

**RESPONSE TO REQUEST FOR FURTHER
INFORMATION**

FOR

**ARGYLL AND BUTE COUNCIL
LOCAL REVIEW BODY**

23/0008/LRB

**REFUSAL OF PLANNING PERMISSION FOR THE
REPLACEMENT OF EXISTING SLIDING SASH AND
CASE SINGLE GLAZED WINDOWS WITH DOUBLE
SWING DOUBLE GLAZED TIMBER FRAME
WINDOWS TO FRONT ELEVATION AND UPVC
DOUBLE GLAZED WINDOWS TO THE REAR**

PLANNING APPLICATION REFERENCE 22/01848/PP

26 CRICHTON ROAD, ROTHESAY, ISLE OF BUTE

ARGYLL AND BUTE COUNCIL '*TECHNICAL WORKING NOTE – ROTHESAY WINDOWS*' (2015)

The first request for information contains specific reference to the '*Technical Working Note – Rothesay Windows*' (TWN), which was adopted by Argyll and Bute Council in December 2015. In order to assist in responding to this request (and also the second one), this section provides a brief explanation of the TWN.

Under the '*Aims and Related Advice*' on Page 1 of the TWN, it is stated that it "*aims to provide clear and consistent planning advice in relation to the replacement and refurbishment of windows in the Rothesay Conservation Area*".

It goes on to explain that the document must be read in conjunction with, *inter alia*, the Local Development Plan and the policy and guidance published by Historic Environment Scotland.

The TWN contains four statements that can be used as advice for those proposing to undertaken window replacements and also as a material consideration in assessing applications for Planning Permission and Listed Building Consent. A summary of these statements is as follows:

Statement 1 – Preference for Retention, Repair and Refurbishment

In all circumstances, it is the Council's preferred option that traditional windows are retained, repaired or refurbished over replacement. Such works do not require Planning Permission or Listed Building Consent providing they are carried out on a '*like-for-like*' basis.

Statement 2 – Replace '*Like-for-Like*' in Listed Buildings and Prime Townscape Blocks

A survey carried out in 2015 identified that there were 199 domestic Listed Buildings within the Conservation Area consisting of 148 "*prime*" Listed Buildings (i.e. properties where the original/traditional windows remained) and 51 "*devalued*" Listed Buildings (i.e. properties where unsympathetic historic window replacements and alterations had previously been carried out).

In addition, the survey identified '*Prime Townscape Blocks*', which were areas that had retained their integrity as a result of the elevations of prominent buildings having been well maintained and where windows/doors remained mostly traditional. These townscape blocks were located in Rothesay Town Core; Crichton Road, Rothesay; and Castle Street, Port Bannatyne.

With specific exceptions, only the refurbishment/repair of windows (as referred to in Statement 1 above) or '*like-for-like*' timber replacements are permitted in the "*prime*" Listed Buildings and the Prime Townscape Blocks. The replacement option is particularly appropriate where it can be demonstrated that the existing windows are beyond economic repair.

The introduction of double glazing within new timber sash and case windows is likely to be acceptable. The inclusion of slim line double glazing is the preferred option although regular (i.e. non-slim line) double glazing may also be accepted providing that its use does not result in deeper and wider glazing bars having to be fitted. Glazing replacement is unlikely to be supported where the glass is original and has heritage value such as curved glass, crown glass, stained glass or other significance.

The exceptions to '*like-for-like*' timber replacements are on the rear or secondary elevations of some Prime Townscape Blocks, where additional flexibility is afforded depending on the

availability of public views; the contribution to the Conservation Area; and the integrity of the relevant elevation(s).

In those cases where a Listed Building has been identified as being '*de-valued*' through unsympathetic historic window replacements and alterations, a more flexible approach is applied. Securing an uplift in design and window quality is the aim in the first instance. High quality timber dual swing fenestration giving the appearance of a sash and case window in all respects except when open and high quality well-proportioned uPVC sliding sash units retaining the distinct step of sash and case windows are likely to be acceptable. Fixed pane windows should also seek to have a stepped effect but greater flexibility is afforded as long as the proportions and window pattern are acceptable.

Statement 3 – Flexibility for Unlisted Buildings and Other Townscape Blocks

Buildings that are not listed or have not been identified as within a Prime Townscape Block are still important within the Conservation Area and can contribute effectively to it. For these buildings, the TWN still recommends that either repair, refurbishment or '*like-for-like*' timber replacement is pursued in the first instance. However, it is accepted that these buildings have already lost some or all of their original windows or historical fenestration value through inappropriate replacements over the years.

In these circumstances, a number of different units are permitted including:

1. Good quality, well-proportioned white uPVC sliding sash and case
2. White painted timber double swing / tilt & turn with a stepped effect which give the appearance of a sash and case windows in all respects except when open
3. uPVC fixed pane units (no opening mechanism in accordance with Building Standards) with good proportions and that mimic the stepped effect of sash and case window

On the rear elevations of these types of building, additional flexibility is also afforded depending on the availability of public views; the contribution to the Conservation Area; and the overall integrity of the block. Replacements should match the original in terms of general design but do not necessarily have to replicate a traditional sliding sash and case in terms of opening mechanism or the stepped effect.

Statement 4 – Replacing Non-Traditional Windows

One of the important aims of the TWN is to uplift the current status quo and reverse the damage caused by some of the unsympathetic window replacements that have occurred over the years. In all properties where the original/traditional windows have already been replaced or the fenestration has been devalued, every effort shall be made to reintroduce new traditional/sympathetic units. When assessing applications to replace windows that are not original/traditional, the following sequential approach is applied:

- Re-introduction of timber sliding sash and case units
- Installation of better quality windows than currently installed – good quality uPVC sliding sash and case or timber swing units for example
- Installation of units of any material which retain the distinct step of sash and case windows and which give the appearance of a sash and case windows in all respects except when open

INFORMATION REQUIRED

REQUEST (a)

The reasons why Planning Applications referenced 22/01413/PP and 22/01466/PP were approved while the application for the proposed development was refused on the basis of the same Technical Note

Response

For the purposes of the Technical Working Note (TWN), the property that is the subject of the review, 26 Crichton Road, is a '*prime*' Listed Building i.e. it has not been '*devalued*' in an architectural sense through unsympathetic historic window replacements and alterations. As such, the application for the proposed windows was assessed against Statement 2 in the TWN and the replacement of timber sliding sash and case windows with timber double swing windows on the front elevation did not represent a '*like-for-like*' replacement in opening method. Consequently, the proposal did not accord with the TWN.

The applications for Planning Permission for the proposed developments at 1 Battery Place and 2 Battery Place (refs: 22/01466/PP and 22/01413/PP respectively) included the replacement of the existing white-painted and black-painted timber sash and case fenestration with white upvc windows that incorporated a fixed upper pane and a double swing reversible lower pane. These permissions were granted on 24th November 2022.

The properties are in the Rothesay Conservation Area but significantly are not "*prime*" Listed Buildings nor are they within a '*Prime Townscape Block*'. As such, the applications were assessed against Statement 3 of the TWN and the proposals accorded with Option No. 3 in that they incorporated fixed pane units with good proportions, which mimicked the stepped effect of sash and case windows.

REQUEST (b)

The types of windows that have been installed and the reasons for the approval of the replacement windows at Nos. 11, 19, 23 and 24 Crichton Road, as well as 28 Crichton Road, where personal reasons were also used as a justification for the approval by the Reporter*

(*for clarification, the applications at 28 Crichton Road were approved by the Council and not after an appeal to a Reporter appointed by the Scottish Government)

Response

11 Crichton Road

The block comprising 10 and 11 Crichton Road is a Category C Listed Building located within the Rothesay Conservation Area. The description from Historic Environment Scotland in 1997 (the year of listing) refers to "*modern glazing to No 10 at both floors; modern glazing to No 11 at 1st floor; 2-pane timber sash and case windows at ground*".

Planning Permission (ref: 23/01959/PP) and Listed Building Consent (ref: 23/01960/LIB) were granted on 22nd January 2024 for the installation of replacement windows in the first floor flat at 11 Crichton Road. The existing windows were aluminium-framed double-glazed units in a sash and case style and the proposal was to replace these with white, uPVC-framed, double-glazed, vertically sliding sash and case units featuring decorative sash horns.

These applications were assessed in the context of the Technical Working Note (TWN). Given the significant presence of non-traditional windows in this block, the flexibility afforded by Statement 2 and Statement 4 was utilised whereby the proposed replacement sash and case windows were considered to be an improvement on the existing situation by way of a more appropriate transom location (which on the existing windows sat too high) and through the re-introduction of horn detailing.

Whilst acknowledging that the choice of uPVC as a material was not ideal, it was considered that there would be an overall design improvement in fenestration arising from a closer match with the ground floor timber-framed windows and that this would represent a net benefit.

19 Crichton Road

The block comprising 19, 20 and 21 Crichton Road is a Category C Listed Building located within the Rothesay Conservation Area. The description from Historic Environment Scotland in 1997 (the year of listing) refers to "*predominantly decorative stained-glass upper, plate-glass lower timber casements; replacement glazing at ground in bay to outer right*".

Listed Building Consent (ref: 12/02262/LIB) and Planning Permission (ref: 12/02280/PP) were granted on 3rd January 2013 for the installation of replacement windows in the ground floor flat (Flat 1) at 19 Crichton Road. The existing windows were two-paned, aluminium windows with a fixed upper sash and opening lower sash and the proposal was to replace these with two-paned, white, timber windows with a fixed upper sash and opening lower sash.

These applications were determined almost three years before the adoption of the TWN so the assessment was carried out in the context of the Development Plan at the time; Scottish Government/Historic Environment Scotland advice; and the Council's '*Rothesay Window Policy Statement*' (1995).

The Report of Handling for the applications states that the non-traditional fenestration in the application property was clearly lawful in the sense that it had been installed prior to the listing of the building in 1997. On this basis, it was considered to be unreasonable to attempt to revert to a situation that hadn't existed for a considerable number of years and the conclusion was reached that the introduction of timber windows as a replacement for those with aluminium frames represented a net improvement on the existing situation.

23 and 24 Crichton Road

The block comprising 23 and 24 Crichton Road is a Category C Listed Building located within the Rothesay Conservation Area. It is one of the six double villas that combine to form Brighton Terrace and sits to the immediate west of the double villa that contains the property which is the subject of the review.

The description from Historic Environment Scotland in 1997 (the year of listing) refers to "*replacement glazing to No 23; 2-pane timber sash and case glazing to No 24*".

There is no history of any applications for the installation of windows at 23 Crichton Road and, therefore, it is reasonable to conclude that the existing windows in the property are those referred to in the listing description from 1997.

Planning Permission (ref: 09/01762/PP) and Listed Building Consent (ref: 09/01765/LIB) were granted on 20th April 2010 for various works to the ground floor flat at 24 Crichton Road. These included the retention of white, two-paned, uPVC, fixed casement and tilt and turn windows on the rear and side elevations (as replacements for timber units).

These applications were determined over five years before the adoption of the TWN so the assessment was carried out in the context of the Development Plan at the time; Scottish Government/Historic Environment Scotland advice; and the Council's '*Rothesay Window Policy Statement*' (1995).

The Report of Handling for the applications states that the retention of the uPVC windows on the rear and side elevation was deemed to be acceptable and this was presumably on the basis that the significance of fenestration as a feature on the rear elevation of the double villa as a whole had been considerably compromised by the modern glazing at No. 23 and also that this elevation was relatively inconspicuous from public viewpoints.

The applications also identified the replacement of the existing timber sash and case windows on the front elevation of the building with the same type of white uPVC windows that had been installed on the rear. The Report of Handling states that the loss of traditional timber sash and case units and the introduction of uPVC windows with a non-sash and case method of opening on the more prominent front elevation was contrary to the adopted Development Plan policy and non-statutory Council policy in force at the time.

Given that the other aspects of the application were considered to be acceptable and as an alternative to refusing the applications in their entirety, it was decided to attach a condition to the grants of Listed Building Consent and Planning Permission that specifically precluded the front window replacements from being carried out.

Planning Permission (ref: 14/00623/PP) and Listed Building Consent (ref: 14/00627/LIB) were granted on 6th June 2014 for various works to the upper floor flat at 24 Crichton Road. These included the retention of windows on the rear elevation – two white, two-paned, uPVC windows with both sashes opening separately and one white, two-paned, uPVC window of the same type as approved previously for the ground floor flat.

These applications were determined eighteen months before the adoption of the TWN so the assessment was carried out in the context of the Development Plan at the time; Scottish Government/Historic Environment Scotland advice; and the Council's *'Rothesay Window Policy Statement'* (1995).

The Report of Handling for these applications states that the fenestration on the inconspicuous rear elevation of this property is not a key feature of the building's architectural interest. It refers to the approval of the uPVC windows in the ground floor flat in 2010 as being for this very reason and advises that there was no compelling reason to refuse the uPVC windows that had already been installed in the upper floor flat.

28 Crichton Road

Planning Permission (ref: 08/01393/DET) and Listed Building Consent (ref: 08/01391/LIB) were granted on 2nd December and 3rd December 2008 respectively for the removal of the existing white, timber, vertically sliding sash and case windows and the installation of white, timber, double swing units in the ground floor flat at 28 Crichton Road.

Reports on the two applications were considered at the November 2008 meeting of the Bute and Cowal Area Committee and the Planning Department recommended that the applications be refused.

However, the Area Committee agreed to refer the determination of the applications to the Protective Services and Licensing (PSL) Committee with a recommendation that they be granted *"as a minor departure subject to the standard conditions and reasons because the proposed windows closely match in appearance the windows which are to be replaced, would not have an adverse impact on the special architectural interest of the building and therefore can be justified in terms of Policy STRAT DC9 of the Argyll and Bute Structure Plan which prevails over the aged Bute Local Plan."*

The following text is taken from the minutes when the cases were considered at the PSL Committee on 19th November 2008 and it refers to the principal recommendation put forward at that meeting by two of the Bute Local Members, Councillors Len Scoullar and Robert Macintyre:

"That the applications for Planning Permission and Listed Building Consent be approved as a minor departure subject to the standard conditions and reasons because the proposed windows closely match in appearance the windows which are to be replaced, would not have an adverse impact on the special architectural interest of the building, because of the distance from and orientation to the public thoroughfare on Crichton Road, and for the special reasons explained below and therefore can be accepted as a minor departure from Policy STRAT DC9 of the Argyll and Bute Structure Plan which prevails over the aged Bute Local Plan and that consent be given for a temporary period until the windows next need replaced."

Part of the *"special reasons"* referred to by Councillors Scoullar and Macintyre are described later in the minutes, as follows:

"In addition, the present occupants are both very aged and I believe that they are already experiencing difficulties with heavy lifting which will only be exacerbated over time and as such these proposed windows will alleviate their difficulty in opening the windows for cleaning and general use and as such I believe that this justifies the non-conforming opening method as a minor departure from policy for personal reasons and that when the windows next need replaced, unless the same special circumstances apply at that time, they be replaced with traditional windows in conformity with policy extant at that time."

The PSL Committee decided to approve both applications and Condition 2 of each Decision Notice contained the following wording:

“If at any time in the future the approved windows require to be replaced, they shall be replaced with traditional white painted sash and case timber windows in accordance with details to be submitted to and approved by the planning authority.”

Reason: The proposed windows have been accepted as an exception to the Council’s normal policies in respect of replacement windows because of the applicant’s special circumstances.”

REQUEST (c)

Further explanation on the comments of the Development Management Service as to why the application was not consistent with Policies 4, 5, 9, 10, 15, 16 and 17 of Local Development Plan 2

Response

At the time of Planning Application 22/01848/PP being determined, the Examination by Scottish Government Reporters into the Argyll and Bute Proposed Local Development Plan 2 (PLDP2) had been concluded and the Examination Report had been published. Section (J) (ii) of the Report of Handling mentioned that the Examination Report was a material consideration of significant weight and, consequently, the PLDP2 as recommended to be modified by the Examination Report and the published Non Notifiable Modifications were material considerations in the determination of the application.

The Report of Handling contained a list of the relevant Policies contained in PLDP2 and, in the 'Assessment' under Part D, it was stated that "*there is sufficient alignment in the assessment of the proposal against the provisions of the current development plan and PLDP2 (as modified) that the decision to refuse the application is supported by both sets of documents.*"

The Argyll and Bute Proposed Local Development Plan 2 was adopted in February 2024.

The following contains a summary of the Policies referred to in Part (c) of the request for information and comments from the Development Management Service thereon:

Policy 04 – Sustainable Development

This policy states that, in preparing new development proposals, developers should seek to demonstrate a number of sustainable development principles, including the conservation and enhancement of the natural and built environment and the avoidance of significant adverse impacts on biodiversity, natural and heritage assets.

Comment: The property that is the subject of the review is a Category C Listed Building that is located in the Rothesay Conservation Area. It has been identified as one of the Listed Buildings within the Conservation Area where traditional fenestration has remained intact and the existing sliding sash and case timber windows on the front elevation of the building are considered to be very important and an essential aspect of its special interest.

The windows that are proposed for installation on the front elevation would have a double swing method of opening and, when in the open position, they would project from the external façade of each unit thereby appearing visually incongruous and discordant.

The rear elevation of the property is visually inconspicuous and is of less significance in terms of fenestration. However, as timber is the consistent finish, the proposed installation of uPVC windows to replace traditional timber sliding sash and case units on the upper floor and in the east-facing (side) elevation of the single storey outhouse is considered to represent an inappropriate intervention.

In this regard, it is considered that the proposal would detract from the character and appearance of two heritage assets i.e. the Category C Listed Building and the wider Rothesay Conservation Area, to an unacceptable degree.

Policy 05 – Design and Placemaking

This policy states that, to achieve good quality places, proposals should endeavour to comply with placemaking criteria, including ensuring that the design develops the area's sense of identity by understanding and embracing the existing distinctive characteristics, with the design respecting and complementing its surroundings in terms of density, appearance, height, scale, massing, materials and finishes.

Comment: See Policy 04 above – for the reasons given, it is considered that the proposal would not embrace one of the existing distinctive characteristics of the area nor would it respect or complement the appearance of the subject building.

Policy 09 – Sustainable Design

This policy states that development proposals should demonstrate consideration of and, where possible, utilisation of renewable sources of energy; and sustainable design and construction methods in terms of embodied energy; conversion and re-use; and adaptability.

Comment: It is considered that the principle of slimline double-glazed units would be acceptable and could equally be used in either refurbished or replacement sliding sash and case windows to achieve similar energy efficiency outcomes as the current proposal.

Policy 10 – Design – All Development

This policy states that the design of any development must, *inter alia*, demonstrate an understanding of and appropriate response to the proposed development site and wider context including consideration of character and must use appropriate proportions for building elements and details including, where applicable, fenestration.

Comment: See Policy 04 above – for the reasons given, it is considered that the proposal does not demonstrate an understanding of or appropriately respond to the traditional fenestration, which is one of the key architectural features that contributes to the character of the building.

Policy 15 – Supporting the Protection, Conservation and Enhancement of Our Historic Built Environment

This policy states that development proposals will not be acceptable where they fail to, *inter alia*, protect, preserve, conserve or enhance the special characteristics and/or cultural significance of the historic built environment in terms of location, scale, form, design or proposed use.

Comment: See Policy 04 above – for the reasons given, it is considered that the proposal would not conserve or enhance the fenestration in the building, which is one of its special design characteristics that contributes to the historic built environment in this part of Rothesay.

Policy 16 – Listed Buildings

This policy states that a development proposal which affects a Listed Building will only be supported when it respects the original structure in terms of setting, scale, design, materials and proposed use and it conforms to national policy and guidance, including (but not limited to) Historic Environment Policy for Scotland (May 2019) and the Historic Environment Scotland 'Managing Change' guidance series.

Comment: See Policy 04 above – for the reasons given, it is considered that the proposal would not respect the original building in terms of the design of the windows nor would it meet the expectations of Historic Environment Scotland in their '*Managing Change in the Historic Environment*' guidance on windows.

Policy 17 – Conservation Areas

This policy states that there is a presumption against development that does not preserve or enhance the character or appearance of an existing Conservation Area. New development within these areas must respect the architectural, historic and other special qualities that give rise to their actual designation and conform to the following national policies and guidance including (but not limited to) Historic Environment Policy for Scotland (May 2019) and the Historic Environment Scotland '*Managing Change*' guidance series.

Comment: See Policy 04 above – for the reasons given, it is considered that the proposal would not respect the fenestration in the building (particularly on the front elevation), which is one of its key architectural qualities that contributes to the character and appearance of this part of the Rothesay Conservation Area.

Furthermore, the proposal would not meet the expectations of Historic Environment Scotland in their '*Managing Change in the Historic Environment*' guidance on windows.