

A meeting of the Planning Board will be held on Wednesday 2 September 2020 at 3pm.

This meeting is by remote online access only through the videoconferencing facilities which are available to Members and relevant Officers. The joining details will be sent to Members and Officers prior to the meeting.

In the event of connectivity issues, Members are asked to use the *join by phone* number in the Webex invitation.

Please note this meeting will be recorded.

GERARD MALONE
Head of Legal & Property Services

BUSINESS

1. Apologies, Substitutions and Declarations of Interest	Page
2. Planning Applications Reports by Head of Regeneration & Planning on applications for planning permission as follows:- (a) Mr J Dunlop Non-compliance with condition 1 of planning application 16/0236/IC: Blackwater Farm, Woodhead Road, Kilmacolm (20/0038/IC)	p
(b) Mr and Mrs Watkins Proposed alterations and enlargement of house: Haiglea, Florence Drive, Kilmacolm (20/0022/IC)	p
(c) Mr D Brown Timber deck to rear (in retrospect): Flat 1, 113 Albert Road, Gourock (20/0010/IC)	p
(d) Baronial Consultancy Ltd Discharge of planning obligation (refers to Planning Permission 15/0300/IC): Land at 53, 54 and 55 Shore Street, Gourock (20/0001/MP)	p
(e) Mr C Canata Erection of dwellinghouse and garage (amendment to planning permission 16/0319/IC): Site at 13 Dunvegan Avenue, Gourock (20/0122/IC)	p

3.	Planning Appeals	
(a)	Report by Head of Regeneration & Planning intimating the outcome of a planning appeal at vacant site, 13 Dunvegan Avenue, Gourrock (19/0158/IC)	p
(b)	Report by Head of Regeneration & Planning intimating the outcome of a planning appeal at land at North Denniston, Bridge of Weir Road, Kilmacolm (19/0041/IC)	p
(c)	Report by Head of Regeneration & Planning intimating the outcome of a planning appeal at Carsemeadow, Quarrier's Village (18/0190/IC)	p

Please note that because of the current COVID-19 (Coronavirus) emergency, this meeting will not be open to members of the public.

The reports are available publicly on the Council's website and the minute of the meeting will be submitted to the next standing meeting of the Inverclyde Council. The agenda for the meeting of the Inverclyde Council will be available publicly on the Council's website.

In terms of Section 50A(3A) of the Local Government (Scotland) Act 1973, as introduced by Schedule 6, Paragraph 13 of the Coronavirus (Scotland) Act 2020, it is necessary to exclude the public from the meetings of the Planning Board on public health grounds. The Council considers that, if members of the public were to be present, this would create a real or substantial risk to public health, specifically relating to infection or contamination by Coronavirus.

Enquiries to – **Rona McGhee** – Tel 01475 712113

Report To: The Planning Board

Date: 2 September 2020

Report By: Head of Regeneration and Planning

**Report No: 20/0038/IC
Plan 09/20**

**Local Application
Development**

Contact Officer: David Ashman

Contact No: 01475 712416

**Subject: Non-compliance with condition 1 of planning application 16/0236/IC at
Blackwater Farm, Woodhead Road, Kilmacolm**



SUMMARY

- The proposal is a departure from the Inverclyde Local Development Plan.
- One representation has been received making no objection to the application.
- The recommendation is to GRANT PLANNING PERMISSION subject to a condition.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=Q600GNIM00E00>

SITE DESCRIPTION

The application site forms part of Blackwater Farm and is located approximately 2 miles to the south-west of Kilmacolm. It comprises a small part of the Farm and is located on the site of a former Farm cottage. The main Farm buildings are located approximately 85 metres to the south-west on the opposite side of Blacketty Water and an associated group of mature trees. Approximately 1 metre high post and wire fencing constitutes the main boundary treatment.

The site is accessed via a surfaced track which connects to a minor road leading to Gateside Road. The surrounding land is mainly in use for grazing.

PROPOSAL

Planning permission was granted in retrospect in March 2017 by the Inverclyde Local Review Body (the LRB) for the erection of the chalet. Planning permission was granted subject to four conditions including one which states:

“That planning permission shall last for a period of 3 years from the date of this permission.”

The reason for the time restriction was that:

“The external condition of the chalet requires to be kept under review, as the building is temporary in nature, in the interests of the visual amenity of the countryside.”

The three year period has now ended and the applicant seeks permission for non-compliance with the condition to allow extended use of the chalet.

The site has not been fully developed in accordance with the approved plans. Although the chalet, which has a plasticated/uPVC type material finish with brown walls and a black roof is as per the approved plans, a raised area around it has not been finished in the approved timber decking but as a slabbed patio. This may be considered to be a non-material variation to the original approval.

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 14 - Green Belt and Countryside

Development in the Green Belt and Countryside will only be permitted if it is appropriately designed, located, and landscaped, and is associated with:

- a) agriculture, horticulture, woodland or forestry;
- b) a tourism or recreational use that requires a countryside location;
- c) infrastructure with a specific locational need;
- d) the appropriate re-use of a redundant stone or brick building, the retention of which is desirable for its historic interest or architectural character, subject to that interest or character being retained; or
- e) intensification (including extensions and outbuildings) of an existing use, which is within the curtilage of the associated use and is of an appropriate scale and form.

Proposals associated with the uses set out in criteria a)-c) must provide justification as to why the development is required at the proposed location.

Policy 27 - Tourism Development

Proposals for change of use of tourism related facilities will only be supported where it can be demonstrated that they are no longer viable as a business in their current use.

Development of tourism related facilities will be supported in appropriate locations where:

- a it avoids adverse impact on the amenity and operation of existing and adjacent uses;
- b major trip-generating proposals can be accessed by sustainable means; and
- c it is appropriately designed for its location and avoids significant adverse impact on the green network and historic buildings and places.

Draft Planning Application Advice Note (PAAN) 8 on "Siting and Design of Houses in the Green Belt and Countryside" applies.

CONSULTATIONS

The nature of the proposal did not require consultation.

PUBLICITY

The application was advertised in the Greenock Telegraph on 6 March 2020 as it is contrary to the development plan.

SITE NOTICES

The nature of the proposal did not require a site notice.

PUBLIC PARTICIPATION

Kilmacolm Civic Trust has no objection to the application.

ASSESSMENT

As planning permission has already been granted for the chalet, subject to conditions including the time restrictive condition referred to above, it only remains to be considered if there has been any material change in circumstances since the original permission was granted that would suggest that planning permission should not be granted to allow the chalet to continue in use. The condition of the chalet will also be material to determining its continued use. The representation received constitutes a further consideration.

The key material change is the adoption of the 2019 Inverclyde Local Development Plan (the LDP). The LDP locates the chalet within the Green Belt around Kilmacolm and Quarriers Village under Policy 14. This policy indicates that development will only be permitted if it is appropriately designed, located, and landscaped and is associated with specified criteria, the most relevant of which in this instance is b), a tourism or recreational use that requires a countryside location.

Policy 27 requires consideration as it is in respect of tourism development and supports this in appropriate locations where: a) it avoids adverse impact on the amenity and operation of existing and adjacent uses; b) major trip-generating proposals can be accessed by sustainable means; and

c) it is appropriately designed for its location and avoids significant adverse impact on the green network and historic buildings and places.



Finally, Policy 1 is of relevance as it requires all development to have regard to the six qualities of successful places. In this instance the relevant factors are being “resource efficient”, in making use of previously developed land; being “easy to move around” in being well connected with good path links to the wider path network; and being “safe and pleasant” through avoiding conflict between adjacent uses with regard to noise and invasion of privacy. The policy also requires assessment against relevant Draft Planning Application Advice Notes (PAANs), with Draft PAAN8 on “Siting and Design of New Houses in the Countryside” being of relevance.

The use of the chalet for short-term holiday lets is directly related to tourism and accords in principle with Policy 14. It also has to be considered however, as mentioned above, that the chalet can also be used as permanent accommodation as this is permitted by legislation without recourse to a further planning application. It fails to accord with the guidance in Draft PAAN8 in respect of design. The potential implications of this permanent use of the chalet were considered under the previous application although the LRB decided to grant planning permission on review. Although the permanent residential use of the chalet is strictly relevant in land use policy terms it would not be appropriate, however, to further consider Policy 14 or guidance in Draft PAAN8 given the previous decision by the LRB.

With regard to Policy 27, I am satisfied that the chalet avoids adverse impact on the amenity and operation of the adjacent farmland and nearby farmhouse and that it is not a major trip-generating proposal. In previously granting planning permission the LRB accepted it was appropriately designed for its location. It does not impact on the green network or any historic buildings and places.

Finally, with regard to Policy 1, it occupies previously developed land, has good connections to the wider path and road network and, due to its remote location, has no implications for amenity in terms of noise generation or invasion of privacy.

Considering the condition of the chalet, it appears to have been well maintained and I am satisfied in this regard. It remains the case, however, that it constitutes a temporary structure, notwithstanding the patio adjacent to it, and it would therefore be appropriate to keep its condition under review by re-imposing a three year permission.



I note the views of the Kilmacolm Civic Trust and no further comment is required in this regard.

It is therefore considered that planning permission should be granted subject to a further time restriction.

RECOMMENDATION

That the application be granted subject to the following condition:

1. That planning permission shall last for a period of 3 years from the date of this permission.

Reason:

1. The external condition of the chalet requires to be kept under review, as the building is temporary in nature, in the interests of the visual amenity of the countryside.



Stuart Jamieson
Head of Regeneration and Planning

Report To: The Planning Board

Date: 2 September 2020

Report By: Head of Regeneration and Planning

Report No: 20/0022/IC
09/20

Local Application
Development

Contact Officer: David Sinclair

Contact No: 01475 712436

Subject: Proposed alterations and enlargement of house at
Haiglea, Florence Drive, Kilmacolm.



SUMMARY

- The proposal complies with the Inverclyde Local Development Plan.
- Twenty objections have been received raising concerns over scale and size, access, and impacts on public realm, the environment, public realm and amenity and wellbeing.
- Consultations received present no impediment to development.
- The recommendation is to GRANT PLANNING PERMISSION subject to conditions.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=Q5HD46IMGHI00>

SITE DESCRIPTION

Haiglea is a detached bungalow located on the north-west side of Florence Drive, Kilmacolm. It is designed with a hipped roof containing a single roof light on the principal and rear elevations and finished with red rosemary tiles; it also has two stone chimneys, one on each side roof; white render walls; white uPVC windows with two bay windows on the principal elevation either side of a green timber storm door; and a small single stained glass window set in a white and green timber frame on the side elevation facing Aysgarth. The house is bound by a mixture of detached single storey dwellinghouses with roof dormers and two storey dwellinghouses, all set in similar sized garden areas.

The site is on a gentle south-west slope, with a gradient of approximately 1 in 50, and within the rear garden adjacent to the boundary with Aysgarth is a timber outbuilding. The site boundary has a low stone wall along Florence Drive, with all other boundaries delineated by a variety of planting, including in the main high hedging.

PROPOSAL

Planning permission is sought for the enlargement of the house into a two storey villa, the construction of a two storey rear extension and a single storey side extension on the south-west side of the building. The additional floor will increase the overall height of the house from approximately 6 metres to approximately 8.2 metres.

On the front elevation it is proposed to install two double windows above the existing bay windows and a smaller double window above the door. On the side elevation to Sunart it is proposed to enlarge a ground floor window to an office (previously a bedroom) and to install a matching window to a library/study directly above on the upper floor. On the side elevation to Aysgarth it is proposed to remove the existing kitchen windows towards the rear of the building and install a smaller window forward of the garage. It is proposed to maintain a hipped roof on top of the house.

The two storey rear extension is proposed to extend outwards by approximately 6.4 metres across the entire rear elevation and is proposed to incorporate a large sliding door in the centre of the ground floor, measuring approximately 4 metres across, with double windows either side. On the upper floor are three double windows, all measuring approximately 1.8 metres across. All new windows are proposed to be in Edwardian style design to match the existing bay windows.

The proposed garage, which is affixed to the side of the house adjacent to Aysgarth, will measure approximately 6.5 metres in length by 3.2 metres and is to be set back from the principal elevation by approximately 5.5 metres. The garage is proposed to have a pitched roof, measuring approximately 4.4 metres in height.

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.

Draft Planning Application Advice Note (PAAN) 4 on “House Extensions” applies.

CONSULTATIONS

Head of Service – Roads and Transportation

- Parking should be provided in accordance with the National Roads Development Guidelines. The parking requirement for the existing dwelling which has 3 bedrooms is 2 spaces, and the proposed dwelling which has 5 bedrooms is 3 spaces.
- Applicant to show they can meet these requirements within the site.
- Parking spaces should be 3.0m x 5.0m each.
- For the garage to be counted as a parking space, it must be a minimum of 3.0m by 7.0m.
- The surface water flow from the site should be limited to that of greenfield flow off.

PUBLICITY

The nature of the proposal did not require advertisement.

SITE NOTICES

The nature of the proposal did not require a site notice.

PUBLIC PARTICIPATION

The application was the subject of neighbour notification. 20 representations were received. Concerns were raised as follows:

Size and Scale

- This is overdevelopment and with the loss of garden ground due to car parking and garage modifications, and the size and scale of the house, both the size of the footprint and the 2 storey nature of the plans.
- The proposal is not a modification but a rebuild and not in line with the current environment.
- The proposal is not sensitive to the design of the house or its neighbours.
- There are concerns over whether the strength and construction of Haiglea as it currently exists will be able to sustain the proposed development.
- The proposal deprives the housing market in the area of a valuable and increasingly scarce asset, a bungalow.
- The proposed plans show a substantial increase in size infringing in proximity to the boundary of both properties.
- The garage is too high and the roof is too steep.
- The garage shown has a higher pitch than neighbouring garages.
- There is a lack of a gap between the boundary hedge and the side of the garage.
- The garage may not be large enough to accommodate a car.

Public Realm

- The plot that the house sits on is narrower than the neighbouring properties and so the scale of the building proposed will look cramped and will negatively impact the spacious and harmonious streetscape which is one of the main attractions of the street.
- The development will be totally out of context with the houses adjacent to and across from it.
- The visual impact of the development will be the opposite of what is current and could not be deemed to be a “sympathetic” conversion or enhancement.
- The plans indicate the destruction of the Austin Laird designed house presently occupying the site.
- The proposal is not in keeping with either its original design or of the character of the adjacent houses.

- The visual impact of the proposed development will result in the house towering over neighbour properties and appearing only as a brick edifice along the line of gardens in Florence Drive.

Access

- Construction traffic and subsequently the occupiers of a large property will need to use Florence Drive.
- A 5 bedroom house could potentially result in 4-5 cars requiring off road parking, especially as the plans show accommodation for 2 generations of adults and lead to the possibility of on street parking.
- There are concerns over an increase in traffic flow as the driveway converges with neighbouring driveways.
- The proposal will result in on-street parking, resulting in concerns over public safety with there only being a pavement on one side of Florence Drive.

Environmental Impact

- The proposed development will create a negative impact on the environment given the smells, dust and vibrations created throughout.
- Development will result in the removal of established trees and bushes on wildlife including squirrels, birds, bats and hedgehogs.
- There are concerns over impact on the watercourses, water retention and drainage.
- The requirement for car parking would result in a hard surface replacing the attractive front garden.
- The surface water drainage system on Florence Drive does not work at present and this problem would be compounded with further hard landscaping.
- Loss of green space caused by the extension.

Amenity and Wellbeing

- There are concerns over loss of privacy due to the increase in height and proximity of the extension to neighbouring properties.
- There will be a detrimental impact on residential amenity due to noise and general disturbance to the quiet neighbourhood whilst works are being carried out.
- There will be noise impacts during construction.
- There are concerns over loss of light into neighbouring properties.
- There will be overlooking and loss of privacy.

One letter of objection received was from the Kilmacolm Civic Trust. The Trust stated that it does not oppose in principle the proposal to enlarge the house, however it objects to the proposal due to a lack of detail on the plans; a lack of indication of horizontal and vertical dimensions and a lack of information on proposed materials, finishes and detailing. It considers the drawings to lack any design consideration or pay any respect to the existing building. Furthermore the elevational treatment lacks design consideration and the Trust requests that the applicant resubmits the plans and that the resubmission must provide all the information which is deficient.

ASSESSMENT

The material considerations in determination of this application are the Inverclyde Local Development Plan (LDP); Draft Planning Application Advice Note (PAAN) 4 on "House Extensions"; the impact of the proposed development in preserving and enhancing the pattern of development and overall character of the area; and the impact on neighbouring and residential amenity. The LDP has been adopted following notification from the Scottish Ministers on 15 August 2019 that "the Council may now proceed to adopt the Plan".

Policy 1 of the LDP requires all development to have regard to the six qualities of successful places. Consideration must be given to the factors set out in Figure 3 to the Policy. The most

relevant in this regard are being 'Distinctive' through reflecting local architecture and urban form and being 'Safe and Pleasant' by avoiding conflict with adjacent uses.

Firstly addressing impacts on the character of the area, the proposal includes an increase in height of the building from one storey to two storeys, being clearly visible from Florence Drive. In considering the impact of the proposal on the overall character of the area, the property is one in a row of detached houses, which contain a mixture of 1.5 and two storey properties. This is currently the smallest house in the row both in terms of height and scale. The proposal will maintain the existing street front building line and the overall pattern of development in terms of being a detached house set within a mature garden. The proposed changes to the front elevation will see the existing roof raised in height by approximately 2.2 metres, with two larger pairs of windows directly above the two bay windows and a smaller pair of windows directly above the front door, which will maintain the symmetry on the principal elevation. The upstairs windows are proposed to have the same glazing style as the existing downstairs windows which is compatible with the character of the original house. In assessing the increase in height on the property, I note that the roof ridge of the existing property sits approximately 1.5 metres lower than the roof ridge of the adjoining properties and consider that the increase in height of the house by 2.2 metres will not negatively impact on the public realm. I consider the proposal to be in keeping with the overall character of the area.



In considering neighbour amenity, the guidance given in Draft PAAN4 looks at the impact of house extensions. In assessing the two storey rear extensions, Draft PAAN4 states that they will be considered on individual merit, but they should not extend beyond 3.5 metres from the rear wall of the original house or result in unacceptable loss of light to a room in a neighbouring house. As the rear extension extends more than 3.5 metres, Draft PAAN4 requires the impact of the proposal to be assessed to determine whether it results in an unacceptable loss of light to a neighbouring window. This has been assessed against the BRE publication "Site Layout Planning for daylight and sunlight: A guide to good practice", measuring the existing and proposed vertical sky component (VSC). The VSC for the closest neighbouring windows, which are the kitchen and sunroom windows on the side elevations at Sunart and which face directly onto the property at a distance of approximately 6.6 metres have been measured. If the VSC is greater than 27% then enough skylight will reach the window of the existing building. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building will notice the reduction in the amount of skylight. The daylight indicator shows that the sunroom window has an existing VSC of 35.5% VSC and the VSC with the proposal in place will be 29%. This is above the minimum 27% recommended. For the kitchen, the existing VSC is 29.5% and the proposed VSC will be 26%. This is below the minimum 27% recommended; however as the VSC will be above 0.8 times the existing VSC, the reduction in the amount of skylight is unlikely to be noticed by occupants. It stands that the

proposal will not result in an unacceptable loss of light to any rooms in neighbouring houses, in accordance with the guidance in Draft PAAN4.

Draft PAAN4 also advises that extensions should not result in more than 50% of the rear garden area being developed and should not encroach within 5.5 metres of the rear garden boundary. The proposal will result in approximately 19.3% of the rear garden area being developed, with the undeveloped garden area reducing from approximately 442 square metres to approximately 356 square metres. The proposed rear extension will be a minimum of 14 metres from the rear garden boundary, well exceeding the minimum 5.5 metres required.

With regard to the windows proposed, Draft PAAN4 states that windows on side elevations should be avoided where they offer a direct view of neighbouring rear/private gardens. The existing house contains windows on the both side elevations. The proposal includes the installation of the new ground floor windows, a smaller window in front of the garage and an enlarged window on the Aysgarth side, set back between 4.9 and 5.8 metres from the principal elevation. An upstairs window is proposed above the enlarged window. These windows will be positioned far enough forward so as not to afford a direct view of any neighbouring private/rear gardens, however they will provide an opportunity for direct overlooking into the neighbouring kitchen side window which sits almost directly across from these windows at a distance of 6.7 metres. This is less than the 18 metre minimum required window intervisibility distance given in Draft PAAN4. I note that the continued existence of both side boundary hedges is essential in maintaining the amenity of the overall area through mitigating any invasion of privacy issues from the ground floor windows. The proposal indicates that the high boundary hedges are to be preserved, which I consider to be an acceptable means of mitigating overlooking between the ground floor windows. Following further discussions, the applicant has agreed to install obscure glazing into the upstairs window to prevent any overlooking into the neighbouring property. Both of these measures can be secured by means of condition.



Draft PAAN4 also recommends that extensions should be finished in materials to complement those of the existing house. The new walls, windows, roofs and rainwater goods for the dwelling are proposed to match the existing dwelling in terms of both materials and finishes.

In assessing the proposed garage, the single storey extension comes to approximately 0.7 metres of the site's side boundary to Aysgarth; this is not in accordance with the 1 metre set back distance as advised in Draft PAAN4. Side boundary set back is required to avoid the terracing of houses and to ensure that there is suitable access between front and rear gardens. As the set back from the frontage and the retention of a boundary hedge will prevent any impression of terracing, and there remains ample access at the other side of the house for external movement between the front and rear gardens, I am satisfied that the intent of the guidance is achieved. Furthermore, I note that there is currently a detached garage to the rear of the house, which sits closer to the side boundary than the proposed garage and that other

houses on Florence Drive contain similar sized side extensions. The roof of the side extension is proposed to match the existing house roof in terms of materials, finishes and roof pitch angle. Taking this into account, I consider that the garage is designed in accordance with the traditional features of the house and does not negatively impact on the house's overall unique design, therefore it is acceptable with reference to meeting the quality of being 'Distinctive' in LDP Policy 1.

The guidance in Draft PAAN4 requires the off-street parking requirements of the Council's Roads Development Guide to be met. This is in order to minimise the impact of traffic and street parking on Florence Drive. The Head of Service – Roads and Transportation has identified that the parking requirement for the site will increase from 2 to 3 off-street parking spaces and the applicant has provided drawings demonstrating that this can be safely achieved within the site. In addressing the concerns raised in the objections that parking may occur on Florence Drive and that the garage is not large enough to accommodate a car; I note that the driveway has sufficient space to accommodate an additional two cars on top of the three spaces demonstrated by the applicant.

The Head of Service – Roads and Transportation has also requested a condition be placed on the granting of any consent that the surface water flow from the site should be limited to greenfield flow off. Furthermore, I note the concerns raised regarding impacts of the development on the surface water drainage system. This matter can be addressed by means of condition to ensure that the surface water flow from the site does not increase. Based on the above assessment, I consider the proposal to be in accordance with Draft PAAN4, as well as minimising the impact of traffic and parking on the street scene (LDP Policy 1).

Turning to the concerns raised in the objections not yet addressed, regarding loss of open space and impacts on trees and bushes in the garden, there are no environmental designations covering any part of the site nor are there any in the surrounding area. The footprint of the extension comprises grass and part of the existing driveway, with a variety of small, immature bushes that are currently in an unmaintained condition. Accordingly, no concerns regarding protected species arise. Notwithstanding this, there remains the potential for birds to nest in the area. Accordingly, I consider this matter can be addressed by a condition that checks are carried out for nesting birds prior to the removal of any bushes. Concerns over structural issues are matters to be resolved outwith the planning application process and can have no impact on the determination of this application. Planning permission may not be refused on the basis that this will reduce the number of bungalows in the local housing market. Finally, concerns about noise pollution generated during construction is a matter which is regulated by The Head of Environmental and Public Protection (Environmental Health) and can have no bearing on planning considerations.

Taking all of the above into account, I consider that the proposal does not have any adverse impacts in terms of noise; smell; vibration; dust; air quality; flooding; invasion of privacy; or overshadowing, and therefore it meets the quality of being 'Safe and Pleasant' in LDP Policy 1.

To conclude, I am satisfied that the proposal can be considered acceptable with reference to LDP Policy 1 and Draft PAAN4. Having taken into account all representations received, I consider that there are no material planning considerations that would justify the refusal of the planning application.

RECOMMENDATION

That the application be granted subject to the following conditions:

1. That prior to their use on site, samples of all external materials have been submitted to and approved in writing by the Planning Authority: development thereafter shall proceed utilising the approved materials, unless the Planning Authority gives its prior written approval to any alternatives.

2. The extension hereby approved shall not be occupied until the off-street parking spaces shown in approved drawing number HAIGLEA – WATKINS_200 Rev A have been provided within the site.
3. That the upstairs window hereby approved on the north-east side elevation shall be fitted with opaque glazing.
4. That the existing side boundary hedges detailed on drawing number HAIGLEA – WATKINS_200 Rev A shall be retained. Any future proposals to lop, top or fell any part of these hedges shall not be executed without the prior written approval of the Planning Authority.
5. All surface water shall be contained within the site.
6. All works to trees and bushes shall be preceded by a check for nesting birds, in accordance with the Nature Conservation (Scotland) Act 2004.

Reasons:

1. To ensure a continuity of finishing materials in keeping with the character of the building and surrounding area.
2. In the interests of road safety on Florence Drive.
3. In the interests of privacy and to prevent overlooking between properties.
4. To ensure that a quality landscape setting is maintained in the interests of neighbouring amenity and to prevent an invasion of privacy.
5. To ensure adequate drainage is in place to prevent surface water running from the development hereby permitted onto neighbouring properties or a public footway.
6. To comply with the Nature Conservation (Scotland) Act 2004.

Stuart Jamieson
Head of Regeneration and Planning

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact David Sinclair on 01475 712436.

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

Contact No: 01475 712462

**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.

Report To:	The Planning Board	Date:	2 September 2020
Report By:	Head of Regeneration and Planning	Report No:	20/0001/MP Plan 09/20
Contact Officer:	David Ashman	Contact No:	01475 712416
Subject:	Discharge of planning obligation (refers to Planning Permission 15/0300/IC) at Land at 53, 54 and 55 Shore Street, Gourock		



SUMMARY

- The proposal presents no conflict with the Inverclyde Local Development Plan.
- No objections have been received.
- The recommendation is to **DISCHARGE THE SECTION 75 AGREEMENT.**

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=QAVWW7IM00E00>

SITE DESCRIPTION

The application site comprises a gap in the Shore Street frontage between a 4 storey tenement to the north and a two and a half storey dwelling to the south. It was formerly occupied by a villa and an advertisement hoarding. The site steps up sharply from Shore Street beyond the solum of the former building and is unmaintained, although it is screened from public view on Shore Street by a

2.4 metres high timber screen fence. Amenity open space lies on the opposite side of Shore Street with the Gourock-Glasgow Railway Line beyond.

PROPOSAL

The applicant seeks discharge of an Obligation in the form of a Section 75 Agreement relating to the site at 53, 54 and 55 Shore Street, Gourock under the Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010. The Obligation burdens the application site which was linked with the associated planning permission 15/0300/IC for residential development at Kirn Drive, Gourock but planning permission 15/0300/IC lapsed without implementation on 26 May 2019.

Clause 4 of the Planning Obligation sets out that:

"In the event that the Planning Permission lapses or is quashed, revoked or otherwise withdrawn prior to the Commencement of Development, any obligations in this Agreement shall lapse in their entirety and cease to be enforceable by any of the parties against the others."

The Applicant therefore requests that the Planning Obligation is discharged as it is no longer enforceable.

BACKGROUND

Planning permission 15/0300/IC was granted in May 2016 for the construction of 41 two storey terrace, semi-detached and detached houses, with associated roads, parking and landscaping within the grounds of the former Kempock House at Kirn Drive, Gourock. As the proposal was for a development of more than 20 dwellings and was a prescribed site in Schedule 6.1 to Policy RES4 of the 2014 Inverclyde Local Development Plan there was a requirement that the developer contribute to meeting affordable housing requirements in the Glasgow and the Clyde Valley Housing Need and Demand Assessment for Inverclyde.

It was concluded that the most appropriate form of provision were residential units off-site, specifically on the vacant site at 53, 54 and 55 Shore Street, Gourock. This was within the same housing market area and the site was within the control of the applicant, Baronial Consultancy Ltd, presently seeking discharge of the Obligation. In order to ensure delivery of the affordable housing provision (in this particular instance it was originally 9 flatted dwellings), a Section 75 Agreement was to be entered into among the applicant, the Council and a Housing Association to take forward delivery of the site.

Under the terms of the Section 75 Agreement, the applicant was to, within 3 months of works commencing at the Kirn Drive site, enter into an agreement to transfer the title of the site at Shore Street to Oak Tree Housing Association. The Housing Association was then to commence construction of the required flats within 24 months of the transfer of the title of the site to them and to complete construction within 48 months. If the applicant did not transfer title of the Shore Street site to the Housing Association within the required 3 months period then the applicant and the Council were to enter into an agreement to transfer the title to the Council. Furthermore, if the Housing Association did not complete the construction of the flats within the 48 month period then within a subsequent 12 months period they were to enter into an agreement to transfer the Shore Street site to the Council. All this was to be done at nil cost to the Council.

The Section 75 Agreement was registered and planning permission 15/0300/IC issued. This planning permission was, however, never implemented and a second planning permission, 16/0309/IC, for a smaller scale proposal was granted in April 2017. This is the main planning permission which was implemented on the Kirn Drive site. There were two subsequent amendments to this permission (planning permission 17/0144/IC for an amendment to the site entrance and 9 plots, granted in July 2017 and planning permission and 17/0297/IC for an

additional house, granted in February 2018) but for the purposes of the assessment of this application planning permission 16/0309/IC is the crucial one.

The Section 75 Agreement was amended to apply the Obligation for the affordable housing provision under planning permission 15/0300/IC to planning permission 16/0309/IC in April 2017. Planning permission was granted to the Housing Association in May 2017 for the construction of 8 new build flats at 53, 54 and 55 Shore Street. 8 rather than 9 flats was accepted to be the more feasible scale of proposal.

THE LEGISLATIVE POSITION

The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 introduce a right to apply to the Council to have a Planning Obligation modified or discharged. They also introduced a right of appeal to the Scottish Ministers where a planning authority refuses an application or fails to determine it within the set time period of two months. It should be noted that it is more than 2 months since the application was submitted but the applicant has agreed to a non-statutory timescale extension in recognition of the delays and difficulties in the Planning Board sitting due to the Covid-19 situation.

The Regulations allow a planning authority to approve or refuse such an application but not to determine that the Obligation should be subject to any modification other than set out in the application. The planning authority is required to take into account any changes in circumstances which mean that the Obligation is no longer reasonable. An application for discharge or modification of an Obligation has to be assessed against the same criteria for the creation of an Obligation. These are set out in Circular 1/2010 as follows:

- Necessity
- Planning purpose
- Relationship to proposed development
- Scale and kind
- Reasonableness

These form the basis of my assessment of the proposal.

DEVELOPMENT PLAN POLICIES

No consideration of development plan policies is required in this instance.

CONSULTATIONS

No consultations were required.

PUBLICITY

The nature of the proposal did not require advertisement.

SITE NOTICES

The nature of the proposal did not require a site notice.

PUBLIC PARTICIPATION

No representations were received.

ASSESSMENT

The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 introduced a right to apply to the Planning Authority to have a Planning Obligation modified or discharged.

In assessing this application to discharge the Obligation the history of developments has to be examined.

As noted above, the Section 75 Agreement was amended with the aim of re-applying the burdens associated with the original 15/0300/IC planning permission. Unfortunately, it is not possible to now enforce the Obligation as the applicant was not notified of the amendment which was the result of the 16/0309/IC planning application. The sequence of events has to be explained in order to understand how this situation has arisen.



Whilst planning application 16/0309/IC for the Kirn Drive site was under consideration planning application 16/0262/IC for the proposed 8 flats at 53 Shore Street was also under assessment. As part of the planning application process an applicant is required to make a site ownership declaration confirming that they are the owners of an application site or identify who the owner(s) is/are and notifying them accordingly. The Housing Association notified Merchant Homes as the owners of the Shore Street site and declared this on the ownership certificate. No correspondence was received from Merchant Homes or the Housing Association to indicate that this was not the case. Indeed, most of the application plans for planning application 16/0309/IC at Kirn Drive were by Merchant Homes and it appeared that Merchant Homes had been appointed to build out the sites at Kirn Drive and Shore Street, with Baronial Consultancy Ltd having sold on their interest in the Shore Street site. Unfortunately that was an incorrect presumption. It is now clear that the Housing Association made an incorrect statement in their ownership certificate and that Baronial Consultancy Ltd, in fact, retained site ownership at 53, 54 and 55 Shore Street.

Baronial Consultancy Ltd therefore did not receive the appropriate notification under the Modification and Discharge of Planning Obligations procedure to vary the Section 75 Agreement and therefore, legally, the burden no longer applies to the applicant and cannot be enforced. It is also the case that planning permission 15/0300/IC to which the existing burden on the Shore Street site applies has now lapsed. On this basis the applicant seeks discharge of the obligation.

With regard to the assessment criteria set out in Circular 1/2010 it would now be unreasonable of the Council to hold the applicant to the requirements in the Obligation.

Notwithstanding this, the Board should also be aware of developments and considerations subsequent to the above events which provide a context for their decision.

Whilst mindful of the requirements of the Section 75 Agreement and the subsequent procedural issues which have been uncovered, the Housing Association still intended to build out planning permission 16/0262/IC. However, in November 2018 they advised the Council that the construction cost per flat rendered the development unviable and that they would not build the flats for which they had obtained planning permission. This was corroborated recently by a volume housebuilder who had considered constructing the flats as approved. The advice provided was that the condition of the site, the level of retention which would be required and the relationship with the adjacent buildings on either side made the construction approved under planning permission 16/0262/IC commercially unviable. Whilst it was not obvious at the time the application was under consideration, subsequent events indicate that the development economics suggest the site could not be developed as anticipated by planning permission 16/0262/IC and that there would probably require to be a commercial element to any proposal for the site to ensure an ongoing financial return. This would inevitably reduce the number of flats if, indeed, any could viably form part of a future development proposal.

It therefore follows that, if the terms of the Section 75 Agreement had been fully implemented, the Council could potentially have inherited a gap site with significant barriers to a development of the nature anticipated by planning permission 16/0262/IC.

The solution to securing the provision of an affordable housing element associated with the private housing development at Kirn Drive on a remote site was seen as a unique approach but should such an arrangement be proposed in the future then the Council is now better placed to ensure that a fully detailed and costed project would need to be presented to provide the necessary level of confidence that a development could be delivered.

The Board should also be aware that under the adopted 2019 Inverclyde Local Development Plan the previous policy of seeking an affordable housing provision within this part of the built-up area of Inverclyde no longer applies. The requirement for an affordable housing contribution from all private housing development sites across all of Inverclyde was removed, so as to enhance the viability of private house development on these sites, and also because through the land allocated by the Plan and the More Homes Scotland programme, it was considered likely that targets for affordable housing could be reached without the need for an area wide affordable housing policy. The Board will be aware that the housing chapter of the Local Development Plan was recently quashed by a Court of Session decision. It is not considered that this changes the position of there being no policy seeking an affordable housing provision within this part of Inverclyde.

Taking all of these matters together, therefore, it is concluded that it would be unreasonable to retain the burden of the Section 75 Agreement as the 15/0300/IC planning permission to which it relates has lapsed and that, therefore, the Obligation should be discharged.

RECOMMENDATION

That the Section 75 Agreement in respect of the site at 53, 54 and 55 Shore Street, Gourock be discharged.

Stuart Jamieson
Head of Regeneration and Planning

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact David Ashman on 01475 712416

Report To: The Planning Board

Date: 2 September 2020

Report By: Head of Regeneration and Planning

Report No:
20/0122/IC
Plan 09/20
Local Application
Development

**Contact
Officer:** James McColl

Contact No: 01475 712462

Subject: Erection of dwellinghouse and garage (amendment to planning permission 16/0319/IC) at
Site at 13 Dunvegan Avenue, Gourrock



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SUMMARY

- The proposal complies with the intent of the Inverclyde Local Development Plan.
- Eight objections have been received.
- The recommendation is to GRANT PLANNING PERMISSION subject to conditions.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=documents&keyVal=QBYRXQIMHBC00>

SITE DESCRIPTION

Situated within a wooded setting, the application site lies to the north-western side of Dunvegan Avenue, Gourrock. It slopes gently from the street before falling away more steeply to the north-west. A variety of dwellinghouses lie adjacent including a modern, two storey dwelling with a detached double garage to the south-west and detached dwellinghouses situated on elevated plots on the opposite side of Dunvegan Avenue. Open space and woodland adjoin to the north-east and north-west.

PROPOSAL

In April 2017 planning permission was granted by the Inverclyde Local Review Body for the erection of a two storey dwellinghouse designed with a monopitch roof and a free-standing carport with an asymmetric pitch roof.

A further planning application was received to address various design changes to the house and proposed the erection of a detached garage in place of the previously approved carport. This application was refused by the Planning Board in November 2019. A subsequent appeal against this decision was dismissed on 9th April 2020. At the time of the appeal decision, the dwellinghouse was largely complete.

It is now proposed to undertake various works to amend the design of the largely completed dwellinghouse which seek to address the concerns raised by the Reporter in the appeal decision. These include the removal of the pitched roof section to the front projection of the dwellinghouse in favour of a mono-pitch design as a continuation of the main roof, together with the replacement of the currently installed red roof tiles with grey tiles. It is further proposed to replace the red weatherboard cladding with grey. Additionally, the red-infill panels of the yet to be installed balconies will revert to glazed panels. It remains that the previously approved carport will be substituted with a garage. This is yet to be completed and will include facing brick to the three elevations visible from Dunvegan Avenue and a grey tiled roof to match the main house.

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 34 - Trees, Woodland and Forestry

The Council supports the retention of ancient and semi-natural woodland, trees covered by Tree Preservation Orders and other trees and hedgerows, which have significant amenity, historical, ecological, landscape or shelter value. Where the removal of such woodland, trees or hedgerows is proposed as part of a planning application, this will not be supported unless:

- a) it can be clearly demonstrated that the development cannot be achieved without removal;
- b) the public benefits of the proposal outweigh the loss of trees/hedgerows; and
- c) compensatory planting will be provided, to a standard agreed by the Council.

Development affecting trees will be assessed against Supplementary Guidance to be prepared by the Council. This will also cover the protection of ancient woodlands and the management and protection of existing and new trees during and after the construction phase.

Draft Planning Application Advice Note (PPAN) 2 "Single Plot Residential Development" applies.

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

CONSULTATIONS

None required.

PUBLICITY

The application was advertised in the Greenock Telegraph on 10th July 2020 as there are no premises on neighbouring land.

SITE NOTICES

The nature of the proposal did not require a site notice.

PUBLIC PARTICIPATION

Eight objections have been received in connection with the application.

The points and concerns raised can be summarised as follows:

Planning History and Procedure

- The development of a house at this location should not have been granted planning permission.
- Planning permission was refused for the erection of a house at this location numerous times in the past.
- In granting permission, objections regarding a new house on this site have been ignored by the Council.
- The development did not accord with the approved plans and the works have been undertaken without the benefit of planning permission.
- Planning conditions on the original planning permission have not been complied with.
- Correct planning procedure has not been followed.
- The proposal does not comply with local planning policy.

Design

- The design is out of keeping with the character of the area.
- The house is positioned too close to the road which exacerbates its prominence.
- The roof height and design is inappropriate. The house should have an apex roof which would be lower and less obtrusive.
- The extent of the ground works is inappropriate.
- Additional windows are proposed beyond that of the original approval.
- The wide patio doors to the western elevation are inappropriate.
- The external materials are inappropriate.
- The rear underbuild increases the height of the rear elevation when viewed from Cloch Road.
- A door has been fitted to the rear elevation to give access to the basement/underbuild area which may be used for habitable accommodation.
- The design being considered still differs from that approved by the Local Review Body.
- A garage is proposed rather than the previously approved car port.

Road Safety

- The proposal is to the detriment of road safety.
- Insufficient off-street parking is proposed.
- The footway surface has not been reinstated following the installation of the service connections.

Trees and Environmental Impact

- Additional trees have been removed within the site which is covered by a tree preservation order.
- No tree protection measures were in place during development.
- Japanese Knotweed is found within the application site and detailed eradication proposals are required.
- The landowner has previously failed to cut back trees which encroach on the public road and neighbouring property.
- The trees may be dangerous and a threat to neighbouring property.
- No reference has ever been previously made to a high voltage cable running through the site and any tree removal resulting from this by Scottish Power should have followed correct procedure.

I will consider these concerns in my assessment

ASSESSMENT

The material considerations in the determination of this planning application are the Local Development Plan, Draft Planning Application Advice Notes (PAAN) 2 and 5 on “Single Plot Residential Development” and “Outdoor Seating Areas” respectively, the visual impact, the impact on the wooded setting and tree cover, the planning history of the site and the objections received.

As planning permission has previously been granted for a dwellinghouse on this site, this report considers only the design changes with reference to the original planning permission and the appeal decision for the previous application to amend the design. The principle of the erection of a house at this location may not be revisited in determining this application.

Additionally and as noted in the assessment of the application for the amended design in 2019, the 2019 Local Development Plan has been adopted by the Council since the original granting of planning permission for a house at this location. The Proposals Map identifies Levan Wood as an area of open space, however, in reflecting the previous grant of planning permission, the application site is not located within this area. The site is also not included within the Local Nature Conservation Site (LNCS) designation which lies adjacent. This updates the position from the 2014 Local Development Plan. It remains, however, that the application site lies within a Tree Preservation Order (TPO) area.

It therefore rests to consider, with reference to the original planning permission, the subsequent refusal of the amended design and the Reporter’s assessment and appeal decision, whether the amended proposal now being considered will result in an acceptable arrangement on site. In this respect, Policy 1 of the Local Development Plan which requires all developments to have regard to the six qualities of successful places, provides the basis for the assessment of this application with regard to impact on the amenity, character and appearance of the area, together with the advice and guidance within Draft PAANs 2 and 5.

It remains that the dwellinghouse is largely consistent with the planning permission previously granted in respect of the overall scale, massing and position on site. Whilst I note the concerns raised in the objections in respect of the mono-pitch roof design and the proximity of the new dwellinghouse to the road, these were both a feature of the original planning permission granted.

As recognised by the Reporter, Dunvegan Avenue is characterised by a range of house styles with a variety of external materials. However, she found the dwellinghouse on the site to be larger and higher than neighbouring properties and to occupy a prominent position close to the road. She considered that the design changes to the roof increased the volume and height of the roof on the front elevation and that due to the proximity of the dwellinghouse to the road, this has an overbearing

effect and increases the visual impact of the development. Accordingly, she therefore considered that the introduction of a pitch roof section on the front elevation had an adverse effect on the character and appearance of the area. The revised design now proposed seeks to address this by removing the pitched section in favour of a mono-pitch design as a continuation of the main roof. This reflects the design of the originally approved dwellinghouse which featured a single mono-pitch roof and I consider that this addresses the Reporter's concerns. Adjustments require to be made to the upper window arrangement to accommodate the revised mono-pitch roof on the house as constructed. This will result in the removal of the currently installed front upper window immediately below this section and the reduction in height of the two side windows at this location. I am satisfied that these amendments will result in an acceptable visual arrangement.



Turning to materials, planning permission for the amended design was refused due to the concern that the materials used in the construction of the dwellinghouse did not comply with planning permission 16/0319/IC and, as such, the design of the dwellinghouse is not acceptable. The Reporter found no disagreement with the use of render. Whilst noting other red roof tiles on the two houses immediately to the south-west of the site she considered these two properties smaller and less visible due to mature planting and their location further down the slope and some distance from the road. She concluded that the use of red roof tiles makes the dwellinghouse on the site more visually intrusive, particularly when viewed from a south-east direction and that this detracts from the character and appearance of the area. Overall, she considered that whilst a more compatible colour of brick would have been preferred, it is the cumulative effect of the brick with the red timber effect weatherboard and the red roof tiles that has an adverse impact on the character and appearance of the area, particularly due to the prominence of the dwellinghouse. The Reporter was of the view that that the overall appearance of the dwellinghouse could be improved by changing the colour of the roof tiles and using a simpler and more harmonious palette of materials, noting that using grey roof tiles and a complementary colour of weatherboard cladding could be an option for providing some improvement.

It is proposed to replace the currently installed red roof tiles with grey flat profile concrete roof tiles. It is further proposed to replace the red weatherboard cladding with grey. Not only does the use of these materials more closely reflect the original planning permission, I consider that a more harmonious palette of materials will be achieved and this will address the Reporter's concerns

regarding the adverse impact on the character and appearance of the area resulting from the current combination of materials.

Considering other design points, the Reporter accepted the revised balcony design to the south-western elevation. However, with the revised palette of colours and materials, I do not consider that the use of red timber infill panels to the balcony balustrades as previously proposed would be appropriate. It is now proposed to utilise glazed infill panels and I consider this is an appropriate design approach and one which more closely relates to the original planning permission. I concur with the Reporter's assessment of the window arrangement in that they are uniformly spaced with a vertical emphasis which creates a visual harmony. Whilst she considered the wide patio doors on the south-western elevation were perhaps not in keeping with the overall design concept, I note that the openings themselves follow that of the original planning permission although the French door with side window arrangement would have given more of a vertical emphasis than the current arrangement. I concur with the Reporter that any visual impact will be mitigated in time by the tree planting in the south-west corner of the site. Accordingly, I do not consider that the patio door arrangement alone would justify the refusal of the application. As noted by the Reporter, the rear elevation is not readily visible. Alterations to the rear, inclusive of the larger underbuild area, do not have any adverse impact on the amenity, character or appearance of the area. Whilst I note the concerns raised regarding the visibility from Cloch Road, particularly when the trees are not in leaf, the site lies some 120 metres from Cloch Road and I do not consider the appearance of the rear elevation from such a distance would warrant the refusal of the application. With regard to the concern raised that the underbuild area could be utilised as additional habitable accommodation, there are no proposals to do so. However, this area is within the envelope of the house and its use in the future as habitable accommodation as part of the house would not itself necessarily require planning permission.



With regard to the garage, the Reporter found that due to the proposed materials, it would have an adverse effect on the character and appearance of the surrounding area, although there was no objection to the principle of a garage in lieu of the carport at this location. It is now proposed to utilise grey roof tiles to match those to be installed to the house together with facing brick to all but the elevation facing the woodland which will be finished in render. With the use of materials to match the amended dwellinghouse design, I consider the garage to be visually acceptable and the Reporter's concerns to be addressed. Whilst I note the concerns raised regarding road safety, the access and parking arrangements follow that of the original planning permission and raise no issues in this regard.

In originally approving planning permission, the Local Review Body was aware from the assessment of the application that the site is located within a TPO and the development would result in the loss of trees. It was proposed that this would be mitigated by the provision of compensatory planting. This has now been undertaken with the provision of 13 new trees. It is acknowledged that the tree removal during construction has gone beyond that previously identified. During her site inspection, the Reporter observed that replacement trees have been planted to mitigate the impact of those previously removed. She concluded that the proposal therefore accords with Policy 34 of the Local Development Plan. I consider that it is appropriate to attach a condition requiring that any replacement trees planted are themselves replaced should they fail within five years of the date of the granting of planning permission.

It should be noted that works undertaken by a utility provider to a cable which passes through the site and which resulted in tree removal is a matter distinct from consideration of the planning merits of the proposal.

Condition 1 of the original planning permission required details of a piped surface system with a discharge rate no higher than green field runoff rate to be submitted for approval. This was to ensure that matters relating to flooding were adequately addressed. Having reviewed the matter in conjunction with the Head of Service – Roads and Transportation, the surface water system connects into Scottish Water's network and no further details are required.

Turning to the outstanding matters in the objections received, whilst I note that Japanese Knotweed existed on site, no related conditions were attached to the planning permission granted and this may be addressed under separate legislation. Matters relating to reinstatement works to the footway are also addressed via separate legislation.

To conclude, the design amendments now proposed will return the overall design of the house to one which more closely resembles that originally approved, particularly in respect of the roof design. The revised palette of materials is also considered acceptable with reference to the original planning permission and to the streetscape within which the new house is positioned. Overall, I am satisfied that the revised proposal addresses both the previous reason for refusal by the Planning Board and the concerns of the Reporter in the decision letter issued on the appeal. The amended house design together with the garage is therefore considered acceptable with reference to Policies 1 and 34 of the Local Development Plan together with Draft PAANs 2 and 5. Whilst I remain mindful of the objections received, it is considered that planning permission should therefore be granted subject to the conditions below.

RECOMMENDATION

That the application be granted subject to the following conditions:

1. That unless otherwise first agreed in writing by the Planning Authority, the development hereby permitted shall be implemented in full within 4 months of the date of this permission to the satisfaction of the Planning Authority.
2. That unless otherwise first agreed in writing by the Planning Authority, all external materials to be used in construction shall accord with those specified on the "Proposed Plans and Elevations" hereby approved.
3. In respect of the compensatory planting undertaken, any specimens which, in the 5 year period from the date of this consent die, become diseased, are damaged or are removed shall be replaced in the next planting season with a similar specimen, unless the Planning Authority gives its prior written approval to any alternatives.

Reasons

1. To ensure the works are undertaken in appropriate timescale, in the interests of visual amenity.
2. To ensure the external materials are appropriate, in the interests of visual amenity.
3. To ensure the retention of the replacement tree planting in the interests of the integrity of the tree preservation order designation.

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 712462

Report To: The Planning Board

Date: 2 September 2020

Report By: Head of Regeneration and Planning

**Report No: 19/0158/IC
Plan 09/20**

**Local Application
Development**

Contact Officer: James McColl

Contact No: 01475 712462

**Subject: Erection of dwellinghouse and garage (amendment to planning permission 16/0319/IC) at
Vacant Site, 13 Dunvegan Avenue, Gourock**



SUMMARY

- The planning application was refused by Inverclyde Council.
- The applicant appealed the decision to the Scottish Ministers.
- The appeal was dismissed.

Details of the appeal may be viewed at:

<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120902>

INTRODUCTION

In November 2019, the Council refused planning permission for an amended house design as “the materials used in the construction of the dwellinghouse do not comply with planning permission 16/0319/IC and, as such, the design of the dwellinghouse is not acceptable”.

NOTIFICATION OF APPEAL DECISION

An appeal against the refusal was lodged with the Scottish Government on 31st January 2020. The grounds of appeal were that:

- The grounds of refusal issued by the Planning Authority relate to a previous planning application rather than the planning application proposal that was under consideration, and accordingly the grounds are not considered to be valid.
- The proposal is in completely conformity with the Inverclyde Local Development Plan and there are no material considerations which warrant a refusal of the application.

The appointed Reporter has found that as the Council had previously granted planning permission for a dwellinghouse on the site, matters such as the principle of development and details which were previously approved and have not changed were outwith the scope of assessment.

At the time of the site inspection the house was substantially complete. The Reporter considered the principal changes from the previous planning permission to be:

- the use of red roof tiles and the formation of a pitched roof above the front entrance projection;
- the use of white drycast render on the rear elevation and front entrance projection;
- the colours of the other external materials;
- adjustments to ground levels with larger underbuild to the rear elevation;
- alterations to the window arrangements;
- two balconies on the south-west elevation.

It was considered that the changes which affect the appearance of the rear of the dwellinghouse do not have an adverse impact on neighbouring properties or the surrounding area, given the lack of visibility of this elevation.

Considering the position of the site within the context of the wider area, the Reporter noted that Dunvegan Avenue is characterised by a range of house styles with a variety of external materials. The dwellinghouse on the appeal site was found to be larger and higher than neighbouring properties and it was noted that it occupies a prominent position close to the road. As a result of these characteristics, the changes affecting the front and side elevations for which consent was retrospectively sought were considered to have the potential to have a much greater impact than if the property was smaller and set in a more secluded location.

The Reporter found that the design changes to the roof have an overbearing effect and increase the visual impact of the development, thus having an adverse effect on the character and appearance of the area.

With regard to materials, the use of red roof tiles was considered to make the dwellinghouse on the appeal site more visually intrusive, particularly when viewed from a south-easterly direction and that this detracts from the character and appearance of the area.

The Reporter found no disagreement with the use of render. It was considered that whilst a more compatible colour of brick would have been preferred, it is the cumulative effect of the brick with the mahogany timber effect weatherboard and the red roof tiles that has an adverse impact on the character and appearance of the area, particularly due to the prominence of the dwellinghouse. In considering details submitted by the appellant, the Reporter was of the view

these demonstrated that the overall appearance of the dwellinghouse could be improved by changing the colour of the roof tiles and using a simpler and more harmonious palette of materials.

In assessing the balcony arrangement together with the revised window arrangement, the Reporter was generally content.

Considering the garage, the Reporter found that the proposed use of red roof tiles together with the extensive use of white render to be inappropriate and would result in the garage having an adverse effect on the character and appearance of the surrounding area.

Overall, the Reporter found the proposal did not comply with the requirements of Policy 20 of the LDP due to the roof design, materials used on the dwellinghouse and proposed materials for the garage having an adverse impact on the character and appearance of the area. It was also concluded that the proposal did not accord with Policy 1 in terms of having regard to the qualities of successful places.

The appeal was dismissed.

Subsequent to this decision the applicant has submitted a revised application which addresses concerns over the roof profile, the use of facing materials and the previously unauthorised balconies. This is under consideration at the time of writing of this report.

RECOMMENDATION

That the Board notes the position.

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 712462.

Report To: **The Planning Board**

Date: **2 September 2020**

To:

Report By: **Head of Regeneration and Planning**

Report No: **19/0041/IC
Plan 09/20
Major Application
Development**

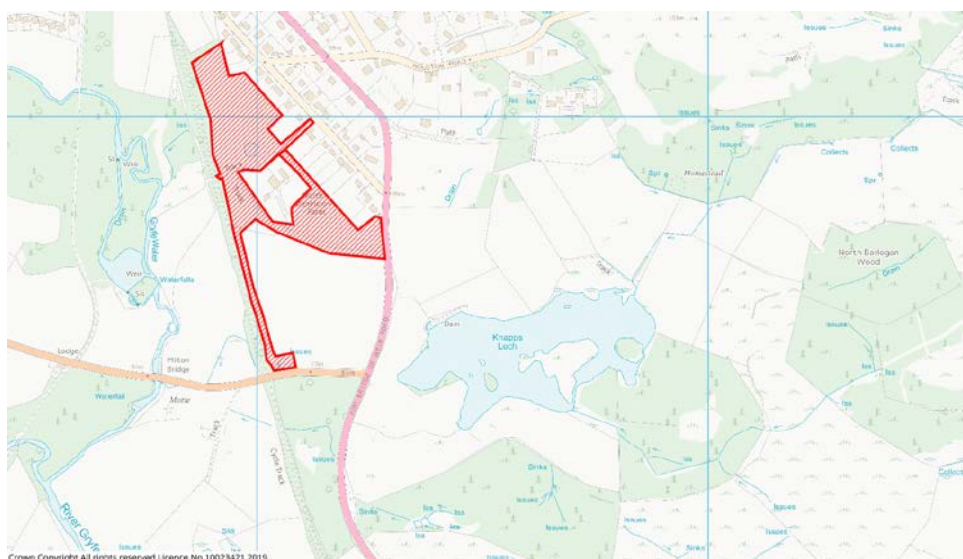
Contact Officer: **James McColl**

Contact No: **01475 712462**

Subject: **Proposed residential development with access, open space, landscaping and associated works**

at

Land at North Denniston, Bridge of Weir Road, Kilmacolm



SUMMARY

- The planning application was refused by Inverclyde Council.
- The applicant appealed the decision to the Scottish Ministers.
- The appeal was dismissed.

Details of the appeal may be viewed at:
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=120651>

INTRODUCTION

In June 2019, the Council refused planning permission in principle for residential development as:

1. The proposed development is contrary to the Spatial Development Strategy of the 2017 Clydeplan Strategic Development Plan as it is an unjustified urban development which is outwith the development corridor identified in the Plan and it fails to accord with the Green Belt objectives.
2. The proposal is contrary to Policies ENV2 and SDS8 of the 2014 Inverclyde Local Development Plan together with Policy 14 of the 2018 Proposed Inverclyde Local Development Plan in that it fails to accord with the objectives of the Green Belt.
3. The proposal fails in respect of Policy RES1(a) of the 2014 Inverclyde Local Development Plan as development within one of the 'fingers' of countryside that extend towards the centre of Kilmacolm will erode both the character and the setting of the village.
4. The proposal fails to have regard to the six qualities of successful places as required by Policy 1 of the 2017 Clydeplan Strategic Development Plan and Policy 1 of the 2018 Proposed Inverclyde Local Development Plan. The proposal is also contrary to the placemaking aims of Policy SDS3 of the 2014 Inverclyde Local Development Plan.
5. The proposal is not a form of residential development in the Green Belt supported by Policy RES7 of the 2014 Inverclyde Local Development Plan.

NOTIFICATION OF APPEAL DECISION

An appeal against the refusal was lodged with the Scottish Government on 18th September 2019. The grounds of appeal contested all the grounds of refusal.

The appointed Reporter found the main issues were the site location including the spatial development strategy and green belt; the design and layout of the proposal and related implications for the character and amenity of the locality; and housing land supply.

The Reporter firstly noted that the 2014 Inverclyde Local Development Plan was the adopted Plan when the Council determined the planning application but that it had been superseded by the time of his considerations. The development plan therefore consists of the 2017 Strategic Development Plan (Clydeplan) and the adopted 2019 Inverclyde Local Development Plan (LDP) and he based his analysis on this.

Examining the Green Belt boundary, the Reporter considered that the existing boundary is clearly delineated and was not persuaded by the appellant's contention that the Green Belt and settlement boundary were either weak or illogical. He went on to consider that irrespective of this, the site is not allocated for residential development within the LDP and the proposal for such a development in the Green Belt fails against Policy 14 of the LDP.

Considering impact on landscape character the clear and easily visible nature of the site from the cycle path, Knapps Loch and the A761 were highlighted by the Reporter who concluded that these factors meant that the site forms a visibly prominent part of a local landscape that is regularly experienced by many people. He considered that although an acceptable design for the proposal could be secured by conditions, it would develop and transform one side of the southern green wedge to Kilmacolm which would harm the setting and character of both the settlement and the wider local area, contrary to the placemaking principles from Clydeplan which expects new development to reflect local character. He considered that the proposal therefore failed to satisfy Clydeplan Policy 1.

In considering housing land supply, it was noted that the Scottish Ministers have not prescribed any single method for calculating whether a shortfall in housing land supply exists. The Reporter considered equally the methodologies used to calculate land supply and could not reach a definitive conclusion, other than, for the purposes of assessment, to assume there was a shortfall and acknowledged the applicant's shortfall figure in this respect. He did, however, take the view that the shortfall had to relate to the full Renfrewshire Housing Sub-Market Area and not be subdivided to a localised Kilmacolm part of that Area. He consequently concluded that the

resultant figure suggested that there was no justification for the level of development proposed by the applicant.

The Reporter further considered the appeal against Clydeplan Policy 8 and Scottish Planning Policy (SPP), noting that when a shortfall exists, the proposal must comply with all five criteria in Clydeplan Policy 8 but concluded that it failed against at least three of these. In examining Scottish Planning Policy the Reporter found that the proposal would harm the achievement of development that contributes to sustainable development as envisaged by the SPP, and did not consider that could be overcome. Accordingly, he found the SPP supportive of refusal when considering sustainability, even if acknowledging a shortfall in the five-year housing land supply.

With respect to other key material considerations, he further found that the proposal would be unlikely to support low-carbon living, with nothing to suggest it would result in a modal shift or improved transport outcomes that reflect the principles of sustainable development. Whilst he noted socio-economic benefits to the village he concluded there could be no certainty on these due to competition elsewhere, including online, and therefore did not consider these to be as significant as postulated by the applicant. It was accepted that there is spare capacity in local schools.

Overall, therefore, he considered that although the proposal could be regarded as sustainable development in contributing to meeting a postulated shortfall in the housing land supply, it would not be in a sustainable location and consequently would not be compatible with the spatial development strategy set out by Clydeplan and reinforced by the Inverclyde Local Development Plan due to its location.

The appeal was dismissed.

RECOMMENDATION

That the Board notes the position.

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 712462.

Report To: The Planning Board

Date: 2 September 2020

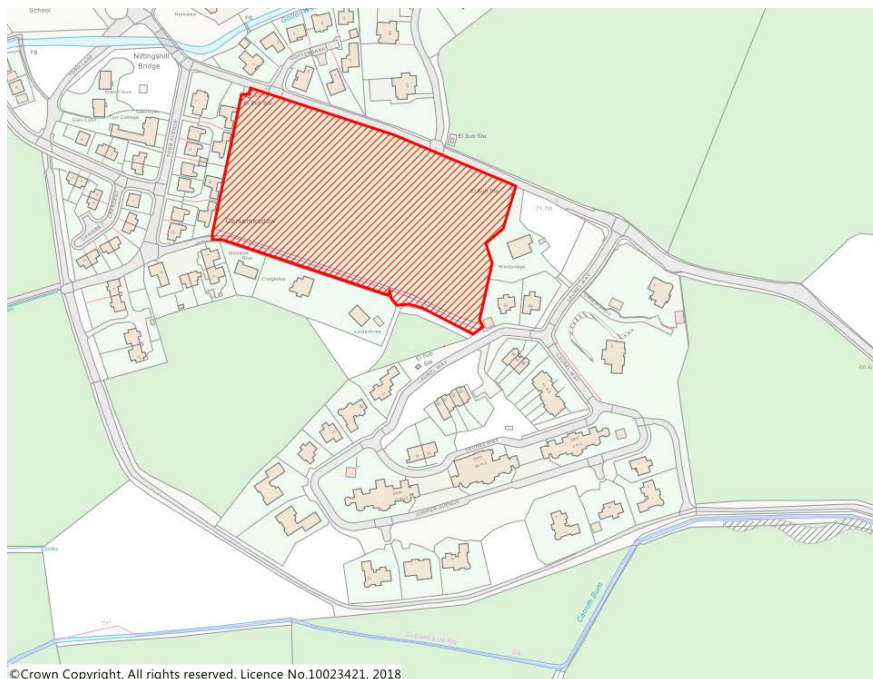
Report By: Head of Regeneration and Planning

Report No: 18/0190/IC
09/20
Major Application
Development

**Contact
Officer:** David Ashman

Contact No: 01475 712412

Subject: Planning Permission in Principle for residential development, access, infrastructure, landscape/open space, and associated works
at
Carsemeadow, Quarriers Village



SUMMARY

- The planning application was refused by Inverclyde Council.
- The applicant appealed the decision to the Scottish Ministers.
- The appeal was dismissed.
- The applicant appealed to the Court of Session and was successful.
- The appeal decision has been quashed and remitted back to the Scottish Ministers for further consideration.

Details of the appeal may be viewed at:
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=121085>

INTRODUCTION

In January 2019, the Council refused planning permission in principle for residential development as:

1. The proposed development is contrary to the Spatial Development Strategy of the 2017 Clydeplan Strategic Development Plan as it is an unjustified urban development which fails to accord with the Green Belt objectives in that it does not direct planned growth to the most appropriate locations nor, protect the quality, character, landscape setting and identity of the village.
2. The proposal is contrary to Policies ENV2 and SDS8 of the 2014 Inverclyde Local Development Plan together with Policy 14 of the 2018 Proposed Inverclyde Local Development Plan in that it fails to accord with the objectives of the Green Belt.
3. The proposal fails to have regard to the six qualities of successful places as required by Policy 1 of the 2017 Clydeplan Strategic Development Plan and Policy 1 of the 2018 Proposed Inverclyde Local Development Plan. The proposal is also contrary to the placemaking aims of policy SDS3 of the 2014 Inverclyde Local Development Plan.
4. The proposal is not a form of residential development in the Green Belt supported by Policy RES7 of the 2014 Inverclyde Local Development Plan.
5. The proposal fails in respect of Policy RES1 of the 2014 Inverclyde Local Development Plan with reference to the incompatibility with the character and amenity of the area (criterion (a)) and in respect of landscaping proposals and impact on existing landscape features (criteria (b) and (c)).
6. The proposal is contrary to Policies SDS2 and TRA2 of the 2014 Inverclyde Local Development Plan and Policy 10 of the 2018 Proposed Inverclyde Local Development Plan in that it fails to be reasonably accessed by public transport and as such will generate significant traffic demand by private car and will not contribute to sustainable development.
7. The proposal is contrary to Policy HER1 of the 2014 Inverclyde Local Development Plan and Policy 28 of the 2018 Proposed Inverclyde Local Development Plan in that there would be a significant and unacceptable impact on the setting and appearance of the Conservation Area and its spatial relationship with the site of the former Bridge of Weir Hospital site.

NOTIFICATION OF APPEAL DECISION

An appeal against the refusal was lodged with the Scottish Government on 18th March 2019. The grounds of appeal contested all the grounds of refusal.

The appointed Reporter found that the main issues were the housing land supply position; sustainability; the impact on the character of the settlement and the local area; the impact on the Green Belt; and the Scottish Planning Policy presumption in favour of sustainable development.

With regard to the housing land supply position she noted the contrasting methods of calculation and the identified areas of shortfall. She considered that policy required that, in respect of any shortages in the Renfrewshire Sub-Market Area, consideration of any shortfall had to be within the Sub-Market Area as a whole, with the effective land supply in the smaller geographic area relating to Kilmacolm and Quarriers Village not being a relevant consideration. She also considered the Inverclyde Council area housing requirement. She could not conclude that there was a shortfall in the effective private housing land supply in the Sub-Market Area but that there was a probable shortfall in the private land supply in the local authority area. She noted that, having concluded there was a shortfall, reference has to be made to Clydeplan Policy 8 which

sets out criteria against which planning applications for housing development should be assessed.

In reviewing these criteria she concluded that this was not a sustainable location for the proposed development; was not convinced there would be no detrimental effect on the character and amenity of the area; and considered that the proposal would not comply with the need to avoid undermining the green belt. Following this she concluded that the presumption in favour of sustainable development in the Scottish Planning Policy would not apply. Although other material considerations were also taken into account nothing led her to depart from this conclusion.

COURT OF SESSION APPEAL

Following the Reporter's decision the applicant appealed to the Court of Session.

The issues raised were : first, the correct construction and application of paragraph 33 of Scottish Planning Policy ("SPP"), notably the "tilted balance" in favour of development; and, secondly, the assessment of the quantity of effective housing land. The appellant maintained, on both of these issues, that the Reporter did not give adequate reasons for her decision.

The Court concluded that the Reporter did give adequate reasons for her decision. The question was whether her reasoning was sound and on this the Court found for the appellant. The central conclusion of the Court, based on what it considered to be the correct application of paragraphs 33 and 125 of the SPP, is that the starting point for assessment of an application, where a Local Development Plan ("LDP") is considered to be out of date and where a housing land supply shortfall is identified, is that there should be a presumption in favour of the development because it provides, *inter alia*, a solution at least in part to the housing shortage. Indeed, the Court concluded that a housing development which will remedy, to some extent, a housing shortage is something which will almost inevitably "contribute to sustainable development", which is what, it considered, paragraph 33 of the SPP requires "in one degree or another". The Court considered that it was only thereafter that the question of the adverse impacts, notably whether the other policies of the LDP "significantly and demonstrably outweighed" the benefits of the development in terms of housing shortage and economic gain, should be taken into account.

On the second matter of how the housing shortage should be calculated, it was concluded that the figure with which the effective housing supply should be compared is the Housing Land Requirement, which is the Housing Supply Target augmented by 15%, and that the greater the shortage in the effective supply compared to the Housing Land Requirement, the heavier the weight which tilts the balance in favour of development will be. The Court opined that if the appellant's figures for the shortage are correct, that weight may well be very substantial.

The appeal was upheld and the decision of the Reporter quashed. The appeal against the refusal of planning permission by the Council has therefore been remitted back to the Scottish Ministers for fresh consideration. At the time of writing this report the re-consideration of the appeal was ongoing by the Scottish Ministers.

RECOMMENDATION

That the Board notes the position.

Stuart Jamieson
Head of Regeneration and Planning