

Report To: The Planning Board

Date: 5th August 2015

Report By: Head of Regeneration and Planning

Report No: 15/0113/IC
Plan 08/15

**Local Application
Development**

Contact Officer: Guy Phillips

Contact No: 01475 712422

Subject: Formation of new footpath at
Auchenbothie House, Auchenbothie Gardens, Kilmacolm



SUMMARY

- The proposal accords with the Inverclyde Development Plan.
- Eleven responses have been received from six neighbours objecting to the proposal and raising amenity, legal, procedural and technical issues.
- There have been no adverse comments from consultees.
- The recommendation is to GRANT PLANNING PERMISSION

SITE DESCRIPTION

Auchenbothie House is located within the Green Belt at Auchenbothie Gardens, to the north-west of Kilmacolm. Designed by William Leiper, architect, it is a Grade B listed Baronial Revival building with a circular tower dating from around 1898. Converted into ten flats in the mid 1990s, it is surrounded by fifteen detached houses, constructed as enabling development. Auchenbothie Gardens comprises three cul-de-sacs, two of which curve around the south, east and west boundaries of the listed building's curtilage. The Auchenbothie House communal garden is contained by approximately 1m high metal fencing supplemented in places by hedging. The garden takes the form of a lawn with occasional trees.

PROPOSAL

It is proposed to construct an approximately 34m long, 1.2m wide path, finished in bonded pea gravel within the communal garden. It winds between a glazed door in a lower ground floor flat on the west side of the building and the garden boundary Auchenbothie Gardens to the east, where it is proposed to form a single gate in the metal fencing. The path is to facilitate access to and from the lower ground floor flat by a mobility scooter.

LOCAL DEVELOPMENT PLAN POLICIES

Policy ENV2 - Assessing Development Proposals in the Green Belt and the Countryside

Development in the Green Belt will only be considered favourably in exceptional or mitigating circumstances, while development in the Countryside will only be considered favourably where it can be supported with reference to the following criteria:

- (a) it is required for the purposes of agriculture, forestry or, where appropriate, renewable energy (refer Policy INF1); or
- (b) it is a recreation, leisure or tourism proposal which is appropriate for the countryside and has an economic, social and community benefit (refer to Policy ECN6); or
- (c) there is a specific locational requirement for the use and it cannot be accommodated on an alternative site (refer Policies INF3 and INF7); or
- (d) it entails appropriate re-use of redundant habitable buildings, the retention of which is desirable for either their historic interest or architectural character or which form part of an establishment or institution standing in extensive grounds (refer to Policy RES7); and
- (e) it does not adversely impact on the natural and built heritage, and environmental resources;
- (f) it does not adversely impact on landscape character;
- (g) it does not adversely impact on prime quality agricultural land;
- (h) it does not adversely impact on peat land with a high value as a carbon store;
- (i) it does not adversely affect the visual amenity of the area and is capable of satisfactory mitigation;
- (j) there is a need for additional land for development purposes, provided it takes account of the requirements of the Strategic Development Plan; and
- (k) it has regard to Supplementary Guidance on Planning Application Advice Notes.

Policy HER5 – The Setting of Listed Buildings

Development will require to have due regard to the effects it has on the setting of, and principal views to and from listed buildings and shall be without detriment to their principal elevations and

the main approaches to them. All proposals will be assessed having regard to Historic Scotland's SHEP and "Managing Change in the Historic Environment" guidance note series.

CONSULTATIONS

Head of Environmental and Commercial Services – no objections.

Historic Scotland - no objections.

PUBLICITY

The application was advertised in the Greenock Telegraph on 15th May 2015 as there are no premises on neighbouring land.

SITE NOTICES

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

PUBLIC PARTICIPATION

Kilmacolm Civic Trust has no objection to the proposal.

Eleven responses relating to the proposal have been received from six neighbours who are objecting to the proposal. The objectors are concerned that:

Amenity

- The character of the listed building will be adversely impacted – preserving the setting of Auchenbothie House should be paramount.
- The ethos of the garden environment will be destroyed.
- Shrubs at the boundary fence will require to be removed.
- Privacy, safety, quality of life, security and outlook shall be compromised.

Legal and procedural issues

- There is a lack of detail and the submitted plans are inaccurate.
- The path will cross the public verge and the service strip outwith the garden, and cover part of a main drain/sewer, all contrary to title burdens.
- Title constraints preclude the development from being implemented; it is being sited on common ground to 10 residents and the Council should not consider the application.
- The proposal is described wrongly. It is a disabled access route/disabled wheelchair ramp.
- If planning permission is granted could a condition requiring the path's removal be imposed when it is no longer required?
- The applicant was previously refused planning permission to form their own garden within the communal garden. This has been ignored and the Council should investigate as a matter of urgency.

ASSESSMENT

The material considerations in the determination of this planning application are the Local Development Plan, the consultation responses and the written representations.

Policy HER5 requires assessment against the impact on the Listed Building. Historic Scotland's Managing Change in the Historic Environment guidance on "Setting" confirms the importance of identifying the setting of the historic asset and assessing impact from the development. Paths within the gardens of historical buildings are typical features. The lawn does not form part of an historic garden and due to the railings around the curtilage the path itself will not be a prominent feature when viewed on approach. The path will be seen from within the building, but such a

feature should not be unexpected within a garden. The proposed path's bonded pea-gravel finish is, I consider, sympathetic and I note that Historic Scotland has offered no objections to the proposal. While I recognise that this proposal will change the current garden layout, it will necessitate the removal of limited boundary planting and overall, I am satisfied that the proposal will not detrimentally contribute to how Auchenbothie House, as a Listed Building, will be experienced, understood and appreciated. I am also content that the path is acceptable with reference to the effects on the setting, principal views to and from and is without detriment to principal elevations and the main approaches. Accordingly, the proposal complies with policy HER5.



Local Development Plan Policy ENV2 is not strictly intended for incidental works within the garden ground of existing residential developments in the Green Belt, although it is noted previously in my assessment against Policy HER5 that the proposal does not adversely impact on the built heritage (ENV2 criterion e) and it does not adversely affect the visual amenity of the area (ENV2 criterion i).



Overall, I consider that the proposal complies with the Local Development Plan, however I require to examine if there are other material considerations that merit deciding against policy; to do so I will address additional points raised in the letters of objection.

Examining amenity issues of privacy, safety, quality of life and security, while acknowledging these perceptions, they do not justify the refusal of planning permission for this garden path.

I note concerns over the accuracy of the description and application plans. The postcode has been corrected and can advise that from both it is clear what is proposed and has enabled neighbours to comment. While I note the suggestion that a temporary planning permission be granted, the path is not exclusive for mobility access and, regardless of the proposed beneficiary, is acceptable in planning terms.

Finally, I note the comments on legal constraints relating to development within the common grounds and to its use and access over the service strip. These are issues that are not material to the determination of the planning application and it should be noted the granting of planning permission may be only one of a number of permissions necessary to enable development to go ahead. I have been unable to trace any record of previous planning applications to subdivide the garden, meanwhile the requirement for planning permission for other works is being assessed independently of this 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 Guy Phillips on 01475 712422.