

Public Document Pack

Argyll and Bute Council
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17 June 2024

NOTICE OF MEETING

A meeting of the **ARGYLL AND BUTE LOCAL REVIEW BODY** will be held **BY MICROSOFT TEAMS** on **MONDAY, 24 JUNE 2024** at **2:00 PM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **CONSIDER NOTICE OF REVIEW REQUEST: 50 CHARLOTTE STREET, HELENSBURGH, G84 7SR (REF: 24/0005/LRB)**
 - (a) Further written submissions from Planning Authority (Pages 3 - 4)
 - (b) Comments from Applicant (Pages 5 - 8)
 - (c) Comments from Interested Party (Pages 9 - 18)

Argyll and Bute Local Review Body

Councillor Kieron Green (Chair)
Councillor Liz McCabe

Councillor Mark Irvine

Contact: Lynsey Innis, Senior Committee Assistant Tel: 01546 604338

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**RESPONSE TO REQUEST FOR FURTHER
INFORMATION**

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

24/0005/LRB

**REFUSAL OF PLANNING PERMISSION FOR
PROPOSED ALTERATIONS TO WIDEN DRIVEWAY
ENTRANCE**

**PLANNING APPLICATION REFERENCE:
23/01046/PP**

50 CHARLOTTE STREET, HELENSBURGH

INFORMATION REQUIRED

We have provided the standard conditions below but it should be noted there are fundamental issues of road safety which the LRB will be required to consider in their deliberation. If the LRB were minded to grant approval then they will require give consideration whether further conditions to mitigate or amend the proposal are necessary to safeguard the safety of all road users including pedestrians (wheelchair/prams).

Draft conditions and reasons to attach to the permission in the event that Members of the LRB are minded to approve the application:

1. The development to which this permission relates must be begun not later than three years from the date of this permission.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997.

2. The development shall be implemented in accordance with the details specified on the application form dated 31st May 2024; supporting information and, the approved drawings listed in the table below unless the prior written approval of the planning authority is obtained for an amendment to the approved details under Section 64 of the Town and Country Planning (Scotland) Act 1997.

Plan Title.	Plan Ref. No.	Version	Date Received
Location Plan	1 of 4	560-01	30/05/2023
Site Plan as Existing	2 of 4	560/01/E01	30/05/2023
Site Plan as Proposed	3 of 4	560/01/P01	30/05/2023
Cobble Specification	4 of 4		30/05/2023

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.



Further Submission on behalf of

Dawn Anderson

in respect of

App Ref: 23/01046/PP

LRB Ref: 24/0005/LRB

Anderson Strathern LLP
58 Morrison Street
Edinburgh
EH3 8BP
Ref: AND0724.0001/CUD

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1. Introduction

- 1.1. We act on behalf of Ms Dawn Anderson (“**the Appellant**”).
- 1.2. The Appellant has appealed Decision Notice 23/01046/PP for proposed alterations to widen driveway (the “**Application**”) at 50 Charlotte Street, Helensburgh (“**the Property**”).
- 1.3. Planning Permission was sought on the 30 May 2023 and Argyll & Bute Council’s resultant refusal is dated 11 December 2023.
- 1.4. On 16 May 2024, the Local Review Body resolved to grant planning permission but requested that planning conditions be proposed by the parties for that purpose. This document is the Appellant’s response to the conditions proposed by the Council.

2. Response to submission made by Planning Authority

- 2.1. The Appellant makes two comments in respect of the Council’s Response to the LRB’s Request for Further Information.
- 2.2. First, in terms of the two planning conditions that the Council has proposed, the Appellant is content that these proposed conditions be applied to any planning permission that may be granted. The Appellant’s only comment in respect of these conditions is that there appears to be a typo in proposed condition 2 where “31st May 2024” should read “31st May 2023”.
- 2.3. Second, the Appellant notes the following in the Response to Request for Further Information:

We have provided the standard conditions below but it should be noted there are fundamental issues of road safety which the LRB will be required to consider in their deliberation. If the LRB were minded to grant approval then they will require give consideration whether further conditions to mitigate or amend the proposal are necessary to safeguard the safety of all road users including pedestrians (wheelchair/prams).
- 2.4. In this regard we refer to the Minute of the LRB meeting on 16 May 2024 which states that the LRB resolved to:
 1. request that the Planning Department provide draft conditions to be attached to the application should the Local Review Body determine that it is appropriate to approve the Notice of Review Request; and
 2. continue consideration of the Notice of Review Request to allow Members to seek advice on preparing a competent Motion to approve.
- 2.5. The Council, the Appellant and Interested Parties were directed by the LRB pursuant to the 16 May 2024 meeting of the LRB to produce draft conditions to be applied to any planning permission that the LRB may approve. By the Request for Further Information, the Council has had the opportunity to propose draft conditions that would address any safety concerns that it has and that should be brought to the attention of the LRB. The Council has not done so despite this direction of the LRB to produce such draft conditions if considered necessary or appropriate.

- 2.6. Further, as has been expressed in previous submissions, fundamentally the use of the land does not change. The Application has alternatively been described in previous submissions as follows:
- 2.6.1. Resurfacing of the vehicular driveway to the Property; and
 - 2.6.2. Installation of cobbled path for dedicated pedestrian access/egress to the Property.
- 2.7. In other words, the vehicular use of the land is not changing. The widening is to accommodate more direct pedestrian access/egress. Consequently, the Appellant does not consider that any safety issues arise as a result of the Application should the LRB be minded to approve.
- 2.8. Given the above, with particular reference to the Council's failure to produce any draft conditions associated with safety, in the Appellant's submission no conditions related to safety are necessary.

3. Conclusions

- 3.1. Subject to amending proposed condition 2 to address the typo that has been identified, the Appellant agrees with the two proposed conditions and would be content to see them imposed on any planning permission should the LRB be minded to grant permission. Over and above the two proposed planning conditions, the Appellant does not consider that any further planning conditions are needed.

4. Documents

- 4.1. No further documents are lodged with this submission.

Anderson Strathern LLP
11 June 2024

Dear LRB Attendees,

Further to the latest submission from the appellant dated 11 June 2024.

I am pleased that Planning and Roads have reminded the LRB about key public safety concerns that are being caused at the top of Charlotte Street currently, and made worse should the LRB approve this appeal (24/0005/LRB). The LRB's main concern must be for public safety. The LRB should be concerned in particular for the safety of the children of Charlotte Street's Parklands School (who A&BC states require "additional support needs of a severe/complex nature") whose minibuses use the location in question to get to and from the school.

Please consider my representations below.

- 1.
2. I respectfully suggest the LRB held on 16 May 2024 should be annulled because of a lack of due governance on several counts, and reconvened at a suitable date:
 - a. Councillor Kieron Green did not declare his major conflict of interest as required in the Notice of Meeting Item 2
 - b. Therefore, he should not have attended the LRB nevermind be chairing it
 - c. Consequently, I would suggest, the LRB lasted a cursory few minutes
 - d. Councillor Mark Irvine was co-opted onto the LRB at the last minute (sometime on the Tuesday for a Thursday 2pm meeting) and given a pack of 5 documents containing 431 pages of detailed information, often referring to other documents, to consider
 - e. Therefore, even if he was in a position to drop-everything, he had insufficient time to make a fully informed decision on the serious matters here of public safety, honesty and the law
 - f. Mr Iain Jackson as Clerk of the LRB and or Mr Green failed to ensure even the most salient points about public safety and the law were tabled for discussion showing a lack of fairness and governance
 - g. Indeed, the only significant discussion concerned the issue of how to get around the enforcement notices still in place without addressing nevermind resolving why they had been issued in the first place, with the Clerk of the LRB stating they would simply be closed which I must challenge as another point of governance
 - h. I made all these points in an email to Mr Jackson on 28 May but, to date, have not had a reply.
3. I ask that my submission dated 13 May 2024 should be considered (attached):
 - a. This submission was seemingly caught up in the cut-of-cards process, appointments etc and not forwarded to the LRB
 - b. The appellant's second submission to the LRB in April was forwarded, however
 - c. I would like the Clerk himself to confirm these two different treatments both followed proper due process, as Governance Manager for the council

- d. The first time I was aware of the submission made by the appellant on April 10 was on May 9 when the LRB pack link was sent out
 - e. As the appellant's April submission refers directly to my objections to 23/01046/PP and its subsequent appeal, I would expect an equal right-of-reply
 - f. For what it is worth now, I would like my attachment to be considered at this stage by the LRB, as intimated by the senior committee assistant at the time of blocking it
 - g. Whether it would have made any difference at the LRB we will never really know.
4. Repeatedly moving the goalposts of argument being made in support for the so-called widening the drive in 23/01046/PP and its subsequent appeal are unacceptable (as is inherently avoiding mentioning the unauthorised removal and relocation of said streetlight in December 2022 (as a pre-requisite to widen the drive), and its subsequent questionable commissioning in June 2023):
- a. The original argument was one of precedent of parking on the right-of-way over the verge but even the appellant's use of Google Maps Streetview showed that the appellant was the only household the length of Charlotte Street to be parking on the right-of-way across the verge:
 - i. The Google Map photo used by the appellant, given on page-10 of the Public Document Pack, not only showed their vehicle parked across the verge but also showed the original streetlight column to be in pristine condition contrary to therefore evidently false claims of collision damage caused by the previous owner and contrary to evidently false claims of severe rusting that were made as if an excuse for this unauthorised removal
 - ii. Google Maps Streetview also shows the immediate proximity of the location to be right up against the blind, right-angled bend at the junction of Charlotte Street with East Rosdhu Drive which was the reason for Roads' and Planning's refusal of 23/01046/PP on grounds of public safety
 - iii. Coincidentally, Google Maps has since been altered to heavily blur out this location, largely obscuring the parked car and the lower part of the lamppost. But the appellant's own clear photo remains on record in the Public Pack.
 - b. When precedent failed, the goalposts were then moved volte-face stating in the appeal that it was an "unlikely event of a car being parked on the driveway area" despite all the hard evidence that it was and still is the household's parking regime...as shown even by the appellant's own photos in the Public Pack, in my photos in my objections in the Public Pack, as shown below on June 13 2024, and as must have been seen by the central ward councillors on their rounds
 - c. The goalposts were then moved with the argument being to future-proof the property for people of disability. Future-proofing is not a material consideration for Planning, as I understand it.

- d. And the goalposts have been moved yet again for the main argument now to be about parking on the road itself, as I am able to discern it, simply because there are no yellow lines or equivalent at the top of Charlotte Street:
 - i. This defies Highway Code 243 about not parking at or within 10m of a junction, not parking across the entrance to a property, not parking anywhere that would prevent access for emergency services, not parking at the brow of a hill
 - ii. This defies Highway Code 242 that "You **MUST NOT** leave your vehicle or trailer in a dangerous position or where it causes any unnecessary obstruction of the road" (the Code's own emphasis)
 - iii. Rule 243 is public safety common sense but still only advisory
 - iv. Rule 242 is law as governed by the Road Traffic Act 1988.
5. The elephant-in-the-room remains the unauthorised removal of said streetlight in December 2022 which must be addressed, and certainly not just ignored, as this streetlight should be returned to its original position for public safety:
 - a. Stage 1 concerned the appellant being refused permission to remove this streetlight as was requested in the appellant's early versions of planning applications 22/00599/PP and 22/00600/LIB
 - b. Stage 2 concerned the appellant ignoring these refusals with the unauthorised taking down of the original streetlight, leaving just the stump in place, and positioning a new streetlight column further down the hill outside our house (in December 2022)
 - i. This was subject to an Incident Report and two Enforcement Notices
 - ii. These reports and notices too were ignored in regards to this streetlight (there were other infringements on these notices as well, see 5d below)
 - iii. Scottish Power Networks have confirmed in writing that they played no part in this unauthorised activity as needed to ensure public safety in regard to risk of electrocution
 - c. Stage 3 (7 June 2023) concerned the removal of the old stump and the commissioning of the new column, this time by operatives of the council but in defiance of these enforcement notices still in place, in defiance of planning due process as 23/01046/PP had just been submitted, and in defiance of our MSP's request to 'pause' these works until these other related matters were resolved
 - d. 23/01046/PP was submitted on 31 May 2023 and falsely worded as if these three-stage events above had never happened ie that the original streetlight was still in place and untouched, there had never been any pre-application discussion, the work had not yet started, the proposed relocation would not be outside our house, with planning permission (again) being sought to remove the said streetlight as a pre-requisite to widen the drive
 - e. Our loss of amenity with the new streetlight location shining into our windows is minor compared to all these public safety issues being caused by

- inconsiderate parking, reversing at and onto a junction, with the added loss of a streetlight at this dangerous corner
- f. Please note that the appellant had already applied successfully to convert an existing garage into a second kitchen for this 2-bedroom property so these parking issues are self-inflicted (22/00599/PP and 22/00600/LIB)
 - g. In a further act of goalpost shifting, the appellant in section 3.15 in the appeal argues that the more dangerous you make something then the safer it will be...you go figure
 - h. We simply have to add our loss of amenity from this unauthorised streetlight shining into our windows, to our loss of garden, and to our loss of our house name as the council will not act as they should in these matters
 - i. But why is this unauthorised act, fundamental to accepting the appeal for 23/01046/PP, being given the slopey-shoulder and silent-treatment by the council and now the LRB?
6. Location, location, location and The Highway Code/Road Traffic Act (see 3d above):
- a. The location in question is quite unique
 - b. It is un-paved with just grass verges on both sides of the street (a prime feature of Helensburgh's heritage, HCC)
 - c. It is at the blind right-angled corner junction of Charlotte Street and East Rosdhu Drive
 - d. This is not a simple widening of the drive as being portrayed
 - i. It is a follow on from earlier planning applications to tar over the whole of the grass verge at this location for extra parking (22/00599/PP & 22/00600/LIB)
 - ii. This too was refused, this too was ignored and this too was subject to enforcement notices
 - iii. Even the goalposts of "widening" are being moved...wordsmithing to quite what I am no longer at all sure
 - e. The Public Pack for this LRB mentions risk 144 times (only 3 of them from me)
 - f. I ask that your main take-away on risk should be for the school minibuses of Charlotte Street's Parklands School that use this route, a route that you are being asked to make even more dangerous for no good reason caused by inconsiderate and self-inflicted parking issues, and to do nothing about the unauthorised streetlight removal which has reduced streetlighting at this dangerous location in the dark winter school months.

I look forward to hearing from you regarding this appeal's outcome.

Yours sincerely,
Dr Robert Thomson

PS Please see site photographs below taken on 13th June, 2024

1. Essentially, the only difference to those on P424 of the Public Pack taken in March 2024 is the **addition** of a skip
2. Far from the appellant's claim that it would be an "unlikely event of a car being parked on the driveway", the time series of photos would indicate this is more the everyday parking regime in place for two vehicles
3. Further, please see the hedging behind the gates which, I suggest, shows that the gates are permanently closed to vehicles so the parking regime on the verge as observed will remain in place...or perhaps moved to the street in defiance of the Highway Code and RTA 1988
4. Please note the completion certificate for works at #50 was signed off on 14 May, 2024 so there is little excuse for this ongoing mess on the verge, as has been the case for years, and more than likely to continue if given the green light from the LRB.



View from South 13-06-24

Head-on view 13-06-24

View from North 13-06-24

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Re: Notice for Review Request - 50 Charlotte Street, Helensburgh, G84 7SR (Ref: 24/0005/LRB)

Mon 13/05/2024 10:55

Good morning Lynsey and colleagues,

Yes, I would like to take up your offer to view the meeting scheduled for this Thursday and look forward to receiving joining instructions, thanks.

Please allow me a few comments on the April submission from the appellant's agent which I had not seen:

- 1) A simple wordsearch of the whole 442-page pack for 'dishonest' returns just 3 hits and all were made by the appellant's agent himself on page-441. His word, not mine.
- 2) The appellant's agent further claims there is no evidence to assess the applicant's approach and attitude to the Planning and Appeal processes. I think two Enforcement Notices alone says it all. I would suggest this is a case of not (admitting to) seeing the wood from the trees.
- 3) He himself makes statements and then contradicts himself with his own photographic hard evidence submissions. For example, he states that it is an "unlikely event of a car being parked on the driveway" then submits independent Google street-view photos showing the owners' cars so parked (if Google do a street-view once every 10 years, let's say, then the odds being defied by this claim are up to 3650-to-1 ie 3649 times out of 3650 days the Google photo should show the right-of-way/driveway being free of parked cars, but it does not). As another example, he submits hard evidence photographs of four other nearby rights-of-way/driveways (all free of parked cars) which again contradict his claims about other precedent matters as previously covered. I would suggest this may be in the hope that Planning then and now the LRB itself do not have the time to drill down into the detail and cross-match claims with hard evidence...even hard evidence supplied by the appellant's agent himself.
- 4) The appellant's agent asks that 23/01046/PP be treated in isolation. I suggest the said four planning applications be treated as a box-set in regard to what this agent now seems to me to be calling 'dishonesty'.
- 5) Even on its own 23/01046/PP is premised on the prior unauthorised and therefore unlawful removal and relocation of a public streetlight, from a known dangerous blind corner at the top of Charlotte Street, as a pre-requisite to widen the said driveway. 23/01046/PP is worded as if these unlawful events (incurring enforcement notices) had not already taken place and were all still at the application stage. I would have called that out as a pretence but as the applicant/appellant perpetuate this pretence through this appeal then maybe the appellant's agent's terminology of 'dishonesty' may have to be considered as more appropriate by the LRB.
- 6) Earlier applications by this applicant also requested the removal of this lamppost which was refused...hence my box-set request.
- 7) This agent's claim in section 3.2 on page 442 that I did not use any point of material consideration in my objection is incorrect. Just by way of example, I cited loss of amenity (ours and the safety of the public) and the unauthorised removal of said lamppost as a fundamental pre-requisite to widen the driveway (which was falsely represented in the application as noted above). I have also quoted Highway Code Rule 243 to which there has been no response. The Code is more relevant now that the agent has again shifted the goalposts of argument from driveway parking precedent to disability provision to now majoring on street parking considerations.
- 8) I am not clear why *Carroll v Scottish Borders Council (2015)* is now being quoted at all as it is to do with an objection to a specific LRB decision about a windfarm. My objection is to this appeal not to any decision of the LRB. Simply, we have not even got to that stage. I ask the LRB to

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consider if this is just more 'legalese' (sic) grandstanding. I was equally unclear why the only other court case quoted in the appeal itself was that of an international shipyard.

9) So, please be very circumspect with this appeal for the sake of the integrity of the Planning and Appeal processes.

10) Please, if and as you find appropriate, send out a clear and unequivocal message by example that the Planning and Appeal processes must be respected.

I hope the process allows you to forward this email to the LRB members ahead of the review.

I look forward to hearing from you with joining instructions.

Kind regards,
Dr Robert Thomson

ps my understanding is that a house name change is governed by Planning Policy contrary to this agent's claim on page 442

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