



MORAY LOCAL REVIEW BODY

25 APRIL 2019

SUMMARY OF INFORMATION FOR CASE No LR220

Ward 1 – Speyside Glenlivet

Planning Application 18/01323/APP – Erect new garage at Kimberlee, Rothies, Moray, AB38 7AW

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 3 December 2019 on the grounds that:

The proposal is contrary to the adopted Moray Local Development Plan 2015 policies EP7 and IMP1 on flood risk grounds where the proposal would lie entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps. The proposed garage would therefore be at medium to high risk of flooding and in a location that would contribute toward increased flood risk to surrounding properties via displacement of flood plain capacity.

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

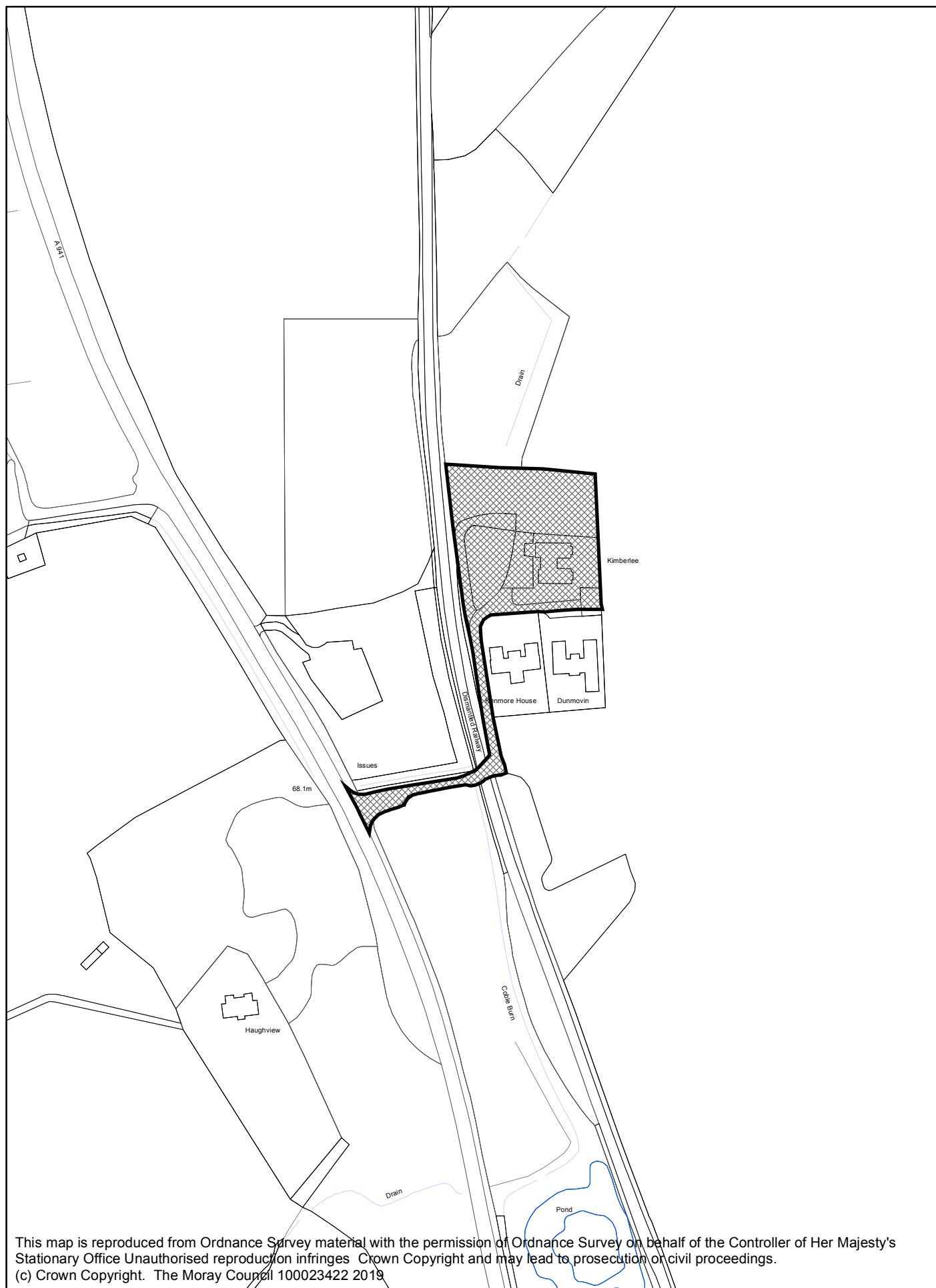
The Notice of the Review, Grounds for Review and any supporting documents submitted by the Applicant are attached as **Appendix 2**.

At the meeting of the Moray Local Review Body (MLRB) on 28 March 2019, the MLRB noted the Applicants willingness to enter into a Section 75 agreement which would ensure that the Applicant would not build an already consented fourth house if planning permission could be granted to build the proposed garage in the preferred location and agreed that this constituted new evidence in terms of Regulation 17 of the Regulations. As a result, the case was deferred to allow the Appointed Officer and Interested Parties the opportunity to comment on the new evidence.

Responses to the new evidence from the Appointed Officer and Interested Parties are attached as **Appendix 3**.



Location plan for Planning Application Reference Number : 18/01323/APP



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APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER

APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (Scotland) Act 1997
The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

Please refer to the accompanying Guidance Notes when completing this application
PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS
ELECTRONICALLY VIA <https://eplanning.scotland.gov.uk>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	18/02.
Forename	IAN	Forename	Colin
Surname	JENKINS.	Surname	Keir
Company Name		Company Name	Plans Plus
Building No./Name	KIMBERLEE	Building No./Name	Main Street Offices
Address Line 1	THE HAUGHS	Address Line 1	Urquhart
Address Line 2	ROTHES	Address Line 2	By Elgin
Town/City	ABERLOOCH.	Town/City	Moray
Postcode	AB38 7AW.	Postcode	IV30 8LG
Telephone		Telephone	01343 842635
Mobile		Mobile	07766 315501
Fax	-	Fax	n/a
Email	-	Email	ctkplans@aol.com
3. Postal Address or Location of Proposed Development (please include postcode)			
KIMBERLEE, THE HAUGHS, ROTHES, ABERLOOCH. AB38 7AW.			
NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.			
4. Type of Application			
What is the application for? Please select one of the following:			
Planning Permission			<input checked="" type="checkbox"/>
Planning Permission in Principle			<input type="checkbox"/>
Further Application*			<input type="checkbox"/>
Application for Approval of Matters Specified in Conditions*			<input type="checkbox"/>
Application for Mineral Works**			<input type="checkbox"/>
NB. A 'further application' may be e.g. development that has not yet commenced and where a time limit has been imposed a renewal of planning permission or a modification, variation or removal of a planning condition.			
*Please provide a reference number of the previous application and date when permission was granted:			
Reference No:	18/00685/APP.	Date:	WITHDRAWN 28/18.

****Please note that if you are applying for planning permission for mineral works your planning authority may have a separate form or require additional information.**

5. Description of the Proposal

Please describe the proposal including any change of use:

ELECT NEW GARAGE .

Is this a temporary permission?

Yes ☐ No ☒

If yes, please state how long permission is required for and why:

—

Have the works already been started or completed?

Yes ☐ No ☒

If yes, please state date of completion, or if not completed, the start date:

Date started:

Date completed:

If yes, please explain why work has already taken place in advance of making this application

—

6. Pre-Application Discussion

Have you received any advice from the planning authority in relation to this proposal?

Yes ☐ No ☒

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☐

Have you agreed or are you discussing a Processing Agreement with the planning authority? Yes ☐ No ☐

Please provide a description of the advice you were given and who you received the advice from:

Name: Date: Ref No.:

7. Site Area

Please state the site area in either hectares or square metres:

Hectares (ha): Square Metre (sq.m.)

8. Existing Use

Please describe the current or most recent use:

GARDEN GROUND.

9. Access and Parking

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

Yes ☐ No ☒

If yes, please show in your drawings the position of any existing, altered or new access and explain 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 changes to public paths, public rights of way or affecting any public rights of access?

Yes ☐ No ☒

If yes, please show on your drawings the position of any affected areas and explain 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?

4+

How many vehicle parking spaces (garaging and open parking) do you propose on the site? (i.e. the total number of existing spaces plus any new spaces)

4+

Please show on your drawings the position of existing and proposed parking spaces and specify if these are to be allocated for particular types of vehicles (e.g. parking for disabled people, coaches, HGV vehicles, etc.)

10. Water Supply and Drainage Arrangements

Will your proposals require new or altered water supply or drainage arrangements?

Yes ☐ No ☒

Are you proposing to connect to the public drainage network (e.g. to an existing sewer?)

Yes, connecting to a public drainage network
No, proposing to make private drainage arrangements
Not applicable – only arrangement for water supply required

☐
☐
☒

What private arrangements are you proposing for the new/altered septic tank?

Discharge to land via soakaway
Discharge to watercourse(s) (including partial soakaway)
Discharge to coastal waters

☐
☐
☐

Please show more details on your plans and supporting information

What private arrangements are you proposing?

Treatment/Additional treatment (relates to package sewer treatment plants, or passive sewage treatment such as a reed bed)
Other private drainage arrangement (such as a chemical toilets or composting toilets)

☐
☐

Please show more details on your plans and supporting information.

Do your proposals make provision for sustainable drainage of surface water?

Yes ☐ No ☐

Note:- Please include details of SUDS arrangements on your plans

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

Yes ☐ No ☒

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

11. Assessment of Flood Risk

Is the site within an area of known risk of flooding?

Yes ☒ No ☐

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 ☐

If yes, briefly describe how the risk of flooding might be increased elsewhere.

12. Trees

Are there any trees on or adjacent to the application site?

Yes ☒ No ☐

If yes, please show on drawings any trees (including known protected trees) and their canopy spread as they relate to the proposed site and indicate if any are to be cut back or felled.

13. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? (including recycling)

Yes ☐ No ☒

If yes, please provide details and illustrate on plans.

If no, please provide details as to why no provision for refuse/recycling storage is being made:

14. Residential Units Including Conversion

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

Yes ☐ No ☒

If yes how many units do you propose in total?

—

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

15. For all types of non housing development – new floorspace proposed

Does your proposal alter or create non-residential floorspace?

Yes ☐ No ☒

If yes, please provide details below:

Use type:

If you are extending a building, please provide details of existing gross floorspace (sq.m):

Proposed gross floorspace (sq.m.):

Please provide details of internal floorspace(sq.m)

Net trading space:

Non-trading space:

Total net floorspace:

16. Schedule 3 Development

Does the proposal involve a class of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008?

Yes ☐ No ☒ Don't Know ☐

If yes, your proposal will additionally have to be advertised in a newspaper circulating in your area. Your planning authority will do this on your behalf but may charge a fee. Please contact your planning authority for advice on planning fees.

17. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority?

Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority?

Yes ☐ No ☒

If you have answered yes please provide details:

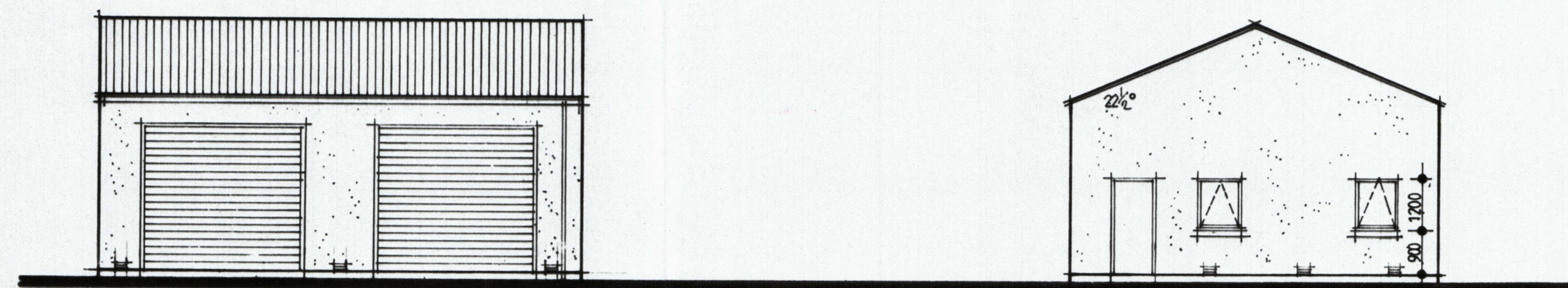
DECLARATIONI, ~~the applicant~~/agent certify that this is an application for planning permission. The accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.I, ~~the applicant~~/agent hereby certify that the attached Land Ownership Certificate has been completed ☒I, ~~the applicant~~/agent hereby certify that requisite notice has been given to other land owners and /or agricultural tenantsYes ☐ No ☐ N/A ☒

Signature:

Name:

Date:

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.



Front elevation 1-100

2x3.6m wide by 3.2m high roller shutter doors to frontage

Side elevation 1-100

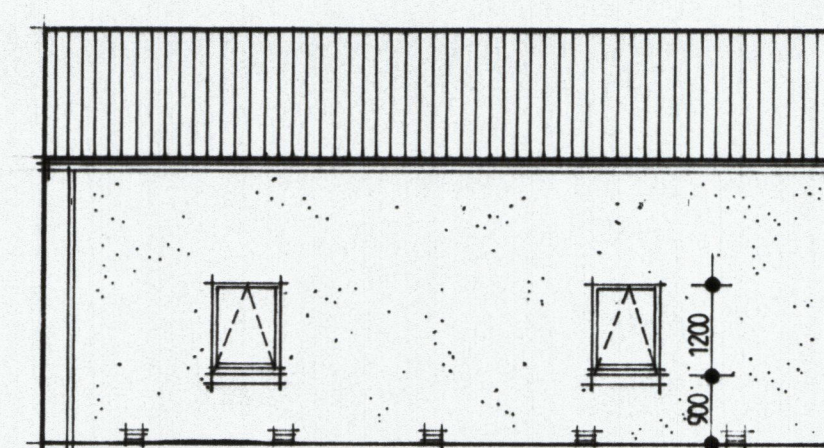


Side elevation 1-100

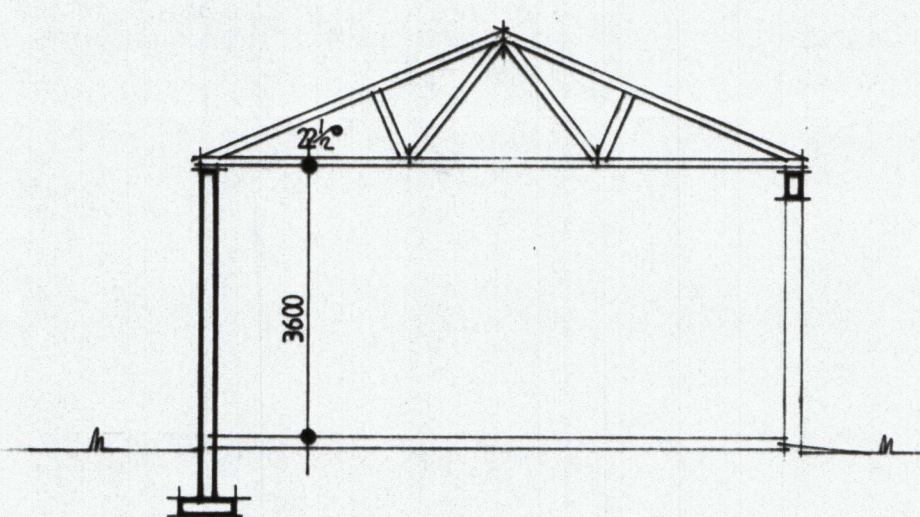
Roof finished with dark green polyester coated box profiled metal sheeting with black pvc ridges and down pipes

Walls finished with buff coloured dry dash roughcast with smooth cement render base course around building

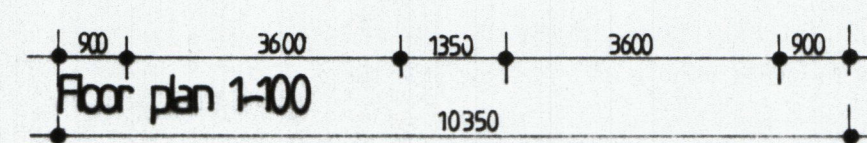
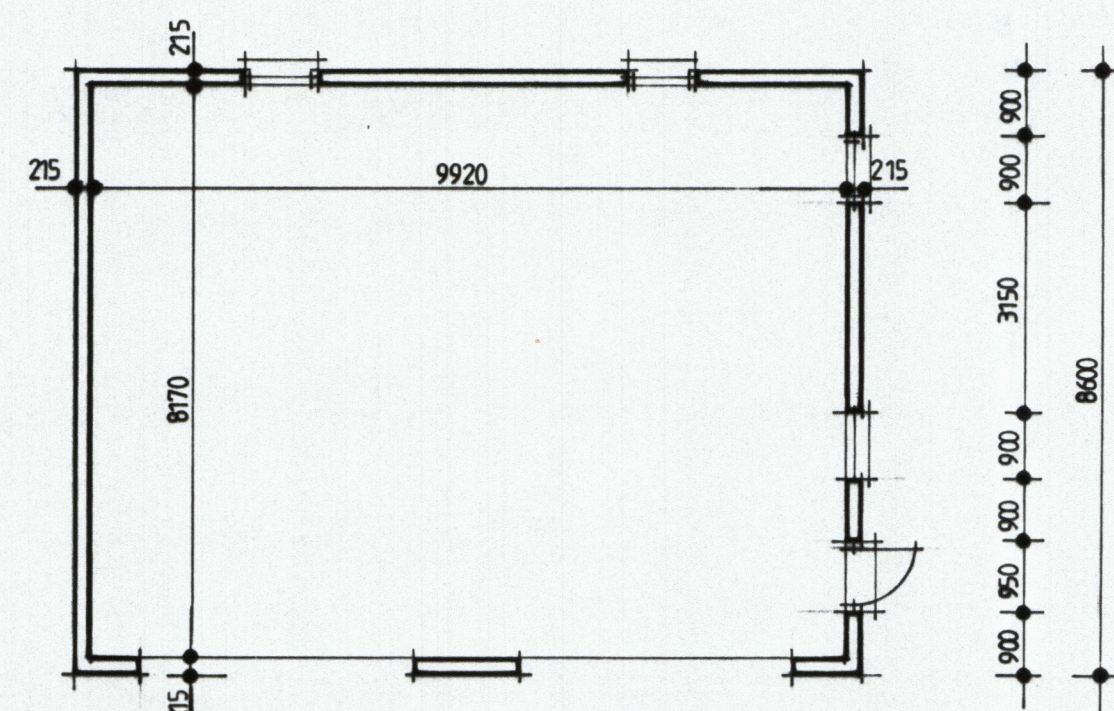
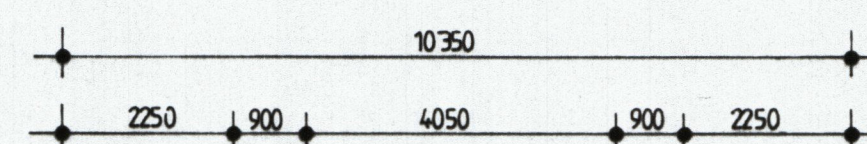
225x150mm GI louvered front vents to be incorporated at 2.0m c/c around perimeter of building at floor level



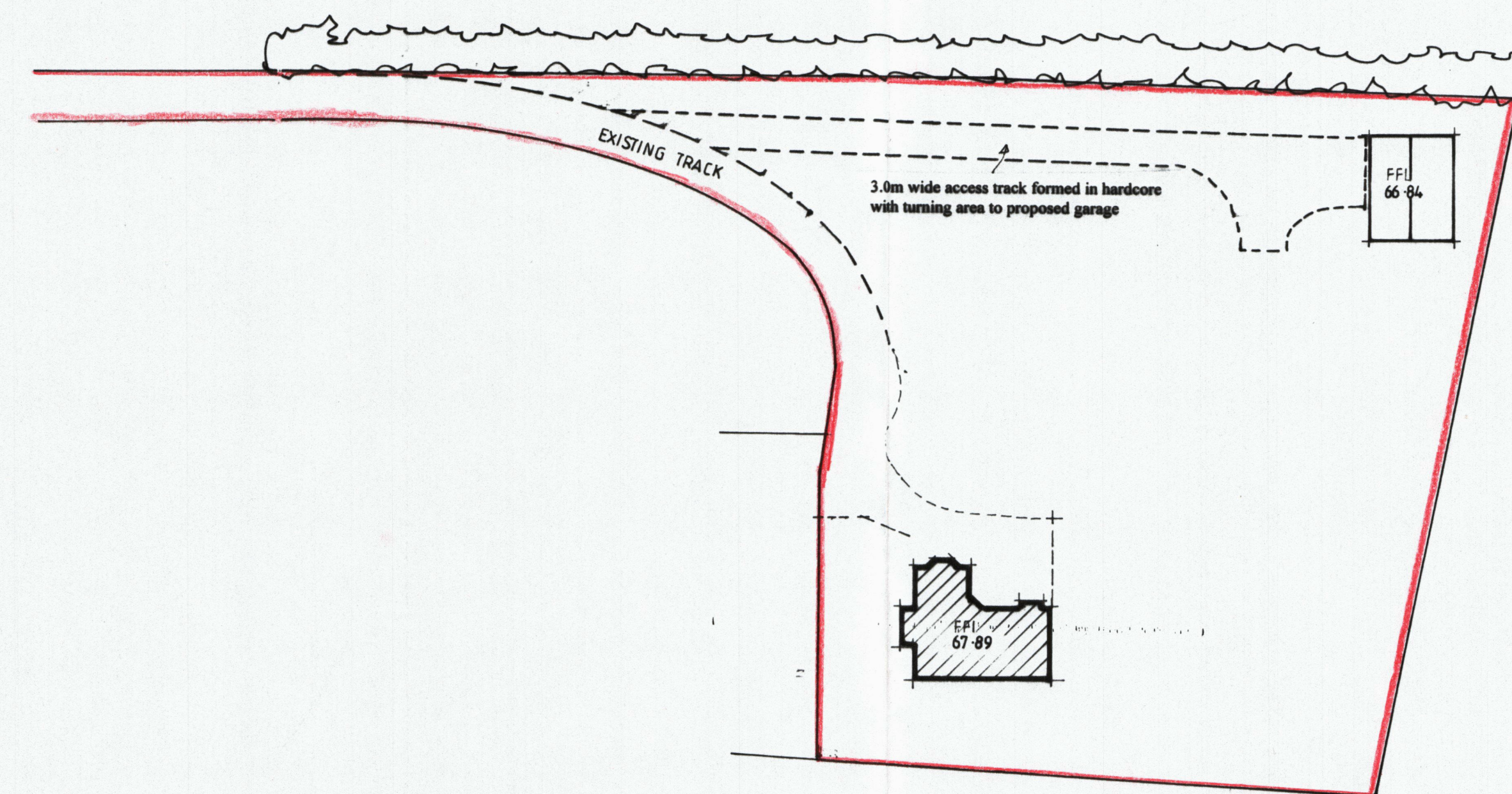
Rear elevation 1-100



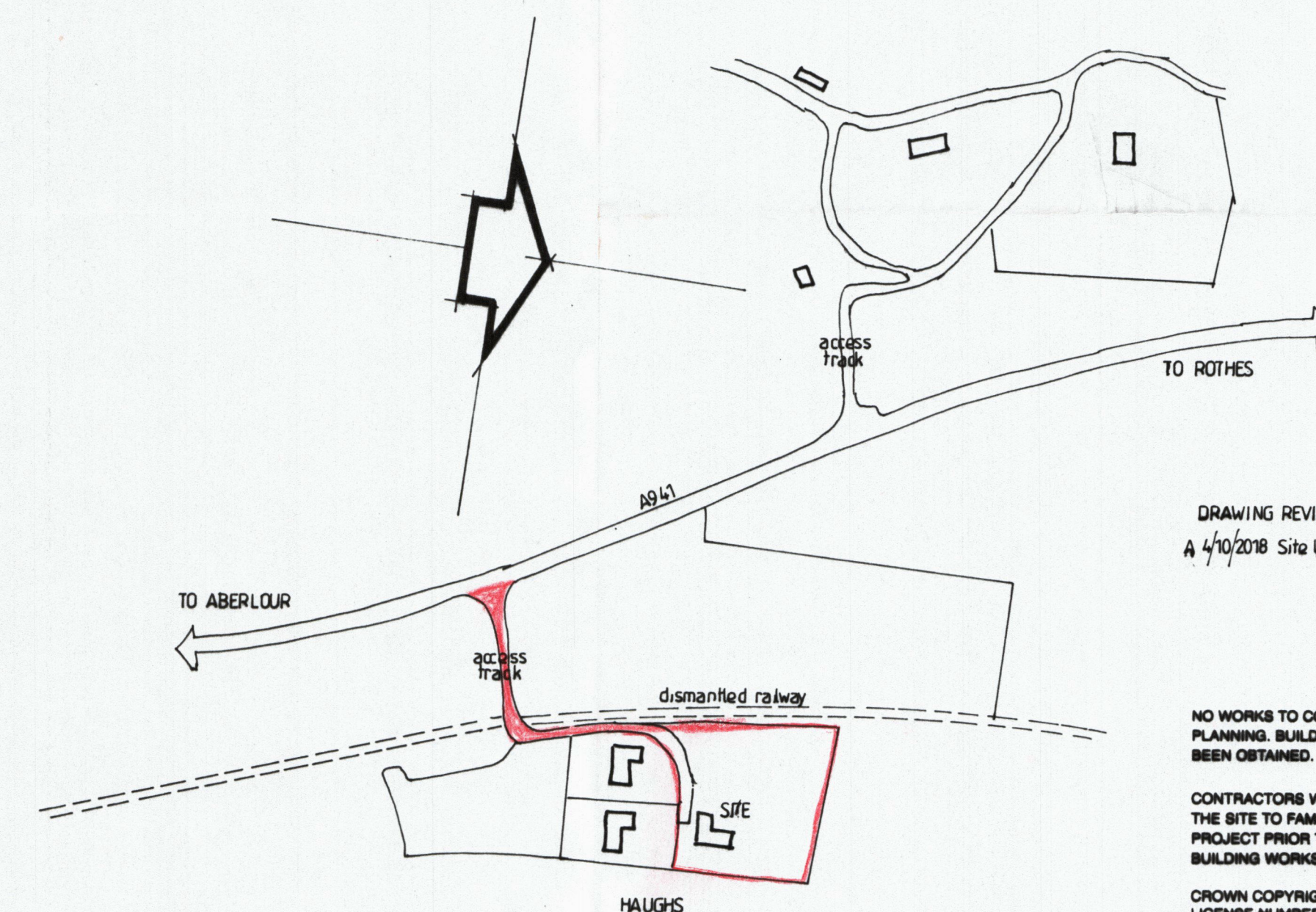
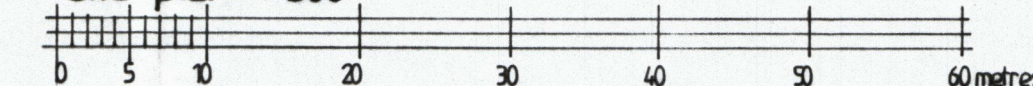
Cross section AA 1-100



Floor plan 1-100



Site plan 1-500



Location plan 1-2500
OS Grid Ref NJ 279 478

DRAWING REVISIONS
A 4/10/2018 Site levels amended

NO WORKS TO COMMENCE ON SITE UNTIL THE RELEVANT PLANNING, BUILDING WARRANT OR GRANT APPROVAL HAS BEEN OBTAINED.

CONTRACTORS WILL HAVE DEEMED TO HAVE VISITED THE SITE TO FAMILIARIZE THEMSELVES WITH THE PROJECT PRIOR TO SUBMITTING ANY ESTIMATE FOR BUILDING WORKS.

CROWN COPYRIGHT. ALL RIGHTS RESERVED.
LICENSE NUMBER 100041146

ANY DEVIATIONS TO THE APPROVED PLANS TO BE REPORTED TO THIS OFFICE.
CONTRACTORS TO CHECK ALL DIMENSIONS ON SITE PRIOR TO COMMENCING BUILDING WORKS
GIVEN DIMENSIONS ONLY TO BE USED.
DO NOT SCALE PLANS.

ANY ROOF TRUSS TYING INTO AN EXISTING ROOF TO BE CHECKED ON SITE BY CONTRACTOR TO ENSURE HEIGHTS MEET CORRECTLY.

CLIENT Mr I Jenkins	SCALE 1-100	DRAWN BY IR	DATE May 2018
PROJECT Proposed garage/workshop at Kimberlee, The Haughs, Rothes, Aberlour AB38 7AW	PROJECT No. 17-67 A		



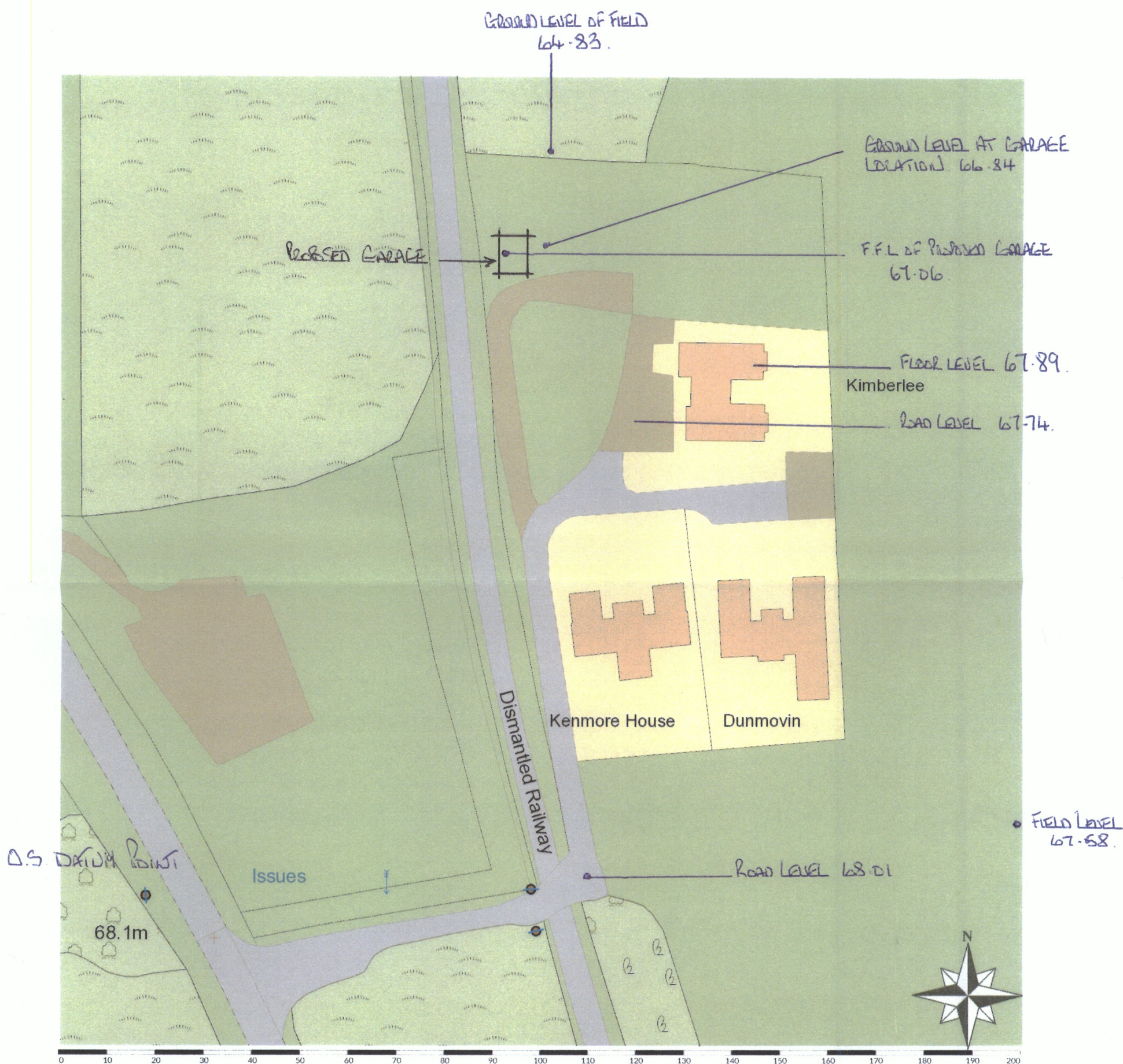
ARCHITECTURAL
DESIGN CONSULTANTS

TELEPHONE No. 01343 842635
MOBILE No. 07766 315501
EMAIL: ctkplans@aol.com
WEB: www.plans-plus.co.uk
PARTNERS: COLIN & CATRIONA KEIR

MAIN STREET OFFICES: URQUHART, BY ELGIN, IV30 8LG

02/10/2018

KIMBERLEE, A941 FROM B9102 AT DANDALEITH TO HIGH STREET IN ROTHES, ROTHES,
AB38 7AW



Scale: 1:1250 | Area 4Ha | Grid Reference: 327916,847822 | Paper Size: A4

Consultation Request Notification – Building Standards

Planning Authority Name	Moray Council
Response Date	29th October 2018
Planning Authority Reference	18/01323/APP
Nature of Proposal (Description)	Erect garage at
Site	Kimberlee Rothes Aberlour Moray AB38 7AW
Site Postcode	N/A
Site Gazetteer UPRN	000133055318
Proposal Location Easting	327957
Proposal Location Northing	847880
Area of application site (Ha)	m2
Additional Comments	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=PGBNR7BG0FU00
Previous Application	18/00685/APP 13/02202/APP 10/00621/APP
Date of Consultation	15th October 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Ian Jenkins
Applicant Organisation Name	
Applicant Address	Kimberlee Rothes Aberlour Moray AB38 7AW
Agent Name	Plans Plus
Agent Organisation Name	Plans Plus
Agent Address	Main Street URQUHART By Elgin Moray IV30 8LG
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Cathy Archibald
Case Officer Phone number	01343 563101
Case Officer email address	cathy.archibald@moray.gov.uk

PA Response To	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

For full Data Protection policy, information and rights please see http://www.moray.gov.uk/moray_standard/page_119859.html

You can contact our Data Protection Officer at info@moray.gov.uk or 01343 562633 for more information.

Please respond using the attached form:-

MORAY COUNCIL PLANNING CONSULTATION RESPONSE

From: Building Standards

Planning Application Ref. No: 18/01323/APP

Erect garage at Kimberlee Rothes Aberlour Moray for Mr Ian Jenkins

In terms of Building Warrant requirements.

Please

- | | | |
|-----|--|--------------------------|
| (a) | A Building Warrant is required | x |
| (b) | A Building Warrant is not required (IBS008) | x |
| (c) | A Building Warrant will not be required but must comply with Building Regulations.(IBS009) | <input type="checkbox"/> |
| (d) | Comments | <input type="checkbox"/> |

.....

.....

.....

.....

Contact: William Clark

email address: william.clark@moray.gov.uk

Date 18.10.2018

Phone No 01343 563291

Consultee: Building Standards

Return response to

consultation.planning@moray.gov.uk

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 18/01323/APP

Application Summary

Application Number: 18/01323/APP

Address: Kimberlee Rothes Aberlour Moray AB38 7AW

Proposal: Erect garage at

Case Officer: Cathy Archibald

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

**MORAY COUNCIL
PLANNING CONSULTATION RESPONSE**

From: The Moray Council, Flood Risk Management
Planning Application Ref. No: 18/01323/APP

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

- | | Please
x |
|---|-------------------------------------|
| (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

The site is subject to considerable fluvial and surface water flooding. Any structures built on the site would be at severe risk of flooding and increase the flood risk to surrounding properties. This is the same advice that was provided in the previous application response (18/0685/APP).

Further information required to consider the application

A Flood Risk Assessment would be required to assess the suitability of the development.

- The FRA should demonstrate that the development is not at risk of flooding during a 1:200 year flood event (including an allowance for climate change, refer UK Climate Projections 2009). A key requirement of the FRA is that it must consider all sources of flooding (with the specific exclusion of internal sewer flooding as defined in The Flood Risk Management (Scotland) Act 2009) and demonstrate how mitigation methods will be managed. The FRA will be required to demonstrate that any flood risk associated with the development can be managed now and for the lifetime of the development, taking into account the potential effects of climate change. It should also demonstrate that the development will not increase the risk of flooding elsewhere.
- As set out in SPP "Land raising should only be considered in exceptional circumstances, where it is shown to have a neutral or better impact on flood risk outside the raised area. Compensatory storage may be required. "
- The adoption of flood mitigation measures may be acceptable in some circumstances (such as a Brownfield site) but avoidance would be the Council's primary objective.
- In circumstances where mitigation is considered acceptable, the developer must demonstrate the measures will not increase flood risk elsewhere. Mitigation measures should include an allowance for freeboard and climate change.

Contact: James Ross Date 15/10/2018
email address: James.ross@moray.gov.uk Phone No 01343 563771

Consultee: The Moray Council, Flood Risk Management

Our ref: PCS/161771
Your ref: 18/01323/APP

If telephoning ask for:
Jim Mackay

20 November 2018

Cathy Archibald
The Moray Council
Development Services
Environmental Services Dept.
Council Office, High Street
Elgin
IV30 1BX

By email only to: consultation.planning@moray.gov.uk

Dear Ms Archibald

Town and Country Planning (Scotland) Acts
Planning application: 18/01323/APP
Erect garage
Kimberlee Rothies Aberlour Moray

Thank you for your consultation on this planning application specifically requesting our advice on flood risk, which SEPA received on 15 October 2018. Further information was also submitted from the agent on 5 November 2018. We note this consultation follows the advice provided on related application 18/00685/APP (our ref: PCS/160129 (27 July 2018)).

Please note that SEPA does not usually provide site-specific flood risk advice on “Small scale extensions, domestic garages or garden sheds”. The position with this application is a little different in that the garage proposed is a separate building in the floodplain, but nevertheless we refer you to our “[SEPA standing advice for planning authorities and developers on development management consultations](#)” (LUPS-GU8) and advise you follow the advice of your flood colleagues.

We provide the following brief information to assist your consideration of the application with your colleagues:

The information provided confirms the proposed location of the garage/workshop is entirely within the functional floodplain of the River Spey, at medium to high risk of flooding from the River Spey and will reduce the capacity of the floodplain. A 1 in 200 year flood level of 67.73mAOD has previously been established for the area. The ground levels in the vicinity of the proposed building are 66.84mAOD. The proposed finished floor level for the garage is 67.06mAOD which is higher than the ground level but still less than the flood level. While this reduces flood risk to the new building, land raising in the functional floodplain is generally not considered acceptable as it reduces the storage capacity of the functional floodplain which has a long term impact elsewhere. Given the size of the proposed development, the impact on the floodplain from this alone is not significant, but it does not serve to avoid the piecemeal reduction of the floodplain. Further

mitigation has been suggested using low level vents to ensure the garage still floods. These measures may offset some of the negative effects of building in the floodplain but only if implemented and maintained.

If you have any queries relating to this letter, please contact me by telephone on 01349 860315 or e-mail at planning.aberdeen@sepa.org.uk.

Yours sincerely

Jim Mackay
Planning Unit Manager North
Planning Service

ECopy to: ctkplans@aol.com and cathy.archibald@moray.gov.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).

Consultation Request Notification

Planning Authority Name	Moray Council
Response Date	29th October 2018
Planning Authority Reference	18/01323/APP
Nature of Proposal (Description)	Erect garage at
Site	Kimberlee Rothes Aberlour Moray AB38 7AW
Site Postcode	N/A
Site Gazetteer UPRN	000133055318
Proposal Location Easting	327957
Proposal Location Northing	847880
Area of application site (Ha)	m ²
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=PGBNR7BG0FU00
Previous Application	18/00685/APP 13/02202/APP 10/00621/APP
Date of Consultation	15th October 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr Ian Jenkins
Applicant Organisation Name	
Applicant Address	Kimberlee Rothes Aberlour Moray AB38 7AW
Agent Name	Plans Plus
Agent Organisation Name	Plans Plus
Agent Address	Main Street URQUHART By Elgin Moray IV30 8LG
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Cathy Archibald
Case Officer Phone number	01343 563101
Case Officer email address	cathy.archibald@moray.gov.uk

PA Response To	consultation.planning@moray.gov.uk
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Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Transportation Manager

Planning Application Ref. No: 18/01323/APP

Erect garage at Kimberlee Rothes Aberlour Moray for Mr Ian Jenkins

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

Please

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

Transportation has no objections to the proposed garage.

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.

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

Contact: DA/AG

Date 15 October 2018

email address: transport.develop@moray.gov.uk

Consultee: TRANSPORTATION

Return response to

consultation.planning@moray.gov.uk

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

REPORT OF HANDLING

Ref No:	18/01323/APP	Officer:	Cathy Archibald
Proposal Description/ Address	Erect garage at Kimberlee Rothes Aberlour Moray		
Date:	30/11/2018	Typist Initials:	DM

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

Consultee	Date Returned	Summary of Response
Contaminated Land	16/10/18	No objection
Transportation Manager	15/10/18	No objection subject to informative
Building Standards Manager	25/10/18	A Building Warrant is required
Scottish Environment Protection Agency	20/11/18	<p>Objection</p> <p>The information provided confirms the proposed location of the garage/workshop is entirely within the functional floodplain of the River Spey, at medium to high risk of flooding from the River Spey and will reduce the capacity of the floodplain. A 1 in 200 year flood level of 67.73mAOD has previously been established for the area. The ground levels in the vicinity of the proposed building are 66.84mAOD. The proposed finished floor level for the garage is 67.06mAOD which is higher than the ground level but still less than the flood level. While this reduces flood risk to the new building, land raising in the functional floodplain is generally not considered acceptable as it reduces the storage capacity of the functional floodplain which has a long term impact elsewhere.</p>

		<p>Given the size of the proposed development, the impact on the floodplain from this alone is not significant, but it does not serve to avoid the piecemeal reduction of the floodplain.</p> <p>Further mitigation has been suggested using low level vents to ensure the garage still floods. These measures may offset some of the negative effects of building in the floodplain but only if implemented and maintained.</p>
Moray Flood Risk Management	17/10/18	<p>Objection</p> <p>The site is subject to considerable fluvial and surface water flooding. Any structures built on the site would be at severe risk of flooding and increase the flood risk to surrounding properties. This is the same advice that was provided in the previous application response (18/00685/APP).</p>

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
IMP1: Developer Requirements	Y	
EP9: Contaminated Land	N	
BE1: Sch Monuments and Nat Designations	N	
EP7: Control of Develop in FloodRiskArea	Y	

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

OBSERVATIONS – ASSESSMENT OF PROPOSAL

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2015 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below.

The Proposal

The application seeks planning permission for:

- A single storey pitched roof detached double garage with 2 No roller shutter doors measuring approx. 3.6m wide by 3.2m high.
- The external measurements are approx. 10.4m by 8m, 3.9m to eaves and measures 5.7m to the (ridgeline of the roof).
- External material finishes are: walls finished with buff coloured dry dash roughcast with smooth cement render base course around building. Roof finished with dark green polyester coated box profiled metal sheeting with black PVC rhones and pipes. 225mm x 250mm GI louvered floor vents.
- To be incorporated at 3m c/c around perimeter of building at floor level.
- A 3m wide access track formed in hardcore with turning area taken from the existing track to the proposed garage.
- Windows look out to the front and rear of the garage to the surrounding area.
- The garage is positioned approx. 7.35m to the front/side of the existing house.

Site and Surrounds

The site is located at Kimberlee The Haughes approx.. 1 km south of Rothes and sits in an area with two other houses. The River Spey lies a short distance away from the proposed garage.

As Kimberly is some distance and upstream from the Rothes flood alleviation scheme it may not protect the properties.

The location is bound by an area of mature trees to the west between the site and the A941.

Policy Assessment

Impact upon the surrounding locality (IMP1)

The proposal is required to be assessed against IMP1: Development Requirements in terms of style, scale, proportions, materials and the potential impact on the surrounding area. The main issue for consideration is whether the proposed garage will have any adverse effects or impacts on the amenity of the existing house and the surrounding area, including any neighbouring dwellings.

In terms of scale, design and material finishes the garage is considered acceptable. It is in keeping with the parent house and is considered that it would not have a significant adverse impact on the house or the surrounding locality. Given its location and distance of the neighbouring adjacent properties it will not have a significant adverse impact on sunlight or daylight and no significant overlooking or privacy issues in relation to this application. It is noted that since the original approval of the parent property, additional land has been taken into the garden ground and is maintained as such. Whilst this land approved as part of the existing house, this assessment focussed on the proposed garage can find no significant harm to the character or amenity of the area from the proposed garage.

Flood issues (EP7 and IMP1)

The site is an area of flood risk (1 in 200 year event) as identified on the SEPA flood risk maps. Moray Flood Risk Management (MFRM) object to the siting of the building in this location. That construction in this area would increase the risk of flood risk to surrounding properties.

Scottish Planning Policy states (paragraph 255) that "the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity, and locating development away from functional floodplain and medium to high risk areas". It further defines that "for planning purposes the functional floodplain will generally have a greater than 0.5% (1:200) probability of flooding in any year". Therefore built development should not take place on the functional floodplain.

This application is for the erection of a detached garage in association with the property "Kimberley". Although some types of small scale extensions to existing properties are considered to be outwith the

scope of Scottish Planning Policy, in this particular case the proposed garage is a separate, relatively large building which is located away from the property of Kimberley. Therefore the proposed garage would fall under the definition minor development. Local development plan policy EP7 Control of Development in Flood Risk Areas states that development that would be at risk of flooding or would displace flood water elsewhere should not be permitted. Given the potential for flooding in this locality, it not considered the development of a garage in this location would be appropriate. Consultation with SEPA and the Moray Councils own Flood Risk Management Team identifies this area as one where flood level have historically occurred a level that would surround the proposed building. SEPA did suggest that the building design could be altered to aid the flow of water through the building, in addition to other flood mitigate measures

This also conflicts with the aims of policies EP7 and IMP1 i) where development should avoid areas at risk of flooding.

Access and Parking (T2 & T5)

There is sufficient space within the site to provide adequate parking and turning in this case the site can meet the Council's parking standards and therefore Transportation has not been consulted. The access onto the public road is unaltered. A visit to the site demonstrated that there would adequate space to access the parking the garage would create.

Conclusion

On the basis of the above information it is considered that the proposal does not comply with policies EP7 and IMP1 of the Moray Local Plan and therefore the application is recommended for refusal.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY				
Reference No.	Description			
18/00685/APP	Erect domestic garage at Kimberlee Rothes Aberlour Moray AB38 7AW			
	Decision	Withdrawn	Date Of Decision	22/08/18
13/02202/APP	Extend planning permission (ref 10/00621/APP original ref 04/00931/FUL) to erect house on Plot 4 The Haughs Rothes Moray			
	Decision	Permitted	Date Of Decision	22/01/14
10/00621/APP	Extend planning permission to erect a dwellinghouse (04/00931/FUL) on Plot 4 The Haughs Rothes Moray			
	Decision	Permitted	Date Of Decision	27/01/11
04/00931/FUL	Erect new dwellinghouse on Plot 4 The Haughs Rothes Aberlour Banffshire			
	Decision	Permitted	Date Of Decision	31/05/05

ADVERT		
Advert Fee paid?	N/A	
Local Newspaper	Reason for Advert	Date of expiry

DEVELOPER CONTRIBUTIONS (PGU)	
Status	N/A

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

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

DIRECTION(S) MADE BY SCOTTISH MINISTERS (under DMR2008 Regs)			
Section 30	Relating to EIA		NO
Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
Summary of Direction(s)			

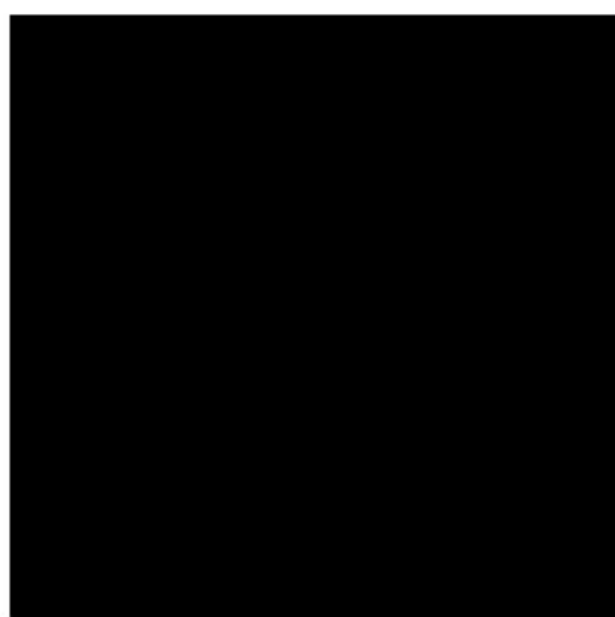


**MORAY COUNCIL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
as amended**

REFUSAL OF PLANNING PERMISSION

**[Speyside Glenlivet]
Application for Planning Permission**

TO



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

Erect garage at Kimberlee Rothes Aberlour Moray

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

Date of Notice: **3 December 2018**



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

The proposal is contrary to the adopted Moray Local Development Plan 2015 policies EP7 and IMP1 on flood risk grounds where the proposal would lie entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps. The proposed garage would therefore be at medium to high risk of flooding and in a location that would contribute toward increased flood risk to surrounding properties via displacement of flood plain capacity.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
17~67	A	Elevations floor plan site and location plan
		Levels for garage

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

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS

NOTICE OF REVIEW

Under Section 43A(8) Of the Town and Country Planning (SCOTLAND) ACT 1997 (As amended) In Respect of Decisions on Local Developments

The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (SCOTLAND) Regulations 2013

The Town and Country Planning (Appeals) (SCOTLAND) Regulations 2013

IMPORTANT: Please read and follow the guidance notes provided when completing this form. Failure to supply all the relevant information could invalidate your notice of review.

PLEASE NOTE IT IS FASTER AND SIMPLER TO SUBMIT PLANNING APPLICATIONS ELECTRONICALLY VIA <https://www.eplanning.scot>

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	18/02.
Forename	IAN	Forename	COLIN
Surname	JENKINS	Surname	KEIR.
Company Name	—	Company Name	PLANS PLUS
Building No./Name	KIMBERLEE	Building No./Name	MAIN STREET
Address Line 1	ROTHES	Address Line 1	OFFICES
Address Line 2	ABERLOUR	Address Line 2	ORDHARZI EGIN
Town/City	MORAY.	Town/City	MORAY
Postcode	AB38 7AW.	Postcode	IV30 8LG.
Telephone	—	Telephone	01343 842635.
Mobile	—	Mobile	07766 315501.
Fax	—	Fax	—
Email	—	Email	cekplans@aol.com

3. Application Details	
Planning authority	MORAY
Planning authority's application reference number	18/01323/APP.
Site address	KIMBERLEE, ROTHES, MORAY AB38 7AW.
Description of proposed development	ERECT NEW GARAGE.

Date of application

9/10/18

Date of decision (if any)

3/12/18

Note. This notice must be served on the planning authority within three months of the date of decision notice or from the date of expiry of the period allowed for determining the application.

4. Nature of Application

Application for planning permission (including householder application)



Application for planning permission in principle



Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission and/or modification, variation or removal of a planning condition)



Application for approval of matters specified in conditions



5. Reasons for seeking review

Refusal of application by appointed officer



Failure by appointed officer to determine the application within the period allowed for determination of the application



Conditions imposed on consent by appointed officer



6. Review procedure

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

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure



If you have marked either of the first 2 options, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing necessary.

7. Site inspection

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

Can the site be viewed entirely from public land?

YES



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

YES



If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

8. Statement

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

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

SEE SEPARATE SHEET .

Have you raised any matters which were not before the appointed officer at the time your application was determined?

Yes ☒ No ☐

If yes, please explain below a) why your are raising new material b) why it was not raised with the appointed officer before your application was determined and c) why you believe it should now be considered with your review.

CLIENT HAS OFFERED TO ENTER INTO A SECTION 75 AGREEMENT WITH LEGALAD TO FOURTH HOUSE TO TRY AND REACH A COMPROMISE .

9. List of Documents and Evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review

DECISION NOTICE
PLANS USED FOR APPLICATION.
SEPA LETTER
SUPPORTING STATEMENT
REVIEW APPLICATION.

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

10. Checklist

Please mark the appropriate boxes to confirm that you have provided all supporting documents and evidence relevant to your review:

Full completion of all parts of this form



Statement of your reasons for requesting a review



All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.



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

DECLARATION

I, the applicant/agent hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

Signature:

[Redacted Signature]

Name:

Colin Kair.

Date:

28/1/19.

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act.

LAND OWNERSHIP CERTIFICATES

Town and Country Planning (Scotland) Act 1997
Regulation 15 of the Town and Country Planning (Development Management Procedure) (Scotland)
Regulations 2013

CERTIFICATE A, B, C, D OR CERTIFICATE E MUST BE COMPLETED BY ALL APPLICANTS

CERTIFICATE A

Certificate A is for use where the applicant is the only owner of the land to which the application relates and none of the land is agricultural land.

I hereby certify that -

- (1) No person other than ~~myself~~ **APPLICANT** was owner 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 application. ☒
- (2) None of the land to which the application relates constitutes or forms part of agricultural land. ☒

Signed:

[Redacted Signature]

On behalf of:

MR IAN JENKINS.

Date:

28/1/19.

CERTIFICATE B

Certificate B is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where all owners/agricultural tenants have been identified.

I hereby certify that -

- (1) I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

- (2) None of the land to which the application relates constitutes or forms part of agricultural land ☐
- or
- (3) The land or part of the land to which the application relates constitutes or forms part of agricultural land and I have served notice on every person other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address	Date of Service of Notice

Signed:

On behalf of:

Date:

CERTIFICATE C

Certificate C is for use where the applicant is not the owner or sole owner of the land to which the application relates and/or where the land is agricultural land and where it has not been possible to identify ALL or ANY owners/agricultural tenants.

- (1) I have been unable to serve notice on **every** person other than myself who, at the beginning of the period of 21 days ending with the date of the application was owner of any part of the land to which the application relates. ☐

or

- (2) I have been unable to serve notice on **any** person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was owner of any part of the land to which the application relates. ☐

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

or

- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have been unable to serve notice on any person other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application was an agricultural tenant. ☐

or

- (5) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application was an agricultural tenant. These persons are: ☐

Name	Address	Date of Service of Notice

- (6) I have taken reasonable steps, as listed below, to ascertain the names and addresses of all other owners or agricultural tenants and have been unable to do so.

Steps taken:

--	--

Signed:

--

On behalf of:

--

Date:

--

CERTIFICATE D

Certificate D is for use where the application is for mineral development.

- (1) No person other than myself was an owner 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
- (2) I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the accompanying application, was to the applicant's knowledge, the owner, of any part of the land to which the application relates. These persons are: ☐

Name	Address	Date of Service of Notice

- (3) None of the land to which the application relates constitutes or forms part of an agricultural holding. ☐
- or
- (4) The land or part of the land to which the application relates constitutes or forms part of an agricultural holding and I have served notice on each of the following persons other than myself who, at the beginning of the period of 21 days ending with the date of the application, was an agricultural tenant. ☐
- (5) Notice of the application as set out below has been published and displayed by public notice ☐

Signed:

--

On behalf of:

--

Date:

--

CERTIFICATE E

Certificate E is required where the applicant is the sole owner of all the land and the land to which the application relates is agricultural land and there are or are not agricultural tenants.

I hereby certify that -

(1) No person other than myself was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application. ☐

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are no agricultural tenants. ☐

or

(1) No person other than myself was the owner of any part of the land to which the application relates at the beginning of the period 21 days ending with the date of the application. ☐

(2) The land to which the application relates constitutes or forms part of an agricultural holding and there are agricultural tenants. These people are: ☐

Name	Address	Date of Service of Notice

(3) I have taken reasonable steps, as listed below, to ascertain the names and addresses of the other agricultural tenants and have been unable to do so. ☐

Steps taken:

--

Signed:

--

On behalf of:

--

Date:

--

Any personal data that you have been asked to provide on this form will be held and processed in accordance with the requirements of the 1998 Data Protection Act



design consultants

Phone: 01343 842635
Fax: 01343 842785
Mobile: 07766 315501
Email: ctkplans@aol.com
Web: <http://members.aol.com/ctkplans>

Main Street, Urquhart, Elgin, Moray, IV30 8LG

REVIEW.

ERECT NEW GARAGE AT KIMBERLEE, ROTHES.

CLIENT :- MR IAN JENKINS.

PLANNING REFERENCE NUMBER 18/01323/APP

HISTORY.

Consent for 4 houses was granted by Moray Council on this land which previously had 2 old steading buildings. Over the years since the houses have been constructed, there has never been any flooding on this site. 3 of the houses have been completed with the consent to the North of Kimberlee still live. An application was made to Moray Council on the 9th of October 2018 for consent for a garage to shelter the applicants motor home. During the deliberations of the application, SEPA were asked to comment on the proposal. SEPA responded by saying that they were not normally consulted on "small scale extensions, garages or garden sheds".

PROPOSAL.

During the course of the application it was suggested that the garage be located on the site just to the North of Kimberlee. This was unacceptable to our client as this would have meant the loss of the fourth plot for a dwelling. The design of the garage is such that in the event of a flood ever occurring, water would simply pass through the garage due to the number of floor ventilators included in the design. Careful consideration was given to the possibility of flooding and there would be no displacement elsewhere in the location if water simply passed through the garage. The garage is 10.35m x 8.6m in size with 15 No 225 x 150mm ventilators positioned at floor level. Any flood water would simply flow through.

SUPPORT

In support of our review we would ask you to consider the following. Moray Council have intimated that if the garage was relocated just to the North of



the applicants house, Kimberlee, they could support this proposal and the issue of flooding would not be considered. However, this could prejudice the fourth house plot which has been considered "live" and still valid.

The applicant is prepared to enter into a Section 75 agreement to confirm that the fourth house would never be built in his life time thus transferring the potential floor area of the house over to the garage.

It is strange that this very same garage is acceptable on the site in terms of flooding near to Kimberlee yet in a different part of the garden it is unacceptable. Surely any displacement would be identical?

The real concern should this site ever flood would be for the town of Rothes where parts of the town lies 5 meters lower than the ground at Kimberlee. From the attached map you can see that a track to where the garage is proposed is already there and if the garage were to be moved to the North of Kimberlee, the fourth house would be compromised or at the very least squeezed in.

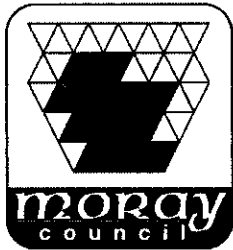
The garage floor level is 2.23 meters higher than the ground immediately to the North of where the garage is proposed.

CONCLUSIONS.

A common sense approach is required in this instance. Planners are happy to approve the garage next to the house with no flooding issues. Planners refuse the garage in the location preferred by the applicant and use flooding issues as reasons to refuse. In essence, flooding is perhaps not the issue here and that it is the siting of the garage giving issue. The displacement, if any, will be the same whichever position the garage is located but unlike the planners preferred location, my client's suggested location will not compromise the fourth site.

My client's offer of a compromise stands as stated above with the garage offsetting the house in terms of displacement. The fourth house might never be built but again as stated my client is prepared to confirm legally that through his lifetime, he would not build a fourth house on the site to allow a trade off to occur between the 2 buildings.

We hope the above will allow you to consider this application and review and provide our client with a positive outcome.



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

REFUSAL OF PLANNING PERMISSION

**[Speyside Glenlivet]
Application for Planning Permission**

TO Mr Ian Jenkins
c/o Plans Plus
Main Street
URQUHART
By Elgin
Moray
IV30 8LG

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

Erect garage at Kimberlee Rothies Aberlour Moray

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

Date of Notice: **3 December 2018**



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

The proposal is contrary to the adopted Moray Local Development Plan 2015 policies EP7 and IMP1 on flood risk grounds where the proposal would lie entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps. The proposed garage would therefore be at medium to high risk of flooding and in a location that would contribute toward increased flood risk to surrounding properties via displacement of flood plain capacity.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
17~67	A	Elevations floor plan site and location plan
		Levels for garage

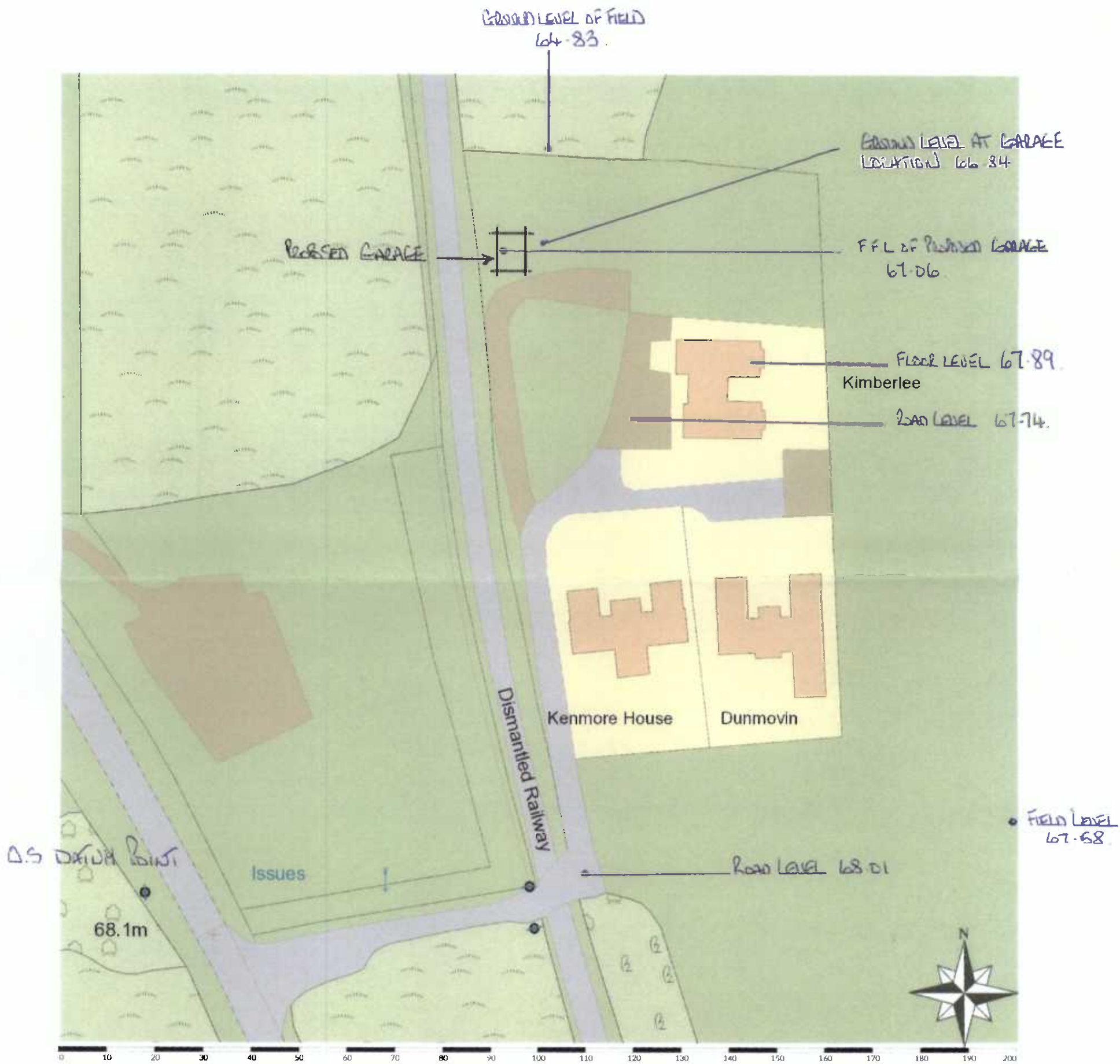
NOTICE OF APPEAL
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, Moray Council Local Review Body, Legal and Committee Services, Council Offices, High Street, Elgin IV30 1BX. This form is also available and can be submitted online or downloaded from www.eplanning.scotland.gov.uk

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.

02/10/2018

KIMBERLEE, A941 FROM B9102 AT DANDALEITH TO HIGH STREET IN ROTHES, ROTHES,
AB38 7AW



Scale: 1:1250 | Area 4Ha | Grid Reference: 327916,847822 | Paper Size: A4

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

REFUSED

03.12.2018

Development Management
Environmental Services
The Moray Council



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100035207



18/01323/APP
08 NOV 2018

Our ref: PCS/161771
Your ref: 18/01323/APP

If telephoning ask for:
Jim Mackay

20 November 2018

Cathy Archibald
The Moray Council
Development Services
Environmental Services Dept.
Council Office, High Street
Elgin
IV30 1BX

By email only to: consultation.planning@moray.gov.uk

Dear Ms Archibald

Town and Country Planning (Scotland) Acts
Planning application: 18/01323/APP
Erect garage
Kimberlee Rothes Aberlour Moray

Thank you for your consultation on this planning application specifically requesting our advice on flood risk, which SEPA received on 15 October 2018. Further information was also submitted from the agent on 5 November 2018. We note this consultation follows the advice provided on related application 18/00685/APP (our ref: PCS/160129 (27 July 2018)).

Please note that SEPA does not usually provide site-specific flood risk advice on "Small scale extensions, domestic garages or garden sheds". The position with this application is a little different in that the garage proposed is a separate building in the floodplain, but nevertheless we refer you to our "[SEPA standing advice for planning authorities and developers on development management consultations](#)" (LUPS-GU8) and advise you follow the advice of your flood colleagues.

We provide the following brief information to assist your consideration of the application with your colleagues:

The information provided confirms the proposed location of the garage/workshop is entirely within the functional floodplain of the River Spey, at medium to high risk of flooding from the River Spey and will reduce the capacity of the floodplain. A 1 in 200 year flood level of 67.73mAOD has previously been established for the area. The ground levels in the vicinity of the proposed building are 66.84mAOD. The proposed finished floor level for the garage is 67.06mAOD which is higher than the ground level but still less than the flood level. While this reduces flood risk to the new building, land raising in the functional floodplain is generally not considered acceptable as it reduces the storage capacity of the functional floodplain which has a long term impact elsewhere. Given the size of the proposed development, the impact on the floodplain from this alone is not significant, but it does not serve to avoid the piecemeal reduction of the floodplain. Further

mitigation has been suggested using low level vents to ensure the garage still floods. These measures may offset some of the negative effects of building in the floodplain but only if implemented and maintained.

If you have any queries relating to this letter, please contact me by telephone on 01349 860315 or e-mail at planning.aberdeen@sepa.org.uk.

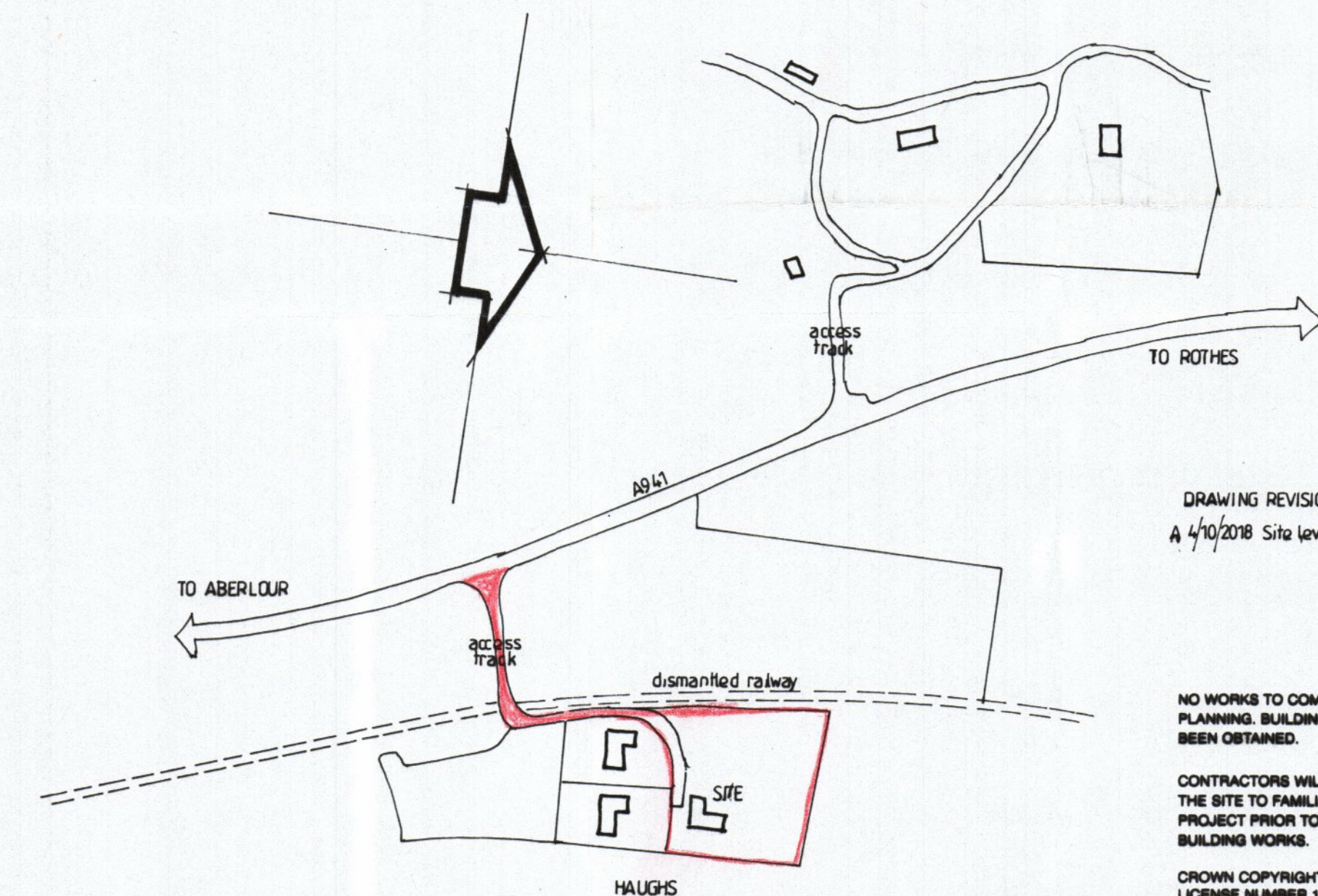
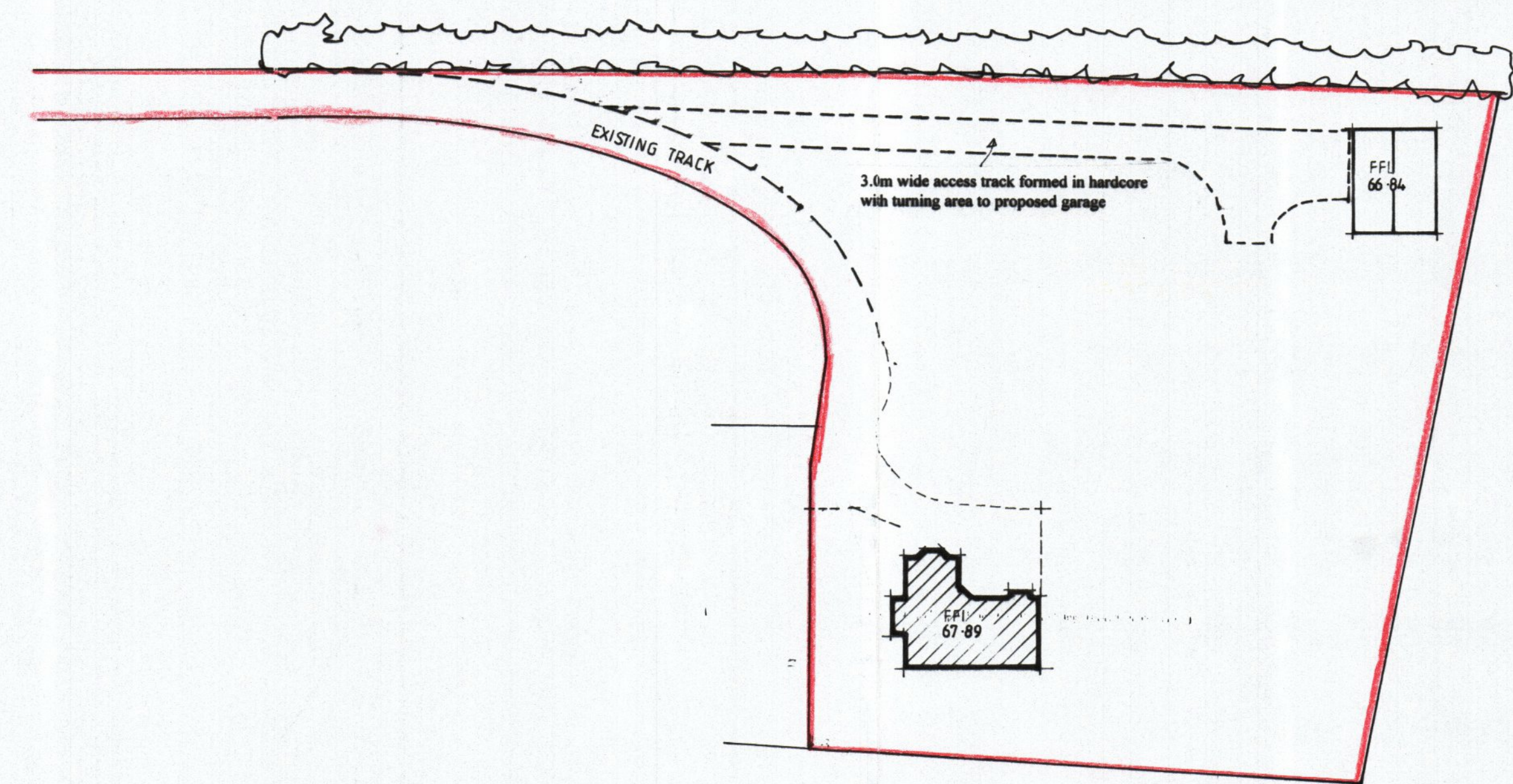
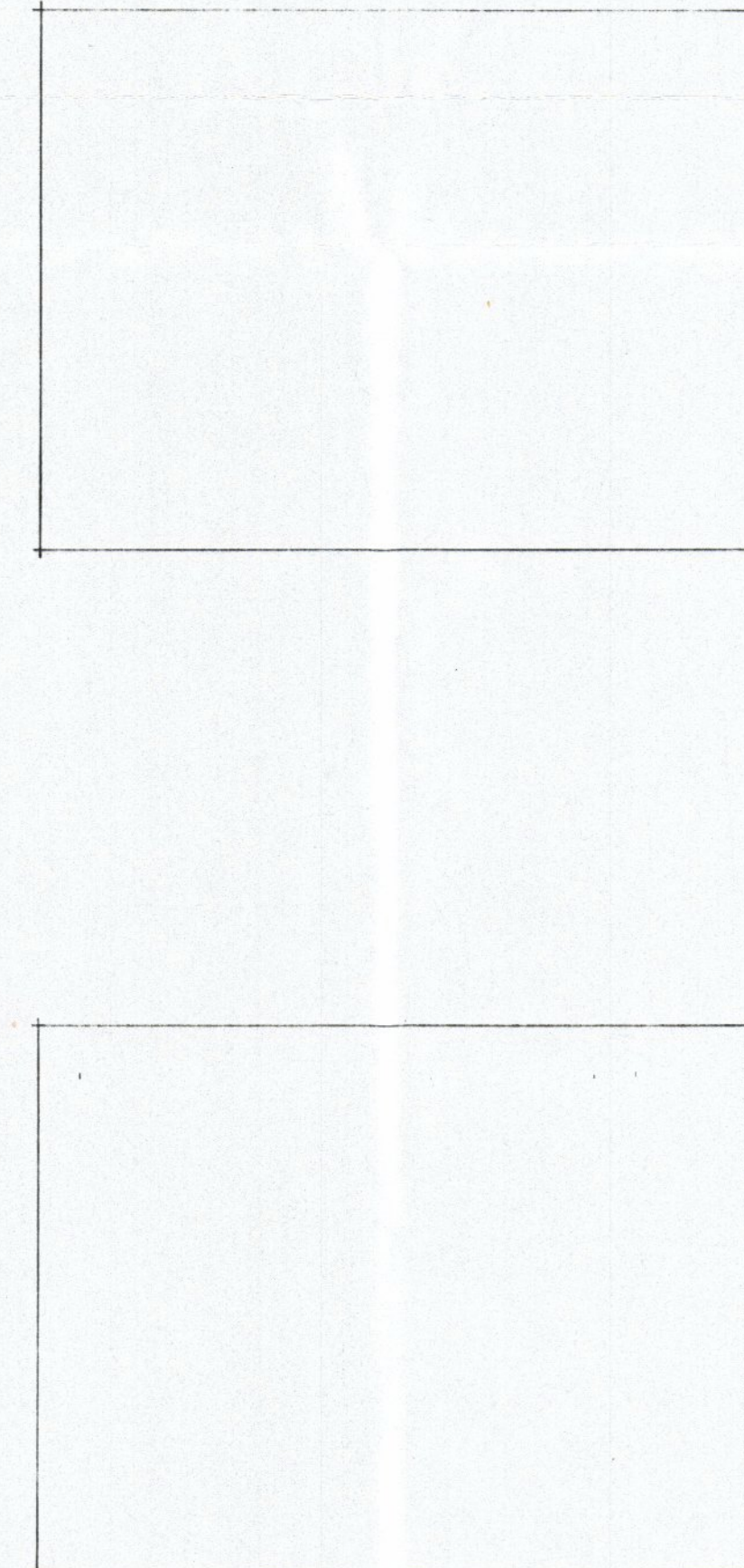
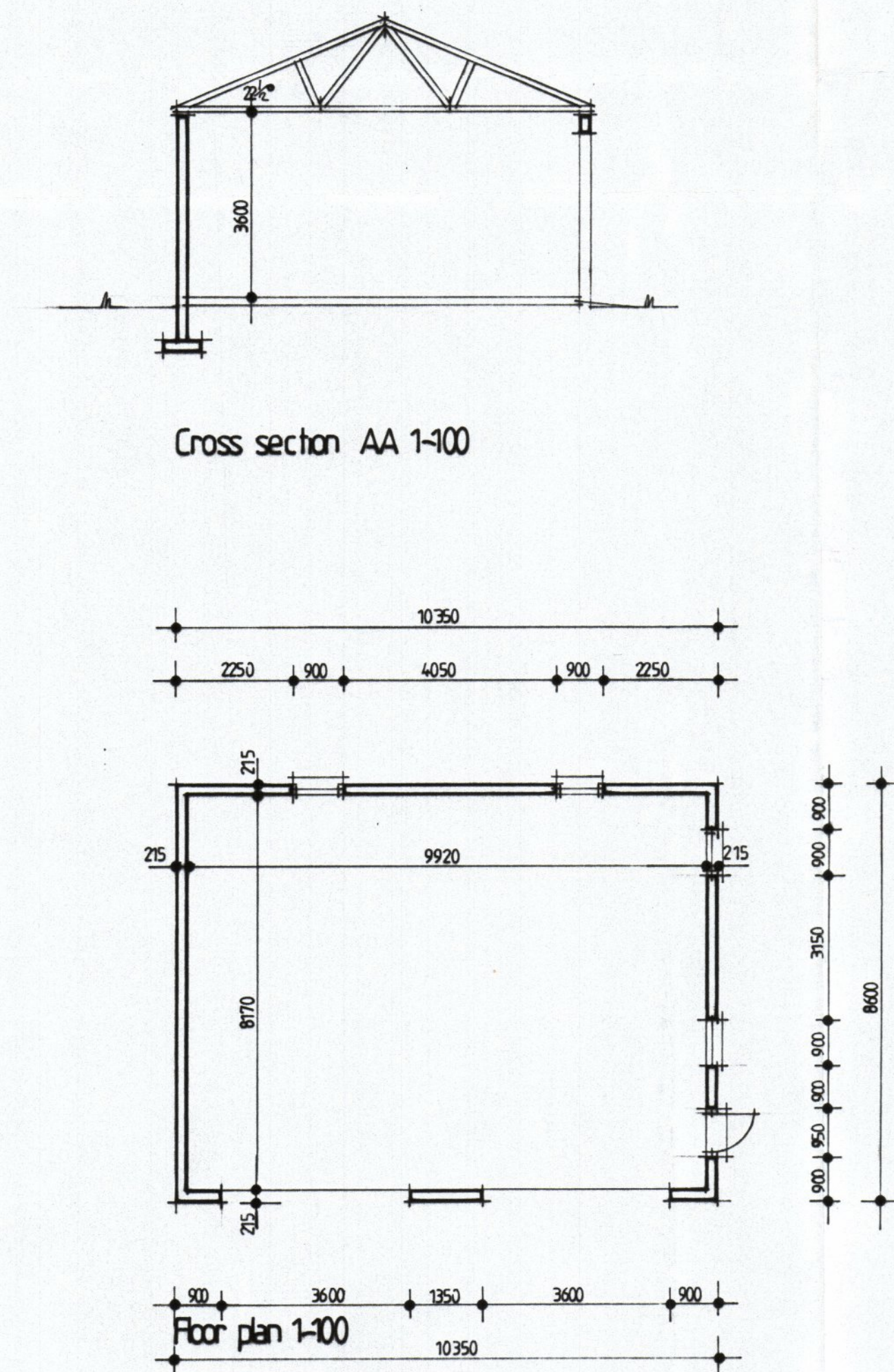
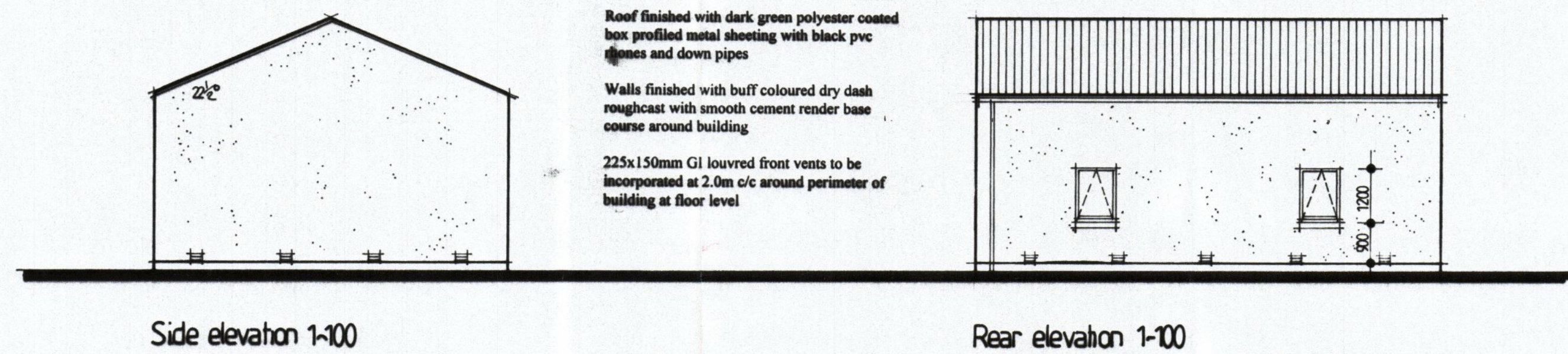
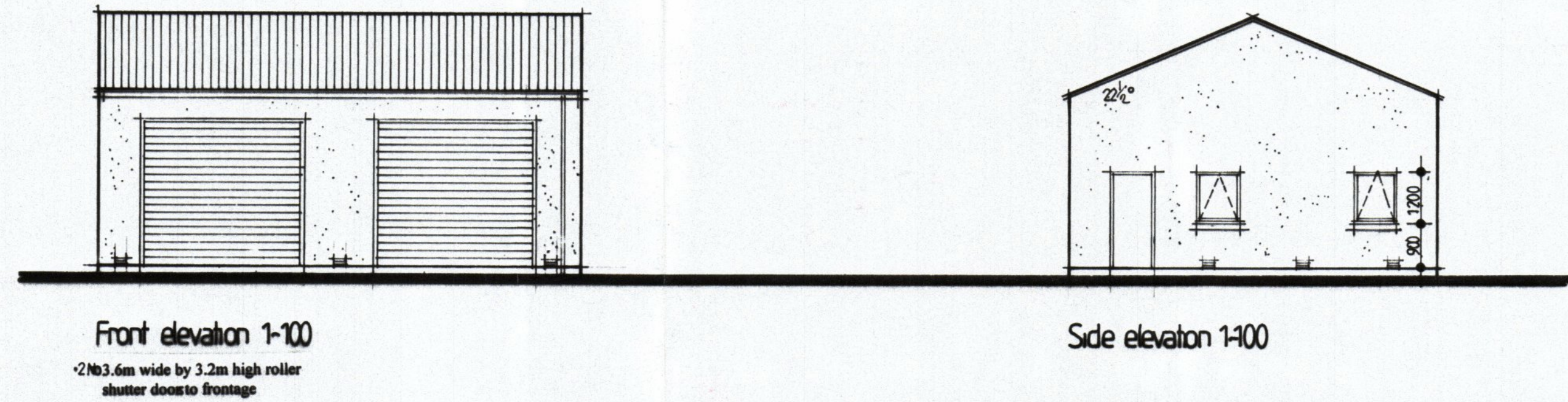
Yours sincerely

Jim Mackay
Planning Unit Manager North
Planning Service

ECopy to: ctkplans@aol.com and cathy.archibald@moray.gov.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).



DRAWING REVISIONS
A 4/10/2018 Site levels amended

NO WORKS TO COMMENCE ON SITE UNTIL THE RELEVANT PLANNING, BUILDING WARRANT OR GRANT APPROVAL HAS BEEN OBTAINED.

CONTRACTORS WILL HAVE DEEMED TO HAVE VISITED THE SITE TO FAMILIARIZE THEMSELVES WITH THE PROJECT PRIOR TO SUBMITTING ANY ESTIMATE FOR BUILDING WORKS.

CROWN COPYRIGHT. ALL RIGHTS RESERVED.
LICENSE NUMBER 100041148

ANY DEVIATIONS TO THE APPROVED PLANS TO BE REPORTED TO THIS OFFICE.
CONTRACTORS TO CHECK ALL DIMENSIONS ON SITE PRIOR TO COMMENCING BUILDING WORKS
GIVEN DIMENSIONS ONLY TO BE USED.
DO NOT SCALE PLANS.

ANY ROOF TRUSS TYING INTO AN EXISTING ROOF TO BE CHECKED ON SITE BY CONTRACTOR TO ENSURE HEIGHTS MEET CORRECTLY.

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

REFUSED
03.12.2018
Development Management
Environmental Services
The Moray Council

CLIENT Mr I Jenkins	SCALE 1-100	DRAWN BY IR	DATE May 2018
PROJECT Proposed garage/workshop at Kimberlee, The Haughs, Rothies, Aberlour AB38 7AW	PROJECT No. 17-67 A		



**ARCHITECTURAL
DESIGN CONSULTANTS**

TELEPHONE No. 01343 842635
MOBILE No. 07766 315501
EMAIL: ctkplans@aol.com
WEB: www.plans-plus.co.uk
PARTNERS: COLIN & CATRIONA KEIR

MAIN STREET OFFICES: URQUHART, BY ELGIN, IV30 8LG



APPENDIX 3

APPOINTED OFFICER AND INTERESTED PARTIES RESPONSES TO NEW EVIDENCE

Lissa Rowan

From: Neal MacPherson
Sent: 04 April 2019 08:21
To: Lissa Rowan
Cc: Beverly Smith; Cathy Archibald
Subject: RE: Notice of Review: Planning Application 18/01323/APP

Hello,

Thank you for the letter in relation to current LRB case LR/LR220 at Kimberlee, Rothies.

Development Management would have no problem with the use of a Section 75 legal agreement. Alternatively, the LRB and its advisor could consider use of a condition to achieve the same outcome, possibly negating the need/expense for a legal agreement. We note that the fourth plot was located within the north eastern corner of the red line boundary of the garage application site (adjacent to the current parent property). As this further site would sit within the current site boundary, a further condition to the below effect might suffice.

The garage hereby approved shall not be developed in conjunction with the dwelling approved upon the same site under planning application reference 13/02202/APP approved on 22nd January 2014. As the dwelling approved 13/02202/APP was subsequently lawfully commenced in the form of services laid, but where no house was subsequently constructed, the garage subject of this planning approval can only be developed if no further construction works in relation to the dwelling approved under 13/02202/APP takes place. There shall be no dwelling developed upon the site, other than the parent property known as Kimberlee.

Reason – in order to limit the number of building erected within the flood plain, and to avoid any ambiguity regarding the implementation of building within this area.

Regards,

Neal MacPherson | Principal Planning Officer | Development Management Planning

neal.macpherson@moray.gov.uk | 01343 563266 | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)

Working pattern - Mon to Friday (except Thurs PM)



From: DC-General Enquiries
Sent: 03 April 2019 2:24 PM
To: Neal MacPherson
Cc: Beverly Smith
Subject: FW: Notice of Review: Planning Application 18/01323/APP

Please see attached correspondence relating to the above application – this was dealt with by Cathy

Teresa Ruggeri | Technical Planning Assistant | Development Management
teresa.ruggeri@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)
01343 563270



From: Lissa Rowan
Sent: 03 April 2019 09:29
To: DC-General Enquiries
Subject: Notice of Review: Planning Application 18/01323/APP

Good morning

Please find attached correspondence in relation to the above Notice of Review.

Kind regards

Lissa

Lissa Rowan | Committee Services Officer | Legal and Democratic Services

lissa.rowan@moray.gov.uk | [website](#) | [facebook](#) | [twitter](#) | [newsdesk](#)

01343 563015





Moray Council Flood Risk management Team Statement with regards to:-

Notice of Review: Planning Application - 18/01323/APP - Erect garage at Kimberlee, Rothies, Aberlour.

Moray Council Flood Risk Management team (MCFRM) were consulted on the above application in October 2018. MCFRM, following the assessment of the application, objected based on the following reasons:-

- The application site lies entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps.
- Scottish Planning Policy states (paragraph 255) that “the planning system should promote flood avoidance by safeguarding flood storage and conveying capacity, and locating development away from functional flood plain.

Background Assessment

The site has been assessed against the 2 flood risk maps at a 0.5% probability of an event happening in any single year. The 2 maps looked at were:-

- Surface water
- Fluvial

Following the initial assessment it was clear that the site was within the 0.5% probability for fluvial flooding as per map in Appendix A. Following a review of the maps MCFRM feel that this development would be contravening paragraph 255 as the site will be effecting the functional flood plain. This has been confirmed by SEPA in their response PCS/161771.

MCFRM understand that looking at this single development that the loss of the flood plain is very small. However, loss of flood plain is only one aspect of the flooding issues. We also have concerns on the following areas:-

- Potential change of use of the building in the future. We would not want to see this garage in the longer term being turned in to a residential or commercial property as this increases the risk to life as the building is within the functioning flood plain.
- Incremental increase of flood plain loss. Although this individual application has minimal effect by itself, if we approve a number of small developments within the functioning flood plain the overall effect would be significant. Therefore, due to the nature of the area we need to prevent and reduce the loss of flood plain due to incremental development.

Further Information

We welcome the section 75 agreement proposed by the applicant, however we have to consider this application on present legislation and guidance, which were not considered or in place during the original site application for the house.

Recommendation

Our original recommendation for refusal of this application still applies.

Documents used as part of this assessment;-

Moray Council Local Development Plan Policies: Policy EP7

Scottish Planning Policy: Para 255, 263,264

SEPA Flood Maps

18/01323/APP



Legend

-  Wards 2017 (Moray)
-  SEPA River Extents Medium



Scale: 1:2,797



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Ordnance Survey 100023422 The Moray

Notes: Kimberlee, garage location - 1 in 200 year fluvial flood map (SEPA)