

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

*Customer Services*  
*Executive Director: Douglas Hendry*



*Kilmory, Lochgilphead, PA31 8RT*  
*Tel: 01546 602127 Fax: 01546 604435*  
*DX 599700 LOCHGILPHEAD*  
*e.mail –douglas.hendry@argyll-bute.gov.uk*

17 August 2011

## **NOTICE OF MEETING**

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held in the **COUNCIL CHAMBER, KILMORY, LOCHGILPHEAD** on **WEDNESDAY, 24 AUGUST 2011** at **9:15 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: BRAEHOME, 27 CRICHTON ROAD, ROTHESAY, ISLE OF BUTE PA20 9JR**
  - (a) Notice of Review and Supporting Papers (Pages 1 - 32)
  - (b) Comments by Interested Parties (Pages 33 - 46)

## **ARGYLL AND BUTE LOCAL REVIEW BODY**

Councillor Daniel Kelly (Chair)  
Councillor Donald MacMillan

Councillor James McQueen

Contact: Hazel Kelly, Senior Committee Assistant Tel: 01546 604269

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Ref:  
ABI

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

OFFICIAL USE

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	Donald James Macneil
Address	27 Crichton Road
	Rothesay
	Isle of Bute
Postcode	PA20 9JR
Tel. No.	01700 505334
Email	donaldmacneil@btint ernet.com

(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

Braehome  
27 Crichton Road  
Rothesay  
Isle of Bute  
PA20 9JR

(6) Description of Proposal

Replacement Windows

(7)

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

The reasons for requesting a review are as per the evidence and statement delivered supporting my application and appeal.





(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.*

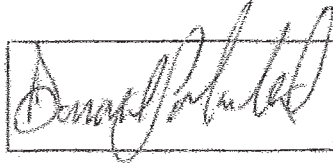
(9) Please list in the schedule all documentation submitted as part of the application for review ensuring that each document corresponds to the numbering in the sections below:-

**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	Letter to Argyll & Bute Council x 2 + Original Application <i>1 ALREADY SUBMITTED</i>
2	Photographic images of the properties x 2 + Original Application <i>1 ALREADY SUBMITTED</i>
3	Scottish Office Appeal x 3
4	Scottish Office Accompanied Letter x 3
5	Ownership Form x 3
6	N.B Planning Documents returned with original application
7	
8	
9	
10	

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

Submitted by  
(Please Sign)



Dated

23 June 2011

**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)

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**For official use only**

Date form issued

Issued by (please sign)



# Directorate for Planning and Environmental Appeals

www.scotland.gov.uk/topics/planning/appeals

(Date Stamp)

RECEIVED 14 JUN 2011

## APPEAL TO SCOTTISH MINISTERS

UNDER SECTION 18 OF THE PLANNING  
(LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997  
IN RESPECT OF LISTED BUILDING AND CONSERVATION AREA CONSENTS

**IMPORTANT: Please read the Notes for Appellants before filling in the form and use block capitals**

**1. APPELLANT(S)**

Name Address  
BRAEHOME  
27 CRICHTON ROAD  
ROTHESAY  
ISLE OF BUTE

Postcode PA20 9JR

Daytime Tel. No 01700 505334

Fax No

E-mail Address DONALDMACNEIL@BTINTERNET.CO.UK

**2. AGENT (if any)**

Name Address

Postcode

Daytime Tel. No

Fax No

E-mail Address

**3. ADDRESS OF APPEAL PROPERTY**  
(if different from 1 above)

Postcode

**4. BRIEF DESCRIPTION OF PROPOSAL**

INSTALLATION OF  
REPLACEMENT TIMBER  
WINDOWS.

**5. DETAILS OF APPLICATION**

Name of Planning Authority ARGYLL AND BUTE

Date of application to planning authority	Date of authority's decision	Authority's Code or Reference Number (if known)
9 <sup>th</sup> MARCH 2010	31 <sup>st</sup> MARCH 2011	10/00382/PP 10/00383/LIB

**6. TYPE OF APPLICATION – (Please tick ONE box)**

- Listed building consent
- Conservation Area consent
- Approval of reserved details of works
- Variation of discharge of conditions

**7. APPEAL AGAINST – (Please tick ONE box)**

- Refusal of application
- Conditions imposed
- Failure to give a decision (deemed refusal)

**8. PROCEDURE – (Please tick ONE box)**

I wish my appeal

- to be dealt with on the basis of written submissions
- to be dealt with on the basis of a hearing
- to be the subject of a public inquiry

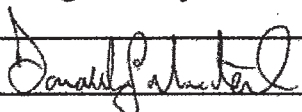
**9. SUPPORTING DOCUMENTS**

You must enclose the following

- a copy of the application to the planning authority (including the certificate under Regulation 6 which accompanied it)
- a further certificate under Regulation 6 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) (Scotland) Regulations 1987
- a copy of all the relevant plans or drawings and other particulars, documents and correspondence relating to the application
- a copy of the Notice of the planning authority's decision, if any
- if the appeal concerns approval of reserved details or the variation or discharge of conditions – a copy of the original application, consent and approved plans

I appeal to Scottish Ministers on the grounds stated below and confirm that I have sent a copy of this form to the planning authority who dealt with the application.

Signed



Date

9<sup>th</sup> June 2011

This form and supporting documents should be sent to:  
 Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callendar Business Park,  
 Callendar Road, Falkirk, FK1 1XR  
 E-mail: DPEA@scotland.gsi.gov.uk (an appeal can only be lodged by e-mail if it is complete, including all supporting documents.)

**10. GROUNDS OF APPEAL** *(This should be a clear and concise statement of your full case)*

SEE ATTACHED LETTER AND SUPPORTING DOCUMENTS.

*(continue on separate sheet if necessary)*



Braehome  
27 Crichton Road  
Rothesay  
Isle of Bute  
PA20 9JR

Date: 9th June 2011

Directorate of Planning and Environmental Appeals  
4 The Courtyard  
Callendar Business Park  
Falkirk  
FK1 1XR

Dear Sirs,

**APPEAL TO THE SCOTTISH GOVERNMENT  
ARGYLL & BUTE COUNCIL; REFUSAL OF PLANNING PERMISSION No.s 10/00382 & 10/00383  
TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997  
BRAEHOME, 27 CRICHTON ROAD, ROTHESAY, ISLE OF BUTE.**

Please find below my statement of appeal with regard to my planning and listed building consent refusal for the fitting of double glazed, double swing replacement sash and case look alike windows.

I would request that a review regarding the refusal of planning permission takes place as it is clear from the photographs provided of the actual building and that of the surrounding area that it neither impacts nor detracts from the architectural or historic interest of this Category C(S) Listed Building as stated as the reason for refusal, the previous 15 years have seen no sash & case double glazed units fitted on Crichton Road however, during this period numerous buildings have been retro fitted with various window types complete with various types of window opening.

The side and rear elevations of many properties have been permitted to install either UPVC or other types of window, I am requesting to keep the windows the same as the recently fitted windows within the building at 28 Crichton Road maintaining a uniform perspective and preserving the visual appearance.

The building is a period property and given that recent permission has been granted to 28 Crichton Road Lower Flat to have double swing sash and case look alike windows fitted to a quarter of the building it is visually apparent that this neither impacts or detracts from the architectural or historic interest of this Category C(S) Listed Building as stated within the planning refusal.

The housing on Crichton Road is a mixture of modern and period property with a varied mixture of window types ranging from the traditional timber sash and case, timber double swing, UPVC fixed and double swing with sash and case features through to aluminium case, these windows have a variety of finished colour's from white, dark brown, green and untreated aluminium that all contradict STRAT DC9 of the Argyll and Bute Structure Plan 2002; Policy LP ENV 14 of the Argyll and Bute Local Plan 2009.

The permission and fitting of double swing sash and case windows to the property at 28 Crichton Road were based on other factors, my original application included health & safety implications that my family could be exposed to however, I feel that I have been discriminated against as my wife and young children cannot open the sash and case windows to aid escape.

The poor condition of the current windows makes them impossible for my wife to slightly open enough to air the building and on these grounds I request that my appeal is looked at favorably.

The property as it stands does not meet the expectations of the Scottish Government with regard to energy efficiency targets and the Climate (Scotland) Act 2009 Chapter 3, the guidance and requirements from the act should also be considered as the new style and characteristics of the window units allow for additional and increased efficiency this also reducing the carbon footprint for Bute.

Housing (Scotland) Act 2006, Parts 1 and 2: Advisory and Statutory Guidance for Local Authorities: Volume 4 Tolerable Statutory Guidance for Local Authorities: Volume 4 Tolerable Standard has been the principal measure of housing quality in Scotland for almost 40 years; 2006 introduced an important new criteria to this guidance "satisfactory thermal insulation" with respect to the guidance this property cannot achieve the minimum standard with the current window types.

As economic conditions have changed dramatically since 2008, the financial constraints concerned with repair or replacement of the current units with a like for like sash and case in double glazing make such an option un-tenable repair cost quotes are in excess of replacement prices and with no assistance available in the form of grants or financial assistance and given the current financial crisis and budget available to me, I can see no other way forward in meeting energy efficiency targets or improvements to the building other than fitting of double swing units as per my application.

I propose that the single glazed sash in case windows are replaced with good quality Blair timber double swing windows which match in appearance and finish, it is accepted that both traditional and modern sash in case windows fail in energy performance therefore the application and proposal complies with elements of local and national government policy on sustainable design.

The proposal also complies with European directives to reduce carbon and fuel poverty in disadvantaged households.

The windows constitute only a small element of the historic, architectural and cultural fabric of Rothesay's conservation area, so any conflict with these policies must be considered in this context and against the scale of the current financial constraints imposed.

Yours faithfully



Donald James Macneil

CERTIFICATE A OR B

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997

CERTIFICATE UNDER REGULATION 6 OF THE TOWN AND COUNTRY PLANNING (LISTED BUILDINGS AND BUILDINGS IN CONSERVATION AREAS) (SCOTLAND) REGULATIONS 1987 - AT APPEAL STAGE


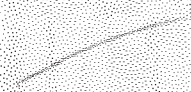


\*CERTIFICATE A (where the appellant is the sole owner of the building)

I hereby certify that at the beginning of the period of 21 days ending with the date of the accompanying appeal no person other than the appellant was an owner of any part of the building to which the appeal relates.

OR

\*CERTIFICATE B (where the appellant is not the sole owner of the building)

I hereby certify that \*\*I have/the appellant has given the required notice to all persons (other than the appellant) who, at the beginning of the period of 21 days ending with the date of the accompanying appeal, were owners of any building or part thereof to which the appeal relates, as listed a below.

Owner's Name	Address at which notice was served	Date of service of Notice
	N/A	
Signed		
*on behalf of		
Date		16 <sup>th</sup> June 2011

\*Please tick ONE box only. Certificates A and B are alternatives.

\*\*Delete as appropriate.



**CERTIFICATE C OR D**

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997**

CERTIFICATE UNDER REGULATION 6 OF THE TOWN AND COUNTRY PLANNING (LISTED BUILDINGS AND BUILDINGS IN CONSERVATION AREAS) (SCOTLAND) REGULATIONS 1987 - AT APPEAL STAGE

**I certify that:**

1. **\*\*I am/The appellant is** unable to issue a certificate in accordance with either subparagraphs (a) or (b) of regulation 6(1) in respect of the accompanying appeal.  
**\*\*I have/the appellant has** taken all reasonable steps to find out the names and addresses of the owners of any part of the building but have been unable to do so. These steps were as follows:-

[Redacted area]

2. Notice of the appeal in the form attached to this certificate has been published in a local newspaper ( [Redacted] ) on [Redacted].

- \*3. **\*\*I have/The appellant has** given the required notice to the following persons who, at the beginning of the period of 21 days ending with the date of the appeal, were owners of any part of the building to which the appeal relates.

Owner's Name	Address at which notice was served	Date of service of Notice
[Redacted]	[Redacted]	[Redacted]
	Signed	[Redacted]
	*on behalf of	[Redacted]
	Date	[Redacted]

\* Delete as appropriate.  
 Paragraphs 1 and 2 must be completed in both types of certificate.  
 Paragraph 3 only applies where some of the owners of the building are known and if this is completed the certificate is a CERTIFICATE C.  
**If none of the owners of the building are known paragraph 3 should not be completed and the certificate is a CERTIFICATE D.**

NOTICE NO 1

(NOTICE FOR SERVICE ON INDIVIDUALS)

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND)  
ACT 1997**

Notice of appeal concerning an application for (1) [REDACTED]

Proposal to carry out works (2) [REDACTED]

TAKE NOTICE that an appeal is being made to Scottish Ministers by (3) .....

[REDACTED]  
\*against the decision of the (4) [REDACTED] Council  
\*on the failure of the (4) [REDACTED] Council to give a decision  
on an application (5) [REDACTED]

If you wish to make representations to Scottish Ministers about the appeal, you should make them not later than (6) [REDACTED] to the Scottish Executive Inquiry Reporters Unit, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR

Signed [REDACTED]

\*on behalf of [REDACTED]

Date [REDACTED]

\*Complete one field only.

Notes on Insertions

1. insert either listed building consent, conservation area consent or variation or discharge of conditions of listed building consent
2. insert address or location of building and indicate whether demolition, alteration or extension of the building is proposed
3. name of appellant
4. name of planning authority
5. description of proposed works
6. date not less than 21 days after the date on which the notice is served.

NOTICE NO 2

(NOTICE FOR PUBLICATION IN LOCAL NEWSPAPER)

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND)  
ACT 1997**

Notice of appeal concerning an application for (1) [REDACTED]

Proposal to carry out works (2) [REDACTED]

Notice is hereby given that an appeal is being made to Scottish Ministers by (3) [REDACTED]

\*against the decision of the (4) [REDACTED]

Council

\*on the failure of the (4) [REDACTED]

Council to give a decision

on an application (5) [REDACTED]

Any owner of the building or any part thereof who wishes to make representations to Scottish Ministers about the appeal should make them in writing not later than (6) [REDACTED] to the Scottish Executive Inquiry Reporters Unit, 4 The Courtyard, Callendar Business Park, Callendar Road, Falkirk, FK1 1XR.

Signed [REDACTED]

\*on behalf of [REDACTED]

Date [REDACTED]

\*Complete one field only.

Notes on Insertions

1. insert either listed building consent, conservation area consent or variation or discharge of conditions of listed building consent
2. insert address or location of building and indicate whether demolition, alteration or extension of the building is proposed
3. name of appellant
4. name of planning authority
5. description of proposed works
6. date not less than 21 days after the date on which the notice is served.

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# “Braehome”

## Double Swing Window Planning Appeal



27 Crichton Road, Rothesay, Isle of Bute

9 June 2011



**APPEAL TO THE SCOTTISH GOVERNMENT**

**ARGYLL & BUTE COUNCIL**

**REFUSAL OF PLANNING PERMISSION**

**No.s 10/00382 & 10/00383**

**TOWN & COUNTRY PLANNING (SCOTLAND)  
ACT 1997**

**BRAEHOME, 27 CRICHTON ROAD, ROTHESAY,  
ISLE OF BUTE.**

Please find enclosed photographs showing the various styles, types and openings of window on Crichton Road, at this time only one property fifteen years ago had double glazed wood, sash and case windows fitted.

The lower flat at 28 Crichton Road has recently been permitted to fit double swing units, my circumstances are no different from my neighbour's and if anything my safety concerns have been overlooked as my wife and young children are unable to open this type of window to aid any escape.

Given the financial circumstances and the procrastination of the council in reaching a decision regarding my original application, the cost of any replacement will now increase substantially this causing an additional burden to my already restricted budget.

My appeal is based on above statement, enclosed letter and photographic evidence that Crichton Road and its surrounding townscape have various window types, openings and fixtures that do not conform with guidance or that of the local plan.

I also believe that I am being discriminated against by the refusal of my application.



Building 1 - Window Type: UPVC Various Openings & Sizes



Building 2 - Window Type: Wood Double Swing, Original Installation & Various Openings





Building 3 - Window Type: Wood Double Swing & Various Openings



Building 4 - Window Type: Wood Original Installation





Building 5 - Window Type: Wood, Various Openings Not Sash & Case



Building 6 - Window Type: UPVC, Various Openings Not Sash & Case





Building 7 - Window Type: UPVC, Aluminium, Original Installation  
Various Openings



Building 8 - Window Type: Original Installation





Building 9 - Window Type: Wood Double Swing, Aluminium, Original Installation and Various Openings



Building 10 - Window Type: Wood Double Swing





Building 11 - Window Type: UPVC Various Openings



Building 12 - Window Type: Original Installation





Building 13 - Window Type: Aluminium, Original Installation and Various Openings



Building 14 - Window Type: Original Installation





Building 15 - Window Type: Aluminum, Original Installation and Various Openings



Building 16 - Window Type: Original Installation





Building 17 - Window Type: Wood Double Swing, Original Installation and Various Openings

**27 Crichton Road - Appeal Property Showing Both Types of Window**



Building 18 - Window Type: Original Installation & DG Wood Sash & Case





Building 19 - Window Type: Original Installation



Building 20 - Window Type: Original Installation





Building 21 - Window Type: Wood Double Swing, Original Installation and Various Openings



Building 22 - Window Type: Aluminium, UPVC & Various Openings





Building 23 - Window Type: Original Installation



Building 24 - Window Type: Wood Double Swing, Aluminium, UPVC and Various Openings





Building 25 - Window Type: UPVC and Various Openings



Building 26 - Window Type: Original Installation





Building 27 - Window Type: Original Installation



Building 28 - Window Type: Wood Double Swing, UPVC, Aluminium and Various Openings





Building 29 - Window Type: UPVC and Various Openings



Building 30 - Window Type: Aluminium, UPVC and Various Openings



Building 31 - Window Type: Original Installation



Building 32 - Window Type: UPVC and Various Openings





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

**REFUSAL OF PLANNING PERMISSION FOR INSTALLATION OF  
REPLACEMENT WINDOWS AT BRAEHOME, 27 CRICHTON ROAD,  
ROTHESAY, ISLE OF BUTE**

**APPEAL REF. NO. 11/00009/REFPLA**

**LOCAL REVIEW BODY REF. 11/0006/LRB**

**PLANNING PERMISSION APPLICATION  
REFERENCE NUMBER 10/00382/PP**

**18<sup>TH</sup> JULY 2011**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Mr Donald James Macneil.

An application for planning permission (ref. 10/00382/PP) for the installation of replacement windows at Braehome, 27 Crichton Road, Rothesay, Isle of Bute ('the appeal site') was refused under delegated powers on 31<sup>st</sup> March 2011. The planning application has been appealed and is the subject of referral to a Local Review Body.

### **DESCRIPTION OF SITE**

The subject property is a Category C(S) Listed Building and is located prominently within the Rothesay Conservation Area on Crichton Road. It is a two-storey double villa forming part of the symmetrical Brighton Terrace and dates from 1878. The appeal relates to the proposal to remove the existing timber sliding sash and case windows in the dwellinghouse on the eastern half of the villa and to install timber double swing windows.

### **PLANNING HISTORY**

Listed Building Consent (ref: 08/01381/LIB) and Planning Permission (ref: 08/01393/DET) were granted in December 2008 for the installation of timber double swing windows in the ground floor flat of the adjacent property. These windows have been installed.

### **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 proposed windows would enhance or preserve the character and appearance of the Rothesay Conservation Area;
- Whether, if it is concluded that the windows would not enhance or preserve the character or appearance of the Rothesay Conservation Area, there are any material considerations that would indicate that the proposal should be approved.

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.

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

It is considered that no new information has been raised in the appellant's 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 summary points are noted in response to the appellant's comments:

- 1. The proposed windows would neither impact upon nor detract from the architectural or historic interest of the Listed Building. The previous 15 years have seen no sash and case double glazed units fitted on Crichton Road; however, during this period numerous buildings have been retro fitted with various window types complete with various types of window opening. The side and rear elevations of many properties have been allowed to install either upvc or other types of window. The housing on Crichton Road is a mixture of modern and period property with a varied mixture of window types ranging from the traditional sash and case through to aluminium case; these windows have a variety of finished colours from white, dark brown, green and untreated aluminium.*

**Comment:** Having examined the Council's records, eleven properties have applied for Planning Permission for replacement windows in Crichton Road over the past fifteen years. The property which is the subject of this appeal is the only one that has been refused permission. Of the other ten, three have had the use of upvc approved on the front elevation and a further one has had upvc approved on the rear elevation. Timber fenestration was approved for the remaining six properties, although some of these windows were of the double swing variety that is currently proposed.

All of these decisions were made having due regard to Development Plan policy and were partly based upon compliance with the Rothesay Window Policy Statement, which is a non-statutory document approved by Councillors in the mid-1990s. This statement had a policy for each property within the Rothesay Conservation Area based upon the fenestration character of each building.

Having regard to the particular fenestration character within Brighton Terrace (23 to 34 Crichton Road), it is considered both reasonable and justifiable to have refused consent for the proposed window replacement.

- 2. The permission and fitting of double swing sash and case windows to the property at 28 Crichton Road were based on other factors. The application included health and safety implications that the appellant's family could be exposed to and he considers that he has been discriminated against as his wife and young children would not be able to open the sash and case windows to aid escape.*

**Comment:** It is considered that the installation of new double-glazed timber sliding sash and case windows that work properly would be capable of being operated successfully by the appellant and his family.

3. *The property does not meet the expectations of the Scottish Government with regard to energy efficiency and the Climate (Scotland) Act 2009 Chapter 3.*

**Comment:** It is clear that energy conservation is necessary in addressing climate change. In many cases, it is considered that cost-effective and sustainable improvements to the energy efficiency of traditional buildings can be achieved without damage to their character. Heat loss typically occurs in various parts of a building and it is, therefore, important to take an overall view of energy efficiency measures. Double-glazing can improve the energy efficiency of buildings and, in some circumstances, this can be an appropriate solution. The Council would not be averse to the installation of double-glazed timber sliding sash and case windows in the property and no evidence has been provided that energy efficiency can only be achieved through double-glazed, double swing windows.

4. *As economic conditions have changed dramatically since 2008, the financial constraints concerned with repair or replacement of the current units with a like-for-like sash and case make such an option untenable. Repair cost quotes are in excess of replacement prices and with no help given in the form of grants or financial assistance, the appellant can see no other way forward in meeting energy efficiency targets or improvements to the building other than the fitting of double swing units.*

**Comment:** There are certain responsibilities associated with the maintenance of Listed Buildings and, unfortunately, there are potentially greater financial burdens in achieving the standard of works required.

## **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 due to the inappropriate method of opening that is proposed on this Category C(S) Listed Building that is located prominently within the Rothesay Conservation Area.

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



**APPENDICES**

**Appendix 1** Report of Handling dated 29<sup>th</sup> March 2011

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**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**

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**Reference No:** 10/00382/PP  
**Planning Hierarchy:** Local  
**Applicant:** Mr Donald MacNeil  
**Proposal:** Installation of replacement timber windows  
**Site Address:** 27 Crichton Road, Rothesay, Isle of Bute

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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**

Installation of white-painted, timber double swing windows

**(ii) Other specified operations**

None

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**(B) RECOMMENDATION:**

Having due regard to development plan policy and other material considerations, it is recommended that planning permission **be refused** for the reason set out overleaf.

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**(C) HISTORY:**

Listed Building Consent (ref: 08/01381/LIB) and Planning Permission (ref: 08/01393/DET) were granted in December 2008 for the installation of timber double swing windows in the ground floor flat of the adjacent property. These windows have been installed.

There is an associated listed building application reference 10/00383/LIB which is currently pending consideration.

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**(D) CONSULTATIONS:**

N/A

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**(E) PUBLICITY:**

Listed Building/Conservation Advert (expiry 28<sup>th</sup> May 2010) and Neighbour Notification (expiry 20<sup>th</sup> May 2010).

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**(F) REPRESENTATIONS:**

No letters of representation 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 eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
- (v) Applicant's Supporting Information** (statement dated March 2010 and letter dated 6<sup>th</sup> October 2010)

- The property is a semi-detached villa and a Category C(S) Listed Building. The windows throughout the property are original sash and case windows which are now seriously defective beyond any reasonable repair; are inoperable; extremely draughty; and are in need of replacement;
- Whilst the ethos behind the Rothesay Window Policy Statement is endorsed, it is readily apparent that the policy is flawed and open to interpretation. The adjoining lower villa next door at 28 Crichton Road has had timber double swing windows installed. This window type, whilst not being sash and case in style, is a good quality window which will improve the energy efficiency of the property as the current units are only single glazed with poor thermal properties;
- Given the importance of energy conservation and use, it is very apparent from the current consumption of energy used to heat the property that it currently exceeds what would be naturally expected from a property of this type and age due to the windows being old and draughty;
- The proposed window type is a sash and case look-a-like and consistent with the surrounding buildings. It is believed it is better to improve the property as proposed rather than allow it to deteriorate to the detriment of the Conservation Area;
- Many properties in the Rothesay area have been given consent to fit double swing windows and some have been given approval to fit plastic windows;
- The additional increased differential in price of 50% leaves the applicant with no alternative option but to fit double swing windows as he does not qualify for any financial assistance;
- The safety implications of fitting windows with a sash and case opening are detrimental to any escape the applicant's children would require in the event of a fire in the building as they would be unable to open such windows.

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**(H) PLANNING OBLIGATIONS**

(i) **Is a Section 75 agreement required:** No

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**(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.**

**Argyll and Bute Structure Plan 2002**

STRAT DC 9 states that development which damages or undermines the historic, architectural or cultural qualities of the historic environment (including within Conservation Areas) will be resisted.

**Argyll and Bute Local Plan 2009**

Policy LP ENV 14 presumes against development that would not preserve or enhance the character or appearance of an existing Conservation Area. All such developments must be of a high quality and conform to Scottish Historic Environment Policy and Appendix A of the plan.

Policy LP ENV 19 requires developers to produce and execute a high standard of appropriate design.

(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.**

N/A

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**(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

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**(M) Has a sustainability check list been submitted:** No

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**(N) Does the Council have an interest in the site:** No

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**(O) Requirement for a hearing (PAN41 or other):** No

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

**A. Built Environment**

The application proposes the removal of existing two-paned, white-painted, timber sliding sash and case windows in a dwellinghouse at 27 Crichton Road and their replacement with two-paned, timber, double swing windows.

The subject property is a Category C(S) Listed Building and is located prominently within the Rothesay Conservation Area on Crichton Road. It is a two-storey double villa forming part of the symmetrical Brighton Terrace and dates from 1878.

Historic Scotland's description notes that "*despite the loss of some balconies, fretwork finials and glazing, Brighton Terrace retains a degree of architectural interest. Still, the symmetrical layout remains and the details which are intact are of good quality*" One of the features mentioned for 27 Crichton Road in particular is the 2-pane timber sash and case glazing and, as a consequence, it is considered that one of the key architectural features of the property is this original fenestration.

STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and Policy LP ENV 14 of the Argyll and Bute Local Plan 2009 seek to prevent any deterioration in the character and appearance of the Rothesay Conservation Area.

The loss of traditional timber sash and case windows and the introduction of windows with a double swing method of opening render **the application contrary to Development Plan policies.**

**B. Other Key Policy Matters**

The Council's '*Rothesay Window Policy Statement*' places the subject property within the townscape block of Brighton Terrace, 23 to 34 Crichton Road. It contains the description "*symmetrical row of semi-detached villas with green or white painted timber detailing and fenestration. Some modern replacements but mostly intact*" and mentions the building's listed status. In recognition of these circumstances, the policy for this townscape block is as follows:

<b><i>Finish</i></b>	<b><i>- Timber</i></b>
<b><i>Glazing Pattern</i></b>	<b><i>- Two-pane to match existing</i></b>
<b><i>Colour</i></b>	<b><i>- White</i></b>
<b><i>Method of Opening</i></b>	<b><i>- Sliding sash and case</i></b>

The Council's '*Design Guide on Replacement Windows*' 1991 seeks to ensure that replacement windows on the front elevation of buildings in Conservation Areas should match the original in all aspects of their design and in their main method of opening.

The loss of traditional timber sash and case windows and the introduction of windows with a double swing method of opening render **the application contrary to non-statutory Council policies.**

**C. Other Scottish Executive Advice**

Historic Scotland's Scottish Historic Environmental Policy 2008 states that historic buildings are a highly visible and accessible element of Scotland's rich heritage. Listings recognise their historic importance. In assessing an application for a listed building, the planning authority is required to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it

possesses. This guidance document further advises that while listed buildings can accommodate change this should be managed to protect the buildings' special interest.

The loss of traditional timber sash and case windows and the introduction of windows with a double swing method of opening render **the application contrary to Central Government guidance**.

### CONCLUSION

This is the latest development that involves the vexed question of replacement windows on Listed Buildings within the Rothesay Conservation Area. Having inspected the premises, there is evidence that the existing windows have significant defects and, it could be argued, merit replacement. In other cases where replacement has been accepted (e.g. Columshill Street, Rothesay and Russell Street, Rothesay), agreement has been reached that the front windows should be replaced on a like-for-like basis (i.e. sliding sash and case) and that fenestration on lesser elevations could be fitted with double swing windows. This compromise was put to the applicant in this particular case but he wishes to replace all of the windows with a double swing method of opening.

The added issue with this particular application relates to the presence of timber double swing windows in the lower flat of the other half of this building. As noted in Section (C) above, these windows were authorised by the Council in December 2008 and were supported for the following reasons:

- § Approved as a minor departure to the Development Plan because the windows closely match in appearance the windows which are to be replaced;
- § Would not have an adverse impact on the special architectural interest of the building;
- § Because of the distance from and orientation to the public thoroughfare on Crichton Road;
- § Due to the aged nature of the Development Plans and Central Government advice at that time;
- § For personal reasons due to the applicants' difficulties with the heavy lifting of the windows.

A condition was attached that required the installation of traditional sash and case timber windows in the future should the approved windows need to be replaced.

Whilst the planning history of a property is a material planning consideration, it is not considered that the current application exists within the same context as over two years ago. In particular, the Argyll and Bute Local Plan has been adopted and the Scottish Historic Environmental Policy has been published in the interim period, both of which give up to date policy and advice. In addition, the same personal reasons (i.e. aged applicants having difficulty with operating the windows) do not apply in this instance.

As Historic Scotland has stated, the timber sash and case window has been a feature of Scottish architecture for three centuries and, it is considered, can be made to suit modern requirements. Windows are an essential part of the design of a building and should be treated as part of its original fabric, particularly in this case, where the traditional windows essentially remain intact.

Whilst recognising the difficulties that the applicant faces, it is considered that the Council should give greater weight to the architectural integrity and quality of this Category C(S) Listed Building and, on this basis, it is considered that the introduction of windows with a double swing method of opening would be contrary to Development Plan

policy; Central Government guidance; and non-statutory Council policies. As a consequence, the application is being recommended for refusal.

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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**

Not applicable – application being recommended for refusal.

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**(S) Reasoned justification for a departure to 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: Steven Gove**

**Date: 29<sup>th</sup> March 2011**

**Reviewing Officer: David Eaglesham**

**Date:**

**Angus Gilmour  
Head of Planning**



**REASONS FOR REFUSAL RELATIVE TO APPLICATION REF: 10/00382/PP**

1. The proposed replacement windows on the subject property, by virtue of their inappropriate double swing method of opening, would have an unacceptable impact upon the architectural and historic interest of this Category C(S) Listed Building located in a visually prominent position within the Rothesay Conservation Area. As a consequence, the development is contrary to STRAT DC 9 of the Argyll and Bute Structure Plan 2002; Policy LP ENV 14 of the Argyll and Bute Local Plan 2009; the Council's non-statutory *Rothesay Window Policy Statement and Design Guide E 'Replacement of Windows'*; and the advice contained within Historic Scotland's Scottish Historic Environmental Policy 2008.

**APPENDIX TO DECISION REFUSAL NOTICE**

Appendix relative to application 10/00382/PP

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**(A)** Submitted Drawings

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

Location Plan (Scale 1:2500); Site Plan (Scale 1:1000); Existing and Proposed Front Elevation (1:100); Existing and Proposed Side Elevation (1:100); and Existing and Proposed Rear Elevation (1:100).

**(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