

**STATEMENT OF CASE**  
**FOR**  
**ARGYLL AND BUTE COUNCIL**  
**LOCAL REVIEW BODY**

**REFUSAL OF PLANNING PERMISSION FOR ALTERATIONS TO GARAGE TO PROVIDE 2 NO. FLATS AT UPPER LEVEL AND EXTERNAL ALTERATIONS AT 22 JANE STREET, DUNOON, ARGYLL PA23 7HX.**

**LOCAL REVIEW BODY REF. 11/0001/LRB**

**PLANNING PERMISSION APPLICATION**  
**REFERENCE NUMBER 10/01434/PP**

**25<sup>th</sup> January 2011**

## **STATEMENT OF CASE**

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Cowal Building and Plumbing Supplies.

An application for planning permission (ref. 10/01434/PP) for alterations to the garage to provide 2 no. flats at upper level and external alterations at 22 Jane Street, Dunoon ('the appeal site') was refused under delegated powers on 12<sup>th</sup> November 2010. The planning application has been appealed and is the subject of referral to a Local Review Body.

## **DESCRIPTION OF SITE**

The subject of this application is a single storey garage repair workshop on Jane Street that is bounded by Cowal Building and Plumbing builder's yard to the south and west, to the north by a two-storey flatted block and to the east by lock-ups and commercial businesses and yards. The garage was previously owned and operated by Pearce and McKechnie but following the closure of this business in April 2009, it has been used as a motor vehicle garage by the appellant.

## **SITE HISTORY**

Subject premises were in use recently as a motor repair garage but closed in April 2009. Lawful use is a garage repair workshop (Class 5).

Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations was granted on 9<sup>th</sup> June 2009 but has not been implemented.

## **STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED**

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, 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**

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether the level of amenity to be provided for the proposed flats is acceptable given that this is a new-build scheme and not a conversion.
- Whether the introduction of a residential use above an existing garage is compatible in land use and policy terms.
- Whether bin storage and noise related issues have been addressed.

- Whether the proposal will have any impact on the surrounding area i.e. existing land uses and car parking provision.

The Report of Handling (Appendix 1) sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by statutory and other consultees (Appendix 2) are attached for the purpose of clarity.

## **REQUIREMENT FOR ADDITIONAL INFORMATION AND HEARING**

It is considered that no new information has been raised in the appellants' submission which would result in the Planning Department coming to a different determination of this proposal. The issues raised were covered in the Report of Handling which is contained in Appendix 1. As such it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues and has not been the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

## **COMMENT ON APPELLANT'S SUBMISSION**

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following points are noted in response to the appellants points 1-4. :

1. *"Please note that our client previously obtained planning permission for the erection of a pitched roof (ref. no. 09/00633/DET) for this property and now looks to include construction of 2 no. flats whilst carrying out these works. Our client fully intends to retain the ownership of the garage and flats with the view to renting the flats out".*

Comment: Planning permission (ref. 09/00633/DET) for the erection of a pitched roof and external alterations to the former Pearce and McKechnie Garage (Class 5) was granted on 9<sup>th</sup> June 2009, but has not been implemented. The proposal was to remove an existing monopitch roof and replace it with a pitched and gabled grey metal clad roof and replace the existing garage doorway by a metal clad roller door. An existing window in the front (west) elevation would be replaced by a new upvc window and an existing protruding wall and parapet onto the footway of Jane Street would be removed. This proposal was considered acceptable on the basis that it constituted works to alter and improve the existing motor vehicle garage, which would not alter the lawful use of the premises as a garage (Class 5).

The current proposal to create two flats within the heightened roofspace is a wholly different proposition by introducing a residential use within and above an existing industrial building. Irrespective of the ownership and control of these proposed flats and use of the garage, the relationship between residential and industrial uses is not a comfortable one and not one which the department are keen to promote. The Report of Handling clearly states the case against the proposal of two flats above this garage where issues regarding 'Bad Neighbour in Reverse' and poor quality of residential amenity are detailed.

2. *"The existing garage will only be used for servicing our clients own business vehicles and will not be opened to the public".*

Comment: As indicated above, the appellant's control over the garage does not affect its lawful use as a garage (class 5) and Public Protection has expressed concern regarding the siting of dwellings above industrial premises from noise, odours, dust and particulates unless safeguarding conditions are put in place. The Report of Handling clearly indicates the responses made by statutory consultees and policy implications.

Conversion of existing buildings to residential uses are only acceptable when the uses are involved are compatible with one another. In this case, the department considered that the standard of amenity to be provided to the two flats was below an acceptable standard where safeguarding conditions could neither improve the amenity to be provided, nor the uses presently carried out within the garage.

3. *"I can advise that any concerns regarding bin storage and noise have been dealt with during the building warrant approval (ref. no. 10/00930/ERD) received for this proposal".*

Comment: The submitted planning drawings did not indicate any provision for bin storage and they were not sufficiently detailed to indicate how the building would be constructed to provide sound insulation and deal with noise issues from the garage. These were issues that Public Protection raised in their response dated 11<sup>th</sup> October 2010 and were still outstanding at the time of the application being recommended for refusal.

Notwithstanding the approval of a subsequent Building Warrant, the combination of a new residential use above an existing industrial use with no external amenity space and poor level of residential amenity are the key reasons that the application could not be supported from a planning perspective.

4. *"Please also note that our client also owns the neighbouring builders' merchant's yard and no. 24 Jane Street".*

Comment: This has no bearing on the proposal to mix an existing industrial use (Class 5) with a residential use.

## **CONCLUSION**

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

The attached Report of Handling clearly details why planning permission could not be supported. The department would not normally encourage schemes close to or part of 'Bad Neighbour' type development, where the proposal could inevitably lead to a 'Bad Neighbour in Reverse' situation. This proposal to create two flats above an existing garage could lead to a very poor level of amenity for the future occupants and lead to complaints regarding the

existing use and other noisy surrounding uses. Dunoon has sufficient land and buildings for housing development or conversion and poor quality redevelopment proposals such as the current scheme should not be encouraged. Additionally, the proposed flats lack adequate bin storage areas and the applicants have not demonstrated that the garage below could operate without significant impact to the occupants of flats above in terms of operation and ventilation.

Furthermore, the proposal involves the provision of car parking spaces for the garage and the flats by allocating existing car parking spaces currently serving the adjacent commercial premises and surrounding uses. Roads have no objection but require the parking bays to be delineated. Notwithstanding this response, it is considered that the loss of three existing spaces could result in parking deficiencies in an area that is already congested and parking is very limited.

On the basis of the above, the department considers that it was correct to exercise the 'precautionary principle' in terms of maintaining a minimum standard of amenity for the two flats and refuse the application under the terms of policies LP ENV19, LP HOU 1, LP BAD 2 and LP TRAN 6 of the Argyll and Bute Local Plan (2009).

Taking account of all of the above, it is respectfully requested that the appeal be dismissed.

## **APPENDICES**

**Appendix 1** Report of Handling dated 5<sup>th</sup> November 2010

**Appendix 2** Consultation comments submitted by statutory and other consultees

**Appendix 3** Photographs of the appeal site October 2010