

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

**REFUSAL OF PLANNING PERMISSION FOR DEMOLITION OF
EXTENSION AND ALTERATIONS TO HALL TO CREATE FLAT ON
UPPER LEVEL WITH CAR PARKING SPACE AND EXTERNAL
ALTERATIONS 140 EDWARD STREET, DUNOON, ARGYLL PA23
7BN.**

APPEAL REF. NO. 11/00004/REFPLA

LOCAL REVIEW BODY REF. 11/0003/LRB

PLANNING PERMISSION APPLICATION

REFERENCE NUMBER 10/01623/PP

13th April 2011

STATEMENT OF CASE

The planning authority is Argyll and Bute Council ('the Council'). The appellant is Alister McAlister.

An application for planning permission (ref. 10/01623/PP) for demolition of extension and alterations to hall to create flat on upper level with car parking space and external alterations at 140 Edward Street, Dunoon ('the appeal site') was refused under delegated powers on 15th February 2011. 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 the smaller of two attached former church halls at the junction of Edward Street and John Street, Dunoon. The smaller hall was converted to a karate hall following approval in 1992 and the larger hall converted to two dwellinghouses following approval in 1997.

Parking for the dwellinghouses in the converted larger hall takes the form of integral garages to the rear. Parking in the surrounding area is limited due to proximity to the John Street/Edward Street junction, waiting restrictions and use of the hall as a karate club.

SITE HISTORY

92/00700/COU change of use to form sports centre from church building granted 28th October 1992. This permission related to the entire former Baptist Church buildings that comprised two halls. Only the smaller hall (i.e. the application premises) was converted for use as a sports hall.

An application (ref. 09/00962/COU) for the demolition of extension and alterations to hall to create one flat on upper level with car parking space and external alterations was refused on 29th September 2009 due to unsatisfactory parking arrangements.

[Related applications for the attached larger hall (that was never converted to a sports hall) include:

97/00948/COU change of use of hall to 2 houses withdrawn 28th July 1997;

97/01136/COU change of use of sports hall to form two dwellinghouses granted 2nd September 1997;

03/02041/VARCON removal of condition 2 of permission 97/01136/COU in relation to obscure glazing on bedroom windows withdrawn 1st April 2004;

03/02087/NMA non-material amendment for installation of UPVC windows (relative to application 97/01136/COU) approved 4th February 2004;

04/00536/VARCON variation of condition 2 and 3 of permission 97/01136/COU in relation to window type and glass type used granted 22nd April 2004.

Both dwellinghouses within the larger hall have been constructed and occupied with one integral garage for each.]

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 car parking required for the proposed flat can be suitably provided and regarded as dedicated or allocated;
- Whether the lack of any suitable parking provision will have any impact on the surrounding residential 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 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 summary points are noted in response to the appellant's comments:

1. *The applicant's agent outlines the history of the original proposal highlighting Roads requirement for additional car parking and poor sightlines. The proposals were then amended to take on board these comments and omit the single car parking space off Edward Street and included a letter from Argyll Community Housing Association (ACHA) that two car parking spaces could be made available in the courtyard to the rear of the hall. The agent acknowledges the subsequent letter from the department stating that the car parking spaces must be dedicated and shown within the red line boundary, or the subject of a Section 75 Agreement.*

A subsequent telephone discussion between the agent and the department suggested that the amended proposal could be formally notified but this was later ruled out as being 'material' in nature requiring a fresh application.

Comment: The applicant's agent was advised of the requirement for the car parking spaces to be included within the red line on a number of occasions. The reason that the car parking spaces belonging to ACHA could not be dealt with under application ref. 10/01623/PP was that this involved extending the original red line boundary to include two car parking spaces that could have an impact on the existing parking and access arrangements for the surrounding residential properties which these car parking spaces were originally designed for. For these reasons, the revised proposal was considered to be 'material' in nature which would require to be the subject of a fresh application.

2. The agent concludes that the provision of off-street car parking spaces which meet the Roads Guidelines is met using the available surplus spaces referred to in ACHA'S letter, which grants permission for the use.

Comment: While ACHA have intimated that 'surplus' car parking spaces may be available, these require to be effectively 'tied' to the development proposal. This issue has been raised with the applicant's agent on a number of occasions for this and previous applications. ACHA's letter of acceptance to release 'surplus' parking spaces does not in itself constitute planning permission. These spaces need to be shown within the red line boundary of the application site and neighbour notified accordingly. This has not yet been done.

Additionally, Roads require the requisite number of car parking spaces to be 'allocated' , not 'unallocated', as proposed in the revised drawing 893/894.CPA on 29th December 2010.

3. The agent states that the vehicular access from John Street to the car park meets the Roads Authorities sightline criteria.

Comment: As indicated above, the red line boundary (on refused drawing ref. 893/894.CPA submitted 21st December 2010) does not include the car parking spaces that are located to the rear and accessed by John Street. There is however no reason to doubt that the existing sightlines serving the ACHA housing court meet the required sightline criteria as this is an adopted road junction. The provision of two car parking spaces can only be fully assessed when these are included within the red line boundary and fully justified by ACHA that their use for the proposed flat would not have a detrimental impact on the existing car parking arrangements for all other dwellinghouses served by this car park area to the rear.

4. The agent states that the docketted drawings stamped as refused on 15 February 2011 show the location of the available off-street spaces and the access thereto from the application site. The number of spaces made available by ACHA meets the requirements of LP TRAN6.

Comment: The refused drawings depict clearly an application boundary around the hall only. Any annotated notes on this drawing outwith the application site boundary have no planning status. In any event, these four car parking spaces are 'unallocated' and in use by residents as depicted in photographs (Appendix 3).

5. *The agent suggests that the revised drawings deal with all of the points listed in the reason for refusal of the application and as such remove the cause for the refusal of the application.*

Comment: The revised drawings had no formal planning status due to the 'material' nature of the revisions that could not be accepted under application ref. 10/01623/PP. The revised drawings require to form part of a fresh submission that would be considered on its individual merits.

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 due to the lack of suitable car parking and the supporting documentation offers clear advice that the proposed flat requires 'allocated' car parking together with a reasonable justification supplied by ACHA as to why these spaces are surplus to their requirements. At various site inspections these unallocated spaces were being used by the surrounding properties. However, inclusion of two 'allocated' car parking spaces within a revised application red line boundary with a full justification from ACHA may allow a further consideration of the scheme.

Roads previously objected to the inclusion of a single car parking spaces accessed from Edward Street but this has now been omitted. Roads require any future application to be supported by two 'allocated' car parking spaces.

Letters and emails contained in the appendices clearly indicate advice given to the agent during the course of the application and problems encountered with the submitted drawings.

On the basis of the above, the department considers that the applicant's agent was properly advised on a number of occasions as to what was required to address the parking deficiency. This has not been done and the department feels that it was correct to expect a minimum of two 'allocated' car parking spaces for the proposed flat and accordingly refuse the application under the terms of policies LP ENV19 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 15th February 2011

Appendix 2 Consultation comments submitted by statutory consultees

Appendix 3 Photographs of the appeal site and car parking court 14th December 2010

Appendix 4 E-mail to agent dated 26th October 2011

Appendix 5 Letter to agent dated 14th January 2011

Appendix 6 Letter to agent dated 2nd February 2011