

**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**

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**Reference No:** 11/01590/PP

**Planning Hierarchy:** Local Application

**Applicant:** Mr and Mrs J Urquhart

**Proposal:** Alterations and extension to dwellinghouse.

**Site Address:** 64B Colquhoun Street, Helensburgh

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**SUPPLEMENTARY REPORT NO.1**

**1.0 SUMMARY**

Members will have received an e-mail dated 2 December 2011 from Dr James & Mrs Christine Greaves regarding the above application. The key issues are summarised and assessed below. A further assessment has also been done in relation to the impact of the proposal on the amenity of the adjoining property particularly in terms of sunlight and daylight.

**Representations**

We have serious concerns about the handling of this planning application. Until 28 November, there have been no documents or information posted on the relevant page of the Argyll & Bute web for over 2 months, although it is now apparent that private correspondence has been taking place in support of the application during this time. As all other documents have been posted within a couple of days of receipt (and this has taken almost 3 weeks to post), I strongly suspect this has only been posted at all as a result of my recent Freedom of Information request. However, the contents confirm our suspicions that 'behind the scenes' lobbying has been taking place.

*Comment: There was a delay in putting some documents on Comino, the Council's Public Access system. However, this has now been done and does not affect the assessment or processing of this application.*

Following a phone call we were advised that, because Balmillig was being run as a business (in a part of the Conservation Area not zoned for business), then it was possible that the application (for an extension to a dwellinghouse) would be withdrawn, pending an application for a change of use of the property. However, the emails now posted on the Argyll & Bute web site indicate that correspondence has been on-going between the applicants' agent and the Area Team Leader apparently resulting in Balmillig now using only letting 2 letting rooms, which makes it no longer a business. However, although the automated booking page now shows only 2 rooms, the Balmillig Rooms page still announces "all 3 en-suite bedrooms.." and carries numerous photographs and descriptions of all three rooms. As neighbours, we also have good reason to believe that

3 rooms are still being let. This appears to be a blatant attempt to circumvent the planning regulations in which the Planning Department is, seemingly, complicit.

*Comment: Conservation Area status doesn't preclude businesses such as these operating in such locations. Under the Town and Country Planning (Use Classes) (Scotland) Order 1997, a dwellinghouse can be used as a bed and breakfast provided it does not use more than 1 bedroom where the house has less than 4 bedrooms and a maximum of 2 bedrooms where the house has 4 or more bedrooms. If this limit is exceeded, then planning permission will be required for a change of use to Class 7 (Hotels and Hostels). The applicants were advised of this and that a change of use application was required. They discussed the matter with their agent and confirmed that the number of letting bedrooms would be reduced from 3 to 2. A Planning Contravention Notice (PCN) was also served. This is a legal notice which requires the owners to confirm the use of the premises. If incorrect information is supplied it is a criminal offence. The owners have confirmed that they have 2 letting bedrooms. As such, there is no change of use and the application is solely for the extension which is judged on its merits against development plan policy and other material considerations.*

The agent's statement that "the applicants have reduced their B&B to 2 bedrooms" also begs the question as to why a couple living in a 5 bedroomed house need to extend at all. Having seen copies of further plans that have, as yet, not been submitted, we know exactly why; to create yet another en-suite bedroom.

*Comment: The applicants wish to extend two bedrooms. The application is judged on its merits against development plan policy and other material considerations.*

The agent states "I was hoping that, with the support of the Planning Department report that it [the application] may not have to go to the PPSL". We are not aware of this report and suggest that, with so many objections (including one from Helensburgh Community Council and numerous local residents) that this would be a serious breach of due process.

*Comment: The application is a Committee item.*

### **Further Assessment of Impact on Amenity**

Policy LP HOU 5 of the Argyll and Bute Adopted Local Plan presumes in favour of house extensions where they cause no significant detriment to the building, the neighbours or the immediate vicinity. They also have to comply with the relevant siting and design principles as set out in Appendix A.

Appendix A states that there is a presumption against alterations and extensions where the siting and scale significantly affects sunlight, daylight and privacy. In relation to overlooking Appendix A also requires a distance of 12 metres between habitable room windows and gable ends or elevations with only non-habitable room windows. These standards may be relaxed where the angle of the windows allows privacy to be maintained.

Whilst there isn't a 12 metre separation between the application property and the adjoining dwellinghouse there are no windows on the existing or proposed elevation of the application property. As such, the privacy of the adjoining property will be maintained subject to an additional condition removing permitted development rights to form windows or other openings in this elevation. Moreover, when the application house was built it was a requirement of the consent that it (64B) be attached to the adjoining property. On the previous application a daylight assessment was requested from the applicants because of the size and scale of the proposed extension. This showed there was a potential detrimental impact and this formed part of the reasons for refusal.

The adjoining property has two kitchen windows at ground floor level. An informal assessment has been done using the 25 degree method. This involves drawing a line on the submitted elevational drawings from the apex of the roof of the extension to the gable of the adjoining property. Where this subtends (intersects) any window at more than 25 degrees then there is a potential detrimental impact in terms of daylight/sunlight. The apex of the proposed extension does subtend at an angle greater than 25 degrees. However, one of the windows is already affected by the existing gable and any additional impact will be minor and within acceptable limits. Similarly, the extension has been reduced in scale and will not come in front of the other kitchen window. Again, while there will be an impact in terms of light it is considered to be within acceptable limits. The main impact will be from the proposed new 1.8 metre high boundary wall. The applicants' agent was approached regarding this and has advised that the wall can either be reduced or deleted. It is considered that the wall should be deleted and this is covered by condition. As such, the proposal can be considered as a minor departure from Policy LP HOU 5 and Appendix A of the Argyll and Bute Adopted Local Plan.

## 2.0 RECOMMENDATION

It is recommended that the contents of this report are noted, that the proposed 1.8 metre boundary wall should be deleted and that the application is now recommended for approval as a minor departure from Policy LP HOU 5 and Appendix A of the Argyll and Bute Adopted Local Plan subject to the justification and amended conditions and reasons listed overleaf.

**Angus J Gilmour**  
**Head of Planning & Regulatory Services**  
**20 December 2011**

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## CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/01590/PP

1. The development shall be implemented in accordance with the details specified on the application form dated 22/08/2011 and the approved drawing reference numbers 2027..31, 2027..32 and 2027..33 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.

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

2. Development shall not begin until samples of materials to be used on external surfaces of the buildings and in construction of the wall has been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing, with the Planning Authority.

Reason: In order to integrate the development into its surroundings.

3. Notwithstanding the details shown on the docquetted plans no consent is hereby granted for the proposed new 1.8 metre boundary wall. In addition, the existing boundary treatment shall be retained.

Reason: In order to protect the amenity of the adjoining property.

4. Notwithstanding the provisions of Article 3 and Class 1 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, no window or other openings shall be installed in the eastern facing elevations of the building without the prior written consent of the Council as Planning Authority.

Reason: In order to prevent the inclusion of window or other openings in the specified elevations, which could significantly undermine the privacy and amenity of adjoining residential property.

## NOTES TO APPLICANT

1. **The length of the permission:** This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period. [See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended).]
2. In order to comply with Section 27A(1) of the Town and Country Planning (Scotland) Act 1997, 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.
3. In order to comply with Section 27B(1) of the Town and Country Planning (Scotland) Act 1997 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.

## **REASONED JUSTIFICATION FOR A DEPARTURE TO THE PROVISIONS OF THE DEVELOPMENT PLAN**

Policy LP HOU 5 of the Argyll and Bute Adopted Local Plan presumes in favour of house extensions where they cause no significant detriment to the building, the neighbours or the immediate vicinity. They also have to comply with the relevant siting and design principles as set out in Appendix A.

Appendix A states that there is a presumption against alterations and extensions where the siting and scale significantly affects sunlight, daylight and privacy. In relation to overlooking Appendix A also requires a distance of 12 metres between habitable room windows and gable ends or elevations with only non-habitable room windows. These standards may be relaxed where the angle of the windows allows privacy to be maintained.

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