

**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: 23/00652/PP**

**Planning Hierarchy: Local Application**

**Applicant: Ms Gail Crawford**

**Proposal: Alterations and extensions**

**Site Address: 4 West Lennox Drive Helensburgh Argyll And Bute G84 9AD**

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## **SUPPLEMENTARY REPORT NO. 2**

### **1.0 INTRODUCTION:**

This report provides Members with an update following their decision at the 7<sup>th</sup> February 2024 pre-determination hearing to continue the hearing at a future date.

### **2.0 ARGYLL AND BUTE LOCAL DEVELOPMENT PLAN 2:**

It is highlighted to Members that, subsequent to their decision to continue the hearing, the Argyll and Bute Local Development Plan 2 (LDP2) was adopted on 28<sup>th</sup> February 2024. As of that date, the 'Development Plan' for Argyll and Bute (excluding the area covered by the Loch Lomond and the Trossachs National Park Authority) is National Planning Framework 4 and LDP2 which require to be applied holistically with preference afforded to LDP2, as the most recent expression of policy, in the event of any conflict between the two policy documents. For the avoidance of doubt, it is also confirmed that the Argyll and Bute Local Development Plan 2015 and its associated Supplementary Guidance are now superseded and should not be afforded significant material weight in the determination of applications.

Having regard to the above, the determination of this application now requires to be undertaken with primary reference to NPF4 and LDP2 as the 'Development Plan'. It is noted that within the main Report of Handling and Supplementary Report number 1, officers had previously taken into account and applied the relevant policies of LDP2 as this was a significant material consideration at that time. The commentary provided by officers confirms that there is no substantive difference between the relevant provisions of the now superseded ABC LDP 2015 and the recently adopted LDP2 in so far as these are relevant to the current application, with the single exception that the policies of LDP2 are generally more favourable of the proposed contemporary extensions. Previously it had been identified that ABC LDP 2015 SG LDP Sustainable Siting and Design (section 8.2 part (d)) noted that; *Flat-roofed extensions, and multiple dormer window extensions, which give the appearance of a flat roof will not be permitted where they do not complement the existing house style and*

*design.* Officers considered that the proposed flat-roofed extensions in this case provided a contrast in design with a clear and deliberate design delineation between the old and the new and welcomed this and considered in this instance the flat-roofed extensions complemented the existing house. So while officers considered the proposal to be compliant with SG LDP 2015, it is now noted that the provisions of ABC LDP 2015 SG LDP Sustainable Siting and Design is no longer relevant and that under LDP2 there is no such policy in terms of flat-roofed extensions.

As per the commentary within the original Report of Handling, officers consider LDP2 to be more favourable of the design of the proposal. The design policy in LDP2 Policy 10 (Design: All Development) notes that the design of any development must:

- Demonstrate an understanding of and appropriate response to the proposed development site and wider context including consideration of character and, where applicable, urban grain; and
- Acknowledge the scale, mass and spirit of nearby buildings but steer clear of mimicry and pastiche; and
- Incorporate existing and enhancing features where applicable; and
- Avoid falsification of period details; and
- Use appropriate proportions for building elements and details including, where applicable, massing and fenestration; and
- Use materials that are harmonious with the context but embody honesty and legibility of contemporary design; and
- Consider the embodied energy and durability of proposed materials; and
- Incorporate the use of flood resistant and resilient materials and construction methods.

This policy puts greater weight on avoiding pastiche designs and falsification of period details and promotes the honesty and legibility of contemporary design. The proposed extensions would therefore comply with these policy's given the clear delineation between the old and the new as well as the overall ethos of the contemporary design with the applicants not wishing to create a pastiche design that mimics the traditional features of the existing house.

In summary, it is confirmed that the adoption of LDP2 does not give rise to any substantive change to the matters considered within the assessment previously undertaken by officers in respect of this particular application. Notwithstanding the adoption of LDP2 during the determination process, the proposal continues to be viewed as consistent with the relevant provisions of the Development Plan (NPF 4 and LDP2) and the recommendation of officers remains that planning permission should be granted subject to the conditions and reasons as appended to the main Report of Handling.

### **3.0 ADDITIONAL REPRESENTATIONS:**

It is highlighted to Members, that subsequent to the issuing of supplementary report number 1, which covered any additional representations received after the main report of handling was published, we received further representations. This has resulted in a total of 30 (29 objections and 1 representation). The 2 subsequent representations were both from existing objectors. Details of the comments **not** addressed within the main report or supplementary report number 1 are as follows;

### **Objection comments were received from:**

Further objection from; Alastair Wilson 7 Upper Colquhoun Street Helensburgh Argyll and Bute G84 9AQ 07.02.2024

Further objection from; Suzanne Hamilton Whincroft 2A Upeer Colquhoun Street Helensburgh 07.02.2024

### **Summary of points raised:**

- Objector notes that the local authority have stated the wrong date that the provisional TPO for the Copper Beech tree within the neighbouring garden came into force within supplementary report number 1. Further notes that the wrong date was input as a deliberate act to mislead members

*Comment; please see note 4.0 (proposed tree preservation order) below in regards to this and there was no deliberate act to mislead members.*

- Objector asks if the local authority have investigated the applicant's claims in terms of tree roots needing to be severed around service runs/pipework.

*Comment; the local authority have two tree reports one from the objectors and one from the applicants, these reports have been made by qualified arborists and are considered to be expert opinions which have informed the local authorities recommendations in regards to this tree.*

- Objector comments that the drainage runs which the tree roots are interfering with are now defunct and therefore, there is no reason to disturb the tree roots to this area.

*Comment; the applicants have only undertaken investigative works to understand what is wrong with the current drainage onsite leading to the issues with water ingress into the property. These works were investigated under a separate enforcement matter and a stop notice was issued. Subsequently the applicant's submitted drainage plans to show a revised drainage scheme as part of the application. These drawings show the re-use of the drain in this area. Since discovering that the tree roots were in fact interfering with this drain which may be exacerbating the issue with drainage the applicants submitted a revised drainage scheme which would re-route this drain under the proposed two storey extension. This would mean less damage to this tree than if they repaired the drain where it currently lies.*

- Objector asks how the local authority can approve this application when it clearly impinges on the root protection area of a tree within a Conservation area which is subject of a provisional TPO.

*Comment; this has been addressed within supplementary report number 1.*

- Objector passes comments on the applicants tree report as summarised; Objector confirms that the recent branch removal referred to within the applicant's tree report was undertaken in 2019. Objector notes that the applicants tree report states that the trees roots in the areas where the branch removal occurred would have resulted in the reduction of the trees reliance of these roots, however, the objector states that if this is the case then why these roots are still present and it is not the case therefore, that these roots are important. Objector notes that whilst the tree

roots may be exploiting faulty drains they are reliant not on these drains but upon all of the resources within the root protection area. Objector notes that if these roots are considered to be of secondary importance to the vitality of the tree and that the roots within the development area can and should be severed without significantly damaging the vitality of the tree then why does the British Standard recommend a 652m<sup>2</sup> root protection area. Objector notes that in reality the proposed development within the root protection area will impinge upon the tree more extensively than the severing of roots effecting drains. Objector questions why does the British Standard state in Section 7.1.1 that construction within the root protection area should accord with the principle that the tree and soil structure take priority, and the most reliable way to ensure this is to preserve the root protection area completely undisturbed. Lastly the objector notes that the section within the applicants tree report which states "In the following section it is assumed that the design has taken into account the constraints represented by the retained trees and that any conflicts with the vitality of the retained trees has been recognised." is an error as the design was submitted in the absence of a preliminary tree surveys.

*Comment; these comments are noted, however, we believe these comments have previously been addressed with the main report of handling, subsequent supplementary report number 1 and above. As such our recommendation for approval subject to the revised set of conditions as contained within supplementary report number 1 stand.*

- Objector has noted that their insurers have advised that '*in the event of approval of the application, and works commencing on the west side of 4 West Lennox Drive, where there is any subsequent damage to the beech tree, to property and/or persons, our insurers will want to understand the extent of works within the tree root perimeter, the decision making process leading to such works, and the associated insurance position of the parties impacted in order to help our insurers establish any insurance claim position and final liability*'

*Comment; this is a private civil matter.*

**Note:** *All other comments are addressed in the main report of handling and subsequent supplementary report number 1. Full details of all representations can be view on the Council's website at [www.argyll-bute.gov.uk](http://www.argyll-bute.gov.uk). It is considered that the points that have been made are addressed appropriately above.*

#### **4.0 PROPOSED TREE PRESERVATION ORDER:**

The proposed Tree Preservation Order (TPO) for the copper beech tree within the garden grounds of 2a Upper Colquhoun Street, Helensburgh (the neighbouring property to the application site), which PPSL members recommended approval for on the 18th October 2023 is subject of a TPO as of the 24<sup>th</sup> January 2024. It was previously advised verbally and within supplementary report number 1 that this TPO would come into effect on the 8<sup>th</sup> of February 2024, however, this was an error and this date should have been noted as the 24<sup>th</sup> of January 2024. This error occurred as officers mistook the date the TPO would be published, the 8<sup>th</sup> of February, as the date it came into force.

Subsequent to this there have been a few matters which require rectification in relation to the serving of the TPO. The TPO served contained an error in that the subject tree was incorrectly described as a Cedar Beech and not the correct Copper Beech. The TPO order has been re-

served to all interested parties on the 8<sup>th</sup> of March 2024, with a covering letter pointing out the error. The TPO order will not be modified at this stage and should the order be confirmed in due course, the revised name of the tree species will be confirmed under modification and this error will be rectified at that time. Please also note that a new advert will appear in the newspaper on Thursday 14<sup>th</sup> March and a certified copy of the Order will be displayed in the Helensburgh Civic Centre for 28 days for public viewing from this date.

#### **5.0 RECOMMENDATION:**

It is recommended that planning permission be granted subject to the revised list of conditions and reasons as contained within supplementary report number 1.