

Miss Joanne Stewart.
12 Firrhill Drive
Edinburgh
EH13 9EP

Decision date: 3 December 2020

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Change of use of open land east side of 12 Firrhill drive to private garden; Extend the wooden boundary fence and erect a summerhouse/garden shed.

At Land Adjacent To 12 Firrhill Drive Edinburgh

Application No: 20/04021/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 29 October 2020, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Conditions:-

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Env 18 in respect of Open Space Protection, as as it would have a significant adverse impact on the quality and character of the local environment

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 1-5, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal does not comply with the Edinburgh Local Development Plan and the Council's Non -statutory guidance. The loss of open space would have a significant impact on the quality or character of the local environment. There is no loss to residential amenity. There are no other material considerations to outweigh this conclusion.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Jennifer Zochowska directly at jennifer.zochowska@edinburgh.gov.uk.

D R Leech

Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions 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 carrying out of any development which has been or would be permitted, the owner 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 accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

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Report of Handling

**Application for Planning Permission 20/04021/FUL
At Land Adjacent To, 12 Firrhill Drive, Edinburgh
Change of use of open land east side of 12 Firrhill drive to
private garden; Extend the wooden boundary fence and
erect a summerhouse/garden shed.**

Item	Local Delegated Decision
Application number	20/04021/FUL
Wards	B08 - Colinton/Fairmilehead

Summary

The proposal does not comply with the Edinburgh Local Development Plan and the Council's Non-statutory guidance. The loss of open space would have a significant impact on the quality or character of the local environment. There is no loss to residential amenity. There are no other material considerations to outweigh this conclusion.

Links

<u>Policies and guidance for this application</u>	LDPP, LDES12, LEN18, NSG, NSHOU, NSGD02,
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Report of handling

Recommendations

1.1 It is recommended that this application be Refused for the reasons below.

Background

2.1 Site description

The site lies on the south side of Firhill Drive on an area of open space to the east of residential properties and north of the Braid Burn.

2.2 Site History

There is no relevant planning history for this site.

Main report

3.1 Description Of The Proposal

The proposal is for a change of use of open land on the east side of 12 Firrhill Drive to private garden. It is also proposed to extend the wooden boundary fence and erect a summerhouse/garden shed.

The summerhouse measures 6 metres wide and 2.4 metres at it highest point.

The fence would be timber and 1.8metres in height and coloured grey.

3.2 Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - 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.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

3.3 Assessment

To address these determining issues, it needs to be considered whether:

- a) the loss of open space is acceptable;
- b) the scale, design and materials are acceptable;
- c) the proposal adversely affects residential amenity; and
- d) any comments received have been addressed.

a) Loss of Open Space

LDP Env 18 Open Space aims to protect open spaces both public and private that contribute to the amenity of surroundings and set criteria where it is acceptable for the open space to be lost. The land is a large grassy area with a footpath cutting through leading to the Braid Burn to the rear of the residential properties. The application would see 149.8 sqm of this land being enclosed into private garden ground. This would be approximately half of this grassy area which provides significant amenity for the houses in Firhill Drive. There is not a significant over provision serving the immediate area and the proposal is not for a local benefit or community purpose.

The proposal does not comply with LDP Env 18.

b) Scale, Design and Materials

The proposed summer house lies to the side and would be subordinate in scale and floor plan to the main house. It would be positioned in such a way that there would be no damaging impact on the appearance and amenity of the street and the surrounding area.

The new fencing would be no greater in height than the prevailing size already established in the neighbourhood.

The proposal complies with LDP policy Des 12.

c) Residential Amenity

There would be no significant loss of residential amenity.

d) Public Comment

No comments have been received.

Conclusion

The proposal does not comply with the Edinburgh Local Development Plan and the non-statutory guidance, as the loss of open space would have a significant adverse impact on the quality and character of the local environment. The scale, design and materials of the summerhouse and fencing are compatible with the character of the existing buildings. There are no other material considerations which outweigh this decision.

It is recommended that this application be Refused for the reasons below.

3.4 Conditions/reasons/informatives

Reasons:-

1. The proposal is contrary to the Local Development Plan Policy Env 18 in respect of Open Space Protection, as it would have a significant adverse impact on the quality and character of the local environment

Risk, Policy, compliance and governance impact

4.1 Provided planning applications are determined in accordance with statutory legislation, the level of risk is low.

Equalities impact

5.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Consultation and engagement

6.1 Pre-Application Process

There is no pre-application process history.

6.2 Publicity summary of representations and Community Council comments

No representations have been received.

Background reading / external references

- To view details of the application go to
- [Planning and Building Standards online services](#)

Statutory Development

Plan Provision

The site lies within the urban area of Edinburgh Local Development Plan.

Date registered

29 October 2020

Drawing numbers/Scheme

1-5,
Scheme 1

David R. Leslie
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Jennifer Zochowska, Senior Planning Officer
E-mail:jennifer.zochowska@edinburgh.gov.uk

Links - Policies

Relevant Policies:

Relevant policies of the Local Development Plan.

LDP Policy Des 12 (Alterations and Extensions) sets criteria for assessing alterations and extensions to existing buildings.

LDP Policy Env 18 (Open Space Protection) sets criteria for assessing the loss of open space.

Relevant Non-Statutory Guidelines

Non-statutory guidelines 'GUIDANCE FOR HOUSEHOLDERS' provides guidance for proposals to alter or extend houses or flats.

Non-Statutory guidelines Edinburgh Design Guidance supports development of the highest design quality and that integrates well with the existing city. It sets out the Council's expectations for the design of new development, including buildings, parking, streets and landscape, in Edinburgh.

Appendix 1

Consultations

No consultations undertaken.

END

Business Centre G.2 Waverley Court 4 East Market Street Edinburgh EH8 8BG Email: planning.support@edinburgh.gov.uk

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 100349490-001

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.

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

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Miss"/>	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="Joanne"/>	Building Number:	<input type="text" value="12"/>
Last Name: *	<input type="text" value="Stewart"/>	Address 1 (Street): *	<input type="text" value="Firrhill Drive"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: *	<input type="text" value="Edinburgh"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="EH13 9EP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="REDACTED"/>		

Site Address Details

Planning Authority:

City of Edinburgh Council

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

Address 1:

12 FIRRHILL DRIVE

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

EDINBURGH

Post Code:

EH13 9EP

Please identify/describe the location of the site or sites

Northing

669459

Easting

323208

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)

change of use of open land east side of 12 firrhill drive from open space to private garden ground. Extend the wooden boundary fence and erect a summerhouse/garden shed

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.

Purchased unused surplus land 2018 from CEC for sole purpose of extending garden. Assured change of use was a formality/no issue. Area not used for leisure/recreation/open space by residents-just dog fouling/rubbish dumping. Grass neglected by CEC-overgrows resulting in vermin in houses. Area is 300m from large open park space/green space on embankment. Wouldnt effect footpath. Other properties in local area purchased ground to extend garden & granted change of use/planning. No resident objections.

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)

Applicant supporting letter Photographs of area Photographs of other properties in area

Application Details

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

20/04021/FUL

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

29/10/2020

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

03/12/2020

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

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

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: Miss Joanne Stewart

Declaration Date: 29/01/2021

Proposal Details

Proposal Name	100349490
Proposal Description	appeal for change of use and construction of fence and summer house
Address	12 FIRRHILL DRIVE, EDINBURGH, EH13 9EP
Local Authority	City of Edinburgh Council
Application Online Reference	100349490-001

Application Status

Form	complete
Main Details	complete
Checklist	complete
Declaration	complete
Supporting Documentation	complete
Email Notification	complete

Attachment Details

Notice of Review	System	A4
support for planning and change of use appeal	Attached	A4
site map	Attached	A4
supporting documentation	Attached	A4
supporting documentation1	Attached	A4
supporting documentation 2	Attached	A4
supporting documentation 4	Attached	A4
fence elevation	Attached	A4
proposal	Attached	A4
PROPOSED SUMMERHOUSE	Attached	A4
site map 2	Attached	A4
Notice_of_Review-2.pdf	Attached	A0
Application_Summary.pdf	Attached	A0
Notice of Review-001.xml	Attached	A0

Boundary Proposed Fence – 12 Firrhill Drive

Extend the current boundary fence around the extended side garden area. The construction is to match the existing garden boundary fence. A wooden horizontal slatted fence – 1.8m high.

The battens of the fence will be treated timber 22x100mm to a height of 1.8m. Fence posts 75mmx75mmx2700mm – approx 1.5m between the posts.

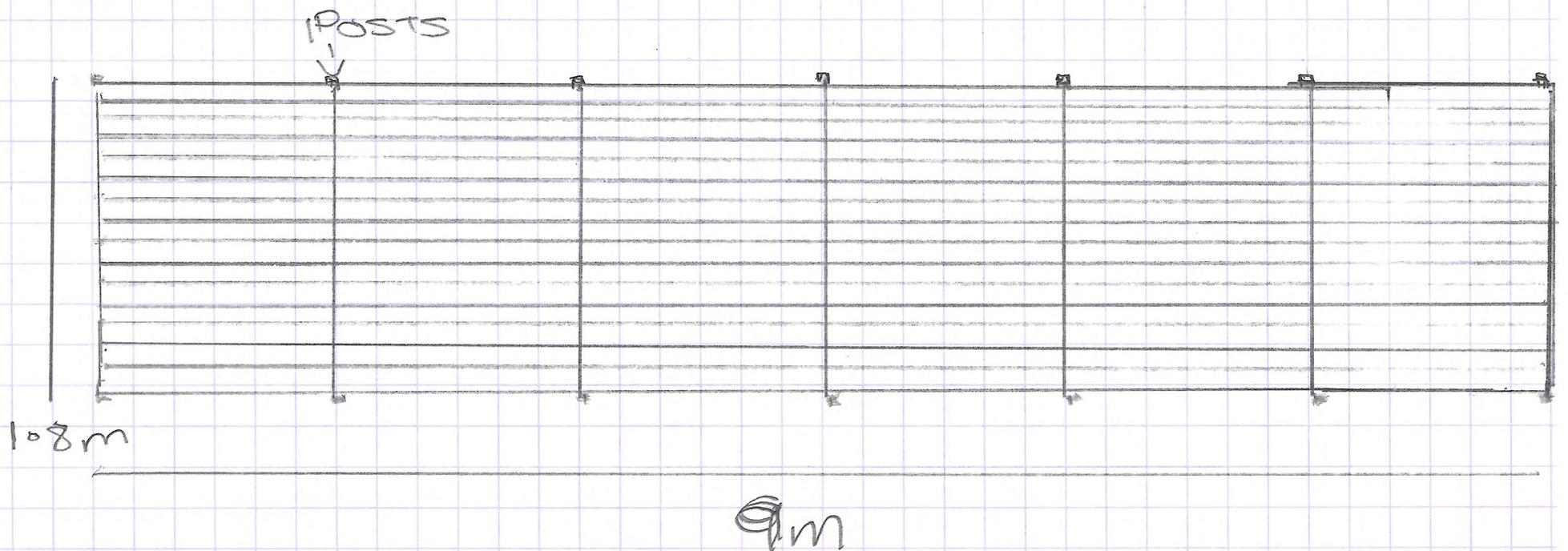
Access gates from the existing garden will be situated in the front and rear gardens. They will be constructed with the same timber and design.

Once complete the entire boundary fence will be painted light grey in colour to blend in with the metal fencing around the other cottages in firrhill drive.

Proposed fence colour



FENCE STREET + FOOTPATH ELEVATION



SCALE 1:50

Proposal – Reference 20/02837/FUL – 12 Firrhill Drive

Change of use from open space to private garden use with a boundary fence; erection of a summerhouse/shed.

To seek permission for change of use of 149.8sq.m of land at the side of 12 Firrhill drive from open space to private garden use. This is following the sale of the land from City of Edinburgh council to the applicant.

To Extend the 1.8m wooden slatted boundary fence around the area above to allow for usable garden space and privacy. Also security for household children and pets playing in this area. The fence will match the existing fence around 12 Firrhill Drive and will be similar in wooden construction to fences at Greenlaw Rigg/Hedge – which also back onto Firrhill Drive. The new garden area will be accessed through gates in the existing garden. The extended garden will allow additional area for the children to play and allow for growing of vegetables/composting for household sustainability and improved environmental footprint.

To erect a 6m x 3m summerhouse/garden shed as indicated in the provided drawings and pictures.

A Council Scots pine tree on the adjacent open space is overgrowing and will need pruned back to allow fence to be erected.

As shown on the plan there is a pavement at the front of the plot of land and a raised footpath to the rear. The footpath was raised during floor prevention work to the Braidburn and consequently the path is now 1m higher than the previous ground level at the rear of the property.

Proposed Summerhouse/shed – 12 Firrhill Drive

6m wide x 3m deep footprint (19'8" x 9'10") Walls are 45mm thick interlocking logs while the floor and roof are constructed from 19mm tongue and groove boards. All windows are double glazed with toughened glass. The two front windows and double opening doors

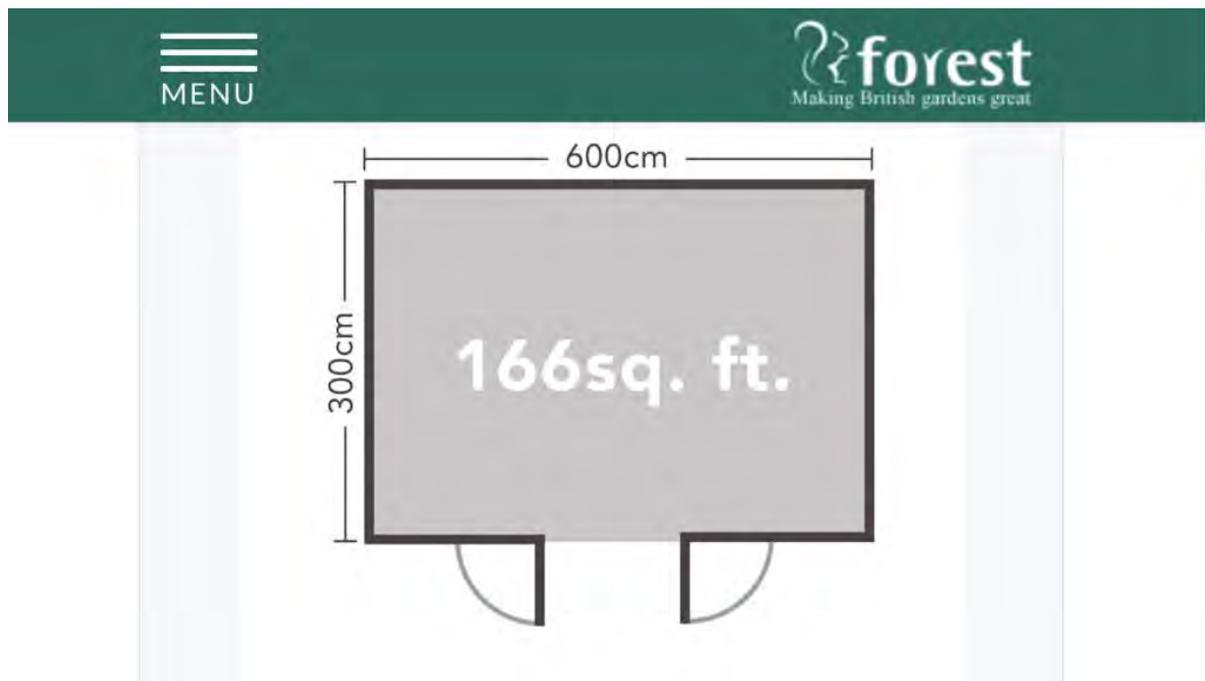


Summerhouse/shed Elevation and measurements

The rear of the structure will face the street (Firrhill Drive) and the front will face into the garden area. There are no windows to the rear of the structure – it is constructed of solid wood 6000mmx2025mm.

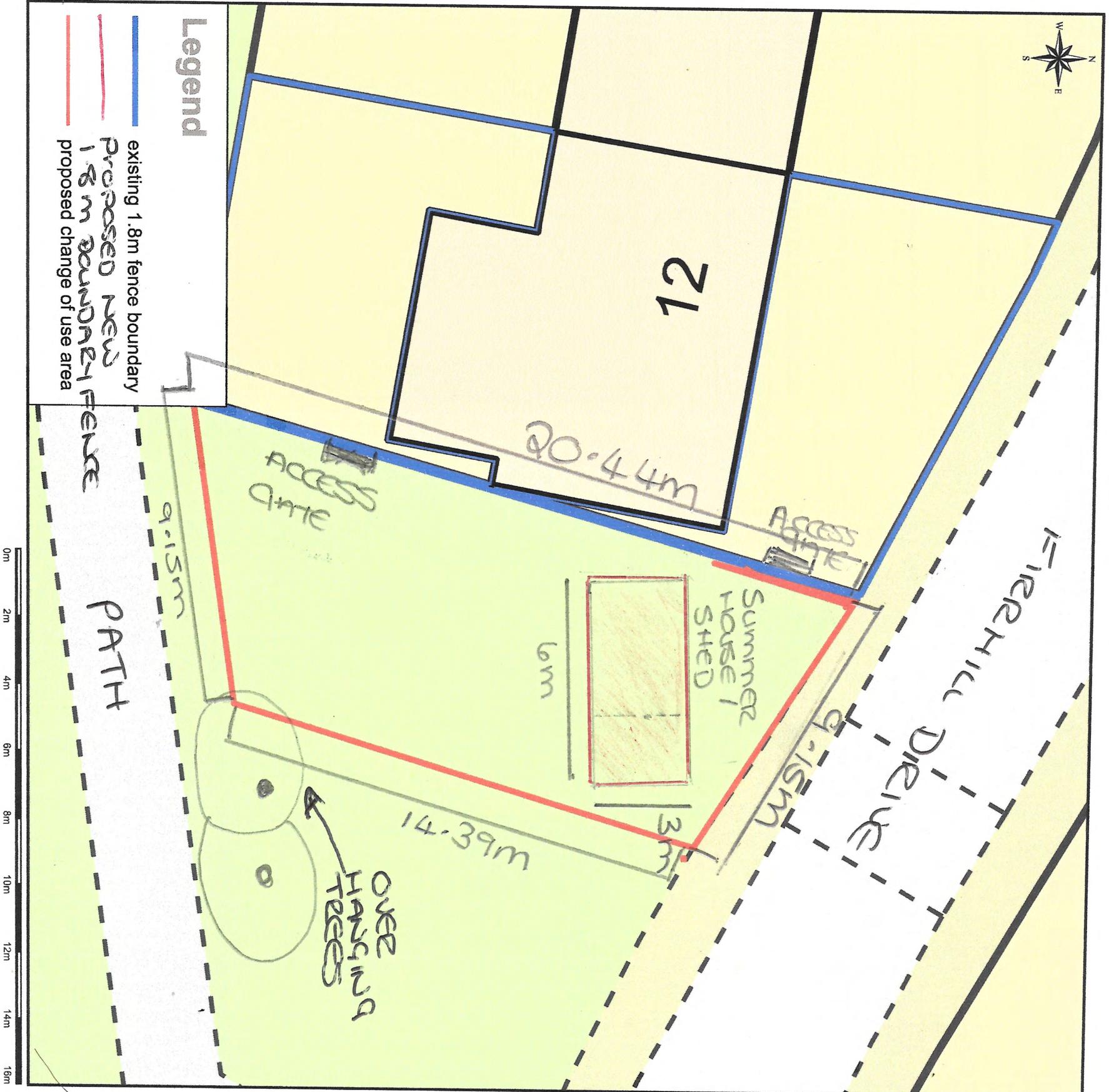


Footprint



4000mm x 3000mm space used as summerhouse and remaining 2000 x 3000mm used as shed area.
The position of the summer house/shed is shown on the drawing and would be south facing.

Site Plan land to east side 12 firrhill Drive



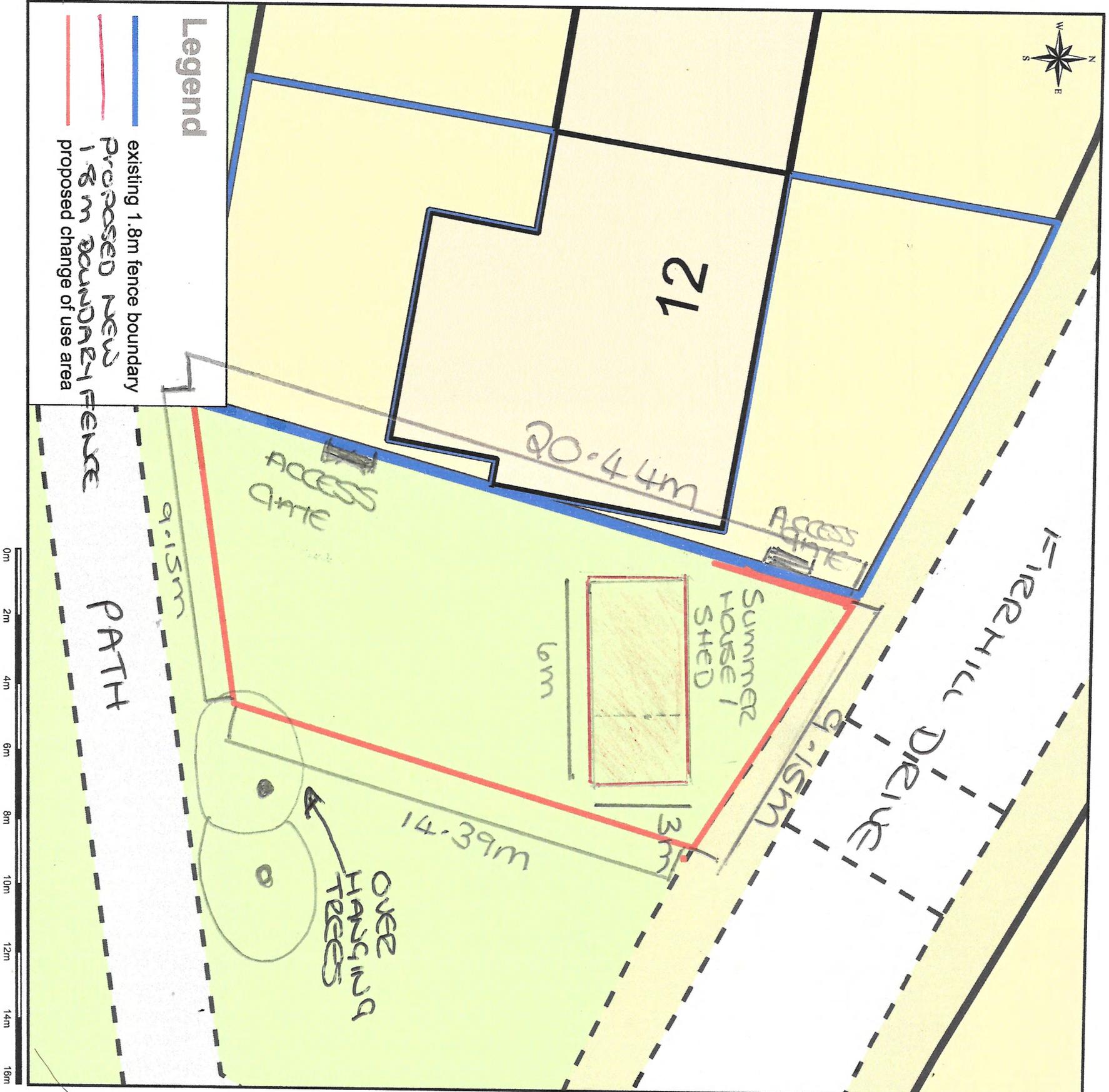
Area of proposed change of use, summerhouse and boundary fencing

Scale 1:200

Area shown delineated red - 149.83 sq m

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Site Plan land to east side 12 firrhill Drive



Area of proposed change of use, summerhouse and boundary fencing

Scale 1:200

Area shown delineated red - 149.83 sq m

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Statement in support of planning appeal – 12 firrhill drive, EH13 9EP

Following a 2 year consultation period of communication with CEC we purchased the land adjacent to 12 Firrhill Drive in March 2018 with the sole purpose of extending our current garden ground. We paid £3725 for the land & all council fees totalling £6572.80. Using this purchased area as garden ground was discussed throughout the process with the council and it is in the terms of sale that the “land is to be used as ornamental or garden ground”. We were informed that we would need to apply for change of use following the sale but that this would just be a formality. If this ground is to remain as open space then the land should not have been deemed as disposable to the council and sold to be used as garden ground. If the policy Env 18 is to “protect open spaces” why would the council have sold this ground? The area also does not provide any amenity to the local area or residents. We live 300metres from colinton mains park which is a vast local green space amenity. During the consultation process no other residents raised any concerns about the change of use of planned boundary fence or summerhouse/shed.

We are a family of 5 with 3 young children and the added garden space was to enhance our family life by providing a secure area to play and allow us to grow our own vegetables for sustainability. It would also improve the local area as that area of ground is currently not well maintained and just used for dog fouling and dumping of rubbish. The grass is infrequently cut in the summer leading to rats from the braid burn infesting the cottages.

Other properties within the local area have purchased council ground adjoining their gardens and been granted permission to change the use from ‘open space’ to ‘garden ground’ so we feel we have been treated unfairly with this decision. The other properties are in Firrhill Crescent, Oxgangs medway & Oxgangs Brae. These properties – as shown in the pictures below – have been granted change of use for the purchased areas and obtained planning permission for construction of a boundary fence & garden sheds. This is very similar to the application we have had refused.

We are appealing to have the refusal decision reviewed.













Boundary Proposed Fence – 12 Firrhill Drive

Proposal is to extend the current boundary fence around the extended side garden area. The construction is to match the existing garden boundary fence. A wooden horizontal slatted fence – 1.8m high.

The battens of the fence will be treated timber 22x100mm to a height of 1.8m.
Fence posts 75mmx75mmx2700mm – approx 1.5m between the posts.

Access gates from the existing garden will be situated in the front and rear gardens. They will be constructed with the same timber and design.

Once complete the entire boundary fence will be painted light grey in colour to blend in with the metal fencing around the other cottages in firrhill drive.

Proposed fence colour



Existing Boundary Fence

Area to be fenced/change of use

Footpath view



Street view from firrhill drive





FIRRHILL DRIVE

 = CHANGE OF USE OF USE AREA



EDINBURGH
THE CITY OF EDINBURGH COUNCIL

PROPERTY AND FACILITIES MANAGEMENT
RESOURCES

Land adjacent to
12 Firrhill Drive
Edinburgh

DATE 23/05/2016

SURVEYED BY FM / NR

DRAWN BY F McDonald

FILE NO.

NEG. NO. NT 2369/A3/1675

AREA SHOWN DELINEATED RED - 149.83 sq.m.

SITE PLAN

SCALE 1:200



LOCATION PLAN

THIS PLAN IS APPROVED FOR THE PURPOSES OF THE PROVISION OF INFORMATION ONLY AND DOES NOT CONSTITUTE A GUARANTEE OF ACCURACY OR A STATEMENT OF OPINION. THE CITY OF EDINBURGH COUNCIL AND ITS OFFICERS ACCEPT NO LIABILITY FOR ANY LOSS OR DAMAGE CAUSED BY THE USE OF THIS PLAN.

Boundary Proposed Fence – 12 Firrhill Drive

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Proposed fence colour



Existing Boundary Fence

Area to be fenced/change of use

Footpath view



Street view from firrhill drive



