

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

20/0011/LRB

**REFUSAL OF PLANNING PERMISSION IN PRINCIPLE 20/00668/PPP
SITE FOR ERECTION OF GARAGE**

LAND EAST OF FASGADH, LONGSDALE ROAD, OBAN

13/08/20

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The appellant is Mr Mark Lockhart ("the appellant").

Planning permission in principle 20/00668/PPP for a site for the erection of a garage on an area of land east of Fasgadh, Longsdale Road, Oban ("the appeal site") was refused by the Planning Authority under delegated powers on 23/07/20.

The decision to refuse planning permission is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The site subject of this application comprises a linear strip of land positioned between the former Local Authority terraced housing development of Longsdale Terrace and the linear development of detached dwellinghouses that abut Longsdale Road. The site was formerly occupied by a small, single storey timber garage structure which has long since been removed from the site. The site is currently an undeveloped area situated directly adjacent to the public road with evidence of a small area of hardstanding where the former garage is assumed to have been sited. With the exception of the small area of hardstanding where the former garage is assumed to have been sited the site comprises an area of natural green space with a good covering of trees and shrubs with an area of mature trees abutting the northern boundary of the site. There is a small watercourse running along the rear (eastern) boundary of the site.

Photographs of the site are attached to this statement as Appendix 2.

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the Planning Act, regard is to be had to the development plan, and all other material planning considerations and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

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

- *Firstly, it is considered that insufficient and inaccurate, contradictory and/or misleading information has been submitted with the application and subsequently, following an appropriate request for clarity. This has prevented officers from making a proper, accurate assessment of the planning application and, fundamentally, has meant that officers have been unable to properly 'weigh the balance' between the harm caused by the proposed development on the one hand and any potentially overriding locational/operational requirement for the development on the other.*

- *Whether the site offers a suitable opportunity for development of a garage within the defined settlement of Oban without resulting in an adverse environmental impact or impacting on the established amenity of the surrounding area.*

The Report of Handling contained in Appendix 1 of this statement sets out the Council's full assessment of the application in terms of Development Plan policy and other material considerations with Appendix 2 providing photographs of the site.

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.

COMMENT ON APPELLANT'S SUBMISSION

In summary, the appellant contends that a garage on the site could be accommodated on the site which would comply with current LDP policies and would, subject to appropriate design and landscaping, improve the appearance of the area.

The appellant states that he was 'astonished' by the questions asked by the Planning Authority regarding the proposed development during the processing of the application and reiterates the information submitted in response to those questions.

With regards to the Planning Authority's concerns that, should permission be granted for a garage, a subsequent application for change of use would ensue. The appellant contends that such a proposal could be refused and, furthermore, it is apparent that the site is not suitable for a dwellinghouse as there is not sufficient ground for a garden area and access into the site.

The appellant contends that the reasons for refusal are not robust and, when investigated, cannot be substantiated.

Planning Authority Comment

As detailed in the Report of Handling appended to this Statement of Case, whilst the proposed site is located within an area generally deemed acceptable to accommodate appropriate scales and forms of development, and has historically accommodated a small garage structure, it is not considered that the site relates to the established settlement pattern of the surrounding area and its development with a structure would introduce an incongruous feature into the locality. Furthermore, the development of the site with a garage would result in the loss of an area of undeveloped green space which makes a positive contribution to the mix of

residential development relieved by green space contributing positively to the amenity of the existing residential development and should be retained as such.

In addition, as set out in the Report of Handling, there were fundamental inconsistencies in the information submitted to the Planning Authority during the processing of the application which did not allow the Planning Authority to undertake a competent assessment on the proposed development and its intended use to assess its impact on the site, the wider streetscene and the amenity of the area.

Officers note the following:

- The application for what is described as a small, domestic garage has been submitted as a 'planning permission in principle' (PPP). Whilst it is wholly acknowledged that there is nothing preventing the submission of a PPP for a modest building of the type proposed, such a procedure is, in the experience of officers, decidedly unusual for this type of development and on land which the applicant professes to own. Officers sought to clarify the reasons for this and would comment that the agent's assertion that, "*It is more expensive for an applicant to provide detailed plans for an application for planning permission*", whilst true hides the fact that such detailed plans would need to be produced and paid for ultimately anyway. Indeed, approaching a minor development by way of the two stage PPP and 'details approval' process is actually more costly in the long term than a simple 'detailed' planning application in the first place. This is because the 'two stage' process attracts two lots of planning application fees (and in this case two lots of 'vacant land' press advertisement fees), two individual submissions and, therefore, two lots of agent fees, and two sets of drawings; the first simple set for the PPP application and, if the PPP is granted, a second detailed set of drawings.
- The applicant's agent initially stated that the proposed garage was intended for use by the occupant of "a house opposite" (the actual house or specifics of this claim being wholly unspecified) who, it was claimed, wishes to use the garage so that a vehicle will not park on the public road. However, officers noted that this statement had not been substantiated by any evidence or letter of support from the supposed intended user of the garage and it was further noted that the applicant lives some distance away from the proposed development site in a large house set in large grounds with ample parking facilities.
- In response to a request for clarity on this point, the applicant's agent advanced a wholly different explanation advising that, the applicant is an electrician employed by his father who has an electrical contracting company which has 5 persons on the payroll. Officers were informed that, the employees drive vehicles which carry a lot of expensive tools and equipment and if a garage can be provided a vehicle should always park in that garage for security and insurance reasons.

- Officers sought this information in an attempt to be positive and to explore whether there might be some overriding locational or operational need for a garage on this specific site, located at considerable distance from the applicant's dwelling, and sufficient to set aside officer's concerns regarding the appropriateness of the site and the harm such a development would cause to the character and appearance of the site and its surroundings and the loss of a valuable area of open space as set out in refusal reason 2.

The Planning Authority is satisfied that the reasons for refusal appended to the Decision Notice are robust and fit for purpose.

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.

Taking all of the above into consideration, as set out above, it remains the view of the Planning Service, as set out in the Report of Handling appended to this statement, that the proposed site does not represent an appropriate opportunity for development with a garage and would result in an unacceptable environmental impact by virtue of introducing a form of inappropriate development into the site detrimental to the character and appearance of the wider landscape and resulting in the loss of an attractive area of green space. Furthermore, the appellant did not submit sufficient quality and clarity of information to allow the Planning Authority to make a competent assessment of the proposed development.

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

APPENDIX 1

Argyll and Bute Council Development and Infrastructure

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: 20/00668/PPP

Planning Hierarchy: Local Development

Applicant: Mr Mark Lockhart

Proposal: Site for Erection of Garage

Site Address: Land East of Fasgadh, Longsdale Road, Oban

DECISION ROUTE

Section 43 (A) of the Town and Country Planning (Scotland) Act 1997 (as amended)

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Site for erection of garage
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(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission in principle be refused for the reasons appended to this report.

(C) HISTORY:

19/02587/PREAPP – Erection of garage – Applicant Mark Lockhart - Advised that the development of the site would be contrary to the established settlement pattern of the area and would result in the loss of an area of open green space.

19/01602/PREAPP – Erection of one bedroom house or small self-catering unit – Applicant Mark Lockhart – Advised that the development of the site would be contrary to the established settlement pattern of the area and would result in the loss of an area of open green space.

12/00239/PREAPP – Site for the erection of a dwellinghouse. Applicant Mr and Mrs Lockhart – Advised that the site is likely too small to accommodate the development

proposed and that such development may be considered contrary to the prevailing settlement pattern and harmful to amenity and landscape.

(D) CONSULTATIONS:

Area Roads Authority

Report dated 14/05/20 advising no objection subject to conditions regarding the construction of the access at the junction with the public road and clearance of visibility splays.

The above represents a summary of the issues raised. Full details of the consultation responses are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 and Neighbour Notification procedures, overall closing date 04/06/20.

(F) REPRESENTATIONS:

No representations have been received regarding the proposed development.

(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 e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:	No

(H) PLANNING OBLIGATIONS

(i)	Is a Section 75 obligation required:	No
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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, 2015

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
(Settlement Zone of Oban)
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 8 – Supporting the Strength of our Communities
LDP 9 – Development Setting, Layout and Design
LDP 10 – Maximising our Resources and Reducing our Consumption
LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles
SG LDP ENV 14 – Landscape
SG LDP SERV 2 – Incorporation of Natural Features/Sustainable Drainage Systems (SuDS)
SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes
SG LDP TRAN 6 – Vehicle Parking Provision

- (i) **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.**

Argyll and Bute Sustainable Design Guidance, 2006
Scottish Planning Policy (SPP), 2014
Argyll and Bute Proposed Local Development Plan 2 (November 2019)
Consultation Responses

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing: No

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

Planning permission in principle is sought for the erection of a garage on an area of land to the northeast of Fasgadh, Longsdale Road, Oban.

In terms of the adopted 'Argyll and Bute Local Development Plan' (LDP) 2015 the application site is located within the settlement of Oban where Policy LDP DM 1 gives encouragement to sustainable forms of development subject to compliance with other relevant policies and supplementary guidance (SG).

Policy LDP 3 assesses applications for their impact on the natural, human and built environment. The site is not covered by any landscape or nature designations that require consideration under the terms of this policy.

Policy LDP 8 supports new sustainable development proposals that seek to strengthen communities with Policy LDP 9 and SG 2 seeking developers to produce and execute a high standard of appropriate design and ensure that development is sited and positioned so as to pay regard to the context within which it is located taking into account the relationship with neighbouring properties to ensure no adverse privacy or amenity issues.

Policy LDP 11 supports all development proposals that seek to maintain and improve internal and external connectivity by ensuring that suitable infrastructure is delivered to serve new developments. SG LDP TRAN 4 and SG LDP TRAN 6 expand on this policy seeking to ensure developments are served by a safe means of vehicular access and have an appropriate parking provision within the site.

The site subject of this application comprises a linear strip of land positioned between the former Local Authority terraced housing development of Longsdale Terrace and the linear development of detached dwellinghouses that abut Longsdale Road. The site was formerly occupied by a small, single storey timber garage structure which has long since been removed from the site. The site is currently an undeveloped area situated directly adjacent to the public road with evidence of a small area of hardstanding where the former garage is assumed to have been sited. With the exception of the small area of hardstanding where the former garage is assumed to have been sited the site comprises an area of natural green space with a good covering of trees and shrubs with an area of mature trees abutting the northern boundary of the site. There is a small watercourse running along the rear (eastern) boundary of the site.

The application is seeking planning permission in principle for development of a garage with no detailed layout, design or infrastructure details having been submitted. The purpose of this application is to establish the principle of development with the matters of layout and design to be addressed by way of future application(s) for approval of matters specified in conditions. However, whilst no detailed layout has been submitted, the application does provide an indicative layout showing how a garage would be accommodated within the site.

In the covering letter submitted with the application, the agent briefly states that the proposed garage is intended for use by the occupant of "*a house opposite*" (the actual house or specifics of this claim being wholly unspecified) who, it is claimed, wishes to use the garage so that a vehicle will not park on the public road. However, this statement has not been substantiated by any evidence or letter of support from the supposed intended user of the garage and it is noted that the applicant lives some distance away from the proposed development site in a large house set in large grounds with ample parking facilities.

Accordingly, during the processing of the application the Planning Authority sought further information from the Agent to ascertain if the proposed development could be supported on the basis that there is a need for the development which would,

perhaps, override the landscape and natural environment concerns (described below). The Planning Authority sought the following information:

- An explanation as to why planning permission in principle had been applied for as opposed to planning permission.
- An elaboration on the brief statement contained in the covering letter that the garage is required for the occupant of a dwellinghouse opposite to avoid parking on the road.
- Clarification on the dwellinghouse referred to and where the occupant currently parks.
- Clarification on whether the dwellinghouse the garage is intended to serve is owned by the applicant or the occupant of the dwellinghouse.
- Clarification on why the occupier of the dwellinghouse cannot park on the area of hardstanding that exists on the site, and why there is the need for a garage.

However, the information submitted by the Agent in reply to the questions asked by the Planning Authority not only did not provide any of the requested information, it wholly contradicted the initial statement submitted with the application. The Agent has now advised that it is more expensive to provide detailed plans for planning permission with a lot of applications filed for permission in principle before plans are finalised. The Agent also now advises that the applicant is an electrician employed by his father who has an electrical contracting company which has 5 persons on the payroll. The employees drive vehicles which carry a lot of expensive tools and equipment and if a garage can be provided a vehicle should always park in that garage for security and insurance reasons. The Agent submitted two photographs, one of the former garage on the site and one of a vehicle used in the family business.

From the information submitted by the Agent it would appear to the Planning Authority that the garage is not intended for use by the occupant of the 'dwellinghouse opposite' as initially stated but is in fact required for commercial use associated with the family business. The planning authority do not know where that business is located or whether there are appropriate garaging facilities currently existing at that business or at the home of the applicant.

Whilst the general presumption in favour of development within this area of Oban is established by current policy, this is qualified by the requirement to ensure developments accord with the existing and established pattern of development and do not result in an unacceptable environmental, servicing or access impact. SG 2 advises on the standards that will be applied to all developments with an overwhelming emphasis on respecting the character and setting of the area into which the individual development proposal is to be located, taking account of local spacing, layout, densities, privacy and amenity standards. This remains the main criteria against which the suitability or otherwise a development shall be evaluated.

The site is unusual, comprising a narrow strip of land between existing residential properties of Longsdale Terrace and Longsdale Road where there is no evidence of any other built development. The development of the site would effectively result in 'backland' development of an area of land which does not readily relate to the established development of the surrounding area.

In this instance, whilst the proposed site is located within an area generally deemed acceptable to accommodate appropriate scales and forms of development, and has historically accommodated a small garage structure, it is not considered that the site relates to the established settlement pattern of the surrounding area and its

development with a structure would introduce an incongruous feature into the locality. Furthermore, the development of the site with a garage would result in the loss of an area of undeveloped green space which makes a positive contribution to the mix of residential development relieved by green space contributing positively to the amenity of the existing residential development and should be retained as such.

In addition, the Planning Authority has not been provided with sufficient information to allow a competent assessment on the proposed development and its intended use to be undertaken to assess its impact on the site, the wider streetscene and the amenity of the area.

It should also be noted that, prior to the submission of the current application, the applicant submitted two pre-application enquiries. The first pre-application enquiry sought advice on the erection of either a single bedroom dwellinghouse or a self-catering unit for holiday letting purposes with the second enquiry seeking advice on the erection of a garage. The advice given by the Planning Authority to both pre-application enquiries was the same as that set out in the assessment above. It may be entirely possible that, should permission be given for the garage, and it is constructed on site, a further application would ensue for change of use to allow the garage to be used for holiday letting or permanent residential use which would be harder for the Planning Authority to resist if the building already exists.

In light of the above it is recommended that planning permission in principle is refused for the reasons appended to this report.

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

(R) Reasons why planning permission in principle should be refused

See reasons for refusal below.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:

No

Author of Report: Fiona Scott Date: 22/07/20

Reviewing Officer: Tim Williams Date: 23/07/20

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

REASONS FOR REFUSAL RELATIVE TO APPLICATION REFERENCE 20/00668/PPP

1. The application is not accompanied by sufficient quality and clarity of information to allow the Planning Authority to make a competent assessment of the proposed development and its impact on the site and wider streetscene within which it is proposed contrary to the provisions of Policy LDP DM 1 and SG 2 of the adopted 'Argyll and Bute Local Development Plan' 2015. The supporting information submitted with this application and, subsequently, following its initial assessment is confused, contradictory and lacking in any reasonably apparent validity or cohesiveness of narrative, such that the planning authority have been unable to appropriately weigh the balance between the harm caused by the proposed development (as expressed within refusal reason 2 below) on the one hand and any potentially overriding locational/operational requirement for the development on the other.
2. In terms of the adopted 'Argyll and Bute Local Development Plan', 2015, the application site is located within the Settlement Zone of Oban which is subject to the effect of Policy LDP DM 1 which establish a general presumption in favour of developments within settlements, provided it is of a scale and form compatible with the surrounding area and does not result in inappropriate densities or the loss of valuable open areas, and is acceptable in terms of siting and compatibility with the established settlement pattern.

Whilst the proposed site is located within an area generally deemed acceptable to accommodate appropriate scales and forms of development, and has historically accommodated a small garage structure, it is not considered that the site relates to the established settlement pattern of the surrounding area and its development with a structure would introduce an incongruous feature into the locality.

Furthermore, the development of the site with a garage would result in the loss of an area of undeveloped green space which makes a positive contribution to the mix of development relieved by green space contributing positively to the amenity of the existing residential development and should be retained as such.

The proposal is therefore considered to be contrary to the provisions of Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 8, LDP 9 and Supplementary Guidance SG 2 and SG LDP ENV 17 of the adopted 'Argyll and Bute Local Development Plan' 2015.

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **20/00668/PPP**

- (A) Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

No

- (B) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No

- (C) Is the proposal consistent with the Development Plan:

No

No Departure – Refusal

- (D) Summary justification for refusal of planning application.

See reasons for refusal above.

APPENDIX 2
SITE PHOTOGRAPHS



A view towards the site from the junction of Longsdale Road and Longsdale Crescent. The site is hidden behind the planting shown centrally in the photograph



A view looking towards the site from Longsdale Road showing the hardstanding referred to in the Report of Handling and the ex Local Authority Houses of Longsdale Terrace to the rear. It is not understood that the proposed garage is intended to serve any of these houses.



A view looking towards the site from the junction of the private access at Hazeldean Villa and Longsdale Road showing the hardstanding referred to in the Report of Handling



A further view of the site from Longsdale Road showing the hardstanding referred to in the Report of Handling and the ex Local Authority Houses of Longsdale Terrace to the rear. It is not understood that the proposed garage is intended to serve any of these houses.



A view of the site taken directly adjacent to the site looking along Longsdale Road showing the ex Local Authority Houses of Longsdale Terrace to the left. It is not understood that the proposed garage is intended to serve any of these houses.



An ariel view of the site. It is not understood that the proposed garage is intended to serve any of these houses and the applicant's house is not within the scope of this photograph.