

Agenda Item	6.2
Report No	PLS-12-24

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 19 March 2024
Report Title: 23/05919/FUL: Ms Kathleen Maclean
54 Innes Street, Inverness, IV1 1NS
Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Erection of garden building (retrospective)

Ward: 14 – Inverness Central

Development category: Local

Reason referred to Committee: Member application

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 The proposal is a retrospective application for the erection of a small, raised timber garden building currently in use as an art studio in the rear garden of the application site. The studio has sliding doors facing the house on the south elevation, a square window on the northwestern elevation and is a total of 6.9sqm (2.5m x 3.13m). Seven steps lead up to the studio providing storage underneath for logs and bicycles. At its highest point the studio is 3.44m in height and sits below the top of the bank to the rear.
- 1.2 A small area of decking (1.8m x 3.13m) sits at ground level under the window of the studio on its northwestern elevation.
- 1.3 Pre Application Consultation: None
- 1.4 Supporting Information: Photographs
- 1.5 Variations: None

2. SITE DESCRIPTION

- 2.1 The application site is to the rear of a mid-terrace 1½ storey house on the north side of Innes Street in the centre of Inverness. To the rear of the property is a retaining wall carrying the north railway line and the garden is separated from neighbouring properties by fences and hedging.

3. PLANNING HISTORY

- 3.1 None.

4. PUBLIC PARTICIPATION

- 4.1 Advertised: No
Date Advertised: n/a
Representation deadline: 27 January 2024
- Timeous representations: 2
Late representations: 0
- 4.2 Material considerations raised are summarised as follows:
a) Erected without planning permission.
b) Invasion of residential privacy, both externally and internally.
- 4.3 All letters of representation are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam.

5. CONSULTATIONS

- 5.1 **Network Rail:** Proposal will have no impact on railway infrastructure and therefore have no comments/objections to this application.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 National Planning Policy Framework 2023 (NPF4)

Policy 1 - Tackling the Climate and Nature Crises

Policy 2 - Climate Mitigation and Adaptation

Policy 3 - Biodiversity

Policy 14 - Design, Quality and Place

Policy 16 - Quality Homes

6.2 Highland Wide Local Development Plan 2012 (HwLDP)

28 - Sustainable Design

29 - Design Quality and Place-making

6.3 Inner Moray Firth Local Development Plan 2015

No specific policies apply.

6.4 Highland Council Supplementary Planning Policy Guidance

Sustainable Design Guide (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Inner Moray Firth Local Development Plan (IMFLDP2)

No specific policies apply.

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The key considerations in this case are:

a) compliance with the development plan and other planning policy

- b) siting and design
- c) impact on neighbour properties
- d) any other material considerations

Development plan/other planning policy

- 8.4 The key NPF4 policies in the assessment of householder applications are Policy 14 (Design, quality and place) and Policy 16 (Quality Homes). Policy 14 supports development proposals which are consistent with six qualities of successful places – healthy, pleasant, connected, sustainable and adaptable, and does not support development proposals which are poorly designed or detrimental to the amenity of the surrounding area. Policy 16 supports householder developments where they do not have a detrimental impact on the character or environmental quality of the home or surrounding area in terms of size, design and materials, or the neighbouring properties in terms of physical impact, overshadowing or overlooking.
- 8.5 The Highland wide Local Development Plan Policies 28 and 29 are also relevant and need to be taken into consideration. These are essentially reflective of NPF4 policies in respect of householder development in that they seek proposals with good quality design that are compatible with their surroundings without significant detrimental impact on community and residential amenity.
- 8.6 Subject to the proposal having no significant detrimental impact on the character of the area or amenity of neighbours the proposal would comply with the development plan.

Siting and design

- 8.7 No.54 Innes Street sits within a terrace of four properties. At the rear, the gardens are mostly separated by fences and walls measuring between 1m to 1.5m in height with clear views between the gardens. Most properties in this part of Innes Street have outbuildings and sheds along the rear wall under the railway embankment.
- 8.8 The design and materials of the studio element of the overall structure are considered acceptable. The physical size of the actual studio is also acceptable within the context of the back garden. Having said that, the placement of the studio in the garden, and particularly the incorporation of a storage area beneath it, does result in the whole structure being physically taller than the other sheds in the rear gardens of Innes Street.
- 8.9 Consequently, the studio part of the structure does result in a degree of overlooking and subsequent amenity impact on neighbouring houses and their gardens.

Impact on Neighbouring Properties

- 8.10 An approximately 1m high fence separates No.54 from No. 56 Innes Street to the west, and the window of the art studio is on this elevation. There is a stone wall with timber planks increasing the height of the separation of the garden with the property on the opposite side at No.52 Innes Street. Facing south into the applicants' garden,

the studio has a sliding patio door with steps leading up to it. The sliding doors are adjacent to this boundary and provide light for painting in the studio.

- 8.11 The north railway line runs along the rear of the gardens on this side of Innes Street at an elevation of around 3.5m. This equates to around ten trains each way per day and, as this is a single line, many of these trains have to stop and wait above the properties at 50-56 Innes Street while a train passes.
- 8.12 As such, the houses on Innes Street are subject to considerable overlooking from passengers in trains both passing and idling above the gardens. These passengers have significant opportunity for overlooking by comparison with the relatively limited opportunity created when exiting the studio. However, this is likely to be relatively temporary, as the trains are passing, or stopped for a short period waiting for another train to pass. In contrast, a user of the studio could look outward into the garden for a longer period.
- 8.13 It should be noted that due to the relatively low level of the existing boundary walls, it is currently possible to stand on the boundaries of both gardens (No.52 and 54) in the area of the studio and look into the other and gain an oblique and limited view of the adjacent garden.
- 8.14 The elevation of the studio above the rear garden, of approximately 800mm, results in it being possible to look out from the studio through the patio doors and gain a wider view of the neighbouring rear gardens, particularly that of No.52, and its sunroom. Consequently, the studio part of the structure does result in a degree of overlooking and subsequent amenity impact on neighbouring houses and their gardens; particularly of No.52.
- 8.15 The applicant has indicated that the purpose of the building is for their own use for recreational painting and only then for short periods of time during the week. From visiting the site there is no indication that the studio is used for anything other than painting.
- 8.16 Use of the studio for any other purpose, such as a garden room for sitting in for example, could arguably result in a more significant impact on the amenity of neighbouring properties. As it is, overlooking is primarily limited to when exiting the studio.
- 8.17 The applicant has offered to make the glass in the sliding doors opaque with the use of a screen on the inside to further reduce the impact both from neighbours looking into the room as well as being able to see out. However, such a screen is not permanent and can be moved; the use of opaque glass, not an applied film (which can degrade over time) is the only appropriate measure that would ensure long-term screening. This would require the existing glass to be replaced. While planting or fencing could also be considered, both require long term maintenance and could be easily removed or damaged.
- 8.18 The personal circumstances in this case, where the building is being used as an artist's studio, is considered unlikely to result in a significant impact on residential amenity. Subject to ensuring that the garden building is retained in use as an art studio and that the glazing in the doors is changed to opaque glass, the impact on

residential amenity can be adequately mitigated so as not to have a significant adverse impact on the amenity of neighbouring occupiers. Such mitigation can be controlled by condition. Conditioning the permission to that of the current property owner will provide further protection in the event that the property is sold on.

Other material considerations

8.19 There are no other material considerations.

Non-material considerations

8.20 There are no non-material planning considerations.

Matters to be secured by Legal Agreement / Upfront Payment

8.21 None

9. CONCLUSION

- 9.1 The erection of the garden building requires planning permission in this instance due to its height of 3.44m to eaves. This exceeds the maximum height of 3m to eaves (and 2.5m overall height within 1m of the boundary) which could be constructed under Permitted Development [Class 3A of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended)].
- 9.2 The structure and its positioning within the plot is not considered to be inconsistent with the character or pattern of development within the street. However, its elevated position enables views out from the building over the rear gardens of neighbouring properties. While the proximity of the northern railway line and relatively high number of both passing and idling trains immediately above the gardens each day is not conducive to providing a high degree of privacy to these properties, this effect will be perceived as more temporary in nature. The garden building will be a permanent feature.
- 9.3 Accepting that the rear gardens of the buildings on this part of the street are relatively open with low boundary enclosures, the elevated position of the studio will result in an increase in overlooking, as highlighted in representations. Opportunities to seek mitigation such as provision of screen fencing and/or planting has been considered, however the use of opaque glass on the sliding doors is the only measure that would ensure long-term screening. Securing this through condition, along with specifying that the structure shall be used only as an art studio, should ensure that the amenity of neighbouring properties can be mitigated to a point where it is not significantly impacted. Conditioning the permission to that of the current property owner will provide further protection.
- 9.4 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued	N
Notification to Scottish Ministers	N
Conclusion of Section 75 Obligation	N
Revocation of previous permission	N

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons:

1. This permission shall enure for the benefit of Ms Kathleen Maclean as a garden room (artist's studio) only.

Reason: In order to give due recognition to the special circumstances displayed by the applicant(s) and to enable the Planning Authority to exercise appropriate control at the expiry of these special circumstances.

2. Within one month of the date of this permission, or other period as may be agreed, the applicant shall change the glazing to the sliding patio door from clear glass to opaque glass, and that this opaque glass shall remain in the sliding patio door in perpetuity. For the avoidance of doubt, the use of a screen, or applied vinyl, or similar opaque film to the glass, is hereby not approved.

Reason: In order to make the glass opaque and reduce the potential for overlooking and amenity impact on neighbouring properties while occupying the garden room (artist's studio).

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Signature: David Mudie
Designation: Area Planning Manager – South
Author: Elaine Watt
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 - PP-01 – Location Plan
Plan 2 - PP-02 - Visual Information
Plan 3 - PP-03 – Floor Elevation Plan
Plan 4 - PP-04 – Site Layout Plan



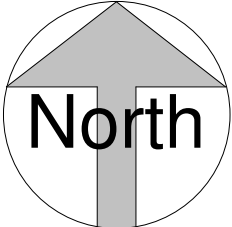
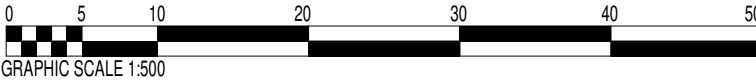
54 INNES STREET

1 : 1000



54 INNES

1 : 500



Rev	Date	Details	Drawn	Checked

Project/Client: KATE MACLEAN PLANNING APPLICATION	Project No: INS-1133
	Dwg No: PP-01
	Rev:
Drawing: 54 INNES STREET GARDEN BUILDING LOCATION PLAN	Scale: As indicated
	Drawn By: Date:
	MP
	Checked By: Date:
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