

**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:** 13/02685/NMA  
**Planning Hierarchy:** Local  
**Applicant:** Mr Barry Adamson  
**Proposal:** Non material amendment to Planning Permission 12/02792/PP (Erection of a building to be used in part as domestic double garage/workshop and in part as a cookery school, including facilitating works and installation of 2,000 litre calor gas tank (partly retrospective) - Amendment to roof line, amendment to glazing, installation of additional door, amendment to toilet windows and deletion of one internal door  
**Site Address:** Corrie House, Craobh Haven, Lochgilphead

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**DECISION ROUTE**

Local Government Scotland Act 1973

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**(A) INTRODUCTION**

The proposal is a request for a 'non-material amendment' to planning permission ref. 12/02792/PP. Such 'minor' matters are ordinarily determined by Officers under the Council's Scheme of Delegation. However, in this instance the request for an amendment to the approved details relates to a site which has been the subject of a formal complaint which questions the competence and integrity of Officers in their determination of previous planning applications and the handling of ongoing planning enforcement investigations which pertain to the subject property, and other recent developments within the locale, including the approval of amended details under the provisions of S64 of the Act.

Whilst the matters which were subject of formal complaint have been thoroughly investigated and have not been upheld, the Head of Planning & Regulatory Services has declined to exercise delegated powers in the determination of the current application in this instance, in the anticipation that the additional transparency and scrutiny to which PPSL items are subjected will allow a line to be drawn under the expressed concerns and the ongoing planning enforcement investigation which relates to the subject property.

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**(B) BACKGROUND**

The current request for a 'non-material amendment' relates to a building which is currently under construction within the grounds of Corrie House, Craobh Haven. The building was originally the subject of planning application ref. 11/02410/PP which sought to replace an existing domestic garage building with an annex to Corrie House Guesthouse, providing a games room, lounge and a garage/workshop.

Whilst this application was assessed by officers and found to be acceptable in respect of its siting and design, its potential to result in an intensification in the use of the land as additional residential accommodation proved problematic, as at that time Craobh Haven was served by an unadopted road which was not considered to be suitable to serve any additional development. Whilst the identified constraints were capable of being resolved by planning condition/S75 legal agreement, investigation of the property history identified a requirement for a further planning permission relating from the change of use of Corrie House from residential to guest house status to facilitate any such solution – application ref. 12/01761/PP was subsequently submitted to and approved to provide resolution in this respect.

In light of an anticipated solution, the applicant commenced the demolition of the garage and erection of a new building in advance, at which point the matter was taken up as planning enforcement item (ref. 12/00215/ENOTH2). At that time it was identified that the unlawful development deviated from the details which had been submitted for approval under application ref. 11/02410/PP. In light of the previous discussions the applicant was invited to make an amended planning application to allow a further assessment of the acceptability of the amended details.

During the latter part of 2012, the private access road serving Craobh Haven was upgraded to adoption standard. The applicant's amended plan for the new building sought to take advantage of the opportunity for additional development arising from the road improvement and incorporated the use of the new building as a cookery school, the operation of which is intended to be complementary to the guest house accommodation at Corrie House. This amended application for planning permission (ref. 12/02792/PP) was approved in June 2013. It has however been brought to the attention of Officers by a third party that the development as implemented again deviates from the details contained within the approved plans, and it has become the subject of enforcement investigation ref. 13/00277/ENFOC2 and 13/00377/ENOTH2.

The current request for a 'non-material amendment' seeks approval for all of the deviations from the approved plans which have been identified, with a view to resolving the ongoing planning enforcement liabilities associated with these.

For the purpose of clarity and avoidance of any doubt, the relevant planning history/chronology pertaining to this particular item is provided below:

- 11/02410/PP – Demolition of garage and erection of replacement garage/games room/studio – Submitted 25.11.11 Withdrawn 26.11.12
- 12/01761/PP – Retrospectively sought separate application for the change of use of the dwellinghouse (Corrie House) to guest house and new partial change in roof covering – Submitted 16.08.12 Approved 17.05.13
- 12/00215/ENFOTH2 – Allegation that development was not being undertaken in accordance with the details of 11/02410/PP – opened 21.08.13, Closed 03.06.13
- 12/02332/PP – Demolition of garage and erection of replacement garage and greenhouse - Invalid application, and as applicant decided not to proceed with this it was returned. – Submitted 19.10.12
- 12/02792/PP – Erection of a building to be used in part as a domestic double garage/workshop and in part as a cookery school, including facilitating works and

installation of 2,000 litre calor gas tank (partly retrospective). – Submitted 20.12.12 Approved 03.06.13

- 13/00277/ENFOC2 – Allegation that development was not being undertaken in accordance with the details of 12/02792/PP. (Breach of condition 4., amended roof line, overhangs and window/door openings). Case opened 12.08.13 (details considered under this application for non-material amendment)
- 13/00371/ENAMEN – Allegation of amenity concerns in respect of rubbish being dumped – case opened 24.10.13, closed 13.11.13
- 13/00377/ENOTH2 – further allegation that development was not being undertaken in accordance with the details of 12/02792/PP (position of window opening on SW facing elevation). Case opened 03.11.13 (details considered under this application for non-material amendment).

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### **(C) REPRESENTATIONS**

One third party representation has been received from Mr Malcolm Kirk, Achanandarrach, Craobh Haven in respect of the current request for a 'non-material amendment' to planning permission ref. 12/02792/PP.

Mr Kirk's e-mail submission of 26<sup>th</sup> November 2013 advises that the plans submitted for consideration as a 'non-material amendment' are not wholly representative of the development as constructed to date. In particular, Mr Kirk highlights that the large window opening on the front (SW facing) elevation of the building has been amended to incorporate installation of a steel beam, and that the cladding of the SW elevation of the building extends marginally forward of the approved position and projects beyond a kerb line on the private driveway serving Corrie House.

Whilst representations made by third parties are immaterial in the Planning Authority's consideration of whether amendments to an approved development are to be regarded as 'non-material' or not, it is confirmed that having been alerted to these issues, Officers have inspected the development subsequent to receipt of Mr Kirk's representations, and are content that the details which have been submitted for consideration at the present time are sufficiently representative of the development as it has been constructed.

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### **(D) ASSESSMENT**

Planning permission 12/02792/PP was granted on 14 March 2013 for the erection of a building to be used in part as domestic double garage/workshop and in part as a cookery school, including facilitating works and installation of 2,000 litre calor gas tank.

The current submission requests that the Council as Planning Authority exercises the discretion provided under Section 64 of the Town and Country Planning (Scotland) Act 1997 (as amended) to vary the details which are subject of planning permission ref. 13/02792/PP on the grounds that the variation which is sought is not material.

The current submission seeks approval of the Planning Authority for the variation of the approved plans in respect of the following matters:

- Amended Roof Plan/Variation in Ridge Height/Increased Roof Overhang:

The originally approved details provide for a building with a 'L' shaped footprint with both elements having the same ridge height of 5.6m above ground level. In practice the section with the ridge running SW-NE has been built almost 200mm lower than the section of the building with the ridge running SE-NW. The ridge of the higher section of the building is 5.6m above ground level which corresponds with the height of the building originally granted planning approval. The lower ridgeline is 5.4m above ground level.

The amendment also includes for an increase in the depth of roof overhangs from the approved 100mm around the garage (south east) end of the building, and 200mm around the cookery school (north west) end to 200mm and 400mm respectively.

In this instance there has been no increase to the height of the approved development and the visual effect of the difference in ridge heights is to some degree masked by a lead work detail. Furthermore it is noted that the variation of the ridge height and roof overhangs does not result in a building which is either significantly different in design or appearance having regard to the context and relevant considerations pertaining to this particular application site.

- Amended Window/Door Openings:

The current submission incorporates the following amendments to window and door openings:

Front (SW facing) Elevation:

The large feature window has been increased in height from 4.5m to 4.8m; the additional 300mm in height has been used to address structural deficiencies in the original design (insertion of a reinforced steel joist hidden by a timber fascia). The amended details also show the addition of a vertically boarded, 1m wide door opening and amendment of the roller shutter garage door opening now has a horizontal 'boarded' effect rather than the vertical 'boarded' effect shown on the original approval.

Side (SE facing) Elevation:

Replacement of a half glazed, 1m wide door opening with a 1.5m wide opening containing a pair of fully glazed French doors. The amended details also include for a revision of the position of two windows which accommodates the lower wall head height, the insertion of the French door opening, and amended fenestration from four pane to single pane glazing units.

Rear (NE facing) Elevation:

Deletion of two 0.6m wide window openings and their replacement with a single opening containing a single pane glazed unit.

For the avoidance of doubt, the NW facing side elevation remains blank.

The amendments to the window and door openings are minor in nature and do not have any significant effect upon the appearance of the buildings from the details originally approved, nor do the amendments in this respect give rise to any concern for the privacy or amenity of adjacent property.

- Building projecting over kerb

Comment: The building was originally proposed to reach the edge of the kerb, however it is noted that the building now slightly encroaches over the kerb by the depth of the cladding on the front (SW facing) elevation, this is solely the front fascia larch boarding which encroaches approx. 0.07m over the kerb onto the private way. This slight extension over the kerb of the private driveway does not result in any significant increase in the proportions or appearance of the building having regard to the originally approved details.

In addition to the above external amendments it was noticed on a recent site inspection that minor internal amendments have occurred, however these internal changes have no impact on the external visual appearance of the building or the ability to utilise the building for the purpose specified within the original grant of planning permission.

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#### **(E) CONCLUSION**

It is not considered that the variations which are requested within the current submission do not represent a material change to the approved plans, having due regard to the context of this site and the details of the development approved. Accordingly, it would be appropriate to consider these to be a 'non-material' amendment under section 64 of the Act without the need for a further application for planning permission.

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#### **(F) RECOMMENDATION**

It is recommended that Members resolve to treat the proposed changes as a 'non-material' amendment to the original planning application as provided for by Section 64 of the Town and Country Planning (Scotland) Act 1997.

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**Author of Report:** Kim MacKay

**Date:** 21<sup>st</sup> January 2014

**Reviewing Officer:** Peter Bain

**Date:** 21<sup>st</sup> January 2014

**Angus Gilmour**  
**Head of Planning**