

**MINUTES of MEETING of BUTE AND COWAL AREA COMMITTEE held in the EAGLESHAM HOUSE, MOUNTPLEASANT ROAD, ROTHESAY on TUESDAY, 4 NOVEMBER 2008**

**Present:** Councillor B Marshall (Chair)

Councillor A MacAlister	Councillor L Scoullar
Councillor R Macintyre	Councillor R Simon
Councillor A McNaughton	Councillor I Strong
Councillor J McQueen	Councillor J R Walsh

**Attending:** Shirley macLeod, Area Corporate Services manager  
David Eaglesham, Area Team Leader Development Control  
Alan Kerr, Network and Environment Manager  
George Craig, Assistant Roads & Amenity Services Manager  
Caroline Sheen, Estates Surveyor

Chief Inspector Andy Mosley, Strathclyde Police.

**1. APOLOGIES**

None

**2. DECLARATIONS OF INTEREST**

Councillor J R Walsh declared a non financial interest in agenda item 7f by reason of a relative being an objector .

**3. MINUTES**

**(a) MINUTE OF AREA COMMITTEE OF 6TH OCTOBER 2008**

The Minute of the Area Committee of 6<sup>th</sup> October 2008 was approved as a correct record.

**4. CORPORATE SERVICES**

**(a) VERBAL REPORT ON DUNOON - GOUROCK FERRY SERVICE**

The Committee heard an update from the Area Corporate Services Manager on the Gourock/Dunoon Ferry Service.

Decision

The Committee noted the detail provided on this matter.

**(b) MEMBER REPRESENTATION ON CLACHAN FLATS WINDFARM TRUST**

Members heard from the Area Corporate Services Manager on the appointment of an elected Member from Ward 6, to the newly formed Clachan Flats Wind Farm Trust.

### Decision

The Committee agreed to appoint Councillor Bruce Marshall to be the Council representative on the Clachan Flats Wind Farm Trust.

(Reference: Report by the Area Corporate Services Manager dated 20<sup>th</sup> October 2008 – submitted)

#### (c) **BUTE & COWAL AREA PLAN**

The Area Corporate Services Manager explained that the Area Plan template had changed and that this item would come to the December Area Committee.

### Decision

The Committee noted the detail provided.

## **5. OPERATIONAL SERVICES**

#### (a) **REVISION OF CAPITAL RECONSTRUCTION PROGRAMME 2008/ 2009**

Members heard from the Assistant Amenity Services Manager on the revision of the Roads Capital Budget in the Bute and Cowal Area during 2008/09.

### Decision

The Committee:

- i. Noted and approved the proposed revision to the schemes as identified in Appendix A.
- ii. Asked that their concerns over the scrutiny of the decision making process be recorded in the minutes.
- iii. Asked that Eccles Road be kept on the programme and completed after the Renfield Residential Home development has been completed.

(Reference: Report by the Operations Manager – submitted and tabled)

#### (b) **ARGYLL ROAD, DUNOON: RESIDENTS PARKING**

Members heard from the Network and Environment Manager on the parking problems relating to residential parking on Argyll Road, Dunoon.

### Decision

The Committee agreed to resources being allocated to promote a residential permit parking scheme.

(Reference: Report by the Head of Roads & Amenity Services dated 23<sup>rd</sup> October 2008 – submitted)

## 6. PUBLIC AND COUNCILLOR QUESTION TIME

Mr Boreland from the Buteman asked the Committee about the appeal for the Inchmarnock Fish Farm and David Eaglesham advised that a pre public enquiry meeting was timetabled for the 24<sup>th</sup> February 2009.

Aileen MacNicol from the Dunoon Observer asked if all the Outline Business Cases had been submitted on time and was the decision going to be made on the 27<sup>th</sup> November and was advised that both dates would be

Members asked Chief Inspector Mosley about speeding cars and the Chief Inspector advised Members that if they had a particular problem area to inform him and he would put out his monitoring equipment and then put resources in that area if the evidence identifies a problem.

Members asked about the conditions of the yellow and white lines in the Bute and Cowal area and George Craig gave advice. George Craig also updated Members on the reconstruction of the B836, Rankins Brae and Queen Street.

Aileen MacNicol from the Dunoon Observer asked what was happening with the yellow lines in Alexander Street, Dunoon and Alan Kerr advised that his Department were starting a consultation of the whole Dunoon area.

## 7. DEVELOPMENT SERVICES

- (a) **OUTLINE PLANNING APPLICATION 08/01077/OUT, MR ROBERT MCSEVENEY, LAND TO THE REAR OF PORTVASGO, CROMLECH ROAD, SANDBANK**

### Decision

The application be continued to the December Area Committee to allow Members time to formulate a competent motion.

(Reference: Report by the Head of Planning Services dated 25<sup>th</sup> September 2008 – submitted)

- (b) **PLANNING APPLICATION 08/01064/DET, FYNE HOMES, 14-26 RUSSELL STREET (EVEN NUMBERS ONLY) AND 19 -23 MILL STREET, ROTHESAY, ISLE OF BUTE**

### Motion

That the development as proposed be accepted as it is consistent with both the aims and intentions of STRAT DC9 in that the development in terms of the window design and opening mechanism will not undermine the Historic, Architecture or Cultural qualities of the Historic environment due to the design of the proposed windows.

That as the character and appearance of the conservation area will suffer no detriment due to the design and window opening arrangement of the

proposed windows, the proposal is consistent with POL BE6 of the Bute Local Plan.

The proposed development is of sufficient quality in terms of design and window opening arrangement, will preserve and enhance both the character and appearance of the Listed Building, will not adversely impact on the Conservation Area and be consistent with Policy ENV 14, including quality which will not be inconsistent with the intention of Historic Scotland's Memorandum of Guidance.

Proposed: Councillor J R Walsh  
Seconded: Councillor I Strong

The Area Corporate Services Manager and Area Team Leader, Development Control advised Members that this was not a competent motion and advised that it would be recorded in the minutes that this advice had been given to Members.

The Chair ruled that the motion was competent.

#### Decision

The Committee unanimously agreed with the Motion and referred the application to the Protective Services and Licensing Committee.

(Reference: Report by the Head of Planning Services dated 26<sup>th</sup> September 2008 – submitted)

- (c) **LISTED BUILDING CONSENT 08/01069/LIB, FYNE HOMES, 14 -16 RUSSELL STREET (EVEN NUMBERS ONLY) AND 19 - 23 MILL STREET, ROTHESAY, ISLE OF BUTE**

#### Motion

That the development as proposed be accepted as it is consistent with both the aims and intentions of STRAT DC9 in that the development in terms of the window design and opening mechanism will not undermine the Historic, Architecture or Cultural qualities of the Historic environment due to the design of the proposed windows.

That as the character and appearance of the conservation area will suffer no detriment due to the design and window opening arrangement of the proposed windows, the proposal is consistent with POL BE6 of the Bute Local Plan.

The proposed development is of sufficient quality in terms of design and window opening arrangement, will preserve and enhance both the character and appearance of the Listed Building, will not adversely impact on the Conservation Area and be consistent with Policy ENV 14, including quality which will not be inconsistent with the intention of Historic Scotland's Memorandum of Guidance.

Proposed: Councillor J R Walsh

Seconded: Councillor I Strong

The Area Corporate Services Manager and Area Team Leader, Development Control advised Members that this was not a competent motion and advised that it would be recorded in the minutes that this advice had been given to Members.

The Chair ruled that the motion was competent.

### Decision

The Committee unanimously agreed with the Motion and referred the application to the Protective Services and Licensing Committee.

(Reference: Report by the Head of Planning Services dated 26<sup>th</sup> September 2008 – submitted)

- (d) **PLANNING APPLICATION 08/01393/DET, PETER GARDNER, GROUND FLOOR FLAT, 28 CRICHTON ROAD, ROTHESAY, ISLE OF BUTE**

### Motion

Planning applications require to be determined in accordance with the development plan unless material considerations dictate otherwise. The development plan comprises the Bute Local Plan (adopted in 1991) and the Argyll and Bute Structure Plan (approved in 2002).

#### **Bute Local Plan**

Little weight should now be attached to the Bute Local Plan because of its age, since SPP1 requires that *“Reviews and revisions of local plans should be completed within 5 year of adoption, so that they provide an up to date basis for guiding investment and for development control decisions”*.

Moreover, the Regulations also state that where the provisions of two plans conflict, the provisions of the latter should prevail. Since Policy STRAT DC9 of the Argyll and Bute Structure plan, while promoting protection of the historic environment, states that *“More detailed policy and proposals for the historic environment will be set out in the Local Plan”* there is clearly no endorsement in the Structure Plan of the policies in the aged Bute Local Plan (or, for that matter, the Design Guide on Replacement Windows 1991, Historic Scotland’s Memorandum of Guidance on Listed Buildings and Conservation Areas 1998, NPPG 18 and the Rothesay Window Policy Statement).

#### **Argyll and Bute Structure Plan**

Consequently, so far as the development plan is concerned, all that can be relied upon is Policy STRAT DC9 of the Argyll and Bute Structure Plan which, in broad terms, merely exhorts protection of the historic environment. Even so, the Structure Plan itself is dated since SPP1 advises that *“Structure plans should be reviewed at least every 5 years, and policies formally reaffirmed or amended to reflect changing conditions and expectations”*.

#### **Material Considerations**

SPP1 advises that the range of considerations which might be considered material in planning terms is, in practice, very wide and falls to be determined in the context of each case.

So far as these material considerations are concerned, we are advised that considerable weight can now be given to the Argyll and Bute Local Plan which is now at an advanced stage towards adoption. Policies LP ENV 13a and LPENV14 are relevant. However, although they endorse Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas 1998, there is no endorsement of the Design Guide on replacement windows 1991 or the Rothesay Window Policy Statement. These latter non-statutory policy documents can therefore be discounted.

Historic Scotland's **Memorandum of Guidance on Listed Buildings and Conservation Areas** is another material consideration, both by virtue of being extant government policy, supported by NPPG 18, and by the endorsement of the emerging Local Plan. The Head of Planning's report fairly sets out that the current proposal is contrary to the Memorandum. However, the Memorandum dates from 1998 and may itself be regarded as dated. Both it and NPPG 18 are currently subject to review. Ten years since its publication, public expectations in terms of window performance and maintenance have moved on. The Memorandum should therefore be applied with discretion.

As fairly set out in the Head of Planning's report, the subject property is a flat within a Category C(S) Listed Building, one of several within Brighton Terrace which remains largely intact. In these handsome, Alexander Thomson style villas, the fenestration is but one element included in the listing description. However, I consider that the contemporary expectations of double glazing, with its advantages of improved thermal insulation and increased comfort, should be allowed to prevail over historic authenticity. The proposed equally divided windows will, when closed, give the appearance of the existing sash and case windows and I am not persuaded that, when the windows are open, the proposed double hung method of opening will have an unduly adverse impact on the appearance and integrity of the listed building, Brighton Terrace or, indeed, the Rothesay Conservation Area. Since the building is set 14 metres approximately from the road and the line of sight is such that the windows in an open position will barely be discernible in a road which has major window replacement along its length.

I therefore move that the applications for Listed Building Consent and Planning Permission be granted as a minor departure subject to the standard conditions and reasons because the proposed windows closely match in appearance the windows which are to be replaced, would not have an adverse impact on the special architectural interest of the building and therefore can be justified in terms of Policy STRAT DC9 of the Argyll and Bute Structure Plan which prevails over the aged Bute Local Plan.

Proposed: Councillor Len Scoullar  
Seconded: Councillor Robert Macintyre

The Area Corporate Services Manager and Area Team Leader,

Development Control advised Members that this was not a competent motion and advised that it would be recorded in the minutes that this advice had been given to Members.

The Chair ruled that the motion was competent.

### Decision

The Committee agreed with the Motion, and it was noted that this application would be referred to the Protective Services and Licensing Committee.

Councillor Marshall, having moved an amendment which failed to find a seconder required his dissent from the foregoing decision to be recorded.

(Reference: Report by the Head of Planning Services dated 26<sup>th</sup> September 2008 – submitted)

- (e) **LISTED BUILDING CONSENT 08/01391/LIB, PETER GARDNER, GROUND FLOOR FLAT, 28 CRICHTON ROAD, ROTHESAY, ISLE OF BUTE**

### Motion

Planning applications require to be determined in accordance with the development plan unless material considerations dictate otherwise. The development plan comprises the Bute Local Plan (adopted in 1991) and the Argyll and Bute Structure Plan (approved in 2002).

#### **Bute Local Plan**

Little weight should now be attached to the Bute Local Plan because of its age, since SPP1 requires that *“Reviews and revisions of local plans should be completed within 5 year of adoption, so that they provide an up to date basis for guiding investment and for development control decisions”*.

Moreover, the Regulations also state that where the provisions of two plans conflict, the provisions of the latter should prevail. Since Policy STRAT DC9 of the Argyll and Bute Structure plan, while promoting protection of the historic environment, states that *“More detailed policy and proposals for the historic environment will be set out in the Local Plan”* there is clearly no endorsement in the Structure Plan of the policies in the aged Bute Local Plan (or, for that matter, the Design Guide on Replacement Windows 1991, Historic Scotland’s Memorandum of Guidance on Listed Buildings and Conservation Areas 1998, NPPG 18 and the Rothesay Window Policy Statement).

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## **Material Considerations**

SPP1 advises that the range of considerations which might be considered material in planning terms is, in practice, very wide and falls to be determined in the context of each case.

So far as these material considerations are concerned, we are advised that considerable weight can now be given to the Argyll and Bute Local Plan which is now at an advanced stage towards adoption. Policies LP ENV 13a and LP ENV 14 are relevant. However, although they endorse Historic Scotland's Memorandum of Guidance on Listed Buildings and Conservation Areas 1998, there is no endorsement of the Design Guide on replacement windows 1991 or the Rothesay Window Policy Statement. These latter non-statutory policy documents can therefore be discounted.

Historic Scotland's **Memorandum of Guidance on Listed Buildings and Conservation Areas** is another material consideration, both by virtue of being extant government policy, supported by NPPG 18, and by the endorsement of the emerging Local Plan. The Head of Planning's report fairly sets out that the current proposal is contrary to the Memorandum. However, the Memorandum dates from 1998 and may itself be regarded as dated. Both it and NPPG 18 are currently subject to review. Ten years since its publication, public expectations in terms of window performance and maintenance have moved on. The Memorandum should therefore be applied with discretion.

As fairly set out in the Head of Planning's report, the subject property is a flat within a Category C(S) Listed Building, one of several within Brighton Terrace which remains largely intact. In these handsome, Alexander Thomson style villas, the fenestration is but one element included in the listing description. However, I consider that the contemporary expectations of double glazing, with its advantages of improved thermal insulation and increased comfort, should be allowed to prevail over historic authenticity. The proposed equally divided windows will, when closed, give the appearance of the existing sash and case windows and I am not persuaded that, when the windows are open, the proposed double hung method of opening will have an unduly adverse impact on the appearance and integrity of the listed building, Brighton Terrace or, indeed, the Rothesay Conservation Area. Since the building is set 14 metres approximately from the road and the line of sight is such that the windows in an open position will barely be discernible in a road which has major window replacement along its length.

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Proposed: Councillor Len Scoullar

Seconded: Councillor Robert Macintyre



The Area Corporate Services Manager and Area Team Leader, Development Control advised Members that this was not a competent motion and advised that it would be recorded in the minutes that this advice had been given to Members.

The Chair ruled that the motion was competent.

#### Decision

The Committee agreed with the Motion, and it was noted that this application would be referred to the Protective Services and Licensing Committee.

Councillor Marshall, having moved an amendment which failed to find a seconder required his dissent from the foregoing decision to be recorded.

(Reference: Report by the Head of Planning Services dated 26<sup>th</sup> September 2008 – submitted)

- (f) **OUTLINE PLANNING APPLICATION 08/00577/OUT, MR & MRS DOCHERTY, LAND EAST OF DAVDISON PLACE, NORTH CAMPBELL ROAD, INNELLAN**

Having declared an interest Councillor J R Walsh left the meeting while this items was being discussed.

#### Decision

The planning application be refused in terms of the report by the Head of Planning Services.

(Reference: Report by the Head of Planning Services dated 27<sup>th</sup> October 2008 – submitted)

- (g) **PLANNING APPLICATION 08/01421/DET, D M RENTALS, GARDEN GROUND OF 58 MCARTHUR STREET, DUNOON**

#### Decision

The application be continued to the December Area Committee to allow Members an informal site familiarisation visit.

(Reference: Report by the Head of Planning Services dated 27<sup>th</sup> October 2008 – submitted)

- (h) **DELEGATED DEVELOPMENT CONTROL AND BUILDING CONTROL DECISIONS**

The Committee noted Delegated Development Control and Building Control Decisions made since the last meeting.

## 8. EXEMPT ITEMS

### (a) **GAPSITE, 7/15 GALLOWGATE, ROTHESAY**

The Committee heard an update report from the Estates Surveyor on the gapsite at 7/15 Gallowgate, Rothesay.

#### Decision

The Committee noted the recommendation in the report by the Director of Corporate Services.

(Reference: Report by the Director of Corporate Services dated 15<sup>th</sup> October 2008 – submitted)

### (b) **PROPOSED GRANT OF SERVITUDE RIGHT OF ACCESS**

The Committee heard from the Estates Surveyor on the proposed grant of servitude right of access to the Kilfinan Community Forest Company.

#### Decision

The Committee agreed to the recommendations in the report by the Director of Corporate Services.

(Reference: Report by the Director of Corporate Services dated 15<sup>th</sup> October 2008 – submitted)

### (c) **ENFORCEMENT QUARTERLY REPORT**

#### Decision

Quarterly Enforcement Report - Noted