

Report To: The Planning Board

Date: 2 September 2020

Report By: Head of Regeneration and Planning

**Report No: 20/0010/IC
09/20**

**Local Application
Development**

Contact Officer: James McColl

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**Subject: Timber deck to rear (in retrospect) at
Flat 1, 113 Albert Road, Gourock**



SUMMARY

- The proposal complies with the Inverclyde Local Development Plan.
- Eighty six objections have been received raising concerns over visual amenity, the impact on neighbours and natural habitat, and on procedures followed.
- No consultations were required.
- The recommendation is to GRANT PLANNING PERMISSION.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=Q4LRMUIMGC800>

SITE DESCRIPTION

Lying to the landward side of Albert Road, Gourrock, the development is within the rear garden of the flatted dwellinghouse at numbers 112 and 113. It forms part of a row of houses and flats each with small front gardens facing onto the Firth of Clyde, and with larger back gardens which slope steeply upwards towards the rear where they back directly onto Hillside Road, from where the garden is largely screened by a high wall. The garden itself is commonly shared in the main, however to the rear as the ground slopes it is sub-divided into three with portions attributed to the flats numbered 112, 113a and 113b. The site lies within the Gourrock West Bay Conservation Area.

PROPOSAL

An area of timber decking has been constructed into the slope at the foot of the rear garden. The decking has a floor area of approximately 10.5 square metres and is enclosed by an 1100mm high timber balustrade. The floor of the decking is approximately 1400mm high to the front, which is the highest point relative to the sloping ground.

As the works have already been undertaken, the application is considered in retrospect.

DEVELOPMENT PLAN POLICIES

Policy 1 - Creating Successful Places

Inverclyde Council requires all development to have regard to the six qualities of successful places. In preparing development proposals, consideration must be given to the factors set out in Figure 3. Where relevant, applications will also be assessed against the Planning Application Advice Notes Supplementary Guidance.

Policy 28 - Conservation Areas

Proposals for development within or affecting the setting of a conservation area, are to preserve or enhance the character and appearance of the area. In assessing such proposals regard will be had to any relevant Conservation Area Appraisals or other information relating to the historic or architectural value of the conservation area. Where the demolition of an unlisted building is proposed, consideration will be given to the contribution the building makes to the character and appearance of the conservation area. If such a building makes a positive contribution to the area, there will be a presumption in favour of retaining it. Proposals for demolition will not be supported in the absence of a planning application for a replacement development that preserves or enhances the character and appearance of the conservation area.

Draft Planning Application Advice Note (PAAN) 5 on "Outdoor Seating Areas" applies.

CONSULTATIONS

None required.

PUBLICITY

The application was advertised in the Greenock Telegraph on 31 January 2020 as a development affecting a conservation area.

SITE NOTICES

A site notice was posted on 31 January 2020 for development affecting conservation area.

PUBLIC PARTICIPATION

86 objections have been received in connection with the application, 38 of which are in the same standard pro-forma. A further three of the pro-forma objections have been withdrawn when after receiving acknowledgement of receipt from the Council, it was advised in writing that the signatory had no knowledge of their objection letter.

The concerns raised can be summarised as follows:

Visual Impact

- The decking is visible from the street and impacts on the natural appearance of the area.
- The decking is too high and too large.
- The decking erected is out of keeping with the locality and is unsympathetic to both the Conservation Area location and heritage of the site.
- The condition of the decking is deteriorating due to lack of maintenance.

Impact on neighbours

- There is a loss of privacy due to overlooking and views into neighbouring flats.
- The decking has caused extreme distress.
- The decking may have been constructed on common ground and encroach onto neighbouring land not owned by the applicant.

Natural habitat

- Adverse impacts on the natural habitat of the garden ground have occurred.

Procedure

- No planning permission was applied for prior to the commencement of works and the decking should be removed; granting permission would set a precedent both in respect of similar developments within the area and for others to build without consent.
- The applicant was permitted to continue to build the decking without planning permission.
- Everyone must adhere to planning rules and regulations.
- The decking was constructed without a building warrant.
- Neighbours were not notified of the development prior to it being undertaken.
- A house on the Esplanade in Greenock had to be repainted due to permission not being applied for.

I will consider these concerns in my assessment.

ASSESSMENT

The material considerations in the assessment of this application are the Inverclyde Local Development Plan, Planning Application Advice Note (PAAN) 5 on "Outdoor Seating Areas", Scottish Government Planning Advice Note (PAN) 71 on Conservation Area Management, Historic Environment Scotland's Historic Environment Policy for Scotland and "Managing Change in the Historic Environment" guidance note on "Setting", the visual impact within the Conservation Area, the impact on neighbouring amenity and the representations received.

In response to an enquiry, the site was visited during construction of the decking and it was evident that works were being undertaken in the absence of planning permission. This application is the result. Whilst it is disappointing that the works have been undertaken without first seeking planning permission, this can have no bearing on the assessment of this application and any works undertaken without planning permission have been at the applicant's own risk. While representations seek to compare this site with another retrospective application elsewhere that was refused, it should be noted that the retrospective nature of the application could not and did not have a bearing on the reason for refusal of permission.

Policy 1 of the Local Development Plan requires all development to have regard to the six qualities of successful places. The relevant factors in respect of this development contributing to the qualities of successful places are being "Distinctive" in reflecting local architecture and urban form, and being "Safe and Pleasant" in avoiding conflict with adjacent uses in respect of privacy, noise and activity. Policy 28 advises that proposals for development within a conservation area require to preserve or enhance the character and appearance of the area. It is further advised that in assessing such proposals any relevant Conservation Area Appraisals or other information relating to the historic or architectural value of the conservation area requires to be considered. Draft PAAN5 provides guidance on proposals for garden decking. There is no Conservation Area Appraisal for the Gourrock West Bay Conservation Area. Neither Historic Environment Scotland's Policy for Scotland nor "Managing Change in the Historic Environment" guidance note series offer specific advice on the construction of garden decking. The guidance note on "Setting" advises, however, that it can be important to the way in which historic structures or places are understood, appreciated and experienced, and provides guidance on factors to be considered in assessing the impact of a change on the setting of a historic asset or place. PAN 71 also provides advice and guidance and requires development to be carefully managed to ensure the character and appearance of conservation areas are safeguarded and enhanced.

In first considering the visual impact of the timber decking, it is noted that this is freestanding, situated within a rear garden and is positioned away from the rear elevation of the building. Whilst glimpsed views of the decking are available from Albert Road between buildings, it has no visual prominence within the streetscape and has a neutral impact on the setting of the building within the Conservation Area. The rear curtilages of properties within this part of Albert Road feature a variety of outbuildings and structures which include a similar, but larger, timber decking structure at 109 Albert Road, around 22 metres from the structure within the application site. This deck was granted planning permission by the Planning Board in September 2008 (ref 08/0136/IC). While not setting a precedent, the Council requires to determine applications in a fair and consistent manner, and where appropriate recognise similarities between proposals.

Additionally, the houses and flats feature numerous alterations and extensions to the rear, contributing to the varied arrangement within rear curtilages. Whilst Hillside Road is positioned to the rear of the application site at a higher level, the decking has no prominence from this road.



This combination of siting, lack of prominence within the streetscape, the modest size of the structure and the varied arrangement within rear curtilages all contribute to the proposal being visually acceptable. Whilst I note the concerns with regard to the condition of the decking, it is constructed with tanned timber and I do not find any evidence of a deterioration.

The West Bay Conservation Area was designated due to it retaining the sense of a fashionable west end complete with large villas, a variety of architectural styles where many original features are retained and with the character of a relaxed promenade with houses set on the brae looking out over the bay. The construction of this small area of timber decking within a rear curtilage does not adversely impact on the historic and architectural value nor interfere with the special interest of the Conservation Area. I am therefore satisfied that there is no conflict with Policy 28 of the Local Development Plan, Historic Environment Scotland's policy and guidance or PAN 71.

Whilst I note the concern that the erection of the decking has caused distress, it is appropriate to consider the impact on residential amenity with reference to Draft PAAN5 on Outdoor Seating Areas which provides guidance. This seeks to balance the desire of residents to benefit from their gardens while at the same time ensuring that a deck is not of a size that allows a wide range of functions and activities over extensive periods of the day and evening, to the extent that this may impinge upon neighbours enjoying their own house and garden. I am satisfied that the limited size of the decking would ensure that the use would be restricted to limited seating and enjoyment of the views between buildings, towards the Firth of Clyde. This, together with it being at the foot of the garden, ensures that I am satisfied that the use of the decking will not unacceptably impinge upon neighbouring properties.



I note the concerns raised regarding overlooking and loss of privacy. In the absence of the deck, there is already an established intervisibility between the shared rear garden and the rear windows of both this building and neighbouring buildings, with views already existing from various parts of the rear garden to neighbouring gardens and flats/houses. This includes from an existing more elevated area of timber decking situated within the adjacent portion of the rear garden. Indeed, I also note that a similar relationship exists from the approved decking at 109 Albert Road, where it was noted that any additional overlooking and impact on privacy would be acceptable. Overall I am satisfied that the decking erected is consequently acceptable with reference to the advice and guidance within Draft PAAN5. The decking is also acceptable with reference to the relevant qualities of successful places set out within Policy 1.

Turning to the outstanding points in the representations, I note that this is a small structure within a domestic garden. Any impact on natural habitat is negligible. Procedurally, all neighbours within 20 metres of the application site were notified. Additionally, a press advertisement was placed in accordance with the requirement of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 and a site notice displayed on site. This meets the statutory notification obligations and whether or not an applicant discussed the proposal with neighbours has no bearing on the determination of the application. An applicant also does not

require to own the land to submit a planning application, and I am satisfied that correct procedure has been followed in notifying other part-owners of the application site.

If the decking has been constructed on land not wholly owned by the applicant, this is a civil matter which can have no bearing on the determination of the application. The requirement for a building warrant is addressed separately via the Building (Scotland) Regulations.

To conclude, I consider the decking erected to be acceptable both visually within the Conservation Area location and with respect of neighbouring amenity. It is therefore acceptable with reference to Policies 1 and 28 of the Local Development Plan together with the advice and guidance within Draft PAAN5. The proposal also presents no conflict with Historic Environment Scotland's policy and guidance which seek to preserve the historic environment together with PAN 71. Whilst I am mindful of the objections received, there are no material planning considerations which would warrant the refusal of this planning application.

RECOMMENDATION

That the application be granted.

Stuart Jamieson
Head of Regeneration and Planning

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact James McColl on 01475 712412.