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Argyll and Bute Council Comhairle Earra-Ghàidheal Agus Bhòid

Customer Services
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16 August 2016

SUPPLEMENTARY PACK 1

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 17 AUGUST 2016 at 10:15 AM

I enclose herewith supplementary reports for **items 11, 13 and 19** on the Agenda for the above meeting.

Please also note that planning application (reference 16/01331/PP) at **item 12** on the Agenda has been withdrawn by the Applicant.

Douglas Hendry
Executive Director of Customer Services

SUPPLEMENTARY REPORTS

- 11. THE CO-OPERATIVE GROUP: PARTIAL DEMOLITION OF EXISTING BUILDING, ERECTION OF EXTENSION AND CHANGE OF USE FROM CLASS 7 (HOTEL) TO CLASS 1 (SHOP): MUIRHOLM HOTEL, MAIN ROAD, CARDROSS (REF: 16/00972/PP)**

Report by Head of Planning and Regulatory Services (Pages 1 – 4)

- 13. MR EWAN MACLEAN: ALTERATIONS AND CHANGE OF USE OF SHOP TO FORM RESIDENTIAL FLAT: PRESENT AND BYGONES SHOP, TIGHNABRUAICH (REF: 16/01595/PP)**

Report by Head of Planning and Regulatory Services (Pages 5 – 8)

- E1 19. ENFORCEMENT REPORT - REFERENCE 15/00150/ENOTH2**

Report by Head of Planning and Regulatory Services (Pages 9 – 12)

The Committee will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an "E" on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

E1 Paragraph 13 Information which, if disclosed to the public, would reveal that the authority proposes-

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

Planning, Protective Services and Licensing Committee

Councillor David Kinniburgh (Chair)	Councillor Gordon Blair
Councillor Rory Colville	Councillor Robin Currie
Councillor George Freeman	Councillor Alistair MacDougall
Councillor Neil MacIntyre	Councillor Robert Graham MacIntyre
Councillor Donald MacMillan	Councillor Roderick McCuish
Councillor Alex McNaughton	Councillor James McQueen
Councillor Sandy Taylor	Councillor Richard Trail

Contact: Fiona McCallum

Tel. No. 01546 604392

Argyll and Bute Council
Development Services

Delegated or Committee Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 16/00972/PP

Planning Hierarchy: Local Application

Applicant: The Co-operative Group

Proposal: Partial demolition of existing building, erection of extension and Change of Use from Class 7 (Hotel) to Class 1 (Shop)

Site Address: Muirholm Hotel, Main Road, Cardross

SUPPLEMENTARY REPORT No 1

A) INTRODUCTION

This report advises Members of additional discussions with the applicant regarding the proposal to attach a condition, Condition 11, regarding a landscape plan.

B) BACKGROUND

In the main report of handling being considered by Members, the application has been assessed against development plan policy and other material considerations. The recommendation is to approve subject to a series of conditions including Condition 11 which states that:

A landscape plan which must include the area at the end of Barrs Road leading onto Main Road, Cardross shall be submitted and approved by the Planning Authority before works commence on site. The plan is to include the widening and resurfacing of the existing foot path, the removal of the metal railing between the Muirholm carpark and Barrs Road and Barrs Road and Main Road to be replaced with appropriate landscape designs to make a public realm area. Such details as may be approved shall be implemented and retained.

Reason: In the interests of amenity.

C) APPLICANT'S ADDITIONAL COMMENTS

The applicant's agent was contacted regarding the potential for a landscaping condition.

The agent responded as follows.

Whilst we welcome the support that is being offered for the application and trust that the application will be recommended for approval, we are concerned about what is being suggested for the following reasons:

- the Co-op proposal does not establish a need for the 'landscaping' works being suggested,
- the area in question is outwith the Co-op application site,
- the work being proposed may, in itself, require planning permission and/or approval under the Roads Acts
- moving the loading bay space to the far side of Barrs Road means it will be more remote from the proposed Co-op, and putting it there would introduce a need to navigate the landscaped area with delivery cages etc. Not only would this be less convenient for the Co-op, but it also create potential conflicts between deliveries and the use of the 'landscaped' area. This would not be acceptable in terms of the Co-op's health & safety obligations

As before, the Co-op remain committed to making a further significant investment in Argyll & Bute, by way of opening a new store at Cardross, and with that in mind, we would not be inclined to agree to what is being suggested, but if you were to provide some further information relative to our comments above we will afford the matter further consideration.

Further discussions were subsequently held and the agent has advised as follows.

With regards to the terms of suggested condition no.11 we have attached a draft landscaping scheme which hopefully would achieve what you are looking for whilst avoiding the need to alter/divert rainwater gullies etc. at the bottom of Barrs Road and avoid narrowing the road, as this would make servicing difficult and more likely to create conflict with other road users.

The scheme shows that the end of Barrs Road will be retracted by 3m from the existing line to create a clearer division from the main street. The area will be surfaced to match existing, 4no. small trees planted to create a visual barrier, the manhole lifted to proposed surface and 1no. gully relocated.

D) ASSESSMENT

Circular 10/2009 provides that it is important that any conditions imposed on a planning permission should reflect the current guidance on the use of conditions (SODD Circular 4/1998).

Circular 4/1998 The Use of Conditions states that a condition must meet 6 tests. A condition must be:

- **necessary**
- **relevant to planning**
- **relevant to the development to be permitted**
- **enforceable**
- **precise**
- **reasonable in all other respects.**

Under application 16/00972/PP it is proposed to demolish part of the existing building at the front and use this area for loading and unloading. In addition, three trees will be removed, in part, to facilitate improved access. Barrs Road on the east of the application site is already blocked up and contributes little to the immediate streetscene or the wider area in terms of amenity. It was considered that, under

Condition 11, a landscape plan, could provide some trees in planters, bollards to control access and potentially some seating. This would, among other things, soften the impact of the loading area at the front of the building facing onto the main road, provide additional footway on Barrs Road, create some public realm and, in turn, add interest to the streetscene and the wider area in the interests of amenity. On this basis the condition is considered to be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.

Given the above it is not considered that the applicant's submission regarding a proposed scheme is sufficiently robust in providing a sustainable public realm that would improve the streetscene and the wider amenity. As such, the applicant's scheme could not be supported and a landscape plan will still have to be agreed prior to works commencing on site. The only issue becomes the mechanism for providing the elements of the landscape plan that will be agreed. The area in question is outwith the application site but within control of the Council. A Roads Construction Consent would be required. Depending on the landscaping proposed it may require planning permission but could potentially be dealt with as di minimus.

Therefore, Members have a range of options. They can accept the applicant's scheme, remove condition 11, retain it in its current form or amend it. In the case of retaining or amending the condition, the applicant would have the right of appeal. For the reasons stated above it is recommended that Condition 11 should stand and that details be agreed prior to work commencing on site.

E) RECOMMENDATION

It is recommended that Members note the additional submission on behalf of the applicant. The submissions do not alter the previous recommendation to approve the application subject to conditions including Condition 11.

Author of Report: Howard Young

Date: 15th August 2016

Angus Gilmour
Head of Planning and Regulatory Services

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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 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 16/01595/PP

Planning Hierarchy: Local

Applicant: Mr Ewan Maclean

Proposal: Alterations and Change of Use of Shop to Form Residential Flat

Site Address: Present and Bygones Shop, Tighnabruaich

SUPPLEMENTARY REPORT NO.1

(A) INTRODUCTION AND FURTHER OBJECTION

The attention of Members is drawn to the report dated 9th August 2016 that is currently before you for consideration. Since the composition of this report, a further objection has been received from Mr Paul Paterson, 2 Manor Way, Tighnabruaich (e-mail dated 9th August 2016). The e-mail is presented on a verbatim basis with the Department's comments contained underneath each point:

"With regards to the email and correspondence that the Agent via their Client has sent to the Planning Department along with four photographs, dated 4th August 2016.

The following is seen as my continued objection and I also point out some deeply concerning worries of the Agent showing signs of what can only be described as an attempt to "noble and fix" the system in their own favour.

First of all, you do not address a member of any company or Council member by their first name and also say "Hi". Secondly, be professional, the person is not some mate or friend and does have a title, so don't trivialise and don't be discourteous and, it is not material to the matter at hand to say how was your holiday, as if you are pals.

Comment:

Mr Paterson's comments regarding the wording of the greeting contained within the e-mail from Stewart Associates dated 4th August 2016 have no material bearing upon the planning aspects of the case.

Point One as seen within the email from the Agent states and mentions:

“As discussed in the outset” ... “the intention was always that the property would be made available free of charge for c20% of a year to charitable causes. That is ex-servicemen with limited mobility and people affected by prostate cancer and other deserving causes” – Sorry but that is NOT on the planning application paperwork or within any part of the planning application given to the public or made aware to the public and nearest neighbours.

This comes across as that the Agent has spoken to Council Planning members with details that are NOT in the planning application process and has been kept from the public; it also comes across as the Agent trying to “noble” the process by using heart string methods to get their own way. The Application DOES NOT and FAILS to mention the above in the process and paperwork; we are told that this application is for a disabled member of the family, then it mentions that it is for the renting market for and to meet the tourist trade, now we see that it is for something else and something that has NOT been mentioned before, all of this is suspicious and raises the likelihood of being a fixed and rigged game, this can only mean one thing here, that the Council member and Agent are in cahoots or that the Agent is trying to fix and rig the game to suit themselves in favour of their client.

Comment:

On occasion, supplementary information is submitted with an application as it progresses. In this particular case, the information that has been submitted by Stewart Associates throughout the processing of the application has been included on the Council's public access system and has also been included in the report to the Committee. It is, therefore, open to scrutiny and, indeed, Mr Paterson has taken the opportunity to make further comments.

The information regarding the connection with charitable causes does not have a material bearing upon the planning aspects of the case and it would be for Members as to how much weight to attach to this particular issue.

Point two as seen within the email from the Agent states and mentions:

“I would argue that precedent already exists in the village and surroundings with the former Tighnabruaich Royal Bank being converted into residential this year and multiple units in Kames converted from shops over the years without detriment to the community.”

This statement from the Agent is both factually misguided and lacks any merit or credit, and also lacks correct research.

The ex-Royal Bank of Scotland building was not always the bank, actually the bank bought the building not that many years ago, and the building prior to the Bank was a house which the bank saw as potential.

The “village” as the Agent puts it is historically incorrect, the area as a whole is made up of numerous small hamlets that converge from Rhuban, Tighnabruaich, Berry Burn, Kames, Millhouse, Kilfinan. The only recent shop that was converted back into a flat was “the cabin” in Kames, this was a group of flats to start off with, then a person turned one bottom flat into a café, the person then moved and the building was converted back into a flat as it was originally. What we have here is the Agent grasping at straws, using a strawman defence which lacks both merit and historical value.

Comment:

The issue of precedent that the agent refers to does not have a material bearing upon the planning aspects of the case.

I strongly object to the application furthermore, I put it to the Planning Committee; Is the Agent and its manner being fair, equal to the planning process and can it be shown that the whole process is open and transparent for all? – There is a very strong case here to suggest that the Agent and manner is not complying with a fair transparent application process and throws a curveball into the situation where it is seen as a potential to noble the system.”

Comment:

The Department considers that the application has been progressed in a fair and transparent manner. All information and representations have been logged and taken into account.

(B) RECOMMENDATION:

None of the points raised by Mr Paterson affect the recommendation contained within the original report dated 9th August 2016, namely that, subject to the convening of a pre-determination hearing, planning permission be granted as a **minor departure** to the Local Development Plan subject to the conditions, reasons and informative notes set out in this report.

Author of Report: Steven Gove

Date: 15th August 2016

Reviewing Officer: David Love

Date: 15th August 2016

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO: 16/01595/PP

1. The development shall be implemented in accordance with the approved drawings:

Drawing No. 1616/P01

Drawing No. 1616/P02

Drawing No. 1616/P03

Drawing No. 1616/P04

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. Prior to the installation of the new door on the front elevation of the premises, full details of the design of the door and the materials to be used in its construction shall be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority, the door shall be installed in accordance with the approved details.

Reason: In the interests of visual amenity and for the avoidance of doubt.

NOTES TO APPLICANT

- **Length of 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, 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 it is the responsibility of the developer to submit the attached 'Notice of Completion of Development' to the Planning Authority specifying the date upon which the development was completed.

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