



Case reference	NA-ABC-025
Application details	Proposed retail unit, visitor centre and self-catering accommodation
Site address	Land adjacent to Taigh Solais, Ledaig, Tobermory, Isle of Mull (17/01205/PP)
Applicant	Argyll Properties Ltd
Determining Authority	Argyll & Bute Council
Local Authority Area	Argyll & Bute Council
Reason(s) for notification	Category 2 – SEPA
Representations	51 (plus Mull Community Council)
Date notified to Ministers	14 February 2020 (but not fully documented until 17 February 2020)
Date of recommendation	17 April 2020
Decision / recommendation	Call-in

### Description of Proposal and Site:

- Full planning permission is sought for the erection of a 2-storey building containing a retail unit, visitor centre and 3 self-catering units adjacent to the Taigh Solais harbour facilities building in Tobermory on the Isle of Mull. The application was submitted in May 2017.
- Tobermory is a historic planned 19<sup>th</sup> century coastal village, renowned for its multi-coloured waterfront properties and bay setting. The new build Taigh Solais was opened in 2008 providing harbour facilities including the Harbour office, rental offices, a visitor centre, public toilets and showers, a laundry, Tobermory Maritime and Coastguard Agency rescue centre and the Mull aquarium.
- The site covers 0.11 hectares and is currently vacant but occupied by a temporary visitor centre cabin and located adjacent to the harbour slipway and its car park. (See **Annex 1**) The site forms part of Tobermory's picturesque waterfront and is within the conservation area boundary. The realignment of escape stairs to the Taigh Solais building and MacGochans public house, adjacent to the site, is also included in the application as these buildings are affected by this proposal due to being immediately bounded and restricted to the rear by rocky outcrops.

### EIA Development:

- The Council considers the proposal is not a Schedule 2 Development and therefore does not require an EIA. The proposal fits the description of being an urban development project under 10(b) of the table in Schedule 2, but is below the size threshold of 0.5 hectares.

### Consultations and Representations:

- SEPA (Scottish Environmental Protection Agency) maintain their objection in principle to the development proposal on the grounds of flood risk and consider that the use of the mitigation measures proposed are not appropriate.
- Argyll and Bute Council's Flood Risk Management Team recommended refusal of the application, after receipt of further information, on the basis that their policy requirements set out in SG LDP SERV 7 have not been met and the technical mitigation measures proposed are not sufficient to promote a departure from that policy.
- Following notification, the Scottish Government Flood Risk Management Team (FRMT) were consulted and their initial comments did not recommend call in:
  - The developer has worked with SEPA and the local authority to minimise the risk as much as possible.
  - Flood warning is available with a 3 hour lead time. In the event of a tidal surge, the entire waterfront would be affected and likely evacuated including the development site.
  - Acknowledge that risk will increase with climate change.
  - The development is proposed on an urban gap site at risk of flooding. However, If it was not an urban gap site, or if it was not in a community already at risk of flooding, FRMT would recommend that the application be called in.
- Further discussions were had with FRMT specifically relating to the definition of a 'gap site' and potential impacts as a result of climate change. Firstly, that the development is on an undeveloped site on the coastal floodplain at current and future risk of flooding. Secondly, the impact of rising sea levels from climate change and coastal wave action, especially during a storm event, which have not been taken into account in this instance. FRMT noted that if there is doubt on these two issues that it justifies call in, as they raise genuine issues of national importance.
- 51 representations were received by the Council – all were supportive of the development and issues raised include:
  - the need for additional visitor accommodation in Tobermory;
  - the development of the site with a high quality building will represent a significant enhancement of the waterfront and streetscape areas in the iconic village;
  - the strengthening of the village's role as a key contributor to the tourism economy of Mull and the wider area;
  - provision of a convenience retail unit which increases choice and helps alleviate traffic congestion on Main Street;
  - the provision of business space should not be held up as it delays future plans for the harbour development.

### **Assessment:**

- This planning application has been notified to Ministers because Argyll & Bute Council are minded to grant planning permission for the proposal against the advice of SEPA who objected to the application. SEPA object in principle to the development because it places buildings and persons at risk contrary to Scottish Planning Policy (SPP) and SEPA guidance. SEPA consider that the proposal introduces a new built development to a previously undeveloped site in a medium to high risk area.

- Argyll & Bute Council have set out in their committee report that the proposal is within a previously undeveloped gap site forming part of Tobermory waterfront development located between existing and substantial buildings. The site is located within the defined Main Town Centre and it also lies within Area for Action in the local development plan, which identifies, among others, an action to reinforce the very important role which Tobermory plays within the “tourism development area”. The committee report sets out that the proposal represents an appropriately high quality, well-designed, suitably proportioned development within this existing ‘gap site’ within the Tobermory Harbour waterfront and conservation area and is wholly compliant with all relevant provisions of both local and national planning policy, with the exception of flood risk.
- The Council’s own Flood Risk Assessor objected to the proposals on flooding grounds. The committee report notes that national and local policy requires development in coastal areas to be protected from the 1 in 200 year still water level, plus an allowance for wave action, plus an allowance for climate change, plus 0.6 m freeboard which has not been achieved in this case. The required flood protection level is 5.27m AOD, the development proposes a ground floor level of 3.92m AOD and a number of secondary flood protection measures in lieu of climate change and freeboard requirements. While planning officials considered the development complies with the LDP in all other respects, they recommended that committee refuse the application on flooding grounds because the proposed development does not satisfy the required criteria.
- The application was subsequently approved at committee with 9 conditions imposed relating to design and materials; flood risk mitigation, strategy and details; and the implementation, phasing and restrictions. The reasons for approval include i), it is an existing gap site that is visually harmful and harmful to the character and appearance of the conservation area; ii) it is the only remaining development opportunity within the harbour front - without development, the harbour front remains incomplete and this is a unique opportunity to complete the harbour front; iii) it is an opportunity to include permanent tourist information provision, currently lacking in Tobermory, and the development is vital to secure the tourism growth strategy of the Council. The Committee’s overall reasoning being ‘there is a clear and overriding locational and operational need for the development sufficient to warrant departure from national and local flood risk policy’.
- SEPA objected in principle to the development as it is within the functional flood plain contrary to paragraph 255 of Scottish Planning Policy (SPP) and because the proposed ground floor of the development was below the required design flood level. The applicant’s mitigation measures put forward include -
  - provision of a raised ground floor level of 3.92m AOD
  - provision of a flood refuge area at 5.4m AOD to the rear
  - provision of emergency boat attached to the new building
  - inclusion of new building in local flood warning scheme
  - flood resilient construction and flood resistance measures

- SEPA do not support the principle of development and advise that a flood warning is a non-structural measure that will not physically prevent flooding. SEPA also note that UKCP18 climate change data suggests a fairly significant sea level rise for the Argyll region which does not appear to have been fully considered and factored in.
- With regards to the principle of development, the policy principles of managing flood risk and drainage within SPP highlight that the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity and locating development away from functional flood plains and medium to high risk areas. The main principle of SPP and SEPA guidance is flood avoidance by locating development away from functional flood plains and medium to high risk areas. Paragraph 256 of SPP sets out that the planning system should prevent development that would have a significant probability of flooding or would increase the probability of flooding elsewhere and that piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing water storage capacity.
- The key consideration in this case is therefore whether this application is considered to raise issues of national importance which warrant call-in by Ministers based on the flood risk objections from SEPA.
- There are outstanding questions around whether this site can be regarded as an urban gap site or an undeveloped site on a coastal floodplain. The other significant issue is that the proposal does not account for rising sea levels from climate change and coastal wave action especially during a storm event. It is noted that the flood resistant construction and a flood plan are in lieu of an allowance for climate change, wave action and freeboard.
- While it is acknowledged that the developer has made real efforts to reduce current and future risk through a combination of measures, the acceptability of this approach is untested. On balance, whilst we recognise the strength of local support for the tourism and economic benefits of the proposal, the development gives rise to concern over significant flood risk especially as the land is on the coastal floodplain and climate change impacts have not been satisfactorily factored in.
- We therefore consider that this application would benefit from further scrutiny by Scottish Ministers.

**Decision/Recommendation:**

- It is recommended that this application be called in for Ministers determination.

Annex 1 – Location map, drawings and photographs of Tobermory Harbour



**Location Plan Relative to planning application: 17/01205/PP**

11.250

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REFERENCE



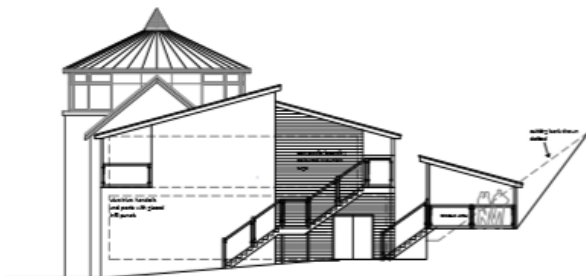
SIDE ELEVATION

PHOTO MONTAGE



REAR ELEVATION

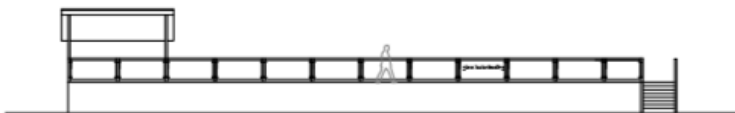
<b>Client</b>	
ARGYL PROPERTIES LTD	
<b>Project</b>	
PROPOSED RETAIL UNIT WITH SELF CATERING UNITS ADJACENT TO DASH SOLAIS TOWNSHIP, ARGYL	
<b>Location</b>	
DASH SOLAIS TOWNSHIP, ARGYL	
<b>Client</b>	
Project No.	1667
Date	05



WEST ELEVATION



EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION

<b>Client</b>	
ARGYL PROPERTIES LTD	
<b>Project</b>	
PROPOSED RETAIL UNIT WITH SELF CATERING UNITS ADJACENT TO DASH SOLAIS TOWNSHIP, ARGYL	
<b>Location</b>	
ELEVATIONS - refuge area	
<b>Client</b>	
Project No.	1667
Date	06





© Google Maps – Harbour area car park and site outlined in red



© Applicants submitted photographs: Harbour area above – Proposed site with existing cabin below

