

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY
18/0010/LRB**

**APPEAL AGAINST CONDITION 4 OF PLANNING
PERMISSION 18/00355/PP**

**ALTERATIONS AND EXTENSION TO DWELLINGHOUSE
(INCORPORATING PUBLIC ART STUDIO), ERECTION OF
GARAGE, ERECTION OF BOUNDARY WALLS AND
ASSOCIATED WORKS**

**THE OLD COACH HOUSE, ELLENABEICH,
ISLE OF SEIL**

22 November 2018

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellants are Mr and Mrs Graeme and Wendy Bruce ("the appellants").

Planning permission 18/00355/PP for alterations and extension to dwellinghouse (incorporating public art studio), erection of garage and new boundary walls and associated works at 'The Coach House', Ellenabeich, Isle of Seil ("the appeal site") was granted under delegated powers on 13 August 2018.

Condition 4 of the planning permission has been appealed and is subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The Coach House comprises a single dwellinghouse with an unusual layout with two entrances at ground floor level where the bedrooms and bathroom are situated both leading to an open plan living/dining/kitchen area on the upper floor. The dwellinghouse is a traditionally proportioned pitched roof structure finished in white rendered walls with a natural slate roof.

Planning permission was granted for a contemporary designed single storey flat roofed structure to the rear (west) elevation of the dwellinghouse wrapping around the side (north) elevation. The extension comprises white rendered walls of a height to conceal the proposed flat roof from view which will also form a parapet barrier to the edge of the flat roof. The extension is accessed via a separate entrance in a circular entrance porch providing an accessible apartment comprising a living room, dining kitchen and en-suite bedroom which will double up as the ancillary studio/gallery space when required.

The approved drawings specified that "*boundary walls to be stone faced to the public side (to carpark and to road) and rendered blockwork to private sides (within site boundaries). Walls of garage to be rendered block with the exception of the carpark side which is stone faced*".

Please note no part of the wall faces the road.

Condition 4 merely required details of the proposed stone/slate finish to be applied to the public faces of the boundary walls to be submitted to the Planning Authority for approval prior to the development commencing

Having originally submitted drawings detailing a white rendered wall and garage in keeping with the house and extension, I requested a written account of why, in order to be granted Planning Permission, I would have to apply stone cladding to the walls, I received the following reply from Fiona Scott:-

'when permission was granted for the Seafari fuel installation which is in close proximity to the site, a requirement of the permission was that it be enclosed by a natural stone wall as required by the then Conservation Officer, a view shared by third parties who made representations to the proposal.

As you are aware the Council's conservation team provided comments on the current proposal details of which were passed to you previously and which sought natural stone walls.

Accordingly, as set out in my previous e-mail, in order to move the application forward, we would require the drawings to be amended to reflect the comments of the Conservation Team set out in their e-mail of 18 May 2018.

I trust this clarifies the matter and look forward to hearing how you wish to proceed'.

It feels that it is clear from the emailed account above, that Tony Hill of Seafari Adventures in his submission to the council in relation to our application has demanded that we erect a wall with stone cladding and the above ultimatum is a direct result of that. As a result of the above ultimatum, I had the required drawings produced by our architect and agreed to having a wall built which was stone faced to the car park side and white to the garden side. The drawings were produced and the agreement made in good faith, at a cost of £1350, quite a financial commitment to the altered plans. Since this time, having had three months to reflect (and being unable to start work anyway due to the roads department not working with us to assist in meeting our other planning conditions, including responses to questions originally posed in 2014) I can confirm that I have become aware of issues which have reinforced my belief that a stone faced wall is not a suitable boundary treatment for this site within the Ellenabeich Conservation area. I have also been told by a Community Councillor that the Planning Department was having resourcing and conservation specialism issues at the time of our application which have also affected the council's ability to deliver the final Ellenabeich Conservation Area Appraisal. Whilst I have the utmost respect for the current stand-in Conservation Officer, I feel that this decision is not the right one. Also, in the weeks between the granting of our planning permission and now, another development, depicting a slate faced concrete wall has been strongly criticised by six objectors to the "composite" structure. This is why I feel that it is necessary to make this appeal.

Firstly, the Seafari fuel installation, is not in close proximity but about 30m away across a car park with parking spaces and cars/vans and an old white rendered tin roofed garage (albeit very weatherworn) in-between. The Seafari site sits against an old traditional stone/slate wall and for this reason, the Conservation Officer at the time of application stipulated that the site should be enclosed within a natural stone wall. At the PPSL Pre-Determination Hearing for the above site, held on 25 August 2014, a member posed the question 'what would happen if planning permission was granted with the inclusion of the (stone) wall and then HSE prevented the wall from being built?' the planning officer at the time (Mr S Fair) advised that there were two options, open to the applicant if this situation occurred. He advised that the Applicant could appeal against the condition of planning or submit a fresh application. What actually happened was that the requirement of petrol licensing was an engineered wall but instead of an appeal or reapplication having to be made, the planning department assisted and worked with Mr Hill to find a one-off solution, particular to this site and its requirements and to blend in with the existing natural stone wall to which it is attached. The result was an engineered wall clad with stone. The information available in the public domain provides unquestionable evidence that the qualified Conservation Officer at this time was against the stone cladding solution but reluctantly agreed to it as a compromise. I have not seen any evidence to the contrary.

See below snapshot of first email from Linda Robertson referencing the existing stone wall and the possibility of attaching and enclosing the site by extending the stone wall around it:-

1.

needed for health and safety requirements. If this is the case, then I would suggest that the wire fence is located inside of a stone wall. Currently a traditional stone wall sits behind the new proposals, and this could be extended to enclose the storage facility and petrol tank. This would not only maintain the character of the area and to some extent shield the development from public view, but would also encourage the use of local traditional techniques.

The petrol tank itself will sit relatively low to the ground and is unlikely to be particularly visually intrusive. The pump, whilst not in fitting with the area, is small in size and therefore unlikely to cause significant impacts on the built environment. The addition of a traditional stone wall in place of the post and wire fence would also completely hide the tank.

There is a lengthy email thread which runs from the above to the final agreement of the finish of the Seafari clad wall. It is clear however that the cladding was not readily accepted by the conservation officer who would have preferred real stone construction to tie in with the wall behind. The final email of the conversation is attached at Appendix 1.

I have now had confirmation from Argyll and Bute Council's former Conservation Officer, in the form of a letter of support, that she agrees with our position and she hopes that members will support our appeal for a white wall and Garage.

It was entirely appropriate that a site which sits against a stone wall would itself be built from stone however, at our site where the proposed wall will be seen against a white rendered house and extension should be white rendered to give unity to the site. In addition, Community Councillors at the meeting of Seil and Easdale Community Council in September, explained that far from there currently being a Conservation team, there was no specially qualified conservation officer in the council at the time of our application to provide such specialist advice. Mr Hill was also present with his wife at this meeting, as were councillors Robertson and Green. In addition, another application in the village, where the planning department had advised a similarly constructed wall, the application attracted six objections to the stone faced (composite) wall. The individuals who supported our original application have again taken the time also to support this appeal. The Community Council, have also taken the time to (unanimously) state that they agree that a white rendered wall is more appropriate for this site.

PRECEDENT - appropriateness of white render in relation to existing white rendered properties.

Other residents, surprised at this stone cladding directive, have brought to my attention other recent developments where the finish to walls and new out buildings were made acceptable to the conservation officers by colouring them white to match the buildings to which they relate. This includes:-

1. '14/01551/LIB, Installation of Oil Fired Heating Boiler, 1200 Litre Oil Storage Tank including Erection of Associated Enclosure. Report of handling written by Fiona Scott states:

*'The tank and boiler are to be enclosed by a **white painted screen wall which will match the dwellinghouse** and which will ensure that the tank and boiler are not dominant features within the streetscene or wider Conservation Area.*

The application also shows a slightly different layout to the previously approved parking area to serve the dwellinghouse which is considered to be acceptable.

On the basis of the foregoing, the proposed development is considered to be acceptable and does not differ significantly from that approved in the original consent and will not impinge inappropriately upon the setting of any Listed Buildings or the wider Conservation Area.'

*The proposal is considered to comply with the terms of the **current Development Plan**'*

2. '14/00324/PP Erection of shed and fence and formation of hardstanding area (retrospective) | The Old Inn Ellenabeich ...

the effect of condition 1 above, **the entire external walls of the shed to the south, west and north elevations shall be painted solid white to the satisfaction of the planning authority within one month of the date of this planning permission.**

In the interests of visual amenity, in order to integrate the proposal into its conservation area setting.....

Reasoned justification for a departure to the provisions of the Development Plan

N/A – the proposal is in accordance with the development plan'

This building is only four doors down from our home

3. '16/01512/PP Installation of replacement garage door, relocation of oil tank, erection of garden shed and two decking areas to the rear garden, formation of vehicular access and associated works.

Report of handling written by Fiona Scott states:

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. As 31 Ellenabeich is a Listed Building within a Conservation Area consideration has to be given to Supplementary Guidance SG LDP ENV 16(a) and SG LDP ENV 17, the main thrust of which seek to ensure that proposed developments do not have an adverse impact on the appearance or setting of a listed building and do not detract from the character or appearance of a Conservation Area.

A new one metre high blockwork **wall finished in white painted render** is proposed along the frontage of the dwellinghouse with a simple timber gate for access to the front door. **The wall will replace an unsympathetic timber fence** which has recently been removed and will **represent a visual improvement to the appearance of the dwellinghouse within the streetscene and wider Conservation Area.**

Reasons why planning permission should be granted

It is considered that the proposed works to the property are of an appropriate scale, design and incorporating finishing materials which will ensure that they do not detract from the Listed Building or its setting within the wider Conservation Area or Area of Panoramic Quality and will represent a vast visual improvement.

The proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 9, LDP 10, LDP 11 and Supplementary Guidance SG2, SG LDP ENV 13, SG LDP ENV 14, SG LDP ENV 16(a), SG LDP ENV 17, SG LDP SERV 7, SG LDP TRAN 4 and SG LDP TRAN 6 of the adopted Argyll and Bute Local Development Plan 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.'

This property is the home of Mr Hill's son. He did not object to this development and the Planning department are clearly enthusiastic about the white rendered finish here. A dry stone wall was actually removed from this site and replaced with a white rendered wall at the eastern edge of the development. If "natural" stone walls are so precious to the planning department, how has this resident been allowed to replace and extend the wall area with white render?

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.

As I have already stated in my appeal, the supplementary Guidance to the development Plan states that walls and boundary treatments should blend in with the existing buildings - In our case these are white render)

To be clear, **SG LDP ENV 16(a)** on page 43 of the LDP Supplementary Guidance states that:-

'All developments that affect a listed buildings or their settings must

- 1) Be of the highest quality and **respect the original structure in terms of setting, scale, design and materials**

It is the original building which is key to the appropriateness of materials to be used to unify a site, not another structure 30 metres away across a car park. We have a photograph early C.20 showing that the building was white rendered at this time.

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

- *Whether or not the boundary walls finished in a natural stone or slate is an appropriate finish within the Ellenabeich Conservation Area.*

The Report of Handling (Appendix 1) sets out the Council's detailed 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 that the proposal is small-scale, has no complex or challenging issues, and has not been the subject of any significant public representation, it is not considered that a Hearing is required.

I feel that a hearing would be of great benefit to bring all the elements of this appeal together and to provide members with the opportunity to understand what has really happened here and what happens when conditions of planning are inappropriately applied. I feel that the case I have laid out before members is self explanatory, logical and agrees fully with the Council's own Local Plan and Supplementary Guidance. However, members may wish for a hearing for the opportunity of a visit to the village in order to satisfy themselves in terms of the detail and evidence I have supplied.

COMMENT ON APPELLANT'S SUBMISSION

In summary the appellant contends that the requirement for stone/slate clad walls is mistakenly founded on a different development setting which has no relation to their own; that the condition has been applied on the insistence of one individual who has a well-documented grievance against the appellants; there were 4 supporters of the site design, including the white rendered wall; and, that the Council's own policies and guidance of Historic Environment Scotland clearly supports boundaries, walls and garage being of the same materials and colours as existing buildings.

Comment: The planning application was carefully assessed by experienced Planning Officers with advice sought from (and provided by) the Council's acting Conservation Officer Mark Lodge.

The development proposes a contemporary design within a prominent location within the Conservation Area. The proposed development was eventually granted planning permission solely on the basis that an appropriate design compromise was reached with the applicant (current appellant). Without this compromise, planning permission would have been refused. The design compromise the subject of this LRB was agreed by the appellants at the time and the plans amended accordingly prior to planning permission being granted. It now appears that this may have been an attempt to undermine the proper assessment of this planning application in order to secure a planning permission, the important detail of which the developer had no intention of implementing.

Contrary to Ms Scott's assertion that we agreed to a stone faced wall just to secure our planning permission, I can evidence the actual reasons for requesting a change to the wall finish for the site. At the Seil and Easdale Community Council meeting of the 25th September, with **Councillors Robertson and Green present**, Seamus Anderson (Community Councillor with responsibility for Planning) in a discussion concerning Planning Application 18/01695/PP, and in relation to the status of the current Conservation Area Appraisal, stated that the council does not currently have a qualified Conservation Officer, let alone a Conservation Team. At this point, I mentioned that the white rendered wall in our Planning Application had been refused and we had to put up a stone clad wall. The Community Council and several local residents agreed that this was wrong in the context of

the village. This is what was minuted: 'It was stated that A&B Planning are pushing for "fake walls" with slate cladding, rather than the traditional white rendered walls. The CC requested specific details of this policy and would respond accordingly.' Seil and Easdale Community Council agreed unanimously to write in support of this appeal and have done so, confirming that the walls around our house should be white render. There are three further letters of support. Also, in connection with Planning Application 18/01695/PP, where a development at the other side of the village has detailed a similar slate clad wall as a result of pre-application discussions with the planning department there are six objections from longterm residents within the village. None of the objectors of this development were supporters of our development, so, there is clearly a strength of feeling within this village against this new trend for stone cladding on walls, which only begun with the Seafari petrol site. As previously stated, the Seafari petrol site was designed to meet a specific brief: the site being for above ground petrol (hazardous/explosive substance) storage and had to be an engineered wall (which contradicted the planning condition, determined by members at a PPSL Committee for a natural stone wall).

but because this sat in front of and adjoined an existing traditional high stone wall, the engineered wall was clad in stone to enable it to blend in. This very particular set of circumstances should not have been allowed to happen and should certainly not set a precedent for the village. All other walls which surround or sit in front of white rendered buildings are white rendered. The only domestic walls in the village which are stone, sit separated from the houses, divided by a road.

The proposed design compromise consists of cladding the external surrounding wall to its outer face with natural stone or natural slate to a specification to be submitted to and agreed in writing by the Planning Authority. The requirement is not for a 'composite' or 'imitation' material and neither does it require/involve a 'stuck on' finish.

Slate/stone clad wall is an imitation stone wall and is, by definition "composite" (composed of separate parts - source - Collins Dictionary) - See below concrete block at the Seafari site being clad with stone



In this regard, the design approach taken here is directly comparable with the recently completed fuel store enclosure for Seafari; a development which lies adjacent to the

property the subject of this LRB and which required an identical external stone/slate cladding finish to that the subject of the current condition. This requirement was forcefully driven by local residents, including the appellants, and was supported as a necessary and appropriate design feature by the Planning Authority. The Seafari development has been completed and the slate-clad external walls clearly complement the character and quality of the Conservation Area.

Correction: The Seafari site is industrial and not domestic. The Conservation officer specified and residents of the village requested a traditional stone wall not a stone clad wall. This was fully supported at the Planning hearing for the site and became a condition of the permission. At no point did any resident of Ellenabeich request a stone clad wall. I wrote at the time of the application to oppose the use of stone cladding. This is on record in the public domain. The qualified Conservation Officer at the time was also opposed to stone cladding. Ms Scott stated in the publicly available documents of the time that the decision for a clad engineered wall was on the basis of cost to the developer. This statement was factually incorrect and is confirmed in Tony Hill's statement in relation to this appeal, he indeed confirmed my appeal statement that he had to have an engineered wall which then had to be clad with stone. This was because it adjoins an existing, traditional stone wall.

The slate clad walls to the Seafari development were approved by Members as an appropriate and necessary part of the design.

This is incorrect, the minute of the PPLS hearing specify a traditional stone wall, indeed a comment is even made that if the site cannot be built with a natural stone wall that Mr Hill would have the option to either appeal the condition or reapply - I note that he did neither.

The appellant's statement contends:

"In addition to the above, there is now strong evidence (which did not exist when our planning negotiations were on-going) that if we had applied to build our extension with a stone clad wall, we would have received many more objections to the development".

This statement is not supported by any evidence and is wholly disputed by the Planning Authority.

I contend this by drawing members' attention to the six objections to the composite wall in Planning application 18/01695/PP; also to the four confirmations of support for my appeal - including, as I have stated, from our Community Council. I feel that I have provided sufficient evidence of the above statement.

The requirements for a natural stone/slate clad wall was agreed through negotiation and 'signed-off' by all parties, including the appellant. The planning condition the subject of this LRB does not require the natural stone/slate cladding of this part of the development as that has already been agreed and forms a necessary and intrinsic part of the planning permission. The planning condition the subject of this LRB requires simply that the details of this natural stone/slate cladding be submitted to and approved in writing by the Planning Authority prior to works commencing on site.

Without the necessary (and previously agreed) design amendments, this application would not have been supported in this case given the prominence of the site within the Conservation Area and the otherwise unacceptable contemporary design of the proposed extension. The design requirements the subject of this LRB should be maintained or else the permission overturned.

Comment - The design was deemed acceptable by the planning department in their Report of Handling and all the way through the application. Only the wall height and finish and the garage finish have ever been criticised. In consideration of the request to lower the height of the walls, we felt that that this was a reasonable request and have duly changed our drawings to reflect this. I quote directly from Ms Scott's own Report of Handling '*Overall the proposed extension and garage are considered to be an acceptable addition to the dwellinghouse and will not detract from its appearance or its setting within the wider Conservation Area consistent with the terms of the current Development Plan*'.

I am disappointed that the Planning Department has threatened here to overturn this planning permission if this appeal is successful. I note that the Planning and Regulatory Services Handbook is entitled "Open for Business" and its headline vision is "Realising our Potential Together". There are eight detailed Service Outcomes listed including:-

- The local economy is improved through the delivery of sustainable development
- The creation of well-designed sustainable places where people are able to access employment, housing, recreation opportunities supported by essential services and necessary infrastructure.
- Empowered confident customers capable of exercising their legal rights and accessing advice/support.

It should be noted that the required stone/slate cladding is simply proposed to the boundary walls and the external wall of the garage. The vast majority of the development, including the existing dwellinghouse and the bulk of the proposed extension, will be white painted render to match the majority of the existing buildings in this part of the Conservation Area. The external faces of the proposed boundary wall and garage wall should be in stone/slate as this is a traditional form of boundary wall construction in the village and it will 'break up' and add necessary character and quality to the design in order to off-set the flat roofed contemporary designed extension and marry in with the existing slate roof of the dwellinghouse.

The Planning Authority would usually only insist on a full stone/slate wall where the wall has two 'public faces' (being viewed from either side). Neither the aforementioned Seafari development nor the current LRB boundary walls can be readily viewed from both faces, therefore insisting on a wholly stone/slate wall (or double-clad stone/slate wall) would be inappropriate and unnecessary.

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. So what are these material considerations?

Taking all of the above into consideration, as set out in the ROH appended to this Statement of Case, it remains the view of the Planning Service that the boundary walls of the development should be finished in a natural stone/slate.

This is contrary to the advice given in other recent planning applications in the same village, as listed above. In each case, the Local plan is used as a reason to agree with white render, in ours it seems to be used as a case against. There is no consistency of advice. The inconsistency in advice was the main reason for the council having to rework the 2018 Ellenbeich Draft Conservation Area Appraisal and Management Plan.

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

In line with the Council's objectives to operate openly and transparently, I would respectfully request that members consider this appeal to allow us to build a wall which is appropriate to the house and its extension in conservation terms. I would be extremely grateful if members could take the time to visit the village and the site in question to satisfy themselves of the points raised and to draw their own conclusions.