

Report To: The Planning Board

Date 3 November 2021

Report By: Interim Service Director,
Environment & Economic Recovery

Report No: 21/0198/IC
Plan 11/21

Local Application
Development

Contact Officer: David Sinclair

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Subject: Formation of community garden (amendment to planning permission 21/0050/IC in respect of garden layout, including change of surfacing, change of materials to planters, additional shed, relocated shed and timber fence) (partially in retrospect) at Lyle Kirk, 31 Union Street, Greenock.



SUMMARY

- The proposal complies with the adopted and proposed Inverclyde Local Development Plan.
- Seven objections have been received raising concerns over road safety and parking, noise and disturbance, overlooking, litter, improper notification and the retrospective nature of the proposal.
- The recommendation is to GRANT PLANNING PERMISSION subject to conditions.

Drawings may be viewed at:

<https://planning.inverclyde.gov.uk/Online/applicationDetails.do?activeTab=summary&keyVal=QRWVYPIMMM600>

SITE DESCRIPTION

The application site comprises the Category 'B' listed Lyle Kirk located on the south-west side of Union Street, Greenock. Built in 1871, the building remains in use as a church and is finished with grey slate roofing; bull faced rubble walls and contains a tower that fronts onto Union Street in the north corner of the site. The site covers just over 0.18 hectares of ground, predominantly covered by the church building, with an area of open church grounds located to the south-east of the church building towards the rear of the site. This area covers approximately 250 square metres and is largely the subject of this application.

This area is mostly covered by a new red concrete sett paved surface which extends along the side of the church building to meet the frontage on Union Street, with the exception of a soft landscaped embankment approximately 2.75 metres in width along the south-west boundary. The paved surface is topped with ten stone planters covered with a mix of creamy-pink and buff render finishes, all topped with red coping stones. Nine of the planters are positioned in a 3x3 grid in the centre of the area, each measuring approximately 2 metres by 1 metre. The tenth stone planter measures approximately 12 metres in length and is positioned along the north-east boundary. The site contains two timber sheds, one adjacent to the entrance and the church wall and the other positioned along the south-east boundary adjacent to the embankment. Further along the south-east boundary from the shed a raised platform measuring 3 metres by 1.5 metres by 0.25 metres in height has been constructed.

The site is bound by the church building to the north-west; a 19th Century villa which is currently occupied by a nursery and the Italian Club to the north-east; the rear garden of a flatted residential property to the south-east; and an area containing lock-up garages to the south-west. Boundary treatments consist of a mixture of red brick walls and timber fencing.

The site is located within the Greenock West End Conservation Area.

PROPOSAL

Retrospective planning permission is sought for a number of additional works carried out on top of works previously approved in April 2021 for the formation of a community garden. These works relate to alterations to the previously approved garden layout and include: the installation of a red concrete sett paved surface within the garden area and along the south-east side of the church; a change of materials to previously approved planters from timber to stone with a render finish; the erection of an additional timber shed along the south-west elevation of the site; the relocation of the previously approved timber shed adjacent to the church building; the erection of a new 1.8 metre high horizontal panel timber fence along the north-east boundary; and the installation of associated external lighting.

ADOPTED 2019 LOCAL 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 11 – Managing Impact of Development on the Transport Network

Development proposals should not have an adverse impact on the efficient operation of the transport and active travel network. Development should comply with the Council's roads development guidelines and parking standards. Developers are required to provide or contribute to improvements to the transport network that are necessary as a result of the proposed development.

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.

Policy 29 – Listed Buildings

Proposals for development affecting a listed building, including its setting, are required to protect its special architectural or historical interest. In assessing proposals, due consideration will be given to how the proposals will enable the building to remain in active use.

Demolition of a listed building will not be permitted unless the building is no longer of special interest; it is clearly incapable of repair; or there are overriding environmental or economic reasons in support of its demolition. Applicants should also demonstrate that every reasonable effort has been made to secure the future of the building.

Planning Application Advice Note (PAAN) 5 on “Outdoor Seating Areas” applies.

PROPOSED 2021 LOCAL 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 and assessing development proposals, consideration must be given to the factors set out in Figure 2 and demonstrated in a design-led approach. Where relevant, applications will also be assessed against the Planning Application Advice Notes and Design Guidance for New Residential Development Supplementary Guidance. When assessing proposals for the development opportunities identified by this Plan, regard will also be had to the mitigation and enhancement measures set out in the Strategic Environmental Assessment Environmental Report.

Policy 12 – Managing Impact of Development on the Transport Network

Development proposals should not have an adverse impact on the efficient operation of the transport and active travel network. Development should comply with the Council’s roads development guidelines and parking standards, including cycle parking standards. Developers are required to provide or financially contribute to improvements to the transport network that are necessary as a result of the proposed development.

Policy 20 – 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.

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. Applicants should demonstrate that every reasonable effort has been made to secure the future of the building. 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.

Policy 29 – Listed Buildings

Proposals for development affecting a listed building, including its setting, are required to protect its special architectural or historical interest. In assessing proposals, due consideration will be given to how the proposals will enable the building to remain in active use.

Demolition of a listed building will not be permitted unless the building is no longer of special interest; it is clearly incapable of meaningful repair; or there are overriding environmental or economic reasons in support of its demolition. Applicants should also demonstrate that every reasonable effort has been made to secure the future of the building as set out in national guidance.

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

CONSULTATIONS

Head of Service – Roads and Transportation – Comments were received as follows:

- It is anticipated that the community garden will be used outwith the times of services. This means that the impact of those using the garden will be less than when there is a church service in progress.
- No objection.

Head of Public Protection and Covid Recovery – Comments were received as follows:

Following on from consultations on the previous application:

- That the discovery of Japanese Knotweed or any previously unrecorded contamination that becomes evident during site works shall be brought to the attention of the Planning Authority and a Remediation Scheme shall not be implemented unless it has been submitted to and approved, in writing by the Planning Authority. This is recommended in order to ensure that all contamination and Japanese Knotweed concerns are managed appropriately.
- An advisory note is recommended to obtain soil infill for planters from a known or reputable source.
- All external lighting on the application site should comply with the Scottish Government Guidance Note “Controlling Light Pollution and Reducing Lighting Energy Consumption”. This is recommended in order to protect the amenity of the immediate area, the creation of nuisance due to light pollution and to support the reduction of energy consumption.

PUBLICITY

An advertisement was placed in the Greenock Telegraph on the 16th July 2021 due to development affecting the setting of a listed building within a Conservation Area.

SITE NOTICES

A site notice was posted on the 16th July 2021 due to development affecting the setting of a listed building within a Conservation Area.

PUBLIC PARTICIPATION

The application was the subject of neighbour notification. Seven representations were received, objecting to the proposal. Concerns were raised as follows:

Procedural concerns

- This Development is not a proposal as the work has been going on for months before this permission has been granted.
- To send out a planning application retrospectively after near completion shows the lack of professionalism with the Council and associated planners.
- Inaccuracy of application. Work has been ongoing for months and it seems to be complete, whilst some neighbours were only officially notified between 20th July and 4th August 2021.
- Adjoining residential properties have not been fully notified.
- No proper consultation made.
- Neighbour notification incorrect.
- 27 Union Street is the only residential property that borders this garden and yet the Planning department have not notified the four tenants.
- Inaccuracies over the tree declaration in the application form as there are trees bordering the site.

Road safety concerns

- Lack of parking for neighbouring residents when the garden is in use.
- Safety concerns over additional traffic being generated by the use.
- Objections raised on the grounds of no additional parking being provided.
- Road safety concerns as the road directly outside the venue has recently had a fatal road traffic collision between a car and pedestrian. Increasing the footfall to the area will increase the risk of this happening again.
- Safety issues over increased footfall and traffic levels when events are taking place.

Amenity concerns

- Objections raised over sound levels from persons using the garden area.
- Loss of privacy in neighbouring gardens.
- The elevated platform, which was previously described as a stage, will cause the loss of garden privacy.
- Increased noise levels, disturbance and risk of litter. No bins on plans.
- Concerns over anti-social behaviour when the area is used for events.
- Concerns over the lights assembled allowing for evening and night time events to take place.
- Lack of detail regarding opening and closing times of the garden.

Other concerns

- Reasons for carrying out the works are fabricated as there has been no anti-social behaviour, drinking or drug taking in the area.
- The Planning committee are riding roughshod over the neighbours of Ardgowan Street and Union Street.
- Negative impact on the value of neighbouring properties.

ASSESSMENT

The material considerations in the determination of this application are the adopted Inverclyde Local Development Plan (LDP); the proposed Local Development Plan (LDP); Scottish Planning Policy (SPP); Planning Application Advice Note (PAAN) 5 on "Outdoor Seating Areas"; draft Planning Application Advice Note (PAAN) 5 on "Outdoor Seating Areas"; the Greenock West

End Conservation Area Appraisal; Historic Environment Scotland's "Historic Environment Policy for Scotland" and the "Managing Change in the Historic Environment" guidance note on 'Setting'; the impact of the proposed development in preserving and enhancing the pattern of development, special character and amenity of the Conservation Area; the impact of the proposed development on the listed building; the consultation responses; and the representations received.

SPP recognises that proposals for development within conservation areas should preserve or enhance the character and appearance of the conservation area. Proposals that do not harm the character and appearance of the conservation area should be treated as preserving its character or appearance. Both LDPs locate the application site within the Greenock West End Conservation Area under Policy 28. Policy 28 requires the proposal to preserve or enhance the character and appearance of the area, whilst having regard to Historic Environment Scotland's policy and guidance. As the proposal is located within the grounds of a listed building, Policy 29 is also applicable.



View from within the garden looking towards the Category 'B' Listed Lyle Kirk

Policy 1 in both LDPs is also of relevance and requires all development to have regard to the six qualities of successful places, of which the relevant qualities to this application are being 'Distinctive', 'Easy to Move Around' and 'Safe and Pleasant'. The factors relevant to the quality of being 'Distinctive' in the adopted LDP are to reflect local architecture and urban form and to contribute positively to historic buildings and places. In the proposed LDP, the relevant factors to meeting the quality of being 'Distinctive' are whether the proposal respects landscape setting and character, and urban form; reflects local vernacular/architecture and materials; and contributes positively to historic buildings and places. To meet the quality of being 'Easy to Move Around', the proposal is advised to create landmarks to make areas legible and easy to navigate. To meet the quality of being 'Safe and Pleasant', the proposal should avoid conflict with adjacent uses and minimise the impact of traffic and parking on the street scene.

In considering the impacts of the proposal on the urban form and character of the Conservation Area (Policy 28), as well as the impacts on the character of the listed building, I note the "Managing Change in the Historic Environment" guidance note on 'Setting'. The guidance note states that planning authorities must take into account the setting of historic assets or places when making decisions on planning applications. Development proposals should seek to avoid or mitigate detrimental impacts on the settings of historic assets.

The Greenock West End Conservation Area Appraisal identifies the application site as being within the Central Area of the Conservation Area which was predominantly developed around the mid-19th Century and is largely residential. The Central Area is more varied in architectural style and property type compared to the north-west and south-east areas. The Appraisal identifies the church as being a landmark which notably punctuates the grid, providing a marker on Union Street and a key feature within the Central Area of the Conservation Area. The Appraisal advises that in assessing planning applications, the Council shall consider them in relation to the relevant LDP Policies.

The proposal is largely located within the rear grounds of the building, with only the access path being visible from the streetscape. The use of concrete 'sett' paving provides a clearly marked access route throughout the site, replacing a non-traditional tarmac surface with a surface which can be considered acceptable with regard to the character and urban form of the area. I consider the choice of surfacing will distinguish the site entrance, making the area legible and easy to navigate. Furthermore the provision of a paved surface throughout the community garden allows the garden to be fully accessible for all users, in accordance with meeting the quality of being 'Easy to Move Around' in Policy 1 of both LDPs.

In considering the design of the proposal, the additional features which have been installed, namely the additional shed, the barbecue area and the timber boundary fence are features commonly found in mainly residential areas and are subordinate in scale and position to the listed building, which forms a notable landmark in this part of the Conservation Area. I note that timber fencing is currently in use along the south-west site boundary and, as such, the new timber boundary fence can be considered to have an acceptable impact on the character of the surrounding area. The change in materials to the planters can be considered visually acceptable and an acceptable departure from the timber planters previously approved. The proposal does not impact on the church's prominence as a key feature within the Central Area of the Conservation Area and can be considered in accordance with the advice given in the Greenock West End Conservation Area Appraisal. It stands that the proposal meets the quality of being 'Distinctive' in Policy 1 of both LDPs and accords with the "Managing Change in the Historic Environment" guidance note on 'Setting'.

With regard to meeting the quality of being 'Safe and Pleasant' in Policy 1, notably through avoiding conflict with adjacent uses, I note the concerns raised in the objections received over noise and disturbance from persons using the garden, in particular the provision of external lighting allowing for evening and night-time events to take place and a loss of privacy resulting from the use of the raised platform. At 4.5 square metres, the platform is considered small in scale and unlikely to result in unacceptable levels of noise and activity to the detriment of neighbouring properties. In considering noise and disturbance resulting from the wider garden area, noise nuisance is covered by legislation under the control of the Head of Public Protection and Covid Recovery. I note that he offers no objections to the proposal in terms of noise nuisance to neighbouring properties. In considering concerns over a loss of privacy resulting from the raised platform, both PAAN5s state that where positioned within 9 metres of the garden boundary and where it will result in an increased view of the neighbouring private/rear garden area, the erection of screening shall generally be required. I note that the raised platform has been reduced in height from what was previously approved to a height of 0.25m. The adjoining boundary wall sits at approximately 2.1m, being 1.85m above the platform floor. This is an acceptable height for boundary screening. Taking this into account, I consider the raised platform to be appropriately designed and positioned for the context of being within the grounds of a listed building and to be in accordance with the requirements in both PAAN 5s.

Further consideration is required as to whether the proposal meets the quality of being 'Safe and Pleasant', in particular whether it has an acceptable impact on traffic and parking on the street scene. I note the objections raised over a lack of available parking for residents when the garden is in use and no additional parking being provided as well as safety concerns for pedestrians and road users raised as a result of increased footfall and traffic when the garden is in use. In considering this, I turn to the consultation response provided by the Head of Service – Roads and Transportation. She offers no objections to the proposal in terms of traffic management and road safety, stating that it is anticipated that the community garden will be

used outwith times of church services and that the impact of those using the garden will have less of an impact on traffic management and road safety than the church when it is in use. I concur with her remarks and consider that the proposal will not impact on traffic and parking in the street scene, meeting the quality of being 'Safe and Pleasant' in this regard.

Turning to the other comments provided in the consultation received from the Head of Public Protection and Covid Recovery, I note the condition requested relating to Japanese Knotweed, which follows on from the condition on the previous consent and consider this matter can be again be addressed by condition. I note the concerns raised in the objections over the lighting provided within the garden. Any potential nuisance issues relating to lighting are most appropriately controlled by other legislation and can be addressed by means of an advisory note alongside the other advisory note recommended.



The application site as viewed from the entrance gate.

Turning to the concerns raised in the objections not yet addressed above, firstly regarding objections that the work has been going on for months before permission has been granted, the planning application being submitted retrospectively after near completion and inaccuracies in the application in this regard, a previous planning application was considered and determined by Inverclyde Council on the 19th April 2021. Following the issuing of the planning permission, works commenced on site, at which point a number of complaints were raised from neighbouring properties regarding a lack of notification of the works. After a review of the neighbour notification process it was identified that two properties had been omitted from the neighbour notification process. This was due to an error in the corporate gazetteer. Concurrently, the applicant continued with the work on site but had deviated away from the proposals which they gained planning permission for. This matter was investigated and a fresh planning application was subsequently submitted to address the changes to the previous consent. Regarding inaccuracies, the application is stated to be partially in retrospect, as this was the state of works when the application was submitted.

Turning to objections raised over improper notification, all neighbours within 20 metres of the boundary of the application site, inclusive of all four tenants at 27 Union Street were duly notified and afforded the 21 day period to submit representations for this application. Due to the development affecting a listed building and conservation area, a site notice was displayed in the

locality in line with the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Under the Regulations the application was also advertised in the Greenock Telegraph on the 16th July 2021. Consultations were fully undertaken in accordance with the requirements in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Concerns over possible anti-social behaviour including persons littering are speculative in nature and claims of past anti-social behaviour being fabricated are not a planning related consideration, however there is nothing to suggest that this risk would be increased or decreased by the development. In considering concerns over no bins being provided on the plans, the garden area forms part of the church grounds and would make use of existing waste facilities. Concerning inaccuracies over the tree declaration in the application form, it was noted during the processing of the application that there are four trees located within the site. However, notwithstanding the inaccurate description on the application form, this has no bearing on the assessment of the planning merits of the proposal. The impact of the proposal on neighbouring property values is not a planning related concern.

Based on the above assessment, I am satisfied that the proposal has an acceptable impact on the setting of the listed building and wider Conservation Area and therefore I consider the proposal to be in accordance with the aims of Policies 28 and 29 of both LDPs. The proposal can be considered to have an acceptable impact on the amenity, character and appearance of the area and therefore is in accordance with Policy 20 of the proposed LDP.

In conclusion, the proposal is in accordance with LDP Policies 1, 28 and 29, proposed LDP Policies 1, 20, 28 and 29 and the "Managing Change in the Historic Environment" guidance note on 'Setting'. Furthermore I consider that the proposal manages the historic environment with intelligence and understanding and therefore accords with the requirements of Historic Environment Policy for Scotland. As the proposal is in accordance with the relevant Plan Policies and there are no material considerations which would warrant refusal of this application, planning permission should therefore be granted subject to a condition.

RECOMMENDATION

That the application be granted subject to the following condition:

1. That the discovery of Japanese Knotweed or any previously unrecorded contamination that becomes evident during site works shall be brought to the attention of the Planning Authority and a Remediation Scheme shall not be implemented unless it has been submitted to and approved, in writing by the Planning Authority.

Reason:

1. In order to ensure that all contamination and Japanese Knotweed concerns are managed appropriately.

Stuart Jamieson
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Environment & Economic Recovery

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