

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR
THE ERECTION OF AN EXTENSION AT 19
JUBILEE TERRACE, LOCHGILPHEAD**

LOCAL REVIEW BODY REF. 14/0004/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 13/01493/PP**

2nd June 2014

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs K Crawford. ('the appellants').

The planning application, reference number 13/01493/PP, for the erection of an extension ("the appeal site") was refused under delegated powers on the 20th February 2014. The planning application has been appealed and is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE LOCATION

The site in question is '16 Jubilee Terrace' - a terraced, two-storey dwellinghouse located within the settlement of Lochgilphead. The principal elevation, which was proposed to be extended, addresses an access road and car parking area and forms part of a wider 'courtyard' of four separate terraces which makes up Jubilee Terrace as a whole. A small area of garden ground at the front of the house is bounded by a brick wall.

SITE HISTORY

07/00800/DET – Erection of 2 dwelling houses and upgrading of access – permitted: 27.05.2008 – This application for 2no. dwellinghouses included a first floor extension (an access road occupies the ground level) of the dwelling which is the subject of this review. This development has subsequently been implemented in full.

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 Development Plan policies LP ENV 19 and LP HOU 5, with regard to the impact on the residential amenity of the neighbouring dwelling, 15 Jubilee Terrace, through loss of daylight.
- Whether or not the proposal is considered to be an 'over-development' of the available curtilage and therefore inconsistent with Development

Plan policies LP ENV 19 and LP HOU 5, with regard to its location, scale and massing.

- Whether or not the proposal raises any material considerations which would warrant a departure from the provisions of the currently adopted Development Plan.

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.

POLICY BACKGROUND

The appeal relates to a house extension within a designated 'Settlement Zone' – the following policy considerations are relevant to the determination of this matter:

Structure Plan Policy STRAT DC 1 – Development Within the Settlements

- A) *Within the Main Towns to development serving a wide community of interest, including large scale development, on appropriate infill, rounding-off and redevelopment sites.*
- B) *Within the Small Towns and Villages to development serving a local community of interest, up to and including medium scale development, on appropriate infill, rounding-off and redevelopment sites; in exceptional cases large scale development may be supported.*
- C) *Within the Minor Settlements to small scale development which is compatible with an essentially rural settlement location on appropriate infill, rounding-off, and redevelopment sites; in exceptional cases medium or large scale development may be supported.*
- D) *Developments which do not accord with this policy are those outwith A), B) and C) above and urban bad neighbour developments which are essentially incompatible with the close configuration of land uses found in settlements eg. mineral extraction development or development which results in excessively high development densities, settlement cramming or inappropriate rounding-off on the edge of settlements.*
- E) *Developments in settlements are also subject to consistency with the other policies of this Structure Plan and in the Local Plan.*

Local Plan Policy LP ENV 19 – General Housing Development

The Council will require developers and their agents to produce and execute a high standard of appropriate design in accordance with the design principles set out in Appendix A of this Local Plan, the Council's sustainable design guide and the following criteria:-

Development Setting

- (A) Development shall be sited and positioned so as to pay regard to the context within which it is located.*

Development Layout and Density

- (B) Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Layouts shall be adapted, as appropriate, to take into account the location or sensitivity of the area. Developments with poor quality or inappropriate layouts or densities including over-development and over-shadowing of sites shall be resisted.*

Development Design

- (C) The design of developments and structures shall be compatible with the surroundings. Particular attention shall be made to massing, form and design details within sensitive locations such as National Scenic Areas, Areas of Panoramic Quality, Greenbelt, Very Sensitive Countryside, Sensitive Countryside, Conservation Areas, Special Built Environment Areas, Historic Landscapes and Archaeologically Sensitive Areas, Historic Gardens and Designed Landscapes and the settings of listed buildings and Scheduled Ancient Monuments. Within such locations, the quality of design will require to be higher than in other less sensitive locations.*
- (D) The design of buildings shall be suitably adapted to meet the reasonable expectations for special needs groups.*
- (E) Energy efficient design and sustainable building practice is strongly encouraged.*

Local Plan Policy LP HOU 5 – House Extensions

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

- (A) Extensions should not dominate the original existing building by way of size, scale, proportion or design;*
- (B) External materials should be complementary to the existing property;*
- (C) Extensions should not have a significant adverse impact on the privacy of neighbours, particularly in private rear gardens.*
- (D) Flat-roofed extensions, and multiple dormer window extensions, which give the appearance of a flat roof will not be permitted where they do not complement the existing house style and design.*

Excerpts from Local Plan Appendix A – Sustainable Siting and Design Principles

“4.2 - ...all developments should have some private open space (ideally a minimum of 100 sq m), semi-detached/detached houses (and any extensions) should only occupy a maximum of 33% of their site, although this may rise to around 45% for terrace and courtyard developments.”

“8.2 – Alterations and extensions should be in scale and designed to reflect the character of the original dwelling house or building, so that the appearance of the building and the amenity of the surrounding area are not adversely affected. Approval will not be granted where the siting and scale of the extension significantly affects the amenity enjoyed by the occupants of adjoining properties, taking into account sunlight, daylight and privacy. Proposal to construct two storey extensions onto single storey buildings will need special consideration. Care should be taken not to over-develop the site”

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

14.2 – When considering a site for a new house, or an extension to an existing house, applicants should ensure that the house will not significantly affect daylight and direct sunlight to existing neighbouring properties. Applicants should refer to published standards “Site Layout Planning For Sunlight and Daylight” – BRE 1991.

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

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 the 'Response to Refusal of Planning Permission 13/01493/PP' appended to the Notice of Review, a detailed assessment of the

proposal and relevant material planning considerations is set out in the appended report of handling, the following summary comments are noted for the record in respect of the specific issues raised in the request for a review:

Daylighting to the adjoining property number 15

Paragraph 4 – The extension referred to at 53-55 Union Street, Lochgilphead (planning permission ref. no. 00/00622/DET) was a joint proposal for 2no. adjoining dwellings to erect porches onto their principal elevations. As such, it is confirmed that any restrictions of daylight would have impacted upon the applicants own windows and not those of any neighbouring dwelling, and as such would not be a relevant material consideration.

Paragraph 5 – The owners of number 15 Jubilee Terrace, despite being ‘neighbour notified’, did not make any written representations to the planning application. It is therefore not considered that the applicant’s assertions of support from the owners of number 15 Jubilee Terrace within this paragraph can be given any material weight.

Paragraph 6 – The proposed extension was assessed against the relevant documentation referred to – “Site Layout Planning Sunlight and Daylight” BRE 1991. It is the view of the Planning Authority that, based on the criteria set out in this guidance, the proposed extension shall have a significant adverse impact on daylight to the neighbouring dwelling.

Proposed over development of the site

Paragraph 1 – The proposed extension was assessed in terms of form and character against the immediate streetscape and wider area within which it sits. It is considered that the extension would represent an ‘over-development’ of the application site and therefore would not enhance the character of the ‘courtyard’ area.

Paragraph 4 – It is the view of the Planning Authority that the replication of this type of development within the ‘courtyard’ is not a desirable aim and, if any other extensions were proposed within this area, each would be assessed against relevant planning policy and determined on their own merits.

Paragraph 5 – The issue of the size of the proposed extension in relation to the application site is addressed in detail within the case officer’s report, appended to this Statement of Case.

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 proposed extension shall have a materially detrimental effect on the amenity of the occupiers of the neighbouring, adjoining dwelling house, 15

Jubilee Terrace. Due to the scale and proximity of the extension to number 15, it would overshadow the nearest ground floor window of this dwelling, reducing natural daylight to an unacceptable level.

Additionally, the scale of the proposed extension is such that it would have a materially detrimental effect on the character of the host dwelling and the wider streetscape, and would represent 'over-development' of the curtilage of 16 Jubilee Terrace.

Due to the above issues, the proposal is contrary to policies LP ENV 19 and LP HOU 5 of the Development Plan. It is not considered that there are any material considerations which would warrant a departure from the provisions of the Development Plan and, as such, it is respectfully requested that the appeal be dismissed.

Appendix 1 – Report of Handling

Argyll and Bute Council
Development & Infrastructure 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: 13/01493/PP
Planning Local
Hierarchy:
Applicant: Mr Kenny Crawford
Proposal: Erection of extension.
Site Address: 16 Jubilee Terrace, Lochgilphead

DECISION ROUTE

Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) **Development Requiring Express Planning Permission**
 - Erection of extension to principal elevation of dwelling.
 - (ii) **Other specified operations**
 - N/A
-

(B) RECOMMENDATION:

That planning permission be refused for the reasons appended to this report.

(C) CONSULTATIONS:

Council's Area Roads Team – responded: 09.09.2013 – No objection.

(D) HISTORY:

07/00800/DET – Erection of 2 dwelling houses and upgrading of access – permitted: 27.05.2008 – This application for 2no. dwellinghouses included a first floor extension (an access road occupies the ground level) of the dwelling which is the subject of the current application. This development has subsequently been implemented in full.

(E) PUBLICITY:

None required.

(F) REPRESENTATIONS:

(i) Representations received from:

- None received.

(ii) Summary of issues raised:

- N/A
-

(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: | No |
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(H) PLANNING OBLIGATIONS

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

'Argyll and Bute Local Plan' 2009

LP ENV 1 – Impact on the General Environment
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.

- ABC Sustainable Design Guidance
- Building Research Establishment document, "*Site Layout Planning For Sunlight and Daylight*", BRE 1991.

(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 application relates to a terraced, two-storey dwelling located within the settlement of Lochgilphead. It is proposed to alter the dwelling by erecting an extension to its principal elevation.

The proposed extension shall have a footprint of approximately 17m², covering the entirety of the existing front curtilage of the dwelling. With the proposed roof extending down from the eaves of the existing terrace, the extension shall incorporate a living room on the ground floor and extend an existing bedroom within the roofspace. The plans indicate window layout/materials and a roof covering which matches the terrace as a whole. Incorporated within the design is a curved wall where the south elevation meets the east, a detail which complements the arched pend immediately to the east of the extension. Additionally, there would be no adverse impact on the privacy of neighbouring dwellings.

In general terms of its design, the proposed extension is of subservient scale

and appearance relative to the significant mass of the existing dwellinghouse and the extended terraced row within which it sits, it is however noted with concern that the proposed extension would occupy all of the available front curtilage of the property and as such is not a form of development which could be readily replicated elsewhere on the terrace without affect to residential and visual amenity.

Daylighting Concerns

Policies LP ENV 19 and LP HOU 5 of the Local Plan also seek to resist development which does not comply with the relevant siting and design principles contained within Appendix A of the same.

With regard to house extensions, paragraph 8.2 of Appendix A states the following:

*“8.2 - Alterations and extensions should be in scale and designed to reflect the character of the original dwelling house or building, so that the appearance of the building and the amenity of the surrounding area are not adversely affected. **Approval will not be granted where the siting and scale of the extension significantly affects the amenity enjoyed by the occupants of adjoining properties, taking into account sunlight, daylight and privacy.** Proposal to construct two storey extensions onto single storey buildings will need special consideration. Care should be taken not to over-develop the site”.*

Additionally, Section 14 relates specifically to daylighting considerations:

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

*14.2 – When considering a site for a new house, or an extension to an existing house, applicants should ensure that the house will not significantly affect daylight and direct sunlight to existing neighbouring properties. Applicants should refer to published standards **“Site Layout Planning For Sunlight and Daylight” – BRE 1991.***

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

The methods of assessment set out in the Building Research Establishment's (BRE) guide vary in complexity. Some or all of these methods may be used depending upon the specific circumstances of the development criteria. In this case the relevant methodology is the '45 degree' approach which assumes that no part of a proposed development should cross an imaginary line drawn at a 45 degree angle (both in elevation and plan) from the centre of the closest habitable room window of neighbouring properties.

In this case, the proposed extension would fail the '45 degree' test both in plan (i.e. the forward projection of the extension) and in elevation (i.e. the height of the proposed extension, taken from the mid-point of the slope in the roof) in proximity to the position of the nearest ground floor living room window of

number 15 Jubilee Terrace.

It is concluded that the proposed extension would have a significant and materially detrimental effect upon the amenity of the occupiers of the existing adjoining dwellinghouse 15 Jubilee Terrace by creating an unreasonable obstruction of daylight. In this respect, the proposal is therefore contrary to Local Plan policies LP ENV 19 and LP HOU 5 of the Local Plan.

Over-development concerns

In addition to the issues detailed above with regard to daylighting, it is the view of the Planning Authority that the proposed extension would represent an 'over-development' of the curtilage of the existing dwellinghouse. Policy LP ENV 19 of the Local Plan states the following:

*"Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Layouts shall be adapted, as appropriate, to take into account the location or sensitivity of the area. **Developments with poor quality or inappropriate layouts or densities including over-development and over-shadowing of sites shall be resisted.**"*

As noted in the section above, policies LP ENV 19 and LP HOU 5 of the Local Plan seek to resist development which does not comply with the relevant siting and design principles contained within Appendix A of the same. Paragraph 8.2 of Appendix A states:

*"8.2 - **Alterations and extensions should be in scale and designed to reflect the character of the original dwelling house or building, so that the appearance of the building and the amenity of the surrounding area are not adversely affected.** Approval will not be granted where the siting and scale of the extension significantly affects the amenity enjoyed by the occupants of adjoining properties, taking into account sunlight, daylight and privacy. Proposal to construct two storey extensions onto single storey buildings will need special consideration. Care should be taken not to over-develop the site".*

Whilst the subject property was originally constructed as an end-terrace which enjoyed the benefit of an extensive corner plot curtilage area the resultant development of this area to provide two additional dwellings and a previous extension to the subject property have resulted in the reduction of available curtilage to an extent where this is now directly comparable with the adjacent mid terraced properties (14 & 15) and now constitutes approximately 60sqm available curtilage (18sqm to the front and 42sqm to the rear).

Paragraph 4.2 of Appendix A in the Local Plan sets out guidance on respect of open space/density and advises that *"all development should have some private open space (ideally a minimum of 100sqm) semi-detached/detached dwellings (and any extensions) should only occupy a maximum of 33% of their site, although this may rise to around 45% for terraced and courtyard developments."* In this instance the current application would result in a property with a footprint which occupies some 60% of its plot area, this figure would increase to 66% if the previous first floor extension above the pend were to be taken into account.

As the proposed extension to 16 Jubilee Terrace shall occupy the entirety of the front curtilage of the dwellinghouse and will reduce the already limited curtilage by a third, it is considered that this would result in an unacceptable over-development of the plot which would adversely affect the character of both the host dwelling and the wider terrace. Additionally, the approval of an extension this size within its courtyard location could set an undesirable precedent – if other dwellings within the row and courtyard were to extend in the same manner it would compromise the character of this wider area.

Given the above, it is considered that the scale of the proposed extension renders it incompatible and inconsistent with policies LP ENV 19 and LP HOU 5 of the Local Plan.

Summary

For the reasons stated above, the proposed development is considered to be contrary to policies LP ENV 19 and LP HOU 5 and therefore it shall be recommended for refusal.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Refused:

The proposed extension shall have a materially detrimental effect on the amenity of the occupiers of the neighbouring, adjoining dwellinghouse, 15 Jubilee Terrace. Due to the scale and proximity of the extension to number 15, it would materially overshadow the nearest ground floor window of this dwelling, reducing natural daylight to an unacceptable level.

Additionally, the scale of the proposed extension is such that it would have a materially detrimental effect on the character of the host dwelling and the wider streetscape, and would represent 'over-development' of the curtilage of 16 Jubilee Terrace.

Due to the above issues, the proposal is contrary to policies LP ENV 19 and LP HOU 5 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: Rory MacDonald **Date:** 29.01.2014

Reviewing Peter Bain **Date:** 19th February 2014

Officer:

**Angus Gilmour
Head of Planning & Regulatory Services**

**REASONS FOR REFUSAL RELATIVE TO APPLICATION REF. NO.
13/01493/PP**

1. The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale, massing and relationship to the adjoining dwellinghouse, 15 Jubilee Terrace. The proposed extension would give rise to a significant adverse effect to the residential amenity of 15 Jubilee Terrace through loss of daylight to living apartments having due regard to the applicable minimum standards relating to “Developments Affecting Daylight to Neighbouring Properties” as defined in the Sustainable Siting and Design Principles set out in Appendix A of the Argyll and Bute Local Plan 2009.
2. The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale and massing which would give rise to an ‘over-development’ of the available curtilage area having due regard to the development density of the immediate locale, and the applicable Sustainable Siting and Design Principles relating to “Open Space/Density” as set out in in Appendix A of the Argyll and Bute Local Plan 2009.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **13/01493/PP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended): **No**

If Yes: The terms of the Section 75 obligation may be viewed on the Council's website at www.argyll-bute.gov.uk by recalling the application reference number on the Council's Public Access Module and then by "Clicking" Section 75 Obligation under the attached correspondence or by viewing the Public Planning register located at Planning Services, Dalriada House, Lochgilphead, Argyll, PA31 8ST.

- (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:

The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale, massing and relationship to the adjoining dwellinghouse, 15 Jubilee Terrace. The proposed extension would give rise to a significant adverse effect to the residential amenity of 15 Jubilee Terrace through loss of daylight to living apartments having due regard to the applicable minimum standards relating to "Developments Affecting Daylight to Neighbouring Properties" as defined in the Sustainable Siting and Design Principles set out in Appendix A of the Argyll and Bute Local Plan 2009.

The proposed extension would be contrary to the provisions of policies LP ENV 19 and LP HOU 5 of the adopted Argyll and Bute Local Plan 2009 by virtue of its location, scale and massing which would give rise to an 'over-development' of the available curtilage area having due regard to the development density of the immediate locale, and the applicable Sustainable Siting and Design Principles relating to "Open Space/Density" as set out in Appendix A of the Argyll and Bute Local Plan 2009.