



Agenda Item 8

**CONSTRUCTION OF OUTBUILDING
(RETROSPECTIVE) AT 7 PEARSON
PLACE, DENNYLOANHEAD,
BONNYBRIDGE, FK4 1RD FOR MR
GRAHAM LOVE - P/22/0164/FUL**

FALKIRK COUNCIL

Subject: CONSTRUCTION OF OUTBUILDING (RETROSPECTIVE) AT
7 PEARSON PLACE, DENNYLOANHEAD, BONNYBRIDGE,
FK4 1RD FOR MR GRAHAM LOVE - P/22/0164/FUL

Meeting: PLANNING COMMITTEE

Date: 28 June 2022

Author: DIRECTOR OF PLACE SERVICES

Local Members: Ward - Denny and Banknock

Councillor Fiona Collie
Councillor Paul Garner
Councillor Alf Kelly
Councillor Brian McCabe

Community Council: Denny and District

Case Officer: Ryan McDonagh (Graduate Planner), Ext. 07483 459424

[View this Application on Public Access](#)

1. DESCRIPTION OF PROPOSAL / SITE LOCATION

- 1.1 This application relates to a two-storey semi-detached dwellinghouse with a conservatory extension to the rear. The application site is located on Pearson Place being flanked by Denny Road (A872) to the rear.
- 1.2 The rear garden of the application site contains an outbuilding which spans almost the full width of the garden. The application for retrospective permission which is before planning committee is the result of a planning investigation, which discovered the structure to be in breach of permitted development rights.
- 1.3 It should be noted that the rear garden of the application site slopes down towards Denny Road and since the "*height of development is measured from the lowest point immediately adjacent to the structure*" the total height exceeds the conditions set out within Class 3A of the Householder Permitted Development Order, 2011 as amended.

2. REASON FOR COMMITTEE CONSIDERATION

- 2.1 The application was called in by Councillor Fiona Collie in order to allow the Planning Committee to consider the scale and location of the development and how these factors impact on the levels of amenity and privacy which is enjoyed by neighbours. Also, to allow the committee to consider if a site visit by members would be appropriate.

3. SITE HISTORY

- 3.1 06/0009/FUL - Permitted Development - 23 January 2006 - Extension to Dwellinghouse (Conservatory).

4. CONSULTATIONS

- 4.1 The Coal Authority have advised that the application does not require a "CMRA".

5. COMMUNITY COUNCIL

- 5.1 No Community Councils have made comments on this application.

6. PUBLIC REPRESENTATION

- 6.1 In the course of the application, 2 contributors submitted letters to the Council. The salient issues are summarised as follows:-
- Concern that the location/size and position of the building breaks more than one of the guidelines published on the Scottish Government website.
 - There were two boundary fences between neighbouring properties- one fence has been removed after the application was submitted. It appears that the sole reason for this fence being removed was to make the garden of the application site look larger. The resulting structure now towers over neighbouring garden fence.
 - Application documents mentions the structure as a '*garden house with a patio*'. The structure would be better described as a Norwegian Style Prefabricated Cabin.
 - Impact on privacy. People standing on the open platform/patio area can look directly into the neighbouring property.
 - The view from the neighbouring property has changed from what is shown on the submitted plans. A horizontal ranch type fencing has been constructed on the side elevation of the structure towards the side of the property. This appears to improve the applicant's privacy however it makes no attempt to improve the neighbour's situation.
 - Design of the outbuilding is not in keeping with the rest of residential estate or a typical dwellinghouse garden. It would be common for this type of structure to be usually found in camping areas or put up for a relatively short period of time- not as a permanent structure within a residential garden.
 - The application states that there are no trees on/adjacent to the property - this is untrue. In addition, these trees are covered by a Tree Preservation Order.

- The project has continued after the application was submitted with excessive noise disruption The structure is unauthorised, so why was this allowed?
- The plans submitted do not clearly show the scale and nature of the structure within the rear garden of the property. They are not drawn professionally - in an attempt that a general member of the public is not aware of the sheer size of the structure.
- The view from the neighbouring property now has a significantly different view when looking down the street; this has also been commented on by third parties.
- Concern over loss of property value. Difficulty selling when it comes to downsizing.
- A site visit is required in order to view the size of the rear outbuilding as well as how poorly designed the structure is compared with the neighbourhood.

7. DETAILED APPRAISAL

Under section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, the determination of planning applications for local and major developments shall be made in accordance with the Development Plan unless material considerations indicate otherwise.

Accordingly,

7a The Development Plan

7a.1 [The Falkirk Local Development Plan \(LDP2\)](#) was adopted on 7 August 2020.

7a.2 The application site lies within the settlement of Dennyloanhead as shown on the Falkirk Council Local Development Plan 2 mapping.

7a.3 The policies of relevance to this application are outlined in the policy schedule at the end of this report. The assessment of the application against relevant policies is outlined as follows:-

Policy HC08 - Residential Extensions and Alterations

7a.4 HC08 states that householder extensions and alterations will be permitted where the "scale design and materials used are sympathetic to the existing buildings." The design and materials used on the structure are considered typical of that of a modern style garden outbuilding. It is therefore considered that the rear outbuilding is not considered to negatively impact the character of the wider neighbourhood.

- 7a.5 HC08 states that extensions and alterations are permitted when “the location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by the neighbouring properties.” It is noted that the applicant has attempted to reduce the impact of loss in neighbour’s privacy through the introduction of horizontal slats located on the previously open side elevation of the outbuilding.
- 7a.6 Officers conducted site visits both prior to and following the introduction of the horizontal wood slatting. It is considered that the positioning of this slatting significantly reduces the view into the neighbour’s garden and the dwellinghouse itself. It is acknowledged that a slight reduction of privacy might still occur between both properties however “*some degree of overlooking neighbouring properties is generally inevitable.*” It is considered that due to the built-up nature of the residential setting the level of overlooking and privacy experienced by neighbouring properties is acceptable and ultimately is not significant enough to warrant the applications refusal.
- 7a.7 The proposal has been assessed against the BRE document on “Site Planning for Daylight and Sunlight” and it is considered that the proposal is aligned with this guidance. Council Officers are satisfied with the orientation of the gardens both the neighbouring plot and application site will not experience a loss of daylight which would be considered to be of a significant degree, as a result of the outbuilding as proposed.
- 7a.8 The proposal is also not considered to be an “overdevelopment of the plot” as there is still an adequate area of garden ground remaining within the application plot for the purpose of enjoyment and service provision. It is acknowledged that the structure is if a large scale however it is not considered to be of a size which would detriment the application plot to an adverse degree. Ultimately the “functioning of garden ground” within the application plot or neighbouring plots is not significantly impacted.
- 7a.9 Furthermore, the proposal does not exacerbate parking issues within the local area or the manoeuvrability of vehicles due its location within the rear garden. The proposal has not introduced any extra living accommodation and in line with the National Roads Development Guidance an increase in parking provision is not required.
- 7a.10 As such the garden outbuilding complies with Policy HC08- Residential Extensions and Alterations of the Falkirk Council Local Development Plan 2.

Policy PE20 - Trees, Woodland, and Hedgerows

- 7a.11 The application is located within the Pearson Place Tree Preservation Order (TPO), as such the proposal is required to be assessed in terms of Policy PE20 of the Falkirk Council LDP2. This policy states that there will be a presumption against development, which will result in the removal of safe and healthy trees, and in a TPO area this includes surrounding/ neighbouring trees or the wider landscape, biodiversity, or historic value.

- 7a.12 It is considered that the outbuilding within the rear garden of 7 Pearson Place does not impact the structure and stability of trees within the TPO area. In addition, no trees have been removed in order to facilitate the structure's construction. Furthermore, the protected trees are set back from the application boundary thus the outbuilding is not considered to impact the appearance or setting of the TPO area. It is also noted that additional garden outbuildings have been constructed flanking Denny Road and in close proximity to the TPO. It is not considered that the existing garden outbuildings impact the wider setting or visual environment of the TPO and on balance the introduction of a further outbuilding within this built up setting, is considered negligible to appearance of the TPO.
- 7a.13 As such the garden outbuilding complies with Policy PE20- Trees, Woodland, and Hedgerows of the Falkirk Council Local Development Plan 2.

7b Material Considerations

- 7b.1 The material considerations to be assessed are:-

Falkirk Council Supplementary Guidance - SG03 & SG10

Assessment of Public Representations

SG03 - Residential Extensions and Alterations

- 7b.2 This guidance is provided to give advice to homeowners or developers who are wishing to apply to the council for planning permission for a house extension or alterations. It sets out a series of principles and design standards in which all house extensions should follow in order to improve design quality across Falkirk Council as to not adversely impact residential amenity.
- 7b.3 The proposal is considered to comply with the thrust of SG03 on Residential Extensions and Alterations which is part of the non-statutory guidance for the Falkirk Council LDP2.

SG10 - Trees and Development

- 7b.4 This guidance is provided in order to inform applicants/ agents who are wishing to develop land which would impact trees. Falkirk Council wishes to effectively safeguard and protect existing trees and woodland within development and promotes new trees within development sites. This would ensure the protection of existing trees and woodlands as well as benefiting those who use the site along with the local wildlife and natural environment as a whole.
- 7b.5 Overall, the application is not considered to impact the longevity or character of trees within the Pearson Place Tree Preservation Order. As such the proposal accords with the thrust of SG10 - Trees and Development.

Assessment of Public Representations

- 7b.6 The reason for this application being submitted is due to a planning investigation which ascertained that the structure breaches Class 3A of the Householder Permitted Development Order- specifically in relation to the height; due to the slope at the rear of the property. The stipulations of the Permitted Development Order are not material considerations in the assessment of planning applications. Council Officers undertook a site visit, and advised that a formal application be submitted in order to regularise matters.
- 7b.7 It is acknowledged that the plans provided do not appear to have been professionally drawn. They are, however, considered adequate to allow for an officer recommendation to be made. Site visits were also undertaken to view the application site and its relationship with adjoining properties and surrounding area
- 7b.8 Retrospective planning applications are a part of the Scottish Planning System. They are assessed in the same way as if the proposal was not built. The fact that the application has been submitted in retrospect does not influence the statutory assessment against planning policy. A stop notice, or other formal enforcement action was not considered justified in this instance. This application has been submitted, without prejudice to any decision which may be taken, to regularise matters.
- 7b.9 Planning applications require to be assessed against the policies of the Local Development Plan unless material considerations indicate otherwise. In this instance the application has been assessed against Policy HC08. This relates to scale, design, privacy, light, overlooking and how these factors impact on amenity - amongst other matters. Ultimately the fact that the structure is over 2.5 metres in height - within 1 metre of the boundary, is not a material consideration or a justification for refusal.
- 7b.10 It is accepted that the outbuilding is of a large size however it is not considered to be an overdevelopment of the application plot. A degree of ground is retained within the rear garden of the application plot which is considered of a reasonable size to provide for the future and current need of the residents. If any future structures were positioned within the garden of the application plot (which require planning permission) these would require to be assessed on their own merits.
- 7b.11 The applicant has certified that he owns all the land within the application boundary - there is no evidence before officers which would suggest otherwise. Council Officers have undertaken a site visit and they are satisfied that the plans show an accurate representation to enable a decision on the application.
- 7b.12 The application is for the construction of an outbuilding. Outbuildings are appropriate when they are considered “*auxiliary to the enjoyment of the dwellinghouse*”. It is considered that this proposal provides enjoyment for the dwellinghouse, and this is considered of an auxiliary nature. The design of the proposal is modern however it is not agreed that the structure would significantly impact visual amenity to an adverse degree
- 7b.13 Pearson Place is covered by a Tree Preservation Order (TPO) and as such the trees are protected by legislation. The proposal has been assessed against the policies of the local development plan which refer to TPO's and it is considered that the outbuilding does not impact the physical nature of the trees nor the wider amenity they provide.

7b.14 Loss of view is not a material planning consideration nor is the value of property.

7c Conclusion

7c.1 The rear outbuilding located at 7 Pearson Place is deemed as acceptable development as it accords with the Falkirk Council Local Development Plan 2 in terms of Policy HC08 - Residential Extensions and Alteration along with Policy PE20 - Trees, Woodland, and Hedgerows. In addition, there are no material considerations which would override the Local Development Plan in this instance.

8. HUMAN RIGHTS AND EQUALITY ASSESSMENT

8.1 Officers have considered the Human Rights Act 1998 in making this recommendation. It is considered that the proposed recommendation would not adversely impact on any protected characteristic groups as identified within the Equality Act 2010.

9. RECOMMENDATION

9.1 **It is recommended that Planning Committee should grant planning permission subject to the following condition(s):-**

1. **The development hereby approved shall be implemented in accordance with the plan(s) itemised in the informative below and forming part of this permission unless a variation is required by a condition of the permission, or a non-material variation has been agreed in writing by Falkirk Council as Planning Authority.**
2. **The horizontal slatted panels that are situated on the southern side elevation of the outbuilding shall remain in perpetuity unless otherwise agreed in writing by the Local Planning Authority.**

Reason(s):-

1. **As these drawings and details constitute the approved development.**
2. **To protect the neighbouring property from an unacceptable loss of privacy.**

Informative(s):-

1. For the avoidance of doubt, the plan(s) to which this decision refer(s) bear our online reference number(s) 01A, 02, 03, 04, 05 and 06.

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pp Director of Place Services

Date: 16 June 2022

LIST OF BACKGROUND PAPERS

1. Falkirk Council Local Development Plan 2.
2. SG03- Residential Extensions and Alterations.
3. SG10 - Trees and Development.
4. Objection received from Tracey Mcneil, Constituency Office, 15A East Bridge Street, Falkirk, FK1 1YD on 12 April 2022.
5. Objection received from Mr Gordon Johnstone, 9 Pearson Place, Dennyloanhead, Bonnybridge, FK4 1RD on 3 May 2022.

Any person wishing to inspect the background papers listed above should telephone Falkirk 07483 459424 and ask for Ryan McDonagh, Graduate Planner.

Policy Schedule

HC08 Residential Extensions and Alterations

Extensions and alterations to residential properties will be permitted where:

1. The scale, design and materials are sympathetic to the existing building;
2. The location and scale of the extension or alterations will not significantly affect the degree of amenity, daylight or privacy enjoyed by neighbouring properties; and
3. It will not result in overdevelopment of the plot, thereby giving rise to adverse impact on the functioning of garden ground, unacceptable loss of off-street parking or road safety issues.

Detailed guidance on the application of these criteria is set out in Supplementary Guidance SG03 'Residential Extensions and Alterations'.

PE20 Trees, Woodland and Hedgerows

1. There will be a presumption against the removal of safe and healthy trees, non-commercial woodlands or hedgerows, where such removal would be detrimental to landscape, local amenity, nature conservation, recreation or historic environment interests, or erosion and natural flood management. Criteria in the Scottish Government's policy on Control of Woodland Removal will be used to determine the acceptability of woodland removal;
2. Ancient, long-established and semi-natural woodland, including sites identified in the Scottish Ancient Woodland Inventory, will be protected as a resource of irreplaceable value;
3. In areas covered by a Tree Preservation Order (TPO) or Conservation Area, development will not be permitted unless it can be proven that the proposal will not adversely affect the longevity, health or stability of trees, or their landscape, biodiversity or historic value. Where appropriate, other endangered trees or woodlands which have amenity, cultural or historic importance will be protected through the designation of further TPOs;
4. Development which is likely to affect trees should comply with Supplementary Guidance SG06 'Trees and Development'. A Tree Survey and Tree Constraints Plan will be required to inform the design, together with a Tree Protection Plan. Where development is permitted which will involve the loss of trees or hedgerows of amenity value, the Council will normally require replacement planting on site comprising similar species and numbers to the trees and hedgerows removed;
5. The enhancement and management of existing woodland and hedgerows will be encouraged. Where the retention of a tree group or woodland area is integral to a development proposal, developers will be required to prepare and implement an appropriate Management Plan;
6. The provision of new trees and woodland in association with new development will be encouraged in accordance with Supplementary Guidance SG05 'Green Infrastructure and New Development'; and

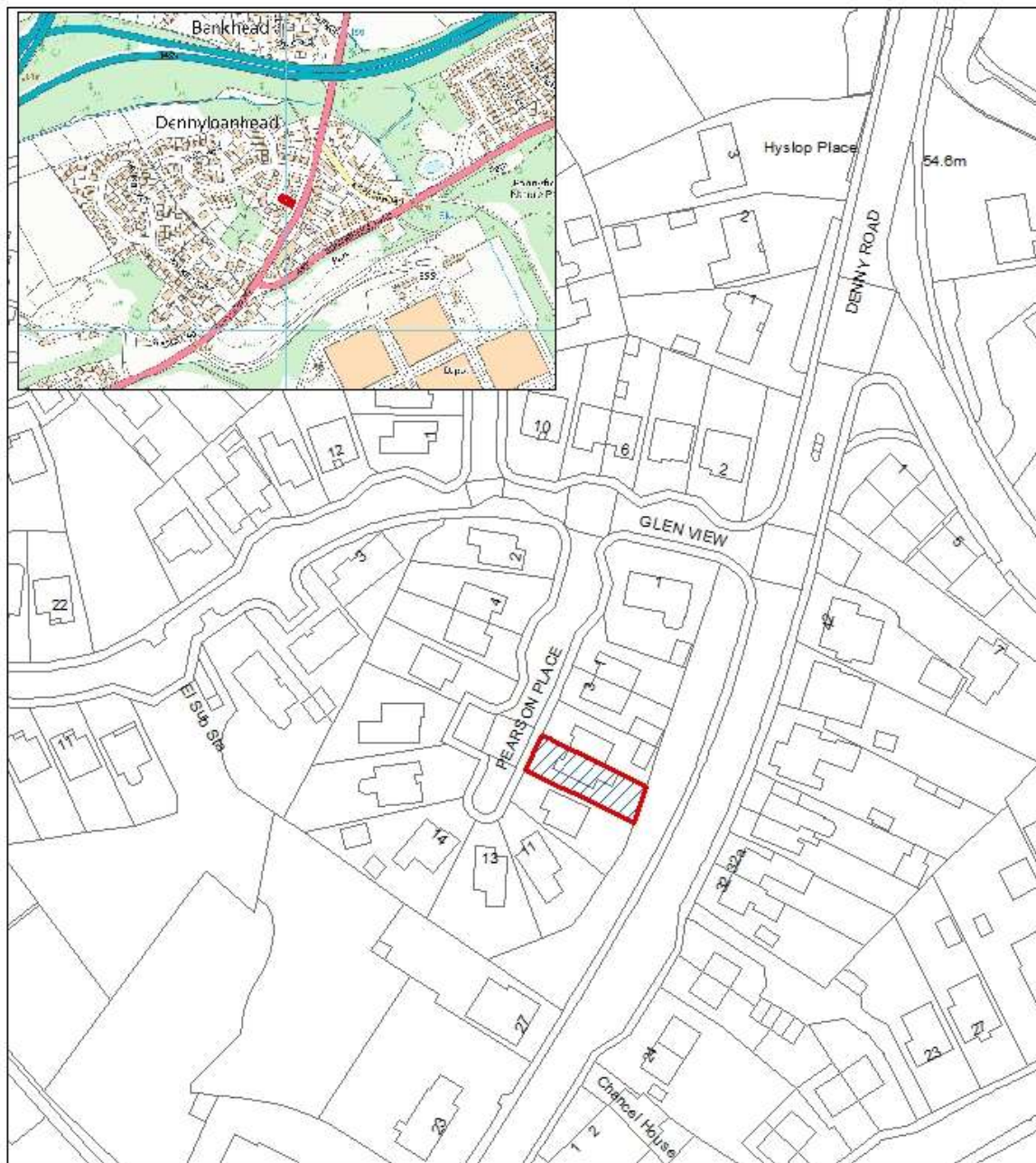
7. There will be a preference for the use of locally native species in new and replacement planting schemes, or other species where these are integral to an historic landscape.

Planning Committee

Planning Application Location Plan

P/22/0164/FUL

This plan is for location purposes only. It should not be interpreted as an exact representation of the application site.



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