

**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. 3**

**1.0 INTRODUCTION**

The purpose of this report is to advise Members of the contents of a consultation response from Helensburgh Community Council and SEPA and additional representations submitted by Jackie Baillie, Mrs M McLellan, G Eric Walker, Richard M. Cullen on behalf of "Friends of Prince Albert Terrace and Birch Cottages", Fiona Rorison and Dylan Paterson. In the case of the two latter representations these were submitted as part of a wider complaint against the original report of Handling and the interpretation of policy. The two complaints have been dealt with under the Council's complaints procedure and the comments here relate to material considerations which are relevant to the assessment of the proposed development.

**2.0 DETAIL OF CONSULTATION RESPONSE AND REPRESENTATIONS**

The full version of the consultation response and representations are available on the Council's website [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk)

Helensburgh Community Council (letter dated 18/08/2019)

Being in the Upper Helensburgh Conservation Area this proposed development should *Preserve, Protect and Enhance* neighbouring properties in this part of the Conservation Area and its landscape setting.

Comment: New development in Conservation Areas should preserve **or** enhance the character and appearance of the Conservation Area. See the assessment.

The mass and scale of the building is not in keeping within this residential area. The proposed orientation will damage its relationship with Prince Albert Terrace and Birch Cottages.

Comment: See the assessment.

In terms of design the proposed building is mundane, uninspiring, out of character with no sense of place, monolithic and overall an indifferent design.

Comment: See the assessment.

Parking has designed to meet minimum requirements. A 64 bed care home will require substantial staffing support. There will also be visiting friends and relatives. With most visiting by car is 25 parking spaces sufficient? Victoria Road is already almost full and parking on Sinclair Street will create congestion and road safety concerns.

Comment: The Area Roads Manager has no objections.

SEPA (letter dated 03/10/2019)

The scale and nature of the development falls below that on which we provide site-specific advice.

Jackie Baillie, MSP (letter dated 20/08/2019)

The primary area of concern is the sheer scale of the development. The building is 4 storeys high, dominates the area and is out of character with the vicinity.

Comment: See the assessment.

Policy SG LDP 17 will be breached. Simply arguing that a four storey care home is better than what was there before is not an appropriate justification for approval. There are many other areas of concern ranging from car parking and access to Sinclair Street, through to the design of the building and the materials used.

Comment: See the assessment.

The land on which the development is proposed has been sold by the Council to the applicant, subject to planning permission. This is a clear breach of the Council's own planning policies and the Local Development Plan.

Comment: It is not uncommon that a Council may require to determine a planning application in which it has an ownership or other interest in the land. The Scottish Government address this issue within Circular 3/2009 and state that *"this in itself is not unreasonable, in fact it is quite normal and occurs regularly. In these circumstances though, it is essential that the planning authority does not allow any possible conflict of interests to have an undue influence on its planning assessment."* In this respect I can confirm that the operation of the Council's Estates Service is entirely separate from that of its Development Management function; furthermore, whilst there may be a number of relevant factors that can have a bearing on a planning decision the potential receipts to the Council from sale of the land would not be a relevant planning consideration and as such would not be afforded any significant weighting in the determination of the current application.

Mrs M McLellan 1/11 Prince Albert Terrace, Helensburgh (letter received 21/08/2019)

Object to this massive building, its impact on the Park and loss of view.

Comment: See the assessment. Loss of view is not a material consideration.

G Eric Walker, 1 Victoria Crescent, Helensburgh (letter dated 15/10/2019)

I would specifically mention the parking provision and traffic aspects which, in my view, have been grossly understated in the application. This sizeable development (which is clearly in the wrong place in the town), will result in significant overspill parking in several

of the surrounding streets. The scale of this development needs to be considerably reduced

Comment: Area Roads Manager has indicated no objections. See also the assessment.

Richard Cullen (3 e-mails dated 20/08/2019)

All trees are a material consideration. It is therefore the duty of Argyll and Bute Council to understand the impacts of a proposed development on any trees present. The submitted tree removal plan does not provide adequate information to enable a correct assessment to be made. The plan used by the architects appears to be out of date as it shows trees that are no longer there and path patterns which have been altered since the park works have been completed.

Comment: Ordnance Survey maps are not updated regularly and lag behind any recent developments i.e. they don't show the changes brought about by the recent park refurbishment. It is considered that there is still sufficient information to assess the proposal.

The plan states that trees marked to be removed have been pre-agreed with Argyll and Bute Council. Who agreed this and was due process followed?

Comment: The person overseeing the park improvements had discussions regarding the removal of a single, poor quality tree and a bush. However, it was made clear that formal permission would be required before any removal.

The trees shown on the Prince Albert Terrace border are inaccurate. Why have they not been shown as marked to be felled in order to facilitate construction? Need reassurance that trees will be protected during construction.

Comment: At present there is no permission to fell trees. A condition has been attached requiring details of trees to be removed and protection measures during construction.

Supplementary Report 1 refers to the fact that the Council's Environment Protection Officer has not commented on a number of key points. Details on the Planning Portal show that no Environmental Assessment was requested. Which is the case has an assessment been carried out or not? If an assessment has been carried out why is this assessment not in the public domain? It is incumbent upon the Council and the planning office to be transparent in their dealing with such matters.

Comment. A consultation response from Environmental Protection is different from an Environmental (Impact) Assessment. Environmental Protection was consulted and advised no objections. The response is on the Council's public system.

There has been no attempt to correct the mistakes highlighted by objectors other than the roofline of Prince Albert Terrace. The original drawing showing an apex roof showed the height difference as 4.5 metres. In the new M shaped drawing the height difference is still 4.5 metres. This cannot be correct.

Comment: The architects were contacted regarding this and confirm that the difference is still 4.5 metres.

We note the architects have chosen to show a view that is to their advantage and is as far away from the site as physically possible within the boundaries of the park. It doesn't show the negative impacts of the proposed building on the park.

Comment: The photomontage is additional information requested from the applicant. It doesn't change the assessment as set out in the original report of handling that the proposed new building will not impact on the setting of the Cenotaph.

Fiona Rorison, 2 Prince Albert Terrace, Victoria Road, Helensburgh (e-mail dated 20/08/2019) and Dylan Paterson, 8 Prince Albert Terrace (Top Flat), Helensburgh (2 letters received 20/08/2019 and 22/08/2019)

The current application has been assigned to a different case officer to an earlier application who had provided written advice which was critical of that earlier proposal. The reporting officer's recommendation submitted to the Planning, Protective Services and Licensing (PPSL) committee meeting of 21<sup>st</sup> August 2019 is not consistent with advice provided by another planning officer in relation to an earlier planning application.

Comment: The absence of the initial case officer has necessitated a change in personnel handling the case. In this instance the reporting officer is the initial case officer's line manager and is familiar with the site, locality, previous discussions and negotiations which took place in respect of the earlier withdrawn application, and is also a suitably qualified Town Planner, and chartered Member of the Royal Town Planning Institute.

The reporting officer's recommendation submitted to PPSL committee meeting of 21<sup>st</sup> August 2019 does not take into account concerns raised by consultees to the planning process, including Historic Environment Scotland, and the Council's Design and Conservation Officer. The reporting officer's recommendation submitted to PPSL committee meeting of 21<sup>st</sup> August 2019 also does not take into account concerns raised by over 50 third parties who have raised objection to the proposal.

Comment: The report of handling has identified the matters of conflict with consultees, including Historic Environment Scotland and the Council's own Design and Conservation Officer, and representations submitted by third parties and has set a summary of the concerns raised for consideration of elected Members in their determination of the application.

There are various set amounts for the cost of an acre of Land in this area, if what we have been advised is correct, and this site is not an acre, then the cost x acreage is hugely excessive and should be referred to the finance committee in the Scottish Government with regards to legalities. Scottish Planning Policy states that the planning system should not allow development at any cost, it would look like the proposals present an 'any cost' development (paragraph 28) and do not represent sustainable development as per the requirements of SPP.

Comment: See the assessment.

The planning officer has deemed these proposals a minor departure from the Development Plan. This is strongly contested. There is no such allowance as a minor departure and the proposal is clearly contrary to Policies LDP DM 1, LDP 3, LDP 8, LDP 9, LDP SG 16(a), LDP SG 17 and LDP SG REC/COM 2.

Comment: See the assessment.

There are over 50 objections including those from the Council's Heritage and Design Officer, Historic Environment Scotland, Friends of Hermitage Park, Architectural heritage society of Scotland and Helensburgh Community Council. There is a conflict of interest and the decision is flawed.

Comment: It is not uncommon that a Council may require to determine a planning application in which it has an ownership or other interest in the land. The Scottish Government address this issue within Circular 3/2009 and state that *“this in itself is not unreasonable, in fact it is quite normal and occurs regularly. In these circumstances though, it is essential that the planning authority does not allow any possible conflict of interests to have an undue influence on its planning assessment.”* In this respect I can confirm that the operation of the Council’s Estates Service is entirely separate from that of its Development Management function; furthermore, whilst there may be a number of relevant factors that can have a bearing on a planning decision the potential receipts to the Council from sale of the land would not be a relevant planning consideration and as such would not be afforded any significant weighting in the determination of the current application. No decision has yet been taken. See also the assessment.

### **3.0 CONCLUSION**

It is not considered that the content of this representation raises any new issues which are not covered in the report or that affect the original recommendation. A pre-determination Hearing is being recommended for this application which would allow Members to visit the site and explore these issues in more detail. And there are no other procedural issues which would prevent the application from being determined.

### **4.0 RECOMMENDATION**

The contents of the representations listed do not change the recommendation set out in the Report of Handing. It is recommended that planning permission be granted as a minor departure subject to the conditions and a pre-determination public Hearing.

**Author of Report:** Howard Young

**Date:** 15<sup>th</sup> October 2019

**Reviewing Officer:** Peter Bain

**Date:** 15<sup>th</sup> October 2019

**Fergus Murray**  
**Head of Development and Economic Growth**