

**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**

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**Reference No:** 18/01612/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mrs Jean Moffat

**Proposal:** Installation of Replacement Windows (Retrospective)

**Site Address:** Craigmore Pier Cottage, Mountstuart Road, Rothesay, Isle of Bute

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**DECISION ROUTE**

Local Government Scotland Act 1973

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Installation of replacement windows
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**(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission be granted subject to the conditions, reasons and informative notes attached to the end of this report.

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**(C) HISTORY:**

Planning Permission (ref: 01/88/0834) was granted on 25<sup>th</sup> November 1988 for the installation of windows and alterations and improvements to the tearoom, house and pier at the subject site.

An application (ref: 01/93/0980) was submitted in October 1993 for the extension to Craigmore Pier House. This application was withdrawn at the agent's instruction on 27<sup>th</sup> January 1994.

Planning Permission (ref: 01/94/0136/DET) was granted on 11<sup>th</sup> April 1994 for the replacement of windows at the subject site.

In February 1995, MacBeth and MacLagan Solicitors applied for a Certificate of Lawfulness for the proposed use of the premises as a licensed restaurant (with Restaurant Licence) and a retail shop. A certificate was issued on 4<sup>th</sup> May 1995 stating that Planning Permission would not be required for the introduction of the Restaurant Licence.

Planning Permission (ref: 04/00971/DET) was granted on 2<sup>nd</sup> February 2005 for the alterations and extension of the subject building to form a licensed restaurant.

Planning Permission (ref: 05/00619/DET) was granted on 12<sup>th</sup> May 2005 for the erection of a tent structure in the courtyard of the subject building subject to its removal by 31<sup>st</sup> December 2005.

An application for Planning Permission (ref: 06/02257/DET) for the retention of an extractor vent at the subject building was withdrawn on 8<sup>th</sup> January 2007.

Planning Permission (ref: 16/03018/PP) was granted on 12<sup>th</sup> January 2017 for the alterations and change of use of the former tearoom to residential use and connection to adjacent cottage to form single dwellinghouse at the subject building.

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**(D) CONSULTATIONS:**

None

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**(E) PUBLICITY:**

Neighbour Notification (expiry date: 19<sup>th</sup> September 2018) and Conservation Area Advert (expiry date: 5<sup>th</sup> October 2018).

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**(F) REPRESENTATIONS:**

No representations have been received at the time of writing.

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**(G) SUPPORTING INFORMATION**

**Has the application been the subject of:**

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| <b>(i) Environmental Statement:</b>  | No |
| <b>(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>  | No |
| <b>(iii) A design or design/access statement:</b>  | No |
| <b>(iv) A report on the impact of the proposed development e.g.retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b> | No |
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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 obligation required:** No

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**(I) Has a Direction been issued by Scottish Ministers in terms of** No

**Regulation 30, 31 or 32:**

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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 Local Development Plan (March 2015)

LDP STRAT 1 – Sustainable Development

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 9 – Development Setting, Layout and Design

Supplementary Guidance to the Argyll and Bute Local Plan 2015 (March 2016)

SG LDP Sustainable Siting and Design Principles

SG LDP ENV 17 - Development in Conservation Areas and Special Built Environment Areas

SG LDP ENV 21 - Protection and Enhancement of Buildings

**(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 3/2013.**

Argyll & Bute Sustainable Design Guidance (2006)

Technical Working Note – Rothesay Windows, December 2015

Scottish Planning Policy (2014)

SHEP, 2016

Historic Environment Scotland's Managing Change in the Historic

Environment – Windows, 2018

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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:** Yes

The applicant is a Local Member for the Bute ward.

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**(O) Requirement for a hearing:** No

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

Craigmore Pier is located in a visually prominent site on the shore side of the A844 at Mountstuart Road, Rothesay. For many years, the single storey building contained a tearoom, kitchen and toilets in its western half whilst the eastern half contained a preparatory kitchen for the tearoom and a self-contained dwellinghouse. However, approximately four years ago, the tearoom ceased operating.

Two years ago, an application (ref: 16/03018/PP) was submitted for altering and changing the use of the former tearoom to residential use and forming a connection to the adjacent cottage thereby creating a single dwellinghouse. The scheme was assessed as a sympathetic refurbishment that would bring the entire building back into an appropriate use and Planning Permission was granted in January 2017.

Neither the approved plans nor the information contained in the application form identified any changes to the fenestration of the building with the exception of the western elevation of the proposed lounge on the rear part of the building. However, during the development works, it was noted that all of the window openings had been the subject of replacement and the applicant was notified that these works required Planning Permission. She has elected to apply retrospectively for the windows and the agent has stated the following in the current application form:

*“The applicant replaced former upvc windows which were in poor condition with new upvc windows on the understanding that this was a necessary repair measure on a like for like basis”.*

Rather than replacement on a “like-for-like” basis, what has taken place has been as follows:

- The removal of the nine brown-stained, upvc, top hopper windows on the front elevation and the installation of white, upvc, windows with a fixed bottom pane and a top-opening upper pane;
- The removal of the top hopper windows and a door on the rear elevation of what had been the lounge of the previous dwellinghouse and the installation of white upvc patio doors and windows;
- The removal of four top hopper windows on the rear elevation and the installation of white upvc windows with no transom bars;
- The removal of the fenestration on the rear elevation of what had been the tearoom and the installation of fenestration to a different design.

The removal of the existing windows and the installation of new windows were not discussed with the Planning Department prior to the works taking place. If a discussion had been undertaken, the Department would have recommended that the applicant refer to the Technical Working Note for replacement windows in the Rothesay Conservation Area. Members will recall that this document was approved by the Planning, Protective Services and Licensing Committee in December 2015 in order to assist in the assessment of applications for Planning Permission and Listed Building Consent.

Attention would have been drawn to Statement 4 of the Technical Working Note, which specifically addresses those situations where a building has non-traditional windows that are to be replaced (as in the case of the subject building). Importantly, one of the principal aims of the Note is to uplift the status quo and to reverse the damage caused by some of the unsympathetic window replacements that have occurred, even if these took place a number of years ago.

The Note sets out the principle that the presence of poor quality windows in certain townscape blocks does not mean that they are appropriate or necessarily that a precedent has been set. It acknowledges that, whilst 'like for like' replacements do not need permission, the Council shall always seek to improve the current arrangements where possible.

In all properties where the original windows have already been replaced or the fenestration has been devalued, the Technical Working Note stresses that every effort should be made to reintroduce new traditional/sympathetic units.

When assessing applications to replace windows that are neither original nor traditional, a sequential approach should be applied:-

1. The re-introduction of timber sliding sash and case units;
2. The installation of better quality windows than currently installed - good quality uPVC sliding sash or timber swing units for example; then
3. The installation of units of any material which retain the distinct step of sash and case windows and which give the appearance of a sash and case windows in all respects except when open.

The Technical Working Note concludes by stating that it is unlikely that windows outside the parameters listed above would be acceptable unless there is clear benefit or enhancement from what had already been installed.

Unfortunately, the Planning Department did not have the opportunity to advise the applicant of the options that were available in the Technical Working Note. If it had, it would have sought to encourage the installation of timber or upvc sliding sash and case units or some other option that introduced the distinctive stepped effect of sash and case units. This would then have been the subject of an application for Planning Permission for proposed windows that would have hopefully been in full accordance with Council guidance.

As it is, the windows have been replaced and the retrospective application requires being determined. Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that, in exercising their Planning functions (including determining applications for Planning Permission), Planning Authorities should pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

In this particular case, the rear elevation of the building overlooking the water is considered to have a negligible role within the wider townscape of the Rothesay Conservation Area and the fenestration that has been installed has a '*neutral*' effect thereby preserving the character of this part of the Rothesay Conservation Area.

The more significant assessment relates to the windows that have been installed on the front elevation of the building. As mentioned elsewhere, the previous windows did not accord with the various elements of traditional fenestration in any respect. They were finished in brown-stained upvc and had a top hopper opening method which resulted in a relatively thick horizontal bar that divided the window in a 25/75 split.

The windows that have been installed are finished in white upvc with a fixed bottom pane and a top opening upper pane. The horizontal bar remains relatively thick; however, the split is now approaching 50/50. These windows accord with Statement 4 of the Technical Working Note above as they are white upvc with a more traditional proportion. Whilst acknowledging that there is a form of stepped effect, the particular method of opening

means that the type of stepped effect does not accord with that which the Council is seeking to encourage as an appropriate alternative to the traditional sliding sash and case units.

On the basis of the preceding paragraph, it is not considered that the windows that have been installed fully meet any of options 1 to 3 that are listed in Statement 4 of the Technical Working Note. However, the Note does allow replacement windows to be supported where their installation would represent a “*clear benefit or enhancement*” in comparison with the previous non-traditional windows.

Whilst the determination of this application is a finely-balanced one, there is recognition that the windows that have been installed have a more appropriate white colour than the previous brown-stained and are more sensitively proportioned with the change from a 25/75 split to a 50/50 split. In addition, the two windows facing directly onto Mountstuart Road in the western half of the building have introduced a greater verticality to this aperture. The absence of a distinctive stepped effect, whilst regrettable, should be viewed in the context that the opening method of the previous and existing windows has not materially altered. Ultimately, it can be reasonably concluded that, overall, the windows that are the subject of this application have “*enhanced*” the front façade.

In taking all of the foregoing into account, the application is considered to be consistent with the Technical Working Note (specifically the final sentence of Statement 4 above) and the Policies and Supplementary Guidance of the Argyll and Bute Local Development Plan 2015.

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**(Q) Is the proposal consistent with the Development Plan:** Yes

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

The previous windows in Craigmore Pier Cottage were non-traditional in every respect and Statement 4 of the Rothesay Windows Technical Working Note states that one of its principal aims is to uplift the status quo and to reverse the damage caused by some of the unsympathetic window replacements that have occurred, even if these took place a number of years ago.

The Note sets out a sequential approach to improving fenestration but also recognises that those windows which do not strictly accord with the three preferred options might be justifiable if “*clear benefit and enhancement*” can be demonstrated.

In the case of the windows that have been installed and for which Planning Permission has been retrospectively sought, they have a more appropriate white colour than the previous brown-stained and are more sensitively proportioned with the change from a 25/75 split to a 50/50 split. In addition, the two windows facing directly onto Mountstuart Road in the western half of the building have introduced a greater verticality to this aperture. The absence of a distinctive stepped effect, whilst regrettable, should be viewed in the context that the opening method of the previous and existing windows has not materially altered. Ultimately, it can be reasonably concluded that, overall, the windows that are the subject of this application have “*enhanced*” the front façade

On this basis, the proposal is consistent with the Technical Working Note for Rothesay Windows (December 2015) and the following Policies and Supplementary Guidance:

Argyll and Bute Local Development Plan (March 2015)

LDP STRAT 1 – Sustainable Development  
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment  
LDP 9 – Development Setting, Layout and Design

Supplementary Guidance to the Argyll and Bute Local Plan 2015 (March 2016)

SG LDP Sustainable Siting and Design Principles  
SG LDP ENV 17 - Development in Conservation Areas and Special Built Environment Areas  
SG LDP ENV 21 - Protection and Enhancement of Buildings

The proposal conforms to the relevant development plan policies and there are no other material considerations which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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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:** No

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**Author of Report:** Steven Gove

**Date:** 1<sup>st</sup> October 2018

**Reviewing Officer:** Angus Gilmour

**Date:** 1<sup>st</sup> October 2018

**Angus Gilmour**  
**Head of Planning, Housing and Regulatory Services**

## **CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 18/01612/PP**

1. The development shall be implemented in accordance with the details provided in the application form dated 13<sup>th</sup> August 2018 and the approved drawings:

Drawing No. 5787/1 Revision E (Plan 1 of 3)

Drawing No. 5787/3B (Plan 2 of 3)

Drawing No. 5787/7E (Plan 3 of 3)

unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

### **NOTE TO APPLICANT**

- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.