

Report To: The Planning Board

Date: 2 December 2020

Report By: Head of Regeneration and Planning

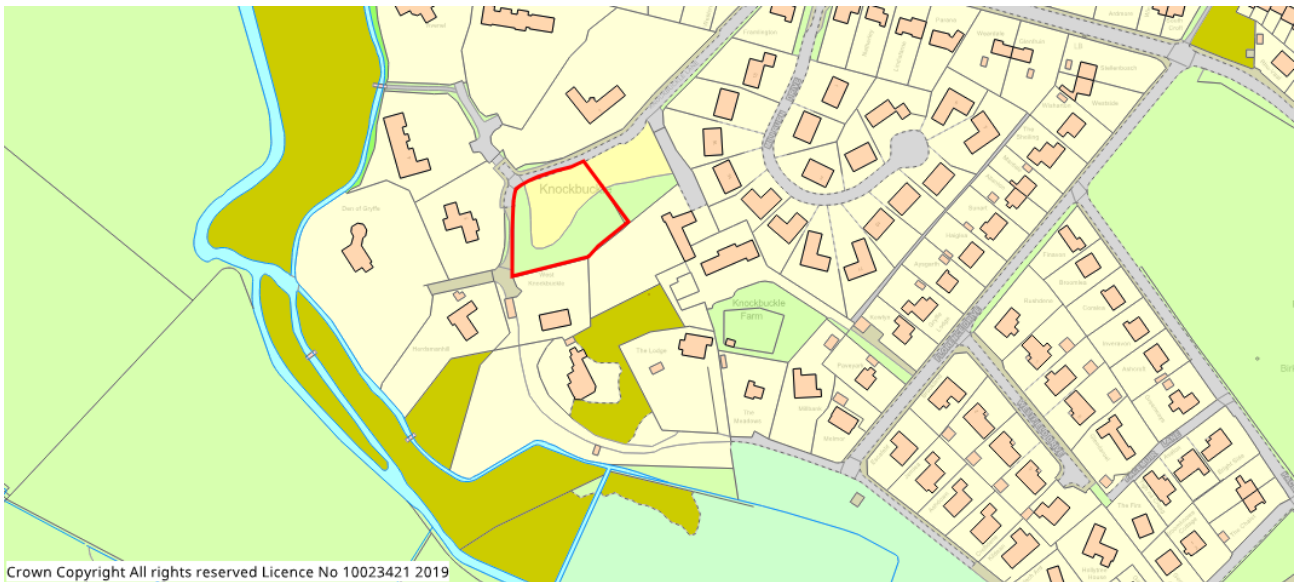
Report No: 20/0246/IC
Plan 12/20

**Local Application
Development**

**Contact
Officer:** David Ashman

Contact No: 01475 712416

Subject: Detached garden room in garden grounds of existing dwelling house (in retrospect) at
6 Knockbuckle Lane, Kilmacolm



SUMMARY

- The proposal accords with the Inverclyde Local Development Plan
- Ten representations have been received including eight objections
- 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=QIHRM3IMIEG00>

SITE DESCRIPTION

The application site is comprised of one of the recently built new dwellings forming part of the "Avenel" development, located off Knockbuckle Lane in Kilmacolm. It is one of seven "arts and crafts" designed dwellings which have been built in accordance with a development brief associated with a planning permission from 2004 which sought to establish a common design theme for all of the new houses whilst allowing individual variation. These dwellings are characteristically substantial villas set within generous grounds, finished mainly in a white render and black slate roof. Whilst there are individual characteristics to the design of each house they recognisably read as one development. The use of themed landscaping, noticeably beech hedges long the street frontages helps to hold the development together.

The dwelling on the application site was built under planning permission 17/0229/IC dating from September 2017. The site presented a challenge to develop due to the raised ground level to the rear along the south-eastern boundary of this plot and the adjacent plot to the north-east. The applicant has excavated the rock face leaving this as a raised garden area approximately 4 metres above the level of the rest of the plot.

The last of the new dwellings is presently under construction to the north-east of the application site with no boundary features between the plots at this stage. Mature vegetation and a 1.6-1.8 metres high palisade wooden fence forms the boundary with adjacent properties to the south-east. The neighbouring property beyond the fence line to the south-east has a variety of soft landscaping treatments supplementing the fence line boundary, including laurel hedging. The application site is bound to the north and west, on the opposite side of Knockbuckle Lane, by other dwellings forming part of the wider Avenel development, and to the south and south-west by longer established dwellings such as "Herdsmanhill" and "West Knockbuckle".

PROPOSAL

Planning permission is sought, in retrospect, for a bespoke designed building which has been erected by the applicant on the upper garden level, close to the boundary with "The Stables" to the south-east and the new development plot to the north-east. The building is rectangular in shape, measuring 9.4 metres long by 3.9 metres wide by a maximum eaves height of 3.16 metres and an overall height of 3.3 metres. It consists of a "garden room", as described by the applicant, measuring 5.9 metres by 3.7 metres and an external covered terrace measuring 3.4 metres by 3.5 metres. It is positioned 1.9 metres from the common boundary to the north-east and between 0.55 metres and 0.7 metres from the common boundary to the south-east. The roof marginally overhangs the walls. All measurements are approximate.

The rear of the building and part of the north-eastern elevations are presently finished in dark stained wooden boarding. The remainder of the north-east elevation and the enclosed part of the north-west elevation are finished in glazing. The shallow mono-pitched roof is finished in a single ply grey membrane. The building is framed by galvanized steel detailing. There is a gutter along the rear roof elevation which connects to a downpipe. At the time of assessment the building was still being fitted out with tiled flooring.

The applicant has submitted a design statement in support of the application describing the development and setting out why this situation has arisen and in which it is stated that planning permission is only required due to its proximity to the boundary.

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 9 - Surface and Waste Water Drainage

New build development proposals which require surface water to be drained should demonstrate that this will be achieved during construction and once completed through a Sustainable Drainage System (SuDS), unless the proposal is for a single dwelling or the discharge is directly to coastal waters.

The provision of SuDS should be compliant with the principles set out in the SuDS Manual C753 and Sewers for Scotland 3rd edition, or any successor documents.

Where waste water drainage is required, it must be demonstrated that the development can connect to the existing public sewerage system. Where a public connection is not feasible at present, a temporary waste water drainage system can be supported if:

- i) a public connection will be available in future, either through committed sewerage infrastructure or pro-rata developer contributions; and
- ii) the design of, and maintenance arrangements for, the temporary system meet the requirements of SEPA, Scottish Water and Inverclyde Council, as appropriate.

Private sustainable sewerage systems within the countryside can be supported if it is demonstrated that they pose no amenity, health or environmental risks, either individually or cumulatively.

Developments including SuDS are required to have an acceptable maintenance plan in place.

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

PLANNING POLICY STATEMENT ON OUR HOMES AND COMMUNITIES

Policy D - Residential Areas

Proposals for development within residential areas will be assessed with regard to their impact on the amenity, character and appearance of the area. Where relevant, assessment will include reference to the Council's Planning Application Advice Notes Supplementary Guidance.

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

Ten representations have been received including eight objections. The points of objection may be summarised as follows:

Procedural and legislation/regulation issues

- Lack of advanced consultation with neighbours by the applicant.
- As the applicant is an experienced architect he should have known that planning permission was required.
- It does not comply with planning regulations due to its height and proximity to the garden boundary and the supporting statement is wrong in this regard.
- With regard to Policy RES1 of the Local Development Plan it does not safeguard or enhance the area.

Visual and other amenity impacts

- Design, as the building is out of style with other arts and crafts buildings nearby (comparison is made to a metal shipping container). It will not mature as it ages.
- The building is visible from neighbouring properties and has an overbearing impact from most windows and gardens and Knockbuckle Lane.
- It is a dark modern structure.
- Privacy impacts from the side window due to its position and internally elevated floor level.
- Concerns over noise and disturbance.
- Overshadowing of neighbouring properties.
- Drainage waters find their way into adjacent properties leading to waterlogging.
- The ground level on which it is built has been raised.
- The proposal is very large for an outbuilding.
- Object to the facing materials as they are not complementary to the associated house.
- It is visible from 9 houses.

Miscellaneous

- The “garden room” description is wrong as it is to be used as a gym and sauna and will require electrical and drainage connections.
- It could have been built elsewhere within the applicant’s garden, it too close to the boundary and is too elevated.
- Precedent being set for other such structures.
- Possible future works to neighbouring properties are not a material consideration.
- As the applicant is a member of the executive committee of Kilmacolm Civic Trust and the trust therefore has a conflict of interest.
- Additional reduction in height of the laurel hedging is planned for next year.
- The plans do not show dimensions.

One representation stated no objection on the basis of a lack of impact. Kilmacolm Civic Trust acknowledge that the applicant is a member of the Trust’s executive committee and considers that it should not comment.

ASSESSMENT

The material considerations in determination of this application are the Inverclyde Local Development Plan (LDP), the Planning Policy Statement (PPS) on Our Homes and Communities, the representations, the amenity impact of the building and its relationship to the application site and neighbouring properties.



Close view from raised garden area within the applicant's plot

The application site is located within an established residential area under Policy D of the recently approved PPS. This states that proposals for development within residential areas will be assessed with regard to their impact on the amenity, character and appearance of the area. Although the policy also refers to the Planning Application Advice Notes, none are applicable to the development of outbuildings. Policy 1 of the LDP is applicable and requires that all development have regard to the six qualities of successful places. The relevant factors which consideration must be given to are set out in figure 3 to the policy and, in this instance, are being "distinctive" in reflecting local architecture and urban form and "safe and pleasant" by avoiding conflict between adjacent uses by having regard to adverse impacts that may be created by, in this instance, noise, invasion of privacy or overshadowing. Policy 9 requires that new build proposals which require surface water to be drained should demonstrate that this will be achieved during construction and once completed through a sustainable urban drainage system (SUDs). Policy 34 is referenced as the LDP Proposals Map locates the site within an area covered by a tree preservation order. It is the case, however, that no trees are impacted by the building and no further reference to this policy is required. It therefore follows that the impact on the amenity, character and appearance of the area require to be considered. The magnitude of the impact of the building is largely determined by its size, design, use of finishing materials and its position on the raised garden terrace to the rear of the associated dwelling.

At approximately 33 square metres, 21 square metres of which is a room with the remaining 12 square metres an external covered terrace, it is a large outbuilding but this requires to be viewed in

the context of the scale of both the associated dwellinghouse and the plot within which it stands. Both the associated dwellinghouse and plot curtilage are of large scale with the house approximately 10.5 metres in height and covering approximately 204 square metres and the plot extending to approximately 2,580 square metres. In this context, I consider that the outbuilding does not create any impression of overdevelopment and is of acceptable size relative to the plot.



View from plot under development to the north-east

With regard to design, the development is a building of contemporary appearance, presently finished largely in dark brown timber panels and glazed panels with a membrane roof. There is an issue with regard to building regulations over the use of timber cladding within 1 metre of the boundary and the applicant has confirmed that this is to be replaced with non-combustible Cedral wood effect fibre cement boards of a similar colour. Steel framing is used but this is very much incidental. Outbuildings in the vicinity are finished in a mix of materials including a recently constructed timber faced garage at the nearby property of Herdsmanhill, a wooden shed at 4 Knockbuckle Lane and there is an outbuilding presently under construction at 5 Knockbuckle Lane being finished in materials not found on the associated dwelling. The roof finish is less typical but has limited impact from the public domain.

There is nothing intrinsically unacceptable for a building within a residential curtilage to be of contemporary design. One objector draws comparison with a shipping container, presumably due to the present vertical timber profiling, but I do not support such a comparison. The original planning permission for the Avenel site was subject to a condition which withdrew permitted development rights for garages in recognition that these can often be located to the side of and in line with the front building line of dwellings, thus significantly impacting on the streetscene. It was considered appropriate that a restriction be placed on the finish to any future garages restricting these to materials to match those used on the associated houses but there was no such restriction related to other buildings. With the exception of some garages, most outbuildings within residential properties are not designed or finished in materials to match an associated dwelling, nor would it be reasonable to introduce such a restriction. Indeed, most outbuildings do not require planning

permission and may be erected under permitted development rights. This outbuilding requires planning permission as it is within 1 metre of a boundary and exceeds 2.5 metres in height, and as the eaves slightly exceed 3 metres in height. Height measurements have to be taken at present ground levels as it is not possible to accurately determine if ground levels have been lowered and if so by how much.

The position of the outbuilding on the upper garden terrace has caused concern to some objectors. This relates to visibility from the public domain and from nearby private residences. The fact that an ancillary building within a house plot can be seen does not make that building unacceptable but its impact has to be assessed. Whilst it is claimed that it can be seen from 9 houses (if upper levels are included) the greatest impacts requiring assessment are those within reasonable proximity. The outbuilding is set back approximately 39 metres from north-western views from Knockbuckle Lane and 53 metres from western views from Knockbuckle Lane. Whilst being in an elevated position, the photograph below shows an example of the limited view of the building which can be achieved from Knockbuckle Lane to the front of the house plot, glimpsed between the applicant's dwelling and garage and the dwelling under construction to its north-east. This will reduce further as screen fencing is built on the upper level between the plots. The applicant's garage and the neighbouring dwelling under construction have been included in the photograph to provide position and height context from street level.



North-western view from Knockbuckle Lane

An additional street view photograph on the next page shows the typical view from Knockbuckle Lane as it continues around the side of the house plot.

Having assessed the position of the building from the public domain I am satisfied that, although visible from specific positions on Knockbuckle Lane, it could not be argued to dominate the streetscene nor have an overbearing presence in this regard. I therefore conclude that the building has an acceptable impact on the streetscene and the residences which view the building from these locations or beyond them. There will be a more immediate impact on those dwellings

immediately adjacent to the site. As only one of these is presently occupied I will first consider the dwelling to the south-east known as “The Stables”.



Western view from Knockbuckle Lane

“The Stables” is a converted farm building, is a long established residence pre-dating developments surrounding it and is one of the original buildings in the area. It is largely single storey with developed roofspace populated by rooflights. The common boundary to the application site and the adjacent plot which is currently under development is comprised of close boarded fencing of varying height ranging from approximately 1.6 metres to 1.8 metres. This is mainly set to the rear of a line of evergreen laurel bushes which run almost the full length of the common boundary with the application site. They vary in height but are generally within the range of 2.5-2.75 metres high, having recently been cut back. Their depth also varies and is difficult to measure but appears to be a maximum of between 2.5-3 metres from the dividing fence. There are taller bushes and trees along the boundary with the neighbouring plot presently under development nearer to the house. Whilst all of this vegetation may either grow higher or may be cut back or indeed removed, the application has to be assessed on the basis of the site and its surrounds as they presently are.

The views of the building from “The Stables” varies over the length of the garden, which is of generous proportion at around 50 metres depth by a maximum of approximately 35 metres width, reducing in width in a westerly direction. The key impacts are assessed to be on the patio area nearest to the rear of the house and from the rooms served by the windows on the ground floor. The ground floor provides the main living accommodation with the upper level rooflights providing daylight to a hall, bedrooms and bathroom. At a closest distance of approximately 20 metres (with intervening vegetation) I do not consider the building to have any impact on the daylight received by the rooms in “The Stables”. Furthermore, being located to the west to north-west of the affected windows on the house I do not consider that any loss of sunlight to these rooms will be of any significance with any possible minimal effect restricted to approximately the last couple of hours of sunlight in the middle of summer. I am also satisfied that given the size of the garden and the

combination of the screen fencing and the laurel bushes the additional impact of the building on daylight and sunlight received by the wider garden area is negligible.



View from approximately the centre rear of "The Stables" immediately adjacent to the house

The outbuilding does have a visual impact on "The Stables", more particularly from the area to the immediate rear of the house, most noticeably due to a gap between the elongated section of laurel bushes along the common boundary with the application site and other vegetation to the north-east of this. Some wooden palisade fencing approximately 1.8 metres in height has been recently erected by the owner but does not fully screen the outbuilding. Viewed from the ground floor rear of the house the upper 1.5 metres or thereabouts of the north-eastern elevation of the building can still be seen, including the side window. The south-eastern elevation can also be seen although the laurel bushes filter and reduce this visual impact to about 1 metre or so in height, varying along this length. Whilst I do not consider the outbuilding to be overbearing due to the combination of the existing screening and the contextual length of the garden ground I do consider that there is a privacy issue for the garden area of "The Stables" posed by the side window which requires to be addressed. This has been discussed with the applicant and the existing clear glazing is to be fitted with an opaque glazing film. The applicant has also indicated that he intends to fit such a film over the window nearest to the common boundary with the plot to the north-east. Given the existing privacy issue I consider that this matter requires to be addressed as a matter of urgency and a condition on a grant of planning permission can be attached accordingly.

Although the dwellinghouse to the north-east is presently still under construction, assessment of the impact on the future occupier is required. There is no boundary treatment between the properties at present and I am concerned over the implications for privacy caused by the side window overlooking the upper garden level. The raised floor level of the building, relative to ground level, was noted above and means that a standard 1.8 metres high timber fence will not address the privacy issue. Any fence higher than this would have a visual imposition of its own. The most appropriate solution in these circumstances is the fitting of the opaque glazing film referred to

above. I have also considered the privacy implications of the north-west facing windows in the outbuilding. Whilst these are directed towards the applicant's own property there is potentially also an oblique view of the neighbouring property. I am satisfied, however, that a combination of a dividing 1.8 metres high screen fence, the manner in which the upper garden level extends then falls sharply away to the north-west in both properties and the window-to-window distance to the nearest rear windows of the adjacent dwelling, a distance of approximately 20 metres, means that the privacy issues posed by these windows will be addressed. The applicant's offer to fit an opaque glazing film on the northern facing window closest to the common boundary will further assist.

Amenity impacts potentially also relate to noise and concerns in this regard have been raised as an objection. Such concerns have to be treated as speculative as it is not clear that there are grounds for refusal of the proposal on this basis. It is the case that should there be any concerns in this regard once the building is brought into use that legislation related to noise nuisance is within the remit of the Head of Environmental and Public Protection (Environmental Health) and any complaints would be subject to investigation.

I am therefore satisfied that with regard to size, design, position and use of finishing materials the building will be acceptable, subject to the noted change in facing materials, the fitting of the opaque glazing film and the erection of the plot dividing screen fencing. On this basis the building can be made to accord with Policy D of the PPS, in that the impact on the amenity, character and appearance of the area will be acceptable, and Policy 1 of the LDP, in that outbuildings are a common urban form and can be adjusted to avoid conflict between adjacent uses through addressing the identified privacy concerns. Architecturally the building is of bespoke design but notwithstanding this I consider it to be acceptable. No significant overshadowing or noise issues have been identified.

With regard to Policy 9 and complaints over the impact of surface waters, it has been noted that although a downpipe connects to a gutter this does not appear to drain anywhere in particular, apparently discharging onto the ground under the building. It seems that this is possibly causing some overland flow or seepage from the site to neighbouring ground in periods of heavy rainfall. It would therefore be appropriate to require the applicant to confirm drainage arrangements and implement them in short measure upon approval. The applicant has suggested that drainage will connect to a soakaway but in the meantime this matter may be addressed by condition.

Notwithstanding compliance with the LDP and the PPS, it remains to be considered if there are any other material considerations which suggest that planning permission should not be granted. In this regard I turn to the points of objection not already addressed.

There has been concern over lack of consultation by the applicant with neighbours over the proposal. The applicant indicates in the supporting statement that some consultation did take place but regardless of whether or not satisfactory consultation has occurred depending on the views of either party it is not a statutory requirement of planning legislation. I also make no assumption of any applicant's or objector's knowledge of the planning legislation or regulations. In this regard the reference to Policy RES1 by an objector refers to the superseded 2014 LDP and is no longer relevant. Furthermore, the submitted plans contain scale bars from which measurements can be taken.

Whilst the substantial garden ground means that the building could have been erected elsewhere within the plot, the application has to be considered as submitted. I note concerns about precedent being set but each application has to be treated on merit. Whether or not the building matures is speculative. The proposal has to be considered as submitted.

Buildings within gardens take many forms and are put to many uses. The most common buildings are detached garages, summerhouses, sheds and pagodas or variants thereof. The applicant has described the building as a "garden room" but in terms of the planning legislation it is regarded as a "building". Class 3A of The Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2011, under which such a building is considered, establishes

permitted development rights for buildings within curtilages of dwellinghouses which may be used for any purpose incidental to the enjoyment of the dwellinghouse. Therefore, although given a specific description by the applicant the legislation permits any other domestic related use, such as the gym or sauna referred to by objectors. The applicant has indicated that it is to be used as a gym. Such a proposed use is acceptable in principle.

It is concerning that the building has been erected without the benefit of planning permission and that it is being considered in retrospect. The fact that the building is already in place has had no bearing on my consideration of this application but I conclude that none of the above material considerations suggest that there are grounds for refusal of the application, notwithstanding compliance with the Inverclyde Local Development Plan and the Planning Policy Statement on Our Homes and Communities. I therefore consider that planning permission should be granted for this retrospective development, subject to conditions addressing concerns over privacy and drainage issues.

RECOMMENDATION

That the application be granted subject to the following conditions:

1. That full details including a sample of an alternative cladding material shall be submitted to and approved in writing by the Planning Authority within 21 days of the date of this permission and shall thereafter be fitted within a further 21 days to the satisfaction of the Planning Authority unless a variation is approved in writing by the Planning Authority in either instance.
2. That full details of the drainage arrangements shall be submitted to and approved in writing by the Planning Authority within 21 days of the date of this permission and shall, thereafter be fully implemented within a further 21 days to the satisfaction of the Planning Authority, unless a variation is approved in writing by the Planning Authority in either instance.
3. That all surface water shall be contained within the application site boundary.
4. That the side window on the building and front window nearest to the property to the north-east shall be fitted with an opaque film to be approved in writing in advance by the Planning Authority all within 21 days of the date of this permission, unless a variation is approved in writing by the Planning Authority.
5. That prior to occupation of the neighbouring house at 7 Knockbuckle Lane, Kilmacolm, a 1.8 metres high timber screen fence shall be erected along the length of the upper garden level of the application site.

Reasons:

1. The present facing materials constitute a fire hazard and do not comply with the current Building Regulations.
2. To ensure drainage in accordance with the current Building Regulations to ensure that neighbouring properties are not adversely impacted by surface waters.
3. To ensure drainage in accordance with the current Building Regulations to ensure that neighbouring properties are not adversely impacted by surface waters.
4. To ensure the privacy of adjacent properties is addressed.
5. To ensure the privacy of the adjacent property is addressed.

Stuart Jamieson
Head of Regeneration and Planning