

# Public Document Pack



To: Councillor Boulton, Chairperson; and Councillors Bell and Henrickson.

Town House,  
ABERDEEN 13 January 2022

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet remotely on **FRIDAY, 21 JANUARY 2022 at 4.30 pm.**

**Please note that members will undertake a site visit of 13 Tollohill Place, at 2.00pm.**

**Members of the public can observe the proceedings of the meeting using the Microsoft Teams Link [here](#), however cameras and microphones must be switched off throughout.**

FRASER BELL  
CHIEF OFFICER - GOVERNANCE

### **BUSINESS**

1.1 Procedure Notice (Pages 5 - 6)

**COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING**

**MEMBERS PLEASE NOTE THAT THE FOLLOWING LINK WILL TAKE YOU TO THE LOCAL DEVELOPMENT PLAN.**

[Local Development Plan](#)

**TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS**

**PLANNING ADVISER - GAVIN EVANS**

- 2.1 Extract of Minute of Meeting of Local Review Body Meeting of 17 November 2021 (Pages 7 - 10)
- 2.2 13 Tollohill Place - Erection of Shed and Pergola to Rear (Retrospective) - 210913/DPP (Pages 11 - 30)
- 2.3 Delegated Report, Original Application Form, Decision Notice and Letters of Representation (if there are any) (Pages 31 - 52)  
Members, please note that all plans and supporting documents relevant to the review can be viewed online [here](#) and by entering the application reference number 210913.
- 2.4 Planning Policies Referred to in Documents Submitted (Pages 53 - 54)
- 2.5 Notice of Review with Supporting Information Submitted by Applicant / Agent (Pages 55 - 62)  
Members, please note that all plans and supporting documents relevant to the review can be viewed online [here](#) and by entering the application reference number 210913.
- 2.6 Determination - Reasons for Decision  
Members, please note that reasons should be based against Development Plan policies and any other material considerations.
- 2.7 Consideration of Conditions to be Attached to the Application - if Members are Minded to Over-Turn the Decision of the Case Officer

### **CONFIDENTIAL INFORMATION**

**Items to be heard in private and treated as confidential information in terms of Section 50A(3)(b) of the Local Government (Scotland) Act 1973.**

- 2.8 Additional Information Requested by the Local Review Body Members on 17 November 2021 (Pages 63 - 80)

Website Address: [aberdeencity.gov.uk](http://aberdeencity.gov.uk)

Should you require any further information about this agenda, please contact Mark Masson on [mmasson@aberdeencity.gov.uk](mailto:mmasson@aberdeencity.gov.uk) / tel 01224 522989

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

### PROCEDURE NOTE

#### GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Once a notice of review has been submitted interested parties (defined as statutory consultees or other parties who have made, and have not withdrawn, representations in connection with the application) will be consulted on the Notice and will have the right to make further representations within 14 days.  
Any representations:
  - made by any party other than the interested parties as defined above (including those objectors or Community Councils that did not make timeous representation on the application before its delegated determination by the appointed officer) or
  - made outwith the 14 day period representation period referred to abovecannot and will not be considered by the Local Review Body in determining the Review.
5. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
6. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
  - (a) written submissions;
  - (b) the holding of one or more hearing sessions;
  - (c) an inspection of the site.

7. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
8. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

#### DETERMINATION OF REVIEW

9. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.
10. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-
 

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
11. In coming to a decision on the review before them, the LRB will require:-
  - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
  - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
  - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
12. In determining the review, the LRB will:-
  - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
  - (b) overturn the appointed officer’s decision and approve the application **with or without appropriate conditions**.
13. The LRB will give clear reasons for its decision. The Committee clerk will confirm these reasons with the LRB, at the end of each case, in recognition that these will require to be intimated and publicised in full accordance with the regulations.

## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

ABERDEEN, 17 November 2021. Minute of Meeting of the LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL. Present:- Councillor Boulton, Chairperson; and Councillors Bell and Henrickson.

### **13 TOLLOHILL PLACE - ERECTION OF SHED AND PERGOLA TO REAR (RETROSPECTIVE) - 210913/DPP**

The LRB then considered the second request for a review to evaluate the decision taken by an appointed officer under the Council's Scheme of Delegation to refuse the application for the erection of a shed and pergola to the rear (retrospective) of 13 Tollohill Place, Aberdeen, Planning Reference number 210913/DPP.

The Chairperson advised that Mr Gavin Evans would again be acting as the Planning Adviser to the Body in the following case under consideration this day and reiterated that although the Planning Adviser was employed by the planning authority, he had not been involved in any way with the consideration or determination of the application under review and was present to provide factual information and guidance to the Body only. She emphasised that the officer would not be asked to express any view on the proposed application.

In relation to the application, the LRB had before it (1) a delegated report by the Appointed Officer, Aberdeen City Council; (2) an application dated 22 June 2021; (3) the decision notice dated 24 August 2021; (4) links to the plans showing the proposal and planning policies referred to in the delegated report; and (5) the Notice of Review submitted by the applicant's agent.

The LRB was then addressed by Mr Evans who advised that the review had been submitted with all necessary information within the time limit of three months following the decision of the appointed officer.

Mr Evans then described the site advising that it was a triangular residential plot, located on the corner of Tollohill Place and Tollohill Crescent. The site comprised a two storey, semi-detached dwellinghouse and its associated front and rear curtilage. The dwelling fronted Tollohill Place and adjoined 12 Tollohill Crescent to the south-west (RHS when looking from street). There were lockup garages over the rear boundary. The dwelling sat elevated above street level and was served by a driveway and a single garage along the north-east boundary. In addition, the property had previously been extended to the rear by way of a single storey extension which projected c.3.9m from the rear wall of the original property. Beyond this extension, a partially screened pergola had been erected and at the far end of the plot a shed had been constructed. Both the pergola and shed had been erected without planning permission.

Mr Evans outlined the planning history and proposal for Detailed Planning Permission which was sought retrospectively for the erection of the existing pergola and shed. The pergola projected c.4.2m from the rear of the single storey extension, c.5.6m wide and c.2.6m high at highest point. It was constructed of timber with a perspex roof and canvas curtains to each side. The shed was located at the far end of the rear garden and had

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been constructed to fit with the shape of the site. It measured a maximum 6.6m in width and 6.9m in length, extending along both boundaries, and had an overall height of 2.5m. It was constructed of timber with canvas curtains to the front and had a flat felt roof, which incorporated two flues. The officer's report highlighted that submitted photos indicated that the shed was utilised as some form of home bar. It was noted that if this was for domestic use, it would likely not involve a material change of use in planning terms. He indicated that the Appointed Officer's reasons for refusal stated in the decision notice was as follows:-

- overdevelopment of the site compared the pergola to an extension and highlighted that the footprint of the original dwelling would more than double;
- Pergola and shed, when combined with existing development, resulted in 71.8% of the rear curtilage being covered by development, and was therefore in conflict with the Householder Development Guide Supplementary Guidance;
- resulted in a disproportionately small area of private, undeveloped garden ground, which was incongruous with the established pattern of development and the character of the surrounding area;
- Pergola and shed resulted in development projecting along almost the entirety of the south western boundary shared with 12 Tollohill Crescent, with resultant adverse impact on outlook and amenity;
- conflicted with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the Aberdeen Local Development Plan (ALDP); associated Householder Development Supplementary Guidance and equivalent policies of the proposed ALDP; and
- No material planning considerations that warrant approval in this instance.

Mr Evans outlined the key points from the appellant's Notice of Review as follows:-

- argued that the pergola and shed individually would fall under permitted development rights, if not for the 'developed' area at the rear of the house exceeding 50%;
- The pergola was built to facilitate a member of the household who was suffering from mental health problems and found it impossible to leave the house. It was built to afford privacy, while still being able to access the rear garden and get outside for fresh air and to help alleviate the mental health issues suffered;
- Disputes the appointed officer's inclusion of a garage to the side of the property within a calculation of the developed area to the rear. Put forward alternative calculations showing that the proportion of developed rear curtilage was less than stated, and that the developed area of the entire plot would be less than 50%;
- Both structures were free standing and did not have permanent foundations and were demountable;
- The pergola structure was open on 3 sides, the shed being open at the front. The rear 'garden' area was entirely slabbed, similar to several other properties in the surrounding area;
- contended that the impact to number 12 Tollohill Crescent would not be significant due to the orientation of the gardens (south east facing) these structures did not block out any light to the adjoining property, with the pergola being open on 3 sides, with a Perspex roof which allowed daylight to pass through. Neither

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structure was considered to result in adverse impact on privacy, daylight or general amenity of any neighbouring properties;

- the development was entirely to the rear of the property, and could not be seen from the street side; and
- the barbecue was not used any more frequently than any of the other neighbouring properties and any smoke was directed through a flue at high level, resulting in less impact on neighbours than usual domestic use of a barbecue.

The LRB heard from Ms Lisa Christie, Legal Adviser who made reference to the duties under Section 149 of the Equality Act 2010.

In terms of consultee responses, Mr Evans advised that the Council's Environmental Health Team had no objection but had requested that an advisory be attached to the grant of consent regarding the material burned.

No response had been received from Kincorth and Leggart Community Council and there were no letters of representation submitted.

Mr Evans advised that the applicant had expressed the view that an inspection of the property to which the review relates should be undertaken.

**At this point in the proceedings, the LRB considered whether they had sufficient information before them to proceed to determine the review. The LRB (1) requested that evidence be obtained from the applicant by way of a GP letter in relation to the extent of the issues experienced by the member of the household; (2) sought confirmation as to how the planning authority took account of the public sector equality duty under the Equality Act 2010 in determining the application; and (3) that a site visit be held prior to determining the review.**

The review under consideration was therefore adjourned for further information to be provided and for a site visit to be conducted in due course.

- **COUNCILLOR MARIE BOULTON, Chairperson.**

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# LOCAL REVIEW BODY

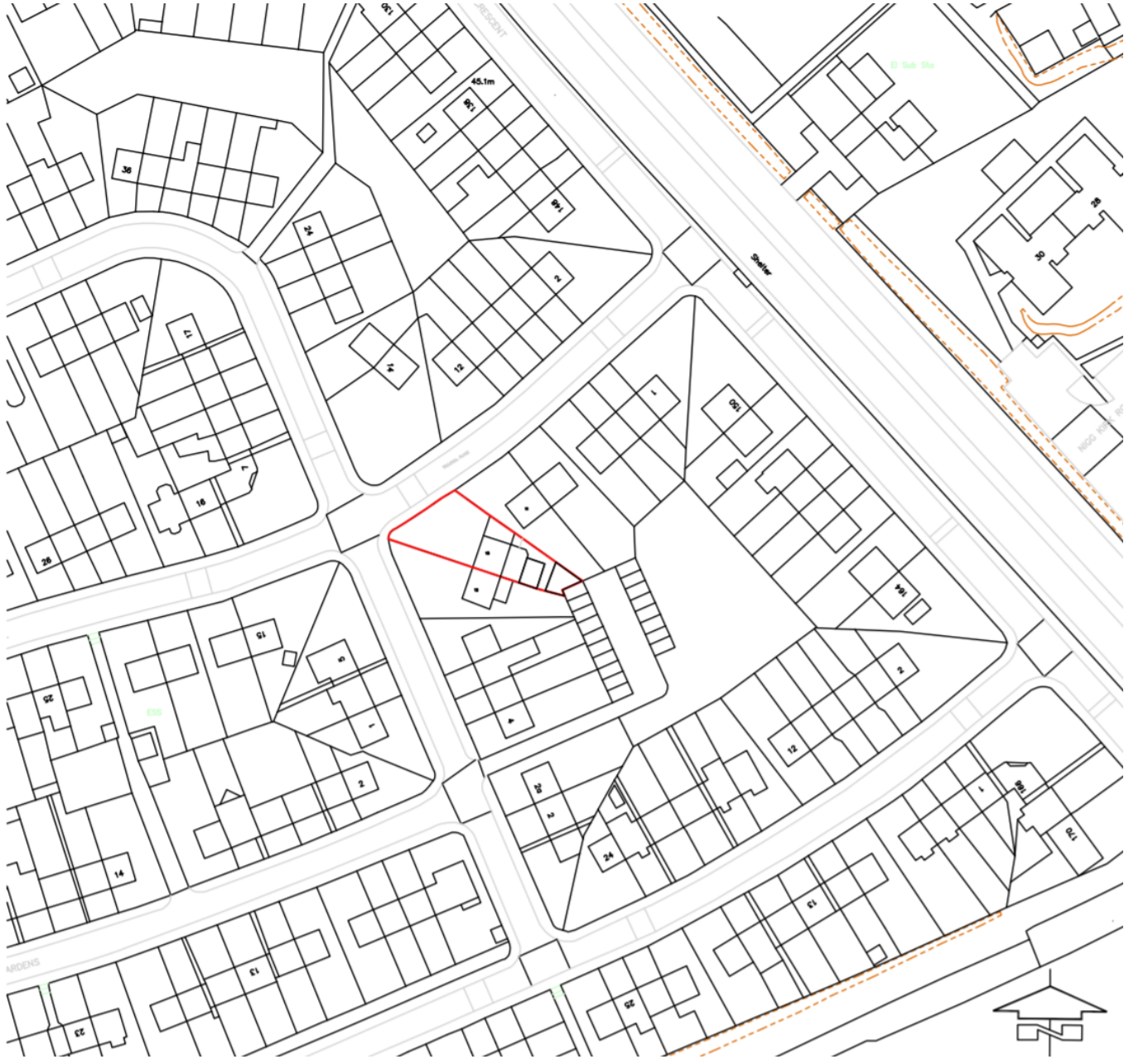


210913/DPP– Review against refusal of planning permission for:

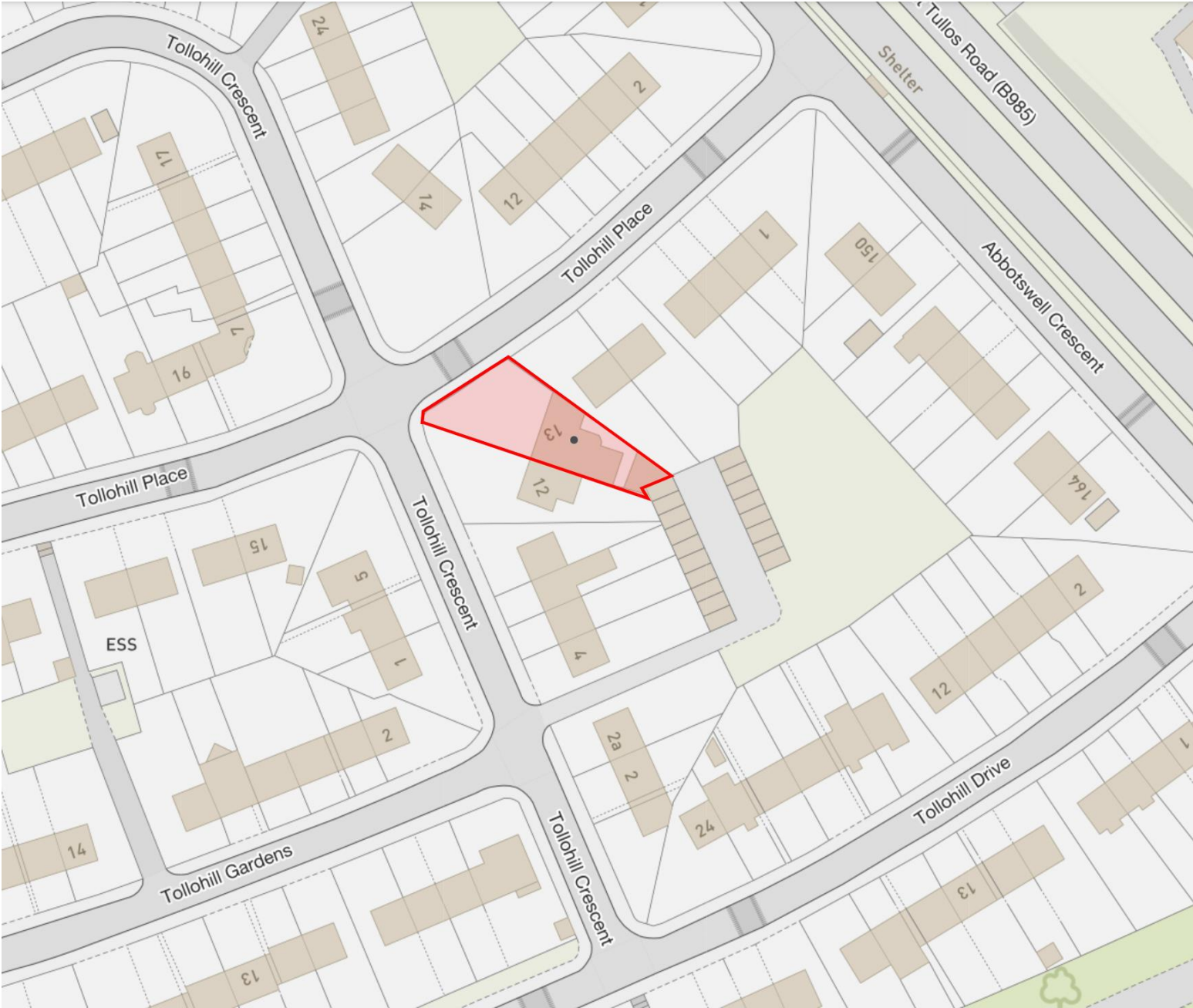
Erection of shed and pergola to rear (retrospective)

13 Tollohill Place, Aberdeen

# Location Plan



# Location – GIS



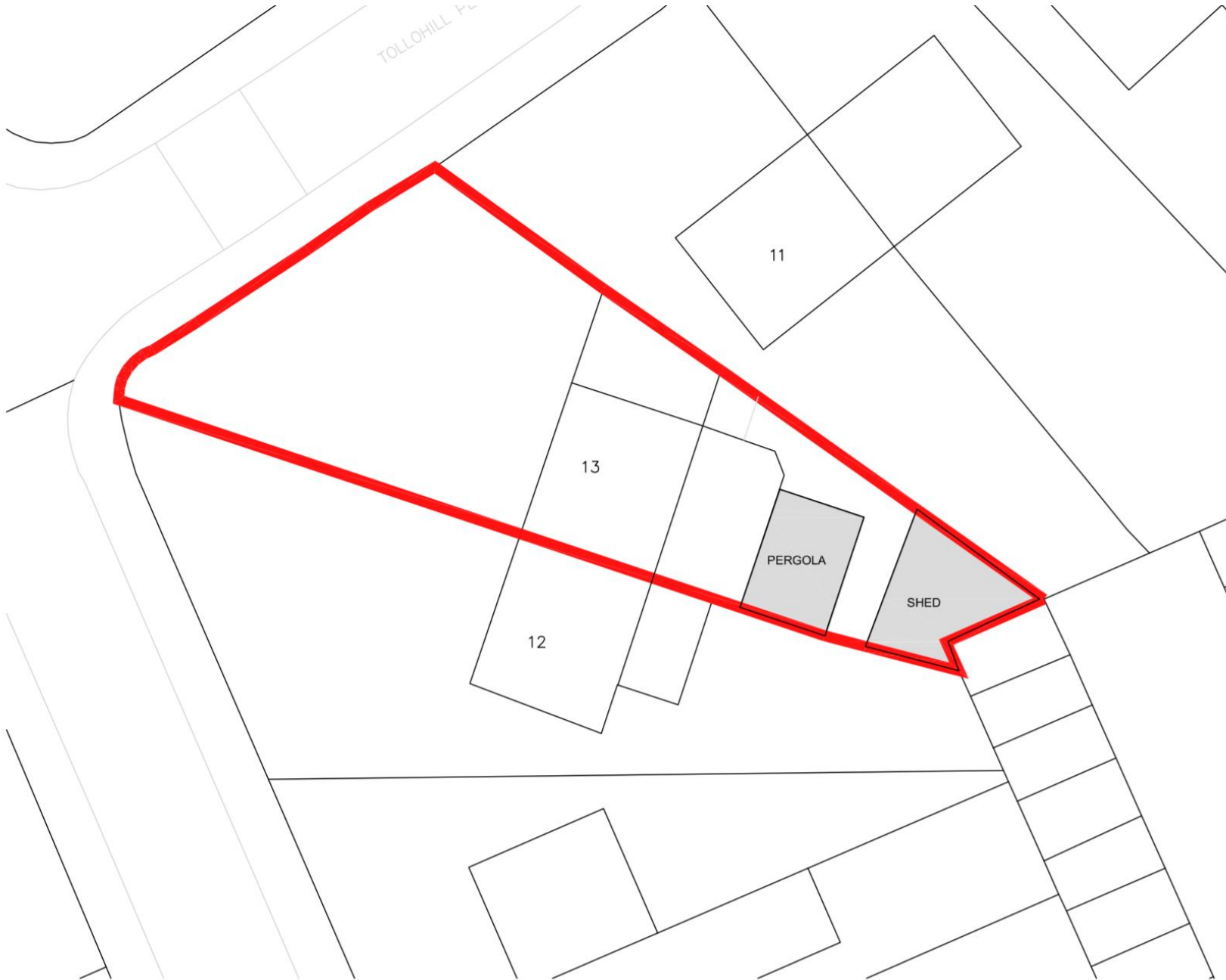


# Location – Aerial Photo

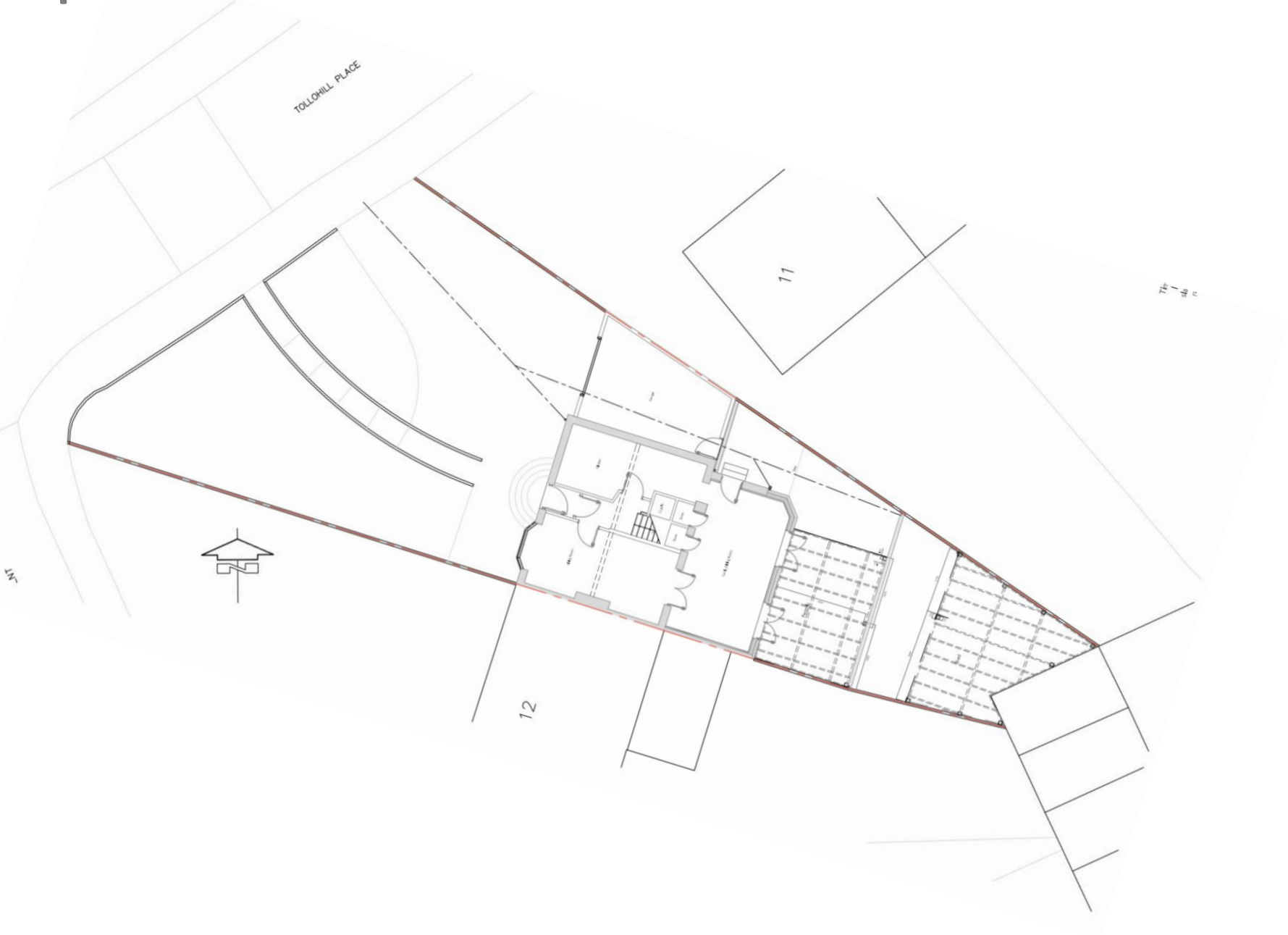




# Proposed Site Plan



# Proposed Site Plan



# Elevations 1

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Timber shed constructed of 150x150mm posts, fixed to existing slabs with 22mm sarking boards and felt roof. Sides infilled with timber panels, sitting on top of existing boundary wall. Open to front with canvas curtains.

Shed abutted to lock up garages to rear

Shed

Timber pergola constructed from 150x150 posts fixed to existing slabbed area with 6mm perspex roof and canvas curtain to each side to allow privacy.

Pergola

Existing Extension

Garage

Front

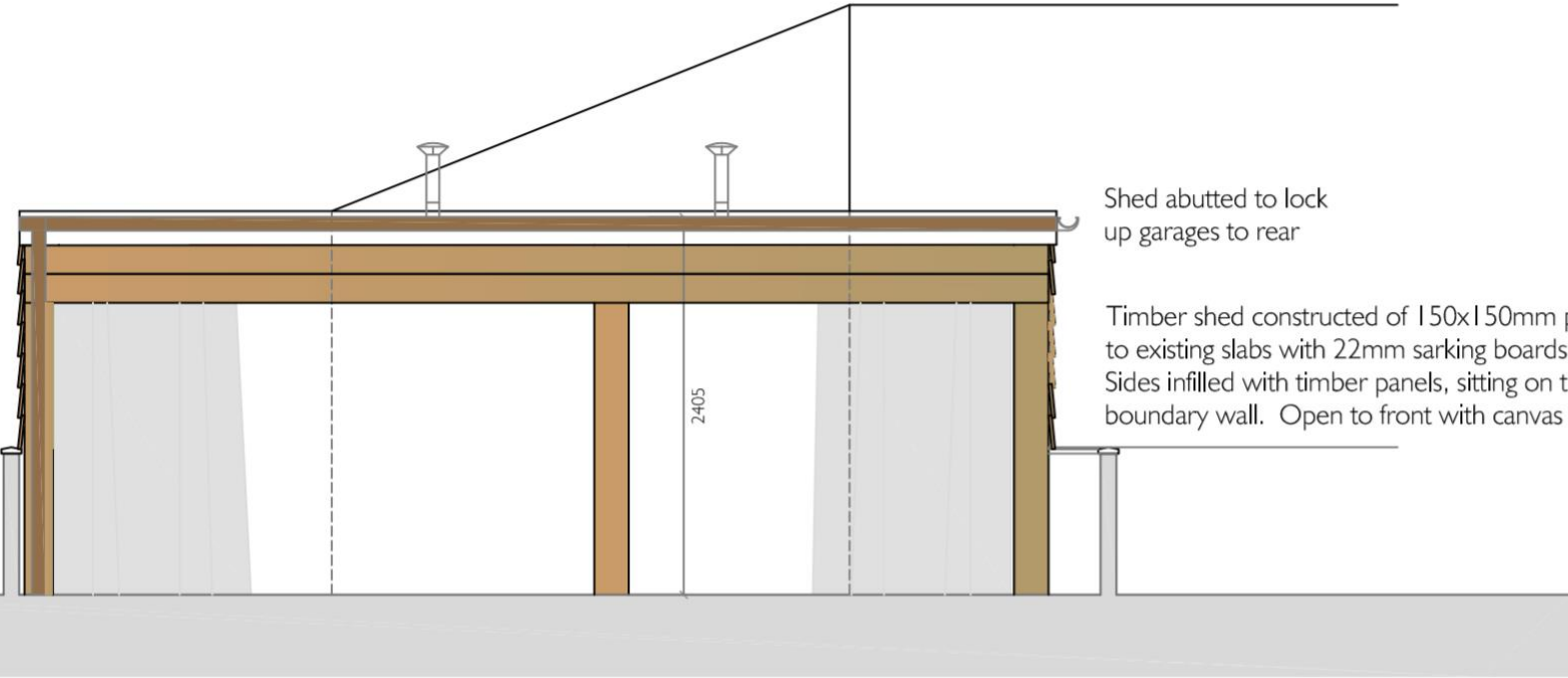
Rear Garden



NORTH EAST ELEVATION OF PERGOLA & SHED  
SCALE 1:100

# Elevations 2

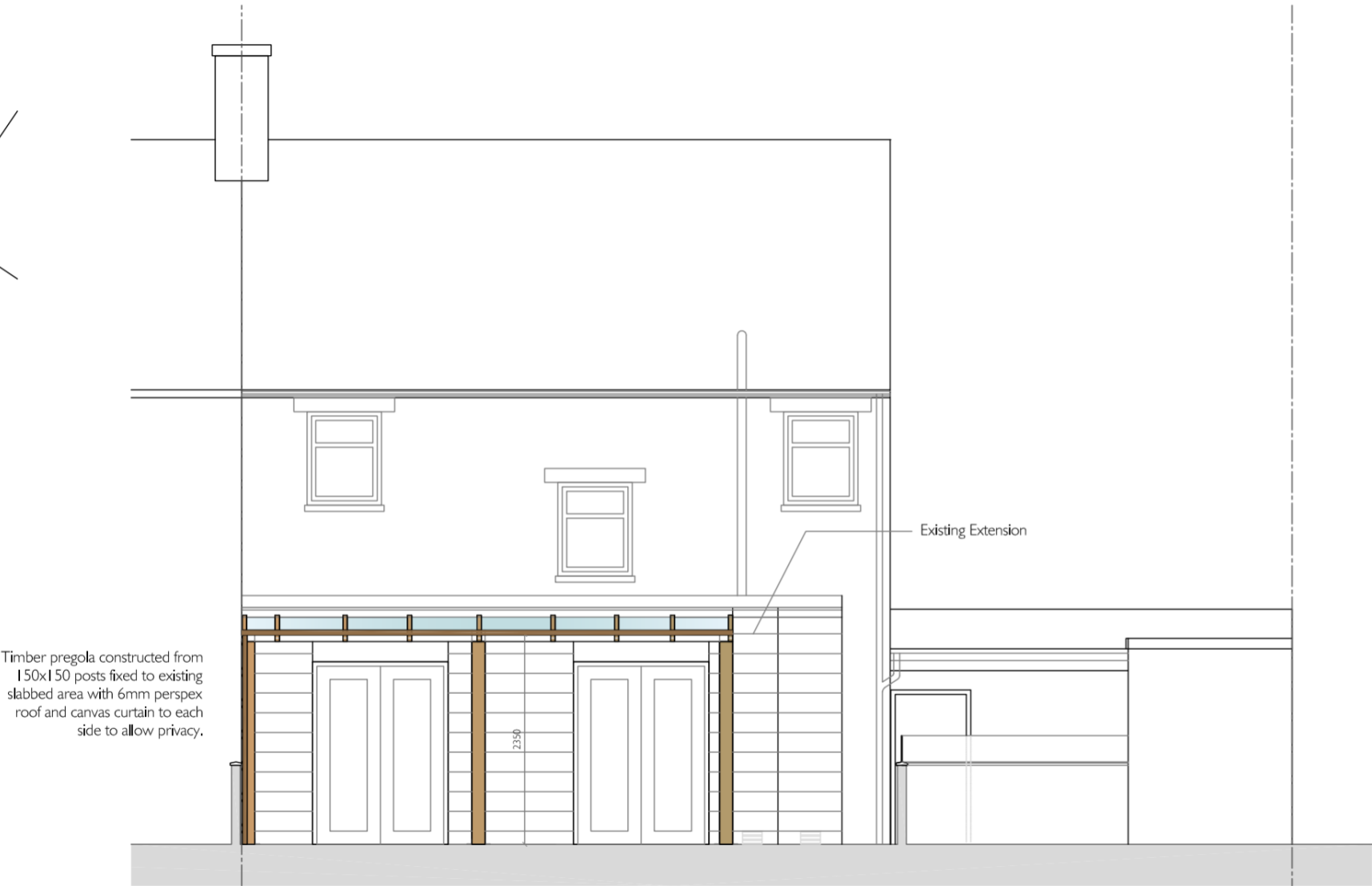
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**NORTHWEST ELEVATION OF SHED**  
**SCALE 1.50**



# Elevations 3



Timber pergola constructed from 150x150 posts fixed to existing slabbed area with 6mm perspex roof and canvas curtain to each side to allow privacy.

Existing Extension

2350

**SOUTH EAST ELEVATION OF PERGOLA  
SCALE 1.50**

# Photos





# Photos



# Reasons for Refusal

- Overdevelopment of the site – compares the pergola to an extension and highlights that the footprint of the original dwelling would more than double.
- Pergola and shed, when combined with existing development, result in 71.8% of the rear curtilage being covered by development, in conflict with the Householder Development Guide SG.
- Results in a disproportionately small area of private, undeveloped garden ground, which is incongruous with the established pattern of development and the character of the surrounding area.
- Pergola and shed result in development projecting along almost the entirety of the south-western boundary shared with 12 Tollohill Crescent which resultant adverse impact on outlook and amenity.
- Conflict with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the ALDP; associated Householder Development SG; and equivalent policies of the proposed ALDP.
- No material planning considerations that warrant approval in this instance.

# Applicant's Case

- Argues that the pergola and shed individually would fall under permitted development rights, if not for the 'developed' area at the rear of the house exceeding 50%;
- The pergola was built to facilitate a member of the household who was suffering from mental health problems and found it impossible to leave the house. It was built to afford privacy, while still being able to access the rear garden and get outside for fresh air and to help alleviate the mental health issues suffered.

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Disputes the appointed officer's inclusion of a garage to the side of the property within a calculation of the developed area to the rear. Puts forward alternative calculations showing that the proportion of developed rear curtilage is less than stated, and that the developed area of the entire plot would be less than 50%.

- Both structures are free standing and do not have permanent foundations and are demountable.
- The pergola structure is open on 3 sides, the shed being open at the front.

# Applicant's Case

- The rear 'garden' area is entirely slabbed, similar to several other properties in the surrounding area;
  - Contends that the impact to number 12 Tollohill Crescent would not be significant due to the orientation of the gardens (south east facing) - these structures do not block out any light to the adjoining property, with the pergola being open on 3 sides, with a Perspex roof which allows daylight to pass through. Neither structure is considered to result in adverse impact on privacy, daylight or general amenity of any neighbouring properties.
- The development is entirely to the rear of the property, and cannot be seen from the street side.
- Barbecue is not used any more frequently than any of the other neighbouring properties do and any smoke is directed through a flue at high level, resulting in less impact on neighbours than usual domestic use of a barbecue.

# H1: Residential Areas

- Is this overdevelopment?
- Would it have an *'unacceptable impact on the character and amenity'* of the area?
- Would it result in the loss of open space?
- Does it comply with Supplementary Guidance?

(e.g. Householder Development Guide)

# D1: Quality Placemaking by Design

All dev't must *“ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials”*.

Proposals will be assessed against the following six essential qualities:

- Distinctive
- Welcoming
- Safe and pleasant
- Easy to move around
- Adaptable
- Resource-efficient



# SG: Householder Development Guide

- Extensions should be architecturally compatible with original house and surrounding area (design, scale etc)
- Should not '*dominate or overwhelm*' original house. Should remain visually subservient.
- Extensions should not result in a situation where the amenity of neighbouring properties would be adversely affected (e.g. privacy, daylight, general amenity)
- Approvals pre-dating this guidance do not represent a 'precedent'

## SG: Householder Development Guide

- The built footprint of a dwelling house as extended should not exceed twice that of the original dwelling.
- No more than 50% of the front or rear curtilage shall be covered by development.
- On properties of 2 or more storeys, two storey extensions will generally be possible, subject to the considerations set out in the 'General Principles'.

# SG: Householder Development Guide

## Outbuildings

In many cases ancillary buildings may be classed as permitted development. Where planning permission is required, the following rules will apply:

- Outbuildings must always be subordinate in scale to the dwellinghouse and two storey outbuildings will generally not be permitted;
- Where a second storey is to be accommodated within a pitched roofspace, outbuildings should retain the impression of being single storey in height and dormers will not be permitted as a means of gaining additional headroom;
- Access to an upper floor should be situated internally;
- Outbuildings should not have a negative impact on the character of the surrounding area;
- Where highly visible and especially in conservation areas, detached garages should be of a scale and design that respects the prevalent context of the surrounding area;
- Proposals will be assessed on their impact on the amenity of the area (e.g. loss of daylight/privacy) in the same way as extensions;
- Outbuildings will not usually be acceptable in front gardens because of the damaging impact development forward of a front building line can have on the visual character of an area.

# Points for Consideration:

Zoning: Do members consider that the proposed works would adversely affect the character or amenity of the area, as set out in policy H1? Do the proposed alterations accord with the relevant SG, also tied to policy H1?

Design: Is the proposal of sufficient design quality (D1), appropriate to its context?

**1. Does the proposal comply with the Development Plan when considered as a whole?**

**2. Do other material considerations weigh for or against the proposal? Are they of sufficient weight to overcome any conflict with the Development Plan?**

Decision – state clear reasons for decision

Conditions? (if approved – Planning Adviser can assist)

 <p><b>ABERDEEN</b> CITY COUNCIL</p>	<h2 style="margin: 0;">Strategic Place Planning</h2> <hr/> <p style="margin: 0;">Report of Handling</p>
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<b>Site Address:</b>	13 Tollohill Place, Aberdeen, AB12 5EJ
<b>Application Description:</b>	Erection of shed and pergola to rear (retrospective)
<b>Application Ref:</b>	210913/DPP
<b>Application Type:</b>	Detailed Planning Permission
<b>Application Date:</b>	22 June 2021
<b>Applicant:</b>	Mrs Pamela Fenwick
<b>Ward:</b>	Kincorth/Nigg/Cove
<b>Community Council:</b>	Kincorth and Leggart
<b>Case Officer:</b>	Jemma Tasker

### RECOMMENDATION

Refuse.

### APPLICATION BACKGROUND

#### **Site Description**

The application site relates to a two storey, semi-detached dwellinghouse and its associated front and rear curtilage, set within a triangular plot on the corner of Tollohill Place and Tollohill Crescent. The dwelling has a north-west facing principal elevation fronting Tollohill Place; adjoins 12 Tollohill Crescent to the south-west; 11 Tollohill Place is located to the north-east; and lockup garages lie to the south-east. The dwelling sits elevated above street level and a driveway extends along the north-eastern boundary of the site to provide off-street car parking and access to a single garage that has been added to the north-east elevation of the dwelling. In addition, the property has been extended to the rear by way of a single storey extension which projects c.3.9m from the rear elevation and has a footprint of c.26.6sqm. Beyond this, a partly screened pergola has been erected and in the south-eastern corner of the site a shed has been constructed. Both the pergola and shed have been erected without planning permission and therefore, are currently unauthorised.

#### **Relevant Planning History**

Application Number	Proposal	Decision Date
021272	House extension	23.08.2002
		Status: Approved Unconditionally.

### APPLICATION DESCRIPTION

#### **Description of Proposal**

Detailed Planning Permission (DPP) is sought retrospectively for the erection of the existing pergola and shed. The pergola projects c.4.2m from the rear of the single storey extension and

measures c.5.6m in width and c.2.6m in maximum height. It is constructed of timber with a perspex roof and canvas curtains to each side. The shed is located in the south-eastern corner of the rear garden and has been constructed to fit with the triangular shape of the site. It measures a maximum 6.6m in width and 6.9m in length, extending along both mutual boundaries, and has an overall height of 2.5m. It is constructed of timber with canvas curtains to the front and has a flat felt roof, which incorporates two flues. Additionally, the use of the shed has not been provided; however, photographs provided would appear to show the shed to be used as some form of home bar.

### **Supporting Documents**

All drawings can be viewed on the Council's website at:

<https://publicaccess.aberdeencity.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QV3QODBZL2100>

### **CONSULTATIONS**

**ACC - Environmental Health** – No objection. Have requested that an advisory be attached to the grant of consent regarding the material burned.

**Kincorth and Leggart Community Council** – No comments received.

### **REPRESENTATIONS**

None.

### **MATERIAL CONSIDERATIONS**

#### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that where, in making any determination under the planning acts, regard is to be had to the provisions of the Development Plan and that determination shall be made in accordance with the plan, so far as material to the application unless material considerations indicate otherwise.

#### **Aberdeen Local Development Plan (2017) (ALDP)**

Policy D1 – Quality Placemaking by Design

Policy H1 – Residential Areas

#### **Supplementary Guidance**

The Householder Development Guide (HDG)

#### **Proposed Aberdeen Local Development Plan (2020)**

The Proposed Aberdeen Local Development Plan (Proposed ALDP) was approved at the Council meeting of 2 March 2020. A period of representation in public was undertaken from May to August 2020 and the Proposed ALDP has since been submitted to the Scottish Government Planning and Environmental Appeals Division for Examination in Public. The Proposed ALDP constitutes the Council's settled view as to what the final content of the next adopted ALDP should be and is now a material consideration in the determination of planning applications. The Aberdeen Local Development Plan 2017 will continue to be the primary document against which applications are considered. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether –

- such matters have or have not received representations as a result of the period of representations in public for the Proposed ALDP;

- the level of representations received in relation to relevant components of the Proposed ALDP and their relevance of these matters to the application under consideration.

The foregoing can only be assessed on a case-by-case basis. Policies of relevance include:

Policy D1 – Quality Placemaking

Policy D2 – Amenity

Policy H1 – Residential Areas

## **EVALUATION**

### **Principle of Development**

The application site is located in a residential area, under Policy H1 of the ALDP, and the proposal relates to householder development. Householder development would accord with this policy in principle if it does not constitute overdevelopment; does not adversely affect the character and amenity of the surrounding area; does not result in the loss of open space; and it complies with the Supplementary Guidance, in this case the Householder Development Guide (HDG).

The development does not result in the loss of any open space given that it is located within the curtilage of a residential property. The remaining issues are assessed in the below evaluation.

### **Scale and Design**

To determine the effect of the proposal on the character of the area it is necessary to assess it in the context of Policy D1 of the ALDP. This policy recognises that not all development will be of a scale that makes a significant placemaking impact but recognises that good design and detail adds to the attractiveness of the built environment.

Guidance over what constitutes overdevelopment is taken from General Principles 4 and 5 under the Section 3.1.4 in the HDG which states that the built footprint of a dwellinghouse, as extended, should not exceed twice that of the original dwelling and no more than 50% of the rear curtilage of a dwelling should be covered by development. The pergola would be considered similar to an extension to the dwellinghouse given that it is attached to the main dwelling, covered, with canvas curtains to both sides and can be accessed directly from the house through patio doors. It results in the dwelling being more than double its original built footprint when taking into consideration the existing development, in conflict with the HDG. Furthermore, the original rear garden would have covered an area of approximately 139.7sqm. All development present within the rear garden including: the garage; the previously constructed single storey rear extension; pergola; and shed, cover a total of 71.8% of the original rear garden, far in excess of the 50% permitted by the HDG.

The HDG restricts the projection of rear, single storey extensions that extend along a mutual boundary separating semi-detached dwellings to no more than 4m. In this case, the existing single storey extension projects c.3.9m along the mutual boundary, in addition to the pergola which extends c.4.2m. When combined, this gives a total projection of approximately 8.1m along the mutual boundary, far in excess of the 4m permitted by the HDG.

The HDG further sets out that development should be architecturally compatible in design and scale with the original house and its surrounding area. Any extension or alteration proposed should not serve to overwhelm or dominate the original form or appearance of the dwelling and should be visually subservient in terms of height, mass and scale. The pergola and shed result in a large massing of timber structures within the rear garden, which appear to provide little conformity with the original dwelling. Further to this, based on the above, their combined scale would not be considered subservient to the original dwelling. Overall, it is considered that the pergola and shed fail to architecturally integrate with the original dwelling, nor would they be considered subservient given their combined scale in relation to the original dwellinghouse.

The surrounding area is predominantly characterised by residential properties which have with a significantly lesser site coverage than development currently present at the application site. The site coverage of the rear gardens of the surrounding residential properties is predominantly less than 30% of the rear curtilage. By contrast, as established above, the development results in approximately 71.8% of the rear garden being covered by development. Resultantly, the unauthorised development leaves a disproportionately minor area of the rear curtilage left undeveloped. The combined built footprint of the pergola and the shed, and the resulting site coverage, is incompatible with the established pattern of development and character of the surrounding area where the vast majority of rear curtilage of the surrounding properties remains undeveloped.

Given that the property has already been extended and that there is a substantial garage located to the north-east, the pergola and shed constitute overdevelopment of the site. The scale, siting, and footprint in this context is thus not compatible with the original dwelling, and the established pattern of development and the character of the surrounding area, in conflict with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the ALDP and the HDG.

### **Impact on Residential Amenity**

No development should result in a situation where amenity is “borrowed” from an adjacent property, or there is an impingement on the amenity enjoyed by others. Given the relatively low height of both the pergola and shed, there would be no impact on neighbouring properties in terms of overshadowing. Further to this, the shed would be located sufficiently distant from neighbouring windows. The pergola would have curtains to the sides that could be open or closed. It is considered that when the curtains are open, there would be no significant adverse impact on neighbouring internal daylight levels. However, it is recognised that this situation would be different when the curtains are closed and thus, the pergola would likely adversely impact neighbouring daylight for part of the time.

In terms of privacy, given the relatively low height of the boundary walls, it is considered that there was likely an existing degree of overlooking between the application property and the two properties either side. The shed is constructed of solid side walls, which would allow for no direct views of neighbouring properties. However, the remainder of the development – the front of the shed and the pergola – all contain curtains which can be open or closed. While it is acknowledged that this would allow for some views of neighbouring garden ground, it is considered that this would be no different from using the garden space prior to the pergola and shed and thus, it is considered that there would be no significant additional impact.

In addition to the impacts on neighbouring amenity in terms of overshadowing, daylight and privacy, as a result of the projection of the existing extension and pergola along the south-west boundary and the presence of the shed which also extends along this boundary, the level of development along this mutual boundary would appear excessive and therefore overbearing and would adversely affect the outlook afforded to the adjoining property (12 Tollohill Crescent).

Lastly, it is not considered that the associated flues would have any adverse impact on the amenity of the surrounding area and Environmental Health has advised that it has no objection. The Service has recommended that an advisory be attached regarding the materials burned. This will be relayed to the applicant by way of an advisory note, for their general information.

In light of the above, it is considered that the current level of residential amenity will be partially impacted upon as a result of the development.

### **Conclusion**



Overall, the pergola and shed result in the overdevelopment of the site, which is not compatible with the original dwelling nor is it reflective of the pattern of development of the immediate surrounding area. Further to this, the level of development present within the rear curtilage and its presence along the south-west mutual boundary is excessive. Therefore, the development conflicts with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the ALDP, in addition to the principles of the Supplementary Guidance: 'Householder Development Guide'.

### **Proposed Aberdeen Local Development Plan (2020)**

In relation to this particular application, the Policies D1, D2 and H1 in the Proposed Aberdeen Local Development Plan 2020 substantively reiterate those in the adopted Local Development Plan and the proposal is not acceptable in terms of both Plans for the reasons previously given.

### **RECOMMENDATION**

Refuse.

### **REASON FOR RECOMMENDATION**

The pergola and shed constitute overdevelopment of the site in that the pergola acts in a similar manner to an extension, in which it results in the footprint of the dwelling being more than doubled, and the pergola and shed, when combined with existing development, result in 71.8% of the rear curtilage being covered in development, in conflict with the Supplementary Guidance: 'The Householder Development Guide', and leave a disproportionately minor area of private, undeveloped garden ground for the property relative to the overall size of the rear curtilage, which is incongruous with the established pattern of development and the character of the surrounding area.

In addition, the pergola and shed result in development projecting along almost the entirety of the south-western boundary shared with 12 Tollohill Crescent which has the potential to be overbearing and adversely affect the outlook, and thus the residential amenity afforded to this property.

The pergola and shed thus adversely affect the character and amenity of the surrounding area. The development therefore conflicts with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the current Aberdeen Local Development Plan 2017; its associated Supplementary Guidance: 'The Householder Development Guide'; and Policies D1, D2 and H1 of the proposed Aberdeen Local Development Plan 2020. There are no material planning considerations that warrant approval in this instance.

### **ADVISORY NOTES FOR APPLICANT**

It is advised that the premises owner should take any necessary steps to minimise the impact the smoke emanating from the flue have on another person's enjoyment of their property. This may mean reducing the frequency and duration of use of the installation causing the smoke.

To minimise the amount of smoke that emanates from the premises, protect the amenity of nearby residents and the environment from harmful pollutants, please follow this advice:

- Only use well-seasoned, uniformly dried wood. Wet or green wood will cause excessive smoke and may lead to complaints from surrounding properties. Logs that are not dry provide a fire that smoulders and creates tar and smoke, which is more likely to smell and cause a disturbance to nearby residents.

- Do not burn household rubbish or plastics as these might contain harmful pollutants.
- Do not burn treated wood products such as fence posts (new or old) or chipboards as these may contain glues and chemicals that will cause fume problems when burnt.





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Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE            100429419-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Type of Application

What is this application for? Please select one of the following: \*

- Application for planning permission (including changes of use and surface mineral working).
- Application for planning permission in principle.
- Further application, (including renewal of planning permission, modification, variation or removal of a planning condition etc)
- Application for Approval of Matters specified in conditions.

## Description of Proposal

Please describe the proposal including any change of use: \* (Max 500 characters)

Retrospective Planning Permission for garden outbuildings (Shed & Pergola). These do not fall within permitted development as they amount to more than 50% of rear garden but total less than 50% of total plot area.

Is this a temporary permission? \*

Yes  No

If a change of use is to be included in the proposal has it already taken place?

Yes  No

(Answer 'No' if there is no change of use.) \*

Has the work already been started and/or completed? \*

No  Yes – Started  Yes - Completed

Please state date of completion, or if not completed, the start date (dd/mm/yyyy): \*

01/06/2017

Please explain why work has taken place in advance of making this application: \* (Max 500 characters)

Householder did not know that planning permission was needed for such development.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent



## Agent Details

Please enter Agent details

Company/Organisation:	FG Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Fiona	Building Name:	
Last Name: *	Grubb	Building Number:	122
Telephone Number: *	07791060356	Address 1 (Street): *	Cairntrodlie
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Peterhead
Fax Number:		Country: *	Scotland
		Postcode: *	AB42 2AX
Email Address: *	fiona_grubb@hotmail.com		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Pamela	Building Number:	13
Last Name: *	Fenwick	Address 1 (Street): *	Tollohill Place
Company/Organisation		Address 2:	Tollohill Place
Telephone Number: *		Town/City: *	Aberdeen
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	AB12 5EJ
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

13 TOLLOHILL PLACE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ABERDEEN

Post Code:

AB12 5EJ

Please identify/describe the location of the site or sites

Northing

803149

Easting

394352

## Pre-Application Discussion

Have you discussed your proposal with the planning authority? \*

Yes  No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

Meeting  Telephone  Letter  Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Householder received a site visit from Planning Officer and advised to apply for retrospective planning permission as development was in excess of 50% or rear garden, and outwith permitted development limits.

Title:

Mr

Other title:

First Name:

Gary

Last Name:

Nibloe

Correspondence Reference Number:

ENF210036

Date (dd/mm/yyyy):

05/05/2021

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

395.00

Please state the measurement type used:

Hectares (ha)

Square Metres (sq.m)

## Existing Use

Please describe the current or most recent use: \* (Max 500 characters)

Two timber structures have been erected in the rear garden. The first comprises a pergola which is open at the side/front and has a perspex roof. The second, a timber shed is open at the front. The pergola and shed were constructed to help a family member who was suffering from mental health issues, enjoy the outside without being seen. The person concerned had issues with leaving the house and going out in public, so these structures were built to allow complete privacy within the garden.

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*

Yes

No

If Yes please describe and show on your drawings the position of any existing, altered or new access points, highlighting the changes you propose to make. You should also show existing footpaths and note if there will be any impact on these.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \*

Yes

No

If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

3

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

3

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \*

Yes

No

Do your proposals make provision for sustainable drainage of surface water?? \* (e.g. SUDS arrangements) \*

Yes

No

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

Yes

No, using a private water supply

No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## Assessment of Flood Risk

Is the site within an area of known risk of flooding? \*

Yes  No  Don't Know

If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.

Do you think your proposal may increase the flood risk elsewhere? \*

Yes  No  Don't Know

## Trees

Are there any trees on or adjacent to the application site? \*

Yes  No

If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \*

Yes  No

If Yes or No, please provide further details: \* (Max 500 characters)

These exist already within the curtilage of the house.

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

Yes  No

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

Yes  No

## Schedule 3 Development

Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013) \*

Yes  No  Don't Know

If yes, your proposal will additionally have to be advertised in a newspaper circulating in the area of the development. Your planning authority will do this on your behalf but will charge you a fee. Please check the planning authority's website for advice on the additional fee and add this to your planning fee.

If you are unsure whether your proposal involves a form of development listed in Schedule 3, please check the Help Text and Guidance notes before contacting your planning authority.

## Planning Service Employee/Elected Member Interest

Is the applicant, or the applicant's spouse/partner, either a member of staff within the planning service or an elected member of the planning authority? \*

Yes  No

## Certificates and Notices

CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013

One Certificate must be completed and submitted along with the application form. This is most usually Certificate A, Form 1, Certificate B, Certificate C or Certificate E.

Are you/the applicant the sole owner of ALL the land? \*

Yes  No

Is any of the land part of an agricultural holding? \*

Yes  No

## Certificate Required

The following Land Ownership Certificate is required to complete this section of the proposal:

Certificate A

## Land Ownership Certificate

Certificate and Notice under Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Certificate A

I hereby certify that –

(1) - No person other than myself/the applicant was an owner (Any person who, in respect of any part of the land, is the owner or is the lessee under a lease thereof of which not less than 7 years remain unexpired.) of any part of the land to which the application relates at the beginning of the period of 21 days ending with the date of the accompanying application.

(2) - None of the land to which the application relates constitutes or forms part of an agricultural holding

Signed: Fiona Grubb

On behalf of: Mrs Pamela Fenwick

Date: 21/06/2021

Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please take a few moments to complete the following checklist in order to ensure that you have provided all the necessary information in support of your application. Failure to submit sufficient information with your application may result in your application being deemed invalid. The planning authority will not start processing your application until it is valid.

a) If this is a further application where there is a variation of conditions attached to a previous consent, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

b) If this is an application for planning permission or planning permission in principal where there is a crown interest in the land, have you provided a statement to that effect? \*

Yes  No  Not applicable to this application

c) If this is an application for planning permission, planning permission in principle or a further application and the application is for development belonging to the categories of national or major development (other than one under Section 42 of the planning Act), have you provided a Pre-Application Consultation Report? \*

Yes  No  Not applicable to this application



Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

d) If this is an application for planning permission and the application relates to development belonging to the categories of national or major developments and you do not benefit from exemption under Regulation 13 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, have you provided a Design and Access Statement? \*

Yes  No  Not applicable to this application

e) If this is an application for planning permission and relates to development belonging to the category of local developments (subject to regulation 13. (2) and (3) of the Development Management Procedure (Scotland) Regulations 2013) have you provided a Design Statement? \*

Yes  No  Not applicable to this application

f) If your application relates to installation of an antenna to be employed in an electronic communication network, have you provided an ICNIRP Declaration? \*

Yes  No  Not applicable to this application

g) If this is an application for planning permission, planning permission in principle, an application for approval of matters specified in conditions or an application for mineral development, have you provided any other plans or drawings as necessary:

- Site Layout Plan or Block plan.
- Elevations.
- Floor plans.
- Cross sections.
- Roof plan.
- Master Plan/Framework Plan.
- Landscape plan.
- Photographs and/or photomontages.
- Other.

If Other, please specify: \* (Max 500 characters)

Provide copies of the following documents if applicable:

- |  |  |
|--|--|
| A copy of an Environmental Statement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. *   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. *  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

Other Statements (please specify). (Max 500 characters)

## **Declare – For Application to Planning Authority**

I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Ms Fiona Grubb

Declaration Date: 22/06/2021

## **Payment Details**

Online payment: ABSP00006899

Payment date: 22/06/2021 12:05:00

Created: 22/06/2021 12:05



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Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100429419-002

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Site Address Details

Planning Authority:

Aberdeen City Council

Full postal address of the site (including postcode where available):

Address 1:

13 TOLLOHILL PLACE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ABERDEEN

Post Code:

AB12 5EJ

Please identify/describe the location of the site or sites

Northing

803149

Easting

394352

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details


Company/Organisation:	FG Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Fiona	Building Name:	
Last Name: *	Grubb	Building Number:	122
Telephone Number: *	07791060356	Address 1 (Street): *	Cairntrodlie
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Peterhead
Fax Number:		Country: *	Scotland
		Postcode: *	AB42 2AX
Email Address: *	fiona_grubb@hotmail.com		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mrs	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Pamela	Building Number:	13
Last Name: *	Fenwick	Address 1 (Street): *	Tollohill Place
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Aberdeen
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	AB12 5EJ
Fax Number:			
Email Address: *			

## Proposal/Application Details

Please provide the details of the original application(s) below:

Was the original application part of this proposal? \*

Yes  No

## Application Details

Please select which application(s) the new documentation is related to.

Application: \*

## Document Details

Please provide an explanation as to why the documentation is being attached after the original application was submitted: \* (Max 500 characters)

## Checklist – Post Submission Additional Documentation

Please complete the following checklist to make sure you have provided all the necessary information in support of your application.

The additional documents have been attached to this submission. \*

Yes  No

## Declare – Post Submission Additional Documentation

I/We the applicant/agent certify that this is a submission of Additional Documentation, and that all the information given in this submission is true to the best of my/the applicants knowledge.

Declaration Name: Ms Fiona Grubb

Declaration Date: 22/06/2021

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## **DECISION NOTICE**

### **The Town and Country Planning (Scotland) Act 1997**

### **Detailed Planning Permission**

Fiona Grubb  
FG Architects  
122 Cairntrodlie  
Peterhead  
AB42 2AX

on behalf of **Mrs Pamela Fenwick**

With reference to your application validly received on 22 June 2021 for the following development:-

**Erection of shed and pergola to rear (retrospective)  
at 13 Tollohill Place, Aberdeen**

Aberdeen City Council in exercise of their powers under the above mentioned Act hereby **REFUSE PLANNING PERMISSION** for the said development in accordance with the particulars given in the application form and the following plans and documents:

<b>Drawing Number</b>	<b>Drawing Type</b>
2021 / 001 / 001	Location Plan
2021 / 001 / 002	Site Layout (Proposed)
2021 / 001 / 003	Elevations and Floor Plans (Proposed)
2021 / 001 / 005	Ground Floor Plan (Proposed)
2021 / 001 / 006	Ground Floor Plan (Proposed)

#### **REASON FOR DECISION**

The reasons on which the Council has based this decision are as follows:-

The pergola and shed constitute overdevelopment of the site in that the pergola acts in a similar manner to an extension, in which it results in the footprint of the dwelling

being more than doubled, and the pergola and shed, when combined with existing development, result in 71.8% of the rear curtilage being covered in development, in conflict with the Supplementary Guidance: 'The Householder Development Guide', and leave a disproportionately minor area of private, undeveloped garden ground for the property relative to the overall size of the rear curtilage, which is incongruous with the established pattern of development and the character of the surrounding area.

In addition, the pergola and shed result in development projecting along almost the entirety of the south-western boundary shared with 12 Tollohill Crescent which has the potential to be overbearing and adversely affect the outlook, and thus the residential amenity afforded to this property.

The pergola and shed thus adversely affect the character and amenity of the surrounding area. The development therefore conflicts with Policies D1 (Quality Placemaking by Design) and H1 (Residential Areas) of the current Aberdeen Local Development Plan 2017; its associated Supplementary Guidance: 'The Householder Development Guide'; and Policies D1, D2 and H1 of the proposed Aberdeen Local Development Plan 2020. There are no material planning considerations that warrant approval in this instance.

**Date of Signing** 24 August 2021



**Daniel Lewis**  
Development Management Manager

### **IMPORTANT INFORMATION RELATED TO THIS DECISION**

#### **DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AS AGREED WITH APPLICANT (S32A of 1997 Act)**

None.

#### **RIGHT OF APPEAL THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

If the applicant is aggrieved by the decision of the planning authority –

- a) to refuse planning permission;
- b) to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;



- c) to grant planning permission or any approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at [www.eplanning.scot](http://www.eplanning.scot).

Notices of review submitted by post should be sent to Strategic Place Planning (address at the top of this decision notice).

### **SERVICE OF PURCHASE NOTICE WHERE INTERESTS ARE AFFECTED BY A PLANNING DECISION**

If permission to develop land is refused and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development that would be permitted, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

### **OTHER ADVISORY NOTES**

It is advised that the premises owner should take any necessary steps to minimise the impact the smoke emanating from the flue have on another person's enjoyment of their property. This may mean reducing the frequency and duration of use of the installation causing the smoke.

To minimise the amount of smoke that emanates from the premises, protect the amenity of nearby residents and the environment from harmful pollutants, please follow this advice:

- Only use well-seasoned, uniformly dried wood. Wet or green wood will cause excessive smoke and may lead to complaints from surrounding properties. Logs that are not dry provide a fire that smoulders and creates tar and smoke, which is more likely to smell and cause a disturbance to nearby residents.
- Do not burn household rubbish or plastics as these might contain harmful pollutants.
- Do not burn treated wood products such as fence posts (new or old) or chipboards as these may contain glues and chemicals that will cause fume problems when burnt.



## **Aberdeen Local Development Plan (ALDP)**

- Policy H1 – Residential Areas
- Policy D1 - Quality Placemaking by Design

## **Supplementary Guidance**

Householder Development Guide

<https://www.aberdeencity.gov.uk/sites/default/files/2.1.PolicySG.HouseHoldDesignGuide.pdf>

## **Other Material Considerations**

Aberdeen City and Shire Strategic Development Plan (2020) (SDP)

Proposed Aberdeen Local Development Plan (2020)

<https://www.aberdeencity.gov.uk/services/planning-and-building/local-development-plan/aberdeen-local-development-plan/aberdeen-local-development-plan-review#3678>

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Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100429419-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:

Ref. Number:  You must enter a Building Name or Number, or both: \*

First Name: \*  Building Name:

Last Name: \*  Building Number:

Telephone Number: \*  Address 1 (Street): \*

Extension Number:  Address 2:

Mobile Number:  Town/City: \*

Fax Number:  Country: \*

Postcode: \*

Email Address: \*

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Pamela"/>	Building Number:	<input type="text" value="13"/>
Last Name: *	<input type="text" value="Fenwick"/>	Address 1 (Street): *	<input type="text" value="Tollohill Place"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text" value="REDACTED"/>	Postcode: *	<input type="text" value="AB12 5EJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="13 TOLLOHILL PLACE"/>
Address 2:	<input type="text"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB12 5EJ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="803149"/>	Easting	<input type="text" value="394352"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Retrospective planning permission for two timber structures in rear garden of 13 Tollohill Place, Aberdeen.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

Please see enclosed letter relating to the authority's decision.

Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? \*

Yes  No

If yes, you should explain in the box below, why you are raising the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review. You can attach these documents electronically later in the process: \* (Max 500 characters)

Letter of appeal, photos of structures.

## Application Details

Please provide the application reference no. given to you by your planning authority for your previous application.

210913/DPP

What date was the application submitted to the planning authority? \*

21/06/2021

What date was the decision issued by the planning authority? \*

24/08/2021

## Review Procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may select more than one option if you wish the review to be a combination of procedures.

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

It would be of benefit to the committee if they can see the development in question, and how it does not impact on any of the neighbouring properties, nor adversely affect the outlook or overbearing in nature.

In the event that the Local Review Body appointed to consider your application decides to inspect the site, in your opinion:

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

Access to the rear garden is through either the garage or the existing dwelling. It cannot be seen from the road nor accessed from the front of the house.



## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. You may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

Note: Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice (if any) from the earlier consent.

## Declare – Notice of Review

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Ms Fiona Grubb

Declaration Date: 17/09/2021

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Fiona Grubb  
FG Architects  
122 Cairntrodlie  
Peterhead  
AB42 2AX  
17<sup>th</sup> September 2021

Aberdeen City Council  
Development Management  
Strategic Place Planning  
Business Hub 4  
Marischal College  
Broad Street  
Aberdeen,  
AB10 1AB

**APPLICATION REF NO 210913/DPP**  
On behalf of Mrs Pamela Fenwick

Thank you for your recent letter received on 24<sup>th</sup> August, relating to planning application 210913/DPP, detailing the decision notice of Aberdeen City Council.

**My client wishes the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997.**

The original extension to the house falls under permitted development rights. The subsequent pergola and shed individually would also fall under permitted development rights and would not require planning permission, but as these take the 'developed' area at the rear of the house to over 50%, full planning permission was sought for this reason.

As mentioned in the planning application, the pergola was built to facilitate a member of the household who was suffering from mental health problems and found it impossible to leave the house. It was built to afford privacy, while still being able to access the rear garden and get outside for fresh air and to help alleviate the mental health issues suffered.

You have stated that the rear garden originally extended to some 139.7 sq m. You have mentioned the garage as being taken into account for development of the rear garden, however the garage is located to the side of the property and does not fall within the rear area. Measuring the rear garden from the rear elevation of the house, it extends to some 117.7sq m. The original extension is approx. 26.6 sq m, the shed some 23.7 sq m or thereby and the pergola 23.8sq m.

Going by these figures, that leaves approx. 43.6 sq m undeveloped. Which equates to some 37% being undeveloped or 63% as being developed.

Development of the plot as a whole is less than 50% of the total area.

Both structures are free standing and do not have permanent foundations and are demountable. The pergola structure has no solid panels and is open on 3 sides, the shed being open at the front.

The rear 'garden' area is entirely slabbed, with several other properties in the surrounding area having a similar treatment.

You mention that the pergola and shed result in development projecting along almost the entirety of the south-western boundary shared with 12 Tollohill Crescent which has the potential to be overbearing and adversely affect the outlook, and thus the residential amenity afforded to that property. However, due to the orientation of the gardens (south east facing), these structures do not block out any light to the adjoining property and as mentioned, the pergola is open on 3 sides (with curtains that can be closed) and has a Perspex roof which allows daylight to pass through.

Neither of these structures result in a situation where there is an impact on privacy, daylight or general amenity of any neighbouring properties being adversely affected. The development at the rear cannot be seen from the street side of the property and is fully contained within the rear garden area.

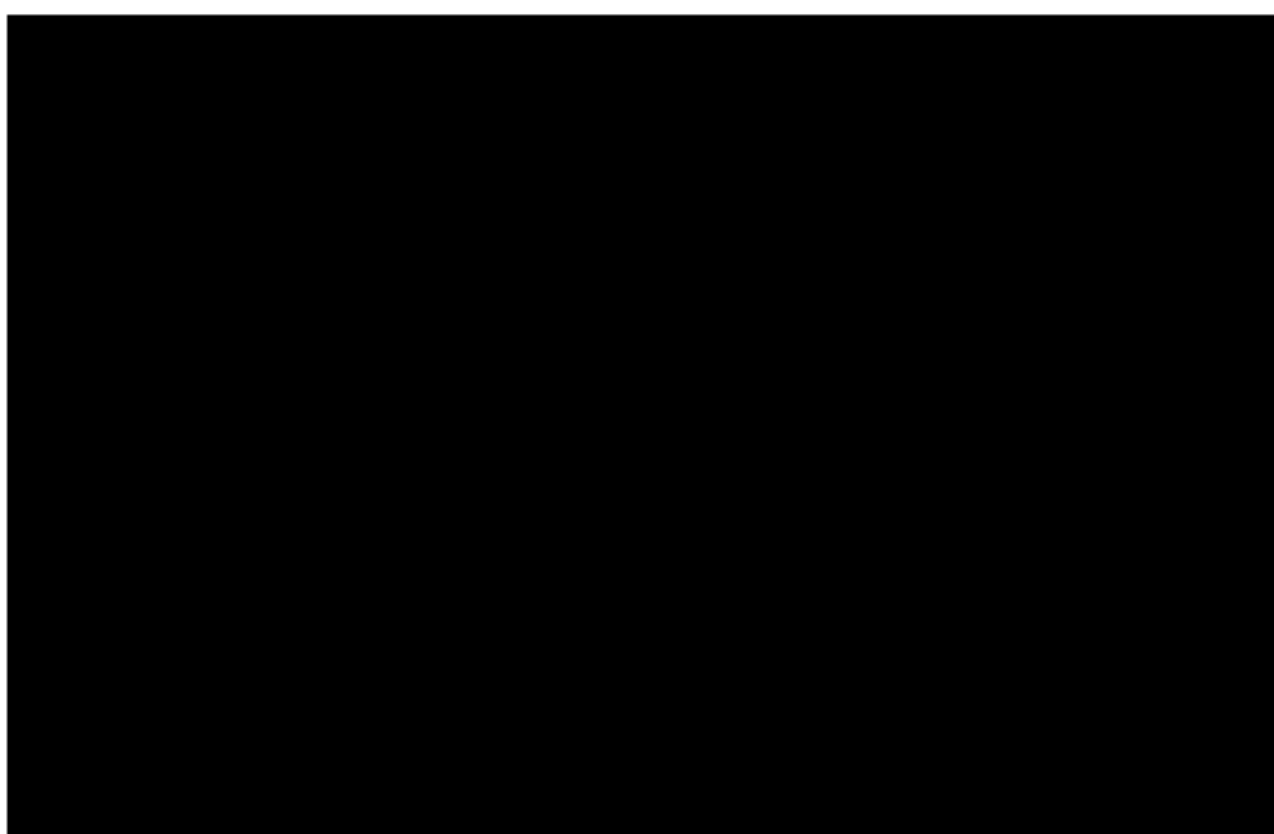
My client also confirms that the barbecue is not used any more frequently than any of the other neighbouring properties do. It is only dried seasoned wood or charcoal briquettes that are used, furthermore as any smoke is directed through a flue at high level, this should result in less smoke at ground level than someone using a barbecue in their garden.

My client would also welcome a site visit from the committee, if that were deemed acceptable, so that they can see in person, the scale of the development and that it does not affect any of the neighbouring properties.

We would ask the Planning Service to reconsider it's decision and seek a favourable outcome to the planning application.

Should you have any further queries meantime, please do not hesitate to contact me.

Yours faithfully



Fiona Grubb  
Architect

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