

**Argyll and Bute Council**  
**Development and 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**

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**Reference No:** 19/01410/PP

**Planning Hierarchy:** Local Application

**Applicant:** Simply UK

**Proposal:** Demolition of existing buildings and erection of residential care home (amended design)

**Site Address:** 102A Sinclair Street, Helensburgh

**SUPPLEMENTARY REPORT NO. 1**

**1.0 INTRODUCTION**

The purpose of this report is to advise Members of additional matters raised by Victoria Holling on behalf of "Friends of Prince Albert Terrace". These representations comprise a number of matters which they wish to see addressed in conditions imposed on any grant of planning permission.

For clarity the six tests that a condition must meet to be competent is that it should be:

- necessary
- relevant to planning
- relevant to the development to be permitted
- enforceable
- precise
- reasonable in all other respects.

Further detailed commentary on such matters is contained within Planning Circular 4/1998: the use of conditions in planning permissions.

**2.0 SUGGESTED ADDITIONAL MATTERS TO BE ADDRESSED BY CONDITION**

The suggested matters to be addressed by condition are set out below together with Officer Comment on whether they consider such matters to be in accordance with the six tests set out in Section 1.0.

- *notice to be given to the residents of Prince Albert Terrace and Birch Cottages as to the start and end date of demolition, clearance and any redevelopment works*

Officer Comment: There is a requirement under the Planning Acts for the developer to serve a notice on the planning Authority prior to the commencement of development. This will be available in in Public Access and therefore is it not considered necessary or reasonable to require such separate notification.

- *all vehicles relating to the development to be restricted only to onsite (depot site plot) parking, no parking allowed on local residential streets or Birch Cottage allocated parking areas with council enforced penalties for infringements.*

Officer Comment: The development complies with necessary on-site parking standards. The condition seeks to impose a condition restricting parking on the use of the public road in the vicinity of the site and therefore is not considered to be reasonable, necessary or enforceable.

- *all work on the depot site and/or relating to the redevelopment of this area to only to be undertaken during the hours of 8.30am to 5pm, Monday to Friday year round. No weekend/early morning/evening working to be undertaken.*

Officer Comment: Hours of operation have already been addressed by condition 10 as advised by the Environmental Protection Officer in accordance with normal practice for construction projects in residential areas. It is therefore not considered that these suggested more restrictive hours would be necessary or reasonable.

- *no access will be granted to the site from the rear grounds of Prince Albert Terrace for any representation or employee of the developer or associated companies*

Officer Comment: This is a matter of civil legal control of access/land and is therefore not considered to be a reasonable matter to form part of a planning condition.

- *a full time line of expected works to be given to residents of Prince Albert Terrace and Birch Cottages in advance of any/all works commencing*

Officer Comment: There is a requirement under the Planning Acts for the developer to serve a notice on the Planning Authority prior to the commencement of development. This will be available in in Public Access and therefore is it not considered necessary or reasonable to require such separate notification.

- *notice to be given to residents of Prince Albert Terrace for the dates any trees are to be felled in the park and a representative from Prince Albert Terrace is to be present on the day any trees are felled.*

Officer Comment: It is not considered necessary or reasonable to require notification of residents on works on land outside their interest, nor to require that they attend any such works. Members will note that the trees within the park are under the control of the Council whose permission would be required in respect of any proposed works to them. It should also be noted that condition 8 requires approval of details of the retention and protection of trees prior to the commencement of development.

- *residents of Prince Albert Terrace and Birch Cottages are to be advised as to how asbestos in the current buildings is to be removed and when.*

Officer Comment: The control over the removal of asbestos will be undertaken in accordance with licenses given to operators by the Health and Safety Executive, and the transporting and disposal of the asbestos will be further controlled by SEPA under in its role of controlling activities relating "special waste". It is not appropriate for the planning system to seek to duplicate controls provided by other government agencies. This suggested condition is therefore not considered to be

reasonable or necessary as all matters relating to asbestos removal and disposal will be subject to proper controls.

- *results of the bat and bird survey to be made public*

Officer Comment: All supporting information and surveys will be placed on public access. Such a condition is therefore not necessary.

- *the site is to be secured and have adequate security during demolition and any construction periods, to minimise the risk of fire raising/anti-social behaviour*

Officer Comment: The security of the site and the safety of those within it are not matters controlled by Planning Legislation but by the Health and Safety Executive. It is therefore not considered necessary or reasonable to impose such a condition.

- *a geo-technical survey to be carried out by an independent, at developers cost, before any planning application for construction is approved, with the results and recommendations made public.*

Officer Comment: The Councils Environmental Protection Officer has not advised that such matters require to be addressed. It is therefore considered that such a requirement would be neither necessary nor reasonable.

- *movement monitors should be placed on all buildings adjacent to the site. These should be monitored and if movement is detected all construction work halted until an appropriate strategy for mitigating and remediating movement to the affected buildings has been agreed with residents*

Officer Comment: The Councils Environmental Protection Officer has not advised that such matters require to be submitted. Any impacts of the development in respect of proven and verified movement would be a civil legal matter between parties and not a matter for planning condition. It is therefore considered that such a requirement would be neither necessary nor reasonable.

- *developers to cover all costs (using independent contractors) associated with remediating any movement/structural impact on properties adjacent to the depot site*

Officer Comment: This would be a matter of civil law between parties should damage by one party of the other be alleged. Therefore such a condition would not be necessary or reasonable.

- *the council to assign one point of contact to liaise with residents during the demolition and construction phases*

Officer Comment: It is not appropriate to condition an individual officer to be named as a point of contact in respect of the granting of any planning permission. Such a condition would therefore not be reasonable or necessary as established protocols to contact the planning department are already in place for members of the public with concerns over any development.

- *the developer to appoint a named contact to act as a neighbourhood liaison officer and will have an agreed service level of 24 hours to respond to residents questions/concerns*

