



## MORAY LOCAL REVIEW BODY

31 OCTOBER 2019

### SUMMARY OF INFORMATION FOR CASE No LR230

**Planning Application 19/00309/PPP – Erect Replacement Dwellinghouse at Hillview, Garmouth Road, Lhanbryde, IV30 8PD**

#### **Ward 4 - Lhanbryde**

Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 6 June 2019 on the grounds that:

1. The proposal is contrary to policies H1 and IMP1 in the Moray Council Development Plan for the following reason: the site is of insufficient size to provide for a house with adequate levels of amenity which avoids an intrusive impact on neighbouring houses, it is also considered that any reasonably sized house on the site would result in cramped, over development of the site which would be to the detriment to the character of the area and residential amenity and as such the proposal is contrary to the provisions of The Moray Local Development Plan 2015.
2. By virtue of reliance for off street parking and turning to take access onto a narrow confined lane with poor access onto Walker Crescent, close to its junction with Garmouth Road the additional traffic would result in a detrimental impact to the amenity of the locality and to other users of the lane. The existing lane is therefore inadequate to receive additional traffic and would not meet the requirements of Policy T2 which requires an access to be appropriate to the needs of the development.
3. There is currently insufficient information to assess the proposals against the requirements of Policies EP5 and IMP1 and associated Supplementary Guidance Flood Risk and Drainage Impact Assessments for New Development. On the basis that site drainage cannot be confirmed as compliant with the above policies in terms of the provision of surface water disposal and treatment from the site.

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

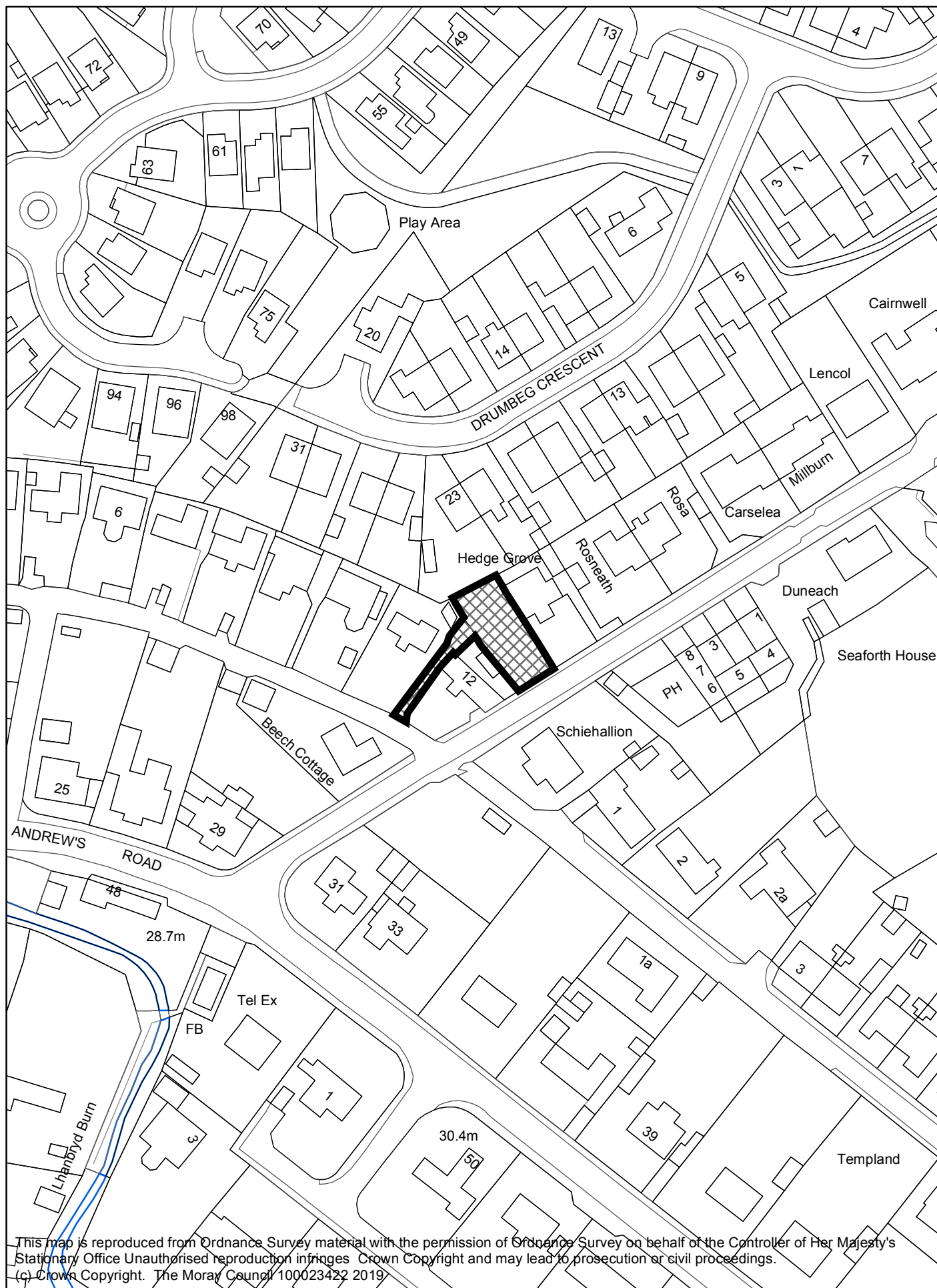
The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.

Further Representations received in response to the Notice of Review are attached as **Appendix 3**.

The Applicant's response to Further Representations is attached as **Appendix 4**



# Location plan for Planning Application Reference Number : 19/00309/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 100158098-001

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)

Reapplication of Previously Refused Ref:18/00271/PPP - Erect Replacement Dwellinghouse

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:	CM Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Craig	Building Name:	St Brendans
Last Name: *	Mackay	Building Number:	69
Telephone Number: *	01343540020	Address 1 (Street): *	South Guildry Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Elgin
Fax Number:		Country: *	United Kingdom
		Postcode: *	IV30 1QN
Email Address: *	office@cmdesign.biz		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Other	You must enter a Building Name or Number, or both: *	
Other Title:	Mr & Mrs	Building Name:	
First Name: *	D	Building Number:	40
Last Name: *	Campbell	Address 1 (Street): *	Lochlann Road
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Culloden
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV2 7HB
Fax Number:			
Email Address: *			

## Site Address Details

Planning Authority: Moray Council

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

Address 1: HILLVIEW

Address 2: GARMOUTH ROAD

Address 3: LHANBRYDE

Address 4:

Address 5:

Town/City/Settlement: ELGIN

Post Code: IV30 8PD

Please identify/describe the location of the site or sites

Northing

861268

Easting

327346

## Pre-Application Discussion

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

☐ Yes ☒ No

## Site Area

Please state the site area:

326.00

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)

Foundations of Previous House

## 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.

Are you proposing any change to public paths, public rights of way or affecting any public right of access? \* ☐ Yes ☒ No

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.

How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?

0

How many vehicle parking spaces (garaging and open parking) do you propose on the site (i.e. the Total of existing and any new spaces or a reduced number of spaces)? \*

2

Please show on your drawings the position of existing and proposed parking spaces and identify if these are for the use of particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, cycles spaces).

## Water Supply and Drainage Arrangements

Will your proposal require new or altered water supply or drainage arrangements? \* ☒ Yes ☐ No

Are you proposing to connect to the public drainage network (eg. to an existing sewer)? \*

- ☒ Yes – connecting to public drainage network  
☐ No – proposing to make private drainage arrangements  
☐ Not Applicable – only arrangements for water supply required

Do your proposals make provision for sustainable drainage of surface water?? \* ☒ Yes ☐ No  
(e.g. SUDS arrangements) \*

Note:-

Please include details of SUDS arrangements on your plans

Selecting 'No' to the above question means that you could be in breach of Environmental legislation.

Are you proposing to connect to the public water supply network? \*

- ☒ Yes  
☐ No, using a private water supply  
☐ No connection required

If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).

## 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.

## Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste (including recycling)? \* ☒ Yes ☐ No

If Yes or No, please provide further details: \* (Max 500 characters)

Please refer to plans

## Residential Units Including Conversion

Does your proposal include new or additional houses and/or flats? \*

☒ Yes ☐ No

How many units do you propose in total? \*

1

Please provide full details of the number and types of units on the plans. Additional information may be provided in a supporting statement.

## 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

Are you able to identify and give appropriate notice to ALL the other owners? \*

☒ Yes ☐ No

## Certificate Required

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

Certificate B

## Land Ownership Certificate

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

I hereby certify that

(1) - No person other than myself/the applicant was an owner [Note 4] 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;

or –

(1) - I have/The Applicant has served notice on every person other than myself/the applicant who, at the beginning of the period of 21 days ending with the date of the accompanying application was owner [Note 4] of any part of the land to which the application relates.

Name:

Mrs Lynn Littlejohn

Address:

20, Hazel Avenue, Culloden, Scotland, IV2 7WR

Date of Service of Notice: \*

20/03/2019

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

or –

(2) - The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have/the applicant has served notice on every person other than myself/himself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. These persons are:

Name:

Address:

Date of Service of Notice: \*

Signed:

Craig Mackay

On behalf of:

Mr & Mrs D Campbell

Date:

20/03/2019

☒ 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.

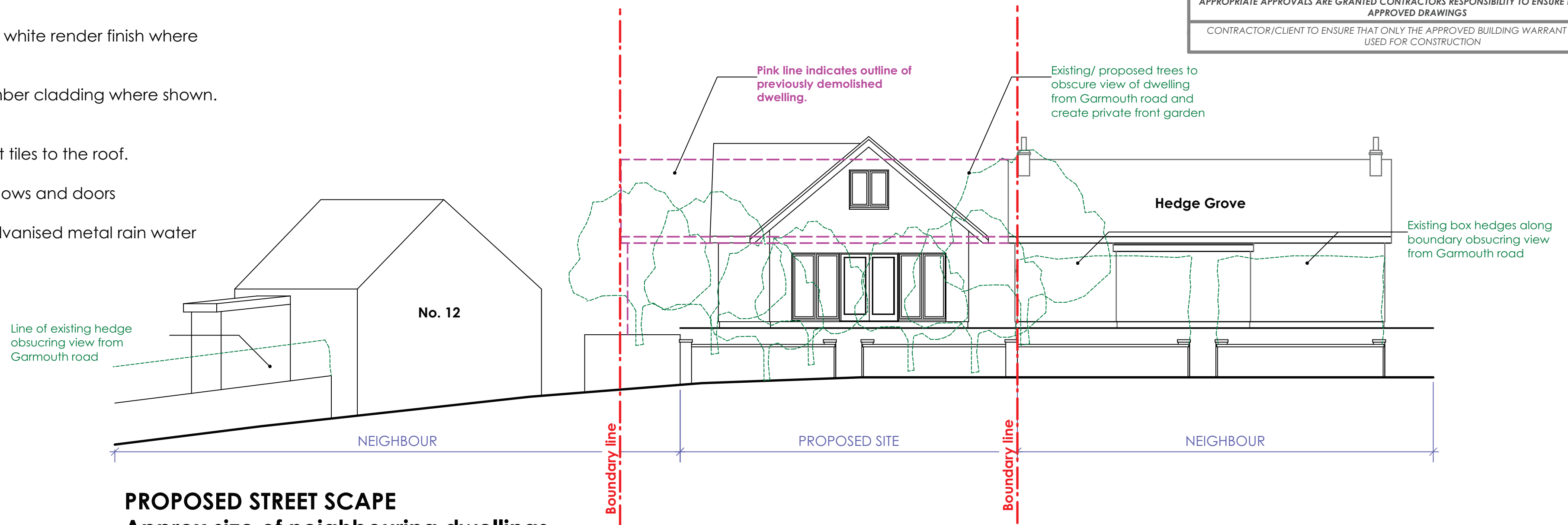
Declaration Name: Mr Craig Mackay

Declaration Date: 20/03/2019

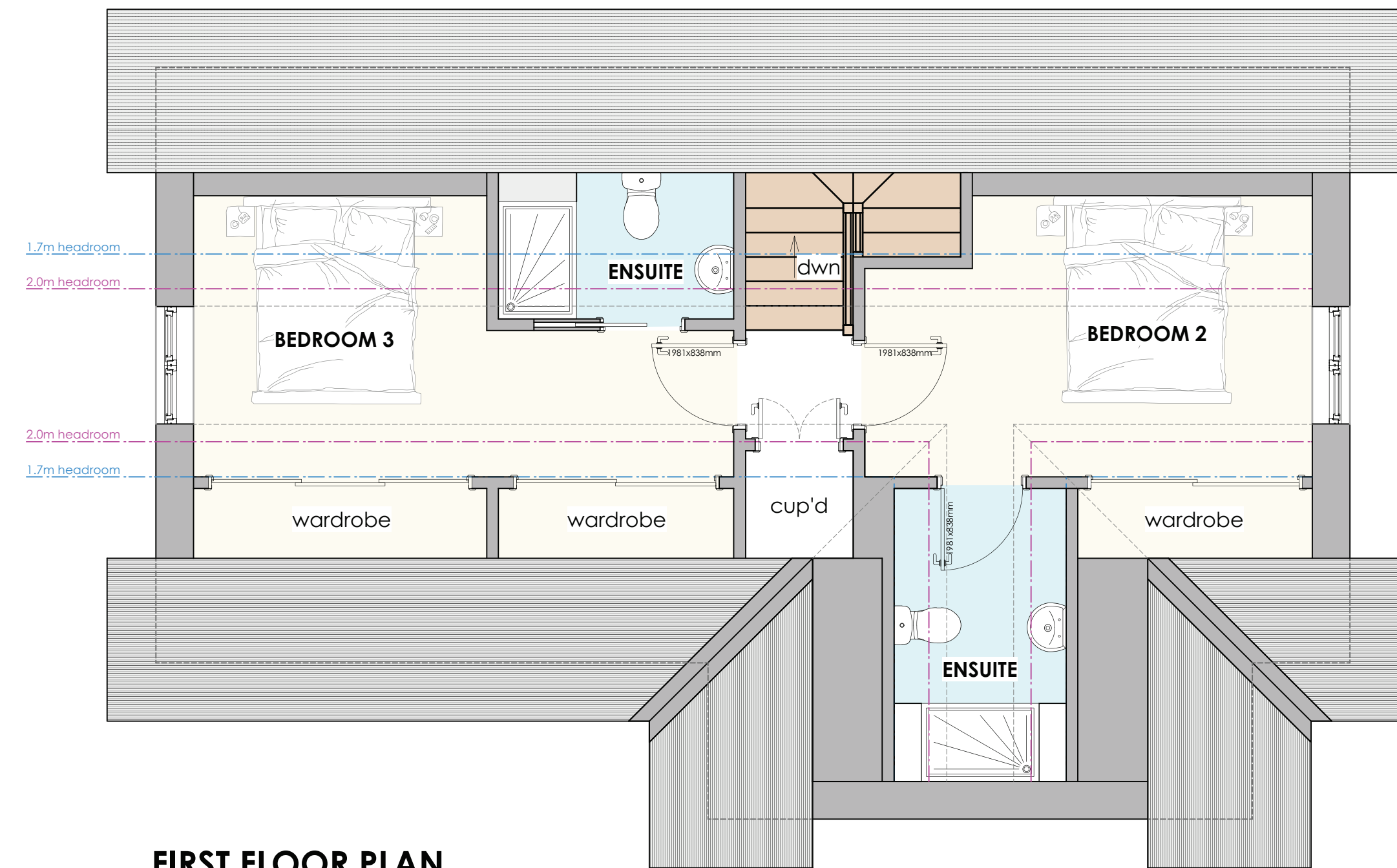


SIDE ELEVATION  
(Scale 1:50)

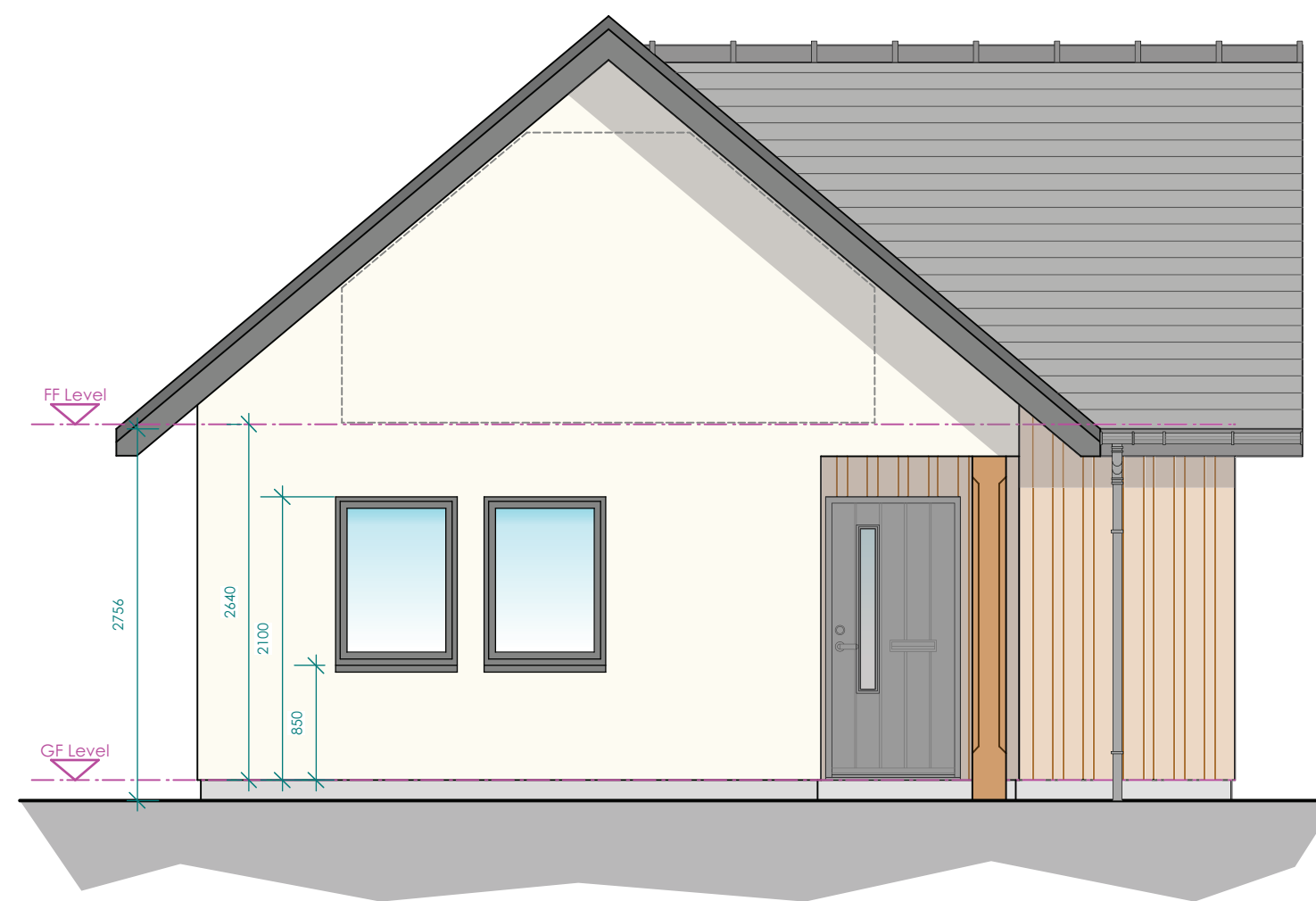
**Materials:**  
Smooth off white render finish where indicated.  
Vertical timber cladding where shown.  
Slate effect tiles to the roof.  
UPVC windows and doors  
Lin dab galvanised metal rain water goods



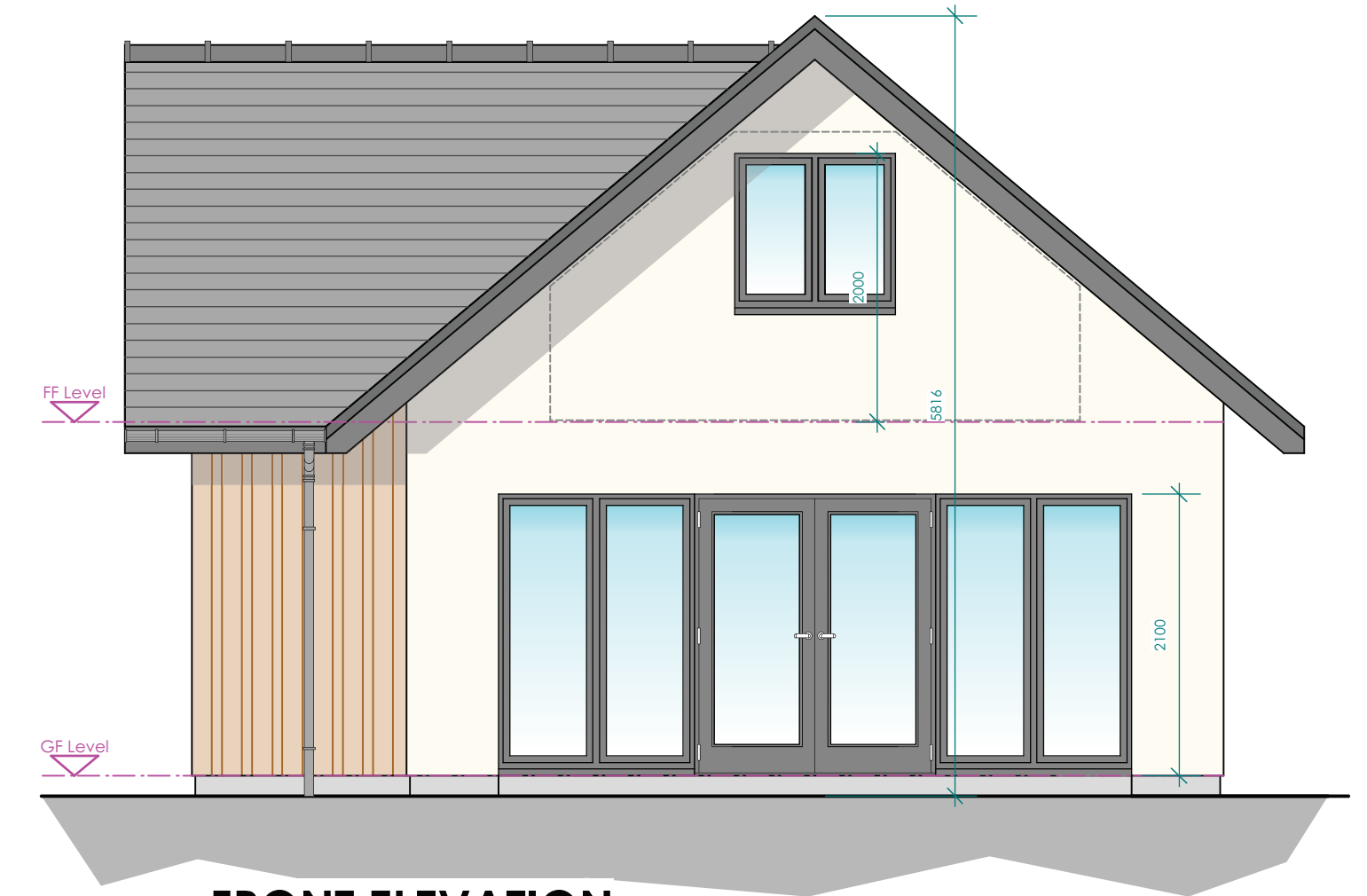
PROPOSED STREET SCAPE  
Approx size of neighbouring dwellings  
(Scale 1:100)



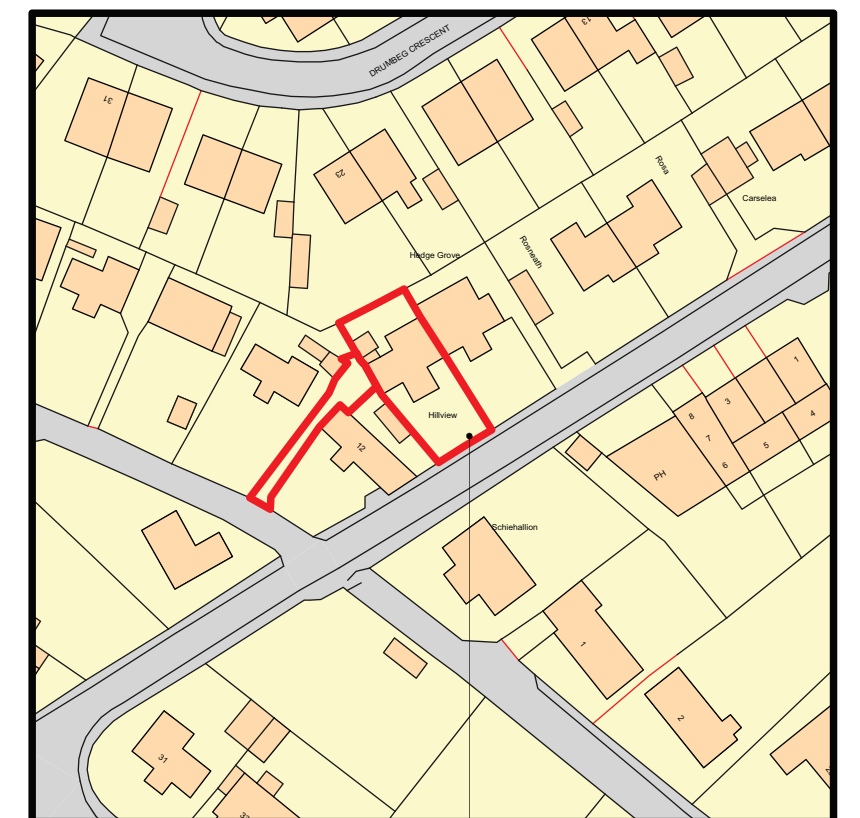
FIRST FLOOR PLAN  
(Scale 1:50)



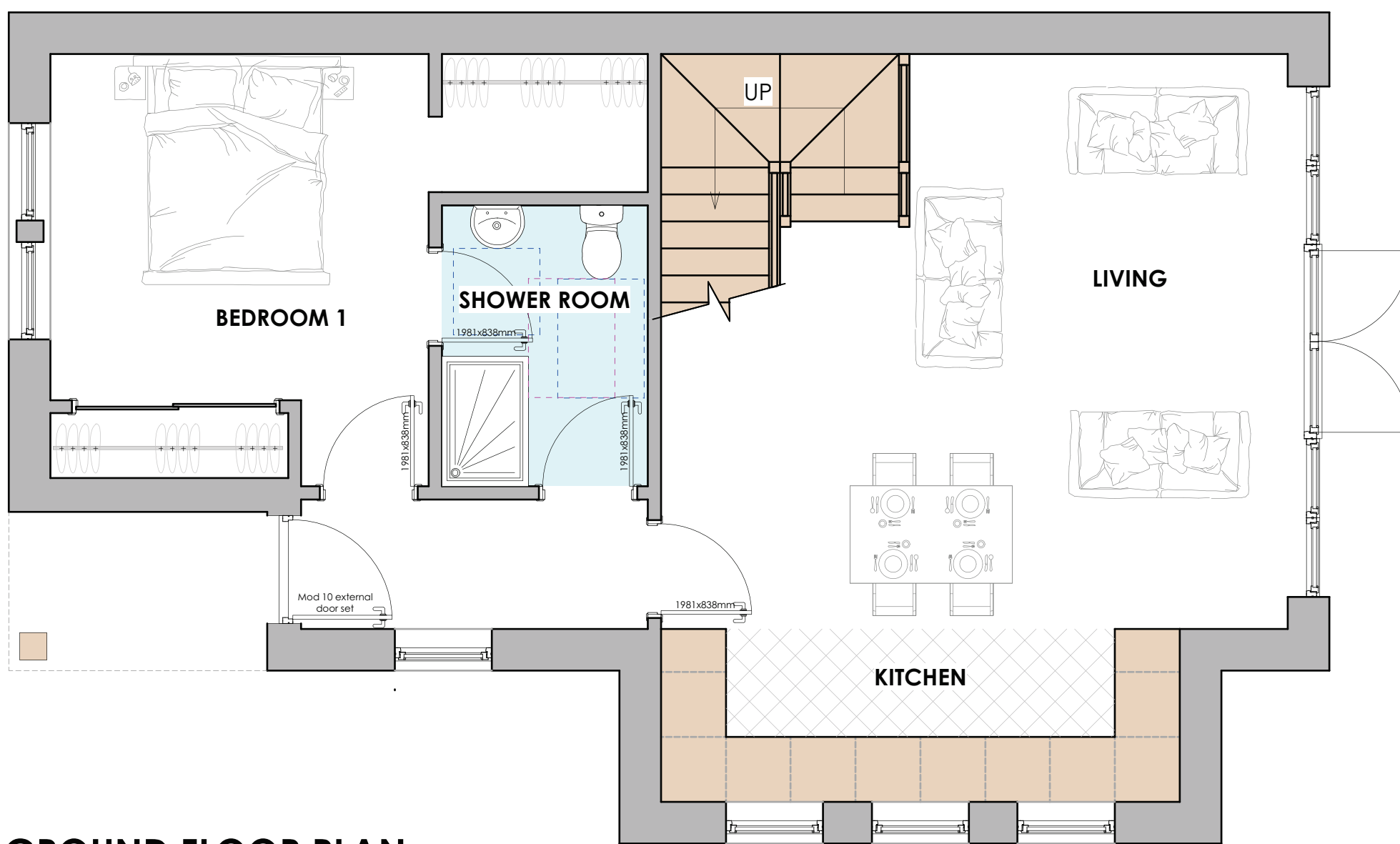
REAR ELEVATION  
(Scale 1:50)



FRONT ELEVATION  
(Scale 1:50)

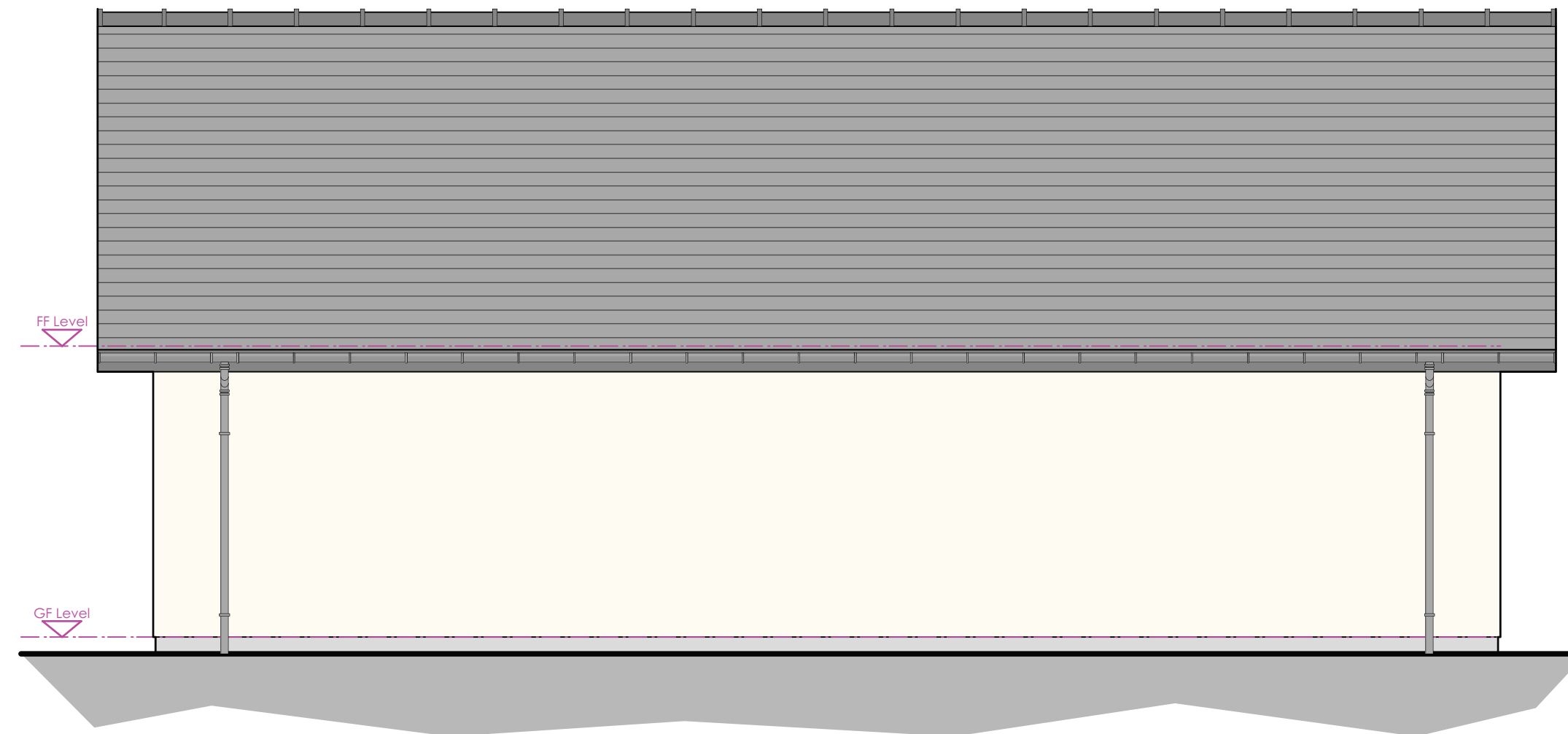


LOCATION PLAN  
(Scale 1:1250)



GROUND FLOOR PLAN  
(Scale 1:50)

Internal floor area ground floor 65.4sqm  
Internal floor area first floor 40sqm



SIDE ELEVATION  
(Scale 1:50)

**cmdesign**  
architectural consultants

HEAD OFFICE - MORAY  
St Brendans, 69 South Guildry Street, Elgin,  
IV30 1GN  
t 01343 540020  
HIGHLANDS  
4 Bridge Street, Nairn, Highlands, IV12 4EJ  
t 01667 300230  
m 0781 3872818 w cmdesign.biz e office@cmdesign.biz

LOSSIEMOUTH OFFICE  
Ellie, James Street, Moray,  
IV30 6BX  
t 01343 810175  
DEVON OFFICE  
t 01392 345566

Mrs D Campbell

PROPOSED REPLACEMENT DWELLING ON EXISTING  
FOOTPRINT AT HILLVIEW GARMOUTH ROAD, LHANBRYDE

DESIGN PROPOSALS  
PROPOSED HOUSE DESIGN

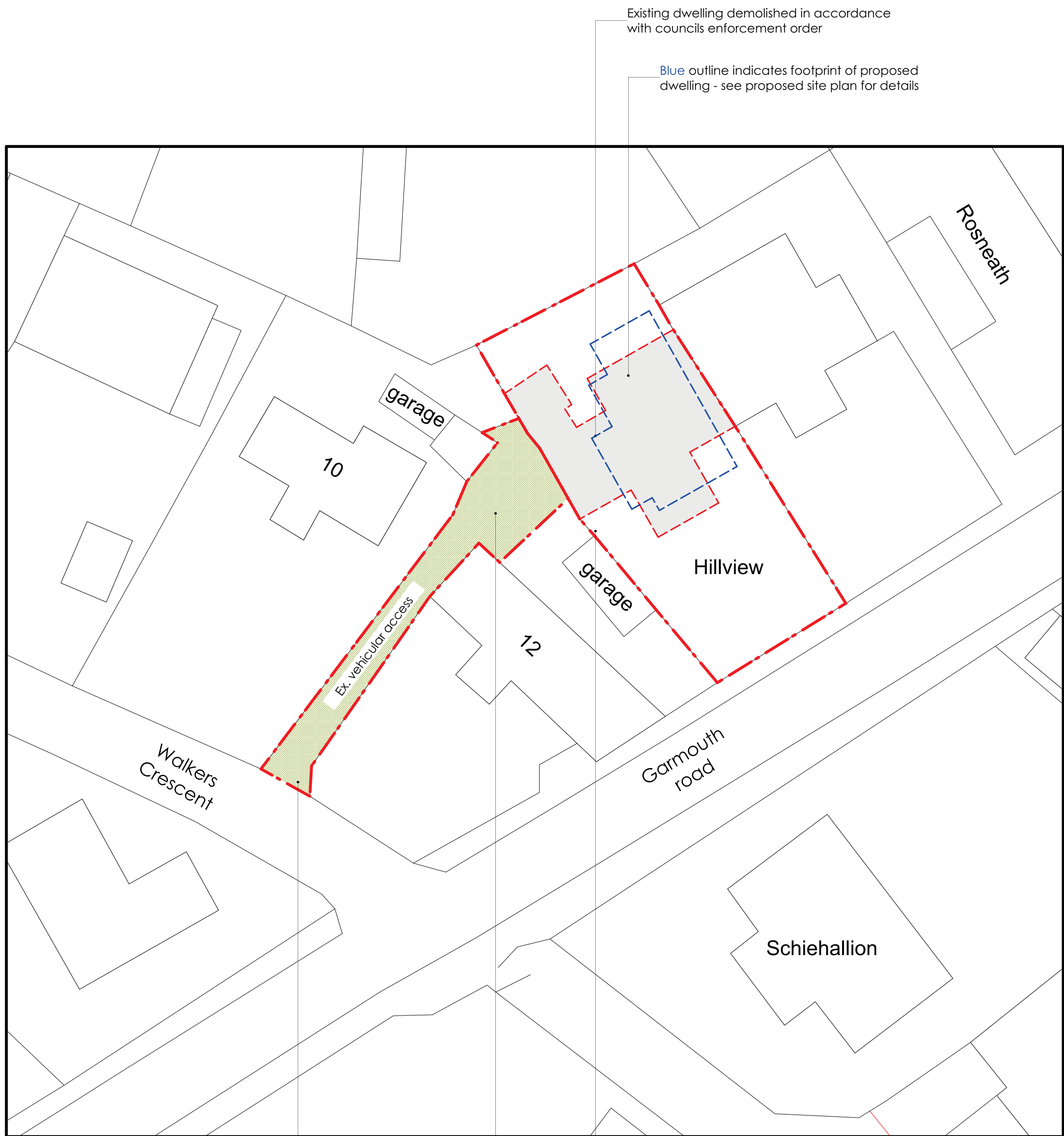
Date: 07.03.19 Amendments: Design updated Rev: A

Drawn By: A. CARSWELL Date: 29.01.2018 Checked By: Date:

180002.CAMPBELL.02PP A

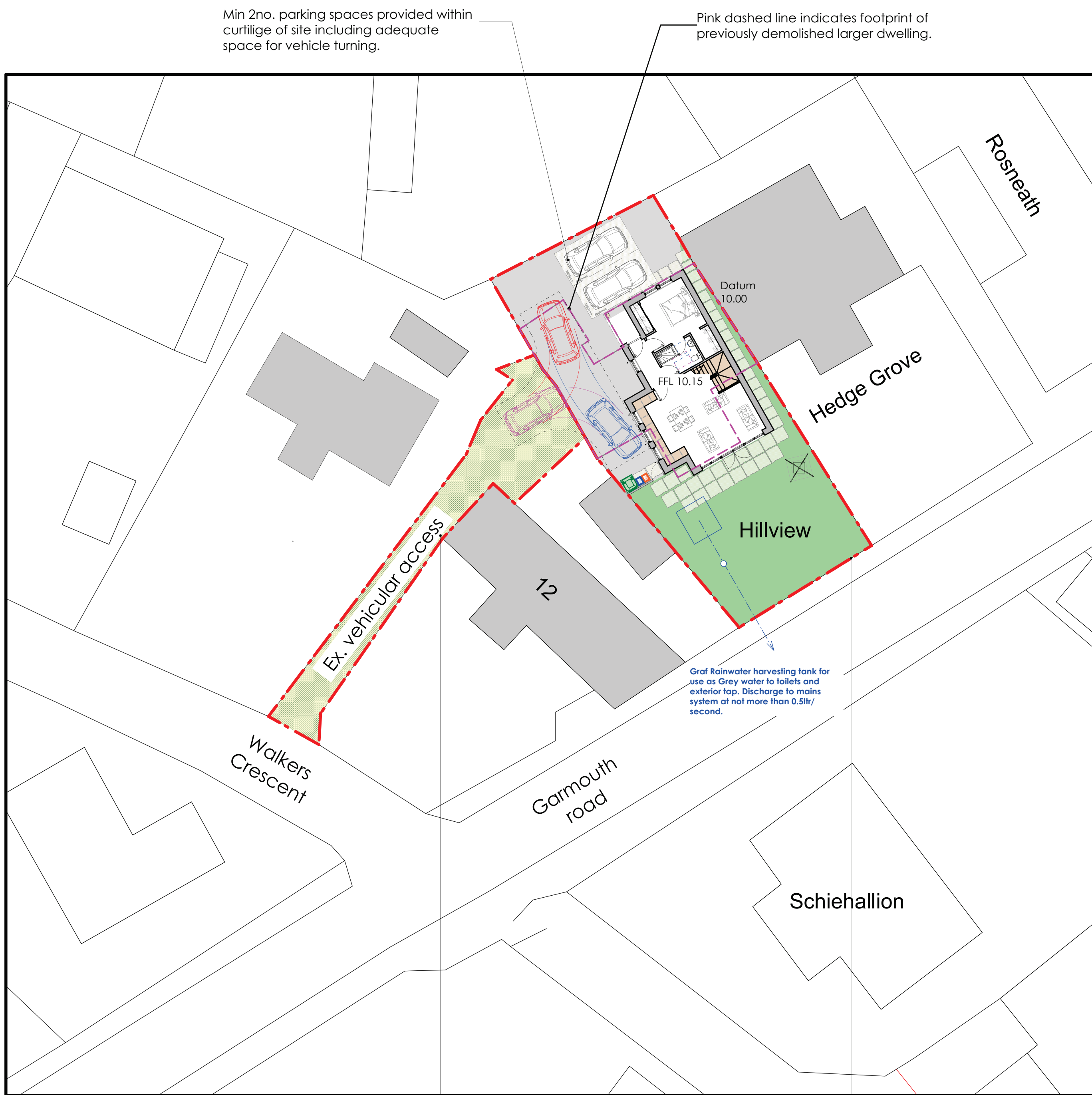






EXISTING SITE PLAN  
(Scale 1:200)

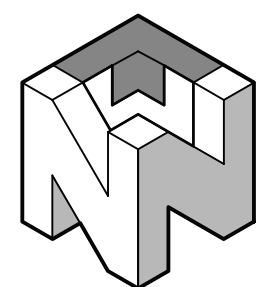
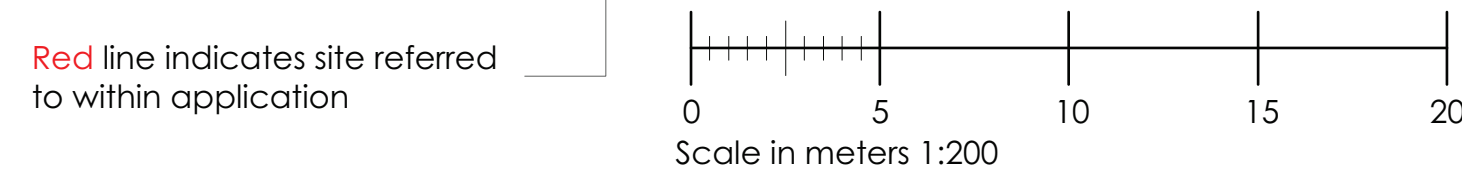
Site area (excluding shared access) 326sqm  
Footprint existing dwelling 117sqm



PROPOSED SITE PLAN  
(Scale 1:200)

Hatched area indicates **existing** shared driveway access to rear of dwelling. Parking to rear of the dwelling with suitable turning area within the site to allow vehicles to access and exit in a forward gear.

Site area (excluding shared access) 326sqm  
Footprint proposed dwelling 80sqm



**cmdesign**  
architectural consultants

**HEAD OFFICE - MORAY**  
St Brendans, 69 South Guldry Street, Elgin,  
IV30 1GN  
101343 540020  
**HIGHLANDS**  
4 Bridge Street, Nairn, Highlands, IV12 4EJ  
101667 300230  
m 0781 3872818 w cmdesign.biz e office@cmdesign.biz

**LOSSIEMOUTH OFFICE**  
Eliel, James Street, Moray,  
IV30 6BX  
101343 810175  
**DEVON OFFICE**  
101392 345566

**Mrs D Campbell**

**PROPOSED REPLACEMENT DWELLING ON EXISTING FOOTPRINT AT HILLVIEW GARMOUTH ROAD, LHANBRYDE**

**DESIGN PROPOSALS**

**EXISTING AND PROPOSED SITE PLAN**

**Date:** 07.03.19 **Amendments:** Car Turn table added **Rev:** A  
29.04.19 Revised further to transport comments B  
29.04.19 Revised further to transport comments C

**Drawn By:** A. CARSWELL **Date:** 29.01.2018 **Checked By:** **Date:**

**180002.CAMPBELL.01PP C**



# Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	19th April 2019
<b>Planning Authority Reference</b>	19/00309/PPP
<b>Nature of Proposal (Description)</b>	Erect replacement dwellinghouse
<b>Site</b>	Hillview Garmouth Road Lhanbryde Elgin Moray IV30 8PD
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133006515
<b>Proposal Location Easting</b>	327346
<b>Proposal Location Northing</b>	861268
<b>Area of application site (M<sup>2</sup>)</b>	326
<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=POPFLKGBJLW00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=POPFLKGBJLW00</a>
<b>Previous Application</b>	18/00271/PPP
<b>Date of Consultation</b>	5th April 2019
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr & Mrs D Campbell
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	40 Lochlann Road Culloden Scotland IV2 7HB
<b>Agent Name</b>	C M Design
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	St Brendans 69 South Guildry Street Elgin Moray IV30 1QN
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Shona Strachan
<b>Case Officer Phone number</b>	01343 563303
<b>Case Officer email address</b>	shona.strachan@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:-



**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Aberdeenshire Council Archaeology Service

**Planning Application Ref. No:** 19/00309/PPP

**Erect replacement dwellinghouse Hillview Garmouth Road Lhanbryde Elgin for Mr & Mrs D Campbell**

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 | <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**

None

**Condition(s)**

None

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

**Further information required to consider the application**

**Contact:** Claire Herbert  
**email address:**  
[archaeology@aberdeenshire.gov.uk](mailto:archaeology@aberdeenshire.gov.uk)  
**Consultee:** Archaeology service

**Date...**08/04/2019.....  
**Phone No** ...01467 537717

<b>Return response to</b>	<b>consultation.planning@moray.gov.uk</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.

# **Consultee Comments for Planning Application 19/00309/PPP**

## **Application Summary**

Application Number: 19/00309/PPP

Address: Hillview Garmouth Road Lhanbryde Elgin Moray IV30 8PD

Proposal: Erect replacement dwellinghouse

Case Officer: Shona Strachan

## **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**

No objections

Adrian Muscutt, CLO



**From:** DeveloperObligations  
**Sent:** 12 Apr 2019 14:47:06 +0100  
**To:** Shona Strachan  
**Cc:** DC-General Enquiries  
**Subject:** 19/00309/APP Erect replacement dwellinghouse at Hillview, Garmouth Road, Lhanbryde

Hi

No developer obligations will be sought due to being a replacement house.

Regards  
Hilda

**Hilda Puskas** | Developer Obligations Officer (Development Planning & Facilitation) |  
Development Services  
[hilda.puskas@moray.gov.uk](mailto:hilda.puskas@moray.gov.uk) | [website](#) | [facebook](#) | [moray council planning facebook](#) | [twitter](#) |  
[newsdesk](#)  
01343 563265





**MORAY COUNCIL  
PLANNING CONSULTATION RESPONSE**

**From:** The Moray Council, Flood Risk Management

**Planning Application Ref. No:** 19/003909/PPP

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

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

**Reason(s) for objection**

Lack of drainage information with application.

**Further information required to consider the application**

- Infiltration / Soil test results to confirm adequate rates / sub-soils for soakaway.
- Attenuation calculations to show SuDS is designed to store capacity from a 1 in 30 year storm period.
- Plan drawing of the SuDS in relation to the site.

Contact: James Ross

Date 24/05/2019

email address: James.ross@moray.gov.uk

Phone No 01343 563771

**Consultee:** The Moray Council, Flood Risk Management





9<sup>th</sup> April 2019

Moray Council  
Council Office High Street  
Elgin  
IV30 9BX



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 Local Planner

**IV30 Elgin Garmouth Road Hillview**  
**PLANNING APPLICATION NUMBER: 19/00309/PPP**  
**OUR REFERENCE: 775516**  
**PROPOSAL: Erect replacement dwellinghouse**

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

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**

- There is currently sufficient capacity in the Badentinan Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

**Foul**

- There is currently sufficient capacity in the Moray West Waste Water Treatment Works. However, please note that further investigations may be required to be carried out once a formal application has been submitted to us.

**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 taking account of various factors including legal, physical, and technical challenges. However it may still be deemed that a combined connection will not be accepted. Greenfield sites will not be considered and a connection to the combined network will be refused.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is proposed, 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 all of our application forms on our website at the following link <https://www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms>

#### **Next Steps:**

- **Single Property/Less than 10 dwellings**

For developments of less than 10 domestic dwellings (or non-domestic equivalent) we will require a formal technical application to be submitted directly to Scottish Water or via the chosen Licensed Provider if non domestic, once full planning permission has been granted. Please note in some instances we will require a Pre-Development Enquiry Form to be submitted (for example rural location which are deemed to have a significant impact on our infrastructure) however we will make you aware of this if required.

- **10 or more domestic dwellings:**

For developments of 10 or more domestic dwellings (or non-domestic equivalent) we require a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water 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 up 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 launderettes. Activities not covered include hotels, caravan sites or restaurants.

If you are in any doubt as to whether or not the discharge from your premises is likely to be considered 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 using the following link <https://www.scottishwater.co.uk/business/our->

[services/compliance/trade-effluent/trade-effluent-documents/trade-effluent-notice-form-h](#)

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)

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk)

Yours sincerely

**Angela Allison**

Angela.Allison@scottishwater.co.uk

# Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	19th April 2019
<b>Planning Authority Reference</b>	19/00309/PPP
<b>Nature of Proposal (Description)</b>	Erect replacement dwellinghouse
<b>Site</b>	Hillview Garmouth Road Lhanbryde Elgin Moray IV30 8PD
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133006515
<b>Proposal Location Easting</b>	327346
<b>Proposal Location Northing</b>	861268
<b>Area of application site (M<sup>2</sup>)</b>	326
<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=POPFLKBJLW00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=POPFLKBJLW00</a>
<b>Previous Application</b>	18/00271/PPP
<b>Date of Consultation</b>	5th April 2019
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr & Mrs D Campbell
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	40 Lochlann Road Culloden Scotland IV2 7HB
<b>Agent Name</b>	C M Design
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	St Brendans 69 South Guildry Street Elgin Moray IV30 1QN
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Shona Strachan
<b>Case Officer Phone number</b>	01343 563303
<b>Case Officer email address</b>	shona.strachan@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:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No:** 19/00309/PPP

**Erect replacement dwellinghouse Hillview Garmouth Road Lhanbryde Elgin for Mr & Mrs D Campbell**

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

*Note: this updated response is provided with regard to details shown on Drawing No 180002.Campbell.01PP C, uploaded on 1<sup>st</sup> May 2019 to the planning portal.*

#### **Condition(s)**

1. Parking Provision shall be as follows:

- Two car parking spaces for a dwelling with three bedrooms or less; or
- Three car parking 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 dwellinghouse, 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.

2. 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 road safety.

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

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

**Contact:LL**  
**email**  
**address:transport.develop@moray.gov.uk**  
**Consultee: Transportation**

**Date 07.05.19**

<b>Return response to</b>	<b>consultation.planning@moray.gov.uk</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.



# **Consultee Comments for Planning Application 19/00309/PPP**

## **Application Summary**

Application Number: 19/00309/PPP

Address: Hillview Garmouth Road Lhanbryde Elgin Moray IV30 8PD

Proposal: Erect replacement dwellinghouse

Case Officer: Shona Strachan

## **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**

No objections.

Andrew Stewart

SEHO



I am emailing regarding the proposed replacement dwelling at Hillview, Garmouth Road, Lhanbryde. In principal I have no objections to the house however I have concerns regarding the shared lane between 11 and 12 Walker's Crescent as an access for the property. The lane is much too narrow and the bottom of the lane at Walker's Crescent can be extremely dangerous to exit. I am the owner of 12 Walker's Crescent and you can see damage to the gable end of my property on the lane where cars have knocked into it and damaged the wall trying to exit the lane. I am fearful that this will only get worse as more cars use the lane . I look forward to receiving a reply to my email.

[REDACTED]



## **REPORT OF HANDLING**

<b>Ref No:</b>	19/00309/PPP	<b>Officer:</b>	Shona Strachan
<b>Proposal Description/ Address</b>	Erect replacement dwellinghouse Hillview Garmouth Road Lhanbryde Elgin		
<b>Date:</b>	04.06.2019	<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>
Environmental Health Manager	08/04/19	No objection
Contaminated Land	09/04/19	No objection
Transportation Manager	07/05/19	Initially objected to the proposal, the objection was removed following the submission of amended plans. The concluded response confirms, there are no objections subject to conditions and informatives
Scottish Water	09/04/19	No objection but this does not guarantee connection to Scottish Water Infrastructure.
Planning And Development Obligations	12/04/19	None sought in this instance.
Aberdeenshire Council Archaeology Service	08/04/19	No objection
Moray Flood Risk Management	24/05/19	Object on grounds of lack of information on drainage information.  A 'late consultation' was requested following the adoption of the Supplementary Guidance of Drainage and Flood Risk.

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
<b>Moray Local Development Plan 2015</b>		
PP1: Sustainable Economic Growth	N	
PP3: Placemaking	N	
H1: Housing Land	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
EP5: Sustainable Urban Drainage Systems	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
EP9: Contaminated Land	N	
EP10: Foul Drainage	N	
T2: Provision of Access	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
T5: Parking Standards	N	
IMP1: Developer Requirements	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
IMP3: Developer Obligations	N	
<b>2020 Proposed Local Development Plan</b>		
PP1 Placemaking		
PP3: Placemaking		
DP1 Development Principles		
DP2 Housing		
EP13 Foul Drainage		
EP14 Pollution, Contamination & Hazards.		

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		
<p><b>Issue:</b> concerns regarding the shared lane between 11 and 12 Walker's Crescent as an access for the property. The lane is much too narrow and the bottom of the lane at Walker's Crescent can be extremely dangerous to exit. The contributor is fearful that this will only get worse as more cars use the lane.</p>		

**Comments (PO):** The comments have been noted. This matter is addressed in more detail in the observations section of the assessment (reference details below).

## **OBSERVATIONS – ASSESSMENT OF PROPOSAL**

### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Plan 2015 (MLDP) unless material considerations indicate otherwise.

On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Plan was approved as the "settled view" of the Council and minimal weight will be given to the Proposed Plan, with the 2015 MLDP being the primary consideration.

### **Proposal**

As amended, this application seeks Planning Permission in Principle for a replacement dwellinghouse at Hillview Garmouth Road.

Whilst this application seeks Planning Permission in Principle, the application has been supported by an indicative site plan (as amended) which seeks to show 2 parking spaces within the curtilage of the site as well as turning space within the site. Indicative elevation drawings and related floor plans of a three bedroom house have also been submitted as part of this application.

In order to remove an initial objection from Transportation, the indicative site plan has been amended to demonstrate that parking and turning can be achieved within the site. However, it is noted that the amended site plan reflects the site plan which was refused under application 18/00271/PPP (as issued by decision on 3 May 2018). This means that the current application is the same as the proposal that was submitted under 18/00271/PPP with no material change in circumstance in planning policy terms or in the material consideration of the case (with the exception of the Supplementary Guidance on Flood Risk and Drainage Impact Assessment for new Developments). This means the assessment under 18/00271/PPP remains a valid assessment of the proposal against the provisions of the Moray Local Development Plan 2015 with the addition of assessment of the proposal against the requirements of the drainage and flood risk Supplementary Guidance.

### **Site Characteristics**

Extending to 326.00 sq m, the site is currently an overgrown area of vacant land with a single garage located in the northwest corner of the site. The site and the neighbouring properties to the east and west are located above of the level of the public road, with a steep drop on to the level of the road. The access to the site is via the narrow lane (approximately 2.4m wide) off Walkers Crescent. This lane runs between nos. 11 and 12 Walkers Crescent and enters the site on its western boundary.

The site previously accommodated a substandard house which was demolished in 2015. The previous dwelling on the site was attached to the neighbouring property to the east.

### **Planning History**

An application for a replacement dwellinghouse on the site was initially submitted under 16/00893/PPP, however, this application was withdrawn following concerns over whether the site was of sufficient size to accommodate a house together with the necessary parking and turning and issues over access provision.

Application 17/01519/PPP (as issued by decision on 24 November 2017) was refused was on grounds of overdevelopment, amenity considerations and access and parking concerns, with an objection from the Transportation Service.

Thereafter, the proposal submitted under application 18/00271/PPP sought to address the matters raised in the reason for refusal of 17/01519/PPP and as such the proposal had a revised indicative house design and location when compared to this previous application. The application also sought to demonstrate that two parking spaces and requisite turning could be accommodated within the site. The Transportation accepted the information submitted and raised no objection to the proposal, in terms of the impact of the development upon the public road network. However, during the assessment of this application it was noted that both the driveway and the Walker Crescent are private un-adopted roadways outwith the control of the Roads Authority and as such the assessment of their suitability fell outwith the mandate of the Transportation Manager. Therefore, the decision taken by the Development Management section was to assess the suitability of the access in terms of the impact on amenity under policies T2, T5 and IMP1 and it was concluded that: The existing lane was inadequate to receive additional traffic and would not meet the requirements of Policy T2 and IMP1 which requires an access to be appropriate to the needs of the development. This meant that the application was refused on overdevelopment, amenity, and access considerations.

### **Policy Assessment**

As noted previously, this means that the current application is the same as the proposal that was submitted under 18/00271/PPP with no material change in circumstance in planning policy terms or in the material consideration of the case (with the exception of the Supplementary Guidance on Flood Risk and Drainage Impact Assessment for new Developments). This means the assessment under 18/00271/PPP remains a valid assessment of the proposal against the provisions of the Moray Local Development Plan 2015 with the addition of assessment of the proposal against the requirements of the drainage and flood risk Supplementary Guidance.

### **Policy Assessment**

#### **Principle of New House (H1, IMP1)**

It is accepted that the site up until recently accommodated a semi detached house which was demolished due to its substandard condition. The site is now vacant and the proposal for a new detached house on the site must meet the requirements of current planning policy and house plot requirements.

In this instance, the proposed site which measures 326.00 sq m is small and constrained by its location with a very narrow access track off Walkers Crescent which is also narrow. This means that the site is of insufficient size to provide for a detached house, off street parking and turning for vehicles with adequate levels of amenity which avoids an intrusive impact on neighbouring houses. It is also considered that the necessary layout respecting building lines and need for parking in the north western corner of the site results in cramped, over development of the site which would be to the detriment to the character of the area and residential amenity.

#### **Water and Drainage (EP5, EP10 and IMP1)**

The proposed house is to connect to the public sewer and water supply and it is noted here that Scottish Water has raised no objection to the proposal. However, this does not guarantee connection to Scottish Water infrastructure and any connection would be the subject of separate liaison with the applicant and Scottish Water directly at the appropriate juncture.

Following the recent adoption of the Supplementary Guidance on Flood Risk and Drainage Impact Assessment for new Developments, a late consultation was undertaken with Moray Flood Risk Management MFRM. Following consultation MFRM objected to the application because of lack of drainage information. The consultation response identified the additional information needed to assess the proposal, this included:

- Infiltration / Soil test results to confirm adequate rates / sub-soils for soakaway.
- Attenuation calculations to show SuDS is designed to store capacity from a 1 in 30 year storm period.
- Plan drawing of the SuDS in relation to the site.



This request for additional information was shared with the agent and an appropriate timeframe given to its consideration. The agent confirmed that this lack of information should be included within the reasons for refusal of the application and this matter will be addressed further as part of the appeal process. On the basis that the information has not been submitted allowing consideration of whether full compliance with policy EP5 (and its associated supplementary guidance) can/has been achieved, the proposal departs from this Policy.

### **Access and Parking (T2, T5 and IMP1)**

As noted previously, the Transportation Manager initially objected to the proposal as it was considered that the proposed layout could not full support the required parking provision. Following this objection amended plans were submitted which reflected the site layout as submitted under application 17/01519/PPP which removed the objection from the Transportation Manager.

However, as with the assessment under application 17/01519/PPP, the Transportation Manager has not commented upon the suitability of the access to accommodate additional traffic as both the driveway and the Walker Crescent are private un-adopted roadways outwith the control of the Roads Authority. Therefore, the Development Management Section needs to assess the suitability of the access in terms of the impact on amenity under policies T2, T5 and IMP1.

To this end, it is considered that even if space was made available within the plot to allow for off street parking as illustrated in the amended plan, to allow additional traffic to access Walker Crescent from an already restricted and poor access would be to the detriment of amenity for other roads users and pedestrians in the locality. It is noted that the top end of the lane forming the access is used for off street parking by property to the south and the demolished property subject of this application only had pedestrian access from the lane previously. In making this assessment it is noted that the current occupants of houses also utilising this lane is the subject of public representation and the enduring impact of the development upon the locality requires an assessment of the impact upon other users of lane in perpetuity. The submitted plans shows off street parking and a turning area to be provided at the western end of the plot alongside the indicative house position that understandably seeks to maintain the general building line along the front of Garmouth Road. This effectively sees the parking, turning area and residence position within the western two thirds of the plot, which equates to approximately 220sqm. This area is too small to comfortably accommodate both the parking and house which would be orientated and positioned to experience an adequate degree of amenity. It is noted in the submitted site plan that the turning area will partly lie within the communal access space. Assessed in conjunction with the effect this would have upon the existing properties using this lane for access and parking in the area where vehicles already park, the proposal would fail to provide an appropriate level of new access to the proposal as required under Policy T2 Provision of Access.

However, this is separate to the main policy objection to this proposal on siting and amenity grounds.

### **Developer Obligations (IMP3)**

An assessment has been carried out in relation to Policy IMP3 Developer Obligations of the Moray Local Development Plan 2015. The assessment identifies that no Developer Obligation will be sought in this instance.

### **Conclusion and Recommendation**

The proposal is considered to result in a development which by virtue of the physical constraints of the site would result in a form of development which does comply with the provision of the MLDP 2015 and is therefore recommended for refusal.

### **OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None

HISTORY				
Reference No.	Description			
18/00271/PPP	Erect replacement dwellinghouse at Hillview Garmouth Road Lhanbryde Elgin Moray			
	Decision	Refuse	Date Of Decision	03/05/18
17/01519/PPP	Erect replacement dwellinghouse at Hillview Garmouth Road Lhanbryde Elgin Moray			
	Decision	Refuse	Date Of Decision	24/11/17

ADVERT			
Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises Departure from development plan	02/05/19	
PINS	No Premises Departure from development plan	02/05/19	

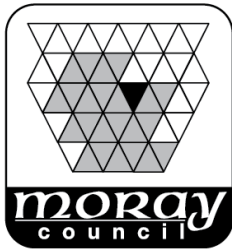
DEVELOPER CONTRIBUTIONS (PGU)	
Status	NONE SOUGHT

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**

**[Fochabers Lhanbryde]  
Planning Permission in Principle**

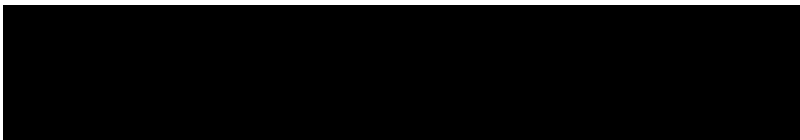
TO Mr & Mrs D Campbell  
c/o C M Design  
St Brendans  
69 South Guildry Street  
Elgin  
Moray  
IV30 1QN

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 replacement dwellinghouse Hillview Garmouth Road Lhanbryde Elgin**

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

Date of Notice: **6 June 2019**



**HEAD OF DEVELOPMENT SERVICES**

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

1. The proposal is contrary to policies H1 and IMP1 in the Moray Council Development Plan for the following reason: the site is of insufficient size to provide for a house with adequate levels of amenity which avoids an intrusive impact on neighbouring houses, it is also considered that any reasonably sized house on the site would result in cramped, over development of the site which would be to the detriment to the character of the area and residential amenity and as such the proposal is contrary to the provisions of The Moray Local Development Plan 2015.
2. By virtue of reliance for off street parking and turning to take access onto a narrow confined lane with poor access onto Walker Crescent, close to its junction with Garmouth Road the additional traffic would result in a detrimental impact to the amenity of the locality and to other users of the lane. The existing lane is therefore inadequate to receive additional traffic and would not meet the requirements of Policy T2 which requires an access to be appropriate to the needs of the development.
3. There is currently insufficient information to assess the proposals against the requirements of Policies EP5 and IMP1 and associated Supplementary Guidance Flood Risk and Drainage Impact Assessments for New Development. On the basis that site drainage cannot be confirmed as compliant with the above policies in terms of the provision of surface water disposal and treatment from the site.

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

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

Reference	Version	Title
180002.CAMPBELL.02PP		Elevations floor plans and location plan
180002.CAMPBELL.01PP	C	Existing and proposed site plan

**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 100178396-001

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:	CM Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Craig	Building Name:	St Brendans
Last Name: *	Mackay	Building Number:	69
Telephone Number: *	01343540020	Address 1 (Street): *	South Guildry Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Elgin
Fax Number:		Country: *	United Kingdom
		Postcode: *	IV30 1QN
Email Address: *	office@cmdesign.biz		

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="Other"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text" value="Mr &amp; Mrs"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="A"/>	Building Number:	<input type="text" value="40"/>
Last Name: *	<input type="text" value="Campbell"/>	Address 1 (Street): *	<input type="text" value="Lochlann Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Culloden"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV2 7HB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## 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

Hillview, Garmouth Road, Lhanbryde, IV30 8PD

Northing	<input type="text" value="861268"/>	Easting	<input type="text" value="327346"/>
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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)

Erect Replacement Dwellinghouse (Ref:19/00309/PPP)

## 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 the attached appeal statement and supporting documents

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 case. DOC001 - CM Design Drawing - 180002.CAMPBELL.01PP (A) DOC002 - CM Design Drawing - 180002.CAMPBELL.02PP (A) DOC003 - Handling Report DOC004 - Decision Notice

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

19/00309/PPP

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

20/03/2019

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

06/06/2019

## 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: Mr Craig Mackay

Declaration Date: 29/08/2019





**LOCAL REVIEW BOARD**

**STATEMENT OF APPEAL**



Erect Replacement Dwellinghouse at Hillview, Garmouth Road,  
Lhanbryde, Elgin

**August 2019**

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w. cmdesign.biz**

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e. office@cmdesign.biz

<b>Our Reference:</b>	180002.CAMPBELL
<b>Local Authority:</b>	The Moray Council
<b>Planning Application Ref:</b>	19/00309/PPP
<b>Application Proposal:</b>	Erect Replacement Dwellinghouse
<b>Site Address:</b>	Hillview, Garmouth Road, Lhanbryde
<b>Appellants:</b>	Mrs D Campbell
<b>Date Application Validated:</b>	29 <sup>th</sup> March 2019
<b>Council Decision Notice Date:</b>	6 <sup>th</sup> June 2019
<b>Reason for Refusal:</b>	<p><i>"The proposal is contrary to policies H1 and IMP1 in the Moray Council Development Plan for the following reason: the site is of insufficient size to provide for a house with adequate levels of amenity which avoids an intrusive impact on neighbouring houses, it is also considered that any reasonably sized house on the site would result in cramped, over development of the site which would be to the detriment to the character of the area and residential amenity and as such the proposal is contrary to the provisions of The Moray Local Development Plan 2015.</i></p> <p><i>By virtue of reliance for off street parking and turning to take access onto a narrow confined land with poor access onto Walker Crescent, close to its junction with Garmouth Road the additional traffic would result in a detrimental impact to the amenity of the locality and to other users of the lane. The existing lane is therefore inadequate to receive additional traffic and would not meet the requirements of Policy T2 which requires an access to the appropriate to the needs of the development</i></p>

	<p><i>There is currently insufficient information to assess the proposals against the requirements of Policies EP5 and IMP1 and associated Supplementary Guidance Flood Risk and Drainage Impact Assessments for New Development. On the basis that site drainage cannot be confirmed as compliant with the above policies in terms of the provision of water disposal and treatment from the site."</i></p>
<p><b>Application Drawings &amp; Supporting Documents:</b></p>	<p>DOC001 - CMD Drawing – 180002.CAMPBELL.01PP (A)  DOC002 - CMD Drawing – 180002.CAMPBELL.02PP (A)  DOC003 – Handling Report  DOC004 – Decision Notice</p>
<p><b>Contents:</b></p>	<ol style="list-style-type: none"> <li>1. Introduction – Page 3</li> <li>2. Background – Page 4</li> <li>3. Statement of Case – Page 5</li> <li>4. Policy Compliance – Page 6</li> <li>5. Conclusion – Page - 8</li> </ol>



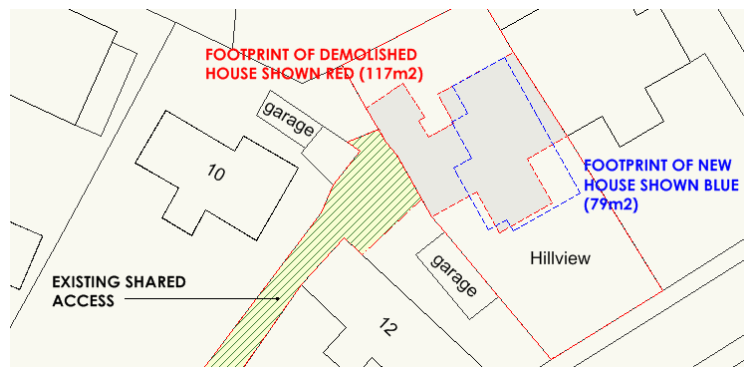
## 1. Introduction

1.1. The following Statement of Case, submitted by CM Design, Town Planning & Architectural Consultants, has been prepared to support a Local Review Board submission relating to a;

**Replacement house on the footprint of a former house demolished by instruction of Moray Council**

1.2. The background to this case and the planning application is a tragic one and worthy of the attention of the Review Board.

1.3. The former house at Hillview, Garmouth Road, Lhandbryde was **demolished in response to an order by Moray Council** without any advice to the appellant in terms of securing consent for its replacement. The former footprint is shown **red** on the adjacent picture and the proposed footprint shown **blue**



1.4. Significant **material considerations** exist in the context of this application and appeal and can be summarised as follows;

- There **was a house on site** until Moray Council instructed it to be demolished.
- The client was **not advised** to secure consent for replacement before obeying Moray Council instructions to demolish.
- Consent **would have been granted**, if an application had been made prior to demolition.
- The Transportation Department **APPROVE** of the current access and parking arrangements

1.5. Current Policy can support the application even if not able to be seen as an existing house site. This application and Appeal relates to the appellants wish to replace the house that Moray Council instructed them to demolish.



## 2. Background

- 2.1. The background to this case is unique and perhaps should not be considered under the terms of Planning Policy alone. There are mitigating circumstances and material considerations that are important to be aware of.
- 2.2. The house was the family home of the appellant's grandparents since 1964 and latterly by only the grandfather until he was placed in respite care in 2012.
- 2.3. The foundations of the house remain on site to this day, as does the garage.
- 2.4. During the time that the appellant's grandfather was in care, concern arose with regard to the condition of his home and, for various reasons, the family were unable to secure the autonomy to address these concerns.
- 2.5. In 2015 and following the passing of the appellants grandfather, Moray Council made contact with the appellant and the family to require that the issue be addressed.
- 2.6. Following the need for a Structural Assessment, it was found that the property was beyond feasible repair and, in consultation with Moray Council, the building was dismantled to foundation level and made safe.
- 2.7. The appellant and family did not suspect for a second that this action and compliance with Moray Council's wishes would leave them stripped of a family home and asset.
- 2.8. It is an undisputed fact that, should the appellant have been advised to secure consent **prior to obeying Moray Council's instruction** to demolish the house, Planning Consent would have been granted without any difficulty.
- 2.9. Whilst the circumstances surrounding the reasons for the **demolition** might afford sufficient material consideration to allow this appeal to be upheld, there are also other material considerations in relation to current planning policy that might also allow the application to be approved as a vacant site.
- 2.10. Whilst it is requested that the Appeal Board recognise the site as an existing house site by virtue of what remains on site and by virtue of how the demolition was encouraged by Moray Council, there are also some material considerations that might allow current Policy to permit the redevelopment of the site. These are explored later in this Statement.

### 3. Statement of Case

- 3.1. Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires applications to be determined in accordance with the Development Plan ie the adopted Moray Local Development Plan 2015, unless **material considerations** indicate otherwise.
- 3.2. As stated earlier in this Statement there are significant **material considerations** to be aware of this case and are repeated here for the sake of clarity.
  - There **was a house on site** until Moray Council instructed it to be demolished.
  - The client was **not advised** to secure consent for replacement before obeying Moray Council instructions to demolish.
  - Consent **would have been granted**, if an application had been made prior to demolition.
  - The Transportation Department **APPROVE** the access and parking arrangements
  - Current Policy can support the application even if not able to be seen as an existing house site
- 3.3. This current Plan is soon to be replaced by the Proposed Plan which was considered to be the “settled view” of Moray Council but with only “minimal weight” being applied to it. The 2015 MDLP remains the primary consideration. This point is important in relation to how council have applied the need for drainage management measures to be concluded at the planning stage.
- 3.4. The appellant feels particularly aggrieved that no advice to apply for a replacement property was given, when Moray Council asked the family to deal with the decay of their grandparents home in 2015.
- 3.5. The house was the former home of the appellant’s grandparents from 1964 and up to 2012 when the widowed grandfather was taken into respite care.
- 3.6. The grandfather was fiercely independent and refused to allow anyone to help to look after the property, which was in an already ruinous condition because of his own failing health and inability to maintain it
- 3.7. Sadly, the grandfather never returned to his home having passed away in 2015.
- 3.8. In that same year the appellant’s family were approached by Moray Council to make the building safe and after due consideration of Structural Engineers, an order was made to demolish it.
- 3.9. The appellant and her family agreed to this, all the while assuming that they could simply replace it.
- 3.10. The appellant faced costs of over £20k for the demolition and thought that this might be acceptable given the value of the land as a house site at that time.
- 3.11. Without consent, the value of the site cannot be realised and the appellant and family are now facing the loss of a family asset which was strived for and established over many decades of hard work by their grandparents.



#### 4. Policy Compliance

4.1. The current application has been refused on the grounds of **three separate issues**. Whilst it is understood that the case officer can only decide upon the merits of a case in the light of current Policy, this Appeal Statement seeks to draw attention to the significant material considerations that might allow that decision to be reconsidered.

4.2. **REASON FOR REFUSAL NO 1** - *"The proposal is contrary to policies H1 and IMP1 in the Moray Council Development Plan for the following reason: the site is of insufficient size to provide for a house with adequate **levels of amenity** which avoids an **intrusive impact** on neighbouring houses, it is also considered that any reasonably sized house on the site would result in cramped, **over development** of the site which would be to the detriment to the character of the area and residential amenity and as such the proposal is contrary to the provisions of The Moray Local Development Plan 2015.*

4.2.1. Notwithstanding the **material consideration** that an application for replacement would have been approved prior to demolition, there are other considerations that might allow this application to be in concordance with Policy H1 and IMP1

4.2.2. **Amenity** – any suggested loss of amenity is only within the context of the site being considered a vacant portion of amenity ground rather than its former use as a house site. The current amenity enjoyed by the surrounding houses has only been afforded to them by the instruction by Moray Council to demolish the home that formally existed there. The "level of amenity" proposed is greater than formally enjoyed by the house on site and equal to any other adjacent house in the row.

The appellant contends that the proposals present a greater degree of amenity to the site itself and neighbouring properties than the former property presented and that this application could be considered to comply with Policy H1 and IMP1

4.2.3. **Intrusive impact** – The surrounding properties have been used to a house being present on this site since it was first built after the war. Equally, they have been familiar with the access to the former house being used for decades and accessing the domestic garage that remains on site today.

The appellant contends that the proposals do not present any impact upon neighbours that they were not formally familiar with prior to the property at Hillview being demolished

4.2.4 **Overdevelopment** – The surrounding properties are all of a similar nature with a mixture of detached and semi - detached post war properties with small gardens front and rear. The previous picture clearly shows how the settlement pattern of the area reflects what was formally on site and demonstrates how the impact of this proposal will be no different.

The appellant contends that the proposals continue to reflect the settlement pattern of the area and that the site size is equal to and in excess of several adjacent homes.



- 4.3. **REASON FOR REFUSAL No.3** – *“By virtue of reliance for off street parking and turning to take access onto a narrow confined land with poor access onto Walker Crescent, close to its junction with Garmouth Road the additional traffic would result in a detrimental impact to the amenity of the locality and to other users of the lane. The existing lane is therefore inadequate to receive additional traffic and would not meet the requirements of Policy T2 which requires an access to the appropriate to the needs of the development”*

- 4.3.1. As can be seen from the Case Officers Handling Report, the Transportation Department **do not object** to the access and parking arrangements as proposed.
- 4.3.2. It is only the case officer who considers that the current access to Hillview, which has been used for over 60 years without incident, to be less than satisfactory.
- 4.3.3. It is important to note that the vehicular access is private and belongs to the site and will inevitably continue to be used to access the site regardless of the case officers concerns and regardless of the future use of the site.
- 4.3.4. It is perhaps ironic that the appellant could continue to use the site on a daily basis to park family vehicles, within the garage or otherwise, without consent and with no greater or lesser impact than formally experienced prior to the house being demolished.  
*Given the garage on site and the nature of the access, there can be no inferred assumption of increased burden of use by giving consent to this replacement. The impact upon the neighbours by the existing access has been in place for decades and will continue to be so.*

- 4.4. **REASON FOR REFUSAL No.3** – *“There is currently insufficient information to assess the proposals against the requirements of Policies EP5 and IMP1 and associated Supplementary Guidance Flood Risk and Drainage Impact Assessments for New Development. On the basis that site drainage cannot be confirmed as compliant with the above policies in terms of the provision of water disposal and treatment from the site”*

- 4.4.1. This matter relates to the **early adoption** of Supplementary Guidance on Drainage and Flood Risk detailed within the **emerging** Local Development Plan and basically requires that site testing be carried out on site to identify the means of dealing with foul and surface water discharge.
- 4.4.2. This matter was the subject of a “**late consultation**” (see the case officer’s Report of Handling) and was able to be addressed within the time allowed for this application to be considered
- 4.4.3. Notwithstanding the fact that the previous house at Hillview was successfully connected to the public system in all respects, the ability to **1)** connect the foul discharge to the public system and **2)** deal with surface water on site, is assured
- 4.4.4. The detail of any discharge measures is adequately dealt with by Building Control at the point of applying for a warrant.
- 4.4.5. It is requested that this matter be dealt with, in terms of Planning Approval, by **suspensive condition**.



The appellant will be delighted to address this technical issue and face the inevitable costs of doing so, once the outcome of this Appeal is known.

- 4.5. it can be seen that, even if the site were to be considered a vacant parcel of amenity ground without any history, certain merits are available for the application to be considered to be **compliant with Policy**.
- 4.6. However, the history of this site is well known and the very unfair circumstances that led it to lose its status as a house site is also clear
- 4.7. The potential for compliance as a vacant site AND the unfair history of how it lost its house site status are considered to be significant material considerations that might allow this Appeal to be upheld.

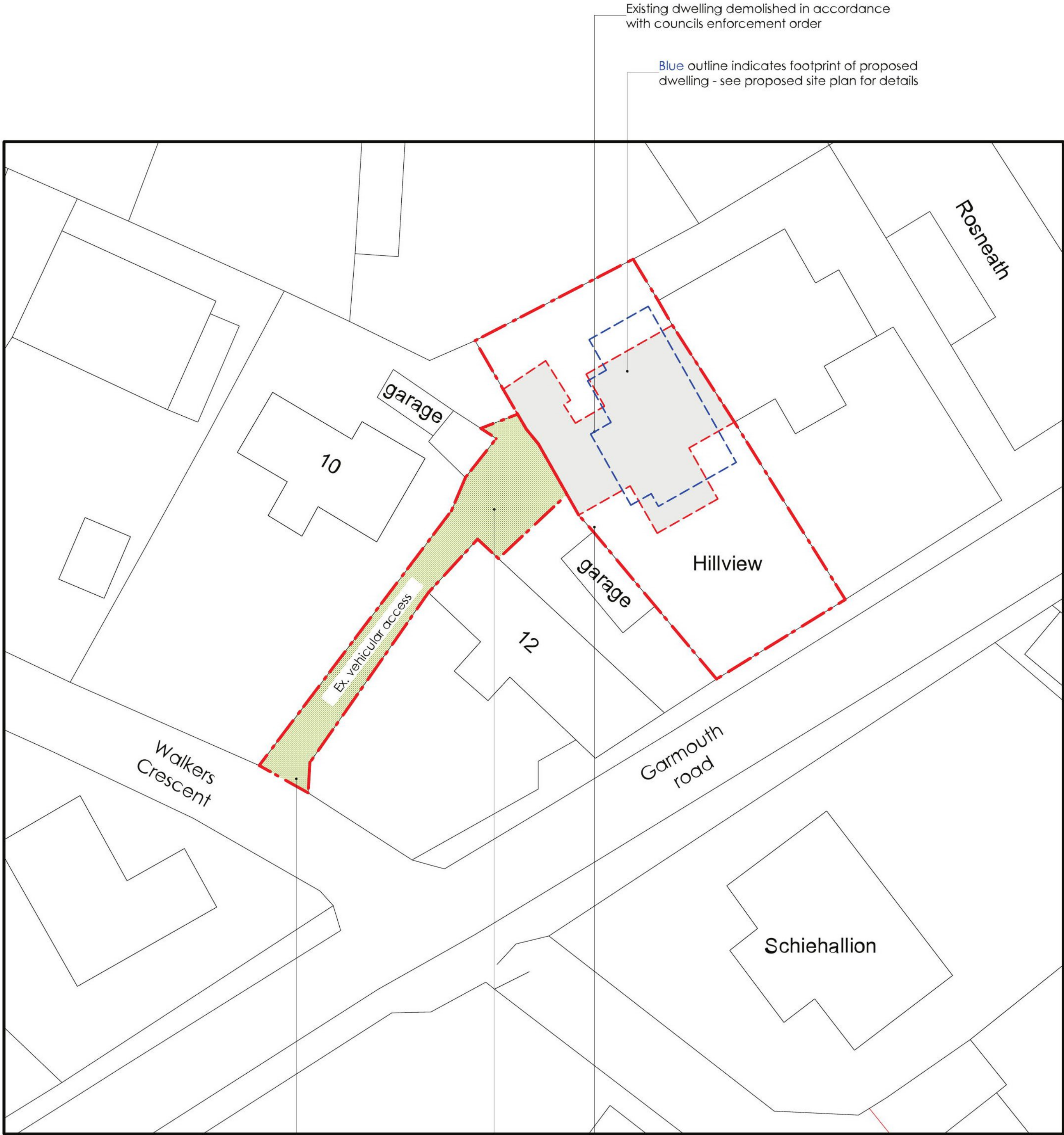
## 5. Conclusion

- 5.1. The unique circumstances of this case are clear and without doubt.
- 5.2. Only perhaps a Local Review Board can adequately consider the unique circumstances of this case and its impact upon a local family
- 5.3. Moray Council's own records with corroborate the course of events that led to the demolition of the appellants's family home at Hillview
- 5.4. As a result of timeously and willingly complying with Moray Council's wishes that the former property at Hillview be demolished, the appellant and the family have been effectively stripped of their family home and asset.
- 5.5. It is regrettable that Moray Council did not advise the appellant of the importance of applying for consent to replace the house before agreeing to demolish it.
- 5.6. It is hoped that the circumstances of the demolition might present the Board with a sufficiently material consideration to allow this Appeal to be upheld.
- 5.7. Moreover it is hoped that the additional merits of this case in terms of how it could be considered to comply with Policy, regardless of its history, would also be a significant consideration.
- 5.8. **The appellant respectfully requests that the unique nature of this case be fully considered and the Appeal to approve this application be upheld.**



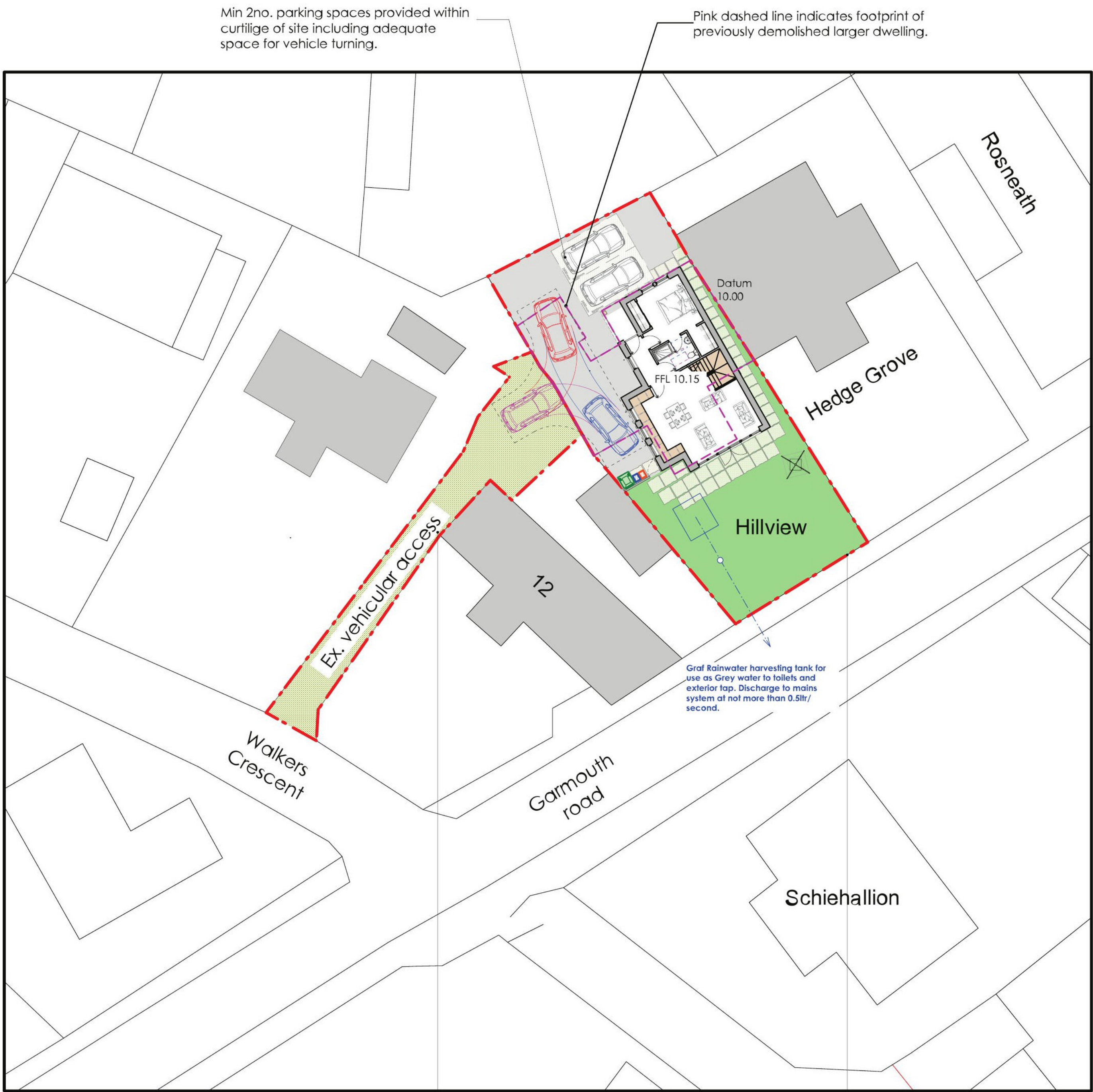


AMENDED PLANS



EXISTING SITE PLAN  
(Scale 1:200)

Site area (excluding shared access) 326sqm  
Footprint existing dwelling 117sqm



PROPOSED SITE PLAN  
(Scale 1:200)

Hatched area indicates **existing** shared driveway access to rear of dwelling. Parking to rear of the dwelling with suitable turning area within the site to allow vehicles to access and exit in a forward gear.

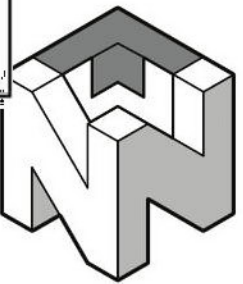
Site area (excluding shared access) 326sqm  
Footprint proposed dwelling 80sqm

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

**REFUSED**

06 June 2019

Development Management  
Environmental Services  
The Moray Council



**cmdesign**  
architectural consultants

HEAD OFFICE - MORAY  
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101343 810175  
DEVON OFFICE  
101392 345566

Mrs D Campbell

PROPOSED REPLACEMENT DWELLING ON EXISTING  
FOOTPRINT AT HILLVIEW GARMOUTH ROAD, LHANBRYDE

DESIGN PROPOSALS  
EXISTING AND PROPOSED SITE PLAN

Date:	Amendments:	Rev:
07.03.19	Car Turn table added	A
29.04.19	Revised further to transport comments	B
29.04.19	Revised further to transport comments	C

Drawn By: A. CARSWELL Date: 29.01.2018 Checked By: Date:

**180002.CAMPBELL.01PP C**









**SIDE ELEVATION**  
(Scale 1:50)

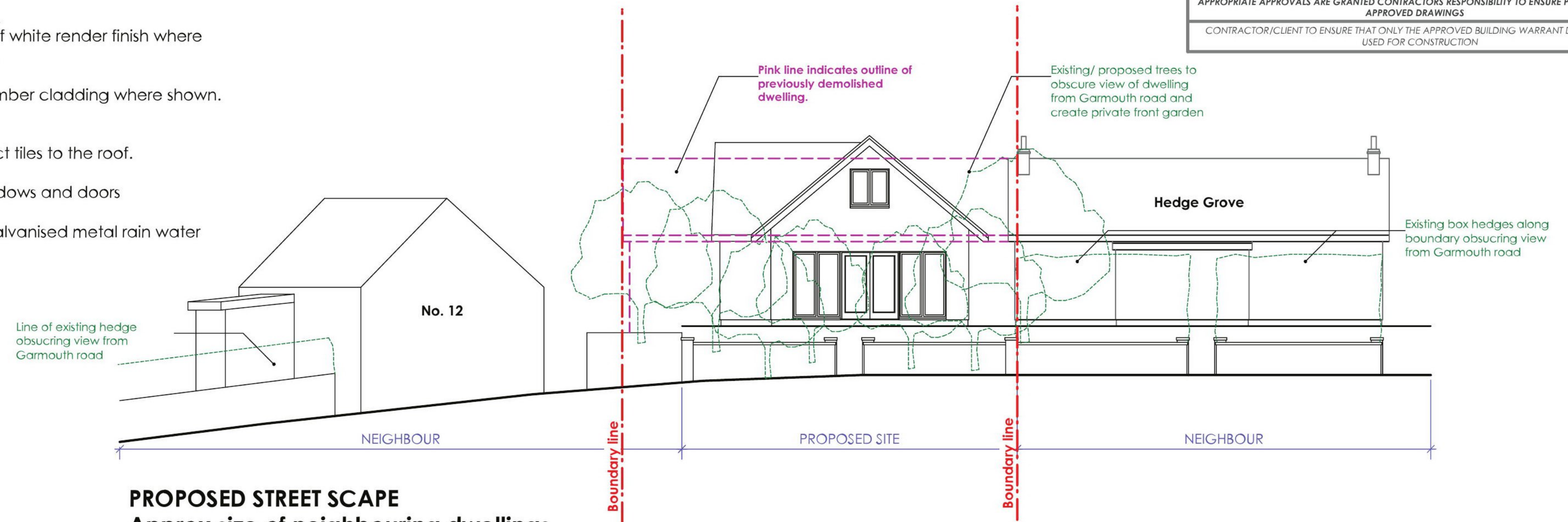
**Materials:**  
Smooth off white render finish where indicated.

Vertical timber cladding where shown.

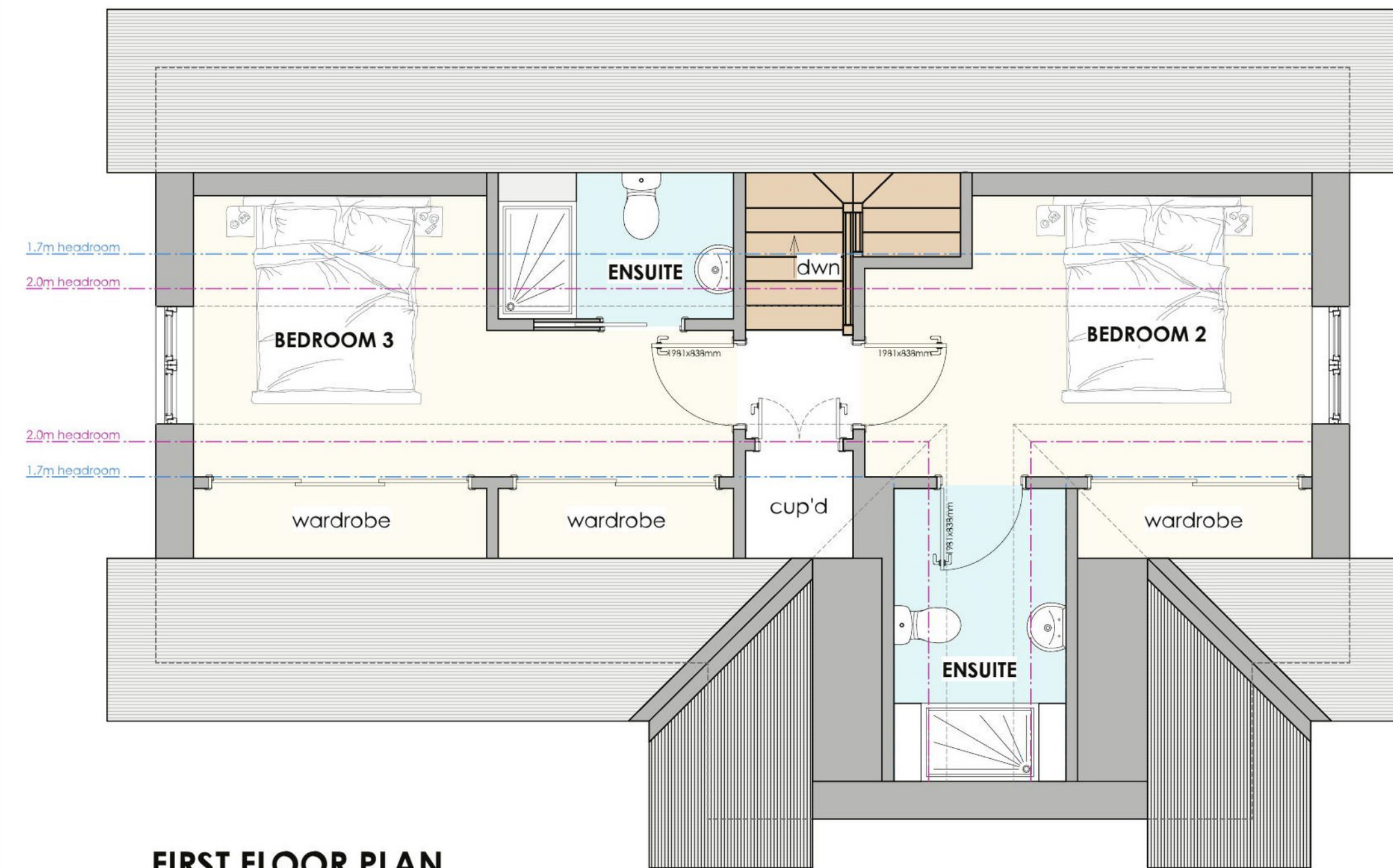
Slate effect tiles to the roof.

UPVC windows and doors

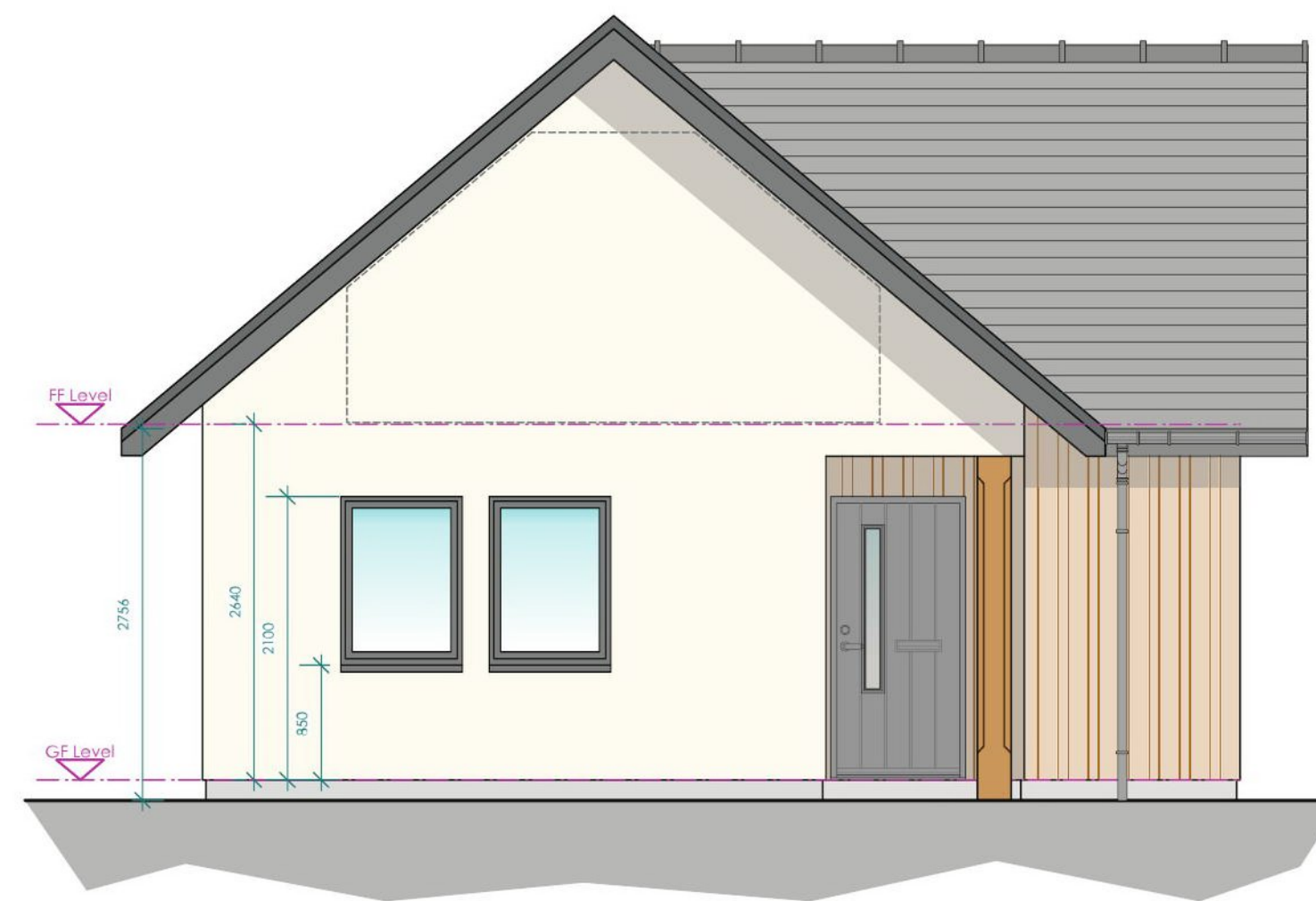
Lin dab galvanised metal rain water goods



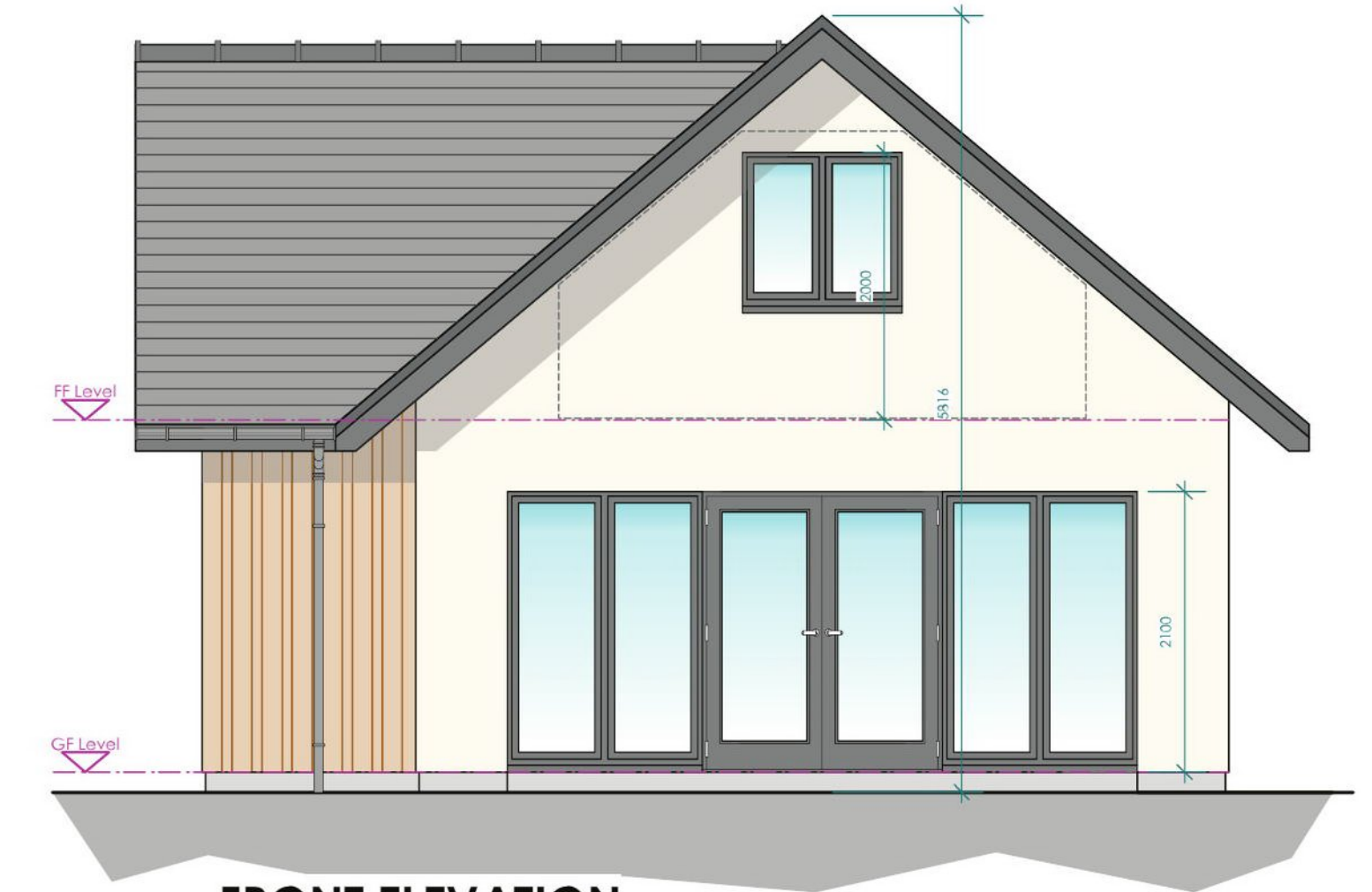
**PROPOSED STREET SCAPE**  
Approx size of neighbouring dwellings  
(Scale 1:100)



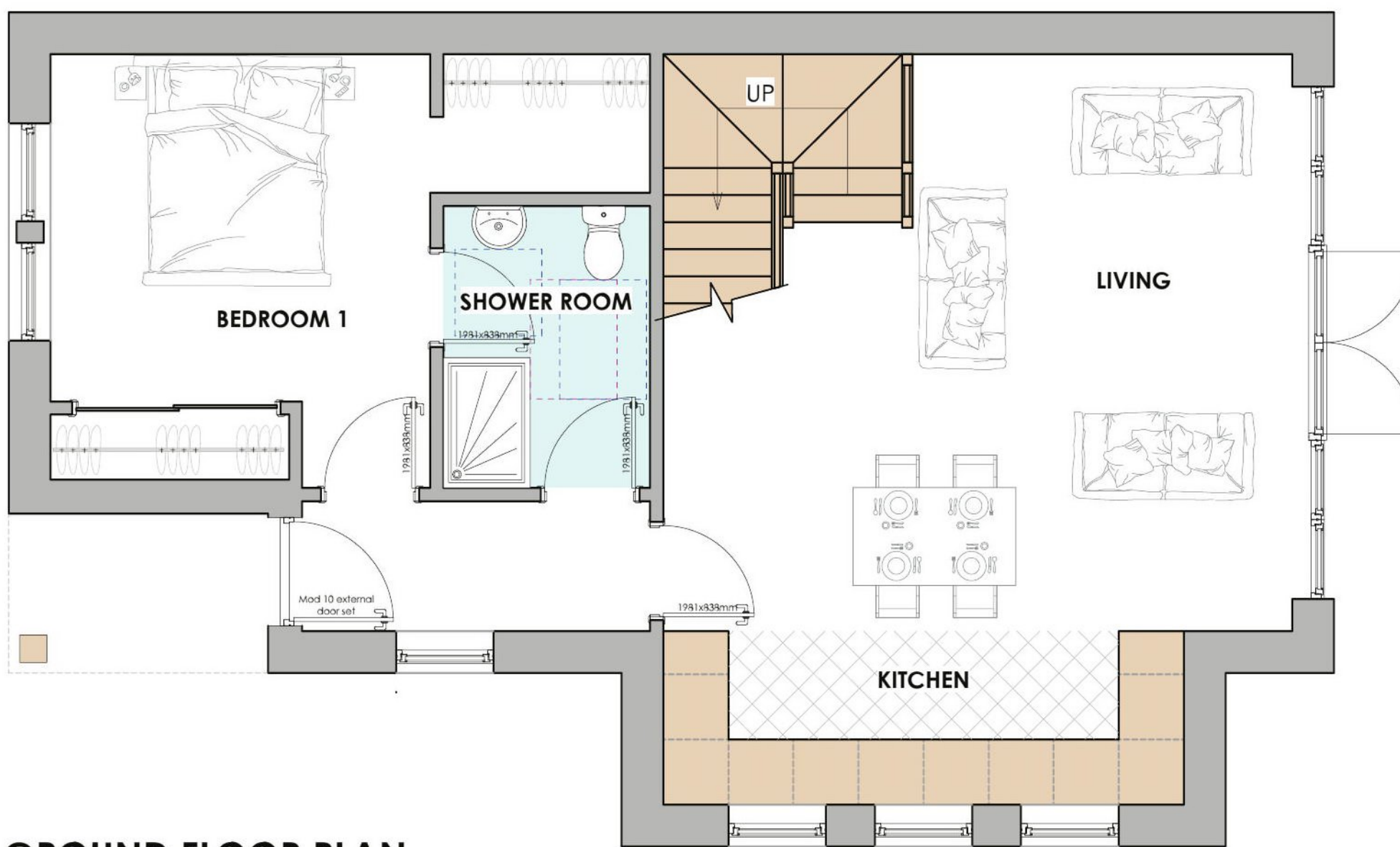
**FIRST FLOOR PLAN**  
(Scale 1:50)



**REAR ELEVATION**  
(Scale 1:50)

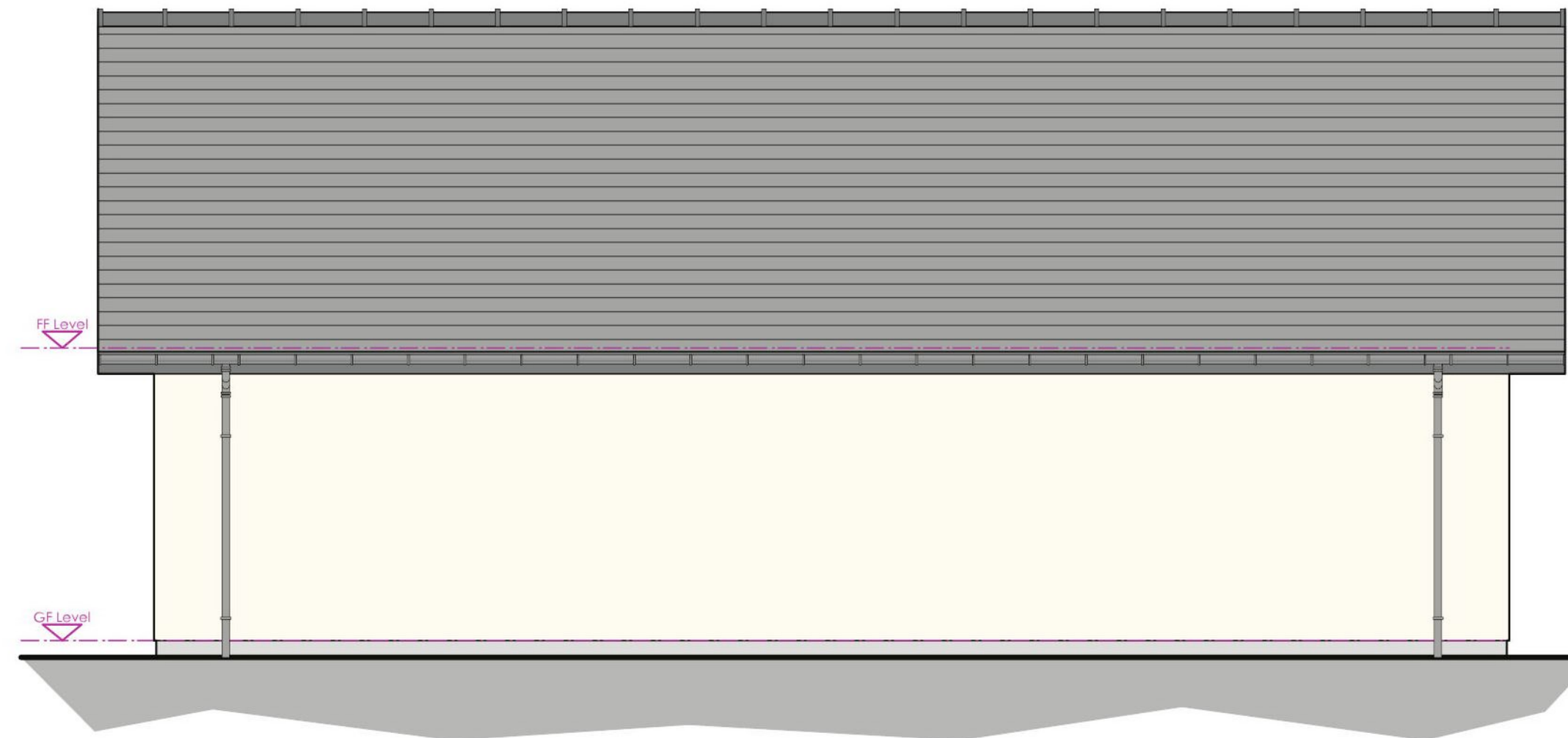


**FRONT ELEVATION**  
(Scale 1:50)



**GROUND FLOOR PLAN**  
(Scale 1:50)

Internal floor area ground floor 65.4sqm  
Internal floor area first floor 40sqm



**SIDE ELEVATION**  
(Scale 1:50)

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

**REFUSED**

06 June 2019

Development Management  
Environmental Services  
The Moray Council



**LOCATION PLAN**  
(Scale 1:1250)

**SITE REFERRED TO  
IN APPLICATION**

**HEAD OFFICE - MORAY**  
51 Brendans, 67 South Gully Street, Elgin,  
IV30 1GN  
101343 540020

**HIGHLANDS**  
4 Bridge Street, Nairn, Highlands, IV12 4EJ  
101667 300230  
m 0781 3872818 w cmdesign.biz e office@cmdesign.biz

**LOSSIEMOUTH OFFICE**  
Ellet, James Street, Moray,  
IV30 6BX  
101343 810175

**DEVON OFFICE**  
101392 345566

Mrs D Campbell

PROPOSED REPLACEMENT DWELLING ON EXISTING  
FOOTPRINT AT HILLVIEW GARMOUTH ROAD, LHANBRYDE

**DESIGN PROPOSALS**  
PROPOSED HOUSE DESIGN

Date: 07.03.19 Amendments: Design updated Rev: A

Drawn By: A. CARSWELL Date: 29.01.2018 Checked By: Date:

**180002.CAMPBELL.02PP A**

**cmdesign**  
architectural consultants





## **REPORT OF HANDLING**

<b>Ref No:</b>	19/00309/PPP	<b>Officer:</b>	Shona Strachan
<b>Proposal Description/ Address</b>	Erect replacement dwellinghouse Hillview Garmouth Road Lhanbryde Elgin		
<b>Date:</b>	04.06.2019	<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>
Environmental Health Manager	08/04/19	No objection
Contaminated Land	09/04/19	No objection
Transportation Manager	07/05/19	Initially objected to the proposal, the objection was removed following the submission of amended plans. The concluded response confirms, there are no objections subject to conditions and informatives
Scottish Water	09/04/19	No objection but this does not guarantee connection to Scottish Water Infrastructure.
Planning And Development Obligations	12/04/19	None sought in this instance.
Aberdeenshire Council Archaeology Service	08/04/19	No objection
Moray Flood Risk Management	24/05/19	Object on grounds of lack of information on drainage information.  A 'late consultation' was requested following the adoption of the Supplementary Guidance of Drainage and Flood Risk.

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
<b>Moray Local Development Plan 2015</b>		
PP1: Sustainable Economic Growth	N	
PP3: Placemaking	N	
H1: Housing Land	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
EP5: Sustainable Urban Drainage Systems	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
EP9: Contaminated Land	N	
EP10: Foul Drainage	N	
T2: Provision of Access	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
T5: Parking Standards	N	
IMP1: Developer Requirements	Y	The application is contrary to the provisions of this policy and this forms the basis of one of the reasons of refusal for this application.
IMP3: Developer Obligations	N	
<b>2020 Proposed Local Development Plan</b>		
PP1 Placemaking		
PP3: Placemaking		
DP1 Development Principles		
DP2 Housing		
EP13 Foul Drainage		
EP14 Pollution, Contamination & Hazards.		

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		
<p><b>Issue:</b> concerns regarding the shared lane between 11 and 12 Walker's Crescent as an access for the property. The lane is much too narrow and the bottom of the lane at Walker's Crescent can be extremely dangerous to exit. The contributor is fearful that this will only get worse as more cars use the lane.</p>		



**Comments (PO):** The comments have been noted. This matter is addressed in more detail in the observations section of the assessment (reference details below).

## **OBSERVATIONS – ASSESSMENT OF PROPOSAL**

### **Legislative Requirements**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Plan 2015 (MLDP) unless material considerations indicate otherwise.

On 18 December 2018, at a special meeting of the Planning and Regulatory Services Committee, the Proposed Plan was approved as the "settled view" of the Council and minimal weight will be given to the Proposed Plan, with the 2015 MLDP being the primary consideration.

### **Proposal**

As amended, this application seeks Planning Permission in Principle for a replacement dwellinghouse at Hillview Garmouth Road.

Whilst this application seeks Planning Permission in Principle, the application has been supported by an indicative site plan (as amended) which seeks to show 2 parking spaces within the curtilage of the site as well as turning space within the site. Indicative elevation drawings and related floor plans of a three bedroom house have also been submitted as part of this application.

In order to remove an initial objection from Transportation, the indicative site plan has been amended to demonstrate that parking and turning can be achieved within the site. However, it is noted that the amended site plan reflects the site plan which was refused under application 18/00271/PPP (as issued by decision on 3 May 2018). This means that the current application is the same as the proposal that was submitted under 18/00271/PPP with no material change in circumstance in planning policy terms or in the material consideration of the case (with the exception of the Supplementary Guidance on Flood Risk and Drainage Impact Assessment for new Developments). This means the assessment under 18/00271/PPP remains a valid assessment of the proposal against the provisions of the Moray Local Development Plan 2015 with the addition of assessment of the proposal against the requirements of the drainage and flood risk Supplementary Guidance.

### **Site Characteristics**

Extending to 326.00 sq m, the site is currently an overgrown area of vacant land with a single garage located in the northwest corner of the site. The site and the neighbouring properties to the east and west are located above of the level of the public road, with a steep drop on to the level of the road. The access to the site is via the narrow lane (approximately 2.4m wide) off Walkers Crescent. This lane runs between nos. 11 and 12 Walkers Crescent and enters the site on its western boundary.

The site previously accommodated a substandard house which was demolished in 2015. The previous dwelling on the site was attached to the neighbouring property to the east.

### **Planning History**

An application for a replacement dwellinghouse on the site was initially submitted under 16/00893/PPP, however, this application was withdrawn following concerns over whether the site was of sufficient size to accommodate a house together with the necessary parking and turning and issues over access provision.

Application 17/01519/PPP (as issued by decision on 24 November 2017) was refused was on grounds of overdevelopment, amenity considerations and access and parking concerns, with an objection from the Transportation Service.

Thereafter, the proposal submitted under application 18/00271/PPP sought to address the matters raised in the reason for refusal of 17/01519/PPP and as such the proposal had a revised indicative house design and location when compared to this previous application. The application also sought to demonstrate that two parking spaces and requisite turning could be accommodated within the site. The Transportation accepted the information submitted and raised no objection to the proposal, in terms of the impact of the development upon the public road network. However, during the assessment of this application it was noted that both the driveway and the Walker Crescent are private un-adopted roadways outwith the control of the Roads Authority and as such the assessment of their suitability fell outwith the mandate of the Transportation Manager. Therefore, the decision taken by the Development Management section was to assess the suitability of the access in terms of the impact on amenity under policies T2, T5 and IMP1 and it was concluded that: The existing lane was inadequate to receive additional traffic and would not meet the requirements of Policy T2 and IMP1 which requires an access to be appropriate to the needs of the development. This meant that the application was refused on overdevelopment, amenity, and access considerations.

### **Policy Assessment**

As noted previously, this means that the current application is the same as the proposal that was submitted under 18/00271/PPP with no material change in circumstance in planning policy terms or in the material consideration of the case (with the exception of the Supplementary Guidance on Flood Risk and Drainage Impact Assessment for new Developments). This means the assessment under 18/00271/PPP remains a valid assessment of the proposal against the provisions of the Moray Local Development Plan 2015 with the addition of assessment of the proposal against the requirements of the drainage and flood risk Supplementary Guidance.

### **Policy Assessment**

#### **Principle of New House (H1, IMP1)**

It is accepted that the site up until recently accommodated a semi detached house which was demolished due to its substandard condition. The site is now vacant and the proposal for a new detached house on the site must meet the requirements of current planning policy and house plot requirements.

In this instance, the proposed site which measures 326.00 sq m is small and constrained by its location with a very narrow access track off Walkers Crescent which is also narrow. This means that the site is of insufficient size to provide for a detached house, off street parking and turning for vehicles with adequate levels of amenity which avoids an intrusive impact on neighbouring houses. It is also considered that the necessary layout respecting building lines and need for parking in the north western corner of the site results in cramped, over development of the site which would be to the detriment to the character of the area and residential amenity.

#### **Water and Drainage (EP5, EP10 and IMP1)**

The proposed house is to connect to the public sewer and water supply and it is noted here that Scottish Water has raised no objection to the proposal. However, this does not guarantee connection to Scottish Water infrastructure and any connection would be the subject of separate liaison with the applicant and Scottish Water directly at the appropriate juncture.

Following the recent adoption of the Supplementary Guidance on Flood Risk and Drainage Impact Assessment for new Developments, a late consultation was undertaken with Moray Flood Risk Management MFRM. Following consultation MFRM objected to the application because of lack of drainage information. The consultation response identified the additional information needed to assess the proposal, this included:

- Infiltration / Soil test results to confirm adequate rates / sub-soils for soakaway.
- Attenuation calculations to show SuDS is designed to store capacity from a 1 in 30 year storm period.
- Plan drawing of the SuDS in relation to the site.

This request for additional information was shared with the agent and an appropriate timeframe given to its consideration. The agent confirmed that this lack of information should be included within the reasons for refusal of the application and this matter will be addressed further as part of the appeal process. On the basis that the information has not been submitted allowing consideration of whether full compliance with policy EP5 (and its associated supplementary guidance) can/has been achieved, the proposal departs from this Policy.

### **Access and Parking (T2, T5 and IMP1)**

As noted previously, the Transportation Manager initially objected to the proposal as it was considered that the proposed layout could not full support the required parking provision. Following this objection amended plans were submitted which reflected the site layout as submitted under application 17/01519/PPP which removed the objection from the Transportation Manager.

However, as with the assessment under application 17/01519/PPP, the Transportation Manager has not commented upon the suitability of the access to accommodate additional traffic as both the driveway and the Walker Crescent are private un-adopted roadways outwith the control of the Roads Authority. Therefore, the Development Management Section needs to assess the suitability of the access in terms of the impact on amenity under policies T2, T5 and IMP1.

To this end, it is considered that even if space was made available within the plot to allow for off street parking as illustrated in the amended plan, to allow additional traffic to access Walker Crescent from an already restricted and poor access would be to the detriment of amenity for other roads users and pedestrians in the locality. It is noted that the top end of the lane forming the access is used for off street parking by property to the south and the demolished property subject of this application only had pedestrian access from the lane previously. In making this assessment it is noted that the current occupants of houses also utilising this lane is the subject of public representation and the enduring impact of the development upon the locality requires an assessment of the impact upon other users of lane in perpetuity. The submitted plans shows off street parking and a turning area to be provided at the western end of the plot alongside the indicative house position that understandably seeks to maintain the general building line along the front of Garmouth Road. This effectively sees the parking, turning area and residence position within the western two thirds of the plot, which equates to approximately 220sqm. This area is too small to comfortably accommodate both the parking and house which would be orientated and positioned to experience an adequate degree of amenity. It is noted in the submitted site plan that the turning area will partly lie within the communal access space. Assessed in conjunction with the effect this would have upon the existing properties using this lane for access and parking in the area where vehicles already park, the proposal would fail to provide an appropriate level of new access to the proposal as required under Policy T2 Provision of Access.

However, this is separate to the main policy objection to this proposal on siting and amenity grounds.

### **Developer Obligations (IMP3)**

An assessment has been carried out in relation to Policy IMP3 Developer Obligations of the Moray Local Development Plan 2015. The assessment identifies that no Developer Obligation will be sought in this instance.

### **Conclusion and Recommendation**

The proposal is considered to result in a development which by virtue of the physical constraints of the site would result in a form of development which does comply with the provision of the MLDP 2015 and is therefore recommended for refusal.

### **OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT**

None

HISTORY				
Reference No.	Description			
18/00271/PPP	Erect replacement dwellinghouse at Hillview Garmouth Road Lhanbryde Elgin Moray			
	Decision	Refuse	Date Of Decision	03/05/18
17/01519/PPP	Erect replacement dwellinghouse at Hillview Garmouth Road Lhanbryde Elgin Moray			
	Decision	Refuse	Date Of Decision	24/11/17

ADVERT			
Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	No Premises Departure from development plan	02/05/19	
PINS	No Premises Departure from development plan	02/05/19	

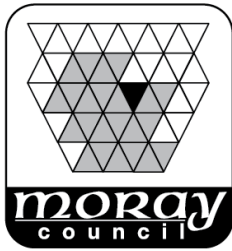
DEVELOPER CONTRIBUTIONS (PGU)	
Status	NONE SOUGHT

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**

**[Fochabers Lhanbryde]  
Planning Permission in Principle**

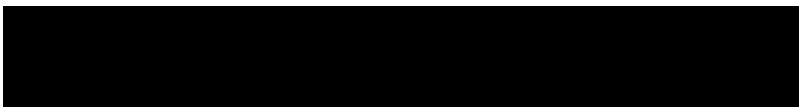
TO Mr & Mrs D Campbell  
c/o C M Design  
St Brendans  
69 South Guildry Street  
Elgin  
Moray  
IV30 1QN

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 replacement dwellinghouse Hillview Garmouth Road Lhanbryde Elgin**

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

Date of Notice: **6 June 2019**



**HEAD OF DEVELOPMENT SERVICES**

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

1. The proposal is contrary to policies H1 and IMP1 in the Moray Council Development Plan for the following reason: the site is of insufficient size to provide for a house with adequate levels of amenity which avoids an intrusive impact on neighbouring houses, it is also considered that any reasonably sized house on the site would result in cramped, over development of the site which would be to the detriment to the character of the area and residential amenity and as such the proposal is contrary to the provisions of The Moray Local Development Plan 2015.
2. By virtue of reliance for off street parking and turning to take access onto a narrow confined lane with poor access onto Walker Crescent, close to its junction with Garmouth Road the additional traffic would result in a detrimental impact to the amenity of the locality and to other users of the lane. The existing lane is therefore inadequate to receive additional traffic and would not meet the requirements of Policy T2 which requires an access to be appropriate to the needs of the development.
3. There is currently insufficient information to assess the proposals against the requirements of Policies EP5 and IMP1 and associated Supplementary Guidance Flood Risk and Drainage Impact Assessments for New Development. On the basis that site drainage cannot be confirmed as compliant with the above policies in terms of the provision of surface water disposal and treatment from the site.

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

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

Reference	Version	Title
180002.CAMPBELL.02PP		Elevations floor plans and location plan
180002.CAMPBELL.01PP	C	Existing and proposed site plan



**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 3**

# **FURTHER REPRESENTATIONS FROM INTERESTED PARTIES**



**Lissa Rowan**

---

**From:** [REDACTED]  
**Sent:** 17 September 2019 15:16  
**To:** Lissa Rowan  
**Subject:** Fwd: Planning permission

Sent from my iPhone

Begin forwarded message:

**From:** [REDACTED]  
**Date:** 17 September 2019 at 14:04:38 BST  
**To:** [REDACTED]  
**Subject:** Planning permission

Dear Ms Rowan

I am writing with regard to the Planning Application [19/00309/PPP](#) – Erect Replacement Dwellinghouse at Hillview, Garmouth Road, Lhanbryde, IV30 8PD.

I am the co-owner of number [REDACTED] along with [REDACTED] I have an issue with access to Hillview via the dirt lane between numbers 11 and [12 Walker's Crescent](#).

Whilst the applicant is correct in saying the lane was used by the previous occupant of Hillview, the frequency of use was limited as was the case with the occupants of numbers 11 and 12. All the previous users of the lane had small cars such as Fiat Pandas or a Peugeot 105 and did not use the lane on a daily basis.

The proposed dwelling at Hillview is a 3 bedroom family home with space for 2 family sized cars to park at the front of the property. Given the nature of modern family living, it is envisaged there would be multiple trips up and down the lane daily as part of normal day-to-day life. At the moment, the only use of the lane is by [REDACTED] a couple of times a month.

As you are aware, the lane is a dirt track which is badly affected by heavy rainfall with a lot of water and soil run off into the crescent below. This has resulted in soil erosion over the years which both [REDACTED] and [REDACTED] attempted to resolve by the application of soil and gravel to fill the ensuing holes at a cost to both of them. [REDACTED] did not contribute to the cost of this work or to the costs of maintaining and regularly trimming the hedges on either side of the lane.

[REDACTED] dug up and replanted the hedge bordering the lane further in to the garden at number 12 to broaden the lane to assist car access some years ago. This can be seen if viewed on site as the hedge is not yet mature, is at a lower height and more sparse than the other hedges bordering the number 12 property.

The gable end of our house butts up against the lane (there is no gap) and has suffered several scrapes over the years. The age of our house also means that there is no 'modern' foundation and the house has been subsiding over many years with the original building pulling away

from the extension housing the kitchen and bathroom. The area beneath the floorboards in the bedroom next to the lane is actually filled with sand. The subsidence we are currently experiencing is likely to worsen with increased lane activity.

As the last house in the Crescent, number 12 is also affected by the heavy traffic going up and down Garmouth Road which has also impacted on the stability of our house. The volume of traffic, which includes heavy lorries and plant equipment, was recognised with the introduction of double yellow lines by the council to ease the flow of traffic going up and down the road along with the introduction of two 'Give Way' points to slow traffic down. There was heavy congestion at peak times due to parked vehicles and the road is still very busy at all times of the day and night despite the yellow lines.

As part of the appeal review of the planning application, I would like to request a structural survey of number 12 so that a fair assessment can be made around the potential impact to the building infrastructure, with a particular focus on the subsidence, as a result of the proposed additional vehicle traffic in the lane.

The lane is used to store the various bins for numbers 11 and 12 as the Crescent isn't wide enough to accommodate these and still allow traffic through, including the bin lorry, on the days the bins are emptied. Outwith the bin emptying days, the various bins are stored at the back of the house which is the same for [REDACTED].

I am sympathetic to the applicants position and the circumstances surrounding the demolition of the previous dwelling and would suggest that consideration be given to the creation of a small off street parking area off Garmouth Road instead of the use of the lane for access.

This is something I am considering for the foot of our garden to create accessible off street parking in line with what many other properties in the Crescent have done. When in residence I park in Robertson Road across the street as my vehicle cannot navigate the Crescent and the tight turn into the lane as there is not enough room. I drive a Nissan Qashqai , a popular family car of similar size to many other cars that a modern family is likely to drive.

As such, I object to the use of the lane for car ingress and egress to the proposed dwelling. I have no objection to the dwelling itself. I believe there would be significant environmental damage as well as negatively impacting on the infrastructure of number 12 should this planning application be approved with main access via the dirt lane.

I should be grateful if you would consider my objections carefully and the request for an independent structural survey. I look forward to hearing from you in due course.

Kind regards  
[REDACTED]  
[REDACTED]

Sent from my iPhone



## **APPENDIX 4**

# **APPLICANT'S RESPONSE TO FURTHER REPRESENTATIONS**





Monday, 30 September 2019

**Our Ref: 180002/CAMPBELL/cjsm**

Your Ref: LR/LR230

**Ms Lisa Rowan**

Committee Services Officer  
Clerk to the MLRB  
Moray Council  
High Street  
Elgin  
IV30 1BX

**LRB REVIEW – PLANNING REF 19/00309/APP - REPLACEMENT DWELLING AT  
HILLVIEW, GARMOUTH ROAD, LHANBRYDE**

---

Dear Lisa

I refer to the above subject and recent representation received from a neighbour dated 17<sup>th</sup> September 2019.

On behalf of my client, I would like to respond by noting that the representee does indeed confirm the history of use of the access by the former occupants and household on this site.

We further note that the representee does not object to the principle of the house and only objects to the access.

It should be noted that whilst this Review seeks to reinstate the family home that was ordered to be demolished by Moray Council, the servitude right to access the site by the existing access track stands in perpetuity regardless of the outcome of the Review.

We would contend that the previous frequency of use of the access track is not a material matter and that the **principle of access still remains at present** and can currently be used as frequently as our client might wish.

The suggestion that the track had deteriorated over time was in no small way due to our client's father's ill health and in-ability to look after the property prior to his passing away.

Our clients would undoubtedly ensure that this matter was attended to if their right to reinstate their family home on site was to be granted.

We would argue that any structural shortfall in the integrity of the foundations or gables of neighbouring houses that flank the access, should have been identified by any pre-purchase surveys and that remedial works are not our clients responsibility. However, the improvements that would be brought about by the



**Head Office - Moray**

69 St Brendans  
South Guildry Street  
Elgin  
Moray  
IV30 1QN

t 01343 540020  
e office@cmdesign.biz  
w cmdesign.biz

**Highland Office**

4 Bridge Street  
Nairn  
Highlands  
IV12 4EJ

t 01667 300230

**Lossiemouth Office**

Ellel, James Street  
Lossiemouth  
Moray  
IV31 6BX

t 01343 612305

**Devon Office**

The Generator Quay House  
The Gallery, Kings Wharf  
Exeter  
EX2 4AN

t 01392 345566

PLANNINGCONSULTANCY  
ARCHITECTURALDESIGN  
PROJECTMANAGEMENT  
RENEWABLECONSULTANCY



Monday, 30 September 2019

return of a family home to the site would assist the situations that the representee describes.

The representee's objection to the track being used for vehicular traffic is not relevant as our client has every right to do at this moment in time and regardless of the outcome of the Review.

**Conclusion** – as it stands the access to the site and the rights to use it remain in perpetuity and can be used as frequently as our client might wish and without any obligation or motivation to improve or maintain the access.

Any wish by neighbours that matters be improved can only be brought about by allowing our clients to re-establish the family home that they were unfairly instructed to demolish by Moray Council.

I trust this response adequately describes our client's position on this and look forward to the determination of the Board in due course.

**Yours Sincerely**

**C.J.S Mackay**  
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