

**Argyll and Bute Council**  
Comhairle Earra Ghaidheal agus Bhoid

Customer Services  
Executive Director: Douglas Hendry



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21 February 2011

## NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **MEMBERS' ROOM, KILMORY, LOCHGILPHEAD** on **MONDAY, 28 FEBRUARY 2011** at **10:00 AM**, which you are requested to attend.

Douglas Hendry  
Executive Director - Customer Services

## BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST (IF ANY)**
3. **CONSIDER NOTICE OF REVIEW: 22 JANE STREET, DUNOON, ARGYLL, PA23 7HX**
  - (a) Notice of Review and Supporting Documents (Pages 1 - 6)
  - (b) Comments from Interested Parties (Pages 7 - 26)
  - (c) Applicant's Response to Comments from Interested Parties (Pages 27 - 28)

## ARGYLL AND BUTE LOCAL REVIEW BODY

Councillor Mary-Jean Devon                      Councillor David Kinniburgh  
Councillor Roderick McCuish (Chair)

Contact: Fiona McCallum    Tel: 01546 604406

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Ref:  
AB1

**ARGYLL AND BUTE COUNCIL**  
WWW.ARGYLL-BUTE.GOV.UK/\*\*

OFFICIAL USE

14/1/11

Date Received

**NOTICE OF REVIEW**

Notice of Request for Review under Section 43(a)8  
of the Town and Country Planning (Scotland) Act 1997 and the Town and  
Country Planning (Schemes of Delegation and Local Review Procedures  
(Scotland) Regulations 2008

**Important** – Please read the notes on how to complete this form and use  
Block Capitals. Further information is available on the Council's Website.  
You should, if you wish, seek advice from a Professional Advisor on how to  
complete this form.

(1) APPLICANT FOR REVIEW

Name

Address

Postcode

Tel. No.

Email

(2) AGENT (if any)

Name

Address

Postcode

Tel. No.

Email

(3) Do you wish correspondence to be sent to you  or your agent

(4) (a) Reference Number of Planning Application

(b) Date of Submission

(c) Date of Decision Notice (if applicable)

(5) Address of Appeal Property

22 JANE STREET  
DUNNOON  
ARGYLL  
PA23 7HX

(6) Description of Proposal

ALTERATIONS TO GARAGE TO  
PROVIDE 2 FLATS AT UPPER LEVEL  
AND EXTERNAL ALTERATIONS TO 22  
JANE STREET, DUNOON

(7)

Please set out the detailed reasons for requesting the review:-

PLEASE NOTE THAT OUR CLIENT PREVIOUSLY OBTAINED PLANNING PERMISSION FOR THE ERECTION OF A PITCHED ROOF (REF NO. 09/00633/DET) FOR THIS PROPERTY AND NOW LOOKS TO THE INCLUDE CONSTRUCTION OF 2NO. FLATS WHILST CARRYING OUT THESE WORKS. OUR CLIENT FULLY INTENDS TO RETAIN THE OWNERSHIP OF THE GARAGE AND FLATS WITH THE VIEW TO RENTING THE FLATS OUT.

THE EXISTING GARAGE WILL ONLY BE USED FOR SERVICING OUR CLIENTS OWN BUSINESS VEHICLES AND WILL NOT BE OPENED TO THE PUBLIC.

I CAN ADVISE THAT ANY CONCERNS REGARDING BIN STORAGE AND NOISE HAVE BEEN DEALT WITH DURING THE BUILDING WARRANT APPROVAL (REF NO. 10/00930/ERD) RECEIVED FOR THIS PROPOSAL.

PLEASE ALSO NOTE THAT OUR CLIENT ALSO OWNS THE NEIGHBOURING BUILDERS MERCHANT'S YARD AND NUMBER 24 JANE STREET.



(8) If the Local Review Body determines that it requires further information on "specified matters" please indicate which of the following procedure you would prefer to provide such information :-

- (a) Dealt with by written submission
- (b) Dealt with by Local Hearing
- (c) Dealt with by written submission and site inspection
- (d) Dealt with by local hearing and site inspection

*NB It is a matter solely for the Local Review Body to determine if further information is required and, if so, how it should be obtained.*

(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

**Schedule of documents submitted with Notice of Review (Note: 3 paper copies of each of the documents referred to in the schedule below must be attached):**

No.	Detail
1	LOCATION PLAN
2	EXISTING BLOCK PLAN
3	PROPOSED BLOCK PLAN
4	EXISTING FLOOR LAYOUT
5	EXISTING ELEVATIONS
6	PROPOSED FLOOR LAYOUTS
7	PROPOSED ELEVATIONS
8	PREVIOUSLY APPROVED FLOOR LAYOUT
9	PREVIOUSLY APPROVED ELEVATIONS
10	

If insufficient space please continue on a separate page. Is this is attached?  (Please tick to confirm)

Submitted by  
(Please Sign)

*Stewart of Ness*  
*(Dunnor) Ltd*

Dated

*11 / 1 / 11*

**Important Notes for Guidance**

1. All matters which the applicant intends to raise in the review must be set out in or accompany this Notice of Review
2. All documents, materials and evidence which the applicant intends to rely on in the Review must accompany the Notice of Review UNLESS further information is required under Regulation 15 or by authority of the Hearing Session Rules.
3. Guidance on the procedures can be found on the Council's website – [www.argyll-bute.gov.uk/](http://www.argyll-bute.gov.uk/)
4. If in doubt how to proceed please contact 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)
5. Once completed this form can be either emailed to [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk) or returned by post to *Committee Services (Local Review Board), Kilmory, Lochgilphead, Argyll, PA31 8RT*
6. You will receive an acknowledgement of this form, usually by electronic mail (if applicable), within 14 days of the receipt of your form and supporting documentation.

If you have any queries relating to the completion of this form please contact Committee Services on 01546 604331 or email [localreviewprocess@argyll-bute.gov.uk](mailto:localreviewprocess@argyll-bute.gov.uk)

**For official use only**

Date form issued

Issued by (please sign)

Plans referred to in AB1 form attached separately to agenda pack.

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**STATEMENT OF CASE  
FOR  
ARGYLL AND BUTE COUNCIL  
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR ALTERATIONS TO GARAGE TO PROVIDE 2 NO. FLATS AT UPPER LEVEL AND EXTERNAL ALTERATIONS AT 22 JANE STREET, DUNOON, ARGYLL PA23 7HX.**

**LOCAL REVIEW BODY REF. 11/0001/LRB**

**PLANNING PERMISSION APPLICATION  
REFERENCE NUMBER 10/01434/PP**

**25<sup>th</sup> January 2011**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Cowal Building and Plumbing Supplies.

An application for planning permission (ref. 10/01434/PP) for alterations to the garage to provide 2 no. flats at upper level and external alterations at 22 Jane Street, Dunoon ('the appeal site') was refused under delegated powers on 12<sup>th</sup> November 2010. The planning application has been appealed and is the subject of referral to a Local Review Body.

## **DESCRIPTION OF SITE**

The subject of this application is a single storey garage repair workshop on Jane Street that is bounded by Cowal Building and Plumbing builder's yard to the south and west, to the north by a two-storey flatted block and to the east by lock-ups and commercial businesses and yards. The garage was previously owned and operated by Pearce and McKechnie but following the closure of this business in April 2009, it has been used as a motor vehicle garage by the appellant.

## **SITE HISTORY**

Subject premises were in use recently as a motor repair garage but closed in April 2009. Lawful use is a garage repair workshop (Class 5).

Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations was granted on 9<sup>th</sup> June 2009 but has not been implemented.

## **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town and 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 the level of amenity to be provided for the proposed flats is acceptable given that this is a new-build scheme and not a conversion.
- Whether the introduction of a residential use above an existing garage is compatible in land use and policy terms.
- Whether bin storage and noise related issues have been addressed.

- Whether the proposal will have any impact on the surrounding area i.e. existing land uses and car parking provision.

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. The consultation comments submitted by statutory and other consultees (Appendix 2) are attached for the purpose of clarity.

### **REQUIREMENT FOR ADDITIONAL INFORMATION AND HEARING**

It is considered that no new information has been raised in the appellants' submission which would result in the Planning Department coming to a different determination of this proposal. 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 small-scale, 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 APPELLANT'S SUBMISSION**

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following points are noted in response to the appellants points 1-4. :

1. *"Please note that our client previously obtained planning permission for the erection of a pitched roof (ref. no. 09/00633/DET) for this property and now looks to include construction of 2 no. flats whilst carrying out these works. Our client fully intends to retain the ownership of the garage and flats with the view to renting the flats out".*

Comment: Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations to the former Pearce and McKechnie Garage (Class 5) was granted on 9<sup>th</sup> June 2009, but has not been implemented. The proposal was to remove an existing monopitch roof and replace it with a pitched and gabled grey metal clad roof and replace the existing garage doorway by a metal clad roller door. An existing window in the front (west) elevation would be replaced by a new upvc window and an existing protruding wall and parapet onto the footway of Jane Street would be removed. This proposal was considered acceptable on the basis that it constituted works to alter and improve the existing motor vehicle garage, which would not alter the lawful use of the premises as a garage (Class 5).

The current proposal to create two flats within the heightened roofspace is a wholly different proposition by introducing a residential use within and above an existing industrial building. Irrespective of the ownership and control of these proposed flats and use of the garage, the relationship between residential and industrial uses is not a comfortable one and not one which the department are keen to promote. The Report of Handling clearly states the case against the proposal of two flats above this garage where issues regarding 'Bad Neighbour in Reverse' and poor quality of residential amenity are detailed.

2. *"The existing garage will only be used for servicing our clients own business vehicles and will not be opened to the public".*

Comment: As indicated above, the appellant's control over the garage does not affect its lawful use as a garage (class 5) and Public Protection has expressed concern regarding the siting of dwellings above industrial premises from noise, odours, dust and particulates unless safeguarding conditions are put in place. The Report of Handling clearly indicates the responses made by statutory consultees and policy implications.

Conversion of existing buildings to residential uses are only acceptable when the uses are involved are compatible with one another. In this case, the department considered that the standard of amenity to be provided to the two flats was below an acceptable standard where safeguarding conditions could neither improve the amenity to be provided, nor the uses presently carried out within the garage.

3. *"I can advise that any concerns regarding bin storage and noise have been dealt with during the building warrant approval (ref. no. 10/00930/ERD) received for this proposal".*

Comment: The submitted planning drawings did not indicate any provision for bin storage and they were not sufficiently detailed to indicate how the building would be constructed to provide sound insulation and deal with noise issues from the garage. These were issues that Public Protection raised in their response dated 11<sup>th</sup> October 2010 and were still outstanding at the time of the application being recommended for refusal.

Notwithstanding the approval of a subsequent Building Warrant, the combination of a new residential use above an existing industrial use with no external amenity space and poor level of residential amenity are the key reasons that the application could not be supported from a planning perspective.

4. *"Please also note that our client also owns the neighbouring builders' merchant's yard and no. 24 Jane Street".*

Comment: This has no bearing on the proposal to mix an existing industrial use (Class 5) with a residential use.

## **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 attached Report of Handling clearly details why planning permission could not be supported. The department would not normally encourage schemes close to or part of 'Bad Neighbour' type development, where the proposal could inevitably lead to a 'Bad Neighbour in Reverse' situation. This proposal to create two flats above an existing garage could lead to a very poor level of amenity for the future occupants and lead to complaints regarding the

existing use and other noisy surrounding uses. Dunoon has sufficient land and buildings for housing development or conversion and poor quality redevelopment proposals such as the current scheme should not be encouraged. Additionally, the proposed flats lack adequate bin storage areas and the applicants have not demonstrated that the garage below could operate without significant impact to the occupants of flats above in terms of operation and ventilation.

Furthermore, the proposal involves the provision of car parking spaces for the garage and the flats by allocating existing car parking spaces currently serving the adjacent commercial premises and surrounding uses. Roads have no objection but require the parking bays to be delineated. Notwithstanding this response, it is considered that the loss of three existing spaces could result in parking deficiencies in an area that is already congested and parking is very limited.

On the basis of the above, the department considers that it was correct to exercise the 'precautionary principle' in terms of maintaining a minimum standard of amenity for the two flats and refuse the application under the terms of policies LP ENV19, LP HOU 1, LP BAD 2 and LP TRAN 6 of the Argyll and Bute Local Plan (2009).

Taking account of all of the above, it is respectfully requested that the appeal be dismissed.

**APPENDICES**

**Appendix 1** Report of Handling dated 5<sup>th</sup> November 2010

**Appendix 2** Consultation comments submitted by statutory and other consultees

**Appendix 3** Photographs of the appeal site October 2010

Argyll and Bute Council  
Development and Infrastructure Services

**Delegated 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.**

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**Reference No:** 10/01434/PP  
**Planning Hierarchy:** Local application  
**Applicant:** Cowal Building and Plumbing Supplies  
**Proposal:** Alterations to garage to provide 2no. flats at upper level and external alterations.  
**Site Address:** 22 Jane Street, Dunoon, Argyll

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**DECISION ROUTE**

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

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**(A) THE APPLICATION**

- (i) **Development Requiring Express Planning Permission**  
Alterations to garage to provide an upper storey to accommodate 2 flats;  
External alterations to existing building;
  - (ii) **Other specified operations**  
Allocation of car parking spaces (for garage and flats);  
Connections to public water supply and public sewer system.
- 

**(B) RECOMMENDATION:**

It is recommended that planning permission be refused for the reasons set out below.

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**(C) HISTORY**

Subject premises were in use recently as a motor repair garage but closed in April 2009. Lawful use is a garage repair workshop (Class 5).

Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations was granted on 9<sup>th</sup> June 2009 but has not been implemented.

**(D) CONSULTATIONS:**

**Public Protection** (response dated 11<sup>th</sup> October 2010): Concern regarding the siting of dwellings above industrial premises from noise, odours, dust and particulates unless safeguarding conditions are put in place. Insufficient details regarding ventilation from the garage and no details of bin storage. Conditions recommended regarding method of construction and materials to control noise from the garage, ventilation system from the garage and provision of a bin store.

**West of Scotland Archaeology Service** (email dated 14<sup>th</sup> October 2010): No substantive archaeological issues raised.

**Area Roads Manager** (response dated 26<sup>th</sup> October 2010): No objections subject to conditions regarding sightlines, parking provision. Parking bays to be delineated.

**Scottish Water** (expiry date 26<sup>th</sup> October 2010): No response.

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**(E) PUBLICITY:** The application was advertised under Regulation 20(1) Advert Statement (publication date 15<sup>th</sup> October 2010, expiry date 5<sup>th</sup> November 2010).

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**(F) REPRESENTATIONS:**

No representations have been received.

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**(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 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.

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**(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application**

- (i) List of all Development Plan Policy considerations taken into account in assessment of the application.**

**a) Argyll and Bute Structure Plan 2002:** The following policies are applicable:

STRAT SI 1 - Sustainable Development;  
STRAT DC1 - Development Within the Settlements;

**b) Argyll and Bute Local Plan (August 2009)**

Policy LP ENV 19 Development Setting, Layout and Design (including Appendix A Sustainable Siting and Design Principles) and Sustainable Design Guidance;  
Policy LP HOU 1 General Housing Development;  
Policy LP BAD 2 Bad Neighbour Development in Reverse;  
Policy LP TRAN 6 Vehicle Parking Provision including Appendix C Access and Car Parking Standards.

- (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.**

- Scottish Planning Policy (February 2010);
  - Planning Advice Note 56 - 'Planning and Noise';
  - Planning Advice Note 67 - 'Housing Quality';
  - Planning Advice Note 68 - 'Design Statements';
  - 'A Policy Statement for Scotland - Designing Places';
- 

**(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment:** No.



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- (L) **Has the application been the subject of statutory pre-application consultation (PAC):** No.
- 
- (M) **Has a sustainability check list been submitted:** No.
- 
- (N) **Does the Council have an interest in the site:** No.
- 
- (O) **Requirement for a hearing (PAN41 or other):** No.
- 

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

In the Argyll and Bute Local Plan (August 2009), the premises are situated within the Main Town settlement of Dunoon within an Area For Action AFA 2/1, where policies LP ENV19, LP HOU1, LP BAD2 and LP TRAN6 are all applicable.

The subject of this application is a single storey garage repair workshop on Jane Street that is bounded by Cowal Building and Plumbing builder's yard to the south and west, to the north by a two-storey flatted block and to the east by lock-ups and commercial businesses and yards.

The proposal is to add an additional storey to the garage building to provide accommodation within the roofspace for two 1-bedroom flats. The walls of the existing building will be raised and surmounted by a new pitched and gabled roof of grey concrete tiles. The walls will be finished in white render.

An external staircase is proposed on the side (northern) elevation to a main entrance door into a lobby serving both flats. No windows are proposed on the side (north and south) elevations with windows from habitable rooms on the front (west) and rear (east) elevations. Four rooflights are proposed on each roof slope.

The agent confirms that the garage is only to be used by the applicants for their vehicles and will not be a trading garage as before. The proposed hours of the garage will be flexible but no different to what the previous garage used to operate i.e. Monday to Friday 7.30am-8.00pm, Saturday 7.30am-6.00pm and Sunday 10.00am-5.00pm. External alterations to the garage involve the installation of a new and enlarged roller door.

The applicants own car parking spaces adjacent to the southern elevation of the premises. Two spaces are allocated for the flats with one visitor space, and three spaces allocated for the garage.

Policy LP HOU1 'General Housing Development' states a general presumption in favour of housing development unless there is an unacceptable environmental, servicing or access impact. Whilst the proposed flats would have a dedicated car parking space each, they lack any form of external amenity spaces and would be located above an existing repair garage within an industrial/commercial area. It is considered that the quality of the flats would be below what would normally be expected in respect of a new-build scheme.

However, as the proposal involves the creation of an additional storey above an exiting industrial building, Policy LP BAD 2 'Bad Neighbour Development in Reverse' is crucial in an assessment of the proposal. This policy states a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to areas already containing developments classed as "Bad Neighbour" Developments.

Public Protection has expressed concern at situating dwellings above industrial premises such as a garage that could be subject to nuisance from noise (patrons, vehicle engines, banging and grinding from repair work and machinery), odours (exhaust fumes, chemicals such as solvents and fuels) and to a lesser extent dust and particulates (exhaust fumes, repair work debris) unless appropriate safeguarding conditions are put in place. Insufficient details have been submitted in respect of ventilation systems from the garage, where any discharge should be above eaves level and above the rooflight openings.

No details of bin storage areas are shown. Public Protection require provision made at ground level for the safe storage of standard wheelie bins and the storage area should not impede access and egress from the first floor properties. Conditions are recommended in respect of methods of construction and materials to control noise emanating from the garage, ventilation ducting from the garage and provision of a bin store.

PAN 56 'Planning and Noise' acknowledges that the planning system cannot tackle existing noise problems directly but has the task of guiding development to the most suitable locations and in regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission. Given the requirements to safeguard the residential units from the existing lawful use below, it is considered that planning conditions alone could not guarantee a level of amenity expected by future occupants of the flats.

The department would not normally encourage schemes close to or part of 'Bad Neighbour' development. This proposal to create two flats above an existing garage could lead to a very poor level of amenity for the future occupants and lead to complaints regarding the existing use and other noisy surrounding uses. Dunoon has sufficient land and buildings for housing development or conversion and poor quality redevelopment proposals such as the current scheme should not be encouraged. Additionally, the proposed flats lack adequate bin storage areas and the applicants have not demonstrated that the garage below could operate without significant impact to the occupants of flats above in terms of operation and ventilation.

Furthermore, the proposal involves the provision of car parking spaces for the garage and the flats by allocating existing car parking spaces currently serving the adjacent commercial premises and surrounding uses. Roads have no objection but require the parking bays to be delineated. Notwithstanding this response, it is considered that the loss of three existing spaces could result in parking deficiencies in an area that is already congested and parking is very limited.

Given all of the above, the proposal would be contrary to policies LP ENV19, LP HOU 1, LP BAD 2 and LP TRAN 6 of the Argyll and Bute Local Plan (2009) and does not justify the grant of planning permission.

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

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**(R) Reasons why planning permission or a Planning Permission in Principle should be granted. n/a**

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

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

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**Author of Report: Brian Close**

**Date: 5 November 2010**

**Reviewing Officer: David Eaglesham**

**Date: 9 November 2010**

**Angus Gilmour  
Head of Planning**

**APPENDIX TO DECISION REFUSAL NOTICE**

Appendix relative to application **10/01434/PP**

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(A) The reasons why planning permission has been refused

1. The creation of an additional storey over the existing garage to accommodate two flats largely within the new roofspace of the heightened building would result in a poor standard of residential amenity for future occupants given the lack of any external amenity space.  
The lack of any amenity space for such a new-build scheme would be contrary to the provisions of Appendix A Sustainable Siting and Design Principles of the Argyll and Bute Local Plan (4.2) that requires that "all development should have some private space".  
Accordingly, the proposal for two flats without any private amenity space whatsoever would create a poor level of residential amenity and would be contrary to Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles and Policy LP HOU 1 of the Argyll and Bute Local Plan (2009).
2. Given the lawful use of the Class 5 activities within the existing repair garage, the creation of two flats above the garage would result in a poor standard of amenity for future occupants of the flats, given the range of uses which could be carried out without the benefit of planning permission, resulting in disturbance generated by noise, odours, dust, particulates and activities associated with such an industrial use.  
Furthermore, the introduction of residential uses above the existing garage building with associated window openings and rooflights could result in nuisance from smell, fumes and odours from the garage use below without the benefit of a suitable ventilation system to clear the residential units.

Accordingly, to introduce a noise sensitive use above an existing industrial building would be contrary to Accordingly, the development would be contrary to PAN 56 "*Planning and Noise*", Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles and Policy LP BAD 2 'Bad Neighbour Development in Reverse' of the Argyll and Bute Local Plan (August 2009) which state that:

*"The juxtaposition of incompatible uses can cause problems for the occupiers of both the new and existing development. For example, where a residential development is proposed in the vicinity of existing industrial uses, the expectations of new residents may exceed the standards applied by the planning authority and which may give rise to local pressure to curtail the existing use. Planning authorities should therefore, try as a matter of good practice to keep a suitable distance between noise sensitive development and established businesses that generate noise."*

*(Planning Advice Note 56 - 'Planning and Noise', para 46)*

*"In all Development Control Zones there is a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to, areas already containing "Bad Neighbour" Developments. In circumstances of "Bad Neighbour" in reverse, Policy LP BAD2 seeks not to prejudice the operational integrity of safeguarded land use and operations."*

*(Policy LP BAD2 of the Argyll and Bute Local Plan (August 2009).*

3. The intensification of the existing industrial building to provide two flats would result in the loss of three car parking spaces from the existing off-street car parking area in the lane east of Jane Street. The proposal to create two additional flats, coupled with the loss of three car parking spaces would increase demand on the available unallocated on-street car parking in this part of Jane Street and exacerbate existing parking problems. Accordingly, the proposal would be contrary to Policy LP TRAN 6 Vehicle Parking Provision of the Argyll and Bute Local Plan (2009).

(B) Submitted Drawings

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:

1:1000 Location Plan SS C 00 03 01;  
1:200 Proposed Block Plan DY-L-004;  
1:50 Existing Plan SS/0509/G2;  
1:100 Existing Elevations SS/0509/G1;  
1:50 Proposed Floor Plans and Section F1SS02A 01  
1:50 Proposed Elevations F1SS02A 02

(C) 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

ARGYLL AND BUTE COUNCIL



DEVELOPMENT AND INFRASTRUCTURE SERVICES

Head of Service: ANGUS GILMOUR

14 OCT 2010

Area Office, 22 Hill Street,  
Dunoon. PA23 7AP  
e-mail address: jo.rains@argyll-bute.gov.uk

Telephone: 01369 707120  
Extension: 7124  
Fax: 01369 705948

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**INTERNAL MEMORANDUM**

Date: 11th October 2010

To: Head of Planning & Regulatory Services

Your Ref: 10/01434/PP

From: Jo Rains, Area Environmental Health Manager  
Bute and Cowal

Our Ref:

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**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**PROPOSAL: ALTERATIONS TO EXISTING GARAGE TO PROVIDE 2 FLATS AT UPPER**  
**LEVEL AND EXTERNAL ALTERATIONS**  
**ADDRESS: 22 JANE STREET, DUNOON, ARGYLL AND BUTE PA23 7HX**  
**GRID REFERENCE: 217247 676476**

I refer to the above application received to provide dwellings above a garage premises at 22 Jane Street. I have the following comments and observations to make concerning this application.

Any dwellings situated above an industrial premises such as a garage could be subject from nuisance from noise (patrons, vehicle engines, banging and grinding from repair work and machinery) odours (exhaust fumes, chemicals such as solvents and fuels) and to a lesser extent dust and particulates (exhaust fumes, repair work debris) unless appropriate safeguarding conditions are put in place.

It is noted from the supporting information that the garage is to be 'private use' by Cowal Building and Plumbing Supplies which will reduce disturbance from patron noise but it is assumed that the garage is still to be used for the maintenance of vehicles and repairs rather than purely secure storage. It is noted that the applicant has submitted hours of use.

**Noise**

The development will be required to submit a building warrant application prior to construction which will regulate the standard of sound insulation to be provided. It is recommended that advice is sought from a competent person to ensure that the method of construction and chosen materials are conducive to adequately insulating the dwelling areas from likely impact sounds and low frequency noise associated with motor vehicle repair. The level of insulation required may need to exceed the minimum sound reduction standards imposed by Building Regulations. The bedroom and living areas of the dwellings should be capable of meeting World Health Organisation recommendations for sound levels conducive to resting/sleeping and be 35 dB L<sub>Aeq</sub> for a reasonable level in a bedroom (30 dB L<sub>Aeq</sub> good level) between the hours of 23:00 and 07:00.



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**Page 21**  
**DEVELOPMENT & INFRASTRUCTURE SERVICES**  
**BUTE & COWAL AREA**  
**OBSERVATIONS ON PLANNING APPLICATION**

Planning No: 10/01434/PP  
 Contact: CRAWFORD C  
 Tel: 01369708600

Grid Reference: 217247 - 676476

Dated: 05/10/2010

Received: 12/10/2010

Applicant: Cowal Building and Plumbing Supplies

Proposed Development: Alterations to existing garage to provide 2no. flats at upper level and external alterations.

Location: 22 Jane Street, Dunoon

Type of Consent: PP

Ref No(s) of Drg(s) submitted: Location & Site Plans and details (6)

**RECOMMENDATION** No objections subject to conditions

**Proposals Acceptable Y or N**

**1. General**

(a) General impact of development	Y
(b) Safety Audit Required	N
(c) Traffic Impact Analysis	N
(d) Flooding Assessment	N

**2. Existing Roads**

(a) Type of Connection (Road Junct/Footway Crossing)	Y
(b) Location(s) of Connection(s)	Y
(c) Sightlines 2.5 x 42 metres	Y
(d) Pedestrian Provision	Y

**Proposals Acceptable Y or N**

**3. New Roads N/A**

(a) Widths	
(b) Pedestrian Provision	
(c) Layout (Horizontal/ Vertical alignment)	
(d) Turning Facilities (Circles/Hammerheads)	
(e) Junction Details (Locations/Radii/Sightlines)	
(f) Provision for PU	

**Proposals Acceptable Y or N**

**4. Servicing & Car Parking**

(a) Drainage	Y
(b) Car Parking Provision	Y
(c) Layout of Parking Bays/ Garages	Y
(d) Servicing Arrangements/ Driveways	Y

**5. Signing N/A**

(a) Location	
(b) Illumination	

Item Ref	COMMENTS
	The proposed development is accessed from U42 Jane Street, Dunoon, within an urban 30mph speed restriction. Sightlines to be 2.5 x 42 metres in both directions, this is currently attainable. All land within sightlines to be maintained at a height not greater than 1 metre above road level, and must be within the applicants control. Current connection on to public road from private road is acceptable. Parking proposals are acceptable for 1 bedroom flats. Parking bays should be delineated for use for flats/garage only.

Item Ref	CONDITIONS
2	Sightlines to be 2.5 x 42 metres in both directions, this is currently attainable. All land within sightlines to be maintained at a height not greater than 1 metre above road level, and must be within the applicants control. Current connection on to public road from private road is acceptable.
4	Parking proposals are acceptable for 1 bedroom flats. Parking bays should be delineated for use for flats/garage only.

**Notes for Intimation to Applicant**

(i)	Construction Consent (S21)*	Not Required
(ii)	Road Bond (S17)*	Not Required
(iii)	Road Opening Permit (S56)*	Not Required

\*Relevant Section of the Roads (Scotland) Act 1984

Signed: Christopher Crawford Date 26/10/2010

Copies to: Planning  Maint  SOID  File

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14 OCT 2010

**McCabe, Charles**

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**From:** bandc, planning [planning.bandc@argyll-bute.gov.uk]  
**Sent:** 14 October 2010 15:03  
**To:** Munroe, Helen; McCabe, Charles  
**Subject:** FW: Planning Application 10/01434/PP Alterations to existing garage etc, 22 Jane Street, Dunoon

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**From:** Swanson, Carol[SMTP:CAROL.SWANSON@GLASGOW.GOV.UK]  
**Sent:** Thursday, October 14, 2010 3:03:02 PM  
**To:** bandc, planning  
**Subject:** Planning Application 10/01434/PP Alterations to existing garage etc, 22 Jane Street, Dunoon  
**Auto forwarded by a Rule**

Thank you for consulting us on the above planning application. I confirm that the proposed development raises no substantive archaeological issue.

Dr Carol Swanson  
Manager  
West of Scotland Archaeology Service  
20 India Street  
Glasgow  
G2 4PF  
Tel: 0141 287 8334  
Fax: 0141 287 9529  
Email: [carol.swanson@wosas.glasgow.gov.uk](mailto:carol.swanson@wosas.glasgow.gov.uk)

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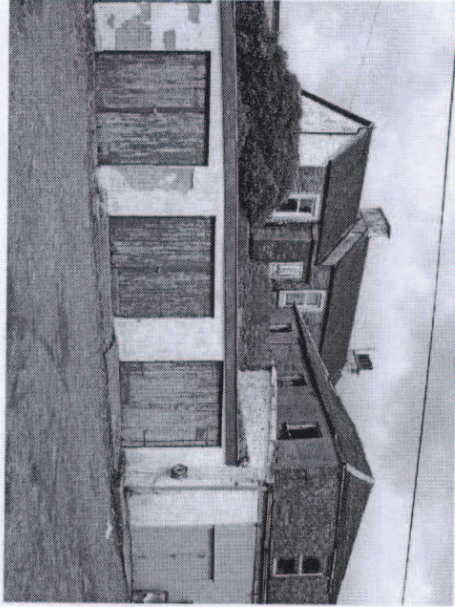
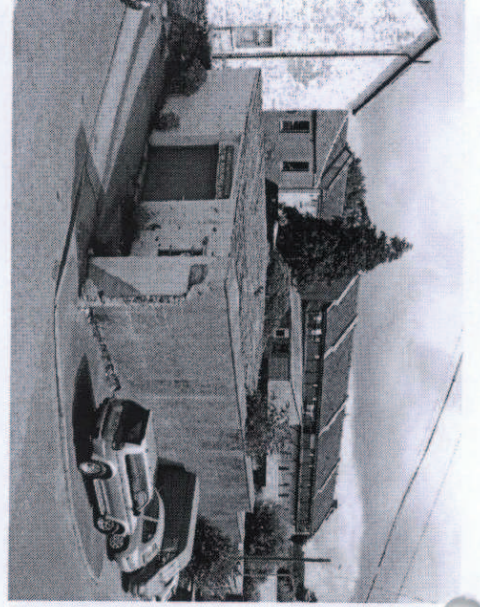
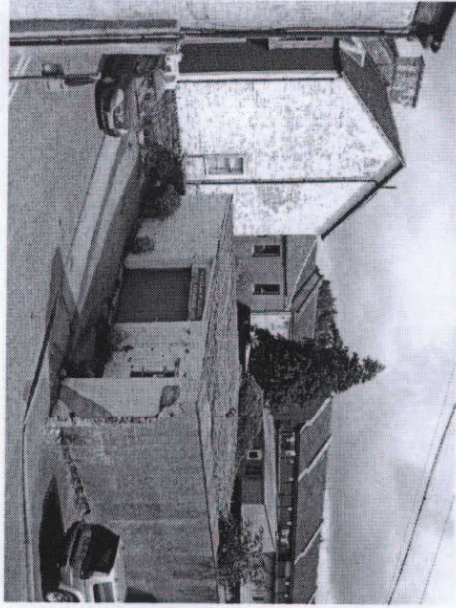
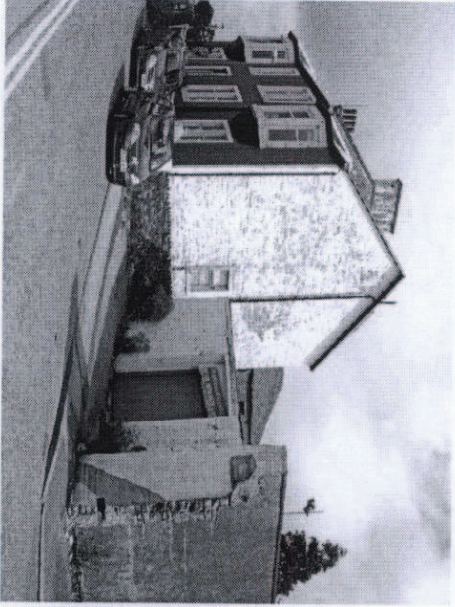
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17/8/10



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**Stewart McNee (Dunoon) Ltd**

Highland Avenue, Sandbank Business Park, Dunoon PA23 8PB  
 Tel: 01369 702578 Fax: 01369 706315



10th February 2011

Committee Services (Local Review Board)  
 Argyll & Bute Council  
 Kilmory  
 Lochgilphead  
 PA31 8RT

For the attention of: Fiona McCallum

Dear Fiona,

Proposed Additional Storey with a Pitched Roof and External Alterations to 22 Jane Street,  
 Dunoon, PA23 - Ref No. 11/0001/LRB

Further to your notification of the statement of case submitted by the Planning Authority I would respond as follows.

In the first instance please note that I am concerned that the statement of case has gone beyond addressing the further information that was raised in the request for review however I believe that the following should be taken into consideration in response to the statement.

I feel that the review board should be aware that the application was subject to pre-application discussions with the case officer who requested some revisions to the proposed elevations' concerning the provision of rooflights before an application is submitted. These changes were duly carried out prior to submission.

Although the application received favourable consultation responses from Public Protection and the Roads department, both of whom had no objections subject to conditions, it was refused on amenity grounds without any request from the planning service as to whether these conditions could be addressed. The Planning Authority has stated in the statement of case that the details requested in the proposed conditions were outstanding at the time of the application being recommended for refusal. This is true as we were never made aware of these consultation responses or given an opportunity to provide further information. The matters raised in the consultations can be easily dealt with (hence they were requested as conditions rather than as part of the application by the consultees) as demonstrated by the detail of the building warrant approval. We feel that had there been an opportunity for discussion and submission of information to address these matters they could have been more than adequately addressed.



SCOTTISH  
BUILDING







With regards to the concern in relation to the provision of amenity space we would question exactly how much amenity space is required for a 1 bed flat, again no advice was given in this respect at pre-app or request for further information prior to the refusal of the application. Please note that there is significant public amenity spaces close by at either West Bay or the Castle Gardens. This aspect could be addressed through the inclusion of the amenity space for the property at 24 Jane Street, which as previously mentioned is owned by the applicant. There are generous garden grounds serving this property which could easily have accommodated amenity space for two 1 bed flats.

I also note that the planning authority has considered the proposal as a bad neighbour in reverse and refused primarily on these grounds. The definition of bad neighbour in the adopted local plan is as defined in Schedule 7 of the Town and Country Planning General Development Procedure (Scotland) Order 1992 within which a car mechanics is not specified as a bad neighbour. Furthermore the area is mixed in character with residential properties neighbouring the application site. The schedule does specify developments that would affect residential property by reason of fumes, noise, vibration etc as bad neighbour however we would again state that Public Protection were satisfied that these matters could be addressed by means of condition and would suggest that the case officer should have provided us with the opportunity to address these if it was deemed that they may be of a concern beyond the terms of the conditions. The planning authority have stated in the report of handling that Policy LP Bad2 is crucial in the consideration of this application however it is clear that in the consideration that the proposal constitutes bad neighbour in reverse is unfounded. We would therefore consider that it is premature and inaccurate to refuse the application on the grounds that it is contrary to policy LP Bad2 as the matters could be adequately and to the satisfaction of the consultees be controlled by conditions, or by the submission of further information if it was requested, that would have adequately addressed these concerns and resulted in the proposal complying with this crucial policy.

In summary no adverse comments were given at the pre-application stage. The consultation responses were favourable subject to conditions that could have been addressed if the opportunity was given.

Considering this we would consider that subject to appropriate conditions as suggested by the consultees the application would comply with the relevant policies of the adopted local plan and the application should therefore be approved by the review board.

Yours faithfully



Graeme Johnstone