

**Report To:** The Planning Board

**Date:** 1 September 2021

**Report By:** Interim Service Director  
Environment & Economic Recovery

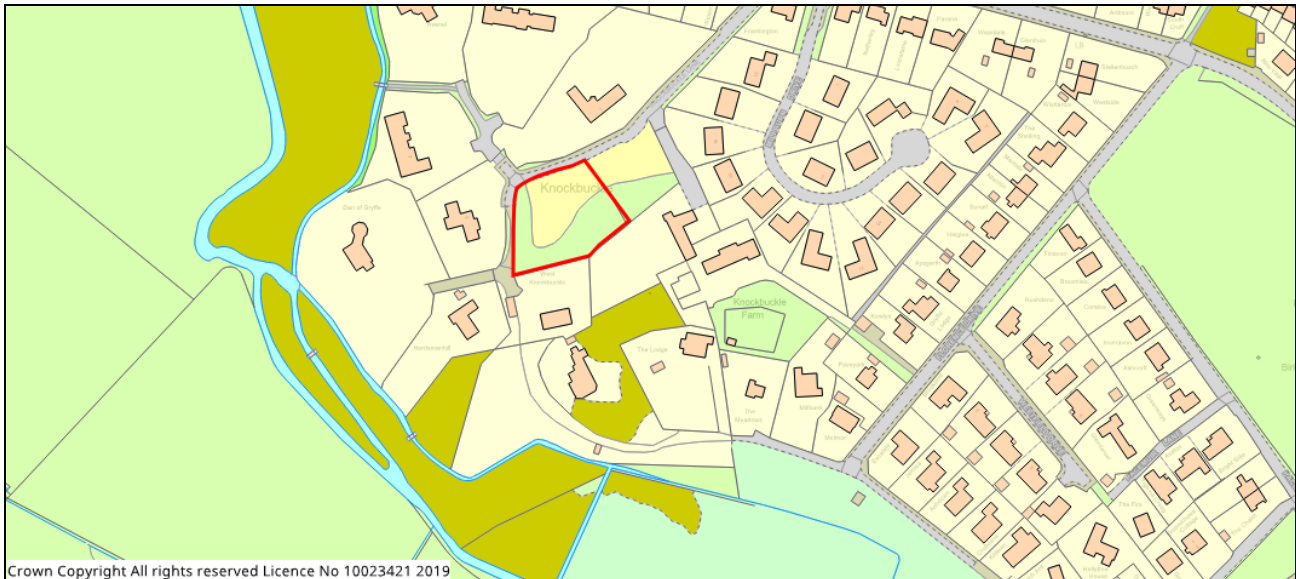
**Report No:** 20/0246/IC  
Plan 09/21

**Local Application  
Development**

**Contact  
Officer:** David Ashman

**Contact No:** 01475 712416

**Subject:** Notification of Appeal Decision by Scottish Ministers: Detached garden room  
in garden grounds of existing dwelling house (in retrospect) at  
6 Knockbuckle Lane, Kilmacolm



## SUMMARY

- Planning permission was refused by the Planning Board at its meeting in February 2021.
- The applicant appealed the decision to the Scottish Ministers and sought an award of costs.
- The appeal has been UPHeld but the claim of costs DISMISSED.

The appeal and costs decision letters may be viewed at:  
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?ID=121552>

## **INTRODUCTION**

In February 2021 the Planning Board, following a site visit, decided to refuse planning permission for the siting of a detached garden room in the garden grounds of the existing dwelling house at 6 Knockbuckle Lane, Kilmacolm. The application was considered in retrospect. The reasons for refusal were:

1. The detached garden room contradicts Local Plan Policy 1 'Creating Successful Places – Safe and Pleasant', as the garden room's unexpected domineering position on the skyline detracts from the character of the area and does not integrate well with the surrounding development.
2. The steep access route to the garden room is unsafe in contradiction to the Local Plan Policy 1 'Creating Successful Places – Welcoming – make buildings legible and easy to access'.
3. The garden room has a detrimental impact on the amenity, character and appearance of the area contrary to Policy D 'Residential Areas' of the Council's Planning Policy Statement on 'Our Homes and Communities'.

The Planning Board was advised at its meeting in June 2021 that an appeal over the refusal of planning permission had been submitted to the Scottish Ministers and that expenses were being sought on the grounds that the Council had not determined the application on legitimate planning grounds.

## **NOTIFICATION OF THE APPEAL DECISION**

Mike Shiel was the Reporter appointed by the Scottish Ministers to determine the appeal.

In his decision the Reporter considers that the building is of contemporary design, contrasting with the associated house which, whilst being modern, is of traditional appearance. He nevertheless also considers that the juxtaposition of styles and materials is not inherently unacceptable.

With regard to the first reason for refusal he considers that despite its elevated position, it does not rise above the roof of the house and he is not persuaded that its visual impact is overly obtrusive or overbearing, or that its overall effect on the character of the residential area is harmful.

On the matter of access, the second reason for refusal, he considers that the means of access is a matter for the owners of the property and not for the planning authority. Indeed, in his letter in regard of the expenses claim he considers that the Council's behaviour was to a certain extent unreasonable in introducing this irrelevant reason for refusal of permission.

With regard to the final reason for refusal he concludes that the proposal was not contrary to Policy D given his conclusion on the first ground of appeal.

None of the other material considerations, which primarily consisted of the representations received by the Council and one further one received by him on appeal, convinced him the application should not be supported.

He therefore concludes that the appeal be upheld and planning permission be granted subject to 4 conditions as follows:

1. Full details, including a sample, of an alternative cladding material shall be submitted to and approved in writing by the planning authority within 21 days of the date of this permission; and the alternative cladding shall thereafter be fitted within a further 21 days from that approval unless a variation is approved in writing by the said authority in either instance.

*Reason: To ensure that the cladding of the building complies with the current Building Regulations.*

2. Full details of the drainage arrangements for the building shall be submitted to and approved in writing by the planning authority within 21 days of the date of this permission and shall, thereafter be fully implemented within a further 1 days from that approval, unless a variation is approved in writing by the said authority in either instance.

*Reason: To ensure that all surface water shall be contained within the application site boundary and that drainage is in accordance with the current Building Regulations; and to ensure that neighbouring properties are not adversely impacted by surface water.*

3. The opaque film fitted to the side and front windows of the building nearest to the property to the north-east (7 Knockbuckle Lane) shall be retained at all times unless an alternative means of screening has been submitted to and approved in writing by the planning authority and thereafter implemented as so approved.

*Reason: To protect the privacy of adjacent properties.*

4. The existing hedge planted along the length of the upper garden level of the application site adjacent to 7 Knockbuckle Lane shall be retained at all times unless an alternative form of boundary treatment has been submitted to and approved in writing by the planning authority, and thereafter implemented as so approved.

*Reason: To protect the privacy of the adjacent property.*

With regard to the expenses claim he concludes that although the Council acted to some extent in an unreasonable manner this has not resulted in a liability for expenses and he therefore declined to make any award.

Stuart Jamieson  
Interim Service Director  
Environment & Economic Recovery

Local Government (Access to Information) Act 1985 – Background Papers. For further information please contact David Ashman on 01475 712416