

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: 18/02720/PPP

Planning Hierarchy: Local Development

Applicant: TSL Ltd

Proposal: Site for Proposed Residential Development

Site Address: Site at Lonan Drive, Oban

SUPPLEMENTARY REPORT NO. 1

(A) INTRODUCTION

This application is due to be presented to the Planning, Protective Services and Licensing Committee on 17 April 2019.

Since the original Report of Handling (ROH) was prepared, and the response from the Roads Authority received, two additional objections from third parties who have previously objected have been received.

(B) FURTHER REPRESENTATIONS

Mr William McKillop, 13 Creran Gardens, Oban, PA34 4JU (04/04/19)

Mr Iain MacFarlane Brown, Tigh Ealasaid, Nant Drive, Oban, PA34 4LA (07/04/19)

Summary of issues raised:

Response from the Council's Operational Services & Access Issues

- The response from the Council's Operational Services dated 20/02/19 advises that the previous application was refused as 'there was insufficient development width at the site'... and then states 'the revised design incorporates a traffic calmed area with a width restriction to the carriageway'. It is surprising if members of the Planning Authority, experienced as they are in such matters, could support the view taken by the Operational Services Officer that it is acceptable to use Traffic Calming Measures (TCM), which after all are intended to reduce road traffic accidents by limiting speed in existing built up areas, to enable vehicular access for the purpose of intensive development into an unspoilt open green space.
- The relevant legislation and regulations, including Highways Acts, The Highways (Traffic Calming Regs), The Traffic Calming Act 1992, have been researched and no support for such a purpose can be found. The Local Transport Note 1/08 (Traffic Calming), Appendix J, in appraising TCMs, considers 23 objectives and sub-objectives

in the New Approach to Appraisal, none of which make any mention of enabling vehicular access into an undeveloped site.

- It is no doubt the case that Councillors have discretion in this sort of matter, and I am confident good judgement and fairness will be exercised in this case. It is clear that in an attempt to thwart a previous unfavourable recommendation, the applicant seeks to misuse a TCM which after all has not been designed for the purpose of overcoming the inadequate development width of this site.
- Concerns regarding emergency access into the site in the event of blockage of the narrow give/take system.
- The Roads Authority require clearing of scrub and levelling and reseeded of the verge to the southeast of Lonan Drive. This land is the property of the residents of Creran Gardens whose land extends to the kerb of Lonan Drive and therefore this requirement cannot be achieved.
- A site specific Traffic Impact Assessment (TIA) should be submitted prior to the determination of the application.

Comment: The Roads Authority engaged with the applicant prior to the submission of the current application to agree the proposed access arrangements resulting in no objection being raised on road or pedestrian safety grounds subject to a number of conditions being imposed on the grant of permission as set out in the main ROH before Members.

The Roads Authority will deal with the clearing of scrub and levelling and reseeded of the road verge through the Road Construction Consent process.

The Roads Authority never requested the submission of a TIA.

Wildlife

- The site is bursting into life with birds, morning/evening chorus a priceless pleasurable asset to this community along with all other species that inhabit this wonderful natural part of Soroba.

Comment: As detailed in the main ROH before Members, the Council's Biodiversity Officer was consulted on the proposal and raised no objection to the proposed development subject to conditions requiring a number of surveys to be submitted with any future detailed application(s) being imposed to secure the submission of survey and management information when any detailed planning application for the site is submitted.

Access to Core Path

- The boundary fence of 13 Creran Gardens borders the proposed road/existing core path. The fence does not yet have a gate allowing access to the core path due to the several changes made to ground levels over the years by the landowners. It is proposed to install a gate and rebuild the fence to its 2 metre height after any more changes, if any, are made. This is simply to save costs as hundreds of pounds have already been spent on construction on planning permission.

Comment: The retrospective planning permission granted for the fence referred to did not include a gate and accordingly any change to the approved scheme may require a further planning permission at which time the proposal would be considered in relation to any permission granted for the adjacent site.

(C) RECOMMENDATION

It is not considered that the further representations raise any new or significant issues and accordingly it is recommended that planning permission in principle be granted subject to a pre-determination discretionary Hearing and the conditions and reasons recommended in the main ROH which are also appended to this report.

Author of Report: Fiona Scott **Date:** 15/04/19

Reviewing Officer: Peter Bain **Date:** 16/04/19

Angus Gilmour
Head of Planning, Housing and Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 18/02720/PPP

GENERAL

1. Plans and particulars of the matters specified in conditions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 below shall be submitted by way of application(s) for Approval of Matters Specified in Conditions in accordance with the timescales and other limitations in Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended. Thereafter the development shall be completed wholly in accordance with the approved details.

Reason: In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Note to Applicant:

- This consent constitutes a Planning Permission in Principle under Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended and as such does not authorise the commencement of development until matters requiring the further consent of the Planning Authority have been satisfied.
 - Application(s) for Approval of Matters Specified in Conditions must be made in accordance with the provisions of Regulation 12 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 within the time limits specified in Section 59 of the Act.
 - Having regard to Regulation 12, application(s) for the Approval of Matters Specified in Conditions must be submitted within 3 years from the date of which Planning Permission in Principle was granted. The exception being where an earlier submission for the Approval of Matters Specified in Conditions was refused or dismissed on appeal, in which case only one further application in respect of all outstanding matters requiring further approval of the Planning Authority may be submitted within a period of 6 months from determination of the earlier application. Any elements of the Planning Permission in Principle for which further approval of the Planning Authority has not been sought within the time periods summarised above will no longer be capable of being implemented within the terms of this permission.
 - The development to which this planning permission in principle relates must commence no later than 2 years from the date of the requisite approval of any matters specified in conditions (or, in the case of approval of different matters on different dates, from the date of the requisite approval for the last such matter being obtained), whichever is the later. If the development has not commenced within this period, then this planning permission in principle shall lapse.
 - The applicant should note the advice contained in the attached consultation response from Scottish Water and the Councils Access Officer and should contact them direct to discuss the issues raised.
2. The development shall be implemented in accordance with the details specified on the application form dated 18/12/18 and the approved drawing reference numbers

Plan 1 of 5 to Plan 5 of 5, unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

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

Note to Applicant

It should be noted that the indicative layout submitted in support of the application does not form part of the approval, it is solely for indicative purposes only.

ROADS, ACCESS AND PARKING

3. Pursuant to Condition 1 – no development shall commence until details of the proposed service road and connection with the existing public road have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) A vehicular access layout providing a Road over which the public has a right of access in terms of the Roads (Scotland) Act 1984;
- ii) A turning head for the public service vehicle;
- iii) Details of the priority signage for the access into the site.

Prior to work starting on site, the junction with the existing public road shall be fully formed and surfaced with all access roads and footways granted consent constructed to at least base course level prior to any work starting on the erection of the buildings which they are intended to serve and the final wearing surface of the roads and footways shall be applied concurrently with the construction of the final building.

Reason: In the interests of road safety and to ensure the timely provision of a service road commensurate to the scale of the overall development and having regard to the status of the proposed access as a residential service road.

Note to Applicant:

Road Construction Consent under the Roads (Scotland) Act 1984 must be obtained from the Council's Roads Engineers and a Road Bond provided prior to the formation of the access within the development site.

4. Pursuant to Condition 1 – no development shall be commenced in respect of any individual building until plans and particulars of the means of parking/turning arrangements to serve that building have been submitted to and approved by the Planning Authority. Such details shall incorporate:

- i) The provision of parking and turning in accordance with the requirements of Supplementary Guidance SG LDP TRAN 6 of the adopted 'Argyll and Bute Local Development Plan' 2015.

The approved parking and turning layout to serve the buildings shall be implemented in full prior to that building first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interests of road safety.

LAND DRAINAGE

5. Pursuant to Condition 1, no development shall commence on site until full details, in plan form, of the land drainage design for the site and details of its ongoing maintenance has been submitted to and approved in writing by the Planning Authority. Such details shall show a drainage system designed in accordance with CIRIA C753 and Sewers for Scotland 4th Edition.

Reason: In order to safeguard the development from the possibility of flooding.

DESIGN AND FINISHES

6. Pursuant to Condition 1 – no development shall commence in respect of any individual building until plans and particulars of the site layout, open space, design and external finishes of the development have been submitted to and approved by the Planning Authority. These details shall incorporate:

- i) A Design Statement in accordance with the advice set out in Planning Advice Note 68 which shall establish the design principles applicable to the layout of the development as a whole and design of the individual dwellings.
- ii) A statement addressing the Action Checklist for developing design contained within the Argyll and Bute Sustainable Design Guide 2006;
- iii) Local vernacular design.

Reason: To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended, and in order to integrate the proposed dwellinghouse with its surrounds.

7. Pursuant to Condition 1 – no development shall commence until full details of proposed earthworks to include existing and proposed levels including all finished ground, road and dwelling floor levels and any area of infill proposed have been submitted to and approved by the Council as Planning Authority.

Reason: In the interest of visual amenity.

LANDSCAPING, TREE SURVEYS AND JAPANESE KNOTWEED

8. Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with

the approved scheme unless otherwise approved in writing by the Planning Authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

9. Pursuant to Condition 1 – no development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority. The scheme shall comprise:
- i) A survey of trees on and overhanging the site indicating the location, species, height, canopy spread and condition of each tree;
 - ii) An assessment of the amenity and nature conservation value of tree groups and individual trees which shall inform the layout of the development proposed;
 - iii) Details of all trees to be removed and the location and canopy spread of trees to be retained as part of the development;
 - iv) A programme of measures for the protection of trees during construction works which shall include fencing at least one metre beyond the canopy spread of each tree in accordance with BS 5837:2012 “Trees in Relation to Design, Demolition and Construction”.

The tree survey should be undertaken prior to drafting the design plan for the placement of dwellings, verges, access routes and services.

Tree protection measures shall be implemented for the full duration of construction works in accordance with the duly approved scheme. No trees shall be lopped, topped or felled other than in accordance with the details of the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: In order to retain trees as part of the development in the interests of amenity and nature conservation.

10. Pursuant to Condition 1 – no development shall commence on site until full details of a scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. The scheme shall include a timetable for implementation and clearly identify the extent of the Japanese Knotweed on a scaled plan. Prior to construction works commencing on site the approved scheme and timetable shall be implemented in full and a validation report confirming details of the remediation treatment carried out and confirmation that the site is free of Japanese Knotweed shall be submitted to the Planning Authority.

Reason: To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-invasive species through development works.

11. Pursuant to Condition 1 - no development shall commence until a scheme for the provision of affordable housing (as defined below) has been submitted to and approved by the Planning Authority. The scheme shall:
- a) Provide that a minimum of 25% of the approved dwellings are affordable homes;
 - b) Define those properties to be used as affordable homes;
 - c) Establish the timing of their provision relative to the phasing of the development, which shall ensure that the last 25% of the dwellings within the development are not commenced until the affordable housing phase has been completed for occupation;
 - d) Establish the arrangements to ensure the affordability of the affordable homes for both initial and subsequent occupiers (including any discount rate applicable in terms of (ii) below);

For the purposes of this condition 'affordable homes' are defined as being either:

- i) Social housing (rented or shared ownership or shared equity) managed by a registered social landlord (a body registered under part 3 chapter 1 of the Housing (Scotland) Act 2001, or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification);
- ii) Discounted low cost sale housing (subject to a burden under the Title Conditions (Scotland) Act 2003), or any equivalent provision in the event of the revocation and re-enactment thereof, with or without modification).
- iii) Housing for sale or rent without subsidy, which is designed to be affordable and to meet the housing needs of the majority of those households identified as in housing need in the Local Housing Strategy or Housing Market Study i.e. one or two person households on average income, with conditions attached to their missives to prevent further extension, thereby helping to ensure that they are likely to remain affordable to subsequent purchasers.

The development shall be implemented and occupied thereafter in accordance with the duly approved scheme for affordable housing.

Reason: To accord with the provisions of the development plan in respect of affordable housing provision.

WILDLIFE SURVEYS

12. Pursuant to Condition 1 - no development shall commence until full details of a Bat Survey and Red Squirrel Survey have been submitted to and approved in writing by the Planning Authority in Consultation with the Biodiversity Officer. Such details shall include when the surveys are to be carried out, the methodology to be employed in both surveys and any mitigation measures, including a timetable for the implementation of mitigation measures.

Reason: To prevent the disturbance of Protected Species.

PEAT SURVEY

13. Pursuant to Condition 1- no development shall commence until full details of a Peat Survey and Management Plan has been submitted to and approved in writing by the Planning Authority in consultation with the Biodiversity Officer. Such details shall provide details of the depth of the peat deposit on site.

Reason: In order to protect natural heritage assets.

Note to Applicant:

Should the survey determine the depth of peat to be in excess of 0.5 metres the applicant will require to liaise with SEPA for advice on management.

OPEN SPACE/PLAY AREAS

14. Pursuant to Condition 1 – no development shall commence until details for the provision and maintenance of proposed areas of communal open space and equipped play area(s) within the development have been submitted to and approved by the Planning Authority. The details shall comprise:
- i) A plan showing the location and extent of communal open space and equipped play areas;
 - ii) Provision to satisfy the minimum standards set out in the Development Plan; 6sqm of equipped play space and 12sqm of informal open space per dwelling unit;
 - iii) Specification of play equipment to be installed, including surface treatments and any means of enclosure, designed in accordance with the provisions of BS5696 (Play Equipment Intended for Permanent Installation Outdoors);
 - iv) Proposals for the timing of the implementation of the play area(s) in relation to the phasing of the development;
 - v) A maintenance schedule for communal open spaces and equipped play areas in accordance with the provisions of BS5696 including details of on-going inspection, recording and procedures for detailing with defects.

The communal open space and equipped play area(s) shall be provided in accordance with the duly approved details and shall be retained and maintained to the specified standards thereafter.

Reason: In order to secure provision of communal open space and equipped play areas within the development in accordance with the minimum standards set out in the Development Plan.

CORE PATH

15. Pursuant to Condition 1 – no development shall commence until details for the provision of the Core Path through the development site has been submitted to and approved by the Planning Authority in consultation with the Access Officer.

The details shall comprise:

- i) The route a minimum width of 2.5 metres wide;
- ii) The route finished in a tarmacadam surface;
- iii) The route provided with dropped kerbs where it meets the road surface;
- iv) Gradients kept to a minimum to ensure the route is accessible for people of all abilities.

The route shall be provided in accordance with the duly approved details and maintained to the specified standards thereafter.

Reason: In order to secure the retention of the existing core path in the interests of amenity

Note to Applicant:

The advice contained in the consultation response from the Access Officer should be fully considered in the preparation of the details for the provision of the Core Path within the development.