

Argyll and Bute Council
Development and Economic Growth

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: 19/00094/PP

Planning Hierarchy: Local Application

Applicant: Mr Pelham Olive

Proposal: Erection of 12 dwellinghouses, alterations to vehicular access and installation of private drainage system

Site Address: Land East Of Lochside, Portincaple

SUPPLEMENTARY REPORT NO. 5

1.0 INTRODUCTION

The purpose of this report is to advise Members of late supporting statements from the applicant and his tree expert in relation to requests for the postponement for a virtual Hearing and in response to objections concerning tree issues.

2.0 APPLICANT'S COMMENTS ON REQUESTS TO POSTPONE THE VIRTUAL HEARING

The applicant has stated the following in an email dated 25th January 2021:

"I understand some of the residents of Portincaple have expressed concern that they may not be able to attend the virtual hearing. We understand concern about using a new format and electronic technology for this hearing, however this is a change born of necessity. These are challenging times for everyone, whether for our children at school or for businesses right across the economy, and one of the key realities of the pandemic is that we are all in this together, with nobody unaffected."

Part of the role of Governance in the council when reacting to this unprecedented Covid 19 threat is to try and work out the best way to keep a fully functioning planning system running in order to prevent untold damage to the economy both now and at some distant date when the pandemic is over. The PPSL met in August and decided that waiting for an indefinite period of time to hold public hearings was not the right way forward, for reasons that were debated in detail at the time, and they decided that virtual hearings should be held instead. The second spike in the virus has proved them right.

After the above considered decision to use virtual hearings, there was an understandable delay in the hearing date while Governance made the new arrangements to facilitate a virtual hearing format which provides for a fair hearing for all sides. I understand our hearing was also in a queue behind other hearings, which have already now taken place, but nevertheless that has further delayed our hearing. Ordinarily the Council would have decided to hold a hearing 4 weeks after the PPSL meeting in August, and representation would have been assembled in that time scale, however the hearing on Tuesday will be five months after the initial planning meeting to hear this proposal.

As far as I can see the virtual hearing will follow exactly the same protocols as a live hearing, with the same time to speak allocated to each party, with everyone privy to the presentations, the only difference being that the online system requires an internet connection, a little bit more patience, and the numbers dialling in to listen are restricted to around 100 people or so. In addition, in order to minimise the chance that participants are not excluded by poor connections from viewing the presentations I believe the presentations are being distributed by email on the day of the meeting so anyone who registered for the hearing will be able to view these offline. I believe this format has proved successful in the other virtual hearings to date.

Less than half the adult residents of Portincaple have objected, and they are registered as living in fewer than 35 of the 58 households in Portincaple so I believe your IT capacity is sufficient to allow all the Portincaple objectors to attend the hearing if they wish. In terms of representation you would imagine that this represents all the key players most affected.

I am concerned that arguments have now been made, both on the planning portal and in local newspapers, that objectors have not had time to prepare, and are unable to meet because of lockdown. To the contrary, the objectors have had five times as long as usual to prepare for this hearing, and the amount of activity, including recent activity, suggests that the objectors are more than capable of communicating at this time. They have been extremely active on social media platforms, and since the hearing date was announced have been able to flood the system with hundreds more proforma objections, which suggests they are quite capable of using technology, have internet connections, and are able to communicate and coordinate perfectly well even in lockdown.

Our concern is that these claims of inability to communicate and participate are purely a tactic to stall the hearing. Arguably, by holding the hearing online and distributing representations in advance, you will actually be increasing the availability of the hearing for elderly and housebound residents of Portincaple, for whom these requests for delay are nominally being made. Postponement for weeks, months or even a year (depending on how long we can guess the pandemic will keep going) will just be a further delay in due process. During that time, I can only anticipate that the application will generate thousands more complaints and further delaying tactics.

At the same time, the arguments will not change, our proposals will not change, and all material considerations will not change.

I would also wish to exercise my right to have a fair hearing, which to this point in the press and social media has been anything but fair. Somewhere buried under the pile of thousands of objections are some very well considered proposals for twelve modest and exceptionally green houses and my team is keen finally to present them.

We believe the vast majority of objectors, and possibly even the neutrals in Portincaple, have not considered the real proposals. We would have been very happy to have had a chance to present at a live hearing and debunk the false claims made, but circumstances do not allow that. As an alternative, the virtual hearing, with presentations being distributed in advance, representations able to be made, all Councillors able to question both applicants and objectors, and a considerable body of objectors able to attend online, will allow an equally thorough consideration of these proposals to be made, and public scrutiny of the process.

I would like to encourage the Councillors to let the hearing go ahead, and hear the arguments from all sides. If they still feel that the debate has either raised points that need further consideration, or has prevented arguments being made, then a decision to hold a further hearing can presumably be made at that time.

Meanwhile using largely specious arguments of being unable to prepare or attend online in as a reason to postpone this virtual hearing on Tuesday should be recognised for what it is - a delaying tactic, rather than a valid reason for further delay.”

3.0 APPLICANT'S TREE EXPERT'S RESPONSE ON OBJECTION RELATING TO TREES SUBMITTED BY RORY HOBBS

In letter dated Chris Calvey, P.T.I., Tech.Cert (Arbor.A), Cert.Arb (RFS), BA Hons, the Tree Inspector (Scotland) has advised as follows:

Firstly, I would point out that my experience is very substantial and significantly more than that of the critic. My professional qualifications include being a Royal Forestry Society Certified Arborist and the Arboricultural Associations professional qualification (Arbor. A Tech Cert). My professional work experience of woodland management is continuous since 1986 (35 years), and all of it on the west coast of Scotland. I have held a variety of senior posts in the Conservation sector including Senior Operations Manager for the Loch Lomond and Trossachs National Park. I have been a practicing woodland and tree consultant for 14 years. During all these years my work has involved woodland protection and managing for biodiversity.

The complaint questions adherence to the British Standard and i would make the following comments:

1. The detailed tree report (30th Jan 2019) consisting of 32 pages assesses 188 trees and includes all the trees within the development area. The topographic survey covered a wider area than necessary and those trees were not recorded.
2. The tree survey guides design proposals and predates any fixed design such that an Arboricultural Implications Assessment (AIA) would be unknown at that point. Similarly the Arboricultural Method Statement (AMS) which is highly specific to proposals would not be relevant and a draft would be confusing and unnecessary. These documents are points for conditioning contained within the Report of Handling. It is agreed that 'No development shall commence until a scheme for the retention and safeguarding of trees during construction has been submitted to and approved by the Planning Authority'.
3. The Root Protection Areas for all trees have been recorded and are available. They are not shown in the tree report for the sake of visual clarity. They will be shown in the AIA report and protected by the AMS.

4. Tree categorization is accurate and in accordance with the British Standard. The majority of trees are 'B & C' moderate and low quality, and the potential accusation of downgrading trees is utterly rejected.

5. In addition to the Tree Survey Report a Woodland Management Plan (22nd May 2020) which sets out a strong basis for woodland conservation. It seems that complainants have missed the real issue here that the woodland is threatened by neglect and not by small scale development.

I would be happy to answer any questions honestly and with integrity that the hearing committee wish to present me.”

4.0 RECOMMENDATION

The points made have been considered during the processing of this planning application and do not alter the recommendation details on the main Report on Handling, namely, that, that planning permission be granted subject to:

- (i) a pre determination hearing;
- (ii) A section 75 agreement to ensure a commuted sum for affordable housing and housing addressing the needs relating to the expansion of HMNB Clyde; and
- (iii) the conditions and reasons attached as Appendix A to supplementary report number 4.

Author of Report: Sandra Davies

Date: 25/1/21

Reviewing Officer: Peter Bain

Date: 25/1/21