

Argyll and Bute Council
Comhairle Earra-Ghàidheal Agus Bhòid



Executive Director: Douglas Hendry

Kilmory, Lochgilphead, PA31 8RT
Tel: 01546 602127 Fax: 01546 604435
DX 599700 LOCHGILPHEAD

19 August 2019

SUPPLEMENTARY PACK 1

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - COUNCIL CHAMBER,
KILMORY, LOCHGILPHEAD on WEDNESDAY, 21 AUGUST 2019 at 11:00 AM**

I enclose herewith supplementary reports for **items 6 and 9** on the Agenda for the above meeting.

Douglas Hendry
Executive Director

SUPPLEMENTARY REPORTS

- 6. GLAISTERS FARMS LTD: ERECTION OF 3 DWELLINGHOUSES: LAND NORTH WEST OF ARIZONA, TOBERONOCY, ISLE OF LUING (REF: 18/01526/PP)**
Report by Head of Development and Economic Growth (Pages 3 – 10)

- 9. SIMPLY UK: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF RESIDENTIAL CARE HOME (AMENDED DESIGN): 102A SINCLAIR STREET, HELENSBURGH (REF: 19/01410/PP)**
Report by Head of Development and Economic Growth (Pages 11 – 14)

Planning, Protective Services and Licensing Committee

Councillor Gordon Blair	Councillor Rory Colville (Vice-Chair)
Councillor Robin Currie	Councillor Mary-Jean Devon
Councillor Lorna Douglas	Councillor Audrey Forrest
Councillor George Freeman	Councillor Graham Hardie
Councillor David Kinniburgh (Chair)	Councillor Donald MacMillan
Councillor Roderick McCuish	Councillor Jean Moffat
Councillor Alastair Redman	Councillor Sandy Taylor
Councillor Richard Trail	

Contact: Fiona McCallum

Tel. No. 01546 604392

This page is intentionally left blank

**Argyll and Bute Council
Development and Infrastructure**

Delegated or Committee Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 18/01526/PP

Planning Hierarchy: Local Development

Applicant: Glaisters Farms Ltd

Proposal: Erection of 3 Dwellinghouses

Site Address: Land North West of Arizona, Toberonochy, Isle of Luing

SUPPLEMENTARY REPORT NO. 3

(A) INTRODUCTION

This application was first presented to the Planning, Protective Services and Licensing Committee on 17 April 2019 where Members agreed to its continuation to allow the applicant to provide additional information.

The additional information has now been received and is outlined in Supplementary Report No. 2 (SR2) currently before Members.

However, since SR2 was submitted two late further representations have been received. This paper seeks to provide a summary of the additional matters raised.

(B) LATE REPRESENTATION

Two late representations have been received (at 15.08.19) from:

- Gemma Wells, Seabank, Toberonochy, Isle of Luing, PA34 4UE (14/08/19)
- June Graham, 41 Toberonochy, Isle of Luing, PA34 4UE (14/08/19)

Full and unabbreviated copies of correspondence received are available to review on the public planning file.

Both parties have previously submitted comments regarding the application details of which are summarised and addressed in the main Report of Handling before Members dated 1 April 2019. The further matters which are raised in the additional late representations are summarised as follows:

Trees

Concerns are raised regarding the accuracy of details showing the position of the trees on the site plan forming part of the planning application and the impact the proposed development will have on the trees during the construction period.

Comment: The application has been subject of a detailed Tree Protection and Management Plan (TPMP) undertaken by Rowan Ecology which accurately plotted the position of the trees on site and provided recommendations for tree protection measures to be adhered to during the construction period of the proposed development. A condition is proposed requiring the tree protection measures identified in the TPMP to be implemented for the full duration of the construction works on site with such measures applied to all trees within the development site and not limited to the trees identified for retention in the TPMP. The TPMP is discussed in detail in Supplementary Report No. 2 before Members.

Whilst the trees are plotted in the correct positions, it has been confirmed by the applicant that the position of the boundary wall within the site, details of which were taken from an Ordnance Survey based plan, is inaccurate. Accordingly, in order to address this, the agent has updated the site plan with the approximate position of the boundary wall on site and this will be followed up by a detailed topographical survey of the wall sought by way of a suspensive planning condition imposed on the grant of planning permission. Whilst the accurate position of the boundary wall remains unconfirmed, there is sufficient information with the accurate survey of the trees in the TPMP, and Officer observations, to establish that the developable area of the site is in fact slightly larger than that shown on the submitted plans and therefore there is no uncertainty regarding the ability to retain both the boundary wall and trees as part of the development.

Surface Water Drainage

Concerns regarding the potential for surface water flooding arising and impacting on neighbouring residential properties as a result of the proposed development with the current infrastructure not suitable for any increased load.

Comment: The issue of surface water drainage has been fully addressed in the main Report of Handling and Supplementary Report No. 2 before Members. JBA Consulting, the Council's Flood Advisors, advise that any water coming off of the site pre-development will be picked up by the land drainage system proposed for the development and provided that the proposed scheme is maintained properly, as per the conditions proposed, then the run off from the site should be no greater than the pre-development amounts and the development should have a neutral effect upon flood risk.

(D) RECOMMENDATION

That Members note the further matters raised in 3rd party representations and endorse the recommendation of officers that planning permission be granted subject to the updated conditions and reasons appended to this report.

Author of Report: Fiona Scott **Date:** 15/08/19

Reviewing Officer: Peter Bain **Date:** 19/08/19

Fergus Murray
Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 18/01526/PP

GENERAL

1. The development shall be implemented in accordance with the details specified on the application form dated 05/07/18 and the approved drawing reference numbers Plan 1 of 26 to Plan 26 of 26 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:

- 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 Sections 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. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
- 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' to the Planning Authority specifying the date upon which the development was completed.
- Please note the advice contained in the attached consultation response from Scottish Water. You are advised to contact Scottish Water direct to discuss the issues raised.

VEHICULAR ACCESS

2. Notwithstanding the provisions of Condition 1, the proposed access shall be formed in accordance with the Council's Roads Standard Detail Drawing SD 08/002a at 90° to the public road with visibility splays of 2.4 metres to point X by 53 metres to point Y from the centre line of the proposed access. The access shall be surfaced with a bound material in accordance with the stated Standard Detail Drawing. Prior to work starting on site the access hereby approved shall be formed to at least base course standard and the visibility splays shall be cleared of all obstructions 1.05 metres above the access. The final wearing surface on the access shall be completed prior to the development first being brought into use and the visibility splays shall be maintained clear of all obstructions thereafter.

Reason: In the interests of road safety.

Note to Applicant:

- A Road Opening Permit under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers prior to the

formation/alteration of a junction with the public road.

- The access shall be constructed and drained to ensure that no surface water is discharged onto the public road.
- No walls, fences, hedges etc. will be permitted within 2 metres from the channel line of the public road.

PARKING AND TURNING

3. The parking and turning area shall be laid out and surfaced in accordance with the details shown on the approved plans prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

BIN STORE

4. Notwithstanding the provisions of Condition 1 – full details in plan form of a proposed bin store and enclosure at the junction with the public road shall be submitted and approved in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interests of road safety.

SURFACE WATER DRAINAGE

5. Notwithstanding the provisions of Condition 1, no development shall commence on site until updated details of the proposed surface water drainage system have been submitted and approved in writing by the Planning Service in consultation with JBA Consulting. Such details shall show the surface water drainage system designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition and include site investigation details; a method statement for surface water containment during construction; and maintenance details for the proposed system.

The duly approved scheme shall be implemented in full concurrently with the development that it is intended to serve and shall be operational prior to the occupation of the development and maintained as such thereafter.

Reason: To ensure the provision of an adequate surface water drainage system and to prevent flooding.

Note to Applicant:

Further advice on SuDS can be found in SEPA's Standing Advice for Small Scale Development – www.sepa.org.uk

FINISHED FLOOR LEVEL

6. No development shall commence until details of the proposed finished ground floor level of the development relative to an identifiable fixed datum located outwith the application site have been submitted to and approved in writing by the Planning Authority. Such a level shall be at least 0.3 metres above finished ground levels. The development shall be implemented in accordance with the approved details.

Reason: In order to secure an acceptable relationship between the development

and its surroundings and prevent surface water flooding.

DESIGN AND FINISHES

7. Notwithstanding the provisions of Condition 1, the windows to the front elevation of the proposed dwellinghouses shall be timber sliding sash and case units, full details of which shall be submitted in plan form and approved in writing by the Planning Authority prior to work starting on construction of the proposed dwellinghouses.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

8. Notwithstanding the provisions of Condition 1, the proposed gates and fencing shall be no higher than 1.8 metres in height, full details of which shall be submitted in plan form and approved in writing by the Planning Authority prior to work starting on construction of the proposed dwellinghouses.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

TREES

9. Notwithstanding the provisions of Condition 1, the development shall be undertaken in accordance with the provisions of the Tree Protection and Management Plan (TPMP) dated June 2019 except for proposals that relate to tree felling.

For the avoidance of doubt, this permission does not permit the felling of trees identified as T3, T4, T6, T10, T11, T13, T14 or T15. Whilst these trees are identified for removal in the TPMP as having a limited natural lifespan subsequent clarification provided on behalf of the developer has confirmed (by e-mail dated 15.07.19) an intent to retain these trees until such time a deterioration in their condition necessitates felling.

The tree protection measures identified in the TPMP shall be implemented for the full duration of construction works, and shall be applied to all trees within the development site, and not be solely limited the trees identified for retention in the TPMP.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

Note to Applicant:

The development site is located within the Toberonochy Conservation Area and accordingly the trees located within the development site are subject to protection having regard to the provisions of S.172 of the Town and Country Planning (Scotland) Act 1997 as amended.

It is noted that the submitted Tree Protection and Management Plan identifies that eight trees within the development site are in poor condition and likely to require removal within an estimated period of 10 years regardless of whether or not the development is implemented. For the avoidance of doubt, this planning permission does not permit the felling of the identified trees.

Accordingly, it is advised that any future proposals for tree works within the development site will require to be subject of notification to the Council under S.172

of the Act. It is advised that the developer highlight this requirement in the conveyance of the property to future owners along with the duty placed upon them under S.174 of the Act for provision of replacement tree planting – it is noted that the provisions of 3.4.1 of the TPMP set out appropriate recommendations in respect of this latter requirement.

Furthermore, it is highlighted that the TPMP identifies that trees T4, T13, T14 and T15 have 'Moderate Potential' for roosting bats; again it is advised that the developer highlights the potential presence of bats in the conveyance of the property to future owners along with the recommendations contained in the TPMP requiring appropriate bat surveys of the identified trees in advance of tree works commencing.

LANDSCAPING

10. No development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved in writing by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Retention and details of any rebuilding of the stone boundary wall;
- iv) Location design and materials of proposed walls, fences and gates;
- v) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted including details of new tree planting along the boundaries of the site;
- vi) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

BOUNDARY WALL

11. Notwithstanding the provisions of Condition 1 and Condition 10, no development shall commence on site until a topographical survey of the existing stone boundary wall has been undertaken detailing its precise position within the site plotted on an updated site plan to be submitted to and approved by the Planning Authority.

Reason: In the interests of clarity.

TELEPHONE BOX AND POST BOX

12. Notwithstanding the provisions of Condition 1, the telephone box and post box shall be retained within the site to the satisfaction of the Planning Service.

Reason: In the interests of public amenity.

This page is intentionally left blank

**Argyll and Bute Council
Development and 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: 19/01410/PP

Planning Hierarchy: Local Application

Applicant: Simply UK

Proposal: Demolition of existing buildings and erection of residential care home (amended design)

Site Address: 102A Sinclair Street, Helensburgh

SUPPLEMENTARY REPORT NO. 1

1.0 INTRODUCTION

The purpose of this report is to advise Members of additional matters raised by Victoria Holling on behalf of "Friends of Prince Albert Terrace". These representations comprise a number of matters which they wish to see addressed in conditions imposed on any grant of planning permission.

For clarity the six tests that a condition must meet to be competent is that it should be:

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

Further detailed commentary on such matters is contained within Planning Circular 4/1998: the use of conditions in planning permissions.

2.0 SUGGESTED ADDITIONAL MATTERS TO BE ADDRESSED BY CONDITION

The suggested matters to be addressed by condition are set out below together with Officer Comment on whether they consider such matters to be in accordance with the six tests set out in Section 1.0.

- *notice to be given to the residents of Prince Albert Terrace and Birch Cottages as to the start and end date of demolition, clearance and any redevelopment works*

Officer Comment: There is a requirement under the Planning Acts for the developer to serve a notice on the planning Authority prior to the commencement of development. This will be available in in Public Access and therefore is it not considered necessary or reasonable to require such separate notification.

- *all vehicles relating to the development to be restricted only to onsite (depot site plot) parking, no parking allowed on local residential streets or Birch Cottage allocated parking areas with council enforced penalties for infringements.*

Officer Comment: The development complies with necessary on-site parking standards. The condition seeks to impose a condition restricting parking on the use of the public road in the vicinity of the site and therefore is not considered to be reasonable, necessary or enforceable.

- *all work on the depot site and/or relating to the redevelopment of this area to only to be undertaken during the hours of 8.30am to 5pm, Monday to Friday year round. No weekend/early morning/evening working to be undertaken.*

Officer Comment: Hours of operation have already been addressed by condition 10 as advised by the Environmental Protection Officer in accordance with normal practice for construction projects in residential areas. It is therefore not considered that these suggested more restrictive hours would be necessary or reasonable.

- *no access will be granted to the site from the rear grounds of Prince Albert Terrace for any representation or employee of the developer or associated companies*

Officer Comment: This is a matter of civil legal control of access/land and is therefore not considered to be a reasonable matter to form part of a planning condition.

- *a full time line of expected works to be given to residents of Prince Albert Terrace and Birch Cottages in advance of any/all works commencing*

Officer Comment: There is a requirement under the Planning Acts for the developer to serve a notice on the Planning Authority prior to the commencement of development. This will be available in in Public Access and therefore is it not considered necessary or reasonable to require such separate notification.

- *notice to be given to residents of Prince Albert Terrace for the dates any trees are to be felled in the park and a representative from Prince Albert Terrace is to be present on the day any trees are felled.*

Officer Comment: It is not considered necessary or reasonable to require notification of residents on works on land outside their interest, nor to require that they attend any such works. Members will note that the trees within the park are under the control of the Council whose permission would be required in respect of any proposed works to them. It should also be noted that condition 8 requires approval of details of the retention and protection of trees prior to the commencement of development.

- *residents of Prince Albert Terrace and Birch Cottages are to be advised as to how asbestos in the current buildings is to be removed and when.*

Officer Comment: The control over the removal of asbestos will be undertaken in accordance with licenses given to operators by the Health and Safety Executive, and the transporting and disposal of the asbestos will be further controlled by SEPA under in its role of controlling activities relating "special waste". It is not appropriate for the planning system to seek to duplicate controls provided by other government agencies. This suggested condition is therefore not considered to be

reasonable or necessary as all matters relating to asbestos removal and disposal will be subject to proper controls.

- *results of the bat and bird survey to be made public*

Officer Comment: All supporting information and surveys will be placed on public access. Such a condition is therefore not necessary.

- *the site is to be secured and have adequate security during demolition and any construction periods, to minimise the risk of fire raising/anti-social behaviour*

Officer Comment: The security of the site and the safety of those within it are not matters controlled by Planning Legislation but by the Health and Safety Executive. It is therefore not considered necessary or reasonable to impose such a condition.

- *a geo-technical survey to be carried out by an independent, at developers cost, before any planning application for construction is approved, with the results and recommendations made public.*

Officer Comment: The Councils Environmental Protection Officer has not advised that such matters require to be addressed. It is therefore considered that such a requirement would be neither necessary nor reasonable.

- *movement monitors should be placed on all buildings adjacent to the site. These should be monitored and if movement is detected all construction work halted until an appropriate strategy for mitigating and remediating movement to the affected buildings has been agreed with residents*

Officer Comment: The Councils Environmental Protection Officer has not advised that such matters require to be submitted. Any impacts of the development in respect of proven and verified movement would be a civil legal matter between parties and not a matter for planning condition. It is therefore considered that such a requirement would be neither necessary nor reasonable.

- *developers to cover all costs (using independent contractors) associated with remediating any movement/structural impact on properties adjacent to the depot site*

Officer Comment: This would be a matter of civil law between parties should damage by one party of the other be alleged. Therefore such a condition would not be necessary or reasonable.

- *the council to assign one point of contact to liaise with residents during the demolition and construction phases*

Officer Comment: It is not appropriate to condition an individual officer to be named as a point of contact in respect of the granting of any planning permission. Such a condition would therefore not be reasonable or necessary as established protocols to contact the planning department are already in place for members of the public with concerns over any development.

- *the developer to appoint a named contact to act as a neighbourhood liaison officer and will have an agreed service level of 24 hours to respond to residents questions/concerns*

Officer Comment: It is not considered reasonable or necessary to require a 24 hr contact point and service between the developer and third parties.

- *any works will not impact the boundary hedges/trees/shrubs/fencing to the rear of a Prince Albert Terrace and any removal or damage to the boundary will be repaired immediately on a like for like basis at the developer's expense*

Officer Comment: Adjoining landowners have the legal right to undertake works to overhanging trees/shrubs as a general legal right, subject to any planning requirements within a Conservation Area for prior approval. Other points raised would be matters for civil law. It is therefore not considered that the imposition of such a condition would be reasonable or necessary.

3.0 OFFICER COMMENTARY IN RESPECT OF THE SUGGESTED CONDITIONS

Officer do not consider that any of the suggested conditions would fully meet the required six tests of competency as required by Planning Circular 4/1998: the use of conditions in planning permissions and related case law.

4.0 CONCLUSION

In summary, it is the view of officers that planning permission should be granted subject to the 10 Conditions set out in the main Report of Handling.

5.0 RECOMMENDATION

The contents of this representation do not change the recommendation set out in the Report of Handling. It is recommended that planning permission be granted subject to the conditions and a pre-determination public hearing.

Author of Report: David Moore **Date:** 19.8.19

Reviewing Officer: Sandra Davies **Date:** 19/8/19

Fergus Murray
Head of Development and Economic Growth