

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: 11/02280/PP
Planning Hierarchy: Local
Applicant: M and K McLeod Ltd.
Proposal: Change of use from Ambulance Depot (Sui Generis) to Class 6 (Storage or Distribution) - retrospective.
Site Address: Former Ambulance Station, Manse Brae, Lochgilphead

DECISION ROUTE

Local Government Scotland Act 1973

(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Change of use from former Ambulance depot to Class 6 (Storage or Distribution);
- Associated extension of car park.

(ii) Other specified operations

- Amended configuration of junction onto private access;
 - Removal of pedestrian railings.
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(B) RECOMMENDATION:

It is recommended that permission be granted on a temporary basis subject to the conditions attached.

(C) CONSULTATIONS:

Area Roads Engineer – (06.12. 11) no objections subject to conditions

Environmental Health Officer (21.02.12) – revised response based on applicants self-imposed restrictions: no objections subject to stated restrictions and recommended conditions.

Core Paths Officer (10.01.12) - pedestrian access to be maintained along the existing footway.

Lochgilphead Community Council (21.02.12) – objects to the change of use from

Ambulance Depot to Class 6 (Storage or Distribution) for the following reasons :

1. The proposed storage/distribution facility is in a well established residential area, unsuitable for the proposed industrial use.
2. Loading and unloading of material will undoubtedly create noise.
(in the event of approval there should be a set time limit for loading/unloading, i.e. from Monday – Friday (inclusive) between 09.00 to 17.00 hrs).
3. The road leading to the hospital is very busy and already overstretched since the new hospital was commissioned. There should be a minimum of restrictions for ambulances to and from the hospital. The use of articulated lorries or other vehicles on and manoeuvring into/from this road will be a hindrance. Visibility is seen as an issue.
4. The core path is next to the facility and seems to be encroached on by the lorry's turning area. Pedestrians in particular small children could be in danger. On drawing 4482/102 it is unwisely suggested to remove the railing to the west side of the footpath.

(D) HISTORY:

In relation to the current application site:

94/00047/DET Extension to Ambulance Station, granted 28.02.1984
97/00693/DET Alterations to Ambulance Depot, granted 10.06.1997
98/01391/CLWP {Application for Certificate of Lawful Use/Development (proposed)}
re Use of ambulance depot for servicing and repair of non-
ambulance vehicles, refused 23.12.1998
06/01984/COU Change of use from Ambulance Depot to Vehicle Service Depot;
Withdrawn 27.04.2007

In relation to adjoining property:

06/02446/DET Erection of dwellinghouse within garden ground of the Old Manse –
granted – 16th July 2007
09/00950/DE Erection of 88 dwellinghouses – Former Mid Argyll Hospital and
Lochgilphead High School granted 28.10.09

(E) PUBLICITY:

Period for representation ended on 13.01.2012 both in relation to a Regulation 20 Advertisement and an Advertisement and Site Notice relating to the effect of the development on a neighbouring Listed Building.

(F) REPRESENTATIONS:

(i) Representations received from:

The following four household and one legal practise acting on behalf of one of those households have submitted objections. Some of the households submitted

more than one letter/e-mail and the points raised are summarised below.

Neil and Elaine Vassie, Old Manse, Manse Brae, Lochgilphead
Robert Millar, Misty Law, Manse Brae, Lochgilphead
Mr. Pieter Kastelein, Cruach, Manse Brae, Lochgilphead
Ann B & R.A.C. Byatt, Drim Na Vullin, Blarbuie Road, Lochgilphead
John Stirling of Gillespie MacAndrew LLP, 5 Atholl Crescent, Edinburgh

(ii) Summary of issues raised:

- The location plan fails to indicate the present built residential status of the area, being a major housing development of at least 61 houses on completion.

Comment: It is often the case that Ordnance Survey location plans do not portray recently developed properties; as it happens the applicant's plans do indicate most of the recently constructed dwellings. The important fact is that the planning assessment has been undertaken by officers who are aware of the details of neighbouring development which has been consented but only partly constructed. The consequences of this proposal in respect of development yet to be completed has been assessed and no adverse issues arise.

- Potential residents (of houses being constructed) are denied any right to comment.

Comments: This is not possible to resolve; the views of prospective future occupiers cannot be anticipated, although a professional judgement can be made as to the acceptability of the relationship between the residential and commercial uses. Due process requires a decision to be made in advance of the completion and occupation of adjacent buildings.

- The former Ambulance Station was designated a 'bad neighbour' development by Argyll and Bute Council.

Comments: This statement would need to be substantiated; its source is not known. Issues of 'bad neighbour' or otherwise are discussed in the assessment below.

- An earlier application for industrial use by W.S. Atkins on behalf of Scottish Ambulance Service and Strathclyde Police has already been thrown out by Argyll and Bute Councillors.

Comments: The application was withdrawn and was not considered by Members, the applicants being aware that the Council's officers were not supportive of an application seeking an intensification of the repair/maintenance of ambulances to also include all NHS/hospital fleet vehicles combined with the repair and maintenance of Strathclyde Police vehicles.

- There should be more than a reassessment by Environmental Health Officers and Roads Engineers now that the application has been amended to use unlimited 10 metre fixed bed lorries.

Comments: A reassessment of the applicant's revised proposals which make the use and traffic management arrangements of the proposal more restricted has been undertaken by all relevant officers.

- The area, an established residential zone, is totally unsuitable for industrial use which could include the use of heavy articulated vehicles adjacent to both a designated core path and the listed grounds of the Thomas Telford Old Manse.

Comments: The application is not for industrial use (General Industrial Use being Class 5) but rather for storage and distribution (Class 6) which unless limited by condition in any permission could later (upon the first taking up of a class 6 activity) be also used for (Class 4) (Business) – comprising business/office activities that would not harm residential amenity. Whilst the sought after use will involve lorries, the frequency of them coming/leaving the site will have a direct correlation with the size of this small unit. Assessment in relation to residential amenity/the effect on the neighbouring listed building and the core path is reported in the Appendix below.

- It is recognised that the trees within the curtilage of the listed Old Manse have a level of protection, but the trees on the other side of the boundary within the application site benefit from no such protection.

Comments: It is not true that trees within the curtilage of the listed property the Grade B Old Manse are protected. No TPO exists on the site neither is it in a Conservation Area which would give a level of protection. Listed status on its own does not protect curtilage trees.

The trees outside of the curtilage, unlike the deciduous trees within it, are multi-trunk specimens which whilst large in size would not be considered worthy for TPO protection because of their form. The application does not seek a widening of the road, which means the trees can remain should the land owner wish to retain them.

- If the hours of use are only going to be restricted in relation to loading/unloading from 08.00 to 18.00 hours for six days a week, the implication that other worker use could be accommodated 24/7 would be a bad neighbour activity.

Comments: The room for associated office activities with the storage/distribution use is small, only some 4 x 5 metres and the level of movement to and from the premises for that use would be unlikely to be any different than the level arising from any of the two dwellings also served by this road. Given that the ambulance depot did not have a restriction on hourly use at all, any office/welfare use activity beyond the hours of 08.00 to 18.00 will be less problematical to residential amenity than the former use. It is not normal for the Planning Authority to impose a restrictive use of hours upon office activities/uses which are capable of occurring without harm to the amenity of residential properties. The separation distances between these uses in this instance are also acceptable.

- A claim that the applicant does not own the private road as defined in the application form/plans.

Comments: The applicants have been advised of this claim and have responded by reaffirming ownership, also offering evidence to that effect. It is not open to the Council to challenge that evidence which appears substantive. During consideration of this issue it did become apparent that the applicants do not own the bank within the original eastern part of the site which was to be partially excavated to accommodate a 4th car parking space. Because of this the application site has been reduced in size and the 4th car parking space is now shown as to be provided elsewhere on land in the applicant's control. Because this amendment is minor, and is contained within the original red edge site, the proposal can be assessed competently within the context of the original application.

- A comment that the ambulance station did not need consent before 1991. A further questioning comment that the use sought appears to be temporary until April 2012.

Comments: It is true that the original ambulance station was established without the need for planning permission under relevant procedures applying to government development at the time, but that is not a relevant consideration as the use is lawful. This assessment has to recognise that, however unlikely, the lawful use could still be re-activated and on that basis the proposed use needs to be assessed with that in mind. The agent has clarified the apparent ambiguity that Mr. Vassie has highlighted, and confirms the application has been submitted in a bid to secure a change of use on a permanent basis.

The above comments are noted by Mr. & Mrs Vassie and the following five points (1) to (5) below are noted by their solicitors Gillespie Macandrew LLP acting on their behalf.

- (1) Insufficient detail of proposed development provided, e.g. frequency and type of traffic expected at the site is unclear, type of materials to be stored are not clear, for example are hazardous chemicals to be stored?

Comments: The application is for a change of use of a small single storey building with an internal floor-space just short of 14.5m x 10.5m, a significant proportion of which is needed for toilet facilities/mess room/and ancillary office activities. The area left for storage is some 78 sq. metres. The frequency of traffic serving such a use can never be specified with accuracy and judgement has to be made upon the scale of the development and the likely traffic implications arising from it.

In answer to the solicitor's comments about potential storage of hazardous materials, if notifiable hazardous substances were required to be stored in these premises, then separate hazardous substances would be required.

- (2) On the grounds that it is believed that a use occurred within the site on or around the 11 November 2011, should not this application be refused as incompetent, as it does not seek retrospective planning permission.

Comments: The applicants have confirmed in their letter of 11.01.12 that that the premises are being used temporarily for the storage of kitchen units and doors in respect of the dwellings being constructed on adjacent land by the Company, Macleod Construction Ltd, with the anticipation of that temporary use ceasing by April 2012.

Class 14 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, provides that land within, or adjoining, construction sites may legitimately be used for temporary storage purposes for the duration of building works (including the erection of structures or the siting of containers), without the requirement for planning permission. In this case, the developers have chosen to use the vacant building in preference to siting storage containers or erecting any other temporary structures or buildings within the site. This situation is not provided for by Class 14, despite the fact that in amenity terms, temporary storage of materials associated with construction on the adjacent site within this building, is likely to be preferable to occupation of the associated land for this purpose. The use for which permission is being sought is for a permanent use of the building, unrelated to the applicant's construction activities on the adjoining site although it should be regarded as being retrospective in view of the applicant's interim occupation of the building.

- (3) Bad Neighbour Aspects. It is submitted that the proposal falls under Schedule 7 of the Town and Country Planning (General Development Procedure)(Scotland) Order 1992 and that as a consequence the terms of policy LP BAD 1 needs to be considered by the Authority, the solicitor claiming that the use will (i) present unacceptable adverse effects on the amenity of neighbouring residents, (ii) that there are no appropriate measures which could satisfactorily reduce the impact on amenity and (iii) that the objections on amenity grounds remain significant and cannot be overcome. The solicitor seems to consider that an intensification of the use affecting amenity will arise because a significant proportion of the floor space is to be given over to incidental office/mess room use and as will become a 'hub' for the applicants' workforce increasing traffic flow. It is claimed that Environmental Health Officers object.

Comments: The solicitor's reference to Schedule 7 in the 1992 Order is not appropriate in the context of this proposal – these provisions have been superseded by Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. The relevant sections of the Regulations place an onus on a Planning Authority to publish an application as a 'Bad Neighbour' development, and assess it as such, if the Authority consider that the development would:

- (a) *affect residential property by reason of fumes, noise, vibration, smoke, artificial lighting, or discharge of any solid or liquid substance;*
- (b) *alter the character of an area of established amenity;*
- (c) *bring crowds into a generally quiet area;*
- (d) *cause activity and noise between the hours of 8pm and 8am; and*
- (e) *introduce significant change into a homogeneous area.*

Because of subsequent amended legislation the requirement is that a Planning Authority place a single Regulation (20) advertisement if there is vacant land adjacent to the site (as there is in this case) and/or if it considers any of the above 'bad neighbour' circumstances are applicable. The fact that a Regulation (20) advertisement has been placed (in respect of vacant land) does not imply that it is considered by the Council that residential amenity would be significantly affected. The assessment of this case (see Appendix below), does make the judgement as to whether the proposal infringes the safeguarding requirements of Local Plan policy LP BAD 1.

If the Class 6 use were to be permitted and the premises were to be used for another purpose such as to constitute a material change of use, that would either become an enforcement matter or a matter to be considered by way of a further planning application.

The Council's Environmental Health Officer has re-assessed matters following the modification of the application and no longer has concerns, and does not object to the proposal subject to recommended conditions.

- (4) Setting of the Proposed Development. It is within a residential area and proposal would result in a material loss of amenity, particularly with regard to the increased traffic flow, and this affect would be detrimental to (our clients) Listed Building (Grade B Thomas Telford Manse).

Comments: These issues are dealt with in the assessment section below.

- (5) Environmental issues relating to access to the site. The lorry movement will reduce the nearby air quality. Unless a restriction is imposed in any permission noise and light pollution from traffic will occur at unsocial hours. Even within 'social' hours, noise from lorries idling could be significant. High cab height could result in loss of privacy into the Old Manse. Various other comment about railings/Road surface damage/and delays in traffic on Blarbuie Road (mentioned and commented up below in the context of views expressed by a different objector).

Comments: Given that there is no expectation of significant traffic levels based on the limited size of the building and on the basis of the Council's Environmental Health Officers assessment, air quality is not expected to change as a result of this development, particularly taking into account its legitimate use as an ambulance depot.

Similarly, based on the fact that all manner of traffic, including ambulances / delivery vehicles to hospitals and homes and bin lorries etc use Manse Brae and Blarbuie Road which exists within 13m of the Old Manse and 34 m of Drim-na-vullin, it is not expected the traffic associated with this small storage building, the private road for which is 40m from the dwelling of the Old Manse and 155m from that of Drim-na-villin, will generate any serious noise issues to those properties, such that they would experience any significant diminution in residential amenity. This assessment has regard to the background noise levels associated with traffic in the locality, and takes account of the expected small volume of traffic the use will generate given its limited floor-space.

Light pollution to the residence of the Old Manse from the lorry/van lights

manoeuvring into/out of the car park in the winter months within the operational hours to be placed on any potential permission, is not considered a serious issue based on the distances involved combined with the fact that behind the boundary fence of the Old Manse with its few deciduous trees there is then a moderately strong and high cypress leylandii hedge which helps maintain separation between the commercial and residential uses.

- Hospital access. The planning application calls for both the access and egress of both heavy single chassis and also articulated lorries, manoeuvring slowly on Blarbuie Road, at a point below the hospital directly on this vital emergency access as used by ambulances and emergency vehicles.

Comments: Since this point was made, the applicants have volunteered a self-imposed restriction upon the management of the unit such that they will ensure that articulated lorries will not arrive/leave from this property except in a rare case, anticipated as being not more than once a year. The use of smaller vehicles is unlikely present the problem envisaged by this representation. The Area Roads Manager has not objected to the development.

- This access was rejected as a suitable point of access for the new residential development which required the new access higher up the hill; how is it acceptable for this development?

Comments: There is a significant difference in the volume of traffic that will use the new road system immediately to the north east of this site to serve a large new housing development, compared with the very much lower volume of traffic that would use the present access and its junction with the public road. Additionally, the present access historically served an ambulance depot with its associated vehicle movements. Given that the applicant has shown that flat-bed lorries can readily negotiate the junctions and having regard to the past use of the site, the Roads Engineer accepts that this proposal can function without any material highway danger or nuisance sufficient to warrant refusal on road safety grounds.

- Road Maintenance. Blarbuie Road was not constructed for heavy traffic use, its northern edge not resting on a secure bedrock but on weak micra schist and a loose ground soil bank which has resulted in periodic slumps to the roadside with increased residential, public transport and emergency traffic taking a toll on the road surface; consequently heavy and articulated lorry traffic to be generated by this proposal would exacerbate the situation.

Comments: The Roads Engineer has assessed all facts and concluded that the application can be supported.

- Delay and disruption to residential access. Concern that large lorries manoeuvring between Blarbuie Road and the site access will result in traffic backing up on the public road, particularly from the new residential development on the school site which lies opposite our own, all causing disruption to exiting/entry off the private driveway serving Drim na Vullin

with its sharp and steeply angled arrangement with Blarbuie Road which lies opposite the residential estate access.

Comments: The Roads Engineer has assessed all facts and concluded that the application can be supported.

- Concern that heavy plant movement especially in winter icy conditions may result in danger to pedestrian/vehicle user safety with limited curb side space.

Comments: The Roads Engineer has assessed the turning circles of lorries and concluded that manoeuvres will not necessitate kerb mounting of footways.

- The applicants are intent on removing the safety railings presently in place on the western side of the private road, separating the vehicular road from the core footpath, being a raised tarmac pavement in this location. This will present a danger to pedestrian safety suggesting that vehicle movements need to mount the pavement.

Comments: The applicants do need planning permission to remove railings within their ownership, and as their continued existence presents a maintenance issue, it is understandable that they might wish to remove something they consider unnecessary. The railings were put in place to segregate high volumes of pupils walking to/from the old High School at the same time as school buses other school traffic and ambulances were arriving/departing using the same route. Conflict between vehicle movements and high levels of pedestrians is no longer an issue and the Roads Authority does not see the need for such segregation by railings in other locations, where for instance lorries pass town centre or other busy footpaths.

- Noise. Heavy lorries accessing or leaving the site will force ambulance drivers to alert their passage in advance with increased use of sirens causing a noise detrimental to residential amenity. Additionally the noise of lorries will increase general traffic noise within the neighbouring residential areas.

Comments: Based upon an expected low volume of traffic generation consistent with the size of the storage floor-space and the fact that the property is to be managed in such a way that the use of articulated lorries is to be avoided, it is not expected that siren noise will significantly increase, particularly given the presence of a junction serving a housing estate. It is recommended that the permission should be conditioned to prevent goods being delivered or removed from the premises at night.

- Pollution Runoff. The activities of heavy lorries in constant use will add oil to the present considerable spillage that descends from the road into the flowing water of the Cuilarstich Burn to the detriment of the natural environment, a burn which in the past saw regular otters, dippers, sea trout and salmon.

Comments: It is not expected that the proposed use will lead to any material increase in pollution of the Cuilarstich Burn.

(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: | Yes – Site/Traffic Management Plan dated 09.02.12 |
| (iv) | A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc: | No |

(H) PLANNING OBLIGATIONS

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**

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- (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.**

'Argyll and Bute Structure Plan' 2002

STRAT DC 1 – Development within the Settlements

STRAT DC 9 – Historic Environment and Development Control

'Argyll and Bute Local Plan' 2009

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 BUS 1 – Business and Industry Proposals in Existing Settlements

LP BAD 1 – Bad Neighbour Development

LP TRAN 1 – Public Access and Rights of Way

LP TRAN 4 – New and Existing Public Roads and Private Access Regimes

LP TRAN 6 – Vehicle Parking Provision

PDA 12/1 – Lochgilphead High School site for housing.

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.

- Scottish Planning Policy
- Circular 21/84 Crown Land and Crown Development
- Planning Advice Note (PAN) 1/2011 – Planning and Noise
- Consultation and third party responses

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

The proposal seeks planning permission for the change of use of a former ambulance depot (sui generis) to form a storage building with approximately 80sqm of storage space with ancillary office accommodation. The proposal does not include for any material alteration of the existing building, with only minor amendment of the existing junction into the site and extension of the parking layout required to serve the proposed new use. The proposal will not have any significant impact upon the setting of an adjoining category B listed former Manse, is compliant with the Council's technical standards relating to access, parking and turning and, having regard to the previous use of the site as an ambulance depot, is considered capable of operating without detriment to the established amenity of the locale and residents of adjoining properties, both existing and proposed.

Lochgilphead Community Council has objected to the application. In addition third party objection to the current proposal has been received from the residents of four residential properties in the immediate vicinity of the application site and one of these parties has engaged a legal representative to make further detailed representations on their behalf. In summary, the issues of concern primarily relate to road safety, residential amenity, management of the historic environment and procedural matters.

The site lies within a residential Potential Development Area (PDA) designated by the local plan and the building is a remnant of the former hospital use of adjacent land which now in association with adjacent redundant education land is in the process of

being redeveloped for housing. The longer term aspiration for the site is therefore some form of residential redevelopment conforming with the ongoing housing redevelopment of the adjoining land. The building is currently in use for storage by contractors implementing the ongoing housing development and their wish is to continue to occupy the building for that purpose once the adjoin development is complete. Given the location of the site within housing PDA 12/1 it would not be appropriate to confer a permanent commercial use on this building given its residential surroundings and the potential it has, when the market improves, to fulfil the intended purpose of the site to provide residential accommodation. However, in the shorter-term it has to be appreciated that the site operated as an ambulance station until relatively recently, and that latterly it has been occupied as a contractors' store without evident adverse consequences for residents.

Accordingly, notwithstanding the concerns raised by the Community Council and third party objectors, it is considered that whilst a permanent permission as applied for would be undesirable, a temporary permission sufficient to enable the site to serve the needs of the remainder of the housing development it currently serves and providing an opportunity to review the operation of the site in the light of experience would be an appropriate response to the situation, and on that basis the proposal would be consistent with the relevant provisions of both the Argyll and Bute Structure Plan 2002 and the Argyll and Bute Local Plan 2009.

At the expiry of that period there would be an opportunity to review the future of the building in the light of the situation prevailing at that time, with no obligation to consider further storage occupation favourably if the applicants had failed to operate the site with consideration for neighbours, or if the use had proved to be one incapable of being operated without unacceptable amenity consequences in respect of its surroundings.

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

(R) Reasons why Planning Permission or Planning Permission in Principle Should be Granted:

The proposal having regard to its intended use, the difference between the proposed use and the present lawful use, the size of the building and its location, does not give rise to significant detriment to material concerns, including residential amenity, highway considerations, or the setting of a listed building, sufficient to warrant the refusal of the application and there are no other considerations, including the views expressed by consultees and third parties which would warrant anything other than a temporary planning permission being granted in conformity with the provisions of the development plan.

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

Not applicable.

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

Author of Report: Derek Hay

Date: 15th May 2012

Reviewing Officer: Peter Bain

Date: 15th May 2012

Angus Gilmour
Head of Planning & Regulatory Services

CONDITIONS AND REASONS RELATIVE TO APPLICATION REF. NO. 11/02280/PP

1. This permission shall cease on or before 30th June 2015 other than in the event of a further permission for continued use having been granted upon application to the Planning Authority.

Reason: To define the permission and to provide opportunity to review the operation of the permitted use in the light of experience in order to protect the amenity of the locale.

2. The development shall be implemented in accordance with the details specified on the application form dated 10.11.2011 and the approved drawing reference numbers 1 to 8 of 8 unless the prior written approval of the planning authority is obtained 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.

3. Notwithstanding the combined provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 and the Town and Country Planning (General Permitted Development) (Scotland) Order(s) 1992, Schedule 1, Class 12, the premises shall only be used for a class 6 (storage and distribution) use as defined in the Town and Country Planning (Use Classes)(Scotland) Order 1997, and the use of the premises subsequently for any class 4 (business) use shall be prevented by this condition, requiring separate planning permission for any such use.

For the avoidance of doubt, no preparation or working of materials by power or other tools shall be permitted within the site as this would constitute a change of use to Class 5 – General Industrial, which is not compatible with the existing mixture of uses surrounding the site, including noise sensitive uses.

Reason: The site is compact with limited car parking for which reason it will need to be assessed through a fresh planning application as to whether there is sufficient parking for any specific class 4 (business) use as might be proposed and in order to protect the amenity of the locale.

4. No materials, goods, containers, caravans, trailers or waste products shall be stored outside the building.

Reason: In the interest of neighbouring residential amenity and because of the limitations of the site.

5. The operation of the premises and the management of traffic to and from the premises shall conform to the applicants' site and traffic management plan as specified in the statement of the 9th February 2012 attached hereto.

Reason: In the interest of residential amenity.

6. Within three months of the date of this permission, the roadworks altering the bellmouth and kerb line of the site access with the private road shall be implemented in full in accordance with the details specified on drawing 3 of 8 (J568/C/01).

Reason: In the interests of highway safety.

7. Within three months of the date of this permission, the 4 on site car parking spaces and vehicle turning area as shown on drawing 2 of 8 (4482/102) shall be constructed and made available for use. Thereafter the approved car parking layout shall be retained for the parking, turning and manoeuvring of vehicles.

Reason: In the interests of highway safety.

8. The hours of operations for all delivery/dispatch activities shall be restricted to between 08.00 and 18.00 hours Monday to Saturday only with no activities permitted on Sundays or Scottish Public Holidays without the prior written approval of the Planning Authority.

Reason: To safeguard residential amenity.

9. No external lighting shall be installed without the details of it having being first submitted to and approved in writing by the Planning Authority in consultation with the Council's Environmental Health Officers. Any lighting as may be permitted pursuant to the requirements of this condition shall be installed and maintained in a manner which ensures no spillage of light onto neighbouring premises.

Reason: To safeguard residential amenity.

10. The land and premises shall be used in such a way that the existing core footpath on the western side of the private road, and the private road itself shall both remain surfaced and free of obstruction for the movement of pedestrians (on the core path) and the movement of vehicles (on the private road) through the site.

Reason: In the interest of pedestrian and highway vehicular safety.

NOTE TO APPLICANT

Alterations to the junction serving the access to the site pursuant to the requirements of condition 6 above will require a Road Opening Permit under the Roads(Scotland) Act 1984. Contact the Council's Roads Engineers on 01546 604655.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 11/02280/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The application site is located within the Lochgilphead 'settlement area' wherein the provisions of policies STRAT DC 1 and LP BUS 1 are supportive of up to and including 'large' scale business and industry development (defined in the Local Plan as Use Classes 4, 5, 6 and 7). The current proposal relates to a site area of 0.1ha and an existing building of 160sqm floor area and as such falls within the definition of 'small scale' development as specified by Schedule B1; the provisions of Schedule B2 seeks to direct 'medium' and 'large' scale business and industry development to land allocated for this purpose in the first instance, but recognises that 'small' scale business and industry development can be accommodated at other locations within settlements.

The provisions of LP BUS 1 also require greenfield sites to be avoided where brownfield locations area available; these provisions also requires proposals to be compatible with the amenity of residential property, compliance with other applicable policies and the Council's technical standards in respect of access, parking and pedestrian access as well as being of a design, scale and siting which respects landscape/townscape appearance of the locale – detailed assessment of these requirements is set out under items B, C, D and E below.

The application site is also located within Potential Development Area (PDA) 12/1 which seeks to promote the wider locality of the former Mid Argyll Hospital, former Lochgilphead High School and adjoining land, including the former Ambulance Station, for mixed density residential development. This aspiration has been partly achieved to date with the grant and implementation of planning permission for the provision of 88 dwelling units on the sites of the former hospital and high school.

B. Location, Nature and Design of Proposed Development

The current application site relates to some 0.1ha of land located to the south of Blarbuie Road on a private road which formerly served the old Lochgilphead High School, which has since been demolished with the vehicular access closed off and development of residential property currently proceeding on the former campus served by a new means of vehicular access. Pedestrian access remains with a footpath along the western side of the road connecting Blarbuie Road with footpath access into and through the new residential development, this footpath route being identified on the Council's list of Core Paths.

The character of the immediate locale has undergone substantial change in recent times with the relocation of the former Mid Argyll Hospital and Lochgilphead High School to alternative locations and the redevelopment of this land for residential development. It is noted that the planning permission for the redevelopment of adjoining land also incorporated the private access road and includes for the closure of this road to prevent through vehicular traffic from Blarbuie Road to the former Lochgilphead High School Site.

The current application site primarily relates to an existing depot building which was constructed by and last used by the Scottish Ambulance Service for the stationing, repair and maintenance of a limited fleet of vehicles with associated staff welfare

facilities (sui generis). Whilst the lawful use of the site as an ambulance depot has ceased, and the property has been sold by the Scottish Ambulance Service to the current applicant, it is noted that the lawful use of the site has not been abandoned and remains capable of being resumed without the benefit of planning permission. Having regard to the provisions of Circular 21/1984, whilst planning permission was never granted for the erection of this building, being development by the Crown/Government Agency, it is considered to be a lawful use of land which is capable of being continued following its disposal. The provisions of the Circular also advise Planning Authorities to give due consideration to the retention and re-use of such buildings for alternative purposes, given that their initial establishment was funded by public expenditure.

The existing building is of single storey design and accommodates a garage/workshop, stores, office and mess facilities. The site also includes the adjoining private road which serves the site.

This application seeks planning permission for a change of use of the premises to form a new Class 6 Use (storage and distribution) on the site; effectively this would comprise the use of the existing building as a small warehouse. The details submitted do not include for any material external alteration to the existing building. Internally it is proposed to reconfigure the existing garage/workshop to provide approximately 80sqm of storage space. Access to the storage area would be via two roller shutter doors in the north facing elevation of the building which are presently the means of access to the present ambulance garage and workshop area. The proposed main ancillary office room will use the present room allocated for ambulance crew training. In order to accommodate the proposed new use the current application also specifies the reconfiguration of an existing car park, the realignment of the junction from the site onto the private access road and, the removal of railings on the footpath on the west side of the private road. The details submitted by the applicant confirm the provision of four car parking spaces with additional space for a delivery lorry to be accommodated within the site, whilst retaining availability of access for two existing residential properties which also utilise this private road as a means of vehicular access.

The details accompanying the current application further advise that it is the intention of the applicant to utilise the site for the storage of goods, all of which will take place within the existing building without any element of external storage. The applicant also states their intention to implement, and willingness be bound to, a traffic management plan which would restrict the use of articulated vehicles to exceptional circumstances, furthermore, it is proposed to restrict the delivery/dispatch of goods to/from the site to the operational hours of 08.00 to 18.00 Monday to Saturday, excluding all Scottish public holidays to protect amenity of adjoining property, although it is not proposed to restrict the time period for use of the ancillary office facilities within the building for the activities of the site operator.

C. Built Environment

The site lies to the west of the Old Manse, which is a category B listed building and as such requires consideration having regard to the provisions of STRAT DC 9 and LP ENV 13a, which would seek to resist new development which is considered to have an adverse impact upon the setting of a listed building. In this respect, it is noted that the eastern boundary of the Old Manse is defined by a number of mature deciduous trees, behind which there is a conifer tree screen. The provisions of planning permission ref. 06/02446/DET allowed for the erection of a single storey dwellinghouse positioned between the current application site and the B listed

structure. The mature deciduous trees growing within the western verge of the adjoining pedestrian footpath are multi-trunk specimens which would not be worthy of protection by means of a tree preservation order, however they do contribute to the character of the locale. The current proposal does not intimate any requirement to fell or cut back these trees. However, should they require to be felled at some point in the future their replanting would be beneficial as the retention of long term tree cover will assist in the separation of the commercial use with the residential property to the west. Having regard to the previously established acceptability of developing within the rear garden area of the Old Manse, and the fact that the current proposal does not include for any material external alterations to the existing depot building, it is considered that the current proposal will lead to any significant visual change to the setting of the Old Manse nor its immediate locale. In coming to this conclusion it is noted that due consideration has also been given to the probable traffic type/level of activity that will be generated by the proposed use in comparison to that of the activity associated with the operation of the existing lawful use of the site as an ambulance depot.

D. Road Network, Parking and Associated Transport Matters.

Access to the site is via an existing private access road which connects with Blarbuie Road, the public highway which forms the sole means of vehicular access from Lochgilphead town centre to the Mid Argyll Community Hospital and surrounds.

The proposal includes for the reconfiguration of the junction into the site from the private road and car park, widening the access, and relocating parking to allow any larger vehicles, including articulated lorries when necessary, to both enter and exit the junction from Blarbuie Road in a forward gear. The reconfigured parking area will provide on-site parking and turning for four cars.

The proposals also include for the removal of railings on the western side of the private access which provide physical separation between users of the pedestrian footpath and the private access road. It is noted that that the removal of these railings does not in itself require the benefit of express planning permission. It is further noted that the railings were provided by the Council at a time when the private access road was utilised as the means of vehicular access to the old Lochgilphead High School, and as such it was particularly desirable to have a means of physically separating a high volume of pupils entering/exiting the site from the high volume of traffic, including buses, which would occur simultaneously at the beginning and end of the school day. Whilst this footway remains part of a network of publicly accessible footpaths, it is noted that the previous situation of simultaneous high volumes of pedestrian and vehicular traffic are no longer capable of occurring – in this respect the railings are no longer essential to secure pedestrian safety and are an on-going maintenance liability for the land owner.

The Area Roads Manager has not raised objection to the proposal on road safety grounds subject to the imposition of conditions relating to configuration of access and parking arrangements and their timely provision. In this respect, the proposal is considered to be consistent with the relevant provisions of LP ENV 1, LP TRAN 4 and LP TRAN 6.

The private access road which serves the site also forms part of a Core Path network with a pedestrian footpath which runs along the western edge of the road connecting Blarbuie Road with residential development in the former Lochgilphead High School site and its through connections to paths on its southern boundary. The current

proposals include for the retention of the pedestrian footpath and will not impinge upon the ability of pedestrians to utilise this route. The proposal is consistent with the provisions of LP TRAN 1.

E. Residential Amenity

The application site is located within a predominantly residential area with the site being adjoining by residential buildings in relatively close proximity to its east, south and western boundaries. The provisions of policy LP BAD 1 stipulates that 'Bad Neighbour' developments will only be supported where there are no unacceptable adverse effects on the amenity of neighbouring residents, where the proposal includes appropriate measures to reduce impact upon amenity, where there are no significant transport, amenity or public service provision objections, and where technical standards in terms of parking, traffic circulation, access and servicing are met in full.

The previous use of the site by the Scottish Ambulance Service for the repair and maintenance of ambulance service vehicles, as well as for the stationing of ambulances on call and the training of crew, proved problematical with a number of complaints having been received by the Council whilst it remained operational. These related to the impact of these activities on residential amenity, which necessarily operated around the clock on 7 days a week.

In this instance it is noted that the nearest residential properties to the former Ambulance Depot are School Lodge, which adjoins the site to the south, and the Old Manse which lies on the opposite side of the private access road to the west. It is also noted that extant but unimplemented planning permission (ref. 06/02446/DET) exists for the erection of a dwellinghouse between the Old Manse and the current application site. The approved dwelling has been designed to provide an acceptable level of residential amenity to its occupants in relation to the activities associated with what was an active Ambulance Depot at that time, this specifically being achieved with living accommodation incorporated on the opposite side of the building and only windows of non-habitable rooms facing the former Ambulance Depot.

Whilst it is recognised that traffic movements associated with Class 6 development has the potential to have a detrimental impact upon residential amenity by virtue of noise, disturbance and emissions from idling engines it is considered that three factors render this case unlikely in this particular instance. The first factor being that the level of activity which can reasonably be undertaken at the site will be commensurate to the scale of the facility – in this instance the proposed storage space equates to a very compact 80sqm and whilst this could potentially be extended without requirement for planning permission by re-arranging the internal layout of the building, even this is unlikely to result in any significant increase in the level of activity at the site. Furthermore, the provisions of Classes 12 and 13 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 provide deemed permission that effectively ensures that Class 4 (Business) and Class 6 (Storage or Distribution) is interchangeable provided that the floor space involved is less than 235sqm. By its very definition, Class 4 development is capable of being undertaken within a residential area without adverse impact upon residential amenity, so the provisions of the GPDO recognise implicitly that the level of activity associated with a small scale Class 6 development can also be undertaken without significant adverse impact upon the amenity of residential property.

The second factor is the location of the site adjacent to Blarbuie Road, which as the public highway serving the Mid Argyll Hospital, the Argyll and Bute Hospital and a

large number of existing and as yet uncompleted residential properties, is already a busy road which in part generates commercial traffic – the established amenity of the locale is impacted upon already by noise from traffic, including commercial vehicles, and in this respect, the small scale nature of the site is not considered likely to give rise to a significant increase in the overall traffic levels or type of vehicle movements associated with Blarbuie Road.

Thirdly, the existing lawful use of the site as a depot for the maintenance and repair of ambulance service vehicles and the stationing of on call ambulances and crew and, crew training creates potential for a significant level of disturbance to the locale on a 24/7 basis – it is considered that a small scale storage and distribution use is likely to be a significantly less intensive use of the site than the existing lawful use as an ambulance depot, it is noted that the nature of amenity concerns relating to the movement of vehicles is very similar in nature for both the existing and proposed uses however the requirement for these activities to be undertaken during restricted hours of operation must be viewed as securing a significant improvement to the amenity of the locale and in particular, that of adjoining residential properties. It should also be borne in mind that former use of this access as the route into and out of the former Lochgilphead High School entailed significant traffic movements at certain times of the day, including school buses. That traffic has now ceased with the relocation of the school and the provision of an alternative means of access to the housing being developed on the former school site.

Having regard to the above it is noted that the Council's Environmental Health Officers initially raised concerns in their response dated 20th December 2011 that the frequent use of the site by large vehicles, particularly articulated vehicles may have an adverse impact upon residential amenity, although no objection to the proposal was raised subject to the imposition of conditions restricting the hours of operation of the site and control of lighting. Subsequent to these concerns being expressed, the applicant has provided further clarification of the nature of their intended use, which confirms that all vehicular movements in and out of the site shall be by fixed bed lorries of a maximum length 10m or less, except under exceptional circumstances where an articulated vehicle might be required; this being anticipated to be on no more than three occasions in any calendar year. The applicant has explained that the nature of vehicle movements to and from the site is to a large degree predicated by the small scale nature of the storage accommodation which will be provided at this facility. Under normal circumstances it will be the practice of the site operator for any deliveries requiring articulated vehicle movements to be directed to their existing premises at Kilmory Industrial Estate where a transfer of any goods to a fixed bed lorry for transfer to the current application site can be undertaken. The applicant has indicated willingness to accept conditions limiting the manner in which the premises may be accessed by delivery vehicles. The Area Environmental Health Officer has subsequently confirmed that the proposed use of the building for storage and distribution and ancillary office accommodation does not give rise to activities which would be detrimental to residential amenity, provided that vehicular movements associated with deliveries/dispatches to/from the site are restricted by time period.

Having regard to the above, it is considered that the proposed re-use of the site for the proposed purpose of Class 6 (storage and distribution) is capable of being undertaken without significant detriment to the established amenity of adjoining residential property or the wider locale and as such is considered consistent with the relevant provisions of LP ENV 1 and LP BAD 1.

F. Other Policy Considerations

It should be recognised that whilst the site is in the 'settlement area' it also lies within Potential Development Area PDA 12/1, zoned for housing – relating to the former hospital and school sites. This means that housing would have been the preferred solution for the site, but as the Scottish Ambulance Service did not make it available for redevelopment in association with the wider redevelopment of adjoining land (having unfulfilled aspirations to retain it as a vehicle maintenance facility at the time), it has been subsequently sold separately to the current owners, who wish to retain and use the building for other purposes, rather than seeking to redevelop the site for housing.

As there is an existing building on the land which is the subject of a *sui generis* use, it is reasonable that the owner should seek to establish an alternative beneficial use for the premises, concomitant with its primarily residential surrounding and its available means of access. The assessment above concludes that the intended use, with the recommended restrictions in place, will not impinge upon residential amenity in terms of traffic and disturbance to any greater degree than the former situation, when this site was in use as an ambulance depot and the access was in use to serve both that depot and the former secondary school.

Given the longer term aspiration of the PDA, the shorter-term requirement to use the site to serve the ongoing development elsewhere within the PDA and the opportunity this allows for an assessment of the operation of the use, it is considered appropriate to restrict the period of any permission offered to a short-term temporary consent in order that the longer-term future of this site may be reviewed along with the progressive development of the PDA. To this end, it is known that the applicant intends to use the building primarily for the purpose of facilitating their on-going building operations on adjoining land, which are expected to continue for a period of at least two more years.

Whilst the applicant has requested a permanent permission it is the view of the Planning Authority that, in light of the above, a three year period of permission would be appropriate to allow the review of the site's situation having regard to the on-going development of the PDA within which it lies. A three year period should also provide sufficient scope for the applicant to continue using the building for the duration of planned constructions works within the PDA as consented to date.