

Delegated Planning Application Report and Report of handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 relative to applications for Planning Permission.

Reference No: 10/01434/PP
Planning Hierarchy: Local application
Applicant: Cowal Building and Plumbing Supplies
Proposal: Alterations to garage to provide 2no. flats at upper level and external alterations.
Site Address: 22 Jane Street, Dunoon, Argyll

DECISION ROUTE

(i) Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997

(A) THE APPLICATION

- (i) Development Requiring Express Planning Permission**
Alterations to garage to provide an upper storey to accommodate 2 flats;
External alterations to existing building;
 - (ii) Other specified operations**
Allocation of car parking spaces (for garage and flats);
Connections to public water supply and public sewer system.
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(B) RECOMMENDATION:

It is recommended that planning permission be refused for the reasons set out below.

(C) 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 9th June 2009 but has not been implemented.

(D) CONSULTATIONS:

Public Protection (response dated 11th October 2010): Concern regarding the siting of dwellings above industrial premises from noise, odours, dust and particulates unless safeguarding conditions are put in place. Insufficient details regarding ventilation from the garage and no details of bin storage. Conditions recommended regarding method of construction and materials to control noise from the garage, ventilation system from the garage and provision of a bin store.

West of Scotland Archaeology Service (email dated 14th October 2010): No substantive archaeological issues raised.

Area Roads Manager (response dated 26th October 2010): No objections subject to conditions regarding sightlines, parking provision. Parking bays to be delineated.

Scottish Water (expiry date 26th October 2010): No response.

(E) PUBLICITY: The application was advertised under Regulation 20(1) Advert Statement (publication date 15th October 2010, expiry date 5th November 2010).

(F) REPRESENTATIONS:

No representations have been received.

(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 e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** No.
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(H) PLANNING OBLIGATIONS

- (i) Is a Section 75 agreement required:** No.
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(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No.

(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.**

a) Argyll and Bute Structure Plan 2002: The following policies are applicable:

STRAT SI 1 - Sustainable Development;
STRAT DC1 - Development Within the Settlements;

b) Argyll and Bute Local Plan (August 2009)

Policy LP ENV 19 Development Setting, Layout and Design (including Appendix A Sustainable Siting and Design Principles) and Sustainable Design Guidance;
Policy LP HOU 1 General Housing Development;
Policy LP BAD 2 Bad Neighbour Development in Reverse;
Policy LP TRAN 6 Vehicle Parking Provision including Appendix C Access and Car Parking Standards.

- (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 4/2009.**

- Scottish Planning Policy (February 2010);
 - Planning Advice Note 56 - 'Planning and Noise';
 - Planning Advice Note 67 - 'Housing Quality';
 - Planning Advice Note 68 - 'Design Statements';
 - 'A Policy Statement for Scotland - Designing Places';
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(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No.

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- (L) **Has the application been the subject of statutory pre-application consultation (PAC):** No.
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- (M) **Has a sustainability check list been submitted:** No.
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- (N) **Does the Council have an interest in the site:** No.
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- (O) **Requirement for a hearing (PAN41 or other):** No.
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(P) Assessment and summary of determining issues and material considerations

In the Argyll and Bute Local Plan (August 2009), the premises are situated within the Main Town settlement of Dunoon within an Area For Action AFA 2/1, where policies LP ENV19, LP HOU1, LP BAD2 and LP TRAN6 are all applicable.

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 proposal is to add an additional storey to the garage building to provide accommodation within the roofspace for two 1-bedroom flats. The walls of the existing building will be raised and surmounted by a new pitched and gabled roof of grey concrete tiles. The walls will be finished in white render.

An external staircase is proposed on the side (northern) elevation to a main entrance door into a lobby serving both flats. No windows are proposed on the side (north and south) elevations with windows from habitable rooms on the front (west) and rear (east) elevations. Four rooflights are proposed on each roof slope.

The agent confirms that the garage is only to be used by the applicants for their vehicles and will not be a trading garage as before. The proposed hours of the garage will be flexible but no different to what the previous garage used to operate i.e. Monday to Friday 7.30am-8.00pm, Saturday 7.30am-6.00pm and Sunday 10.00am-5.00pm. External alterations to the garage involve the installation of a new and enlarged roller door.

The applicants own car parking spaces adjacent to the southern elevation of the premises. Two spaces are allocated for the flats with one visitor space, and three spaces allocated for the garage.

Policy LP HOU1 'General Housing Development' states a general presumption in favour of housing development unless there is an unacceptable environmental, servicing or access impact. Whilst the proposed flats would have a dedicated car parking space each, they lack any form of external amenity spaces and would be located above an existing repair garage within an industrial/commercial area. It is considered that the quality of the flats would be below what would normally be expected in respect of a new-build scheme.

However, as the proposal involves the creation of an additional storey above an exiting industrial building, Policy LP BAD 2 'Bad Neighbour Development in Reverse' is crucial in an assessment of the proposal. This policy states a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to areas already containing developments classed as "Bad Neighbour" Developments.

Public Protection has expressed concern at situating dwellings above industrial premises such as a garage that could be subject to nuisance from noise (patrons, vehicle engines, banging and grinding from repair work and machinery), odours (exhaust fumes, chemicals such as solvents and fuels) and to a lesser extent dust and particulates (exhaust fumes, repair work debris) unless appropriate safeguarding conditions are put in place. Insufficient details have been submitted in respect of ventilation systems from the garage, where any discharge should be above eaves level and above the rooflight openings.

No details of bin storage areas are shown. Public Protection require provision made at ground level for the safe storage of standard wheelie bins and the storage area should not impede access and egress from the first floor properties. Conditions are recommended in respect of methods of construction and materials to control noise emanating from the garage, ventilation ducting from the garage and provision of a bin store.

PAN 56 'Planning and Noise' acknowledges that the planning system cannot tackle existing noise problems directly but has the task of guiding development to the most suitable locations and in regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission. Given the requirements to safeguard the residential units from the existing lawful use below, it is considered that planning conditions alone could not guarantee a level of amenity expected by future occupants of the flats.

The department would not normally encourage schemes close to or part of 'Bad Neighbour' development. 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.

Given all of the above, the proposal would be contrary to policies LP ENV19, LP HOU 1, LP BAD 2 and LP TRAN 6 of the Argyll and Bute Local Plan (2009) and does not justify the grant of planning permission.

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

(R) Reasons why planning permission or a Planning Permission in Principle should be granted. n/a

(S) Reasoned justification for a departure from the provisions of the Development Plan n/a

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

Author of Report: Brian Close

Date: 5 November 2010

Reviewing Officer: David Eaglesham

Date: 9 November 2010

**Angus Gilmour
Head of Planning**

APPENDIX TO DECISION REFUSAL NOTICE

Appendix relative to application **10/01434/PP**

(A) The reasons why planning permission has been refused

1. The creation of an additional storey over the existing garage to accommodate two flats largely within the new roofspace of the heightened building would result in a poor standard of residential amenity for future occupants given the lack of any external amenity space.
The lack of any amenity space for such a new-build scheme would be contrary to the provisions of Appendix A Sustainable Siting and Design Principles of the Argyll and Bute Local Plan (4.2) that requires that "all development should have some private space".
Accordingly, the proposal for two flats without any private amenity space whatsoever would create a poor level of residential amenity and would be contrary to Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles and Policy LP HOU 1 of the Argyll and Bute Local Plan (2009).
2. Given the lawful use of the Class 5 activities within the existing repair garage, the creation of two flats above the garage would result in a poor standard of amenity for future occupants of the flats, given the range of uses which could be carried out without the benefit of planning permission, resulting in disturbance generated by noise, odours, dust, particulates and activities associated with such an industrial use.
Furthermore, the introduction of residential uses above the existing garage building with associated window openings and rooflights could result in nuisance from smell, fumes and odours from the garage use below without the benefit of a suitable ventilation system to clear the residential units.

Accordingly, to introduce a noise sensitive use above an existing industrial building would be contrary to Accordingly, the development would be contrary to PAN 56 "*Planning and Noise*", Policy LP ENV 19 'Development Setting, Layout and Design' including Appendix A Sustainable Siting and Design Principles and Policy LP BAD 2 'Bad Neighbour Development in Reverse' of the Argyll and Bute Local Plan (August 2009) which state that:

"The juxtaposition of incompatible uses can cause problems for the occupiers of both the new and existing development. For example, where a residential development is proposed in the vicinity of existing industrial uses, the expectations of new residents may exceed the standards applied by the planning authority and which may give rise to local pressure to curtail the existing use. Planning authorities should therefore, try as a matter of good practice to keep a suitable distance between noise sensitive development and established businesses that generate noise."

(Planning Advice Note 56 - 'Planning and Noise', para 46)

"In all Development Control Zones there is a presumption against proposals that will introduce new incompatible development and associated land uses into, or adjacent to, areas already containing "Bad Neighbour" Developments. In circumstances of "Bad Neighbour" in reverse, Policy LP BAD2 seeks not to prejudice the operational integrity of safeguarded land use and operations."

(Policy LP BAD2 of the Argyll and Bute Local Plan (August 2009).

3. The intensification of the existing industrial building to provide two flats would result in the loss of three car parking spaces from the existing off-street car parking area in the lane east of Jane Street. The proposal to create two additional flats, coupled with the loss of three car parking spaces would increase demand on the available unallocated on-street car parking in this part of Jane Street and exacerbate existing parking problems. Accordingly, the proposal would be contrary to Policy LP TRAN 6 Vehicle Parking Provision of the Argyll and Bute Local Plan (2009).

(B) Submitted Drawings

For the purpose of clarity it is advised that this decision notice relates to the following refused drawings:

1:1000 Location Plan SS C 00 03 01;
1:200 Proposed Block Plan DY-L-004;
1:50 Existing Plan SS/0509/G2;
1:100 Existing Elevations SS/0509/G1;
1:50 Proposed Floor Plans and Section F1SS02A 01
1:50 Proposed Elevations F1SS02A 02

(C) Has the application been the subject of any “non-material” amendment in terms of Section 32A of the Town and Country Planning (Scotland) Act 1997 (as amended) to the initial submitted plans during its processing.

No