

STATEMENT OF CASE
FOR
ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY

**REFUSAL OF PLANNING PERMISSION FOR CONVERSION OF
DWELLINGHOUSE TO FORM 2 FLATS AND EXTERNAL
ALTERATIONS;
134 EDWARD STREET, DUNOON, ARGYLL PA23 7BN.**

APPEAL REF. NO. 12/00007/REFPLA

LOCAL REVIEW BODY REF. 12/00006/LRB

**PLANNING PERMISSION APPLICATION
REFERENCE NUMBER 11/02075/PP**

15 May 2012

STATEMENT OF CASE

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

An application for planning permission (ref. 11/02075/PP) for conversion of dwellinghouse to form 2 flats and external alterations at 134 Edward Street, Dunoon ('the appeal site') was refused under delegated powers on 15 February 2012. The planning application has been appealed and is the subject of referral to a Local Review Body.

DESCRIPTION OF SITE

The subject of this application is a two-storey, four bedroom townhouse within a townhouse conversion on John Street close to the junction with Edward Street. The townhouse forms the westernmost unit of a 2 dwelling conversion from a previous church hall and is the home of the appellant. The smaller attached hall to the west was converted to a karate hall following approval in 1992 and a recent proposal to convert this hall to provide a flat at upper level was approved by the Local Review Body in 1997.

The townhouse has a slated pitch roof with stone clad walls on the front elevation and render on the rear elevation. The townhouses have integral garages to the rear (north) for one car space each but these are not normally in use and cars are parked in front of these garages on limited amenity space.

To the rear (north) of the subject premises lies a two-storey housing court that is owned by ACHA with some in private ownership. Access to this housing court and the rear of the townhouses is from John Street with vehicular access east of Marshalls Furniture showroom. This housing development has communal car parking areas (unallocated) for the residents.

SITE HISTORY

97/00948/COU change of use of hall to 2 houses withdrawn 28 July 1997;

97/01136/COU change of use of sports hall to form two dwellinghouses granted 2 September 1997 and implemented; these townhouses were approved with one integral garage each which was below the recommendation by the Area Roads Manager at that time requiring 2 spaces for each dwelling.

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

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

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

[Related applications for the attached smaller larger hall (that was converted into a sports hall) include:

92/00700/COU change of use to form sports centre from church building granted 28 October 1992.

An application (ref. 09/00962/COU) for the demolition of extension and alterations to hall to create one flat on upper level with car parking space and external alterations was refused under Delegated Powers on 29 September 2009 due to unsatisfactory parking arrangements but approved by the Local Review Body on 16 August 2011.

STATUTORY BASIS ON WHICH THE APPEAL SHOULD BE DECIDED

Section 25 of the Town and Country Planning (Scotland) Act 1997 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, and the determination shall be made in accordance with the plan unless material considerations indicate otherwise. This is the test for this application.

STATEMENT OF CASE

Argyll and Bute Council considers the determining issues in relation to the case are as follows:-

- Whether the level of car parking required for the proposed 4-bed and 2-bed flats can be suitably provided and regarded as dedicated or allocated;
- Whether the lack of any suitable parking provision will have any impact on the surrounding residential area i.e. existing land uses and car parking provision;
- Whether the level of amenity provided is adequate for the two flats.

The Report of Handling [Production 1] sets out the Council's assessment of the application in terms of Development Plan policy and other material considerations. The consultation comments submitted by Roads as a statutory consultee [Production 2] are attached for the purpose of clarity.

REQUIREMENT FOR ADDITIONAL INFORMATION AND HEARING

It is considered that no new information has been raised in the appellants' submission which would result in the Planning Department coming to a different determination of this proposal. The issues raised were covered in the Report of Handling which is contained in the Appendix. As such, it is considered that Members have all the information they need to determine the case. Given the above and that the proposal is small-scale, has no complex or challenging issues and has not been the subject of significant body of conflicting representation, then it is considered that a Hearing is not required.

COMMENT ON APPELLANT'S SUBMISSION

Having regard to the detailed reasons for requesting the review set out in part (7) of the appellants' submission the following summary points are noted in response to the appellant's comments:

1. *Lack of Amenity*

The applicant's agent states that the access to both flats is a common entrance and as such is an accepted method of access which does not impact on amenity. The aspect of the flats is unchanged from the terraced house which it is proposed to sub-divide. Adequate bin storage can be provided.

Comment: The issue of access is irrelevant. Lack of amenity refers to the provision of external amenity spaces and provision of secure bin storage areas. The main issue in this respect is that the agent has not clearly demonstrated the amount of existing and proposed amenity space for the existing 4-bed townhouse and proposed 4-bed flat and 2-bed flat. On the basis of the limited information submitted, it is considered that the proposal will lead to an intensification on the existing limited amenity space to the detriment of both proposed flats.

2. *Off-Street Car Spaces*

The agent states that "we argued in our letter of 16 November 2011 that the criteria which should be applied is that arrived at by the Local Review Board (sic) in approving the planning consent for the adjacent building at 140 Edward Street. We feel that the Review Board's findings are at odds with the comments within the paragraph 2 of the Appendix viz. 'The lack of sufficient dedicated off-street car parking spaces to serve the proposed flats and the loss of the integral garage would only serve to exacerbate exiting parking problems associated with the dwelling and proposed flat above the adjoining hall'.

The agent mentions the Local Review Body's decision by allowing a degree of flexibility where it can be shown by the applicant that the parking requirement can be met by existing car parks and the demand for parking in connection with the development will not coincide with the peak demand from the other land uses in the area and that the development is adjacent to and well served by good public transport and pedestrian links. The agent also states that the Local Review Body thought there was adequate car parking at the site visit, the applicant's written submission from ACHA demonstrated the availability and capacity of existing car parks in the immediate vicinity and that the development was adjacent to and well served by good transport and pedestrian links.

Comment: Notwithstanding the agent's comments, it would appear that the Local Review Body previously granted planning permission for a flat above the karate hall on the basis that the residential works were required to fund necessary improvements to the karate hall (which itself had no dedicated off-street car parking). The Local Review Body also considered that proximity to the town centre and 'surplus' car parking spaces apparently agreed and offered by ACHA in the backcourt area, removed any requirement for any additional car parking.

In this instance however, the applicant has relied solely on the previous comments by the Local Review Body and has not demonstrated a similar need for dedicated off-street car parking to support two private flats which is a materially different proposal to the previous scheme. Whilst approving the previous scheme for a flat above the hall on its individual merits (where notably the continued recreational use of the hall which was in poor condition was a significant factor), the Local Review Body overruled in that particular case but did not dismiss

the Council's adopted policy LP TRAN6 of the Argyll and Bute Local Plan including Appendix C: Access and Car Parking Standards to assess any future proposals against. As the site lies within the settlement zone of Dunoon outwith the town centre zones, normal car parking standards for residential flats (i.e. 2 spaces per 2/3 bed unit and 3 spaces per 4 bed unit) have been requested by the Area Roads Engineer, fully consistent with policy criteria contained in Policy LP TRAN6 (including Appendix C: Access and Parking Standards) of the adopted Argyll and Bute Local Plan. No special circumstances have been cited this time around by the applicant's agent where ACHA's previous comments regarding '*surplus*' car parking spaces still appears contrary to the actual parking scenario (at peak times) but not demonstrated or justified at all by the applicant.

In this regard, it is also interesting to note that the Local Review Body held their appeal inspection on Monday 27 June 2011 at 10.30 am at a time when many residents were at work and fewer cars were parked in the communal areas. On subsequent visits to the site at later times of the day, this car parking court is well used by residents and few '*surplus*' spaces are available. Parking for the existing townhouses also appears to be random [Production 3]. The agent has submitted no supporting information or surveys on existing or proposed car parking trends and no supporting letter from ACHA has been submitted. For the previous appeal, it was stated by this department that a letter of acceptance from ACHA to release '*surplus*' parking spaces would not in itself constitute planning permission and that these spaces need to be shown within the red line boundary of the application site and neighbour notified accordingly. This was not done for the previous application or for the current scheme where the provision of available dedicated car parking spaces has not been clearly demonstrated.

Additionally, and in terms of establishing a dangerous precedent, any future residential proposals for development or redevelopment in the surrounding area would be subject to the car parking (and housing amenity) standards set out in the adopted Argyll and Bute Local Plan. With no apparent justification, it would appear unreasonable why this particular development should be regarded as an exception to policy in an area with existing car parking problems.

CONCLUSION

Section 25 of the Town and Country Planning Act 1997 requires that all decisions be made in accordance with the development plan unless material considerations indicate otherwise.

The attached Report of Handling [Production 1] clearly details why planning permission could not be supported due to the lack of suitable dedicated car parking and amenity space. The supporting documentation offers clear advice that the proposed flats requires 'allocated' car parking together with a reasonable justification in terms of existing and proposed car parking trends.

On the basis of all of the above, the department considers that the applicant's agent was properly advised during the course of this application as to what was required to address the parking deficiency [Production 4]. This has not been done and the department feels that it was correct to expect the requisite number of 'allocated' off-street car parking spaces for the two flats and accordingly refuse the application under the terms of policies LP ENV19 and LP TRAN 6 of the Argyll and Bute Local Plan (2009). Taking account of all of the above, it is respectfully requested that the appeal be dismissed.

APPENDICES

Production 1 Report of Handling dated 14 February 2011;

Production 2 Consultation comments from Roads dated 30 January 2012;

Production 3 Photographs of the appeal site and car parking court (14th December 2010 & 15 November 2011);

Production 4 Letter to agent dated 8 November 2011;