

LONDON BOROUGH OF ENFIELD

PLANNING COMMITTEE

Date : 22nd September 2015

Report of
Assistant Director, Planning,
Highways & Transportation

Contact Officer:
Andy Higham 020 8379 3848
Sharon Davidson 020 8379 3841
Mr Nigel Catherall 020 8379 3833

Ward:
Cockfosters

Ref: 15/01191/HOU

Category: Householder

LOCATION: 17 Grosvenor Gardens, London, N14 4TU

PROPOSAL: Erection of outbuilding in rear garden for use as gym, ancillary to residential dwelling (RETROSPECTIVE).

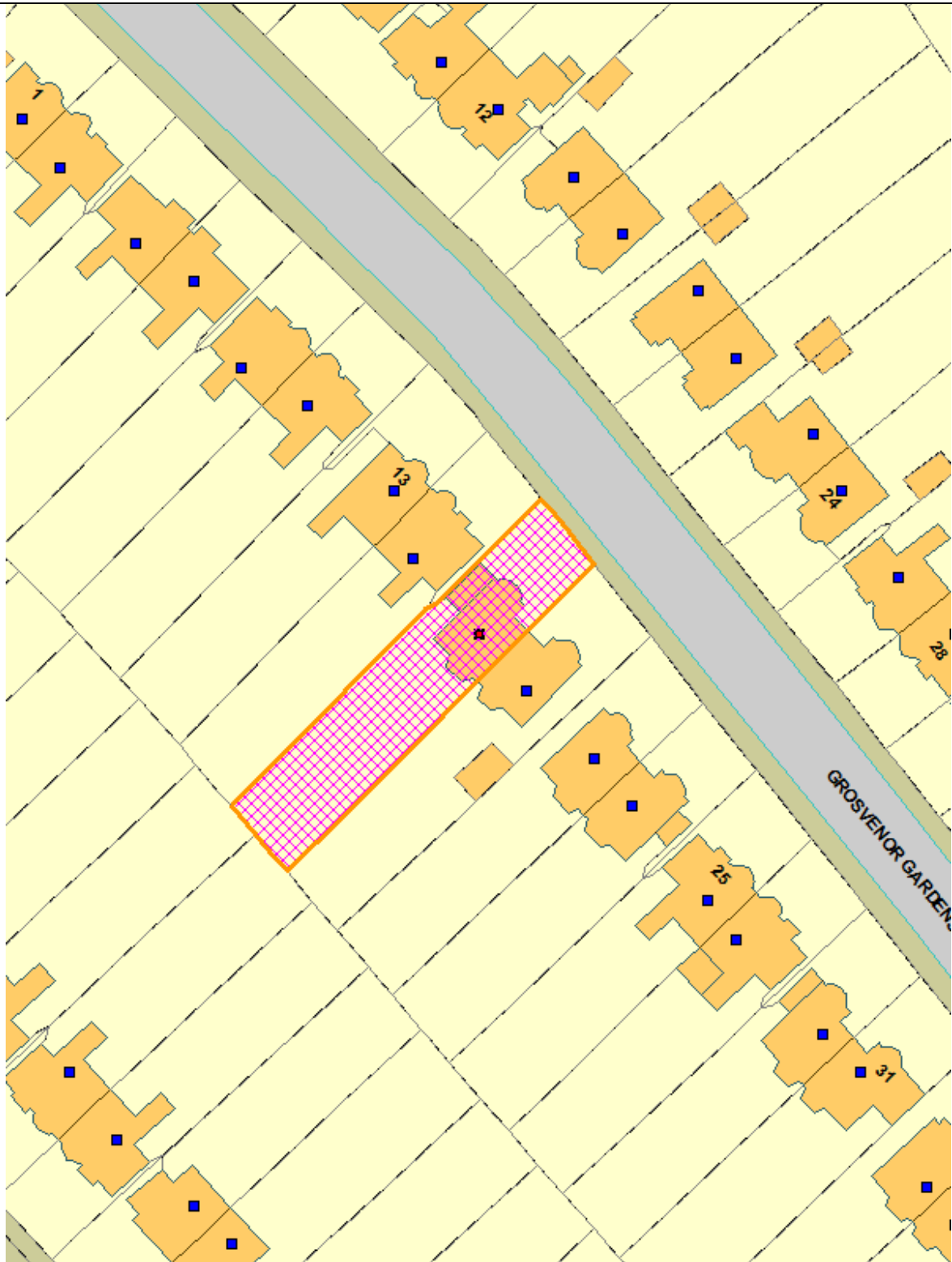
Applicant Name & Address:
Mr Hercules Eracli
17 Grosvenor Gardens
London
N14 4TU

Agent Name & Address:
Mr Antoni Eracli

RECOMMENDATION:

That planning permission be **GRANTED** subject to conditions.

Ref: 15/01191/HOU LOCATION: 17 Grosvenor Gardens, London, N14 4TU,



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Scale 1:1250

North



1. Site and Surroundings

- 1.1 The application property comprises a semi-detached dwellinghouse and a rear garden with a depth of 27m when measured from the rear building line of the original dwellinghouse. There has been previous works at the property, a single storey side and rear extension, a conversion of the adjoining side garage to a habitable room, a raised patio, and the outbuilding which is the subject of this application. The back garden also features a pair of wooden sheds. Ground level slopes downhill from north to south. The surrounding area is residential and characterised by semi-detached dwellings.

2. Proposal

- 2.1 Permission is sought for the retention of the existing outbuilding but with the reduction of its overall height by 0.3m. The application also proposes:
- i) the erection of new timber supports immediately adjacent to the boundary fence to the common boundary with No.19, to support 300mm of trellis, which would sit above the height of the existing boundary fence; and
 - ii) a new 1.8m high trellis fence perpendicular to the boundary fence with No.19. together with a planting bed in front. The applicant proposes to plant climbers to ultimately cover the proposed trellis.
- 2.2 This application follows a refusal of planning permission for the retention of the existing outbuilding and the dismissal of the subsequent appeal.

3. Relevant Planning Decisions

- 3.1 15/01192/CEA - Outbuilding at rear. Currently under consideration.
- 3.2 15/00009/ENFORC - Without planning permission the erection of an unauthorised outbuilding within the rear garden of the Premises. Enforcement Notice currently under appeal and a decision awaited.
- 3.3 P13-02505PLA - Erection of outbuilding in rear garden for use as gym, ancillary to residential dwelling (RETROSPECTIVE). Refused, September 2014 for the following reasons:
- 1. The outbuilding, by virtue of its size, siting, external finish and height in relation to surrounding topography, represents a dominant and overbearing structure in this garden setting, detrimental to the amenities of adjoining occupiers. In this respect the development is contract to Core Policy CP30, DMD 8 and 12 of the Submission version Development Management Documents and Policy (II)GD3 of the UDP.
 - 2. The outbuilding due to the presence of a facing window, its height and prominence relative to the adjoining property leads to overlooking and a loss of privacy for the occupiers of No. 19 Grosvenor Gardens, detrimental to their amenities. In this respect the development is contrary to Core Policy CP30, Policy DMD 8 and 12 of the Submission version Development Management Document and Policy (II)H8 of the Unitary Development Plan.

- 3.4 CON/6914 - Without planning permission the erection of an unauthorised outbuilding (outlined in blue on the attached plan for identification purposes) within the rear garden of the Premises.

4. Consultations

4.1 Public

- 4.1.1 Consultation letters were sent to four neighbouring properties. Two replies were received raising the following points:

- Remind the council that letters were provided in support of an earlier application fraudulently written in neighbours names.
- The plans, sections and site levels too freely dismiss the topography of the site.
- These ground levels are intentionally shown to be misleading. An example of which is that it has been suggested that the lawn level at the neighbouring property has been considerably lowered from the original levels which is untrue.
- Photos submitted demonstrating that the levels of the garden at 15 Grosvenor Gardens have not been altered since the purchase in 1966.
- The level of 17 Grosvenor Gardens garden was raised in 2010 under permitted development. Fraudulent letters (of support) submitted to the council's planning enforcement department.
- Existing Building (built in 2013). Fraudulent letters (of support) submitted again to the council's planning enforcement department.
- The ground level that has been submitted by 17 Grosvenor Garden has not been measured from the original ground level.
- In the application it says that 15 Grosvenor Gardens has lowered the garden level. Therefore implying that No 15 and 19 Grosvenor Gardens' have done so to, this is not true (photographs available to prove this).
- The loss of privacy that will be caused to have such a building only 13m away from the back door and windows. The situation of the windows and doors of the proposed outbuilding will also impose an invasion of privacy.
- Irrespective of the any planning applications until the garden levels are back to its original state, any outbuilding will always impose an invasion of privacy and have a great impact upon my family.

5. Relevant Policy

5.1 London Plan

- Policy 7.1 Building London's neighbours and communities
Policy 7.4 Local character
Policy 7.6 Architecture

5.2 Core Strategy

- CP30 Maintaining and Improving the Quality of the Built and Open Environment

5.3 Development Management Document

- DMD12 Outbuildings

5.4 Other Material Considerations

National Planning Policy Framework
London Housing SPG
Strategic Housing Market Assessment (SHMA) (2010)

6. Analysis

6.1 Impact on character and appearance of surrounding area

6.1.1 When considering the previous application (P13-02505PLA) for the structure that presently exists on site, the Planning Inspector stated the following:

- It is significant in scale and extends across much of the plot's width with the side walls close to and parallel with the shared rear boundaries with the properties on either side of the site. Taken together with its flat roof, I consider that the appeal scheme appears as a large bulky structure that in my experience is atypical of ancillary outbuildings and structures that are generally found in the gardens of residential properties.
- Of the properties close to the site, it is the occupiers of 19 Grosvenor Gardens that are most likely to be affected by the appeal scheme.
- As the outbuilding occupies an elevated position in relation to the rear garden of No 19 due to the notable difference in ground levels, it projects significantly above the timber fence that largely marks the common boundary between these adjacent properties.
- When seen from the dining room window and the rear garden of No 19, the outbuilding... due its scale, height and position, it is my judgement that the outbuilding unacceptably dominates the external outlook from the dining room window in particular.

6.1.2 The assessment of this application must therefore be based upon whether the proposed reduction in height, together with the additional fencing proposed, would overcome the concerns raised by the Planning Inspector. It should also be noted that the Inspector accepted that the existing structure only really had an impact on the amenities of the occupiers of No.19 Grosvenor Gardens and did not consider there to be any adverse impact on the amenities of the occupiers of No.15.

6.1.3 Key to the assessment of impact of the structure on the amenities of the occupiers of the adjoining properties is the issue of the difference in ground levels between the application site and neighbouring properties.

6.1.4 Ground levels slope downhill from north to south and west to east, as such each property steps down with No.15 higher than No.17, and No.17 higher than No.19 and so on. The properties to the rear, fronting Prince George Avenue sit noticeably higher than the properties on Grosvenor Gardens, as such the rear gardens along Grosvenor Gardens appear slightly higher at the rear, although as the subject outbuilding is at the rear of the site this point is not readily relevant to this assessment.

- 6.1.5 The ground levels difference has the consequence of causing the outbuilding to appear much taller than is obvious when viewing the submitted plans, particularly in relation to No.19 Grosvenor Gardens which is at the lower level..
- 6.1.6 Information which has been submitted by the applicant and both neighbours in relation to the situation regarding ground levels and whether these have been raised is conflicting. However, following a site visit to Nos 15, 17, and 19, and having viewed the documents submitted, along with additional information provided by residents of all three properties, it is considered that the existing rear garden level at No.17, adjacent to the boundary with No. 19 is not the original rear garden level and that the levels here have been raised. Photographic evidence provided includes a historic picture where the dilapidated fence along the shared boundary of Nos 17 and 19 reveals a low retaining wall at its base which appears to be roughly at the same level as the adjacent garden level at No.17. Having visited No.19, the same low retaining wall is still in existence, yet the ground level at No.17 is now evidently higher than the top of the retaining wall. However, there is little evidence to suggest that levels adjacent to the boundary with No.15 have been changed and therefore on balance it is considered that these levels should be taken as original
- 6.1.7 Notwithstanding the circumstances associated with the garden levels, the levels as they now exist on site are lawful and therefore the issue for Members to consider is whether, having regard to the levels as they now exist, do the alterations proposed to the structure that presently exists, together with the additional fencing proposed, address the previous reasons for refusal and the comments made by the Inspector at appeal.
- 6.1.8 It should be noted that the applicant has also submitted an application for a Certificate of Lawful development, seeking confirmation that planning permission would not be required for an alternative single storey outbuilding in the rear garden. The building proposed as part of that application would be 12.3m in length, 7.24m in width and 2.5m in height. The application is reported elsewhere on this agenda. Members should note that the officer recommendation is that the outbuilding proposed as part of that application would not require planning permission. The applicant is asking that Members note this position in the consideration of this application and the size and scale of a building that could be erected on the site without the need for planning permission. It is not unusual for the decision maker to have to consider the fall back position when considering a planning application and Members therefore need to be aware of this alternative fall back position when considering this application. However, the applicants preference is clearly to amend the height of the existing structure as proposed as part of this application. Moreover, the Planning Inspector discussed a fallback position when considering the earlier appeal and noted:

- While a building constructed under PD (Permitted Development) would be closer to the rear of this adjacent house it would also be lower in height and thus likely to be shielded to a greater extent by the boundary fence.

The Inspector goes on to state that:

- The harm caused by the proposal cannot be justified simply because the same level of harm or additional harm to the occupiers of No 19 could arise through the PD option.

6.1.9 Accordingly, it is considered that the fall back position, where the development the subject of the lawful development application could be undertaken as permitted development, must be attributed very little weight in the consideration of this application.

6.1.10 This application proposes the retention of the footprint of the building as it exists on site but with a reduction in height by 0.3m. The application also proposes new trellis work to the common boundary with No.19. so as to effectively increase the height of the boundary enclosure by 300mm, and the erection of an additional fence, parallel with the front elevation of the building, 1.8m in height, with a planting bed in front. The applicant has also positioned a line of bamboo trees in pots along the common boundary with No.19 to further assist in breaking up views of the structure when seen from the rear of No.19. Whilst recognising the levels difference between the application site and No.19 Grosvenor Gardens, on balance, it is considered that the combination of works proposed are sufficient to reduce the dominance of the structure when viewed from this property and therefore to address the first reason for refusal of the earlier application and the Inspectors concerns.

6.1.9 It is noted that issues of privacy have been raised in relation to the current proposal. The Planning Inspector considered the issues of privacy stating that:

- Because the front windows of the outbuilding have obscure glazing there are no views through them towards the rears of adjacent properties and so there is no loss of privacy to neighbouring occupiers with the outbuilding in place. The presence of these windows, which are clearly in view from the rear of No.19, could result in some perception of being overlooked. However, in my experience, some overlooking is often a characteristic of adjacent dwellings in residential areas and, according to the appellant, this would have been possible from the patio that previously occupied this part of the garden. In that context, the sense of being overlooked would be insufficient to withhold planning permission if the appeal scheme were acceptable in all other respects.

6.1.10 As there are no proposed alterations to the existing openings it is considered that the Inspector's assessment is still valid and applicable. Therefore no recommendation for refusal will be based on issues of loss of privacy.

6.1.11 Conditions are recommended requiring that the works necessary to reduce the height of the structure be undertaken within 6 months of the decision, that the additional fencing to the common boundary with No 19 , be provided within 2 months of the decision and that the new fencing parallel with the front wall of the building be provided within 6 months and together with planting in the planting bed in accordance with details that have first been approved

7. Conclusion

7.1 The proposed reduction in height of the existing outbuilding, together with the new fencing proposed is considered sufficient to overcome the previous reasons for refusal and to address the harm identified through the earlier refusal of planning permission.

8. Recommendation

8.1 That planning permission be GRANTED subject to the following conditions:

- 1 C60 Approved plans
- 2 That the height of the building shall be reduced in accordance with drawing number GROS/2015/04A within 6 months of the date of this decision.
Reason: To safeguard the amenities of the occupiers of No.19 Grosvenor Gardens.
- 3 That the trellis fencing to the boundary with No.19 Grosvenor Gardens as shown on drawing numbers GROS/2015/03A, 04A and 07 shall be provided in accordance with the approved drawings within 2 months of the date of this decision and shall not thereafter be removed unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of No.19 Grosvenor Gardens.
- 4 That the 1.8m high trellis fencing parallel with the front wall of the building and shown on drawing numbers GROS/2015/03A and 04A shall be provided in accordance with the approved drawings within 6 months of the date of this decision and shall not thereafter be removed unless otherwise agreed in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of No.19 Grosvenor Gardens.
- 5 That a planting scheme shall be implemented in the new planting bed parallel with the front wall of the building as shown on drawing number GROS/2015/03A in accordance with details that have first been submitted to and approved by the Local Planning Authority within 6 months of the date of this decision. Any planting which dies, becomes severely damaged or diseased within five years of planting shall be replaced with new planting in accordance with the approved details.
Reason: To safeguard the amenities of the occupiers of No.19 Grosvenor Gardens.

Appeal Decision

Site visit made on 13 February 2015

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 February 2015

Appeal Ref: APP/Q5300/D/14/3001500
17 Grosvenor Gardens, London N14 4TU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Hercules Eracli against the decision of the Council of the London Borough of Enfield.
 - The application Ref P13-02505PLA was refused by notice dated 24 September 2014.
 - The development proposed is retrospective planning for an outbuilding at the rear of the property being used solely as an ancillary to current dwelling (home gym).
-

Decision

1. The appeal is dismissed.

Procedural matters

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate decision.
3. The proposed development is complete. The outbuilding in question appears to have been erected broadly in accordance with the plans. At the site visit, I saw that all the front windows of the outbuilding were obscurely glazed.
4. During the site visit, I was invited by the occupiers of 19 Grosvenor Gardens to view the site from their adjacent property. I accepted this invitation and undertook the viewing from No 19 unaccompanied.
5. In November 2014, after the application was refused planning permission and before the appeal against that decision was lodged, the Council adopted its Development Management Document (DMD). The DMD now forms part of the development plan. It replaces the submission version of this document and Policies (II) H8 and (II) GD3 of the Council's Unitary Development Plan that are identified in the reasons for refusal.

Main issue

6. The main issue in this appeal is the effect of the development on the living conditions of the occupiers of nearby properties, particularly 19 Grosvenor Gardens, mainly with regard to outlook, visual impact and privacy.

Reasons

7. The development for which planning permission is sought is a detached single storey outbuilding that is sited towards the rear of the long back garden of the appeal property, which is a 2-storey dwelling. The walls of the outbuilding are painted white and the roof is flat. It stands on a plinth base that is slightly raised from the ground level. The entrance doors and window of the outbuilding broadly face towards the rear elevation of No 17.
8. My attention has been drawn to an alternative scheme. The appellant states that a similar-sized or a larger outbuilding could be erected under permitted development (PD) if its height were no more than 2.5-metres from the ground, which is some 0.6-metres lower than the existing building. At that reduced height, an outbuilding with a larger footprint could be sited closer to the rears of No 17 and the properties on either side. The Council appears not to contest this opinion. While there would be some obvious inconvenience and cost to lower the height of the existing building in this way, there is nothing before me to indicate that these modifications could or would not take place. Therefore, I consider that this option is a realistic fall back position against which the development before me should be evaluated.
9. In my opinion, the outbuilding is a sizeable addition. It is significant in scale and extends across much of the plot's width with the sidewalls close to and parallel with the shared rear boundaries with the properties on either side of the site. Taken together with its flat roof, I consider that the appeal scheme appears as a large bulky structure that in my experience is atypical of ancillary outbuildings and structures that are generally found in the gardens of residential properties. To that extent, I am unable to share the opinions of the appellant and those expressed in the Officer's report that the development, as constructed, is of a relatively modest scale and a standard form for a typical domestic outbuilding in this garden setting.
10. Of the properties close to the site, it is the occupiers of 19 Grosvenor Gardens that are most likely to be affected by the appeal scheme. The rear elevation of this adjacent house faces towards the outbuilding albeit at an oblique angle and its rear garden adjoins that of No 17. Views from other properties would tend to be from a greater distance, at an oblique angle and partially shielded by existing boundary features.
11. As the outbuilding occupies an elevated position in relation to the rear garden of No 19 due to the notable difference in ground levels, it projects significantly above the timber fence that largely marks the common boundary between these adjacent properties. Consequently, a major part of the new built form is evident from the rear of No 19, as I saw during the site visit.
12. Having observed the outbuilding from the rear of No 19 there is little doubt that the considerable size of the development draws the eye notwithstanding the partial screening provided by the boundary fence in the foreground. When seen from the rear ground floor window nearest to the shared boundary with No 17, which serves a dining room, I consider that the outbuilding appears as an unusually large and prominent addition. The elevated position of the development relative to this adjacent property accentuates its visual impact to a far greater degree than might be implied if the visual assessment were made

solely from the site itself and by reference to the distance that separates the rear elevation of No 19 and the outbuilding.

13. When seen from this dining room window and the rear garden of No 19, the outbuilding could not reasonably be described as barely visible or the view limited as the appellant suggests. To the contrary, due its scale, height and position, it is my judgement that the outbuilding unacceptably dominates the external outlook from the dining room window in particular. Furthermore, the appeal scheme has an unduly imposing presence that in my opinion feels intrusive. Hence, in my view, the development materially reduces the living conditions of the occupiers of No 19.
14. If the outbuilding were lower in height, as could be the case under PD, it would still be visible from the rear of No 19, and other nearby properties, especially if it occupied a larger footprint than the existing outbuilding and arranged so that the structure was closer to the rear of the adjacent properties including No 19. While few details of this alternative option are before me, the appellant's opinion that a PD scheme would have a greater visual impact and potentially be more overbearing on the occupiers of No 19 than the development is, to my mind, overstated. While a building constructed under PD would be closer to the rear of this adjacent house it would also be lower in height and thus likely to be shielded to a greater extent by the boundary fence. Therefore, I am not convinced on the available evidence that the harm caused by the proposal can be justified simply because the same level of harm or additional harm to the occupiers of No 19 could arise through the PD option.
15. Because the front windows of the outbuilding have obscure glazing there are no views through them towards the rears of adjacent properties and so there is no loss of privacy to neighbouring occupiers with the outbuilding in place. The presence of these windows, which are clearly in view from the rear of No 19, could result in a perception of being overlooked. However, in my experience, some overlooking is often a characteristic of adjacent dwellings in residential areas and, according to the appellant, this would have been possible from the patio that previously occupied this part of the garden. In that context, the sense of being overlooked would be insufficient to withhold planning permission if the appeal scheme were acceptable in all other respects.
16. Notwithstanding my favourable finding on this latter point, I conclude that the proposal materially harms the living conditions of the occupiers of No 19. Accordingly, it conflicts with Core Policy CP30 and DMD Policies DMD 8 and DMD 12 insofar as they aim to safeguard residential amenity.
17. Reference is made to several recent decisions to grant planning permission for outbuildings and garages with details provided in relation to two particular properties: a detached brick outbuilding at 3 Lanercost Gardens and a garage with storage space at 35 De Bohun Avenue. I am not aware of the detailed circumstances of either of these cases and, in my experience, it is rare that direct parallels can be drawn between sites given that local circumstances often vary. To reiterate, it is the specific relationship between the outbuilding and the rear of No 19 that I find to be objectionable in this case. From the limited information provided, I am unable to conclude that the relationship between either of these approved schemes with nearby housing, taking into account

ground levels, replicates that of the development and No 19. In any event, each development should be assessed on its own merits, as I have done.

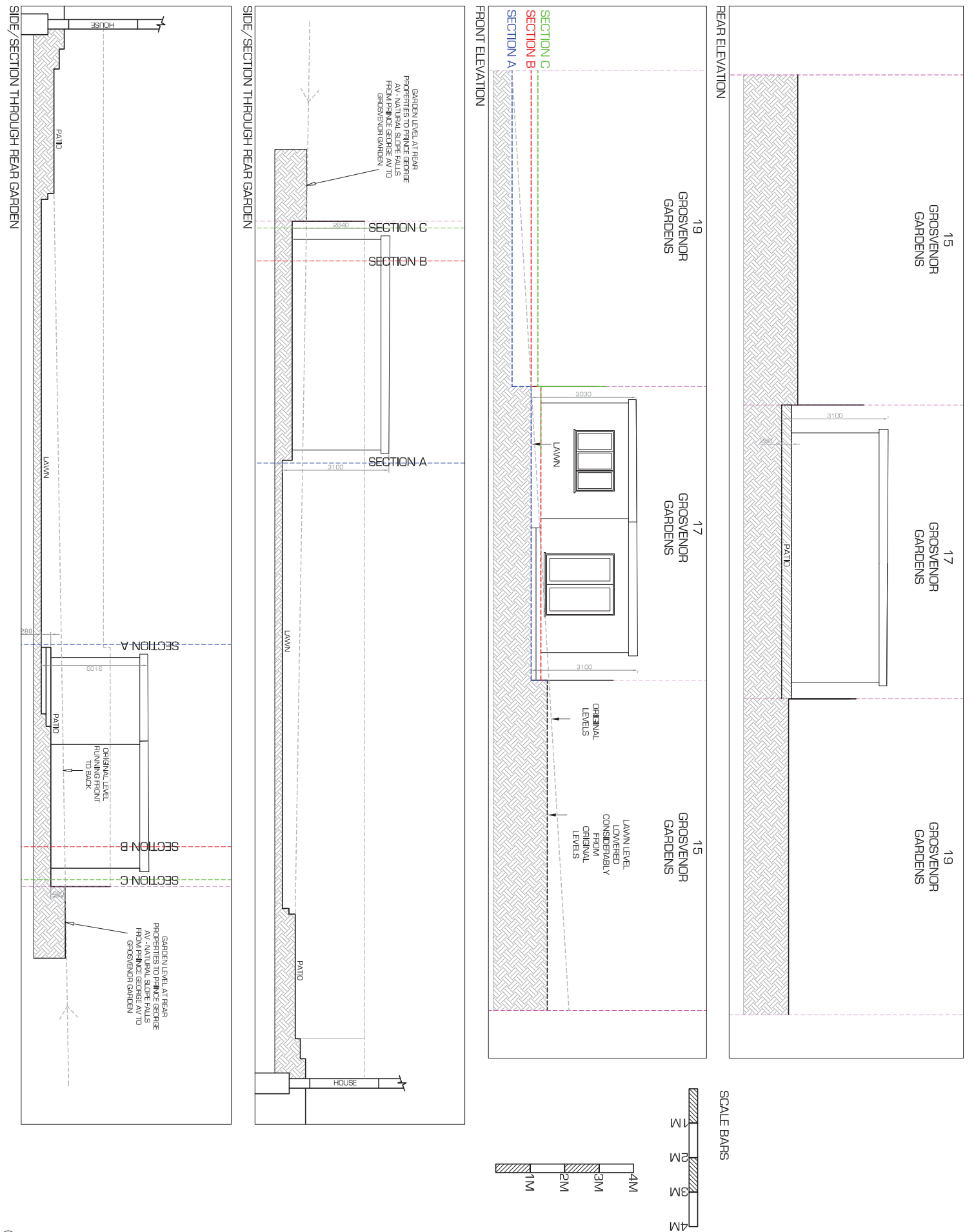
18. The Officer's report concludes that the design and appearance of the outbuilding would not cause harm to the wider character or appearance of the area. I have no reason to disagree with that general finding. I did observe that several properties in the vicinity of the site also have rear outbuildings although these were generally smaller and more in keeping with their ancillary domestic use. While some properties clearly have sizeable outbuildings, as shown in the appellant's photographs, none that I saw were comparable in their relationship to No 19 as in this case.
19. Several additional objections are raised to the development including drainage, external lighting, on-street parking, precedent and the uses to which the outbuilding is put. These are all important matters and I have taken into account all of the representations made. However, given my findings on the main issue, these are not matters on which my decision has turned.

Conclusion

20. Overall, for the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR



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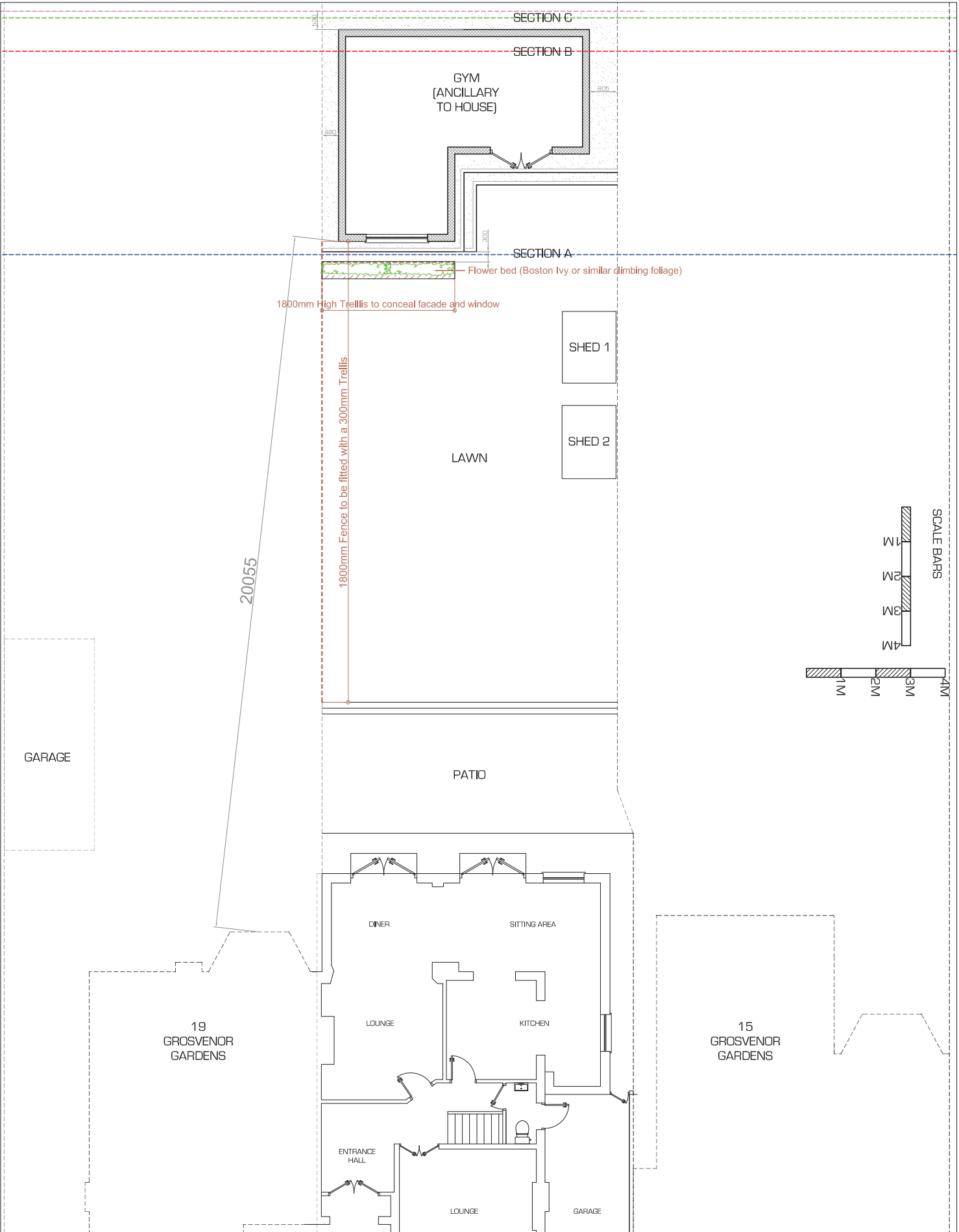
EXISTING ELEVATIONS (RETROSPECTIVE)

Customer name & site address:
 Mr. H. Eracli
 17 Grosvenor Gardens
 London, N14 4TU

Works:
 Retrospective Planning - Outbuilding
 as an auxiliary to property - Private
 Gym - Lowering Roof Height 300mm

Council: Enfield
 Date: 10th March 2015
 Scale: 1:100 @ A3
 Dwg no. GROS/2015/02

GROUND FLOOR PLAN



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PROPOSED SITE PLAN (RETROSPECTIVE)

Customer name & site address:
Mr. H. Eracli
17 Grosvenor Gardens
London, N14 4TU

Works:
Retrospective Planning - Outbuilding
as an auxillary to property - Private
Gym - Lowering Roof Height 300mm

Council: Enfield

Date: 28th August 2015

Scale: 1:100 @ A3

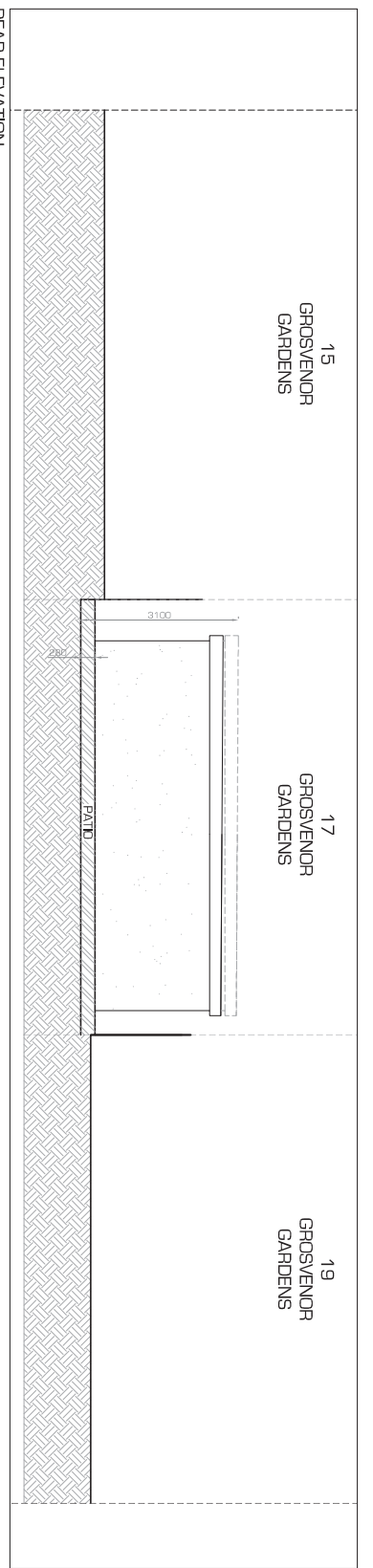
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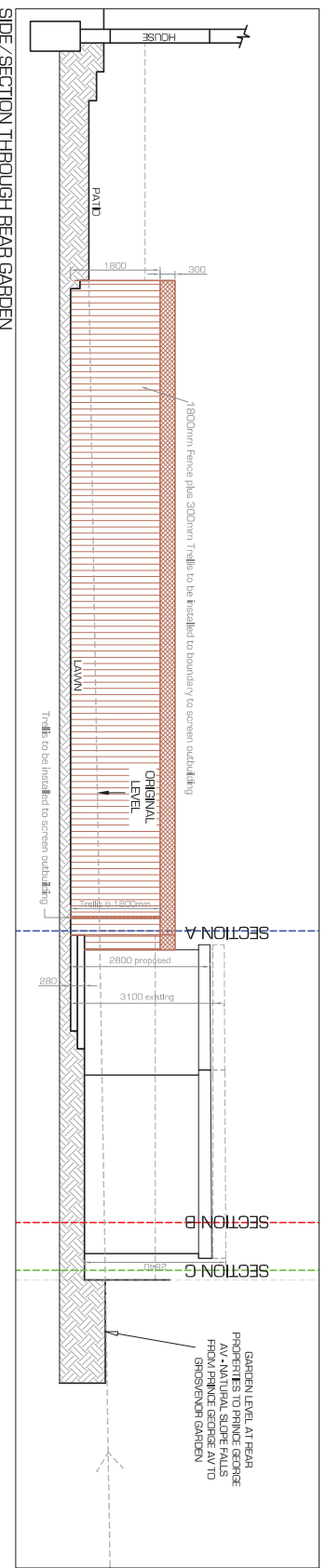
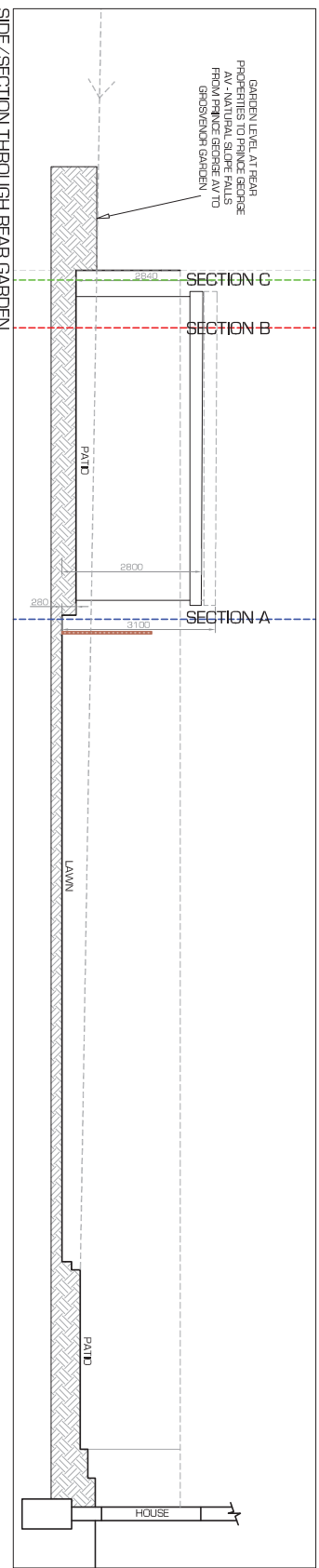
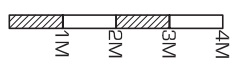
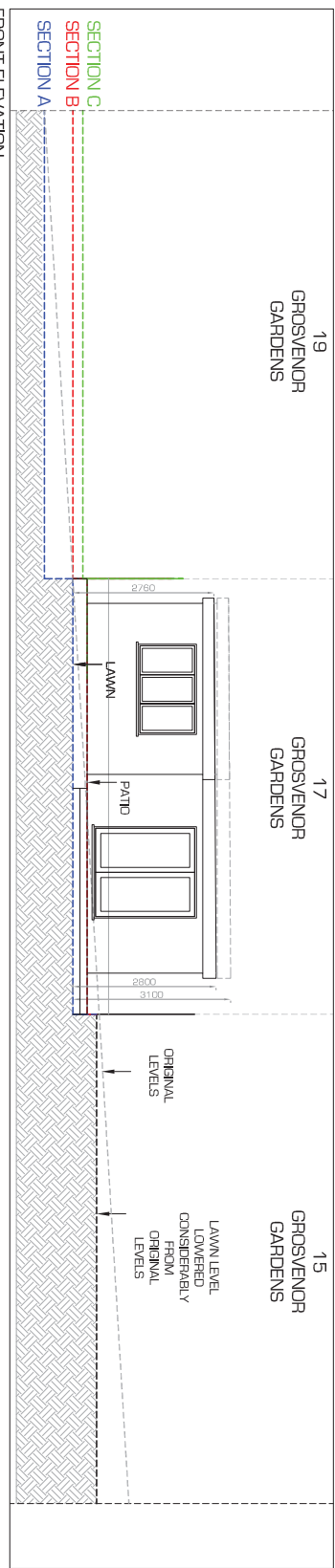
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SCALE BARS



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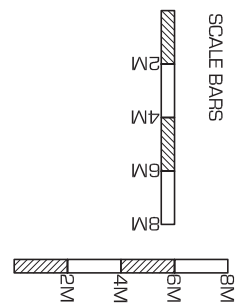
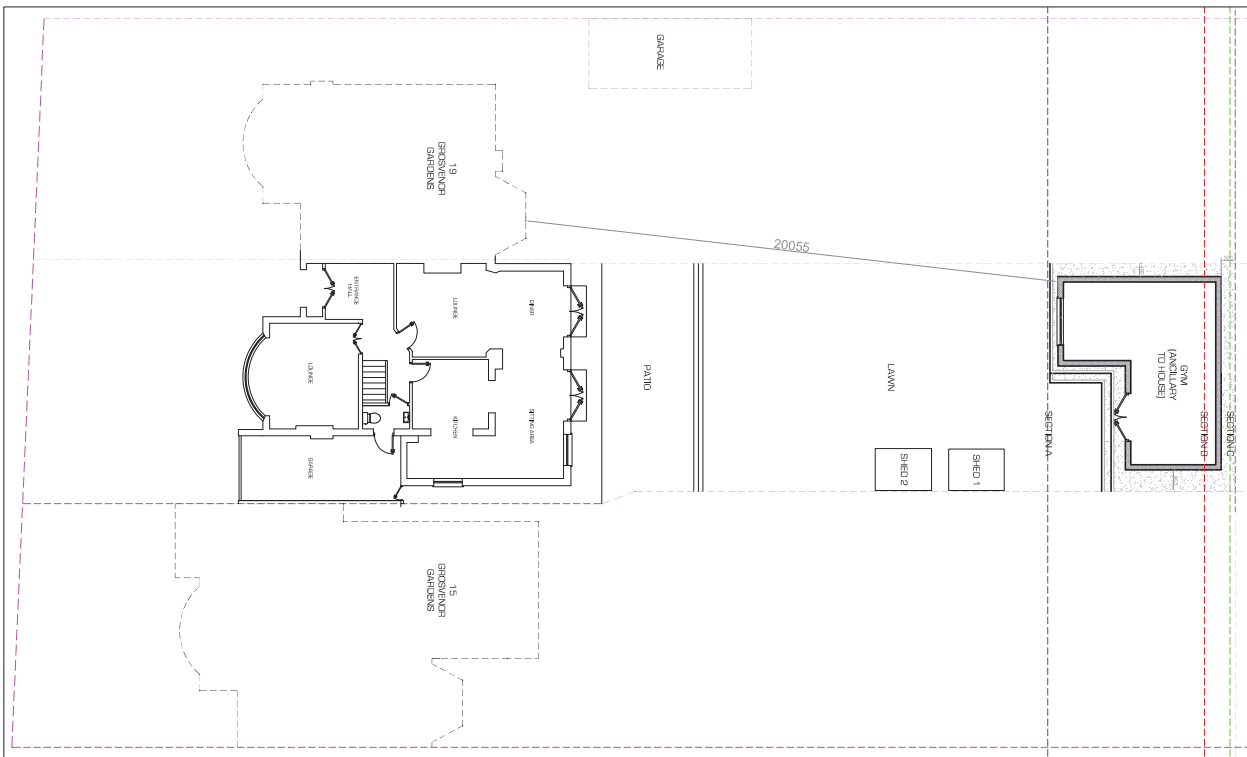
PROPOSED ELEVATIONS (RETROSPECTIVE)

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 London, N14 4TU

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 as an auxillary to property - Private
 Gym - Lowering Roof Height 300mm

Council: Enfield
 Date: 22nd JULY 2015
 Scale: 1:100 @ A3
 Dwg no. GROS/2015/04A

BLOCK PLAN



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EXISTING BLOCK PLAN (RETROSPECTIVE)

Customer name & site address:
 Mr. H. Eracli
 17 Grosvenor Gardens
 London, N14 4TU

Works:
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 as an auxiliary to property - Private
 Gym - Lowering Roof Height 300mm

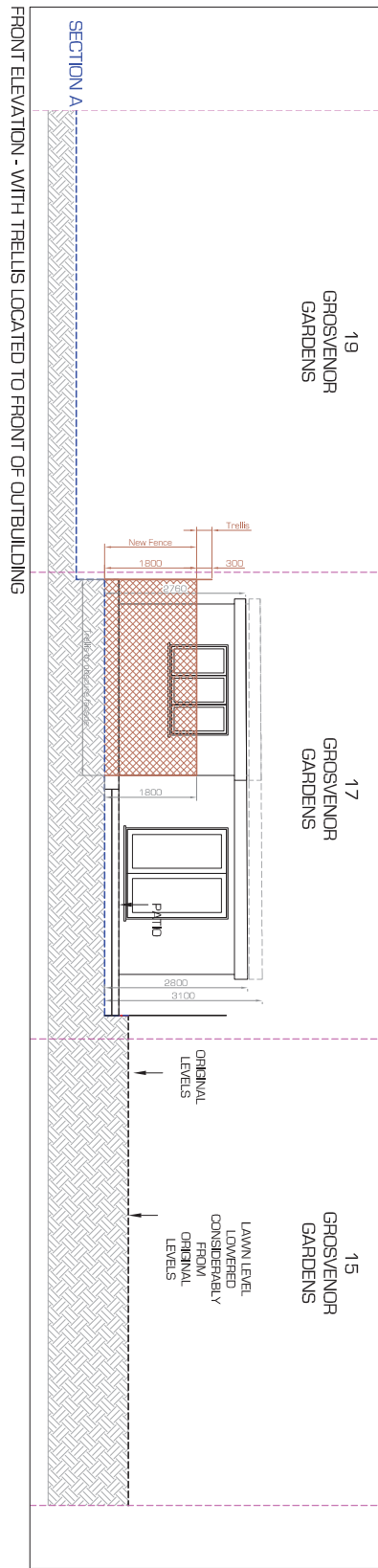
Council: Enfield
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Dwg no. GROS/2015/05

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PROPOSED ELEVATIONS SHOWING TRELLIS
(RETROSPECTIVE)

Customer name & site address:
Mr. H. Eracli
17 Grosvenor Gardens
London, N14 4TU

Works:
Retrospective Planning - Outbuilding
as an auxillary to property - Private
Gym - Lowering Roof Height 300mm

Council: Enfield

Date: 22nd JULY 2015

Scale: 1:100 @ A3

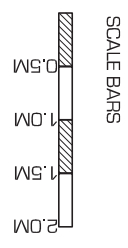
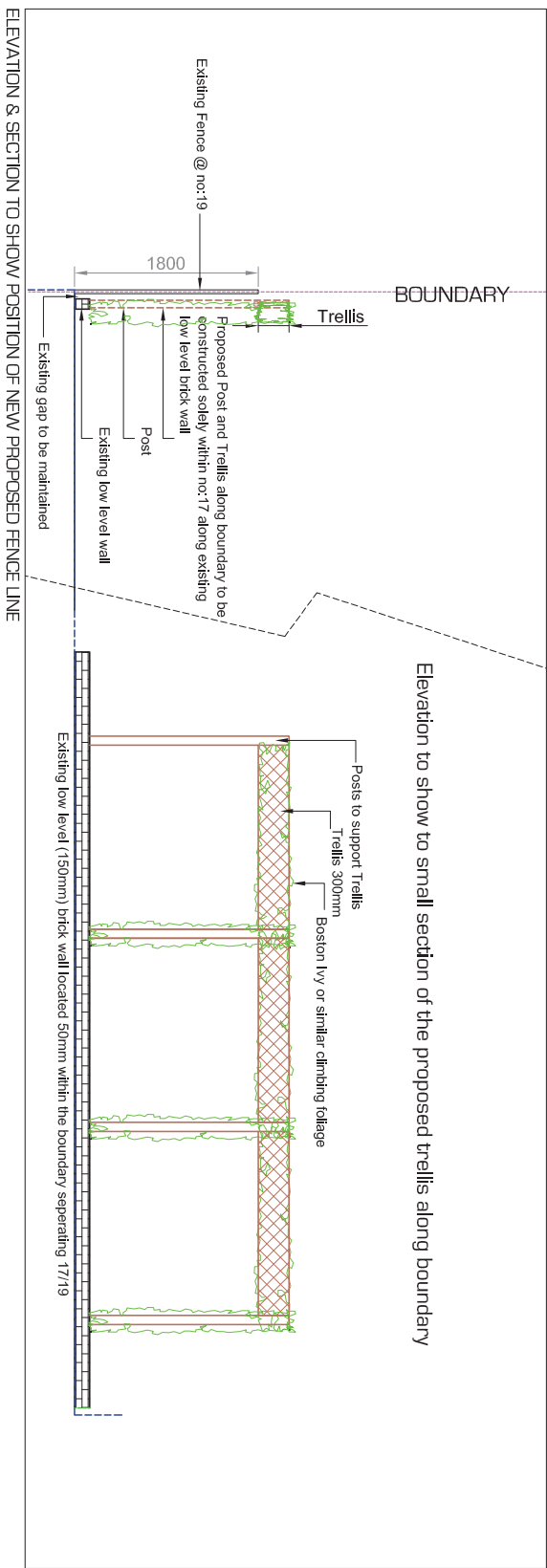
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PICTURES SHOWING LOCATION OF FENCE AT NO:19 AND ALSO LOCATION OF EXISTING LOW LEVEL WALL WITHIN NO:17 THAT WILL BE USED TO CONSTRUCT THE TIMBER TRELLIS

<p>- KUDOS -</p> <p>- PLAN & DESIGN -</p> <p>WWW.KUDOSPLANS.CO.UK</p> <p>info@kudosplans.co.uk</p> <p>T: 07904585920</p>	<p>PROPOSED DETAIL REGARDING BOUNDARY TRELLIS (RETROSPECTIVE)</p>		<p>Council: Enfield</p>
	<p>Customer name & site address:</p> <p>Mr. H. Eraci</p> <p>17 Grosvenor Gardens</p> <p>London, N14 4TU</p>		<p>Date: 7TH SEPTEMBER 2015</p>
	<p>Works:</p> <p>Retrospective Planning - Outbuilding as an auxillary to property - Private Gym - Lowering Roof Height 300mm</p>		<p>Scale: 1:50 @ A3</p> <p>Dwg no. GROS/2015/07</p>