

**Argyll and Bute Council  
Development and Infrastructure**

**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:** 12/00834/PP

**Planning Hierarchy:** Local Development

**Applicant:** Mr and Mrs Shaun Bate

**Proposal:** Erection of Dwellinghouse  
(Renewal of Planning Permission 07/00279/DET)

**Site Address:** Land South of Heatherfield, Albert Road, Oban

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**DECISION ROUTE**

**Local Government Scotland Act 1973**

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**(A) THE APPLICATION**

**(i) Development Requiring Express Planning Permission**

- Erection of dwellinghouse
- Upgrade/amendment of existing vehicular access

**(ii) Other Operations**

- Connection to public drainage system
  - Connection to public water supply
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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 subject to the conditions and reasons appended to this report.

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**(C) HISTORY:**

12/00368/PP

Erection of dwellinghouse (renewal of 07/00279/DET) – Withdrawn: 20/04/12, to be replaced with current application, as site boundary required amendment to accurately reflect details granted planning permission under 07/00279/DET.

07/00279/DET

Erection of dwellinghouse (renewal of 01/00706/DET) - Granted: 20/04/07

01/00706/DET

Erection of dwellinghouse – Granted: 03/07/02

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**(D) CONSULTATIONS:**

Area Roads Manager

Report dated 15/05/12 advising no objection to the proposed development subject to a condition regarding parking and turning arrangements and also advising that the existing Section 75 Agreement should remain in force.

The Section 75 referred to was concluded as part of the original planning application and removed the use of Heatherfield House as a restaurant. This ensured that the volume of vehicular traffic accessing the site would be significantly reduced and the introduction of one dwellinghouse would not represent an intensification of use of the established access. The Section 75 Agreement remains in effect.

Scottish Environment Protection Agency

Letter dated 17/04/12 reiterating the advice in their previous response to application 12/00368/PP that they have no site specific advice but direct the agent to their Technical Guidance Note: On-site Management of Japanese Knotweed.

Scottish Water

Letter dated 27/04/12 advising no objection to the proposed development but providing advisory comments for the applicant.

West of Scotland Archaeology Service

Letter dated 17/04/12 advising no substantive archaeological issues raised by the proposed development.

Oban Airport

No response at time of report and no request for extension of time.

Horticultural Officer

E-mail dated 04/05/12 advising no objection to the proposed development but highlighting that Japanese Knotweed is present on the site.

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**(E) PUBLICITY:**

The proposal has been advertised in terms of Regulation 20 procedures, closing date 17/05/12.

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**(F) REPRESENTATIONS:**

9 representations have been received regarding the proposed development:

Mr G. D. Bell, Heatherfield House, Albert Road, Oban, PA34 5EJ (02/05/12)

Mrs S. E. Bell, Heatherfield House, Albert Road, Oban, PA34 5EJ (04/05/12)

Mr D. G. Creese, Heatherfield House, Albert Road, Oban, PA34 5EJ (23/04/12)

Mr Terry Just, 126b George Street, Oban, PA34 5NT (01/05/12)

David MacLachlan, 126 George Street, Oban, PA34 5NT (02/05/12)

The above letter from Mr MacLachlan has been reproduced and endorsed with the following signatures:

Craig McLachlan  
Jacqueline McLachlan  
Doreen MacLachlan  
Mark Penrose

**(i) Summary of issues raised**

- At the time of the previous planning permission, the site was in the ownership of Heatherfield House. This is now not the case and this change in ownership is a material consideration in the determination of this current planning application.

*Comment: The change in land ownership is not a material consideration in the determination of this planning application.*

- The development site has no vehicular access with the applicant only having a servitude right to cross the existing access serving Heatherfield House. This area cannot be obstructed.

*Comment: This is a private matter between the relevant parties. Any obstruction to the access would be a private civil matter between the parties. Should obstruction of the public road become an issue, this would be a matter for the police. Improvement and upgrading of the access to form a shared access is part of the previous approval and these details have not changed. The securing of the required legal rights to access a site is a separate civil matter outwith the planning remit. If such rights are not available and cannot be secured, then those persons controlling the access would be in a position to frustrate the implementation of the development, irrespective of any planning permission given.*

- Road safety issues regarding the proposed development

*Comment: The Area Roads Manager was consulted on the proposed development and raised no objection. In his response he has highlighted that due to the poor visibility, the Section 75 Agreement preventing the restaurant at Heatherfield House re-opening should remain in force. (This relates to an Agreement concluded prior to the original 2001 consent being issued). The effect of the Agreement is that the use of the access would not increase as a result of a single additional house. The agreement is a title burden which transfers with the ownership of the land, so is of effect in respect of successive owners and not just the party with whom the agreement was concluded.*

- In order to achieve the required visibility splays, the garden wall of 126 George Street, Oban would require to be removed.

*Comment: The Area Roads Manager was consulted on the proposal and sought no requirement for the removal of the wall to achieve visibility. The poor visibility was addressed in a previous Section 75 Agreement which prevented the Heatherfield Restaurant coming back into use, thus reducing the volume of traffic utilising this road. This is a historic access where the Area Roads Manager was satisfied regarding the intensity of use of the access. This formed the basis on which the details were granted in 2001 and 2007.*

- Japanese Knotweed is present on site.

Comment: The Scottish Environment Protection Agency was consulted on this matter. In their response they advise that they have no site specific advice but direct the agent to their Technical Guidance Note: On-site Management of Japanese Knotweed. A condition is recommended requiring the submission of a Japanese Knotweed Eradication Plan for the site.

- Unauthorised gabion baskets and fill material await removal from this site.

Comment: This is noted and is currently being pursued by Building Standards. Planning enforcement powers would also be potentially available but it is not appropriate to deploy these whilst the Council is addressing the matter using other powers. This is a separate matter from the renewal application in hand and is being pursued irrespective of the planning decision.

These works do not form a lawful part of the works associated with 07/00279/DET because the developer did not satisfy a pre-start planning condition attached to that consent. If he had discharged the condition and had made a meaningful start lawfully on the development, planning permission 07/00279/DET would remain live in perpetuity and there would be no need to seek a renewal of that permission.

- The original application stated that the site had 8 existing on-site parking spaces and proposed an additional 2. However, the 8 spaces belonged to Heatherfield House and were not included within the development site. This current application only proposes 4 parking spaces which is not possible.

Comment: The original applicant owned the house application site and the guest house, and as such, when he completed the application form, certified that the site contained 8 existing spaces with two additional spaces proposed for the new house. The original 2001 consent was amended in 2007 when planning permission was again given for a house, with an adjusted shared access, and on-site parking and turning. The current application seeks to renew the details granted planning permission in 2007. The current applicant does not own both properties, so it is not appropriate to detail the 8 guest house spaces when certifying the parking spaces, as existing or as proposed, within the site. In the application, the agent confirms that 4 spaces are to be provided as part of the development proposed.

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) <b>Environmental Statement:</b>   | No |
| (ii) <b>An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:</b> | No |
| (iii) <b>A design or design/access statement:</b>   | No |

- (iv) **A report on the impact of the proposed development** No  
e.g. retail impact, transport impact, noise impact, flood risk,  
drainage impact etc:
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**(H) PLANNING OBLIGATIONS**

- (i) **Is a Section 75 agreement required:**

No, although an existing Section 75 agreement is in effect and will remain as such

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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

Argyll and Bute Local Plan 2009

LP ENV 1 – Impact on the General Environment

LP ENV 10 – Impact on Areas of Panoramic Quality (APQs)

LP ENV 19 – Development Setting, Layout and Design

LP HOU 1 – General Housing Development

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

(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:** No

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

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 3 July 2002, which was subsequently renewed under planning permission 07/00279/DET on 20 April 2007 and which remained live until 20 April 2012. In planning terms, that permission could have been lawfully commenced, subject to the satisfaction of a pre-start condition requiring approval of a roof finish sample, at any time up to and including 20<sup>th</sup> April 2012.

This application represents a timeous renewal of the previous permission as it was validly submitted prior to the expiry of the 2007 consent.

In the consideration of this renewal, it is necessary to make an assessment as to whether there has been a material change in circumstance since the time of the previous approval. Since 2007 there has been a change of Local Plan with the Argyll and Bute Local Plan being adopted in 2009, however, the main policy background within this area remains unchanged and it is supportive of the principle of residential development within the settlement. There have been no material changes in circumstances in the surrounding area since the last permission was granted.

No changes are proposed to the previously approved design, scale, access or servicing arrangements and therefore, taking into consideration the above, it is considered that there has been no material change of circumstances in policy terms, in the locality or in the proposal details since the original planning permission was granted.

Accordingly, subject to the conditions appended to this report, there are no objections to a further planning permission being granted. The conditions must replicate those attached to 07/00279/DET and it is recommended that additional conditions be imposed relative to the more recent issue concerning appropriate eradication of non-native and invasive Japanese Knotweed.

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

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**(R) Reasons why planning permission should be granted**

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 03/07/02, and then by planning permission 07/00279/DET on 20/04/07. This current application represents a timeous renewal of the previous permission.

The dwellinghouse proposed is considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates with its landscape setting and furthermore there are no infrastructural constraints which would preclude the development of this site.

The proposal accords with Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 19, LP HOU 1, LP TRAN 4 and LP TRAN 6 of the adopted 'Argyll and Bute Local Plan' and 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.

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

N/A

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

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**Author of Report:** Fiona Scott      **Date:** 28/05/12

**Reviewing Officer:** Stephen Fair      **Date:** 28/05/12

**Angus Gilmour**  
**Head of Planning and Regulatory Services**

## **CONDITIONS AND REASONS RELATIVE TO APPLICATION REFERENCE 12/00834/PP**

1. No development shall commence on site until full details of a scheme for the eradication of Japanese Knotweed has been submitted to and approved in writing by the Planning Authority. The scheme shall include a timetable for implementation and clearly identify the extent of the Japanese Knotweed on a scaled plan.

**Reason:** *To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-native invasive species through development works.*

2. No development shall commence on construction of the dwellinghouse until the approved scheme and timetable for the eradication of Japanese Knotweed referred to in condition 1 above have been implemented in full, and a validation report confirming details the remediation treatment carried out and that the site is free of Knotweed has been submitted to and approved in writing by the Planning Authority.

**Reason:** *To eradicate Japanese Knotweed from the development site and to prevent the spread of this non-native invasive species through development works.*

3. No development shall commence on site until full details, including a sample, of the proposed roof covering has been submitted for the written approval of the Council as a Planning Authority. Such details shall show natural slate or a good quality slate substitute.

**Reason:** *In the interests of visual amenity in order to integrate the development into its surroundings.*

4. The proposed on-site vehicular parking and turning areas shall be formed in accordance with the approved plans and brought into use prior to the first occupation of the dwellinghouse hereby approved.

**Reason:** *To enable vehicles to park clear of the access road in the interests of road safety by maintaining unimpeded vehicular access over that road.*

5. The development shall be implemented in accordance with the details specified on the application form dated 12/04/12 and the approved drawing reference numbers:

Plan 1 of 3 (Drawing Number 918/01 Revision A)  
Plan 2 of 3 (Drawing Number 918/10 Revision F)  
Plan 3 of 3 (Drawing Number 918/16 Revision E)

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**

- **Length of this planning 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)].
- 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 TO DECISION APPROVAL NOTICE

Appendix relative to application 12/00834/PP

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- (A)** Has the application required an obligation under Section 75 of the Town and Country Planning (Scotland) Act 1997 (as amended).

**No**

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

**No**

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- (C)** The reason why planning permission has been approved.

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 03/07/02, and then by planning permission 07/00279/DET on 20/04/07. This current application represents a timeous renewal of the previous permission.

The dwellinghouse proposed is considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates with its landscape setting and furthermore there are no infrastructure constraints which would preclude the development of this site.

The proposal accords with Policy STRAT DC 1 of the approved Argyll and Bute Structure Plan and Policies LP ENV 1, LP ENV 19, LP HOU 1, LP TRAN 4 and LP TRAN 6 of the adopted Argyll and Bute Local Plan and 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.

## **APPENDIX A – RELATIVE TO APPLICATION NUMBER: 12/00834/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 on an appropriate infill, rounding off and re-development basis.

Policy LP HOU 1 gives encouragement to housing development provided it will not result in an unacceptable environmental, servicing or access impact or development underpinned by an operational need and Policy LP ENV 1 assesses applications for their impact on the natural, human and built environment.

Policy LP ENV 19 states that development shall be sited and positioned so as to pay regard to the context within which it is located and that development layout and density shall integrate with the setting of development. Developments with poor quality or inappropriate layouts, including over-development, shall be resisted.

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

#### **B. Location, Nature and Design of Proposed Development**

Planning permission is sought for erection of a dwellinghouse on an area of land to the south of Heatherfield House, Albert Road, Oban.

The principle of a dwellinghouse on this site has been established by the granting of planning permission 01/00706/DET on 03/07/02 and then by planning permission 07/00279/DET on 20/04/07. The current application represents a timeous renewal of the previous permission.

The site is an area of ground which previously formed part of the garden ground of Heatherfield House situated to the north. The site is considered to represent a suitable opportunity for infill development consistent planning policy, as verified by the two previous approvals of a house on this site. The most recent approval could have been lawfully commenced at any time up to and including 20<sup>th</sup> April 2012. The current application was valid on 16<sup>th</sup> April 2012.

The dwellinghouse proposed is a three and a half storey contemporary designed structure finished in white render, natural slate and white timber windows, all as previously approved on the site. The dwellinghouse proposed is considered to be of a suitable form, scale and design, incorporating materials which will ensure it integrates with its surroundings and will not detract from the character and appearance of the wider area. Furthermore, there are no infrastructure constraints which would preclude the development of this site.

Given the current circumstances, it would be appropriate to grant permission for the dwellinghouse as a timeous renewal to the previously approved planning permission, using conditions per 07/00279/DET updated to account of the subsequent requirement for the eradication of Japanese Knotweed.

**The proposal is considered to be acceptable under Policies LP ENV 1, LP ENV 19, LP HOU 1 and Appendix A.**

### **C. Road Network, Parking and Associated Transport Matters.**

The application proposes to utilise the existing vehicular access which currently serves Heatherfield House and which the applicant has a right of servitude over. The access needs to be the subject of some additional works alongside the existing entrance as illustrated in the plans and as previously approved.

The original permission was granted following the conclusion of a Section 75 Agreement extinguishing the use of Heatherfield House as a restaurant. This ensured that the volume of vehicular traffic accessing the site would be significantly reduced and the introduction of one dwellinghouse would not represent an intensification of use of the historic site access. The Section 75 Agreement remains in place.

The Area Roads Manager was consulted on this application for renewal of the previous permission. In his response he raised no objection subject to a condition regarding parking and turning arrangements and also advised that the existing Section 75 Agreement should remain in force.

**On this basis, the proposal is considered to be acceptable from a road safety perspective and complies with the terms of Policies LP TRAN 4 and LP TRAN 6 which seek to ensure that developments are served by an appropriate means of vehicular access and have a sufficient parking and turning area provided.**

### **D. Infrastructure**

Water supply and drainage are via connection to the public systems. Scottish Water, whilst raising no objection, advised that augmentation of the system at the developer's expense may be required.

**The proposal complies with the terms of Policy LP ENV 1 which seeks to ensure the availability of suitable infrastructure to serve proposed developments.**