

STATEMENT OF CASE

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

23/0008/LRB

**REFUSAL OF PLANNING PERMISSION FOR THE
REPLACEMENT OF EXISTING SLIDING SASH AND
CASE SINGLE GLAZED WINDOWS WITH DOUBLE
SWING DOUBLE GLAZED TIMBER FRAME WINDOWS
TO FRONT ELEVATION AND UPVC DOUBLE GLAZED
WINDOWS TO THE REAR**

PLANNING APPLICATION REFERENCE 22/01848/PP

26 CRICHTON ROAD, ROTHESAY, ISLE OF BUTE

STATEMENT OF CASE

The Planning Authority is Argyll and Bute Council ('the Council'). The applicant who has sought the review is Mr Peter Campbell ("the appellant").

Planning Permission 22/01848/PP for the replacement of existing sliding sash and case single glazed windows with double swing double glazed timber frame windows to the front elevation and Upvc double glazed windows to the rear at 26 Crichton Road, Rothesay, Isle of Bute ("the appeal site") was refused by the Planning Service under delegated powers on 21st June 2023.

This decision is the subject of referral to a Local Review Body.

As the property is a Listed Building, an application for Listed Building Consent (ref: 22/01847/LIB) was processed concurrently with the application for Planning Permission. Listed Building Consent was also refused and is presently the subject of an appeal to Scottish Ministers (ref: LBA-130-2029).

DESCRIPTION OF SITE

The property at the appeal site is No. 26 Crichton Road, which is a dwellinghouse in the easternmost half of a two-storey semi-detached villa, the other half of which is subdivided into two flats. It is a Category C Listed Building that is located prominently within the Rothesay Conservation Area. It forms part of the symmetrical Brighton Terrace and dates from 1878.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) 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

The Council considers that the determining issues in relation to the case are as follows:

- Whether the proposed window replacements would preserve or enhance the character or appearance of the subject property (a Category C Listed Building) and the wider Rothesay Conservation Area having regard to the relevant Policies and Supplementary Guidance contained in National Planning Framework 4 and the Argyll and Bute Local Development Plan 2015; the emerging Policies in the Argyll and Bute Proposed Local Development Plan 2 (as recommended for modification); and other published policy and guidance, including Historic Environment Policy for Scotland 2019; Historic Environment Scotland's '*Managing Change in the Historic Environment – Windows*'; and the Argyll & Bute Council '*Technical Working Note – Rothesay Windows*' (2015)

- Whether there are any other material considerations to be taken into account in the assessment of the proposal other than those stated above

The Report of Handling (contained in Appendix A of this document) sets out the Council's full assessment of the application in terms of these key determining issues and concludes that:

- The windows that are proposed for installation on the front elevation, even though they are proposed to be timber, would have a double swing method of opening and, when in the open position, they would project from the external façade of each unit thereby appearing visually incongruous and discordant. In this regard, it is considered that they would detract from the character and appearance of the Listed Building and the wider Rothesay Conservation Area to an unacceptable degree.

The rear elevation of the property is visually inconspicuous and is of less significance in terms of fenestration. However, as timber is the consistent finish, the proposed installation of upvc windows to replace traditional timber sliding sash and case units on the upper floor and in the east-facing (side) elevation of the single storey outhouse is considered to represent an inappropriate intervention.

As such, the proposal is contrary to the provisions of the Development Plan; the emerging Argyll and Bute Proposed Local Development Plan 2 (as recommended for modification); and the published national and local policy and guidance documents.

- It is considered that no other factors put forward by the appellant and the contributor have sufficient weight to take precedence over the detrimental impact that the proposed windows would have on the property and the wider Conservation Area.

REQUIREMENT FOR ADDITIONAL INFORMATION AND A HEARING

The appellant's submission contains information that was not available at the time of the decision being made on the application and it also responds to the reason for refusal stated in the Decision Notice. These matters are addressed in the next section of this statement and, when taken in combination with the Report of Handling contained in Appendix A, it is considered that no additional information is required in light of the appellant's submission.

Given the above, it is considered that Members have all the information they need to determine the case. In these circumstances, and on the basis that the proposal has no complex or challenging issues and has not been the subject of significant public representation, it is not considered that a Hearing is required.

COMMENTS ON APPELLANT'S SUBMISSION

The appellant has submitted a supporting statement in association with the review. The following is a summary of those matters that were not before the Planning Service at the time of the decision being made on the application together with comments in response:

- i) An excessive amount of time was taken for a decision to be issued particularly given that the replacement of windows on a domestic property is not generally considered to be a

'*complex application*' and the Scottish Government removed all COVID policies on 24th June 2022.

The appellant feels that the Council's delay in issuing a decision has put him at a severe financial disadvantage in these very difficult times as there has been a marked rise in prices for replacement windows at his property in the last twelve months.

Comment: It is acknowledged that there was a delay in the processing of this application, which was due to a number of factors. The appellant's statement on the rise of prices is noted.

- ii) When the application was originally submitted, the appellant specifically asked that, if the proposal was being recommended for refusal, it should be considered by the Planning Committee. It is contended that no reference has been made in the decision notice as to when or if this was ever discussed at Committee.

Comment: The Development Management Service considered the appellant's request for the application to be decided by the Planning, Protective Services and Licensing Committee if a recommendation of refusal was likely and he was informed by e-mail on 15th February 2023 that the application would be determined under delegated powers.

- iii) It is contended that no e-mail was received by the appellant enclosing the Decision Notice on the application for Planning Permission. The Decision Notice for the refusal of Listed Building Consent was received and it stated that the appeal should be made to Scottish Ministers.

After enquiries were made by Councillor Kennedy-Boyle, the appellant was notified by her that he had to appeal to both the Scottish Ministers and Argyll and Bute Council Planning. At no point was the appellant informed of this by the Planning Department.

Comment: The paperwork for the refusal of Planning Permission was sent by e-mail on 22nd June 2023 to the appellant using the correct e-mail address. A copy was sent to the Planning Officer and he confirms that he received the e-mail.

In Form AB1, the appellant advises that he has trawled through all emails on 4 separate devices and he has been unable to find an e-mail detailing the Decision Notice for application 22/01848/PP.

When Councillor Kennedy-Boyle sought advice on the appeal procedures, it was explained that there was a different protocol for each (challenge of the Planning refusal to the Council and appeal of the Listed Building refusal to Scottish Ministers).

The appellant has submitted an appeal to Scottish Ministers and it is currently under consideration. Notwithstanding the issue of the decision paperwork relating to the refusal of Planning Permission, the appellant has submitted his request for a review prior to the expiry of the deadline.

- iv) Whilst the report of examination on '*Proposed Local Development Plan 2*' was able to be read on the Council's website, the appellant contends that, when he was preparing his statement for review, the '*Proposed Local Development Plan 2*' itself was not available for viewing. On this basis, the appellant states that he is unable to address the points raised as the examiner's report details only amendments to the policies.

Comment: The Written Statement for '*Proposed Local Development Plan 2*' was available for viewing on the Council's website for a considerable time period prior to the publication of the report of examination in the middle of June 2023 and it has remained available in the period since.

- v) The Rothesay Windows Technical Working Note, published in 2015, states that the Townscape Heritage Initiative is a 5 year plan. There is no review date for this Technical Note and the appropriateness of much of this document with regard to the application and this review is questioned.

It is felt that the Technical Working Note is out of date and does not address the needs or focus appropriately on the key issues facing communities today. Global environmental improvement requires that priority is given to that which local communities and individuals can do to contribute to saving the planet rather than simply protecting an aesthetic largely driven by antiquated administrative notions and personal opinion. The application achieves better environmental outcomes and maintains a reasonable aesthetic objective.

Comment: The reference in the Technical Working Note (TWN) to the Townscape Heritage Initiative (THI) was to explain the benefits of the funding that had been allocated to revitalise the historic town centre and to highlight the need for the TWN to support conservation principles; protect and promote improvements in the Conservation Area; and to underpin the wider heritage led regeneration "*already commenced*" by the THI.

The TWN was prepared in 2015 and, under '*Aims and Related Advice*' on Page 1, it is stated that it "*aims to provide clear and consistent planning advice in relation to the replacement and refurbishment of windows in the Rothesay Conservation Area.*

This Guidance must be read in conjunction with the Development Plan, Rothesay Window Advice Note 1 and 2, the Council's Historic Environment Strategy 2015 and Scottish Historic Environment Policy – Managing Change".

As such, it was formulated in the context of the policies and guidance existing at that time. In the interim period, the Council has adopted a new Local Development Plan and is nearing the adoption of its replacement; the Historic Environment Policy for Scotland 2019 has been published; and Historic Environment Scotland has produced '*Managing Change in the Historic Environment – Windows*' (2018 and updated 2020).

None of these documents represent a change to the approach advocated by the TWN in relation to the assessment of applications for replacement windows in the Rothesay Conservation Area and in Listed Buildings.

- vi) The application (ref: 08/01391/LIB) that was approved for the installation of double swing windows at 28 Crichton Road was granted taking into account unspecified '*personal reasons*'. The appellant states that there are also '*personal reasons*' associated with his property which mean there are difficulties in opening the current style of window. He explains that he did not feel the Planning website was the place to detail them and so an email was sent to Fergus Murray on the 27th June from Councillor McCabe regarding this. The appellant would be happy to discuss this at the appeal.

Comment: The information in support of application 22/01848/PP that was taken into account in its determination was the applicant/appellant's statement from September 2022 and the contribution from Councillor McCabe. As the decision was taken on 21st June 2023, any information received after that date would not have been taken into account in the determination of the proposal.

- vii) The appellant has submitted photographs which, he states, show the installation of uPVC double swing windows on the rear elevation of a number of properties in Nos. 23 to 34 Crichton Road (Brighton Terrace).

He refers to the approval of uPVC windows on rear elevations of 24 Crichton Rd (refs: 09/01762/PP in 2010 and 14/00627/LIB in 2014).

He mentions that the other half of the semi-detached property in which he resides has double swing timber in the upper flat and uPVC double swing windows in the lower flat.

In these circumstances, he feels justified in asking that he be afforded the same rights, given the same opportunity and treated in the same way as his neighbours.

Comment: Nos. 23 and 24 Crichton Road are anomalous in the context of Brighton Terrace in that modern glazing had been introduced in parts of these properties prior to their listing in 1997. Subsequent decisions on applications for these buildings have been influenced by these factors and, in the Technical Working Note, the 23 and 24 semi-detached block has been identified as having been '*devalued*' in terms of fenestration.

- viii) The appellant points out that replacement windows were granted Planning Permission (ref: 12/02280/PP) in 2013 at 19 Crichton Road (also a Category C Listed Building) which are completely different fenestration to the rest of the building. He has absolutely no objection to these windows but he considers that it highlights some inconsistency in decision making.

Comment: In the assessment of the applications that were submitted for this property in 2012, it was stated that, "*on the basis that the original timber glazing has unfortunately been eradicated from this ground floor flat and that non-traditional windows are proposed to be replaced, the introduction of timber windows is considered to be an improvement on the existing situation.*"

The circumstances pertaining to the property that is the subject of this review are markedly different from the flat at 19 Crichton Road.

- ix) The appellant states that refusal of his application was based on the decision from the reporter, Mr Donald Harris, in his letter of 17th August 2011 when he commented on the application on 27 Crichton Road.

The appellant insists that times have very much changed since this report was produced with financial pressures and energy efficiency being very much more to the forefront in the current climate as the Scottish Government has categorically stated on many occasions recently.

Mr Harris was also of the opinion that double swing timber would be “*unsightly, inharmonious and out of keeping with the character of this dignified building*”. The appellant draws attention to a property just a few doors along that is also a Category C listed building and Appendices C and D in his statement shows 19-21 Crichton Road. One of the windows under the roof is sliding sash and case and one is double swing and they are both open. The appellant contends there is no discernible difference from the street and the double swing windows are not unsightly, inharmonious or out of keeping.

Comment: The decision letter dated 17th August 2011 in respect of the Listed Building appeal for the installation of replacement windows at No. 27 Crichton Road is reproduced in Appendix B of this document.

It is noted that the new National Planning Framework 4 has stronger policies relating to the climate emergency but the Historic Asset policies both within NPF4 and the LDP continue to value the historic environment and ensure it is protected and enhanced whilst supporting the transition to net zero.

Furthermore, Section 64(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 requires that, in exercising their functions (including determining applications for Planning Permission), special attention must be paid by Planning Authorities to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

The current proposal relates to thirteen windows on the front elevation of the building and, as such, the impact of the double swing windows would be of greater significance in the context of the appeal property's character and its contribution to this part of the Conservation Area.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 (as amended) requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

In this case, as detailed in the Report of Handling appended to this submission, the proposed windows on the front elevation would have a double swing method of opening and, when in the open position, they would project from the external façade of each unit thereby appearing visually

incongruous and discordant. Whilst the rear elevation of the property is visually inconspicuous and less significant in terms of fenestration, the proposed upvc windows as a replacement for traditional timber sliding sash and case units on the upper floor and in the east-facing (side) elevation of the single storey outhouse are considered to represent an inappropriate intervention.

As no justifiable reasons for supporting the development have been demonstrated that overcome the concerns outlined above, the proposed development is confirmed as being contrary to NPF4 Policies 7, 14 and 16 and to Policies LDP STRAT 1, LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 16(a), SG LDP ENV 17 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015. Furthermore, the works are not consistent with Argyll and Bute Council's adopted Rothesay Windows Technical Working Note 2015 nor with the expectations of Historic Environment Scotland through their '*Managing Change in the Historic Environment*' guidance on windows. The proposal is also not consistent with Policies 4, 5, 9, 10, 15, 16 and 17 of the Proposed Local Development Plan 2 which is a significant material consideration.

Taking account of the above, it is respectfully submitted that the Local Review Body dismiss the review.

APPENDIX A – REPORT OF HANDLING

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: 22/01848/PP
Planning Hierarchy: Local
Applicant: Mr Peter Campbell
Proposal: Installation of Replacement Windows
Site Address: 26 Crichton Road, Rothesay, Isle of Bute

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
 Committee - Local Government Scotland Act 1973
-

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Replacement of existing timber, sliding sash and case, single-glazed windows with timber, double-swing, double-glazed windows on the front elevation and upvc, double-swing, double-glazed windows on the rear elevation

(ii) Other specified operations

- None
-

(B) RECOMMENDATION:

It is recommended that Planning Permission be **refused** for the reason set out below.

(C) HISTORY:

Listed Building Consent (ref: 05/00151/LIB) granted on 16th March 2005 for the carrying out of internal alterations to form a ground floor cloakroom in the subject property.

Planning Permission (ref: 09/00524/DET) granted on 9th June 2009 for the erection of a timber garage within the side rear curtilage of the property.

There is an application for Listed Building Consent (ref: 22/01847/LIB) also currently under consideration in relation to the proposed window replacements.

(D) CONSULTATIONS:

None

(E) PUBLICITY:

Subject of Neighbour Notification (closing date 22nd October 2022) and advertised as development in Conservation Area (closing date: 4th November 2022).

(F) REPRESENTATIONS:

An expression of support has been received from Councillor Liz McCabe, Ward 8 – Isle of Bute (e-mail dated 24th April 2023).

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

The points raised can be summarised as follows:

- i. Councillor McCabe has explained that Mr Campbell submitted the applications during September 2022 and he was hoping to have approval granted and the new windows installed before the winter months again due to the condition of the windows which are in place at the moment. They are extremely old windows with significant defects such as water ingress and loss of heat from the interior of the house.
- ii. The windows that Mr Campbell is proposing would look exactly like the existing windows but would be much more effective in terms of both cost and aesthetics.
- iii. Mr Campbell has a neighbour two doors down who used the same new windows as currently proposed and this was agreed/passed. It is, therefore, contended that there is no reason why Mr Campbell should not be allowed the same outcome.

Comment: The above points will be addressed in the assessment contained in Section (P) below.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** No
- (ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No
- (iii) **A design or design/access statement:** No
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No
- (v) **Supporting Statement:** Yes

The applicant submitted a statement in support of the application (received 9th September 2022) and the points that are raised can be summarised as follows:

- The proposal involves the installation of timber double swing windows on the front elevation of the property, which would be in keeping with the visual appearance of the other properties in Crichton Road. It is also proposed to install uPVC windows on the rear elevation, as several of the adjacent properties already have this type of window installed and they are both cost and thermally efficient.
- The current windows are sliding sash and case, single glazed windows that have already had potentially damaging water ingress and are, therefore, in desperate need of replacement. The contents of the Argyll and Bute Technical Working Note from 2015 are acknowledged; however, since its publication things have changed dramatically in the world. Energy costs and inflation are spiralling out of control and the monthly fuel bills for the property have doubled with a further increase in the pipeline. Both the Scottish Government and Argyll and Bute Council have produced commitments to reduce carbon emissions and increase fuel efficiencies. The applicant has already taken steps to insulate his property with the next stage being to reduce the substantial heat loss through the windows.
- Sliding sash and case windows become loose over time and allow loss of heat; however, double swing windows would allow a much better seal and reduce emissions. The Scottish Government's '*Heat in Buildings Strategy - achieving net zero emissions in Scotland's buildings*' was published on 7th October 2021 and it places strong emphasis on the role of improving the energy performance of buildings in order to unlock the rollout of zero emissions heating.
- The replacement of the windows with sliding sash and case types is not an affordable option. Quotes were obtained from Blairs Windows in Greenock for timber sliding sash and case windows and for timber double swing windows. The difference in price was just short of £10,000 and the suppliers could only guarantee the price for one week due to escalating costs of materials.

This difference in price did not include fitting and, as more time is required to install sliding sash windows, an even greater cost would be incurred.
- The Planning Department has already allowed the installation of double swing timber windows in a property just along the road at 28 Crichton Road,

which is still in Brighton Terrace and within the Rothesay Conservation Area. There is no difference in visual terms when the property is viewed from the street so the proposed replacement would not look out of place.

- In the current financial climate, it is hoped that the Council will look favourably on the proposal as it would help to preserve the integrity of the building; increase energy efficiency within the property; and reduce emissions and carbon footprint.
- If the proposal is being recommended for refusal, it is respectfully asked if the applications could be considered by the Planning Committee.

(H) PLANNING OBLIGATIONS

(i) **Is a Section 75 obligation required:** No

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

(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.**

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises

NPF4 Policy 2 – Climate Mitigation and Adaption

NPF4 Policy 7 – Historic Assets and Places

Liveable Places

NPF4 Policy 14 – Design, Quality and Place

NPF4 Policy 16 – Quality Homes

Argyll and Bute Local Development Plan (March 2015)

Written Statement 2015

LDP STRAT 1 – Sustainable Development

LDP DM1 – Development within the Development Management Zones

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

LDP 9 – Development Setting, Layout and Design

Supplementary Guidance (2016)

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)

SG LDP ENV 16(a) – Development Impact on Listed Buildings

SG LDP ENV 17 – Development in Conservation Areas and Special Built Environment Areas

- (ii) **List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

Planning History

Argyll & Bute Council Technical Working Note – Rothesay Windows (2015)

Historic Environment Policy Statement 2019

HES - Managing Change in the Historic Environment

Argyll and Bute Proposed Local Development Plan 2

The Examination by Scottish Government Reporters into the Argyll and Bute Proposed Local Development Plan 2 (PLDP2) has now concluded and the Examination Report has been published. The Examination Report is a material consideration of significant weight. Consequently, the PLDP2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications is a material consideration in the determination of all planning and related applications.

PLDP2 Policies relevant to the current application are as follows:

Spatial and Settlement Strategy

Policy 01 - Settlement Areas

High Quality Places

Policy 04 – Sustainable Development

Policy 05 – Design and Placemaking

Policy 09 – Sustainable Design

Policy 10 – Design – All Development

Policy 15 – Supporting the Protection, Conservation and Enhancement of our Historic Built Environment

Policy 16 – Listed Buildings

Policy 17 – Conservation Areas

-
- (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) (i) Key Constraints/Designations Affected by the Development:

Category C Listed Building
Rothesay Conservation Area
Isle of Bute Area of Panoramic Quality

(ii) Soils

Agricultural Land Classification: Within an urban built-up area

Peatland/Carbon Rich Soils Classification:
 Class 1
 Class 2
 Class 3
 N/A

Peat Depth Classification: 0.0

Does the development relate to croft land? Yes No

Would the development restrict access to croft or better quality agricultural land? Yes No

Would the development result in fragmentation of croft / better quality agricultural land? Yes No

(iii) Woodland

Will the proposal result in loss of trees/woodland? Yes
 No

Does the proposal include any replacement or compensatory planting? Yes
 No details to be secured by condition
 Not applicable

(iv) Land Status / LDP Settlement Strategy

Status of Land within the Application
(tick all relevant boxes) Brownfield
 Brownfield Reclaimed
 Greenfield

ABC LDP 2015 Settlement Strategy
LDP DM 1 (tick all relevant boxes) Main Town Settlement Area
 Key Rural Settlement Area
 Village/Minor Settlement Area
 Rural Opportunity Area
 Countryside Zone
 Very Sensitive Countryside Zone
 Greenbelt

Assessment and summary of determining issues and material considerations

A. Application Site

The subject property is No. 26 Crichton Road, which is a dwellinghouse in the easternmost half of a two-storey semi-detached villa, the other half of which is subdivided into two flats. It is a Category C(S) Listed Building that is located prominently within the Rothesay Conservation Area. It forms part of the symmetrical Brighton Terrace and dates from 1878.

B. The Proposal

There are a total of thirteen windows on the front elevation of the property and these are all two-paned, timber, sliding sash and case, single-glazed windows. Planning Permission is sought to replace these with two-paned, timber, double-swing, double-glazed windows.

The two windows on the upper floor of the rear elevation of the main building and the two that are on the east-facing elevation of the rear outhouse are two-paned, timber, sliding sash and case, single-glazed units and it is proposed to replace these with two-paned, upvc, double-swing, double-glazed windows.

C. Development Plan Policy Context

National Planning Framework 4

NPF4 Policy 1 seeks to prioritise the climate and nature crises in all decisions; it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance in favour or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions.

NPF4 Policy 7 seeks to “*protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places*” with some of the outcomes being that the historic environment is valued, protected, and enhanced; supporting the transition to net zero; and ensuring assets are resilient to current and future impacts of climate change.

Policy 7(c) advances support for the alteration of a listed building only in cases where the proposal would preserve its character, special architectural or historic interest and setting.

Policy 7(d) advances support for development proposals in or affecting Conservation Areas only in cases where the character and appearance of the designated area would be preserved or enhanced. Relevant considerations include the architectural and historic character of the area; the quality of design; and the use of suitable materials.

Policy 7(e) advances support for development proposals in Conservation Areas where the existing natural and built features that contribute to the character of the designated area would be retained.

NPF4 Policy 14 seeks to “*encourage, promote and facilitate well-designed development that makes successful places by taking a design-led approach and applying the Place Principle.*”

Policy 14(a) seeks to improve the quality of an area irrespective of its location and regardless of scale.

Policy 14(b) advocates the adoption of the six qualities of successful places in the formulation of developments. These include:

- Distinctiveness – supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity
- Sustainability – supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions
- Adaptability – supporting commitment to investing in the long-term value of buildings by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time

NPF4 Policy 16 seeks to “*encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.*”

Policy 16(g) provides support for householder development proposals where they would not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials.

Policy 16(h) supports householder development proposals that provide adaptations in response to risks from a changing climate.

Many of the above principles are contained in Policies LDP STRAT 1, LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 16(a), SG LDP ENV 17 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015.

D. Assessment

Argyll & Bute Council Technical Working Note – Rothesay Windows

Argyll and Bute Council adopted a Technical Working Note (TWN) in December 2015 in order to provide clear and consistent planning advice in relation to the replacement and refurbishment of windows in Listed Buildings and in the Rothesay Conservation Area.

The document took account of Policies LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 16(a), SG LDP ENV 17 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015. It also reflects the contents of the relevant Historic Environment Scotland documents that have been produced in the interim period, including the Historic Environment Policy Statement 2019 and the '*Managing Change in the Historic Environment*' series (specifically windows guidance from 2020). It is also considered to align with the principles of the recently published National Planning Framework 4.

As explained in the TWN, Listed Buildings have been designated by Historic Environment Scotland (HES - formally Historic Scotland), on behalf of Scottish Ministers, specifically due to their special interest. They are vitally important to the distinctive character of Rothesay and contribute significantly to the overall heritage appeal of the Conservation Area. Arguably, they are the most important buildings in the context of the Conservation Area.

During the process of formulating the TWN in 2015, a survey of the Rothesay Conservation Area was carried out and this identified that there were 199 domestic Listed Buildings within the designated area. 148 of these properties were considered to have their traditional fenestration intact with 51 having been the subject of previous window replacements such that the buildings had become devalued in terms of their fenestration.

Historic Environment Scotland's description for 26 Crichton Road notes that "*despite the loss of some balconies, fretwork finials and glazing, Brighton Terrace retains a degree of architectural interest. Still, the symmetrical layout remains and the details which are intact are of good quality*"

One of the features mentioned for the application property in particular is the two-paned timber sash and case glazing and, as a consequence, it is considered that one of the key architectural features of the property is this original fenestration.

Given the above, 26 Crichton Road was one of the Listed Buildings referred to in the TWN survey as having its traditional fenestration retained and no works have been undertaken to the building in the intervening eight year period that would result in a change to this assessment.

In the case of existing traditional timber sliding sash and case fenestration on intact Listed Buildings, the TWN expresses encouragement for the refurbishment or repair of windows; the installation of *'like-for-like'* replacements; or the installation of double-glazed units that are identical to the original windows in all other respects (providing that it can be demonstrated that the existing windows are beyond economic repair).

There may be instances on the rear or secondary elevations of a Listed Building where flexibility would be afforded and the level of flexibility would be assessed on a case-by-case basis particularly in instances where the property has not been identified as having been *'devalued'*.

Based upon an external visual inspection of the existing windows on the front elevation of the application property, the timber frames are showing signs of decay and it is accepted that their replacement is justifiable. As described in Part B above, the proposal for this visually prominent elevation involves the replacement of the thirteen existing windows with units of the same two-paned design; white timber finish; and horn features. The principal differences would be the double swing method of opening and the introduction of double glazing.

Both the applicant, Mr Campbell, and Councillor McCabe (who has expressed support for the proposal) have referred to the granting of Planning Permission for the installation of timber double swing windows at 28 Crichton Road. The details of this approval and subsequent decisions in relation to window replacements at 27 Crichton Road both have relevance to the assessment of the current application.

Previous Applications for Planning Permission and Listed Building Consent

Listed Building Consent (ref: 08/01391/LIB) and Planning Permission (ref: 08/01393/DET) were granted in December 2008 for the installation of timber double swing windows in the ground floor flat of 28 Crichton Road, which is located in the block to the immediate east of the application property. These windows were supported by the Council (contrary to the recommendation of Officers) for the following reasons:

- They were approved as a minor departure to the Development Plan because the windows closely match in appearance the windows which are to be replaced
- They would not have an adverse impact on the special architectural interest of the building
- Due to the distance from and orientation to the public thoroughfare on Crichton Road
- Due to the aged nature of the Development Plans and Central Government advice at that time

- For personal reasons due to the applicants' difficulties with the heavy lifting of the windows

A condition was attached that required the installation of traditional sash and case timber windows in the future should the approved windows need to be replaced.

In 2010, applications for Planning Permission (ref: 10/00382/PP) and Listed Building Consent (ref: 10/00383/LIB) were submitted for the installation of timber double swing windows in the dwellinghouse in the other half of the semi-detached villa at 27 Crichton Road. These applications were refused under delegated powers with the applicant requesting a Local Review Body (LRB) for the Planning refusal and a DPEA appeal for the Listed Building refusal.

The current application essentially involves the installation of the same windows as these other two properties and it is considered to be of significance that, in dismissing the Listed Building appeal for No. 27 in his letter of 17th August 2011, the Reporter (Mr Donald Harris) made the following points:

- The proposed double swing timber windows would appear similar to the existing windows when closed. But when open, they would project from the building. In the Reporter's opinion, they would then be "*unsightly, inharmonious and out of keeping with the character of this dignified building*"
- The houses in Brighton Terrace have mostly retained sliding sash and case windows. The Reporter gave careful consideration as to whether the "*anomaly*" of the double swing units that had been permitted and installed in the lower flat at No. 28 justified an approval for the installation of similar windows in the front elevation of No. 27. He noted that the applications in 2008 were granted as "*a minor departure from policy for personal reasons*" and drew attention to the condition requiring replacement with traditional windows when this became necessary. In these circumstances, he did "*not accept that a precedent has been created which would apply to no.27*"
- He considered that the sliding sash and case timber windows on the front elevation of the building were an essential aspect of its special interest and were very important. He was of the opinion that the impact of the proposed timber double swing windows on that special interest would be substantial
- He mentioned that the building could continue in beneficial use if replacement sliding sash and case timber windows were fitted. He acknowledged that it was "*a matter of regret*" that this option would be more expensive but, whilst unfortunate for the appellant, "*the need to protect the special interest of the building outweighs this consideration*"
- He did not consider that there were any significant benefits for economic growth which would justify departing from the presumption against works that would adversely affect the special interest of the building
- In terms of energy efficiency, the Reporter accepted that the proposed double glazed, double swing units would assist in energy conservation as they would have been an improvement on the existing single glazed sliding sash and case windows.

He noted, however, that the Planning Authority had no objection to the installation of double glazed, sliding sash and case windows and he commented that these “*could be expected to make a similar contribution to energy efficiency*”

Given that the appeal against the refusal of Listed Building Consent was unsuccessful, the Council’s LRB agreed to dismiss the request for review in relation to the Planning Permission and to uphold the Planning Department’s reasons for refusal.

The owner of 27 Crichton Road subsequently received Planning Permission (ref: 11/02257/PP) and Listed Building Consent (ref: 11/02258/LIB) in January 2012 for the installation of timber, sliding sash and case, double glazed windows to the front elevation and timber, double-swing, double glazed windows to the rear and side elevations.

Conclusion

Whilst the DPEA appeal and LRB decisions are nearly twelve years ago, the same issues remain very pertinent to the current proposal. A significant number of documents have been produced in the interim period – Local Development Plan Policies and Supplementary Guidance; the Council’s Technical Working Note on Windows in Rothesay; a variety of HES publications; and National Planning Framework 4 – and all of these reinforce the decisions that were taken by the Council and the DPEA in relation to the proposed window replacements at 27 Crichton Road.

Furthermore, it is not considered that any new factors have been introduced in association with the current proposal that would constitute such a significant and material change in circumstances to allow the current application to be recommended for approval.

The principal issue with the current application relates to the windows that are proposed for the front elevation and what is considered to be an inappropriate method of opening. However, there is also a proposal for some of the windows in the rear part of the building. This elevation of the main dwelling contains five large windows – the two on the upper floor are traditional timber sash and case and appear to be original; the two on the ground floor are timber with a sash and case appearance (method of opening not known) but do not appear to be original; and the arched window in the middle is timber but without the sash and case appearance.

There is a single storey outhouse that projects from the rear elevation and it contains two four-paned, timber, sliding sash and case windows on its east-facing (side) elevation.

The current application proposes the replacement of the two rear upper floor windows and the two windows on the side elevation of the outhouse with upvc double swing units. Given that this part of the building is relatively inconspicuous and has already seen the introduction of replacement glazing, it is considered that there would be scope for the installation of windows with a double swing method of opening. However, as timber is the consistent finish, the introduction of upvc would not be supported and this is referred to in the reason for refusal.

Matters Raised by Proposed Local Development Plan 2 (as modified by Examination)

Proposed Local Development Plan 2 as recommended to be modified by the Examination Report is now a significant material consideration. In this instance, there is sufficient

alignment in the assessment of the proposal against the provisions of the current development plan and PLDP2 (as modified) that the decision to refuse the application is supported by both sets of documents.

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

(R) Reasons why Planning Permission should be refused

The property that is the subject of this application, No. 26 Crichton Road, is a Category C Listed Building that is located in the Rothesay Conservation Area.

Argyll and Bute Council adopted the Rothesay Windows Technical Working Note in 2015 and the subject property was identified as one of the Listed Buildings within the Conservation Area where traditional fenestration had remained intact. The existing sliding sash and case timber windows on the front elevation of the building are considered to be very important and are an essential aspect of its special interest.

Regarding this type of Listed Building, the adopted Technical Working Note advocates the refurbishment/repair of windows or the installation of *'like-for-like'* replacements as the preferred options. In cases where it can be demonstrated that the existing windows are beyond economic repair, the installation of high quality double-glazed units that are identical to the original windows in all other respects are very likely to be permitted.

The windows that are proposed for installation on the front elevation would have a double swing method of opening and, when in the open position, they would project from the external façade of each unit thereby appearing visually incongruous and discordant. In this regard, it is considered that they would detract from the character and appearance of the Listed Building and the wider Rothesay Conservation Area to an unacceptable degree.

The rear elevation of the property is visually inconspicuous and is of less significance in terms of fenestration. However, as timber is the consistent finish, the proposed installation of upvc windows to replace traditional timber sliding sash and case units on the upper floor and in the east-facing (side) elevation of the single storey outhouse is considered to represent an inappropriate intervention.

On the basis of the foregoing, the proposal is contrary to NPF4 Policies 7, 14 and 16 and to Policies LDP STRAT 1, LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 16(a), SG LDP ENV 17 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015. Furthermore, the works are not consistent with Argyll and Bute Council's adopted Rothesay Windows Technical Working Note 2015 nor with the expectations of Historic Environment Scotland through their 'Managing Change in the Historic Environment' guidance on windows.

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

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland: No

Author of Report: Steven Gove

Date: 19th June 2023

Reviewing Officer: Kirsty Sweeney

Date: 13th June 2023

Fergus Murray
Head of Development and Economic Growth

GROUNDS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 22/01848/PP

1. The property that is the subject of this application, No. 26 Crichton Road, is a Category C Listed Building that is located in the Rothesay Conservation Area.

Argyll and Bute Council adopted the Rothesay Windows Technical Working Note in 2015 and the subject property was identified as one of the Listed Buildings within the Conservation Area where traditional fenestration had remained intact. The existing sliding sash and case timber windows on the front elevation of the building are considered to be very important and are an essential aspect of its special interest.

Regarding this type of Listed Building, the adopted Technical Working Note advocates the refurbishment/repair of windows or the installation of *'like-for-like'* replacements as the preferred options. In cases where it can be demonstrated that the existing windows are beyond economic repair, the installation of high quality double-glazed units that are identical to the original windows in all other respects are very likely to be permitted.

The windows that are proposed for installation on the front elevation would have a double swing method of opening and, when in the open position, they would project from the external façade of each unit thereby appearing visually incongruous and discordant. In this regard, it is considered that they would detract from the character and appearance of the Listed Building and the wider Rothesay Conservation Area to an unacceptable degree.

The rear elevation of the property is visually inconspicuous and is of less significance in terms of fenestration. However, as timber is the consistent finish, the proposed installation of upvc windows to replace traditional timber sliding sash and case units on the upper floor and in the east-facing (side) elevation of the single storey outhouse is considered to represent an inappropriate intervention.

On the basis of the foregoing, the proposal is contrary to NPF4 Policies 7, 14 and 16 and to Policies LDP STRAT 1, LDP 3 and LDP 9 and Supplementary Guidance policies SG LDP ENV 16(a), SG LDP ENV 17 and SG LDP Sustainable Siting and Design Principles of the Argyll and Bute Local Development Plan 2015. Furthermore, the works are not consistent with Argyll and Bute Council's adopted Rothesay Windows Technical Working Note 2015 nor with the expectations of Historic Environment Scotland through their 'Managing Change in the Historic Environment' guidance on windows. The proposal is also not consistent with Policies 4, 5, 9, 10, 15, 16 and 17 of the Proposed Local Development Plan 2 which is a significant material consideration.

APPENDIX B – LISTED BUILDING APPEAL DECISION LETTER DATED 17/08/2011

Directorate for Planning and Environmental Appeals

Appeal Decision Notice

T: 01324 696 400
F: 01324 696 444
E: dpea@scotland.gsi.gov.uk



Decision by Donald Harris, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-130-10
- Site address: Braehome, 27 Crichton Road, Rothesay PA20 9JR
- Appeal by Mr Donald MacNeil against the decision by Argyll and Bute Council
- Application for listed building consent 10/00383/LIB dated 9 March 2010 refused by notice dated 31 March 2011
- The works proposed: installation of replacement timber windows
- Date of site visit by Reporter: 2 August 2011

Date of appeal decision: 17 August 2011

Decision

I dismiss the appeal and refuse listed building consent.

Preliminary

1. The application is for the replacement of existing sliding sash and case timber windows with double swing timber windows. The application refers to windows on the rear elevation of the house, as well as the front. However, the planning authority has made it clear that, in accordance with established policies, there would be no objection to the replacement of windows on the rear elevation with double swing timber windows. I accept this, so in the following reasoning I concentrate on the proposal as it affects the front elevation.

Reasoning

2 The determining issues in this appeal are:-

- (a) the effect on the listed building, bearing in mind the provisions of section 14(2) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. I am required by the Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and



(b) the effect on the Rothesay Conservation Area, bearing in mind the provisions of section 64 of the Act. This requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Listed Building

3. No. 27 Crichton Road is a semi-detached villa listed Category C(S) – buildings of local importance. It is paired with no.28, forming a handsome symmetrical building on rising ground. It forms part of Brighton Terrace, which consists of six pairs of semi-detached Victorian villas (nos. 23 – 34). Although set back from the road these substantial buildings dominate the street scene. The terrace is described in the council's *Rothesay Window Policy Statement* as "a symmetrical row of semi-detached villas with green or white painted timber detailing and fenestration. Some modern replacements but mostly intact". Historic Scotland (information supplementary to the statutory list) notes that the details of the terrace which are intact are of good quality.

4. Specifically, Historic Scotland notes the two-pane timber sash and case glazing of nos.27-28. The windows are certainly a major feature of the front elevation. The timber frames in no. 27 show signs of decay and I accept that their replacement is desirable. The proposed double swing timber windows would appear similar to the existing windows when closed. But when open, they would project from the building. In my opinion they would then be unsightly, inharmonious and out of keeping with the character of this dignified building.

5. The appellant points to the various styles, types and openings of window on Crichton Road. However, I do not think this justifies the proposal, particularly as the houses in Brighton Terrace have mostly retained sliding sash and case windows. There is, however, a notable exception: double swing units have been permitted in the lower flat at no.28 adjoining. This creates an anomaly and I have considered carefully whether it justifies the installation of similar windows in the front elevation of no.27. I note that this permission was given as a minor departure from policy for personal reasons. Also, it is subject to a condition requiring replacement with traditional windows when replacement becomes necessary. In these circumstances, I do not accept that a precedent has been created which would apply to no.27.

6. In considering this issue, I take account of the four points set out at paragraph 3.49 of Historic Scotland's *Scottish Historic Environment Policy (SHEP)*. My conclusions are as follows:-

- (a) The sliding sash and case timber windows on the front elevation of the building are an essential aspect of its special interest and are very important.
- (b) The impact on that special interest is substantial, as discussed above.
- (c) The building could continue in beneficial use if replacement sliding sash and case timber windows were fitted. In so far as this would be more expensive, it is a

matter of regret. Unfortunately for the appellant, the need to protect the special interest of the building outweighs this consideration.

(d) There are no significant benefits for economic growth which would justify departing from the presumption against works that adversely affect the special interest of the building.

7. I therefore conclude that the proposal would be inconsistent with the preservation of the listed building and is unacceptable.

Conservation Area

8. I have already concluded that when open, the proposed windows would be unsightly, inharmonious and out of keeping with the character of the building. For this reason, I also conclude that the proposal would fail to preserve or enhance the character and appearance of the Rothesay Conservation Area, which is typified by the number of distinguished Victorian buildings looking over the Firth of Clyde and up Loch Striven.

Other matters

9. I have considered all the other points put forward by the parties, but find none which persuades me to arrive at a different decision. The appellant has expressed concern that he has been discriminated against by the refusal of the application. I am not persuaded that this is the case, as the planning authority clearly regarded their decision in respect of the ground floor flat of no. 28 as a minor departure from policy for personal reasons. Moreover, it sought the replacement of the permitted windows with traditional windows when replacement becomes necessary. Although the appellant claims that his family cannot open sash and case windows, I am not convinced that this would be true of properly fitted replacements.

10. I am therefore not persuaded that the appellant has demonstrated personal reasons which would justify the necessary departure from policy. The policy background includes not only the statutory obligations referred to in paragraph 2 above, but also the advice in Historic Scotland's *Scottish Historic Environment Policy (SHEP)* and the development plan and other policies named in the planning authority's reasons for refusal of listed building consent.

11. Regarding energy efficiency, I accept that the proposed double glazed swing units would assist in energy conservation. In this respect they would be an improvement on the existing single glazed sliding sash and case windows. However, I note that the planning authority would have no objection to the installation of double glazed sliding sash and case windows. These could be expected to make a similar contribution to energy efficiency.



Overall Conclusion

12. The proposed extension would fail to preserve either the listed building or the character and appearance of the Rothesay Conservation Area. Accordingly, the appeal fails.

Donald Harris
Reporter

