site and intervisible with it, have a natural slate roof.

2. The vertical timber cladding hereby approved to the walls shall be finished in white stain or paint to match the colour of the existing house to the satisfaction of the Planning Authority.

Reason: In the interests of preserving the character of a building within a designated Conservation Area.

3. The development shall be implemented in accordance with the details specified on the application form dated 28.03.2013 and the approved drawing reference numbers:

Plan 1 of 8 (Location Plan, Drawing No ta/83/001)
Plan 2 of 8 (Site Plan, Drawing No ta/83/002)
Plan 3 of 8 (Existing Ground Floor Plan, Drawing No ta/83/003)
Plan 4 of 8 (Existing First Floor Plan, Drawing No ta/83/004)
Plan 5 of 8 (Proposed First Floor Plan, Drawing No ta/83/005)
Plan 6 of 8 (Elevations Existing, Drawing No ta/83/006a)
Plan 7 of 9 (Elevations, Drawing No ta/83/007a)
Plan 8 of 9 (Elevations, Drawing No ta/83/008a)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

NOTE TO APPLICANT

- **Length of this planning permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)].
- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

APPENDIX TO DECISION APPROVAL NOTICE

Appendix relative to application 13/00678/PP

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

Yes, the original plans have been superseded with new elevations showing the corrected heights of the existing and proposed extensions.

- (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 approved.

The proposed development is considered acceptable at this location without causing any unacceptable impact on the wider area and there are no infrastructural constraints which would preclude the proposed development at the site.

The proposal accords with Policy STRAT DC 1 and STRAT DC 9 of the adopted Argyll and Bute Structure Plan 2002, Policies LP ENV 1, ENV14, ENV 19 and HOU 5 of the adopted Argyll and Bute Local Plan 2009. There are no other material considerations, including issues raised by third parties, which are considered to have decisive weight that would warrant anything other than the application being determined positively in accordance with the provisions of the development plan.