

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: 12/00599/PP

Planning Hierarchy: Local Development

Applicant: Tobermory Endeavour

Proposal: Use of land as community allotments including formation of access, car park, provision of passing places, on site access, erection of storage building, polytunnels and ancillary structures

Site Address: Land North East of Castle Croft, Tobermory, Isle of Mull

SUPPLEMENTARY REPORT No. 2

1 SUMMARY

The purpose of this report is to advise Members of a late representation which has been received in connection with the above planning application and also to advise of further conditions which are required to be attached to the main report of handling as previously advised to Members when the application was continued at the last meeting.

2 ADDITIONAL INFORMATION

A further additional e-mail representation and a subsequent letter of objection dated 11th September 2012 objecting to the proposed development has been submitted by Sarah Darling, Sunart View Bed & Breakfast, Eas Brae, Tobermory, Isle of Mull, PA75 6QA. Many of the issues raised in this representation have been discussed within the main report of handling. However, several new issues have been raised and are required to be addressed. The issues raised can be summarised as follows:

Poor visibility at junction from Bedoun Lane.

Comment: The Area Roads Engineer has been consulted and has raised no road safety concerns. The access currently has the required visibility splays measuring 42.0m x 2.4m in each direction at the junction. A condition would be sufficient in order to ensure that these existing visibility splays are maintained in perpetuity.

Lane is only seven feet wide with no pavement and street lighting.

Comment: The Area Roads Engineer has been consulted and raised no road safety concerns. The area is rural in nature and so there is no requirement for lighting.

Concerns with regards to distance between existing accesses and proposed access.

Comment: The Area Roads Engineer has been consulted and has raised no roads safety concerns. Distances between existing roads accesses and the proposed access to serve the proposal site have been assessed and found to be satisfactory.

Sewage from toilets is to be removed by the septic tank lorry. This lorry will not be able to reach the area where the sewage is to be taken from.

Comment: A composting toilet is proposed to serve the proposed development. No septic system is required for a composting toilet.

Planning Permission granted for 'Gramercy' on the lane previously. This permission required that the lane was not to be used by construction vehicles and that another access was required to be provided for this purpose.

Comment: Planning Permission 03/00380/DET was granted on the 7th of April 2003 for the erection of a dwellinghouse at land south east of Sunart View Guesthouse. This house has since been built and is known as 'Gramercy'. The Area Roads Engineer did not object to this proposal at the time of planning subject to conditions requiring the public road extension and turning head shown on the approved site plan be formed prior to occupation. There was no requirement for a separate access to be provided for use by construction vehicles. Disturbance caused by construction is not a material planning consideration.

Previous planning applications for housing have been refused on the basis that the road is not suitable to take any further increase in traffic.

Comment: This is noted. However, the proposal has been fully assessed against the current criteria contained within the Argyll and Bute Local Plan which was adopted by the Council in 2009. Planning Application Refs 05/00159/OUT (site for the erection of 2 self catering units and formation of access road at site south of Sunart View) and 05/00086/OUT (site for the erection of a dwellinghouse at site south west of Sunart View) were recommended for refusal by the Area Roads Engineer on the grounds that any further increase in traffic would have a detrimental effect on road safety. The original objection from the Area Roads Engineer in response to Application ref 05/00086/OUT was removed on the basis that the development would not result in any intensification of use given that the proposed dwelling house would replace an existing residential caravan. This application proposed to improve the existing vehicular access. No further roads improvements were proposed. No improvements to the road were proposed for planning application ref 05/00159/OUT. The current proposal includes the formation of two passing places on the lane leading to the allotment site. The Area Roads Engineer is satisfied that this improvement to the roads network is commensurate with the likely levels of traffic associated with proposed development.

There is no water supply for use by the fire brigade.

Comment: This is a matter which will be dealt with through Building Standards legislation.

No provisions in toilet for people to wash their hands.

Comment: Environmental Health have been consulted and have raised no concerns.

The water to be collected from butts collecting water would not be enough to keep plants on an allotment alive.

Comment: This is not a material planning consideration

Misleading statistics advanced by the applicants regarding community support for the allotments (128 questionnaires were returned out of the 548 posted - 23% of those originally asked. Of those 23% who replied, 88% were in favour of community allotments).

Comment: The applicants have stated 88% of respondents from a public survey comprising 548 postal ballots supported the allotment proposal. On the basis above the actual returns would indicate 21% support.

Misleading statement by the applicants regarding support from potential user groups

Comment: It appears that the primary school has declined to accept an allotment as sufficient land is available on the school site for their requirements.

Need for a restoration bond to be in place before work commences in the event of permission being given

Comment: The option of a bond has been considered but has been discounted in favour of reliance upon the terms of the lease to be issued by the Forestry Commission, which will address reinstatement at the end of, or the earlier termination of, the lease agreement.

Consultation for this project has been ill-conceived and badly managed, with little regard to the residents and businesses that would be directly affected. Residents, on the basis of their experience of Tobermory Endeavour to date, are very worried about how the project will proceed if the planning application is approved.

Comment: How the applicants conduct their affairs and the extent to which they choose to engage with local people is matter for them and not material to the merits of the decision at hand.

2 ADDITIONAL RECOMMENDED CONDITIONS

In light of concerns regarding the longer-term management of the site, and the possibility that a failed venture could leave an untidy site juxtaposed with the principal elevations of property on the opposite side of the access to the overall detriment of the amenity of the area, this has resulted in the requirement for further conditions to be recommended to be applied to the grant of planning permission. Additional conditions to those previously recommend are as follows:

7. The parking and turning area shall be laid out and surfaced in accordance with the details shown on the approved plans prior to the development first being occupied and shall thereafter be maintained clear of obstruction for the parking and manoeuvring of vehicles.

Reason: In the interest of road safety.

8. Pursuant to Condition 1 – no development shall commence until a scheme of boundary treatment, surface treatment and landscaping has been submitted to and approved by the Planning Authority. The scheme shall comprise a planting plan and schedule which shall include details of:

- i) Existing and proposed ground levels in relation to an identified fixed datum;
- ii) Existing landscaping features and vegetation to be retained;
- iii) Location design and materials of proposed walls, fences and gates;
- iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance.

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority. Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the Planning Authority.

Reason: To assist with the integration of the proposal with its surroundings in the interest of amenity.

9. No development shall commence on site until a detailed management and maintenance method statement has been submitted for the written approval of the Planning Authority. This plan shall include, but is not limited to, the following:

- i) Tenancy arrangements;
- ii) Maintenance obligations and consenting procedures for alterations to, replacement of or additional site structures;
- iii) Procedure in the event of vacancies, abandonments and dereliction;
- iv) Reinstatement procedures in the event of venture failure;
- v) Complaints handling and reporting procedure.

This plan shall also include full details of the routine operations necessary to maintain the site. Maintenance tasks shall be listed and the persons responsible for the carrying out the maintenance task shall be identified. Details of the frequency of each maintenance task should also be included. Thereafter the agreed management and maintenance statement shall be implemented for the duration of the life of the allotments, including any post-occupation reinstatement period.

Reason: In the interests of amenity.

Consideration has also been given to the possible imposition of a condition requiring a restoration bond. Whilst the proposal if properly occupied and managed can quite reasonably co-exist with adjoining dwellings and is an appropriate land use in a residential area, the consequences of abandonment and dereliction could be significant in terms of residential amenity. As this is a new venture with no established track record, it is not possible to speculate on either its success or its longevity as a venture, and

given relationship between the site owner and a number of allotment holders, any remedial action on the part of the Council by way of Amenity Notice could be complicated and protracted. Accordingly, it is considered that some assurance is necessary as to what would happen in the event that the project fails to thrive. This would also help to address some of the misgivings expressed by those who have objected.

The prospect of additional conditions has been raised with the applicant, Tobermory Endeavour, who have submitted a representation further to those requirements. Tobermory Endeavour have made it clear in this representation that they will be left with no alternative but to discontinue the allotment project if a restoration bond condition were to be attached to the grant of planning permission. This representation can be viewed on the Council's internet site. Mull and Iona Community Trust have also submitted a representation as they have agreed to act as guarantor for the proposed allotments. They have also asked that the Council re-consider the imposition of a condition requiring a restoration bond. They are of the view that the imposition of a restoration bond condition does not seem to be commensurate with what is proposed, nor with the financial circumstances of the project. They also have concerns with regards to the application of such a requirement in respect of for future projects.

What has become apparent is that the lease being granted to Tobermory Endeavour by the Forestry Commission is to include a reinstatement clause, which would take effect at either the expiry or the earlier surrender of the lease, requiring removal of all structures and the clearance of the site which is to be left in a tidy condition. Given the status of the Forestry Commission as a public body, this contractual obligation can be relied upon to secure reinstatement should that prove necessary, and this therefore provides sufficient assurance that the land will be restored should the venture not succeed, which in turn, obviates the need to seek to control over that eventuality by means of a planning condition requiring a reinstatement bond.

2 RECOMMENDATION

The above noted representation does not change the recommendation in the original report. Having due regard to the development plan and all other material planning considerations, it is recommended that planning permission be granted subject to the conditions and reasons listed in the original report along with those detailed in this supplementary report.

Author of Report: Lesley Cuthbertson
Reviewing Officer: Richard Kerr

Date: 31.08.12
Date: 12.09.12

Angus Gilmour
Head of Planning and Regulatory Services