



## MORAY LOCAL REVIEW BODY

29 OCTOBER 2020

### SUMMARY OF INFORMATION FOR CASE No LR239

**Planning Application 20/00165/APP – Erect 800 mm fence on top of existing boundary wall at 1 Longwood Walk, Elgin**

#### **Ward 7 – Elgin City South**

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 22 April 2020 on the grounds that:

1. The proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies PP3, H4, IMP1 and T2) and should be refused for the following reasons:
  - The fence is not of an appropriate scale for the existing site or surrounding area and therefore is contrary to policies H4 and IMP1.
  - The fence would remove an existing public frontage to the dwellinghouse and therefore is not in accordance with the requirements of policy PP3.
  - The fence would give rise to a reduction in inter-visibility between pedestrians, cyclists and vehicles which could give rise to issues regarding road safety and therefore is contrary to policies T2 and IMP1.

Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.

No Further Representations were received in response to the Notice of Review.

At the meeting of the Moray Local Review Body (MLRB) on 24 September 2020, the MLRB determined that they did not have sufficient information to make a decision and deferred consideration of the above Review to request further photographs of the site as site visits are currently suspended due to the COVID-19 pandemic.

The photographs of the site can be found at **Appendix 3**.





## **APPENDIX 1**

# **DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER**







The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: [development.control@moray.gov.uk](mailto:development.control@moray.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 100232678-001

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.

## Description of Proposal

Please describe accurately the work proposed: \* (Max 500 characters)

Erect 800mm high fence on top of existing 1m boundary wall around property at 1 Longwood Walk Elgin IV30 6YZ.

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): \*

04/10/2019

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

I was not sure if I need a planning application for this work I send a enquiry to moray council and when I was waiting for replay I did start some work to have some privacy .

## 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="Mr"/>	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="Dawid"/>	Building Number:	<input type="text" value="1"/>
Last Name: *	<input type="text" value="Stasiak"/>	Address 1 (Street): *	<input type="text" value="Longwood Walk"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Elgin"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV30 6YZ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="1 LONGWOOD WALK"/>
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="ELGIN"/>
Post Code:	<input type="text" value="IV30 6YZ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="861705"/>	Easting	<input type="text" value="321263"/>
----------	-------------------------------------	---------	-------------------------------------

## 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)

I get replay for my enquiry and is said the planninn permission is required and transportation would not support the erection of high fence along the side frontage with Edgar road as proposed as this would reduce sightlines not only for vehicles exiting the existing driveway but also the around corner visibility for pedestrians and cyclists. Please see the letter and sketch on the below reference number.

Title:

Mr

Other title:

First Name:

Joseph

Last Name:

Thompson

Correspondence Reference Number:

18/01251/ID/JWT/RKS/AJ

Date (dd/mm/yyyy):

01/11/2019

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.

## 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.

## Access and Parking

Are you proposing a new or 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 proposed to make. You should also show existing footpaths and note if there will be any impact on these.

## 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: Mr Dawid Stasiak

On behalf of:

Date: 11/02/2020

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Householder Application

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) Have you provided a written description of the development to which it relates? \* ☒ Yes ☐ No
- b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \* ☒ Yes ☐ No
- c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent? \* ☒ Yes ☐ No
- d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale. ☒ Yes ☐ No
- e) Have you provided a certificate of ownership? \* ☒ Yes ☐ No
- f) Have you provided the fee payable under the Fees Regulations? \* ☒ Yes ☐ No
- g) Have you provided any other plans as necessary? \* ☒ Yes ☐ No

Continued on the next page

A copy of the other plans and drawings or information necessary to describe the proposals (two must be selected). \*

You can attach these electronic documents later in the process.

- ☒ Existing and Proposed elevations.
- ☐ Existing and proposed floor plans.
- ☐ Cross sections.
- ☒ Site layout plan/Block plans (including access).
- ☐ Roof plan.
- ☐ Photographs and/or photomontages.

Additional Surveys – for example a tree survey or habitat survey may be needed. In some instances you may need to submit a survey about the structural condition of the existing house or outbuilding. ☐ Yes ☒ No

A Supporting Statement – you may wish to provide additional background information or justification for your Proposal. This can be helpful and you should provide this in a single statement. This can be combined with a Design Statement if required. \* ☐ Yes ☒ No

You must submit a fee with your application. Your application will not be able to be validated until the appropriate fee has been Received by the planning authority.

## Declare – For Householder Application

I, the applicant/agent certify that this is an application for planning permission as described in this form and the accompanying Plans/drawings and additional information.

Declaration Name: Mr Dawid Stasiak

Declaration Date: 11/02/2020

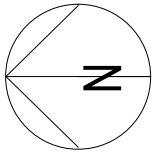
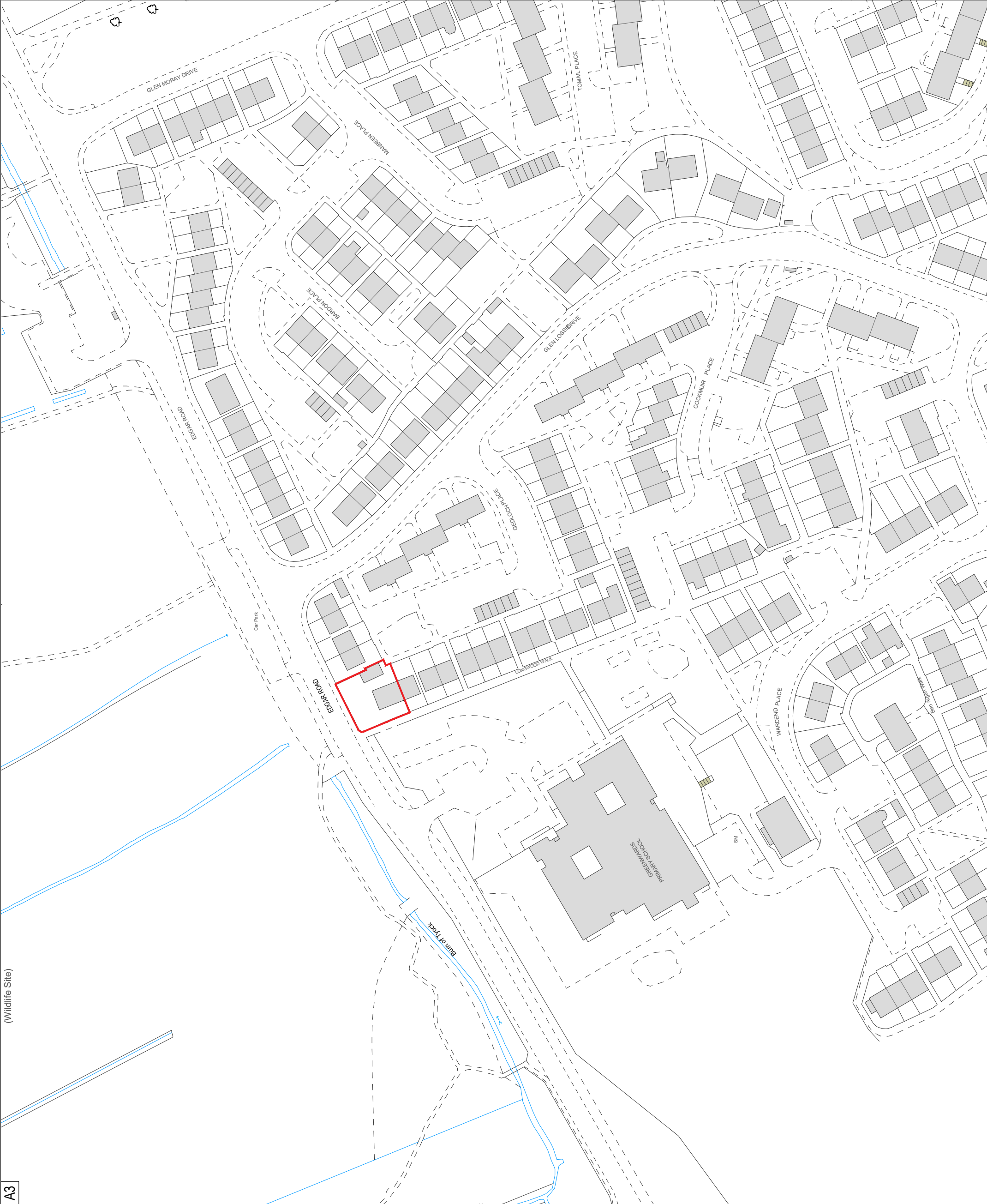
## Payment Details

Online payment: 011966

Payment date: 11/02/2020 19:22:29

Created: 11/02/2020 19:22





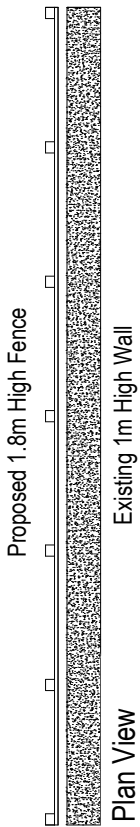
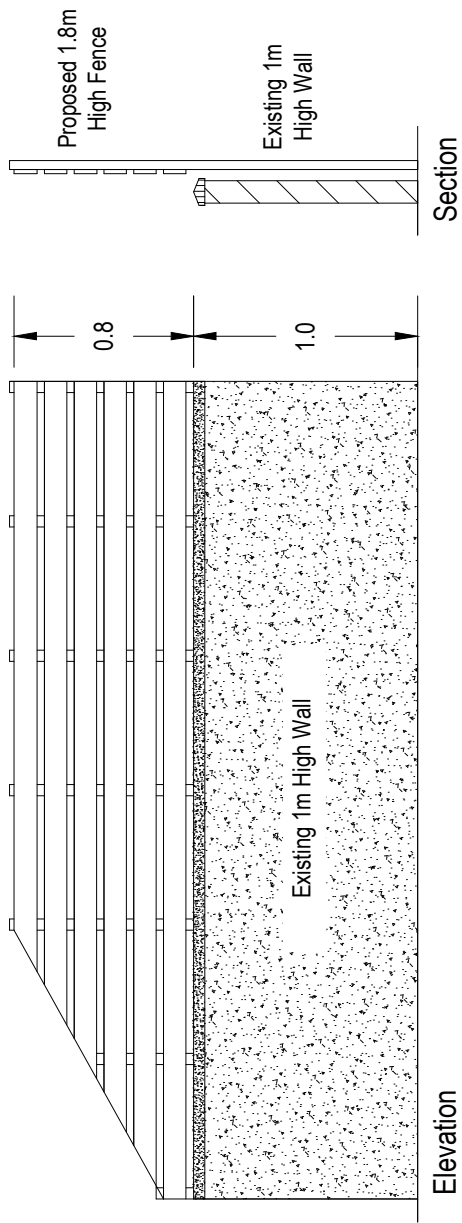
Key: — Site Boundary





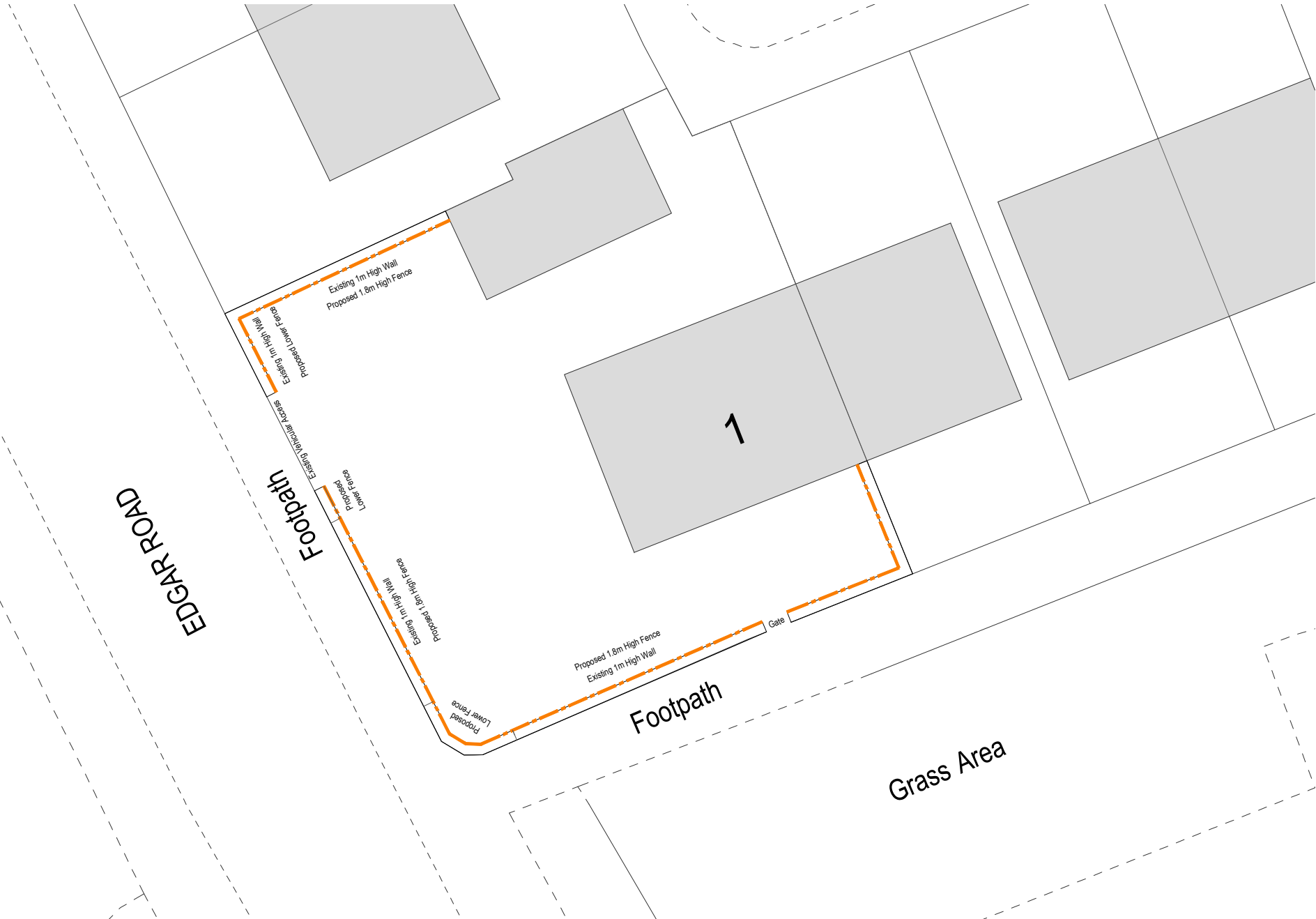

[illegible]

Project 1 Longwood Walk Elgin	Drawing Site Plan/Boundary Treatment	Scale 1:200/NTS	Date Feb 2020	Drawn by AM	Checked by
Drawing no. PLT1_LW_PL-01		<div>Rev</div> <div>-</div>			



# Site Boundary Detail

## NTS





# Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	26th February 2020
<b>Planning Authority Reference</b>	20/00165/APP
<b>Nature of Proposal (Description)</b>	Erect 800mm high fence on top of existing 1m boundary wall at
<b>Site</b>	1 Longwood Walk Elgin Moray IV30 6YZ
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133028267
<b>Proposal Location Easting</b>	321263
<b>Proposal Location Northing</b>	861705
<b>Area of application site (M<sup>2</sup>)</b>	
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=Q5KUCTBGJA700">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=Q5KUCTBGJA700</a>
<b>Previous Application</b>	18/01251/ID
<b>Date of Consultation</b>	12th February 2020
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Dawid Stasiak
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	1 Longwood Walk Elgin Scotland IV30 6YZ
<b>Agent Name</b>	
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Fiona Olsen
<b>Case Officer Phone number</b>	01343 563189
<b>Case Officer email address</b>	fiona.olsen@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

## NOTE:

If you do not respond by the response date, it will be assumed that you have no comment to make.

The statutory period allowed for a consultation response is 14 days. Due to scheduling

pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

Data Protection - Moray Council is the data controller for this process. Information collected about you on this form will be used to process your Planning Application, and the Council has a duty to process your information fairly. Information we hold must be accurate, up to date, is kept only for as long as is necessary and is otherwise shared only where we are legally obliged to do so. You have a legal right to obtain details of the information that we hold about you.

For full terms please visit [http://www.moray.gov.uk/moray\\_standard/page\\_121513.html](http://www.moray.gov.uk/moray_standard/page_121513.html)

For full Data Protection policy, information and rights please see [http://www.moray.gov.uk/moray\\_standard/page\\_119859.html](http://www.moray.gov.uk/moray_standard/page_119859.html)

You can contact our Data Protection Officer at [info@moray.gov.uk](mailto:info@moray.gov.uk) or 01343 562633 for more information.

Please respond using the attached form:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No:** 20/00165/APP

**Erect 800mm high fence on top of existing 1m boundary wall at 1 Longwood Walk Elgin Moray IV30 6YZ for Mr Dawid Stasiak**

I have the following comments to make on the application:-

	Please
(a) I OBJECT to the application for the reason(s) as stated below	<input checked="" type="checkbox"/>
(b) I have NO OBJECTIONS to the application and have no condition(s) and/or comment(s) to make on the proposal	<input type="checkbox"/>
(c) I have NO OBJECTIONS to the application subject to condition(s) and/or comment(s) about the proposal as set out below	<input type="checkbox"/>
(d) Further information is required in order to consider the application as set out below	<input type="checkbox"/>

*It is noted that this proposal is part retrospective in nature – this response is based on the submitted drawings only, and with any Enforcement issues dealt with as a separate matter.*

*This site is located in close proximity to Greenwards Primary School. The adjacent footways and cycle tracks are therefore subject to high numbers of pedestrians and cyclists, including a high proportion of children. A signalised pedestrian crossing point over Edgar Road is located immediately adjacent to the site.*

*The section of high fence located between the vehicular access and the southern site boundary with the adjacent property obstructs the inter-visibility for pedestrians and cyclists travelling between Longwood Walk (remote Cycle track) and the U171E Edgar Road, at a location where a high number of pedestrians would be present. The resulting obstruction to the visibility splays would mean that pedestrians and cyclists would not be able to see each other from the other side of this obstructed corner, possibly resulting in one of the pedestrians/ cyclist having to take avoidance action onto the carriageway, potentially into the path of a passing vehicle.*

*The section of high fence located along the site frontage onto Edgar Road between the vehicular access and the eastern site boundary with the adjacent property would also obstruct the visibility splay for vehicles exiting the site and may result in a vehicle exiting the site colliding with a passing pedestrian or cyclist, or again possibly resulting in them having to take avoidance action onto the carriageway.*

#### **Reason(s) for objection**

The proposed development, if permitted, would result in a reduction to the previously

available pedestrian visibility splays at a sensitive location where a high number of pedestrians and cyclist are likely to be present. The resulting loss of inter-visibility between pedestrian's, cyclists and vehicles would be likely to give rise to conditions which would be detrimental to the road safety of road users contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.

Note - The submitted drawing shows sections of low fence (presumably based on comments previously provided by Transportation in response to a previous Informal Determination (ID) request by the same applicant for a similar proposal); however the fence as shown would not provide the full extents of the required visibility splays. It should be highlighted that only minor amendments to the proposed fence would be required in order for Transportation to provide a positive response to this proposal.

Transportation sought an updated drawing which reflected the minor amendments required, via a 'Further Information' Planning Consultation response. However, updated drawings have not yet been submitted, and the Planning officer has subsequently requested that Transportation provide a 'Final' Planning response based on the submitted drawings/details.

**Contact: AG**  
**email address: [transport.develop@moray.gov.uk](mailto:transport.develop@moray.gov.uk)**  
**Consultee: TRANSPORTATION**

**Date 10 March 2020**

<b>Return response to</b>	<b><a href="mailto:consultation.planning@moray.gov.uk">consultation.planning@moray.gov.uk</a></b>
---------------------------	---

Please note that information about the application including consultation responses and representations (whether in support or objection) received on the proposal will be published on the Council's website at <http://publicaccess.moray.gov.uk/eplanning/>. (You can also use this site to track progress of the application and view details of any consultation responses and representations (whether in support or objection) received on the proposal). In order to comply with the Data Protection Act, personal information including signatures, personal telephone and email details will be removed prior to publication using "redaction" software to avoid (or mask) the display of such information. Where appropriate other "sensitive" information within documents will also be removed prior to publication online.

05 MAR 2020



Comments on application number  
20/00165/APP

The photo submitted is one taken  
a few years ago a recent site  
picture would show that the  
fence has already been erected  
without planning permission.

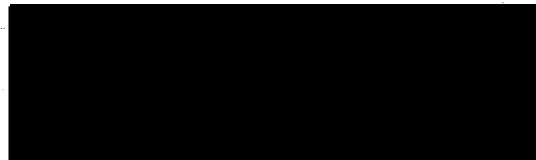
The plan says that the wall  
between our properties is 1 metre  
high but as seen on the  
picture he submitted it  
goes up in height making  
the fence higher than shown

A fence of this height  
will cause much ~~shading~~  
shading to my house and  
garden.

Mr Stasiuk has put privacy  
for reason for building.

I have lived here for over  
20 years and have never  
felt that my front garden  
is not or have the need of  
privacy and my house is closer  
to Edgar Road.

I do not want a big wooden fence  
up between the two houses as  
the one he has erected looks  
terrible I hope this helps  
with your decision.





01355-225845

- 3 APR 2020

MANAGER

CD SUSLOWMINT MANAGEMENT &  
BUILDING STANDARDS

25/03/2020

SIR

P/APPLICATIONS 20/00165 APP + 20/00227 APP +  
20/00245/APP + 20/00311 APP + 20/00265 APP  
+ 20/00202/APP

PLEASE ALL POSSIBLE TO ALL WILDLIFE  
FROM & FROM ON EACH SITE.

THE CURRENT COVID 19 SITUATION  
WILL DELAY THE PROCESS OF GIVEN  
LOCAL PROTECTION TO MOLES BUT  
IT IS REQUESTED THAT MOUNT COUNCIL  
AND ALL SUCCESSFUL APPLICANTS DO  
THE UTMOST POSSIBLE TO PROTECT THEM!

HEDGEHOGS AND BUMBLEBEES ARE  
PERILOUSLY CLOSE TO EXTINCTION  
ALL POSSIBLE TO BE DONE TO PREVENT  
THIS

WHEN EVER POSSIBLE APPLICANTS SHOULD  
BE REQUESTED TO PLANT TREES(S) AS  
CONDITION OF PLANNING PERMISSION

Yours faithfully

[Redacted Signature]



## **REPORT OF HANDLING**

<b>Ref No:</b>	20/00165/APP	<b>Officer:</b>	Fiona Olsen
<b>Proposal Description/ Address</b>	Erect 800mm high fence on top of existing 1m boundary wall at 1 Longwood Walk Elgin Moray IV30 6YZ		
<b>Date:</b>	17.04.20	<b>Typist Initials:</b>	DM

### **RECOMMENDATION**

<b>Approve, without or with condition(s) listed below</b>		
<b>Refuse, subject to reason(s) listed below</b>		Y
<b>Legal Agreement required e.g. S,75</b>		
<b>Notification to Scottish Ministers/Historic Scotland</b>		
<b>Hearing requirements</b>	<b>Departure</b>	
	<b>Pre-determination</b>	

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Transportation Manager	10/03/20	Objection on road safety grounds

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP3: Placemaking	Y	
H4: House Alterations and Extensions	Y	
T2: Provision of Access	Y	
IMP1: Developer Requirements	Y	
2020 Proposed Local Development Plan		
PP1 Placemaking		
DP1 Development Principles		

### **REPRESENTATIONS**

Representations Received	YES	
Total number of representations received		
Names/Addresses of parties submitting representations		
Name and address details of parties submitting representations withheld in accordance with the General Data Protection Regulations.		
Summary and Assessment of main issues raised by representations		



<b>Issue:</b> Fence has already been erected
<b>Comments (PO):</b> Following a site visit it was confirmed that the fence was already partially erected and therefore this is considered a part-retrospective application.
<b>Issue:</b> Wall height between properties is higher than 1m as is stepped up
<b>Comments (PO):</b> This is noted
<b>Issue:</b> Fence would cause overshadowing
<b>Comments (PO):</b> A fence/wall of 2m is unlikely to give rise to a loss of light/overshadowing to neighbours. However, overall a fence of this height, in this location is not of an acceptable scale for the site or surrounding area and is therefore unacceptable in terms of amenity.
<b>Issue:</b> Privacy is not an issue in this location
<b>Comments (PO):</b> The applicant states that the reason for the fence is to provide privacy to the existing garden. The nature of the site is that most of the garden ground is to the front or side of the property, where there is a lower expectancy of privacy.
<b>Issue:</b> Fence does not look good
<b>Comments (PO):</b> The fence is overbearing on the site and surrounding area and is not in keeping with neighbouring properties which all have lower fences or walls to the front garden
<b>Issues:</b> Protection for moles, hedgehogs and bumblebees
<b>Comments (PO):</b> Wildlife have been considered generally as part of the application and there not expected to be any impact on a European Protected Species.
<b>Issues:</b> All applicants should be required to plant a tree
<b>Comments (PO):</b> There is no loss of woodland in this application therefore compensatory planting is not required.

## OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Moray Local Development Plan 2020 was approved as the "settled view" of the Council and minimal weight will be given to it, with the 2015 MLDP being the primary consideration.

Further consideration of the weight to be attached to the Proposed Plan was considered and agreed at the Planning and Regulatory Services Committee on 29th January 2019, with the Committee agreeing that between June/ August 2019 and adoption of the new LDP in mid-2020, the weight to be given to matters set out in the Proposed Plan will vary;

- Where matters set out in the Proposed Plan are subject to unresolved objections which will be considered through Examination, then those matters will continue to be given minimal weight as a material consideration in the development management process.
- Where matters set out in the Proposed Plan are not subject to unresolved objections, they will

be given greater weight as a material consideration in the development management process.

The weight to be given will be considered on a case by case basis and will be agreed by the Development Management Manager and Development Plans Principal Planning Officer.

On 25 June 2019 the Planning & Regulatory Services Committee agreed to give greater weight to sites within the proposed Plan which are not subject to the Examination process from 1 August 2019.

In this case the proposal is not subject to a designated site.

The main issues are considered below.

### **Proposal**

The application seeks to planning permission to erect an 800mm fence on top of existing 1m boundary wall. The application is part-retrospective in nature with the fence having already been erected on the northern and western boundaries, without planning permission.

### **Site**

The site is located at 1 Longwood Walk, Elgin. The existing domestic property is an end-of-terrace two storey dwellinghouse set within a corner plot (on the corner of Longwood Walk and Edgar Road). The site is bound by the public road to the north, and a footpath to the west and Greenwards Primary School sits to the west of the site.

### **Policy Assessment**

#### **Siting & Design (MLDP Policies PP3, H4, IMP1)**

This application will be assessed principally against policies PP3, H4 and IMP1. Policies H4 and IMP1 require new development proposals to be sensitively sited, designed and serviced appropriate to the amenity of the existing property and the wider locality. Policy PP3 states that developments should, amongst other criterion; ensure buildings front onto streets with public fronts and private backs and have cleared defined public and private space.

The application seeks to erect an 800mm fence on top of an existing 1m high wall. The fence is to be erected on the northern, western and part of the southern and eastern boundaries. The application is part-retrospective in nature with the fence having already been erected on the northern and western boundaries, without planning permission. The northern boundary fronts onto Edgar Road and the western boundary fronts onto a public footpath

The existing site and surrounding area are characterised by terraced or semi-detached dwellinghouses, set along an established building line in a uniform manner. The houses on Edgar Road and Longwood Walk all have public front gardens, low boundary fencing or walls (up to 1m in height) and private backs often with a higher rear boundary enclosure. Mutual side boundaries in this area are also commonly defined by low walls or fences of around 1m or less. The site at 10 Longwood Walk is set on a corner (facing onto Longwood Walk) where a large proportion of the garden is either to the front (facing onto the footpath), or the side of the dwellinghouse (facing onto the public road). This results in a large area of garden ground which is considered to be a 'public frontage'. The proposal for a high level fence (800mm on top of an existing 1m high wall) would therefore not be acceptable in this location as it would fully enclose the front garden creating a private garden space and remove the existing public frontage of the dwellinghouse. This would not be in keeping with the established boundary pattern within both Longwood Walk and Edgar Road and would detract from the established character of the area, resulting in a loss of amenity. A fence of this height and design, would be acceptable at the rear of the property only (where that boundary does not front a road), and is therefore not suitable in the location as proposed.

Therefore, overall, the proposal would not accord with policies PP3, H4 or IMP1 and refusal is

recommended.

### Access (T2)

The Moray Council Transportation Section have been consulted and have outlined that the proposed development would result in a reduction to the previously available pedestrian visibility splays at a sensitive location where a high number of pedestrians and cyclist are likely to be present. The resulting loss of inter-visibility between pedestrians, cyclists and vehicles would be likely to give rise to conditions which would be detrimental to the road safety of a number of road users and therefore the proposal is contrary to Moray Local Development Plan policies T2 Provision of Access and IMP1 Development Requirements.

Transportation note that the submitted drawings show sections of 'low fence' (although no measurements have been provided). Should an amended plan be submitted providing a lowered fence height in these indicative locations, the appropriate inter-visibility between road users would be provided and the objection from Transportation could be removed.

### Conclusion

The proposed fence is not in keeping with the established character of the existing site and surrounding area and would remove an existing public frontage to the dwellinghouse. The fence is also not acceptable in terms of road safety and would reduce inter-visibility between road users.

As a result, the proposal contrary to policies PP3, H4, IMP1 and T2 of the Moray Local Development Plan 2015 and refusal is recommended.

### OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

N/A

### HISTORY

Reference No.	Description			
18/01251/ID	Erect 800mm high fence at 1 Longwood Walk Elgin Moray IV30 6YZ			
	Decision	Planning Permission Required	Date Of Decision	01/11/18

### ADVERT

Advert Fee paid?	No		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	09/04/20	
PINS	Departure from development plan	09/04/20	

### DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
--------	-----

**DOCUMENTS, ASSESSMENTS etc. \***

*\* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?		NO
--	--	----

Summary of main issues raised in each statement/assessment/report
---

Document Name:
----------------

Main Issues:
--------------

**S.75 AGREEMENT**

Application subject to S.75 Agreement		NO
---------------------------------------	--	----

Summary of terms of agreement:
--------------------------------

Location where terms or summary of terms can be inspected:
--

**DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)**

Section 30	Relating to EIA		NO
------------	-----------------	--	----

Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
------------	---	--	----

Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
------------	--	--	----

Summary of Direction(s)
-------------------------





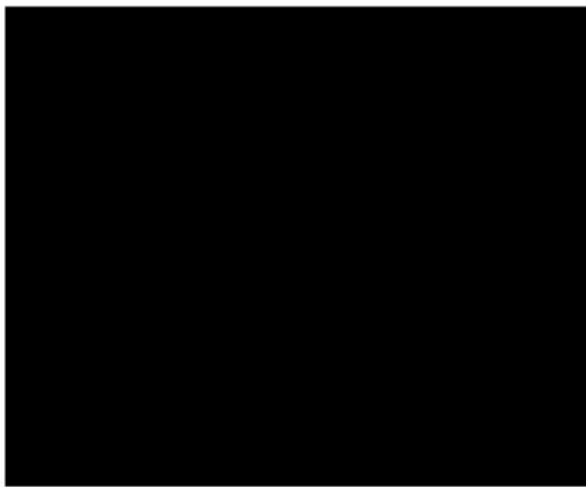


**MORAY COUNCIL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,  
as amended**

**REFUSAL OF PLANNING PERMISSION**

**[Elgin City South]  
Application for Planning Permission**

TO

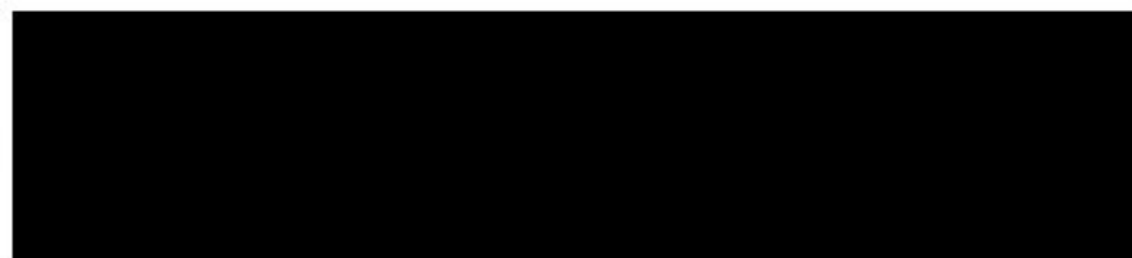


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Erect 800mm high fence on top of existing 1m boundary wall at 1 Longwood Walk Elgin Moray IV30 6YZ**

and for the reason(s) set out in the attached schedule.

Date of Notice: **22 April 2020**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

Economy, Environment and Finance  
Moray Council  
Council Office  
High Street  
ELGIN  
Moray  
IV30 1BX



**IMPORTANT**  
**YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW**

**SCHEDULE OF REASON(S) FOR REFUSAL**

By this Notice, Moray Council has REFUSED this proposal. The Council's reason(s) for this decision are as follows: -

- 1 The proposal is contrary to the provisions of the adopted Moray Local Development Plan 2015 (Policies PP3, H4, IMP1 and T2) and should be refused for the following reasons:
  - The fence is not of an appropriate scale for the existing site or surrounding area and therefore is contrary to policies H4 and IMP1.
  - The fence would remove an existing public frontage to the dwellinghouse and therefore is not in accordance with the requirements of policy PP3.
  - The fence would give rise to a reduction in inter-visibility between pedestrians, cyclists and vehicles which could give rise to issues regarding road safety and therefore is contrary to policies T2 and IMP1.

**LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT**

The following plans and drawings form part of the decision:-

Reference	Version
PLY1_LW_PL-02	Location plan
PLY1_LW_PL-01	Elevations and site plan

**DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL,  
AS AGREED WITH APPLICANT (S.32A of 1997 ACT)**

None

**NOTICE OF APPEAL**  
**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

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 from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from [www.eplanning.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

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 the 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 in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.







## **APPENDIX 2**

# **NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS**





The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: [development.control@moray.gov.uk](mailto:development.control@moray.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      100271848-001

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="Mr"/>	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="Dawid"/>	Building Number:	<input type="text" value="1"/>
Last Name: *	<input type="text" value="Stasiak"/>	Address 1 (Street): *	<input type="text" value="Longwood Walk"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Elgin"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV30 6YZ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

1 LONGWOOD WALK

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 6YZ

Please identify/describe the location of the site or sites

Northing

861705

Easting

321263

## 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)

Erect 800mm fence on top of existing boundary wall.

## 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.

All 3 points which my planning application has been refused are absolutely incompatible with what you can observe around New Elgin and whole city. The fence we need for our privacy as we have a sun all day at the front and side of the house where we have our patio. Fence also is the barrier from loud traffic lights which have been installed without any notifications. Fence also allows us to keep our dog in the garden without people trying to pat him all the time. Keep garden clean from rubbish etc

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)

That was my first planning application and I never put any support to my application. After paying £50 for enquiry and been advised from transportation how the fence has to be done and apply for planning application with additional cost of £202 I thought I don't need anything else apart from plans and drawings.

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)

1.Location plan 2.Elevation and sit plan 3.Landscape 4.Plan as per transportation

## Application Details

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

20/00165/APP

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

12/02/2020

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

22/04/2020

## 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

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)

I would like some one to come and speak to me face to face. As two out of three points of rejection my application was -fence is not appropriate scale for existing site -fence would remove an existing public frontage to the dwellinghouse just on site around me people having fencing without a planning permission (checked on public access) and nobody never check this so I just wonder if this rules are just for MY HOUSE.

Please select a further procedure \*

Holding one or more hearing sessions on specific matters

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)

I send enquiry to Moray Council about the fence and I get letter to pay fee of £50 and I will be advise on it. I get another letter telling me I need planning permission and have to be done as per transportation request and I have to pay additional £202. Then I get a phone call and email from Fiona Olsen and she said my application will be refused but I get another email telling me I have to pay another £113.51 for advertisement fee. No one will come to speak to my at all.

Please select a further procedure \*

Further written submissions on specific matters

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)

I don't think an moray council officer did any inspections on site around my house. Ben aigen walk is about 3 or 4 houses with fence on the front and nobody bothers them. Just on my street people having fences all mix and match no one is the same. For us privacy matter and I don't think anybody like to sit outside and have barbeque and all people walking past are looking. Fence keep garden clean from kids from high school is stopped them throwing rubbish,keep cats poop in the garden is well.

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.

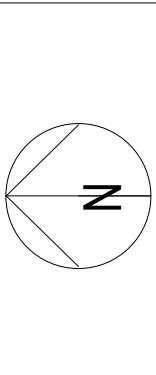
## Declare – Notice of Review

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

Declaration Name: Mr Dawid Stasiak

Declaration Date: 03/07/2020

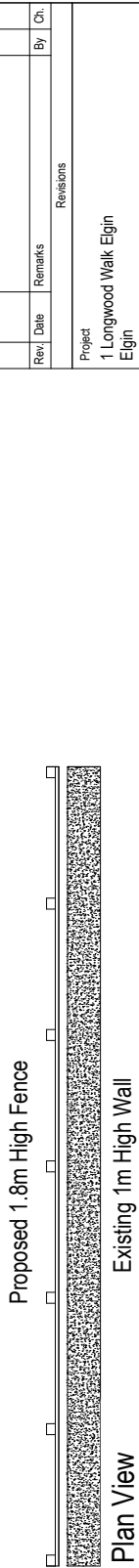
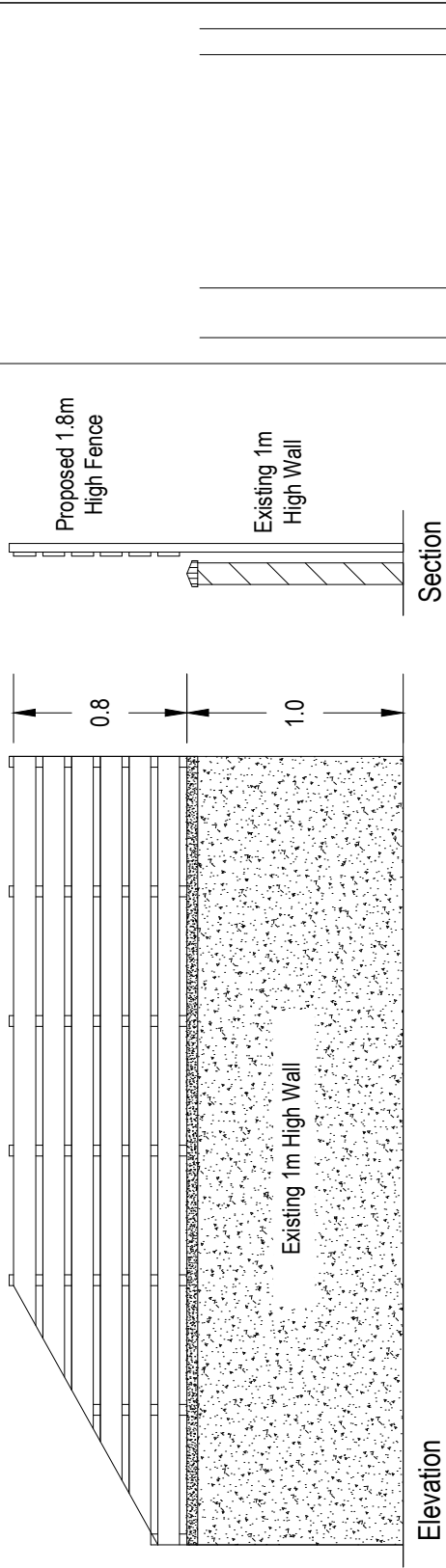




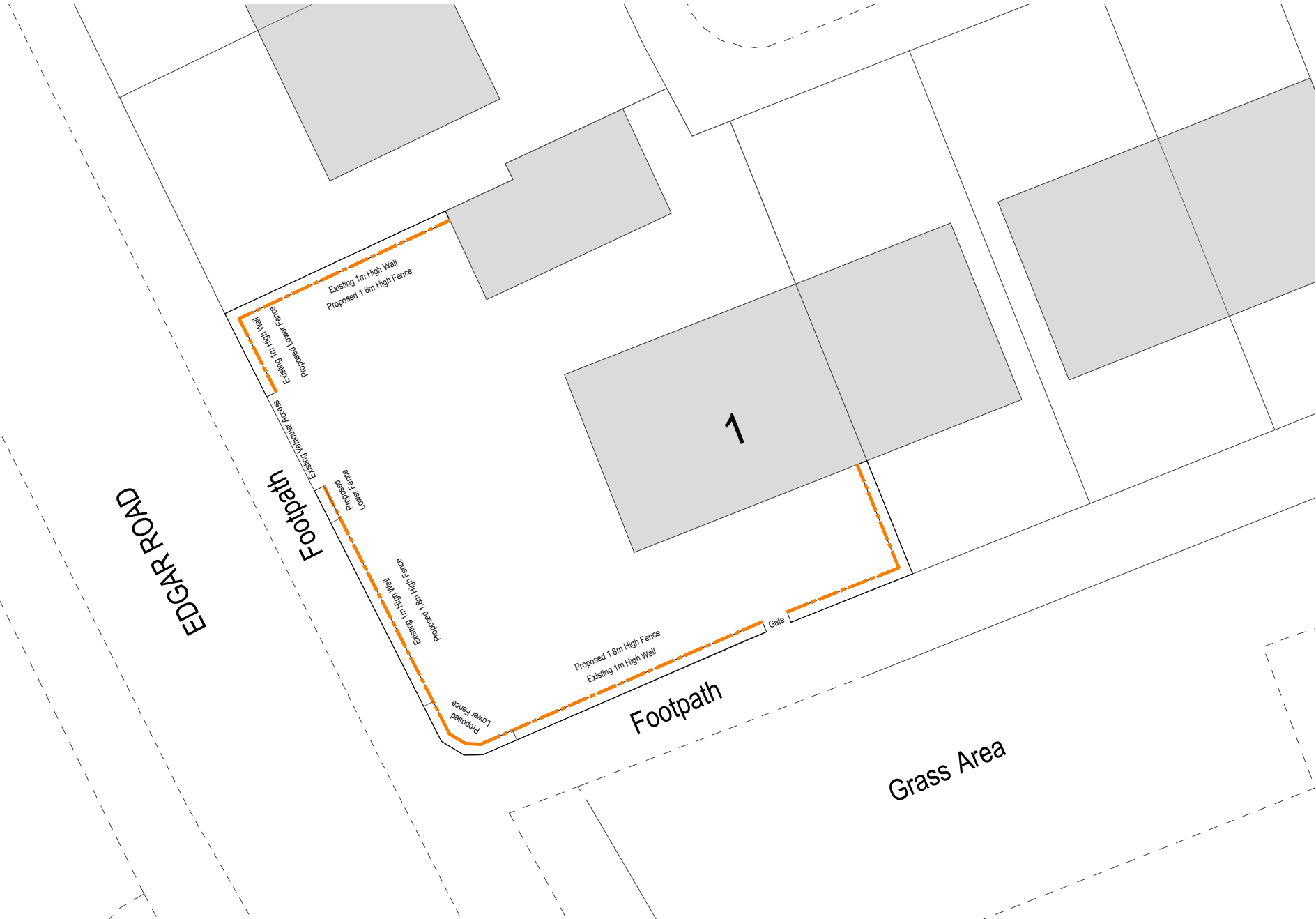
**Key:**



Existing Site Image



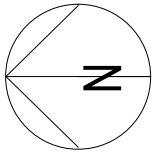
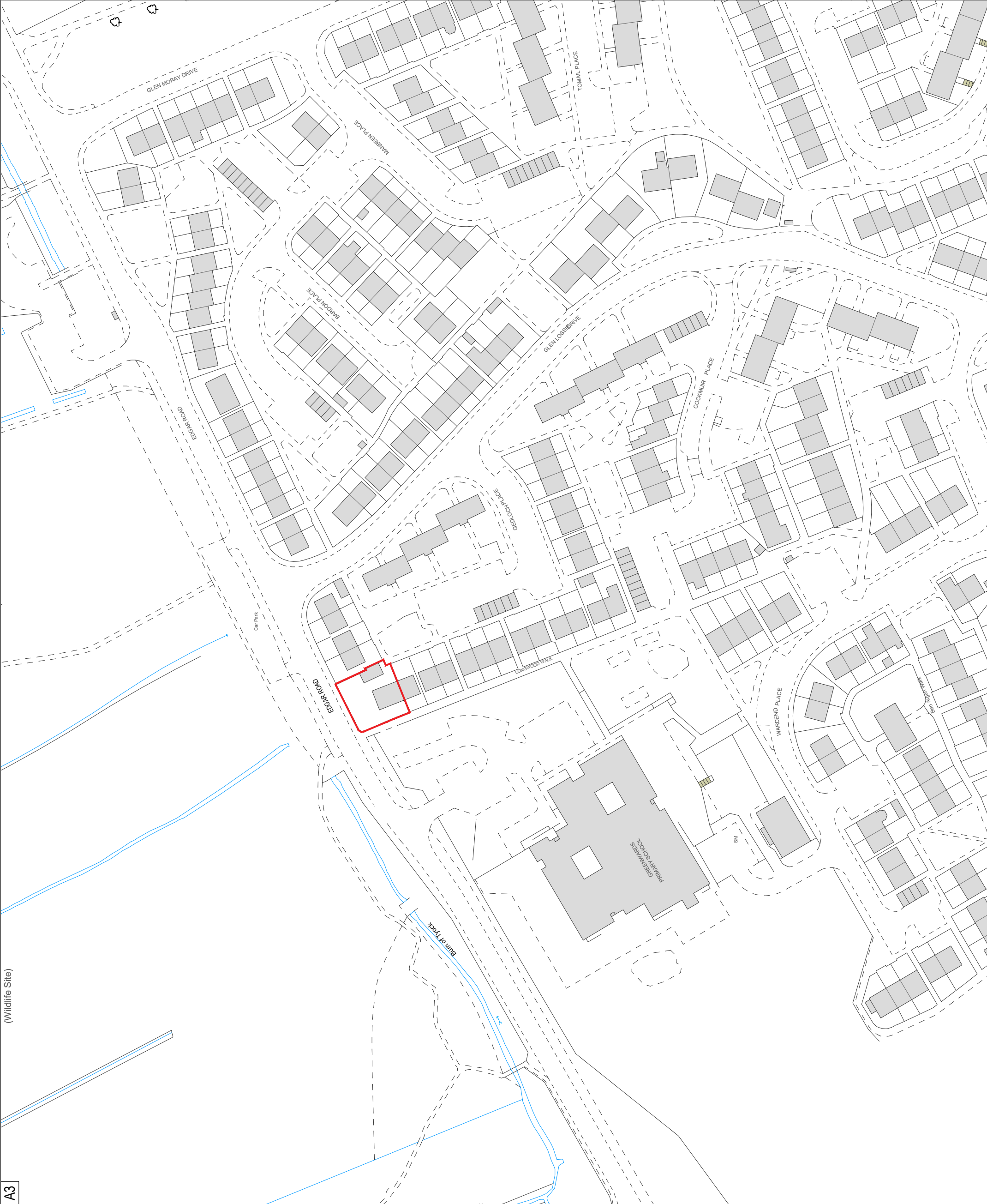
Site Boundary Detail  
NTS



Site Plan  
Scale 1:200

Rev	Date	Remarks	By
Revisions			
Project			
1 Longwood Walk Elgin			
Elgin			
Drawing			
Site Plan/ Boundary Treatment			
Scale	Date	Drawn by	Checked by
1:2000/NTS	Feb 2020	AM	
Drawing no.			Rev
PLT1_LW_PL-01			-





Key: — Site Boundary

Rev	Date	Remarks	By	Ch
Revisions				
Project				
1 Longwood Walk Elgin				
Elgin				
Drawing				
Location Plan				
Scale				
1:1250				
Date				
Feb 2020				
Drawn by				
AM				
Checked by				
Drawing no.				
PLT1_LW_PL-02				
Rev				
-				







# **APPENDIX 3**

## **PHOTOGRAPHS OF SITE**





Elgin High School  
Thornhill community  
facility  
↑



WILSON











































