

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

**REFUSAL OF PLANNING APPLICATION 16/01835/PP
FOR ERECTION OF DWELLINGHOUSE AND
FORMATION OF VEHICULAR ACCESS AT 32
MACLEOD DRIVE, HELENSBURGH**

24 OCTOBER 2017

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council (“the Council”). The appellant is James Hodge (“the appellant”).

Planning application 16/01835/PP for the erection of a dwellinghouse and formation of vehicular access at 32 Macleod Drive, Helensburgh G84 9QU (“the appeal site”) was refused under delegated powers on 12 July 2017.

The planning application has been appealed and is subject of referral to a Local Review Body (LRB).

DESCRIPTION OF PROPOSAL

Planning permission was sought for the erection of a single dwellinghouse and formation of a vehicular access with two off-street parking spaces on an unallocated site within the settlement of Helensburgh. The application site extends to 550sq metres and is located on the north side of the road within the front garden area of a detached single storey property at number 32 McLeod Drive. Access to the donor property is currently via an existing private access road located between numbers 30 and 32 McLeod Drive. The site is located in a residential area comprising a range of detached modern dwellinghouses set within single plots of various shapes and sizes.

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 and appeal.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:

Whether the proposal accords with policies set out in the adopted ‘Argyll and Bute Local Development Plan’ (LDP) 2015 and, if not, whether there are other material considerations which would justify a departure from these policies.

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 A HEARING

It is not considered that any additional information is required in light of the appellant’s submission. The issues raised were assessed 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 the scale of the proposal it is not considered that a Hearing is required.

COMMENT ON APPELLANT'S SUBMISSION

In summary, the appellant contends the following:

A. The reasons for refusal are difficult to read.

Comment: In other Councils, some, when issuing a refusal, state that it is contrary to policy without a specified justification. Argyll and Bute Council set out in detail why an application is being refused. In this case the reason for refusal makes clear that squeezing in another house and creating a two tier plot will be out of keeping and incompatible with an area dominated by a linear, one plot depth, development pattern. As such, it will not have an appropriate visual relationship with the built form of the existing estate and will therefore be visually intrusive and visually discordant when viewed in the context of the wider area. Consequently, the reasons for refusal are clear, robust and based on Section 25 of the Town and Country Planning (Scotland) Act 1997.

B. In terms of setting and development pattern the plot is different from the rest of the development in the immediate locality reflecting that it pre-dates the rest of the estate. As such there is no reason to require the plot sub-division to adhere to the estate layout.

Comment: Policy LDP3 states that in all development management zones, Argyll and Bute Council will assess applications for planning permission with the aim of protecting, conserving and where possible enhancing the built, human and natural environment.

A development proposal will not be supported, inter alia, when it does not protect, conserve or where possible enhance the established character of the built environment in terms of its location, scale, form and design.

Similarly, Policy LDP9 states, inter alia, that Development shall be sited and positioned so as to pay regard to the context within which it is located. Development layout and density shall effectively integrate with the urban, suburban or countryside setting of the development. Developments with poor quality or inappropriate layouts or densities including overdevelopment and overshadowing of sites shall be resisted.

It is noted that the property at 32 Macleod Drive pre-dates the rest of the estate. However, the application was submitted last year and is assessed against current development plan policy as set out in the Local Development Plan. It requires to be judged in the context of the existing built form and its relationship with adjoining properties and the wider area. The starting point of any such assessment is the existing pattern of development in the area where the site is located. This historical outlier has been subsumed by this modern estate and is now clearly part of it. By proposing a second tier of development in an established area characterised by a linear, one plot depth development it will be out of keeping with its surroundings and will not protect, conserve or enhance the established character of the area. As such it is clearly at odds with and contrary to Policies LDP 3 and LDP 9 which presume against developments with poor quality or inappropriate layouts or densities including overdevelopment and overshadowing of sites.

C. There are no privacy or overlooking issues.

Comment: A 1.8 metre high timber screen fence along the rear boundary of the new plot aims to deal with any privacy issues in terms of window to window distances and overlook at ground floor level. On the rear elevation of the proposed new house there is a dormer window at first floor level. The resultant window to window distance would be 16.4 metres. This is substandard as the separation distance should be 18 metres. To deal with that discrepancy the window is shown as being in obscure glass. Whilst this will circumvent the 18 metre rule it is a solution that is more suited to a bathroom rather than a hall window. Specifically, it is indicative of the restrictive and limited nature of the site and shows that a second house could not be comfortably accommodated on this plot without undermining residential amenity. In addition, while the donor property does not have any upper windows, it sits at a higher level than the proposed dwellinghouse and there is potential for a detrimental impact on privacy and residential amenity by virtue of overlook.

D. The proposed development is not contrary to development plan policies.

Comment: As indicated in B and C. above the restrictive and limited nature of the site shows that a second house could not be comfortably accommodated on this plot without undermining residential amenity. Consequently, the proposal is clearly at odds with and contrary to Policies LDP 3 and LDP 9 which presume against developments with poor quality or inappropriate layouts or densities including over development and overshadowing of sites.

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.

In the consideration of this review regard has to be given to the policies set out in the LDP. By creating a second tier of development in an area of linear, one plot depth, development it will jar with its surroundings, be visually intrusive and will not protect, conserve or enhance the established character of the area. As such it is contrary to Policies LDP 3 and LDP 9 which presume against developments with poor quality or inappropriate layouts or densities including over development and overshadowing of sites.

Taking account of the above, it is respectfully requested that the application for review be dismissed.

Appendix 1

Argyll and Bute Council Development & Infrastructure Services

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

Reference No: 16/01835/PP
Planning Hierarchy: Local
Applicant: Mr James Hodge
Proposal: Erection of dwelling house and formation of vehicular access
Site Address: 32 Macleod Drive, Helensburgh G84 9QU

DECISION ROUTE

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

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of dwelling house
- Formation of vehicular access
- Formation of two parking spaces

(ii) Other specified operations

- Connection to existing public water supply
-

(B) RECOMMENDATION:

That planning permission be refused

(C) HISTORY: None

(D) CONSULTATIONS:

Area Roads: - Response dated 28/06/16 recommending no objection subject to conditions concerning: provisions to prevent the discharge of surface water discharge onto the public road; and, the surfacing of the first three metres of the driveway/parking area to prevent the spillage of loose material onto the public road.

Network Rail: - Response dated 30/06/16 confirming that the proposed development will have no impact on railway infrastructure and there are no comments/objections to the application.

Helensburgh Community Council: - Email dated 18/07/16 offering support for the proposed development on this elevated site as it will make a welcome, albeit very small addition to Helensburgh's housing stock. The email goes on to state that the proposed house will occupy a wonderful site at the north west of the town and, if suitably developed will offer stupendous views across the Clyde Estuary. While noting that the proposed house is inoffensive and ordinary a number of suggestions are made with regard to siting and design. These include: greater use of balconies, French doors; an outside terrace facing the Clyde Estuary; front door and porch to stand out and be more emphasised; bay windows (upstairs and downstairs) on the south face of the building; deeper and shallower steps to alleviate any issues with mobility problems. The use of solar panels is commended.

The correspondence can be read in full at: <http://pa2.argyll-bute.gov.uk/online-applications>

(E) PUBLICITY: Regulation 20 – Advert Local Application from the 07/07/2016 to the 28/07/2016.

(F) REPRESENTATIONS:

Two emails of objection* from:

Ms A. Laird – 30 MacLeod Drive, Helensburgh G84 9QS
Mrs E. Jamieson – by email - no postal address given

The reasons for objection can be summarised as follows:

- The proposed development, by reason of its size, depth, width, height and massing and would have an unacceptably adverse impact on the amenities of the properties in the immediate area.
- The proposed house, by reason of its scale and bulk, would be out of keeping with the design and character of the existing houses, and would have an adverse effect on the visual amenity of the area as a whole.
- The layout and siting is inappropriate and unsympathetic to the appearance and character of the local environment.
- The possibility of setting a precedent for development within front garden areas that could lead to overly dense development where there would be a detrimental impact on the semi-rural character of Helensburgh and the natural environment.
- The existing houses on the estate have a reasonable amount of garden ground to the front and a new house would be too close to other dwellings and the road and will spoil the line of the development by being set forward of other properties.
- The proposal would have a detrimental impact on the residential amenity and privacy of existing houses.
- The proposal would have a negative impact on the value of existing housing stock in the area.
- The proposal would have a negative impact on the look and feel of this quality environment.

The issues raised in the emails are addressed in Section P below.

**The correspondence can be read in full at: <http://pa2.argyll-bute.gov.uk/online-applications>*

(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) Engineer's Report: | No |
-

(H) PLANNING OBLIGATIONS

- | | |
|--|-----|
| Is a Section 75 agreement required: | No |
| Reason for refusal in the event that the legal agreement is not concluded within four months: | N/A |
-

- | | |
|---|----|
| (I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: | No |
|---|----|
-

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

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

Argyll and Bute Local Development Plan (Adopted March 2015)

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 9 – Development Setting, Layout and Design

Supplementary Guidance

SG LDP 2 – Sustainable Siting and Design Principles
SG LDP HOU 1 – General Housing Development including Affordable Housing Provision
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

- (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 (SPP) 2014

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

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

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

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

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

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

Planning permission is sought for the erection of a single dwelling house and formation of a vehicular access with two off street parking spaces on a site within the settlement of Helensburgh. The application site extends to 550sq metres and is located on the north side of the road within the front garden area of a detached single storey property at number 32 McLeod Drive. Access to the donor property is currently via an existing private access road located between numbers 30 and 32 McLeod Drive and will be unaffected by the proposed development. The site is located in a residential area comprising a range of detached modern dwelling houses set within single plots of various shapes and sizes.

The proposed dwelling house has been designed as a traditional one and a half storey detached dwelling house with an entrance porch and two dormer windows to the front and a single dormer to the rear. Velux windows will be located on both the front and rear slopes of the roof and two solar panels will be located on the south facing slope. The plans indicate that the ground floor accommodation will comprise a living area, sitting/dining area with open link to the kitchen and that the accommodation in the roof space will comprise three bedrooms (one with en-suite) and a bathroom. The external ground floor walls and roof dormers will be finished in 'K-rend' render with the exception of the porch and base course which will be finished in facing brick. The roof will be finished in concrete tiles.

In terms of the Argyll and Bute Local Development Plan 2015 the site is located within the settlement of Helensburgh as defined by the Argyll and Bute Local Development Plan 2015. Policy LDP DM 1 gives support to suitable forms of development within settlements subject to compliance with other relevant policies and supplementary guidance. In particular, Policy LDP 9 requires the design of development and structures to be compatible with the surroundings where careful attention should be paid to the acceptability of massing, form, design details, materials, landscaping and boundary treatment. With regard to design the policy requires that particular attention should be paid to roof pitch, depth of the building and window design. Any adverse impact on the amenity and privacy of neighbouring properties in terms of over shadowing and overlooking will also be taken into account. Policy LDP 3 assesses applications for their impact on the natural, human and built environment. In addition,

Supplementary Guidance - SG LDP 2 – Sustainable Siting and Design Principles requires consideration of the proposal in terms of potential impact: the building pattern and built form; the local character; open space/density; design; vehicular access; on-site parking; connection to services; and, existing trees within and adjacent to the application site. In particular, all development should have some private open space (ideally a minimum of 100 sq. m), semi-detached/detached houses (and any extensions) should only occupy a maximum of 33% of their site, although this may rise to around 45% for terrace and courtyard developments. The scale, shape and proportion of the development should respect or complement the adjacent buildings and the plot density and size.

The site is located in the front garden area of 32 McLeod Drive where the character of the area is defined by a linear pattern of one plot depth modern detached dwelling houses set within landscaped plots fronting onto housing estate access roads. Properties on the north side of McLeod Drive sit slightly above road level in a single tier arrangement backing onto the West Highland railway line. None of the plots on McLeod Drive are two tier and those to the east of the application site are on average 29 - 30 metres deep. Plots in the wider area vary in size but there are no examples of new dwellings occupying the front gardens of existing dwelling houses that would cause privacy and overlooking issues. The proposed house plot within the existing front garden area has a depth of 16.3 metres. Excluding the front porch the proposed dwelling house would have a depth of 7.7 metres leaving a front garden depth of 3.3 metres and a rear garden depth of only 5.6 metres. The resultant window to window distance would be 16.4 metres and while the donor property does not have any upper windows it sits at a higher level than the proposed dwelling house and there is potential for a detrimental impact on privacy and residential amenity by virtue of overlook. A 1.8 metre high timber screen fence along the rear boundary of the new plot aims to deal with any privacy issues in terms of window to window distance but the development would be sub-standard as a consequence of the two tier arrangement and spacing between the buildings. The combination of a two tier backland development in an area of linear one plot development and the resultant separation between the existing and proposed house would be visually discordant, visually intrusive, would represent over development and would be out of character with the existing pattern of development in the area. As such the proposal is contrary to Policies LDP DM1, LDP 3, LDP 9 and SG LDP Sustainable Siting and Design Principles of the Local Development Plan which presume against development that is not compatible with its surroundings, that does not protect or enhance the built environment, that does not pay regard to the context within which it is located and has an adverse impact on the amenity and privacy of neighbouring properties and the surrounding area.

Two emails of objection were submitted in response to the application and issues concerning: inappropriate scale and massing; adverse impact the amenity of neighbouring properties; adverse impact on visual amenity; unsympathetic layout and siting; over dense development; precedent for development in front gardens; detrimental impact on residential amenity and privacy; and a negative impact on the value of properties in the area.

The proposal for a dwelling house in the front garden of an existing dwelling house would not be consistent with the provisions of the Argyll and Bute Local Development Plan 2015 and that the site currently occupied by a dwelling house is not capable of accommodating a further dwellinghouse without detriment to residential amenity and the pattern of development in the area. There are no other material planning considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan. As such the recommendation is to refuse.

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

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

See reasons for refusal below.

(S) Reasoned justification for a departure to the provisions of the Development Plan: N/A

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

Author of Report: Jack McGowan **Date:** 23/08/16

Reviewing Officer: Howard Young **Date:** 12/07/17

Angus Gilmour
Head of Planning & Regulatory Services

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 16/01835/PP:

The site is located in the front garden area of 32 McLeod Drive where the character of the area is defined by a linear pattern of one plot depth modern detached dwelling houses set within landscaped plots fronting onto housing estate access roads. Properties on the north side of McLeod Drive sit slightly above road level in a single tier arrangement backing onto the West Highland railway line. None of the plots on McLeod Drive are two tier and those to the east of the application site are on average 29 - 30 metres deep. Plots in the wider area vary in size but there are no examples of new dwellings occupying the front gardens of existing dwelling houses that would cause privacy and overlooking issues. The proposed house plot within the existing front garden area has a depth of 16.3 metres. Excluding the front porch the proposed dwelling house would have a depth of 7.7 metres leaving a front garden depth of 3.3 metres and a rear garden depth of only 5.6 metres. The resultant window to window distance would be 16.4 metres and while the donor property does not have any upper windows it sits at a higher level than the proposed dwelling house and there is potential for a detrimental impact on privacy and residential amenity by virtue of overlook. A 1.8 metre high timber screen fence along the rear boundary of the new plot aims to deal with any privacy issues in terms of window to window distance but the development would be sub-standard as a consequence of the two tier arrangement and spacing between the buildings. The combination of a two tier backland development in an area of linear one plot development and the resultant separation between the existing and proposed house would be visually discordant, visually intrusive, would represent over development and would be out of character with the existing pattern of development in the area. As such the proposal is contrary to Policies LDP DM1, LDP 3, LDP 9 and SG LDP Sustainable Siting and Design Principles of the Local Development Plan which presume against development that is not compatible with its surroundings, that does not protect or enhance the built environment, that does not pay regard to the context within which it is located and has an adverse impact on the amenity and privacy of neighbouring properties and the surrounding area.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application 16/01835/PP

- (A) 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