

**Committee Report and Report of Handling as per The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 relative to applications for the modification or discharge of planning obligations.**

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<b>Reference No:</b>	19/01864/PP
<b>Planning Hierarchy:</b>	Local
<b>Applicant:</b>	Mr David Brooks
<b>Proposal:</b>	Discharge of planning obligation in relation to planning permission reference 12/00970/PP (Installation of 10 solar roof panels)
<b>Site Address:</b>	1 Main Street, Port Charlotte

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**DECISION ROUTE**

- Local Government Scotland Act 1973
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**(A) THE APPLICATION**

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

- Discharge of planning obligation in relation to planning permission reference 12/00970/PP (Installation of 10 solar roof panels)
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**(B) RECOMMENDATION:**

It is recommended that the request to discharge the planning obligation from the existing permission be refused.

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**(C) CONSULTATIONS:**

None, however, the following consultation response was received at the time of the original application from the then Conservation Officer and is considered material to the determination of this request to discharge the existing planning obligation:

*Conservation Officer (04.09.12) – The special interest of 1 Main St itself has been diminished due to insensitive alterations over the years, however its place in the streetscape is significant and this group of buildings make an important contribution to the conservation area. The roof fabric of the building is not of historic value and therefore the panels physical attachment have no adverse impact on the building itself. In terms of setting, the elevation onto Main St is the principle elevation, although the rear elevation is visible from Shore St and from a distance on the approach road to port charlotte, the A487. If the PV panels are reflective and therefore significantly visible from the approach road or Shore St, they are likely to have a negative impact on the setting of the area.*

*Had this application come to me for comments prior to installation I would have recommended investigating the potential for alternative sources of renewable technologies and the ground siting of PV panels, if neither of these proved suitable I would have recommended an impact assessment relating to matte finished PV panels, it is unlikely I would have recommended or supported highly reflective PV panels due to the risk of the negative impact this could have on the special character of the conservation area.*

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**(D) HISTORY:**

12/00081/ENFSH – The associated on-going enforcement investigation in relation to the unauthorised installation of 10 PV panels at 1 Main Street. – Closed as a result of the associated planning application outcome.

12/00970/PP - Installation of 10 solar roof panels (retrospective) – Members granted a personal permission subject to a section 75 planning obligation that required the removal of the solar panels upon said person having no further interest in the associated property.

19/00326/ENFHSB – unauthorised retention of 10 solar roof panels – currently under investigation – outcome pending determination of this report.

19/01859/PP – Re-painting of dwelling house – Approved 30<sup>th</sup> November 2019

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**(E) PUBLICITY:**

None

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**(F) REPRESENTATIONS:**

**(i) Representations received from:**

None

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**(G) SUPPORTING INFORMATION**

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

**(i) Environmental Statement:** No

**(ii) An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No

**(iii) A design or design/access statement:** No

**(iv) A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes

The following information has been provided by the applicant in sections 5 and 8 of the application form:

5. Please provide a brief description of the development and the relationship of the Applicant to the land to which the Planning Obligation relates:

*Currently there are 10 solar panels on the roof of 1 Main Street, Port Charlotte and when planning approval was given it was subject to*

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*their removal within two months of Mrs Katharine Rona Dykes MacKenzie ceasing to hold a lifetime interest in the property.*

*Following the death of Mrs MacKenzie, my mother in law in June, my wife Susan and I intend to buy out my wife's siblings from ownership of the property and seek the removal of the condition requiring their removal. The property is not in keeping with the conservation village, there have been no complaints about the solar panels since they were erected in 2011, government policy on renewable energy and carbon neutral housing has changed since the date the condition was agreed.*

8. Outline below which parts of the Planning Obligation you wish to modify or discharge and what changes you wish made, giving full reasons why the application is being made (a separate sheet of paper may be used to accompany)

*I wish to apply for the removal / discharge of the Section 75 Agreement requiring the solar panels to be removed within 2 months of Rona MacKenzie's life-interest in the property ceasing. The property in question is not listed and had already lost its character by reason of previous alterations when the property was rebuilt in the mid 1960's.*

*By the planning team's own comments:*

- The impact of the pv panels will have a neutral impact;*
- The building is of low architectural merit;*
- The roof material is not traditional;*

*In addition, government policy on renewable energy has changed, there is a target to create carbon neutral housing by 2030, there have been no complaints about the panels since their installation and the property will be staying within Rona MacKenzie's family.*

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**(H) PLANNING OBLIGATIONS**

**Is a Section 75 agreement required:** No – The applicant is seeking the discharge of an existing section 75 planning obligation.

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**(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No**

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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' Adopted March 2015**

LDP STRAT 1 – Sustainable Development

LDP DM 1 – Development within the Development Management Zones

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' (Adopted March 2016)**

**Historic Environment and Archaeology**

SG LDP ENV 16(a) – Impact on Listed Buildings  
SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas (SBEAs)

**Enforcement Action**

SG LDP ENF – Enforcement Action

**Sustainable Siting and Design**

SG LDP Sustainable – Sustainable Siting and Design Principles

(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.**

- Scottish Planning Policy
- Planning history
- PAN 71 - Conservation area management: planning advice
- Managing Change in the Historic Environment, Historic Environment Scotland

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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: No**

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

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

The proposal seeks to discharge a planning obligation under section 75 of the Act to allow the permanent retention of ten photovoltaic panels on the rear facing roof of an unlisted property with the Port Charlotte Conservation Area.

Planning permission has previously been granted retrospectively, and only on a temporary basis linked to the personal circumstances of the applicant, for retention of the solar panels after they were installed by the property owner and subject to previous enforcement proceedings. At that time officers recommended that Members of the PPSL committee refuse the application on the following grounds:

*“The installed PV panels by virtue of their prominence, location, design and inherent reflective properties are considered to be an uncharacteristic addition to this traditional streetscape and, notwithstanding the limited architectural or historic value of the subject property, the installation neither preserves or enhances the character or appearance of the Port Charlotte Conservation Area and as such is considered to be contrary to the provisions of STRAT DC 9 of the Argyll and Bute Structure Plan 2002 and LP ENV 14 of the Argyll and Bute Local Plan 2009.”*

However, Members determined to approve the application as a personal approval to the applicant given their individual circumstances. The justification for granting approval at that time was defined as::

*That planning permission be granted as a personal consent and that a Section 75 Agreement be concluded to require the removal of the panels when the house is no longer in the beneficial ownership of the Applicant for the following reason:-*

*Given the fact that the current building has lost its character by reason of previous alterations and given that it is not listed. The impact of the PV panels will have a neutral impact on the Conservation Area given that the building is of low architectural merit compared with the other properties nearby and because the roof material is not of a traditional finish the introduction of the panels for a time limited period will for that reason have a neutral impact.*

The current application has come about due to the original applicant no longer having an interest in the property. The inheritors now wish to retain the panels but can only do so lawfully if the planning obligation is removed/amended to reflect updated circumstances.

The property upon which the panels have been installed has previously been the subject of unsympathetic alterations which appear to include the replacement of the entire roof structure including the removal of West Highland slate, gable skews and substantial chimney and replacement with concrete tiles and the introduction of an uncharacteristically small chimney and roof overhangs.

The installed PV panels are readily visible from a number of public locations within and around the Port Charlotte Conservation Area and despite its already diminished historic architectural value, the subject property in combination with adjoining buildings remains significant in terms of its streetscape contribution to the character and appearance of the Conservation Area.

The installed PV panels by virtue of their prominence, location, design and inherent reflective properties are considered to be an uncharacteristic addition to this traditional streetscape and, notwithstanding the limited architectural or historic value of the subject property, the installation neither preserves or enhances the character or appearance of the Port Charlotte Conservation Area and as such is considered to be contrary to the provisions of LDP 3, SG LDP ENV 17 and the Sustainable Siting and Design Principles.

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**(Q) Is the proposal consistent with the Development Plan: No**

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**(R) Reasons why the request to discharge the planning obligation under section 75 of the Act should be refused:**

The installed PV panels by virtue of their prominence, location, design and inherent reflective properties are considered to be an uncharacteristic addition to this traditional streetscape and, notwithstanding the limited architectural or historic value of the subject property, the installation neither preserves or enhances the character or appearance of the Port Charlotte Conservation Area and as such is considered to be contrary to the provisions of LDP 3, SG LDP ENV 17 and the Sustainable Siting and Design Principles of the adopted Local 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 or Historic Environment Scotland:**  
No

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**Author of Report:** David Love

**Date:** 31st October 2019

**Reviewing Officer:** Peter Bain

**Date:** 1<sup>st</sup> November 2019

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

## APPENDIX A – RELATIVE TO APPLICATION NUMBER: 19/01864/PP

### PLANNING LAND USE AND POLICY ASSESSMENT

#### A. Settlement Strategy

The application site is located within the 'settlement area' for Port Charlotte wherein the provisions of policy LDP DM 1 apply and are supportive of the up to and including 'medium' scale development.

The application has come about as a result of the death of the original applicant. The current applicant is one of several people who have inherited an interest in the property.

#### B. Location, Nature and Design of Proposed Development

This is a request to remove a planning obligation attached to permission reference 12/00970/PP. At the time of the original submission the applicant sought retrospective planning permission for the installation of ten photovoltaic (PV) panels mounted in two rows of five panels on a single frame attached to the rear roof slope of 1 Main Street, Port Charlotte.

The following is taken from the original report of handling:

*"The PV panels are hidden from view of Main Street however they are partially visible looking west and south west in limited views of the rear of the property for a short distance along Shore Street and within the grounds of the Port Charlotte Hotel although the part of the installation is entirely screened from view by 12 Shore Street and the terraced properties which sit at right angles to the rear of the subject property. The PV panels are screened from wider views within the main body of the Port Charlotte Conservation Area.*

*The full extent of the PV panels are only visible at distance from the A847 opposite Daal Terrace and the shore area around the Croft Kitchen where views of the main body of the planned village are visible from the approach to and peripheral areas of the Conservation Area which are themselves characterised by more modern developments. In these more distant views the PV panels are a small but none the less noticeable addition to the roofscape of the planned village which will be all the more prominent on a bright day as a result of being more reflective than the traditional West Highland slate roof finish which predominates.*

*Within the application the applicant seeks to explain the retrospective nature of the application by stating that she contacted the Planning Authority by telephone in January 2011 and was advised that planning permission was not required for the installation of PV panels. It would appear that the applicant has misinterpreted the advice of officers as advice was provided in relation to the provisions of Class 6A of the Town and Country Planning (General Permitted Development) (Domestic Microgeneration) (Scotland) Amendment Order 2009 which would, in summary, permit the installation of solar PV panels within a conservation area provided that they are not installed on the principle elevation of the property or on a part of the roof which is visible from a road. In this instance the installed PV panels are visible from a road and as such require the benefit of express planning permission. In the absence of scale drawings being submitted it is not possible to confirm for definite but it would also appear that the installed panels also appear to be located within 1m of the edge of the roof which*

would also have triggered a requirement for planning permission regardless of the property's location within a conservation area.

*It is further noted that Class 6A of the GPDO has subsequently been deleted by the Town and Country Planning (General Permitted Development (Scotland) Amendment Order 2011 which came into force in February 2012.*"

The proposed installation involves the alteration of an existing dwelling. The building is not listed but lies within a conservation area. Therefore regardless of the condition of the individual building, account must be taken of the potential to adversely impact on the wider qualifying interests of the conservation area. Policy SG LDP ENV 17 states that:

*"There is a presumption against development that does not preserve or enhance the character or appearance of an existing or proposed Conservation Area or its setting.."*

In this instance the proposal is considered to have a neutral effect on the building but the key determination is the impact on the wider setting of the conservation area. The PV panels do not preserve or enhance the character of the conservation area by virtue of their visibility from key public areas and obvious lack of historic character. They are clearly a modern intervention into the historic fabric of the conservation area setting. Alternative energy saving / efficiency options are available to applicant including triple glazing and draft proofing. The applicant has not advanced any substantially different argument in respect of the necessity / desirability of the development from the owner's perspective. Officers maintain that despite the new Local Development Plan there is no significant material change to planning policy that would warrant an approval of this request.

### **C. Built Environment**

The application site is located within the Port Charlotte Conservation Area wherein the provisions of policies LDP 9 and SG LP ENV 17 seek to resist new development that does not preserve or enhance the character and appearance of the Conservation Area.

The Port Charlotte Conservation Area was designated in January 1974 in recognition of its special and architectural and historic interest. Its built environment comprises a key example of an early 19<sup>th</sup> Century planned settlement and is characterised by short compact streets of symmetrical two-storey houses, many of which have also been listed for their group townscape value. It is considered a unique and valued heritage for Port Charlotte's residents and visitors alike and is therefore worthy of conservation and, where possible, enhancement.

The provisions of S64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 sets out that the Planning Authority, when exercising its powers in relation to any of its functions within a conservation area, shall pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Historic Scotland's advice note 'Managing the Change in the Historic Environment – Micro Renewables, 2016' states that:

*"Before considering micro-renewables, the energy efficiency of the building should be addressed through building maintenance, equipment upgrades and improvements to the fabric of the building."*

Furthermore, *“Installation of solar panels on the principal elevation of a historic building should be avoided because of the detrimental visual impact. Therefore, if historic buildings face south, their main roof slopes may be inappropriate as locations for solar panels. Alternative solutions should be explored, such as installation on secondary roof slopes, on locations hidden from main views, or on surrounding areas such as sheds, gardens or fields.”*

The guidance note goes on to specifically advise that:

*“Where possible, installations on a building should avoid its main and visible elevations. For instance, it may be possible to place installations on secondary parts of the building, adjacent outbuildings or on the ground nearby.”*

The subject property, 1 Main Street, which is located prominently within the heart of the planned village of Port Charlotte opposite the front elevation of the Port Charlotte Hotel. The property forms the northern end of a terrace of what was originally five dwelling houses running north-south with the front elevation facing Main Street. The ends of the terrace terminate at Shore Street at the north and Pier Road at the south, both being subsidiary roads providing access from Main Street to the shoreside. The rear elevations of the terraced properties on Main Street and Shore Street, and the semi-detached buildings on Pier Road, enclose a communal backland area which can only be accessed from the back doors of each property or by narrow lanes/pend. The terrace of properties on Shore Street which runs from the rear elevation of 1 Main Street and around the corner by the shore line is category B listed and the Port Charlotte Hotel is category C listed.

The terrace within which 1 Main Street is contained is one of only two substantial terraces within the original planned village which have not been listed, it would appear that this is largely as a result of the unsympathetic alterations undertaken to the subject property which appear to pre-date the original designation of the Conservation Area in 1974. Within the context of the terrace grouping it is the subject property, 1 Main Street, which has been the subject of the most extensive and unsympathetic alteration with the replacement of traditional sliding sash and case windows with non-traditional windows, including the horizontal extension of openings to form picture windows in the gable, replacement of the entire roof structure with the resultant loss of the traditional gable skew, chimney and west highland slate which have been replaced by concrete tiles and introduction of overhanging eaves and a small chimney. It is noted that the property is actually identified in the Council's 1993 information leaflet relating to the Article 4 Direction covering the Port Charlotte Conservation Area as an example of a property which has already lost its local traditional character as a result of inappropriate exercise of householder 'permitted development rights'.

At the time of the original application the Council's Conservation Officer advised that:

*“the special interest of 1 Main St itself has been diminished due to insensitive alterations over the years, however its place in the streetscape is significant and this group of buildings make an important contribution to the conservation area. The roof fabric of the building is not of historic value and therefore the panels physical attachment have no adverse impact on the building itself. In terms of setting, the elevation onto Main St is the principle elevation, although the rear elevation is visible from Shore St and from a distance on the approach road to Port Charlotte, the A847. If the PV panels are reflective and therefore significantly visible from the approach road or Shore St, they are likely to have a negative impact on the setting of the area.”*

The roofscape within the wider Port Charlotte Conservation Area is characterised by simple, solid traditional structures with building subdivisions emphasised by skews and substantial chimneys; the use of West Highland slate predominates as the roof covering although a number of properties have been subject to replacement with alternative slate specification and concrete tiles.

Therefore the installation of a PV roof mounted system does not preserve or enhance the wider interests of the conservation area. The conservation officer raised additional concerns over the prospect of reflective panels within the historic environment. However, officer visits have been inconclusive given weather conditions. The applicant could seek to make the building fully energy efficient through triple glazing, draft proofing etc. There is no evidence as to the need for these panels other than the desire to retain them.