

Planning Application Report and Report of Handling as required by Schedule 2 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 relative to applications for Planning Permission or Planning Permission in Principle

Reference No: 22/01611/PP
Planning hierarchy: Local
Applicant: Mr Colin Campbell
Development: Erection of Decking and Fencing (retrospective)
Site Address: 3 Academy Terrace, Academy Road, Rothesay, Isle of Bute

DECISION ROUTE

- Delegated - Sect 43 (A) of the Town and Country Planning (Scotland) Act 1997
 Committee - Local Government Scotland Act 1973
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(A) THE APPLICATION

(i) Development Requiring Express Planning Permission

- Erection of decking and fencing in rear curtilage (retrospective)
- Erection of fencing in front curtilage (retrospective)

(ii) Other specified operations

- Not applicable
-

(B) RECOMMENDATION:

Having due regard to the Development Plan and all other material considerations, it is recommended that Planning Permission be **refused** for the reasons set out below.

(C) CONSULTATIONS:

None

(D) HISTORY:

There is none pertaining to the property that is the subject of the current application.

(E) PUBLICITY:

Subject of Neighbour Notification (closing date 14th March 2023) and advertised as development affecting the setting of a Listed Building (closing date: 24th March 2023).

(F) REPRESENTATIONS:

Objections have been received from the following four sources:

Mrs Alison Johnston, Upper Flat, Ian Villa, Academy Road, Rothesay, Isle of Bute (received 05.03.2023)

Mr Alexander Johnston, Upper Flat, Ian Villa, Academy Road, Rothesay, Isle of Bute (received 05.03.2023)

Mr Alan Senior, 2 Academy Terrace, Academy Road, Rothesay, Isle of Bute (received 05.03.2023 & 08.03.2023)

Ann Fielding, 4 Academy Terrace, Academy Road, Rothesay, Isle of Bute (received 17.03.2023)

Representations are published in full on the planning application file and are available to view via the [Public Access](#) section of the Council's website.

The points raised can be summarised as follows:

- a. Argyle Terrace is within the Conservation Area and concern is expressed that the decking structure is not in keeping with the rest of the properties, which mimic a Tudor style.

Comment: The site is not located within the Rothesay Conservation Area; however, Academy Terrace is a Listed Building and Section (P) and Appendix A below contain an assessment of the effect of the development on the setting of the property.

- b. There is another area of decking to the north west of the application structure but it is considered that this does not have as great an impact as it is not directly adjacent to the properties.

Comment: This point is noted and the deck that is referred to is also mentioned in the assessments below.

- c. Ms Fielding has pointed out that the decking has been built just outside of her back door and it is very large and high. She has expressed concern that it is quite intimidating in comparison with the other five gardens on the terrace, all of which are at ground level. She is of the opinion that, if the decking was at ground level, it would not be out of place and would be much more acceptable in appearance.

Comment: This issue is assessed in Section (P) and Appendix A below.

- d. Ms Fielding has expressed concern that, if she was to put her property on the market, the size and height of the decking would deter potential buyers.

Comment: This issue does not have a material bearing upon the Planning aspects of the application.

- e. Mr Senior has commented that the fences and decking at No. 3 are an eyesore that have been built with the structural elements facing outwards and in a generally unfinished looking state. Fences in the surrounding gardens are built with wire netting and movable trellis, making them mostly see-through and unobtrusive.

Comment: This issue is assessed in Section (P) and Appendix A below.

- f. Mr Senior states that the title deeds for numbers 1-6 Academy Terrace identify that there is a right of common use of the stairs at the front of the property, which provides access to Argyle Street. He has expressed concern that the fencing permanently blocks access to the communal stairs and that travelling down the hillside to get around the fence is not an option as this route is extremely steep and is slippery and treacherous when damp.

Comment: This is essentially a civil matter between the parties concerned and does not have a material bearing upon the Planning aspects of the application.

- g. Mr Senior has expressed concern that the fencing permanently damaged the communal stairs without permission.

Comment: This is essentially a civil matter between the parties concerned and does not have a material bearing upon the Planning aspects of the application.

- h. Mr Senior has expressed concern that the fencing blocks access to drainage pipes at the front of No. 2.

Comment: This is essentially a civil matter between the parties concerned and does not have a material bearing upon the Planning aspects of the application.

- i. Mr Senior has stated that the fence at the front of building is erected on property belonging to No. 2 and the construction resulted in permanent damage to concrete & patio slabs belonging to his property.

Comment: This is essentially a civil matter between the parties concerned and does not have a material bearing upon the Planning aspects of the application.

- j. Mr Senior has expressed concern that the decking area severely overlooks the kitchen of No. 2. It looks directly into the window of No. 2 from an elevation of 2-3 metres above and from less than 4.5 metres away. He states that this causes extreme discomfort due to the loss of privacy in his home.

Comment: This issue is assessed in Section (P) and Appendix A below.

- k. Mr Senior has expressed concern that the fencing is more than 3 metres high and, as a result, is blocking light into the kitchen and utility room of No. 2.

Comment: It is considered that the fencing is of a sufficient distance from the windows of the kitchen and utility room to avoid resulting in the loss of daylight and sunlight to a significantly adverse degree.

- l. Mr Senior has stated that badly-performed installation work has undermined an already weak retaining wall and, when this collapses, it may cause injury and will block access to Nos. 1 and 2.

Comment: This is essentially a civil matter between the parties concerned and does not have a material bearing upon the Planning aspects of the application.

- m. Mr Senior has stated that a shed at the front of the building was rebuilt sometime around 2018 and that this was done without Planning Permission. He states that it is constructed partially on property belonging to No. 2 and has pointed out that the current application only appears to address the fencing and decking.

Comment: Based on information to hand, the passage of time since the existing shed was installed is very likely to preclude the Planning Authority from taking any action. Its potential encroachment onto land belonging to No. 2 is essentially a civil matter between the parties concerned and does not have a material bearing upon the Planning aspects of the application.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Impact Assessment Report:** Yes
 No
- (ii) **An Appropriate Assessment under the Conservation (Natural Habitats) Regulations 1994:** Yes
 No
- (iii) **A Design or Design/Access statement:** Yes
 No
- (iv) **A report on the impact of the proposed development eg. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:** Yes
 No
- (v) **Applicant's Supporting Information** Yes No

The applicant has submitted a response to the points of objection, which can be summarised as follows:

- The site is not within the Rothesay Conservation Area

- The gardens slope upwards from the rear of the building towards Academy Road so these are all higher areas in comparison with the main doorways
- No. 4 Academy Terrace has a raised seating area which is the same distance from the back door of No. 3 as the applicant's decking is from No. 4's back door
- The applicant's estate agent commented that the decking had significantly improved what had previously been waste ground
- The decking that was erected in the garden of No. 5 Academy Terrace is now overgrown and unattended and, as such, has an impact on the look of the area
- The applicant has stopped work on the decking until the current application has been determined but it is his intention to have it stained
- In response to the fencing at the front not being finished, both the staining and concreting will be carried out should Planning Permission be granted
- The erection of the fence has had nothing to do with the condition of the access stairs at the front of the building
- The two fences at the top of the garden belonging to No. 4 are both higher than the ones that have been erected at No. 3. It is contended that the reason given by the owner of No. 4 for the fences being erected was that the occupants of No. 2 were allowing their guests to gather at this location, which was annoying the owner's dogs

(H) PLANNING OBLIGATIONS

Is a Section 75 obligation required: Yes No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: Yes No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

National Planning Framework 4 (Adopted 13th February 2023)

Part 2 – National Planning Policy

Sustainable Places

NPF4 Policy 1 – Tackling the Climate and Nature Crises
NPF4 Policy 2 – Climate Mitigation and Adaption
NPF4 Policy 4 – Natural Places
NPF4 Policy 7 – Historic Assets and Places
NPF4 Policy 9 – Brownfield, Vacant and Derelict Land and Empty Buildings
(includes provisions relevant to Greenfield Sites)

Liveable Places

NPF4 Policy 14 – Design, Quality and Place
NPF4 Policy 16 – Quality Homes

Argyll and Bute Local Development Plan (Adopted March 2015)

LDP STRAT 1 – Sustainable Development
LDP DM 1 – Development within the Development Management Zones
LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment
LDP 9 – Development Setting, Layout and Design

Supplementary Guidance to the Argyll and Bute Local Plan 2015 (Adopted March 2016 & December 2016)

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality (APQs)
SG LDP ENV 16(a) – Development Impact on Listed Buildings
SG LDP Sustainable Siting and Design Principles

- (ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 3/2013.**

Argyll and Bute Sustainable Design Guidance 2006
Historic Environment Policy Statement 2019
HES - Managing Change in the Historic Environment

Argyll and Bute Proposed Local Development Plan 2 (November 2019)

The reporters have written to Argyll and Bute Council regarding the Proposed Local Development Plan 2, which is currently at Examination. Due to the status of the revised draft National Planning Framework 4, the reporters are currently determining what, if any, further processes are required as a consequence. Although PLDP2 remains a material consideration, it is now subject to this further assessment against NPF4 policies.

Therefore, it is considered appropriate **not** to attach significant weight to PLDP2 policies during this time i.e. until the consequences of NPF4 policies for the PLDP2 have been assessed by the reporters and the Examination report is issued.

Specific sites in PLDP2 that have not received objections and are not being dealt with at the Examination may continue as strong material considerations, e.g. allocations and potential development areas.

(K) Is the development a Schedule 2 Development not requiring an Environmental Impact Assessment: Yes No

(L) Has the application been the subject of statutory pre-application consultation (PAC): Yes No

(M) Has a Sustainability Checklist been submitted: Yes No

(N) Does the Council have an interest in the site: Yes No

(O) Requirement for a pre-determination hearing: Yes No

The approved Hearing protocol advocates less emphasis than previously on the numbers of representations threshold as a '*trigger*' for a Hearing and more reliance on a criteria based approach in order to '*add value*' to the determination process.

The criteria to be used are:

- Whether the proposal constitutes a justified departure to the local development plan, and/or is a Council Interest Application and the degree of local interest and controversy
- The complexity of technical/material considerations raised
- How up-to-date the Development Plan is, the relevance of the policies to the proposed development and whether the representations are on development plan policy grounds which have recently (ie. within the 5 year life of the Plan) been considered through the development plan process
- The volume of representations and degree of conflict within the local community
- The degree of local interest and controversy on material considerations e.g. the relative size of community affected set against the relative number of representations, and their provenance
- Whether there has been any previous decisions or pre-determination hearing held covering similar issues/material considerations

In this case, objections have been received from four sources; the issues associated with the application are not complex; and National Planning Framework 4 has recently been published.

In view of the above, it is not considered that a Pre-Determination Hearing would add value to the decision-making process and, as such, is not required.

(P)(i) Key Constraints/Designations Affected by the Development:

- Category C Listed Building
- Area of Panoramic Quality

(P)(ii) Soils

Agricultural Land Classification: Unclassified Land

Peatland/Carbon Rich Soils Classification: Class 1
 Class 2
 Class 3
 N/A

Peat Depth Classification: N/A

Does the development relate to croft land? Yes No

Would the development restrict access to croft or better quality agricultural land? Yes No N/A

Would the development result in fragmentation of croft / better quality agricultural land? Yes No N/A

(P)(iii) Woodland

Will the proposal result in loss of trees/woodland? Yes
 No
(If yes, detail in summary assessment)

Does the proposal include any replacement or compensatory planting? Yes
 No details to be secured by condition
 N/A

(P)(iv) Land Status / LDP Settlement Strategy

Status of Land within the Application Brownfield
 Brownfield Reclaimed
 Greenfield

ABC LDP 2015 Settlement Strategy Main Town Settlement Area
LDP DM 1 Key Rural Settlement Area

- Village/Minor Settlement Area
- Rural Opportunity Area
- Countryside Zone
- Very Sensitive Countryside Zone
- Greenbelt

ABC LDP 2015 N/A

Allocations/PDAs/AFAs etc:

(P)(v) Summary assessment and summary of determining issues and material considerations

Planning Permission is sought for the retention of works that have been carried out within the curtilage of No. 3 Academy Terrace, Rothesay, Isle of Bute. These are:

- The erection of raised timber decking measuring 4.6 metres in length by 3.5 metres in breadth within part of the rear garden
- The erection of timber balustrading along the north-eastern and north-western edges of the decking
- The erection of timber close-boarded fencing partly enclosing the existing patio area; the south-eastern edge of the decking; and the boundary of the property at ground level
- The erection of fencing enclosing part of the front garden

Academy Terrace is a Category C Listed Building that dates from the early 20th century and is a symmetrical gabled terrace set on a sloping site comprising six, two and three-storey, 2-bay dwellinghouses.

Development Plan Policies and Supplementary Guidance and Historic Environment Scotland’s publications seek to ensure that developments affecting the setting of a Listed Building should preserve its character, and its special architectural or historic interest

Academy Road runs along the south western boundary of Academy Terrace’s curtilage and is at a higher level. The road looks on to the building’s rear elevation and there is a set of steps that runs centrally through the back gardens down to the property. Two footpaths branch off diagonally from the steps to either end of the building.

The decking and fencing that have been erected within the rear garden area of No. 3 have a significantly adverse impact on the setting of Academy Terrace by virtue of their relatively close proximity to the main building; their central position in relation to the south western facade of the main building; and their substantial vertical and horizontal scale. These result in the diminution in one of the key views towards the building from Academy Road and the visual intrusion into the relatively open and undeveloped character of the rear garden areas.

The front elevation of Academy Terrace faces in the direction of the water and it occupies an elevated position above Argyle Street approximately 70 metres from the rear of the buildings at street level. Pedestrian access from Argyle Street

(which was already relatively steep) looks to have diminished considerably over the years, with the path and set of steps becoming overgrown.

The fencing to the front that is the subject of the current application is not visible to the general public and it has been stained in a forest green colour since it was initially erected, which has mitigated its appearance to a certain degree. However, it represents a solid form of boundary treatment that is visually incongruous in the context of the relatively open front gardens at Academy Terrace and, therefore, is considered to detract from the setting of the building.

Development Plan Policies and Supplementary Guidance seek to ensure that householder developments do not have a detrimental effect on neighbouring properties in terms of physical impact, overshadowing or overlooking

The decking that has been erected is 3 metres closer to the building than the patio area that has been in existence for some time. The decking detracts from the privacy and amenity of No. 2 Academy Terrace to a significantly adverse degree as it constitutes an elevated external living space in association with No. 3 Academy Terrace that would allow the congregation of people for prolonged periods with a relatively direct view into the ground floor kitchen window and the upper floor bedroom window of the neighbouring dwellinghouse at a distance of approximately 5 metres.

For the above reasons, the application is contrary to the relevant Policies and Supplementary Guidance contained in National Planning Framework 4 and the Argyll and Bute Local Development Plan 2015 and the guidance provided by Historic Environment Scotland in its publication 'Managing Change in the Historic Environment: Setting'.

(Q) Is the application consistent with the Development Plan: Yes No

(R) Reasons why Planning Permission Should be Refused:

Academy Terrace is a Category C Listed Building that dates from the early 20th century and is a symmetrical gabled terrace set on a sloping site comprising six, two and three-storey, 2-bay dwellinghouses.

Academy Road looks on to the building's rear elevation and there is a set of steps that runs centrally through the back gardens down to the property. Two footpaths branch off diagonally from the steps to either end of the building.

The decking and fencing that have been erected within the rear garden area of No. 3 have a significantly adverse impact on the setting of Academy Terrace by virtue of their relatively close proximity to the main building; their central position in relation to the south western facade of the main building; and their substantial vertical and horizontal scale. These result in the diminution in one of the key views towards the building from Academy Road and the visual intrusion into the relatively open and undeveloped character of the rear garden areas.

The front elevation of Academy Terrace faces in a north easterly direction towards the water and it occupies an elevated position above Argyle Street approximately 70 metres from the rear of the buildings at street level. Pedestrian access from

Argyle Street (which was already relatively steep) looks to have diminished considerably over the years, with the path and set of steps becoming overgrown.

The fencing that has been erected around part of the north-eastern curtilage of No. 3 is considered to be unacceptable as it has a significantly adverse impact on the setting of Academy Terrace by virtue of its solid form and appearance that detracts from one of the key characteristics of the property, which is the relatively open nature of its front garden areas.

The decking that has been erected is 3 metres closer to the building than the patio area that has been in existence for some time. The decking detracts from the privacy and amenity of No. 2 Academy Terrace to a significantly adverse degree as it constitutes an elevated external living space in association with No. 3 Academy Terrace that would allow the congregation of people for prolonged periods with a relatively direct view into the ground floor kitchen window and the upper floor bedroom window of the neighbouring dwellinghouse at a distance of approximately 5 metres.

For the above reasons, the application is contrary to the relevant Policies and Supplementary Guidance contained in National Planning Framework 4 and the Argyll and Bute Local Development Plan 2015 and the guidance provided by Historic Environment Scotland in its publication 'Managing Change in the Historic Environment: Setting'.

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Environment Scotland:

Yes No

Author of Report: Steven Gove **Date:** 01.06.2023

Reviewing Officer: Howard Young **Date:** 06.06.2023

Fergus Murray
Head of Development & Economic Growth

GROUNDS FOR REFUSAL RELATIVE TO APPLICATION NUMBER: 22/01611/PP

1. Academy Terrace is a Category C Listed Building in Rothesay that is a symmetrical gabled terrace set on a sloping site comprising six, two and three-storey, 2-bay dwellinghouses.

Academy Road looks on to the building's rear elevation and there is a set of steps that runs centrally through the back gardens down to the property. Two footpaths branch off diagonally from the steps to either end of the building.

The decking and fencing that have been erected within the rear garden area of No. 3 have a significantly adverse impact on the setting of Academy Terrace by virtue of their relatively close proximity to the main building; their central position in relation to the south western facade of the main building; and their substantial vertical and horizontal scale. These result in the diminution in one of the key views towards the building from Academy Road and the visual intrusion into the relatively open and undeveloped character of the rear garden areas.

The front elevation of Academy Terrace faces in a north easterly direction towards the water and it occupies an elevated position above Argyle Street approximately 70 metres from the rear of the buildings at street level. Pedestrian access from Argyle Street (which was already relatively steep) looks to have diminished considerably over the years, with the path and set of steps becoming overgrown.

The fencing that has been erected around part of the north-eastern curtilage of No. 3 is considered to be unacceptable as it has a significantly adverse impact on the setting of Academy Terrace by virtue of its solid form and appearance that detracts from one of the key characteristics of the property, which is the relatively open nature of its front garden areas.

In view of the foregoing, the application is considered to be contrary to the provisions of the following:

National Planning Framework 4 (2023)

NPF4 Policy 7 – Historic Assets and Places

NPF4 Policy 14 – Design, Quality and Place

NPF 4 Policy 16 – Quality Homes

Argyll and Bute Local Plan 2015

Policy LDP 3 – Supporting the Protection Conservation and Enhancement of our Environment

Policy LDP 9 – Development Setting, Layout and Design

Supplementary Guidance policy SG LDP ENV 16(a) – Development Impact on Listed Buildings

Supplementary Guidance policy SG LDP Sustainable Siting and Design Principles

Historic Environment Scotland Published Guidance

'Managing Change in the Historic Environment: Setting' (2020)

2. The decking that has been erected is 3 metres closer to the building than the patio area that has been in existence for some time. The decking detracts from the privacy and amenity of No. 2 Academy Terrace to a significantly adverse degree as it constitutes an elevated external living space in association with No. 3 Academy Terrace that would allow the congregation of people for prolonged periods with a relatively direct view into the ground floor kitchen window and the upper floor bedroom window of the neighbouring dwellinghouse at a distance of approximately 5 metres.

In view of the foregoing, the application is considered to be contrary to the provisions of the following:

National Planning Framework 4 (2023)

NPF 4 Policy 16 – Quality Homes

Argyll and Bute Local Plan 2015

Policy LDP 9 – Development Setting, Layout and Design

Supplementary Guidance policy SG LDP Sustainable Siting and Design Principles

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 22/01611/PP

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

Development Plan

NPF4 Policy 1 seeks to prioritise the climate and nature crises in all decisions and it requires to be applied together with other policies in NPF4. Guidance from the Scottish Government advises that it is for the decision maker to determine whether the significant weight to be applied tips the balance for or against a proposal on the basis of its positive or negative contribution to climate and nature crises.

NPF4 Policy 2 seeks to ensure that new development proposals will be sited to minimise lifecycle greenhouse gas emissions as far as possible, and that proposals will be sited and designed to adapt to current and future risks from climate change. Guidance from the Scottish Government confirms that at present there is no single accepted methodology for calculating and / or minimising emissions. The emphasis is on minimising emissions as far as possible, rather than eliminating emissions.

NPF4 Policy 9 seeks to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.

For the purposes of the Argyll and Bute Local Development Plan (LDP) 2015, the application site is located within Rothesay (which is one of Argyll and Bute's Main Towns) and Policies LDP STRAT 1 and LDP DM 1 both promote sustainable levels of growth by steering a wide range of scales of development to this type of settlement.

Assessment

The application relates to small-scale, householder development located in the residential curtilage of a dwellinghouse (a brownfield site) that is within the main settlement on the Isle of Bute.

In this regard, the development is considered to accord with the relevant Development Plan Policies and Supplementary Guidance relative to settlement strategy.

B. Location, Nature and Design of Proposed Development (Including Impact upon Natural and Built Environment and Residential Privacy and Amenity)

Development Plan

NPF4 Policy 4 seeks to protect, restore and enhance natural assets making best use of nature-based solutions.

Policy 4(a) does not support developments that, by virtue of type, location or scale, would have an unacceptable impact on the natural environment.

NPF4 Policy 7 seeks to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.

Policy 7(c) requires that developments affecting the setting of a Listed Building should preserve its character, and its special architectural or historic interest.

NPF4 Policy 14 seeks to encourage, promote and facilitate well-designed development that makes successful places by taking a design-led approach and applying the Place Principle.

Policies 14(a) and 14(b) seek to improve the quality of an area irrespective of location and advocate the adoption of the six qualities of successful places in the formulation of developments.

NPF4 Policy 16 seeks to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.

Policy 16(g) states that householder developments will be supported where they do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials, and they do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

The above NPF4 Policies are underpinned in the Argyll and Bute Local Development Plan 2015 by Policy LDP 3 (protection, conservation and, where possible, enhancement of the built, human and natural environment); Policy LDP 9 (appropriate siting, positioning, layout, density and design of new development); SG LDP ENV 13 (impact on Area of Panoramic Quality); SG LDP ENV 16(a) (impact on setting of Listed Building); and the ‘*Sustainable Siting and Design Principles*’.

Site and Surroundings

Academy Terrace is a Category C Listed Building and, based on the information contained in the listing record from Historic Environment Scotland (HES), it dates from the early 20th century and is a symmetrical gabled terrace set on a sloping site comprising six, two and three-storey, 2-bay dwellinghouses. The principal external finish is a whitewashed harl with half-timbering at first floor level on the front (north east-facing) elevation.

The ‘*Statement of Special Interest*’ part of the HES record states:

“Despite replacement glazing, Academy Terrace remains a complete entity. An unusual architectural style for Rothesay, its presence is only enhanced by its commanding hillside position. A central stair leads directly from the terrace through a pend to Argyle Street below.”

Academy Road runs along the south western boundary of Academy Terrace’s curtilage and is at a higher level. This road looks on to the building’s rear elevation and there is a set of steps that runs centrally through the back gardens down to the property. Two footpaths branch off diagonally from the steps to either end of the building.

The front elevation of Academy Terrace faces in a north easterly direction towards the water and, as mentioned in the HES record, it occupies an elevated position above Argyle Street approximately 70 metres from the rear of the buildings at street level. Pedestrian access from Argyle Street (which was already relatively steep) looks to have diminished considerably over the years, with the path and set of steps becoming overgrown.

Development

The current application seeks retrospective Planning Permission for the following works:

- The erection of raised timber decking measuring 4.6 metres in length by 3.5 metres in breadth within part of the rear garden of No. 3
- The erection of timber balustrading along the north-eastern and north-western edges of the decking
- The erection of timber close-boarded fencing partly enclosing the existing patio area; the south-eastern edge of the decking; and the boundary of the property at ground level
- The erection of fencing enclosing part of the front garden of No. 3

Assessment

The site is located within the Bute Area of Panoramic Quality; however, given the scale and location of the householder development, it is not considered that there is any substantial impact on the wider landscape.

Impact of Decking and Fencing on the Setting of Academy Terrace (Category C Listed Building)

As set out above, the policies and guidance in NPF4 and the LDP principally seek to ensure that any developments affecting the setting of a Listed Building should preserve its character and its special architectural or historic interest.

Historic Environment Scotland (HES) has also produced guidance on how to assess the impact of a development on the setting of a Listed Building (*Managing Change in the Historic Environment: Setting*) and they advocate a three-stage approach: identify the historic assets that might be affected by the development; define and analyse the setting by establishing how the surroundings contribute to the ways in which the historic asset or place is understood, appreciated and experienced; and evaluate the potential impact of the works on the setting, and the extent to which any negative impacts can be mitigated.

Some of the effects they refer to include:

- Whether key views to or from the historic asset or place are interrupted
- Whether the development would dominate or detract in a way that affects an appreciation of the Listed Building
- The visual impact of the development relative to the scale of the Listed Building and its setting
- The ability of the setting to absorb new development without eroding its key characteristics

In terms of the decking and fencing within the rear garden, the applicant and some of the objectors have mentioned that a deck already exists. Planning Permission (ref: 17/02592/PP) was approved in 2017 for works that had been carried out in relation to No. 5 Academy Terrace, including the erection of timber decking, balustrading and fencing in the rear garden.

Whilst it was acknowledged in the Report of Handling on application 17/02592/PP that the rear decking and associated fencing were in full view from Academy Road, it was considered that they did not detract from the quality and character of the Listed Building as they were a sufficient distance from the main property and weren't located directly in front of it. The decking and fencing remain but have now become relatively overgrown.

The decking and fencing that have been erected within the rear garden area of No. 3 have a significantly adverse impact on the setting of Academy Terrace by virtue of their relatively close proximity to the main building; their central position in relation to the south western facade of the main building; and their substantial vertical and horizontal scale. These result in the diminution in one of the key views towards the building from Academy Road and the visual intrusion into the relatively open and undeveloped character of the rear garden areas.

In respect of the fencing within part of the front garden of No. 3, the application referred to above from 2017 (ref: 17/02592/PP) included the erection of timber post and wire fencing in the front garden of No.5.

The Report of Handling on this application explained that the *“fencing to the front garden is not visible to the general public and is a subtle addition to the property. Although the curtilage to these types of properties have been generally left open in recent years, it has become more desirable to fence off areas for security, privacy etc. In this instance, the fence cannot be seen and it provides a reasonable addition to the property.”*

The fencing that is the subject of the current application is also not visible to the general public and it has been stained in a forest green colour since it was initially erected, which has mitigated its appearance to a certain degree. However, unlike the post and wire fencing approved at No. 5, it is considered to have a significantly adverse impact on the setting of Academy Terrace by virtue of its solid form and appearance that detracts from one of the key characteristics of the property, which is the relatively open nature of its front garden areas.

The applicant has mentioned that there are other fences in properties 4, 5 and 6 but, other than the post and wire fence approved in 2017, there is no record of approval having been sought for these and, as such, it is not considered that they represent a compelling precedent for accepting the fencing at No. 3.

Impact of Decking on Privacy and Amenity of Adjoining Properties

As mentioned above, NPF4 Policy 16(g) seeks to ensure that householder developments do not have a detrimental effect on neighbouring properties in terms of physical impact, overshadowing or overlooking

This is underpinned in the Argyll and Bute Local Development Plan 2015 where the *‘Sustainable Siting and Design Principles’* state that alterations and extensions to buildings will not be approved where they *“significantly affect the amenity enjoyed by the occupants of adjoining properties, taking into account sunlight, daylight and privacy”*.

Part of the assessment of the effect on privacy and amenity is taking into account the historical situation that was in place prior to the present works commencing and No. 3 has a patio area that appears to have been in existence for some time.

The decking that has been erected is 3 metres closer to the building and there is now an elevated external living space in association with No. 3 that would allow the congregation of people for prolonged periods with a relatively direct view into the ground floor kitchen window and the upper floor bedroom window of No. 2 Academy Terrace at a distance of

approximately 5 metres. The owner of No. 2 has stated in his objection that the height and proximity of the decking causes “*extreme discomfort due to loss of privacy*” in his home.

Ms Fielding in No. 4 has also referred to the decking as “*intimidating*” in comparison with the other rear garden areas. While acknowledging her concern, it is not considered that the position of the decking in relation to her property causes such a significantly adverse effect in terms of looking directly into windows serving habitable rooms as is the case with No. 2.

Conclusion

In bringing together all of the above, the decking and fencing within the rear garden area are considered to be unacceptable for the following reasons:

- i. They have a significantly adverse impact on the setting of Academy Terrace (a Category C Listed Building) by virtue of their relatively close proximity to the main building; their central position in relation to the elevation of the main building; and their substantial vertical and horizontal scale. These result in the diminution in one of the key views towards the building from Academy Road and the visual intrusion into the relatively open and undeveloped character of the rear garden areas
- ii. The decking detracts from the privacy and amenity of No. 2 Academy Terrace to a significantly adverse degree as it constitutes an elevated external living space in association with No. 3 Academy Terrace that would allow the congregation of people for prolonged periods with a relatively direct view into the ground floor kitchen window and the upper floor bedroom window of the neighbouring dwellinghouse at a distance of approximately 5 metres

The fencing that has been erected around part of the north-eastern curtilage of No. 3 is considered to be unacceptable as it has a significantly adverse impact on the setting of Academy Terrace (a Category C Listed Building) by virtue of its solid form and appearance that detracts from one of the key characteristics of the property, which is the relatively open nature of its front garden areas.

For these reasons, the application is contrary to the relevant Policies and Supplementary Guidance contained in National Planning Framework 4 and the Argyll and Bute Local Development Plan 2015 and the guidance provided by Historic Environment Scotland in its publication ‘*Managing Change in the Historic Environment: Setting*’.