

WEST DUNBARTONSHIRE COUNCIL**Report by Chief Officer – Regulatory and Regeneration****Planning Committee: 6th October 2021**

DC20/176: Change of use of land to the rear of No. 19 Millburn Avenue, Clydebank to form private rear garden ground and construction of associated fence/gate and ancillary outbuilding (retrospective) at No. 19 Millburn Avenue, Clydebank by Miss Sylwia Gadas.

1. REASON FOR REPORT

- 1.1** The application is subject to representations and raises issues of local significance. Under the terms of the approved Scheme of Delegation, it therefore requires to be determined by the Planning Committee.

2. RECOMMENDATION

- 2.1** Grant full planning permission subject to the conditions set out in Section 9.

3. DEVELOPMENT DETAILS

- 3.1** The application site is a mid terrace house located on the western side of Millburn Avenue, Clydebank. At the northern end of the terrace that includes No. 19, there is an existing vehicle lane that provides access to the rear of the application site along with Nos. 13- 27 Millburn Avenue. The vehicle lane is 3m in width and bounded by a privet hedgerow. The houses benefit from long rear gardens and the area is residential in character. St. Margaret of Scotland Hospice is to the north–west of the site.
- 3.2** Retrospective planning permission is sought for the change of use of land to the west of the existing garden ground of No. 19 Millburn Avenue to include within that properties private garden ground. The area is approximately 43 square metres. The area is enclosed to the western boundary and parts of the north and south boundaries with a 1.8m high larch fence.

A shed has also been constructed on this land and it is 3m in depth and 4.6m in length with a set of doors to the east elevation. The shed has been finished in Scottish larch and has a flat roof with a height of 2.2m. The shed is sited at the westernmost part of the application site and does not impede access to the neighbouring gardens. The shed is used for the storage of domestic tools and typical garden equipment such as lawnmowers etc.

4. CONSULTATIONS

- 4.1 West Dunbartonshire Council Roads Service have no objection to the proposal and advises that the existing potential for off street parking is not removed by this proposal as vehicles could still access adjoining plots.

5. REPRESENTATIONS

- 5.1 Three objections have been received including one on behalf of St Margaret's Convent. The material planning points raised can be summarised as follows:

- The development contravenes the property deeds.
- The development prevents access to No. 17 Millburn Avenue.
- The shed has been used in association with a joinery business.
- Plans are misleading.
- The proposal has resulted in the loss of a vehicle turning point to the rear of these houses.
- The proximity of the shed to St. Margaret of Scotland Hospice will result in noise and disturbance to hospice residents.
- The shed design and fence is out of character the local area.

Two neighbours are in support of the application and one is of the view that the works have greatly improved the appearance of the property including the work done to the private lane.

6. ASSESSMENT AGAINST THE DEVELOPMENT PLAN

West Dunbartonshire Adopted Local Plan 2010

- 6.1 Policy GD1 seeks to ensure that all new development is of a high quality of design and respects the character and amenity of the area. In terms of residential amenity Policy H5 is most relevant and seeks to protect, preserve and enhance the residential character and amenity of existing residential areas at all times.
- 6.2 The proposal complies with the policies of the adopted local plan and is assessed fully in Section 7 below.

7. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

West Dunbartonshire Local Development Plan (LDP1) Proposed Plan

7.1 On 27 April 2016, the Planning Committee took a final decision not to accept the Local Development Plan Examination Report recommended modification in respect of including the Duntiglennan Fields site in Clydebank as a housing development opportunity, and therefore, as a result of the Scottish Ministers' Direction, the Local Development Plan has remained unadopted but continues to be a material consideration in the determination of planning applications.

7.2 Policy BC4 seeks to ensure that the layout and form of the development, including the relationship between the buildings, streets and spaces, protect and enhance the amenity of existing communities, future occupiers and neighbouring development sites. This policy also seeks to protect, preserve and enhance the residential character and amenity of existing residential areas.

The proposed development is assessed against the LDP1 Proposed Plan and the Residential Development Guidance in Section 7 below.

West Dunbartonshire Local Development Plan (LDP2) Proposed Plan

7.3 The modified Plan and associated documents was approved by the Council on 19 August 2020. The Council has advised the Scottish Ministers of its intention to adopt the Plan. On 18th December 2020, the Scottish Ministers issued a Direction in relation to the housing land chapter of the Plan. None of the policies considered in the determination of these applications is affected by the Direction. Therefore, Local Development Plan 2 is the Council's most up to date policy position and is afforded significant weight in the assessment and determination of planning applications.

7.4 Similarly to Policy GD1 of the Adopted Plan and Policy BC4 of Proposed Plan 1, Policy CP1 seeks to protect and enhance the amenity of existing communities. Furthermore, Policy H4 of LDP2 seeks to protect, preserve and enhance the residential character and amenity of existing residential areas which reflects the requirements of Policy H5 of the Adopted Plan and Policy BC4 of the Proposed Plan.

Principle of Development

- 7.5 The principle of extending the domestic garden curtilage along with the addition of a shed and fence is acceptable in principle subject to all material considerations being addressed. This type of development is common in a residential area and the development in principle complies with the adopted and proposed plans.

Site Layout, Design and Appearance

- 7.6 The proposed increase to the domestic curtilage of No. 19 Millburn Avenue would result in the garden of that property being extended by 7.8m in a westerly direction. This equates to an increase of 43 sqm. Prior to this work having been carried out the area of land was left unkempt. The works have already been carried out with the extended garden ground being contained within a 1.8m high fence to the site's western boundary. To the site's northern boundary the extended garden ground is contained within a newly constructed 1.8m high fence with gates also incorporated to retain a right of access for the occupants of No.17 Millburn Avenue. The change of use of this area of land to form an extended garden ground for the use of No. 19 Millburn Avenue has not significantly altered the character of the area which still has an overriding residential appearance with long gardens. The resulting layout does result in the loss of an area that is likely to have been used historically for vehicle turning and manoeuvring. The Roads Service has not raised any concerns about the remaining space of the access lane which is still adequate given the limited number of houses that utilise this area.
- 7.7 The shed is sited at the westernmost end of the garden ground (as extended) and has a modest footprint of 14 sqm. The shed has been finished in larch cladding and has a flat roof with a height of 2.2 metres. The shed is sited over 22 metres from the rear of No. 19 Millburn Avenue. Such structures and garages are not uncommon in residential areas. There is an existing garage which is accessed off the shared vehicle lane to the rear of No. 25-27 Millburn Avenue. The addition of the shed to the rear of No, 19 Millburn Avenue is therefore in keeping with the overriding residential character of the area. The shed's scale and siting relative to shared boundaries and the houses in the terrace (Nos. 15- 23) also means that there is no harm resulting to residential amenity. This is also true of the additional fence that has been constructed which comprises of a 1.8m high timber fence to the site's northern boundary which faces the vehicle lane. A set of gates is also proposed at the same height to this boundary. Timber fences of this height are also not uncommon in residential areas. The fence and gates proposed are considered to be acceptable in terms of the visual amenity. The fence and gates siting will also not give rise to any issues in terms of residential amenity given the design and siting. The gates allows for access to be retained through to No. 17 Millburn Avenue.

Representations Received

- 7.8** One of the objectors has raised a breach of property deeds however this is not a matter for the Planning Authority to resolve. There is no evidence to suggest the shed is being used for a joinery business and a condition could be attached to ensure the shed is to be used for domestic purposes only. The plans are considered sufficient to allow the Planning Authority to determine the application. The Councils Roads Service has raised no objection to the proposal in terms of highway safety. Although the proposal does remove the historic informal turning facility, the Roads Service has indicated that the existing potential for off-street parking is not removed by this proposal as vehicles can still access adjacent plots. The shed is over 25m from the nearest part of the buildings within the Hospice grounds and accordingly is unlikely to give rise to a significant level of disturbance. A substantial hedge is also noted along this shared boundary.

8. CONCLUSION

- 8.1** The shed and associated fence and gate as well as the extension of the garden ground does not have an adverse impact on surrounding properties nor does it substantially alter the character of the area. The objection letters make reference to rights of access and property deeds but these issues are not material planning considerations and are civil matters to be resolved between the affected parties. Having regard to the nature of the changes proposed it is considered that the proposed development is acceptable.

9. CONDITIONS

- 1. For the avoidance of doubt the use of the shed hereby approved shall be for purposes which are incidental to the enjoyment of the dwelling house and no trade or business shall be carried out therefrom.**
- 2. The gates shall remain unlocked at all times to allow access to no 17 Millburn Avenue.**

Peter Hessett

Chief Officer – Regulatory and Regeneration

Date: 6th October 2021

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Appendix: None

Background Papers:

1. Application forms and plans;
2. Consultation responses;
3. West Dunbartonshire Local Plan 2010;
4. West Dunbartonshire Local Development Plan
Proposed Plan;
5. West Dunbartonshire Local Development Plan
2 Proposed Plan.
6. Representations

Wards affected: Ward 6 - Clydebank Waterfront