

**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**

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**Reference No:** 20/01847/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr Peter Daalman

**Proposal:** Erection of Retaining Wall to Include Recess for Bin and Solid-Fuel Storage Areas and Installation of Flush Kerbs

**Site Address:** 38 Ellenabeich, Isle of Seil

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## **DECISION ROUTE**

**Local Government Scotland Act 1973**

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### **(A) THE APPLICATION**

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

- Erection of retaining wall
  - Installation of flush kerbs
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### **(B) RECOMMENDATION:**

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted subject to the conditions and reasons appended to this report.

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### **(C) HISTORY:**

#### 18/01695/PP & 18/01667/LIB

Erection of 1 metre high slate boundary wall, metal gates and fencing, installation of 2 folding parking bollards and formation of tarred area and patio area – Refused: 13/12/18

#### 14/00693/PP & 14/00694/LIB

Alterations and extension – Granted: 23/05/14 & 01/07/14

#### 10/00370/PP

Installation of septic tank – Granted: 22/04/10

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**(D) CONSULTATIONS:**

Conservation Officer

Letter dated 24/11/20 advising that “*The proposal consists of two elements which have the potential to impact on the listed dwellinghouse (as well as the setting of other listed buildings in the immediate area) and the conservation area. These are: the proposed retaining wall; and the gravel area bounded by a kerb.*

*A Conservation Area Appraisal and Management Plan was subject to public consultation in late 2017 and approved by PPSL in 2019. This is now a material consideration.*

*I note that a number of (duplicate) objections state that as the proposed wall is not of traditional slate it is not compliant with the Conservation Area Appraisal and Management Plan. However section 6.3.6 of the Management Plan clarifies that while “the predominant boundary wall type is dry stone slate however some rendered walls can also be seen”. For this reason I have no objection to the proposed materials of render with slate coping.*

*However, I have a concern in terms of the proposed height of the wall, which is 1 metre above the higher level of ground. Whilst number 38 is not one of the houses within the main rows on Front or Back Streets (along which stricter adherence to the height of neighbouring walls would require to be followed), the property still sits within the central character area of the village where traditional walls bounding small garden areas in front of houses are generally very low. On the basis that the proposed wall is 1.55 metres from the lower level of ground (and the tops of the bins and fuel storage to be screened would therefore sit considerably lower than the top of the wall) I would encourage this wall to be lowered somewhat. It would then, in my opinion, integrate sufficiently with the surrounding area and comply with policies LDP SG ENV 16(a) and ENV 17.*

*In terms of the proposed landscaping this causes concern in terms of the impact on the conservation area (and compliance with policy LDP SG ENV 17). The central part of the conservation area does not feature large areas of private landscaping and this could have a negative impact on the character of this part of the village. However the proposal for a flush kerb and pebble gravel may be relatively low impact and acceptable – further details of the proposed materials (and samples) should be provided to ensure the area would not appear over landscaped and not in keeping with the general character of the rest of the area”.*

**Planning Authority Comment:** As a result of the comments made by the Conservation Officer during the processing of the application, the height of the wall has been reduced by 35cm resulting in a wall which now measures 65cm in height when measured from outwith the site (the public view) and 1.2 metres high when measured from inside the site of the dwellinghouse (the private view), the difference being due to the fact that the existing dwellinghouse and its immediately surrounding land sits in a shallow ‘hole’ with respect of the height of the ground immediately surrounding it. There is an existing small flight of steps which leads down from the higher level to the lower level and these steps are to be retained within the proposed development.

With regards to what the Conservation Officer deems as ‘landscaping’ in her response, it should be noted that the majority of these works do not form part of the planning application, being deemed ‘de minimis’ in nature and not requiring the benefit of planning permission. The note on the site plan is for indicative purposes only.

The proposal with respect of this ‘landscaped area’ is twofold: Primarily to simply carry out localised repairs to an existing and long-established area of compacted hard-core and gravel within the land ownership of the applicant. These works are extremely minor in nature. They will not change the character or appearance of this part of the site and will not facilitate any change of use of the land. These minor repair works therefore do not

require planning permission and, consequently, do not form part of the current planning application.

Secondly, to demarcate the boundary of this existing hard surfaced area by the laying of flush kerbing around its perimeter. Whilst the proposed kerbing is also minor in nature and will have no materially harmful impact of the character or appearance of the conservation area, these works are considered to constitute 'development' and they do, therefore, form part of the current application for planning permission.

Nevertheless, it is the settled opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building.

#### Access Officer

E-mail dated 27/01/21 advising that, "*Having looked at the application which is for a low wall parallel to the gable end wall of the house I have concluded that there is no impact on public rights of access. Any Public Right of Way to the southwest of the house is not constricted such that it cannot be used by the public. The small area enclosed by the wall is not one where the public have a right of access under the Land Reform Scotland Act 2003 because it would impact on the reasonable privacy that anyone occupying the house would expect. Again there is a significant area remaining across which people can walk or cycle past the building*".

#### Seil and Easdale Community Council (SECC)

E-mail dated 22/12/20 setting out two main areas of concern as detailed below.

##### **"The Wall"**

*The visual appearance in relation to its surroundings (white dash rendered finished and natural slate cope to match the house), it is questioned why a slate wall could not be used and the opinion of the Conservation Officer is sought on this matter.*

*A number of people have raised concerns with the height of the wall as the application states it is a 1 metre high retaining wall yet it is only 1 metre high above the retained level whereas it is actually 1.55 metres high from the new path on the drawings.*

*The layout of the wall has also raised concerns as it will project out 2.125 metres from the gable end. It is subjective (as is the height), whether the wall projects or is recessed, but the concerns are what the impact of the wall will be (combined with parked vehicle(s)) on the access to cottages 39, 40, 41 and 30a from the 39a side. Concerns have also been raised about access to the residential caravan and other properties further along the tramway, with regard to access for emergency services and utilities vehicles. Several people mentioned the fire fatality there some years ago where the access was along this tramway.*

*Lastly, the cumulative effect of this application, and other small changes, similar to this one, on the Conservation Area.*

##### ***Demarcation of the Property Boundary with a Flush Kerb and Gravel Infill***

*This is the most contentious issue and concerns were raised as to why this part of the application was described as de-minimis by the applicant, when the same area had been part of a previously refused application, albeit with a different finish material (18/01695/PP, 18/01667/LIB). The resulting visual appearance of the area concerns residents, when the*

*infill is contained by the kerb (the surrounding area is a mix of grass, slate rubble and pea gravel and type 1 finishes).*

*The suitability of a concrete recessed kerb in a Conservation Area, and whether this may be damaged with vehicular access.*

*The safety aspect of the kerb stone has raised many concerns as it is believed the kerb will sit proud after settlement, as the area is slate rubble and subject to settlement/movement. This may well become uneven and therefore a trip hazard in an unlit area of the conservation village.*

*The compatibility and impact of the proposal with the current and previous use of the immediate area for the surrounding properties for general use and parking. The restriction of access to surrounding properties for general emergency and utility vehicles (British Telecom, Scottish Water and Scottish Power for Easdale Island) all require access through this area to the shoreline past number 30a. Furthermore, concerns were raised allowing a precedent to be set, if this proposal were allowed, on the rest of the Conservation Area.*

*Accordingly the community council requests that Argyll and Bute Planning department consider all of the above in their determination. We would also request that the issue of 'de-minimis' be considered with a full application, bearing in mind the previous history, and number of concerns raised by residents. The community council recommends that this be undertaken with a site visit by the planning, conservation and access officers attending the site to fully familiarise themselves with the area before determination of the application. The community council appreciates that Covid 19 restrictions may delay this but feels it is very important it takes place.*

*A considerable amount of time and effort was spent by the community council, and the community, in consultation with Argyll and Bute, when drawing up the Ellenabeich Conservation Area Appraisal & Management Plan (October 2017). The community would like the final adopted document to be taken into full consideration".*

**Planning Authority Comment:** As detailed above, as a result of the comments made by the Conservation Officer during the processing of the application, the height of the wall has been reduced by 35cm. The Conservation Officer confirmed her acceptance to the proposed rendered finish and slate coping stone proposed to the retaining wall. It is not considered that the proposed wall will have any materially harmful impact upon either the character and quality of this part of the conservation area or on the setting of the applicant's dwellinghouse which is a Category B listed building.

It is not considered that the proposed wall or the flush kerbing will change the way in which vehicles use the existing parking area. Neither is it considered that any part of the proposed development will impede access to other properties. This opinion has been confirmed by the Council's access officer. The proposed low boundary wall is located very close to the applicant's dwellinghouse such that the distance between the south west wall of the dwellinghouse and the proposed wall is, for the most part, only one metre. In addition, there is clear evidence that the boundary now proposed to be demarcated by a low wall was once defined by a low hedgerow in approximately the same position. Notwithstanding this, in the unlikely event that parking becomes an issue, with the shared access becoming blocked, this is a civil matter between affected parties.

With regard to the flush kerbs and pebble gravel shown on the site plan, it should be noted that the pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed 'de minimis' in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing should properly be described as engineering works requiring planning permission, the impact of these works has been fully addressed. The proposed flush kerbing is minor in nature and it is the opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

With regard to the previously refused applications referred to, these were for a much larger scheme which incorporated a fence, gates and folding parking bollards which the Planning Authority deemed would have a materially detrimental impact on the property and wider CA and APQ. The current proposal is solely for a low height retaining wall which is considered in full in Appendix A of this report.

The site has been visited by officers and it is not considered that a further site visit is required in advance of the application being determined.

The above represents a summary of the comments made. 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>.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Conservation Area, Listed Building, Site Notice and Neighbour Notification procedures, overall closing date 14/12/20.

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**(F) REPRESENTATIONS:**

22 objections from 18 households have been received regarding the proposed development.

Mr Paul Lawson, Tigh an Duin, Ellenabeich, Easdale, Oban, PA34 4RF (18/11/20, 25/11/20 & 08/12/20)

Mrs Sheila Lawson, Tigh an Duin, Ellenabeich, Easdale, Oban, PA34 4RF (28/11/20)

Mr Michael Shaw, Kilbrandon Farm, Balvicar, Isle of Seil, PA34 4RA (19/11/20)

Douglas Robertson, 42 Ellenabeich, Easdale, Oban, PA34 4RQ (20/11/20 & 29/11/20)

Annabel Robertson, 42 Ellenabeich, Easdale, Oban, PA34 4RQ (20/11/20 & 29/11/20)

Holly Robertson, 42 Ellenabeich, Easdale, Oban, PA34 4RQ (20/11/20)

Melissa Robertson, 18/7 Montague Street, Edinburgh, EH8 9QX (20/11/20 & 30/11/20)

Craig Pharo, 41 Ellenabeich, Easdale, Isle of Seil, PA34 4RQ (23/11/20)

Mr James Ellis, 7 Tramway Cottages, Ellenabeich, Easdale, PA34 4RQ (26/11/20)

Mrs Elizabeth Ann Ellis, 7 Tramway Cottages, Ellenabeich, Easdale, PA34 4RQ (26/11/20)

Sally Knight, 18 Ellenabeich, Isle of Seil (25/11/20 & 07/12/20)

William Ross, 15 Falcon Mews, Ely, Cambridgeshire, CB6 3EB (27/11/20)

Mrs Rhona A. Munro, The Old Engineering Works, Ellenabeich, Isle of Seil, PA34 4RF (24/11/20)

Derek D. Campbell, 66i Turners Avenue, Paisley, PA1 2NZ (27/11/20)

Catherine Campbell, 37 Elmbank Road, Langbank, Renfrewshire, PA14 6YT (27/11/20)

Jane MacQueen, Barbeag, Connel, Oban, PA37 1RN (27/11/20)  
Neil MacQueen, Greengarden, Cullipool, Isle of Luing, PA34 4TX (27/11/20)  
Ruth Odling, 61 Ellenabeich, Isle of Seil, PA34 4RQ (30/11/20)  
Denise Stacey, Braehouse, Ellenabeich, Seil, PA34 4RF (30/11/20)  
Mr Ritchie McCorkindale, 36 Ellenabeich, Easdale, PA34 4RQ (28/11/20 & 02/12/20)  
Gordon McNab, Stevenson Kennedy, Linndhu House, 19 Stevenson Street, Oban, PA34 5NA (30/11/20)  
Alison Chadwick, 41 Ellenabeich, Isle of Seil (13/12/20)

### **Summary of issues raised**

A large content of the objections received to the application relate to the “***Surfacing of the Parking Area and the Installation of Flush Kerbs***” details of which are summarised below.

- The parking area is to be bordered with a ‘new flush kerb to site perimeter’ of which there are no details of height size and material.
- The visual appearance of the proposed parking area would not be in keeping with the local conservation area and it could only impact and alter the traditional and historical aspect of this conservation area.
- There is no street lighting in this part of the village and therefore after dark these kerb stones could be a health and safety hazard to both traffic and pedestrians alike.
- Whilst kerb stones may be appropriate on a public road, there is no place for kerb stones on an access road in a conservation village, especially ones that could potentially cause injury.
- What will happen if the adjoining owners wish to improve their area at some point – it could end up like crazing paving where they would have to do the same, put another kerb next to the Daalmans kerb and fill in their area with gravel.
- In the ‘Conservation Area and Appraisal Management Plan for Ellenabeich, under the ‘Quality of New Developments, Building Alteration and Extension’ section (page 22) it states ‘new boundary treatments should use traditional materials and be of appropriate design to suit the locality. Kerb stones do not suit the locality and are certainly not traditional materials.
- The Conservation Officer should make a point of visiting the site to fully understand the negative impact the kerb and gravel will have in the proposed location as it is not in keeping with the general character of the area.

**Planning Authority Comment:** With regard to the flush kerbs and pebble gravel shown on the site plan, it should be noted that the pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed ‘de minimis’ in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing should properly be described as engineering works requiring planning permission, the impact of these works has been fully addressed. The proposed flush kerbing is minor in nature and it is the opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both

sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

### **Design and Finish of the Proposed Wall**

- The detail of the proposed wall is not a traditional slate-built wall and is not compliant with the 'Conservation Area Appraisal & Management Plan for Ellenabeich, October 2017.'
- The extra 1 metre bin area, extending in total to 2 metres from the gable elevation of the dwellinghouse, is too much and surely amounts to 'building' on this access road, which in turn starts to encroach on the parking area.
- There is no detail on the proposed finish of the proposed stairs leading from the parking area to the walkway below.

**Planning Authority Comment:** In her response to the application the Conservation Officer notes the objections which state that the proposed wall is not of traditional slate and therefore is not compliant with the Conservation Area Appraisal and Management Plan. However, the Conservation Officer clarifies that Section 6.3.6 of the Management Plan clarifies that while "*the predominant boundary wall type is dry stone slate however some rendered walls can also be seen*". For this reason the Conservation Officer raised no objection to the proposed materials of render with slate coping.

It is not considered that the proposed retaining wall, within the confines of the applicant's ownership, will significantly encroach on the parking area.

With regards to the proposed stairs, there was historically a small set of slate and stone steps on site which will be replaced on a like for like basis.

### **General**

- The applicant is now a member of the Community Council and it is felt that, as a member, he should be aware of the historical and sensitive area he lives in. It is felt that his application has not been made in 'good community spirit' and is detrimental to the area in question.
- As a community it has been agreed that it would be a good thing to lay chips over the entire surface of the access road as this would enhance the look of the immediate area as well as the entire conservation village of Ellenabeich. Unfortunately the applicant does not seem to be willing to engage in any discussion regarding this matter.
- The applicant and agent have responded to a number of third parties advising that their submissions are false and misleading.

**Planning Authority Comment:** Whilst these comments are noted by the Planning Authority, they are not material considerations in the determination of this planning application.

### **Neighbour Notification Plan Inaccurate**

- The map supplied by the applicant and included in the Neighbour Notification is false and clearly misleading.

**Planning Authority Comment:** The map produced for Neighbour Notification procedures is produced by the Planning Authority and not the applicant. The map is for indicative purposes only with the Neighbour Notification schedule clearly stating where and how the actual detailed application drawings can be viewed by interested parties.

### **Ownership Inaccuracies**

- The applicant does not own all of the land outlined in the application.

**Planning Authority Comment:** The applicant has confirmed that all land identified as being within his ownership i.e. outlined in red is true and accurate.

### **Original Deed of Sale – Implications on Legal Rights of Access**

- The proposed development is in contravention of the original deed of sale which the applicant agreed and submitted to when he purchased the property.
- The area of ground on which the wall is proposed has been defined in the title deeds of No.38 as part of an area of ground which was conveyed “*for amenity purposes only and shall not be built upon in any way or obstructed*”.
- It has always been made clear that the ground should not be built on with the proposed wall contravening the burden set out in the title deeds which affects rights of access belonging to neighbouring properties by law.
- The breach of title conditions may result in neighbouring properties seeking interdiction action.

**Planning Authority Comment:** These comments are noted by the Planning Authority, however, they are not material considerations in the determination of this planning application but separate civil issues between affected parties.

### **Timing of the Application(s)**

- Issue is taken with the timing of the application. I trust that it is merely fortuitous that the applicant chose to make the application during a global pandemic, when a large proportion of the most immediate neighbours are respecting national travel restrictions, and have not had the opportunity to have knowledge of/scrutinise their neighbour notification. They should not be prejudiced in this matter simply because they have respect for their community. In the spirit of fairness, I would urge your department to allow a suitable extension to the application.

**Planning Authority Comment:** The relevant publication of the application was fully undertaken by the Planning Authority. This included Neighbour Notification, display of Site Notices and publication in the local press, the Oban Times. There is no need for an extension of time for the application to be determined. It is assumed that reference is being made to some of the neighbouring properties being second homes and, if so, then it is the responsibility of the owner to ensure a suitable form of mail redirection is in place.

### **Previous Pre-Application Discussion with the Planning Authority & Inaccuracies on the Application**

- The application states that there has been pre-application discussion with the Planning Authority where the department states it would be supportive of a rendered wall with no mention of any parking area.
- The application form states that there is no altered vehicle access to or from a public road or any changes to public paths, rights of way or affecting any public right of access.
- With regards to parking spaces currently existing or proposed the agent has noted 'Not Applicable', however the site plan specifically indicates that the parking area is within the application. How can the agent make such claims while knowingly be aware of the proposed parking area.
- The agent is apparently unaware that there are not currently, nor have there ever been any actual allocations of parking spaces in this area of the village and I doubt that there is any historic evidence to support his claim. Residents in this area park in accordance with respect and common courtesy for each other. There have been times when the applicant has been requested to move his vehicle to allow local residents access to their property due to the location and angle with which he has deliberately parked his vehicle.
- The application form states that the existing wall is to be replaced, this statement is inaccurate as there is not an existing wall and one has never existed. The area currently comprises of mud, scree and vegetation of at least 10 years and more recently debris from the applicants refurbishment of the property.

**Planning Authority Comment:** These comments are noted by the Planning Authority. All of the relevant material planning considerations have been fully and properly assessed.

### **Full Conservation Assessment**

- The application must not be granted until a full conservation assessment is obtained and made publicly available.

**Planning Authority Comment:** It is not quite clear what is meant by this statement. The application has been considered in terms of the adopted 'Argyll and Bute Local Development Plan, 2015 and all other material considerations together with input from the Council's Conservation Officer.

### **Two Applications – Planning Permission & Listed Building Consent**

- Whilst there are two applications, one for planning permission and one for listed building consent, neither application mentions the introduction of a large gravelled parking area adjacent to the property and they almost infer an attempt to conceal the inclusion of the parking area

**Planning Authority Comment:** The application for listed building consent (LBC) has since been withdrawn as the proposed retaining wall is no longer connected into the existing wall thereby negating the need for LBC. The parking area is discussed in more detail elsewhere in this report.

### **Restriction of Access**

- The Argyll and Bute Outdoor Access Manager should be consulted on the proposal as it would appear that an attempt is being made to deliberately restrict resident's vehicular access to their properties.
- There are a number of other cottages around No.38 that require vehicle access through the proposed parking and kerbed area, these vehicles include oil tankers, coal and log deliveries, building supply lorries, delivery vans, BT, Scottish Water, Scottish Power vehicles, emergency vehicles and private vehicles.
- The access is misinterpreted on the drawings by showing the vehicle access to be a small strip of land outwith Mr Daalmans parking area, this section marked 'access road' incidentally drops to 1.6m at one point. The access road does not in fact include the area in question.
- There is historical evidence of a pathway and open access in this vicinity going back to 1871 as a means of access around the village.
- The applicant has told neighbouring properties on several occasions that they have no rights of access over the area of ground in question which is clearly incorrect as evidenced by title deeds submitted to the Planning Authority. The application appears to be an attempt to limit the established right of access even further.

**Planning Authority Comment:** The Council's Access Officer was consulted on the proposed development and he concluded that there is no impact on public rights of access advising that any Public Right of Way to the southwest of the house is not constricted such that it cannot be used by the public. The small area enclosed by the wall is not one where the public have a right of access under the Land Reform Scotland Act 2003 because it would impact on the reasonable privacy that anyone occupying the house would expect. The Access Officer advises that there is a significant area remaining across which access is afforded.

It is not considered that any part of the current planning application has been designed in such a way as to impede any existing access routes.

Private access rights set out in title deeds is not a matter for the Planning Authority but a separate civil matter for affected parties.

Should the applicant deliberately restrict resident's vehicular access to their properties, this is a civil matter between affected parties.

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

## (G) SUPPORTING INFORMATION

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

(i)	<b>Environmental Statement:</b>	No
(ii)	<b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b>	No
(iii)	<b>A design or design/access statement:</b>	No
(iv)	<b>A report on the impact of the proposed development e.g. retail impact, transport impact, noise impact, flood risk, drainage impact etc:</b>	No

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**(H) PLANNING OBLIGATIONS**

**(i) Is a Section 75 agreement 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 (*Minor Settlement Zone of Ellenabeich*)

LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

LDP 9 – Development Setting, Layout and Design

Supplementary Guidance

SG 2 – Sustainable Siting and Design Principles

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs) (*Knapdale and Melfort APQ*)

SG LDP ENV 14 – Landscape

SG LDP ENV 16(a) – Development Impact on Listed Buildings (*Category B Listed Building*)

SG LDP ENV 17 – Development in Conservation Areas & Special Built Environment Areas (*Ellenabeich Conservation Area*)

**(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

Conservation Area Appraisal & Management Plan for Ellenabeich (October 2017)

Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997

Historic Environment Policy for Scotland (HEPS), 2019

Managing Change In The Historic Environment: Boundaries

Managing Change In The Historic Environment: Setting

Argyll and Bute Proposed Local Development Plan 2 (November 2019)

Consultation Responses

Third Party Representations

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

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<b>(L)</b>	<b>Has the application been the subject of statutory pre-application consultation (PAC):</b>	<b>No</b>
<b>(M)</b>	<b>Has a sustainability check list been submitted:</b>	<b>No</b>
<b>(N)</b>	<b>Does the Council have an interest in the site:</b>	<b>No</b>
<b>(O)</b>	<b>Requirement for a hearing:</b>	<b>No</b>

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In deciding whether to hold a discretionary hearing Members should consider:

- How up to date the Development Plan is, the relevance of the policies to the proposed development, and whether the representations are on development plan policy grounds which have recently been considered through the development plan process.
- The degree of local interest and controversy on material considerations, together with the relative size of community affected, set against the relative number of representations and their provenance.

22 objections from 18 households have been received regarding the proposed development.

It is the opinion of the Planning Authority that the representations received, together with officer assessment of the relevant planning issues contained within this report, provide all the information required to enable Members to make an informed decision based on all of the material planning considerations in this case, not least the fully adopted 'Argyll and Bute Local Development Plan' 2015 and the direct relevance of key planning policies contained within it.

In this instance it is not considered that the objections raise any complex or technical issues that have not been addressed in the current Report of Handling and it is not considered that a discretionary local hearing would add value to the planning process.

The determining factors in the assessment of this application are whether or not the scale and design of the proposed retaining wall and the proposed flush kerbing is acceptable for its site and surroundings, including its impact upon the setting of the Listed Building, the character of the Conservation Area and the setting of the wider Area of Panoramic Quality.

In this instance the proposed very small scale development is wholly in accordance with the adopted Local Development Plan.

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

Planning permission is sought for the erection of a low retaining wall adjacent to the gable elevation of 38 Ellenabeich, Isle of Seil which is a Category B Listed Building situated within the Ellenabeich Conservation Area and Knapdale and Melfort Area of Panoramic Quality.

As a result of the comments made by the Conservation Officer during the processing of the application, the height of the proposed wall has been reduced by 35cm resulting in a

wall which now measures 65cm in height when measured from outwith the site (the public view) and 1.2 metres high when measured from inside the site of the dwellinghouse (the private view), the difference being due to the fact that the existing dwellinghouse and its immediately surrounding land sits in a shallow ‘hole’ with respect of the height of the ground surrounding it. There is an existing small flight of steps which leads down from the higher level to the lower level and these steps are to be retained within the proposed development.

The wall is positioned at the edge of the informal parking area adjacent to the gable end of the dwellinghouse which is set at a higher level than the dwellinghouse. The proposed retaining wall incorporates recesses which are to be used for bin and solid fuel storage purposes. The proposed wall also incorporates a small set of stairs leading from the parking area to the pedestrian access which runs directly along the gable elevation of the dwellinghouse which has been increased in width by approximately 30cm. The proposed wall is to be finished in a white wet dash render with a natural slate coping stone.

The site plan shows new flush kerbs to the perimeter of the applicant’s land holding adjacent to the parking area for the dwellinghouse with a new grey pebble gravel finish laid within these kerbs.

The pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed ‘de minimis’ in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing is also very minor in nature, these should properly be described as engineering works requiring planning permission and the impact of these works has been fully addressed.

In terms of the adopted ‘Argyll and Bute Local Development Plan’ (LDP) 2015, the application site is located within the minor settlement of Ellenabeich where Policy LDP DM 1 gives encouragement to small scale development on appropriate sites subject to compliance with other relevant policies and supplementary guidance (SG).

The dwellinghouse is a Category B Listed Building situated within the Ellenabeich Conservation Area (CA) and Knapdale and Melfort Area of Panoramic Quality (APQ) where Policy LDP 3 requires Supplementary Guidance (SG) LDP ENV 16(a), SG LDP ENV 17 and SG LDP ENV 13 to be considered in any development proposals which collectively seek to ensure that the scale, location and design of developments do not have a significant adverse impact on the setting of Listed Buildings and do not detract from the character of the CA and APQ.

Policy LDP 9 seeks 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. SG 2 expands on this policy seeking to ensure that the design, scale and materials used are appropriate in relation to the existing house and neighbouring properties and seeks to ensure that inappropriate or unsympathetic development does not damage the property or its setting.

The determining factors in the assessment of this application are whether or not the scale and design of the proposed retaining wall and the proposed flush kerbs are acceptable for its site and surroundings, including its impact upon the setting of the Listed Building, the character of the Conservation Area and the setting of the wider Area of Panoramic Quality.

The proposal has elicited 22 objections from 18 households.

In this instance it is considered that the proposed retaining wall is an acceptable addition adjacent to the gable end of the dwellinghouse with its design and finishes ensuring that

it will not detract from the setting of the Listed Building or the wider Conservation Area and Area of Panoramic Quality within which it is proposed.

The proposed flush kerbing is minor in nature and it is the settled opinion of the planning authority that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will impede public access or have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

It is recommended that planning permission be granted.

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<b>(Q)</b>	<b>Is the proposal consistent with the Development Plan:</b>	<b>Yes</b>
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**(R) Reasons why planning permission should be granted**

The proposed retaining wall is considered to be an acceptable addition adjacent to the gable end of the dwellinghouse with its design and finishes ensuring that it will not detract from the setting of the Listed Building or the wider Conservation Area and Area of Panoramic Quality.

The proposed flush kerbing is minor in nature and it is the opinion of officers that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will impede public access or have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

The proposal accords with Policies LDP STRAT 1, LDP DM 1, LDP 3, LDP 9 and Supplementary Guidance SG2, SG LDP ENV 13, SG LDP ENV 14, SG LDP ENV 16(a), SG LDP ENV 17 of the adopted 'Argyll and Bute Local Development Plan' 2015 and there are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the 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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<b>(T)</b>	<b>Need for notification to Scottish Ministers or Historic Scotland:</b>	<b>No</b>
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**Author of Report:** Fiona Scott      **Date:** 01/03/21

**Reviewing Officer:** Tim Williams      **Date:** 02/03/21

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

## **CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 20/01847/PP**

### **GENERAL**

1. The development shall be implemented in accordance with the details specified on the application form dated **30/09/20**; supporting information and, the approved drawings listed in the table below unless the prior written approval of the Planning Authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

<b>Plan Title.</b>	<b>Plan Ref. No.</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	2023 01		09/11/20
Site Plan As Existing	2023 02		09/11/20
Site Plan As Proposed	2023 03	A	
External Wall As Proposed	2023 04	A	
Retaining Wall As Existing	2023 05		09/11/20

*Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.*

Note to Applicant:

- This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
- In order to comply with Sections 27A(1) of the Town and Country Planning (Scotland) Act 1997, prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start. Failure to comply with this requirement constitutes a breach of planning control under Section 123(1) of the Act.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.

Both the Notification of Initiation and Notification of Completion forms referred to above are available via the following link on the Council's website:

<https://www.argyll-bute.gov.uk/planning-and-environment/make-planning-application>

### **DETAILS OF MATERIALS**

2. Before any works commence on site, full details of the materials to be used for the slate wall copings and the flush kerbing shall be submitted to and approved in writing by the planning authority. The required materials shall include the submission of samples where such submission is considered necessary by the planning authority. Thereafter, the development shall be implemented using the materials as agreed.

*Reason: In order to ensure that the materials to be used in the development are appropriate to their setting within the conservation area and in respect of any impact upon the setting of the adjacent listed building.*

Note to Applicant:

- The planning authority would welcome the submission of a sample of the gravel proposed to be used within the *de minimis* repair/resurfacing of the existing parking area.

## **APPENDIX A – RELATIVE TO APPLICATION NUMBER: 20/01847/PP**

### **PLANNING LAND USE AND POLICY ASSESSMENT**

#### **A. Settlement Strategy**

In terms of the adopted ‘Argyll and Bute Local Development Plan’ (LDP) 2015, the application site is located within the minor settlement of Ellenabeich where Policy LDP DM 1 gives encouragement to small scale development on appropriate sites subject to compliance with other relevant policies and supplementary guidance (SG).

The dwellinghouse is a Category B Listed Building situated within the Ellenabeich Conservation Area (CA) and Knapdale and Melfort Area of Panoramic Quality (APQ) where Policy LDP 3 requires Supplementary Guidance (SG) LDP ENV 16(a), SG LDP ENV 17 and SG LDP ENV 13 to be considered in any development proposals which collectively seek to ensure that the scale, location and design of developments do not have a significant adverse impact on the setting of Listed Buildings and do not detract from the character of the CA and APQ.

Policy LDP 9 seeks 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. SG 2 expands on this policy seeking to ensure that the design, scale and materials used are appropriate in relation to the existing house and neighbouring properties and seeks to ensure that inappropriate or unsympathetic development does not damage the property or its setting.

The proposal has elicited 22 objections from 18 households.

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

Planning permission is sought for the erection of a low retaining wall adjacent to the gable elevation of 38 Ellenabeich, Isle of Seil which, as detailed above, is a Category B Listed Building situated within the Ellenabeich CA and Knapdale and Melfort APQ.

The wall was originally proposed at 1 metre in height, however, as a result of comments from the Conservation Officer during the processing of the application, the Planning Authority has negotiated a reduction in height of the wall.

The amended wall measures 65cm in height when measured from outwith the site (the public view) and 1.2 metres high when measured from inside the site of the dwellinghouse (the private view), the difference being due to the fact that the existing dwellinghouse and its immediately surrounding land sits in a shallow ‘hole’ with respect of the height of the ground immediately surrounding it. There is an existing small flight of steps which leads down from the higher level to the lower level and these steps are to be retained within the proposed development.

The wall is positioned at the edge of the parking area adjacent to the gable end of the dwellinghouse which is set at a higher level than the dwellinghouse. The proposed retaining wall incorporates recesses which are to be used for bin and fuel storage purposes. The proposed wall also incorporates a small set of stairs leading from the parking area to the pedestrian access which runs directly along the gable elevation of the dwellinghouse which has been increased in width by approximately 30cm. The proposed wall is to be finished in a white wet dash render with a natural slate coping stone.

The proposed wall would run adjacent to the south western gable of 38 Ellenabeich for a linear length of approximately 10.8 metres and would incorporate two small projecting enclosures to contain domestic refuse bins and solid-fuel heating supplies (believed to be coal).

The Council's Conservation Officer has confirmed her acceptance to the proposed rendered finish and slate coping stone proposed to the retaining wall. It is not considered that the proposed wall will have any materially harmful impact upon either the character and quality of this part of the conservation area or on the setting of the applicant's dwellinghouse which is a Category B listed building.

The site plan shows new flush kerbs to the perimeter of the applicant's land ownership surrounding an existing parking area for the dwellinghouse with a new grey pebble gravel finish laid within these kerbs to repair the existing hard-surface.

The pebble gravel does not form part of the planning application, this repair/resurfacing of an existing hard-standing area being deemed '*de minimis*' in nature and not requiring the benefit of planning permission.

Whilst the proposed new flush kerbing should properly be described as engineering works requiring planning permission, the impact of these works has been fully addressed. The proposed flush kerbing is minor in nature and it is the settled opinion of the planning authority that the proposed flush kerbs within an existing area of hardstanding will have no materially detrimental impact upon the character and appearance of the site or its surroundings, including on the quality of the conservation area or the setting of the adjacent listed building. Neither is it considered that the proposed flush kerbing will have any detrimental impact upon public safety, the very nature of the kerbs being flush with the running surface of the land on both sides. Whilst it is acknowledged that the land on one side or the other (or both) might settle over time, this would be a maintenance matter for the applicant.

The specific details of the proposed flush kerbs can be appropriately addressed by planning condition to ensure their suitability.

It is not considered that the proposed wall or the flush kerbing will change the way in which vehicles use the existing parking area. Neither is it considered that any part of the proposed development will impede access to other properties. This opinion has been confirmed by the Council's access officer. The proposed low boundary wall is located very close to the applicant's dwellinghouse such that the distance between the south west wall of the dwellinghouse and the proposed wall is, for the most part, only one metre. In addition, there is clear evidence that the boundary now proposed to be demarcated by a low wall was once defined by a low hedgerow in approximately the same position. Notwithstanding this, in the unlikely event that parking becomes an issue, with the shared access becoming blocked, this is a civil matter between affected parties.

It is considered that the site represents a suitable opportunity for development which will have no significant adverse impact on the setting of the Listed Building or the wider CA or APQ at this location.

The proposal is considered acceptable in terms of Policies LDP DM 3, LDP DM 9, SG2, SG LDP ENV 13, SG LDP ENV 14, SG LDP ENV 16(a) and SG LDP ENV 17 which collectively seek to ensure that the scale, location and design of developments do not have a significant adverse impact on the setting of Listed Buildings and do not detract from the character of the CA and APQ.