

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 2008 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 11/00389/PP

Planning Hierarchy: Local Development

Applicant: Ganavan Sands Ltd

Proposal: Erection of Restaurant (Class 3) and 8 Flats (Amendment to 08/01854/DET)

Site Address: 2 Shore Street, Oban

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of Restaurant (Class 3) and 8 Flats
 - Connection to public water system
 - Connection to public drainage system
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(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that planning permission be granted as a minor departure to Policy LP HOU 2 of the adopted Argyll and Bute Local Plan 2009 and subject to the conditions and reasons appended to this report.

(C) HISTORY:

08/01854/DET

Demolition of existing single storey 'Stove Centre' shop and workshop and erection of 4 storey, 6 flat and restaurant development – Granted: 06/02/09

(D) CONSULTATIONS:

Area Roads Manager

Report dated 29/03/11 advising no objection. Sufficient car parking provision exists at Albany Street and Campbell Street car parks to accommodate the development.

Scottish Water

Letter dated 24/03/11 advising no objection but advising that a Development Impact Assessment will require to be undertaken prior to connections being granted by Scottish Water.

(E) PUBLICITY:

The proposal has been advertised in terms of Regulation 20 procedures, closing date 14/04/11.

(F) REPRESENTATIONS:

Three representations have been received regarding the proposed development.

Joyce Ansell, Flat 3/3, Lismore House, Station Road, Oban, PA34 4NU
Andy & Marjie Thornton, Flat 1/1 Lismore House, Station Road, Oban, PA34 4NU
Jacqueline Skeldon, 1/5 Lismore House, Station Road, Oban, PA34 4NU (2 e-mails)

(i) Summary of issues raised

- Road and pedestrian safety issues

Comment: The Area Roads Manager was consulted on the proposed development and raised no concerns on road safety grounds.

- No details of the proposed restaurant have been submitted and this has the potential to introduce noise and activity at unsociable hours.

Comment: The Council's Public Protection Unit will monitor noise and activity of the restaurant through separate legislation. The ground floor restaurant is already part of an extant planning permission at the site.

- No details of the layout of the restaurant have been shown and any proposal should show toilet facilities which are a statutory requirement.

Comment: This is a matter which will be fully dealt with by Building Standards at Building Warrant stage.

- The design of the buildings is not in keeping with the surrounding buildings and it is in a very prominent position within the town centre.

Comment: There is no common theme to the architecture within this area of Oban and the design solution proposed is considered appropriate in this context, representing a good example of contemporary architecture which will fit well within the existing streetscene. A modern design already forms part of an extant consent for a four storey development at the site.

- No details of parking provision to serve the proposed development is shown in the application.

Comment: The Area Roads Manager was consulted on the proposed development and raised no objections. Adequate parking provision exists at Albany Street and Campbell Street car parks adjacent to the site to accommodate the additional two units being proposed (6 flats and a restaurant already having been granted planning permission at the site).

- The existing car park between Albany Street and Shore Street should be restricted to local residents, council employees and Royal Mail vehicles.

Comment: This is not a material consideration in the determination of this planning application but is a general matter for the Roads Authority.

- The proposed building will overshadow the property at Lismore House.

Comment: The proposed building is not significantly different in size to that previously approved and it is not considered the increase in size will result in any unacceptable overshadowing issues.

- The proposed building will have windows which will directly look into existing windows in Lismore House.

Comment: The windows in the proposed development are offset from the windows in Lismore House, and there will be no direct window to window overlooking issues with the proposal. The first four floors of the development have already been approved at the site.

- Would like to be advised of timescales of works should the development go ahead.

Comment: If approved, the development could commence within three years from date of planning permission being granted. More specific timescales cannot be provided by this Service.

The above represents a summary of the issues raised. Full details of the letters of representation are available on the Council's Public Access System by clicking on the following link <http://www.argyll-bute.gov.uk/content/planning/publicaccess>.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

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| (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 |

(H) PLANNING OBLIGATIONS

(i)	Is a Section 75 agreement 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.	
	<u>Argyll and Bute Structure Plan 2002</u>	
	STRAT SI 1 – Sustainable Development	
	STRAT DC 1 – Development within the Settlements	
	STRAT DC 9 – Historic Environment and Development Control	
	STRAT HO 1 – Housing – Development Control Policy	
	<u>Argyll and Bute Local Plan 2009</u>	
	LP BAD 2 – Bad Neighbour in Reverse	
	LP ENV 1 – Impact on the General Environment	
	LP ENV 13a – Development Impact on Listed Buildings	
	LP ENV 19 – Development Setting, Layout and Design	
	LP HOU 1 – General Housing Development	
	LP HOU 2 – Provision of Housing to Meet Local Needs including Affordable Housing Provision	
	LP TRAN 4 – New and Existing Public Roads and Private Access Regimes	
	LP TRAN 6 – Vehicle Parking Provision	
	Appendix A – Sustainable Siting and Design Principles	
	Appendix C – Access and 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.	
	Argyll & Bute Sustainable Design Guidance (2006)	
	The Town & Country Planning Act (Scotland) 1997	

The Planning etc. (Scotland) Act, 2006

SPP, Scottish Planning Policy, 2010

(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

Planning permission reference 08/01854/DET was granted in February 2009 for demolition of a single storey shop and erection of a four storey property comprising restaurant on the ground floor and flats on the upper three floors at 2 Shore Street, Oban. The current application seeks permission for an amended design incorporating an additional storey to provide two further residential flats which represents a material change to planning permission 08/01854/DET, which is live until February 2014.

In terms of the adopted Argyll and Bute Local Plan, the site is identified as being within the Settlement Zone of Oban where Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives general support to developments serving a wide community of interest, up to large scale development within the main town, subject to compliance with other relevant Local Plan Policies.

In terms of Policy LP HOU 2, there is a requirement that all residential developments in excess of 8 units or more should include a 25% affordability component as would normally be the case for this development. However, in this particular case, the site benefits from a live consent for the first four storeys of the current five storey proposal and this live consent carries such significant weight that the requirement for affordable housing should not be applied to this development which proposes a net increase of two units. This is on the basis of the simple nature of the amendment when viewed against the existing live consent for 6 units and most importantly the fact that the live consent pre-dates the current 8 unit threshold identified in the adopted Local Plan. Furthermore, the environmental improvements obtained from redeveloping this brownfield site are such that finding an economically viable re-use would benefit the streetscape.

Should the entire 8 unit development be considered for the purposes of the calculation of affordable housing, without cognisance of the significant site history, redevelopment potential and live consent, it is considered that the developer will proceed with the four storey development as it stands and the extra two units will be lost. These additional units would make a small but positive contribution to the local housing market and in this time of ongoing housing demand, limited construction activity, and economic difficulty, the provision of the extra two units as open market units should be supported, rather than losing out on them altogether. Policy STRAT SI 1 also encourages the Planning

Authority to make best use of available brownfield sites. Capitalising on such a redevelopment opportunity within the established town centre, so close to the bus and train stations as well as all the facilities and services that are available in Oban is something that should be encouraged.

Furthermore, the recent advice from the Scottish Government on affordable housing policies encourages even greater flexibility on the Local Authorities part, in light of the current economic circumstances affecting the private sector and affordable housing providers.

On this basis the proposal is considered to be consistent with the terms of the current Development Plan, albeit including a minor departure from Policy LP HOU 2. There are no infrastructure constraints which would preclude development of the site and therefore I have no objection to planning permission being granted as a minor departure from Policy LP HOU 2 of the adopted Argyll and Bute Local Plan.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why planning permission should be granted

It is considered that the site subject of this application represents a suitable opportunity for redevelopment consistent with the settlement strategy expressed in the current Development Plan and there are no infrastructural constraints which would preclude the development of the site.

Furthermore the proposed building is considered to be of a suitable form, scale and design, incorporating materials which will ensure that it integrates well within its setting and will represent an improvement in the overall appearance of the streetscene, which is characterised by medium rise buildings of staggered heights and varying designs.

The proposal accords with Policies STRAT SI 1, STRAT DC 1 and STRAT DC 9 of the approved Argyll and Bute Structure Plan and Policies LP BAD 2, LP ENV 1, LP ENV 13(a), LP ENV 19, LP HOU 1, and LP TRAN 6 of the adopted Argyll and Bute Local Plan.

The proposal can be justified as a 'minor departure' from Policy LP HOU 2 as the site benefits from a live consent for the first four storeys and 6 units of the current five storey proposal which carries such significant weight that the assessment of affordable housing can be limited. Under the terms of the pre-existing consent 08/01854/DET, works could commence on the four storey development at any time until February 2014.

There are no other material considerations, including issues raised by third parties, which would warrant anything other than the application being determined in accordance with the provisions of the development plan.

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

Policy LP HOU 2 requires that all residential developments in excess of 8 units or more should include a 25% affordability component as would normally be the case for this development. However, in this particular case, the site benefits from a live consent for the first four storeys of the current five storey proposal and 6 units. The existence of a live consent for such a similar development carries such significant weight that the assessment of affordable housing can be limited to the additional storey only. This is on the basis of the simple nature of the amendment compared to the existing live consent

and most importantly the fact that the live consent pre-dates the current 8 unit threshold identified in the adopted Local Plan for affordable housing provision. The redevelopment nature and environmental improvements that would be secured by a viable re-use are also prevalent and have been taken into consideration alongside current Scottish Government advice on the application of affordable housing policy in economically challenging times. Under the terms of the pre-existing consent 08/01854/DET, works could commence on the four storey development at any time until February 2014.

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

Author of Report: Fiona Scott Date: 03/05/11

Reviewing Officer: Stephen Fair Date: 03/05/11

SF

**Angus Gilmour
Head of Planning**

CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 11/00389/PP

1. That the development to which this permission relates must be begun within three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. No development shall commence on site until full details of the external finishing materials have been submitted to and approved in writing by the Planning Authority. The development shall thereafter be completed and maintained in accordance with the approved details unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of visual amenity, in order to ensure that the development integrates with its surroundings and maintains the character of the area.

3. No development shall be commenced until full details of the type and position of the extraction ventilation system to be installed, including details of the internal and external flues have been submitted to and agreed in writing by the Planning Authority in consultation with the Public Protection Unit. The development shall thereafter be completed and maintained in strict accordance with such details as are approved.

Reason: In order to protect the amenities of the area.

4. The development shall be implemented in accordance with the details specified on the application form dated 09/03/11 and the approved drawing reference numbers:

Plan 1 of 2 (Drawing Number L(--)02 A)
Plan 2 of 2 (Drawing Number L(--)04)
Plan 3 of 3 (Drawing Number 0726 A(--)01)

unless the prior written approval of the planning authority is obtained for other materials/finishes/for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

NOTE TO APPLICANT

- In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997 (as amended), prior to works commencing on site it is the responsibility of the developer to complete and submit the attached 'Notice of Initiation of Development' to the Planning Authority specifying the date on which the development will start.
- In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 (as amended) it is the responsibility of the developer to submit the attached 'Notice of Completion' to the Planning Authority specifying the date upon which the development was completed.
- Please note the advice contained within the attached letter from Scottish Water. Please contact them direct to discuss any of the issues raised.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/00389/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

In terms of the adopted Argyll and Bute Local Plan, the site is identified as being within the Settlement Zone of Oban where Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan gives general support to developments serving a wide community of interest, up to large scale for the main towns, subject to compliance with other relevant Local Plan Policies.

STRAT SI 1 confirms that developments should make efficient use of vacant or derelict brownfield land, maximise use of existing service infrastructure, and use public transport routes fully.

Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

Policy LP HOU 1 gives a general presumption in favour of housing developments unless it would result in an unacceptable environmental, servicing or access impact.

Policy LP HOU 2, states that there is a requirement that all residential developments in excess of 8 units or more should include a 25% affordability component. However, the site benefits from a live permission for six residential units which was granted prior to the adoption of the Local Plan and affordable housing policy. The result of this significant material consideration, small nature of amendment are such that there should be no requirement for the provision of an affordable element in this specific instance on the net increase of two dwellings.

The application also represents a suitable opportunity for redevelopment on a site which, when redeveloped, will make a positive contribution to the local housing market and improve the streetscene and visual amenity of the area. Furthermore, the recent advice from the Scottish Government on affordable housing policies encourages even greater flexibility on the Local Authorities part, in light of the current economic circumstances affecting the private sector and affordable housing providers.

B. Location, Nature and Design of Proposed Development

The application proposes the demolition of the existing building and the erection of a four storey building which will provide premises within Use Class 3 (Food and Drink) on the ground floor with Class 9 residential units on the upper floors. It should be noted that further planning permission would be required if the restaurant was to become a hot food carry out although it should be noted that a limited amount of carry out food sales is permissible providing that the main use remains that of a restaurant.

The proposed building is a simple, modern, five storey contemporary designed structure with a ridge height approximately one metre higher than the neighbouring property of the Claredon Hotel.

There is no common theme to the architecture within this area of Oban and the design solution proposed is considered appropriate in this context representing a good example of simple contemporary architecture which will fit well within the existing streetscene and will not detract from the setting of the Claredon Hotel, a Category C(s) Listed Building.

Furthermore, it is considered that the proposed building will make a positive contribution to the visual amenity of the area.

It should be noted that whilst the amended design subject of this current application shows a building which is higher than that previously approved, it is considered the difference in height, and reinforcement of the staggered building heights found around the site, is appropriate to the overall streetscene.

No details of the proposed finishing materials for the ground floor have been submitted and therefore this will be dealt with by way of a condition to ensure an appropriate finish to help integrate the proposed building into its surroundings. The upper floors of the building are to be finished in a smooth render (colour to be agreed) with timber windows with the roof finished in natural slate.

The proposed use of the building as a restaurant and residential flats fits well with the established development within this area which is characterised by a mix of commercial and residential uses.

In this regard the proposal is considered to comply with the terms of Policy LP ENV 19 and Appendix A.

As stated above, the site is situated immediately adjacent to the Claredon Hotel which incorporates a public house and therefore Policy LP BAD 2, Bad Neighbour in Reverse requires to be considered in the determination of this application.

In this regard, the Council's Public Protection Unit was consulted and whilst raising no objection to the overall proposal, advised that as the hotel holds regular music evenings, sound from these occasions is likely to be transmitted through the dividing wall and may have an impact upon the flats. On this basis the applicant submitted additional information showing the construction of the party wall including measures to prevent or minimise the likely transmission of structurally based sound energy to which the Public Protection Unit confirmed were acceptable. Controlling noise emissions between buildings is also addressed by Building Standards at the building warrant stage.

Given the late-night licensing of the hotel, there is also the possibility of street noise at late hours. However, as the development is intended for the town centre, additional measures will not be required. Modern thermal glazed window construction should provide adequate protection against typical intermittent street noise. The site is alongside existing flatted developments, where noise disturbance has not been unacceptable. Furthermore, any disturbance associated with anti-social behaviour would be a matter for the police.

C. Affordable Housing

In terms of Policy LP HOU 2, there is a requirement that all residential developments in excess of 8 units or more should include a 25% affordability component. However, in this particular case, the site benefits from a live consent for the first four storeys of the current five storey proposal. This live consent carries such significant weight that the assessment of affordable housing should be limited. This is on the basis of the simple nature of the amendment when viewed against the existing live consent and most importantly the fact that the live consent pre-dates the current 8 unit threshold identified in the adopted Local Plan.

Should the entire 8 unit development be considered for the purposes of the calculation of affordable housing, it is considered that the developer will proceed with the four storey development as it stands and the extra two units will be lost. These additional units

would make a small but positive contribution to the local housing market and in this time of ongoing housing demand, limited construction activity, and economic difficulty, the provision of the extra two units as open market units should be supported, rather than losing out on them altogether. STRAT SI 1 also encourages the Planning Authority to make best use of available brownfield sites. Capitalising on such a redevelopment opportunity within the established town centre, so close to the bus and train stations as well as all the facilities and services that are available in Oban is something that should be encouraged.

Furthermore, the recent advice from the Scottish Government on affordable housing policies encourages even greater flexibility on the Local Authorities part, in light of the current economic circumstances affecting the private sector and affordable housing providers.

In addition, the developer has advised that the units will be marketed between £ 120,000 and £ 150,000. All of the units will be available to first time buyers with 50% of them made available via a delayed deposit payment scheme which gives a deposit of 20% delayed for 10 years and in cases of financial hardship for 15 years.

The application also represents a suitable opportunity for redevelopment on a site which, when redeveloped, will make a positive contribution to the local housing market and improve the streetscene and visual amenity of the area. The economic viability of redevelopment schemes are also accepted to be challenging in the current economic climate.

D. Road Network, Parking and Associated Transport Matters.

In terms of parking provision, Policy LP TRAN 6 requires that development of this scale should normally have a minimum of 4 parking spaces. However, Appendix C, Access and Parking Standards, states that a degree of flexibility will be available where it can be shown by the applicant that the parking requirement can be met by existing car parks and that the demand for parking in connection with the development will not coincide with the peak demand from other uses in the area. On this basis, the Area Roads Manager has confirmed that a parking survey was undertaken which identified that there was ample spare capacity within town centre car parks (Albany Street and Campbell Street) to accommodate the car parking demands and therefore the provisions of Policy LP TRAN 6 do not apply in this instance.

E. Infrastructure

Water supply and drainage are via connection to the public systems. Scottish Water, whilst raising no objection, advised that due to the size of the proposed development it will be necessary for the applicant to submit a Development Impact Assessment form for consideration.

In this regard, it is considered that the proposal complies with the terms of Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.