

UPDATE ON CALL IN DECISION – 17/01205/PP - SITE WEST OF TAIGH SOLAIS, LEDAIG, TOBERMORY

A) INTRODUCTION

This report summarises a decision by Scottish Ministers following the above noted planning application being called in for determination.

B) RECOMMENDATION

It is recommended that Members note the contents of this report.

C) BACKGROUND

This report refers to planning application reference 17/01205/PP for the erection of retail unit, visitor centre and self-catering accommodation at site West of Taigh Solais, Ledaig, Tobermory, including realignment of escape stairs to Taigh Solais and MacGochans.

This application was the subject of a discretionary local hearing, held on Wednesday 29th January 2020 at Aros Hall, Main Street, Tobermory, Isle of Mull.

At the hearing, Members were appraised that the proposed development had been the subject of sustained objection by SEPA and that the development, therefore, was contrary to both local and national flood risk policy. Members were advised that the recommendation by officers was that planning permission be refused and that any move to grant planning permission contrary to that recommendation would require the application, as 'Category 2 development', to be notified to Ministers for their determination of whether or not they would exercise their veto and 'call-in' the application for their consideration and final decision.

The unanimous resolution by Members attending that hearing was that Members considered that the proposed development represents a clear and overriding locational and operational need for the development sufficient to warrant departure from national and local flood risk policy. That there is an exceptional case for the approval of this development. The reasons for that are –

1. It is an existing gap site that is visually harmful and harmful to the character and appearance of the conservation area.
2. It is the only remaining development opportunity within the Harbour front and without development here, the harbour front remains incomplete and as such is a unique opportunity to complete the harbour front development.
3. The development includes an opportunity to include permanent tourist information provision, currently lacking in Tobermory and development is vital to secure the tourism growth strategy of the Council.

And further that the considerations that have been brought forward by those who support the application are material considerations which, in the view of those Members attending the hearing, carry considerable weight in their nature and are in accordance with the various material policy considerations in the LDP with which the application is compliant so that they should outweigh the weight that has been given to the concerns that have been raised by planning services and by SEPA with regard to flood risk.

The decision taken at the hearing was, therefore, that planning permission be granted and that this intent be notified to Ministers in accordance with relevant legislation.

D) SCOTTISH MINISTERS' DECISION

The Scottish Government was notified of the Council's intention to grant planning permission for this development contrary to the advice of SEPA under the Town And Country Planning (Notification Of Applications) (Scotland) Direction 2009 on the 28th January 2020.

On the 5th May 2020, the Scottish Government, under the powers conferred on them by Section 46(1) of the Town and Country Planning (Scotland) Act 1997, issued to the Council a Direction requiring the application to be referred to them for determination. A report advising Members of this direction was submitted to the PPSL committee in May 2020.

This report provides an update on Scottish Ministers' decision dated 4th December 2020.

Consideration of this proposal was undertaken by a Scottish Government Reporter who then submitted a report containing the conclusions and recommendations to Scottish Ministers. Scottish Ministers accepted these conclusions and decided that planning permission should be granted subject to conditions. The reason for this decision was summarised in the Scottish Ministers' letter as follows:

"Ministers agree with the Reporter that the proposed development would accord with a number of policies in the development plan and would further the delivery of the policy ambitions relating to tourism development areas and the Tobermory town centre and bay area for action. Due to the site's location at medium to high risk of coastal flooding, the proposed development would be contrary to a number of policies in the development plan. Public safety is very unlikely to be compromised by the development, however. Having regard to the significant benefits of the proposal, the development is considered to represent a locally important and unique opportunity for the town centre's enhancement, its attractiveness to visitors and economic prosperity. In these specific circumstances, it is considered that a departure from the development plan's provisions, and national policy, in regard to flood avoidance, is justified. Ministers also agree with the Reporter that the proposed development would enhance the character and appearance of Tobermory Conservation Area."

The decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter.

A copy of the letter from Scottish Ministers along with the DPEA Reporter's report is appended to this report.

E) IMPLICATIONS

Policy: None

Financial: None.

Personnel: None

Equal Opportunities: None

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