



## **Moray Local Review Body**

Thursday, 25 February 2021

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Moray Local Review Body** is to be held at **Remote Locations via Video-Conference**, on **Thursday, 25 February 2021** at **09:30**.

### **BUSINESS**

- 1 Sederunt**
- 2 Declaration of Group Decisions and Members Interests \***
- 3 Minute of Meeting dated 28 January 2021** **5 - 6**  
**New Cases**
- 4 LR249 - Ward 2 - Keith and Cullen** **7 - 132**  
Planning Application 20/00647/PPP – Erect dwellinghouse on Plot 2, Bowie Croft, Grange, Crossroads, Keith
- 5 LR250 - Ward 8 - Forres** **133 - 198**  
Planning Application 20/01059/APP – Retain installed uPVC windows at Craigmhor, 67 St Leonards Road, Forres
- 6 LR251 - Ward 6 - Elgin City North** **199 - 290**  
Planning Application 20/00879/PPP – Erect Dwellinghouse on site adjacent to Birkenband Cottage, Birnie, Moray
- 7 LR252 - Ward 4 - Fochabers Lhanbryde** **291 - 388**  
Planning Application 20/00878/PPP – Erect Dwellinghouse on site 284m south of Fogwatt Hall, Longmorn

## **Summary of Local Review Body functions:**

To conduct reviews in respect of refusal of planning permission or unacceptable conditions as determined by the delegated officer, in terms of the Scheme of Delegation to Officers under Section 43(A)(i) of the Town & Country Planning (Scotland) Act 1997 and the Town & Country Planning (Scheme of Delegation and Local Review Procedure)(Scotland) Regulations 2013, or where the Delegated Officer has not determined the application within 3 months of registration.

**Any person attending the meeting who requires access assistance should contact customer services on 01343 563217 in advance of the meeting.**

<b>GUIDANCE NOTES</b>
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\* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

\*\* **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

\*\*\* **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

Clerk Name: Lissa Rowan  
Clerk Telephone: 01343 563015  
Clerk Email: lissa.rowan@moray.gov.uk

# **THE MORAY COUNCIL**

## **Moray Local Review Body**

### **SEDERUNT**

Councillor Amy Taylor (Chair)  
Councillor David Bremner (Depute Chair)  
Councillor George Alexander (Member)  
Councillor Gordon Cowie (Member)  
Councillor Paula Coy (Member)  
Councillor Donald Gatt (Member)  
Councillor Ray McLean (Member)  
Councillor Laura Powell (Member)  
Councillor Derek Ross (Member)

Clerk Name: Lissa Rowan  
Clerk Telephone: 01343 563015  
Clerk Email: [lissa.rowan@moray.gov.uk](mailto:lissa.rowan@moray.gov.uk)



**Minute of Meeting of the Moray Local Review Body**

**Thursday, 28 January 2021**

**Remote Locations via Video-Conference**

**PRESENT**

Councillor George Alexander, Councillor David Bremner, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Donald Gatt, Councillor Ray McLean, Councillor Laura Powell, Councillor Derek Ross, Councillor Amy Taylor

**IN ATTENDANCE**

Ms Webster, Principal Planning Officer (Strategic Planning and Development) and Mrs Gordon, Planning Officer as Planning Advisers, Mr Hoath, Senior Solicitor as Legal Adviser and Mrs Rowan, Committee Services Officer as Clerk to the Moray Local Review Body.

**Chair**

Councillor Taylor, being Chair of the Moray Local Review Body, chaired the meeting.

**Declaration of Group Decisions and Members Interests**

In terms of Standing Order 20 and the Councillor's Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

**Minute of Meeting dated 17 December 2020**

The Minute of the Meeting of the Moray Local Review Body dated 17 December 2020 was submitted and approved.

**LR246 - Ward 5 - Heldon and Laich**

**Planning Application 20/00622/APP – Retrospective consent to convert existing domestic garage to sweet workshop (including sales) at 14 Park Place, Lossiemouth**

Under reference to paragraph 8 of the Minute of the meeting of the Moray Local Review Body (MLRB) dated 17 December 2020, the MLRB continued to consider a request from the Applicant seeking a review of the decision of the Appointed Officer to refuse planning permission on the grounds that:

The proposal is contrary to the provisions of the Moray Local Development Plan (MLDP) 2020 because the use of a domestic garage as a sweet workshop including sales to customers would result in a business use which would involve visiting members of the public to the site and would be detrimental to the residential character and amenity of the site and adjoining neighbouring properties and is therefore contrary to policies DP1, PP1 and PP2 of the MLDP 2020.

At the meeting of the MLRB on 17 December 2020, the MLRB determined that it did not have sufficient information to make a decision and deferred consideration of the Review to request further representation from the Appointed Officer on a plan that had been circulated to the MLRB ahead of the meeting which included information that was not before the Appointed Officer at the time of determination.

In response to a question from the Chair as to whether the Legal or Planning Advisers had any preliminary matters to raise, both the Legal and Planning Advisers advised that they had nothing to raise at this time.

Having received the further representation from the Appointed Officer in terms of the new information submitted by the Applicant, the Chair then asked the MLRB if it had sufficient information to determine the request for review. In response, the MLRB unanimously agreed that it had sufficient information to determine the case.

Councillor Bremner, having considered the case in detail, noted that the application had been refused as it was found to be contrary to policies DP1 (Development Principles), PP1 (Placemaking) and PP2 (Sustainable Economic Growth) of the MLDP 2020 and sought clarification as to which parts of these policies the application did not comply with.

In response, the Planning Adviser advised that policy DP1 was applicable to all developments as they should not adversely impact on neighbouring properties in terms of scale, density and character. PP2 relates to Sustainable Economic Growth however this policy must be balanced with the need to safeguard Moray's natural and built environment. It is the Appointed Officer's view that this proposal would have an adverse impact on its neighbouring properties therefore does not comply with policies DP1 and PP2. Policy PP1 relates to placemaking and it is the Appointed Officer's view that the proposal is detrimental to the character and amenity of the neighbouring properties and would not be compatible with the surrounding area.

Having considered the advice from the Planning Adviser, Councillor Bremner did not agree with the view of the Appointed Officer and moved that the MLRB uphold the appeal and grant planning permission in relation to Planning Application 20/00622/APP as, in his opinion, the proposal is not contrary to policies DP1 (Development Principles) and PP1 (Placemaking) and would not adversely impact neighbouring properties given that the business is being run from the Applicant's garage therefore no further development of the property is taking place. He was also of the view that the proposal complied with policy PP2 as it is a business in Moray that, although small, would still contribute to sustainable economic growth in Moray. This motion was seconded by Councillor Gatt.

There being no-one otherwise minded, the MLRB agreed to uphold the appeal and grant planning permission in relation to Planning Application 20/00622/APP subject to standard conditions and reasons.



## MORAY LOCAL REVIEW BODY

25 FEBRUARY 2021

### SUMMARY OF INFORMATION FOR CASE No LR249

**Planning Application 20/00647/PPP – Erect dwellinghouse on Plot 2, Bowie Croft, Grange, Crossroads, Keith**

#### **Ward 2 – Keith and Cullen**

Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 10 September 2020 on the grounds that:

The proposal would be contrary to policies DP1 and DP4 of the Moray Local Development Plan 2020 and associated guidance on build up of housing in the countryside for the following reasons:

The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside, with ample separation between them. In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy.

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

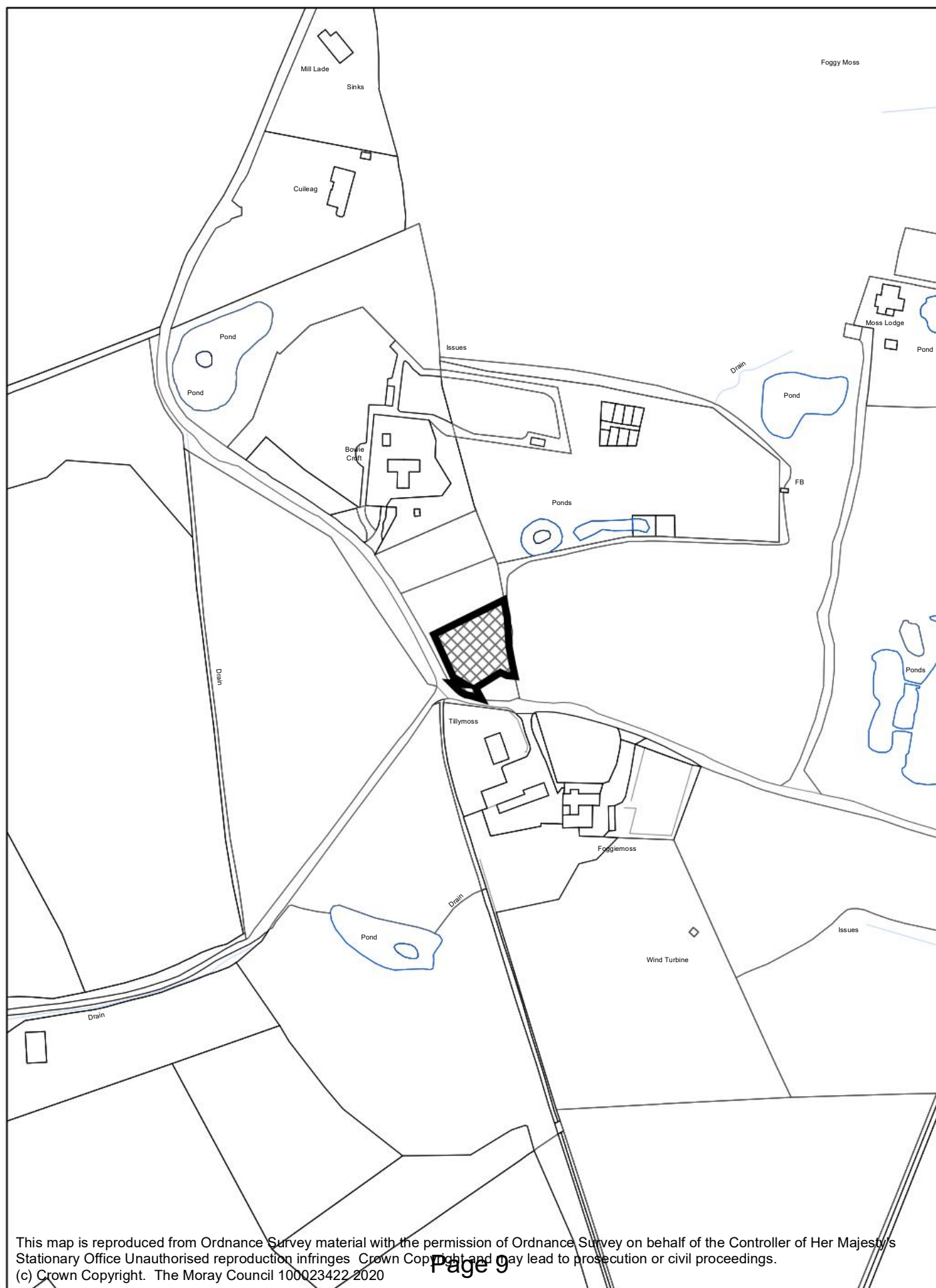
The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.

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





# Location plan for Planning Application Reference Number : 20/00647/PPP







## **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      100259039-001

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

## Type of Application

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

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

## Description of Proposal

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

Proposed erection of new dwelling house

Is this a temporary permission? \*

☐ Yes ☒ No

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

☐ Yes ☒ No

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

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

☒ No ☐ Yes – Started ☐ Yes - Completed

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Arthur Stone Planning & Architectural Design Limited		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Alison	Building Name:	
Last Name: *	Arthur	Building Number:	85
Telephone Number: *	01337 840 088	Address 1 (Street): *	High Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Newburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	KY14 6DA
Email Address: *	info@arthurstoneplanning.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Alastair	Building Number:	2
Last Name: *	Anderson	Address 1 (Street): *	Croft Terrace
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Errol
Extension Number:		Country: *	Perthshire
Mobile Number:		Postcode: *	PH2 7UE
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Northing

853886

Easting

346438

## Pre-Application Discussion

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

☐ Yes ☒ No

## Site Area

Please state the site area:

1147.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

## Existing Use

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

Unused grass area/ plot

## Access and Parking

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

☒ Yes ☐ No

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

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>
<p><b>Water Supply and Drainage Arrangements</b></p> <p>Will your proposal require new or altered water supply or drainage arrangements? * <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *</p> <p><input type="checkbox"/> Yes – connecting to public drainage network</p> <p><input type="checkbox"/> No – proposing to make private drainage arrangements</p> <p><input checked="" type="checkbox"/> Not Applicable – only arrangements for water supply required</p>
<p>Do your proposals make provision for sustainable drainage of surface water?? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>
<p><b>Assessment of Flood Risk</b></p> <p>Is the site within an area of known risk of flooding? * <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? * <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Don't Know</p>
<p><b>Trees</b></p> <p>Are there any trees on or adjacent to the application site? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>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.</p>
<p><b>All Types of Non Housing Development – Proposed New Floorspace</b></p> <p>Does your proposal alter or create non-residential floorspace? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

## Schedule 3 Development

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

☐ Yes ☐ No ☒ Don't Know

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

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

## Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

## Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

## Certificate Required

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

Certificate A

## Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Alison Arthur

On behalf of: Mr Alastair Anderson

Date: 25/05/2020

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☒ Site Layout Plan or Block plan.

☐ Elevations.

☐ Floor plans.

☐ Cross sections.

☐ Roof plan.

☐ Master Plan/Framework Plan.

☐ Landscape plan.

☐ Photographs and/or photomontages.

☐ Other.

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

Provide copies of the following documents if applicable:

A copy of an Environmental Statement. \*

☐ Yes ☒ N/A

A Design Statement or Design and Access Statement. \*

☒ Yes ☐ N/A

A Flood Risk Assessment. \*

☐ Yes ☒ N/A

A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). \*

☐ Yes ☒ N/A

Drainage/SUDS layout. \*

☐ Yes ☒ N/A

A Transport Assessment or Travel Plan

☐ Yes ☒ N/A

Contaminated Land Assessment. \*

☐ Yes ☒ N/A

Habitat Survey. \*

☐ Yes ☒ N/A

A Processing Agreement. \*

☐ Yes ☒ N/A

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

## Declare – For Application to Planning Authority

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

Declaration Name: Mrs Alison Arthur

Declaration Date: 25/05/2020

## Payment Details

Telephone Payment Reference: 8555

Created: 25/05/2020 19:19











## Wider OS Site Location Plan



Site Location

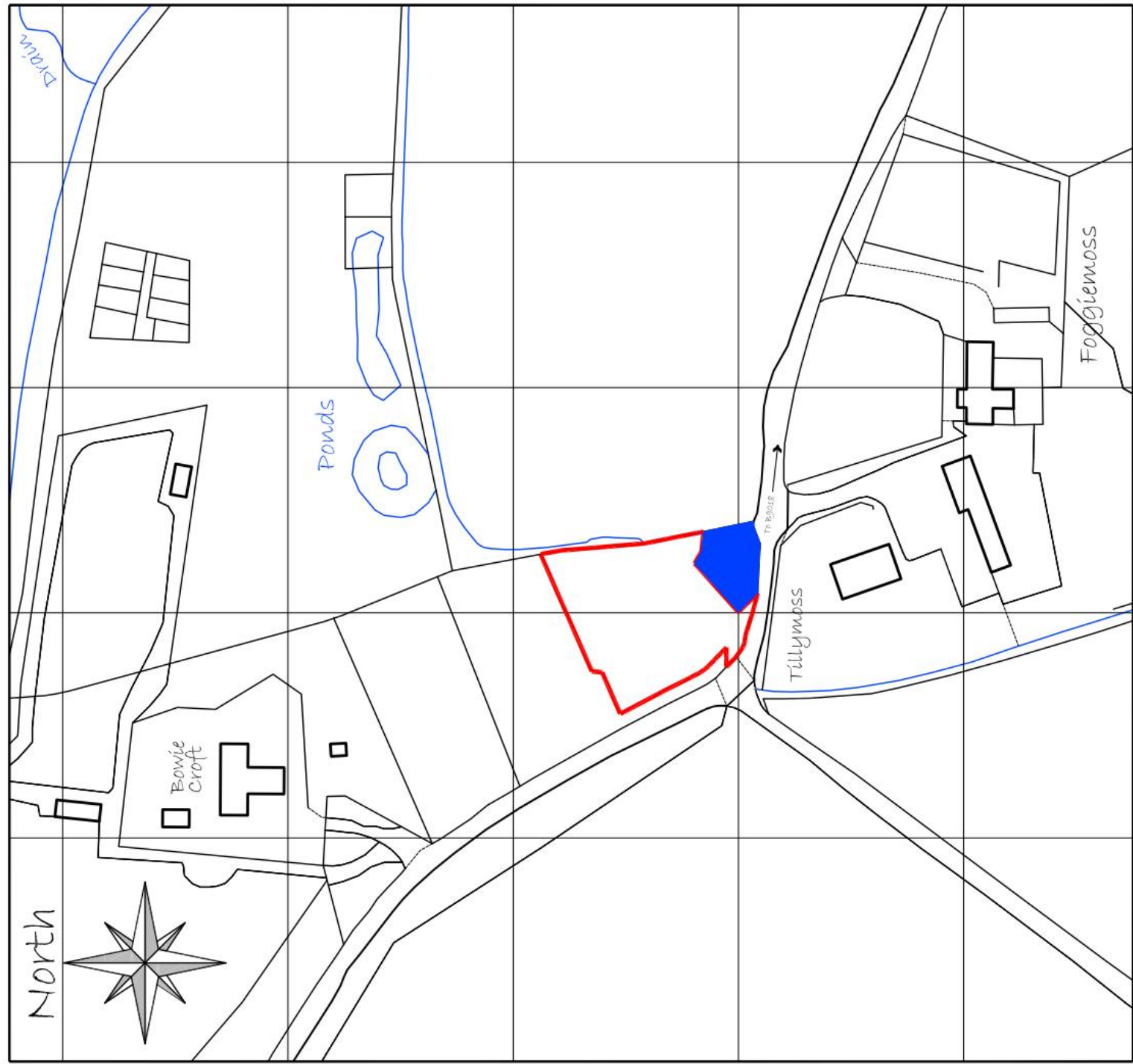
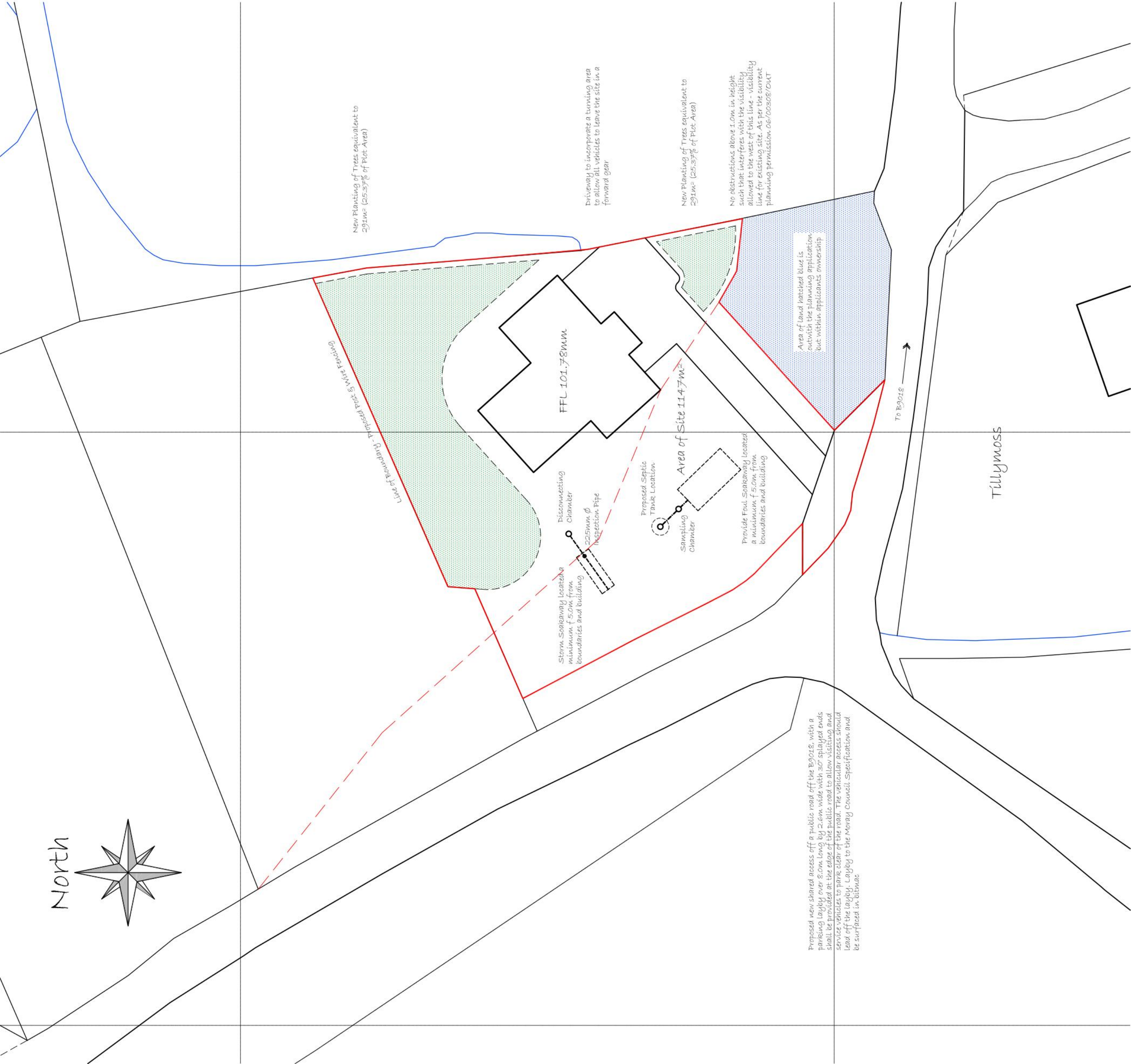


# Ariel Site Location Plan



★ **Site Location**

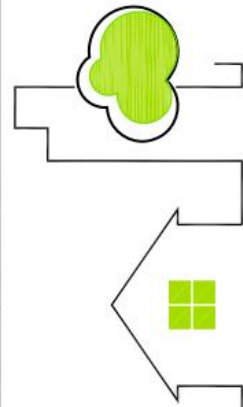




Site Location Plan



SCALE BAR 1:1250



Arthur Stone Planning  
& Architectural Design

Project

Proposed New Dwelling House at Plot 2,  
Bowie Croft, Keith, Moray.

Title

Site Location & Site Layout Plan

Drawn

D.McC

Date

May 2020

Scale

Noted@A2

Rev

3107-01





## Supporting Statement

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Planning Permission in Principle for the  
erection of a dwellinghouse

Plot 2 at Bowie Croft, Keith, Moray



Mr & Mrs Anderson

April 2020



Arthur Stone Planning  
& Architectural Design



85 High Street  
Newburgh, KY14 6DA

**Tel: 01337 840088**

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[info@arthurstoneplanning.co.uk](mailto:info@arthurstoneplanning.co.uk)



## Supporting Statement

Planning Permission in Principle for the  
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Plot 2 at Bowie Croft, Keith, Moray



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April 2020



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Appendix 1 - 11/00011/APP, Approved Site Plan

This statement has been prepared for our clients, Mr and Mrs Anderson, to support their proposal for planning permission in principle for a single dwellinghouse at Plot 2 Bowie Croft, Keith.

This statement provides supporting information which we trust will assist the Council in its decision-making process. The planning policies of the Adopted Moray Local Development Plan 2015 have been the basis for the justification of the proposal, along with current supplementary guidance.

We would be pleased to discuss any aspect of the proposal prior to a formal decision being made.





## 02 Site Context

View 1



This proposal relates to an of rough pastureland located to the south of a property named Bowie Croft and to the north of an area known as Foggie Moss. The site is accessed from a minor, single track road from the B9018 and is some distance to the north east of the town of Keith. The site is relatively flat, incorporates shrubs and individual trees and is bounded by the single track road to the south an west. Please see the preceding pages for site photographs.

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There are a number of individual residential properties and farms in the close vicinity of this site, incorporating a mixture of modern and traditional single and one and a half storey designs.





There are several planning consents that are relevant to this site dating back to 2006. Planning application 06/00308/OUT established the principle of residential use on this site and was approved in April of 2006. A further application was made in 2011 under planning reference number 11/00011/APP following the expiration of the previous 2006 consent and was subsequently approved in October 2011. The approved site plan for this application is contained in Appendix 1 of this document.

In December 2014 the current owner received further planning consent (14/01967/APP) to extend the date of the consent notice for a further 3 years. The site was not developed at that time by the applicant and has therefore the planning consent subsequently lapsed at the end of 2017.

Land directly to the north of this site also gained full planning permission in 2008 for a single dwellinghouse, although this property has not been developed.

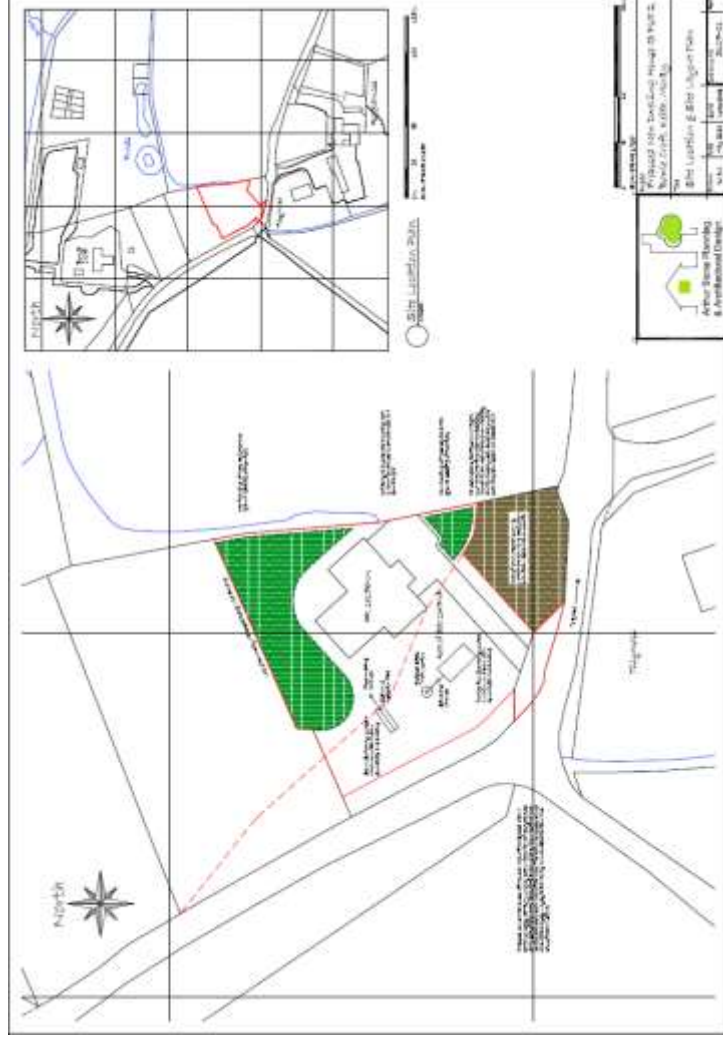


This planning application seeks permission in principle for a single dwellinghouse to be developed on the site. A similar site layout is proposed that which has previously been approved by the planning consents dating back to 2006 and a notional plan illustrating the location of a house, parking etc is submitted as part of this application.

As in the previous planning applications, it is proposed to set a house further to the rear of the site so as not to effect established visibility splay on the single track road. A private driveway is proposed onto the public road, incorporating a layby on the corner as approved in the previous applications.

It is proposed once again to plant additional native trees on the site so as to reflect the current requirement of local policy (that being H7 MLDP 2015); 25% of the plot area. The intention would be to submit a further, more detailed landscaping plan as part of a full planning application.

There is considered to be sufficient space for a minimum of 3 cars of the site, although we recognise that this would matter also be considered in more detail during the determination of a full planning application.



The Town and Country Planning (Scotland) 1997 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

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The current and adopted Local Plan for the Keith area is the Adopted Moray Local Development Plan, 2015 (MLDP). It is understood that the proposed Murray Local Development Plan 2020 is likely to be adopted some time later this year but until such time Moray Council advise that the weight to be attached to the policies contained within that Plan will be decided on a case by case basis.

Having taken note of recent decisions for single houses in similar rural locations in the Moray area, it is noted that the MLDP 2015 is still predominantly referred to as the principle plan at present.



Policy H7: New Housing in the Open Countryside of the MLDP 2015 contains siting and design criteria for assessing new housing proposals in the countryside. This aims to allow new housing in the open countryside provided it can be easily absorbed into the landscape. New development should be of low impact and reflect the character of the surrounding area in terms of scale and design of housing.

Policy criteria requires new house sites to:

- Reflect the traditional settlement pattern of the locality and integrate sensitively with the surrounding landform (i.e. not be obtrusive)
- Not detract from the character or setting of existing buildings, or their surrounding area
- Not contribute to a 'build-up' of development which changes the character of the area**
- To have at least 50% established boundaries

Policy IMP1: Developer Requirements, seeks to ensure that new development proposals to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. Amongst other criteria within this Policy new development is required to be of a scale and character appropriate to its setting and for development to integrate into the landscape.

As noted in previous applications for this site, the settlement pattern for this area in Moray is characterised by single and small clusters of houses dispersed throughout the rural area. As such it was not considered that the proposed house would lead to an **unacceptable 'build up' of properties that would detract from the character of the area.** The existing tree line to the far north of the

site has further established itself over the preceding years forming a natural barrier to the edge of further residential development. The site is bounded to the south and east by the single-track road and incorporates a few individual trees and shrubs on the alter elevation.

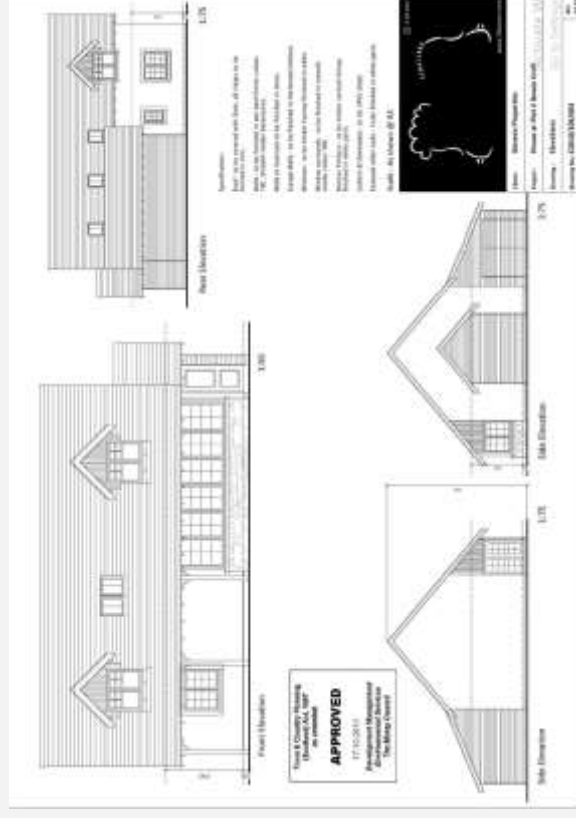
It is considered that neither the site nor the immediate local area have altered to any significant degree since the previous application was approved on this site in December 2014 (14/01967/APP). The existing planting has further established itself within the site and the boundaries of the site remain established and unchanged.

The proposed notional site layout is considered to continue to site a new house sensitively on the site to allow for further planting to be achieved. A house in this location would not adversely impact on the distinctiveness of the rural qualities of this area and does not **appear to be an area that has concerns with local 'build up' of new development.**

Given the above, it is considered that the principle of residential development would continue to be acceptable on this site in line with the criteria set out in Policy H7 and IMP1 of the MLDP.

Policy H7: New Housing in the Open Countryside of the MLDP 2015 advises that the appearance of new housing should relate to its design, **siting and location and should reflect the character of it's locality.**

In this case the proposal is only for a planning application in principle and therefore no design has yet been proposed. However, the applicant would intend to propose a traditional single or one-and-a-half storey property of well proportioned design in the future using materials such as natural stone, natural slate and traditional fenestration.



Detailed Design Approved for this site under Planning Ref: 11/00011/APP

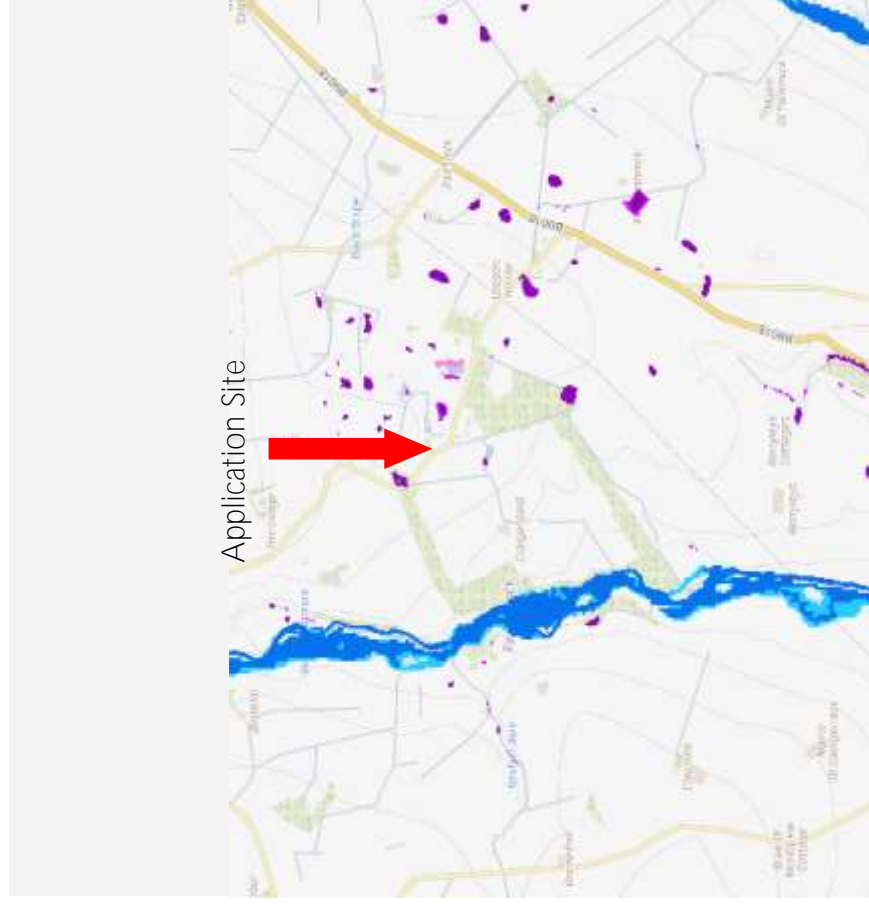


Policy EP5: Surface Water Drainage, advises that surface water drainage should be dealt with in a sustainable manner and should have a neutral effect on the risk of flooding. Policy EP10 advises that foul drainage should be dealt with appropriately by a private system in small scale developments in rural locations. Policy IMP1 requires water and drainage provision must be made available on all sites.

As this is an in principle application, it is intended that proposals for the treatment of foul and surface water would be dealt with as part of a further detailed planning application. However, it is expected that foul drainage would be disposed of via a treatment plant and soakaway and surface water would be dealt with by a separate soakaway on the site.

The SEPA Flood Maps show that the site is at no risk from any sort of flooding: whether that be from a running water source or surface water. Please see map obtained from the SEPA Website overleaf.

The proposed dwellinghouse will be served by appropriate waste and recycling facilities to ensure that the proposal fully complies **with the Council's requirements in terms of Waste Management** for new development.



SEPA Flooding Map

Policy H7 advises that new proposals should be sensitively sited so as to meet the appropriate amenity requirements of the house and neighbouring properties.

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Whilst only a notional site layout is provided at this stage we would consider that this proposal raises no immediate amenity concerns in terms of the potential for overlooking or overshadowing. The residential property to the far north of the site (Bowie Croft) would not be affected given that a large shelter belt of high and established trees is located in the dividing elevation and the distance between the sites. Similarly the property to the south of the site (Tilliemoss) is on the opposite side of the road from the application site and is some distance away from the intended location of the house.



Policy H7 requires that a minimum of 25% of plot areas should incorporate new native tree species as part of their proposals so as to help new residential development integrate into the landscape of the sites.

Whilst we realise that the planting of trees cannot be carried out on the more visible roadside boundaries of the site to the south and east (due to the requirement to retain visibility splays) the applicant is happy to provide additional planting in the area suggested and approved in the previous planning consents, as illustrated in the site layout plan accompanying this application. This would equate to approximately 290m<sup>2</sup> of native tree species being planted. However, the applicant is happy to take the Case

**Officer's thoughts on an alternate location for planting.**

Policy T2 and T5 advise that new development will be required to be designed to the highest level of access for the proposed end user and be appropriate to the type of development and location. Proposals must also **conform with the Council's current policy on parking standards.**

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The proposed layout requires to form a new access out onto the adjoining main public road (to also incorporate a layby) and off street private parking within the site itself to serve the new house. Provided that the property is sited in a similar position, to the rear of the site, as in the former planning applications we would hope that no concerns would be raised by Transportation in terms of access or visibility.

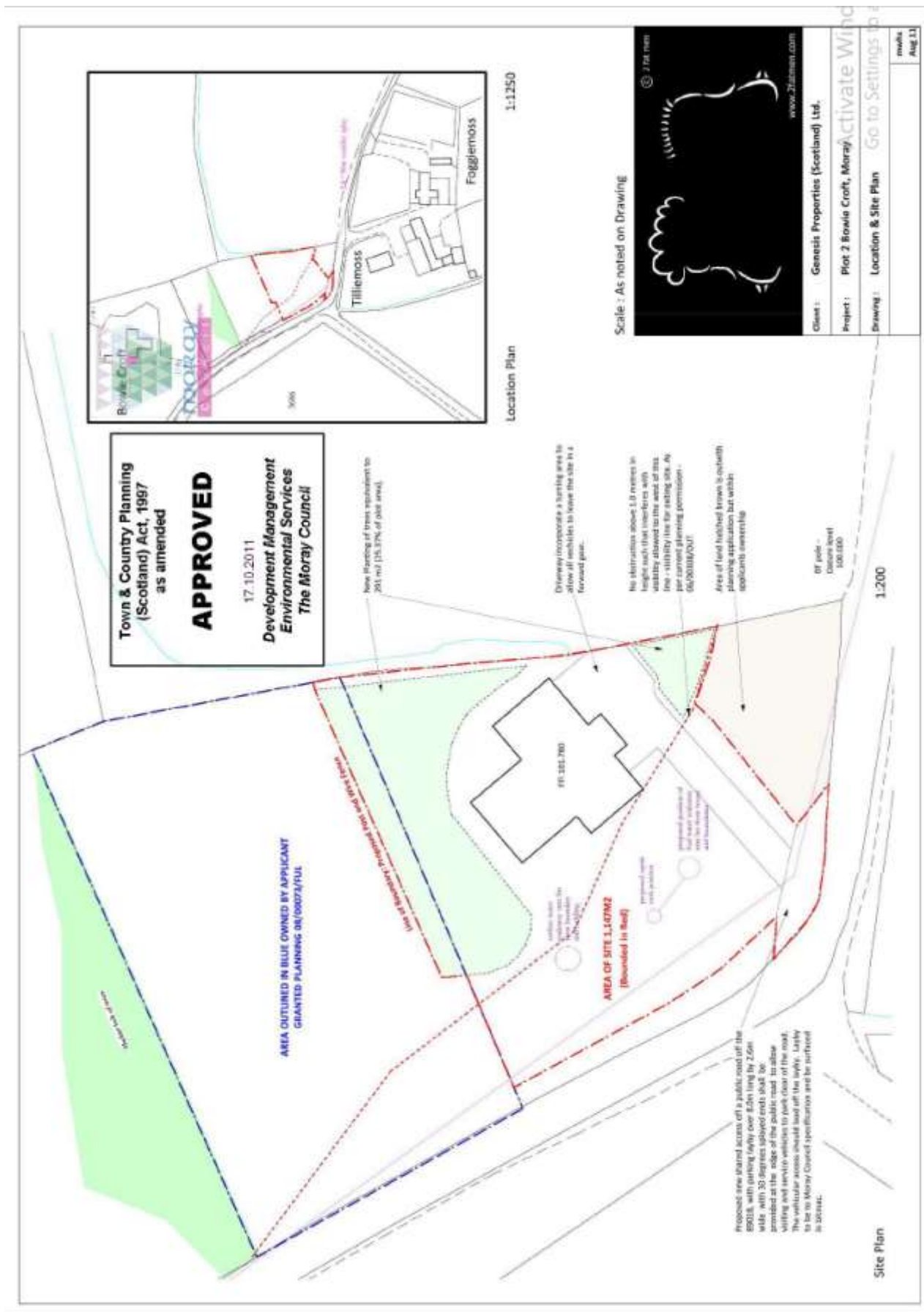
The applicant is in ownership of the full length of the site on the road edge and is aware of the restriction to ensure that any natural vegetation growth does not go above 1m in height.

Whilst this is an outline application and a notional layout at this stage, we would consider that there is sufficient space to provide a minimum of 3 off-street parking spaces in this case.

In conclusion we make the following points in support of this proposal:

- ◆ The proposal for new accommodation fully complies with the relevant policies of the Moray Local Development Plan
- ◆ The site has received various planning consents in recent years for a single house in terms of both outline and detailed planning permission
- ◆ There will be no conflict with surrounding land uses or the residential amenity of local area
- ◆ There will be no adverse impact on the landscape or environmental capacity of the site
- ◆ The site is not considered to be subject to flooding of any kind
- ◆ New native species of trees are intended to be planted as part of the proposal in line with Policy
- ◆ The proposal will generate a minimal amount of traffic and should have no impact on the road capacity or road safety
- ◆ Service infrastructure will be provided to meet the needs of the development

As previously noted, we would very much welcome the opportunity to discuss the proposal with the Planning Case Officer prior to any decision being made.





**From:** DeveloperObligations  
**Sent:** 30 Jun 2020 13:09:58 +0100  
**To:** Iain Drummond  
**Cc:** DC-General Enquiries  
**Subject:** 20/00647/PPP Erect dwellinghouse on Plot 2 Bowie Croft, Grange Crossroads, Keith  
**Attachments:** 20-00647-PPP Erect dwellinghouse on Plot 2 Bowie Croft, Grange Crossroads, Keith.pdf

Hi

Please find attached the developer obligations assessment that has been undertaken for the above planning application. A copy of the report has been sent to the applicant.

Thanks,  
Rebecca

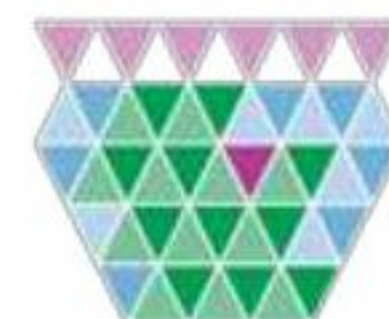
**Rebecca Morrison** | Infrastructure Growth/Obligations Officer (Strategic Planning and Development) | Economic Growth and Development  
[rebecca.morrison@moray.gov.uk](mailto:rebecca.morrison@moray.gov.uk) | [website](#) | [facebook](#) | [moray council planning facebook](#) | [twitter](#) | [newsdesk](#)  
01343 563583







# Developer Obligations & Affordable Housing: ASSESSMENT REPORT



**moray**  
council

**Date:** 30/06/2020

**Reference:** 20/00647/PPP

**Description:** Erect dwellinghouse on Plot 2  
Bowie Croft, Grange Crossroads, Keith

**Applicant:** Mr Alastair Anderson

**Agent:** Arthur Stone Planning & Architectural  
Design Limited

This assessment has been carried out by Moray Council. For Developer Obligations, the assessment is carried out in relation to policy IMP3 Developer Obligations of the Moray Local Development Plan 2015 (LDP2015) and associated Supplementary Guidance (SG) on Developer Obligations which was adopted on 1 March 2018.

The LDP2015 and SG can be found at  
[http://www.moray.gov.uk/moray\\_standard/page\\_100443.html](http://www.moray.gov.uk/moray_standard/page_100443.html).

For Affordable Housing the assessment is carried out in relation to policy DP2 Housing of the Modified Moray Local Development Plan 2020 (LDP2020) which became a material consideration in the determination of planning applications on 15 June 2020. The adoption of the LDP2020 is anticipated in July 2020. Affordable housing is a policy requirement not a developer obligation however, for ease of reference the Affordable Housing contribution is included within this document.

## Summary of Obligations

Primary Education	Nil
Secondary Education	Nil
Transport	Nil
Healthcare ( <i>Contribution towards New Build Health Centre in Keith</i> )	
Sports and Recreation	Nil
<b>Total Developer Obligations</b>	
Affordable Housing	
<b>TOTAL</b>	

## Breakdown of Calculation

Proposals are assessed on the basis of Standard Residential Unit Equivalents (SRUE) which is a 3-bedroomed residential unit. This application is considered to comprise of the following:

3 bed = 1 SRUE

This assessment is therefore based on 1 SRUE.

### Developer Obligations Discount for Small Scale Development

A discount of 80% will be applied to the developer obligation for single unit



**Moray Council DEVELOPER OBLIGATIONS**



developments to reflect their small scale nature.

## INFRASTRUCTURE

### Education

#### **Primary Education**

Pupils generated by this development are zoned to Crossroads Primary School. The school is currently operating at 34% functional capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary.

**Contribution towards Primary Education = Nil**

#### **Secondary Education**

Pupils generated by this development are zoned to Keith Grammar. The school is currently operating at 73% capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary.

**Contribution towards Secondary Education = Nil**

### Transport

The Moray Council Transportation Services has confirmed that no developer obligations will be sought for this proposal.

**Contributions towards Transport = Nil**

### Healthcare

Healthcare Facilities include General Medical Services (GMS), community pharmacies and dental practices. Scottish Health Planning Notes provide national guidance on standards

and specification for healthcare facilities. The recommended number of patients is 1500 per General Practitioner (GP) and floorspace requirement per GP is 271m<sup>2</sup>.

Healthcare infrastructure requirements have been calculated with NHS Grampian on the basis of national standards and specifications for healthcare facilities and estimating the likely number of new patients generated by the development (based on the average household size of 2.17 persons -Census 2011).

Keith Medical Group is the nearest GP Practice within which healthcare facilities can be accessed by the proposed development. NHS Grampian has confirmed that Keith Medical Group is working well beyond design capacity with no room for expansion on existing site. Contributions will be sought towards a New Build Health Centre in Keith.

Contributions are calculated based on a proportional contribution of [REDACTED] per SRUE.

**Contribution towards Healthcare= [REDACTED]**

### Sports and Recreational Facilities

#### *Sports and Recreation Facilities*

Existing sports provision within Keith is considered to be adequate to serve the needs of the residents anticipated to be generated by this development. Therefore, in this instance, no contribution will be required.

**Contribution for Sports and Recreation Facilities = Nil**





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## AFFORDABLE HOUSING

The benchmark cost of 1 unit of Affordable Housing is £[REDACTED]. Contributions are based on 25% of the total number of units proposed in the application:

[REDACTED]

Therefore, the total contribution towards affordable housing is:

[REDACTED]

Affordable housing is a policy requirement not a developer obligation and will not be subject to negotiation.



## TERMS OF ASSESSMENT

This assessment report is valid for a period of 6 months from the date of issue.

Please note that any subsequent planning applications for this site may require a re-assessment to be undertaken on the basis of the policies and rates pertaining at that time.

## PAYMENT OF CONTRIBUTIONS

Remittance of financial obligations can be undertaken either through the provision of an upfront payment or by entering into a Section 75 agreement. The provision of an upfront payment will allow a planning consent to be issued promptly. However, where the amount of developer contributions are such that an upfront payment may be considered prohibitive a Section 75 will likely be required. The payment of contributions may be tied into the completion of houses through a Section 75 Agreement or equivalent, to facilitate the delivery of development. Please note that Applicants are liable for both the legal costs of their own Legal Agent fees and Council's legal fees and outlays in the preparation of the document. These costs should be taken into account when considering the options.

## INDEXATION

Developer obligations towards Moray Council infrastructure are index linked to the General Building Cost Price Index (BCPI) as published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors (RICS) from Q3, 2017 and obligations towards NHS Grampian infrastructure are index linked to All in Tender

Price Index (TPI) as published by the Royal Institute of Chartered Surveyors (RICS) from Q2, 2017.





# **Consultee Comments for Planning Application 20/00647/PPP**

## **Application Summary**

Application Number: 20/00647/PPP

Address: Plot 2 Bowie Croft Grange Crossroads Keith Moray

Proposal: Erect dwellinghouse on

Case Officer: Iain T Drummond

## **Consultee Details**

Name: Mr EH Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: ehplanning.consultations@moray.gov.uk

On Behalf Of: Environmental Health C12

## **Comments**

Approved Unconditionally - Andy Stewart, PEHO



## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Moray Flood Risk Management

**Planning Application Ref. No:** 20/00647/PPP

**Erect dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray for Mr Alastair Anderson**

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

- |   | <b>Please</b>                                   |
|---|---|
| (a) I OBJECT to the application for the reason(s) as stated below   | <b>x</b><br><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"/>                        |

### Reason(s) for objection

Further information required to consider the application.

A drainage statement with a more detailed drainage solution is required to assess proposals for the site.

Further information on requirements for the DS can be found in "Moray Council Flood Risk Management Supplementary Guidance for Flood Risk and Drainage":

[www.moray.gov.uk/downloads/file124411.PDF](http://www.moray.gov.uk/downloads/file124411.PDF)

Contact:	Javier Cruz	Date.....	25/06/2020
email address:	Javier.Cruz@Moray.gov.uk	Phone No	.....
Consultee:	The Moray Council, Flood Risk Management		



Friday, 08 January 2021



Local Planner  
High Street

Elgin  
IV30 1BX

Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - [DevelopmentOperations@scottishwater.co.uk](mailto:DevelopmentOperations@scottishwater.co.uk)  
[www.scottishwater.co.uk](http://www.scottishwater.co.uk)

Dear Sir/Madam

**SITE: Plot 2 Bowie Croft Grange, Crossroads Keith, Keith, AB55 6LQ**  
**PLANNING REF: 20/00647/PPP**  
**OUR REF: DSCAS-0015865-3J2**  
**PROPOSAL: Erect dwellinghouse on**

**Please quote our reference in all future correspondence**

---

## **Audit of Proposal**

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

## **Water Capacity Assessment**

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ This proposed development will be fed from TURRIFF Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity currently so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water via [our Customer Portal](#) or contact Development Operations.

## **Waste Water Capacity Assessment**

- ▶ Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

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**Please Note**



- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.
- 

## **Surface Water**

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

### **General notes:**

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - ▶ Site Investigation Services (UK) Ltd
  - ▶ Tel: 0333 123 1223
  - ▶ Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)
  - ▶ [www.sisplan.co.uk](http://www.sisplan.co.uk)
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
  - ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
- 

## **Next Steps:**

### **▶ All Proposed Developments**

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

### **▶ Non Domestic/Commercial Property:**

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk)

### **▶ Trade Effluent Discharge from Non Dom Property:**

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email [TEQ@scottishwater.co.uk](mailto:TEQ@scottishwater.co.uk) using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices

to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk).

Yours sincerely,

**Planning Application Team**

Development Operations Analyst

[developmentoperations@scottishwater.co.uk](mailto:developmentoperations@scottishwater.co.uk)

**Scottish Water Disclaimer:**

*"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*

# **Consultee Comments for Planning Application 20/00647/PPP**

## **Application Summary**

Application Number: 20/00647/PPP

Address: Plot 2 Bowie Croft Grange Crossroads Keith Moray

Proposal: Erect dwellinghouse on

Case Officer: Iain T Drummond

## **Consultee Details**

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

## **Comments**

Approved Unconditionally - Adrian Muscutt, CLO



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	23rd June 2020
<b>Planning Authority Reference</b>	20/00647/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Plot 2 Bowie Croft Grange Crossroads Keith Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133061939
<b>Proposal Location Easting</b>	346449
<b>Proposal Location Northing</b>	853866
<b>Area of application site (M<sup>2</sup>)</b>	1147
<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=QAXCYTBGKMU00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=QAXCYTBGKMU00</a>
<b>Previous Application</b>	14/01967/APP 11/00011/APP
<b>Date of Consultation</b>	9th June 2020
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Alastair Anderson
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	2 Croft Terrace Errol Perthshire PH2 7UE
<b>Agent Name</b>	Arthur Stone Planning & Architectural Design Limited
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	85 High Street Newburgh United Kingdom KY14 6DA
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Iain T Drummond
<b>Case Officer Phone number</b>	01343 563607
<b>Case Officer email address</b>	iain.drummond@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: 20/00647/PPP**

**Erect dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray for Mr Alastair Anderson**

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 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 checked="" type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/>            |

#### Condition(s)

1. Notwithstanding the submitted details no development shall commence until:

- i) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the visibility splay 2.4 metres by 90 metres in both directions, with all boundaries set back to a position behind the required visibility splay, including a forward visibility splay envelope of 90 metres around the bend on the adjacent public carriageway to the south and west of the site, and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and,
- ii) thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
- iii) thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users and to ensure acceptable development that does not create any hazard to road users in the interests of road safety.

2. Prior to the occupation of the dwelling house, the first 5m of the access track, measured from the edge of the public carriageway, shall be constructed to the Moray Council specification and surfaced with bituminous macadam. The width of the vehicular access shall be minimum 3.5 metres, and have a maximum gradient of 1:20 measured for the first



5.0m from the edge of the public carriageway.

Reason: To ensure acceptable infrastructure at the development access.

3. Prior to the occupation of the dwelling house, an access lay-by 8.0m long by 2.5m wide with 30 degrees splayed ends shall be provided at the edge of the public road. The vehicular access should lead off the lay-by. The lay-by must be constructed in accordance with the Moray Council specification and surfaced with bituminous macadam.

Reason: To enable visiting service vehicles to park clear of the public road in the interests of road safety.

4. Any existing ditch, watercourse or drain under the site access shall be piped using a suitable diameter of pipe, agreed with the Roads Maintenance Manager (300mm minimum). The pipe shall be laid to a self-cleansing gradient and connected to an outfall.

Reason: To ensure the construction of an acceptable access in the interests of road safety and effective drainage infrastructure.

5. Parking provision shall be as follows:

- 2 spaces for a dwelling with three bedrooms or less; or
- 3 spaces for a dwelling with four bedrooms or more.

The car parking spaces shall be provided within the site prior to the occupation or completion of the dwelling house, whichever is the sooner. The parking spaces shall thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

6. No water shall be permitted to drain or loose material be carried onto the public carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access

7. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road

8. Boundary walls/fences shall be set back from the edge of the public carriageway at a minimum distance of 2.0m and to a position behind the required visibility splays.

Reason: To ensure acceptable development in the interests of road safety.

#### **Further comment(s) to be passed to applicant**

The formation of the required visibility splays will involve the removal of gorse and vegetation and setting back of boundary fences. The visibility splays have not been shown

and should be detailed on any subsequently submitted drawings. Parking provision shall be located out with the required visibility splays.

Planning consent does not carry with it the right to carry out works within the public road boundary.

Before starting any work on the existing public road the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicant shall free and relieve the Roads Authority from any claims arising out of their operations on the road or extension to the road.

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

**Date 17 June 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://public.moray.gov.uk/planning/> (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.



## **OFFICER REPORT ON APPLICATION**

### *For Report of Handling*

<b>Ref No:</b>	20/00647/PPP	<b>Officer:</b>	Iain T Drummond
<b>Proposal Description/ Address</b>	Erect dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray		
<b>Date:</b>		<b>Typist Initials:</b>	

<b>HISTORY</b>				
<b>Reference No.</b>	<b>Description</b>			
14/01967/APP	Extend planning consent 11/00011/APP for erection of dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray			
	<b>Decision</b>	Permitted	<b>Date of Decision</b>	05/12/14
11/00011/APP	Erection of dwellinghouse on Plot 2 Bowie Croft Keith Moray			
	<b>Decision</b>	Permitted	<b>Date of Decision</b>	11/10/11

<b>ADVERT</b>		
<b>Advert Fee paid?</b>	<b>Yes</b>	
<b>Local Newspaper</b>	<b>Reason for Advert</b>	<b>Date of expiry</b>
Banffshire Advertiser and Herald	No Premises	06/07/20
PINS	No Premises	06/07/20

<b>DEVELOPER CONTRIBUTIONS (PGU)</b>	
<b>Status</b>	<b>Contribution sought</b>

<b>CONSULTATIONS</b>		
<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Moray Flood Risk Management	25/06/20	Further information sought
Planning And Development Obligations	30/06/20	Contribution sought
Environmental Health Manager	09/06/20	No objections
Contaminated Land	10/06/20	No objections
Transportation Manager	17/06/20	No objections subject to conditions and informatives
Scottish Water	10/06/20	No objections

**DOCUMENTS, ASSESSMENTS etc. \***

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

Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Planning Statement	
Main Issues:	Identifies how the applicants feel the proposals comply with development plan policies	

**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)			

**DEVELOPMENT PLAN POLICY**

Policies	Dep	Any Comments (or refer to Observations below)
PP3 Infrastructure and Services	N	
DP1 Development Principles	Y	
DP4 Rural Housing	Y	
EP13 Foul Drainage	N	
EP14 Pollution Contamination Hazards	N	

REPRESENTATIONS		
Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Name	Address	
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

## OBSERVATIONS – ASSESSMENT OF PROPOSAL

### The Proposal

This application seeks planning permission in principle for the erection of a dwellinghouse on a site at Plot 2, Bowie Croft, Grange Crossroads, Keith.

An indicative site plan has been submitted in support of the proposal, which indicates an indicative house footprint within the site and access point onto the public road. Details of drainage, parking and landscaping are also shown.

### The Site and Surroundings

The site comprises a rough area of scrub ground, interspersed with bushes and small trees and is bounded to the north, east and west by further rough ground covered with trees and bushes. To the south the site is bounded by a single track public road, with a further existing house known as Tillymoss on the opposite side of the public road.

There are a number of previous planning applications relating to this site dating back to an original consent granted in 2006 (06/00308/OUT) for the erection of a dwellinghouse. This original consent was then extended/renewed in 2011 and then again in 2014, however, all of these consents have now lapsed without any works to commence the developments taking place on site and as such this application requires to be assessed afresh, without taking into account any previous consents on site.

The relatively short stretch of road leading to the site from the B9018 and leading on a short distance past the site approx. a total of 1.2km in length, has been the subject of 8 new approved and constructed house sites, of which the associated application numbers are listed below and build up plan illustrating these approvals is appended to this report

- 11/01864/APP
- 07/01880/FUL
- 00/01252/FUL
- 12/01420/APP
- 05/01756/FUL
- 07/02492/FUL
- 07/02410/FUL
- 05/02665/FUL

### Appraisal



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 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

### **Siting and Impact upon Landscape Character (MLDP 2020 Policies DP1 and DP4)**

Policy DP4: Rural Housing of the Moray Local Development Plan (MLDP) 2020 contains the necessary criteria for assessing new rural housing in the countryside. In this case the site lies within an area of Intermediate Pressure and as such proposals must first and foremost comply with the following siting criteria,

Proposals for single houses must be well-sited and designed to fit with the local landscape character and will be assessed on a case by case basis taking account of the following siting and design criteria;

1. There must be existing landform, mature trees, established woodland or buildings of a sufficient scale to provide acceptable enclosure, containment and backdrop for the proposed new house. These features must be immediately adjoining the site (i.e. on the boundary). Fields drains, ditches, burns, post and wire fencing, roads and tracks do not provide adequate enclosure or containment.
2. The new house must not create ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of an area due to its prominent or roadside location.
3. Artificial mounding, cut and fill and/or clear felling woodland to create plots will not be permitted.
4. 15% of the plot must be landscaped with native tree species (whips and feathered trees at least 1.5 metres in height, planted at a density of 1 per 4 sqm) to assist the development to integrate sensitively. Landscaping must be set back from the public road to ensure sightlines are safeguarded, a safe distance from buildings and positioned to maximise solar gain.

Policy DP1: Development Requirements seeks compatibility in terms of scale, density and character and requires new development to integrate into the surrounding landscape and ensure no adverse privacy, amenity or overbearing impacts on neighbouring property.

The MLDP 2020 contains a further guidance note on Cumulative Build-up of housing in the countryside which details siting and design indicators to aid the assessment of cumulative build-up of housing

The proposed site does not lie within any specific build up hot spot, however, whilst visiting the area and based on the number of house consents in recent years within a kilometre of the site it is clear that the build up of new housing in this area is eroding the character of the countryside in this locality.

There are 5 cumulative build-up indicators in relation to the siting of new houses identified within the guidance which should be used when sites do not lie within the pressurised and sensitive areas. These are as follows,

#### **siting indicators**

- The number of new houses overwhelms the presence of older buildings, such that the new houses are the predominant components of the landscape and the traditional settlement pattern is not easy to perceive.
- The incidence and inter-visibility of new houses result in these being a major characteristic of the landscape.
- There is a prominence of new houses from key viewpoints such as roads, adopted core paths or long distance paths and existing settlements.
- There are sequential visual effects of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site.

- The proposal contributes to ribbon development between existing/consented houses contrary to the traditional dispersed settlement pattern.

In this case, the number of new houses on this short stretch of road has overwhelmed the presence of older buildings, such that the new houses are the predominant components of the landscape and the traditional settlement pattern is not easy to perceive. There are sequential visual effects of cumulative build-up of new housing experienced when travelling along road leading to and past the site and this incidence and inter-visibility of new houses result in these being a major characteristic of the landscape.

Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of policies DP1 and DP4 and associated Guidance Note on Cumulative Build-up of housing.

Although the proposal is potentially capable of satisfying policy criteria in relation to boundary treatment, 15% tree planting and house design, these aspects do not override the main policy objection concerning an unacceptable build-up of housing and its associated impact upon the rural character of this particular location.

For the avoidance of doubt, whilst planning permission has been granted for a dwellinghouse on this site on 3 previous occasions, these previous consents have now lapsed and hold no material planning weight in the determination of this application. In addition a new Local Development Plan policy has been adopted in the intervening period, which is considerably more restrictive in terms of achieving acceptable new house site in the countryside, when compared to preceding local development plans.

#### **Access/Parking (DP1)**

Following consultation the Transportation Section has raised no objection to the proposal subject to conditions and informatives.

#### **Water Supply and Drainage (EP12)**

Whilst Moray Flood Risk Management requested that additional information be provided in support of this application, if the applications were being approved, a condition could have been attached to any consent to ensure the provision of any relevant drainage information at the approval of matters specified in condition stage and as such this lack of detailed information at this stage is not sufficient to justify a recommendation of refusal on this basis.

Scottish water has no objection to the use of the proposed water supply.

#### **Developer obligations and affordable housing (PP3 and DP2)**

An assessment has been carried out and a contribution has been identified towards healthcare and affordable housing, which the applicant has agreed to pay in the event of approval being given.

#### **Recommendation**

The proposed development is unacceptable in this location, fails to comply with development plan policy and is recommended for refusal.

<b>OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT</b>
---

APPLICATION TYPE AND DECISION LEVEL	
Application type (as per hierarchy)	LOCAL
Decision Level	Delegated

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

**CONDITIONS AND REASONS FOR APPROVAL (if applicable)**

Conditions (including standard conditions)

N/A

**REASON(S) FOR REFUSAL (if applicable)**

The proposal would be contrary to policies DP1 and DP4 of the Moray Local Development Plan 2020 and associated guidance on build up of housing in the countryside for the following reasons:

The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside, with ample separation between them. In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy.

**INFORMATIVES – NOTES FOR APPLICANT**

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

Reference No.	Version No.	Title/Description
3017-01		Site and location plan
		Location plan

**DETAILS OF MATTERS SPECIFIED IN CONDITIONS (AMC PROPOSALS ONLY)**

Details of matters in respect of which approval, consent or agreement which have been granted or refused.

Reference number of application for planning permission (PPP) in respect of which the condition(s) was imposed.

--

<b>DETAILS OF ANY VARIATION MADE TO ORIGINAL PROPOSAL, AGREED WITH APPLICANT (S. 32A REFERS)</b>		
Any variation made/agreed with applicant?		NO
Description of variation:		

<b>DURATION OF PERMISSION – DIRECTION BY LOCAL AUTHORITY TO USE DIFFERENT TIME PERIOD(S) (SECTION 58 AND 59 OF 1997 ACT REFERS)</b>		
Change in time-period(s) from that specified in S.58 and S.59 (standard time conditions)?		NO
Details of change and effect of Direction		
Duration of Consent – <b>(Admin to update Decision screen – Date Temporary Consent Expires)</b>		

NOTIFICATION TO SCOTTISH MINISTERS (UNDER CIRCULAR 3/2009)		
Covering letter details provided		NO
Checklist identifying information completed and saved (NOTSCO)		NO

NOTIFICATION TO HISTORIC SCOTLAND		
Non-standard covering letter required		NO
Checklist identifying information completed and saved (LBCNHS)		NO

DOCUMENTS TO BE STAMPED APPROVED/REFUSED	
Full set of plans (see list above)	Y
Drainage Impact Assessment	
Method statements	
Maintenance scheme	
Other (please list below)	

1.

INFORMATION TO ACCOMPANY DECISION NOTICE	
Consultation responses	
Other (please state below)	

1.

Planning Officer Signature ..... Date: .....

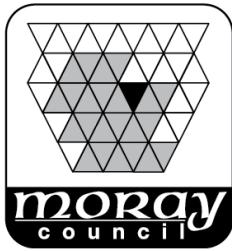






Legend





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

**REFUSAL OF PLANNING PERMISSION**

**[Keith And Cullen]  
Planning Permission in Principle**

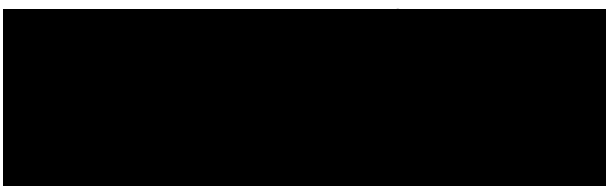
TO Mr Alastair Anderson  
c/o Arthur Stone Planning & Architectural Design Limited  
85 High Street  
Newburgh  
United Kingdom  
KY14 6DA

With reference to your application for planning permission in principle 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 dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray**

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

Date of Notice: **10 September 2020**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

Economy, Environment and Finance  
Moray Council  
PO Box 6760  
ELGIN  
Moray  
IV30 1BX

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

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

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

The proposal would be contrary to policies DP1 and DP4 of the Moray Local Development Plan 2020 and associated guidance on build up of housing in the countryside for the following reasons:

The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside, with ample separation between them. In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy.

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

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

Reference	Version	Title
3017-01		Site and location plan
		Location plan

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

N/A

**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.scot/eplanningClient](http://www.eplanning.scot/eplanningClient)

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 100328254-001

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

## Agent Details

Please enter Agent details

Company/Organisation:	Arthur Stone Planning & Architectural Design Limited		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Alison	Building Name:	
Last Name: *	Arthur	Building Number:	85
Telephone Number: *	01337 840 088	Address 1 (Street): *	High Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Newburgh
Fax Number:		Country: *	United Kingdom
		Postcode: *	KY14 6DA
Email Address: *	info@arthurstoneplanning.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="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="Alistair"/>	Building Number: <input type="text" value="2"/>
Last Name: *	<input type="text" value="Anderson"/>	Address 1 (Street): * <input type="text" value="Croft Terrace"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: * <input type="text" value="Errol"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Perthshire"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="PH2 7UE"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="info@arthurstoneplanning.co.uk"/>	

## 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"/>
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"/>
Post Code:	<input type="text"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="853862"/>	Easting	<input type="text" value="346455"/>
----------	-------------------------------------	---------	-------------------------------------

## 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 dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray

## Type of Application

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

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

What does your review relate to? \*

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

## Statement of reasons for seeking review

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

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

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

Please refer to submitted document Statement of Reasons for Seeking Review

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

☐ Yes ☒ No

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

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

Statement of Reasons for Seeking Review, Report of Handling, Decision Notice and Site and Location Plan for 11/00011/APP, Report of Handling, Decision Notice and Site and Location Plan for 14/01967/APP.

## Application Details

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

20/00647/PPP

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

25/05/2020

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

10/09/2020

## 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)

A site inspection will demonstrate the qualities of this site and illustrate that its characteristics in relation to 'build up' of development differ from those of other dwellings developed in the area and that the proposal will not detrimentally alter the rural character of the area (reasons used as the basis for the Council's refusal of the application).

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: Mrs Alison Arthur

Declaration Date: 15/11/2020



**Notice of Review of Planning Application 20/00647/PPP  
Statement of Reasons for Seeking Review**

**Erection of dwellinghouse on Plot 2, Bowie Croft,  
Grange Crossroads, Keith**

**Mr A Anderson**

**October 2020**



Image capture: Aug 2011 © 2020 Google



Arthur Stone Planning  
& Architectural Design



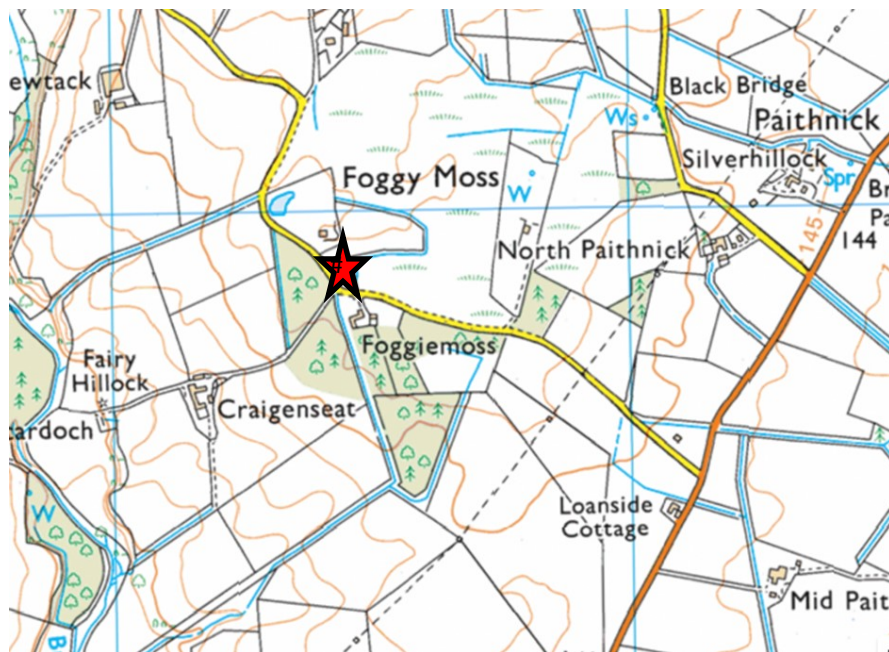
85 High Street  
Newburgh. KY14 6DA

**Tel: 01337 840088**

[www.arthurstoneplanning.co.uk](http://www.arthurstoneplanning.co.uk)  
[info@arthurstoneplanning.co.uk](mailto:info@arthurstoneplanning.co.uk)

## **Statement of Reasons for Seeking Review**

- 1.0 Introduction**
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- 6.0 Conclusion**



## **1.0 Introduction**

1.1 The applicant, Mr Anderson, submitted a planning application in principle (20/00647/PPP) in May 2020 for the erection of a dwellinghouse on land at Bowie Croft, Grange Crossroads, Keith.

1.2 The application was refused under delegated powers by the Council's appointed officer on 10<sup>th</sup> September 2020.

1.3 This statement provides a response to the reasons for refusal and aims to demonstrate that it is reasonable to conclude that the proposal meets with the terms of Moray Council's land use planning policies and guidance and that the approval of the application is justified.

1.4 In support of this proposal we make the following points:

- ♦ The characteristics of this application site make it a suitable location for a single dwellinghouse, gaining support from the Moray Local Development Plan 2020.
- ♦ The site has received various planning consents in recent years for a single house, both in principle and detailed.
- ♦ The site has previously been assessed by the Council as not detracting from the character of the surrounding rural area. Notably, this assessment was made subsequent to the consents for other new houses on Foggy Moss Road.
- ♦ There will be no conflict with surrounding land uses or the residential amenity of the nearby properties.
- ♦ There will be no adverse impact on the landscape or environmental capacity of the site, with significant opportunity for biodiversity and landscape enhancements through planting of native species.
- ♦ The proposal will generate minimal traffic with no impact on road capacity or road safety.
- ♦ There are no infrastructure constraints to the development of the site, including no issues of flooding, and contributions will be made towards healthcare and affordable housing.

## **2.0 Site Description and Proposal**

2.1 This proposal relates to an area of rough pastureland, lying adjacent to Foggy Moss Road (U26H) an unclassified single track (no through) road leading from the B9018 approx. 6km north east of Keith. The site lies within a small cluster of properties, with Bowie Croft to the north of the site and directly adjacent, across Foggy Moss Road are two houses, Tillymoss and Foggiemoss.

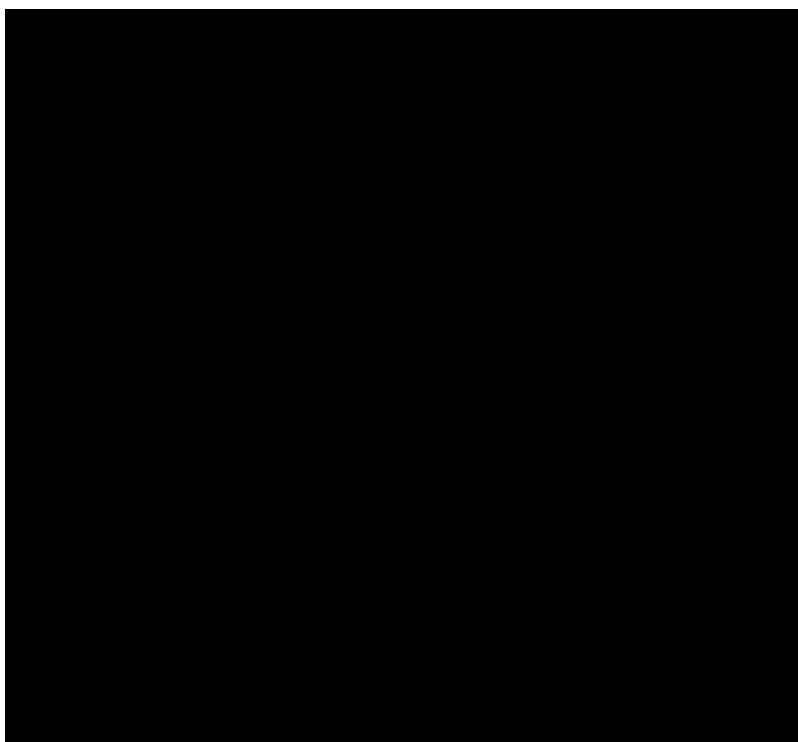
2.2 The site is a relatively flat area of land, with scrubby trees and bushes, part of an isolated area at Foggy Moss with low capability for agriculture (5.3) in contrast to the higher quality surrounding agricultural land.

2.3 This planning application seeks permission in principle for a single dwellinghouse on the site. A similar site layout is proposed to that which had previously been approved, with the most recent consent lapsing at the end of 2017.

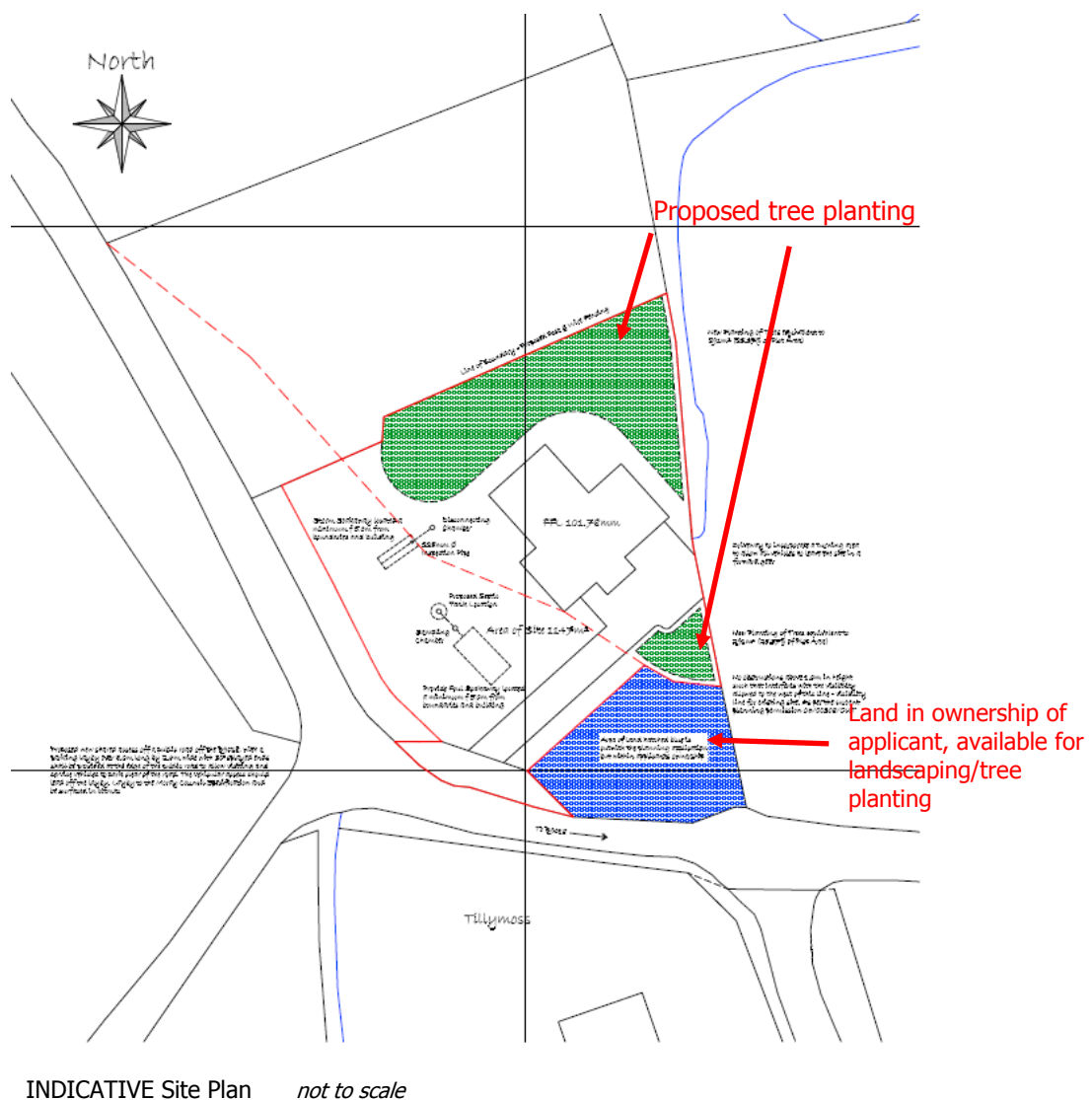
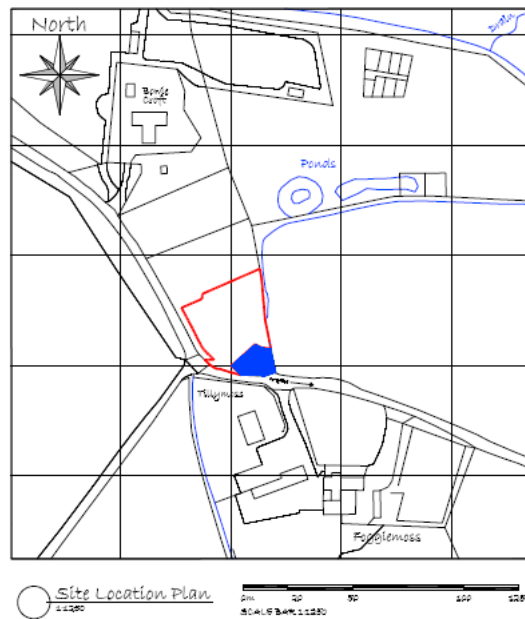
2.4 The applicant (landowner), was not able to develop the site within the approved timescale and now seeks renewed planning approval for a dwellinghouse on the site.

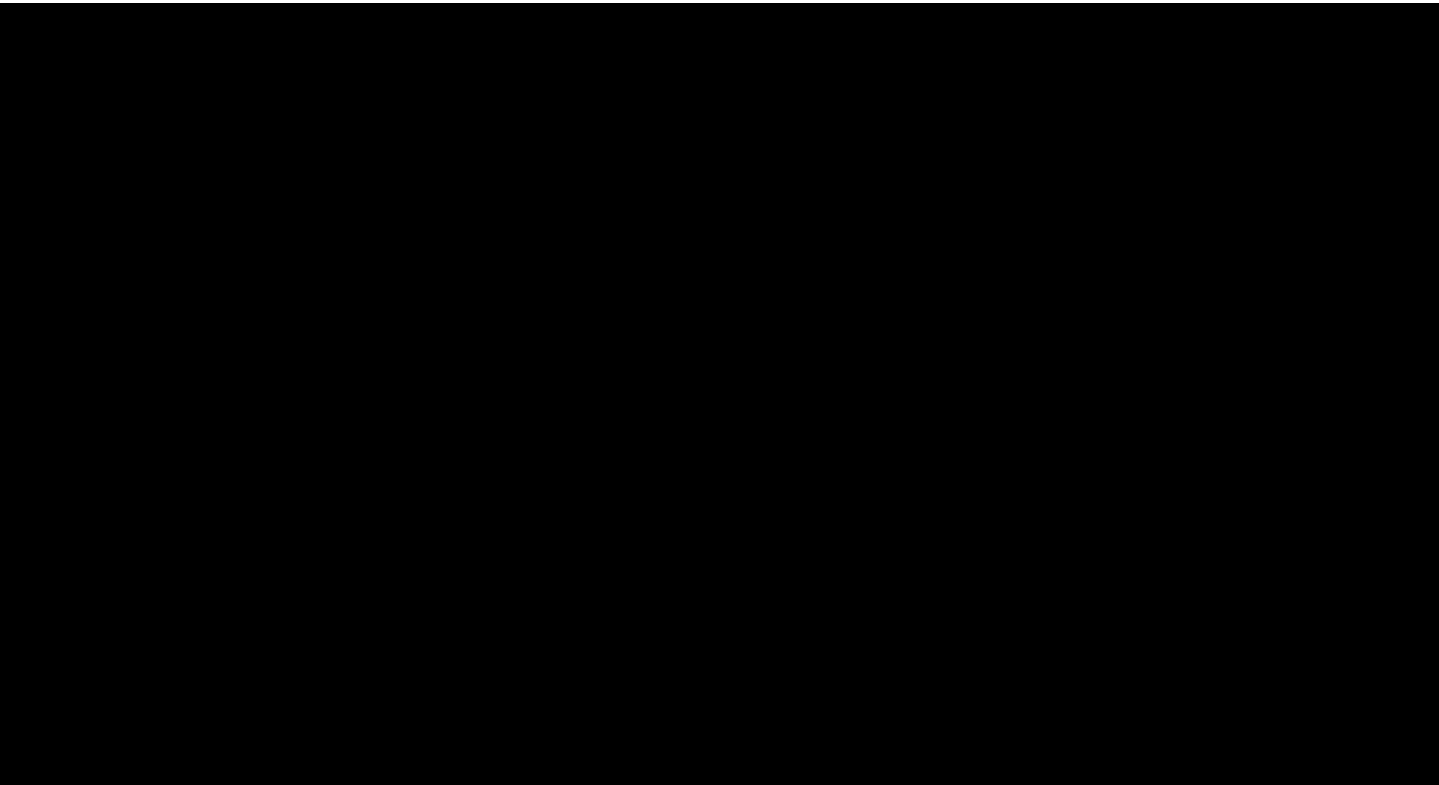
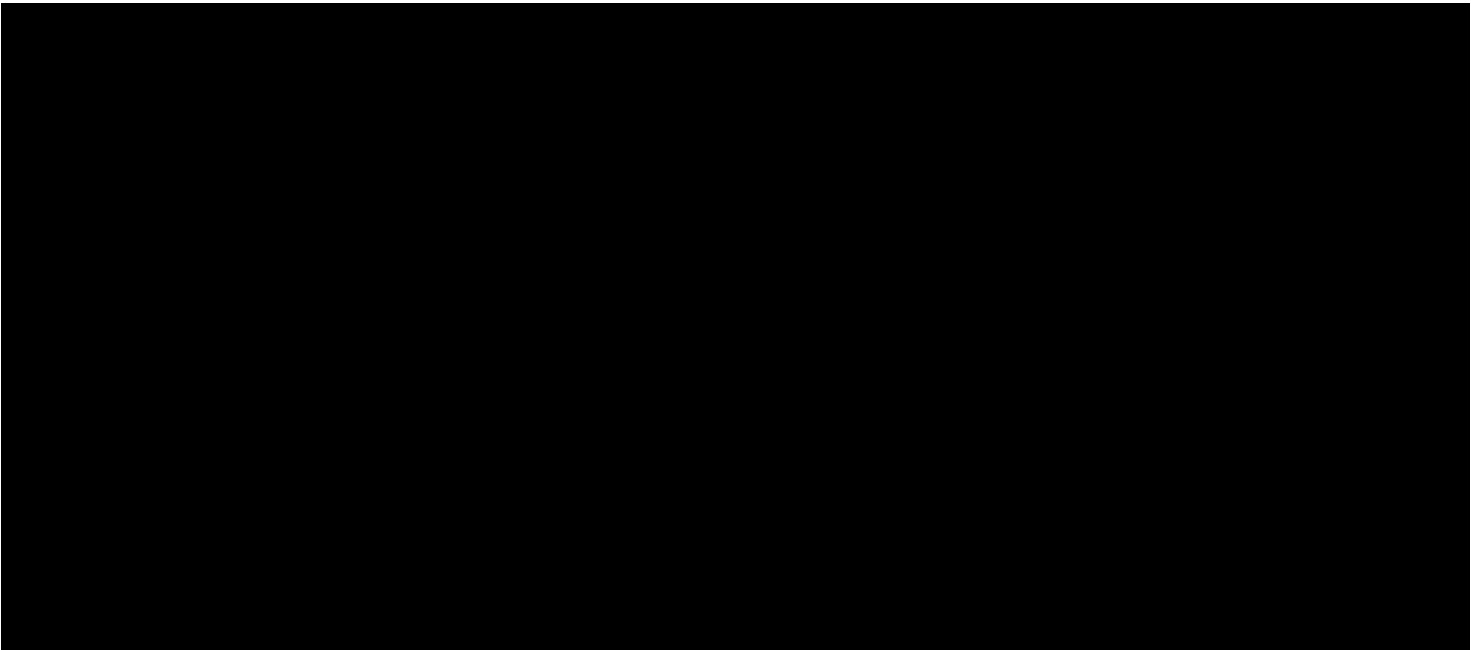
2.5 The notional plan submitted with the application illustrates a layout which we believe meets with the Council's policies. In this case the proposal is for a planning application in principle and the design approved by the lapsed consent (14/01967/APP) and illustrated in the Supporting Statement for this current application is only indicative. However, the applicant would intend to propose a traditional single storey or one-and-a-half storey property of well proportioned design in the future using materials such as natural stone, natural slate and traditional fenestration, having full regard to the Council's Design Criteria as set out in the Moray Local Development Plan.

2.6 The site will be attractively landscaped with native planting, enhancing the biodiversity and woodland cover of the Foggy Moss area, and making a positive contribution to the characteristics of this landscape.









### **3.0 Planning History**

3.1 There are several planning consents for a dwellinghouse on this site, dating back to 2006:

- Application 06/00308/OUT established the principle of residential use on this site and was approved in April of 2006.
- A further application, 11/00011/APP, in 2011 followed the expiration of the previous 2006 consent and was approved in October 2011.
- In December 2014 the current owner received further planning consent (14/01967/APP) to extend the date of the consent notice for a further 3 years. Unfortunately, the site was not developed before the consent lapsed at the end of 2017.

3.2 The applicant reasonably assumed that given the history of consents on this site and the immediate surrounding area that gaining a renewed consent would not be troublesome in this case.

### **4.0 Planning Considerations**

4.1 In assessing the application, the Council's officer was content with the proposal in terms of layout and design, residential amenity, access and parking, water supply and drainage, developer obligations and affordable housing. Only the siting of the proposal required further consideration. The Development Plan for consideration in determining the application was the Moray Local Development Plan 2020 (MLDP 2020)

4.2 The Report of Handling includes that:

- Transportation Section has no objection to the proposal.
- A condition attached to a consent will be sufficient to address drainage details at a detailed stage, meeting with Moray Flood Risk Management's requirements.
- The applicant is agreeable to contribute towards healthcare and affordable housing, as identified by the Council.
- The proposal is potentially capable of satisfying policy criteria in relation to boundary treatment, tree planting and house design.

4.3 There were no representations to the proposal and therefore no concerns voiced regarding an additional house in this rural community or any specific concern in relation to any issue.

4.4 The Council officer's assessment of siting and impact on landscape character was the basis for the refusal of the application, despite the satisfactory assessment of other aspects of the proposal.

4.5 The Council's officer notes that the site has had consents in the past, but that the recently adopted MLDP 2020 is 'more restrictive' in relation to housing in the countryside. The characteristics **of this case** continue to provide a good landscape context for development of a dwellinghouse, in line with the up to date policy. The noted 'restrictions' of the policy do not automatically reject this proposal. We believe that assessment **of this case** in terms of the relevant policy criteria provides support for the proposal and the application can be assessed as 'well sited'. Indeed, the Report of Handling highlights this, stating that '*Proposals for single houses must be well-sited and designed to fit with the local landscape character and will be assessed on a case by case basis...*'

## **5.0 Response to Reasons for Refusal – Grounds for Appeal**

The Reasons for Refusal state:

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

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

The proposal would be contrary to policies DP1 and DP4 of the Moray Local Development Plan 2020 and associated guidance on build up of housing in the countryside for the following reasons:

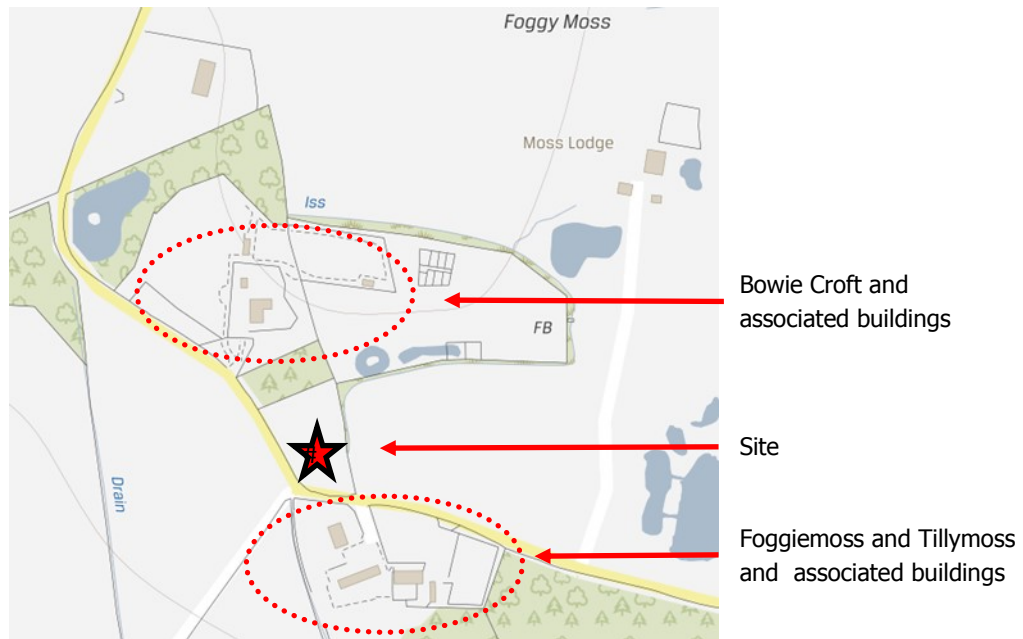
The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside, with ample separation between them. In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue. Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy.

5.1 With respect, we believe that the reasons for refusal are not adequately justified in the Council officer's assessment of the proposal and conclusion. We make the following points in support of the applicant's request for review and approval of this planning application and in response to the Reasons for Refusal.

5.2 We believe that a generalisation has been made in assessing the application, contrary to the need to consider the case 'on its own merits'. The reasons for refusal refer to *'In this case the significant build-up of new housing along this short stretch of road within the last 15 years, has led to an erosion of the traditional character of the landscape in this locality. The approval of a further house plot in this locality would exacerbate this issue'*.

5.3 The conclusion reached, that there has been an unacceptable build-up of new houses along Foggy Moss Road, does not automatically mean that this additional house would worsen the situation. The reason for refusal does not specify what aspects of the proposal *'would exacerbate this issue'* and there is no assessment in the Report of Handling as to why **this proposal** would worsen the situation. The site for this proposal does not share the same characteristics as the other new house developments and will not add to what is considered to be the unacceptable situation. This proposal is for a site which meets with the Council's siting criteria in MLDP 2020 Policy DP4: Rural Housing and lies within an existing small cluster of housing and other buildings. All, but one, of the other consents for new houses on Foggy Moss Road have been for single **isolated** houses.

5.4 Assessment of **this case** and its potential impact on the character of the area suggests that there can be an alternative and positive interpretation of the proposal, enabling it to be supported by the Council's policies and guidance.



Map illustrating location of the site within a surrounding cluster of houses and buildings.

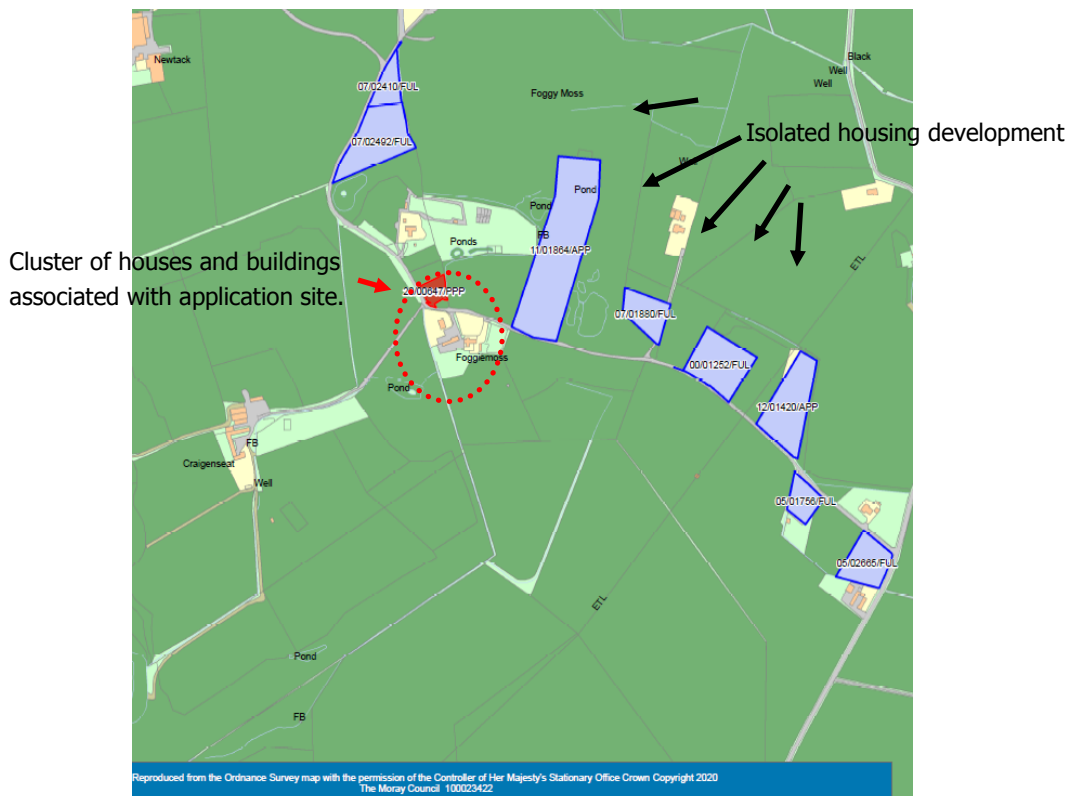
5.5 The site lies within a small cluster of houses and associated buildings formed with Foggiemoss and Tillymoss, with Bowie Croft to the north. The existing setting of the site and the potential to further enhance this through further new planting provides an appropriate location for an additional house, as indicated by an assessment in terms of the Council's siting criteria.

5.6 The Refusal concludes that, *'Given these impacts, the proposal is considered to constitute an inappropriately located site which fails to satisfy the siting criteria of Local Development Plan policy'*. We believe an assumption has been made that the impacts considered to arise from the other housing along Foggy Moss Road would also apply to this proposal. There is no assessment in the Report of Handling which supports this conclusion.

5.7 In the assessment and approval of the 2011 application (extended in 2014, lapsing in December 2017) for detailed permission for a house on this site, the Report of Handling included:

*'The settlement pattern of this part of Moray is typified by single and small clusters of houses dispersed throughout the rural area. The **introduction of the single proposed house into this area would not detract from this character or lead to an unacceptable build up of houses**'.* (11/00011/APP) approved October 2011.

5.8 **Importantly**, at the time of this consent, all but one of the planning applications (12/01420/APP) for housing on Foggy Moss Road had been approved and would have been a consideration in the assessment of that application. (shown on the Council's map on p10)



Moray Council Plan referred to in Report of Handling illustrating planning consent for new houses over last 15 years. All the sites, with the exception of the most easterly is isolated from any other development. This application site, in red, is part of a small cluster.

#### Policy DP4: Rural Housing

5.9 The MLDP 2020, Policy DP4: Rural Housing develops a spatial strategy to direct new housing to the least sensitive locations. The policy includes that no new housing will be permitted in pressurised and sensitive areas. This site is **not** within either of these restricted areas. The Justification for the policy includes that '*Siting criteria have been devised to direct development to appropriate sites that have adequate enclosure, containment and backdrop to allow them to integrate sensitively into the landscape*'.

5.10 This application site is within an area where the MLDP 2020 policy DP4: Rural Housing **promotes opportunity for single houses**, subject to meeting with four criteria.

5.11 We have responded to the Council's 'siting' criteria, as set out in Policy DP4: Rural Housing, below. We believe that the proposal complies with Criteria 1, 3 and 4 and these appear to be accepted by the Council's officer in the Report of Handling, i.e.

1. *There must be existing landform, mature trees, established woodland or buildings of a sufficient scale to provide acceptable enclosure, containment and backdrop for the proposed new house (the site is suitably enclosed with a wooded backdrop).*
3. *Artificial mounding, cut and fill and/or clear felling woodland to create plots will not be permitted. (none proposed, therefore complies with criterion)*
4. *15% of the plot must be landscaped with native tree species.....to assist the development to integrate sensitively... (substantial planting proposed on the ample land available, enhancing the existing planting in the area)*

5.12 MLDP 2020 Policy DP4: Rural Housing, Criterion 2 appears to be the basis for the reason for refusal of the application:

*'2. The new house must not create ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of an area due to its prominent or roadside location.'*

We have responded to the Council's assessment of the proposal in terms of this criterion, below.

### **Create Ribbon Development**

5.13 The proposal will not create ribbon development, with the site forming part of a cluster of adjacent houses and other buildings. It will not alter the rural character or experience of this area, appearing in the wider landscape as part of a cluster of existing properties.

### **Contribute to an unacceptable build-up of housing**

5.14 The MLDP 2020 contains a Policy Guidance Note on Cumulative Build Up to assist in the assessment of the above point 2. of the Siting Criteria. The Note is introduced as being *'To help identify where build up is becoming an issue and having unacceptable landscape and visual impacts a number of build up indicators have been developed'*.

5.15 The assessment made in the Report of Handling refers to three of the six Siting Indicators, as applying *'in this case'*:

- *The number of new houses overwhelms the presence of older buildings, such that new houses are the predominant components of the landscape and the traditional settlement pattern is not easy to perceive*
- *The incidence and inter-visibility of new houses whereby these are a major characteristic of the landscape.*
- *There are sequential visual effects of cumulative build-up of new housing experienced when travelling along roads in the vicinity of the site.*

5.16 The only assessment made in the Report of Handling of the site in terms of these indicators is that *'The proposed site does not lie within any specific build up hot spot, however, whilst visiting the area and based on the number of house consents in recent years within a kilometre of the site it is clear that the build up of new housing in this area is eroding the character of the countryside in this locality'*.

5.17 The key test of policy DP4: Rural Housing is whether **this application** will **'contribute'** to any identified build up of housing which the Council officer has assessed as existing on Foggy Moss Road and that it is eroding the character of the countryside. Although there have been several consents in the area, over a number of years, it is our belief that a reasonable assessment of **this application** allows for the conclusion that this single house is acceptable in terms of Policy DP4. It will **not contribute** to the impacts referred to on Foggy Moss Road as it does not have the same characteristics as the other housing which have been considered to lead to an 'unacceptable' build-up of housing. This proposal forms part of an existing cluster of buildings, with the site providing an appropriate setting, and is not similar to the several isolated developments along Foggy Moss Road.

5.18 We refer again to para 5.7 relating to the previous consent for the site (made in the context of all but one of other consents on Foggy Moss Road) when the Council's assessment was ***'the introduction of the single proposed house into this area would not detract from this character or lead to an unacceptable build up of houses'***.



### **Detrimentially alter the rural character of an area due to its prominent or roadside location**

5.17 The Report of Handling does not assess the application site in the context of this statement. Although it refers to the 'traditional character of the landscape' in several places the components or qualities which typify this landscape are not highlighted. It is unclear therefore how this proposal will be detrimental to the traditional character of the landscape. The only reference to the settlement characteristics of the landscape is in the reason for refusal which states that '*The traditional rural settlement pattern in this area is characterised by single house plots, farmsteads and small clusters of housing dispersed across the countryside with ample separation between them.*' Contrary to this statement being included in the reason for refusal, we contend that it provides support for this application.

5.18 Foggy Moss Road is a 2km length of unclassified (no through) single track road and it is likely that road usage will be low, other than for access to properties. The visual effect of any new housing will have an extremely limited number of receptors, likely to be no more than local residents. The site will not be viewed in the wider landscape.

5.19 We have referred to the relevant Landscape Character Assessment identifying that the application site lies within Landscape Character Type 288 Upland Farmland (SNH National Landscape Character Assessment 2019) a single area of mid elevation, coastal uplands, to the north-east of the Spey. Key characteristics in this up to date LCA review include '*Relatively well settled farmland area, with an even distribution of farms accessed by a network of rural roads*' and '*Small farmsteads often partially enclosed by isolated woodland pockets.*' The description of the settlement pattern is that '*the area is reasonably well settled, with small scale, frequent farms ...often partially enclosed by woodland pockets.*' The perception of the landscape includes that '*the eye is drawn to the large scale, undulating form of the skyline to the north....*'

5.20 The application site is not designated in the MLDP 2020 as a Special Landscape Area, with the landscape unit receiving a low score for its scenic qualities, largely consisting of open farmland with limited diversity both scenically and in terms of its naturalness in the Local Landscape Designation Review 2018 process.

5.21 The nature of the site and its situation, particularly in relation to Tillymoss and Foggymoss to its south and the number of buildings associated with these properties will have the characteristics of a farm cluster and will reflect the above settlement pattern characterising the area.

5.22 The surrounding wooded areas and shrub land, including considerable recent planting in the area, will provide a strong enclosed setting and backdrop for the proposal. In addition there is considerable opportunity within the site and on land out with, but in the ownership of the applicant, to enhance the landscape setting with additional planting. The proposed notional site layout is considered to allow for further planting to be achieved. A house in this location would not adversely impact on the distinctiveness of the rural qualities of this area.

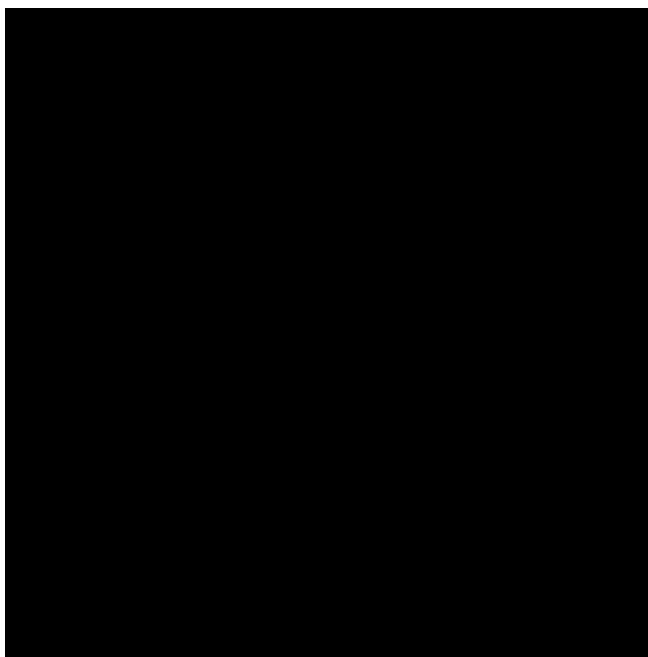
### **Summary of Policy DP4: Rural Housing—Siting Criteria**

Overall, we contend that this proposal can be considered to meet with the Siting Criteria of Policy DP4: Rural Housing and that this proposal can complement the traditional settlement pattern of the area. Its characteristics differ from other recent housing on Foggy Moss Road and therefore it will not add to any considered build up of housing.

## **MLDP 2020 Policy DP1: Development Principles**

Policy DP1: Development Principles applies to all development and is an overarching policy setting out detailed criteria to be met in ensuring the siting, design and servicing requirements of development is met. The Report of Handling indicates that this proposal *'fails to satisfy the siting criteria of policies DP1 and DP4'* but it is not clear on what aspect of policy DP1 it fails to meet in terms of siting criteria. We contend that the proposal meets with the 'design' criteria in policy DP1 in terms of the location of the proposal. In terms of the relevant criteria:

- a) The proposal is of appropriate scale and character in terms of the surrounding area
- b) The proposal has the potential to integrate well into the surrounding landscape through its location, design and also the safeguarding of existing trees and new planting.
- c) A detailed landscape plan will be submitted with a further application to ensure the setting of the proposal enhances the surrounding area.
- e) The proposal will not adversely impact on neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- i) and j) The detailed house design will ensure maximum solar gain and will include low and zero carbon generating technologies.



## **6.0 Conclusion**

6.1 The applicant, Mr Anderson, seeks the support of the Local Review Body in approving this application, enabling him to support and contribute to this rural community through the development of this house.

6.2 We contend that this site is an appropriate location for a rural house and can be considered to comply with the siting criteria of the Moray Local Development Plan 2020 Policies DP1: General Principles and DP4: Rural House and the associated Guidance Note on Cumulative Build-up of housing.



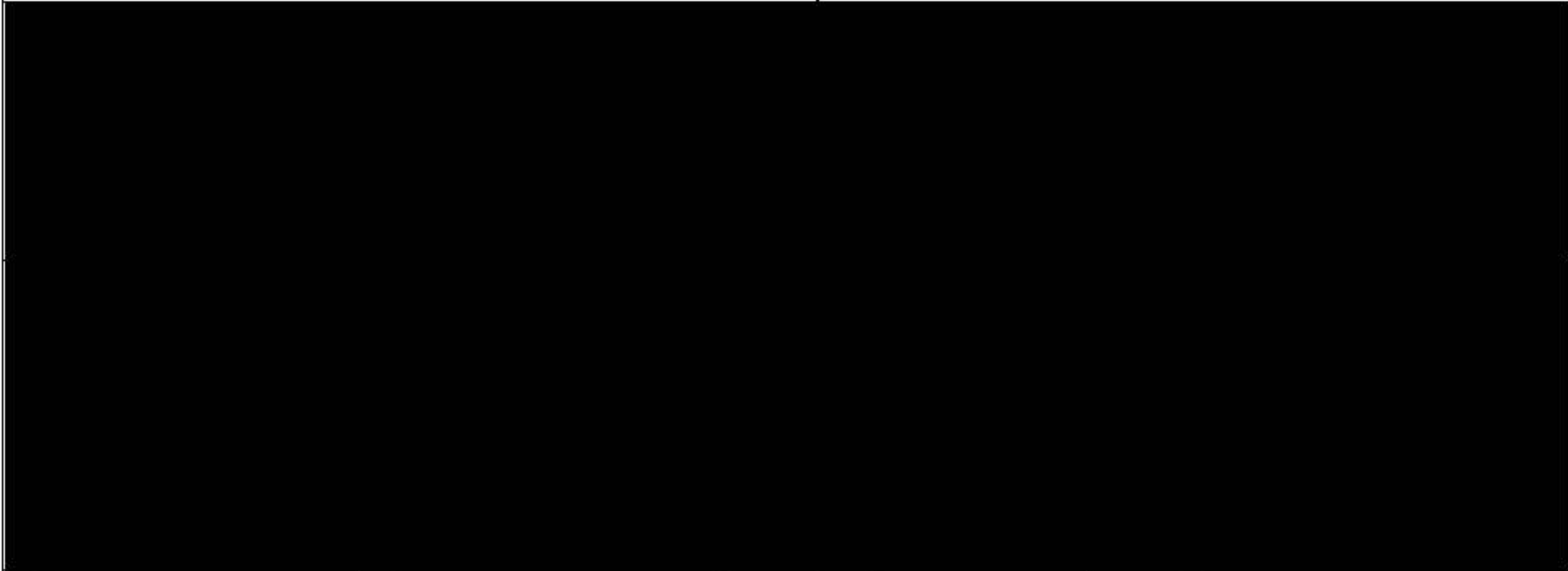
## REPORT OF HANDLING

<b>Ref No:</b>	11/00011/APP	<b>Officer:</b>	Stuart Morrison
<b>Proposal Description/ Address</b>	Erection of dwellinghouse on Plot 2 Bowie Croft Keith Moray		
<b>Date:</b>	11.10.2011	<b>Typist Initials:</b>	GW

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

CONSULTATIONS		
Consultee	Date Returned	Summary of Response
Scottish And Southern Energy	21/03/11	No objections. No recommendations
Environmental Protection Manager		No response
Environmental Health Manager	17/03/11	No objections. No recommendations
Contaminated Land	15/03/11	No objection. Informative recommended.
Transportation Manager	26/04/11	Holding reply lifted. Conditions and informatives recommended.
Scottish Water	14/03/11	No objection. Note to applicant.

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
Whole of Policy 1	N	
Whole of Policy 2	N	
H8: New Housing in Open Countryside	N	
T2: Provision of Road Access	N	
T5: Parking Standards	N	
EP5: SUDS	N	
EP9: Contaminated Land	N	
EP10: Foul Drainage	N	
IMP1: Development Requirements	N	

REPRESENTATIONS		
Representations Received		YES
Total number of representations received		
Names/Addresses of parties submitting representations		
Name	Address	
		
Summary and Assessment of main issues raised by representations		
<p><b>Issue:</b></p> <ul style="list-style-type: none"> <li>• Affecting natural environment</li> <li>• Lack of landscaping</li> <li>• Loss of value of property</li> <li>• Over-development of site</li> <li>• Precedent</li> </ul> <p><b>Comments (PO):</b></p> <p>The wordings of these two objections are exactly the same so the issues covered will be the same for both representations.</p> <p>The representations are based on a fundamental objection to the principle of sub- dividing this plot. This principle was secured via applications 06/00308/OUT and 08/00073/FUL but the relevant consent periods have expired. Consequently, the principle of development is again assessed in the handling report.</p> <p>Affecting Natural Environment: - This development on its own will have no significant impact upon the natural environment. In addition, the site does not lie on an area of any interest to natural science.</p> <p>Lack of Landscaping: - in this regard, there was a condition imposed by Transportation on the previous consent which restricted the height of vegetation in a large portion of the site. As a result, the potential for planting on the site was restricted. This issue was addressed through alteration of the site boundary to allow for the required 25% planting. This is now considered to be acceptable.</p> <p>Loss of Value of Property: - This is not a material Planning consideration and will not be taken into account in the decision making process.</p> <p>Over- development of site: - the proposed dwelling will not result in over- development of the site.</p> <p>Precedent: - This application has to be assessed on its own merits, therefore there can be no account taken for the potential for precedent to be set.</p>		



### Site Characteristics;

The application site relates to a relatively flat area of rough ground to the south east of Bowie Croft and to the north of Foggiemoss. The neighbouring properties are single storey and typify housing in rural Moray in terms of design. There are overhead lines running through the site. The application site is to be served by a private access from a single track road so, consequently, the applicant has proposed the installation of a passing place immediately to the front of the site.

### Proposal;

The principle of residential development was confirmed on this site through application 06/00308/OUT on the 6th of April 2006. This application for detailed Planning Permission was made valid on the 11th of January 2011 which is outwith the expiration of 3 years from the date of the grant of outline planning permission as stipulated in condition 1 of the previous consent. As a result, this application falls to be assessed against the whole of policy H8 which includes re- assessing the principle of development on the site, as well as detailed site factors relating to the siting, design and layout of the proposed dwelling.

The application relates to the erection of a 1½ storey dwellinghouse, attached garage and associated works, including the formation of a vehicular access onto an adjoining single track public road.

### Analysis;

Moray Structure Plan 1(e) and Moray Local Plan H8 and IMP1 - Policy 1 (e) of the Moray Structure Plan 2007 seeks to encourage well located and designed houses in the countryside that have low environmental impact. Policy H8 New of the MLP 2008 contains criteria for assessing the suitability of new rural house sites. These include the requirement that new sites 1) should not detract from the character or setting of existing buildings, or their surrounding area, 2) are not overtly prominent in the landscape i.e. located on a skyline or within an open setting such as central areas of fields etc and where otherwise prominent are offset by a natural backdrop and 3) have at least 50% established boundaries. The policy also contains site-specific criteria requiring at least 25% of plot areas to be planted with trees and design criteria to ensure a satisfactory form of traditional design. Policy IMP1 of the MLP 2008 seeks compatibility in terms of scale, density and character and requires new development to integrate into the surrounding landscape. Policy IMP3 requires payment of financial contributions where any measureable adverse or negative impact on existing infrastructure, community facilities or amenity is identified. Policies T2 and T5 require a safe and suitable access and adequate parking provision.

The settlement pattern of this part of Moray is typified by single and small clusters of houses dispersed throughout the rural area. The introduction of the single proposed house into this area would not detract from this character or lead to an unacceptable build up of houses.

The submitted plans for a 1½ storey dwelling with a 45 degree roof pitch and a 7.4 m ridge height is acceptable on this site. The previous consent did have a condition attached which stipulated a single storey dwelling but it is considered that a small difference in the overall height will not detract from the character of the area. In addition, the Transportation Section have set a restriction on any structure being above 1 metre in height in a large portion of the proposed garden ground- 1½ storeys will allow for more floor area whilst reducing the footprint of the dwelling. By reducing the footprint of the dwelling, there is more opportunity for planting at the site which is necessary to comply with H8. The house would also lie downhill from the adjacent approved house site to the north so can accommodate a house of the height proposed.

The original proposal could not achieve the required 25% planting as a 90m visibility envelope was required by the Transportation section which restricted vegetation to 1 metre in height. This has been addressed through the alteration of site boundaries to allow for additional landscaping.



In terms of design, the submitted house positioned towards the rear of the plot and being of broadly traditional design would satisfy the minimum provisions set out in policy H8.

Access/parking (Policies Moray Local Plan policies T2 and T5) – The proposal involves formation of a vehicular access onto the adjoining public road, lay-by and parking area at the front of the site. Following assessment, the Transportation Engineer has raised no objection to these aspects subject to conditions covering drainage, parking, access, a lay-by and the provision of satisfactory visibility splays.

The Planning Gain Unit initially identified the requirement for Roads contributions. However, Transportation did not identify such requirements and it was confirmed with the section that no such contribution should be sought. As a result this requirement has been removed from the application.

The proposal is considered to represent an acceptable form of development which accords with the Development Plan policies pertaining to safeguarding the rural character of the surrounding area and accordingly attracts a recommendation of approval.

## OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

### HISTORY

Reference No.	Description			
06/00308/OUT	Outline planning application for proposed new traditional single storey cottage and septic tank at Bowie Croft Foggiesmoss Crossroads Keith Moray			
	Decision	Permitted	Date Of Decision	06/04/06

### ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Banffshire Herald	No Premises	07/04/11	

### DEVELOPER CONTRIBUTIONS (PGU)

Status	None identified
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### 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)			



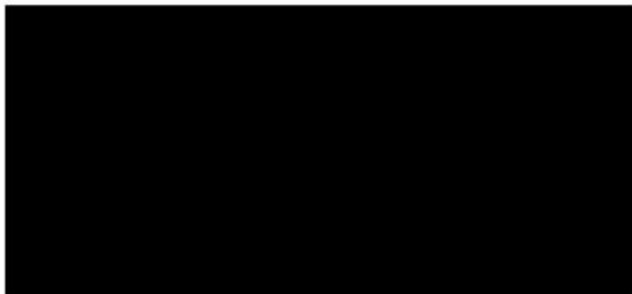


**THE MORAY COUNCIL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT  
1997, as amended**

**PERMISSION FOR DEVELOPMENT**

**[Keith And Cullen]  
Application for Planning Permission**

TO



With reference to your application for planning permission under the above-mentioned Act as amended, the Council in exercise of their powers under the said Act hereby **GRANT** planning permission for the following development:-

**Erection of dwellinghouse on Plot 2 Bowie Croft Keith Moray**

in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application, subject however to the following condition(s) and reason(s) as set out in the attached schedule.

This permission does not carry with it any necessary consent or approval to the proposed development under the building regulations or other statutory enactments and the development should not be commenced until all consents have been obtained.

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Date of Notice: **17th October 2011**



**HEAD OF DEVELOPMENT SERVICES**

Environmental Services Department  
The Moray Council  
Council Office  
High Street  
ELGIN  
Moray IV30 1BX

## IMPORTANT NOTE

**YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES**

### SCHEDULE OF CONDITIONS

By this Notice the Moray Council has **APPROVED** this proposal subject to conditions considered necessary to ensure implementation of the proposal, including conditions imposed under S.58/59 of the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

Permission is granted subject to the following conditions: -

- 1 The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
- 2 Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.
- 3 Prior to work commencing on site the applicant shall complete the attached notification of initiation of development and submit it to the local planning authority.
- 4 Upon completion of the development or as soon as practicable after doing so the attached notification of completion of development shall be completed and submitted to the local planning authority.
- 5 That no development shall take place until a Landscape Scheme (drawn to scale) is submitted to and approved by this Council (as Planning Authority). This Landscape Scheme shall show:-
  - (a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;
  - (b) details of the measures to be taken to protect any existing trees, shrubs and hedgerows during the course of developing the site;
  - (c) details of the numbers, species, position, planting distances and sizes of all planting to be undertaken;
  - (d) the position of any children's play areas and public amenity open space. Details of the surface finishes, boundary enclosures and number, type (for example, inclusion of manufacturer's specification) and position of pieces of play equipment to be provided.
- 6 The roof of the dwelling hereby approved shall be finished in natural slate or a good quality artificial slate to be agreed in writing by the Council (as Planning Authority) prior to the commencement of development.

- 7 No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
- 8 An access lay-by 8.0m long by 2.5m wide with 30 degrees splayed ends shall be provided at the edge of the public road to allow visiting service vehicles to park clear of the public road. The vehicular access should lead off the lay-by. The lay-by must be constructed in accordance with The Moray Council specification and surfaced with bituminous macadam.
- 9 Parking provision shall be as follows:
  - No. of spaces shall be three
- 10 A turning area shall be provided within the curtilage of the site/each plot to enable vehicles to enter and exit in a forward gear.
- 11 Any existing ditch, watercourse or drain under the site access shall be piped using a suitable diameter of pipe, agreed with the Roads Maintenance Manager (300mm minimum). The pipe shall be laid to a self-cleansing gradient and connected to an outfall.
- 12 A visibility splay of 2.4m x 90m shall be provided and maintained at the access in both directions, clear of any obstruction above 1.0m on height.
- 13 New boundary walls/fences shall be set back from the edge of the public carriageway at a distance of 2.0m.
- 14 A forward visibility envelope of 90m shall be provided around the bend on the public road to the south and west of the site. The effect of this condition is that no obstruction will be permitted (such that interferes with visibility including planting) within the area between the red dotted line and the public road on the approved location and site plan.
- 15 That no development shall take place until a **Page 110** Landscape Scheme (drawn to scale) is submitted to and approved by this Council (as Planning Authority). This Landscape Scheme shall show:-
  - (a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;
  - (b) details of the measures to be taken to protect any existing trees, shrubs and hedgerows during the course of developing the site;
  - (c) details of the numbers, species, position, planting distances and sizes of all planting to be undertaken.
- 16 That all planting, seeding or turfing forming part of the approved landscape scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the building works, whichever is the sooner. Any trees or plants which (within a period of 5 years from the planting) die, are

removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) gives written consent to any variation of this planning condition.

The Council's reason(s) for imposing the above condition(s) are:-

- 1 The time limit condition is imposed in order to comply with the requirements of Section 58(i) of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 2 In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area.
- 3 To ensure that the planning authority is aware that development is about to commence and any suspensive conditions can be followed up.
- 4 To ensure that the planning authority is aware that the development is complete and is able to follow up any conditions.
- 5 In order that detailed consideration can be given to the landscaping of the site and provision of any play equipment.
- 6 In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
- 7 To ensure acceptable development that does not create any hazard to road users in the interests of road safety.
- 8 To ensure acceptable infrastructure at the development access.
- 9 To ensure acceptable development in the interests of road safety.
- 10 To ensure acceptable development in the interests of road safety.
- 11 To ensure acceptable infrastructure at the development access.
- 12 To ensure acceptable Access and Visibility in the interests of road safety for the proposed development and other road users.
- 13 To ensure acceptable development in the interests of road safety.
- 14 To ensure acceptable Visibility in the interests of road safety for the proposed development and other road users.
- 15 In order that detailed consideration can be given to the landscaping of the site.

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- 16 In order to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

#### **ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT**

The following notes are provided for your information including comments received from consultees:-

THE CONTAMINATED LAND SECTION has commented that:-

Your property has been identified as being in the vicinity of the following potential source of contamination:

- Large mill pond (potentially infilled but details unknown) approximately 175 metres to the south east as indicated on map group B.

In addition, due to the past agricultural use of the site, there is always a potential for contamination to have arisen from, for example, farm tips, chemical storage or animal burial sites.

Map Group A 1868 - 1897 Ordnance Survey Maps  
Map Group B 1898 - 1906 Ordnance Survey Maps  
Map Group C 1930 - 1938 Ordnance Survey Maps  
Map Group D 1959 - 1971 Ordnance Survey Maps  
Map Group E 1969 - 1992 Ordnance Survey Maps  
Map Group F Present Day Ordnance Survey Maps

The Moray Council does not have information to confirm whether or not the ground has been contaminated, however it is recommended that you investigate this matter prior to proceeding with the proposed works. Should contamination be identified you should contact the Environmental Health section immediately and carry out agreed remediation works. For advice on researching/investigating a site, please visit the **Page 11/2** website at [www.moray.gov.uk/ContaminatedLand](http://www.moray.gov.uk/ContaminatedLand). Alternatively you can contact the Environmental Health Section on 01343 563345 or by email to [contaminated.land@moray.gov.uk](mailto:contaminated.land@moray.gov.uk)

THE BUILDING STANDARDS MANAGER, has commented that:-

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.



MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

It is noted that your planning application proposes a septic tank and soakaway/infiltration drainage system and the suitability of the ground condition to accommodate this will be dealt with as part of your Building Warrant application.

Full details of a ground assessment, trial pit investigations and percolation test results, from a suitably qualified person as contained within the Council's List of Approved Certifiers, will be required prior to obtaining a Building Warrant

An application for a Building Warrant and compliance with the Building Regulations are entirely separate from Planning procedures. Furthermore, the granting of Planning Consent does not guarantee approval of a Building Warrant.

If you have not already done so and you may wish to satisfy yourself about the adequacy of ground conditions separately at this stage, if so I recommend that you contact the Building Standards Section directly at Environmental Services, The Moray Council, Council Offices, High Street, Elgin, IV30 1BX, telephone(01343) 563243.

Please note that any proposed discharges to land or the water environment will require authorisation from SEPA under the Water Environment (Controlled Activities) (Scotland) Regulations 2011. For further details refer to SEPA website  
[http://www.sepa.org.uk/water/water\\_regulation/regimes.aspx](http://www.sepa.org.uk/water/water_regulation/regimes.aspx).

SCOTTISH WATER have commented as follows:

Scottish Water has no objection to this planning application. This response is made based on the information available to us at this time and does not guarantee a connection to Scottish Water's infrastructure. This response is made based on the information available to us at this time and does not guarantee a connection to Scottish Water's infrastructure. Page 113 A separate application should be submitted to us made for connection to our infrastructure after full planning has been granted.

There are no public sewers in the vicinity of the proposed development.

Turriff Water Treatment Works may have capacity to service this proposed development.

The water network that serves the proposed development may be able to supply the new demand.

In some circumstances it may be necessary for the Developer to fund works on existing infrastructure to enable their development to connect. Should we become aware of any issues such as flooding, low pressure, etc the

Developer will be required to fund works to mitigate the effect of the development on existing customers. Scottish Water can make a contribution to these costs through Reasonable Cost funding rules.

A totally separate drainage system will be required with the surface water discharging to a suitable outlet. Scottish Water requires a sustainable urban drainage system (SUDS) as detailed in Sewers for Scotland 2 if the system is to be considered for adoption.

If the connection to public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s). This should be done through a deed of servitude.

If the developer requires any further assistance or information on our response, please contact me on the above number or alternatively additional information is available on our website:

THE TRANSPORTATION MANAGER, DIRECT SERVICES, ACADEMY STREET, ELGIN has commented that:-

Planning consent does not carry with it the right to carry out works within the public road boundary and the applicant must contact the Transportation Manager for road opening permit in accordance with the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

Construction Consent for the roads will/will not be required under Section 21 of the Roads (Scotland) Act 1984.

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into his property.

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The applicant shall ensure that their operations do not adversely affect any Public Utilities, which should be contacted prior to commencement of operations.

The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

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

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

Reference	Version	Title
E2010/106/002		Ground and Upper Floor Plan
E2010/106/003		Elevations
		Site and Location Plan

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

None

### **DETAILS WHERE DIFFERENT TIME-PERIOD(S) FOR DURATION OF PLANNING PERMISSION IMPOSED (S.58/59 of 1997 ACT)**

None

### **TERMS OF S.75 AGREEMENT RELATING TO THIS APPLICATION**

N/A

### **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, The 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.

### **NOTIFICATION OF INITIATION OF DEVELOPMENT**

S.27A of the 1997 Act requires any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission.

**Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development. Failure to submit the required Notice will be a breach of planning control under S.123(1) of the 1997 Act.**

### **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

S.27B of the 1997 Act requires any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions.

**Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to the Moray Council, as planning authority the attached Notification of Completion of Development.**

***Phased development*** – Under S.27B(2) of the 1997 Act where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete. **The non-compliance with this condition or failure to give notice may result in enforcement action being taken. When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.**

# **The Moray Council**

## **NOTIFICATION OF INITIATION OF DEVELOPMENT**

**Section 27A Town and Country Planning (Scotland) Act 1997**

**Planning Application Reference No: 11/00011/APP**

**Date issued:**

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**THE FOLLOWING INFORMATION MUST BE PROVIDED:**

1. Name and address of person carrying out the development:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The full name and address of the landowner, if a different person:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Where a site agent is appointed, their full name and contact details:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The date of issue and reference number of the grant of planning permission:

\_\_\_\_\_  
\_\_\_\_\_

Please return this form, duly completed to: - The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office,  
High Street  
Elgin IV30 1BX

### **IMPORTANT**

**It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.**

**Please complete and return this form.**

# **The Moray Council**

## **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

**Section 27B Town and Country Planning (Scotland) Act 1997**

**Planning Application Reference No: 11/00011/APP**

**Date issued:**

I hereby give notice that works as detailed under the above planning application will be completed on: .....

Signed: ..... Date: .....

Please return this form, duly completed to: - The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office  
High Street  
Elgin IV30 1BX

### **IMPORTANT**

**It is important that the Environmental Services Department is advised when the development has been completed as failure to do so may result in enforcement action be taken.**

**Please complete and return this form.**





## **REPORT OF HANDLING**

<b>Ref No:</b>	14/01967/APP	<b>Officer:</b>	Iain T Drummond
<b>Proposal Description/ Address</b>	Extend planning consent 11/00011/APP for erection of dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray		
<b>Date:</b>	04/12/14	<b>Typist Initials:</b>	LRM

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

<b>CONSULTATIONS</b>		
<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Scottish And Southern Energy	24/10/14	No objections
Environmental Health Manager	24/10/14	No objections
Contaminated Land	23/10/14	No objections
Transportation Manager	30/10/14	No objections subject to conditions and informatives as applied to previous consent
Scottish Water		No response received

<b>DEVELOPMENT PLAN POLICY</b>		
<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
Whole of Policy 1	N	
Whole of Policy 2	N	
H8: New Housing in Open Countryside	N	
T2: Provision of Road Access	N	
T5: Parking Standards	N	
EP5: SUDS	N	
EP9: Contaminated Land	N	
EP10: Foul Drainage	N	
IMP1: Development Requirements	N	

**REPRESENTATIONS**

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Name	Address	
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

**OBSERVATIONS – ASSESSMENT OF PROPOSAL**

The application seeks to extend the duration of the planning permission initially granted under application 11/00011/APP. At the time of submission application 11/00011/APP had yet to expire.

There has been no change in development plan policy since the approval of the previous application on the site. The application is therefore recommended for approval subject to the same conditions as previously applied, minus the first 4 conditions which have been replaced with notes on the decision notice.

**REASON(S) FOR DECISION**

The Council's reason(s) for making this decision are:-

There has been no change in material circumstances since the approval of the previous application on the site and as such this application for the renewal of permission is also recommended for approval.

**OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None.

**HISTORY**

Reference No.	Description			
11/00011/APP	Erection of dwellinghouse on Plot 2 Bowie Croft Keith Moray			
	Decision	Permitted	Date Of Decision	11/10/11

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Banffshire Herald	No Premises	27/11/14
PINS	No Premises	20/11/14

DEVELOPER CONTRIBUTIONS (PGU)	
Status	

<b>DOCUMENTS, ASSESSMENTS etc. *</b> <i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

<b>S.75 AGREEMENT</b>		
Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

<b>DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)</b>			
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)			



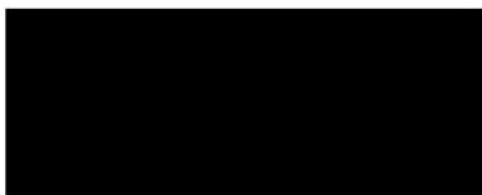


THE MORAY COUNCIL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,  
as amended

PERMISSION FOR DEVELOPMENT

[Keith And Cullen]  
Application for Planning Permission

TO



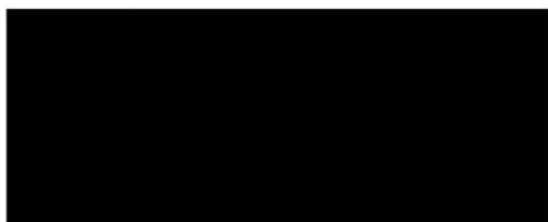
With reference to your application for planning permission under the above-mentioned Act as amended, the Moray Council in exercise of its powers hereby **GRANT** planning permission for the following development:-

**Extend planning consent 11/00011/APP for erection of dwellinghouse on Plot 2 Bowie Croft Grange Crossroads Keith Moray**

in accordance with the plan(s) docquetted as relative hereto and the particulars given in the application, and where appropriate, subject to the condition(s) and reason(s) as set out in the attached schedule.

This permission does not carry with it any necessary consent or approval to the proposed development under the building regulations or other statutory enactments and the development should not be commenced until all consents have been obtained.

Date of Notice: **4th December 2014**



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**HEAD OF DEVELOPMENT SERVICES**

Environmental Services Department  
The Moray Council  
Council Office  
High Street  
ELGIN  
Moray IV30 1BX



## IMPORTANT NOTE

### YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

#### SCHEDULE OF CONDITIONS

By this Notice the Moray Council has **GRANTED PLANNING PERMISSION** for this proposal subject to conditions as appropriate to ensure implementation of the proposal under the Town & Country Planning (Scotland) Act 1997, as amended. **It is important that these conditions are adhered to and failure to comply may result in enforcement action being taken.**

#### CONDITION(S)

Permission is granted subject to the following conditions: -

- 1 The development hereby granted relates solely to the duration of the planning permission within which development must be begun (see "Important Notes about this Decision" below) and as hereby approved, the development forms part of and is related to the decision to grant planning permission under formal approval decision notice 11/00011/APP dated 17 October 2011 and the terms and conditions of that permission (Conditions 5 - 16) are hereby re-iterated and remain in force.

The Council's reason(s) for imposing the above condition(s) are:-

- 1 To ensure an acceptable form of development having regard to the nature of the current proposal and to ensure the requirements for implementation of the development, including all design and site layout arrangements as previously approved are carried out in accordance with the earlier approved decision.

#### REASON(S) FOR DECISION

The Council's reason(s) for making this decision are:-

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There has been no change in material circumstances since the approval of the previous application on the site and as such this application for the renewal of permission is also recommended for approval.

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

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

Reference	Version	Title
		Site and location plan

## **IMPORTANT NOTES ABOUT THIS DECISION**

### **DURATION OF THIS PERMISSION**

In accordance with Section 58 (i) of the Town and Country Planning (Scotland) Act 1997 as amended, the development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

If the development has not commenced within this period then this permission shall lapse unless there is a specific condition attached to this permission which varies the stated timescale.

### **COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT**

The following are statutory requirements of the Town & Country Planning (Scotland) Act 1997, as amended. Failure to meet their respective terms represents a breach of planning control and may result in formal enforcement action. Copies of the notices referred to below are attached to this permission for your use.

**NOTIFICATION OF INITIATION OF DEVELOPMENT** - S.27A of the 1997 Act, as amended requires that any person who has been granted planning permission (including planning permission in principle) and intends to start development must, as soon as practicable after deciding the date they will start work on the development, give notice to the planning authority of that date. This ensures that the planning authority is aware that the development is underway and can follow up on any suspensive conditions attached to the permission. Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development.

**NOTIFICATION OF COMPLETION OF DEVELOPMENT** - S.27B of the 1997 Act, as amended requires that any person who completes a development for which planning permission (including planning permission in principle) has been given must, as soon as practicable after doing so, give notice of completion to the planning authority. This will ensure that the planning authority is aware that the development is complete and can follow up any planning conditions. Therefore, on completion of the development or as soon as practicable after doing so, the applicant/developer must complete and submit to the Moray Council, as planning authority the attached Notification of Completion of Development.

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**NOTIFICATION OF COMPLETION OF PHASED DEVELOPMENT** – Under S.27B(2) of the 1997 Act, as amended where permission is granted for phased development, the permission is subject to a condition (see Schedule of Conditions above) requiring the applicant/developer as soon as practicable after each phase to give notice of that completion to the planning authority. This will allow the planning authority to be aware that particular phase(s) of the development is/are complete. When the last phase is completed the applicant/developer must also complete and submit a Notification of Completion of Development.

### **ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT**

The following notes are provided for your information including comments received from consultees:-

THE BUILDING STANDARDS MANAGER, has commented that:-

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

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

N/A

### **DETAILS WHERE DIFFERENT TIME-PERIOD(S) FOR DURATION OF PLANNING PERMISSION IMPOSED (S.58/59 of 1997 ACT)**

N/A

### **TERMS OF S.75 AGREEMENT RELATING TO THIS APPLICATION**

The terms, or summary of terms of the Agreement can be inspected at:-

N/A

### **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, The 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.

# The Moray Council

## NOTIFICATION OF INITIATION OF DEVELOPMENT

Section 27A Town and Country Planning (Scotland) Act 1997

Planning Application Reference No: 14/01967/APP

Date issued:

I hereby give notice that works as detailed under the above planning application will commence on:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

### THE FOLLOWING INFORMATION MUST BE PROVIDED:

1. Name and address of person carrying out the development:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The full name and address of the landowner, if a different person:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Where a site agent is appointed, their full name and contact details:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The date of issue and reference number of the grant of planning permission:

\_\_\_\_\_  
\_\_\_\_\_

Please return this form, duly completed to: - The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office,  
High Street  
Elgin IV30 1BX

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Or email to: - [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)

### **IMPORTANT**

**It is important that the Environmental Services Department is advised when you propose to start work as failure to do so may result in enforcement action be taken.**

**Please complete and return this form.**

# **The Moray Council**

## **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

**Section 27B Town and Country Planning (Scotland) Act 1997**

**Planning Application Reference No: 14/01967/APP**

**Date issued:**

I hereby give notice that works as detailed under the above planning application  
will be completed on: .....

Signed: ..... Date: .....

Please return this form, duly completed to: - The Moray Council  
Development Management  
Development Services  
Environmental Services Department  
Council Office  
High Street  
Elgin IV30 1BX

Or email to: - [development.control@moray.gov.uk](mailto:development.control@moray.gov.uk)

### **IMPORTANT**

**It is important that the Environmental Services Department is  
advised when the development has been completed. Failure to do  
so may result in enforcement action be taken.**

**Please complete and return this form.**



Town & Country Planning  
(Scotland) Act, 1997  
as amended

**APPROVED**

17.10.2011

Development Management  
Environmental Services  
The Moray Council

AREA OUTLINED IN BLUE OWNED BY APPLICANT  
GRANTED PLANNING 08/00073/FUL

New Planting of trees equivalent to  
291 m<sup>2</sup> (25.37% of plot area).

Driveway incorporate a turning area to  
allow all vehicles to leave the site in a  
forward gear.

No obstruction above 1.0 metres in  
height such that interferes with  
visibility allowed to the west of this  
line - visibility line for exiting site. As  
per current planning permission -  
06/00308/OUT

Area of land hatched brown is outwith  
planning application but within  
applicants ownership

BT pole -  
Datum level  
100.000

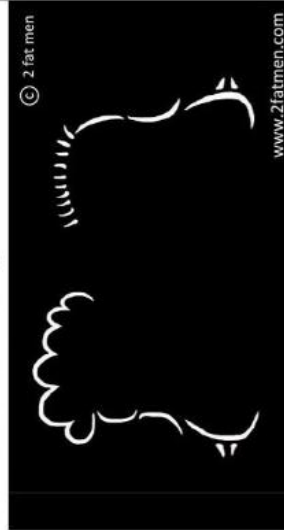
1:200

Proposed new shared access off a public road off the  
B9018, with parking layby over 8.0m long by 2.6m  
wide with 30 degrees played ends shall be  
provided at the edge of the public road to allow  
visiting and service vehicles to park clear of the road.  
The vehicular access should lead off the layby. Layby  
to be to Moray Council specification and be surfaced  
in bitmac.

Location Plan

1:1250

Scale : As noted on Drawing



Client : Genesis Properties (Scotland) Ltd.

Project : Plot 2 Bowie Croft, Moray

Drawing : Location & Site Plan

Site Plan

mwhs  
Aug 11



Town & Country Planning  
(Scotland) Act, 1997  
as amended

**APPROVED**  
05/12/14

Development Management  
Environmental Services  
The Moray Council

New Planting of trees equivalent to  
291 m<sup>2</sup> (25.37% of plot area).

Driveway incorporate a turning area to  
allow all vehicles to leave the site in a  
forward gear.

No obstruction above 1.0 metres in  
height such that interferes with  
visibility allowed to the west of this  
line - visibility line for exiting site. As  
per current planning permission -  
06/00308/OUT

Area of land hatched brown is outwith  
planning application but within  
applicants ownership

8T pole -  
Datum level  
100.000

1:200

AREA OF SITE 1.147M<sup>2</sup>  
(Bounded in Red)

Proposed new shared access off a public road off the  
B9018, with parking layby over 8.0m long by 2.6m  
wide, with 30 degrees played ends shall be  
provided at the edge of the public road to allow  
vetting and service vehicles to park clear of the road.  
The vehicular access should lead off the layby. Layby  
to be to Moray Council specification and be surfaced  
in bitmac.

RECEIVED  
13 OCT 2014

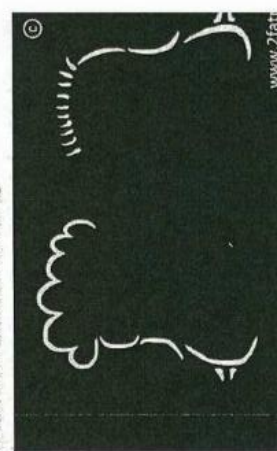
Site Plan



Location Plan

1:1250

Scale : As noted on Drawing



Client : ALISTAIR R ANDERSON

Project : Plot 2 Bowle Croft, Moray

Drawing : Location & Site Plan





## MORAY LOCAL REVIEW BODY

25 FEBRUARY 2021

### SUMMARY OF INFORMATION FOR CASE No LR250

**Planning Application 20/01059/APP – Retain installed uPVC windows at Craigmhor, 67 St Leonards Road, Forres**

#### **Ward 8 – Forres**

Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 12 November 2020 on the grounds that:

The application fails to comply with the following policies (Moray Local Development Plan Policies EP9 & DP1) and should be refused for the following reasons:

- The proposal is contrary to Policy EP9 Conservation Areas as the removal of original timber windows and replacement with modern UPVC units located on the principal elevations would fail to preserve or enhance the character of the building or conservation area.
- By introducing modern UPVC windows into the conservation area, the proposal is considered to be contrary to Policy DP1 Development Principles as the appearance and material finish of the windows is not appropriate to the established traditional character of the surrounding area.

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.













## **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

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 100296010-001

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)

Retain installed uPVC windows

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): \*

28/02/2019

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

The company who installed the windows were to apply for permission, which they did however they installed new windows before the application was determined. The application was refused. The applicant was unaware of this, did not have the opportunity to appeal and was issued with an enforcement notice. The applicant appealed the enforcement notice however it was upheld. The reporter suggested that a second planning application could be submitted in the interest of natural justice.

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Wittets Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Cynthia	Building Name:	
Last Name: *	McKay	Building Number:	26
Telephone Number: *	01343 543237	Address 1 (Street): *	Hay Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Elgin
Fax Number:		Country: *	Scotland
		Postcode: *	IV30 1NQ
Email Address: *	cm@wittets.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	Craighmor
First Name: *	S	Building Number:	67
Last Name: *	Waterson	Address 1 (Street): *	St Leonards Road
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Forres
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	IV36 1DW
Fax Number:			
Email Address: *	cm@wittets.co.uk		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

CRAIGMHOR

Address 2:

67 ST LEONARDS ROAD

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

FORRES

Post Code:

IV36 1DW

Please identify/describe the location of the site or sites

Northing

858604

Easting

304374

## Pre-Application Discussion

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

☐ Yes ☒ No

## 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: Cynthia McKay

On behalf of: Mr S Waterson

Date: 21/08/2020

☒ 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.

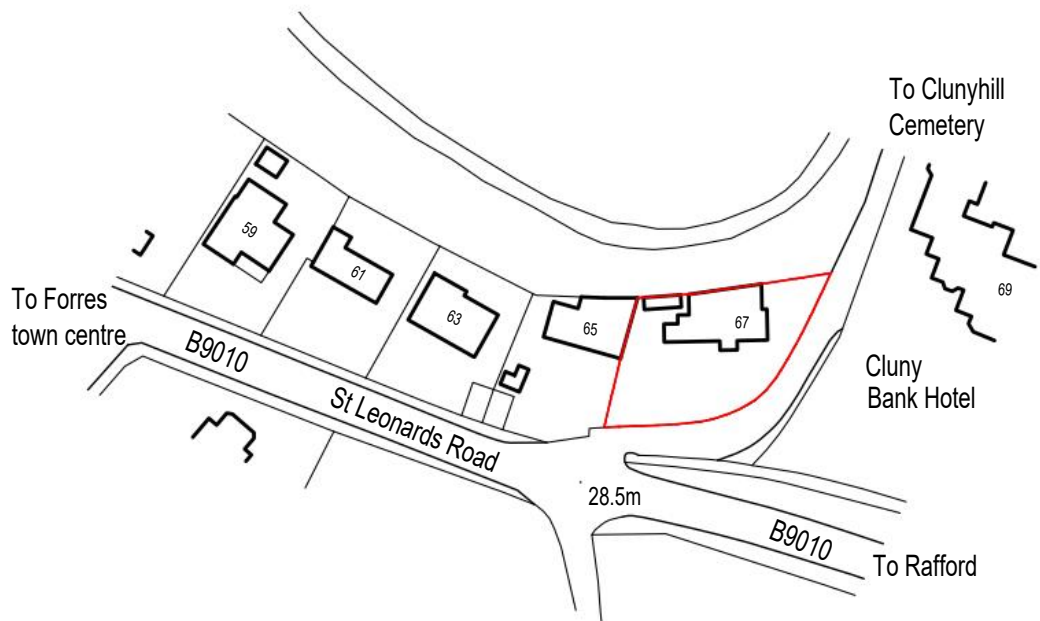
Declaration Name: Mrs Cynthia McKay

Declaration Date: 24/08/2020





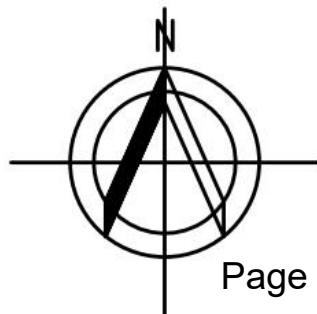
USE GIVEN DIMENSIONS ONLY  
DO NOT ASSUME – ASK  
COPYRIGHT RESERVED



Application to retain uPVC windows  
at Craighmor, 67 St Leonards  
Road, Forres, For Mr S Waterson

## LOCATION PLAN

10 0 10 20 30 40 50m  
1:1250



Page 145

# WITTETS

## ARCHITECTS

26 Hay St, Elgin, Moray IV30 1NQ

T 01343 543237

e info@wittets.co.uk

F 01343 540542

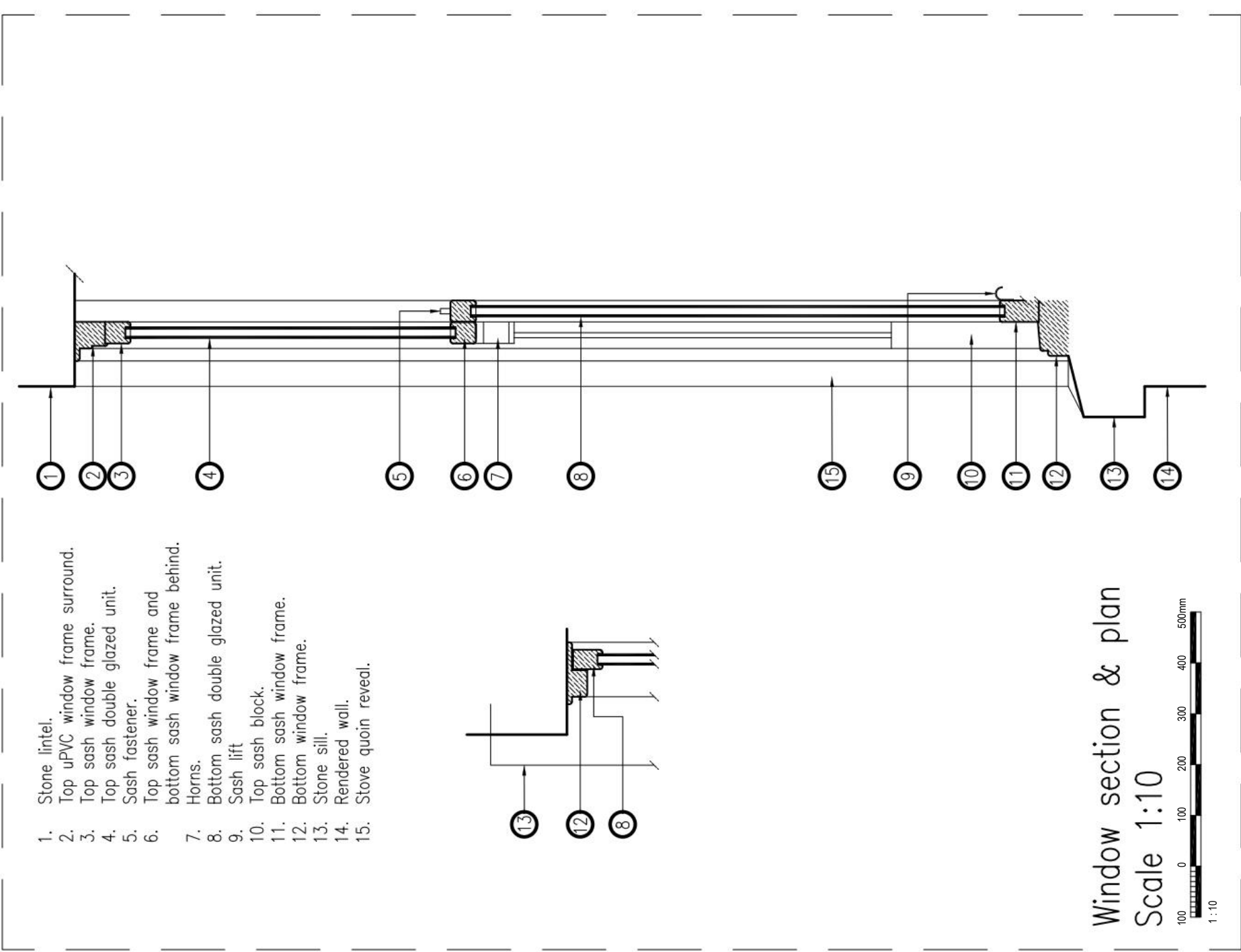
www.wittets.co.uk

1:1250 • A4

Aug 2020

20:43:LP





WITTETS  
ARCHITECTS

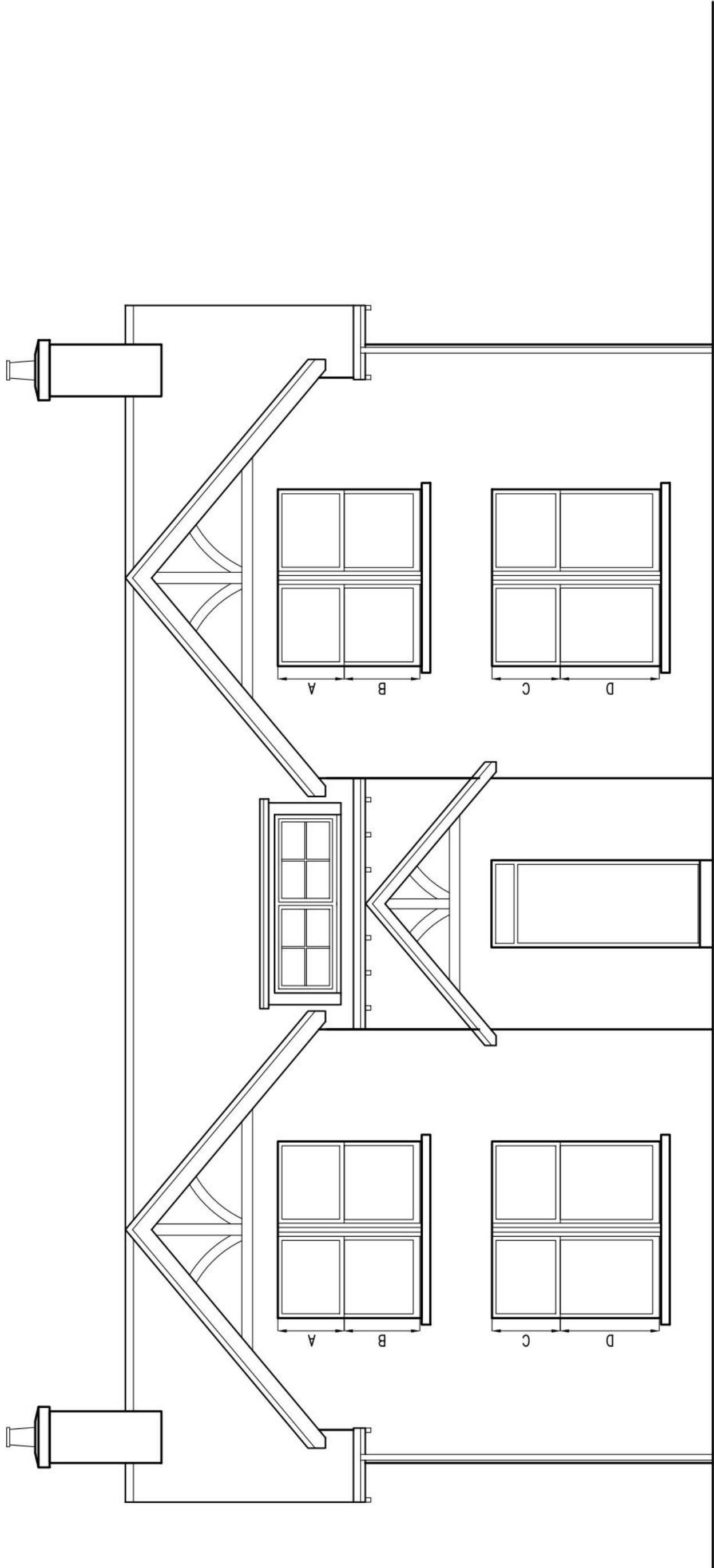
26 Hay St, Elgin, Moray IV30 1NQ  
T 01343 543237 F 01343 540542  
e info@wittets.co.uk www.wittets.co.uk

Application to retain uPVC windows  
at Craighmor, 67 St Leonards Rd  
Forres, For Mr S Waterson

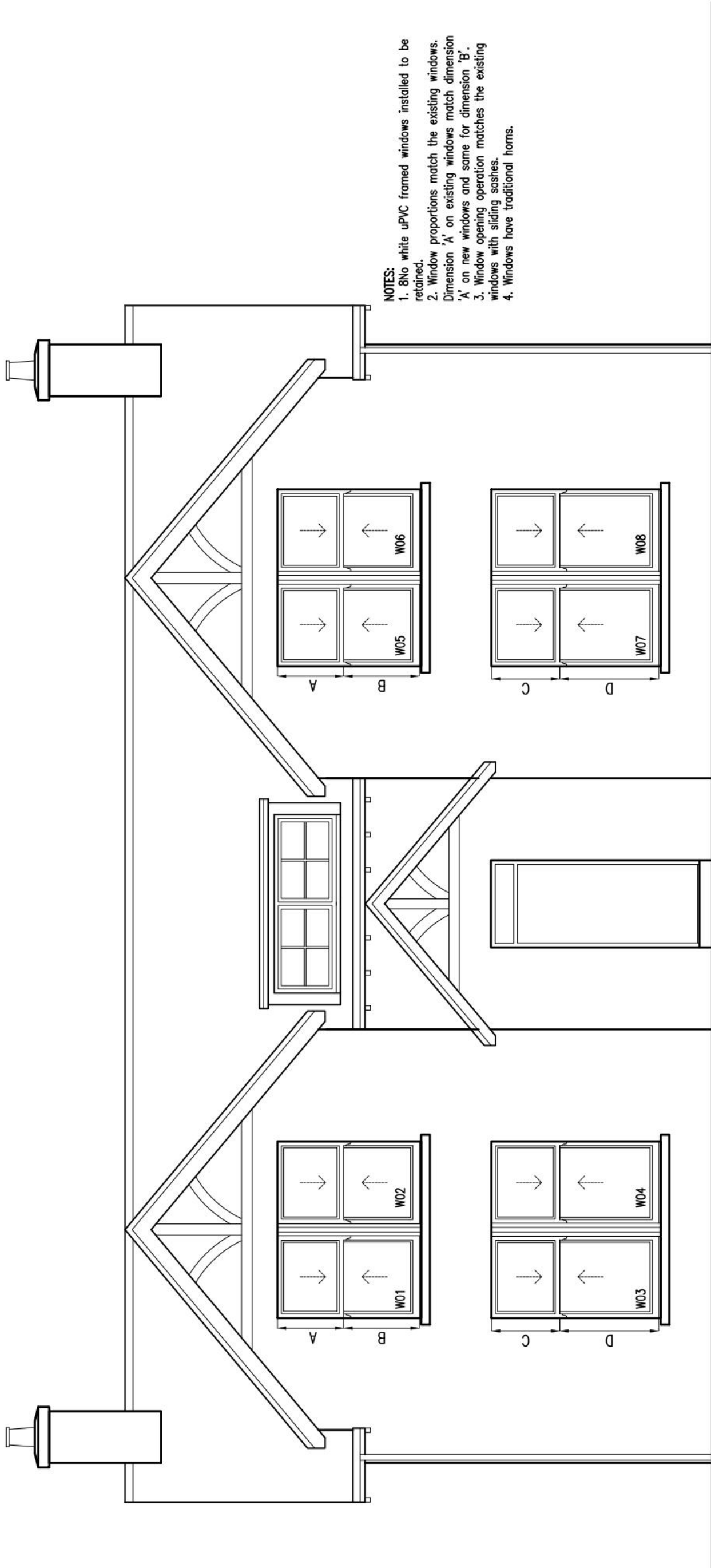
PLANNING  
Existing and Proposed Elevations

1:50 ● A2 Aug 2020

20:43:01



EXISTING SOUTH ELEVATION



PROPOSED SOUTH ELEVATION







## Design Statement

**20:43 Planning Application to retain windows installed to Craighmor, 76 St Leonards Road, Forres for Mr S Waterson**

### History

The dwelling was purchased by the applicant who has undertaken careful modernisation and restoration of the property to bring it up to modern living standards and thermal efficiency. These improvements will extend the life of the traditional property for generations to come. The replacement of the original windows was part of this work.

The company who installed the uPVC windows were to apply for planning permission, which they did however they proceeded to install the new windows before the application was determined. The application was subsequently refused. The applicant was unaware of this and as a result did not have the opportunity to appeal. An enforcement notice was subsequently issued to the applicant. The applicant appealed the enforcement notice however it was upheld. The reporter suggested that a second planning application could be submitted in the interest of natural justice.

### Design Statement

Although uPVC frames have been used, care has been taken in the design and detailing of the new windows to replicate the detailing, proportion, opening method and colour of the existing windows. This retains the style and character of the existing sash and case windows both from a distance and up close as follows;

- The new windows have no additional astragals or mullions which were not present on the original windows.
- The proportion of the top sash and bottom sash match the existing windows in terms of scale and size.
- The existing windows were painted white, the new windows are also white.
- The window opening operation is by sliding sash to both sashes.
- The windows are fitted with horns.
- The internal sash fasteners and sash lifts are visible as would be on the existing windows.
- There are no uPVC sills to the windows and the frame is slender.

The dwelling is set back from St Leonards Road, accessed off the side road leading to Clunyhill Cemetery. It is also at a higher ground level than the public road. There is a high wall and hedge restricting views to the dwelling. As the windows have traditional proportions, sliding sash operation and are painted white it is near impossible to determine if these are original windows or what the frame material is when viewed from the public road/pavement. The windows do not therefore have a detrimental affect on the character of the dwelling or area. The Reporter for the appeal reference ENA-300-2017 also mentions this with the following statement *'During my site inspection I noted that the new windows were of a very high quality and from even a short distance away are virtually indistinguishable from the originals'*.

This is further supported by a survey of windows on the North side of St Leonards Road included at the end of this statement. The survey shows that the frame material is not the main factor in assessing if a window is detrimental to the character of the area. The opening method and colour have a more obvious impact on the character as they make a window stand out as not in keeping with traditional style.

Looking at the North side of St Leonards Road which is within the conservation area the type of windows are as listed in the survey below. There is a varied mix of window styles from modern uPVC to original timber windows. Very few, if any of the other properties with uPVC windows have the same level of design and detailing as the windows installed to the applicant's property. As a consequence the poorly designed uPVC windows to other properties stand out as modern windows which are not in keeping with the traditional style in the area.

From this survey it is clear that uPVC windows are now well established in the area. This has been acknowledged by the Reporter under appeal ref ENA-300-2017 where he states '*other windows in the area are of a variety of styles, many being obviously UPVC that do not replicate originals. Such windows are now established as part of the appearance of the conservation area*'.

### **Conclusion**

- As there are many other properties with uPVC windows within the conservation area the character of the area includes this window frame. It cannot be argued that uPVC frames are not in keeping with the character of the area.
- Some properties with uPVC windows have planning permission (see below) to install uPVC windows within the conservation area with the reasons that it is not deemed detrimental, it cannot therefore be justified to refuse this planning application on those grounds.
- The survey has shown that correctly proportioned white window frames with sash and case operation are the key design features when looking at a window and deciding if it is of traditional design and in keeping with the character. The applicant's windows have better design than some of the timber windows and most if not all of the uPVC windows on St Leonards Road.

### **Other Planning Permissions**

- Under planning permission ref 17/01078/APP the planning officer comments as follows on the use of uPVC windows '*Replacing 3 timber framed shop windows (fixed) with UPVC will not harm the character or appearance of this building or the surrounding conservation area. In addition the windows to the first floor are a mix of white uPVC and grey metal frame*'.
- Under planning permission ref 13/01413/APP – approval to replace timber windows with uPVC windows the planning officer comments as follows '*given the age of the property, and proposed window design, the applicant's proposals will preserve the area's character*'.

### **St Leonards Road conservation area property survey**

No 65: It is difficult to determine from the public pavement if the windows are timber frame or uPVC due to the house being secluded, at a distance from the road and having white colour. The applicant has confirmed these are original timber windows.

No 63: Windows appear to be either timber or uPVC frames in white. Although there is division of the window with astragals and mullions it is clear that the windows have a modern opening method.

No 61: Windows are clearly uPVC white frames due to the proportions and opening method.

No 59: Windows are clearly uPVC mahogany frames due to the colour, proportions and modern opening method.

No 57: It is difficult to determine frame material from the roadside, it is thought to be timber in white. The first floor windows have a modern opening method and style.

No 55: Windows are clearly uPVC frames from a distance due to their golden oak colour, design, gold bar mullions, proportions and opening operation.

No 53: Windows are clearly uPVC frames from a distance due to their golden oak colour, design, gold bar mullions, proportions and opening operation.

No 51: Difficult to determine the frame type, thought to be timber with a mix of white and brown colour.

No 49: Clearly white uPVC windows due to the proportions and opening method.

No 47: Timber framed, mahogany colour windows.

No 45: It is difficult to tell from the public pavement what the frame is made of as the dwelling is set back from the road and the window frames are white. The proportions and opening method can be established, these are not traditional sash and case.

No 43: : It is difficult to tell from the public pavement what the frame is made of as the dwelling is set back from the road and the windows frames are white. The proportions and opening method can be established and are not traditional sash and case.

No 41: Timber, green, traditional.

No 39: Timber, white, traditional.

No 37: It is difficult to tell what the frame material is from the public pavement due to distance, white painted windows and sash and case operation to some of the windows. Some of the windows are clearly uPVC frames. Some windows look to have planted astragals which would suggest uPVC frames.

No 33: Clearly uPVC white windows due to the design, proportions and opening operation.

No 31: Clearly uPVC white windows due to the design, proportions and opening operation.

No 29: Timber, white, traditional.

No 27: Timber, white, traditional.

No 25: Timber, white, traditional.

No 23: Timber, white, traditional.

No 21: Timber, brown, top hung modern opening.

No 19: Clearly white uPVC frames, due to proportions, modern opening method.

No 17: Clearly uPVC mahogany frames with no window division and modern opening method.

No 15: Clearly uPVC golden oak frames due to proportions and opening method.

No 13: Timber, white, traditional design.

No 11: Timber, white, traditional design

No 7-9: uPVC white windows to ground floor and a mix of white uPVC and grey metal frames to upper floors.

No 1: The first floor windows are white uPVC modern windows. Traditional timber widows to ground floor.



# **Consultee Comments for Planning Application 20/01059/APP**

## **Application Summary**

Application Number: 20/01059/APP

Address: Craigmhor 67 St Leonards Road Forres Moray IV36 1DW

Proposal: Retain installed uPVC windows at

Case Officer: Craig Wilson

## **Consultee Details**

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally





## **REPORT OF HANDLING**

<b>Ref No:</b>	20/01059/APP	<b>Officer:</b>	Craig Wilson
<b>Proposal Description/ Address</b>	Retain installed uPVC windows at Craigmhor 67 St Leonards Road Forres Moray		
<b>Date:</b>	11.11.2020	<b>Typist Initials:</b>	LMC

### **RECOMMENDATION**

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

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Contaminated Land	03/09/20	No objection or comment.

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP3 Infrastructure and Services		
EP8 Historic Environment		
EP9 Conservation Areas		
DP1 Development Principles		

### **REPRESENTATIONS**

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

## 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 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

### **Background**

This is a resubmission of a previously refused application to replace windows at Craigmhor, St Leonards Road, Forres, application 18/00223/APP refers. A separate enforcement case was opened, 18/00258/ENF refers and an enforcement notice served on the owners/applicants. No appeal against the planning application was made instead an appeal was made against the enforcement notice. The appeal was subsequently dismissed by the reporter as the grounds for appeal were not competent or justified.

In the reporters closing remarks he said that it is open to the council to allow a second application for the windows to be submitted, with a subsequent opportunity for review in the event of that also being dismissed.

### **Impact of the proposed development conservation area residential amenity (DP1, EP8, EP9, &PP3)**

This application proposes removal of original timber windows to Craigmhor, St Leonards Road and their replacement with double glazed UPVC window units.

Forres town has an abundance of traditional architecture that combines to provide its distinctive character. In recognition of its historic heritage, the heart of the town and St Leonards Road is designated as a Conservation Area.

### **Assessment of Replacement Windows**

The original timber windows were removed and replaced with UPVC units without the necessary planning permission. No contact had been made with the Development Management section for pre-application advice on replacement windows prior to the work being carried out in a designated Conservation Area. The replacement of UPVC window units which have no value or historic basis in terms of their contribution to the character of Forres conservation area.

The assessment of this application was required to take account of Moray Local Development Plan 2020 Policies EP9: Conservation Areas DP1: Developer Requirements and national guidance published by Historic Environment Scotland, in relation to replacement windows: Managing Change in the Historic Environment - Windows.

The Moray Local Development Plan 2020 and the guidance on replacement windows and doors were approved by Moray Council as the Council's agreed position and approach to protecting our heritage assets. National guidance on replacement windows has been established for over 30 years and Council policy guidance is in accordance with this.

Policy EP9 requires new development within Conservation Areas to preserve and enhance the character and appearance of the subject area, having regard to scale, height, materials, colour, detailed design and use. Policy DP1 requires new developments to be sensitively sited, designed and serviced appropriate to the amenity of the existing property and wider locality.

The Council's policies on replacement windows in conservation areas sets out a presumption in favour of retaining original or historic windows that are repairable and can achieve improvements in thermal efficiency through secondary glazing or draught-stripping. This indicates that replacement will be accepted where the windows are beyond repair or are modern replacements. It recommends that the replacement windows are exact copies, or are near copies where the timber sections can accommodate double-glazing units. The Council's guidance states that there may be opportunities

for installing slim-profile double-glazed units into existing sashes where historic glass no longer survives. It also recommends that the replacements should be made in timber and that applications for UPVC replacements will not be supported on principal or street facing elevations.

It is worth noting that all of the repair options listed above would have been significantly more economical than any replacement windows regardless of whether these were timber or UPVC, and could have enabled the existing timber windows to survive with double glazing inserted into existing timber frames.

In support of the proposed application the applicant has submitted a character appraisal of surrounding properties in the conservation area, making case that there are other properties with similar UPVC windows. The preparation of the replacement windows and doors guidance was intended to provide a pragmatic and consistent approach to dealing with the replacement of historic unauthorised UPVC window units in Conservation Areas. From review, the UPVC windows in highlighted buildings have been installed for more than 4 years and would be immune from any planning control despite the damage caused to the character of the conservation area.

The vast majority of historic properties along St Leonards Road retain timber windows on the front or street elevations. Timber windows and doors play an important role particularly in vernacular architecture where they are the dominant elements. Where building frontages have been modified with modern uPVC framing it is accepted that this plays a part in eroding the appearance and architectural character of the historic streetscape leading to the erosion of historic fabric. However, in this case the essential character of the Conservation Area has been preserved and the predominant window material, contributing to the character of the road, is timber and not UPVC.

The style of UPVC windows installed do not match the existing or originals in terms of appearance with external trickle vent detail visible or material finish and are contrary to the above policy provisions and guidance in relation to replacement windows and doors.

**Conclusion**

The retention of timber sash and case windows replicating the historic style of windows is an important way of preserving the historic appearance and fabric of the building and the character of the Conservation Area. Modern day standards of insulation can be applied to historic buildings whilst minimising changes to its character and it is therefore important to ensure that alterations to buildings are as historically accurate as possible. Relevant Moray Development Plan Policies, guidance and national policy guidance enable change and do not preclude it. There are opportunities to improve the thermal efficiency of traditional buildings whether through repairs or new windows provided appropriate traditional materials are used. The replacement windows guidance is clear on this subject and states that the use of non-traditional materials such as UPVC on principal elevations will not be acceptable in a Conservation Area.

The proposed uPVC replacement windows would be damaging to the special architectural and historic interest of the building. In addition these would be out of character and damaging to the attractive and well preserved maintained appearance of the conservation area in which Craigmhor is located. The retrospective windows UPVC windows will not preserve or enhance the character or appearance of the Conservation Area.

**OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None

HISTORY	
Reference No.	Description

18/00223/APP	Replace existing timber windows with UPVC sliding casement windows at Craigmhor 67 St Leonards Road Forres Moray IV36 1DW			
	<b>Decision</b>	Refuse	<b>Date Of Decision</b>	23/03/18

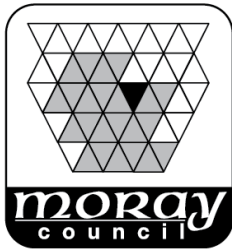
ADVERT			
<b>Advert Fee paid?</b>	<b>Yes</b>		
<b>Local Newspaper</b>	<b>Reason for Advert</b>	<b>Date of expiry</b>	
Forres Gazette	Planning application affecting LB/CA	29/09/20	
PINS	Planning application affecting LB/CA	29/09/20	

DEVELOPER CONTRIBUTIONS (PGU)	
<b>Status</b>	<b>N/A</b>

DOCUMENTS, ASSESSMENTS etc. *		
* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc		
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Design Statement	
Main Issues:	Supporting statement providing background to project and examination of proposal in context of conservation area	

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**

**[Forres]  
Application for Planning Permission**

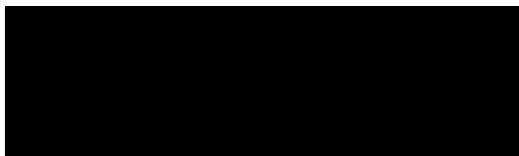
TO Mr S Waterson  
c/o Wittets Architects  
26 Hay Street  
ELGIN  
Moray  
IV30 1NQ

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:-

**Retain installed uPVC windows at Craigmhor 67 St Leonards Road Forres Moray**

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

Date of Notice: **12 November 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: -

The application fails to comply with the following policies (Moray Local Development Plan Policies EP9 & DP1) and should be refused for the following reasons:

- The proposal is contrary to Policy EP9 Conservation Areas as the removal of original timber windows and replacement with modern UPVC units located on the principal elevations would fail to preserve or enhance the character of the building or conservation area.
- By introducing modern UPVC windows into the conservation area, the proposal is considered to be contrary to Policy DP1 Development Principles as the appearance and material finish of the windows is not appropriate to the established traditional character of the surrounding area.

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

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

Reference	Version	Title
20:43:LP		Location plan
20:43:01		Existing and proposed elevations

**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 100296010-002

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

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Wittets Ltd		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Cynthia	Building Name:	
Last Name: *	McKay	Building Number:	26
Telephone Number: *	01343 543237	Address 1 (Street): *	Hay Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Elgin
Fax Number:		Country: *	Scotland
		Postcode: *	IV30 1NQ
Email Address: *	cm@wittets.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Craigmhor"/>
First Name: *	<input type="text" value="S"/>	Building Number:	<input type="text" value="67"/>
Last Name: *	<input type="text" value="Waterson"/>	Address 1 (Street): *	<input type="text" value="St Leonards Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Forres"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV36 1DW"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value="cm@wittets.co.uk"/>		

## 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="CRAIGMHOR"/>
Address 2:	<input type="text" value="67 ST LEONARDS ROAD"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="FORRES"/>
Post Code:	<input type="text" value="IV36 1DW"/>

Please identify/describe the location of the site or sites

Northings	<input type="text" value="858604"/>	Easting	<input type="text" value="304374"/>
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## Description of Proposal

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

Retain installed uPVC windows

## 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.

See separate statement

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

☐ Yes ☒ No

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

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

Ena/300/2017 - Decision notice 20/01059/APP - Design statement 20/01059/APP - Waterson Planning Model 1-20 43 01 - Existing and Proposed Elevations - A2 20/01059/APP - Waterson Planning Model 1-20 43 LP - Location Plan - A4 20/01059/APP - Decision notice 20/01059/APP - Report of handling 20/01059/APP - Reasons for Review 13/01413/APP - Report of handling 17/01078/APP - Report of handling

## Application Details

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

20/01059/APP

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

24/08/2020

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

12/11/2020

## Review Procedure

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

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☒ Yes ☐ No ☐ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

## **Declare – Notice of Review**

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

Declaration Name: Mrs Cynthia McKay

Declaration Date: 18/12/2020





## Reasons for Review

### **20:43 Planning Application to retain windows installed to Craighmor, 67 St Leonards Road, Forres for Mr S Waterson**

This review is requested based on the following key points:

- The background to this planning application.
- The established character of the area.
- The recent approval of uPVC windows to another property within the conservation area.

#### **Background**

The comments in the report of handling refer to repair and replacement of the original windows being preferred and possibly more economical. This was not an option for the applicant as the windows were removed without their knowledge or permission. The applicant had the right intentions in applying for planning permission but due to no fault of their own, they find themselves in this position.

In addition, the planning application is for permission to retain the uPVC windows as installed. Retaining and repairing the original windows is not possible and is not a consideration of this planning application.

#### **Character of area & material**

The planning officer's comments in relation to other properties with uPVC windows on St Leonards' Road makes reference to a time period of 4 years and that these properties would be immune from planning control. The length of time that other uPVC windows have been installed is irrelevant, the fact that they are present and are an established character of the area is relevant.

I also note that the Planning Officer states that Replacement Windows and Doors Guidance was intended to be for a consistent approach to replacement windows within the conservation area. The planning approval of replacement uPVC windows to other properties in the Conservation Area would contradict that statement, in particular, planning permission reference 17/01078/APP and 13/01413/APP.

There are 29 other properties within the conservation area on St Leonards Road. There are 13 which have obvious uPVC windows, 12 have timber windows and 4 are unknown. There is not vast majority of timber windows as noted by the Planning Officer in the report of handling.

There is more weight given to the choice of material for the window frame over design. A walk along St Leonard's Road clearly shows that the design of the window is a more obvious departure from maintaining the character of the area. When you look at a property that does not have a sensitive design or traditional opening method it is instantly noticeable and stands out even when it is timber frame. This indicates that the design and opening section is the key factor in determining if the windows achieve the goal of maintaining a traditional character of the area. These windows achieve that goal regardless of frame material.

It is understandable that Planning Policy looks to retain the traditional character of the area. The evidence of modern uPVC windows in other properties on St Leonards Road would suggest that planning policy has not been adhered to. The 'Replacement Windows and Doors Guidance' document has been established for 30 years however the majority of uPVC windows on St Leonards Road would all appear to have been installed much more recently. In particular two of the most prominent buildings on St Leonard's Road have uPVC windows that make barely any attempt to be traditional in style. There would appear to be no application of Planning Policy or Planning Enforcement on these other properties. Planning Permission has been granted within the last 3 years for original timber windows to be replaced with modern uPVC windows under planning permission ref 17/01078/APP. The Planning Officer under that application commented that the uPVC windows would not affect the traditional appearance or character of the area.

We fail to see why the retention of the uPVC windows to Craighmor is not permitted while all these other properties are permitted to retain their windows which are of a poorer design and more detrimental to the area.

It is also understood that Randolph Villa received planning permission for a modern uPVC flat roofed extension on a principle elevation. The uPVC windows to this are not traditional in any way. This is one of the most prominent buildings on St Leonards Road.

### **Precedent**

Planning Application Ref 17/01078/APP at 7 St Leonards Road, which is within the conservation area received planning permission to replace original timber windows with uPVC windows in 2017. The comments in the report of handling state the following:

*'Alternative materials such as UPVC and aluminium, in line with policy BE3, are not normally acceptable and should be justified for use on traditional properties. However, the form of the existing windows & doors within the building and in its immediate surroundings will be taken into consideration.'* *'As detailed above there are a mixture of window types on the principal elevation of this property. Replacing 3 timber framed shop windows (fixed) with UPVC will not harm the character or appearance of this building or the surrounding conservation area'.*

We fail to see how these replacement windows are considered to not harm the building or surrounding conservation area while the windows in this application are considered to harm the area.

### **Conclusion**

We consider that planning permission must be granted in this case otherwise planning policy is being applied inconsistently. It is not in anybody's interest to force the applicant to replace these windows as uPVC is so prevalent on St Leonard's Road and these windows do not detract from the area.

We also highlight the following;

- The existing dormer window to the front of Craighmor already has uPVC window frames installed some time ago before the applicant purchased the house. This window does not form any part of the various applications, enforcement notices and appeals and can remain in place.

- The enforcement notice does not require the side facing windows to be replaced. The enforcement officer noted that this is an inconsistent approach.

- Therefore this dwelling already has uPVC windows installed which will remain should this appeal not be successful. The expense involved in replacing the windows cannot be justified given the context of Craighmor itself and the surrounding properties.

With the approval of other uPVC windows to some properties and lack of enforcement on properties who have installed uPVC windows without permission, it is unjust to force the applicant to change these windows. The cost to replace the windows will be prohibitive.







## Design Statement

**20:43 Planning Application to retain windows installed to Craighmor, 76 St Leonards Road, Forres for Mr S Waterson**

### History

The dwelling was purchased by the applicant who has undertaken careful modernisation and restoration of the property to bring it up to modern living standards and thermal efficiency. These improvements will extend the life of the traditional property for generations to come. The replacement of the original windows was part of this work.

The company who installed the uPVC windows were to apply for planning permission, which they did however they proceeded to install the new windows before the application was determined. The application was subsequently refused. The applicant was unaware of this and as a result did not have the opportunity to appeal. An enforcement notice was subsequently issued to the applicant. The applicant appealed the enforcement notice however it was upheld. The reporter suggested that a second planning application could be submitted in the interest of natural justice.

### Design Statement

Although uPVC frames have been used, care has been taken in the design and detailing of the new windows to replicate the detailing, proportion, opening method and colour of the existing windows. This retains the style and character of the existing sash and case windows both from a distance and up close as follows;

- The new windows have no additional astragals or mullions which were not present on the original windows.
- The proportion of the top sash and bottom sash match the existing windows in terms of scale and size.
- The existing windows were painted white, the new windows are also white.
- The window opening operation is by sliding sash to both sashes.
- The windows are fitted with horns.
- The internal sash fasteners and sash lifts are visible as would be on the existing windows.
- There are no uPVC sills to the windows and the frame is slender.

The dwelling is set back from St Leonards Road, accessed off the side road leading to Clunyhill Cemetery. It is also at a higher ground level than the public road. There is a high wall and hedge restricting views to the dwelling. As the windows have traditional proportions, sliding sash operation and are painted white it is near impossible to determine if these are original windows or what the frame material is when viewed from the public road/pavement. The windows do not therefore have a detrimental affect on the character of the dwelling or area. The Reporter for the appeal reference ENA-300-2017 also mentions this with the following statement *'During my site inspection I noted that the new windows were of a very high quality and from even a short distance away are virtually indistinguishable from the originals'*.

This is further supported by a survey of windows on the North side of St Leonards Road included at the end of this statement. The survey shows that the frame material is not the main factor in assessing if a window is detrimental to the character of the area. The opening method and colour have a more obvious impact on the character as they make a window stand out as not in keeping with traditional style.

Looking at the North side of St Leonards Road which is within the conservation area the type of windows are as listed in the survey below. There is a varied mix of window styles from modern uPVC to original timber windows. Very few, if any of the other properties with uPVC windows have the same level of design and detailing as the windows installed to the applicant's property. As a consequence the poorly designed uPVC windows to other properties stand out as modern windows which are not in keeping with the traditional style in the area.

From this survey it is clear that uPVC windows are now well established in the area. This has been acknowledged by the Reporter under appeal ref ENA-300-2017 where he states '*other windows in the area are of a variety of styles, many being obviously UPVC that do not replicate originals. Such windows are now established as part of the appearance of the conservation area*'.

### **Conclusion**

- As there are many other properties with uPVC windows within the conservation area the character of the area includes this window frame. It cannot be argued that uPVC frames are not in keeping with the character of the area.
- Some properties with uPVC windows have planning permission (see below) to install uPVC windows within the conservation area with the reasons that it is not deemed detrimental, it cannot therefore be justified to refuse this planning application on those grounds.
- The survey has shown that correctly proportioned white window frames with sash and case operation are the key design features when looking at a window and deciding if it is of traditional design and in keeping with the character. The applicant's windows have better design than some of the timber windows and most if not all of the uPVC windows on St Leonards Road.

### **Other Planning Permissions**

- Under planning permission ref 17/01078/APP the planning officer comments as follows on the use of uPVC windows '*Replacing 3 timber framed shop windows (fixed) with UPVC will not harm the character or appearance of this building or the surrounding conservation area. In addition the windows to the first floor are a mix of white uPVC and grey metal frame*'.
- Under planning permission ref 13/01413/APP – approval to replace timber windows with uPVC windows the planning officer comments as follows '*given the age of the property, and proposed window design, the applicant's proposals will preserve the area's character*'.

### **St Leonards Road conservation area property survey**

No 65: It is difficult to determine from the public pavement if the windows are timber frame or uPVC due to the house being secluded, at a distance from the road and having white colour. The applicant has confirmed these are original timber windows.

No 63: Windows appear to be either timber or uPVC frames in white. Although there is division of the window with astragals and mullions it is clear that the windows have a modern opening method.

No 61: Windows are clearly uPVC white frames due to the proportions and opening method.

No 59: Windows are clearly uPVC mahogany frames due to the colour, proportions and modern opening method.

No 57: It is difficult to determine frame material from the roadside, it is thought to be timber in white. The first floor windows have a modern opening method and style.

No 55: Windows are clearly uPVC frames from a distance due to their golden oak colour, design, gold bar mullions, proportions and opening operation.

No 53: Windows are clearly uPVC frames from a distance due to their golden oak colour, design, gold bar mullions, proportions and opening operation.

No 51: Difficult to determine the frame type, thought to be timber with a mix of white and brown colour.

No 49: Clearly white uPVC windows due to the proportions and opening method.

No 47: Timber framed, mahogany colour windows.

No 45: It is difficult to tell from the public pavement what the frame is made of as the dwelling is set back from the road and the window frames are white. The proportions and opening method can be established, these are not traditional sash and case.

No 43: : It is difficult to tell from the public pavement what the frame is made of as the dwelling is set back from the road and the windows frames are white. The proportions and opening method can be established and are not traditional sash and case.

No 41: Timber, green, traditional.

No 39: Timber, white, traditional.

No 37: It is difficult to tell what the frame material is from the public pavement due to distance, white painted windows and sash and case operation to some of the windows. Some of the windows are clearly uPVC frames. Some windows look to have planted astragals which would suggest uPVC frames.

No 33: Clearly uPVC white windows due to the design, proportions and opening operation.

No 31: Clearly uPVC white windows due to the design, proportions and opening operation.

No 29: Timber, white, traditional.

No 27: Timber, white, traditional.

No 25: Timber, white, traditional.

No 23: Timber, white, traditional.

No 21: Timber, brown, top hung modern opening.

No 19: Clearly white uPVC frames, due to proportions, modern opening method.

No 17: Clearly uPVC mahogany frames with no window division and modern opening method.

No 15: Clearly uPVC golden oak frames due to proportions and opening method.

No 13: Timber, white, traditional design.

No 11: Timber, white, traditional design

No 7-9: uPVC white windows to ground floor and a mix of white uPVC and grey metal frames to upper floors.

No 1: The first floor windows are white uPVC modern windows. Traditional timber widows to ground floor.



## **REPORT OF HANDLING**

<b>Ref No:</b>	20/01059/APP	<b>Officer:</b>	Craig Wilson
<b>Proposal Description/ Address</b>	Retain installed uPVC windows at Craigmhor 67 St Leonards Road Forres Moray		
<b>Date:</b>	11.11.2020	<b>Typist Initials:</b>	LMC

### **RECOMMENDATION**

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

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Contaminated Land	03/09/20	No objection or comment.

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP3 Infrastructure and Services		
EP8 Historic Environment		
EP9 Conservation Areas		
DP1 Development Principles		

### **REPRESENTATIONS**

Representations Received		NO
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

## 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 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

### **Background**

This is a resubmission of a previously refused application to replace windows at Craigmhor, St Leonards Road, Forres, application 18/00223/APP refers. A separate enforcement case was opened, 18/00258/ENF refers and an enforcement notice served on the owners/applicants. No appeal against the planning application was made instead an appeal was made against the enforcement notice. The appeal was subsequently dismissed by the reporter as the grounds for appeal were not competent or justified.

In the reporters closing remarks he said that it is open to the council to allow a second application for the windows to be submitted, with a subsequent opportunity for review in the event of that also being dismissed.

### **Impact of the proposed development conservation area residential amenity (DP1, EP8, EP9, &PP3)**

This application proposes removal of original timber windows to Craigmhor, St Leonards Road and their replacement with double glazed UPVC window units.

Forres town has an abundance of traditional architecture that combines to provide its distinctive character. In recognition of its historic heritage, the heart of the town and St Leonards Road is designated as a Conservation Area.

### **Assessment of Replacement Windows**

The original timber windows were removed and replaced with UPVC units without the necessary planning permission. No contact had been made with the Development Management section for pre-application advice on replacement windows prior to the work being carried out in a designated Conservation Area. The replacement of UPVC window units which have no value or historic basis in terms of their contribution to the character of Forres conservation area.

The assessment of this application was required to take account of Moray Local Development Plan 2020 Policies EP9: Conservation Areas DP1: Developer Requirements and national guidance published by Historic Environment Scotland, in relation to replacement windows: Managing Change in the Historic Environment - Windows.

The Moray Local Development Plan 2020 and the guidance on replacement windows and doors were approved by Moray Council as the Council's agreed position and approach to protecting our heritage assets. National guidance on replacement windows has been established for over 30 years and Council policy guidance is in accordance with this.

Policy EP9 requires new development within Conservation Areas to preserve and enhance the character and appearance of the subject area, having regard to scale, height, materials, colour, detailed design and use. Policy DP1 requires new developments to be sensitively sited, designed and serviced appropriate to the amenity of the existing property and wider locality.

The Council's policies on replacement windows in conservation areas sets out a presumption in favour of retaining original or historic windows that are repairable and can achieve improvements in thermal efficiency through secondary glazing or draught-stripping. This indicates that replacement will be accepted where the windows are beyond repair or are modern replacements. It recommends that the replacement windows are exact copies, or are near copies where the timber sections can accommodate double-glazing units. The Council's guidance states that there may be opportunities



for installing slim-profile double-glazed units into existing sashes where historic glass no longer survives. It also recommends that the replacements should be made in timber and that applications for UPVC replacements will not be supported on principal or street facing elevations.

It is worth noting that all of the repair options listed above would have been significantly more economical than any replacement windows regardless of whether these were timber or UPVC, and could have enabled the existing timber windows to survive with double glazing inserted into existing timber frames.

In support of the proposed application the applicant has submitted a character appraisal of surrounding properties in the conservation area, making case that there are other properties with similar UPVC windows. The preparation of the replacement windows and doors guidance was intended to provide a pragmatic and consistent approach to dealing with the replacement of historic unauthorised UPVC window units in Conservation Areas. From review, the UPVC windows in highlighted buildings have been installed for more than 4 years and would be immune from any planning control despite the damage caused to the character of the conservation area.

The vast majority of historic properties along St Leonards Road retain timber windows on the front or street elevations. Timber windows and doors play an important role particularly in vernacular architecture where they are the dominant elements. Where building frontages have been modified with modern uPVC framing it is accepted that this plays a part in eroding the appearance and architectural character of the historic streetscape leading to the erosion of historic fabric. However, in this case the essential character of the Conservation Area has been preserved and the predominant window material, contributing to the character of the road, is timber and not UPVC.

The style of UPVC windows installed do not match the existing or originals in terms of appearance with external trickle vent detail visible or material finish and are contrary to the above policy provisions and guidance in relation to replacement windows and doors.

**Conclusion**

The retention of timber sash and case windows replicating the historic style of windows is an important way of preserving the historic appearance and fabric of the building and the character of the Conservation Area. Modern day standards of insulation can be applied to historic buildings whilst minimising changes to its character and it is therefore important to ensure that alterations to buildings are as historically accurate as possible. Relevant Moray Development Plan Policies, guidance and national policy guidance enable change and do not preclude it. There are opportunities to improve the thermal efficiency of traditional buildings whether through repairs or new windows provided appropriate traditional materials are used. The replacement windows guidance is clear on this subject and states that the use of non-traditional materials such as UPVC on principal elevations will not be acceptable in a Conservation Area.

The proposed uPVC replacement windows would be damaging to the special architectural and historic interest of the building. In addition these would be out of character and damaging to the attractive and well preserved maintained appearance of the conservation area in which Craigmhor is located. The retrospective windows UPVC windows will not preserve or enhance the character or appearance of the Conservation Area.

**OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None

HISTORY	
Reference No.	Description

18/00223/APP	Replace existing timber windows with UPVC sliding casement windows at Craigmhor 67 St Leonards Road Forres Moray IV36 1DW			
	<b>Decision</b>	Refuse	<b>Date Of Decision</b>	23/03/18

ADVERT			
<b>Advert Fee paid?</b>	<b>Yes</b>		
<b>Local Newspaper</b>	<b>Reason for Advert</b>	<b>Date of expiry</b>	
Forres Gazette	Planning application affecting LB/CA	29/09/20	
PINS	Planning application affecting LB/CA	29/09/20	

DEVELOPER CONTRIBUTIONS (PGU)	
<b>Status</b>	<b>N/A</b>

DOCUMENTS, ASSESSMENTS etc. *		
* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc		
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Design Statement	
Main Issues:	Supporting statement providing background to project and examination of proposal in context of conservation area	

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)			

## **REPORT OF HANDLING**

<b>Ref No:</b>	17/01078/APP	<b>Officer:</b>	Craig Wilson
<b>Proposal Description/ Address</b>	Replace roof and alterations to shop front at 7 St Leonards Road Forres Moray IV36 1DN		
<b>Date:</b>	23/08/17	<b>Typist Initials:</b>	FJA

### **RECOMMENDATION**

<b>Approve, without or with condition(s) listed below</b>	<b>Y</b>
<b>Refuse, subject to reason(s) listed below</b>	<b>N</b>
<b>Legal Agreement required e.g. S,75</b>	<b>N</b>
<b>Notification to Scottish Ministers/Historic Scotland</b>	<b>N</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>
Building Standards Manager	19/07/17	Building warrant required

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP1: Sustainable Economic Growth		
PP3: Placemaking		
EP9: Contaminated Land		
IMP1: Developer Requirements		
BE3: Conservation Areas		

### **REPRESENTATIONS**

Representations Received		<b>NO</b>
Total number of representations received		
Names/Addresses of parties submitting representations		
Summary and Assessment of main issues raised by representations		
Issue:		
Comments (PO):		

## 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. The main planning issues are considered below.

### Impact of proposed signage on the conservation area (BE3 & IMP1)

In considering applications in a conservation area, the 1997 Act directs planning authorities to ensure that new development will preserve and enhance the character and appearance of an area. The aim is to ensure that new development will enhance an area's quality and therefore experience of visitors and residents alike.

The proposal is to replace leaking roof to existing timber framed conservatory to the rear extension and alterations to shop frontage of 7 St Leonards Road, Forres. The building is constructed of sandstone with a slate roof and a mixture of window types including metal, Upvc and timber.

In order to preserve the character and appearance of the Conservation Area, replacement windows and doors on all elevations of unlisted traditional properties within conservation areas should match the original proportions, appearance, materials, and opening method. Appropriate timber sealed unit double glazing will normally be considered acceptable.

Alternative materials such as UPVC and aluminium, in line with policy BE3, are not normally acceptable and should be justified for use on traditional properties. However, the form of the existing windows & doors within the building and in its immediate surroundings will be taken into consideration.

As detailed above there are a mixture of window types on the principal elevation of this property. Replacing 3 timber framed shop windows (fixed) with UPVC will not harm the character or appearance of this building or the surrounding conservation area.

The alterations to replace the roof affect an extension to the rear of the shop that is of little architectural merit. Removing the substandard sheet plastic roof and replacing with slate will enhance this part of the building and is positive for the conservation area. In any case the alterations would not be readily visible from public vantage points.

On balance the proposed works are small scale and will have a neutral impact on this part of the conservation area. Application is recommended for approval.

### REASON(S) FOR DECISION

The Council's reason(s) for making this decision are:-

The proposal was considered to be in accordance with the development plan and there were no material considerations which outweighed the proposal's accordance with the development plan.

## OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

### HISTORY

Reference No.	Description			
86/00956/FUL	Change of use of shop to office premises at Varis St Leonards Road Forres Moray			
	Decision	Permitted	Date Of Decision	11/02/87

ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Forres Gazette	Planning application affecting LB/CA	15/08/17
PINS	Planning application affecting LB/CA	15/08/17

DEVELOPER CONTRIBUTIONS (PGU)	
Status	

<b>DOCUMENTS, ASSESSMENTS etc. *</b> <i>* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc</i>		
Supporting information submitted with application?		NO
Summary of main issues raised in each statement/assessment/report		
Document Name:		
Main Issues:		

<b>S.75 AGREEMENT</b>		
Application subject to S.75 Agreement		NO
Summary of terms of agreement:		
Location where terms or summary of terms can be inspected:		

<b>DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)</b>			
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)			



## **REPORT OF HANDLING**

<b>Ref No:</b>	13/01413/APP	<b>Officer:</b>	Craig Swankie
<b>Proposal Description/ Address</b>	Install replacement windows at Maradale 31 Tolbooth Street Forres Moray		
<b>Date:</b>	4.9.13	<b>Typist Initials:</b>	PAC

### **RECOMMENDATION**

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

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
BE3: Conservation Areas	N	
H5: House Alterations and Extensions	N	

### **REPRESENTATIONS**

Representations Received			NO
Total number of representations received			
Names/Addresses of parties submitting representations			
Name		Address	
Summary and Assessment of main issues raised by representations			
Issue:			
Comments (PO):			

### **OBSERVATIONS – ASSESSMENT OF PROPOSAL**

**Proposals**



The application proposes the replacement of all doors and windows at 31 Tolbooth Street, Forres. The existing windows and rear door, double glazed with white painted timber frames will be replaced. The existing front door and side screen, currently brown timber double glazed will also be replaced. The proposed windows and doors are all double glazed; Golden Oak PVCU toughened sealed units.

### Site Details

31 Tolbooth Street, Forres is located within the Forres Conservation Area. The single storey, detached property has 9 windows to be replaced and two doors, including a side screen at the front door. The property is set back from the road and is not a listed building.

### Policy Assessment

Policy H5 requires any alterations to a property to be suitable in terms of style, materials, scale and proportions. The policy aims to safeguard the amenity of the surrounding area. As the windows and doors are all being replaced in the same style, and neighbouring properties share a similar window design the proposals will not adversely affect the areas amenity

Policy BE3 requires any development within a conservation area to preserve or enhance the areas traditional character and appearance. Given the age of the property, and proposed window design, the applicant's proposals will preserve the areas character.

The application is approved

### REASON(S) FOR DECISION

The Council's reason(s) for making this decision are:-

The proposal complies with the relevant provisions of the development plan and there are no other material considerations that indicate otherwise.

### OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

### HISTORY

Reference No.	Description			
13/01018/ID	Renew (replace) existing windows and doors with new double glazed units at Maradale 31 Tolbooth Street Forres Moray IV36 1PH			
	Decision	Withdrawn	Date Of Decision	14/08/13

### ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Forres Gazette	Planning application affecting LB/CA	03/09/13	
PINS	Planning application affecting LB/CA	03/09/13	

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)			



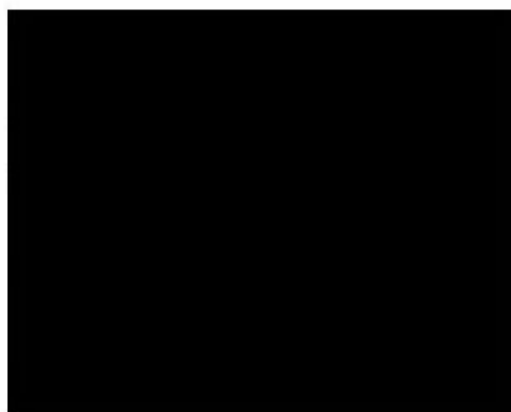


MORAY COUNCIL  
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,  
as amended

REFUSAL OF PLANNING PERMISSION

[Forres]  
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:-

**Retain installed uPVC windows at Craigmhor 67 St Leonards Road Forres Moray**

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

Date of Notice: **12 November 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: -

The application fails to comply with the following policies (Moray Local Development Plan Policies EP9 & DP1) and should be refused for the following reasons:

- The proposal is contrary to Policy EP9 Conservation Areas as the removal of original timber windows and replacement with modern UPVC units located on the principal elevations would fail to preserve or enhance the character of the building or conservation area.
- By introducing modern UPVC windows into the conservation area, the proposal is considered to be contrary to Policy DP1 Development Principles as the appearance and material finish of the windows is not appropriate to the established traditional character of the surrounding area.

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

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

<b>Reference</b>	<b>Version</b>	<b>Title</b>
20:43:LP		Location plan
20:43:01		Existing and proposed elevations

**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.







---

Decision by Trevor A Croft, a Reporter appointed by the Scottish Ministers

- Enforcement Notice appeal reference: ENA-300-2017
- Site address: Craigmhor, St Leonard's Road, Forres, IV36 1DW
- Appeal by Mr Scott Waterston against the enforcement Notice dated 18 March 2019 served by Moray Council
- The alleged breach of planning control: The removal of 8 x 2 pane traditional style timber sash and case windows in the principal elevation of Craigmhor, St Leonard's Road, Forres and replacement with 8 UPVC double glazed windows without planning permission
- Date of site visit by Reporter: 26 June 2019

Date of appeal decision: 29 August 2019

---

## Decision

I dismiss the appeal. Subject to any application to the Court of Session, the enforcement Notice takes effect on the date of this decision, which constitutes the determination of the appeal for the purpose of Section 131(3) of the Act.

## Preliminary matter

The two grounds of appeal (d) and (e) relate to the serving of the Notice. In the appellant's submissions reference is made to other matters concerning the design of the windows under appeal, other windows in the locale and the handling of an associated planning application. I am unable to consider these under the two grounds appealed. I submitted a further information request to see if that was the appellant's intention but neither his response nor the council's comment on that added significantly to the original submissions. My determination of the appeal is therefore based on the original submissions.

## Reasoning

1. The appeal against the enforcement Notice was made on the following grounds as provided for by section 130(1) of the Town and Country Planning (Scotland) Act 1997:

(d) When the Notice was issued it was already too late to take enforcement action.

(e) The Notice was not properly served on everyone with an interest in the land.

Ground (d): When the Notice was issued it was already too late to take enforcement action

2. Section 124(1) of the Act sets out the time limits for enforcement action. To be immune from enforcement action by virtue of ground (d), it must be demonstrated that the works against which the Notice has been served were substantially complete four years prior to the date of service. In this case the notice was served in March 2019 after the works took place in February 2019. The appeal under ground (d) therefore fails.

Ground (e) The Notice was not properly served on everyone with an interest in the land.

3. Enforcement Notices were issued on 18 March 2019 to Mr Scott Waterston and Mrs Anja Waterston. The council states that before doing so it had conducted a search that confirmed the property was in the ownership of Mr and Mrs Waterston. I have no evidence that there is any other interest in the property or any claim that the Notices were not delivered appropriately. The appeal under ground (e) also fails.

4. As both grounds pled have failed I must dismiss the appeal.

5. The appellant stated in his submission that an associated application for planning permission for the windows was badly handled by the window company and agent and that he was effectively deprived of an opportunity to appeal to the local review body. He is pursuing this through other channels. Whilst lack of knowledge of the law and planning procedures is no defence against carrying out relevant work without planning permission, the fact of his being deprived of the review opportunity, through no fault of his own or the planning authority, may be a potential injustice.

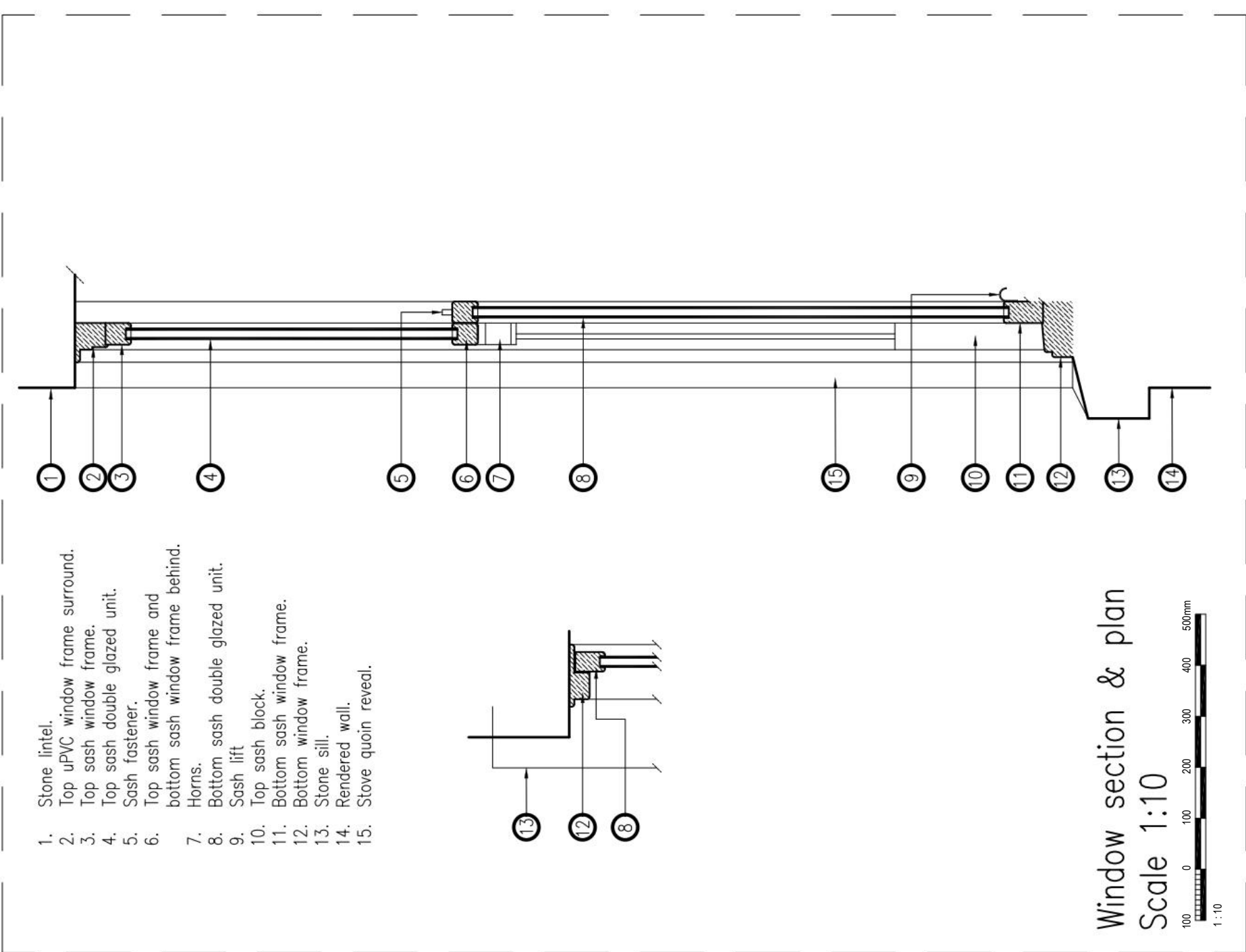
6. During my site inspection I noted that the new windows were of a very high quality and from even a short distance away are virtually indistinguishable from the originals. Photographs enclosed with submissions show this. In addition two new windows, both facing south and not seen from the front of the house, were omitted from the Notice, creating an inconsistent approach. Other windows in the area are of a variety of styles, many being obviously UPVC that do not replicate originals. Such windows are now established as part of the appearance of the conservation area.

7. In the interests of natural justice it is open to the council to allow a second planning application for the windows to be submitted, with a subsequent opportunity for review in the event of that also being dismissed.

8. None of these comments affect my decision on the appeal.

*Trevor A Croft*

Reporter



WITTETS  
ARCHITECTS

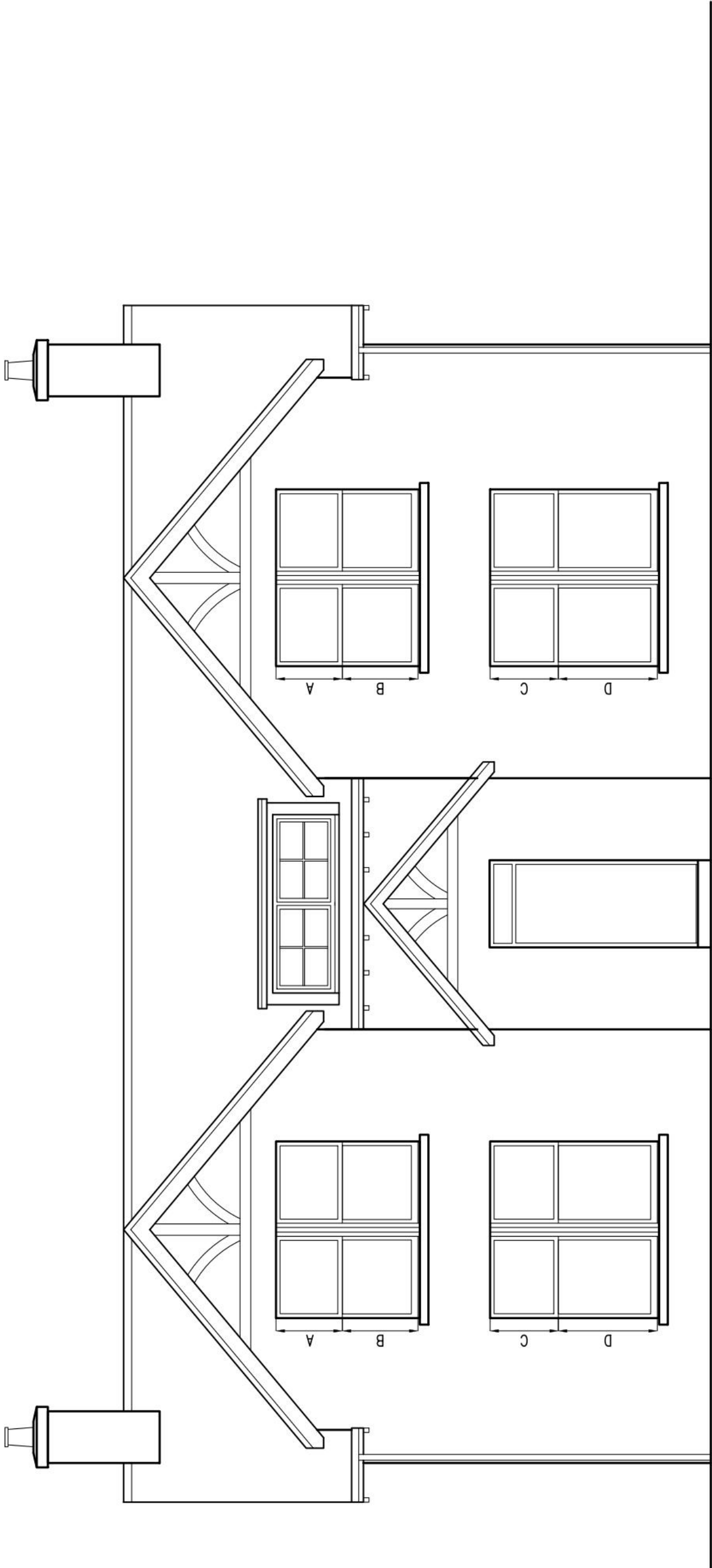
26 Hay St, Elgin, Moray IV30 1NQ  
T 01343 543237 F 01343 540542  
e info@wittets.co.uk www.wittets.co.uk

Application to retain uPVC windows  
at Craighmor, 67 St Leonards Rd  
Forres, For Mr S Waterson

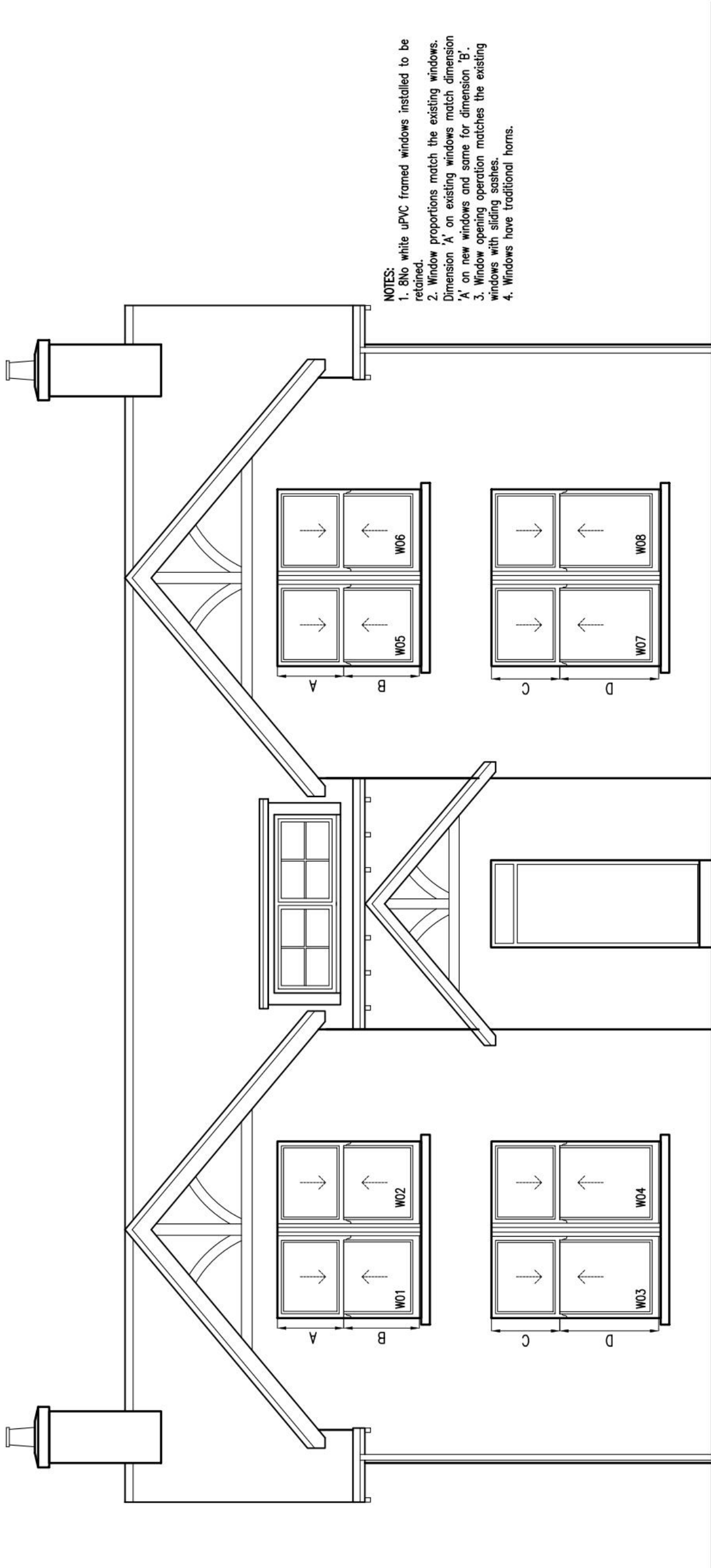
PLANNING  
Existing and Proposed Elevations

1:50 ● A2 Aug 2020

20:43:01



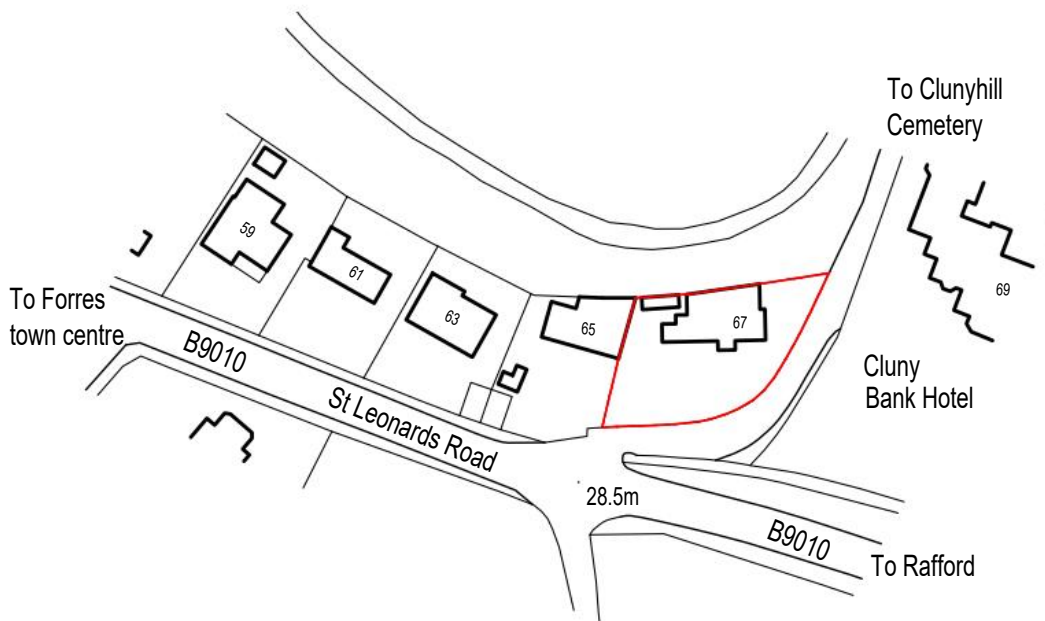
EXISTING SOUTH ELEVATION



PROPOSED SOUTH ELEVATION



USE GIVEN DIMENSIONS ONLY  
DO NOT ASSUME – ASK  
COPYRIGHT RESERVED

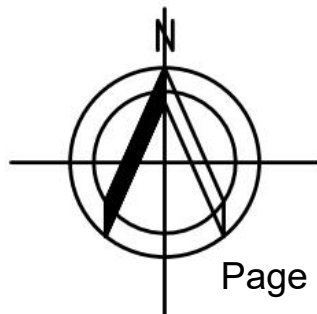


Application to retain uPVC windows  
at Craighmor, 67 St Leonards  
Road, Forres, For Mr S Waterson

**WITTETS**  
**ARCHITECTS**

LOCATION PLAN

10 0 10 20 30 40 50m  
1:1250



Page 198

26 Hay St, Elgin, Moray IV30 1NQ

T 01343 543237

e info@wittets.co.uk

F 01343 540542

www.wittets.co.uk

1:1250 • A4

Aug 2020

20:43:LP



## MORAY LOCAL REVIEW BODY

25 FEBRUARY 2021

### SUMMARY OF INFORMATION FOR CASE No LR251

**Planning Application 20/00879/PPP – Erect Dwellinghouse on site adjacent to Birkenband Cottage, Birnie, Moray**

#### **Ward 6 – Elgin City North**

The proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:

1. The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.
2. The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 – Development Principles and DP4 - Rural Housing.

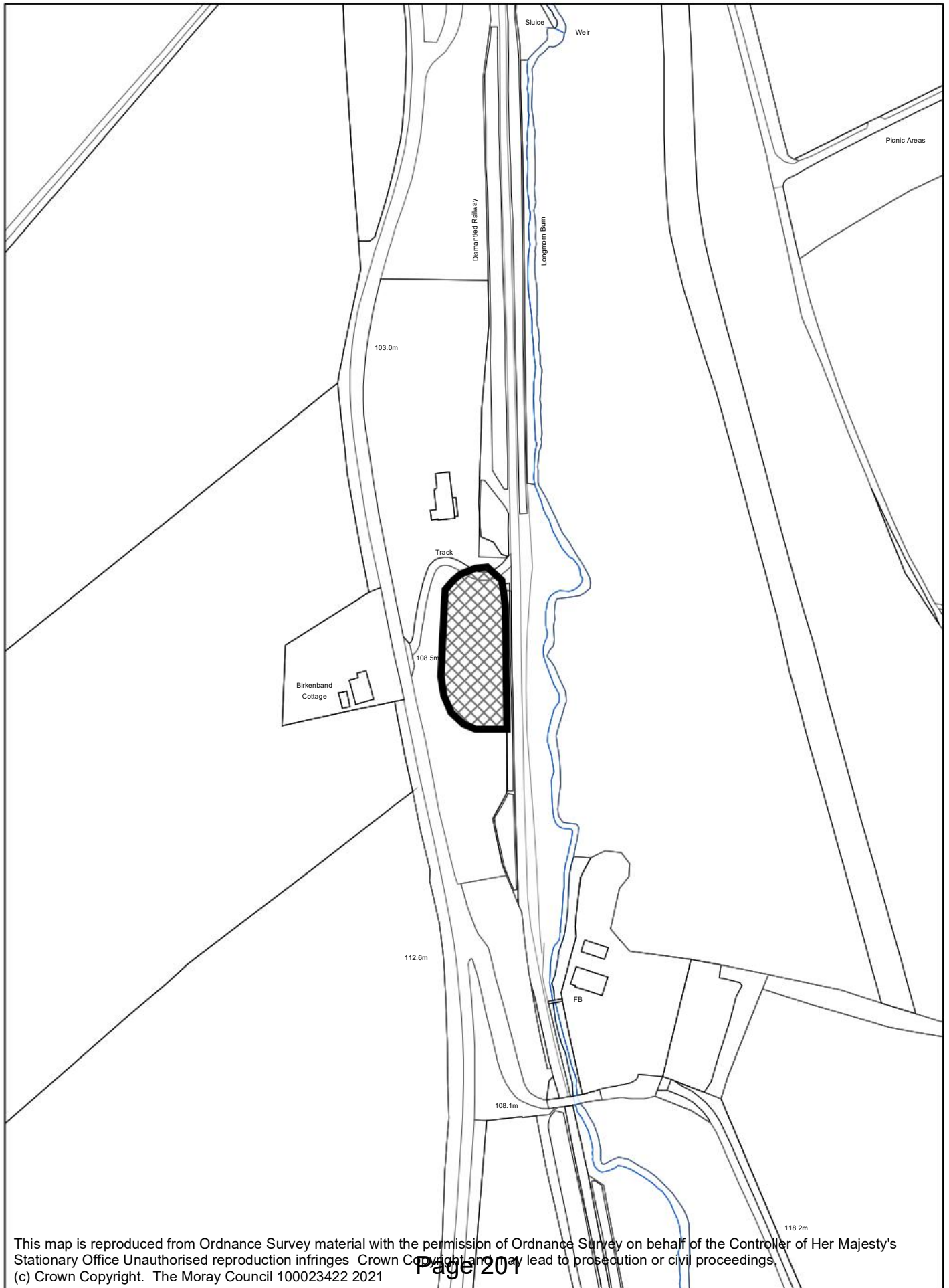
Documents considered or prepared by the Appointed Officer in respect of the above planning application are attached as **Appendix 1**.

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.













## **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

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 100281607-001

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

## Type of Application

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

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

## Description of Proposal

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

Renew planning consent to erect dwellinghouse on Site Adjacent to Birkenbaud Cottage, Fogwatt, Elgin

Is this a temporary permission? \*

☐ Yes ☒ No

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

☐ Yes ☒ No

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

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

☒ No ☐ Yes – Started ☐ Yes - Completed

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Grant and Geoghegan Ltd.		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	Unit 4 Westerton Road Business
Last Name: *	Grant	Building Number:	
Telephone Number: *	07769744332	Address 1 (Street): *	4 Westerton Road South
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	KEITH
Fax Number:		Country: *	United Kingdom
		Postcode: *	AB55 5FH
Email Address: *	neil@ggmail.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	per grant and geoghegan
First Name: *	W	Building Number:	
Last Name: *	Miller	Address 1 (Street): *	Unit 4 Westerton Road Business
Company/Organisation		Address 2:	4 Westerton Road South
Telephone Number: *		Town/City: *	KEITH
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	AB55 5FH
Fax Number:			
Email Address: *	neil@ggmail.co.uk		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Site Adjacent to Birkenbaud Cottage, Fogwatt, Elgin

Northing

856363

Easting

323610

## Pre-Application Discussion

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

☐ Yes ☒ No

## Site Area

Please state the site area:

1959.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

## Existing Use

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

Undeveloped land

## Access and Parking

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

☒ Yes ☐ No

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

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2> <p>Will your proposal require new or altered water supply or drainage arrangements? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p>
<p>Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *</p> <p><input type="checkbox"/> Yes – connecting to public drainage network</p> <p><input checked="" type="checkbox"/> No – proposing to make private drainage arrangements</p> <p><input type="checkbox"/> Not Applicable – only arrangements for water supply required</p>
<p>As you have indicated that you are proposing to make private drainage arrangements, please provide further details.</p> <p>What private arrangements are you proposing? *</p> <p><input checked="" type="checkbox"/> New/Altered septic tank.</p> <p><input type="checkbox"/> Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).</p> <p><input type="checkbox"/> Other private drainage arrangement (such as chemical toilets or composting toilets).</p>
<p>What private arrangements are you proposing for the New/Altered septic tank? *</p> <p><input checked="" type="checkbox"/> Discharge to land via soakaway.</p> <p><input type="checkbox"/> Discharge to watercourse(s) (including partial soakaway).</p> <p><input type="checkbox"/> Discharge to coastal waters.</p>
<p>Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *</p> <div style="border: 1px solid black; height: 80px; margin-top: 5px; padding: 5px;"> <p>New septic tank to soakaway</p> </div>
<p>Do your proposals make provision for sustainable drainage of surface water?? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>(e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>



## Assessment of Flood Risk

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

☐ Yes ☒ No ☐ Don't Know

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

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

☐ Yes ☒ No ☐ Don't Know

## Trees

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

☒ Yes ☐ No

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

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

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

☐ Yes ☒ No

## Schedule 3 Development

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

☐ Yes ☒ No ☐ Don't Know

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

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

## Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

## Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

## Certificate Required

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

Certificate A

# Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Neil Grant

On behalf of: Mr W Miller

Date: 15/07/2020

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

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

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

Provide copies of the following documents if applicable:

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

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

Site Investigation & Drainage Assessment

## Declare – For Application to Planning Authority

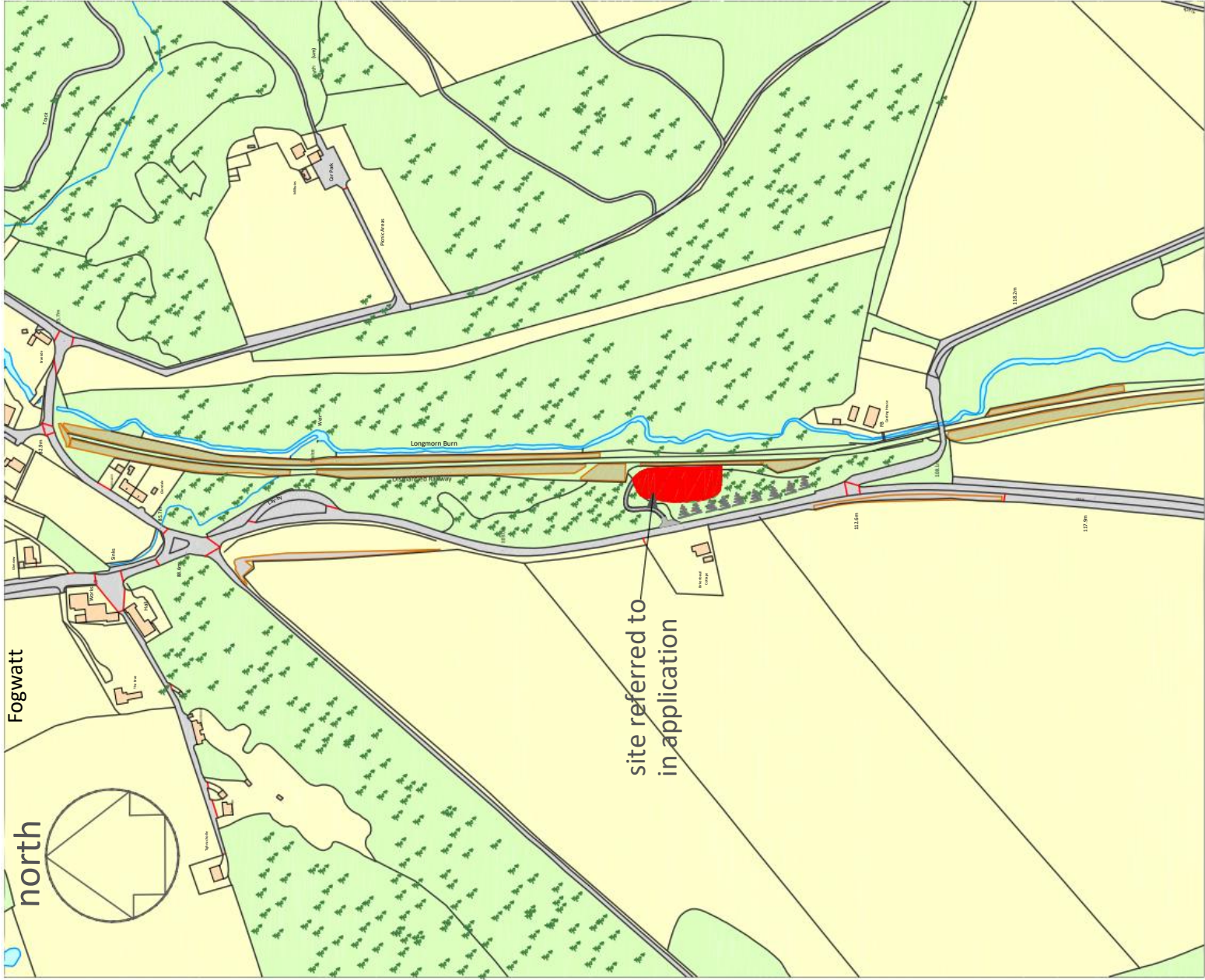
I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Neil Grant

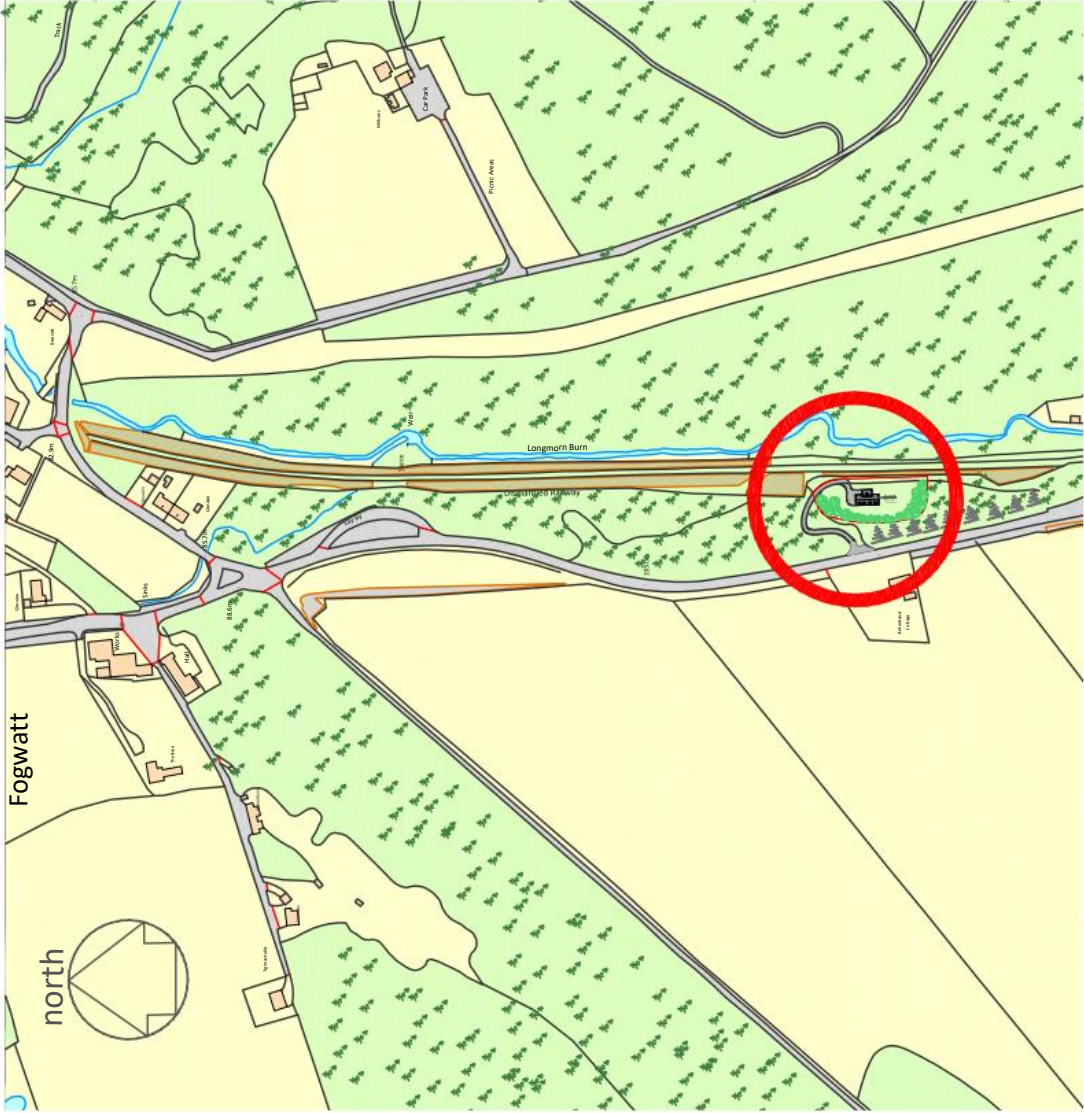
Declaration Date: 15/07/2020



Site adjacent to Birkenbaud Cottage, Fogwatt, Elgin



site referred to  
in application



os map

grant and  
geoghegan

planning, development and  
architectural consultants

T:01343 556644

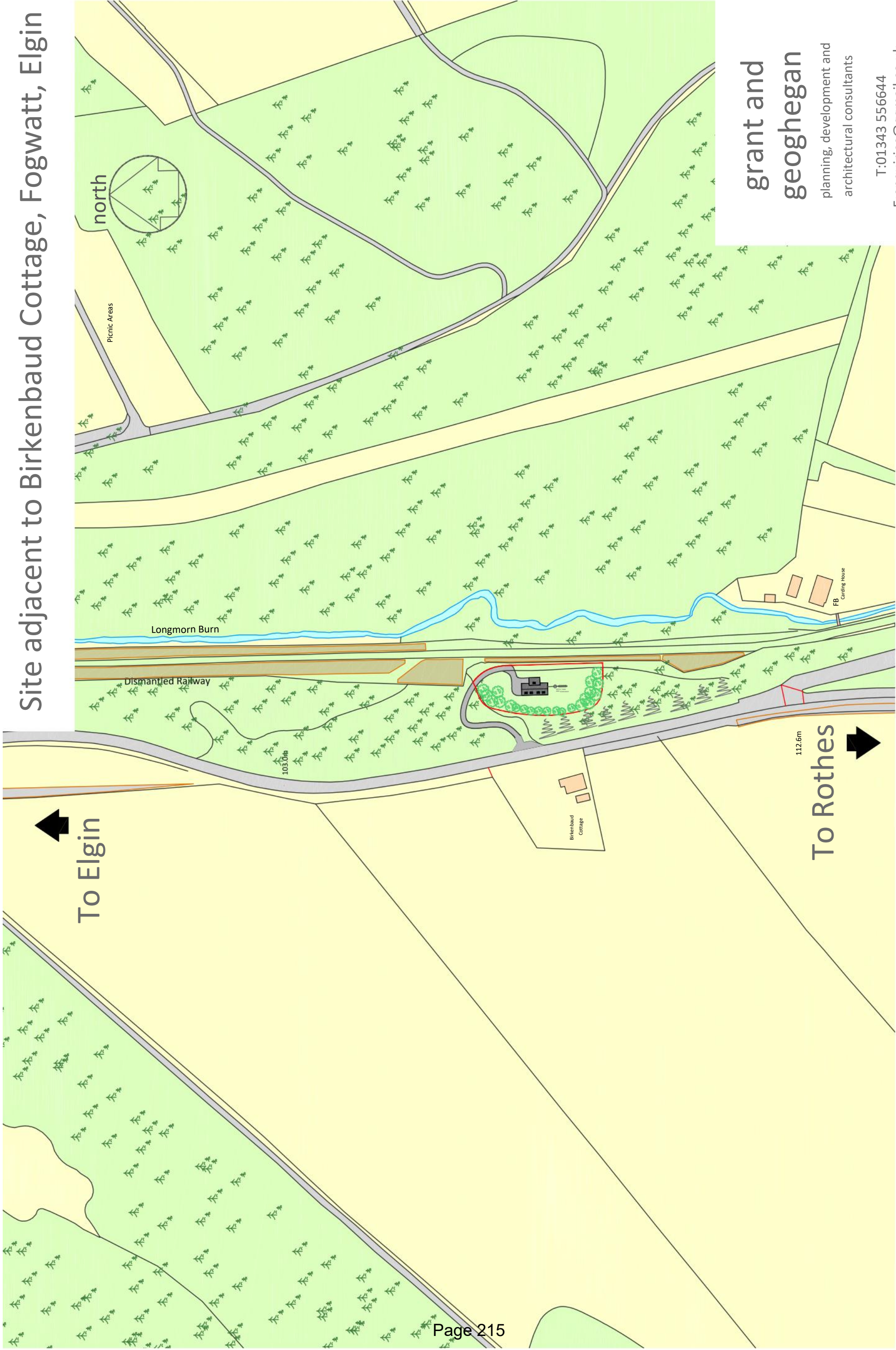
E:enquiries@ggmail.co.uk

Drawing Title	Scale at A3	Date:	Drawing No.
location plan	1:5000	sept 11	010/0224/03





Site adjacent to Birkenbaud Cottage, Fogwatt, Elgin



grant and  
geoghegan

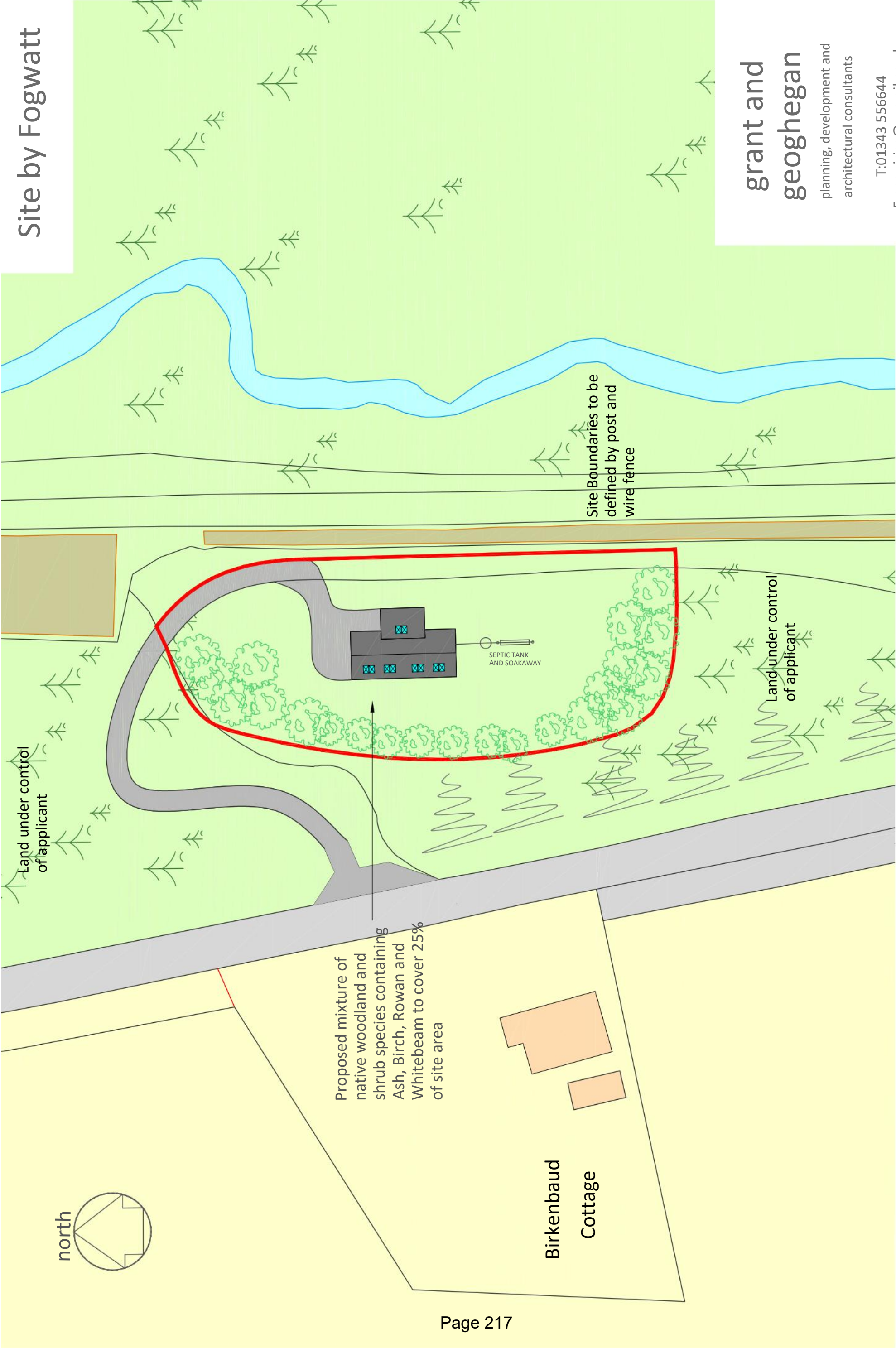
planning, development and  
architectural consultants

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Drawing Title	Scale at A3	Date:	Drawing No.
block plan	1:2000	sep 11	010/0224/02







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geoghegan

planning, development and  
architectural consultants

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Drawing Title	Scale at A3	Date:	Drawing No.
site plan	1:500	sep 11	010/0224/01



Gary Mackintosh  
Email: [gmsurveys@gmail.com](mailto:gmsurveys@gmail.com)  
Tel: 07557431702

# gmsurveys

Surveys, Setting-Out Civil Engineering Design

## Site Investigation & Drainage Assessment

SITE ADJ TO BIRKENBAUD COTTAGE

Gary Mackintosh Bsc  
[gmsurveys@gmail.com](mailto:gmsurveys@gmail.com)

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***Client:***

Billy Miller Contractor and Plant Hire Ltd

***Site Address:***

Site Adj to Birkenbaud Cottage

Fogwatt

By Elgin

***Planning Reference:***

TBC

***Date:***

23<sup>rd</sup> March 2020

***Job Number:***

0650

***Company Information:***

Assessment completed by:

Gary Mackintosh Bsc

**GMCSurveys**

34 Castle Street

Forres

Moray

IV36 1PW

Email: gmcsurveys@gmail.com

Telephone: 07557431702

***Site Description:***

The site is located adjacent to Birkenbaud Cottge to the east side of the A941, south of Fogwatt, by Elgin. The proposals are to erect a single private dwelling and associated infrastructure.

The SEPA Flood maps have been consulted which indicate that the site lies out with any areas of fluvial flooding during a 1:200year event. The plans do however indicate significant surface water flooding within the site boundary. The site has a medium to steep gradient rising from east to west turning to a sharp slope at the site boundary rising to the west towards the A941. The former rail line embankment forms the east boundary. In order to gain access to the site the levels would require raising in the east area of the site to meet the level of the embankment to the east which will alleviate some of the potential water being trapped within the site. There is still the potential for surface waters to enter the site from the sharp slope to the west therefore mitigation measures will be required to ensure that the property and surrounding area is not adversely impacted during a 1:200year event.

GMC Surveys have been asked to carry out a site investigation in order to provide a drainage solution for the proposed development.

***Soil Conditions:***

Excavations were carried out using a mechanical digger on 24<sup>th</sup> February 2020 in order to assess the existing ground conditions and carry out infiltration and percolation testing for the dispersal of foul and surface waters via soakaways.

The trial pits were excavated to a depth of 2.0m. The pits were left open and no ground water was encountered. The excavations provided existing ground conditions of:

200 - 300mm Topsoil with some roots, Light brown/orange loose to medium dense very gravelly Sands to a depth of 700mmbgl overlying light brown medium dense sandy rounded gravels with occasional cobbles proved to the depth of the excavations.

There was no evidence of fill material, contamination or water table present within the test holes.



### ***Percolation/Soakaway Testing:***

Percolation testing was carried out in full accordance with BS6297: 2007 + A1: 2008 and as described in Section 3.9 of the Scottish Building Standards Technical Handbook (Domestic) and the results can be found in the table below.

	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	Mean
<b>Date of Test</b>	<b>24/02/2020</b>	<b>24/02/2002</b>	<b>24/02/2020</b>	
TP01	1620s	2460s	2820s	2300s
TP02	2160s	2880s	3360s	2800s
<b>Average Soil Vp</b>	<b>17.00s/mm</b>			

### ***Infiltration testing:***

Infiltration testing was carried out in full accordance with BRE digest 365. The results can be found in the table below.

<b>Infiltration Test</b>	<b>Pit Dimensions (w/l)</b>	<b>Test Zone (mbgl)</b>	<b>Infiltration Rate (m/s)</b>
INF01	1.0m x 1.0m	1.0 – 1.8	$4.97 \times 10^{-5}$

### ***Conclusion and Recommendations:***

Based on the onsite investigations it can be confirmed that the underlying soils are suitable for the use of standard stonefilled soakaways as a drainage solution for both foul and surface waters.

The Vp rate is above the maximum threshold of 15s/mm therefore a ‘standard’ septic tank will be required to accommodate the foul water flows.

### ***Foul Water Discharge via Soakaway:***

The current proposals within the current application are for an indicative house design only therefore for the purposes of this report, a four bed property has been assumed. The minimum base area for the soakaway can therefore be shown as:

$$A = V_p \times PE \times 0.25 \text{ Therefore}$$

$$A = 17.00 \times 6 \times 0.25 = 25.50\text{m}$$

This area can be provided with soakaway plan dimensions of 5.1m x 5.0m at a depth of 0.45m below invert level, alternative dimensions may be used ensuring that the minimum base area of **25.50m<sup>2</sup>** is maintained.

### ***Surface Water Dispersal via Soakaway:***

Please see attached surface water calculations detailing the requirement and suitability for soakaway dimensions of **5.0m x 2.0m at a depth of 1.5m** below the invert level based on the proposed contributing area of 180m<sup>2</sup> (roof area from plans) up to a 1 in 30year event with 35% allowance for climate change.

Soakaway Details can be found in Appendix B.

In addition to the roof area and as noted within the introduction, surface water mitigation is recommended to prevent runoff entering the site from the slope to the west.

Please see calculations below detailing the suitability of a swale with infiltration beneath with dimensions of 89m in length x 0.75m width and 1.4m depth. The swale details can be found in Appendix B.

The Foul Water and Surface Water soakaway sizes together with the swale will require to be reviewed and confirmed on completion of the final house design to ensure all required features can be accommodated.

SEPA and Building Regulations require that infiltration systems (soakaways) are located at least:

- 50m from any spring, well or borehole used as drinking water supply
- 10m horizontally from any water course and any inland and coastal waters, permeable drain (including culvert), road or railway
- 5m from a building or boundary



MasterDrain  
SW 16.52

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Mobile: 07557 431 702

Job No. <b>0650</b>		
Sheet no. <b>1</b>		
Date <b>23/03/20</b>		
By <b>GM</b>	Checked	Approved

Project **Site Adj to Birkenbaud Cottage, Fogwatt**  
Title **Surface Water Soakaway**

**Rectangular pit design data:-**

Pit length	= 5 m	Pit width	= 2 m
Depth below invert	= 1.5 m	Percentage voids	= 30.0%
Imperm. area	= 180 m <sup>2</sup>	Infilt. factor	= 0.00005 m/s
Return period	= 30 yrs	Climate change	= 35%

**Calculations :-**

Surface area of soakaway to 50% storage depth (not inc. base):-

$$a_{s50} = 2 \times (\text{length} + \text{width}) \times \text{depth}/2 = 10.5 \text{ m}^2$$

Outflow factor :  $O = a_{s50} \times \text{Infiltration rate} = 0.000525 \text{ m/s}$

Soakaway storage volume :  $S_{\text{actual}} = \text{length} \times \text{width} \times \text{depth} \times \% \text{voids}/100 = 4.5 \text{ m}^3$

Duration	Rainfall mm/hr	Inflow m <sup>3</sup>	Depth (hmax) m	Outflow m <sup>3</sup>	Storage m <sup>3</sup>
5 mins	106.0	1.6	0.48	0.16	1.43
10 mins	82.1	2.5	0.71	0.31	2.14
15 mins	68.5	3.1	0.87	0.47	2.61
30 mins	48.2	4.3	1.13	0.94	3.39
1 hrs	32.3	5.8	1.31	1.89	3.93
2 hrs	21.1	7.6	1.27	3.78	3.80
4 hrs	13.5	9.7	0.73	7.56	2.18
6 hrs	10.4	11.2	0.00	11.34	0.00
10 hrs	7.5	13.4	0.00	18.90	0.00
24 hrs	4.2	18.1	0.00	45.36	0.00

Actual volume :  $S_{\text{actual}} = 4.500 \text{ m}^3$

Required volume :  $S_{\text{reqd.}} = 3.930 \text{ m}^3$

Soakaway volume storage OK.

Minimum required  $a_{s50}$  : 9.17 m<sup>2</sup>

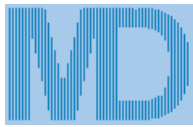
Actual  $a_{s50}$  : 10.50 m<sup>2</sup>

Minimum depth required: 1.31 m

Time to maximum 1 hrs

Emptying time to 50% volume =  $t_{s50} = S_{\text{reqd}} \times 0.5 / (a_{s50} \times \text{Infiltration rate}) = 01:02 \text{ (hr:min)}$

Soakaway emptying time is OK.



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Job No. <b>0650</b>		
Sheet no. <b>2</b>		
Date <b>23/03/20</b>		
By <b>GM</b>	Checked	Approved

Project **Site Adj to Birkenbaud Cottage, Fogwatt**  
Title **Surface Water Soakaway**

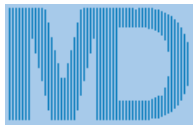
**Location hydrological data (FSR):-**

Location	=	FOGWATT	Grid reference	=	NJ2357
M5-60 (mm)	=	15.8	r	=	0.24
Soil index	=	0.15	SAAR (mm/yr)	=	870
WRAP	=	1	Area	=	Scotland and N. Ireland

Soil classification for WRAP type 1

- i) Well drained permeable sandy or loam soils and shallower analogues over highly permeable limestone, chalk, sandstone or related drifts;
- ii) Earthy peat soils drained by dykes and pumps;
- iii) Less permeable loamy over clayey soils on plateaux adjacent to very permeable soils in valleys.

N.B. The rainfall rates are calculated using the location specific values above in accordance with the Wallingford procedure.



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Job No.	<b>0650</b>		
Sheet no.	<b>1</b>		
Date	<b>23/03/20</b>		
By	<b>GM</b>	Checked	Approved

Project **Site Adj to Birkenbaud Cottage, Fogwatt**  
Title **Proposed Swale Requirements**

#### Data:-

##### Location hydrological data (FSR):-

Location	=	FOGWATT	Grid reference	=	NJ2357
M5-60 (mm)	=	15.8	r	=	0.24
Soil index	=	0.15	SAAR (mm/yr)	=	870
WRAP	=	1	Area	=	Scotland and N. Ireland

Soil classification for WRAP type 1

- i) Well drained permeable sandy or loam soils and shallower analogues over highly permeable limestone, chalk, sandstone or related drifts;
- ii) Earthy peat soils drained by dykes and pumps;
- iii) Less permeable loamy over clayey soils on plateaux adjacent to very permeable soils in valleys.

#### Design data:-

Safety factor = 1.5 - No damage or inconvenience (SF=1.5)  
Fill porosity = 0.45 - Clean stone (porosity = 0.4 - 0.5)

Equivalent porosity (n1) = 0.45

Area drained = 1363 m<sup>2</sup>

Infiltration coefficient = 0.178 m/hr  
Effective inf. coeff (q) = 0.1186667

Return period = 200 yrs

Climate change factor = 35%

#### Calculations :-

Perimeter of pit = (2 x Excavation Width)+(2 x Excavation Length)  
Area of base = Excavation Width x Excavation Length  
Infiltration area = (Area of base)+(Perimeter of pit x Hmax)  
Temporary constant 'a'  
= (Area of base / perimeter)-((AreaDrained x Rainfall depth /1000)/(Perimeter/Inf. coeff))  
Temporary constant 'b' = (Perimeter/Inf. coeff) / (Area of base x porosity)  
Hmax = a\*((EXP(-1 x b x Duration of storm))-1)

Note: The Hmax calculation is iterated to a maximum value of Hmax.

Note: Duration of storm in hours, Rainfall depth in mm/hr x Climate Change factor.

#### Results :-

Emptying time to 50% volume = 0:43 (hr:min)

**hMax (Depth) = 1.4 metres**

Time to maximum = 0:01 hr:min

Rainfall at maximum = 49.93mm/hr

Width (m) = 0.75

Length (m) = 89.0

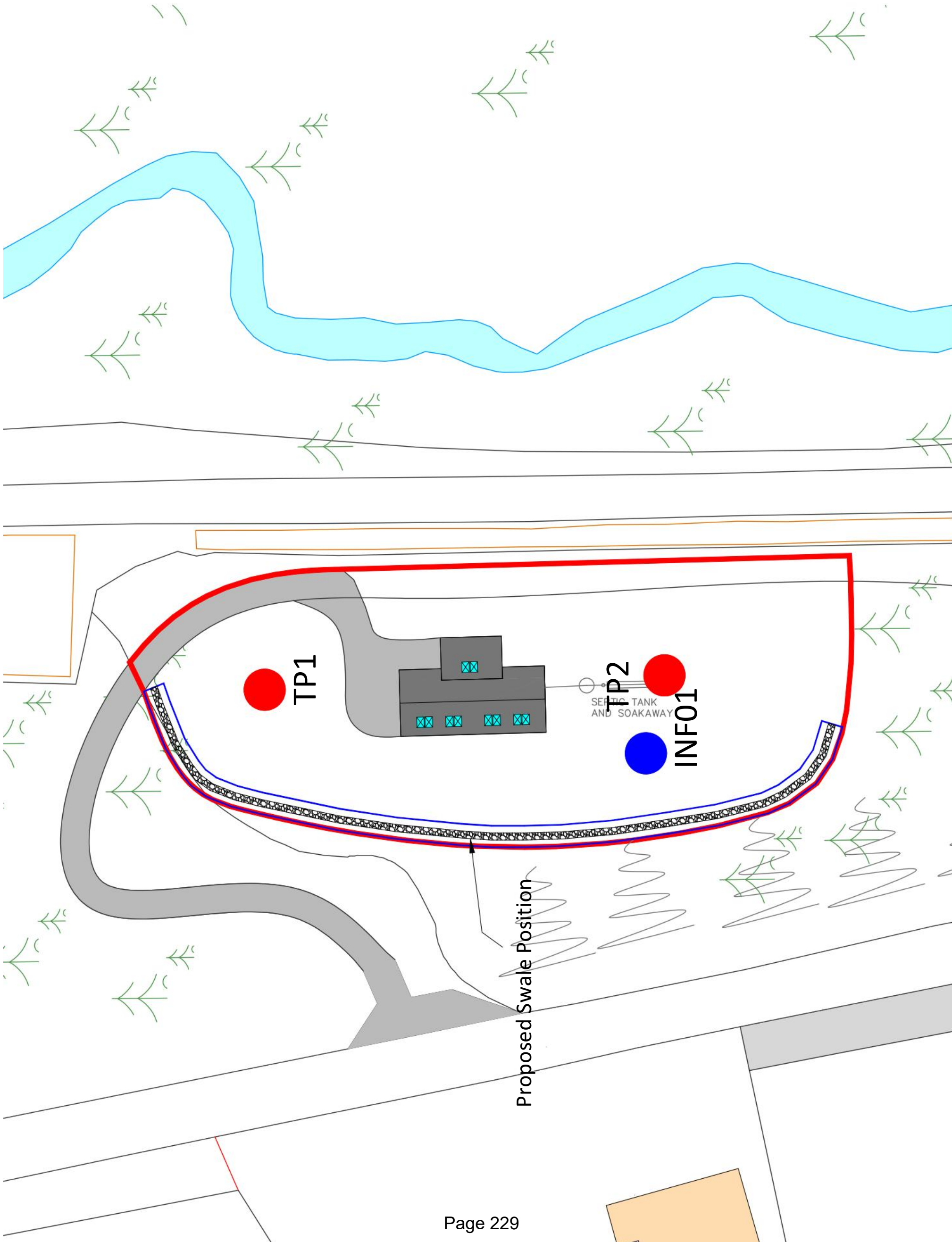
Total Infiltration area = 318.2m<sup>2</sup> (base area + sidewall area).

Total available volume = 42.08m<sup>3</sup>

N.B. The rainfall rates are calculated using the location specific values above in accordance with the Wallingford procedure.  
Formulae and methods from CIRIA 156.

## **APPENDIX A**

### Test Hole Location



REV	DESCRIPTION	BY	DATE	ISSUE			
STATUS							

**gmcsurveys**  
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E: gmcsurveys@gmail.com

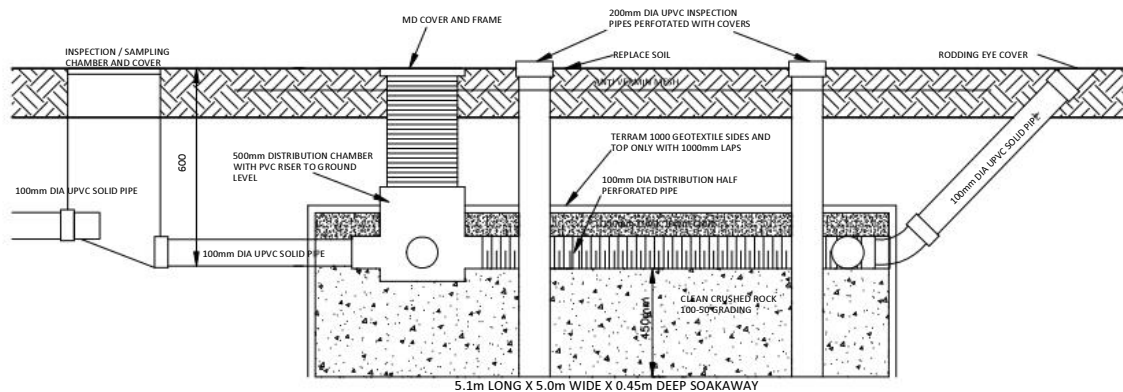
CLIENT: Billy Miller  
Contractor and Plant Hire Ltd

SITE: Site Adj to Birkenbaud Cottage Fogwatt, By Elgin			
TITLE: Test Hole Location/ Site Plan			
SCALE AT A4:	DATE:	DRAWN:	CHECKED:
NTS	MAR20	GM	
PROJECT NO:	DRAWING NO:	REVISION:	
0650	Appendix A	-	



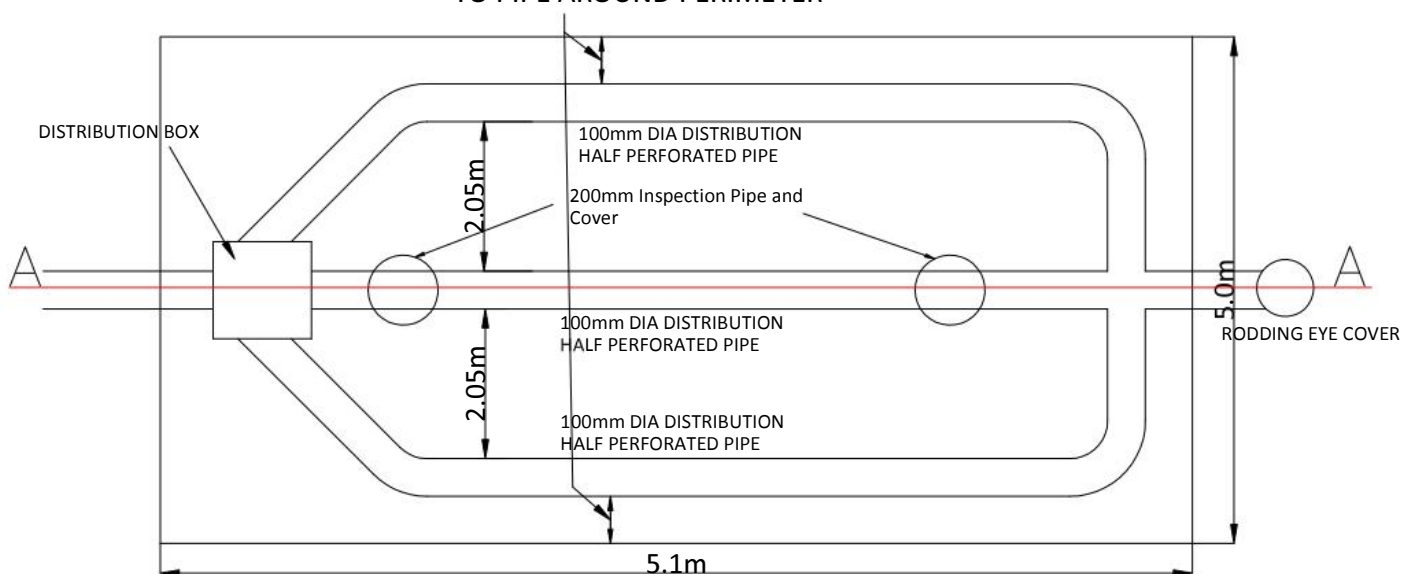
## **APPENDIX B**

### **Soakaway/Swale Details and Certificates**

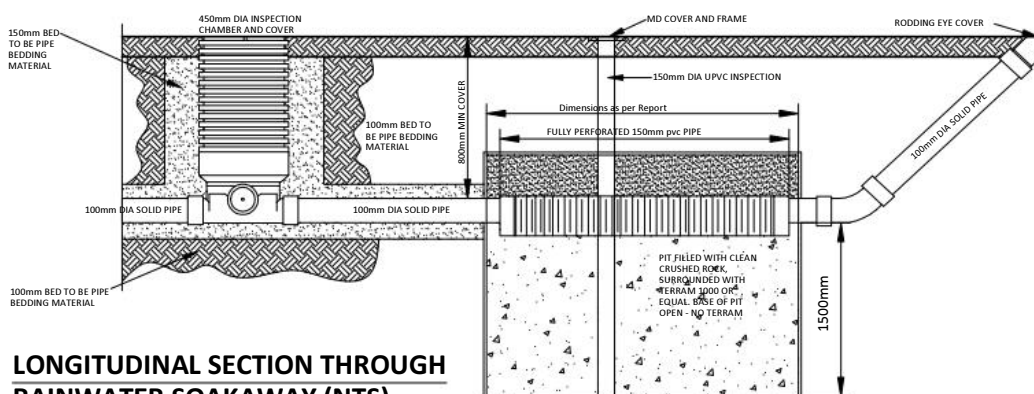


**SECTION A - A THROUGH  
FOUL WATER SOAKAWAY (NTS)**

300mm FROM EDGE OF SOAKAWAY  
TO PIPE AROUND PERIMETER



**PLAN VIEW  
SOAKAWAY ARRANGEMENTS (NTS)**



**LONGITUDINAL SECTION THROUGH  
RAINWATER SOAKAWAY (NTS)**

REV:	DESCRIPTION:	BY:	DATE:
STATUS: ISSUE			

**gmcsurveys**

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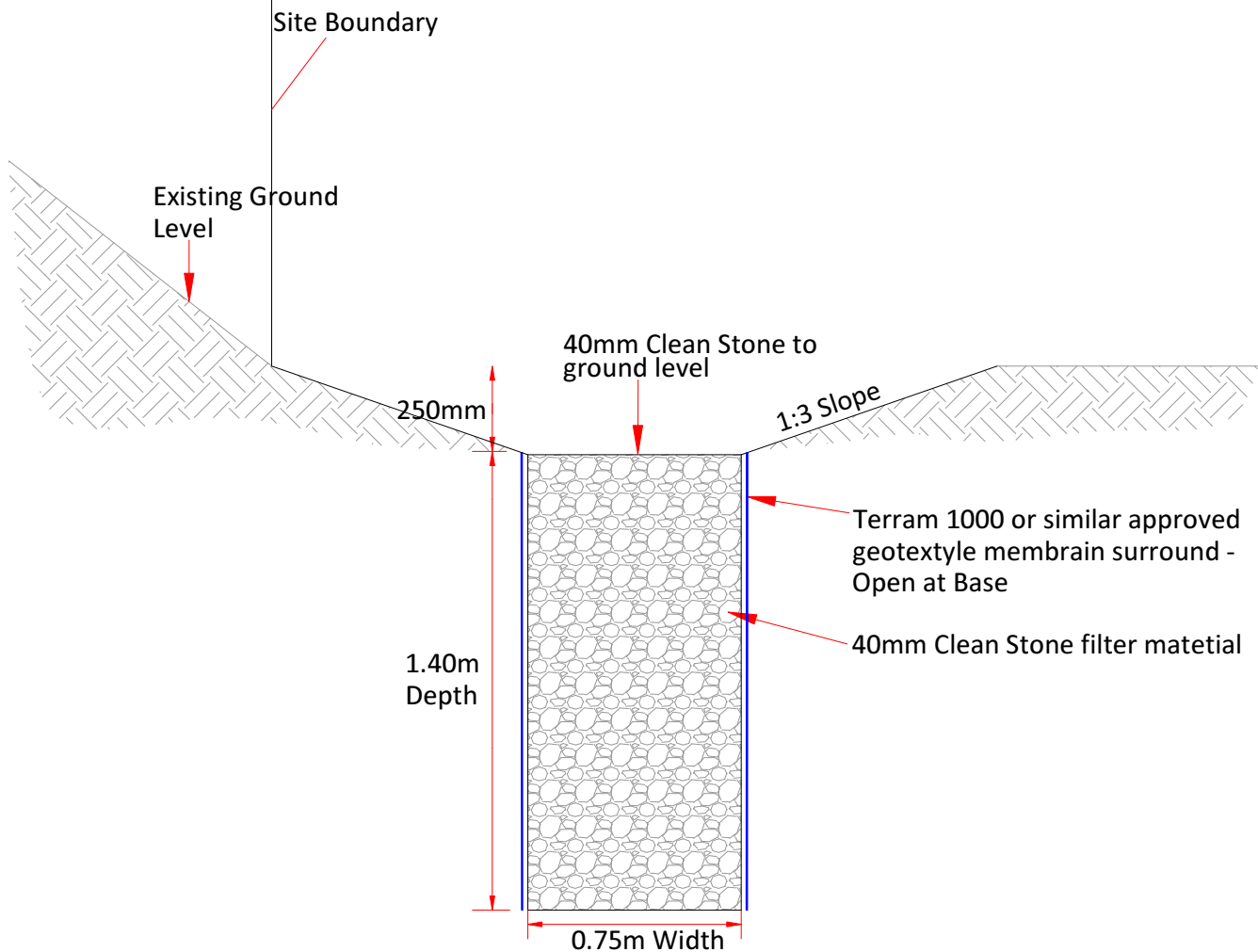
E: gmcsurveys@gmail.com

CLIENT: Billy Miller  
Contractor and Plant Hire Ltd

SITE: Site Adj to Birkenbaud Cottage  
Fogwatt, By Elgin

TITLE: Soakaway Details

SCALE AT A4: NTS	DATE: MAR20	DRAWN: GM	CHECKED:
PROJECT NO: 0650	DRAWING NO: Appendix B1	REVISION:	-



Section Thoug Cut Off  
Infiltration Bed

REV:	DESCRIPTION:	BY:	DATE:
STATUS: <b>ISSUE</b>			

**gmcsurveys**

Surveys, Setting Out, Civil Engineering Design

T: 07557 431 702

E: gmcsurveys@gmail.com

CLIENT:

Billy Miller

Contractor and Plant Hire Ltd

SITE:

Site Adj to Birkenbaud Cottage  
Fogwatt, By Elgin

TITLE:

Swale Details

SCALE AT A4:	DATE:	DRAWN:	CHECKED:
NTS	MAR20	GM	
PROJECT NO:	DRAWING NO:	REVISION:	
0650	Appendix B2	-	

**Certificate For Proposed Sub – Surface Soakaways**  
**Foul Water**

Applicants Name: Billy Miller Contractor and Plant Hire Ltd  
Address: 1 Chanonry St, Elgin, IV30 6NF  
Site Address: Site Adj to Birkenbaud Cottage, Fogwatt  
Date of Tests: 24<sup>th</sup> February 2020  
Weather Conditions: Dry/Clear

**Percolation Test/Soakaway Sizing:**

	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	Mean
Date of Test	24/02/2020	24/02/2020	24/02/2020	
TP01	1620s	2460s	2820s	2300s
TP02	2160s	2880s	3360s	2800s
Average Soil Vp	17.00s/mm			

Location: TP1  
Average Soil Vp: 17.00s/mm  
PE: 6  
Base Area (min): 25.50m<sup>2</sup>

I hereby certify that I have carried out the above tests in full accordance with BS6297: 2007 + A1: 2008 and as described in Section 3.9 of the Scottish Building Standards Technical Handbook (Domestic)

Signed: G Mackintosh      Gary Mackintosh BSc.      Date: 23<sup>rd</sup> March 2020

Company: GMC Surveys, 34 Castle Street, Forres, Morayshire. IV36 1PW

**gmcsurveys**  
34 castle Street  
Forres  
Moray  
IV36 1PW  
T: 07557 431 702  
E: gmcsurveys@gmail.com

**Certificate For Proposed Sub – Surface Soakaways**  
**Surface Water**

Applicants Name: Billy Miller Contractor and Plant Hire  
Address: 1 Chanonry St, Elgin, IV30 6NF  
Site Address: Site Adj to Birkenbaud Cottage, Fogwatt  
Date of Tests: 24<sup>th</sup> February 2020  
Weather Conditions: Dry/Clear

**Trial Pit Test – Surface Water:**

Depth of Excavation: 1.8  
Water Table Present: No

**Infiltration Test:**

Location: INF01  
Infiltration Test Zone: 1.0 – 1.8mbgl  
Infiltration Rate (m/s):  $4.97 \times 10^{-5}$   
Contributing Area: 180m<sup>2</sup>  
Soakaway Size: 5.0m x 2.0m x 1.5 below the invert of the pipe (30year)

I hereby certify that I have carried out the above tests in accordance with the procedures specified in BRE Digest 365:1991.

Signed: G Mackintosh      Gary Mackintosh BSc.      Date: 23<sup>rd</sup> March 2020

Company: GMC Surveys, 34 Castle Street, Forres, Morayshire. IV36 1PW

**gmcsurveys**

34 castle Street

Forres

Moray

IV36 1PW

T: 07557 431 702

E: gmcsurveys@gmail.com

**From:** DeveloperObligations  
**Sent:** 28 Jul 2020 09:17:11 +0100  
**To:** DC-General Enquiries  
**Cc:** Fiona Olsen  
**Subject:** 20/00879/PPP Erect dwelling house on Site Adjacent To Birkenband Cottage  
Birnie Moray  
**Attachments:** 20-00879-PPP Erect dwellinghouse on Site Adjacent To Birkenband Cottage  
Birnie.pdf

Hi

Please find attached the developer obligations assessment that has been undertaken for the above planning application. A copy of the report has been sent to the applicant.

Regards,

**Beatrice Roka** | Senior Infrastructure Growth/Obligations Officer (Strategic Planning and Development) |  
Economic Growth and Development  
[Beatrice.Roka@moray.gov.uk](mailto:Beatrice.Roka@moray.gov.uk) | [website](#) | [facebook](#) | [moray council planning facebook](#) | [twitter](#) |  
[newsdesk](#)  
01343 563265







# Developer Obligations & Affordable Housing: ASSESSMENT REPORT



**moray**  
council

**Date:** 28/07/2020

**Reference:** 20/00879/PPP

**Description:** Erect dwelling house on Site Adjacent to Birkenband Cottage, Birnie Moray

**Applicant:** Mr W Miller

**Agent:** Grant And Geoghegan Limited

This assessment has been carried out by Moray Council. For developer obligations, the assessment is carried out in relation to policy PP3 Infrastructure and Services of the adopted Moray Local Development Plan 2020 (MLDP2020) and Supplementary Guidance (SG) on Developer Obligations which was adopted on 1 March 2018. And, for affordable housing, the assessment is carried out in relation to policy DP2 Housing of the MLDP2020. Affordable housing is a policy requirement not a developer obligation however for ease of reference the Affordable Housing contribution is included within this assessment.

The MLDP2020 can be found at [www.moray.gov.uk/MLDP2020](http://www.moray.gov.uk/MLDP2020) and the Developer Obligations SG can be found at <http://www.moray.gov.uk/downloads/file118481.pdf>.

## Summary of Obligations

Primary Education ( <i>Contribution towards Linkwood Primary School</i> )	£ [REDACTED]
Secondary Education	Nil
Transport	Nil
Healthcare ( <i>Contribution towards 5 Additional Dental Chairs and Pharmacy</i> )	£ [REDACTED]
Sports and Recreation	Nil
<b>Total Developer Obligations</b>	£ [REDACTED]
Affordable Housing	£ [REDACTED]
<b>TOTAL</b>	£ [REDACTED]

## Breakdown of Calculation

For developer obligations, proposals are assessed on the basis of Standard Residential Unit Equivalents (SRUE) which is a 3-bedroomed residential unit. This application is considered to comprise of the following:

3 bed = 1 SRUE

The assessment for developer obligations is therefore based on 1 SRUE.



**Moray Council DEVELOPER OBLIGATIONS**



## Developer Obligations Discount for Small Scale Development

A discount of 80% will be applied to the contribution for single unit developments to reflect their small scale nature.

## INFRASTRUCTURE

### Education

#### Primary Education

This development generates 0.3 primary school pupils (1 SRUE x 0.3 primary pupils per SRUE). Pupils generated by this development are zoned to Linkwood Primary School and contributions will be sought towards the new build primary school. Therefore:

[REDACTED]

A contribution towards the land value for the serviced school site is also sought for the proportion of pupils attributable to this application. Based on a land value of [REDACTED] serviced site, the value proportioned to this development is:

[REDACTED]

**Contribution towards Primary Education =**

[REDACTED]

#### Secondary Education

Pupils generated by this development are zoned to Elgin High School. The school is currently operating at 80% capacity and the

additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary.

**Contribution towards Secondary Education = Nil**

### Transport

The Moray Council Transportation Services has confirmed that no developer obligations will be sought for this proposal.

**Contributions towards Transport = Nil**

### Healthcare

Healthcare Facilities include General Medical Services (GMS), community pharmacies and dental practices. Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities. The recommended number of patients is 1500 per General Practitioner (GP) and floorspace requirement per GP is 271m<sup>2</sup>.

Healthcare infrastructure requirements have been calculated with NHS Grampian on the basis of national standards and specifications for healthcare facilities and estimating the likely number of new patients generated by the development (based on the average household size of 2.17 persons -Census 2011).

Linkwood Medical is the nearest GP Practice within which healthcare facilities can be accessed by the proposed development. NHS Grampian has confirmed that Linkwood Medical is currently operating at capacity. An additional Health Centre, 5 Additional Dental Chairs and an Additional Pharmacy will be required to accommodate the increase in population that is a direct result of development in Elgin and surrounding area. In





the interim, Linkwood Medical has been reconfigured to form additional consulting space and the additional patients arising from this development can be accommodated on this basis.

Contributions will be sought towards the additional dental chairs and pharmacy.

Contributions are calculated based on a proportional contribution of [REDACTED] per SRUE for the dental chairs and [REDACTED] per SRUE for the pharmacy.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Contribution towards Healthcare=** [REDACTED]

### Sports and Recreational Facilities

#### *Sports and Recreation Facilities*

Existing sports provision within Birnie is considered to be adequate to serve the needs of the residents anticipated to be generated by this development. Therefore, in this instance, no contribution will be required.

**Contribution for Sports and Recreation Facilities = Nil**

---

## **AFFORDABLE HOUSING**

The average market value of a serviced plot for 1 Affordable Unit is [REDACTED] Contributions

are based on 25% of the total number of units proposed in the application:

[REDACTED]

Therefore, the total contribution towards affordable housing is:

[REDACTED]

Affordable housing is a policy requirement not a developer obligation and will not be subject to negotiation.





## TERMS OF ASSESSMENT

This assessment report is valid for a period of 6 months from the date of issue.

Please note that any subsequent planning applications for this site may require a re-assessment to be undertaken on the basis of the policies and rates pertaining at that time.

## PAYMENT OF CONTRIBUTIONS

Remittance of financial obligations can be undertaken either through the provision of an upfront payment or by entering into a Section 75 agreement. The provision of an upfront payment will allow a planning consent to be issued promptly. However, where the amount of developer contributions are such that an upfront payment may be considered prohibitive a Section 75 will likely be required. The payment of contributions may be tied into the completion of houses through a Section 75 Agreement or equivalent, to facilitate the delivery of development. Please note that Applicants are liable for both the legal costs of their own Legal Agent fees and Council's legal fees and outlays in the preparation of the document. These costs should be taken into account when considering the options.

## INDEXATION

Developer obligations towards Moray Council infrastructure are index linked to the General Building Cost Price Index (BCPI) as published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors (RICS) from Q3, 2017 and obligations towards NHS Grampian infrastructure are index linked to All in Tender

Price Index (TPI) as published by the Royal Institute of Chartered Surveyors (RICS) from Q2, 2017.



# **Consultee Comments for Planning Application 20/00879/PPP**

## **Application Summary**

Application Number: 20/00879/PPP

Address: Site Adjacent To Birkenband Cottage Birnie Moray

Proposal: Erect dwellinghouse on

Case Officer: Fiona Olsen

## **Consultee Details**

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally



## Consultation Request Notification – Development Plans

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	4th August 2020
<b>Planning Authority Reference</b>	20/00879/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Site Adjacent To Birkenband Cottage Birnie Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133069366
<b>Proposal Location Easting</b>	323168
<b>Proposal Location Northing</b>	856212
<b>Area of application site (M<sup>2</sup>)</b>	1959
<b>Additional Comments</b>	Concern with regard to build up. Site is just outwith designated Pressurised and Sensitive Area under MLDP 2020. Previously withdrawn and previously consulted Dev Plans on earlier app.
<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=QDJSPFBGFMB00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=QDJSPFBGFMB00</a>
<b>Previous Application</b>	20/00414/PPP 11/01549/PPP
<b>Date of Consultation</b>	21st July 2020
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr W Miller
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Per Agent
<b>Agent Name</b>	Grant And Geoghegan Limited
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	Unit 4 Westerton Road Business Centre 4 Westerton Road South Keith AB55 5FH
<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
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**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:-

**PLEASE COMPLETE AND RETURN WITHIN 48 HOURS**  
to [consultation.planning@moray.gov.uk](mailto:consultation.planning@moray.gov.uk)

## **MORAY COUNCIL PLANNING CONSULTATION RESPONSE**

**From:** Development Plans

**Planning Application Ref. No:** 20/00879/PPP

**Erect dwellinghouse on Site Adjacent To Birkenband Cottage Birnie Moray for Mr W Miller**

**Ward:** 04\_17 Fochabers Lhanbryde

### **DETERMINATION - DEPARTURE FROM DEVELOPMENT PLAN**

*(For Structure/Local Plan Comment)*

		<b>Page No</b>	<b>Policy No(s)</b>	<b>Yes</b>	<b>No</b>
<b>1</b>	<b>Departure from Moray Local Development Plan 2020</b>		DP4 Rural Housing	X	
<b>2</b>	<b>Further Discussion Required</b>				

**REASONING FOR THIS DECISION:**

## POLICY COMMENTS

The proposal is for an individual house in the countryside. This response focuses on DP4 – Rural Housing and specifically an assessment of whether the proposal constitutes unacceptable cumulative build up.

### Planning History

There is a previous planning consent for a house on this site (11/01549/PPP) which has now lapsed. It should be noted that this proposal was determined under the terms of the Moray Local Plan 2008 and the housing in the countryside policy has changed since this proposal was assessed. Planning application (20/00878/PPP) for a single house was submitted under the previous Moray Local Development Plan 2015 and subsequently withdrawn.

The Moray Local Development Plan (LDP) 2020 was formally adopted on 27 July 2020 and the proposal is therefore assessed against the relevant policies within the LDP

### DP4 Rural Housing and Cumulative Build-Up Guidance Note.

The site is immediately outwith a Pressurised and Sensitive Area, however this does not preclude consideration of cumulative build up. The Cumulative Build Up Guidance Note within the LDP 2020 sets out cumulative build up indicators to identify build up and assist assessment of when it is becoming unacceptable and these indicators are applicable across the whole of Moray.

Immediately adjacent to the site to the south there is a newly constructed house (16/00615/APP) and planning consent for a further house north of the site (12/01280/AMC) and another planning application (20/00879/PPP) further to the south which is currently pending consideration. It is considered that the level of development in the immediate vicinity of this site means the number of new houses would overwhelm the presence of older buildings, such that the new houses are the predominant component of the landscape. An additional house in this location therefore contributes to unacceptable build-up of development and would have a detrimental impact on the rural character of the area

**Contact: Emma Gordon**  
**email address:**emma.gordon@moray.gov.uk  
**Consultee: Development Plans**

**Date 30 July 2020**  
**Phone No 01343 5623292.**

<b>Return response to</b>	<b>consultation.planning@moray.gov.uk</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.



# **Consultee Comments for Planning Application 20/00879/PPP**

## **Application Summary**

Application Number: 20/00879/PPP

Address: Site Adjacent To Birkenband Cottage Birnie Moray

Proposal: Erect dwellinghouse on

Case Officer: Fiona Olsen

## **Consultee Details**

Name: Mr EH Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: ehplanning.consultations@moray.gov.uk

On Behalf Of: Environmental Health C12

## **Comments**

Approved Unconditionally - Andy Stewart





**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Environmental protection manager

**Planning Application Ref. No: 20/00879/PPP**

**Erect dwellinghouse on Site Adjacent To Birkenband Cottage Birnie Moray for Mr W Miller**

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

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

**Reason(s) for objection**

**Condition(s)**

**Further comment(s) to be passed to applicant**

**Further information required to consider the application**

**Contact:** Ian M Douglas on behalf of Grant Speed

email address:ian.douglas@moray.gov.uk

Date27/07/19.....

.....

Phone

No

7049.....

**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Moray Access Manager

**Planning Application Ref. No:** 20/00879/PPP

**Erect dwellinghouse on Site Adjacent To Birkenband Cottage Birnie Moray for Mr W Miller**

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

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

**Reason(s) for objection**

**Condition(s)**

**Further comment(s) to be passed to applicant**

**Further information required to consider the application**

**Contact:** Ian M Douglas

**email address:** ian.douglas@moray.gov.uk

**Date** 27/07/2020.....

.....

**Phone**

7049.....

**No**



**MORAY COUNCIL  
PLANNING CONSULTATION RESPONSE**

**From:** The Moray Council, Flood Risk Management

**Planning Application Ref. No:** 20/00879/PPP

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 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"/> |

This development will require the drainage assessment. The drainage assessment provided follows an appropriate methodology. It will however need to be bespoke to include the details of the final design of the property.

Further information on requirements for the drainage assessment can be found in “Moray Council Flood Risk Management Supplementary Guidance for Flood Risk and Drainage” - [www.moray.gov.uk/downloads/file124411.PDF](http://www.moray.gov.uk/downloads/file124411.PDF).

Contact: Richard Knight Date 23/07/2020

email address: Richard.knight@moray.gov.uk Phone No

**Consultee:** The Moray Council, Flood Risk Management



Wednesday, 22 July 2020



Local Planner  
Development Services  
Moray Council  
Elgin  
IV30 1BX

Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - [DevelopmentOperations@scottishwater.co.uk](mailto:DevelopmentOperations@scottishwater.co.uk)  
[www.scottishwater.co.uk](http://www.scottishwater.co.uk)

Dear Sir/Madam

**SITE: Site Adjacent To Birkenband Cottage, , Birnie, IV30 4NN**  
**PLANNING REF: 20/00879/PPP**  
**OUR REF: DSCAS-0018562-VND**  
**PROPOSAL: Erect dwellinghouse**

**Please quote our reference in all future correspondence**

## Audit of Proposal

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

## Water Capacity Assessment

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ There is currently sufficient capacity in the Badentinan Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.
- ▶ The nearest public main is approx. 650m from the proposed site.

## Waste Water Capacity Assessment

- ▶ Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.



SW Public  
Published  
To find out more about connecting your  
property to the water and waste water supply visit:



Page 257

### So, how are we doing?

We'd love to know what we're doing well or could do better.  
We promise we're listening,  
[click here](#) to tell us...





## Please Note

- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

---

## Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

## General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - ▶ Site Investigation Services (UK) Ltd
  - ▶ Tel: 0333 123 1223
  - ▶ Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)
  - ▶ [www.sisplan.co.uk](http://www.sisplan.co.uk)
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.



### So, how are we doing?

We'd love to know what we're doing well or could do better. We promise we're listening, [click here](#) to tell us...



- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).

## **Next Steps:**

### **▶ All Proposed Developments**

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

### **▶ Non Domestic/Commercial Property:**

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk)

### **▶ Trade Effluent Discharge from Non Dom Property:**

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email [TEQ@scottishwater.co.uk](mailto:TEQ@scottishwater.co.uk) using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.



- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk).

Yours sincerely,

**Planning Application Team**

Development Operations Analyst

[developmentoperations@scottishwater.co.uk](mailto:developmentoperations@scottishwater.co.uk)

**Scottish Water Disclaimer:**

*"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*



**So, how are we doing?**

We'd love to know what we're  
doing well or could do better.  
We promise we're listening,  
[click here](#) to tell us...



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	4th August 2020
<b>Planning Authority Reference</b>	20/00879/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Site Adjacent To Birkenband Cottage Birnie Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133069366
<b>Proposal Location Easting</b>	323168
<b>Proposal Location Northing</b>	856212
<b>Area of application site (M<sup>2</sup>)</b>	1959
<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=QDJSPFBGFMB00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=QDJSPFBGFMB00</a>
<b>Previous Application</b>	20/00414/PPP 11/01549/PPP
<b>Date of Consultation</b>	21st July 2020
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr W Miller
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Per Agent
<b>Agent Name</b>	Grant And Geoghegan Limited
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	Unit 4 Westerton Road Business Centre 4 Westerton Road South Keith AB55 5FH
<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:** 20/00879/PPP

**Erect dwellinghouse on Site Adjacent To Birkenband Cottage Birnie Moray for Mr W Miller**

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 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 checked="" type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/>            |

*Note: This proposal is for the erection of a new dwelling to be served via an existing access which is to serve a number of plots. One of the plots has already been occupied, and the access has been partly surfaced and a Lay-by constructed. The visibility splay to the north passes directly over the front garden of the recently developed plot, but earthworks have been completed and the visibility splay provided. However the required forward visibility splay does not appear to have been provided. The required visibility splays also have not been submitted for this proposal, and on that basis the following conditions would apply. The applicant should note that visibility splay drawings were previously accepted for an earlier associated planning application served via this access (12/01280/AMC).*

#### **Condition(s)**

1. No development shall commence until a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land ) showing the visibility splay 4.5 metres by 215 metres with all boundaries set back to a position behind the required visibility splays and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users through the provision of details currently lacking.

2. No development shall commence until a detailed drawing (scale 1:200 or 1:500 which shall also include details to demonstrate control of the land ) showing the works required to provide a forward visibility splay from the south of 215 metres and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and thereafter the forward visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and thereafter the forward visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable acceptable vehicular access to the development in the interests of road safety through the provision of details currently lacking.

3. No development shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority showing the provision of 2 car parking spaces for a dwelling with three bedrooms or less, or 3 spaces for a dwelling with four bedrooms or more; and identifying the location where a future Electric Vehicle (EV) fast charging unit is to be connected to an appropriate electricity supply (minimum output 7kw and with a minimum of one parking space accessible to and located within 5 metres of the future charger unit); including details (written proposals and/or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future fast charging unit. Thereafter the car parking spaces and EV fast charger cabling and ducting shall be provided in accordance with the approved drawing prior to the first occupation of the dwelling house and thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety and the provision of infrastructure to support the use of low carbon transport.

4. Prior to the occupation of the dwelling house the vehicular access shall be constructed to the Moray Council specification and surfaced with bituminous macadam for a minimum of the first 10m of the access track, measured from the edge of the public carriageway. The width of the access shall be 5.5m for the first 15 metres measured from the edge of the public road and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway.

Reason: To ensure acceptable infrastructure at the development access.

5. No water shall be permitted to drain or loose material be carried onto the public carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the access

6. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.

Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road

**Further comment(s) to be passed to applicant**

The formation of the required visibility splay will involve the removal of gorse and vegetation and the lowering of the bank/verge on the opposite side of the carriageway.

Planning consent does not carry with it the right to carry out works within the public road boundary.

Before starting any work on the existing public road (including works to lower the verge/bank) the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

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

Date 24 July 2020

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





## **REPORT OF HANDLING**

<b>Ref No:</b>	20/00879/PPP	<b>Officer:</b>	Fiona Olsen
<b>Proposal Description/ Address</b>	Erect dwellinghouse on Site Adjacent To Birkenband Cottage Birnie Moray		
<b>Date:</b>	07/10/20	<b>Typist Initials:</b>	FJA

<b>RECOMMENDATION</b>			
<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>		

<b>CONSULTATIONS</b>		
<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Environmental Health Manager	21/07/20	No Objections
Contaminated Land	29/07/20	No Objections
Transportation Manager	24/07/20	No Objections subject to conditions and informatives
Scottish Water	22/07/20	No Objections
Planning And Development Obligations	28/07/20	Contributions Sought
Moray Access Manager	27/07/20	No Objections
Environmental Protection Manager	27/07/20	No Objections
Moray Flood Risk Management	28/07/20	Drainage Assessment required.
Strategic Planning And Development	30/07/20	Objection – The proposed dwellinghouse would contribute to an unacceptable build-up of housing in the immediate vicinity of this site and overwhelm the presence of older buildings and allow new housing to become the predominant component of the landscape in this area.

<b>DEVELOPMENT PLAN POLICY</b>		
<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP1 Placemaking	N	Complies
PP2 Sustainable Economic Growth	N	Complies
PP3 Infrastructure and Services	N	Complies
DP1 Development Principles		See below

DP4 Rural Housing		See below
EP7 Forestry Woodland and Trees	N	Complies
EP12 Management and Enhancement Water	N	Complies
EP13 Foul Drainage	N	Complies
EP14 Pollution Contamination Hazards	N	Complies

## REPRESENTATIONS

Representations Received	YES	
Total number of representations received ONE		
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> Wildlife flora and fauna to be completely protected.		
<b>Comments (PO):</b> This is an application for planning permission in principle on a site which is an existing scrubland/woodland. All trees are to be retained on site.		
<b>Issue:</b> Steadings may have resident bats and birds.		
<b>Comments:</b> This site does not have any existing buildings/structures on it. All on the site are to be retained.		
<b>Issue:</b> Species of mammal are in danger of extinction and should be protected.		
<b>Comments:</b> The proposal is not anticipated to impact upon any protected species .		
<b>Issue:</b> Every application should have an ecological impact survey supplied		
<b>Comments:</b> Where a European Protected Species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan is required to accompany the planning application. In this case as no building is to be demolished or any trees to be removed, a survey has not been 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 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below

### Proposal

The application seeks planning permission in principal to erect a new dwellinghouse and associated services.

### Site

The site is an existing parcel of overgrown land (with trees present) adjacent to Birkenband Cottage Birnie, Moray. It measures approx. 1959sqm.

To the immediate north of the site lies a newly constructed dwellinghouse (16/00615/APP refers) Further to the north lies an extant planning permission for a new house (12/01280/AMC refers). That permission has been implemented and will not lapse but the house has not been built to date. Finally, another application for a new dwellinghouse is currently under consideration which also lies to the north (20/00878/PPP refers)

To the west of the site lies a 'Pressurised and Sensitive' area as identified within the MLDP 2020.

### **Planning History**

There was a previous planning consent for a house on this site (11/01549/PPP). No application to deal with matters specified in condition was lodged and this permission lapsed in November 2014. A planning application (20/00414/PPP) for a single house was submitted under the previous Moray Local Development Plan 2015 and subsequently withdrawn.

### **Policy Assessment (MLDP 2020)**

#### **Siting (DP1, DP4)**

Policy DP4 refers to new housing in the open countryside and outlines that a spatial strategy has been developed to direct new housing to the least sensitive locations by identifying pressurised and sensitive areas and areas of intermediate pressure. The proposed site is immediately beyond the boundary of an identified 'Pressurised and Sensitive Area' and therefore is assessed under the siting criteria for 'Areas of Intermediate Pressure'.

This criteria requires that there must be existing landform, mature trees, established woodland or buildings of a sufficient scale to provide acceptable enclosure, containment and backdrop for the proposed new house (not including drain, ditches, fencing and road/tracks). The proposed site sits below the level of the public road to the west and therefore is shielded from view and also afforded a sufficient hillside backdrop. There are also a significant number of trees on either side of the site which provide acceptable containment to meet the first siting criteria of policy DP4.

DP4 also requires that a new house must not create ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of an area due to its prominent or roadside location. As outlined, there is a neighbouring newly constructed house to the north of the site (16/00615/APP refers) and further to the north lies an extant consent for a dwellinghouse (12/01380/AMC refers). When taken together with these neighbouring plots, it is considered that the proposed dwellinghouse would contribute to an unacceptable build-up of housing in the immediate vicinity of this site. If approved, it would overwhelm the presence of older buildings and allow new housing to become the predominant component of the landscape, which would irreversibly alter the established rural character of the area.

Although the site is beyond the boundary of the identified 'Pressurised and Sensitive Area', this does not preclude consideration of cumulative build up. The Cumulative Build Up Guidance Note within the MLDP 2020 sets out cumulative build up indicators to identify build up and assist in assessing when it is becoming unacceptable and these indicators are applicable across the whole of Moray. In particular here, the addition of a new house on this site would also result in ribbon development which would join up other existing developments (to the north of the site) which would be contrary to the traditional dispersed settlement pattern.

Although there was previously planning permission in principle for a house on this site (11/01549/PPP refers), this permission was never commenced and has since lapsed. It is also noted that the original application in 2011 was considered at the same time as the neighbouring plot to the north (the newly constructed dwellinghouse - 16/00615/APP). However, the 2011 application was considered against the 2008 Moray Local Plan which contained no specific exclusions on the build-up of new housing in the countryside. This application has been assessed against the Moray Local Development Plan 2020 (MLDP 2020) which specifically excludes development which would create ribbon development or contribute to a build-up of new housing. As a result, the proposal for a new house on this site, although contained sufficiently by existing landform and trees, would create ribbon development and contribute to an unacceptable build up in this area which would irreversibly alter the rural character of the area. As a result the proposal is contrary to policies DP1 and DP4 and therefore the application is recommended for refusal.

### **Design and Materials (DP1, DP4)**

This is an application for Planning Permission in Principle only and therefore should the application be approved, the design and materials of the proposed house would be matters specified in conditions, to be assessed as part of a further application. These conditions would need to ensure that the design requirements of policies DP1 and DP4 were met.

### **Amenity, Landscaping and Trees (DP1, DP4)**

Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. Policy DP4 requires that 15% of new house plot must be landscaped with native tree species to assist the development to integrate sensitively.

If the application were to be approved, boundary treatments and landscaping would be matters controlled by condition.

Existing trees lie on the site. The agent has confirmed that no trees are to be removed from the site as part of the development. Should the application be approved, this matter would also be controlled by condition.

### **Core Paths (PP3)**

A disused railway line lies immediately to the east of the site and has been identified as an Aspirational Core Path. The Moray Access Manager was consulted on this application and has raised no objections. Comments were provided under a previously withdrawn application for this site (20/00413/PPP) which recommended that a condition be added to any final consent that the route should remain free of any obstruction in order to allow for potential future development of a cycle route. Therefore should the application be approved, this matter would require to be controlled by condition in line with policy PP3.

### **Access & Parking (DP1)**

Moray Council Transportation Section have been consulted and have raised no objections subject to a series of conditions and informatives to be added to any final consent and therefore proposal would be considered acceptable in terms of the access and parking requirements of policy DP1.

### **Drainage & Water Supply (DP1, EP12, EP13)**

Details of a foul water treatment and soakaway are shown on the submitted plans. A Site Investigation and Drainage Assessment have been submitted which describe the proposed drainage arrangements and testing undertaken to ensure the site can be adequately drained. Moray Flood Risk Management have been consulted on the application and have raised no objections, however further details would require to be provided upon receipt of a full planning application.

It is proposed to connect the dwellinghouse to the public water supply. Scottish Water have been consulted and have raised no objections.

Therefore the proposal would meet the drainage and water supply requirements of policy DP1, EP12 and EP13.

Should the application be approved the agreed drainage design would also require to be a matter controlled by condition.

### **Developer Obligations and Affordable Housing (PP3, DP2)**

A Developer Obligation towards healthcare and primary education and is sought as part of the application. An affordable housing contribution is also sought. The applicant has confirmed willingness to pay both of these, should the application be approved.

**Recommendation**

The proposal for a house in this location would create ribbon development and contribute to an unacceptable build of housing which would irreversibly alter the rural character of the area and as result is contrary to policies DP1 and DP4 and refusal is recommended.

**OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

N/A

**HISTORY**

Reference No.	Description			
20/00414/PPP	Erect dwellinghouse on Site Adjacent To Birkenband Cottage Fogwatt Moray			
	Decision	Withdrawn	Date Of Decision	01/06/20
11/01549/PPP	Planning Permission in Principle for new dwellinghouse at Site By Fogwatt Moray			
	Decision	Permitted	Date Of Decision	25/11/11

**ADVERT**

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises	20/08/20	
PINS	No Premises	20/08/20	

**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*

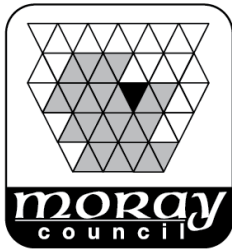
Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Site Investigation and Drainage Assessment	
Main Issues:	Outlines testing undertaken to confirm ground suitability for both foul and surface water soakaways.	

**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:		

<b>DIRECTION(S) MADE BY SCOTTISH MINISTERS</b> (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**

**[Fochabers Lhanbryde]  
Planning Permission in Principle**

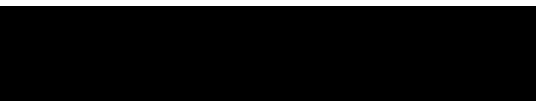
TO Mr W Miller  
c/o Grant And Geoghegan Limited  
Unit 4  
Westerton Road Business Centre  
4 Westerton Road South  
Keith  
AB55 5FH

With reference to your application for planning permission in principle 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 dwellinghouse on Site Adjacent To Birkenband Cottage Birnie Moray**

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

Date of Notice: **7 October 2020**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

Economy, Environment and Finance  
Moray Council  
PO Box 6760  
ELGIN  
Moray IV30 1BX

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

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

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

0 The proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:-

1. The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.
2. The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.

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

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

Reference	Version	Title
010/0224/02		Block plan
010/0224/03		Location plan
010/0224/01		Site plan

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

N/A

**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.scot/eplanningClient](http://www.eplanning.scot/eplanningClient)

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**



# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN  
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.**  
**Failure to supply all the relevant information could invalidate your notice of review.**

**Use BLOCK CAPITALS if completing in manuscript**

**Applicant(s) Name:**

Mr W Miller

Address: Chanonry  
Ind Est, Elgin

Postcode

Contact Telephone

1 Contact

Telephone 2 Fax

No E-mail\*

**Agent (if any)**

Name: Grant & Geoghegan

Address: Unit 4 Westerton Road Business Centre,  
4 Westerton Road South, Keith

Postcode: AB55 5FH

Contact Telephone 1: 01343 556644

Contact Telephone 2:

Fax No

E-mail: neil@gmail.co.uk

Mark this box to confirm all contact should be  
through this representative: X

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No  
X ☐

Planning authority

Moray Council

Planning authority's application reference number

20/00879/PPP

Site address

Site Adjacent To Birkenband Cottage Birnie Moray

Description of proposed  
development

Erect dwellinghouse

Date of application

Thu 16 Jul 2020

Date of decision (if any)

07 Oct 2020

Note. This notice must be served on the planning authority within three months of the date of the decision  
notice or from the date of expiry of the period allowed for determining the application.

**Nature of application**



1. Application for planning permission (including householder application) ☐
2. Application for planning permission in principle ☒
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

### Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

### 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.

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

1. Further written submissions ☐
2. One or more hearing sessions ☐
3. Site inspection ☐
4. Assessment of review documents only, with no further procedure ☒

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

### Site inspection

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

- |  | Yes | No                       |
|--|-----|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | X   | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | X   | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

### Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Grounds of Appeal stated in separate document.

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 new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

N/A

**List of documents and evidence**

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.

We understand the refused plans will form part of the appeal papers which Member's will be able to draw on. No further information is required in this instance.

---

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at Council Office, High Street, Elgin until such time as the review is determined. It is also be available on the planning authority website.

---

**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- X Full completion of all parts of this form
- X Statement of your reasons for requiring a review
- X All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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 from that earlier consent.

---

**Declaration**

**I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.**

Signed Neil Grant

Date 6.1.21

# **grant & geoghegan ltd.**

**Chartered Planning Development and Architectural Consultants**

Unit 4 Westerton Road Business Centre  
4 Westerton Road South  
Keith AB55 5FH

T: 01343 556644  
E: [enquiries@ggmail.co.uk](mailto:enquiries@ggmail.co.uk)

## **Grounds of Appeal**

**Site adjacent to Birkenbank, Birnie, Moray**

**Issue Date:**  
6<sup>th</sup> January 2020

## CONTENTS

- 1.0. Introduction
- 2.0. The Proposal
- 3.0. Reason for Refusal
- 4.0. Grounds of Appeal
- 5.0. Other determining issues
- 6.0. Conclusion

## 1.0 Introduction

These grounds for review relate to the refusal of planning permission for a dwellinghouse at Longmorn, Moray and are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated the 7<sup>th</sup> of October 2020.

This statement responds to the reasons for refusal and addresses the proposal in relation to Development Plan Policies and relevant material planning considerations.

## 2.0 The Proposal

The application sought to obtain planning permission, in principle, for a single dwelling. As Member's will be aware, the extent of information required to support an in principle application is minimal however an indicative site layout is provided in the suite of plans to illustrate the maximum extent of development on this site.

In respect of detailed site matters, we can confirm the development would be served by the public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from an existing track which extends from the A941.

The principle of development was established on this site under reference 11/01549/PPP, however detailed permission was not sought within the specified period nor was the application renewed so the permission lapsed and the application falls to be assessed against current planning policy.

## 3.0 Reasons for Refusal

The application under reference 20/00879/PPP was refused under delegated powers by the case officer on the 7<sup>th</sup> of October 2020. The reasons for refusal state that;

*The proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:-*

*The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.*

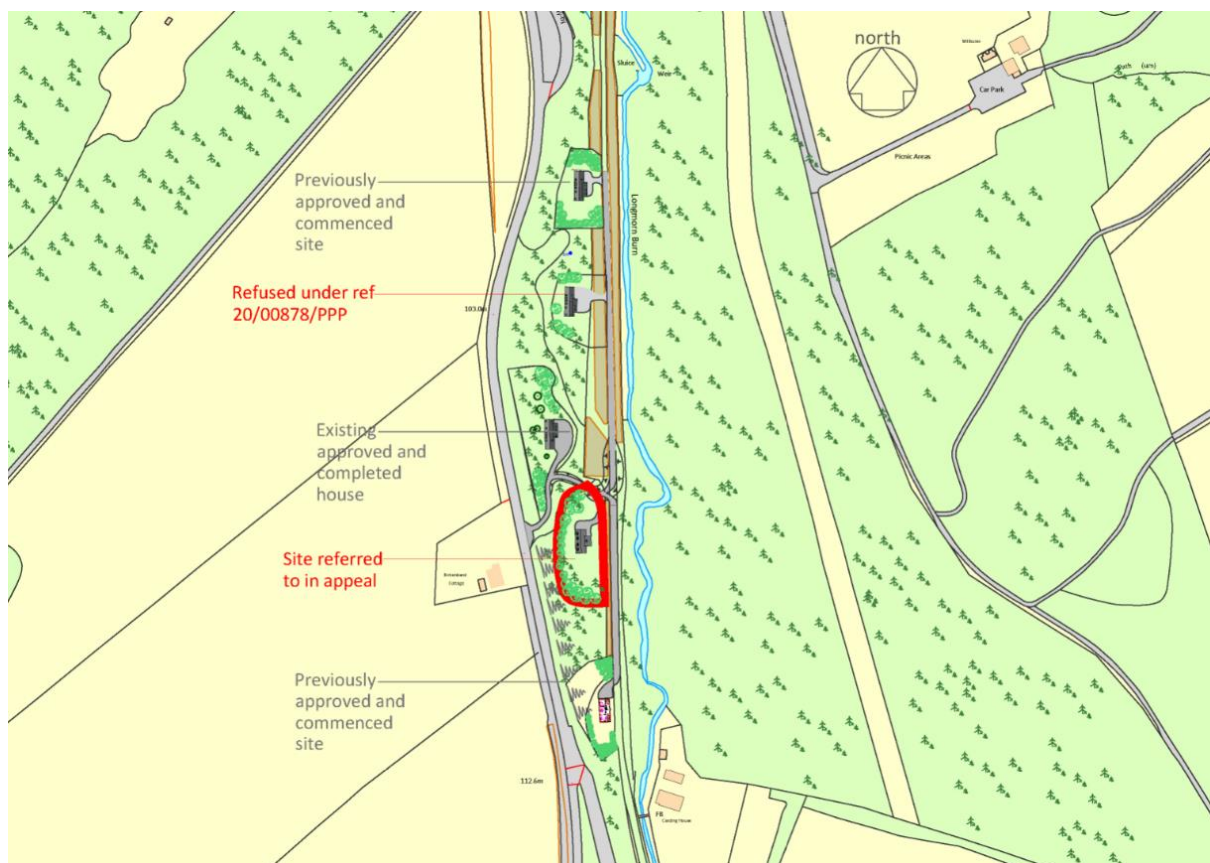
*The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.*

There does not appear to be any reasonable justification in planning policy terms for the refusal of this application. The appellant does not consider this application to have been assessed on its own individual merits in light of the prevailing circumstances surrounding the site and respectfully contends that the proposal is fully in accordance with relevant planning policy and guidance.

## 4.0 Grounds of Appeal

### Refusal Reason 1 – Ribbon Development

As the Officer correctly alludes to in this reason for refusal, this part of the Moray countryside is made up of small groups of houses and buildings dispersed throughout the rural area. However, the Officer recommends refusal citing that the approval of this application would result in ribbon development by joining up two other existing plots.



The subject site in the context of existing houses and approved plots

The above graphic illustrates how the addition of a new house in the manner proposed would fit into a dispersed cluster of houses and approved plots within a well contained area of land. As can be seen above, the proposal does not involve joining up any of the existing plots with the subject site- there remains significant separation and screening between plots.

In respect of ribbon development i.e. an accumulation of houses along a road, the appellant would point out that the site and neighbouring houses/ plots would not be visually linked in a manner consistent with the widely recognised definition of ribbon development. The plots all benefit from substantial screening from the A941 and clear views of the sites are restricted by the mature trees which dominate the visual experience of road users.





Plot not visible in northern view of the site from the A941.



Plot not visible in southern view of the site from the A941

It is acknowledged that the term ribbon development can be applied to buildings which are positioned back from the road, staggered, set at different angles and/ or left with gaps between them. However, the above photographs illustrate that there are no clear views of the plot from the road due to a combination of level difference, distance to the road and mature planting. The proposed development would have no impact upon the experience of road users and there are no clear views of the site from any other public vantage points.

In the circumstances, where none of the characteristics or negative impacts associated with ribbon development are in evidence, it can only be concluded that the proposal at hand does not meet with the definition of unacceptable ribbon development and that it would more accurately be described as unobtrusive infill development.

## **Refusal Reason 2 – Build-up**

In respect of the tests in current lead policy DP4, the site is not within a “Pressured and Sensitive Area” and is in full accordance with the siting criteria prescribed in part d) of that policy:-

- The subject site benefits from a substantial backdrop of woodland and landform;
- The addition of a house on this site would not result in ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of the area due to its prominent roadside location;
- Artificial mounding, cut and fill and/ or clear felling of woodland are not proposed;
- The applicant wishes to meet and exceed the planting requirements set out in policy.

On the issue of build-up specifically, following the grant of planning on this site under reference 11/01549/PPP, the Officer appointed to determine the application submitted under reference 12/00244/PPP made the following assessment on the matter:-

*“In this case the site is bounded by the dismantled railway to the east with mature woodland beyond, to the south and west by a steep wooded slope and to the north by further proposed house plot with mature woodland beyond therefore the development meets the boundary enclosure aspect of policy H8. The A941 road lies to the east beyond the steep slope and woodland. A further two approved house plots lie to the south of this site (11/01548/PPP and 11/01549/PPP).*

*Given the site location in what is a wooded valley area the proposed house will not be prominent in the surrounding landscape, however, given the presence of the two existing house plot approvals to the south and the additional proposed plot to the north careful consideration needs to be given to the potential build-up of new development in the area and the impact that this has on the character and appearance of the wider landscape.*

*Although the proposed house site is in relatively close proximity to the existing house plot approvals, there will only be a very limited level of build up or visual intrusion as a result of this development, this is on the basis that the house plots will be visually separated by the existing slope and woodland between them and therefore when driving past on the A941 which is the main public viewpoint of the development the houses will not be viewed together and therefore there will not be an unacceptable build-up of development or visual intrusion as a result of this development.”*

Whilst we understand there has been a change in planning policy since the nearby site gained the grant of planning permission in 2012, there has not been a material change in circumstance in the vicinity of the site from what was before the appointed officer at that time. As Member’s can see here, the issue of build-up is addressed thoroughly in that report and it concludes that the addition of a further house to the north of the subject site would not lead to an unacceptable build-up of development given the separation between properties and sites.

Although planning policy has changed, the criteria by which build-up of development is assessed by Planning Officer’s has not changed and the Officer makes a robust assessment of the site and its surrounds in this context. The introduction of new guidance does not on its own mean the matter was given insufficient weight in the decision making process beforehand. The above paragraphs demonstrate that beyond any reasonable

doubt. In the absence of any further development in this location, it is clear that the appointed Officer's conclusions in 2012 remain as valid today as they were then.

## 5.0 Other determining issues

The steep banks surrounding these sites are prone to landslip and the appellant has already expended considerable resource in stabilising ground to make sure the area is safe. However, there is still considerable further work to do and although the appellant is happy to do the work as planned, it should be noted by Member's that it was on the premise of 5 plots and not 3.

Given the high upfront costs associated with suitably servicing these sites, we can confirm that the quantum of development required to undertake these works requires 5 planning approvals or the viability of the project is threatened. As these works are in the wider public interest, it should be noted that if planning permission is not forthcoming for this site then it is likely that the Council will have to fund all or part of the further groundworks required to ensure the wider area is safe.

## 6.0 Conclusion

The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are "material considerations" to justify doing otherwise.

We acknowledge that planning permission lapsed on this site and that it falls to be assessed in light of the new development plan. However, as has been shown in the body of this statement, the proposal can be supported under current planning policy and coupled with the fact that there has been no material change in circumstance at the site; we would respectfully contend that the principle of development in this location is acceptable.

National Planning Policy and the Moray Local Development Plan all encourage well sited and designed houses in the countryside. The proposal at hand essentially seeks to renew a historic permission which has been viewed positively before on account of its sensitivity and low environmental impact with wider benefits which are in the public interest.

As the proposal can be accepted under Development Plan policy and there are no known material considerations to the contrary, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.





## MORAY LOCAL REVIEW BODY

25 FEBRUARY 2021

### SUMMARY OF INFORMATION FOR CASE No LR252

**Planning Application 20/00878/PPP – Erect Dwellinghouse on site 284m south of Fogwatt Hall, Longmorn**

#### **Ward 4 – Fochabers Lhanbryde**

Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 7 October 2020 on the grounds that:

The proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:-

The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.

The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 - Development Principles and DP4 – Rural Housing.

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**.

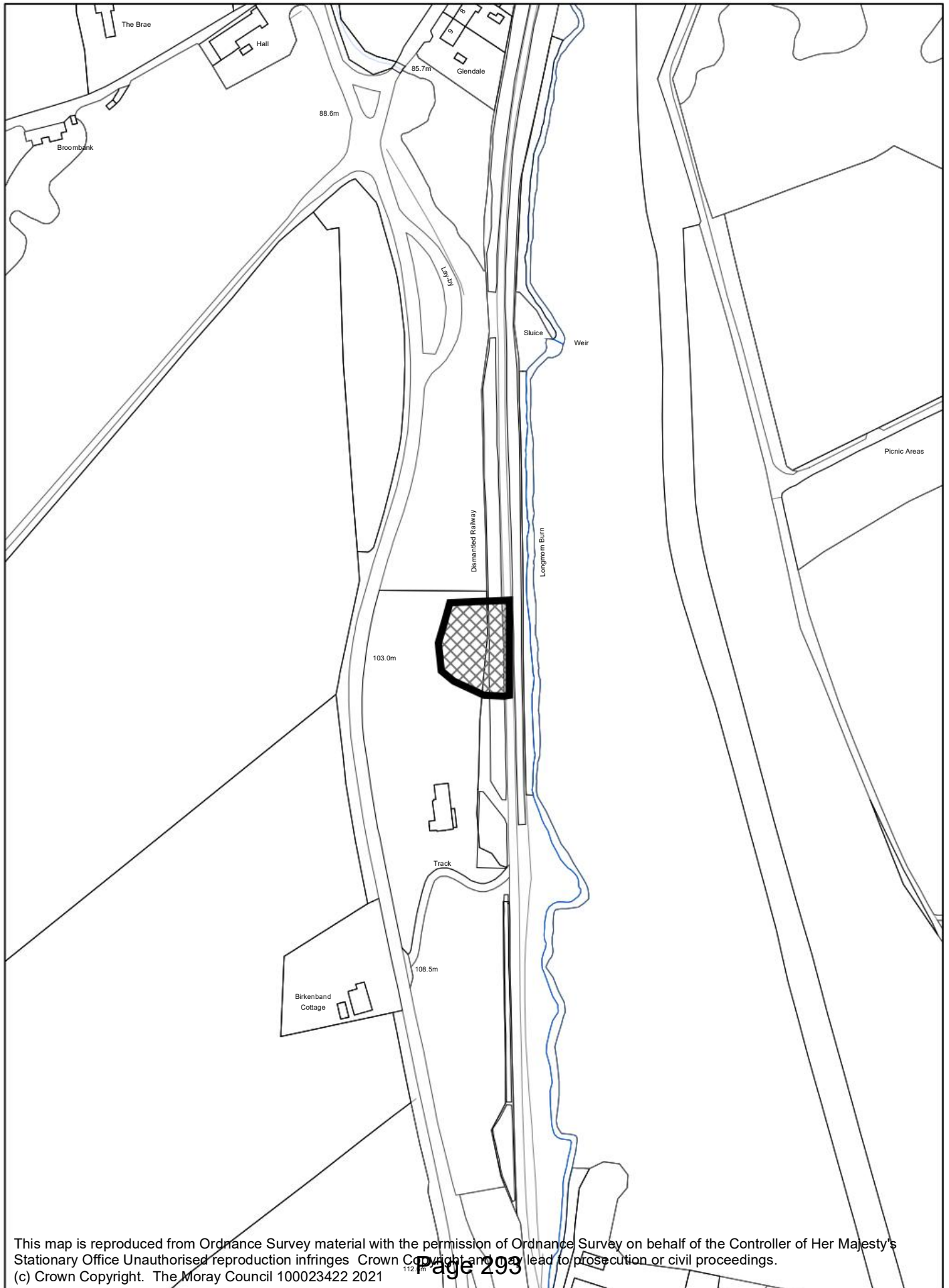
No Further Representations were received in response to the Notice of Review.







# Location plan for Planning Application Reference Number : 20/00878/PPP









## **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 100281601-001

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

## Type of Application

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

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

## Description of Proposal

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

Renew planning consent on Site 284M South Of Fogwatt Hall, Elgin

Is this a temporary permission? \*

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*

☐ Yes ☒ No

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

☒ No ☐ Yes – Started ☐ Yes - Completed

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Grant and Geoghegan Ltd.		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	Unit 4 Westerton Road Business
Last Name: *	Grant	Building Number:	
Telephone Number: *	07769744332	Address 1 (Street): *	4 Westerton Road South
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	KEITH
Fax Number:		Country: *	United Kingdom
		Postcode: *	AB55 5FH
Email Address: *	neil@ggmail.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	per grant and geoghegan
First Name: *	W	Building Number:	
Last Name: *	Miller	Address 1 (Street): *	Unit 4 Westerton Road Business
Company/Organisation		Address 2:	4 Westerton Road South
Telephone Number: *		Town/City: *	KEITH
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	AB55 5FH
Fax Number:			
Email Address: *	neil@ggmail.co.uk		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Site 284M south Of Fogwatt Hall, Elgin

Northing

856497

Easting

323625

## Pre-Application Discussion

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

☐ Yes ☒ No

## Site Area

Please state the site area:

1482.00

Please state the measurement type used:

☐ Hectares (ha) ☒ Square Metres (sq.m)

## Existing Use

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

Undeveloped land

## Access and Parking

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

☒ Yes ☐ No

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

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2> <p>Will your proposal require new or altered water supply or drainage arrangements? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p>
<p>Are you proposing to connect to the public drainage network (eg. to an existing sewer)? *</p> <p><input type="checkbox"/> Yes – connecting to public drainage network</p> <p><input checked="" type="checkbox"/> No – proposing to make private drainage arrangements</p> <p><input type="checkbox"/> Not Applicable – only arrangements for water supply required</p>
<p>As you have indicated that you are proposing to make private drainage arrangements, please provide further details.</p> <p>What private arrangements are you proposing? *</p> <p><input checked="" type="checkbox"/> New/Altered septic tank.</p> <p><input type="checkbox"/> Treatment/Additional treatment (relates to package sewage treatment plants, or passive sewage treatment such as a reed bed).</p> <p><input type="checkbox"/> Other private drainage arrangement (such as chemical toilets or composting toilets).</p>
<p>What private arrangements are you proposing for the New/Altered septic tank? *</p> <p><input checked="" type="checkbox"/> Discharge to land via soakaway.</p> <p><input type="checkbox"/> Discharge to watercourse(s) (including partial soakaway).</p> <p><input type="checkbox"/> Discharge to coastal waters.</p>
<p>Please explain your private drainage arrangements briefly here and show more details on your plans and supporting information: *</p> <div style="border: 1px solid black; height: 80px; margin-top: 5px; padding: 5px;"> <p>New septic tank to soakaway</p> </div>
<p>Do your proposals make provision for sustainable drainage of surface water?? * <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>(e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>
<p>Are you proposing to connect to the public water supply network? *</p> <p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>



## Assessment of Flood Risk

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

☐ Yes ☒ No ☐ Don't Know

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

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

☐ Yes ☒ No ☐ Don't Know

## Trees

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

☒ Yes ☐ No

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

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

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

☐ Yes ☒ No

## Schedule 3 Development

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

☐ Yes ☒ No ☐ Don't Know

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

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

## Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

## Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

## Certificate Required

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

Certificate A

# Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Neil Grant

On behalf of: Mr W Miller

Date: 15/07/2020

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

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

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

Provide copies of the following documents if applicable:

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

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

Site Investigation & Drainage Assessment

## Declare – For Application to Planning Authority

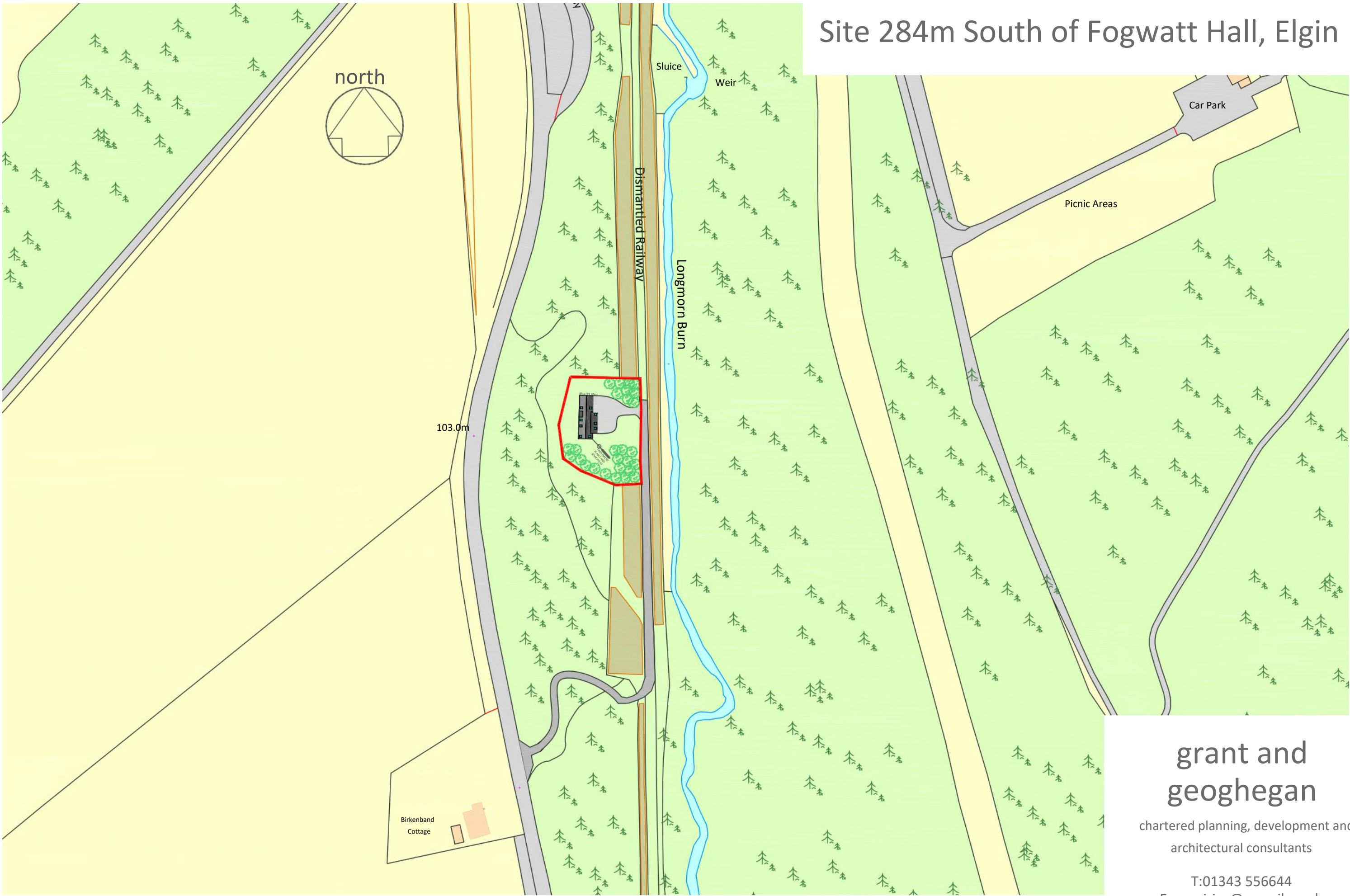
I, the applicant/agent certify that this is an application to the planning authority as described in this form. The accompanying Plans/drawings and additional information are provided as a part of this application.

Declaration Name: Mr Neil Grant

Declaration Date: 15/07/2020



# Site 284m South of Fogwatt Hall, Elgin



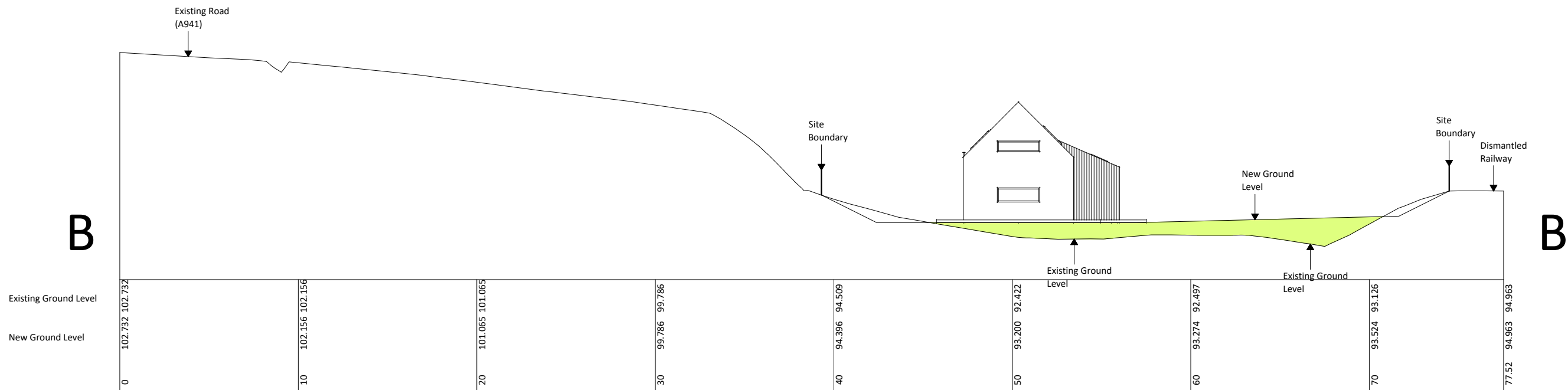
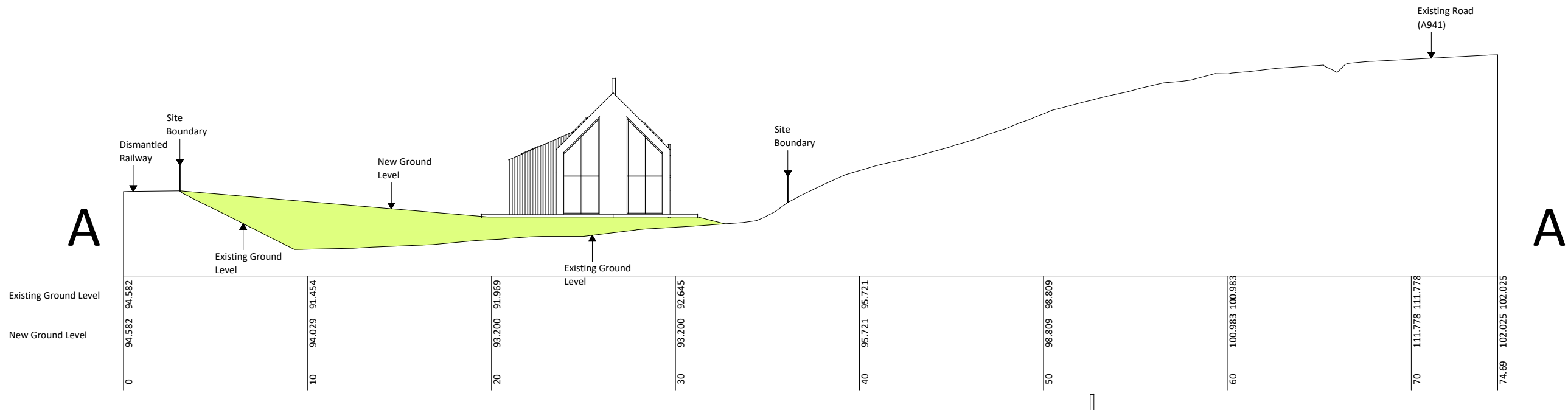
grant and  
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E:enquiries@ggmail.co.uk



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E:enquiries@ggmail.co.uk





# Site 284m South of Fogwatt Hall, Elgin



A

A

B

B

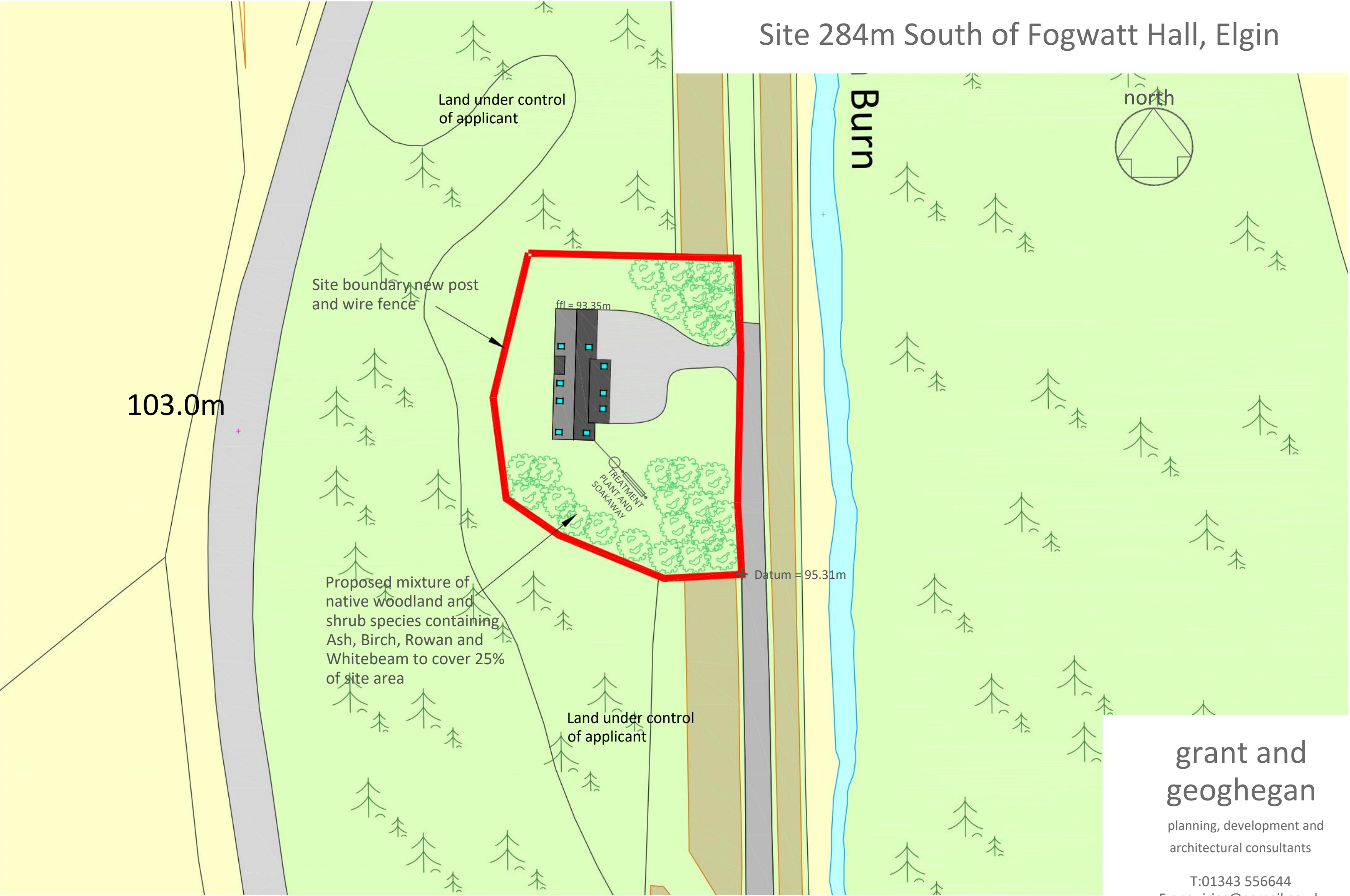
grant and  
geoghegan

chartered planning, development and  
architectural consultants

T:01343 556644  
E:enquiries@ggmail.co.uk



Site 284m South of Fogwatt Hall, Elgin



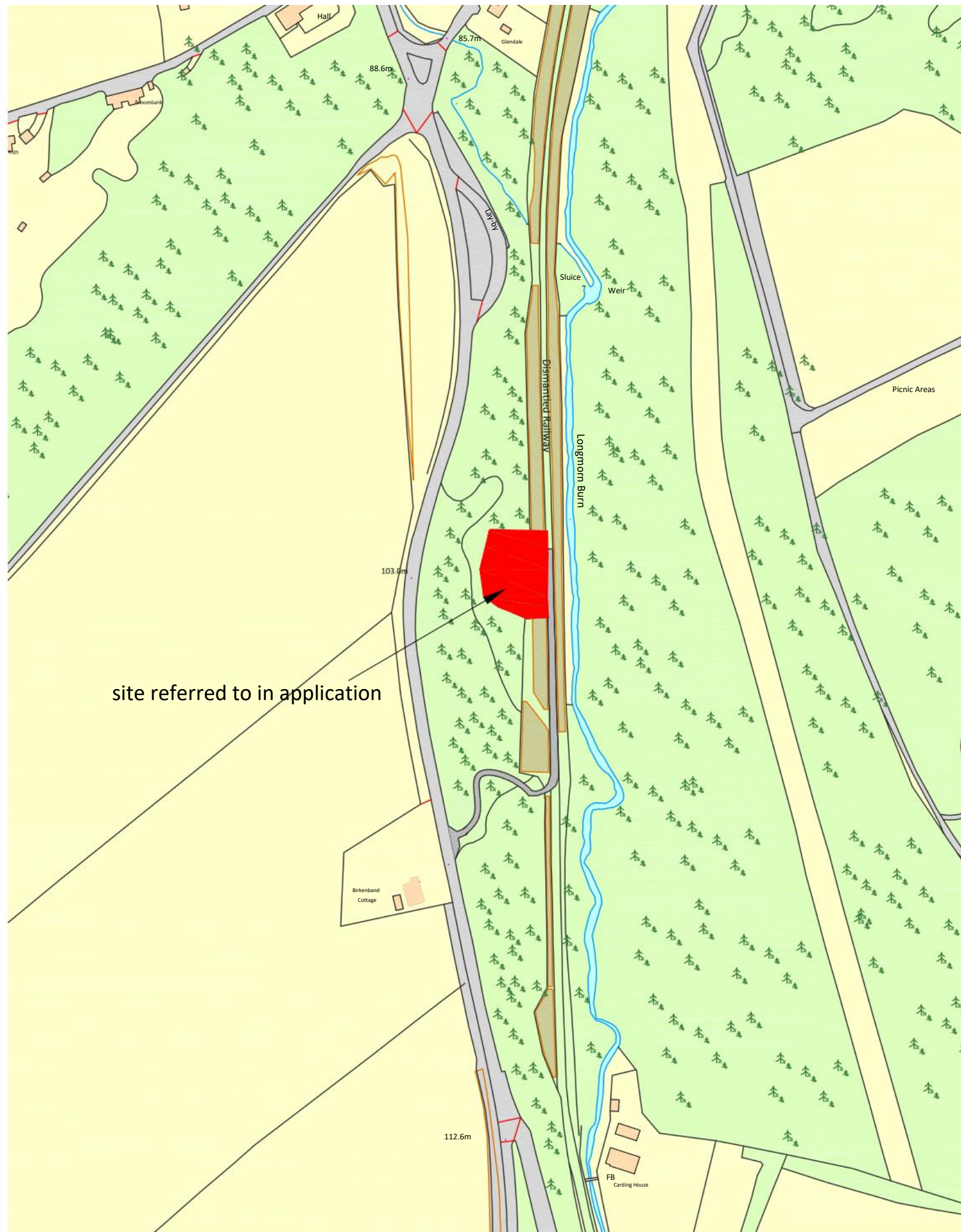
grant and  
geoghegan

planning, development and  
architectural consultants

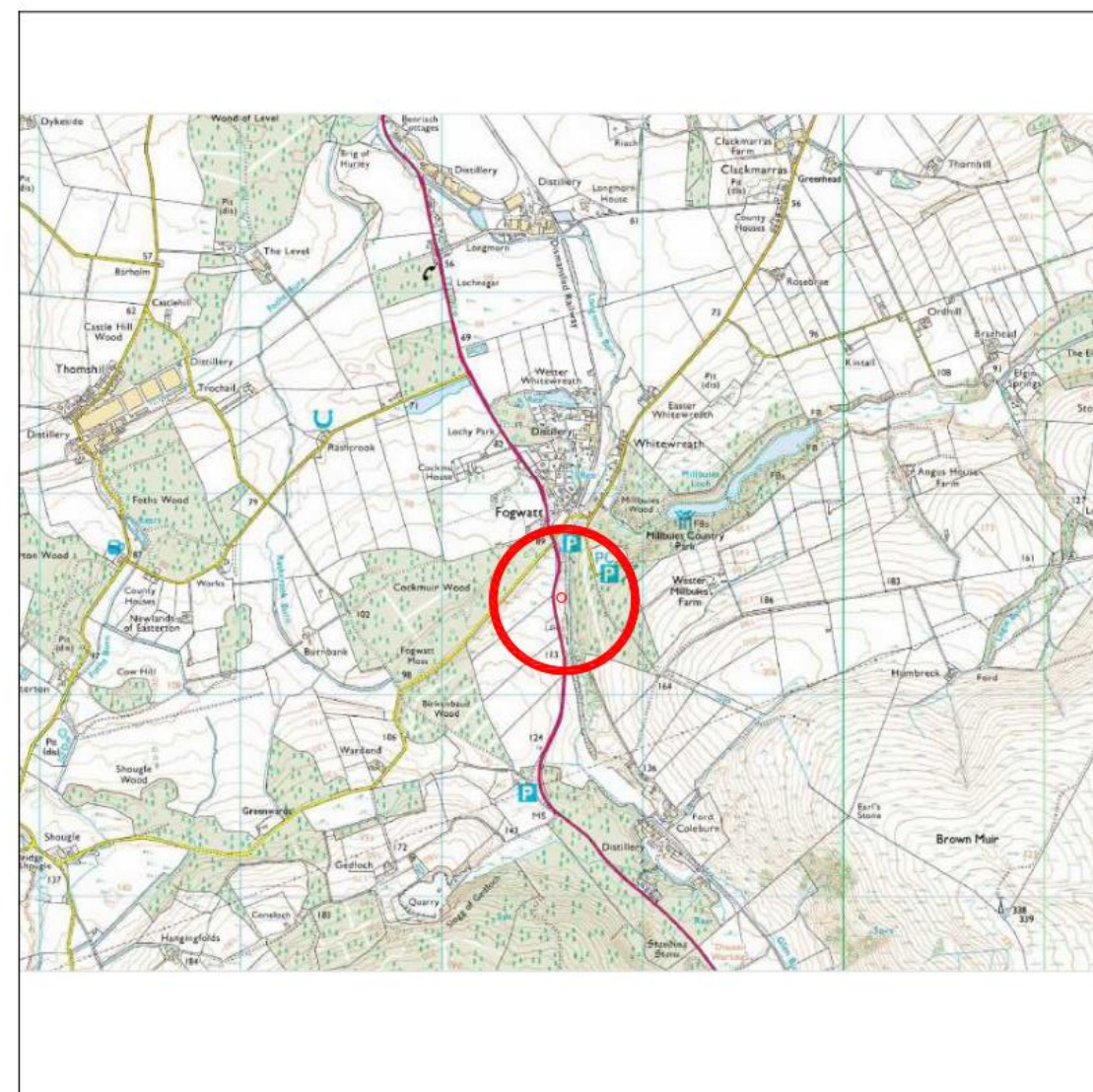
T:01343 556644  
E:enquiries@ggmail.co.uk







# Site 284m South of Fogwatt Hall, Elgin



os map

grant and  
geoghegan

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architectural consultants

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Gary Mackintosh  
Email: [gmsurveys@gmail.com](mailto:gmsurveys@gmail.com)  
Tel: 07557431702

# gmsurveys

Surveys, Setting-Out Civil Engineering Design

## Site Investigation & Drainage Assessment

SITE TO SOUTH OF FOGWATT HALL, BY ELGIN

Gary Mackintosh Bsc  
[gmsurveys@gmail.com](mailto:gmsurveys@gmail.com)



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***Client:***

Billy Miller Contractor and Plant Hire Ltd

***Site Address:***

Site Approx 284m South of Fogwatt Hall

Fogwatt

By Elgin

***Planning Reference:***

TBC

***Date:***

23<sup>rd</sup> March 2020

***Job Number:***

0649

***Company Information:***

Assessment completed by:

Gary Mackintosh Bsc

**GMCSurveys**

34 Castle Street

Forres

Moray

IV36 1PW

Email: gmcsurveys@gmail.com

Telephone: 07557431702

***Site Description:***

The site is located adjacent to the former rail line, approximately 284m to the south of Fogwatt Hall, Fogwatt, by Elgin. The proposals are to erect a new private dwelling and associated infrastructure.

The SEPA Flood maps have been consulted which indicate that the site lies out with any areas of fluvial flooding during a 1:200year event. The plans do however indicate significant surface water flooding within the site boundary. The area of the site is generally flat with the levels rising sharply to the west towards the A941 and the former rail line embankment forming the east boundary. In order to gain access to the site the levels would require raising to meet the level of the embankment to the east which will alleviate some of the potential water being trapped within the site. There is still the potential for surface waters to enter the site from the sharp slope to the west therefore mitigation measures will be required to ensure that the property and surrounding area is not adversely impacted during a 1:200year event.

GMC Surveys have been asked to carry out a site investigation in order to provide a drainage solution for the proposed development.

***Soil Conditions:***

Excavations were carried out using a mechanical digger on 24<sup>th</sup> February 2020 in order to assess the existing ground conditions and carry out infiltration and percolation testing for the dispersal of foul and surface waters via soakaways.

The trial pits were excavated to a depth of 1.8m. The pits were left open and no ground water was encountered. The excavations provided existing ground conditions of:

100 - 200mm Topsoil with many rootlets overlying light brown medium dense sandy rounded gravels with occasional cobbles proved to the depth of the excavations.

There was no evidence of fill material, contamination or water table present within the test holes.

### ***Percolation/Soakaway Testing:***

Percolation testing was carried out in full accordance with BS6297: 2007 + A1: 2008 and as described in Section 3.9 of the Scottish Building Standards Technical Handbook (Domestic) and the results can be found in the table below.

	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	Mean
<b>Date of Test</b>	<b>24/02/2020</b>	<b>24/02/2002</b>	<b>24/02/2020</b>	
TPo1	2280s	3060s	4320s	3220s
TPo2	2520s	3180s	4140s	3280s
<b>Average Soil Vp</b>	<b>21.67s/mm</b>			

### ***Infiltration testing:***

Infiltration testing was carried out in full accordance with BRE digest 365. The results can be found in the table below.

<b>Infiltration Test</b>	<b>Pit Dimensions (w/l)</b>	<b>Test Zone (mbgl)</b>	<b>Infiltration Rate (m/s)</b>
INF01	0.8m x 1.0m	1.0 – 1.8	$4.14 \times 10^{-5}$

### ***Conclusion and Recommendations:***

Based on the onsite investigations it can be confirmed that the underlying soils are suitable for the use of standard stonefilled soakaways as a drainage solution for both foul and surface waters.

The Vp rate is above the maximum threshold of 15s/mm therefore a ‘standard’ septic tank will be required to accommodate the foul water flows.

### ***Foul Water Discharge via Soakaway:***

The current proposals within the current application are for an indicative house design only therefore for the purposes of this report, a four bed property has been assumed. The minimum base area for the soakaway can therefore be shown as:

$$A = V_p \times PE \times 0.25 \text{ Therefore}$$

$$A = 21.67 \times 6 \times 0.25 = 32.51\text{m}$$

This area can be provided with soakaway plan dimensions of 6.6m x 5.0m at a depth of 0.45m below invert level, alternative dimensions may be used ensuring that the minimum base area of 32.51m<sup>2</sup> is maintained.

### ***Surface Water Dispersal via Soakaway:***

Please see attached surface water calculations detailing the requirement and suitability for soakaway dimensions of 5.0m x 2.0m at a depth of 1.5m below the invert level based on the proposed contributing area of 180m<sup>2</sup> (roof area from plans) up to a 1 in 30year event with 35% allowance for climate change.

Soakaway Details can be found in Appendix B.

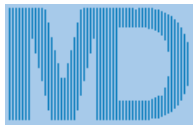
In addition to the roof area and as noted within the introduction, surface water mitigation is recommended to prevent runoff entering the site from the slope to the west.

Please see calculations below detailing the suitability of a swale with infiltration beneath with dimensions of 45m in length x 1.5m width and 1.6m depth. The swale details can be found in Appendix B.

The Foul Water and Surface Water soakaway sizes together with the swale will require to be reviewed and confirmed on completion of the final house design to ensure all required features can be accommodated.

SEPA and Building Regulations require that infiltration systems (soakaways) are located at least:

- 50m from any spring, well or borehole used as drinking water supply
- 10m horizontally from any water course and any inland and coastal waters, permeable drain (including culvert), road or railway
- 5m from a building or boundary



MasterDrain  
SW 16.52

**gmcsurveys**  
Surveys, Setting Out Civil Engineering Design

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Mobile: 07557 431 702

Job No. <b>0649</b>		
Sheet no. <b>1</b>		
Date <b>23/03/20</b>		
By <b>GM</b>	Checked	Approved

Project **Site to South of Fogwatt Hall, Fogwatt**  
Title **Surface Water Soakaway**

**Rectangular pit design data:-**

Pit length	=	5.5 m	Pit width	=	2 m
Depth below invert	=	1.5 m	Percentage voids	=	30.0%
Imperm. area	=	180 m <sup>2</sup>	Infilt. factor	=	0.000041 m/s
Return period	=	30 yrs	Climate change	=	35%

**Calculations :-**

Surface area of soakaway to 50% storage depth (not inc. base):-

$$a_{s50} = 2 \times (\text{length} + \text{width}) \times \text{depth}/2 = 11.2 \text{ m}^2$$

Outflow factor :  $O = a_{s50} \times \text{Infiltration rate} = 0.0004612 \text{ m/s}$

Soakaway storage volume :  $S_{\text{actual}} = \text{length} \times \text{width} \times \text{depth} \times \% \text{voids}/100 = 4.9 \text{ m}^3$

Duration	Rainfall mm/hr	Inflow m <sup>3</sup>	Depth (hmax) m	Outflow m <sup>3</sup>	Storage m <sup>3</sup>
5 mins	106.0	1.6	0.44	0.14	1.45
10 mins	82.1	2.5	0.66	0.28	2.18
15 mins	68.5	3.1	0.81	0.42	2.67
30 mins	48.2	4.3	1.06	0.83	3.51
1 hrs	32.3	5.8	1.26	1.66	4.16
2 hrs	21.1	7.6	1.29	3.32	4.26
4 hrs	13.5	9.7	0.94	6.64	3.10
6 hrs	10.4	11.2	0.38	9.96	1.27
10 hrs	7.5	13.4	0.00	16.60	0.00
24 hrs	4.2	18.1	0.00	39.85	0.00

Actual volume :  $S_{\text{actual}} = 4.950 \text{ m}^3$

Required volume :  $S_{\text{reqd.}} = 4.260 \text{ m}^3$

**Soakaway volume storage OK.**

Minimum required  $a_{s50}$  :  $9.68 \text{ m}^2$

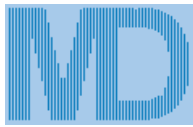
Actual  $a_{s50}$  :  $11.25 \text{ m}^2$

Minimum depth required:  $1.29 \text{ m}$

Time to maximum  $2 \text{ hrs}$

Emptying time to 50% volume =  $t_{s50} = S_{\text{reqd}} \times 0.5 / (a_{s50} \times \text{Infiltration rate}) = 01:16 \text{ (hr:min)}$

**Soakaway emptying time is OK.**



MasterDrain  
SW 16.52

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email: gmcsurveys@gmail.com  
Mobile: 07557 431 702

Job No. <b>0649</b>		
Sheet no. <b>2</b>		
Date <b>23/03/20</b>		
By <b>GM</b>	Checked	Approved

Project **Site to South of Fogwatt Hall, Fogwatt**  
Title **Surface Water Soakaway**

**Location hydrological data (FSR):-**

Location	=	FOGWATT	Grid reference	=	NJ2357
M5-60 (mm)	=	15.8	r	=	0.24
Soil index	=	0.15	SAAR (mm/yr)	=	870
WRAP	=	1	Area	=	Scotland and N. Ireland

Soil classification for WRAP type 1

- i) Well drained permeable sandy or loam soils and shallower analogues over highly permeable limestone, chalk, sandstone or related drifts;
- ii) Earthy peat soils drained by dykes and pumps;
- iii) Less permeable loamy over clayey soils on plateaux adjacent to very permeable soils in valleys.

N.B. The rainfall rates are calculated using the location specific values above in accordance with the Wallingford procedure.



MasterDrain  
SW 16.52

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Job No.	<b>0649</b>		
Sheet no.	<b>1</b>		
Date	<b>23/03/20</b>		
By	<b>GM</b>	Checked	Approved

Project **Site 284m Sout of Fogwatt Hall**  
Title **Proposed Swale Dimensions**

#### Data:-

##### Location hydrological data (FSR):-

Location	= FOGWATT	Grid reference	= NJ2357
M5-60 (mm)	= 15.8	r	= 0.24
Soil index	= 0.15	SAAR (mm/yr)	= 870
WRAP	= 1	Area	= Scotland and N. Ireland

Soil classification for WRAP type 1

- i) Well drained permeable sandy or loam soils and shallower analogues over highly permeable limestone, chalk, sandstone or related drifts;
- ii) Earthy peat soils drained by dykes and pumps;
- iii) Less permeable loamy over clayey soils on plateaux adjacent to very permeable soils in valleys.

#### Design data:-

Safety factor = 1.5 - No damage or inconvenience (SF=1.5)  
Fill porosity = 0.45 - Clean stone (porosity = 0.4 - 0.5)

Equivalent porosity (n1) = 0.45

Area drained = 1216 m<sup>2</sup>

Infiltration coefficient = 0.149 m/hr  
Effective inf.coeff (q) = 0.0993333

Return period = 200 yrs

Climate change factor = 35%

#### Calculations :-

Perimeter of pit = (2 x Excavation Width)+(2 x Excavation Length)  
Area of base = Excavation Width x Excavation Length  
Infiltration area = (Area of base)+(Perimeter of pit x Hmax)  
Temporary constant 'a'  
= (Area of base / perimeter)-((AreaDrained x Rainfall depth /1000)/(Perimeter/Inf. coeff))  
Temporary constant 'b' = (Perimeter/Inf. coeff) / (Area of base x porosity)  
Hmax = a\*((EXP(-1 x b x Duration of storm))-1)

Note: The Hmax calculation is iterated to a maximum value of Hmax.

Note: Duration of storm in hours, Rainfall depth in mm/hr x Climate Change factor.

#### Results :-

Emptying time to 50% volume = 1:22 (hr:min)

**hMax (Depth) = 1.56 metres**

Time to maximum = 0:02 hr:min

Rainfall at maximum = 34.94mm/hr

Width (m) = 1.5

Length (m) = 45.0

Total Infiltration area = 212.9m<sup>2</sup> (base area + sidewall area).

Total available volume = 47.51m<sup>3</sup>

N.B. The rainfall rates are calculated using the location specific values above in accordance with the Wallingford procedure.  
Formulae and methods from CIRIA 156.



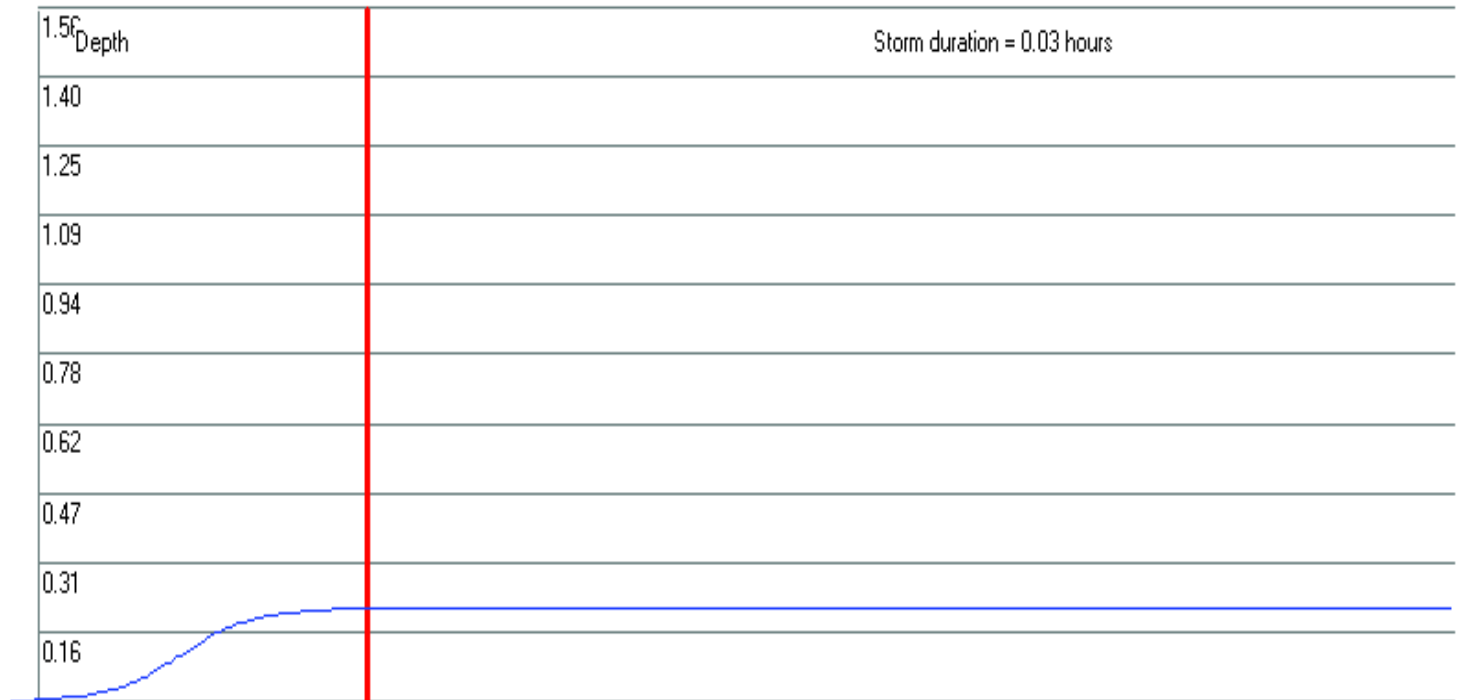
MasterDrain  
SW 16.52

**gmcsurveys**  
Surveys, Setting Out Civil Engineering Design

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Forres IV36 1FN  
email: gmcsurveys@gmail.com  
Mobile: 07557 431 702

Job No.	0649	
Sheet no.	2	
Date	23/03/20	
By	GM	Checked
		Approved

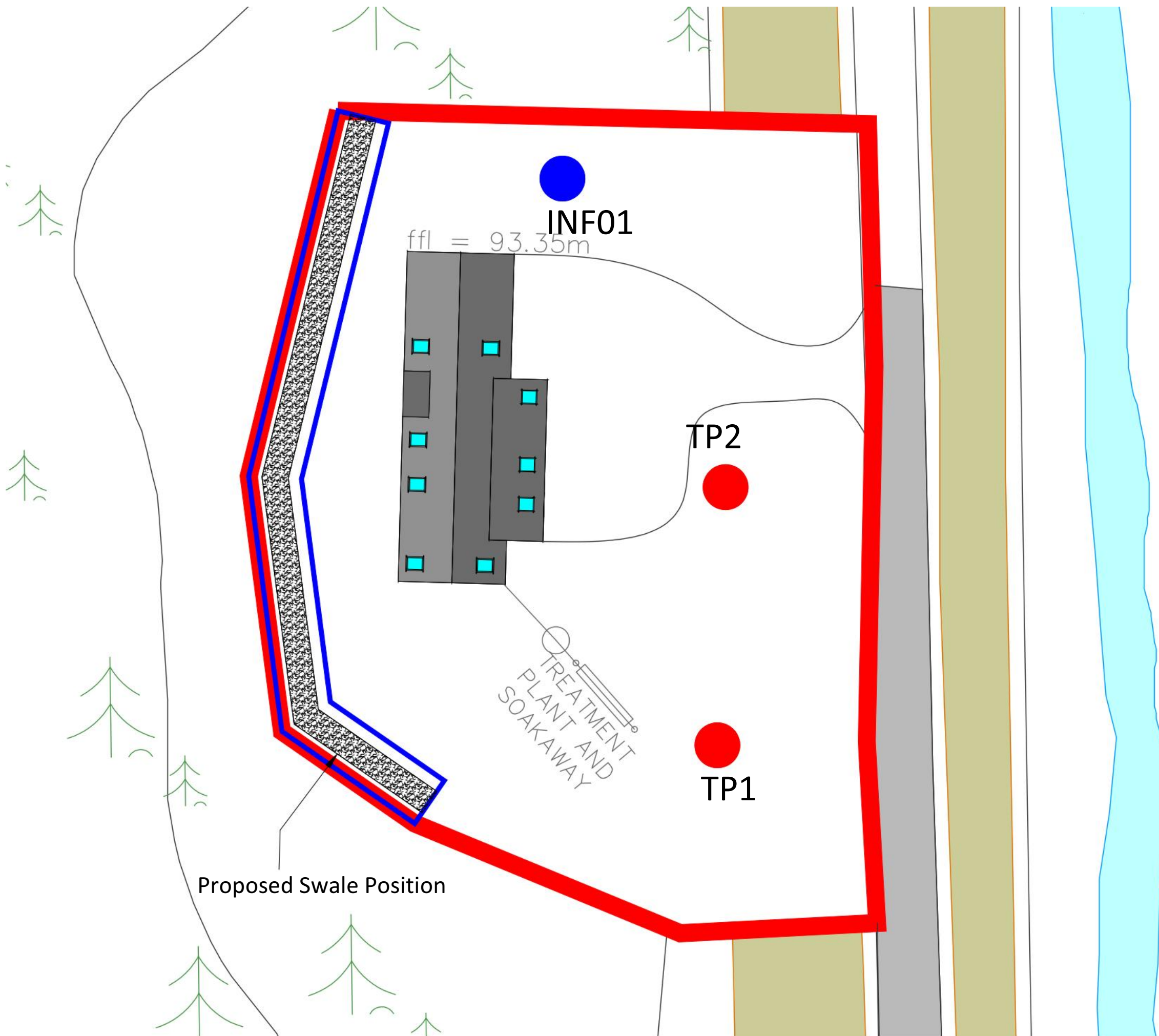
Project Site 284m Sout of Fogwatt Hall  
Title Worst case soakaway times to empty.





## **APPENDIX A**

### Test Hole Location



REV:	DESCRIPTION:	BY:	DATE:
STATUS: ISSUE			

**gmcsurveys**  
Surveys, Setting Out, Civil Engineering Design  
T: 07557 431 702  
E: gmcsurveys@gmail.com

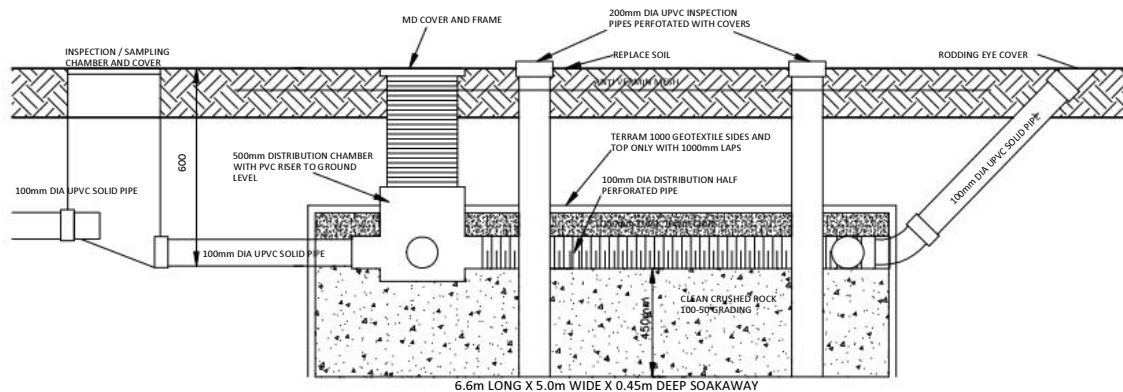
CLIENT:  
Billy Miller  
Contractor and Plant Hire Ltd

SITE:  
Site 284m South of Fogwatt Hall  
Fogwatt, By Elgin  
TITLE:  
Test Hole Location/  
Site Plan

SCALE AT A4:	DATE:	DRAWN:	CHECKED:
NTS	MAR20	GM	
PROJECT NO:	DRAWING NO:	REVISION:	
0649	Appendix A	-	

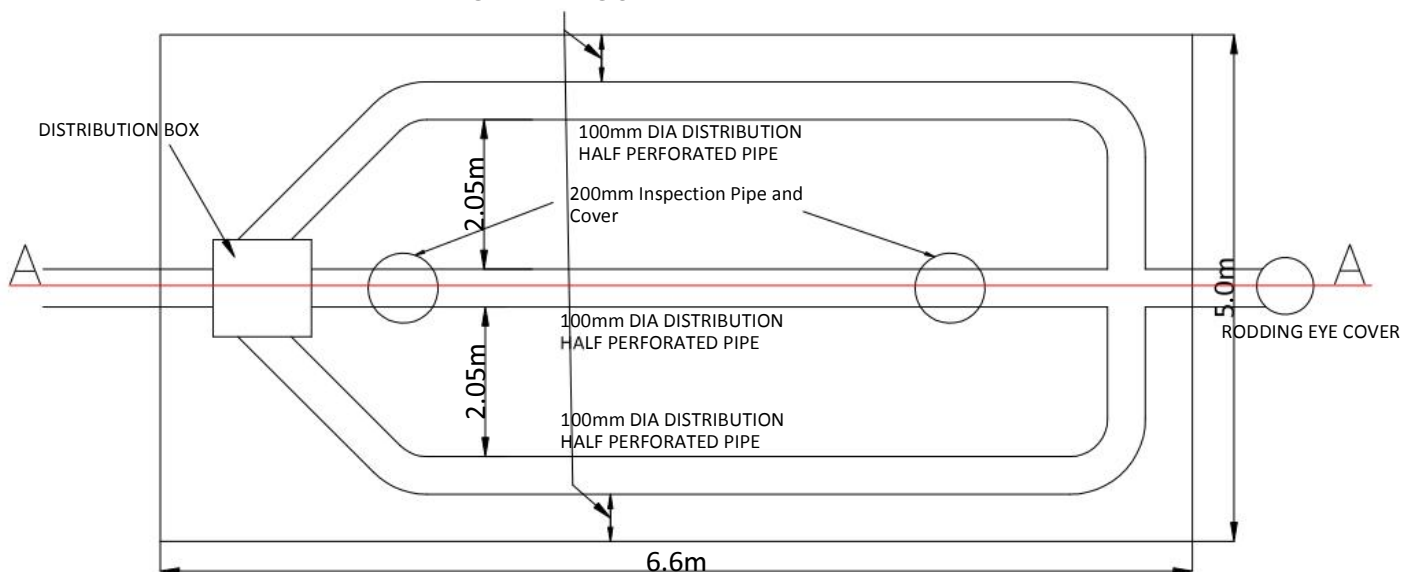
## **APPENDIX B**

### **Soakaway/Swale Details and Certificates**

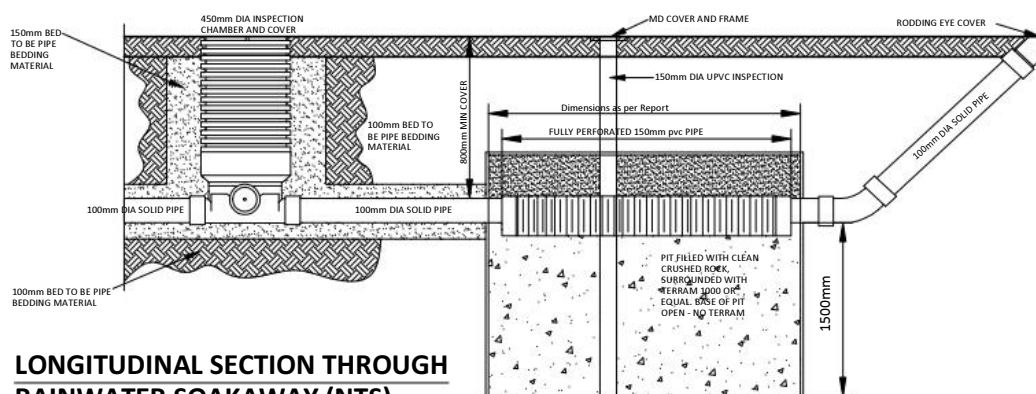


**SECTION A - A THROUGH  
FOUL WATER SOAKAWAY (NTS)**

300mm FROM EDGE OF SOAKAWAY  
TO PIPE AROUND PERIMETER



**PLAN VIEW  
SOAKAWAY ARRANGEMENTS (NTS)**



**LONGITUDINAL SECTION THROUGH  
RAINWATER SOAKAWAY (NTS)**

REV:	DESCRIPTION:	BY:	DATE:
STATUS: <b>ISSUE</b>			

**gmcsurveys**

Surveys, Setting Out, Civil Engineering Design

T: 07557 431 702

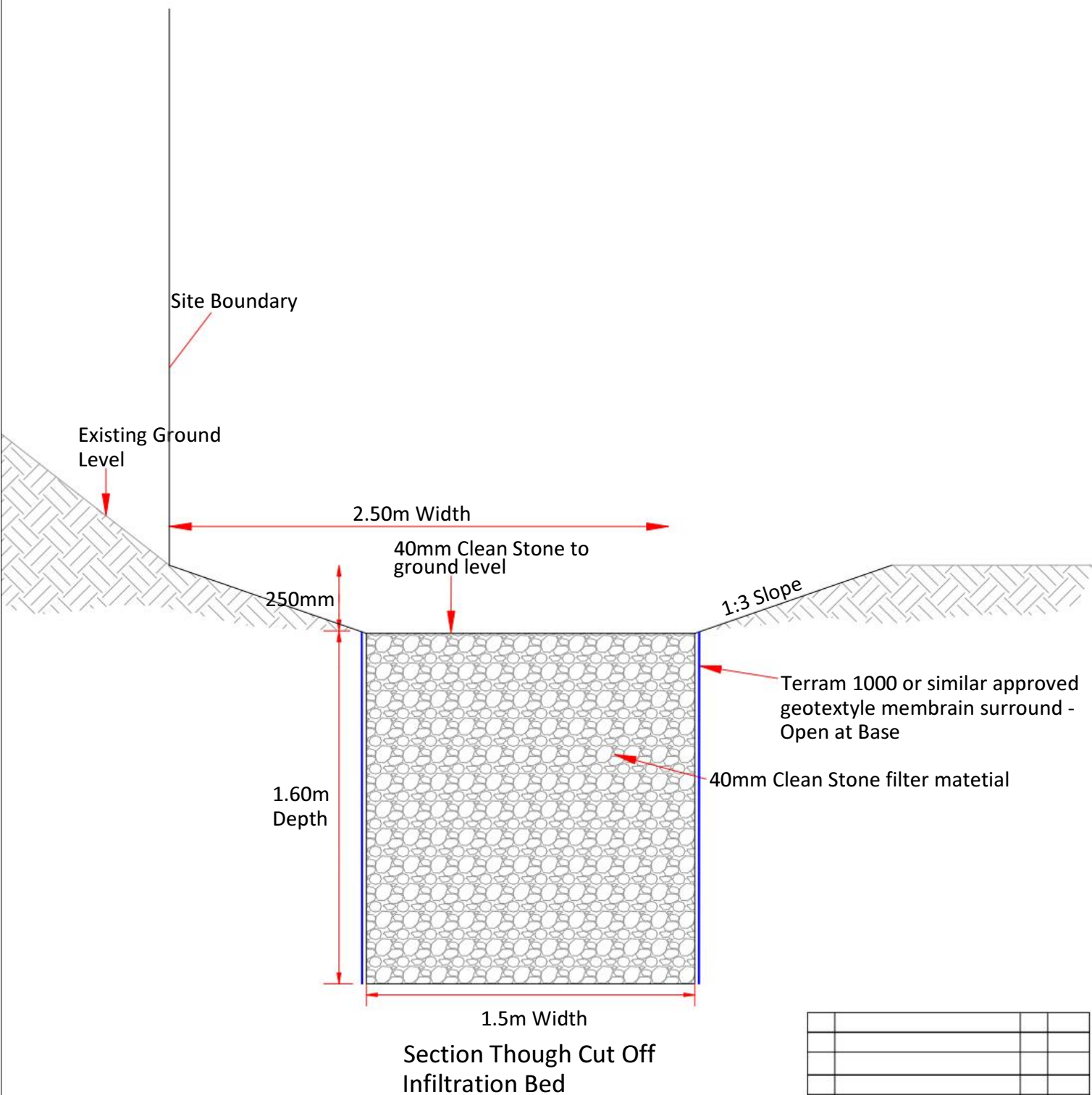
E: gmcsurveys@gmail.com

CLIENT: **Billy Miller  
Contractor and Plant Hire Ltd**

SITE: **Site 284m South of Fogwatt Hall  
Fogwatt, By Elgin**

TITLE: **Soakaway Details**

SCALE AT A4: NTS	DATE: MAR20	DRAWN: GM	CHECKED:
PROJECT NO: 0649	DRAWING NO: Appendix B1	REVISION:	-



REV:	DESCRIPTION:	BY:	DATE:
STATUS: ISSUE			

**gmcsurveys**

Surveys, Setting Out, Civil Engineering Design

T: 07557 431 702

E: gmcsurveys@gmail.com

CLIENT:

Billy Miller

Contractor and Plant Hire Ltd

SITE:

Site 284m South of Fogwatt Hall  
Fogwatt, By Elgin

TITLE:

Swale Details

SCALE AT A4:	DATE:	DRAWN:	CHECKED:
NTS	MAR20	GM	
PROJECT NO:	DRAWING NO:	REVISION:	
0649	Appendix B2	-	

**Certificate For Proposed Sub – Surface Soakaways**  
**Foul Water**

Applicants Name: Billy Miller Contractor and Plant Hire Ltd  
Address: 1 Chanonry St, Elgin, IV30 6NF  
Site Address: Site 284m South of Fogwatt Hall, Fogwatt  
Date of Tests: 24<sup>th</sup> February 2020  
Weather Conditions: Dry/Clear

**Percolation Test/Soakaway Sizing:**

	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	Mean
Date of Test	24/02/2020	24/02/2020	24/02/2020	
TP01	2280s	3060s	4320s	3220s
TP02	2520s	3180s	4140s	3280s
Average Soil Vp	21.67s/mm			

Location: TP1  
Average Soil Vp: 21.67s/mm  
PE: 6  
Base Area (min): 32.51m<sup>2</sup>

I hereby certify that I have carried out the above tests in full accordance with BS6297: 2007 + A1: 2008 and as described in Section 3.9 of the Scottish Building Standards Technical Handbook (Domestic)

Signed: G Mackintosh      Gary Mackintosh BSc.      Date: 23<sup>rd</sup> March 2020

Company: GMC Surveys, 34 Castle Street, Forres, Morayshire. IV36 1PW

**gmcsurveys**  
34 castle Street  
Forres  
Moray  
IV36 1PW  
T: 07557 431 702  
E: gmcsurveys@gmail.com

**Certificate For Proposed Sub – Surface Soakaways**  
**Surface Water**

Applicants Name: Billy Miller Contractor and Plant Hire  
Address: 1 Chanonry St, Elgin, IV30 6NF  
Site Address: Site 284m South of Fogwatt Hall, Fogwatt  
Date of Tests: 24<sup>th</sup> February 2020  
Weather Conditions: Dry

**Trial Pit Test – Surface Water:**

Depth of Excavation: 1.8  
Water Table Present: No

**Infiltration Test:**

Location: INF01  
Infiltration Test Zone: 1.0 – 1.8mbgl  
Infiltration Rate (m/s):  $4.14 \times 10^{-5}$   
Contributing Area: 180m<sup>2</sup>  
Soakaway Size: 5.5m x 2.0m x 1.5 below the invert of the pipe (30year)

I hereby certify that I have carried out the above tests in accordance with the procedures specified in BRE Digest 365:1991.

Signed: G Mackintosh      Gary Mackintosh BSc.      Date: 23<sup>rd</sup> March 2020

Company: GMC Surveys, 34 Castle Street, Forres, Morayshire. IV36 1PW

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Moray  
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MANAGER DEVELOPMENT 08/08/2020  
MANAGEMENT & BUILDING STANDARDS

Dear Friends

PLANNING APPLICATIONS

20/00823/APP + 20/00879/APP + 20/00878/  
APP + 20/00876 + 20/00894 + 20/00797/  
APP + 20/00480/APP + 20/00890/LBC +  
20/00746/APP

PLEASE ENSURE THAT ALL WILDLIFE  
FROM FAUNA ON EACH SITE IS  
COMPREHENSIVE PROTECTION 20/00823/APP  
A STANDING IS THE KIND OF  
STRUCTURE WHICH MIGHT WELL  
HAVE RESIDENT BATS AND NESTING  
BIRDS NO DEMOLITION TO TAKE  
PLACE UNTIL ABSOLUTELY CERTAIN  
THAT NO SPECIES IS PUT AT RISK!

MANY SPECIES OF MAMMAL THROUGH-  
OUT THE UK ARE IN DANGER OF  
EXTINCTION SOME WILL BE NATIVE  
TO MANY (INCLUDING MOORS) EVEN  
RUSSIAN MEASURES REQUIRED TO PROTECT  
THEM!

PARA II OF YOUR LETTER OF  
ACKNOWLEDGEMENT THIS ACTION  
WHICH YOU MAY CHOOSE TO

THUS AN ADMIRABLE AND WELCOME  
BUT SHOULD <sup>BE</sup> MANDATORY AND  
THIS WILL BE MISSING BY NO  
WITH SCOTTISH GOVERNMENT  
EVERY APPLICATION SUBMITTED  
SHOULD HAVE SOME FORM OF  
ECOLOGICAL IMPACT SURVEY  
WITH IT

Yrs fraternally

NB HOPE ALL CONCERNS HAVE  
STAYED SAFE & WELL HOPE TO  
MEET NEXT YEAR

**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Moray Flood Risk Management

**Planning Application Ref. No:** 20/00878/PPP

**Erect dwellinghouse on Site 284M South of Fogwat Hall Adjacent to Dismantled Railway  
Longmorn Moray for Mr W Miller**

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

- |   | <b>Please</b>                        |
|---|--------------------------------------|
| (a) I OBJECT to the application for the reason(s) as stated below   | <b>x</b><br><input 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 checked="" 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"/>             |

<b>Contact:</b>	Javier Cruz	<b>Date.....</b> 24/07/2020
<b>email address:</b>	Javier.Cruz@Moray.gov.uk	<b>Phone No .....</b>
<b>Consultee:</b>	The Moray Council, Flood Risk Management	



**From:** DeveloperObligations  
**Sent:** 28 Jul 2020 09:25:03 +0100  
**To:** DC-General Enquiries  
**Cc:** Fiona Olsen  
**Subject:** 20/00878/PPP Erect dwelling house on Site 284M South Of Fogwat Hall  
Adjacent To Dismantled Railway Longmorn Moray  
**Attachments:** 20-00878-PPP Erect dwelling house on Site 284M South of Fogwat Hall Adjacent  
to Dismantled Railway Longmorn Moray.pdf

Hi

Please find attached the developer obligations assessment that has been undertaken for the above planning application. A copy of the report has been sent to the applicant.

Regards,

**Beatrice Roka** | Senior Infrastructure Growth/Obligations Officer (Strategic Planning and Development) |  
Economic Growth and Development

[Beatrice.Roka@moray.gov.uk](mailto:Beatrice.Roka@moray.gov.uk) | [website](#) | [facebook](#) | [moray council planning facebook](#) | [twitter](#) |  
[newsdesk](#)

01343 563265







# Developer Obligations & Affordable Housing: ASSESSMENT REPORT



**moray**  
council

**Date:** 28/07/2020

**Reference:** 20/00878/PPP

**Description:** Erect dwelling house on Site 284M South of Fogwat Hall Adjacent to Dismantled Railway, Longmorn Moray

**Applicant:** Mr W Miller

**Agent:** Grant And Geoghegan Limited

This assessment has been carried out by Moray Council. For developer obligations, the assessment is carried out in relation to policy PP3 Infrastructure and Services of the adopted Moray Local Development Plan 2020 (MLDP2020) and Supplementary Guidance (SG) on Developer Obligations which was adopted on 1 March 2018. And, for affordable housing, the assessment is carried out in relation to policy DP2 Housing of the MLDP2020. Affordable housing is a policy requirement not a developer obligation however for ease of reference the Affordable Housing contribution is included within this assessment.

The MLDP2020 can be found at [www.moray.gov.uk/MLDP2020](http://www.moray.gov.uk/MLDP2020) and the Developer Obligations SG can be found at <http://www.moray.gov.uk/downloads/file118481.pdf>.

## Summary of Obligations

Primary Education ( <i>Contribution towards Linkwood Primary School</i> )	
Secondary Education	Nil
Transport	Nil
Healthcare ( <i>Contribution towards 5 Additional Dental Chairs and Pharmacy</i> )	
Sports and Recreation	Nil
<b>Total Developer Obligations</b>	
Affordable Housing	
<b>TOTAL</b>	

## Breakdown of Calculation

For developer obligations, proposals are assessed on the basis of Standard Residential Unit Equivalents (SRUE) which is a 3-bedroomed residential unit. This application is considered to comprise of the following:

3 bed = 1 SRUE

This assessment is therefore based on 1 SRUE.



**Moray Council DEVELOPER OBLIGATIONS**



## Developer Obligations Discount for Small Scale Development

A discount of 80% will be applied to the contribution for single unit developments to reflect their small scale nature.

## INFRASTRUCTURE

### Education

#### Primary Education

This development will generate 0.3 primary school pupils (1 SRUE x 0.3 primary pupil per SRUE). Pupils generated by this development are zoned to the new Linkwood Primary School (450 capacity).

Therefore:

[REDACTED]

A contribution towards the land value for the serviced school site is also sought for the proportion of pupils attributable to this application. Based on a land value of

[REDACTED] serviced site, the value proportioned to this development is:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Contribution towards Primary Education =**

[REDACTED]

#### Secondary Education

Pupils generated by this development are zoned to Elgin High School. The school is

currently operating at 80% capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary.

**Contribution towards Secondary Education = Nil**

### Transport

The Moray Council Transportation Services has confirmed that no developer obligations will be sought for this proposal.

**Contributions towards Transport = Nil**

### Healthcare

Healthcare Facilities include General Medical Services (GMS), community pharmacies and dental practices. Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities. The recommended number of patients is 1500 per General Practitioner (GP) and floorspace requirement per GP is 271m<sup>2</sup>.

Healthcare infrastructure requirements have been calculated with NHS Grampian on the basis of national standards and specifications for healthcare facilities and estimating the likely number of new patients generated by the development (based on the average household size of 2.17 persons -Census 2011).

Linkwood Medical is the nearest GP Practice within which healthcare facilities can be accessed by the proposed development. NHS Grampian has confirmed that Linkwood Medical is currently operating at capacity. An additional Health Centre, 5 Additional Dental Chairs and an additional Pharmacy will be required to accommodate the increase in population that is a direct result of





development in Elgin and surrounding area. In the interim, Linkwood Medical has been reconfigured to form additional consulting space and the additional patients arising from this development can be accommodated on this basis.

Contributions will be sought towards the additional dental chairs and pharmacy.

Contributions are calculated on a proportional contribution of £[REDACTED] per SRUE for the dental chairs and £[REDACTED] per SRUE for the pharmacy.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Contribution towards Healthcare= £[REDACTED]**

### Sports and Recreational Facilities

#### *Sports and Recreation Facilities*

Existing sports provision within Elgin is considered to be adequate to serve the needs of the residents anticipated to be generated by this development. Therefore, in this instance, no contribution will be required.

**Contribution for Sports and Recreation Facilities = Nil**

---

## **AFFORDABLE HOUSING**

The average market value of a serviced plot for 1 Affordable Unit is £[REDACTED] Contributions

are based on 25% of the total number of units proposed in the application:

[REDACTED]

Therefore, the total contribution towards affordable housing is:

[REDACTED]

Affordable housing is a policy requirement not a developer obligation and will not be subject to negotiation.





## TERMS OF ASSESSMENT

This assessment report is valid for a period of 6 months from the date of issue.

Please note that any subsequent planning applications for this site may require a re-assessment to be undertaken on the basis of the policies and rates pertaining at that time.

## PAYMENT OF CONTRIBUTIONS

Remittance of financial obligations can be undertaken either through the provision of an upfront payment or by entering into a Section 75 agreement. The provision of an upfront payment will allow a planning consent to be issued promptly. However, where the amount of developer contributions are such that an upfront payment may be considered prohibitive a Section 75 will likely be required. The payment of contributions may be tied into the completion of houses through a Section 75 Agreement or equivalent, to facilitate the delivery of development. Please note that Applicants are liable for both the legal costs of their own Legal Agent fees and Council's legal fees and outlays in the preparation of the document. These costs should be taken into account when considering the options.

## INDEXATION

Developer obligations towards Moray Council infrastructure are index linked to the General Building Cost Price Index (BCPI) as published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors (RICS) from Q3, 2017 and obligations towards NHS Grampian infrastructure are index linked to All in Tender

Price Index (TPI) as published by the Royal Institute of Chartered Surveyors (RICS) from Q2, 2017.



# **Consultee Comments for Planning Application 20/00878/PPP**

## **Application Summary**

Application Number: 20/00878/PPP

Address: Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray

Proposal: Erect dwellinghouse on

Case Officer: Fiona Olsen

## **Consultee Details**

Name: Mr CL Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

## **Comments**

Approved Unconditionally - Adrian Muscutt



# Consultation Request Notification – Development Plans

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	4th August 2020
<b>Planning Authority Reference</b>	20/00878/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133065751
<b>Proposal Location Easting</b>	323615
<b>Proposal Location Northing</b>	856517
<b>Area of application site (M<sup>2</sup>)</b>	1482
<b>Additional Comments</b>	Concern with regard to build up. Site is just outwith designated Pressurised and Sensitive Area under MLDP 2020. Previously withdrawn and previously consulted Dev Plans on earlier app.
<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=QDJSPDBGFM800">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=QDJSPDBGFM800</a>
<b>Previous Application</b>	20/00413/PPP 12/00244/PPP
<b>Date of Consultation</b>	21st July 2020
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr W Miller
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Per Agent
<b>Agent Name</b>	Grant And Geoghegan Limited
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	Unit 4 Westerton Road Business Centre 4 Westerton Road South Keith AB55 5FH
<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:**

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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:-

**PLEASE COMPLETE AND RETURN WITHIN 48 HOURS**  
to [consultation.planning@moray.gov.uk](mailto:consultation.planning@moray.gov.uk)

## **MORAY COUNCIL PLANNING CONSULTATION RESPONSE**

**From: Development Plans**

**Planning Application Ref. No: 20/00878/PPP**

**Erect dwellinghouse on Site 284M South Of Fogwat Hall Adjacent To Dismantled  
Railway Longmorn Moray for Mr W Miller**

**Ward: 04\_17 Fochabers Lhanbryde**

### **DETERMINATION - DEPARTURE FROM DEVELOPMENT PLAN**

*(For Structure/Local Plan Comment)*

		<b>Page No</b>	<b>Policy No(s)</b>	<b>Yes</b>	<b>No</b>
<b>1</b>	<b>Departure from Moray Local Development Plan 2020</b>		DP4 Rural Housing	X	
<b>2</b>	<b>Further Discussion Required</b>				

**REASONING FOR THIS DECISION:**

## POLICY COMMENTS

The proposal is for an individual house in the countryside. This response focuses on DP4 – Rural Housing and specifically an assessment of whether the proposal constitutes unacceptable cumulative build up.

### Planning History

There is a previous planning consent for a house on this site (12/00244/PPP) which has now lapsed. It should be noted that this proposal was determined under the terms of the Moray Local Plan 2008 and the housing in the countryside policy has changed since this proposal was assessed. Planning application (20/00414/PPP) for a single house was submitted under the previous Moray Local Development Plan 2015 and subsequently withdrawn.

The Moray Local Development Plan (LDP) 2020 was formally adopted on 27 July 2020 and the proposal is therefore assessed against the relevant policies within the LDP.

### DP4 Rural Housing and Cumulative Build-Up Guidance Note.

DP4 states a new house must not contribute to unacceptable cumulative build up.

The site is immediately outwith a Pressurised and Sensitive Area, however this does not preclude consideration of cumulative build up. The Cumulative Build Up Guidance Note within the LDP 2020 sets out cumulative build up indicators to identify build up and assist in assessing when it is becoming unacceptable and these indicators are applicable across the whole of Moray.

Immediately adjacent to the site to the south there is a newly constructed house (16/00615/APP) and planning consent for a further house north of the site (12/01280/AMC) and another planning application (20/00879/PPP) further to the south which is currently pending consideration. It is considered that the level of development in the immediate vicinity of this site means the number of new houses would overwhelm the presence of older buildings, such that the new houses are the predominant component of the landscape. An additional house in this location therefore contributes to unacceptable build-up of development and would have a detrimental impact on the rural character of the area

**Contact: Emma Gordon**  
**email address: [emma.gordon@moray.gov.uk](mailto:emma.gordon@moray.gov.uk)**  
**Consultee: Development Plans**

**Date 30 July 2020**  
**Phone No 01343 563292.**

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



**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Environmental protection manager

**Planning Application Ref. No: 20/00878/PPP**

**Erect dwellinghouse on Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray for Mr W Miller**

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

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

**Reason(s) for objection**

**Condition(s)**

**Further comment(s) to be passed to applicant**

**Further information required to consider the application**

**Contact:** Ian M Douglas on behalf of Grant Speed

email address:ian.douglas@moray.gov.uk

Date27/07/19.....

.....

Phone

No

7049.....



Wednesday, 22 July 2020



Local Planner  
Development Services  
Moray Council  
Elgin  
IV30 1BX

Development Operations  
The Bridge  
Buchanan Gate Business Park  
Cumbernauld Road  
Stepps  
Glasgow  
G33 6FB

Development Operations  
Freephone Number - 0800 3890379  
E-Mail - [DevelopmentOperations@scottishwater.co.uk](mailto:DevelopmentOperations@scottishwater.co.uk)  
[www.scottishwater.co.uk](http://www.scottishwater.co.uk)

Dear Sir/Madam

**SITE: Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn, ,  
Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn, IV30 8FW  
PLANNING REF: 20/00878/PPP  
OUR REF: DSCAS-0018521-FVM  
PROPOSAL: Erect dwellinghouse on**

**Please quote our reference in all future correspondence**

---

## **Audit of Proposal**

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

## **Water Capacity Assessment**

Scottish Water has carried out a Capacity review and we can confirm the following:

- ▶ There is currently sufficient capacity in the GLENLATTERACH Water Treatment Works to service your development. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

## **Waste Water Capacity Assessment**

- ▶ Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

## Please Note

- ▶ The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.
- 

## Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

## General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - ▶ Site Investigation Services (UK) Ltd
  - ▶ Tel: 0333 123 1223
  - ▶ Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)
  - ▶ [www.sisplan.co.uk](http://www.sisplan.co.uk)
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
  - ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
- 

## **Next Steps:**

### **▶ All Proposed Developments**

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

### **▶ Non Domestic/Commercial Property:**

Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at [www.scotlandontap.gov.uk](http://www.scotlandontap.gov.uk)

### **▶ Trade Effluent Discharge from Non Dom Property:**

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and laundrettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email [TEQ@scottishwater.co.uk](mailto:TEQ@scottishwater.co.uk) using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices

to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk).

Yours sincerely,

**Planning Application Team**

Development Operations Analyst

[developmentoperations@scottishwater.co.uk](mailto:developmentoperations@scottishwater.co.uk)

**Scottish Water Disclaimer:**

*"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*

## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	4th August 2020
<b>Planning Authority Reference</b>	20/00878/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133065751
<b>Proposal Location Easting</b>	323615
<b>Proposal Location Northing</b>	856517
<b>Area of application site (M<sup>2</sup>)</b>	1482
<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=QDJSPDBGFM800">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=QDJSPDBGFM800</a>
<b>Previous Application</b>	20/00413/PPP 12/00244/PPP
<b>Date of Consultation</b>	21st July 2020
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr W Miller
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Per Agent
<b>Agent Name</b>	Grant And Geoghegan Limited
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	Unit 4 Westerton Road Business Centre 4 Westerton Road South Keith AB55 5FH
<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:**

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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:** 20/00878/PPP

**Erect dwellinghouse on Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway  
Longmorn Moray for Mr W Miller**

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 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 checked="" type="checkbox"/> |
| (d) | Further information is required in order to consider the application as set out below                                 | <input type="checkbox"/>            |

*Note: This proposal is for the erection of a new dwelling to be served via an existing access which is to serve a number of plots. One of the plots has already been occupied, and the access has been partly surfaced and a Lay-by constructed. The visibility splay to the north passes directly over the front garden of the recently developed plot, but earthworks have been completed and the visibility splay provided. However the required forward visibility splay does not appear to have been provided. The required visibility splays also have not been submitted for this proposal, and on that basis the following conditions would apply. The applicant should note that visibility splay drawings were previously accepted for an earlier associated planning application served via this access (12/01280/AMC).*

#### **Condition(s)**

1. No development shall commence until a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land ) showing the visibility splay 4.5 metres by 215 metres with all boundaries set back to a position behind the required visibility splays and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

**Reason:** To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development

and other road users through the provision of details currently lacking.

2. No development shall commence until a detailed drawing (scale 1:200 or 1:500 which shall also include details to demonstrate control of the land ) showing the works required to provide a forward visibility splay from the south of 215 metres and a schedule of maintenance for the splay area has been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority; and thereafter the forward visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and thereafter the forward visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable acceptable vehicular access to the development in the interests of road safety through the provision of details currently lacking.

3. No development shall commence until a detailed drawing (scale 1:200) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority showing the provision of 2 car parking spaces for a dwelling with three bedrooms or less, or 3 spaces for a dwelling with four bedrooms or more; and identifying the location where a future Electric Vehicle (EV) fast charging unit is to be connected to an appropriate electricity supply (minimum output 7kw and with a minimum of one parking space accessible to and located within 5 metres of the future charger unit); including details (written proposals and/or plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future fast charging unit. Thereafter the car parking spaces and EV fast charger cabling and ducting shall be provided in accordance with the approved drawing prior to the first occupation of the dwelling house and thereafter be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety and the provision of infrastructure to support the use of low carbon transport.

4. Prior to the occupation of the dwelling house the vehicular access shall be constructed to the Moray Council specification and surfaced with bituminous macadam for a minimum of the first 10m of the access track, measured from the edge of the public carriageway. The width of the access shall be 5.5m for the first 15 metres measured from the edge of the public road and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway.

Reason: To ensure acceptable infrastructure at the development access.

5. No water shall be permitted to drain or loose material be carried onto the public carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the access

6. A turning area shall be provided within the curtilage of the site to enable vehicles to enter and exit in a forward gear.



Reason: To ensure the provision for vehicles to enter/exit in a forward gear in the interests of the safety and free flow of traffic on the public road

**Further comment(s) to be passed to applicant**

The formation of the required visibility splay will involve the removal of gorse and vegetation and the lowering of the bank/verge on the opposite side of the carriageway.

Planning consent does not carry with it the right to carry out works within the public road boundary.

Before starting any work on the existing public road (including works to lower the verge/bank) the applicant is obliged to apply for a road opening permit in accordance with Section 56 of the Roads (Scotland) Act 1984. This includes any temporary access joining with the public road. Advice on these matters can be obtained by emailing [roadspermits@moray.gov.uk](mailto:roadspermits@moray.gov.uk)

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

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

Date 24 July 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.



# **Consultee Comments for Planning Application 20/00878/PPP**

## **Application Summary**

Application Number: 20/00878/PPP

Address: Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray

Proposal: Erect dwellinghouse on

Case Officer: Fiona Olsen

## **Consultee Details**

Name: Mr EH Consultations

Address: Environmental Health, Council Offices, High Street Elgin, Moray IV30 1BX

Email: ehplanning.consultations@moray.gov.uk

On Behalf Of: Environmental Health C12

## **Comments**

Approved Unconditionally - Andy Stewart



## REPORT OF HANDLING

<b>Ref No:</b>	20/00878/PPP	<b>Officer:</b>	Fiona Olsen
<b>Proposal Description/ Address</b>	Erect dwellinghouse on Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray		
<b>Date:</b>	07/10/20	<b>Typist Initials:</b>	FJA

### 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>
Environmental Health Manager	21/07/20	No Objections
Contaminated Land	29/07/20	No Objections
Transportation Manager	24/07/20	No Objections subject to conditions and informatives
Scottish Water	22/07/20	No Objections
Planning And Development Obligations	28/07/20	Contributions Sought
Moray Access Manager	27/07/20	No Objections
Environmental Protection Manager	27/07/20	No Objections
Moray Flood Risk Management	28/07/20	Drainage Assessment required.
Strategic Planning And Development	30/07/20	Objection – The proposed dwellinghouse would contribute to an unacceptable build-up of housing in the immediate vicinity of this site and overwhelm the presence of older buildings and allow new housing to become the predominant component of the landscape in this area.

### DEVELOPMENT PLAN POLICY

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP1 Placemaking	N	Complies
PP2 Sustainable Economic Growth	N	Complies
PP3 Infrastructure and Services	N	Complies
DP1 Development Principles		See below

DP4 Rural Housing		See below
EP7 Forestry Woodland and Trees	N	Complies
EP12 Management and Enhancement Water	N	Complies
EP13 Foul Drainage	N	Complies
EP14 Pollution Contamination Hazards	N	Complies

## REPRESENTATIONS

Representations Received	YES	
Total number of representations received ONE		
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> Wildlife flora and fauna to be completely protected <b>Comments (PO):</b> This is an application for planning permission in principle on a site which is an existing scrubland/woodland. All trees are to be retained on site.		
<b>Issue:</b> Steadings may have resident bats and birds <b>Comments:</b> This site does not have any existing buildings/structures on it. All on the site are to be retained.		
<b>Issue:</b> Species of mammal are in danger of extinction and should be protected <b>Comments:</b> The proposal is not anticipated to impact upon any protected species		
<b>Issue:</b> Every application should have an ecological impact survey supplied <b>Comments:</b> Where a European Protected Species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan is required to accompany the planning application. In this case as no building is to be demolished or any trees to be removed, a survey has not been 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 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below

### Proposal

The application seeks planning permission in principal to erect a new dwellinghouse and associated services.

### Site

The site is an existing parcel of overgrown land (with trees present) adjacent to Birkenband Cottage Birnie, Moray. It measures approx. 1959sqm.

To the immediate north of the site lies a newly constructed dwellinghouse (16/00615/APP refers) Further to the north lies an extant planning permission for a new house (12/01280/AMC refers). That permission has been implemented and will not lapse but the house has not been built to date. Finally, another application for a new dwellinghouse is currently under consideration which also lies to the north (20/00878/PPP refers)

To the west of the site lies a 'Pressurised and Sensitive' area as identified within the MLDP 2020.

### **Planning History**

There was a previous planning consent for a house on this site (11/01549/PPP). No application to deal with matters specified in condition was lodged and this permission lapsed in November 2014. A planning application (20/00414/PPP) for a single house was submitted under the previous Moray Local Development Plan 2015 and subsequently withdrawn.

### **Policy Assessment (MLDP 2020)**

#### **Siting (DP1, DP4)**

Policy DP4 refers to new housing in the open countryside and outlines that a spatial strategy has been developed to direct new housing to the least sensitive locations by identifying pressurised and sensitive areas and areas of intermediate pressure. The proposed site is immediately beyond the boundary of an identified 'Pressurised and Sensitive Area' and therefore is assessed under the siting criteria for 'Areas of Intermediate Pressure'.

This criteria requires that there must be existing landform, mature trees, established woodland or buildings of a sufficient scale to provide acceptable enclosure, containment and backdrop for the proposed new house (not including drain, ditches, fencing and road/tracks). The proposed site sits below the level of the public road to the west and therefore is shielded from view and also afforded a sufficient hillside backdrop. There are also a significant number of trees on either side of the site which provide acceptable containment to meet the first siting criteria of policy DP4.

DP4 also requires that a new house must not create ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of an area due to its prominent or roadside location. As outlined, there is a neighbouring newly constructed house to the north of the site (16/00615/APP refers) and further to the north lies an extant consent for a dwellinghouse (12/01380/AMC refers). When taken together with these neighbouring plots, it is considered that the proposed dwellinghouse would contribute to an unacceptable build-up of housing in the immediate vicinity of this site. If approved, it would overwhelm the presence of older buildings and allow new housing to become the predominant component of the landscape, which would irreversibly alter the established rural character of the area.

Although the site is beyond the boundary of the identified 'Pressurised and Sensitive Area', this does not preclude consideration of cumulative build up. The Cumulative Build Up Guidance Note within the MLDP 2020 sets out cumulative build up indicators to identify build up and assist in assessing when it is becoming unacceptable and these indicators are applicable across the whole of Moray. In particular here, the addition of a new house on this site would also result in ribbon development which would join up other existing developments (to the north of the site) which would be contrary to the traditional dispersed settlement pattern.

Although there was previously planning permission in principle for a house on this site (11/01549/PPP refers), this permission was never commenced and has since lapsed. It is also noted that the original application in 2011 was considered at the same time as the neighbouring plot to the north (the newly constructed dwellinghouse - 16/00615/APP). However, the 2011 application was considered against the 2008 Moray Local Plan which contained no specific exclusions on the build-up of new housing in the countryside. This application has been assessed against the Moray Local Development Plan 2020 (MLDP 2020) which specifically excludes development which would create ribbon development or contribute to a build-up of new housing. As a result, the proposal for a new house on this site, although contained sufficiently by existing landform and trees, would create ribbon development and contribute to an unacceptable build up in this area which would irreversibly alter the rural character of the area. As a result the proposal is contrary to policies DP1 and DP4 and therefore the application is recommended for refusal.



### **Design and Materials (DP1, DP4)**

This is an application for Planning Permission in Principle only and therefore should the application be approved, the design and materials of the proposed house would be matters specified in conditions, to be assessed as part of a further application. These conditions would need to ensure that the design requirements of policies DP1 and DP4 were met.

### **Amenity, Landscaping and Trees (DP1, DP4)**

Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. Policy DP4 requires that 15% of new house plot must be landscaped with native tree species to assist the development to integrate sensitively.

If the application were to be approved, boundary treatments and landscaping would be matters controlled by condition.

Existing trees lie on the site. The agent has confirmed that no trees are to be removed from the site as part of the development. Should the application be approved, this matter would also be controlled by condition.

### **Core Paths (PP3)**

A disused railway line lies immediately to the east of the site and has been identified as an Aspirational Core Path. The Moray Access Manager was consulted on this application and has raised no objections. Comments were provided under a previously withdrawn application for this site (20/00413/PPP) which recommended that a condition be added to any final consent that the route should remain free of any obstruction in order to allow for potential future development of a cycle route. Therefore should the application be approved, this matter would require to be controlled by condition in line with policy PP3.

### **Access & Parking (DP1)**

Moray Council Transportation Section have been consulted and have raised no objections subject to a series of conditions and informatives to be added to any final consent and therefore proposal would be considered acceptable in terms of the access and parking requirements of policy DP1.

### **Drainage & Water Supply (DP1, EP12, EP13)**

Details of a foul water treatment and soakaway are shown on the submitted plans. A Site Investigation and Drainage Assessment have been submitted which describe the proposed drainage arrangements and testing undertaken to ensure the site can be adequately drained. Moray Flood Risk Management have been consulted on the application and have raised no objections, however further details would require to be provided upon receipt of a full planning application.

It is proposed to connect the dwellinghouse to the public water supply. Scottish Water have been consulted and have raised no objections.

Therefore the proposal would meet the drainage and water supply requirements of policy DP1, EP12 and EP13.

Should the application be approved the agreed drainage design would also require to be a matter controlled by condition.

### **Developer Obligations and Affordable Housing (PP3, DP2)**

A Developer Obligation towards healthcare and primary education and is sought as part of the application. An affordable housing contribution is also sought. The applicant has confirmed willingness to pay both of these, should the application be approved.

**Recommendation**

The proposal for a house in this location would create ribbon development and contribute to an unacceptable build of housing which would irreversibly alter the rural character of the area and as result is contrary to policies DP1 and DP4 and refusal is recommended.

**OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

N/A

**HISTORY**

Reference No.	Description			
20/00413/PPP	Erect dwellinghouse on Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray			
	Decision	Withdrawn	Date Of Decision	01/06/20
12/00244/PPP	New house on Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Elgin Moray			
	Decision	Permitted	Date Of Decision	12/04/12

**ADVERT**

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises	20/08/20	
PINS	No Premises	20/08/20	

**DEVELOPER CONTRIBUTIONS (PGU)**

Status	N/A
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**DOCUMENTS, ASSESSMENTS etc. \***

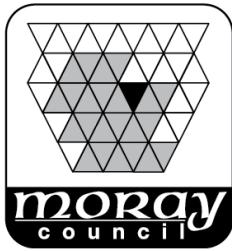
*\* Includes Environmental Statement, Appropriate Assessment, Design Statement, Design and Access Statement, RIA, TA, NIA, FRA etc*

Supporting information submitted with application?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Site Investigation and Drainage Assessment	
Main Issues:	Outlines testing undertaken to confirm ground suitability for both foul and surface water soakaways.	

**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:		

<b>DIRECTION(S) MADE BY SCOTTISH MINISTERS</b> (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**

**[Fochabers Lhanbryde]  
Planning Permission in Principle**

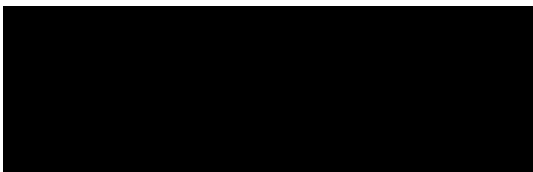
TO Mr W Miller  
c/o Grant And Geoghegan Limited  
Unit 4  
Westerton Road Business Centre  
4 Westerton Road South  
Keith  
AB55 5FH

With reference to your application for planning permission in principle 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 dwellinghouse on Site 284M South Of Fogwat Hall Adjacent To Dismantled Railway Longmorn Moray**

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

Date of Notice: **7 October 2020**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

Economy, Environment and Finance  
Moray Council  
PO Box 6760  
ELGIN  
Moray IV30 1BX

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

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

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

The proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:-

The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.

The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.

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

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

Reference	Version	Title
012/0101/02		Block plan
012/0101/05		Sections A and B
012/0101/04		Sections plan
012/0101/01		Site plan
012/0101/03		Location plan

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

N/A

**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.scot/eplanningClient](http://www.eplanning.scot/eplanningClient)

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**



# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN  
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.**  
**Failure to supply all the relevant information could invalidate your notice of review.**

**Use BLOCK CAPITALS if completing in manuscript**

**Applicant(s) Name:**

Mr W Miller

Address: Chanonry  
Industrial Estate,  
Elgin

Postcode

Contact Telephone

1 Contact

Telephone 2 Fax

No E-mail\*

**Agent (if any)**

Name: Grant & Geoghegan

Address: Unit 4 Westerton Road Business Centre,  
4 Westerton Road South, Keith

Postcode: AB55 5FH

Contact Telephone 1: 01343 556644

Contact Telephone 2:

Fax No

E-mail: neil@ggmail.co.uk

Mark this box to confirm all contact should be  
through this representative: X

Yes No  
X ☐

\* Do you agree to correspondence regarding your review being sent by e-mail?

Planning authority

Moray Council

Planning authority's application reference number

20/00878/PPP

Site address

Site 284m South of Fogwatt Hall, Longmorn, Moray

Description of proposed  
development

Erect dwellinghouse

Date of application

Thu 16 Jul 2020

Date of decision (if any)

07 Oct 2020

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

**Nature of application**

1. Application for planning permission (including householder application) ☐
2. Application for planning permission in principle ☒
3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) ☐
4. Application for approval of matters specified in conditions ☐

### Reasons for seeking review

1. Refusal of application by appointed officer ☒
2. Failure by appointed officer to determine the application within the period allowed for determination of the application ☐
3. Conditions imposed on consent by appointed officer ☐

### 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.

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

1. Further written submissions ☐
2. One or more hearing sessions ☐
3. Site inspection ☐
4. Assessment of review documents only, with no further procedure ☒

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

### Site inspection

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

- |  | Yes | No                       |
|--|-----|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | X   | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | X   | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

### Statement

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. Note: 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.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

Grounds of Appeal stated in separate document.

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 new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

N/A

**List of documents and evidence**

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.

We understand the refused plans will form part of the appeal papers which Member's will be able to draw on. No further information is required in this instance.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at Council Office, High Street, Elgin until such time as the review is determined. It is also be available on the planning authority website.

---

**Checklist**

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- X Full completion of all parts of this form
- X Statement of your reasons for requiring a review
- X All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

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 from that earlier consent.

---

**Declaration**

**I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.**

Signed Neil Grant

Date 6.1.21

# **grant & geoghegan ltd.**

**Chartered Planning Development and Architectural Consultants**

Unit 4 Westerton Road Business Centre  
4 Westerton Road South  
Keith AB55 5FH

T: 01343 556644  
E: [enquiries@ggmail.co.uk](mailto:enquiries@ggmail.co.uk)

## **Grounds of Appeal**

**Site 284m South of Fogwatt Hall, Longmorn, Moray**

**Issue Date:**  
6<sup>th</sup> January 2020



## CONTENTS

**1.0.** Introduction

**2.0.** The Proposal

**3.0.** Reason for Refusal

**4.0.** Grounds of Appeal

**5.0.** Other determining issues

**6.0.** Conclusion

## 1.0 Introduction

These grounds for review relate to the refusal of planning permission for a dwellinghouse at Longmorn, Moray and are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed three month period from the refusal of permission dated the 7<sup>th</sup> of October 2020.

This statement responds to the reasons for refusal and addresses the proposal in relation to Development Plan Policies and relevant material planning considerations.

## 2.0 The Proposal

The application sought to obtain planning permission, in principle, for a single dwelling. As Member's will be aware, the extent of information required to support an in principle application is minimal however an indicative site layout is provided in the suite of plans to illustrate the maximum extent of development on this site.

In respect of detailed site matters, we can confirm the development would be served by the public water supply and private drainage (septic tank/soakaway and SUDS). Access will be from an existing track which extends from the A941.

The principle of development was established on this site under reference 12/00244/PPP, however detailed permission was not sought within the specified period nor was the application renewed so the permission lapsed and the application falls to be assessed against current planning policy.

## 3.0 Reasons for Refusal

The application under reference 20/00878/PPP was refused under delegated powers by the case officer on the 7<sup>th</sup> of October 2020. The reasons for refusal state that;

*The proposed extension is contrary to Moray Local Development Plan 2020 for the following reasons:-*

*The application proposes a new dwellinghouse on a site which would result in ribbon development, by joining up two other existing plots which would be contrary to the traditional dispersed settlement pattern in this area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.*

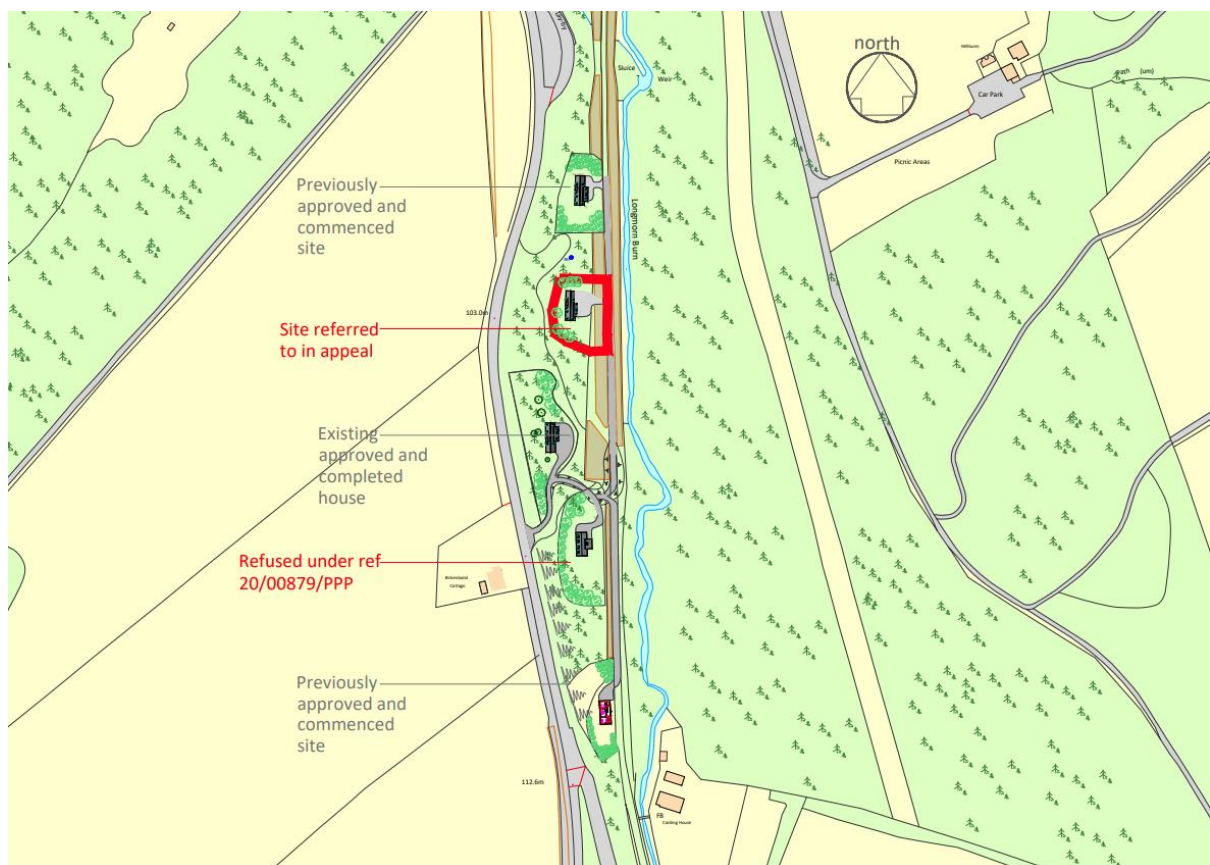
*The addition of a new dwellinghouse on this site would contribute to unacceptable build-up of new housing which would detract from the rural landscape character of the area, contrary to policies DP1 - Development Principles and DP4 - Rural Housing.*

There does not appear to be any reasonable justification in planning policy terms for the refusal of this application. The appellant does not consider this application to have been assessed on its own individual merits in light of the prevailing circumstances surrounding the site and respectfully contends that the proposal is fully in accordance with relevant planning policy and guidance.

## 4.0 Grounds of Appeal

### Refusal Reason 1 – Ribbon Development

As the Officer correctly alludes to in this reason for refusal, this part of the Moray countryside is made up of small groups of houses and buildings dispersed throughout the rural area. However, the Officer recommends refusal citing that the approval of this application would result in ribbon development by joining up two other existing plots.



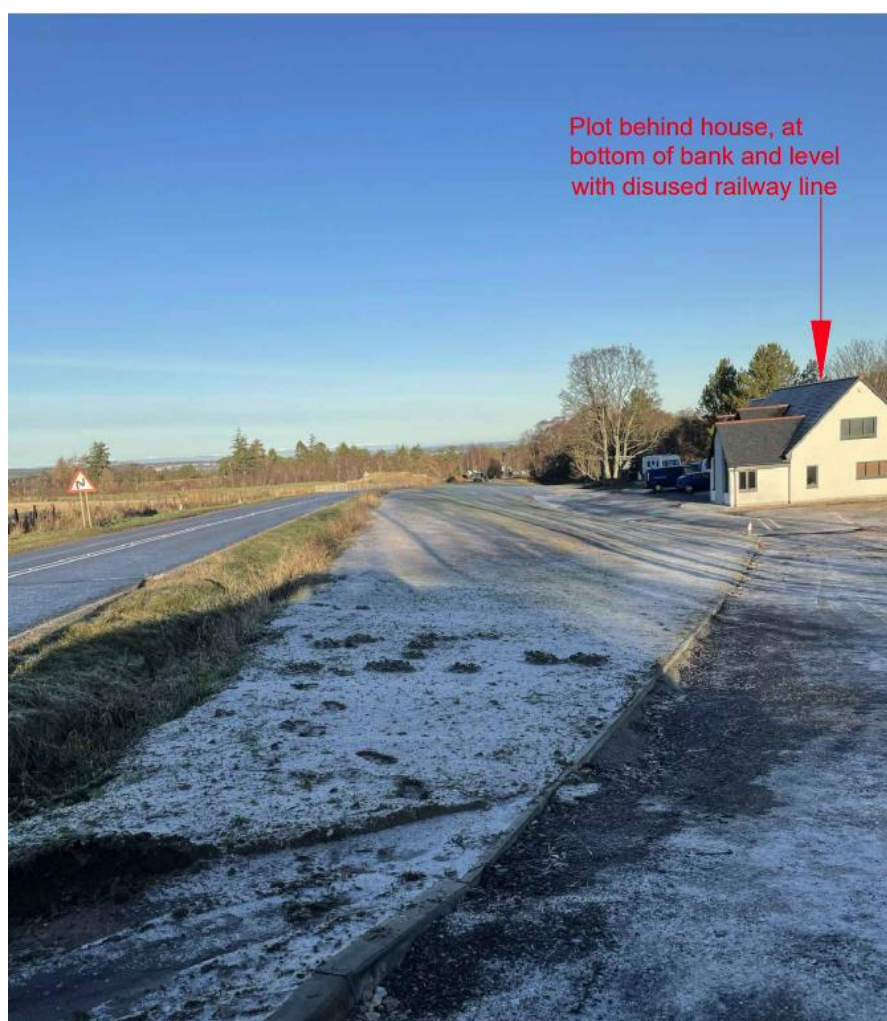
The subject site in the context of existing houses and approved plots

The above graphic illustrates how the addition of a new house in the manner proposed would fit into a dispersed cluster of houses and approved plots within a well contained area of land. As can be seen above, the proposal does not involve joining up any of the existing plots with the subject site- there remains significant separation and screening between plots.

In respect of ribbon development i.e. an accumulation of houses along a road, the appellant would point out that the site and neighbouring houses/ plots would not be visually linked in a manner consistent with the widely recognised definition of ribbon development. The plots generally benefit from substantial screening from the A941 and clear views of the sites are broken up by the mature trees which dominate the visual experience of road users.



Plot not visible in northern view of the site from the A941- substantial screening



Plot not visible in southern view of the site from the A941



It is acknowledged that the term ribbon development can be applied to buildings which are positioned back from the road, staggered, set at different angles and/ or left with gaps between them. However, the above photograph illustrates that due to a combination of distance to the road, mature planting and undulating landform, the proposed development would have no impact upon the experience of road users and there are no clear views of the site from any other public vantage points.

In the circumstances, where none of the characteristics or negative impacts associated with ribbon development are in evidence, it can only be concluded that the proposal at hand does not meet with the definition of unacceptable ribbon development and that it would more accurately be described as unobtrusive infill development.

## **Refusal Reason 2 – Build-up**

In respect of the tests in current lead policy DP4, the site is not within a “Pressured and Sensitive Area” and is in full accordance with the siting criteria prescribed in part d) of that policy:-

- The subject site benefits from a substantial backdrop of woodland and landform;
- The addition of a house on this site would not result in ribbon development, contribute to an unacceptable build-up of housing or detrimentally alter the rural character of the area due to its prominent roadside location;
- Artificial mounding, cut and fill and/ or clear felling of woodland are not proposed;
- The applicant wishes to meet and exceed the planting requirements set out in policy.

On the issue of build-up specifically, the Officer appointed to determine the application submitted under reference 12/00244/PPP states the following on page 2 of the handling report:-

*“In this case the site is bounded by the dismantled railway to the east with mature woodland beyond, to the south and west by a steep wooded slope and to the north by further proposed house plot with mature woodland beyond therefore the development meets the boundary enclosure aspect of policy H8. The A941 road lies to the east beyond the steep slope and woodland. A further two approved house plots lie to the south of this site (11/01548/PPP and 11/01549/PPP).*

*Given the site location in what is a wooded valley area the proposed house will not be prominent in the surrounding landscape, however, given the presence of the two existing house plot approvals to the south and the additional proposed plot to the north careful consideration needs to be given to the potential build-up of new development in the area and the impact that this has on the character and appearance of the wider landscape.*

*Although the proposed house site is in relatively close proximity to the existing house plot approvals, there will only be a very limited level of build up or visual intrusion as a result of this development, this is on the basis that the house plots will be visually separated by the existing slope and woodland between them and therefore when driving past on the A941 which is the main public viewpoint of the development the houses will not be viewed together and therefore there will not be an unacceptable build-up of development or visual intrusion as a result of this development.”*

Whilst we understand there has been a change in planning policy since the subject site originally gained the grant of planning permission in 2012, there has not been a material change in circumstance in the vicinity of the site from what was before the appointed officer at that time. As Member’s can see here, the issue of build-up is addressed thoroughly in the report and it concludes that the addition of a house on the subject site would not lead to an unacceptable build-up of development given the separation between properties and sites. It should be noted that this was the last of the plots to receive planning permission therefore the assessment was made in light of all approved plots.

Although planning policy has changed, the criteria by which build-up of development is assessed by Planning Officer's has not changed and the Officer makes a robust assessment of the site and its surrounds in this context. The introduction of new guidance does not on its own mean the matter was given insufficient weight in the decision making process beforehand. The above paragraphs demonstrate that beyond any reasonable doubt. In the absence of any further development in this location, it is clear that the appointed Officer's conclusions in 2012 remain as valid today as they were then.

## 5.0 Other determining issues

The steep banks surrounding these sites are prone to landslip and the appellant has already expended considerable resource in stabilising ground to make sure the area is safe. However, there is still considerable further work to do and although the appellant is happy to do the work as planned, it should be noted by Member's that it was on the premise of 5 plots and not 3.

Given the high upfront costs associated with suitably servicing these sites, we can confirm that the quantum of development required to undertake these works requires 5 planning approvals or the viability of the project is threatened. As these works are in the wider public interest, it should be noted that if planning permission is not forthcoming for this site then it is likely that the Council will have to fund all or part of the further groundworks required to ensure the wider area is safe.

## 6.0 Conclusion

The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are "material considerations" to justify doing otherwise.

We acknowledge that planning permission lapsed on this site and that it falls to be assessed in light of the new development plan. However, as has been shown in the body of this statement, the proposal can be supported under current planning policy and coupled with the fact that there has been no material change in circumstance at the site; we would respectfully contend that the principle of development in this location is acceptable.

National Planning Policy and the Moray Local Development Plan all encourage well sited and designed houses in the countryside. The proposal at hand essentially seeks to renew a historic permission which has been viewed positively before on account of its sensitivity and low environmental impact with wider benefits which are in the public interest.

As the proposal can be accepted under Development Plan policy and there are no known material considerations to the contrary, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.

