



## **Moray Local Review Body**

Thursday, 20 April 2023

**NOTICE IS HEREBY GIVEN** that a Meeting of the **Moray Local Review Body** is to be held at **Council Chambers, Council Office, High Street, Elgin, IV30 1BX** on **Thursday, 20 April 2023 at 09:30.**

### **BUSINESS**

- 1 **Sederunt**
- 2 **Declaration of Group Decisions and Members Interests \***
- 3 **Minute of Meeting dated 16 February 2023** **5 - 8**
- 4 **Case LR283 - Ward 3 - Buckie** **9 - 124**  
Planning Application 22/00164/PPP – Erect a dwellinghouse on site at Broadly by Buckie
- 5 **Case LR284 - Ward 4 - Fochabers Lhanbryde** **125 - 352**  
Planning Application 22/01066/APP – Alter and extend dwellinghouse at 35 Gordon Street, Portgordon, Buckie
- 6 **Case LR285 - Ward 3 - Buckie** **353 - 416**  
Planning Application 22/00327/APP – Change of use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty, Buckie
- 7 **Case LR286 - Ward 5 - Heldon and Laich** **417 - 528**  
Planning Application 22/01594/APP – Proposed erection of garage/storage shed and partial change of use from Farm Land to Garden Ground at The Forecourt, Cummingston

Planning Application 22/01423/APP - Change of use from amenity to garden ground with erection of 1.8m timber fence at 10 Linksvie Road, Mosstodloch

**Summary of Local Review Body functions:**

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



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

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

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

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

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

# **THE MORAY COUNCIL**

## **Moray Local Review Body**

### **SEDERUNT**

Councillor Marc Macrae (Chair)  
Councillor Amber Dunbar (Depute Chair)

Councillor Neil Cameron (Member)  
Councillor Juli Harris (Member)  
Councillor Sandy Keith (Member)  
Councillor Paul McBain (Member)  
Councillor Derek Ross (Member)  
Councillor Draeyk Van Der Horn (Member)  
Councillor Sonya Warren (Member)

Clerk Name:	Lissa Rowan
Clerk Telephone:	07765 741754
Clerk Email:	<a href="mailto:committee.services@moray.gov.uk">committee.services@moray.gov.uk</a>

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

**Thursday, 16 February 2023**

**Council Chambers, Council Office, High Street, Elgin, IV30 1BX**

**PRESENT**

Councillor Neil Cameron, Councillor Amber Dunbar, Councillor Juli Harris, Councillor Sandy Keith, Councillor Marc Macrae, Councillor Paul McBain, Councillor Derek Ross, Councillor Sonya Warren

**IN ATTENDANCE**

Mrs Lisa MacDonald, Senior Planning Officer and Mrs K Donnachie, Planning Officer as Planning Advisers, Mr S Hoath, Senior Solicitor and Mrs J Smith, Solicitor as Legal Advisers and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

**1 Chair**

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

**2 Declaration of Group Decisions and Members Interests**

In terms of Standing Order 21 and the Councillor's Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda or any declarations of Members interests in respect of any item on the agenda.

For transparency, in relation to Item 5, Case LR285, Councillor Warren stated that in the previous Council term, local Buckie Ward Members had been consulted on the sale of this land and that the Applicant is also a member of the Findochty Community Council however she stated that this would not influence her judgement when determining this application.

**3 Minute of Meeting dated 19 January 2023**

The Minute of the meeting dated 19 January 2023 was submitted and approved.

**4 Case LR284 - Ward 4 - Fochabers Lhanbryde**

**Planning Application 22/01066/APP – Alter and extend dwellinghouse at 35 Gordon Street, Portgordon, Buckie**

A request was submitted by the Applicant, seeking a review of the decision of the Appointed Officer, in terms of the Scheme of Delegation, to refuse planning permission on the grounds that:

The proposed alterations and extension are contrary to Moray Local Development Plan 2020 policy DP1(i)(a) for the following reasons:

1. The proposed rear dormers are considered unacceptable as they are of an irregular shape which is not keeping with the form and character of the existing traditional property and surrounding area.
2. The proposed first floor extension incorporates an irregular roof shape giving the appearance of a two storey flat roof extension which creates unnecessary bulk and is incongruous with the main parent property.

A Summary of Information Report set out the reasons for refusal, together with the documents considered or prepared by the Appointed Officer in respect of the planning application, in addition to the Notice of Review, Grounds for Review and supporting documents submitted by the Applicant.

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

The Legal Adviser advised that National Planning Framework 4 (NPF4) had been introduced by the Scottish Government and formally adopted by the Council on Monday 13 February 2023 and now forms part of the Moray Local Development Plan (MLDP) 2020 and all planning applications determined after the date of 13 February 2023 should take NPF4 into consideration. He advised that there are 3 requests for review going through the Local Review Body (LRB) process, 2 of which were on the agenda for consideration today and another due to be heard at the next meeting of the Moray Local Review Body (MLRB). He confirmed that none of these applications had been assessed by the Appointed Officer against NPF4 and acknowledged that, although NPF4 may not change the decision of the Appointed Officer, for fairness and completeness, the Appointed Officer, Interested Parties and the Applicant should be asked to comment on the planning application in light of NPF4. In terms of the LRB procedure, the Legal Adviser advised that, before considering any planning application, the MLRB should consider whether there is adequate information within the case to determine the planning application however in light of the newly adopted NPF4, for fairness and completeness, he recommended that the 2 cases due to be considered at the meeting today be deferred to allow the Appointed Officer, Interested Parties and the Applicant the opportunity to comment on the planning application, taking NPF4 into consideration where relevant. The Legal Adviser further advised that, should the MLRB agree with his recommendation, that comments would be sought from the Appointed Officer, Interested Parties and the Applicant for all future Notice of Review applications received that have not been considered against NPF4 ahead of the case being considered by the MLRB to avoid further deferral of cases.

Having considered the advice from the Legal Adviser, the Chair moved that the MLRB defer Cases LR284 and LR285 to allow the Appointed Officer, Interested Parties and the Applicant the opportunity to comment on the planning application, taking NPF4 into consideration where relevant. This was seconded by Councillor Warren.

There being no-one otherwise minded, the MLRB agreed to defer Cases LR284 and LR285 to allow the Appointed Officer, Interested Parties and the Applicant the opportunity to comment on the planning application, taking NPF4 into consideration where relevant.





## MORAY LOCAL REVIEW BODY

20 APRIL 2023

### SUMMARY OF INFORMATION FOR CASE No LR283

**Planning Application 22/00164/PPP – Erect a dwellinghouse on site at Broadly by Buckie**

#### **Ward 3 - Buckie**

Planning permission in principle was refused under the Statutory Scheme of Delegation by the Appointed Officer on 28 November 2022 on the grounds that:

The development would result in an intensification of use of the access junction onto the public road, where there is presently restricted visibility and which would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan (MLDP) policy DP1 'Development Principles' section (ii) - 'Transportation', part 'a)' (safe entry and exit).

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**.

At the meeting of the Moray Local Review Body (MLRB) on 16 February 2023, the MLRB noted that National Planning Framework 4 (NPF4) had been adopted by the Council on Monday 13 February 2023 and that all planning applications determined beyond this date would have to take NPF4 into consideration, as this is now part of the MLDP 2020. The MLRB asked for further information from the Appointed Officer, Interested Parties and the Applicant in light of NPF 4.

The Appointed Officer's response is attached as **Appendix 5**. There was no response from any of the Interested Parties.

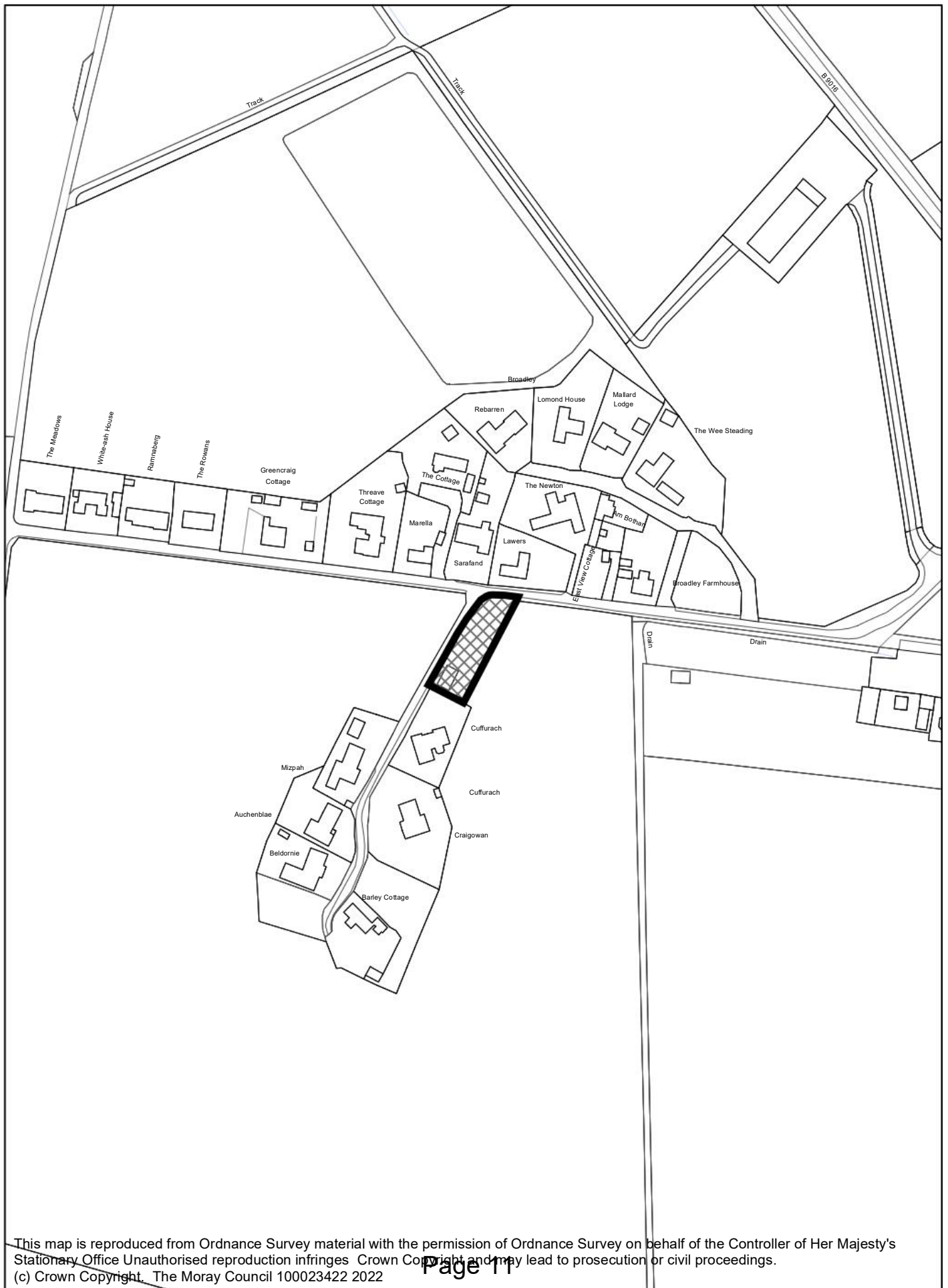
The Applicant had no further comment to make in relation to NPF4.







# Location plan for Planning Application Reference Number : 22/00164/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 100530875-001

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)

Planning permission in principle to erect a story and a half house (1.5) at site at Broadley in keeping with the village of Broadley.  
With access from private road known as "Estate Road"

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

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text" value="North Bogbain Farmhouse, A96"/>
First Name: *	<input type="text" value="Steve"/>	Building Number: <input type="text" value="1"/>
Last Name: *	<input type="text" value="Reeve"/>	Address 1 (Street): * <input type="text" value="A96"/>
Company/Organisation	<input type="text"/>	Address 2: <input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: * <input type="text" value="Keith"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text" value=""/>	Postcode: * <input type="text" value="AB55 6RP"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value=""/>	

## Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text"/>
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

Plot -at Broadley, Clochan, Buckie, Banffshire AB56 5HQ Grit Ref: 339412, 861740 Previous application ref: 10/00171/PPP

Northing

Easting

## Pre-Application Discussion

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

☒ Yes ☐ No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

☐ Meeting ☐ Telephone ☒ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

previously approved planning permission in principle held for plot

Title:

Mr

Other title:

First Name:

Neil

Last Name:

Mcperson

Correspondence Reference Number:

10/00171/PPP

Date (dd/mm/yyyy):

03/06/2010

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

0.08

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)

Has been a plot since approximately 2005

## 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.

<b>Water Supply and Drainage Arrangements</b>	
Will your proposal require new or altered water supply or drainage arrangements? *	≤ Yes <b>T</b> No
Do your proposals make provision for sustainable drainage of surface water?? * (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 <b>T</b> 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).	
<b>Assessment of Flood Risk</b>	
Is the site within an area of known risk of flooding? *	
≤ Yes <b>T</b> 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 <b>T</b> No ≤ Don't Know	
<b>Trees</b>	
Are there any trees on or adjacent to the application site? *	
≤ Yes <b>T</b> 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.	
<b>All Types of Non Housing Development – Proposed New Floorspace</b>	
Does your proposal alter or create non-residential floorspace? *	
≤ Yes <b>T</b> No	
<b>Schedule 3 Development</b>	
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 <b>T</b> 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.	
<b>Planning Service Employee/Elected Member Interest</b>	
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 <b>T</b> No	



## Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

## Certificate Required

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

Certificate A

## Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Mr Steve Reeve

On behalf of:

Date: 04/02/2022

☒ 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 Rosemary Reeve

Declaration Date: 04/02/2022



## **Payment Details**

Online payment: 465946

Payment date: 04/02/2022 11:41:45

Created: 04/02/2022 11:41



 <b>LAND REGISTER OF SCOTLAND</b>	Officer's ID / Date	TITLE NUMBER
	3422 26/2/2008	<b>BNF5563</b>
	<b>ORDNANCE SURVEY NATIONAL GRID REFERENCE</b>	Scale
		1/1250
<b>NJ3961</b>		Survey Scale
		1/2500

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North Bogbain farmhouse

Keith

AB55 6RP

12<sup>th</sup> February 2022

Your Ref: 22/00164/PPP

Dear Sir/madam

Planning Permission in Principle to erect 1.5 storey dwelling house at Broadley Clochan Buckie

Further to your letter dated 7 February 2022. The drainage plans for the above noted site is anticipated to be for private drainage system such as a soak away. Full details of the drainage plans would be submitted when full planning permission is sought. At this stage we are only applying for Planning permission in Principle.

Please also find attached the proposed site – outlined in red as requested. This whole area if all the land within our ownership.

Yours faithfully

S M Reeve (Mr)





Gary Mackintosh  
Email: [gmsurveys@gmail.com](mailto:gmsurveys@gmail.com)  
Tel: 07557431702

# gmsurveys

Surveys, Setting-Out Civil Engineering Design

## Site Investigation & Drainage Assessment

BROADLEY

Gary Mackintosh Bsc  
[gmsurveys@gmail.com](mailto:gmsurveys@gmail.com)

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***Client:***

Mr and Mrs Reeve

***Site Address:***

Proposed New Dwelling  
Broadley  
By Buckie

***Planning Reference:***

TBC

***Date:***

17<sup>th</sup> March 2022

***Job Number:***

GMC22-048

***Company Information:***

Assessment completed by:

Gary Mackintosh Bsc

**GMCSurveys**

34 Castle Street

Forres

Moray

IV36 1PW

Email: gmcsurveys@gmail.com

Telephone: 07557431702

***Introduction:***

The proposals are to erect a new private dwelling and within land located adjacent to the main public road through Broadley by Keith. At the time of this report there are no formal designs for the proposed dwelling.

The SEPA Flood maps have been consulted which confirm the site lies out with the areas of fluvial and pluvial flooding during a 1:200year event.

GMC Surveys have been asked to carry out a site investigation in order to provide a drainage solution for the proposed development.

***Soil Conditions:***

Excavations were carried out by mechanical excavator on 21<sup>st</sup> May 2022 to assess the existing ground conditions and carry out infiltration and percolation testing for the management of foul and surface waters via soakaways.

The trial pits were excavated to depths of 1.7m and no groundwater was encountered.

The existing soils consist of 300 Topsoil, dark brown, dense, coarse gravelly sands to a depth of 800mm bgl overlying light brown, dense, fine sands and gravels proved to the depth of the excavations.

There was no evidence of fill material or contamination within the trial pits and no ground water was encountered. The natural soils have a minimum bearing capacity of 100kn/m<sup>2</sup>.

### ***Percolation/Soakaway Testing:***

Percolation testing was carried out in full accordance with BS6297: 2007 + A1: 2008 and as described in Section 3.9 of the Scottish Building Standards Technical Handbook (Domestic). The results can be found in the table below.

	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	Mean
<b>Date of Test</b>	<b>21/05/22</b>	<b>21/05/22</b>	<b>21/05/22</b>	
THo1	5520s	6900s	7620s	6680s
<b>Average Soil Vp</b>	<b>44.53s/mm</b>			

### ***Infiltration testing:***

Infiltration testing was carried out in full accordance with BRE digest 365. The results can be found in the table below.

<b>Infiltration Test</b>	<b>Pit Dimensions (w/l)</b>	<b>Test Zone (mbgl)</b>	<b>Infiltration Rate (m/s)</b>
INF01	1.0m x 0.8m	1.0 - 1.7	$9.81 \times 10^{-6}$

### ***Conclusion and Recommendations:***

Based on the onsite investigations it can be confirmed that the underlying soils are suitable for the use of standard stonefilled soakaways as a drainage solution for both foul and surface waters.

The Vp rate is above the maximum threshold of 15s/mm therefore a standard septic tank would be acceptable, the final details of which are to be confirmed by the chosen supplier.

### ***Foul Water Discharge via Soakaway:***

As noted, there are currently no formal designs for the proposed house at the time of this report. A 4bed property is therefore to be considered to demonstrate the foul water soakaway requirements.

$$\begin{aligned} &V_p \times PE \times 0.25 \\ &= 6(4\text{bed}) \times 44.53 \times 0.25 \\ &= \underline{\underline{66.80\text{m}^2}} \end{aligned}$$

This area can be provided with soakaway plan dimensions 12.20m x 5.50m at a depth of 0.45m below invert level. Alternative dimensions may be adopted to better suit the site layout ensuring that the minimum base area of 66.80m<sup>2</sup> is maintained.

### ***Surface Water Dispersal via Soakaway:***

Please see attached surface water calculations detailing the requirement and suitability for soakaway dimensions of 8.0m x 3.0m at a depth of 1.50m below the invert level based on the proposed contributing area of 250m<sup>2</sup> (assumed roof and hard standing area) up to and including a 1:30year event with 35% allowance for climate change as noted above.

Indicative Soakaway Details can be found in Appendix A.

**The sizing of the proposed soakaway will require to be reviewed upon completion of the final house design to ensure the proposed systems are adequate.**

SEPA and Building Regulations require that infiltration systems (soakaways) are located at least:

- 50m from any spring, well or borehole used as drinking water supply
- 10m horizontally from any water course and any inland and coastal waters, permeable drain (including culvert), road or railway
- 5m from a building or boundary



MasterDrain  
SW 16.10

**gmcsurveys**  
Surveys, Setting Out Civil Engineering Design

Shireen Villa, 34 Castle Street  
Forres IV36 1FN  
email: gmcsurveys@gmail.com  
Mobile: 07557 431 702

Job No. <b>GMC22-083</b>		
Sheet no. <b>1</b>		
Date <b>23/05/22</b>		
By <b>GM</b>	Checked	Approved

Project **Site at Broadley, by Buckie**  
Title **Surface Water Soakaway**

**Rectangular pit design data:-**

Pit length	=	8 m	Pit width	=	3 m
Depth below invert	=	1.5 m	Percentage voids	=	30.0%
Imperm. area	=	250 m <sup>2</sup>	Infilt. factor	=	0.00001 m/s
Return period	=	30 yrs	Climate change	=	35%

**Calculations :-**

Surface area of soakaway to 50% storage depth (not inc. base):-

$$a_{s50} = 2 \times (\text{length} + \text{width}) \times \text{depth}/2 = 16.5 \text{ m}^2$$

Outflow factor :  $O = a_{s50} \times \text{Infiltration rate} = 0.000165 \text{ m/s}$

Soakaway storage volume :  $S_{\text{actual}} = \text{length} \times \text{width} \times \text{depth} \times \% \text{voids}/100 = 10.8 \text{ m}^3$

Duration	Rainfall mm/hr	Inflow m <sup>3</sup>	Depth (hmax) m	Outflow m <sup>3</sup>	Storage m <sup>3</sup>
5 mins	91.9	1.9	0.26	0.05	1.86
10 mins	70.8	2.9	0.39	0.10	2.84
15 mins	58.8	3.7	0.49	0.15	3.53
30 mins	41.3	5.2	0.68	0.30	4.86
1 hrs	27.8	6.9	0.88	0.59	6.35
2 hrs	18.0	9.0	1.09	1.19	7.82
4 hrs	11.5	11.5	1.27	2.38	9.16
6 hrs	8.8	13.3	1.35	3.56	9.71
10 hrs	6.3	15.8	1.37	5.94	9.84
24 hrs	3.5	21.2	0.96	14.26	6.90

Actual volume :  $S_{\text{actual}} = 10.800 \text{ m}^3$

Required volume :  $S_{\text{reqd.}} = 9.840 \text{ m}^3$

**Soakaway volume storage OK.**

Minimum required  $a_{s50}$  : 15.03 m<sup>2</sup>

Actual  $a_{s50}$  : 16.50 m<sup>2</sup>

Minimum depth required: 1.37 m

Time to maximum 10 hrs

Emptying time to 50% volume =  $t_{s50} = S_{\text{reqd}} \times 0.5 / (a_{s50} \times \text{Infiltration rate}) = 08:16 \text{ (hr:min)}$

**Soakaway emptying time is OK.**



MasterDrain  
SW 16.10

**gmcsurveys**  
Surveys, Setting Out Civil Engineering Design

Shireen Villa, 34 Castle Street  
Forres IV36 1FN  
email: gmcsurveys@gmail.com  
Mobile: 07557 431 702

Job No. <b>GMC22-083</b>		
Sheet no. <b>2</b>		
Date <b>23/05/22</b>		
By <b>GM</b>	Checked	Approved

Project **Site at Broadley, by Buckie**  
Title **Surface Water Soakaway**

**Location hydrological data (FSR):-**

Location	=	BUCKIE (GRAMP)	Grid reference	=	NJ4265
M5-60 (mm)	=	13.5	r	=	0.25
Soil index	=	0.15	SAAR (mm/yr)	=	750
WRAP	=	1	Area	=	Scotland and N. Ireland

Soil classification for WRAP type 1

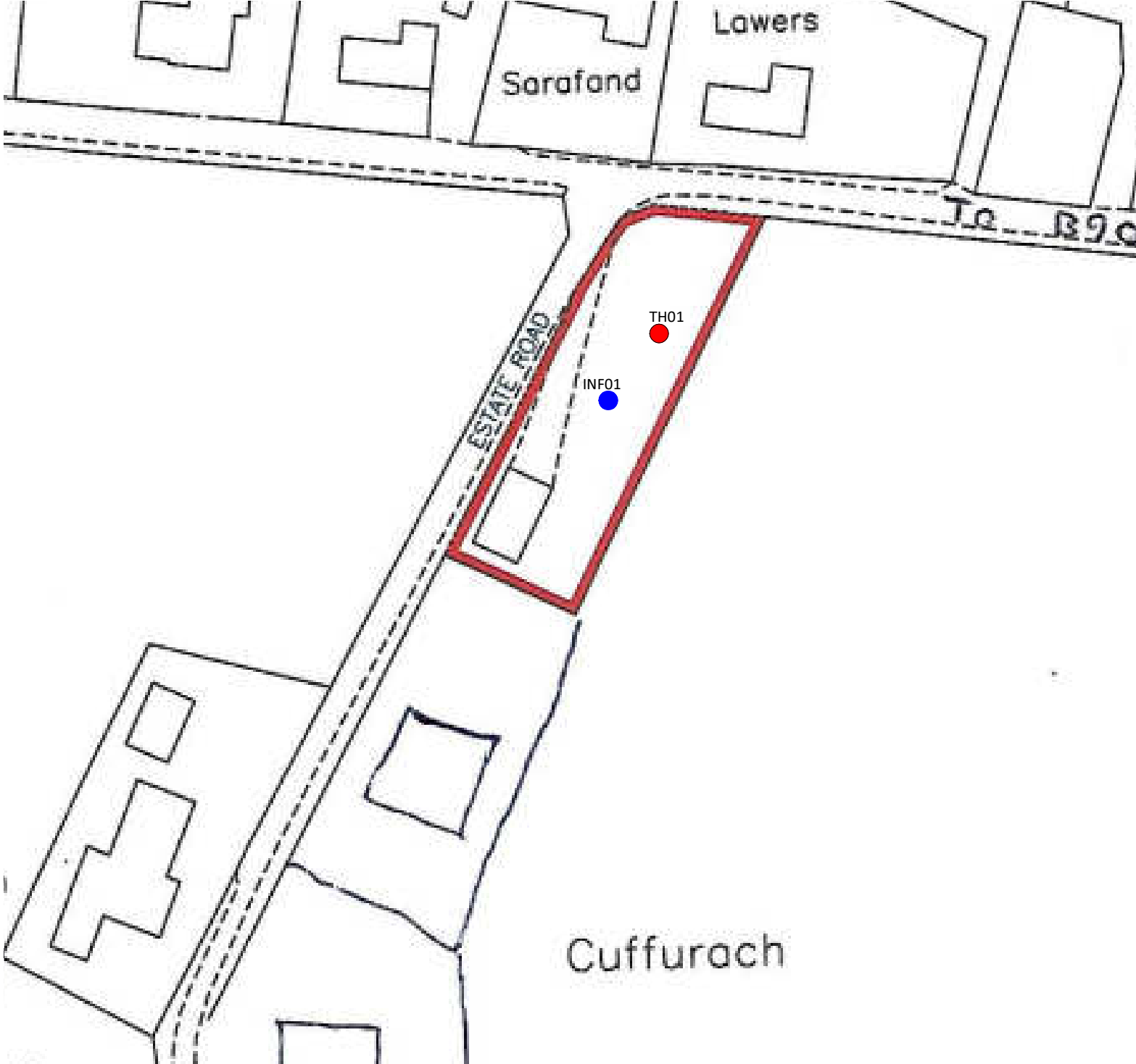
- i) Well drained permeable sandy or loam soils and shallower analogues over highly permeable limestone, chalk, sandstone or related drifts;
- ii) Earthy peat soils drained by dykes and pumps;
- iii) Less permeable loamy over clayey soils on plateaux adjacent to very permeable soils in valleys.

N.B. The rainfall rates are calculated using the location specific values above in accordance with the Wallingford procedure.



## **Appendix A**

### Test Hole Locations



REV:	DESCRIPTION:	BY:	DATE:
STATUS:		ISSUE	

**gmcsurveys**

Surveys, Setting Out, Civil Engineering Design

T: 07557 431 702

E: gmcsurveys@gmail.com

CLIENT:

Mr and Mrs Reeve

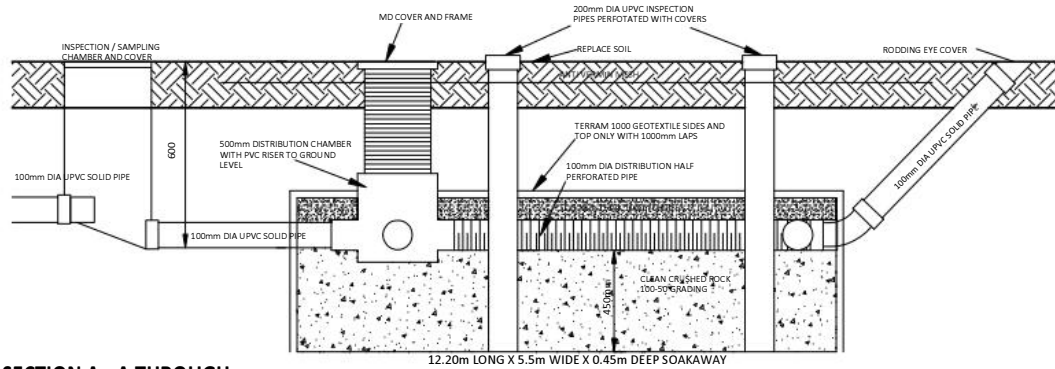
SITE:  
Site at Broadley  
By Buckie

TITLE:  
Test Hole Location

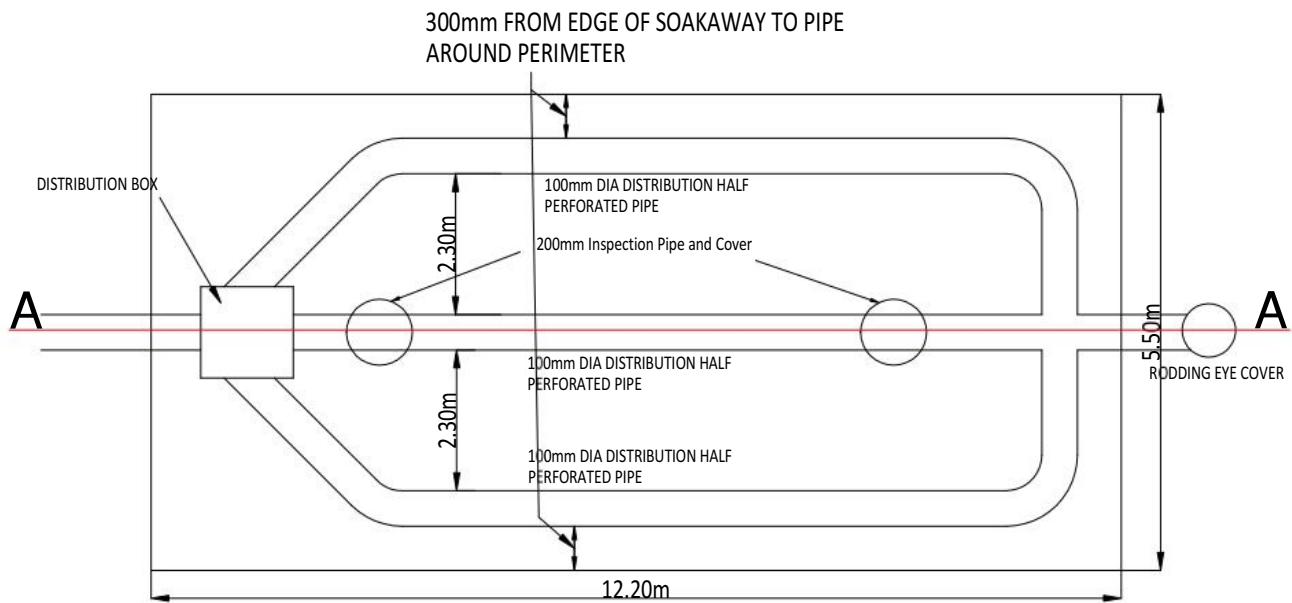
SCALE AT A4:	DATE:	DRAWN:	CHECKED:
NTS	MAY22	GM	
PROJECT NO:	DRAWING NO:	REVISION:	
GMC22-083	Appendix A	-	

## **Appendix B**

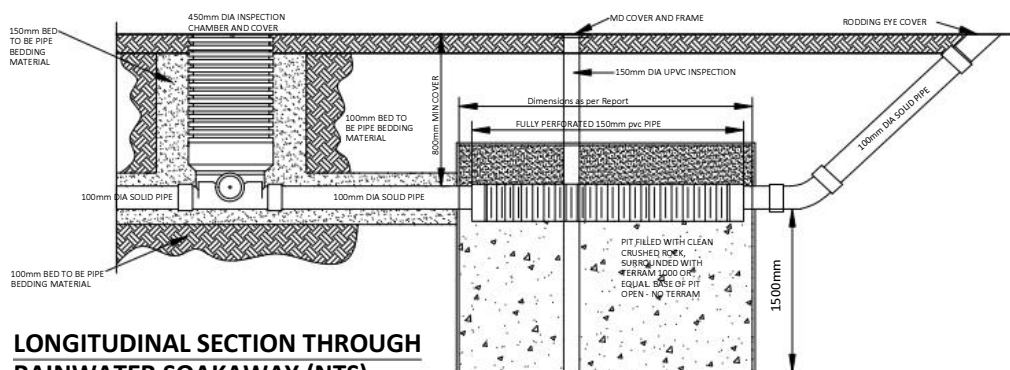
### **Soakaway Details/Certificates**



**SECTION A - A THROUGH  
FOUL WATER SOAKAWAY (NTS)**



**PLAN VIEW  
SOAKAWAY ARRANGEMENTS (NTS)**



**LONGITUDINAL SECTION THROUGH  
RAINWATER SOAKAWAY (NTS)**

REV.	DESCRIPTION:	BY:	DATE:
	STATUS: ISSUE		

**gmcsurveys**

Surveys, Setting Out, Civil Engineering Design

T: 07557 431 702

E: gmcsurveys@gmail.com

CLIENT:

Mr and Mrs Reeve

SITE:

Site at Broadley  
By Buckie

TITLE:

Soakaway Details

SCALE AT A4: NTS	DATE: MAY22	DRAWN: GM	CHECKED:
PROJECT NO: GMC22-083	DRAWING NO: Appendix B	REVISION:	-

**Certificate For Proposed Sub – Surface Soakaways**  
**Foul Water**

Applicants Name: Mr and Mrs Reeve  
Address: C/O GMC Surveys, 34 Castle Street, Forres  
Site Address: Proposed Dwelling at Broadley, by Buckie  
Date of Tests: 21<sup>st</sup> May 2022  
Weather Conditions: Dry/Overcast

**Percolation Test/Soakaway Sizing:**

	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	Mean
Date of Test	21/05/22	21/05/22	21/05/22	
TH01	5520s	6900s	7620s	6680s
Average Soil Vp	44.53s/mm			

Location: TP01  
Average Soil Vp: 44.53s/mm  
PE: 6  
Base Area (min): 66.80m<sup>2</sup> (as per SEPA requirements)

I hereby certify that I have carried out the above tests in full accordance with BS6297: 2007 + A1: 2008 and as described in Section 3.9 of the Scottish Building Standards Technical Handbook (Domestic).

Signed: G Mackintosh      Gary Mackintosh BSc.      Date: 23<sup>rd</sup> May 2022

Company: GMC Surveys, 34 Castle Street, Forres, Morayshire. IV36 1PW

**gmcsurveys**  
34 castle Street  
Forres  
Moray  
IV36 1PW  
T: 07557 431 702  
E: gmcsurveys@gmail.com

**Certificate For Proposed Sub – Surface Soakaways**  
**Surface Water**

Applicants Name: Mr and Mrs Reeve  
Address: C/O GMC Surveys, 34 Castle Street, Forres  
Site Address: Proposed Dwelling at Broadley, By Buckie  
Date of Tests: 21<sup>st</sup> May 2022  
Weather Conditions: Dry/Overcast

**Trial Pit Test – Surface Water:**

Depth of Excavation: 1.7  
Water Table Present: No

**Infiltration Test:**

Location: INF01  
Infiltration Test Zone: 1.0 – 1.7mbgl  
Infiltration Rate (m/s):  $9.83 \times 10^{-6}$   
Contributing Area: 250m<sup>2</sup>  
Soakaway Size: 8.0m x 3.0m x 1.5 below the invert of the pipe (200year)

I hereby certify that I have carried out the above tests in accordance with the procedures specified in BRE Digest 365:1991.

Signed: G Mackintosh      Gary Mackintosh BSc.      Date: 23<sup>rd</sup> May 2022

Company: GMC Surveys, 34 Castle Street, Forres, Morayshire. IV36 1PW

**gmcsurveys**  
34 castle Street  
Forres  
Moray  
IV36 1PW  
T: 07557 431 702  
E:gmcsurveys@gmail.com

# Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	9th March 2022
<b>Planning Authority Reference</b>	22/00164/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Site At Broadley Clochan Buckie
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133052020
<b>Proposal Location Easting</b>	339419
<b>Proposal Location Northing</b>	861745
<b>Area of application site (M<sup>2</sup>)</b>	800
<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=R6XAAQBGL5C00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R6XAAQBGL5C00</a>
<b>Previous Application</b>	10/00171/PPP 05/01404/OUT
<b>Date of Consultation</b>	23rd February 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Steve Reeve
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	North Bogbain Farmhouse Keith Moray AB55 6RP
<b>Agent Name</b>	
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Iain T Drummond
<b>Case Officer Phone number</b>	01343 563607
<b>Case Officer email address</b>	iain.drummond@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

## NOTE:

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

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

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

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

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

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

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

Please respond using the attached form:-



## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Contaminated Land

**Planning Application Ref. No:** 22/00164/PPP

**Erect dwellinghouse on Site At Broadley Clochan Buckie for Mr Steve Reeve**

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

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

**Reason(s) for objection**

**Condition(s)**

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

**Further information required to consider the application**

This development has been identified from Council archives as the site of a vehicle maintenance and storage yard. A contamination site investigation was undertaken under Planning Application Reference 05/01404/OUT. Should you require further information, contact the Environmental Health section (email contaminated.land@moray.gov.uk, tel 0300 1234561).

**Contact:** Adrian Muscutt  
**email address:**  
**Consultee:**

**Date.....**25.02.22.....  
**Phone No .....**

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

Please note that information about the application including consultation responses and

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

# **Consultee Comments for Planning Application 22/00164/PPP**

## **Application Summary**

Application Number: 22/00164/PPP

Address: Site At Broadley Clochan Buckie

Proposal: Erect dwellinghouse on

Case Officer: Iain T Drummond

## **Consultee Details**

Name: Mr EH Consultations

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

Email: Not Available

On Behalf Of: Environmental Health C12

## **Comments**

No objections

Andrew Stewart, PEHO



Thursday, 24 February 2022



Local Planner  
Development Services  
Moray Council  
Elgin  
IV30 1BX

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

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



Dear Customer,

**Site At Broadley, Clochan, Buckie, AB56 5HQ**  
**Planning Ref: 22/00164/PPP**  
**Our Ref: DSCAS-0059105-7G7**  
**Proposal: Erect dwellinghouse**

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

## **Audit of Proposal**

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

## **Water Capacity Assessment**

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

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

## **Waste Water Capacity Assessment**

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

---

## Please Note

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

## Asset Impact Assessment

According to our records, the development proposals impact on existing Scottish Water assets.

- ▶ 3" PVC water main in the site boundary

The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team via [our Customer Portal](#) to apply for a diversion.

The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction. Please note the disclaimer at the end of this response.

## Surface Water

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

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

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

## General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
  - ▶ Site Investigation Services (UK) Ltd
  - ▶ Tel: 0333 123 1223
  - ▶ Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)
  - ▶ [www.sisplan.co.uk](http://www.sisplan.co.uk)

- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
  - ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
  - ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
  - ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
  - ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).
- 

## **Next Steps:**

### **▶ All Proposed Developments**

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

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

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

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

### **▶ Trade Effluent Discharge from Non-Domestic 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 the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email [TEQ@scottishwater.co.uk](mailto:TEQ@scottishwater.co.uk) using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at [www.resourceefficientscotland.com](http://www.resourceefficientscotland.com)

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

Yours sincerely,

**Angela Allison**

Development Services Analyst

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



### **Scottish Water Disclaimer:**

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



**From:** Teresa Ruggeri <Teresa.Ruggeri@moray.gov.uk>  
**Sent:** 04 Mar 2022 03:05:56  
**To:** DMSMyEmail@moray.gov.uk  
**Cc:**  
**Subject:** FW: 22/00164/PPP Erect dwellinghouse on Site At Broadley, Clochan, Buckie  
**Attachments:** 22-00164-PPP Erect dwellinghouse on Site At Broadley, Clochan, Buckie.pdf

---

Hi

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

Thanks,  
Rebecca

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





# Developer Obligations & Affordable Housing: ASSESSMENT REPORT



**moray**  
council

**Date:** 02/03/2022

**Reference:** 22/00164/PPP

**Description:** Erect dwellinghouse on Site At Broadley, Clochan, Buckie

**Applicant:** Mr Steve Reeve

This assessment has been carried out by Moray Council. For developer obligations, the assessment is carried out in relation to policy PP3 Infrastructure and Services of the adopted Moray Local Development Plan 2020 (MLDP2020) and Supplementary Guidance (SG) on Developer Obligations which was adopted on 30 September 2020. And, for affordable housing, the assessment is carried out in relation to policy DP2 Housing of the MLDP2020. Affordable housing is a policy requirement not a developer obligation however for ease of reference the Affordable Housing contribution is included within this assessment.

The MLDP2020 can be found at [www.moray.gov.uk/MLDP2020](http://www.moray.gov.uk/MLDP2020) and the Developer Obligations SG can be found at <http://www.moray.gov.uk/downloads/file134184.pdf>

## Summary of Obligations

Primary Education	Nil
Secondary Education	Nil
Transport ( <i>Contribution towards Demand Responsive Transport-dial-a-bus</i> )	
Healthcare	Nil
Sports and Recreation	Nil
<b>Total Developer Obligations</b>	
Affordable Housing	
<b>TOTAL</b>	

## Breakdown of Calculation

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

3 bed = 1 SRUE

This assessment is therefore based on 1 SRUE.



## INFRASTRUCTURE

### Education

#### **Primary Education**

The pupils generated by this development are zoned to Portgordon Primary School. The school is currently operating at 28% physical capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary in this instance.

**Contribution towards Primary Education = Nil**

#### **Secondary Education**

The pupils generated by this development are zoned to Buckie High School. The school is currently operating at 86% capacity and the additional pupil as a result of this development can be accommodated. As a result, no mitigation is necessary in this instance.

**Contribution towards Secondary Education = Nil**

### Transport

The Moray Council Transportation Services has confirmed that a contribution towards the Council's demand responsive transport service is required to mitigate the impact, in terms of increased usage, on this service given the proposed development is located within a rural area with no access to bus services. In accord with the Moray Council's Supplementary Guidance on Developer Obligations, a contribution of [REDACTED] per SRUE is sought. Therefore:

[REDACTED]

**Contributions towards Transport = £302.60**

### Healthcare

Healthcare Facilities include General Medical Services (GMS), community pharmacies and dental practices. Scottish Health Planning Notes provide national guidance on standards and specification for healthcare facilities. The recommended number of patients is 1500 per General Practitioner (GP) and floorspace requirement per GP is 271m<sup>2</sup>.

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

Seafield and Cullen Medical Practice is the nearest GP Practice within which healthcare facilities can be accessed by the proposed development. NHS Grampian has confirmed that Seafield and Cullen Medical Practice is currently operating within capacity and the additional patients arising from this development can be accommodated on this basis.

**Contribution towards Healthcare= Nil**

### Sports and Recreational Facilities

#### *Sports and Recreation Facilities*

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

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



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## AFFORDABLE HOUSING

The average market value of a serviced plot for 1 Affordable Unit within the Buckie Local Housing Market Area is [REDACTED]

Contributions are based on 25% of the total number of units proposed in the application:

[REDACTED]

Therefore, the total contribution towards affordable housing is:

[REDACTED]

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





## TERMS OF ASSESSMENT

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

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

## PAYMENT OF CONTRIBUTIONS

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

## INDEXATION

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

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





**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Moray Flood Risk Management

**Planning Application Ref. No: 22/00164/PPP**

**Erect dwellinghouse on Site at Broadley Clochan Buckie for Mr Steve Reeve**

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

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

<b>Contact:</b>	Javier Cruz	<b>Date.....</b> 15/06/2022
<b>email address:</b>	Javier.cruz@moray.gov.uk	<b>Phone No</b> .....
<b>Consultee:</b>	The Moray Council, Flood Risk Management	



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	9th March 2022
<b>Planning Authority Reference</b>	22/00164/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Site At Broadley Clochan Buckie
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133052020
<b>Proposal Location Easting</b>	339419
<b>Proposal Location Northing</b>	861745
<b>Area of application site (M<sup>2</sup>)</b>	800
<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=R6XAAQBGL5C00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R6XAAQBGL5C00</a>
<b>Previous Application</b>	10/00171/PPP 05/01404/OUT
<b>Date of Consultation</b>	23rd February 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Steve Reeve
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	North Bogbain Farmhouse Keith Moray AB55 6RP
<b>Agent Name</b>	
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Iain T Drummond
<b>Case Officer Phone number</b>	01343 563607
<b>Case Officer email address</b>	iain.drummond@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

### NOTE:

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

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the

two month determination period to be exceeded.
------------------------------------------------

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

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

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

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

Please respond using the attached form:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No:** 22/00164/PPP

**Erect dwellinghouse on Site At Broadley Clochan Buckie for Mr Steve Reeve**

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

**Please**

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

*This proposal is for the erection of a new dwelling with access via an existing shared vehicular access adjacent:*

*A visibility splay 2.4m x 70m would be required in both directions at the access onto the public road free from any obstruction greater than 0.6m in height, with all boundaries set back to a position behind the required visibility splays. The visibility splay to the west is obstructed by vegetation and an existing fence and appears to pass over land not under the control of the applicant.*

*Confirmation of the applicant's ability to provide and maintain the required visibility splays (and set back the existing fence to the west) was therefore sought, through evidence of ownership or provision of third party agreement.*

*To date no evidence of third party agreement has been submitted which would confirm the applicant's ability to provide and maintain the required visibility splays.*

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

On the basis of the information submitted to date Transportation considers that the proposal, if permitted, as a result of the restricted visibility would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policy DP1 'Development Principles' section (ii)- 'Transportation', part 'a)' (safe entry and exit)

**Contact:** AG

**Date** 27 July 2022

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

**Consultee:** TRANSPORTATION

**Return response to**

[consultation.planning@moray.gov.uk](mailto: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**

<b>Ref No:</b>	22/00164/PPP	<b>Officer:</b>	Iain T Drummond
<b>Proposal Description/ Address</b>	Erect dwellinghouse on Site At Broadley Clochan Buckie		
<b>Date:</b>	24.11.2022	<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**

Consultee	Date Returned	Summary of Response
Environmental Health Manager	25/02/22	No objections
Contaminated Land	25/02/22	No objections
Transportation Manager	27/07/22	Object
Scottish Water	24/02/22	No objections
Moray Flood Risk Management	15/06/22	No objections
Planning And Development Obligations	02/03/22	Contribution sought towards healthcare and affordable housing

### **DEVELOPMENT PLAN POLICY**

Policies	Dep	Any Comments (or refer to Observations below)
PP1 Placemaking	N	
PP3 Infrastructure and Services	N	
DP1 Development Principles	Y	
DP4 Rural Housing	N	
EP2 Biodiversity	N	
EP12 Management and Enhancement Water	N	
EP13 Foul Drainage	N	
EP14 Pollution Contamination Hazards	N	

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

### Proposal

- This application seeks planning permission in principle for the erection of a dwellinghouse on a disused site within the rural grouping of Broadley.
- Access is proposed via the existing track which bounds the site to the west and serves a number of existing neighbouring houses to the south.
- Use of a public water supply is proposed with foul drainage disposed of via a septic tank and soakaway and separate surface water soakaway.

### Site Characteristics

The site comprises a rectangular area of disused ground bounded to the north by the public road and neighbouring houses beyond, to the west by the access track serving the site, with open fields beyond, open fields to the east and open ground and neighbouring houses to the south. Planning permission has been granted on site in the past for the erection of a house, however, that consent has since expired. The site lies within the rural grouping boundary of Broadley as defined by the Moray Local Development plan and has no specific designation.

### Policy Assessment

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

#### Principle, siting and design (PP1, DP1 and DP4)

Policy DP4 Rural Housing promotes a rural development hierarchy, whereby new rural housing is directed to rural groupings that will accommodate the majority of rural housing development, followed by the re-use and replacement of traditional stone and slate buildings in the countryside and lastly to the open countryside. Proposals must meet siting and design criteria to ensure development is low impact, integrates sensitively into the landscape, reflects the rural character of the area and is of a high design quality.

Policies PP1 and DP1, emphasis this importance of achieving a high standard of design and siting and to ensure sites can be adequately served in terms of infrastructure.

In this case, bearing in mind the application is for planning permission in principle, the site is considered to be able to accommodate a house without impacting on the amenity of the surrounding houses or character of the rural grouping and as such the principle of erecting a house on this site is considered acceptable, subject to ensuring the site can be served in terms of infrastructure.



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

The Transportation service have objected to the development on the basis that the proposal will result in the intensification of use of the access track as it joins the public road, where the visibility splays at the junction do not meet current transportation regulations. The transportation service have confirmed that the following in relation to the proposal:

A visibility splay 2.4m x 70m would be required in both directions at the access onto the public road free from any obstruction greater than 0.6m in height, with all boundaries set back to a position behind the required visibility splays. The visibility splay to the west is obstructed by vegetation and an existing fence and appears to pass over land not under the control of the applicant.

Confirmation of the applicant's ability to provide and maintain the required visibility splays (and set back the existing fence to the west) was therefore sought, through evidence of ownership or provision of third party agreement.

To date no evidence of third party agreement has been submitted which would confirm the applicant's ability to provide and maintain the required visibility splays.

The applicant has been given a long period of time to reach agreement with the neighbouring landowner, to allow them to form and maintain the required visibility splays across the neighbouring fields, however, at the time of writing this report, no agreement had been reached on this matter and as such the applicants have failed to demonstrate that the site can be served by a safe access. With this in mind the application is recommended for refusal on this basis.

### **Water Supply and Drainage (PP3, EP12 and EP13)**

Proposed drainage arrangements comprising foul drainage disposed of via a septic tank and soakaway and separate surface water soakaway are considered acceptable as there are no public sewerage systems in the locality. Moray Flood Risk Management have no objection to the approval of the application based on the information submitted and as such the proposals are compliant with policies PP3, EP12 and EP13.

### **Developer Obligations (PP3 and DP2)**

An assessment has been carried out and an obligation has been identified towards healthcare which the applicants have confirmed they are agreeable to make.

The applicants have also agreed to provide the identified contribution required in relation to affordable housing as outlined in policies PP3 and DP2.

Were this application being approved, the applicants have confirmed that they would wish to enter into a legal agreement to secure their contributions and as such the proposals is considered compliant with policies PP3 and DP2 in this regard.

### **Recommendation**

Based on all of the above, this application is recommended for refusal on the basis of failure to provide a safe access to serve the proposed house.

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

None

HISTORY				
Reference No.	Description			
10/00171/PPP	Planning Permission in Principle to erect one house at Site At Broadley Clochan Buckie			
	Decision	Permitted	Date Of Decision	03/06/10
05/01404/OUT	Outline planning for one house at Site At Broadley Clochan Buckie Banffshire			
	Decision	Permitted	Date Of Decision	14/11/06

ADVERT			
Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Banffshire Advertiser and Herald	No Premises	28/03/22	
PINS	No Premises	28/03/22	

DEVELOPER CONTRIBUTIONS (PGU)	
Status	Contributions 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?	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name: Drainage assessment		
Main Issues: Outlines the drainage methodology for the site.		

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

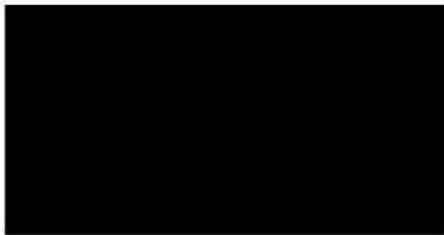


With reference to your application for planning permission in principle under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Erect dwellinghouse on Site At Broadley Clochan Buckie**

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

Date of Notice: **28 November 2022**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

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

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

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

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

The proposal is contrary to policy DP1 of the Moray Local Development Plan 2020 for the following reason:

1. The development would result in an intensification of use of the access junction onto the public road, where there is presently restricted visibility and which would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policy DP1 'Development Principles' section (ii) - 'Transportation', part 'a)' (safe entry and exit).

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

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

<b>Reference</b>	<b>Version</b>	<b>Title</b>
BNF5563		Location 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 100611138-001

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

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="North Bogbain Farmhouse, A96"/>
First Name: *	<input type="text" value="Rosemary"/>	Building Number:	<input type="text" value="1"/>
Last Name: *	<input type="text" value="Reeve"/>	Address 1 (Street): *	<input type="text" value="A96"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Keith"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="United Kingdom"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB55 6RP"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Land at Broadley, Buckie AB56 5HQ

Northing

Easting

## 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)

my proposal was for planning permission in principle to erect a dwellinghouse on site at Broadley by Buckie

## 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.

I wish for the decision of the 28th November 2022 to be reviewed I wish the following matters to be taken into consideration - see 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)

matters to be considered BRD01-900 Visibility splay details

## Application Details

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

22/00164/PPP

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

12/02/2022

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

28/11/2022

## 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 Rosemary Reeve

Declaration Date: 19/12/2022

I wish for the decision of the 28<sup>th</sup> November 2022 to be reviewed I wish the following matters to be taken into consideration.

The decision by Moray Council advised that "A visibility splay 2.4m x 70m would be required in both directions at the access onto the public road free from any obstruction greater than 0.6m in height, with all boundaries set back to a position behind the required visibility splays. The visibility splay to the west is obstructed by an existing fence and appears to pass over land not under the control of the applicant."

We instructed GMS Surveys to undertake a Topographic survey and visibility splay plus e-mapping – attached for your information. You will note the hatched extend of the crossover in red and note that the area in sqm on the drawing. There is a minimal difference to what is currently in place at the site to what is being requested by The Moray Council.

For us to move this fence by the required ask we have contacted Crown estate solicitors of that possibility. They were unable to respond to our request within the allocated time as the solution to this request is complicated with tenant farmers etc having to be consulted. In addition, as per GMC survey it does not make much difference to the visibility splay already being provided.

In our communication with Crown estates they stated that they did not understand why we were had been singled out by The Moray Council to adhere to this requirement on our planning application when other properties in the immediate area had not.

As alluded above, planning permission has already been awarded to 6 other properties along the same estate/access road , they all currently use the access road in question that joins the public road and they have were awarded full planning permission with no requirement for the above noted visibility splay. It certainly appears we are being singled out for a different treatment to that of our immediate "neighbours".

In addition the access road in question has been an access road leading on to the same public road for decades. Also, this access road onto this piece of land was being used in this way prior to our purchase many years ago, also it was/is the access road for the dwellings and farm has stood there for decades prior to our purchase.

The fence causes no impediment to the view exiting the access road and entering the public road, if anything was to hamper the view from the access to the public road it would be the street lights that have been put in place by Moray council and these are really not an issue exactly the same position as the fence.

As far as we are aware there has never been an accident exiting this access road on to the public road.



The Visibility extents have been drawn to match the Topographic Survey carried out and overlaid on to the Ordnance Survey Mapping to provide clarity



**gmcsurveys**  
Surveys, Setting Out, Civil Engineering Design  
T: 07557 431 702  
E: gmcsurveys@gmail.com

CLIENT: Mr and Mrs Reeve  
C/O GMC Surveys  
Upper Hempriggs Farmhouse  
Kinloss

SITE: Proposed Site at Broadley By Buckie

<b>TITLE: Topographic Survey And Visibility Splay Details</b>			
<b>SCALE AT A3:</b> <b>1:500</b>	<b>DATE:</b> <b>SEPT22</b>	<b>DRAWN:</b> <b>GM</b>	<b>CHECKED:</b> 
<b>PROJECT NO:</b> <b>BRD01</b>	<b>DRAWING NO:</b> <b>900</b>	<b>REVISION:</b> <b>-</b>	





## **APPENDIX 3**

# **FURTHER REPRESENTATIONS FROM INTERESTED PARTIES**





**MORAY COUNCIL  
PLANNING CONSULTATION RESPONSE**

**From:** The Moray Council, Flood Risk Management  
**Planning Application Ref. No:**  
**22/00164/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 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"/>            |

**Reason(s) for objection**

**Conditions(s)**

A drainage statement will need to be provided at full application. This should include plans and calculations for the proposed drainage system. Plans submitted with the application should include the proposed layout of the drainage system. The drainage system should be designed to a 1:30 year return period (including climate change -

<https://scottishepa.maps.arcgis.com/apps/webappviewer/index.html?id=2ddf84e295334f6b93bd0dbbb9ad7417>), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involves infiltration, information on the ground conditions is required as well as infiltration testing on or near the location for the infiltration system. The applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.

Further guidance for drainage and flooding can be found in "Supplementary Guidance on Flood Risk and Drainage Impact Assessment for New Developments" - [www.moray.gov.uk/downloads/file133646.PDF](http://www.moray.gov.uk/downloads/file133646.PDF).

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

**Further information required to consider the application**

Contact: Natalie  
Dunton

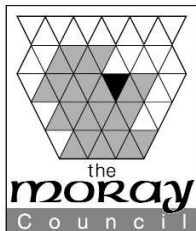
Date: 18/01/2023

email address: [Natalie.dunton@moray.gov.uk](mailto:Natalie.dunton@moray.gov.uk)

Phone No

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





## **ENVIRONMENTAL SERVICES**

**Diane Anderson**

**Senior Engineer**

PO Box 6760  
Elgin, Moray IV30 9BX

Telephone: 01343 563782

Fax: 01343 563990

email: [diane.anderson@moray.gov.uk](mailto:diane.anderson@moray.gov.uk)

Website: [www.moray.gov.uk](http://www.moray.gov.uk)

Our reference: LR/LRB283

Your reference: LR283

Chief Legal Officer  
Per Ms L Rowan  
Committee Services  
The Moray Council  
High Street  
ELGIN  
IV30 1BX

25 January 2023

Dear Madam

**TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL  
REVIEW PROCEDURE) (SCOTLAND) REGULATIONS 2008**

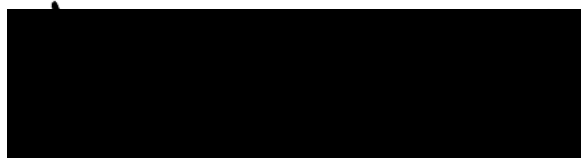
**REQUEST FOR REVIEW: PLANNING APPLICATION 22/00164/PPP ERECT DWELLINGHOUSE  
ON SITE AT BROADLEY CLOCHAN BUCKIE**

I refer to your email dated 16<sup>th</sup> January 2023.

I respond on behalf of the Transportation Manager with respect to our observations on the applicant's grounds for seeking a review of the planning authority's decision to refuse the above planning application.

Transportation has reviewed the appellant's grounds for review and the associated documents, and submits the attached representation with associated documents in response.

Yours faithfully



**Diane Anderson**  
**Senior Engineer**

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**Local Review****LRB Ref 283****Planning Application Reference 22/00164/PPP Erect dwellinghouse on Site At Broadley Clochan Buckie****Response from Transportation, Moray Council**

1. This document is in response to the Notice of Review and the Statement of Case submitted by Rosemary Reeve and sets out observations by Transportation on the application and the grounds for seeking a review.
2. This review concerns planning application 22/00164/PPP Erect dwelling house on Site at Broadley, Clochan.
3. Transportation received the consultation for planning application 22/00164/PPP on 23<sup>rd</sup> February 2022. A copy of Transportations consultation response dated 27<sup>th</sup> July 2022 is attached (TMC 01).
4. This proposal is for planning permission 'in principle' for a new dwelling. The submitted details showed a red line site boundary only. No details relating to the access or visibility splays or house layout were submitted. It was assumed that access was to be taken via the existing shared access.
5. This site was subject to previous planning permission (in principle) firstly in 2006 and then later in 2010 (05/01404/OUT and 10/00171/PPP relate). Both previous consents included a requirement to provide visibility splays. The previous planning consents are attached below as TMC 03 and TMC 04 respectively.
6. The most recent planning permission expired a considerable number of years ago in 2013. Therefore Transportation assessed this proposal against the current guidance and standards.
7. Transportation sought a visibility splay of 2.4m x 70m in both directions (equating to 85<sup>th</sup> %tile approaching vehicle speeds of 31mph). This requirement simply re-iterated the previous visibility splay requirements. The only change was the maintenance regime which was brought up to date with current standards/requirements (ie requiring the visibility splays to be maintained free from any obstruction greater than 0.6m in height instead of the previous 1.0m in height)
8. As the required visibility splay to the west of the access is obstructed by an existing boundary fence and passes across ground not under the control of the applicant a 'Further Information' consultation response was issued on 10<sup>th</sup> March 2022 seeking evidence of third party agreement confirming that the visibility splays could be provided and maintained thereafter. Notwithstanding any previous visibility splay requirements/arrangements, although the previous 2010 consent was for the same applicant given the length of time which had subsequently passed since the previous permission it was

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**Local Review****LRB Ref 283****Planning Application Reference 22/00164/PPP Erect dwellinghouse on Site At Broadley Clochan Buckie**

considered that there was also a reasonable likelihood that the third party land over which the visibility splay passes may have changed ownership in the intervening period.

9. Again notwithstanding any previous visibility splay requirements the current requirement would be to set the fence back to a position behind the visibility splay, or at the very least have agreement in place to ensure that the visibility splay both sides of the fence can be maintained. The reason for this is twofold – firstly the fence itself blocks the sightline for existing vehicles (and is exacerbated due to the fact that vegetation tends to grow up the side of fences further obstructing the sightlines); and secondly without a third party agreement in place protecting the visibility splay there would in principle be nothing preventing the landowner from placing an obstruction within the edge of their own field and thereby again potentially obstructing the sightline.
10. Historically when the maintenance regime sought was 1.0m in height, unless expressly conditioned this generally meant that fences did not require to be set back (if they were less than 1.0m in height). Therefore technically under the previous permission the fence may have been able to remain; however that still would not have resolved the fact that the visibility splay passes across a strip of third party land behind the fence line. Evidence of agreement with the landowner would likely have subsequently been required for the full application had it been submitted within the appropriate time period.
11. Transportation awaited clarification from the applicant in relation to the visibility splay agreement with the third party landowner. However no additional information was provided and upon the request of the Planning Officer Transportation issued their final response on 27<sup>th</sup> July 2022 (TMC 01) as an objection on the grounds of the information received to date being likely to give rise to conditions detrimental to the road safety or road users.
12. It should be noted that although the U70aL Main Road is a single track road with limited formal passing opportunities, Transport did not seek the provision of a new passing place for this new dwelling. Similarly based on current standards a more onerous visibility splay X distance of 4.5 would ordinarily be required for accesses serving multiple properties. Transportation only sought the less onerous visibility splay X distance of 2.4m (normally associated with a single dwelling). Furthermore no improvements were sought to the existing access (such as formalising an access layby to allow waste collection vehicles to stop safely off the carriageway) the only requirement was to surface the first 5m of the existing access, this due to the fact that there was clear evidence of water/ loose material being carried/discharged from the access track onto the public road.

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**Local Review****LRB Ref 283****Planning Application Reference 22/00164/PPP Erect dwellinghouse on Site At Broadley Clochan Buckie**

13. It is accepted that there are other properties served via this existing access, but it should also be added that many of these properties were subject to consents dating back to 2003, and with the most recent consent dated 2011. Reference is made to the applicant being 'singled out' however this is not the case. Transportation has simply reviewed the proposal on its own merits, based on current policies and guidance; and on the basis that that any previous consent had lapsed nearly ten years ago. ie it was effectively considered to be a 'new' site.
14. It is generally accepted that obtaining agreements with third party landowners can sometimes be subject to delays. It was therefore assumed that this application would be withdrawn to enable the applicant time to obtain the third party agreement. Based on the information submitted to support the appeal it would appear as though the provision of third party permissions has not yet been ruled out. But instead via this appeal the applicant appears to seek to remove the requirement to obtain third party permissions and set back the boundary fence.
15. As stated previously a visibility splay of 4.5m x 70m would ordinarily be sought for an access which serves a number of properties, Transportation has sought a visibility splay of 2.4m x 70m. The 'X' distance represents the 'average' distance between the driver's seating position and the edge of the carriageway for a vehicle exiting an access. In other words the 2.4m 'X' distance represents the 'in car drivers eye view' upon sitting waiting to exit. A photo showing the in car 'driver's eye view' (from 2.4m back) is attached (TMC 02). As can be clearly observed the existing fence obstructs the sightline.
16. Transportation respectfully, requests that the MLRB to uphold the decision by the appointed officer. In particular on the grounds that Transportation considers that the proposal, if permitted, as a result of the restricted visibility would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policy DP1 'Development Principles' section (ii) 'Transportation', part 'a)' (safe entry and exit), as a consequence of the resulting intensification of use of the existing access with constrained visibility.
17. Finally, Transportation would be happy to review any subsequently submitted proposals should evidence of third party agreement with the adjacent landowner be subsequently obtained and submitted in support of any new dwelling at this location.

Transportation 25 January 2023

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## **Local Review**

**LRB Ref 283**

**Planning Application Reference 22/00164/PPP Erect dwellinghouse on Site At  
Broadley Clochan Buckie**

### **Documents**

TMC01	Transportation Consultation Response dated 27th July 2022
TMC02	Site photos
TMC03	Planning consent issued 05/01404/OUT
TMC04	Planning consent issued 10/00171/PPP

## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	9th March 2022
<b>Planning Authority Reference</b>	22/00164/PPP
<b>Nature of Proposal (Description)</b>	Erect dwellinghouse on
<b>Site</b>	Site At Broadley Clochan Buckie
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133052020
<b>Proposal Location Easting</b>	339419
<b>Proposal Location Northing</b>	861745
<b>Area of application site (M<sup>2</sup>)</b>	800
<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=R6XAAQBGL5C00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R6XAAQBGL5C00</a>
<b>Previous Application</b>	10/00171/PPP 05/01404/OUT
<b>Date of Consultation</b>	23rd February 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr Steve Reeve
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	North Bogbain Farmhouse Keith Moray AB55 6RP
<b>Agent Name</b>	
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Iain T Drummond
<b>Case Officer Phone number</b>	01343 563607
<b>Case Officer email address</b>	iain.drummond@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

### NOTE:

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

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the



two month determination period to be exceeded.
------------------------------------------------

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

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

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

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

Please respond using the attached form:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No:** 22/00164/PPP

**Erect dwellinghouse on Site At Broadley Clochan Buckie for Mr Steve Reeve**

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

**Please**

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

*This proposal is for the erection of a new dwelling with access via an existing shared vehicular access adjacent:*

*A visibility splay 2.4m x 70m would be required in both directions at the access onto the public road free from any obstruction greater than 0.6m in height, with all boundaries set back to a position behind the required visibility splays. The visibility splay to the west is obstructed by vegetation and an existing fence and appears to pass over land not under the control of the applicant.*

*Confirmation of the applicant's ability to provide and maintain the required visibility splays (and set back the existing fence to the west) was therefore sought, through evidence of ownership or provision of third party agreement.*

*To date no evidence of third party agreement has been submitted which would confirm the applicant's ability to provide and maintain the required visibility splays.*

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

On the basis of the information submitted to date Transportation considers that the proposal, if permitted, as a result of the restricted visibility would be likely to give rise to conditions detrimental to the road safety of road users contrary to Moray Local Development Plan policy DP1 'Development Principles' section (ii)- 'Transportation', part 'a)' (safe entry and exit)

**Contact:** AG

**Date** 27 July 2022

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

**Consultee:** TRANSPORTATION

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

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



View towards public road from access track Access track



View into site access – note evidence of loose material/ water ponding





Drivers eye view to west for exiting vehicle



Drivers eye view to east from exiting vehicle – note the significant improvement afforded by the set back fence

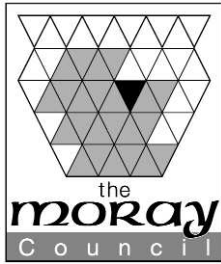


View to west from 2.4m X distance (ignore car in foreground)



View to east from 2.4m X distance





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

**PERMISSION FOR DEVELOPMENT**

**[Lennox]  
Outline Application**

TO Mr James A Milton  
87 Castlehill Road  
Fochabers  
Moray  
IV32 7JZ

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

**Outline planning for one house at Site At Broadley Clochan Buckie**

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

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

Date of Notice: **14th November 2006**

**HEAD OF DEVELOPMENT SERVICES**

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

## IMPORTANT NOTE

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

#### SCHEDULE OF CONDITIONS

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

Permission is granted subject to the following conditions: -

1 (a) That in the case of any reserved matter, application for approval must be made before:-

(i) that expiration of 3 years from the date of the grant of outline planning permission; or

(ii) the expiration of 6 months from the date on which an earlier application for such approval was refused; or

(iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest: provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above.

(b) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-

(i) the expiration of 5 years from the date of the grant of outline planning permission; or

(ii) the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

2 That the development to which the permission relates must be begun not later than whichever is the later of the following dates:- (i) the expiration of 5 years from the date of the grant of outline planning permission; or (ii) the expiration of 2 years from the final approval of the reserved matters or in the case of approval on different dates the final approval of the last such matter to be approved.

3 The approval hereby granted is in outline and prior to the commencement of the development approval of the details, including the siting, design and external appearances of the building(s) the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Council, as Planning Authority.

4 The proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the reserved matters numbered 5 - 9 below.

5 Plans, sections and elevations of all buildings proposed with details of



the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 4 above.

6 The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition no. 4 above.

7 Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 4 above.

8 Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 4 above.

9 Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no. 4 above.

10 The design of the property shall comply with the requirements of L/HC5 of the Moray Local Plan 2000, including the interpretation of policy regarding proportions of gable width and roof pitches.

11 No boundary fences, hedges, walls or any obstruction whatsoever over 1.0 m in height and fronting onto the public road shall be within 2.4 m of the edge of the carriageway.

12 The width of vehicular access shall be and have a maximum gradient of 1:20 measured for the first 5.0 m from the edge of the public carriageway. Section of access over the public footpath/verge shall be to The Moray Council specification and surfaced in bitmac.

13 No water shall be permitted to drain onto the public footpath/carriageway.

14 Drop kerbs shall be provided across the access to The Moray Council specification.

15 A parking layby 8.0 m long x 2.5 m wide with 30 degrees splayed ends shall be provided at the edge of the public road to allow visiting and service vehicles to park clear of the public road. The vehicular access(es) should lead off the layby(s). Layby to be to The Moray Council specification and be surfaced in bitmac.

16 Two private car parking spaces for up to a 3 bedroomed dwelling and three private car parking spaces for a 4 or more bedroomed dwelling shall be provided.

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

18 A visibility splay of 3 metres x 95 metres shall be provided at the access.

19 New boundary walls/fences shall be set back from the edge of the public road at a distance of 2.0 metres.

20 If significant unsuspected contamination is found then all work shall cease until an appropriate investigation to determine the nature, extent and potential impacts of the contamination has been undertaken and a remediation method statement agreed with The Council as Planning Authority.

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

- 1 The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997.
- 2 The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997.
- 3 In order to ensure that the matters specified can be fully considered prior to the commencement of development.
- 4 As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
- 5 As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
- 6 As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
- 7 As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
- 8 As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
- 9 As the consent is in outline only and in order that detailed consideration can be given to the matters specified.
- 10 In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
- 11 In the interests of road safety.
- 12 In the interests of road safety.
- 13 In the interests of road safety.
- 14 In the interests of road safety.
- 15 In the interests of road safety.
- 16 In the interests of road safety.
- 17 In the interests of road safety.
- 18 In the interests of road safety.

- 19 In the interests of road safety.
- 20 In order to safeguard the health and safety of the occupants of the property from the effects of harmful ground contamination.

**ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT**

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

TRANSCO (Gas Apparatus) - SCOTLAND LDZ has commented that:-

Symology should be contacted on 0800 231 251 PRIOR to work starting.

THE DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER has commented that:-

The applicants attention is drawn to the attached copy letter from Scottish Water.

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

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

Reference	Version	Title
-----------	---------	-------

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

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

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

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

**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 appeal to the Scottish Ministers under section 47 of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of appeal should be addressed to the Directorate for Planning and Environmental Appeals, 4 The Courtyard, Callander Road, Falkirk, FK1 1XR. This form can be obtained and may also be downloaded and/or submitted online from [www.eplanning.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

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

**NOTIFICATION OF INITIATION OF DEVELOPMENT**

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

Therefore, prior to any work commencing on site, the applicant/developer must complete and submit to the Moray Council, as planning authority, the attached Notification of Initiation of Development. Failure to submit the required Notice will

be a breach of planning control under S.123(1) of the 1997 Act.

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

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

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

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

#### **DISPLAY OF NOTICE WHILST DEVELOPMENT IS BEING CARRIED OUT**

The permission as granted relates to a national or major development (under the Town & Country Planning (Hierarchy of Development) (Scotland) Regulations 2009), or is a development of a class specified in Schedule 3 of the Town & Country Planning (Development Management Procedure) (Scotland) Regulations 2008.

Under S.27C of the 1997 Act the developer must, for these types of development and for the duration of the development (until works are completed) display a sign or signs containing certain information, which should be provided and displayed in a prominent place at or in the vicinity of the site of the development, be readily visible to the public and be printed on durable material. This will provide the general public with information regarding the proposal and where further information can be obtained.

**Therefore, prior to development commencing the applicant/developer must complete and display the attached Notice as required above. Failure to display the required Notice will constitute a breach of planning**

# **The Moray Council**

## **NOTIFICATION OF INITIATION OF DEVELOPMENT**

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

**Planning Application Reference No: 05/01404/OUT**

**Date issued:**

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

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

**THE FOLLOWING INFORMATION MUST BE PROVIDED:**

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

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

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

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

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

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

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

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

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

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

### **IMPORTANT**

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

**Please complete and return this form.**

# **The Moray Council**

## **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

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

**Planning Application Reference No: 05/01404/OUT**

**Date issued:**

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

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

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

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

### **IMPORTANT**

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

**Please complete and return this form.**

**TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997  
as amended**

**TOWN AND COUNTRY PLANNING  
(DEVELOPMENT MANAGEMENT PROCEDURE)  
(SCOTLAND) REGULATIONS 2008**

Notice under Section 27 C (1) and Regulation 38 to be displayed  
while development is in progress

**NOTICE**

Proposed Development: **Outline planning for one house at Site At Broadley  
Clochan Buckie Banffshire**

NOTICE is hereby given that planning permission has been granted subject to  
conditions to

Name (a)

Address (a)

on 08/12/99

by THE MORAY COUNCIL under application reference **05/01404/OUT**

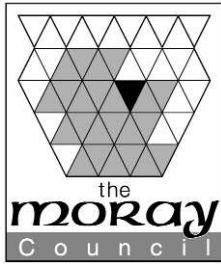
Further information regarding the planning permission including conditions, if any,  
on which it has been granted can be obtained at all reasonable hours at the Access  
Point, Council Office, Elgin. Information associated with the application may be  
published on the Council's website at <http://public.moray.gov.uk/eplanning>

Contact for enquiries/Address of planning authority:

The Moray Council  
Development Management  
Development Services  
Environmental Services  
Council Office  
High Street  
Elgin IV30 1BX

(a) applicant/developer must insert name and address details prior to display. See  
note appended to decision notice for requirements for display.





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

**PERMISSION FOR DEVELOPMENT**

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

TO Mr Steve Reeve  
North Bogbain Farmhouse  
Keith  
Moray  
AB55 6RP

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 hereby GRANT planning permission for the following development:-

**Planning Permission in Principle to erect one house at Site At Broadley Clochan Buckie**

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

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

Date of Notice: **3<sup>rd</sup> June 2010**

**HEAD OF DEVELOPMENT SERVICES**

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

## IMPORTANT NOTE

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

#### SCHEDULE OF CONDITIONS

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

Permission is granted subject to the following conditions: -

- 1 (a) That in the case of any matter specified in conditions attached to the planning permission in principle, application for approval must be made before:-
  - (i) that expiration of 3 years from the date of the grant of planning permission in principle; or
  - (ii) the expiration of 6 months from the date on which an earlier application for such approval for the same matters was refused; or
  - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest: provided that only one such application for approval of matters specified in conditions may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above.
- (b) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
  - (i) the expiration of 3 years from the date of the grant of planning permission in principle; or
  - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.
- 2 The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions, including the siting, design and external appearance of the building(s) the means of access thereto and the landscaping of the site shall be obtained from the Council, as Planning Authority.

- 3 The grant of planning permission hereby granted for the proposed development shall be carried out only in accordance with detailed drawings which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings shall show the matters specified in conditions numbered 4 - 8 below.
- 4 Plans, sections and elevations of all buildings proposed with details of the type and colour of all external materials and finishes shall be submitted in accordance with condition no. 3 above.
- 5 The proposed layout of the site showing the exact position of the site boundaries, the position of all buildings, the means of access, areas for vehicle parking and the arrangements for the disposal of foul and surface water (i.e. a SUDS system or equivalent) shall be submitted in accordance with condition no. 3 above.
- 6 Details of the exact extent, type and finish of all other works including walls, fences and other means of enclosure and screening shall be submitted in accordance with condition no. 3 above.
- 7 Sections through the site showing the development on its finished levels in relation to existing levels shall be submitted in accordance with condition no. 3 above.
- 8 Landscaping proposals showing any existing trees/hedges/shrubs to be retained or removed together with details of the type, position and number of all planting to be undertaken and details of all surfacing materials shall be submitted in accordance with condition no. 3 above.
- 9 The dwelling shall be of single storey construction.
- 10 No boundary fences, hedges, walls or any other obstruction whatsoever over 1.0m in height and fronting onto the public road shall be within 2.4m of the edge of the carriageway.
- 11 Vehicular access to the plot shall be taken via the adjacent existing access track onto the public road. The width of the vehicular access shall be as existing and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway.
- 12 The first 10m of the access track, measured from the edge of the public road, shall be constructed to the Moray Council specification and surfaced with bituminous macadam.
- 13 No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.
- 14 Two private car parking spaces for up to a 3 bedroomed dwelling and three private car parking spaces for a 4 or more bedroomed dwelling shall be provided.

- 15 A turning area shall be provided within the curtilage of the site/each plot to enable vehicles to enter and exit in a forward gear.
- 16 A visibility splay of 2.4m x 70m shall be provided and maintained at the existing access onto the public road across the site, clear of any obstruction above 1.0m in height.
- 17 New boundary walls/fences shall be set back from the edge of the public carriageway at a distance of 2.0m.
- 18 Houses requiring 2 parking spaces shall have a driveway length of 6.0m minimum in front of any garage to permit a second car to park, unless alternative parking arrangements are provided. No part of the driveway shall be included in the public road.
- 19 Parking provision shall be outwith visibility splays.
- 20 The roof of the dwelling hereby approved shall be finished in natural slate or a good quality artificial slate to be agreed in writing by the Council (as Planning Authority) prior to the commencement of development.
- 21 That no trees, shrubs or hedgerows on the site shall be removed without the prior written consent of this Council as Planning Authority.

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

- 1 The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
- 2 In order to ensure that the matters specified can be fully considered prior to the commencement of development.
- 3 As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
- 4 As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
- 5 As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
- 6 As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

- 7 As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
- 8 As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.
- 9 In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
- 10 In the interests of road safety.
- 11 In the interests of road safety.
- 12 In the interests of road safety.
- 13 In the interests of road safety.
- 14 In the interests of road safety.
- 15 In the interests of road safety.
- 16 In the interests of road safety.
- 17 In the interests of road safety.
- 18 In the interests of road safety.
- 19 In the interests of road safety.
- 20 In order to ensure that the development harmonises with the appearance and character of the surrounding properties and area.
- 21 In order to ensure that the existing trees, shrubs or hedgerows are retained as they add interest and character to the site and will contribute to the appearance of the development approved herewith.

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

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

THE CONTAMINATED LAND SECTION has commented that:-

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

- Vehicle Maintenance and Storage Yard, On-site, 1973-1992 (Not shown on historic maps).

The Moray Council understands that a contamination site investigation was undertaken under Planning Application Reference 05/01404/OUT. Should you require further information, please contact the Environmental Health section on 01343 563496 or by email to contaminated.land@moray.gov.uk

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

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 water does not run from the public road into his property.

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

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

The Transportation Manager must always be contacted before any works commence. This includes any temporary access which should be agreed with the Transportation Manager prior to work on it commencing.

THE DEVELOPMENT CONTROL MANAGER, DEVELOPMENT SERVICES, has commented that:-

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

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

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

If you have not already done so and you may wish to satisfy yourself about the adequacy of ground conditions separately at this stage, if so I recommend that you contact the Building Standards Section directly at Environmental Services, The Moray Council, Council Offices, High

Street, Elgin, IV30 1BX, telephone (01343) 563243.

Please also note that if you are proposing a discharge to a watercourse this will require separate consent from SEPA (Scottish Environment Protection Agency) under the Control of Pollution Act 1974.

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

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

<b>Reference</b>	<b>Version</b>	<b>Title</b>
		Location plan
		Plot specification

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

None

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

None

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

N/A

### **NOTICE OF APPEAL**

#### **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

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

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

## **NOTIFICATION OF INITIATION OF DEVELOPMENT**

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

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

## **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

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

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

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



# **The Moray Council**

## **NOTIFICATION OF INITIATION OF DEVELOPMENT**

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

**Planning Application Reference No: 10/00171/PPP**

**Date issued:**

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

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

### **THE FOLLOWING INFORMATION MUST BE PROVIDED:**

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

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

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

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

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

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

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

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

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

### **IMPORTANT**

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

**Please complete and return this form.**

# **The Moray Council**

## **NOTIFICATION OF COMPLETION OF DEVELOPMENT**

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

**Planning Application Reference No: 10/00171/PPP**

**Date issued:**

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

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

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

### **IMPORTANT**

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

**Please complete and return this form.**



## **APPENDIX 4**

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



North Bogbain Farmhouse

Keith

AB55 6RP

10<sup>th</sup> February 2023

The Moray Council

High Street

Elgin

IV30 1BX

Notice of Review: Planning Application 22/00164/PPP

Further to your letter dated 1<sup>st</sup> February 2023 re regarding the further representation to which I have the following comments that I wish to have noted.

Reference the Flood Risk Management: I understand when submitting full planning application that a plan of the drainage will be required. A drainage test was completed on the site in 2022 and this has passed the stand required but the Planning Department. Details of which have already been submitted as part of this application.

Re point 4 – yes, the proposal is for access to be taken via the existing shared road access.

Re point 8 – the third-party landlord remains as crown estates but unknown if the tenant farmer remain the same or if this has changed over the period

Point 9 - agree with comments however I believe that houses have been built in the area since 2010 – note your comments at point 13 that states “the most recent consent dated 2011”. Nothing has changed including the ownership or layout of the field in concern

Point 10 – I still wonder why house that have been built since 2010 have not been asked to satisfy this condition as we are all using the very same access road. As detailed in point 13 some had consent agreed in 2011.

Point 14 – I understand this, but I had anticipated that this would be an requirement at the full planning application not at the planning in principal stage.

Point 15 – existing dwelling house and services use this same shared access and too date this had been done with complaint or issue. As you will see and you have noted in TMC02 we have set back the fence which is on land totally under out control.

Point 16 – can’t understand why an additional dwelling using an existing estate road would render this road to the state that it would be presented as to have detrimental conditions.

Point 17 – third party agreement is still with crown estates at this time, and they are liaising with the tenant farmers. No timescale has been identified by Crown Estates this time. As per point 14 above thought this would be requirement for full planning application not at planning in principle stage.

I hope that you will see it fitting to permit our planning in principle application

Yours faithfully

*RV Reeve*

pp. Steve & Rosemary Reeve



# **APPENDIX 5**

## **APPOINTED OFFICER AND INTERESTED PARTIES RESPONSES TO NPF4**







## ECONOMY, ENVIRONMENT AND FINANCE

**Iain T Drummond**

**Planning Officer**

Moray Council

Po Box 6760 Elgin Moray IV30 1BX

Telephone: 01343 563607 Fax: 01343 563990

Education, Communities & Organisational  
Development  
Democratic Services  
Moray Council  
Council Offices, High Street, Elgin, IV30  
1BX  
Telephone: 01343 543451  
DX: 520666, ELGIN

E-mail: [iain.drummond@moray.gov.uk](mailto:iain.drummond@moray.gov.uk)

Website: [www.moray.gov.uk](http://www.moray.gov.uk)

Your reference: LR/LR283

Our reference: 22/00164/PPP

16 March 2023

Dear Lissa,

### **Notice of Review: Planning Application 22/00164/PPP – Erect a dwellinghouse on site at Broadly by Buckie**

I refer to your letter dated 6 March 2023 in relation to the above notice of review and requesting additional comments on the proposal in light of the adoption of National Planning Framework 4 (NPF4).

In this case the following NPF4 policies would be considered relevant to the determination of this proposal,

Policy 1: Tackling the climate and nature crises  
Policy 2: Climate mitigation and adaptation  
Policy 3: Biodiversity  
Policy 9: Brownfield, vacant and derelict land and empty buildings  
Policy 13: Sustainable transport  
Policy 14: Design, quality and place  
Policy 17: Rural homes  
Policy 18: Infrastructure first  
Policy 22: Flood risk and water management

Following a review of the proposal in light of these policies, NPF4 does not materially change the original assessment of the application.

I hope the above is of assistance, however, should you require any further comment please do not hesitate to get in touch.

Yours sincerely,



**Iain T Drummond**  
**Planning Officer**



## MORAY LOCAL REVIEW BODY

20 APRIL 2023

### SUMMARY OF INFORMATION FOR CASE No LR284

**Planning Application 22/01066/APP – Alter and extend dwellinghouse at 35 Gordon Street, Portgordon, Buckie**

#### **Ward 4 – Fochabers Lhanbryde**

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 30 September 2022 on the grounds that:

The proposed alterations and extension are contrary to Moray Local Development Plan 2020 policy DP1(i)(a) for the following reasons:

1. The proposed rear dormers are considered unacceptable as they are of an irregular shape which is not keeping with the form and character of the existing traditional property and surrounding area.
2. The proposed first floor extension incorporates an irregular roof shape giving the appearance of a two storey flat roof extension which creates unnecessary bulk and is incongruous with the main parent property.

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

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

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

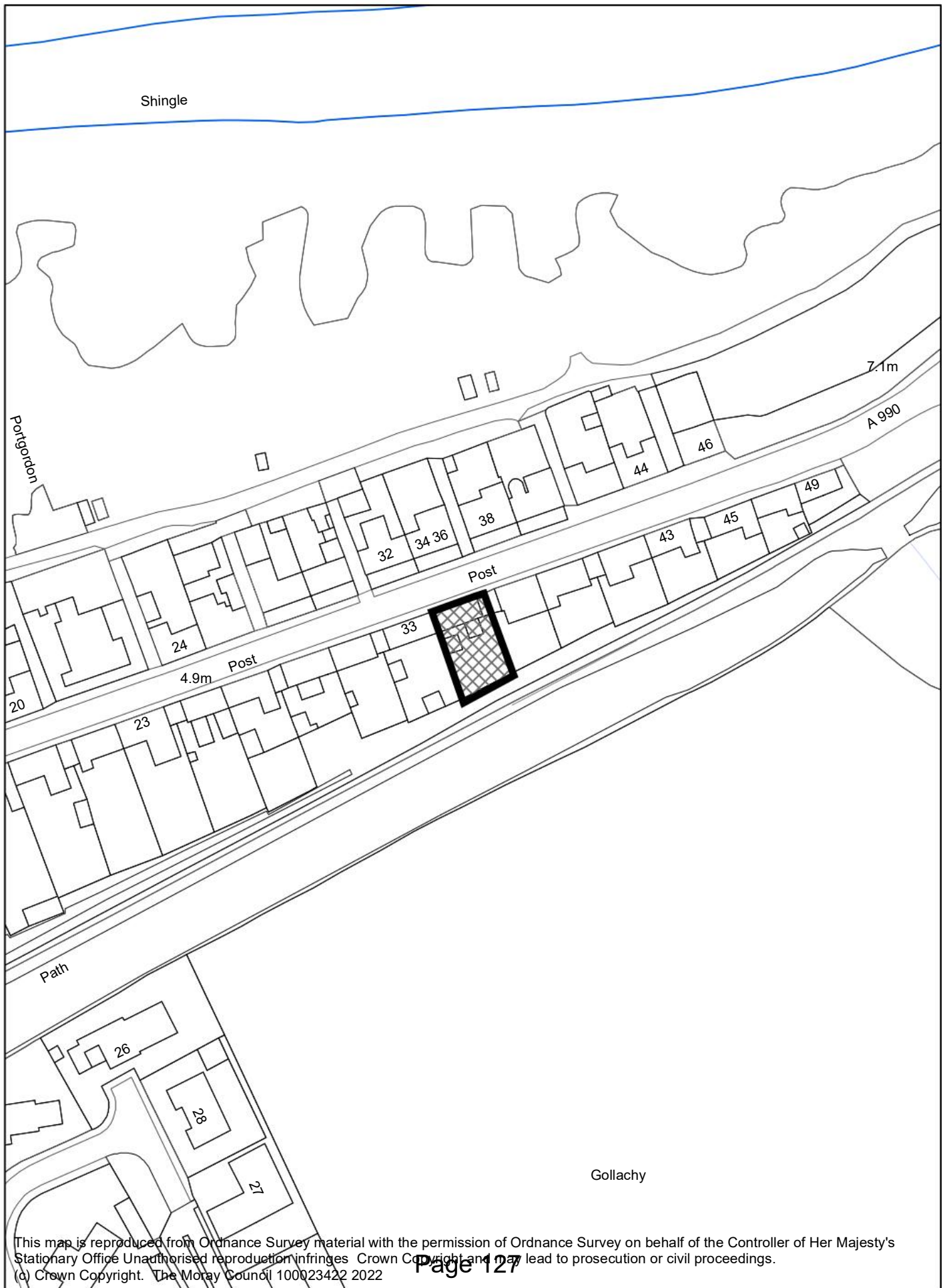
At the meeting of the Moray Local Review Body (MLRB) on 16 February 2023, the MLRB noted that National Planning Framework 4 (NPF4) had been adopted by the Council on Monday 13 February 2023 and that all planning applications determined beyond this date would have to take NPF4 into consideration, as this is now part of the MLDP 2020 and deferred consideration of the above Review to request further information from the Appointed Officer and Interested Parties after considering the planning application in light of NPF4 with any response received being forwarded to the Applicant for comment.

The Appointed Officer's response is attached as **Appendix 5**. There was no response from any of the Interested Parties.

The Applicant's response to the Appointed Officer's comments are attached at **Appendix 6**.



Location plan for Planning Application Reference Number :  
22/01066/APP







# **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 100587093-001

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

## Description of Proposal

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

First floor dormer window extension, extension of pitched roof over single storey flat roof, rebuild and adjoin garden store to house to create a bedroom

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:	Nick Midgley Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Nick	Building Name:	Feral Studios
Last Name: *	Midgley	Building Number:	
Telephone Number: *	07711182313	Address 1 (Street): *	Wellington Mills
Extension Number:		Address 2:	Quebec Street
Mobile Number:	07711182313	Town/City: *	Elland
Fax Number:		Country: *	England
		Postcode: *	Hx5 9AS
Email Address: *	nick@nickmidgleydesign.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input type="checkbox"/> Individual <input checked="" type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Ms	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	
First Name: *	Claire	Building Number:	35
Last Name: *	Lambert	Address 1 (Street): *	Gordon Street
Company/Organisation	Claire Lambert	Address 2:	Portgordon
Telephone Number: *	+447703279547	Town/City: *	Buckie
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	AB56 5QR
Fax Number:			
Email Address: *	claire.home@talk21.com		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

35 GORDON STREET

Address 2:

PORTGORDON

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

BUCKIE

Post Code:

AB56 5QR

Please identify/describe the location of the site or sites

Northing

864334

Easting

339940

## Pre-Application Discussion

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

☒ Yes ☐ No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

☐ Meeting ☐ Telephone ☐ Letter ☒ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Pre App written and telephone conversation 21/01027/PEHOU

Title:

Ms

Other title:

Planning Technical Assistant

First Name:

Teresa

Last Name:

Ruggeri

Correspondence Reference  
Number:

21/01027/PEHOU

Date (dd/mm/yyyy):

19/09/2021

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Trees

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

☐ Yes ☒ No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

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

☐ Yes ☒ No

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

## Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

## Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

## Certificate Required

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

Certificate A

## Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Nick Midgley

On behalf of: Claire Lambert

Date: 20/07/2022

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Householder Application

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

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

Continued on the next page

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

You can attach these electronic documents later in the process.

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

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

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

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

## Declare – For Householder Application

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

Declaration Name: Mr Nick Midgley

Declaration Date: 20/07/2022

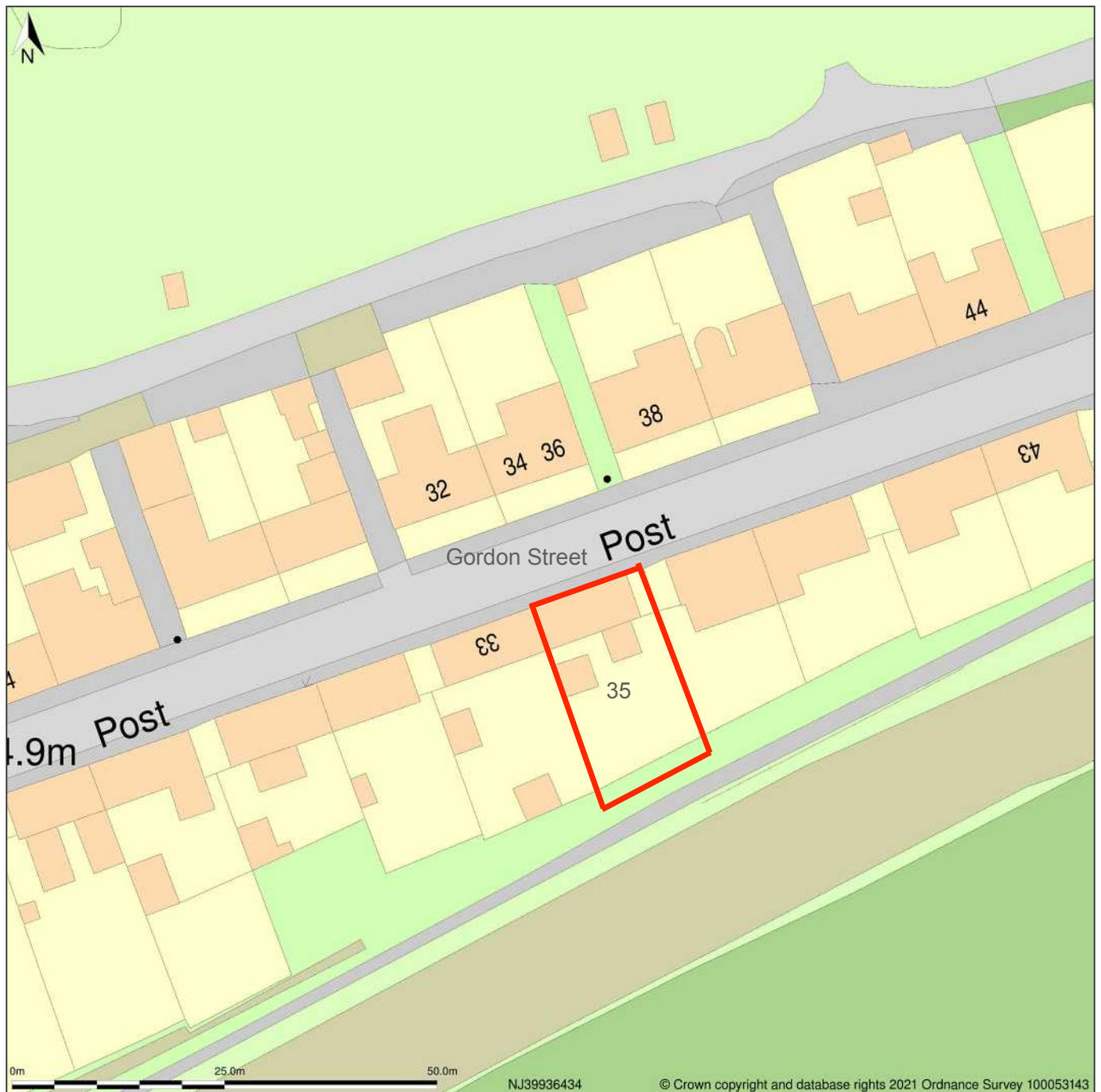
## Payment Details

Online payment: 261169

Payment date: 20/07/2022 17:23:31

Created: 20/07/2022 17:23

35, Gordon Street, Portgordon, Moray, AB56 5QR



Block Plan shows area bounded by: 339873.25, 864276.25 340001.25, 864404.25 (at a scale of 1:500), OSGridRef: NJ39936434. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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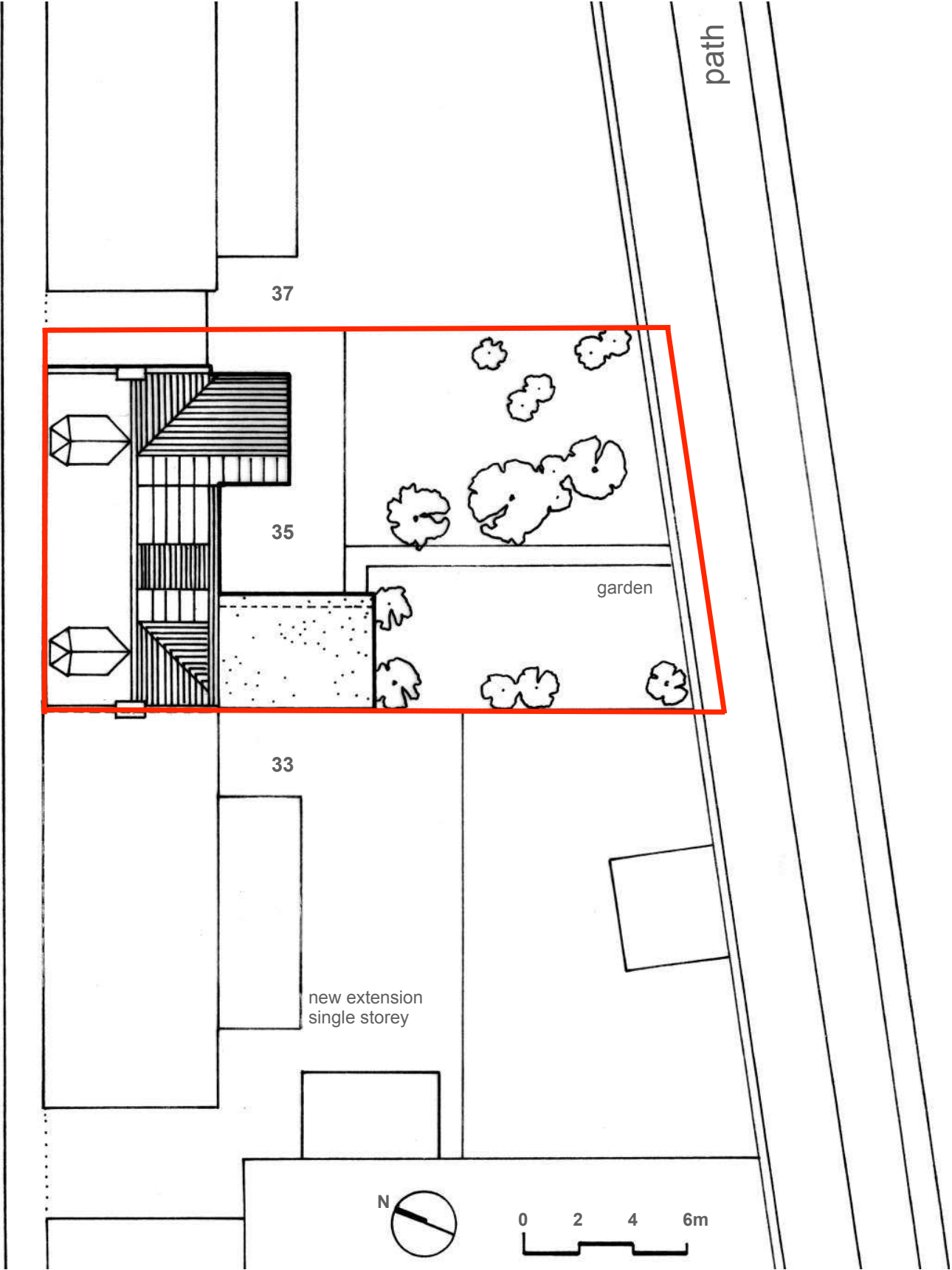
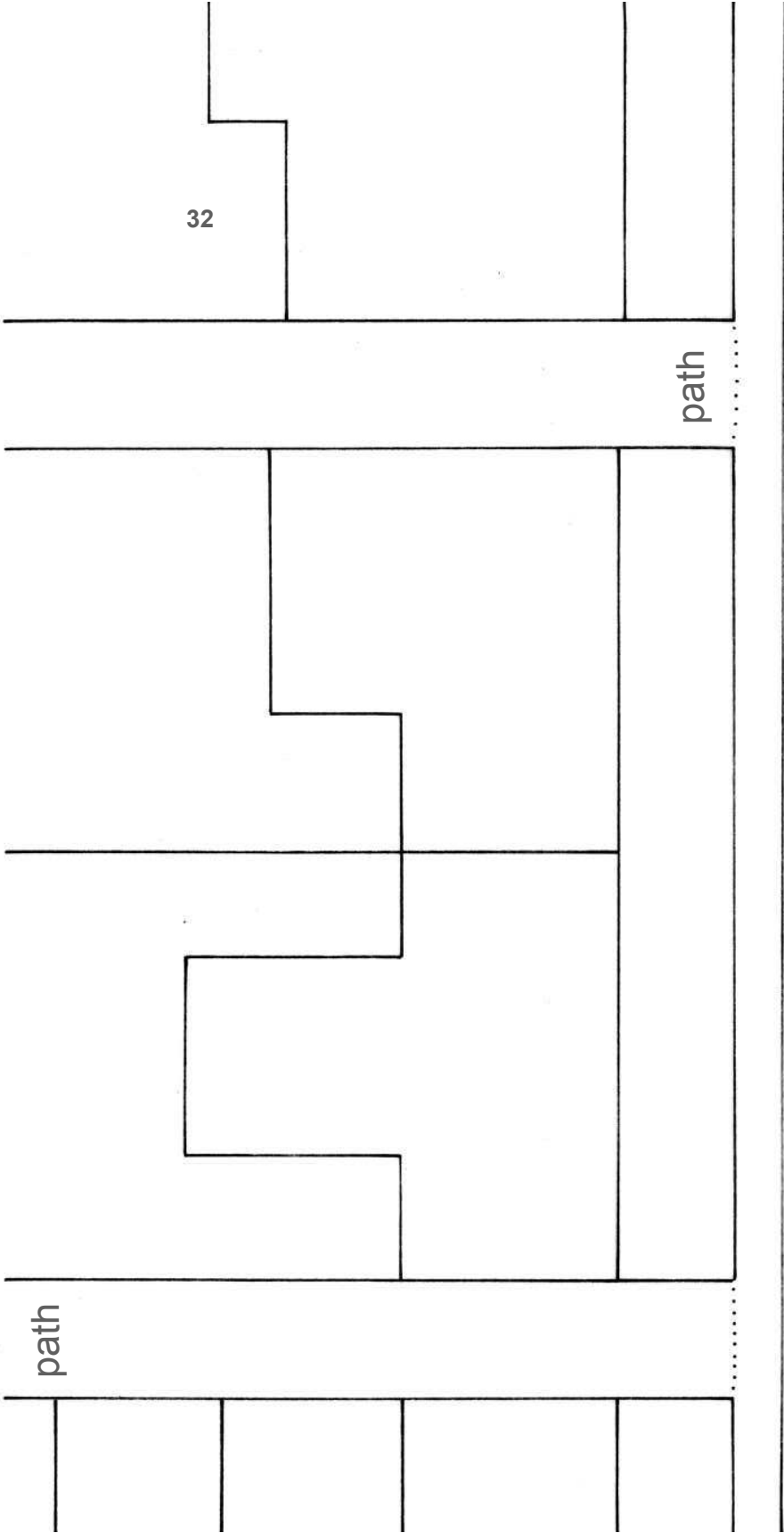
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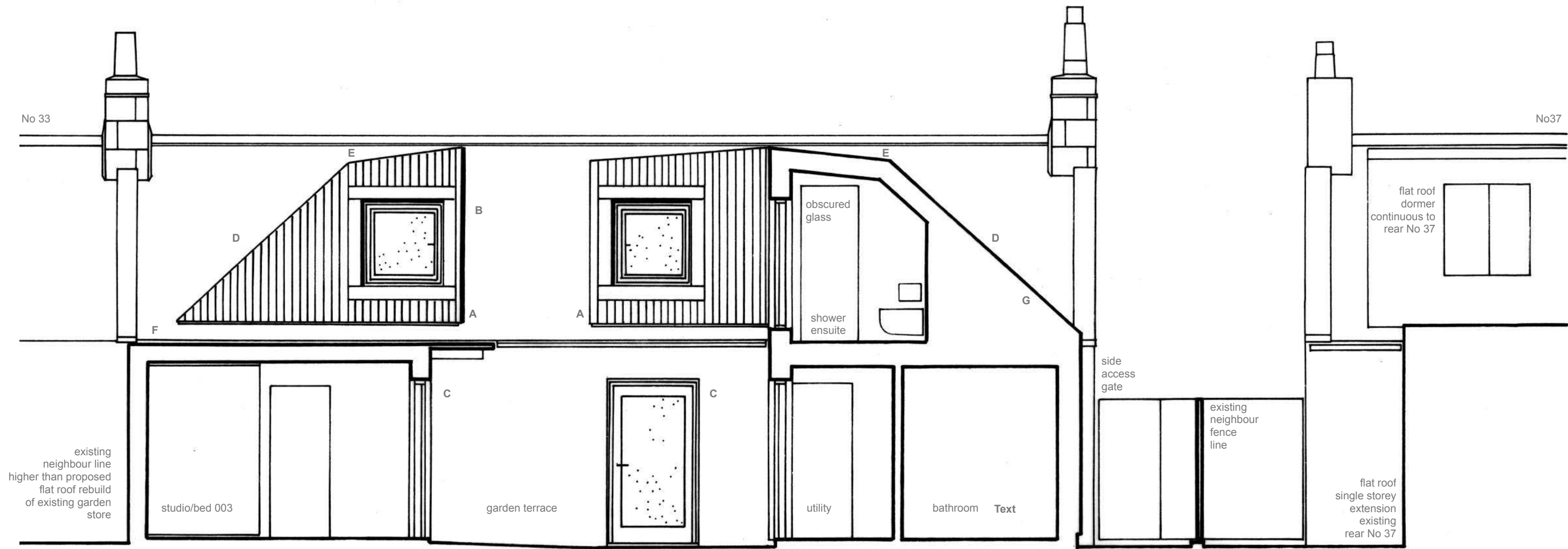








PROPOSAL - elevation view from south - section AA 1:50 @ A3 sheet size



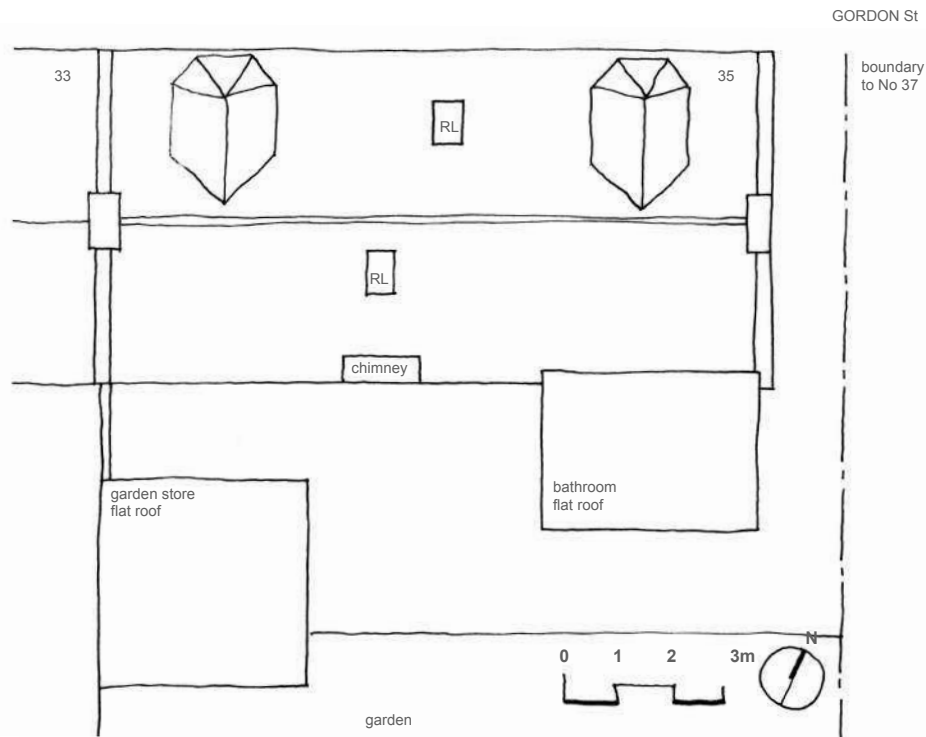
- A - smooth sawn vertical larch plank cladding T&G jointed  
Sadolin Extra high performance satin black wood stain  
low maintenance finish
- B - contrast natural stained/oiled framing larch plank
- C - triple glaze Danish alu skin mid grey Eco windows  
& doors - laminated composite softwood
- D - existing slate roof relaid - new reclaimed slating to match
- E - pitched standing seam self coloured lead/alu metal roofing
- F - green living roof Sedum planted overhang/shelter to east
- G - near Passiv Haus insulated timber frame eco structure  
airtight construction - low embodied carbon build



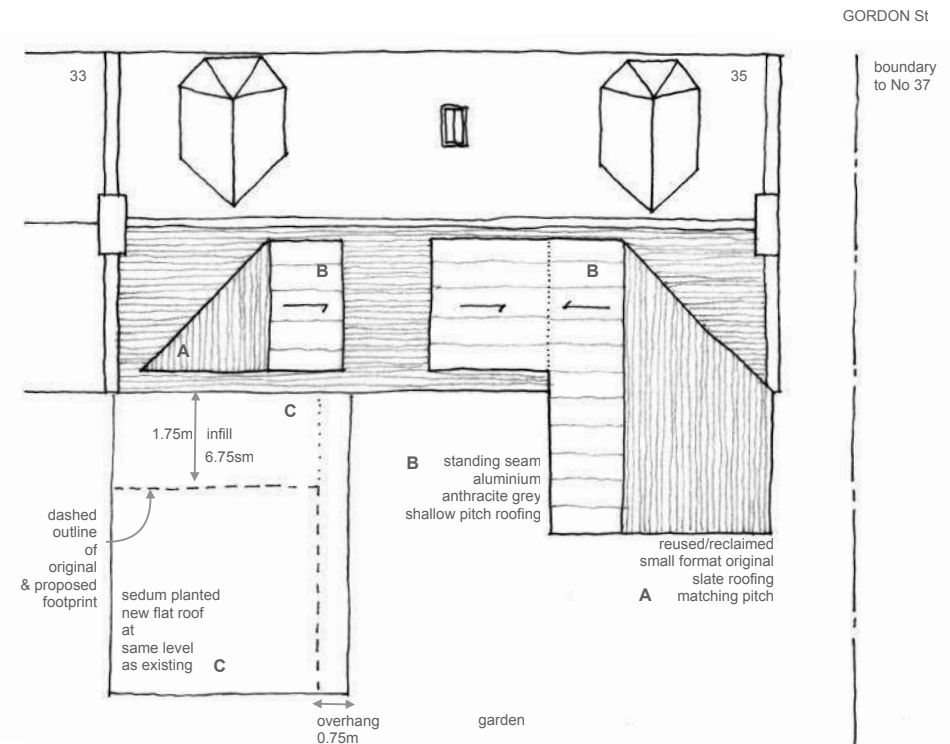


EXISTING & PROPOSED - roof plan 1:100 @ A3 sheet size

EXISTING roof plan



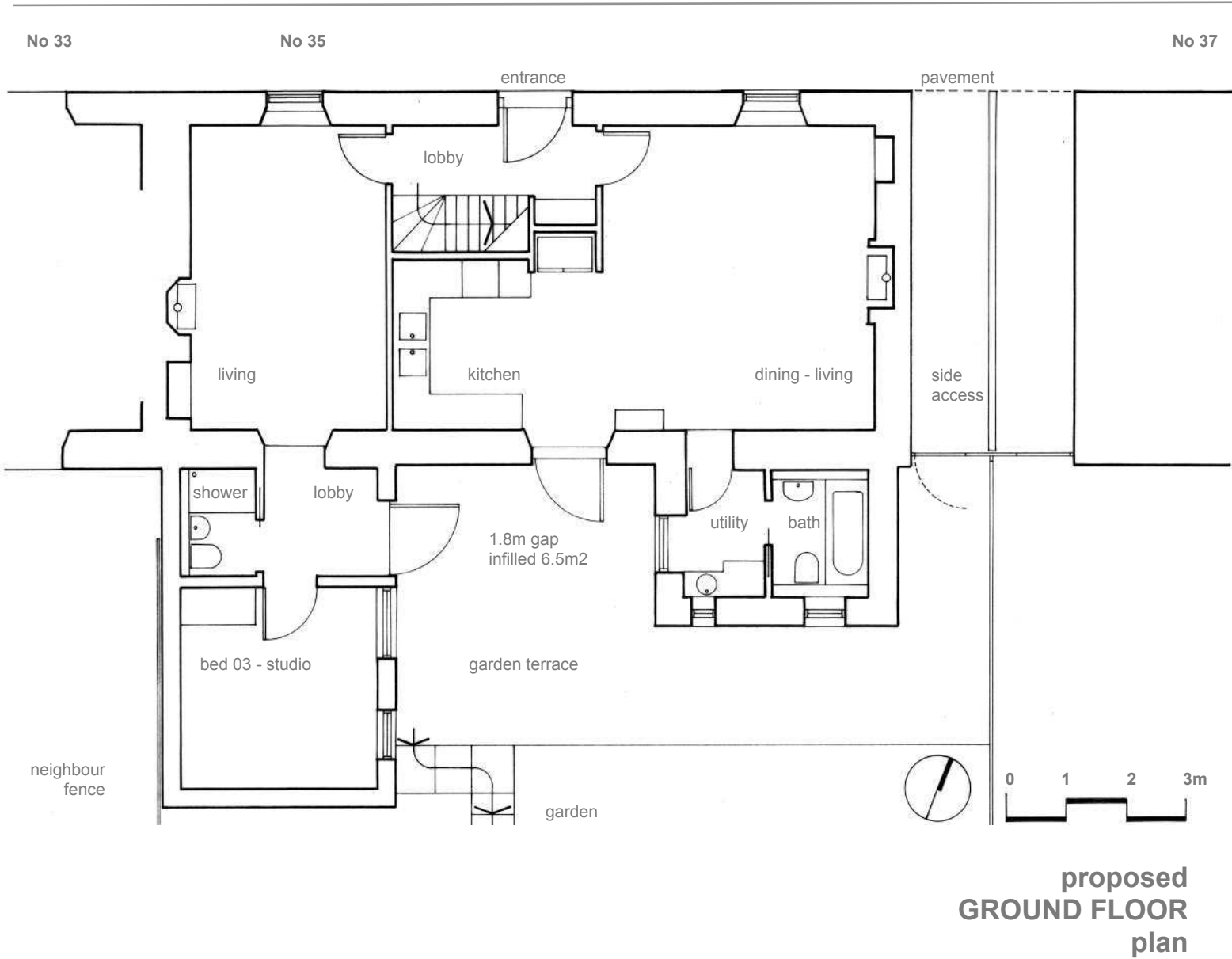
PROPOSED roof plan







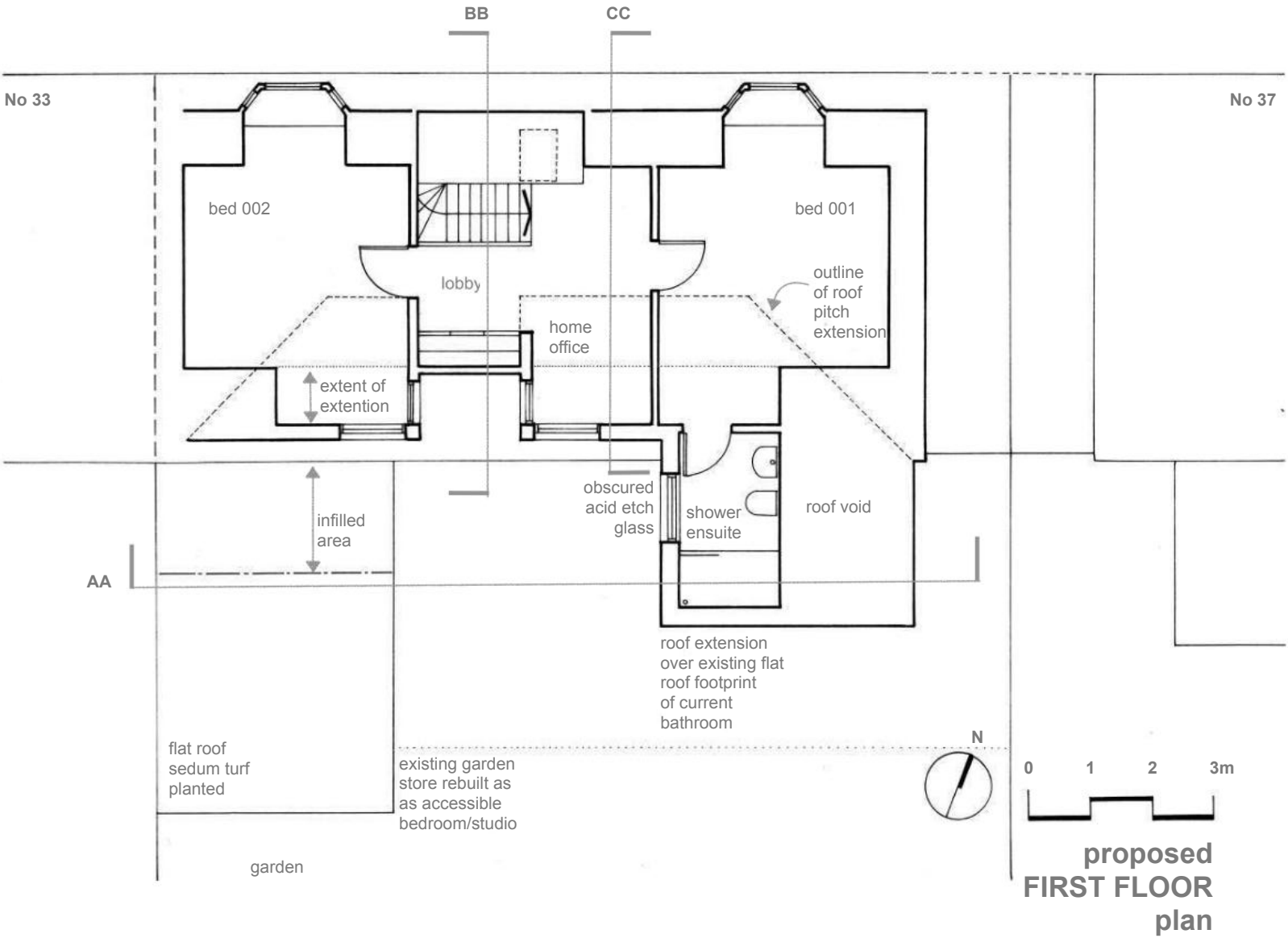
GORDON STREET





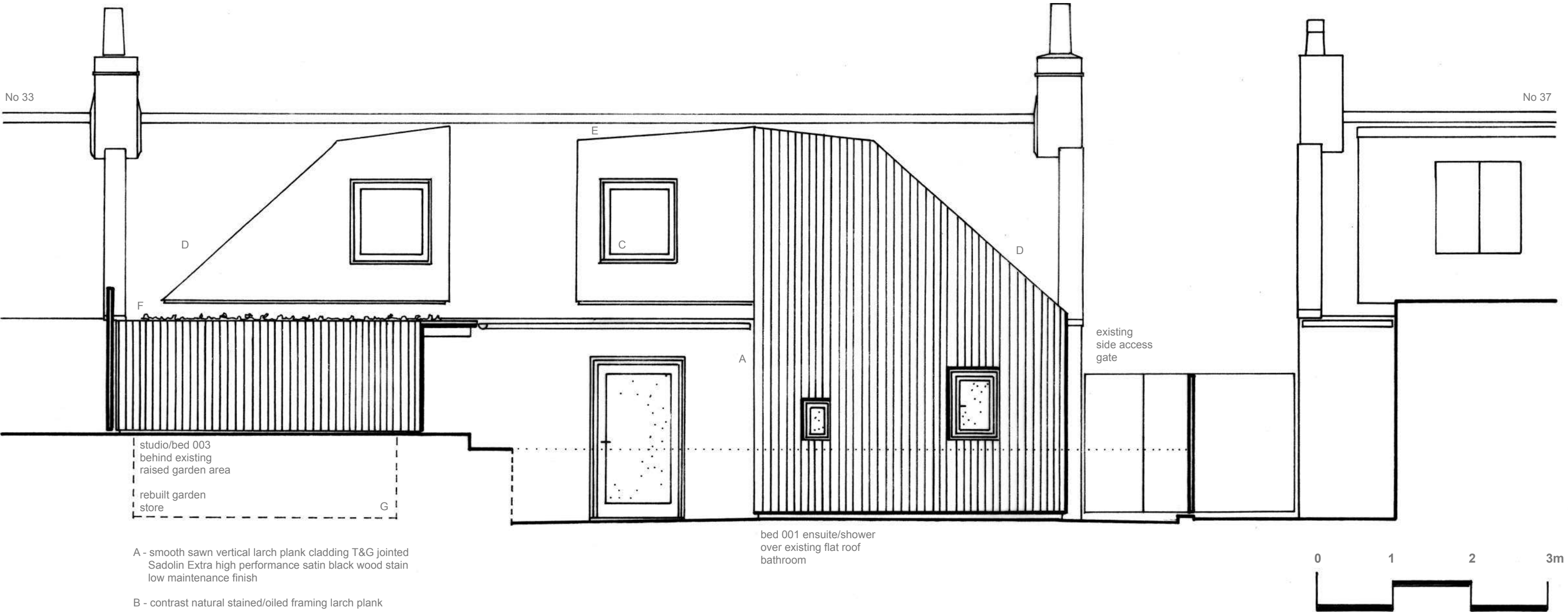
PROPOSAL - first floor plan 1:100 @ A3 sheet size

GORDON STREET





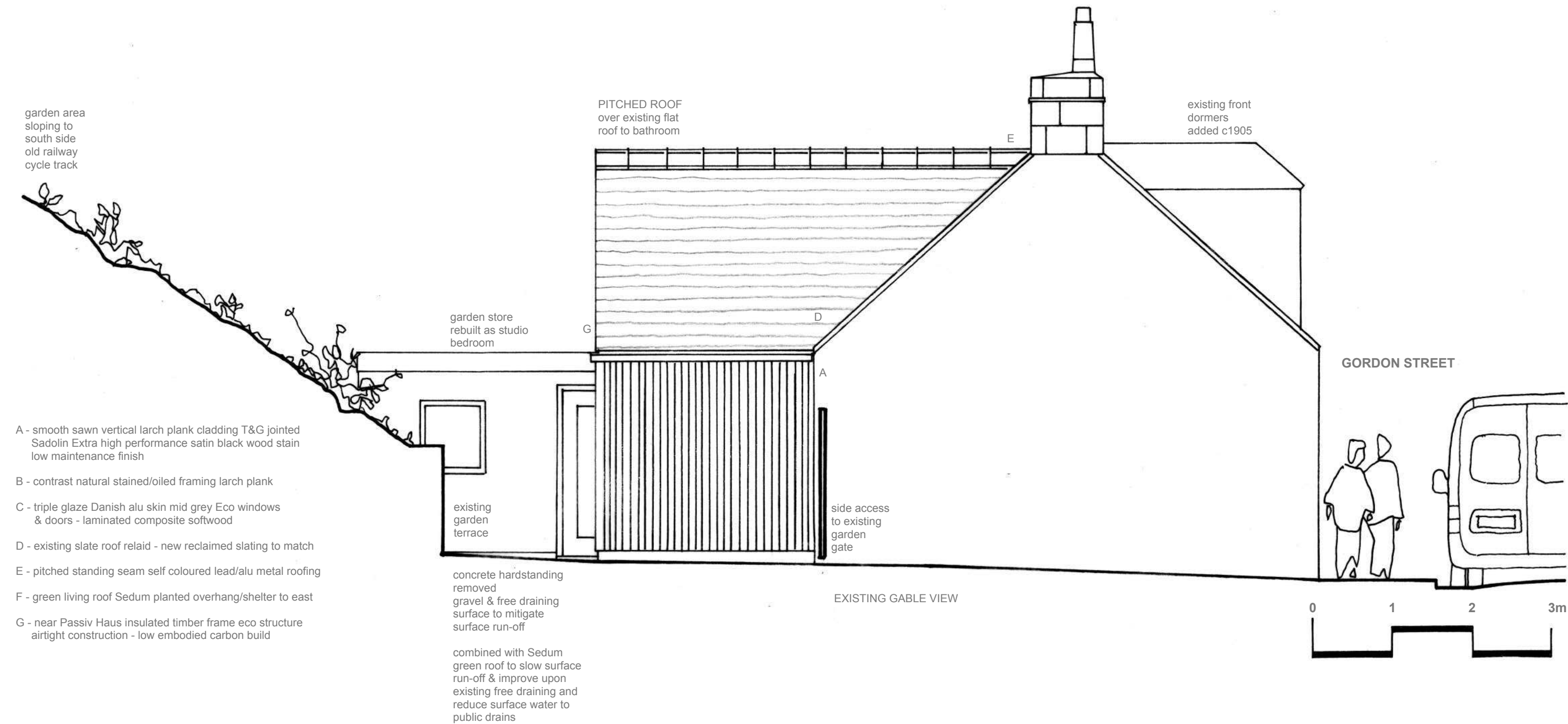
PROPOSAL - elevation view from south 1:50 @



- A - smooth sawn vertical larch plank cladding T&G jointed  
Sadolin Extra high performance satin black wood stain  
low maintenance finish
- B - contrast natural stained/oiled framing larch plank
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airtight construction - low embodied carbon build



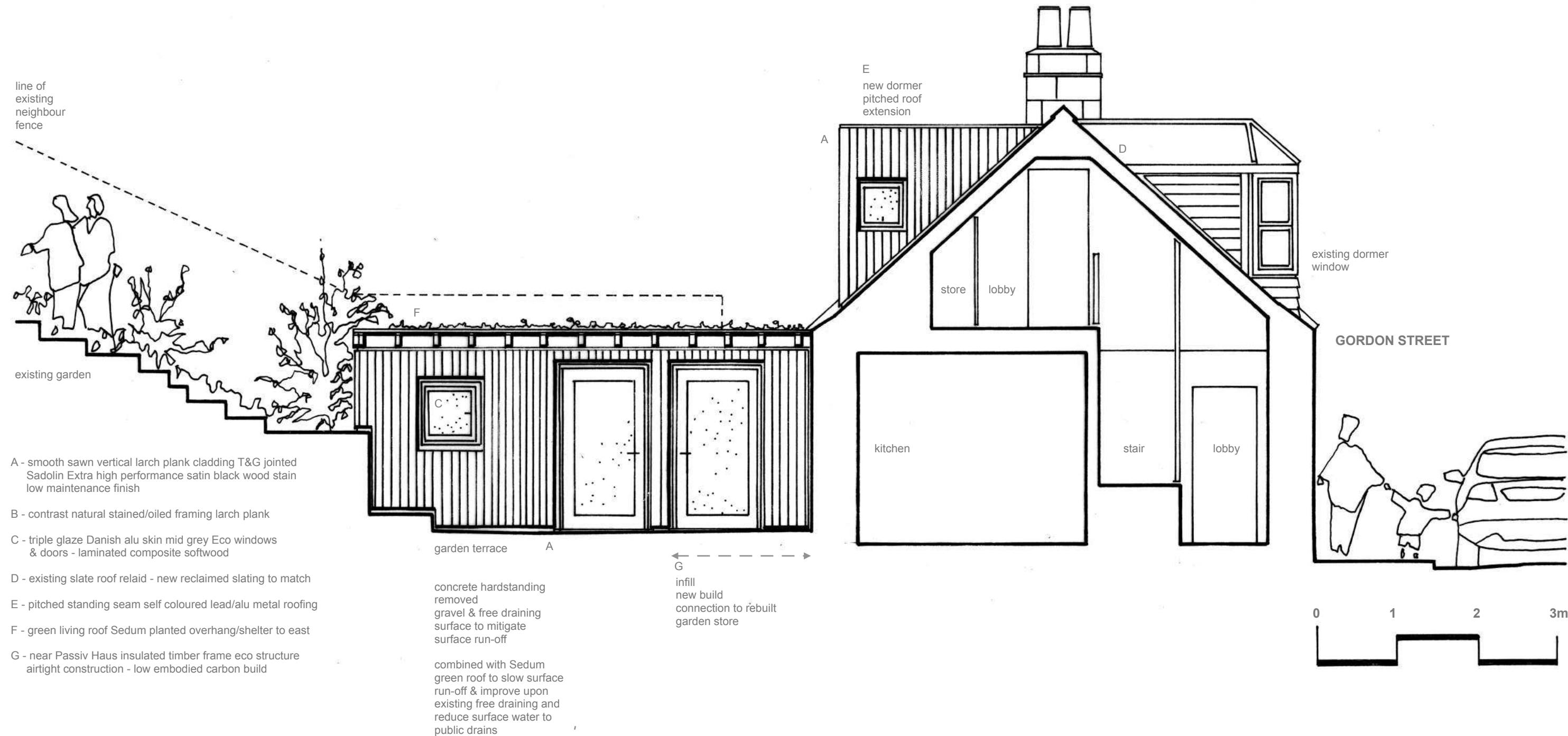
PROPOSAL - elevation view from east 1:50 @ A3 sheet size







PROPOSAL - elevation view from east 1:50 @ A3 sheet size





PROPOSAL - elevation view from west 1:50 @ A3 sheet size

A - smooth sawn vertical larch plank cladding T&G jointed  
Sadolin Extra high performance satin black wood stain  
low maintenance finish

B - contrast natural stained/oiled framing larch plank

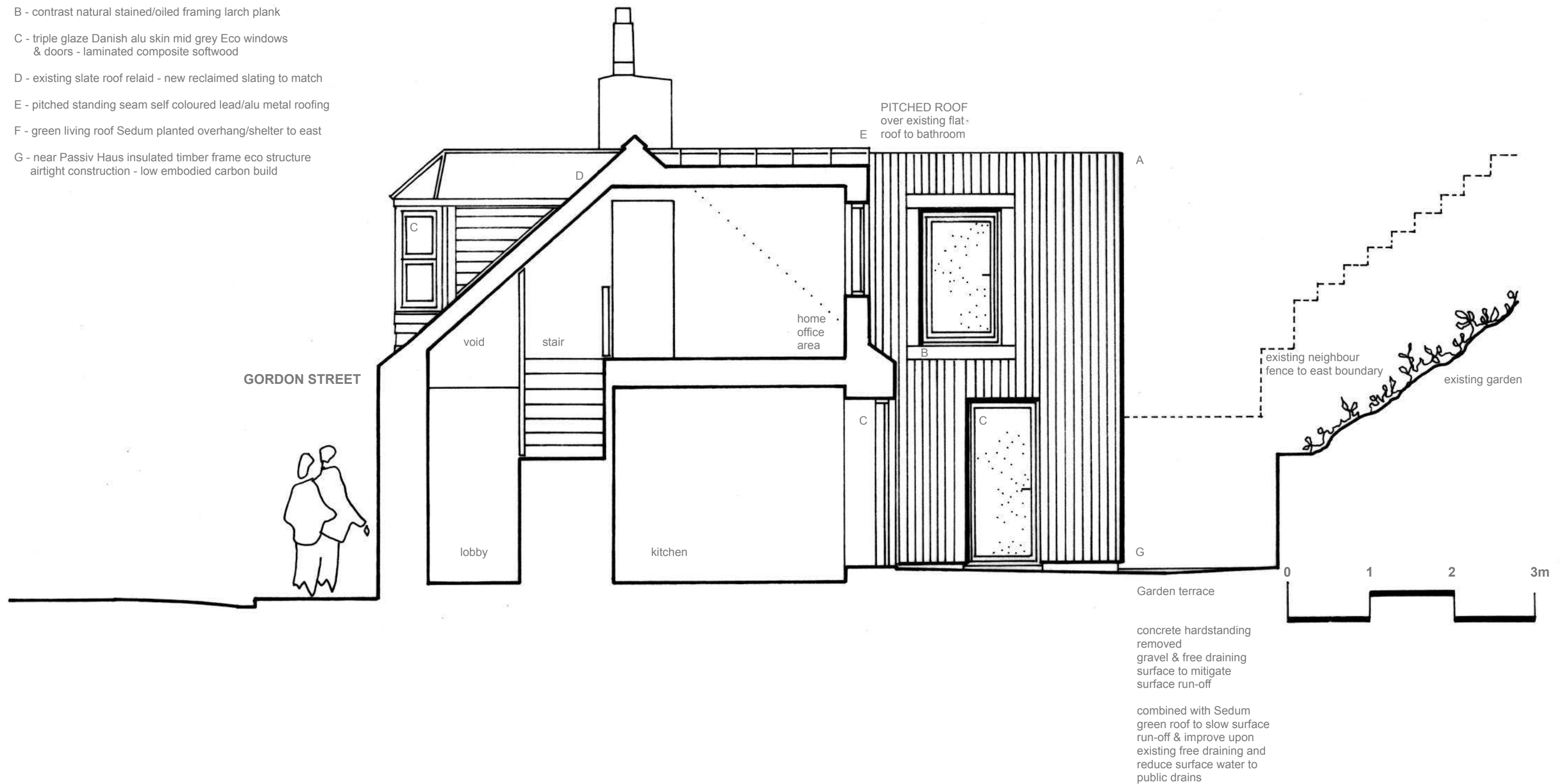
C - triple glaze Danish alu skin mid grey Eco windows  
& doors - laminated composite softwood

D - existing slate roof relaid - new reclaimed slating to match

E - pitched standing seam self coloured lead/aluminum metal roofing

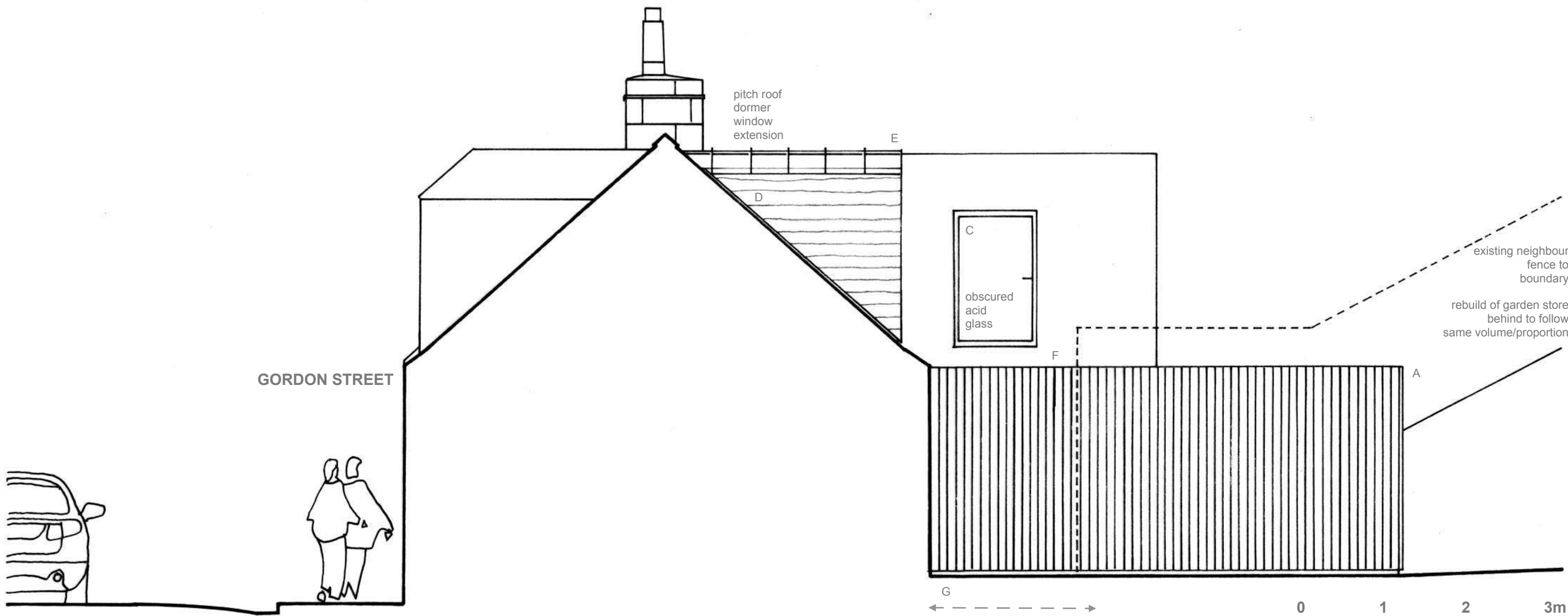
F - green living roof Sedum planted overhang/shelter to east

G - near Passiv Haus insulated timber frame eco structure  
airtight construction - low embodied carbon build





PROPOSAL - elevation view from west 1:50 @ A3 sheet size



- A - smooth sawn vertical larch plank cladding T&G jointed Sadolin Extra high performance satin black wood stain low maintenance finish
- B - contrast natural stained/oiled framing larch plank
- C - triple glaze Danish alu skin mid grey Eco windows & doors - laminated composite softwood
- D - existing slate roof relaid - new reclaimed slating to match
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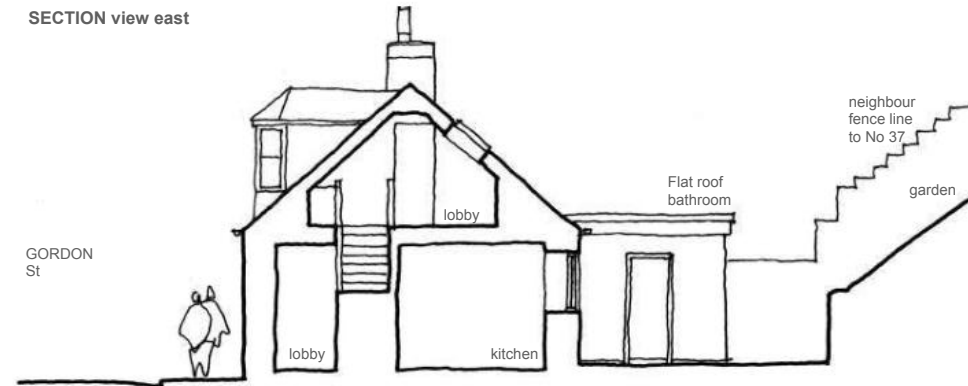




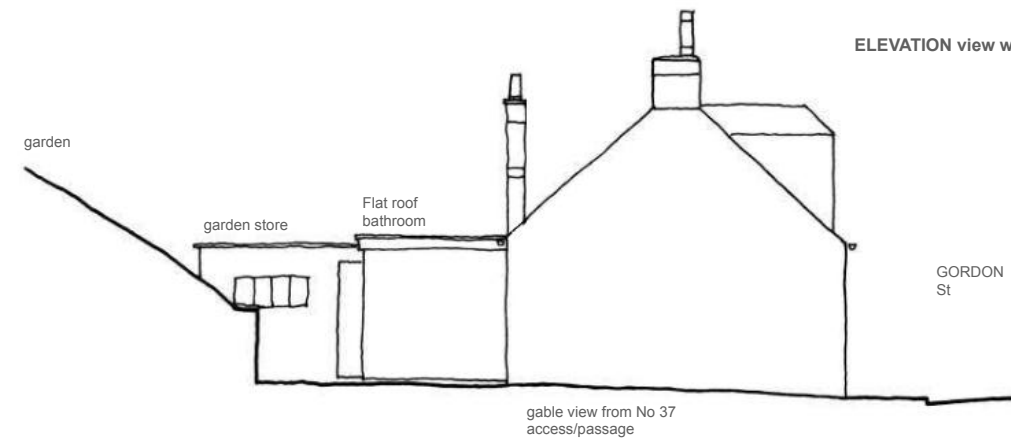
SECTION view west



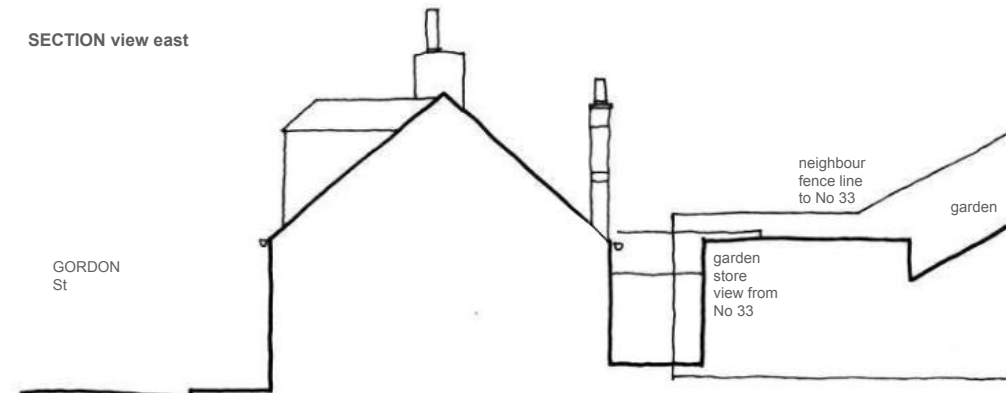
SECTION view east



ELEVATION view west



SECTION view east

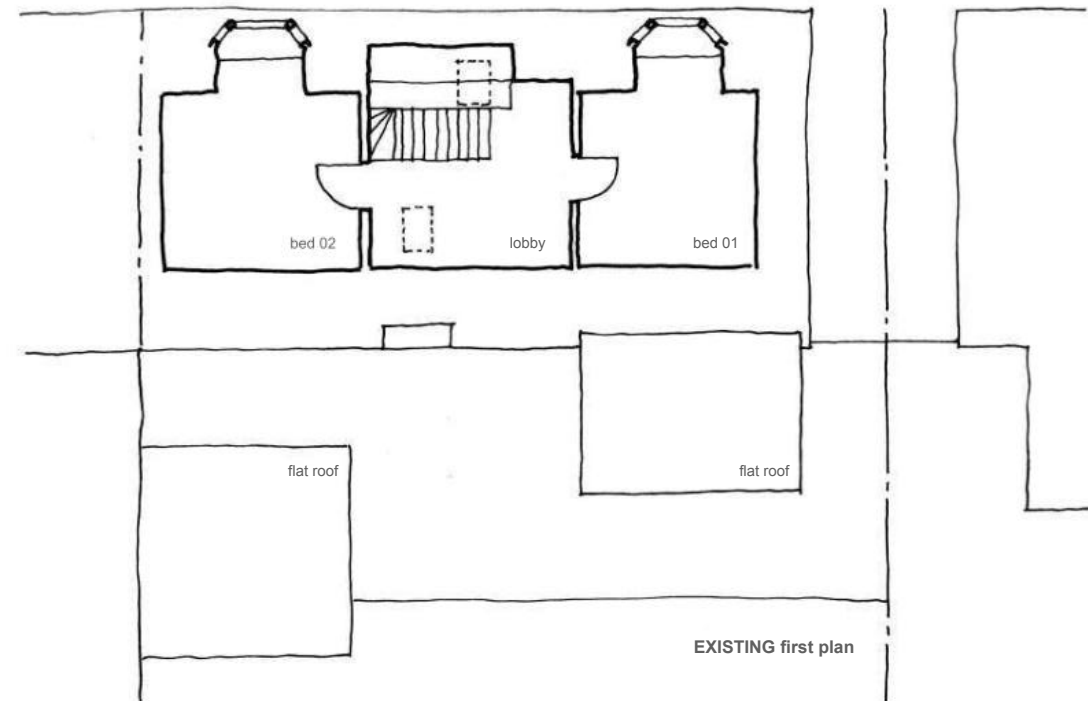
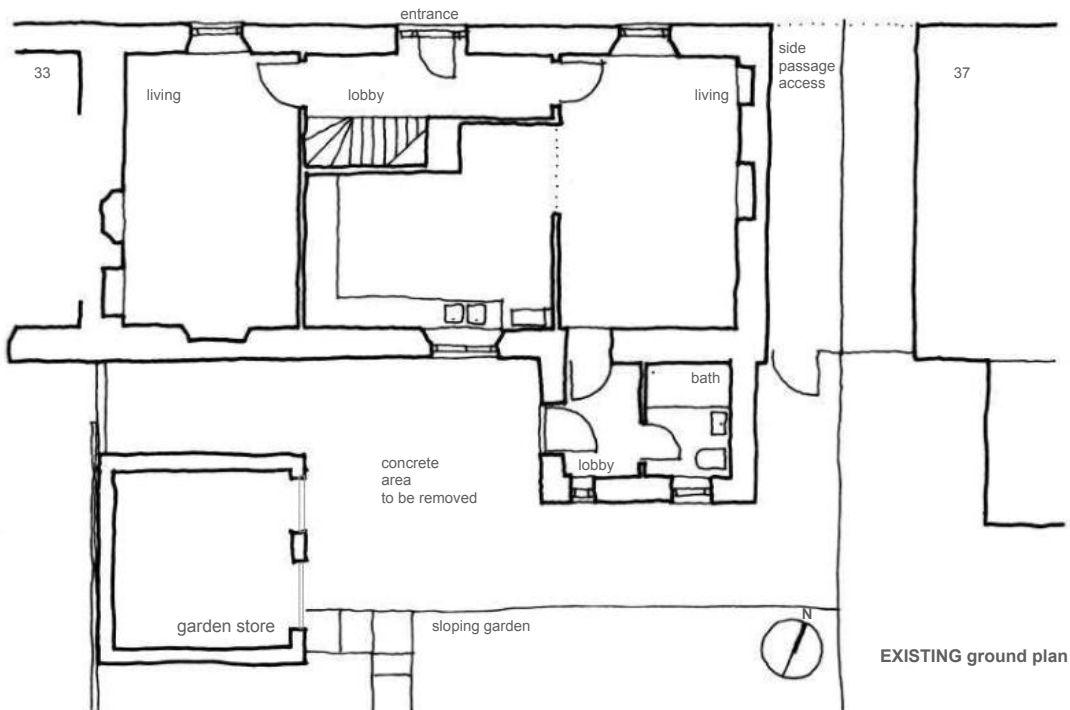
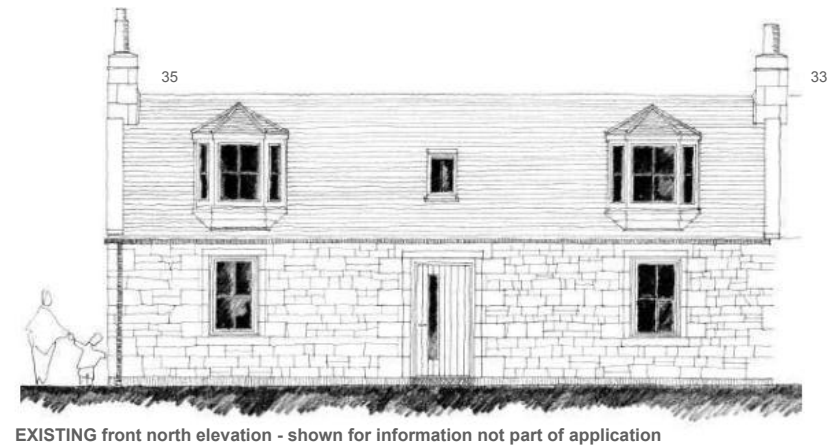






EXISTING - plans & elevations 1:100 @ A3 sheet size

historic  
contemporary  
contextual

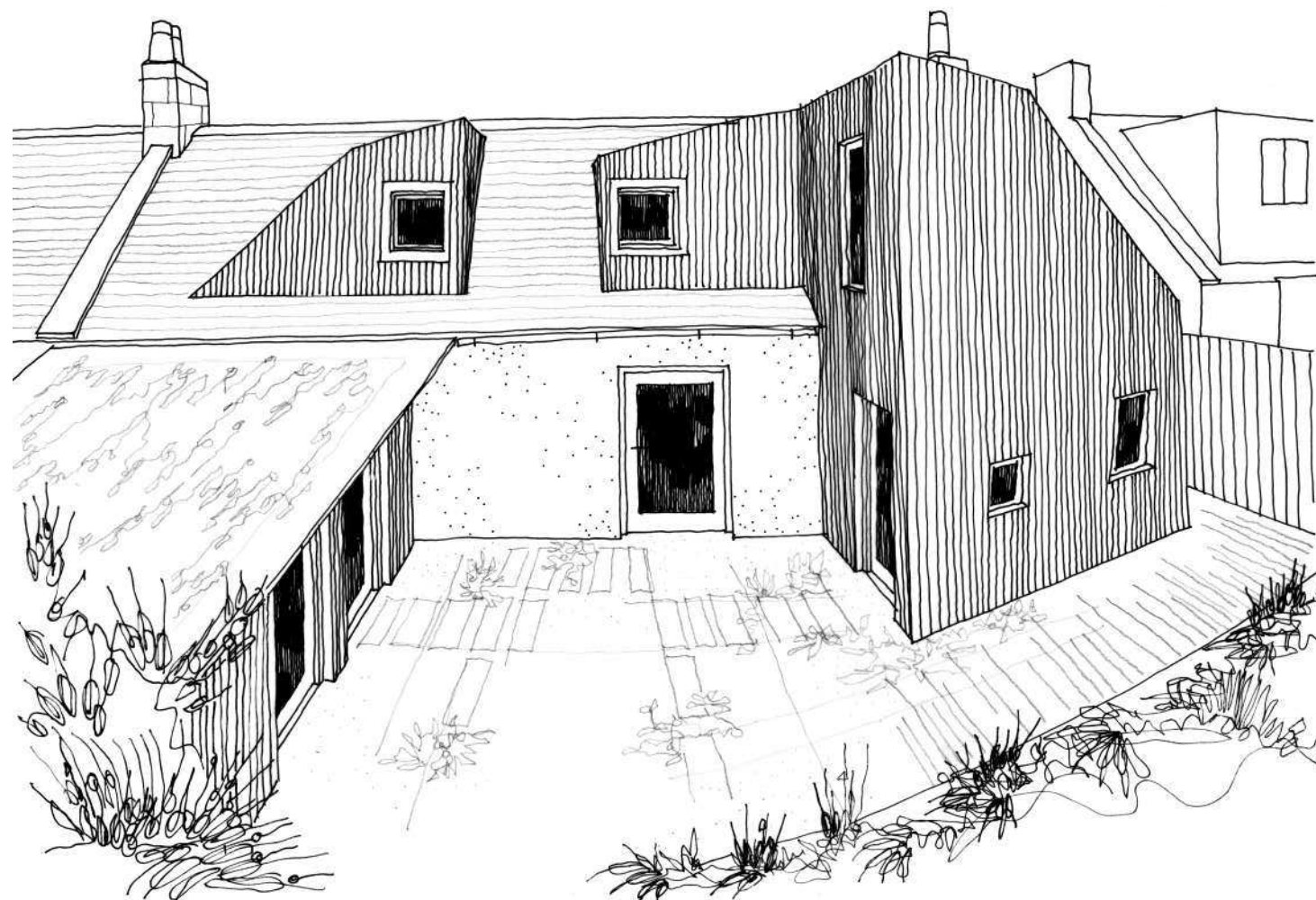


35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - perspective view from south

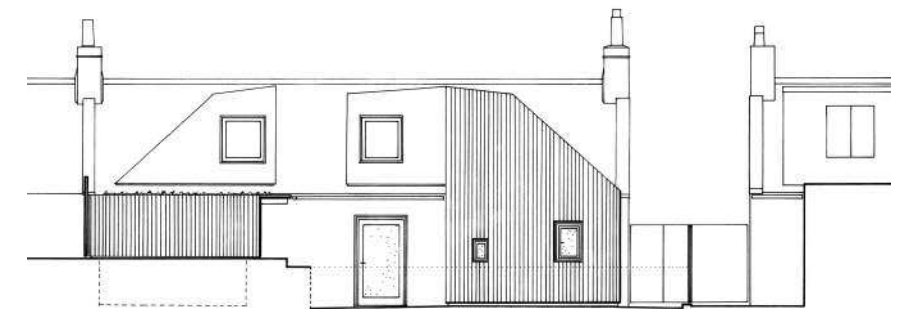
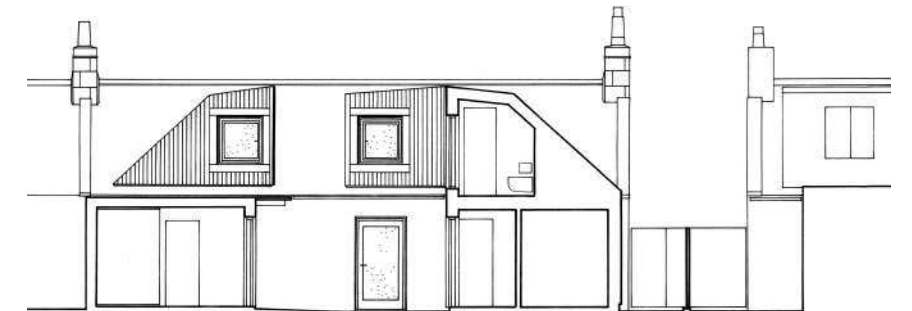


Buro Wagner  
Munich Ho.  
© domus.it



NMD©

historic  
contemporary  
contextual



Alain Carle architecte  
Quebec Ho.  
© dezeen



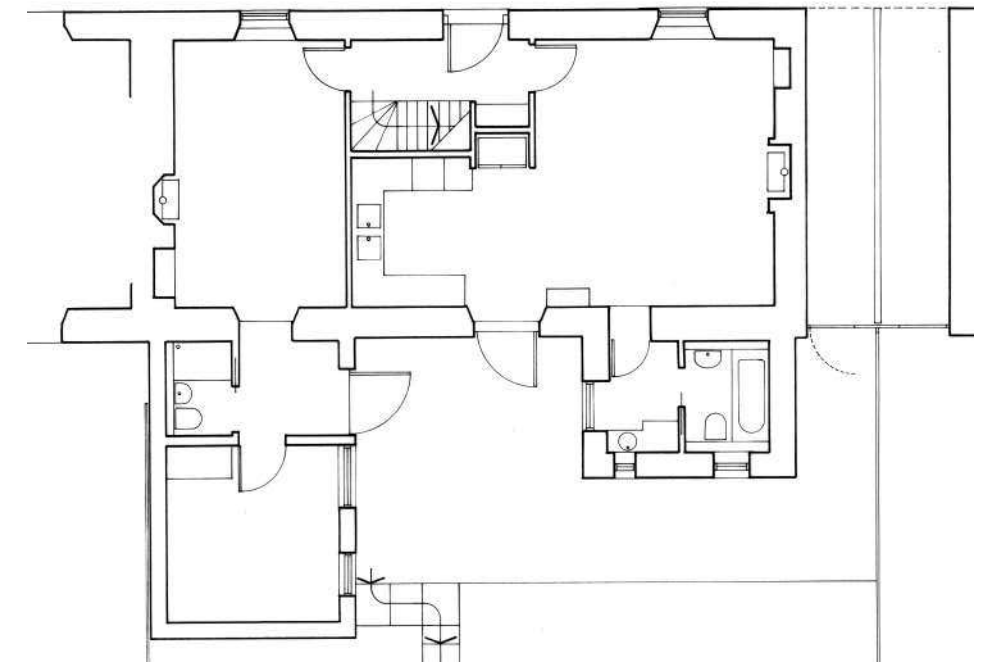


35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - perspective view from south east

# NMD<sup>©</sup>

historic  
contemporary  
contextual



Sommerhaus  
© Fryd - Torben Eskerod



Dyke Ho  
© Argen Reas Architekten



Brock Cottage  
©NMD





# 35 GORDON STREET Portgordon AB56 5QR

Ms C Lambert

PROPOSAL - location context plan - not to scale

# NMD<sup>©</sup>

historic  
contemporary  
contextual



east end Gordon St foreshore



view east from No. 35



former coastal railway path



view north at west end Gordon St

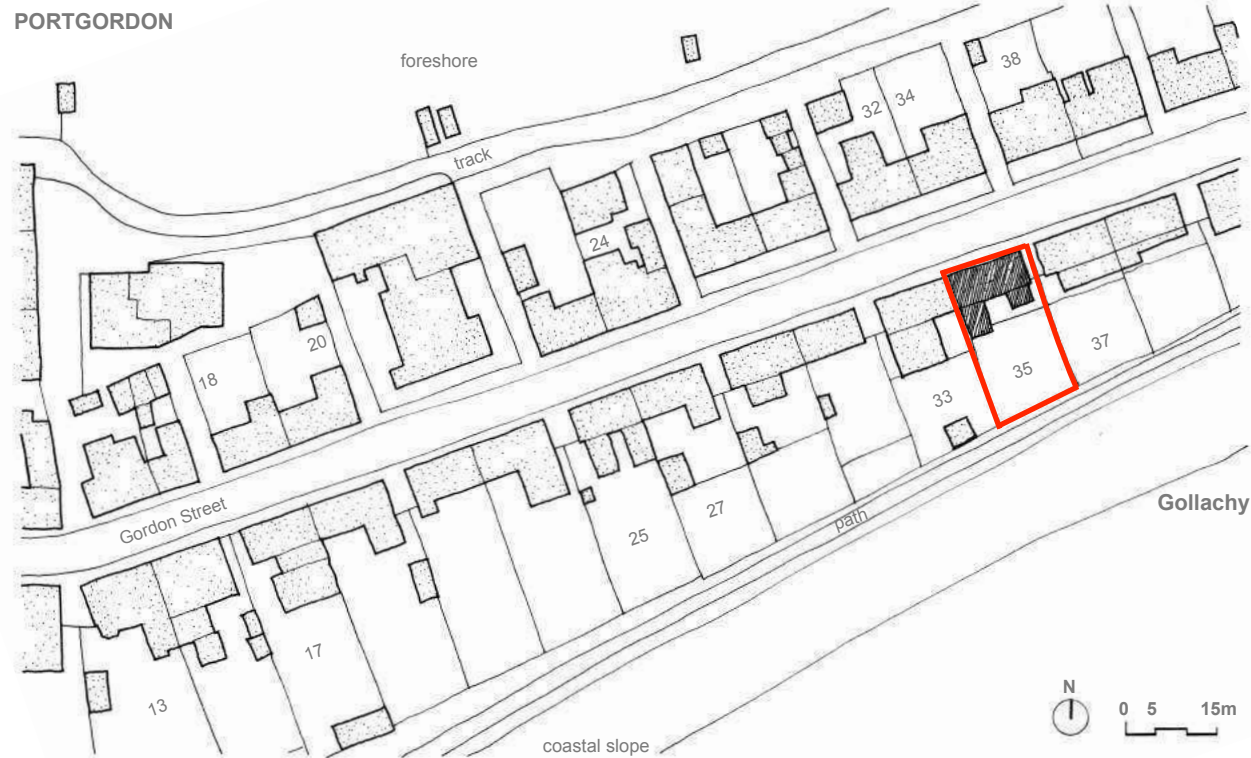
view west  
from No. 35



view north  
from No. 35



No. 35  
Gordon St



note:

extensions tight on  
neighbour boundaries  
at 23 25 27 & 17 19

No. 17 Gordon St  
18/00193/APP two  
storey extension on  
boundary in contemporary  
style with distinctive  
mono pitch roof

view west over  
east end Gordon St



foreshore



common access track to foreshore



POR.P.001.22

Fiona Olsen Assoc RTPi  
Planning Officer

Economic Growth & Development  
The Moray Council  
High Street  
Elgin  
IV30 1BX

Friday 26th August 2022

Dear Ms Olsen

**22/01066/APP 35 Gordon Street, Portgordon AB56 5QR**

Thank you for your attention and the email 22.08.2022, we note the positive response with regard to the Archaeological Photo survey, the submission relationships and intent for the existing flat roofing and the overall scope of development.

To pick up on your comment regarding the roof top extension design proposals for the accommodation, we will address this in respect of:

- design
- context
- policy
- precedent

**DESIGN**

The scope of the proposals are modest and **does not** include any structure which can be construed to be a '**box dormer**', the Moray Local Development Plan 2020 Vol 1 page 35 DP1 para 'g' states that "*Pitched roofs will be preferred to flat roofs and box dormers are not acceptable*" - this is not a great intent

change from previous H4 policy [which still fostered in certain situations until 2020 box dormers in particular settings].

Our discussion via telephone with Shona Stachan late September 2021, advised us that as an authority **you could not offer advice** through our Pre App 21/01027/PEHOU, though she discussed the use of 'catslide' dormers [which we explained would not create usable space - see below] and how we needed to be supporting our submission with a strong contextual design & heritage statement, this along with the design development we have now done. We are clear that the current design proposals move away from the Pre App starting point and foster a much more crafted vernacular design response, that is in context with the location character and the host dwelling. We wrote with earlier sketch proposals to Shona Strachan 21.09.2021 to try to foster a dialogue to move forward, so our client finds it disappointing that it is only now that we are garnering response to a very detailed and carefully presented submission and design.

We are with this proposal **only** creating at ground level 6.5sm of new space and in the roof c11sm in comparison to an overall building footprint of 100sm of space, 28sm of which is within compromised sloping roof areas between 850-1900mm high. The additions cleverly, without an enlarged footprint and with less than a 20% space increase, creates the opportunity for good modern multi generational family living space.

We have consulted with the neighbours and all are very happy to support the changes and keen to help to regenerate with the applicant the dwelling, which had been empty and on the property market for several years.

The proposal overall is a holistic response to the property and setting, the solution proposed has not been arrived at lightly, there has been a considered approach with the applicant to develop a modern 21st C response within the framework of an historic property in an historic setting.

Our client/the applicant is a historian who currently lives in a 1776 cottage property, where we have assisted with contemporary inventions and extensions over a 20 year period. She fully appreciates the historic context and the ebb and flow of societal needs through time, that have formed the character of Portgordon and its varied architecture, whilst also needing to create a family home for multi generational living, that will ultimately also accommodate her octogenarian mother, which is why the ground floor is laid out to provide for easy access and an amount of privacy with the garden bedroom/studio space.

This leads the first floor to accommodate family bedrooms and an area for home working.

Historically the first floor accommodation was all work space, storage etc. ancillary to rudimentary ground floor living and bed spaces.

We illustrated in our Design Statement page 5, the earlier neighbour 37/39 attached extension of a steeply/mansard roofed sail or net loft in a likely black tar stained timber with a flat top - a direct reference for our design and a form typical

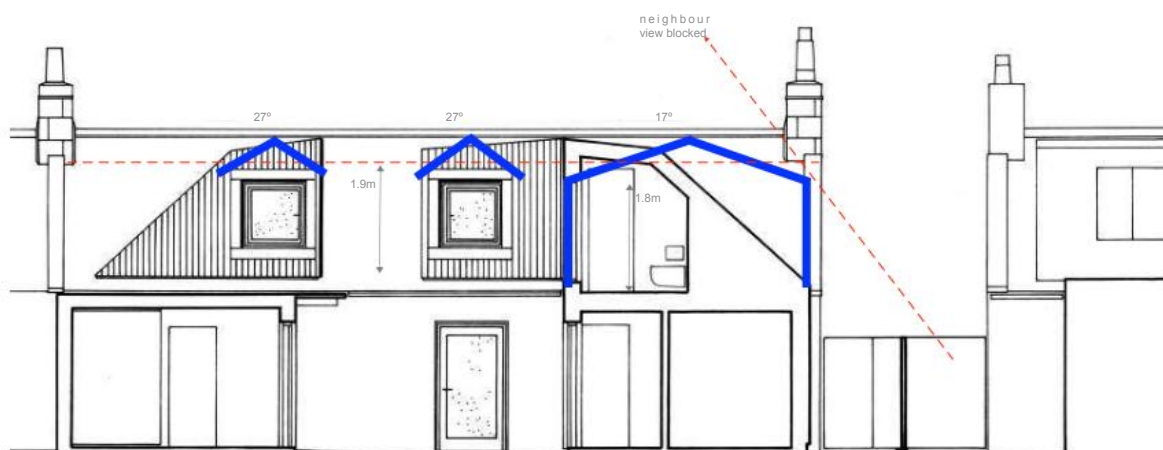
of this immediate part of the coastal settlements. There is still a smoker with a juxtaposition of roof adjuncts in Buckpool attached to a residential property. The area is full of varied forms that have evolved with the social and economic change over time - this area is not a static showpiece theme park but a living community. Portgordon has through its Community Trust in the village made leaps and bounds in starting to regenerate the village for the community and this proposal is just a small part of that process.

By forming a pitched roof over the existing bathroom, we remove a flat roof, we present a pitched roof to the neighbour boundary - not a two storey blank wall [see illustration below] projecting 3m into the eye line behind Nos 35/37 and at over 4.5m it would be inappropriate to tower over the rear aspect of No 37.

This mark-up shows the bulk of your proposed suggestion over the bathroom, to effect a full 1.8m head height throughout is not necessary and would create a disturbing scale and mass of architecture in this context. The wall would be a blank

The applicant is to use the 'void' space created as storage to maximise the roof volume off the bedroom, you'll notice from the plan layout these properties afford very little useful cupboard or storage. So the space is not wasted and we are distinct in our intention not to project back from the existing house a large **box-like** structure that would dwarf the neighbour at No 37.

We have approached the design to encompass many aspects, taking a holistic view to all aspects of design, context, use, environment and build costs - this creates a tight equation for the proposal. Internally the height of the existing bed-



rooms is only 1.95m in a narrow strip in the centre of the house, the doorways are less than standard at 1.8m, that's 100mm lower than the norm. The narrow bay windows to the front elevation to effect pitched roofing of around 27° only provide 1.9m height - usually domestic accommodation is at height of 2.4m.

To afford the most balanced and sensible arrangement for the first floor accommodation we have only added a small amount of floor area, created within pitched roof form volume, setback from the eaves of the main house.



You'll note [above] to squeeze the accommodation under quasi traditional pitches, using matching slate to a buildable pitch, shows that we lose floor area and internal height, creating awkward space akin to the narrow frontage bays - non of these arrangements would allow proper head height, positioning furniture, storage or wardrobes - this would afford no benefit or logical reason to build such forms as they would be properly unusable. Equally building in these forms will increase costs, due to major alterations to the existing roof, with the addition of steel beams, propping down through to the ground floor, disturbing the living area plan arrangement and easily doubling the roof level build costs - just to afford non sensical forms - the extra expenditure would force the budget to be rebalanced and the environmental benefits intended are the most likely cost cuts, damaging the ecological advantages that our client intends.

The existing proposal seeks to maximise the available height on the rear of the property - where there is no visual intrusion - new roofing in a shallow pitched standing seam zinc or aluminium is creative and allows us to maximise volume where it is needed, this is not a flat roof and is **not a box dormer**, a box dormer would have a 1:80 near flat roof and blank vertical sides - our proposal is fully pitched a 3D form, it creates no inward views that have blank square walling in any relationship to a 'box dormer' - we contradict you, there is no view as you state '*from the west*', the neighbour at No 33 would have no view of the ensuite proposal and there are no views into the proposal in the context of the village that would construe the proposals to be a box dormer.

The only potential is for a very distant oblique views from the coastal trail, views from here would not afford anything but an 'birdseye' aspect looking down on the pitched roof dormer proposal and the 'L' shaped ensuite addition with roof pitches in two directions.

Coastal trail views - we show these images to illustrate that the pitched forms will only be viewed from above with viewing angles from the south



view form SW



view from south



view form SE

The dialogue for the architectural style is covered in our Design Statement pages 9-12 shortened here:

*“contextually the intent for the new build rear/south additions, is to carefully moderate the scale and form, the roof level additions are to be built within the roof and to reuse the existing slate for the new pitches, the ‘dormer’ window arrangements are to be **varied pitched forms***

*relating to the examples of vernacular forms and secondary adjuncts to dwellings found locally around Portgordon and in the immediate coastal vicinity - forms that reflect the sheds **and additions to older dwellings***

*but we have with crisp architectural detail and careful selection of materials, attempted to design a response that is 21st C, whilst borrowing its lead from history.*

*The additions will be subtle and secondary to the host dwelling, of a scale and form that marries well in local context and built in a manner that weathers well and requires simple yet minimal maintenance”*

The backs of Portgordon properties show examples of additions good & bad - this is a thoughtful design, that marries the scale of additions sympathetically without ‘out of context slavish copies’ of a sub-urban pitched roof architecture that is not well represented locally.

We could discuss architectural style, form and the distinction between contemporary flat roof structures and when they become ‘box dormers’, though I think that is a fulsome architectural essay best saved for another day.

## CONTEXT

The immediate local **south side of Gordon Street** displays many architectural forms:

- a flat roof single storey extensive Permitted Development [PD] floor plate of new accommodation at **No 33** using up all the immediate amenity space - that has no relationship to the form of the back gardens, streetscape or historic floor plate of the host dwelling.
- a long 9.5m box dormer at 2nd storey on **No 37** over a long ground floor flat roof extension into the flat garden amenity space - box forms that dominate the host dwelling.
- flat roof extensions & box dormers to **Nos 39 & 41** to the east impinging on amenity space.
- flat roof garden extensions to **Nos 31 & 29** to the west with extensive box dormers.

- A large two storey mono pitch extension to the rear of **No 17** joined by a flat roof link and with a box dormer to the rear pitch approved **18/00193/APP**.

## No 17



NORTH ELEVATION



WEST ELEVATION

- the addition is a mono pitch roof higher than the existing cottage and can be clearly seen from neighbour property, public areas - it dominates the host dwelling, dwarfing the scale with a new massing, style & character that is totally different from the host dwelling and the neighbour properties.



SOUTH ELEVATION



INTERNAL ELEVATION

- though this addition demonstrates how good quality design does integrate in this locality with the historic setting and host dwellings - even on a much larger scale dominating the host/context.
- the 'Report of Handling' for the No17's 18/00193/APP states [and there is no major change of intent in current DP1 policy from H4 in this instance]:

*"Policy Assessment - Impact upon the surrounding locality (H4, IMP1)*

*The proposed extension is required to be assessed against Policy H4: House Alterations and Extensions and 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 proposal will have any adverse effects or impacts on the amenity of the existing house and the surrounding area, including any neighbouring dwellings.*

*The design of the proposed extension is considered to be acceptable and integrates well to the style, size, scale and proportions of the existing dwelling. The windows look out to the garden, given its location, distance and orientation of the extension from neighbouring adjacent properties it will not have a significant adverse impact on sunlight or daylight nor a significant overlooking or privacy issues in relation to this application, therefore the proposal is acceptable.*

*The neighbouring property also has a flat room extension in the rear of the property.”*

We feel that these contextual examples show the submission proposal is relevant, even though you are saying

*“I do not feel that these relate to the character of the existing property or surrounding area”*

as this **is contestable** and in fact the character of the setting and the architecture locally is highly varied and displays good strong examples of how contemporary additions over the last 30-40 years have become integrated with the locality without causing overt harm.

The setting is **not a Conservation Area** and other than the height of the extension being at 1m over the allowable [4m] height of an extension within 10m of a boundary, for the roof over the existing bathroom, all aspects of the current proposal would be allowable under PD.

The applicant is minded that PD becomes the most **tempting revision** - to abandon the ensuite shower room proposal and compromise their aspirations due to this subjective interpretation of Planning Policy.

If we were submitting a proposal in a Conservation Area or with a scheduled/listed Historic host dwelling we usually mitigate against causing **harm**, this is key in such a situation, to balance the new proposals within the status quo and to judge if the proposals are harmful, a key point here is that the existing context is not uniform, rear views are very limited and screened, the mantra is

*“what is meant by the conservation and enhancement of the historic environment? Conservation is an active process of maintenance and managing change. It requires a flexible and thoughtful approach to get the best out of assets”*

We are clear and show here through example locally and regionally - and in our Design Statement pages 9-10, that even in this undesignated location we are with the applicant going above and beyond what is contextually required.

**No visual or historic harm** is being caused as the proposed additions can be clearly discerned as contemporary adjuncts and reflect development of architectural form over time.

## POLICY

It is clear, that in the case of the application for Planning Permission there is a pre-disposition to support the applicant:

*“refusing an application for planning permission solely on the grounds that it does not accord with the provisions of the development plan and without having had regard to other material considerations. Proper consideration should also be given to the merits of the application”*

The applicant has committed at length to create a 21st refurbishment of the empty property, being prepared for capital investment in environmental aspects, that go well beyond the regulatory framework for new work to an existing dwelling. There is no requirement for the level of quality and responsibility that will be embodied in the design and the build [see Design Statement pages 12-15] intended.

If the proposed build changes were made at roof level, the substantially increased cost of construction would, as we explain above [page 4], lead to a re-evaluation of expenditure across the property refurbishment and definitely cause the downgrading of build quality and responsible positive environmental features would have to be removed and the contribution of the applicants intent to the future life and quality of the fabric of the building, the setting and the village stock of housing would be lost - it is not responsible to foster a 'style of architecture' purely on visual averages, it has to be a balance of environmental responsibility across all aspects of design and context.

The **Local Plan within PP1** states:

*(i) Character and Identity - Create places that are distinctive to prevent homogenous 'anywhere' development*

It refers to distinctiveness, architectural identity, detailing and materials - to create successful healthy places that encompass distinctive urban form.

We are conscious with the proposal that it's important not to have a slavish default to quasi traditional safety net of architecture - though nothing we propose here is challenging or offensive, despite our interpretation of traditional forms with a contemporary idiom.

The Local Plan DP1 states that:

*“Development Principles - will be applied reasonably taking into account the **nature and scale of a proposal and individual circumstances**”*

DP1 states it will support applications if:

*(i) Design a) The scale, density and character must be **appropriate to the surrounding area and create a sense of place** (see Policy PP1)*

We have demonstrated we are creating a sensitive, yet distinctive proposal that relates to the scale, setting and traditional coastal area - that fosters a sense of place and nearness to need.

We have created a proposal that can:

*d) Demonstrate how the development will **conserve and enhance the natural and built environment and cultural heritage resources**, retain original land contours and integrate into the landscape.*

And does not:

*e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.*

And embodies the need for:

*h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.*

*j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) **through the installation and operation of low and zero-carbon generating technologies**.*

The 2020 Moray Settlement Statement for Portgordon proposes:

- *Development Strategy / Placemaking Objectives*
- *Protect the character of the existing settlement*
- *Provide support for proposals to re- use the harbour*
- *To promote interest and encourage housing development on designated sites*
- *Development proposals in the Special Landscape Areas must reflect the traditional settlement character in terms of siting and design and respect the special qualities of the designation.*



We have demonstrated that there is protection of the character of the existing settlement, there is no visual intrusion and no extreme characterful harm. The host dwelling sits just out of the Special Landscape Area [SLA] designation and by nature of the scale, orientation and visual accessibility does not impinge on views in or out of the SLA.

By refurbishing and modernising an empty dwelling, this contributes to the regeneration of the whole village - this in turn contributes towards the new life and uses proposed for the harbour and the future generations of this important historic 'planned' harbour village.

## PRECEDENT

We gave a few local examples in the Design Statement pages 9-10, of forms that present different aspects of contemporary change, that show the variation, what has been approved through previous Planning Applications and how these all form the character of an area.

The character of the area is made up of good and bad examples of change over time, though here we do work within a framework to foster holistically an improved environment - we say in our design studio we need to 'build back better', this is our starting point for all projects, to offer a quality of architecture that is visually exciting, creating an environment that nurtures and protects whilst embedding a responsibility towards exceeding energy regulations & offering design solutions to provide comfort & sustainability. There is a balance between aspiration & reality, we guide every project to a built form that is responsible & deliverable.

There are precedents in:

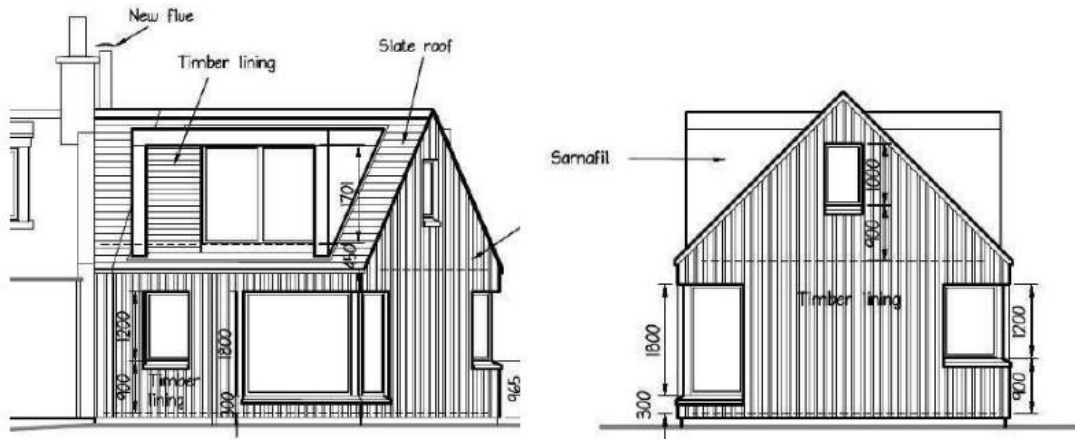
- West Bank GARMOUTH  
15/02162/APP



130 Seatown CULLEN  
18/00843/APP



20/00401/APP



I know the authority will claim that these schemes were approved under an older policy regime, though it is clear the intent of policy has changed little other than becoming slightly more prescriptive in wording in certain aspects and all of these examples have been considered recently and the approved additions to settlements and dwellings are determined under the same auspices of social & economic policy in relation to character of the host dwelling and their locations. These additions are now part of that character and location.

There is nothing we are proposing with the additions to 35 Gordon Street that adversely go beyond the auspices of DP1 as the roof additions cannot be classed in there pitched 3D forms as box dormers.

We'd welcome at this point any comment you have with regard to our mitigation of the submission, as you will realise that the applicant is keen to retain the proposal as submitted.

We have advised the applicant of a likely scenario with the determination process and any need to go to a Moray Local Review Body [MLRB] where NMD with our Planning Consultants would need to expand on the submission documentation and this letter in support of a Notice of Review [NOR].

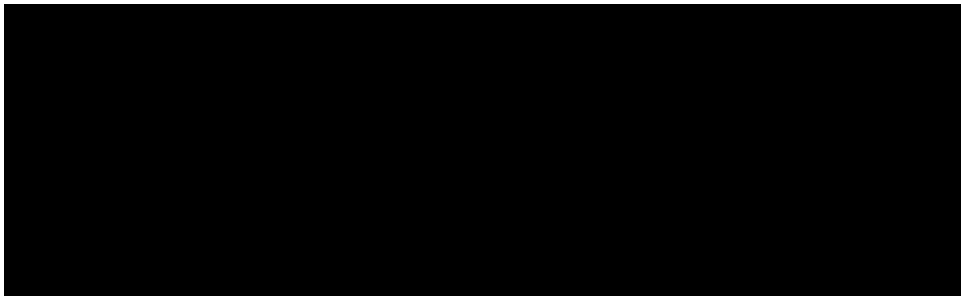


If the authority are to determine with a refusal, the submission can then be presented, explained and discussed/determined via a NOR with the MLRB Members in the context of:

*“matters of wider community interest and/or planning significance”*

We appreciate your attention, if there is any further dialogue needed at this juncture please do contact me direct or I’m quite happy to meet, as I’ll be local over the next week/10 days.

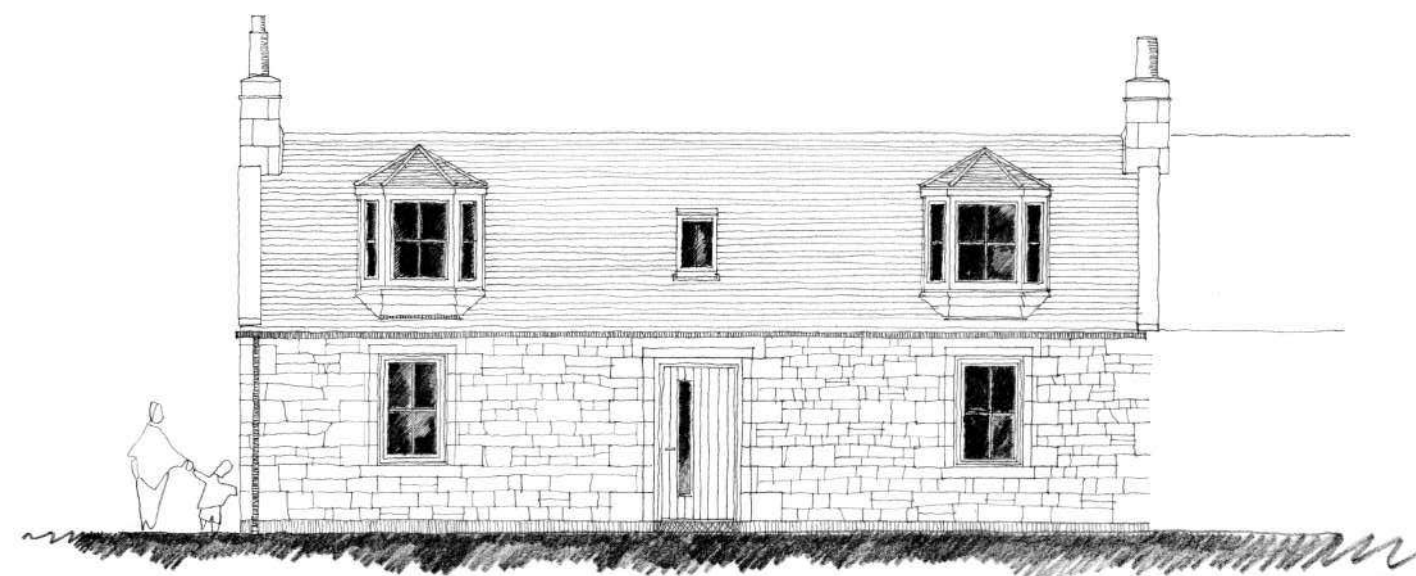
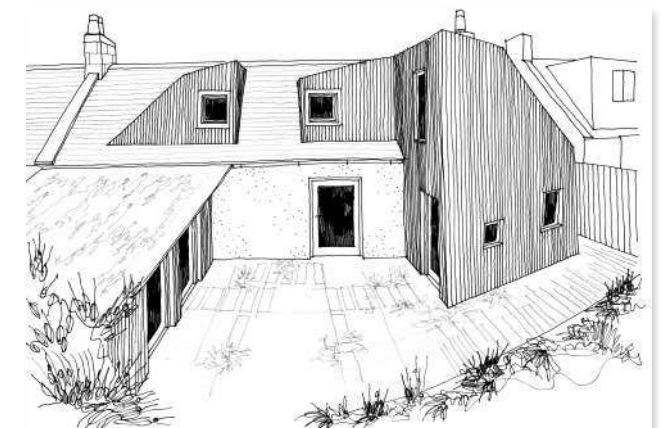
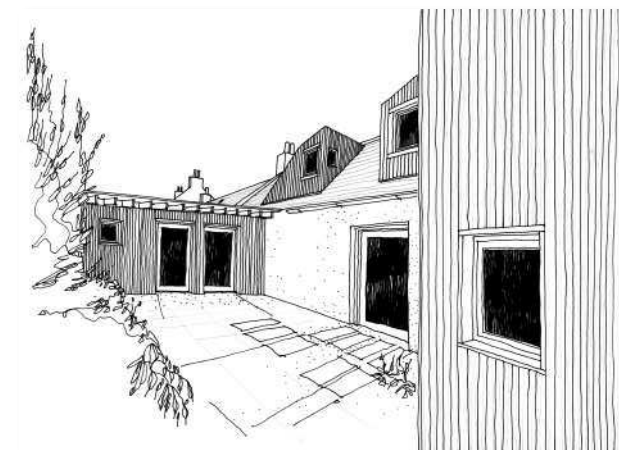
Yours faithfully



Nick Midgley

NMD

cc Claire Lambert



## PROPOSED design & context data for extending No 35 GORDON STREET Portgordon AB56 5QR





001 north-east front elevation



002 north-mid front elevation



003 north-west front elevation



004 street view east



005 street view west



006 front door jamb/lintel stone detail



007 front window jamb/lintel stone detail



008 front window jamb/lintel stone detail



009 front north elevation  
cherry-cocking stone detail



010 front door jamb/cill/step stone detail

EXISTING - photo survey - internal/external ground & first floor images 001



011 east gable



012 east gable chimney



013 east gable



014 east gable



015 east gable - east elevation bathroom



016 south elevation bathroom



017 west elevation bathroom



018 south elevation kitchen



019 south elevation kitchen window  
concrete cill



020 south elevation & boundary to No 33



EXISTING - photo survey - internal/external ground & first floor images 001



021 south elevation - west chimney



022 east elevation garden store



023 north elevation garden store



024 east garden store window - steel



025 east garden store window inside - steel



026 west elevation inside garden store



027 south elevation inside garden store



028 east elevation inside garden store



029 north elevation inside garden store



030 south elevation garden store

EXISTING - photo survey - internal/external ground & first floor images 001



031 south elevation from garden



032 bathroom east/south elevation



033 bathroom north/east elevation



034 back lobby view south



035 east living room view south



036 east living room original gas fire back boiler during removal 2021



037 east living room original gas fire back boiler during removal 2021



038 east living room fireplace repairs during 2021



039 east living room fireplace repairs during 2021



040 east living room original slate hearth bed exposed during 2022 part made up of roofing slates



EXISTING - photo survey - internal/external ground & first floor images 001



041 west living room fireplace repairs during 2021



042 west living room fireplace opening removing 1930-50s surround during 2022



043 west living room fireplace opening removing stone fill during 2022



044 west living room fireplace opening removing stone fill during 2022



045 west living room fireplace reopened



046 west living room north front view



047 west living room fireplace opening removing stone fill during 2022



048 west living room rear/south wall original window blocked-up



049 front north entrance lobby view west



050 front north entrance lobby view south stair wall wallpaper layers

EXISTING - photo survey - ground floor images 001



051 kitchen view west



052 kitchen view east



053 kitchen view south



054 stair



055 stair winders



056 entrance lobby view east



EXISTING - photo survey - ground floor images 001



057 East bedroom - 1st floor removing tank housing to gable wall



058 East bedroom - 1st floor void behind tank housing to gable wall



059 East bedroom - 1st floor void behind tank housing to gable wall



060 first floor landing/passage/stair 2021



061 first floor landing/passage/stair removing partition wall 2021



062 first floor west bedroom 2022



063 first floor landing/passage/stair 2022



064 East bedroom - 2021



065 East bedroom - 2022

EXISTING - photo survey - ground floor images 001



066 void under kitchen floor



067 void under kitchen floor



068 kitchen wall clock



069 ground floor internal door pull handles



070 1st floor internal door lever handles



071 kitchen lamp shade



072 bedroom lamp shade



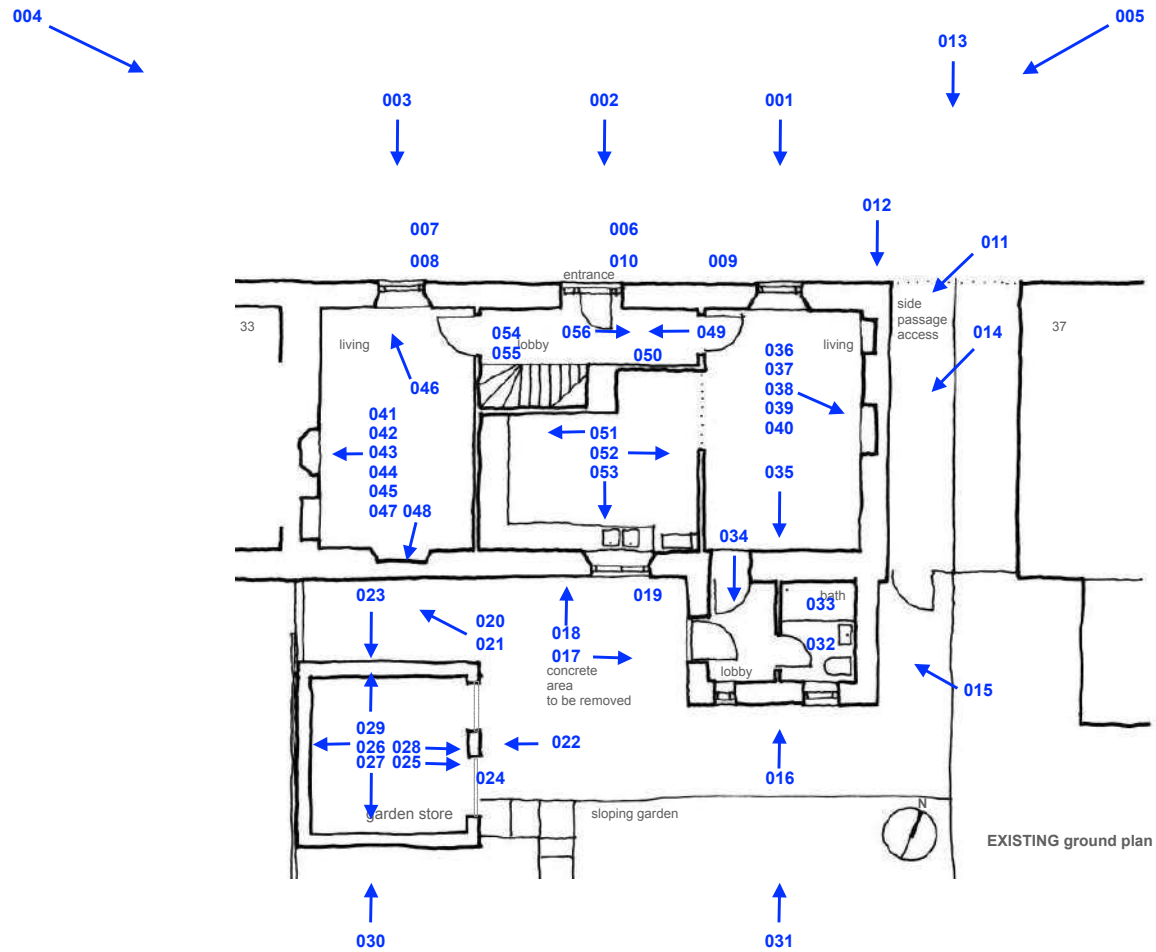
073 old postcards found behind east living room fire surround



075 original 1960's carpet found under east living room fire surround/hearth



076 cracked fireplace lintel to east living room fireplace

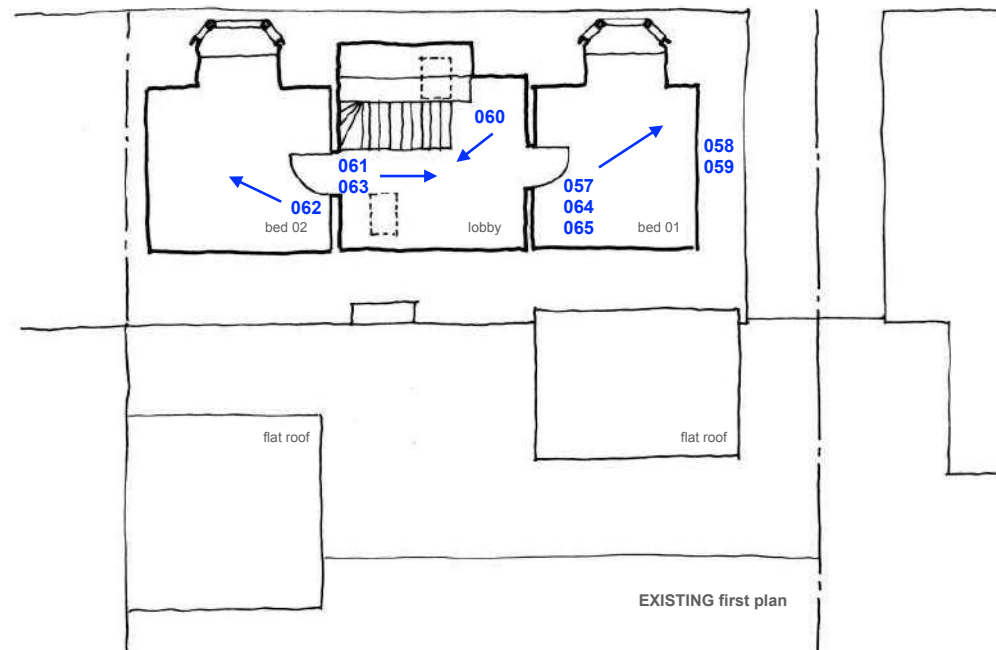




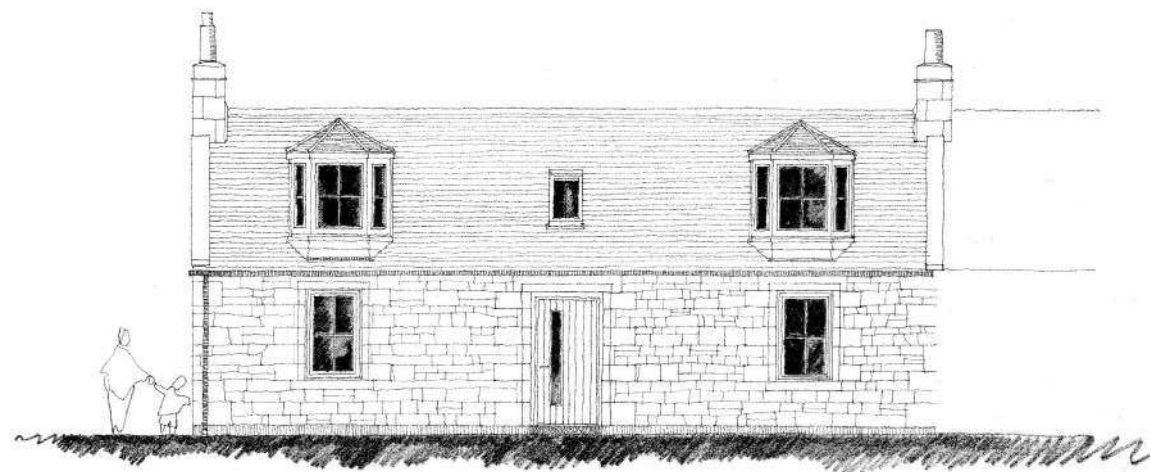
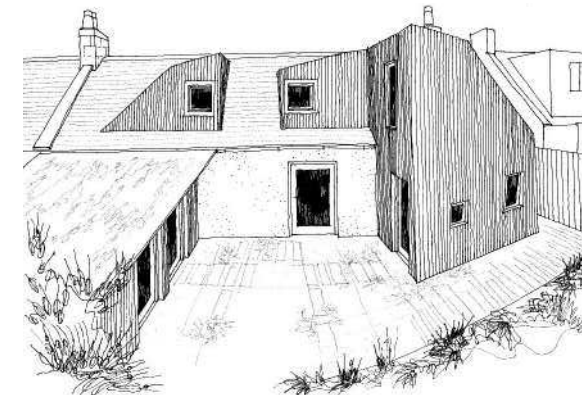
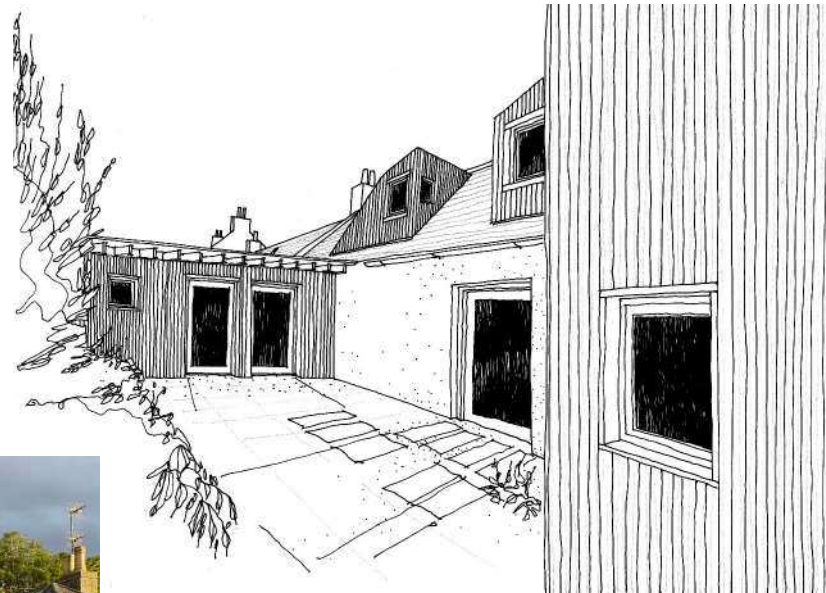
35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

EXISTING - photo survey - internal first floor plan 001

**NMD**©  
historic  
contemporary  
contextual







## PROPOSED - DESIGN STATEMENT context, historic mapping, intent & environment

### No 35 GORDON STREET Portgordon AB56 5QR





Portgordon





## INTENT

The intent is to alter and update the property, to provide an extra bedroom at ground floor to support multi generational accessible living, extend the roof level/first floor accommodation to improve head height and volume to the existing bedroom/living spaces and to extend the roof pitch over the flat roofed ground floor bathroom to create a first floor ensuite bathroom.

Overall a complete 21st C renovation of the building fabric, to highly insulate to near Passive Haus standards, damp proof the structure and create an environmentally friendly airtight envelope with an energy efficient wet underfloor heating system [UFH], married to well managed smart energy control, with the allowance for future incorporation of either heat pump technology or hydrogen ready heat generation.

The existing fabric and materials will be retained externally to the north Gordon Street Elevation there will be no outward alteration or physical changes.

## FAMILY living

The accommodation is to provide family accommodation for the applicant, to create a sensitive refurbishment of the existing spaces and with minimal new built footprint to improve the volume of living space, to let more light into the property, to nurture a healthy 21st C environment and to preserve the property for future generations.

## HERITAGE setting

It is important to the applicant to preserve the intrinsic character and qualities of this heritage [mid 1800's] dwelling but to also improve and contrast the new additions, to give an holistic response, that is not slavishly mimicking an historic style with a weak pastiche - but to offer strong yet sympathetic new forms. With embedded vernacular and historic references, whilst offering a contemporary response.

The form and character of the village is unique, as the settlement was a new community and a planned build by the Duke of Gordon' though not as formal as Tomintoul or Fochabers due to its geography on a relatively narrow foreshore strip. The creation of 'Port Gordon' linked the existing settlements of Gollachy and Port Tannachy.

With these modest interventions to the property, we are conscious that the proposals are contemporary - but respond to the here and now of the village and its flow through history.

## SETTLEMENT history & context

In the late 1700's Buckie was the principal fishing community on this local part of the coast. At that time fishing was by line, in boats no larger than 14 tons. Development locally of the industry was limited by the lack of proper harbours and disputes amongst the three owners of the various local boats.

One of these local owners, Alexander, 4th Duke of Gordon, decided to establish a new village, just to the west of the tiny community of Gollachy, which comprised but a few houses in the area that is now Gordon Street. Work was underway on the harbour by 1795 and stone was being shipped from Lossiemouth in 1796. In 1797 houses were built for ten fishermen and their families from Nether Buckie which resulted in the communities of Tannachy and Gollachy being joined together as Port Gordon [Portgordon].

Portgordon developed with other uses for the harbour other than purely fishing, with its developing growth and commercial advantage, it started exporting timber and quarry materials, overtaking Buckie in importance. The village thrived into the late 1800's and early 1900's. By the 1850s a post office had opened and there were many coopers, fish processors and net makers. By 1861 the population had grown to around 630. The opening of a fertiliser factory in Keith lead to traffic in bones through the harbour too. The harbour was also used for the export, from further inland, for timber and stone.

John Gordon of Cluny was the member of the Gordon family to build the 'modern' Gollachy part of Portgordon, at the east end of the village, the [applicant's] house/property at No 35 was still owned by the Gordon family and passed to his illegitimate son John, then the majority of Portgordon property ended up with his wife after his death 1878.

The house was built just before the railway was built, as it's shown on the 1870's plan proposals which the applicant has sourced from the National Record in Edinburgh - but not on the 1860's survey. Various routes were mooted for the coastal railway between Portsoy and Elgin with the route through the village being established by an Act of Parliament 1881 and following a line through the mid level of the coastal slope, avoiding most of the existing dwellings, though not requiring to climb to the higher ground to the south of the village. The railway has defined the southern limit of the property, with Gordon Street to the north.

With the railway planned in about 1845 and built and opened by 1886, as referenced in the searches in the title documents for the No 35 property.

In 1956 No 35 came into the family who the current owner/applicant purchased it from. The current dormer windows were added later and from internal structural inspection, noting the carpentry & machine sawn timbers/fixings dates them around c1900, this corresponds with the decline of fishing and artisan uses of the properties when predominantly the upper floor was used for storage. It's likely that the first floor accommodation became habitable space.

A boat-building industry began, and in the early 1900's local boat yards were ranged on the foreshore to the east of the harbour, first constructing Zulu's and from 1903 steam drifters. In 1907 one yard employed fifty men and launched a drifter every month or so - but this business in drifters had dried up by 1915, though the yard continued to produce salmon cobsles.

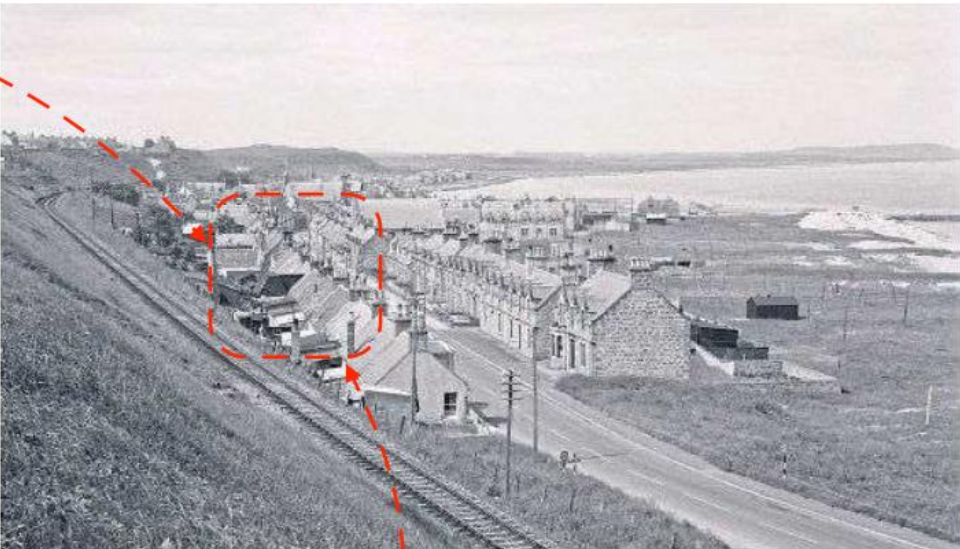
Since the 1960's there has been a steady decline in fishing & coastal industries, the village now has been occupied by families who draw occupations from a wider region, in the first part of the 21st C the village has seen people and families moving in from outside the local region, though the village is predominantly still owner occupiers, with only a very few holiday lettings or tourist related occupations.



map 1825-40's



Portgordon  
harbour view  
from west



context images views  
from east & south

photographs show earlier  
two storey mansard  
roofed outbuilding  
to the rear of 37/39



historic view of harbour  
illustrating groupings  
of ancillary sheds  
& workshops

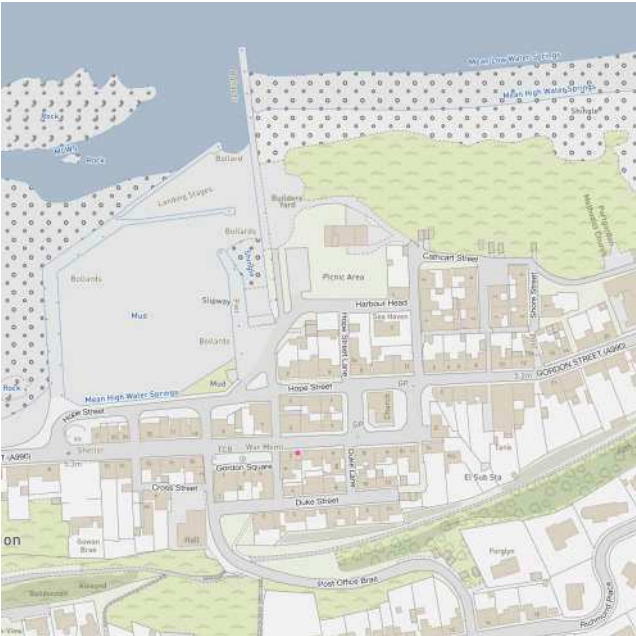


LISTED historic buildings locally

It is interesting that in the ‘fisher town’ of Portgordon there is only one listed building, as there are many good examples of heritage dwellings & structures, all with their own merit, that create the unique setting and character of this historic coastal settlement.

PORTGORDON 2 EAST HIGH STREET                      LB15522                      Category C

Date Added                      22/02/1972  
Local Authority                      Moray  
Planning Authority                      Moray  
Parish                      Rathven  
NGR                      NJ 39650 64244  
Coordinates                      339650, 864244



Description

Early 19th century. Single storey, 4-bay cottage with single bay return elevation to Gordon Square (W). Rendered rubble with later long and short detailing. Entrance with panelled door flanked by windows with varied glazing; blocked doorway in outer bay at right; single window in W elevation (to Gordon Square). Renewed brick end stacks; piended slate roof.

PORTGORDON, GOLLACHY ICE HOUSE                      LB15546                      Category B

Date Added                      25/04/1989  
Local Authority                      Moray  
Planning Authority                      Moray  
Parish                      Rathven  
NGR                      NJ 40260 64565  
Coordinates                      340260, 864565



Description

Earlier 19th century. Rectangular rubble ice house with long elevations E and W, and off-centre entrance in E. Modern pinkish harl. Piended turfed roof with blocked chute. Ramp at W leads from road to ice house at roof-height. INTERIOR: steps descend from doorway to ante-room (cool chamber) from whence a further doorway leads to single chambered vaulted ice house.

Statement of Special Interest - Unusual ice house in that it is sited on the shore and excavated rather than being built into side of hill. Restored by Moray District in 1970s.

Gollachy Ice House planning approval 17/00155/LBC

## ASSET nature & context

Whilst there are only two immediate Listed Buildings close to the applicants property and the village is not a Conservation Area, the heritage assets form this planned village and the inherent preserved history of the settlement, this places it equally with other historic settlements on the Moray Coast. It is relevant with new proposals for development to be conscious of the heritage setting, the quality of environment and the catalogue of vernacular properties that are a good record of the social and economic development along this immediate part of the coastal strip.

The applicants property is part of the latter construction of the eastern end of Gordon Street in the mid 1800's, the linear development of the Gollachy part of the village, built on the available land that is slightly higher than the foreshore with its naval uses and the abrupt coastal slope to the south, this slope was likely steepened at this eastern end of the village with the construction of the railway.

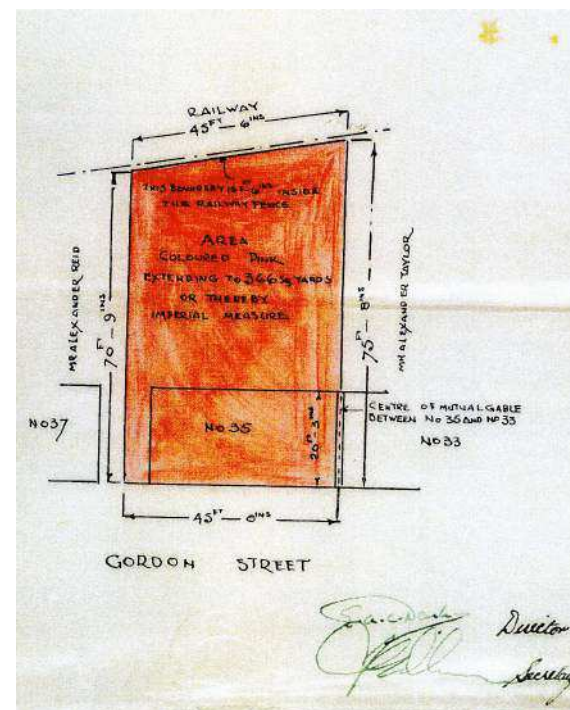
The original properties prior to the planning of railway on Gordon Street were likely to have been built in the first quarter of the 19th C, as the railway was at this point planned on the south side of the village at the top of the coastal slope - these properties we know through discussion with owners on Gordon Street, had longer gardens extending right up to the top of the coastal slope and to the rear of where it was, until more modern development, just farmland.

The gardens to the last 9 properties on the south side of Gordon Street from 33-49 were planned with shorter or no gardens [see the map/plan below] though its likely concurrent with the railway construction, as the land was all in the ownership of the Duke of Gordon gardens were bundled together, when the railway was built or later in 1956 when the land was sold by the benefactors of the Gordon Estate into private ownership. This indicates that the nature of the street and the land adjoining the property has altered little since the mid 1800's.

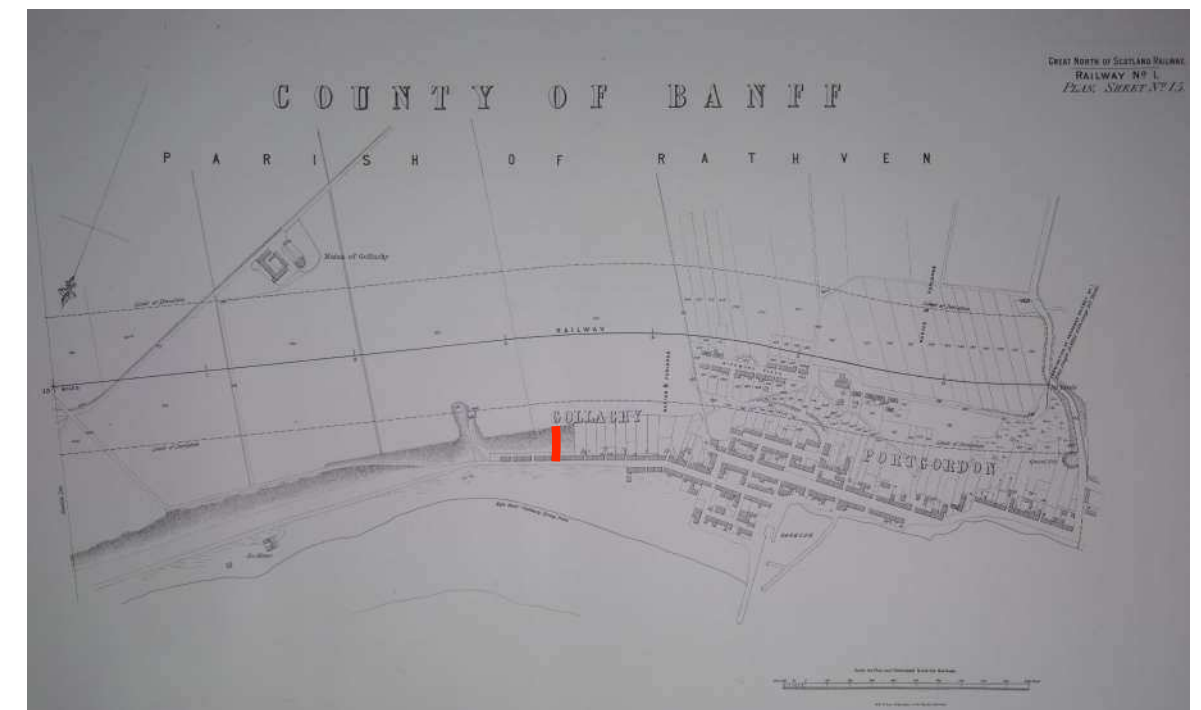
With the proposal we are conscious of the social & economic progression of the village and this design reflects the architectural history of the immediate area whilst also bringing to a fore the contemporary style and use for this property into the 21st C and beyond.



map 1902



legal document 1956



archive map pre Act Of Parliament for railway construction 1825-50



This historic dialogue is evidenced for properties along Gordon Street being used for the boat building and fishing industry. The photographs shown on the adjoining page 5, shows the property to the east of No 35., [No 37/39] had well into the 1950-60's a large sail/net loft or 2 storey workshop to the south. As a full two storey structure, it appears to be dark stained, presumably timber framed/planked building, with a steep mansard type roof and a flattened top. This style of building is typical of sail/net lofts from many east coast communities, where sails or nets could be rigged and stored vertically for repair and drying.

The photographs and mapping [pages 5-9] also show that previously the area to the south of the ribbon of symmetrical houses along Gordon Street, had many varied and different forms of outhouse and potentially ad-hoc dwellings/workshops, mostly on the flat low area before the coastal slope developing a tight and varied built form under the coastal slope.

Many of these forms and structures remain and more recently there has been a steady growth in new 'garden and workshop' ancillary buildings developed as adjuncts to the historic properties. Often these structures are single storey with flat or pitched roofing, though some are two storey. A strong relationship is established between the formality of the street frontage and back plot ancillary accommodation which creates varied and visually interesting variation in scale and forms within the tight village plots.

This is a typical character of the areas to the south of Gordon Street and the loose grid of dwellings closer to the harbour - historically there will have been more shed, workshops and storage buildings around the harbour [image page 5].

Some of the rear development to property along Gordon Street is attached to the existing houses or equally detached. Development has historically been tight on boundaries and parallel with neighbour structures. The aspect from dwellings is predominantly north and south with very little gable or boundary fenestration.

The images [on page 9] illustrate the close knit ad-hoc arrangements of the 'backland' structures and vernacular forms of roofscape, sheds and workshops, compared to the more formal linear character of the Gordon Street frontage, Hope Street and leading into east High Street East and Gordon Square to the south of the harbour. Despite the more formal planned nature of some of the historic villages, the true Moray character is made up with the ranges of cottages and by the varied scales around each property, vernacular forms and the loose development of ancillary buildings that is part of the predominance of the Moray village characteristics.

The growth of Portgordon within the topographical constraints and within the older part of the village beyond the ribbon layout, has to a greater extent been organic, built structures and forms of varying scale, one two and three storey sometimes with high pitched roofing and steep gables, these dwellings fill the spaces between the harbour shore, roadways and alleys.

Giving an intense footprint of buildings, that only dissipates suddenly to the east on the side of the foreshore, this is where the ownership of the land is that of the Crown and to the south where the village was ultimately confined by the railway.





The foreshore historically provided for boat building, the sheds and enclosures must have been transient as little on the historic map surveys records this industry. The now privately owned ranges of drying frames were apparent for fishing equipment and then more latterly used as communal washing lines - the immediate foreshore/access lane now provides for parking and access to the houses on the north side of Gordon Street - as the north side of the A990 roadway is not usually used for residential parking.

The houses on Gordon Street to the south use the street frontage for parking, the frontages of the dwellings stretching to +13m providing ample space for 2-3 vehicles outside each dwelling.

CONTEXTUAL vernacular precedents



Tannachy - out buildings



Gordon Street - outbuildings



Kingston - outbuildings



Spey Bay - varied forms & outbuildings



Kingston WW2 vernacular



Portgordon varied roofscape



Portgordon varied roofscape



Gordon Street view west



No 35 & 37



Tannachy varied forms



Kingston - monopitch



CONTEXTUAL contemporary precedents



West Bank GARMOUTH  
18/00843/APP

incongruous modern box  
dormer to front elevation



130 Seatown CULLEN  
15/02162/APP

modern well designed two  
storey addition to dwelling  
in Conservation Area



Lennox Brae FOCHABERS  
17/00907/APP

modern replacement  
dwelling - well  
designed form and  
context in  
Speyside setting



Dalmunach Distillery STRATHSPEY

large contemporay  
structure in rural  
open setting contextual forms  
relating to historic vernacular

© Norr Design



Strone Cottage NEWTONMORE

contemporary refurbishment &  
extension of existing croft  
exemplary modern building  
within Cairngorm National Park

© Loader Monteith



## **NEW BUILD intent**

The intent is to alter and update the property, to provide an extra bedroom at ground floor to support multi generational accessible living, extend the roof level/first floor accommodation to improve head height and volume to the existing bedroom/living spaces and to extend the roof pitch over the flat roofed ground floor bathroom to create a first floor ensuite bathroom.

Overall a complete 21st C renovation of the building fabric, to highly insulate to near Passive Haus standards, damp proof the structure and create an environmentally friendly airtight envelope with an energy efficient wet underfloor heating system [UFH], married to well managed smart energy control, with the allowance for future incorporation of either heat pump technology or hydrogen heat source generation.

## **VISUAL and local amenity**

The existing fabric and materials will be retained externally to the north Gordon Street Elevation there will be no outward alteration or physical changes. The intent is to be contemporary both in the arrangement of the dwelling and also in the visual aspects of the new additions to the south/rear.

Contextually the intent for the new build rear/south additions, is to carefully moderate the scale and form, the roof level additions are to be built within the roof and to reuse the existing slate for the new pitches, the 'dormer' window arrangements are to be varied pitched forms, with a shallow pitched capping in standing seam zinc or folded aluminium sheet. The new wall cladding is to be a crisp dark stained larch boarding, whilst window openings are to be contrasted with natural coloured timber edge framing - these are all vernacular features, reinterpreted and expressed in a contemporary form - the pitched roofing moves away from the plethora of awkward 'box dormers' dotted around the village on historic properties, here we intend for the scale of the additions to create a comfortable dialogue with the host dwelling, respecting the form and mass, not to be over bearing, creating additions which are obviously 'of a time' and visually pleasing but secondary to the host form.

Looking into the site from neighbours the aspect of the new forms will be pitched slate roofing reusing the small format natural slates, longer views into the dwelling from the south are from the higher ground of the old railway/coastal trail, this aspect is physically separated from the public domain by a 1.5m earth bund and currently low 1.2m boundary fence, reinforcing the separation of the property from public areas. Mature planting in the garden area breaks up any direct views of or into the the property. The partial views of the additions that can be seen from the neighbours and the public realm will be visually interesting and protect amenity.

Non of the new first floor windows overlook the neighbours private amenity and the window facing west from the first floor ensuite bathroom is to have obscured glass.

The flat roof over the SE bathroom addition is removed by building over with a 'within the roof' two storey [inc. the roof] pitched roof addition, this form sits below the existing ridge and only extends over the existing footprint of the bathroom.

The flat roofed garden store to the SW is to be rebuilt utilising only the existing footprint and volume, it is to be joined to the main house, building over the void and filling the space and minor opening to No 33, the new build footprint proposed here is c6.5sm in total [1.8x3.6m] and 2.4m high to the gutter line.

This existing partial boundary opening is currently screened by the No 33 garden fence which is at a higher elevation and the lower cement rendered boundary wall to No 35 - the height of this link will be below the gutter line and contiguous with the existing storeroom height.

It should be noted that building on boundaries with single storey adjuncts are typical of the Portgordon plots, with a recent large scale infill at No 17 Gordon Street [18/00193/APP], adding a two storey extension on the boundary, in contemporary style with a distinctive mono pitch roof. Closing this boundary gap to the east of No 33 will have little detriment to amenity and increase privacy.

The neighbour to the west at No 33 has now constructed a garden extension structure, single storey under Permitted Development [PD], other than the extension over the bathroom at No 35, the other proposed works to provide the roof dormers and the garden store rebuild, would all have been permitted under PD. We do not consider the proposals reduce visual or domestic amenity of neighbours. The neighbour at No 37 to the east has a large box dormer the length of the property, the new roof pitch over the bathroom at No 35 screens any direct views from No 37.

## CONTEXT for the design

The proposals relate to the examples of vernacular forms and secondary adjuncts to dwellings found locally around Portgordon and in the immediate coastal vicinity.

The dark stained timber and simple recessed window and door openings are typical of the extensions, sheds and workshops found along the coast [see page 9-10], varied heights and massing are typical of additions to the historic dwellings, varied roof pitches and contrasting use of materials are reflected in many of the coastal villages.

We have chosen forms that reflect the sheds and additions to older dwellings - but we have with crisp architectural detail and careful selection of materials, attempted to design a response that is 21st C, whilst borrowing its lead from history. The additions will be subtle and secondary to the host dwelling, of a scale and form that marries well in local context and built in a manner that weathers well and requires simple yet minimal maintenance.

The contrast of stained timber, sheet metal with simple and defined openings all features that have a contemporary vernacular dialogue, whilst reflecting the history of build techniques and the locally sourced and used materials. The forms are subtle, visually interesting - but not so overt as to contrast awkwardly in the neighbourhood.

## MATERIALS and build

We have spent time sourcing windows and doors in particular, we do not specify, where possible plastics in our builds, this is paramount in window and door specification, we feel it is important to use window and door units that in their detail and function give a strong visual reference and contribute to the overall quality of the project.

The proposal is to replace windows with the traditional format and proportion of casement timber windows with a natural low gloss paint finish, to pick-up on the existing local heritage style and forms, whilst ensuring a contemporary unit is used that provides the best performance, style and eco credentials.

We have a track record of over 25 years working with high performance triple glazed factory painted, authentic 'Scandinavian' style windows. We propose a traditional style and construction of casement sash window, available in high quality sustainably sourced laminated SW timber framing, with a low gloss self coloured aluminium skin externally.

Narrow traditional format 24 mm glazing bars maintain the heritage style, as well as being low maintenance long-lasting windows - high quality crafted windows that are CE-marked, using FSC timber - guarantee of energy performance - with a cottage window style, this is a rare proposition



Designed to provide an effective barrier against inclement Scandinavian weather, a triple- glazed argon filled window unit is one of the best solutions available. It allows us to strike the balance between a light-filled home with views of the outdoors, and one that will stay warm and cosy throughout the chilliest of winters - in addition to impressively low U-values 1.0 or better, the low-maintenance outer-face gives great performance for years to come with minimal upkeep. The solid timber core of the windows means they score high in terms of acoustic and thermal performance whilst looking good.

The new structures to the rear/south side of the house will be highly insulated timber frame panels, clad vertically in locally sourced T&G smooth sawn larch, tightly jointed. Dark stained with black Sadolin Extra a low sheen high performance low maintenance opaque wood stain - this form is redolent of the vernacular vertical plank on plank boarding found in the coastal buildings along the Moray coast.

The shape of the roof extension and the build-up over the bathroom reflects previously the neighbour structure of the workshops, net and sail lofts [page 5], tar painted, board on board cladding, bluff facades and sculptural yet functional built form.

Through the Pre App discussion and understanding the new 'Local Plan' guidance, we know there is a move away from the plethora of applied 'box dormers', in some cases there are good examples though often these additions are awkward and out of scale with the host dwelling [page 10].

The proposal with the redevelopment of No 35 is to bring a heritage asset back to good repair and to upgrade the scope of the accommodation and renew the fabric to foster a good 21st Century living environment.

The property had until mid 2021 been empty since 2019, there had been only minor upgrading in the last decade, with a grant funded basic central heating system, plastic UPVC windows and a plastic lined wetroom/accessible bathroom installed for an elderly occupant.

The scope of the accommodation is dated and largely unchanged in the layout from the early 1900's. The property is by today's standards poorly insulated and has a relatively primitive heating system with very limited management/control not conducive to energy efficient comfortable 21st C living.

The intent is to complete an invasive refurbishment, strip and remove wet/dry rot and all deleterious material. Currently the ground floor timber floor joist structures sit within the sand & gravel of the foreshore, there is no damp proofing. The dwelling structure is of solid sandstone walling, this typically the lowland Moray outcrop sandstones of Upper Old Red Sandstone age, which were widely quarried along the ridges from Alves to Elgin, with very large workings at Newton and in Quarry Wood.

This stone is creamy yellow to pale pink in colour and the textures vary from pebbly, through gritty to fine-grained varieties. Externally the higher quality fine grained dressed sandstone is used around openings to the north, whilst internally the softer [cheaper] pinker sandstone rubble walling is predominant.

Externally the bays of north facing walling are courses of mis-shapen random or field rubble, that are infilled or caulked with smaller pieces, locally known as 'cherry-cocking'. This is a very old practice which has continued well into this century. Amongst early examples are the walls enclosing the garden at medieval Pluscarden Abbey and the park walls at Rothiemay House, occupying the site of Rothiemay Castle.

The intent is to re point the external walling with a lime/grit mortar, the rendered areas of walling to the east/south will be retained as they are in good condition.

Typically internally the walls are dry lined/battened in hardboard/plasterboard, with the original roof structure slated/boarded over a heavy 'A' frame rafter and floor joist, half lapped joints and skew nailed. The low slate pitched dormer faceted windows are from the early 1900's and cut through the roof frame structure and extend into what was formerly roof void. The staircase and ground floor partitions are relatively modern and plasterboard.

The interior will be stripped out, new dry lining to the walls with near Passive House insulation installed, floors removed and excavated and relaid with damp proof tanking, insulation and a wet underfloor heating system run off either an air source heat pump or eventually a hydrogen ready boiler system. The upper floor will see the roof stripped internally and insulated to the same high standards, vapour barriers installed and relined. The existing roof is to be relayed with the existing slates with reclaimed matching slate to replace/add-to as required.

**ENVIRONMENT low embodied carbon - principles of design**

NMD only specify natural and sustainably sourced materials, we tend not to specify first use plastics where possible, preferring recycled building products reusing plastics, polyester and natural materials, we don't use plastics in situations where they can degrade and breakdown into micro particles or give off toxic gaseous emissions that cause illness, pollute living environments and the natural environment.

We look to buildings to be very low maintenance, minimise intensive maintenance like repainting, this reduces the breakdown of deleterious materials into the environment - as such specifying natural materials that need little or no protection with products like solvent based paints or stain coatings:

- We often use Larch from sustainable local sources, which akin to Cedar when used where it is properly detailed, has a 90+ year design life and carries a very low embodied carbon.
- We frequently use Sheep wool insulation, which is a grass fed natural grown organic material, this uses a material that is now virtually a 'modern waste product' - in use it absorbs toxins and locks them away, it filters moisture and dries out structures naturally and is one of the only high performance 'quilt' like insulants that has a very high insulating value when damp. It is not an irritant when being installed and has a design life when correctly installed in excess of 100 years.
- Recycled polyester insulation married to recycled plasticised aluminium foil membranes, create a high performance airtight 'thin layer' quilt, that also acts as a vapour barrier and providing internal waterproofing to solid masonry structures - with a 70+ yr life.
- Recycled slate for roofing repairs is a material with a design life that is almost infinite, within a correct traditional installation - very low in embodied carbon.
- We minimise concrete/cement use and maximise use of natural lime/sand mortars.
- We minimise blown gas slab insulant slab use, only using it 'sealed' within structures to prevent the breakdown of the material and release of deleterious toxic gases into living spaces.
- We do not specify any products with embedded formaldehyde or solvents.
- We limit the use of gypsum products.
- When we specify aluminium and steel - it has long life galvanised or powder coat finishes - used in shallow pitch roofing and/or preformed gutter and downpipes.
- We only specify smart heating systems - designing dwellings to be close to Passiv Haus standards, energy systems that are 'hydrogen ready' or run from bio source materials or heat pumps and MHVR systems with smart user friendly control systems collect and recycle heat.
- All our dwelling designs rely on natural ventilation patterns.
- We design all buildings to maximise natural daylighting to provide a good natural living environment for all seasons.
- We specify argon filled energy coated triple glazing, in aluminium skinned natural timber framed windows, low maintenance and high eco performance - also offering high security and good acoustic insulation. The units generally have a minimum 75 yr design life and are warrantied for 25 yrs.
- We only install LED lighting with dimming and temperature control 'app' operated smart systems to manage switching periods.
- We source the majority of build elements local to the build site, to reduce embodied carbon, minimise vehicle movements and to support small local business & economy.



- We design build programmes to minimise local disruption with a zero tolerance on emissions of dust and dirt, we design in working practice on site to create clean safe working environments.
- We do not use suppliers or practises that support 'modern day slavery', we do not source materials from parts of the world or regimes where the environment, human rights and basic freedoms are not respected.
- Already No. 35 is zero fossil fuel - it only uses wind/solar source electricity and renewable bio gas.
- We incorporate where possible 'flat-roof' Sedum Turf planting or similar, to foster bio diversity and modify surface run-off to reduce local flash flood drainage issues. We minimise hard surfaces to reduce surface run-off and incorporate natural ground percolation for managing storm water/surface water and flash flooding.

#### **DRAINAGE SUDs - reduction in surface water run-off**

The scheme overall improves surface water run-off and reduces the amount of hard surface drainage going to the local drainage system and modifies peak rainfall drainage from flat roof areas by introducing Sedum Turf that slows surface storm water surge run-off.

The run-off currently from pitched, flat roofing and concrete areas is collected by gutters, RWP's and back inlet gullies, that drain to the combined sewerage/rainwater system locally in the village.

Currently the house and garden store has a combined plan footprint of 102sm, the link addition between the house and store will add 6.5sm, a 6% increase in 'built over' area for this development.

Though this is tempered by the intended removal of the south side concrete forecourt in the garden, this is to be replaced with a free draining gravel area, allowing a natural soak-away into the ground for these external amenity areas, this is an area of 35.5sm [equivalent to 33% of the building footprint], by removing this concrete area, we reduce the drained surface area going to surface water run-off and the existing drainage system by 24%.

A gross mitigation of a **reduction of 24%** surface area rainwater to the drainage system.

#### **HIGHWAYS sustainable access & parking**

The dwelling is served locally by the Inverness to Aberdeen No 35 bus route within some 20m of the front access door on Gordon Street, this links the village directly on a near hourly basis from 5.00am-11.pm daily Mon-Sat and 10.30am-11.00pm Sundays, this system allows connections to mainline railway stations in Elgin, Inverness, Aberdeen and local points in-between. And allows bus links from Elgin, Inverness & Nairn direct to Inverness Airport. This allows sustainable access to local, regional and national access to education, healthcare, retail outlets, employment and leisure opportunities.

Parking is available on the south side of Gordon Street, with nominal 2-3 spaces per dwelling, with north side Gordon Street residents having private off road parking behind their properties on the north side foreshore lane or within their own garden forecourts. There is also availability of extra visitor parking within 300m, at the 'free-use' harbour car park.

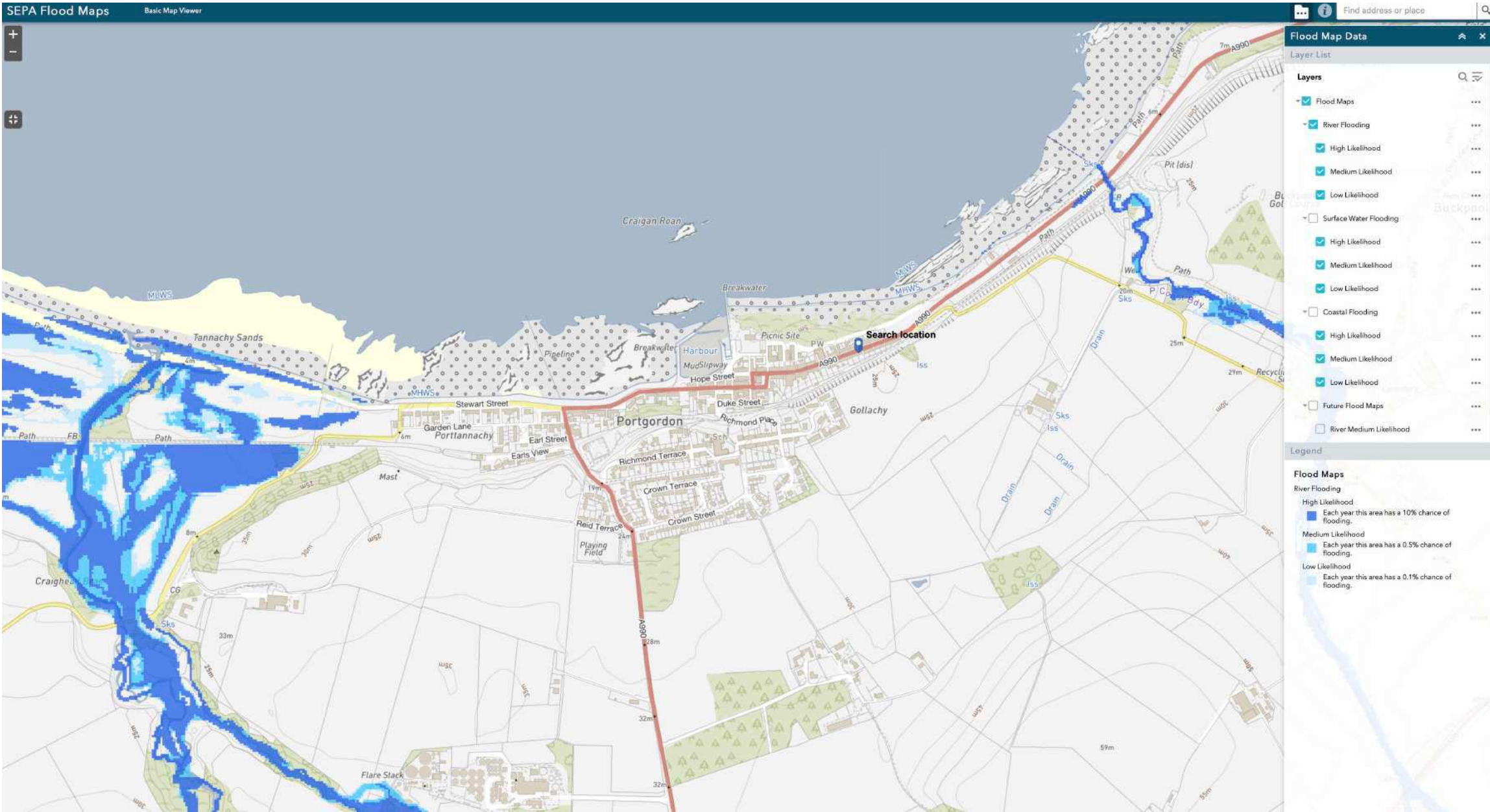
**FLOOD risk** - non for applicant site - even with predicted 1m level increases for coastal flooding/surges as the property sits 5.5m above the high tide level

COASTAL flood risk

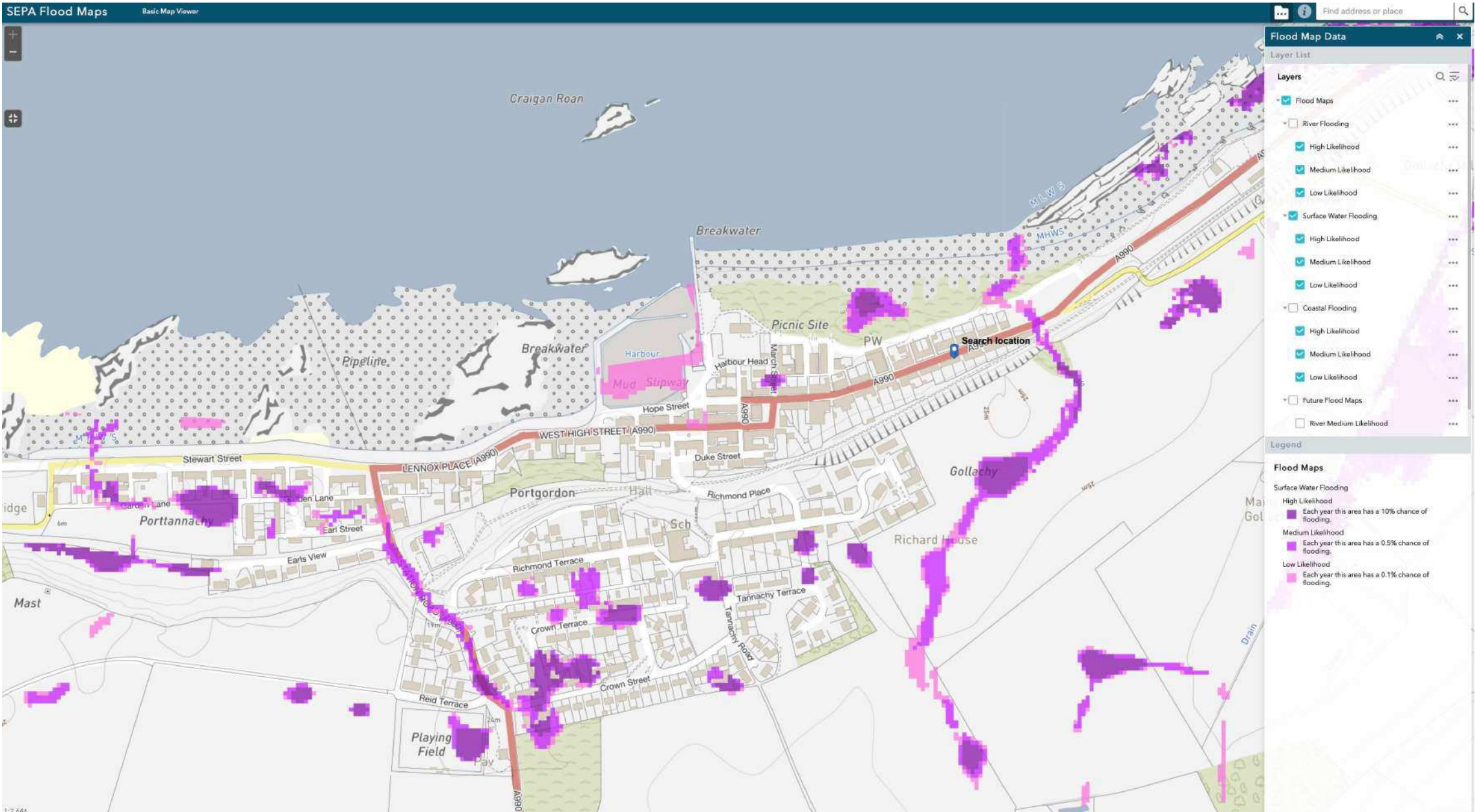


RIVER flood risk





SURFACE water flood risk



**IMPACT on the asset positive outcomes**

All the intent is to improve upon the status quo, to add to the longevity of the property with a sustainable, workable, contextual renovation and maintenance programme, that is easy to carry forward enhancing the accommodation for modern living.



Whilst retaining in balance an historic perspective - with the intact heritage assets along Gordon Street and within the historic setting of the village and in the wider aspect of the Moray coastal area.

This dwelling is an important part of the village - in the here and now, historically and in the future - by developing this property to foster renewed use and life for the 21st C, we can preserve historic features, the vernacular detail and character, making sure that for generations to come, that the village of Portgordon and the context of the setting is enhanced and preserved.

#### FEEDBACK 21/01027/PEHOU in blue NMD response from Pre App

- As a semi-detached property due regard must be given to neighbouring residential amenity. It is recommended that any future planning application provide details of any overshadowing analysis undertaken as part of the proposal development. Whilst the presence of the high boundary fence is noted, the proposed ground floor link lobby will effectively enclose an existing gap to the proposed downstairs studio/bedroom.
  - The neighbour at 33 has started a Permitted Development ground floor single storey extension across the rear/south of their property - this occupies a larger area than the proposal at 35, it is at a similar height to our proposal, the gap between 33 & 35 and the aspect of over looking and/or over bearing will be mitigated by the side/boundary with both properties being largely unaltered as there is already a tall fence, as shown on the design information, closing most of the boundary on the side of No 33, our extension/infill is the same height as the existing outbuilding and lower than the fence at 2.4m.
- The contemporary design proposed is recognised and understood, however, reference is drawn to part g of the policy which highlights that pitched roofs will be preferred to flat roofs and box dormers are not acceptable. In light of this parts of the design could be reconsidered, albeit it is recognised that the flat roof on to the adjoining property serves to limit the height of that part of the development and incorporates a living/green roof which could bring bio diversity benefits. It is also acknowledged that flat roofs are already present at the property. In terms of the policy wording it is ultimately box dormers which are not permissible under the terms of the policy, and could be addressed by deploying a shallow downward pitch to the single box dormer window.
  - We acknowledge the 'DP1' we have amended the original design and copy here the intent to only have **pitched roofing** - we now have more detail measured survey information for the property and the proposed new roof pitch to the 'top' of the proposed roof adjuncts, serves to create adequate 'head room' internally and incorporate pitched roof extensions, whilst also maintaining the roof extensions well below the existing ridge, we have spaced out the roof interventions and removed the plain box dormer from the Pre App proposal. The intent is to form this volume as an asymmetrical slate roofed, pitched dormer - picking up on the form of our contemporary design theme, the dormer proposals now marry the design intent with the extension at first floor to the east over the bathroom - we read that the Pre App response has broad policy support for these contemporary forms and materials.
- The materials suit the design proposed and would likely sit well as part of the overall contemporary design alongside the existing property given the use of slate roof tiles to tie the extension into the existing roof.
- The proposal is proposals a contemporary intervention to a traditional property and an overall scale which would appear appropriate to the existing property, there would appear to be scope to alter the proposal to comply more readily with Policy DP1 part g.
  - Noted

Transportation comments:

This proposal is for alterations and extension to an existing dwelling and does not trigger the requirement to provide additional parking.

Note - Parking is on- street only and there is an informal agreement in place between

the property owners to park only on the northern side of Gordon Street.

No alterations are proposed to the existing entrance doorway onto Gordon Street. Transportation would therefore have no objections to the proposal.

The property owners on the north side of Gordon Street invariably use the open access lane to foreshore in the the north and park within or behind the properties on private land - there is no intensity of parking on the south side of Gordon Street and frontages of properties are usually in the applicants section of the neighbourhood of c14.5m giving ample space for upto 3 vehicles parallel parked.

All applications must make provision for surface water drainage and this means that all applications must be supported by a drainage statement which details and evidences the drainage design proposed. More information can be found on the Supplementary Guidance for all developments on drainage design and flood risk:

The intent with the reduced run-off of storm water by incorporating sedum roof turf planting is also to remove the concrete hard standing to the rear/south of the property with free draining ground build-up - this reduces surface run-off and reliance on surface water drainage this removes 24% of the existing areas relying on drainage services.

In all there will be a reduction in surface run-off by 24% due to this design mitigation for handling surface water and there will be a reduction in surface water going to the existing top water drainage system in the village.

Design Statement to support the contemporary design

This document embraces the 'Design & Access Statement' which explains the rationale of the acces, living, form of the design and submission in the context of the location and planning policy

## **POLICY sources** particular relevance in blue

Moray Local Development Plan 2020

PP1 Placemaking

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:

### **(i) Character and Identity**

Create places that are distinctive to prevent homogenous 'anywhere' development;

Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;

Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such

as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development

PP1 Placemaking supports the Scottish Government's aims to create healthy places through high quality design and ensure that Moray remains an attractive place to live and work, and encouraging inward investment and economic development opportunities.

#### DP1 Development Principles

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

#### (i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be

submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.

- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

**(ii) Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.

Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.

The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.

The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;

Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

**(iii) Water environment, pollution, contamination**

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

**Justification/ Notes**

The policy sets out detailed criteria to ensure that proposals meet siting, design and servicing requirements, provide sustainable drainage arrangements and avoid any adverse effects on environmental interests.

Adopted Moray Council Supplementary Planning Guidance

Accessible Housing Affordable Housing

This policy refers mostly to wheelchair accessible housing - the proposal here whilst not a new build have at various points single steps for access and internally - the main intent has been to create a fully ambulant disabled ground floor private bedroom with an adjacent walk/roll-in wet room shower area in a private lobby that can be screened from the living area.

## Scottish Planning Policy and Guidance

NPF 4 broadly refers policy back to regional Local Plans as does:

## Scottish Planning Policy (SPP)

### Purpose

i. The purpose of the SPP is to set out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development<sup>[1]</sup> and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

### Status

ii. The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. It is non-statutory. However, Section 3D of the Town and Country Planning (Scotland) 1997 Act requires that functions relating to the preparation of the National Planning Framework by Scottish Ministers and development plans by planning authorities must be exercised with the objective of contributing to **sustainable development**. Under the Act, Scottish Ministers are able to issue guidance on this requirement to which planning authorities must have regard. The Principal Policy on Sustainability is guidance under section 3E of the Act.

iii. The 1997 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. As a statement of Ministers' priorities the content of the SPP is a material consideration that carries significant weight, though it is for the decision-maker to determine the appropriate weight in each case. Where development plans and proposals accord with this SPP, their progress through the planning system should be smoother.

iv. The SPP sits alongside the following Scottish Government planning policy documents:

- the [National Planning Framework](#) (NPF)<sup>[2]</sup>, which provides a statutory framework for Scotland's long-term spatial development. The NPF sets out the Scottish Government's spatial development priorities for the next 20 to 30 years. The SPP sets out policy that will help to deliver the objectives of the NPF;
- [Creating Places](#)<sup>[3]</sup>, the policy statement on architecture and place, which contains policies and guidance on the importance of architecture and design;
- [Designing Streets](#)<sup>[4]</sup>, which is a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
- [Circulars](#)<sup>[5]</sup>, which contain policy on the implementation of legislation or procedures.  
Circulars



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	10th August 2022
<b>Planning Authority Reference</b>	22/01066/APP
<b>Nature of Proposal (Description)</b>	Alter and extend dwellinghouse at
<b>Site</b>	35 Gordon Street Portgordon Buckie Moray AB56 5QR
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133029837
<b>Proposal Location Easting</b>	339940
<b>Proposal Location Northing</b>	864334
<b>Area of application site (M<sup>2</sup>)</b>	
<b>Additional Comment</b>	
<b>Development Hierarchy Level</b>	LOCAL
<b>Supporting Documentation URL</b>	<a href="https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=RFCWQTBGH9N00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=RFCWQTBGH9N00</a>
<b>Previous Application</b>	
<b>Date of Consultation</b>	27th July 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Ms Claire Lambert
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	35 Gordon Street Portgordon Buckie Moray AB56 5QR
<b>Agent Name</b>	Nick Midgley Design
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	Feral Studios Wellington Mills Quebec Street Elland Hx5 9AS
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Fiona Olsen
<b>Case Officer Phone number</b>	01343 563189
<b>Case Officer email address</b>	fiona.olsen@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk



**NOTE:**

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

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

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

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

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

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

Please respond using the attached form:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No:** 22/01066/APP

**Alter and extend dwellinghouse at 35 Gordon Street Portgordon Buckie Moray for Ms Claire Lambert**

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"/>            |

*This proposal is for an extension to an existing property which does not trigger the requirement to provide additional parking. No off street parking presently exists or is proposed; and no alterations are proposed to the existing frontage. Transportation has no objections to the proposal.*

#### **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.

It should be highlighted that an informal agreement is in place between the property owners within this localised area, to park only on the northern side of Gordon Street.

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: AG**

**Date 29 July 2022**

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

**Consultee: TRANSPORTATION**

**Return response to**

**[consultation.planning@moray.gov.uk](mailto: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 22/01066/APP**

## **Application Summary**

Application Number: 22/01066/APP

Address: 35 Gordon Street Portgordon Buckie Moray AB56 5QR

Proposal: Alter and extend dwellinghouse at

Case Officer: Fiona Olsen

## **Consultee Details**

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally



**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Moray Flood Risk Management

**Planning Application Ref. No:** 22/01066/APP

**Alter and extend dwellinghouse at 35 Gordon Street Portgordon Buckie Moray for Ms Claire Lambert**

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

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

<b>Contact:</b>	Javier Cruz	<b>Date.....</b> 02/08/2022
<b>email address:</b>	Javier.cruz@moray.gov.uk	<b>Phone No .....</b>
<b>Consultee:</b>	The Moray Council, Flood Risk Management	





**From:** Tracey Dickieson <Tracey.Dickieson@moray.gov.uk>  
**Sent:** 09 Aug 2022 09:18:44  
**To:** DMSMyEmail@moray.gov.uk  
**Cc:**  
**Subject:** FW: Application 22/01066/APP - Archaeology comments  
**Attachments:**

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**From:** Claire Herbert <[claire.herbert@aberdeenshire.gov.uk](mailto:claire.herbert@aberdeenshire.gov.uk)>  
**Sent:** 08 August 2022 14:09  
**To:** Fiona Olsen <[Fiona.Olsen@moray.gov.uk](mailto:Fiona.Olsen@moray.gov.uk)>; Planning Consultation <[consultation.planning@moray.gov.uk](mailto:consultation.planning@moray.gov.uk)>  
**Subject:** Application 22/01066/APP - Archaeology comments

**Warning. This email contains web links and originates from outside of the Moray Council network. You should only click on these links if you are certain that the email is genuine and the content is safe.**

**Planning Reference:** 22/01066/APP  
**Case Officer Name:** Fiona Olsen  
**Proposal:** Alter and extend dwellinghouse  
**Site Address:** 35 Gordon Street Portgordon Buckie Moray  
**Site Post Code:** AB56 5QR  
**Grid Reference:** NJ 3994 6432

Having considered the above application, which affects a house dating to the 19th Century located within the historic core of Portgordon (Moray HER NJ36SE0137), I would ask that the following condition is applied:

***Photographic survey***

*No demolition or any other works in connection with the development hereby approved shall commence unless a photographic survey of the existing buildings and structures on the application site has been submitted to and approved in writing by the planning authority. All external and internal elevations of the buildings and structures together with the setting of the buildings and structures and any unusual features of the existing buildings and structures shall be photographed. The photographic viewpoints must be clearly annotated on a plan to accompany the survey. The photographs and plan must be in a digital format and must be clearly marked with the planning reference number.*

***Reason: To ensure that a historic record of the building is made for inclusion in the National Monuments Record for Scotland and in the local Sites and Monuments Record.***

Should you have any comments or queries regarding the above, please do not hesitate to contact me.

Kind regards,  
Claire

**Claire Herbert MA(Hons) MA MCIfA**

**Archaeologist**

Archaeology Service, Planning and Economy, Environment and Infrastructure Services  
Aberdeenshire Council

T: 01467 537717

E: [Claire.herbert@aberdeenshire.gov.uk](mailto:Claire.herbert@aberdeenshire.gov.uk)

W: <https://www.aberdeenshire.gov.uk/leisure-sport-and-culture/archaeology>

Search the Historic Environment Record: <https://online.aberdeenshire.gov.uk/smrpub>

***Archaeology Service for Aberdeenshire, Moray, Angus & Aberdeen City Councils***

Your feedback is important to us and helps us to improve our service – we value your [comments](#).

**Explore the historic environment - find and follow the Archaeology Service on social media:**

*Instagram:* [https://www.instagram.com/abshire\\_archaeology](https://www.instagram.com/abshire_archaeology)

*Twitter:* [https://twitter.com/AbshireArch\\_CH/](https://twitter.com/AbshireArch_CH/)

*YouTube:* <https://www.youtube.com/channel/UCI3fCWk-cwaN2Nj1G0BkHPg>

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This e-mail may contain privileged information intended solely for the use of the individual to whom it is addressed. If you have received this e-mail in error, please accept our apologies and notify the sender, deleting the e-mail afterwards. Any views or opinions presented are solely those of the e-mail's author and do not necessarily represent those of Aberdeenshire Council.

Dh'fhaodadh fiosrachadh sochaire, a tha a-mhàin airson an neach gu bheil am post-dealain air a chur, a bhith an seo. Ma tha thu air am post-dealain fhaighinn mar mhearachd, gabh ar leisgeul agus cuir fios chun an neach a chuir am post-dealain agus dubh às am post-dealain an dèidh sin. 'S e beachdan an neach a chuir am post-dealain a tha ann an gin sam bith a thèid a chur an cèill agus chan eil e a' ciallachadh gu bheil iad a' riochdachadh beachdan Chomhairle Shiorrachd Obar Dheathain.

[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

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## **REPORT OF HANDLING**

<b>Ref No:</b>	22/01066/APP	<b>Officer:</b>	Fiona Olsen
<b>Proposal Description/ Address</b>	Alter and extend dwellinghouse at 35 Gordon Street Portgordon Buckie Moray		
<b>Date:</b>	30.09.2022	<b>Typist Initials:</b>	LMC

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

<b>CONSULTATIONS</b>		
Consultee	Date Returned	Summary of Response
Aberdeenshire Council Archaeology Service	08/08/22	No Objections
Contaminated Land	01/08/22	No Objections
Transportation Manager	29/07/22	No Objections subject to informatives
Moray Flood Risk Management	02/08/22	No Objections

<b>DEVELOPMENT PLAN POLICY</b>		
Policies	Dep	Any Comments (or refer to Observations below)
PP1 Placemaking	N	Complies
PP2 Sustainable Economic Growth	N	Complies
PP3 Infrastructure and Services	N	Complies
DP1 Development Principles	Y	See below
EP8 Historic Environment	N	Complies
EP12 Management and Enhancement Water	N	Complies
EP13 Foul Drainage	N	Complies
EP14 Pollution Contamination Hazards	N	Complies

<b>REPRESENTATIONS</b>		
Representations Received		<b>NO</b>
Total number of representations received		
Names/Addresses of parties submitting representations		

Summary and Assessment of main issues raised by representations
Issue:
Comments (PO):

## **OBSERVATIONS – ASSESSMENT OF PROPOSAL**

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

### **Proposal**

The application seeks planning permission to alter and extend an existing dwellinghouse.

The alterations proposed are to the rear of the property only. These involve the creation of two irregular shaped first floor dormers on the rear roof plane, a first floor extension over an existing single storey flat roof, and the joining and conversion of an existing external garden store to form a ground floor bedroom.

The westernmost dormer proposed contains a single square window and incorporates a shallow pitch at the top, followed by a sharp (45 degree) pitch extending in an easterly direction towards the eaves of the roof. The easternmost dormer contains a shallow pitch at the top and connects to the proposed first floor extension on the western edge. Both dormers are proposed to be finished in natural slate to the sides and standing steam metal roofing to the top.

The proposed extension above the existing single storey flat roof extension, again contains a shallow pitched roof, with a steep (45 degree) pitch extending to eaves of the roof and would measure approx. 5.1m to the highest part of the roof. This extension is proposed to be finished in vertical larch cladding and finished in natural slate.

Finally, an existing external store is proposed to be connected to the main dwellinghouse via a flat roof extension and conversion of the store to an additional bedroom on the ground floor. The existing single storey and connecting extension are proposed to be finished again in vertical larch cladding, with a green living roof Sedum planted with a slight overhang/shelter on the eastern side.

Extensive discussions have taken place with the agent and applicant on the proposed design however the agent and applicant have stated that they wish for the proposal to be determined as it currently stands.

### **Site**

The site is located at 35 Gordon Street, Portgordon and is an existing traditional semi-detached dwellinghouse believed to have been constructed in the mid-1880s. The building is not listed nor in a Conservation Area.

The house is however located within the historic core of Portgordon which is identified on the Historic Environment Record (HER) as a site of archaeological interest.

There are neighbouring properties to the east and west (attached) of the site and the site is bound by the public road to the north and the old railway line to the south (designated as a 'Core Path' and open space within the MLDP 2020).

## Policy Assessment

### Siting and Design (MLDP 2020 Policy DP1)

Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. Policy DP1 also states that pitched roofs are preferred to flat roofs and that box dormers are not acceptable.

As outlined, the application seeks planning permission to alter and extend an existing dwellinghouse. This includes a proposal for an irregular shaped rear dormer and an extension that also has an irregular form and includes a dormer with an irregular shape. The westernmost dormer contains a single square window and incorporates a shallow pitch at the top, followed by a sharp (45 degree) pitch extending in an easterly direction towards the eaves of the roof. The easternmost dormer also contains a single square window and incorporates a shallow pitch at the top connecting to the proposed extension on the western edge. The dormers are of a highly irregular shape and therefore represent an inappropriate form of development for this location as they are not in keeping with the form and character of the main (parent) property and neighbouring housing. On the plans and supporting documents submitted the agent has shown examples of other developments within Moray, however the dormers shown in these examples have a simple square shape, not the irregular shape presented here. Whilst it is acknowledged that the design reflects an attempt to provide a modern alternative to the conventional box dormers found on neighbouring properties, the irregular shaped dormers proposed here are unacceptable as they are not in keeping with the form or character of the existing property or surrounding area.

The proposed first floor extension above the existing flat roof extension again incorporates a shallow pitched roof, following by a sharp (45 degree) pitch, extending down towards eaves level. Whilst the sharp pitch would give the appearance of a traditional pitched roof when viewed from the east, it would give a box-like and flat roof appearance when viewed from the west. Policy DP1 states that pitched roofs are preferred to flat roofs and although the extension would replace an existing single storey flat roof, it would create unnecessary bulk through the appearance of a 'box-like' two storey flat roof extension when viewed from the west. The irregular shaped roof form of the first floor extension is considered incongruous with the form and character of the main traditional dwellinghouse and surrounding area and would not comply with policy DP1 and therefore the application will be refused.

Finally it is proposed to create a single storey 'link' extension and convert an existing store to form a ground floor bedroom. Although this proposal incorporates a flat roof, it extends an existing flat roof, with no increase in height (remaining at single storey) and the addition of Sedum roof planting would bring biodiversity benefits to the site. The extension is also located to the rear and is considered a small scale intervention. This element of the proposal is acceptable.

A design and access statement and further supporting statement have been submitted in light of the proposals. This gives examples of local buildings, both modern and traditional which incorporate traditional pitched roofs finished in traditional materials. The Design and Access Statement states that the dormer window arrangements proposed as part of this application are to be 'varied pitch forms, with shallow pitched capping' and goes on to state that these are 'vernacular features, reinterpreted and expressed in a contemporary form'. It also refers to the first floor extension and states that this reflects the 'neighbour structure of the workshops, net and sail lofts, sculptural yet function built form'. It is noted none of the examples given exemplify a roof design akin to that of the proposed irregular shaped dormers or first floor extension and whilst an effort has been made to create an alternative design to the common 'box-dormer', the alternative presented does not relate to the form, character or detailing of the parent dwelling or surrounding properties and therefore is not considered acceptable in terms of the design requirements of policy DP1.

A further supporting statement (received on 26/08/2022) outlines that the proposed alterations create only 6.5sqm of additional footprint. Whilst efforts to minimise additional footprint and ensure that the alterations do not result in overdevelopment of the existing site are commended, this does not

overcome the fact that both the dormers and first floor extension are of an irregular shape and design which is not in keeping with the form or character of the existing main property and therefore would not comply with policy DP1. The statement also outlines the requirement for a ground floor bedroom for multi-generational living and as outlined this element of the proposals, occupying the extended ground floor is deemed acceptable. Finally the statement outlines that the first floor extension will result in the removal of a flat roof and the creation of a pitched roof to the east. The statement fails to note however that the roof of the extension of an irregular shape and when viewed from the west, the first floor extension would create the appearance of a two storey flat roof 'box' which ultimately has a detrimental impact on the character of the dwelling, particularly when compared with the existing small scale single storey flat roof extensions.

With regard to the external finishes, the dormers are proposed to be finished in natural slate on the sides, with the shallow roof over in metal standing seam roofing. The flat roof extension is proposed to be finished in vertical larch cladding with a living roof planted in Sedum over. Finally the first floor extension is proposed to be finished again in vertical larch cladding with a natural slate roof over. These traditional materials would accord with the stone and slate finish of the main dwellinghouse and would therefore be acceptable.

In summary, the proposed rear dormers are considered unacceptable as they are of an irregular shape which is out of keeping with the form and character of the existing property and surrounding area. The irregular roof shape of the proposed first floor extension would give the appearance of a two storey flat roof extension (when viewed from the west) which creates unnecessary bulk and is incongruous with the main parent property and therefore the proposals are contrary to the design requirements of policy DP1 and the application will be refused.

In terms of proposed openings within the extensions and dormers, these will largely be orientated onto the applicant's existing garden ground, or old railway to the south of the site. The only opening to be orientated onto a neighbouring property is a single full length window on the western elevation of the first floor extension and is to be fitted with opaque glass. Therefore, no openings within the proposed alterations are deemed to give rise to any unacceptable loss of light or overlooking to neighbours. In terms of any loss of light or overshadowing, the extensions are either single storey or set back sufficiently and with an acceptable wall-head height so as not to give rise to adverse amenity impact to neighbours. Therefore, these aspects would be considered to comply with policy DP1.

### **Drainage (DP1, EP12)**

The site is not within any areas identified to be at risk of flooding. Drainage information is provided within the Design and Access statement and outlines that the increase in roof area as a result of the proposals is only 6.5sqm. An area of concrete is also proposed to be replaced with free-draining gravel and the addition of a Sedum roof which slows surface water run-off. Moray Flood Risk Management have been consulted and have raised no objections therefore the drainage proposals would comply with policy DP1.

### **Protected Species (EP1)**

As bats are a European Protected Species, the impact of the proposal on the species must be considered prior to determining the application and in line with the current Habitat Regulations 1994 as amended. If the application were to be approved an informative should be added to any final consent reminding the developer of their duties should any evidence of bats be uncovered during construction works and this would ensure compliance with policy EP1.

### **Archaeology (EP8)**

As outlined, an area of archaeological interest lies over the site relating to the historic village of Portgordon. The Council's archaeologist has been consulted and requested a photographic survey be undertaken of the building for inclusion in the National Monuments Record for Scotland and local Sites and Monuments Record. This has been done and the Council's archaeologist is satisfied with

the information submitted. As a result the proposal would comply with policy EP8.

### Parking and Access (DP1)

The site is currently accessed via the public road to the north of the site and parking is via on-street parking again to the north. No alterations to either of these are proposed and the Moray Council Transportation Section has been consulted and has raised no objections, subject to a series of informatives to be added to any final consent, should the application be approved. This ensure compliance with the Transportation requirements of policy DP1.

### Conclusion

The proposed rear dormers are considered unacceptable as they are of an irregular shape which is not keeping with the form and character of the existing traditional property and surrounding area. The proposed first floor extension incorporates an irregular roof shape which would give the appearance of a two storey flat roof extension which creates unnecessary bulk and is incongruous with the main parent property and therefore the proposals are contrary to the design requirements of policy DP1 and the application is refused.

### OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

### HISTORY

Reference No.	Description			
	Decision		Date Of Decision	

### ADVERT

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

### DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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### DOCUMENTS, ASSESSMENTS etc. \*

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

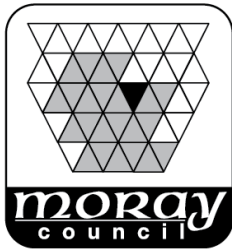
Supporting information submitted with application?		YES	
Summary of main issues raised in each statement/assessment/report			
Document Name:	Design and Access Statement (dated 18/07/2022)		
Main Issues:	Outlines background and justification for design shown. Also gives details on drainage proposals.		
Document Name:	Supporting Statement (dated 26/08/2022)		
Main Issues:	Statement prepared in response to Planning Officer's email sent on 22/08/2022 raising concern with regard to extension and dormers.		



Document Name:	Photographic Survey (dated 12/08/2022)
Main Issues:	Photographic historical record of the building, both internally and externally, requested by the Council's Archaeologist.

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]  
Application for Planning Permission**

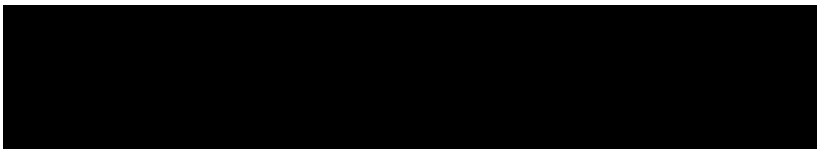
TO Ms Claire Lambert  
c/o Nick Midgley Design  
Feral Studios  
Wellington Mills  
Quebec Street  
Elland  
Hx5 9AS

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:-

**Alter and extend dwellinghouse at 35 Gordon Street Portgordon Buckie Moray**

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

Date of Notice: **30 September 2022**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

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

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

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

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

The proposed alterations and extension are contrary to Moray Local Development Plan 2020 policy DP1(i)(a) for the following reasons:

1. The proposed rear dormers are considered unacceptable as they are of an irregular shape which is not keeping with the form and character of the existing traditional property and surrounding area.
2. The proposed first floor extension incorporates an irregular roof shape giving the appearance of a two storey flat roof extension which creates unnecessary bulk and is incongruous with the main parent property.

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

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

<b>Reference</b>	<b>Version</b>	<b>Title</b>
POR.P.007		Proposed south elevation and section
POR.P.027		Existing and proposed roof plan
		Block plan
POR.P.009		Proposed elevation
POR.P.010		Proposed east elevation
POR.P.006		Proposed first floor plan
POR.P.012		Proposed elevation
POR.P.008		Proposed south elevation
POR.P.005		Proposed ground floor plan
POR.P.011		Proposed west elevation and section
POR.P.014		Perspective view from south east
		Location plan
POR.P.004		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.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

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





## **APPENDIX 2**

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







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

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100611085-001

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:	Nick Midgley Design		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Nick	Building Name:	Feral Studios
Last Name: *	Midgley	Building Number:	
Telephone Number: *	07711182313	Address 1 (Street): *	Wellington Mills
Extension Number:		Address 2:	Quebec Street
Mobile Number:		Town/City: *	Elland
Fax Number:		Country: *	England
		Postcode: *	Hx5 9AS
Email Address: *	nick@nickmidgleydesign.co.uk		

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

☐ Individual ☒ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Ms"/>	You must enter a Building Name or Number, or both: *
Other Title:	<input type="text"/>	Building Name: <input type="text"/>
First Name: *	<input type="text" value="Claire"/>	Building Number: <input type="text" value="35"/>
Last Name: *	<input type="text" value="Lambert"/>	Address 1 (Street): * <input type="text" value="Gordon Street"/>
Company/Organisation	<input type="text" value="none"/>	Address 2: <input type="text" value="Portgordon"/>
Telephone Number: *	<input type="text" value="REDACTED"/>	Town/City: * <input type="text" value="Buckie"/>
Extension Number:	<input type="text"/>	Country: * <input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: * <input type="text" value="AB56 5QR"/>
Fax Number:	<input type="text"/>	
Email Address: *	<input type="text" value="REDACTED"/>	

## Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="35 GORDON STREET"/>
Address 2:	<input type="text" value="PORTGORDON"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="BUCKIE"/>
Post Code:	<input type="text" value="AB56 5QR"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="864334"/>	Easting	<input type="text" value="339940"/>
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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)

22/01066/APP Alter and extend dwellinghouse at 35 Gordon Street Portgordon Buckie Moray - refusal of application 30.09.2022

## 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.

We seek to review the refusal 'proposed rear dormers considered unacceptable - an irregular shape not in keeping with the form and character of the existing traditional property & surrounding area. The proposed first floor extension incorporates an irregular roof shape giving the appearance of a two storey flat roof extension which creates unnecessary bulk & is incongruous with the main parent property & therefore the proposals are contrary to the design requirements of policy DP1'

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)

001 Grounds for Review - appeal statement 002 Supporting Document - Appeal statement precedents 003 Supporting Document - Original Application - design docs., contextual information, heritage statement DAS 004 Supporting Document - Original application - dialogue/letters POR.001 & 002 005 Email of support from Portgordon Community Trust sent during application process to Case Officer

## Application Details

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

22/01066/APP

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

21/07/2022

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

30/09/2022

## Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

To understand the context of the private space that the application related to, that the area for the proposed development is not visible directly from a public area and the context of the proposals are minor in the overall setting on the back of the house away from public areas and not seen by neighbours.

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

If there are reasons why you think the local Review Body would be unable to undertake an unaccompanied site inspection, please explain here. (Max 500 characters)

No reasons

## 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 Nick Midgley

Declaration Date: 22/12/2022



POR.NOR.001

## SUPPORTING DOCUMENT 001

F.A.O

Clerk to:

The Moray Council Local Review Body

Economic Growth & Development  
The Moray Council  
High Street  
Elgin  
IV30 1BX

Tuesday 20th December 2022

Dear Sir / Madam

**NOTICE OF REVIEW                      22/01066/APP 35 Gordon Street, Portgordon AB56 5QR**

Further to the Moray Council determination **REFUSAL of 22/01066/APP** for the application to 'alter and extend 35 Gordon Street, Portgordon, Buckie, Moray AB56 5QR' we submit this 'Notice of Review' [NOR].

We request that The Moray Council review the decision made by the officer Ms F Olsen for this 'local development' case under section 43 [A] [17] of the Town and Country Planning [Scotland] Act 1997, this is within three months from the date of the Refusal of Planning Permission notice **30.09.22**.

### **001 Grounds for Review - appeal statement**

We include with this NOR the following Supporting Documents:

- 002** - Supporting Document - Appeal statement local precedents.
- 003** - Supporting Documents - Original Application - design docs., contextual information, heritage statement & Design & Access Statement [DAS].
- 004** - Supporting Documents Original application - officer dialogue/letters POR.001 & 002.
- 005** - Supporting Document - email of support from Chair of Portgordon Community Trust.

*\*\*Note all Moray correspondence/policy/determinations notes/quotations are shown in blue italic\*\**

### **001.1.0 Request for review against Refusal Notice**

The request for Review is made against the determination refusal statement by The Moray Council:

*The Council's reason(s) for this decision are as follows:*

*The proposed alterations and extension are contrary to Moray Local Development Plan 2020 policy DP1(i)(a) for the following reasons:*

*1 - The proposed rear dormers are considered unacceptable as they are of an irregular shape which is not keeping with the form and character of the existing traditional property and surrounding area.*

*2 - The proposed first floor extension incorporates an irregular roof shape giving the appearance of a two storey flat roof extension which creates unnecessary bulk and is incongruous with the main parent property.*

### **001.1.1 Application proposal intent**

The application **22/01066/APP** was made in the mitigation of The Moray Council Policy proposals embodying [see Supporting Document 003 DAS]:

- refurbishment of a property that stood empty for 3 years.
- creation of multi generational living, with only a very small increase in actual footprint providing for ground floor living space, reduced mobility living/sleeping area [page 11].
- High environmental build methodology in light of the Moray Council's stated 'Climate Emergency' [page 13-15] & [see policy J below para 001.3].
- a subordinate proposal in relation to the host dwelling.
- a clear delineation of old [host dwelling] and new subordinate proposal.

These are all mitigating factors that are embodied in The Moray Council planning policy and have to be considered in the overall balance of a determination.

This has not happened.

### **001.1.2 Review parameters**

This request for this review focuses on the issue of the refusal not being wholly supported by DP1 policy & the fact there are instances locally of DP1 policy being **interpreted differently** to support other similar situations with approvals of other recent applications:



- the fact that irregular shapes [refusal para 1 above] are found historically all over Portgordon and the Moray district, that irregular and asymmetrical buildings are typical of prevailing vernacular style and that there is distinct evidence of irregular and asymmetrical buildings approved by The Moray Council planning determination process over recent years under the same planning policy regime negates the refusal experienced with this application [ see Supplementary Document 002 ].
- the fact that the extension cannot under current policy be judged on 'irregular shape' [asymmetry] as there is no prescriptive policy that rules against asymmetry.
- the fact that the proposal does '**not look like a flat roof**' and that there is no prescriptive policy that rules against flat roofing.
- the fact that the proposal in context is not bulky, at Pre App **21/01027/PEHOU** the scope, volume and massing of the proposal was accepted - only a pitched roof to the 'dormer' was required [ see officer comment 001.3.0 para 3 below ].
- the 'subjective view that the asymmetry and the perceived bulk' is over ruled by the precedents of The Moray Council Planning determinations in favour of similar and more extensive examples on other recent applications [ see Supplementary Document 002 ].
- the fact that the refusal reasons given actually differ from the wording of DP1.

**The applicant** Ms Lambert wishes to stress and has asked us to state:

- *'I believe that the officers have not paid attention to the detail in the application, they have not properly looked at the submission which places the design fully in context and it is a well rounded application that understands Portgordon and its heritage and it's obvious that they [officers] are contradicting themselves'.*
- *'the process was very frustrating as we had embodied the changes requested at the PRE APP, to then be blocked by a Planning Department 'U' turn at the application stage'.*
- *'it appears that there is no consistency in the relation to this determination and recently passed applications'.*

## **001.2 Review context**

We request review of the refusal in the context of the original application **22/01066/APP**, and the processing by Moray Council's department of Economic Growth & Development officers.

In context with the Pre App submission **21/01027/PEHOU** and the guidance offered by Moray Planning Officers, showing an explicit 'U' turn at **22/01066/APP** against the advice and supporting statements offered by Planning Officers.

The interpretation of the **Policy DP1 [I] [a]** with regard to Moray Council's Planning's determination of this and other applications within the Moray region, since the adoption of

the 'Moray Local Development Plan 2020 [MLDP], the policy for determination of all Planning Applications in Moray.

We show here that there are inconsistencies and unaligned personal 'subjective' decisions being made by officers, which have no legal bearing for this determination of this application under **Policy DP1 [I] [a]** and that there is a rewording of the intent within the refusal notice from the explicit intent of DP1 [ para 001.3.2 below ].

**The test to the application proposal is if it CAUSES HARM to the INTENT of DP1 [I] [a] - we have demonstrated with the application that NO HARM would be caused and there is no departure from any prescriptive intent of any adopted policy, we extend here our reasons for the request for review.**

### 001.3.0 Application process of determination

During the processing of the application by The Moray Council, despite the intent to refuse the application, there was very little time spent by Moray Planning to engage with the applicant and offer meaningful guidance - repeatedly officers without recourse to policy, expected a design change to suit their own internal sensibilities - from our phone log:

- 3 minute telephone conversation Fiona Olsen, Case Officer 07.09.22, when the only guidance given was too alter the scheme, even though we discussed that there was no policy to support a proposed refusal.
- 2 minute telephone conversation Lisa MacDonald, Senior Planner 09.09.22, when it was actually put to us that the concern was more the dormer window not the proposed extension to the bathroom at two stories [now deemed to be bulky], the officer stated [to quote] that 'the mix of styles was irrelevant', the distinct 'form of the rear extension was agreeable', the 'form of the Pre App was preferable' and 'the modern form was good' - they felt as a department they should have offered 'better communication'. We stated that as we were clear that there was no prescriptive policy that could warrant refusal, we would await a determination, a refusal notice has to be supported by a written report supporting against policy the reasons for refusal - as we were receiving no dialogue to explain a refusal in policy terms.
- 2 minute telephone conversation from Lisa MacDonald in response to our letter POR.P.003.22 [ Supporting Document 004 ], she stated 'not sure where we go now', as we'd presented evidence of support from the PRE APP, the options we could build under Permitted Development [PD] which were bulkier and more intrusive to neighbours than the application [ Supporting Document 004 POR.P.003 page 5 ]. Despite our conversation 09.09.22 the officer expected us to make changes, even when we'd explained that we'd been broadly supported by the officer at the PRE APP and the applicant didn't wish to compromise the design on the grounds of subjective views not supported by adopted policy.
- 2 minute conversation with Beverley Smith HoP 23.09.22 brief conversation that repeated the department line of wanting change, we explained as there was still no guidance as to why the application was to be refused, we'd await the Refusal Notice and officers report, HoP stated 'we don't want refusal', we stated 'neither do we' but why should we change a scheme on subjective grounds, for a scheme supported at PRE APP, when there is no prescriptive policy to warrant a refusal of the application, when it is clear that the scope of the application goes above

and beyond what is normally presented by a householder to extend and modernise a property' [see para 001.1.1 above and Supporting Document 003 the DAS ].

### 001.3.1 Application interpretation

The Officer Ms Olsen contacted us via email 22.08.2022, following her site visit, she accepted the overall intent of the application but offered the 'subjective opinion' with regard to the style of the proposals:

*Dormer windows – I do not feel that these relate to the character of the existing property or surrounding area. The response my colleague Shona gave to the 'pre-application' was that we would look for a sloped roof to be added on the box dormers originally shown. I would ask you to consider this design option instead for the dormers.*

We bring the Review Panel's attention to the response from the the PRE APP by her colleague:

*In terms of the policy wording it is **ultimately box dormers which are not permissible under the terms of the policy, and could be addressed by deploying a shallow downward pitch to the single box dormer window.***

[ see Supporting Doc 4 letter NMD POR.P.003 page 4 showing the box dormer ]

We had **incorporated a sloping roof** to the dormer window, there is nothing prescriptive in DP1 that demands symmetry, it only prescribes:

*MLDP 2020 Vol 1 page 35 DP1 para [g] 'Pitched roofs will be preferred to flat roofs and box dormers are not acceptable'*

[ see Supporting Doc 4 letter NMD POP.P.001 page 8-9 ]

### 001.3.2 Application mitigating policy

We note that the MLDP PP1 requires:

*PP1 (i) Character and Identity - Create places that are distinctive **to prevent homogenous 'anywhere' development***

PP1 refers to distinctiveness, architectural identity, detailing and materials - to create successful healthy places that encompass distinctive urban form.

We are conscious with this proposal, it's important not to have a slavish default to quasi traditional safety net of architecture, we need to be creative and foster a 21st C forms that relate to modern living and can be 'different' whilst relating in style and form to the vernacular context - though nothing we propose here is challenging or offensive or would cause harm [ see Supporting Document 003 DAS pages 9-10 ] of various traditional, his-

toric and vernacular forms that are asymmetrical, contemporary or irregular, the application is our interpretation of traditional forms within a contemporary idiom.

The proposal shows 'what is new' and how it contrasts with the existing, giving an architectural dialogue of sub-urban development over time in contrast with the host dwelling.

In relation to the intent of DP1, it is important to stress that this proposal **causes no harm**.

The Local Plan DP1 states that:

*"Development Principles - will be applied reasonably taking into account the **nature and scale of a proposal and individual circumstances**"*

This is key to determination of applications, there is nothing unreasonable about the application proposal, it embodies environmental, heritage and contextual relationships.

It causes no harm and it does comply with policy. Para 001.1 above and **the refusal statement** says: '

*not keeping with the form and character of the existing traditional property and surrounding area'*

**DP1 actually reads:**

*a) The **scale, density and character must be appropriate to the surrounding area and create a sense of place***

This is quite different, the intent of DP1 is '**appropriate character**', Portgordon has character through a diversity of styles, scales and densities. Our proposal embodies the intent of DP1 and in its setting and context it is not **inappropriate**.

The proposal cannot be seen from neighbouring properties, it cannot be seen from the public domain, it is screened from the coastal trail by the earth bunding and garden planting from the south and is wholly below the roof from the north Gordon Street views. [ Supporting Document 004 letter POR.P.003 pages 2-3 & letter POR.P.001 page 4 ]

Supporting Document 003 of the original application design information POR.P.008 shows that the west side views from No. 33 are screened by the existing single storey area and that the view from No. 37 to the east is screened by the proposed pitched roof.

### **001.1.3 Policy interpretation**

Bulk and scale of the proposal is not the issue here, it is the officers interpretation of '**appropriate character**', we gave examples of the varied character around Portgordon and the varied style, forms and shapes, massing and structures found up and down the Moray coast.

Supporting document 003 the DAS pages 9-10 and supporting document 004 pages 10-11 and Supporting Document 002 illustrate where we have collated various recent approvals of schemes that show the **diversity of character** and where officers have recently supported proposals that **meet their interpretation of policy** or proposals that create **diversity of character**, examples that show over archingly a demonstration that

'form and character' in Portgordon and Moray is not a narrow prescriptive style, particularly in the areas to the rear and behind property where many shapes are ad-hoc, giving Portgordon its own and varied style, as typically found around Moray.

The proposal maybe different, though it is 'not inappropriate'. **A sense of place is created by individuality and unique style, not sameness.**

Moray Planning cannot say that these proposals for 35 Gordon Street are 'not in keeping' to Moray, they maybe different in some respects but **the character they present is not harmful** to Moray - the differences in Moray are its character. The policy DP1 requires 'appropriate' design, not that it has to mimic design.

We have demonstrated that we are creating a sensitive, yet distinctive proposal that relates to the scale, setting and traditional coastal area - that **fosters as required by policy DP1 a 'sense of place' and we are clear that for the applicant we need to provide a nearness to need.**

#### **001.3.4 Policy mitigating the application**

We have created a proposal that mitigates Moray Policy:

*d) Demonstrate how the development will **conserve and enhance the natural and built environment and cultural heritage resources**, retain original land contours and integrate into the landscape.*

And does not:

*e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.*

And embodies the need for:

*h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.*

*j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) **through the installation and operation of low and zero-carbon generating technologies.***

The 2020 Moray Settlement Statement for Portgordon proposes:

- *Development Strategy / Placemaking Objectives*
- *Protect the character of the existing settlement*
- *Provide support for proposals to re-use the harbour*
- *To promote interest and encourage housing development on designated sites - Development proposals in the Special Landscape Areas must reflect the traditional settlement character in terms of siting and design and respect the special qualities of the designation.*

### 001.3.5 Determination inaccuracies

The Officer Ms Olsen's contact email during the Planning Application determination period, 22.08.2022 also stated:

*Two storey extension – Again I do not feel that the design, shape and character of this extension relates to the main property. I also feel there is wasted space internally with a the roof void. Could a traditional gable extension provide the required accommodation over two floors whilst also maintaining the appropriate ceiling height? Although from the west the roof would appear pitched, from the east the extension appears box-like and I am not keen to support this.*

This was the guidance dialogue offered during the determination process of the application, it **varies from the REFUSAL NOTICE**.

Also See 001.2.5 below, where the officer approves a dormer window that looks like a box dormer [ Supporting Document 002 page 5].

The email statement chooses to offer design advice which is irrelevant, as the officer does not understand or is not qualified to offer guidance on the methods of construction, build costs, existing structure or to dictate the amount of usable space in what she assumes is the height and volume of the existing roof space [ see Supporting document 004 NMD POR.P.001 letter pages 3-4].

The officer surmises that the scheme offers wasted space, **the officer has not been inside the house**, where ceiling heights are lower than standard doorways and the sloping roof presents a tent like interior.

The proposal, through design skill, balancing many factors, offers supremely usable space and maximises available volume, with presumed 'dead' space within roof pitches intended for storage - this is dangerous territory for the officer and will be dismissed here as ill advised comment - the key here is their interpretation of **'what does it look like' and the fact they find it different**, don't like it and want to rule against it - officers have to be careful not to stray into areas that are **not mitigated by Planning Policy or their departmental remit**.

The officer suggests that the scheme from 'the west is pitched' - we think they mean the east?

Then states 'from the east appears box like' - we think they mean the west?

**We question the officers clear understanding of the context and the information submitted** - the roof extensions are not visible from any neighbours as the flat roof of the existing store on the western boundary screens the views to the roof from No. 33 and the pitched roof proposal screens views from No. 37.

We question whether the officer has spent the time to understand the application, whether the time has been spent to analyse the overall intent in the detailed breadth of the context of the application submission.

The applicant has asked us if we feel that the submission has been truly understood and read properly - we do not feel that the application has been fully assessed against all aspects of the intent, the detail of the presentation of the submission [ Supporting Document 003 ] and how that is supported by policy - officers offered in telephone conversation no mitigating policy to warrant a refusal [ para 001.3.0 ].

It is clear that there is an inconsistency with determination, the same officer approves [ see Supporting Document 002 page 5 ] a scheme against policy DP1 intent **21/00343/APP**, where a flat roofed dormer is approved, that is clearly visible from the public domain, creating a major '**bulky**' change to a roof scape in a manner similar to this application - it feels like our client, the applicant is being penalised for presenting a proposal that is 'different' while still appropriate and officers from a personal point of view **DON'T LIKE IT** so they refuse the application.

Another officer approves an extensive flat roof dormer in Cullen 21/00350/LBC, on a Listed Building in A Conservation Area wholly contradicting DP1 [ Supporting Document 002 pages 2-3 ] and an extensive very bulky square 'box like' extension to a house on the highly visible harbour front in Findochty 21/01657/APP [ Supporting Document 002 page 4 ]

The **REFUSAL of 22/01066/APP** determination states:

*2 - The proposed first floor extension incorporates an irregular roof shape giving the appearance of a two storey flat roof extension which creates unnecessary bulk and is incongruous with the main parent property.*

This comment about bulk is a departure from the dialogue given during the determination process, see the statement below from the officer, it is also a departure from the officers Pre App response advice where it was stated:

*The contemporary design proposed is recognised and understood, however, reference is drawn to part g of the policy which highlights that pitched roofs will be preferred to flat roofs and box dormers are not acceptable. In light of this parts of the design could be reconsidered, albeit it is recognised that the flat roof on to the adjoining property serves to limit the height of that part of the development and incorporates a living/green roof which could bring bio diversity benefits. It is also acknowledged that flat roofs are already present at the property. **In terms of the policy wording it is ultimately box dormers which are not permissible under the terms of the policy**, and could be addressed by deploying a shallow downward pitch to the single box dormer window*

There is no PRE APP guidance telling the applicant that there is 'unnecessary bulk' that is incongruous to the main parent property' - the mass and shape of the scheme has not changed, only to introduce as requested **pitched roofing** to the dormer - and over the roof extension that **reduces** the height and square 'bulk'.

The Pre App officer offered, that other than the 'dormer' needing pitched roof no other part of the scheme would be refused as '**ultimately box dormers are not permissible under the terms of the policy**', so now with the Full Planning Application to use DP1 to refuse the application is spurious and questionable, when before Moray Planning were previously in support of the application intent.

To introduce in the REFUSAL NOTICE a 'reinterpretation' of DP1 calls in the legality of the Moray Council determination process through a subjective reinterpretation of policy to suit an officers personal position regarding style.



### 001.3.6 Supporting Moray precedents

We note other applications over the last two years since the adoption of the MLDP 2020 and previous applications under the auspices of the older H4 policy - policies that had the same intent.

These approvals, often in Conservation Areas, part of historic or Listed buildings have been granted, using the same DP1 policy determinations of schemes that are 'different, modern, contemporary of varying scale and style are deemed to have been acceptable.

The **DP1 or previous H4** policy is interpreted to support the applications. The officers reports say that like this application the proposals were **SUBORDINATE** or although different gave a **CLEAR DELINEATION OF OLD & NEW**, allowing the proposals to be clearly distinguishable as the evolution of the host dwelling/buildings:

- The approval on the edge of Portgordon for an extensive extension to the **Category B Listed Icehouse** with a cafe and living space 13/01730/PPP as a two storey building with an alien form in relation to the icehouse, a proposal that blocks open views to the sea from neighbours and is highly visible in the SLA [ Supporting Document 002 page 6 ] totally contradicts the refusal in this instance, whilst the 2013 policies were superseded by the 2020 MLDP the policy intent is accepted to be unchanged.
- Supporting document 002 page 7 illustrates the recent approval of a large extension to a Portgordon Cottage in a highly visible situation, in a form that is larger footprint and in a form higher than the host dwelling presenting a two storey dwelling space - deemed to be acceptable under DP1.
- Supporting document 002 page 8 illustrates the approval of an extension of two storey height on the boundary dwarfing neighbours with a modern symmetrical MONO pitch roof, flat roof link and a box dormer - a style that is alien to the host dwelling, towering over the existing house as it is higher than existing eaves and roof ridges.

This precedent was ignored when presented to officers during the determination, this is a neighbouring approval in the same row of properties on Gordon Street with a more imposing design than No. 35 [ Supporting Document 004 letter POR.P. 001 page 6 ].

- In the Cullen Seatown Conservation Area approval 09/00783/FUL - yes, an older 2009 remodelling - adjacent to and opposite category C listed property is the 'modernist' interpretation of the Moray vernacular, a different style and form to the immediate locality and context but a scheme that offers and gives '*scale, density and character [that] must be appropriate to the surrounding area and create a sense of place*' to the heritage setting [ Supporting Document 002 page 9 ].
- Also in Cullen in the Conservation Area of the Seatown is approval 15/02162/APP, the addition of a modernist box structure, higher than the eaves of the host dwelling a category C listed dwelling house, a structure that is providing a 1st floor terrace that overlooks neighbours and private space, a modern structure that is highly visible in the public domain of the Conservation Area [ Supporting Document 002 page 10 ].

We view all these examples as complementary to the quality of diversity in Moray and commend that we are doing no different with the intent at No.35 Gordon Street.

These **policies cannot be reinterpreted to suit the refusal** of this application, when in other instances with the same interventions in terms of modern style and scale where on other schemes approvals have been given - the application for Planning Approval is a



legal process and not open to interpretation to suit personal or subjective architectural taste by officers.

Supporting Document 002 **PRECEDENTS** give various examples where similar situations of bold development proposals have been approved in much more prominent Conservation, Heritage or within Listed buildings, that have a much greater impact in terms of scale and bulk on the host dwelling and the setting than this application which is hidden and small in scale.

We have annotated Supporting Document 002 in **green** the context and relevance of the approvals.

Though it has to be realised that all these approvals have **not caused harm** and have contributed to the context and character of the setting and Moray.

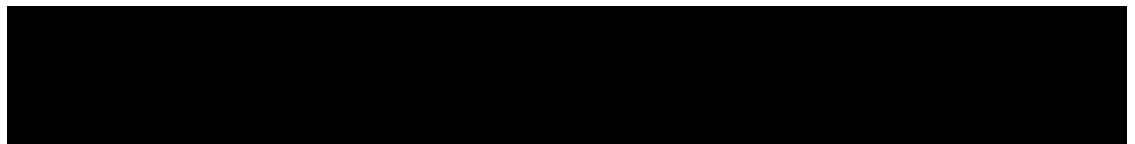
#### **001.4 Conclusion**

We request that the Moray Review Panel uphold our review and support an approval of the proposals on the grounds that:

- the design of the alterations and extension are not contextually inappropriate
- asymmetrical form or irregular [different] shape is not outlawed in Moray

The applicant thanks the Moray Review Panel for their time and attention with this review request.

Yours faithfully

A large black rectangular redaction box covering the signature area.

**Nick Midgley** BA Hons Dip Arch Oxford

**NMD**

cc applicant Ms Claire Lambert

35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

NOR Moray Review Panel - appeal of REFUSAL 22/01066/APP  
**Supplementary Document 002**

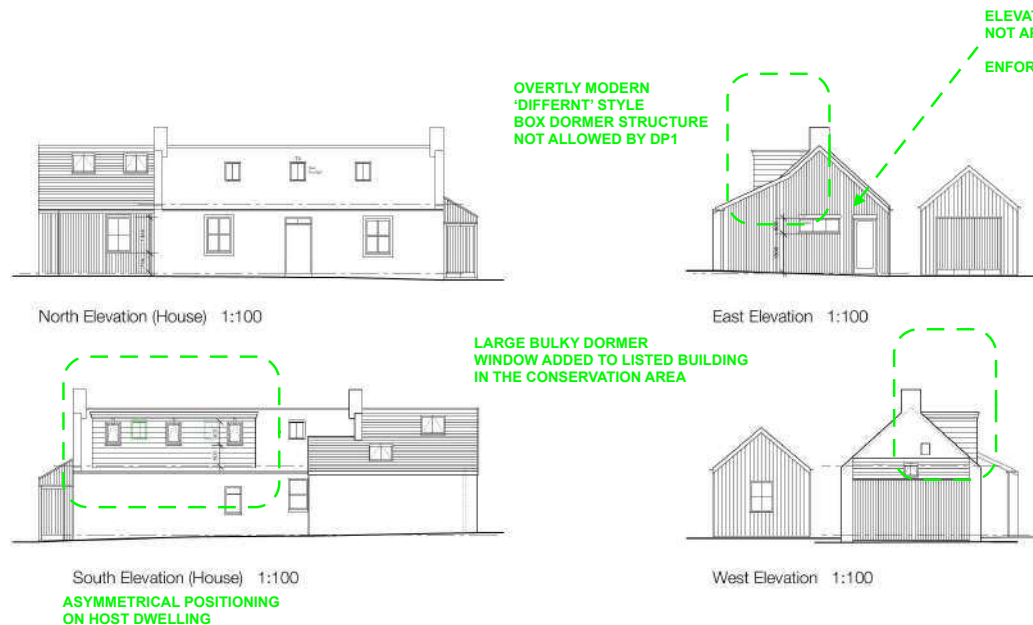
## **MORAY PRECEDENTS to 2022**



## **SUPPORTING DOCUMENT 002**

## MORAY PRECEDENTS to 2022

21/00350/LBC. Alter and extend dwellinghouse at 206 Seatown Cullen Buckie Moray approved 15 June 2021



### Impact of the proposed development on the listed building and Conservation Area

The aim of the listed building consent procedure is to protect the character, integrity and setting of listed buildings and requires development proposals i.e. alterations/extensions to listed buildings or new development within their curtilage to be of the highest quality and to respect the original structure in terms of setting, scale, materials and design.

With the exception of the dormer to the rear and small window added to the gable, very little is proposed to the historic core of the listed building. The layout and arrangement of rooms internally will remain unchanged ensuring that the lives of past occupants and use of the building can be read and understood.

The proposed dormer window to the rear of the listed building will serve to provide increased headroom height for first floor accommodation. It will have slated roof and cheeks and will not impact on key views of the listed building.

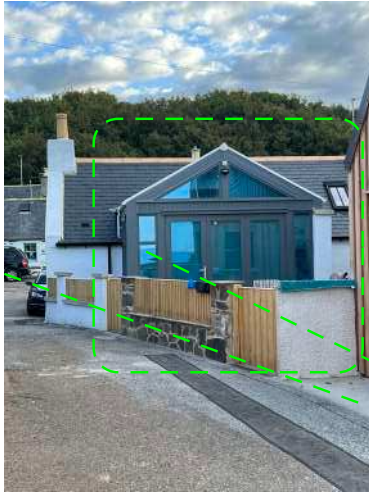
Key views of the principal elevation will not be affected. The proposed alterations will not have a negative impact on the character and architectural interest of the listed building.

In design terms (as amended), the scale, form and massing of the extended dwellinghouse is similar to other residential structures in the vicinity. The extension is to be built largely on the footprint of the existing structures

The proposal has also been designed in such a way that the composition of traditional built form and modern materials, ensures that the distinction between old and new elements is clear. The introduction of a modern intervention is a recognised approach to ensuring that changes to historic buildings are clear allowing the viewer to understand the evolution of the building and wider conservation area designation. The proposed alterations will preserve and enhance rather than detract from the character of the conservation area.

Conclusion - Overall, the design of the new dwellinghouse is of sufficient quality enabling it to integrate successfully and as such the proposal will not adversely affect but enhance and contribute in a positive manner to the character and appearance of the Conservation Area in which it is located. In addition the alterations will not have a negative impact on the character or architectural interest of the listed building.

## MORAY PRECEDENTS to 2022



ELEVATION BUILT WITH EXTENSIVE GLAZING  
NOT APPROVED

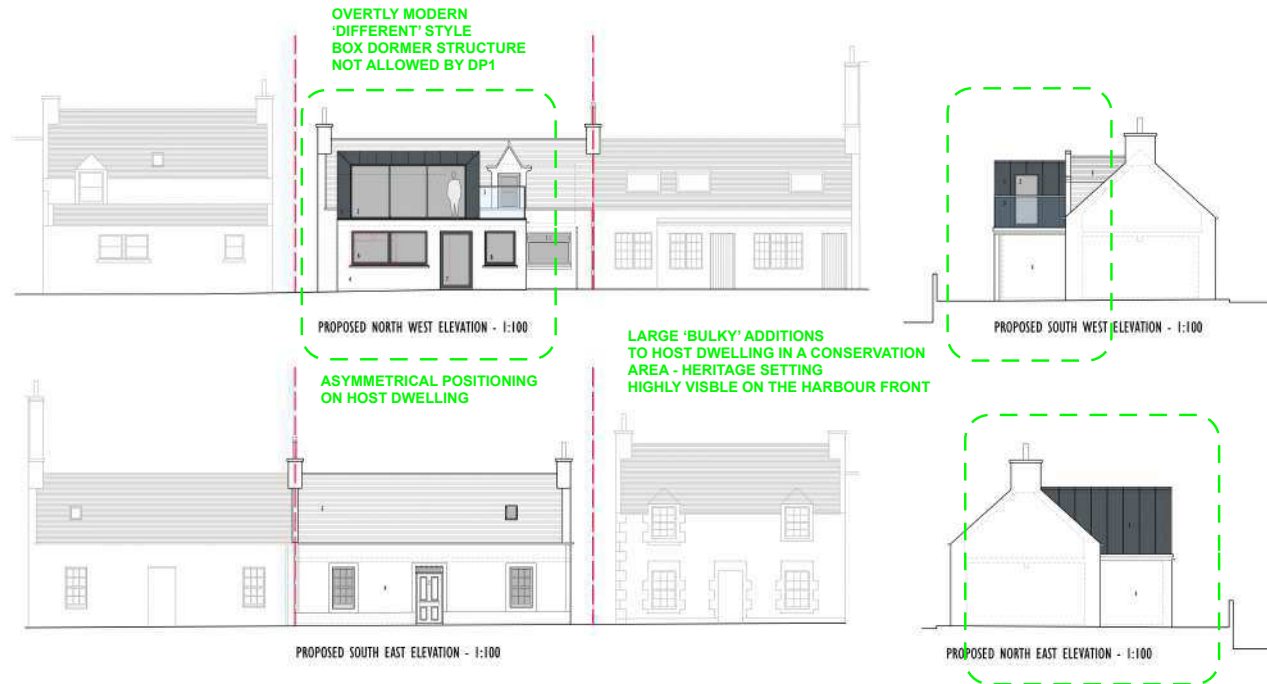
ENFORCEMENT ACTION??

➤ LARGE 'BULKY' ADDITIONS TO A LISTED  
BUILDING IN A MODERN STYLE IN  
THE CONSERVATION AREA



## MORAY PRECEDENTS to 2022

21/01657/APP Alter and extend dwellinghouse including a balcony at 31 Commercial Street Findochty Buckie Moray approved 17.12.2021



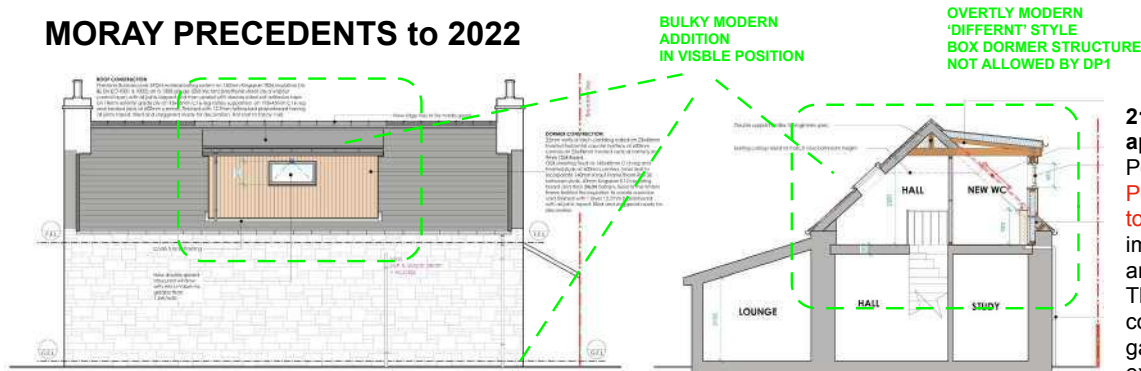
In considering applications for **planning permission in a conservation area, the Planning (Listed Buildings and Conservation Areas) (Scotland) 1997 Act** directs planning authorities to **ensure that new development will preserve and enhance the character and appearance of an area**. The aim is to ensure that new development will enhance an area's quality and therefore experience of visitors and residents alike, Policy EP9 refers.

Policy DP1 Developer Principles requires new development to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area and to comply with set criteria. This includes the requirement for development **to be appropriate to the surrounding area in terms of scale, density and character**. Following extensive discussions on the design of the proposed extension to the rear of 31 Commercial Street, the proposal as amended, is considered to be acceptable and will not have a detrimental impact on the parent property in character terms or on surrounding conservation area or neighbouring amenity. The proposal will result in an upper floor being added above the existing ground floor extension to create first floor lounge and balcony overlooking the harbour. The material finish of the extension is to be coated zinc to create a modern intervention distinctly different from the traditional rendered parent property. This is an established conservation approach ensuring the character and architectural interest of the parent property are preserved. **Old and new elements are easily distinguishable and the evolution of the conservation area is clear.**

There are a number of neighbouring properties with similar less successful extensions to the rear in the immediate vicinity. The proposal is of sufficient architectural quality that it will preserve and enhance rather than detract from the established character in this part of the conservation area.

**In terms of amenity, the scale, form and massing of the proposed extension ensures that surrounding properties are not directly overlooked by windows nor suffer from loss of light/daylight from its size.** Although introducing a balcony at this level, neighbouring properties are all open to public view within the harbour area and others also have roof terraces or upper floor windows overlooking the harbour. The proposed extension will not lead to any significant overlooking or privacy issues or sunlight/daylight issues sufficient to warrant refusal. The plan form of the extension is consistent with the traditional form of the parent property. **The scale and form of the extension is subservient to the parent property and will not have a negative impact overall.** The proposals comply with the above development plan policy provisions. No consultees or neighbouring properties have objected to the proposed development. Recommended for approval.

## MORAY PRECEDENTS to 2022



### 21/00343/APP Form dormer extension at 1 Station Road Burghead Elgin Moray approved 22.06.2021

Policy Assessment Siting and Design (MLDP 2020 Policy DP1)

Policy DP1 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity. It also states that box dormers are not acceptable.

The dormer is proposed on the rear roof plane of an existing dwellinghouse and would contain a single opening (to be of obscure glazing) facing onto the applicant's existing garden and beyond, the neighbouring property to the south. The dormer will replace an existing velux rooflight and would serve a new bathroom only and therefore would not give rise to any additional overlooking or loss of privacy to the neighbouring property to the

south.

Policy DP1 states that box dormers are not acceptable. Although the dormer proposed incorporates a sloped roof, its proportions would be more akin to a box dormer and therefore the application was advertised as a departure from policy DP1.

A site visit was undertaken and the surrounding area has also been assessed. There are number of existing box dormers within this area of Burghead, and in particular there are a set of two box dormers on the principal elevation of an existing building to the east of the site (and also on Station Road). Throughout Burghead many box dormers are present, in particular these can be seen on principal elevations, facing directly or indirectly onto the public road and some would also occupy an entire roof plane.

The dormer proposed here would be located on a rear roof plane, and although visible from the public road to the west of the site, would occupy around half of the rear roof plane and been designed to integrate more sensitively than a true box dormer.

Firstly, the sloped roof gives a less bulky appearance on the roof plane and secondly, the revised external finishes of larch cladding (in comparison to the Marley cladding original proposed) would sit well against the existing traditional dwellinghouse and natural slate roof. The sloped roof over would be finished in EPDM which is a common finish on dormer extensions on domestic properties and would be acceptable also in this location.

Therefore on this occasion, the proposed dormer would be considered an acceptable departure from Policy DP1 as it is not a true box dormer (as it incorporates a sloped roof), is located on a rear roof plane and is in a location where the area is characterised by a number of poorer examples of traditional box dormers.

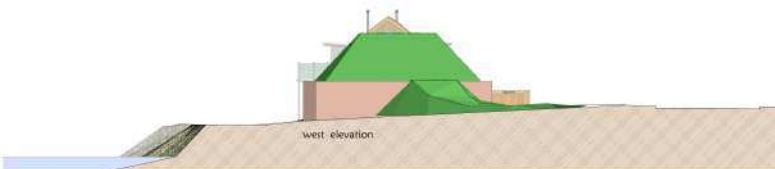
Conclusion - Approval





## MORAY PRECEDENTS to 2022

HIGHLY VISIBLE IN PUBLIC DOMAIN

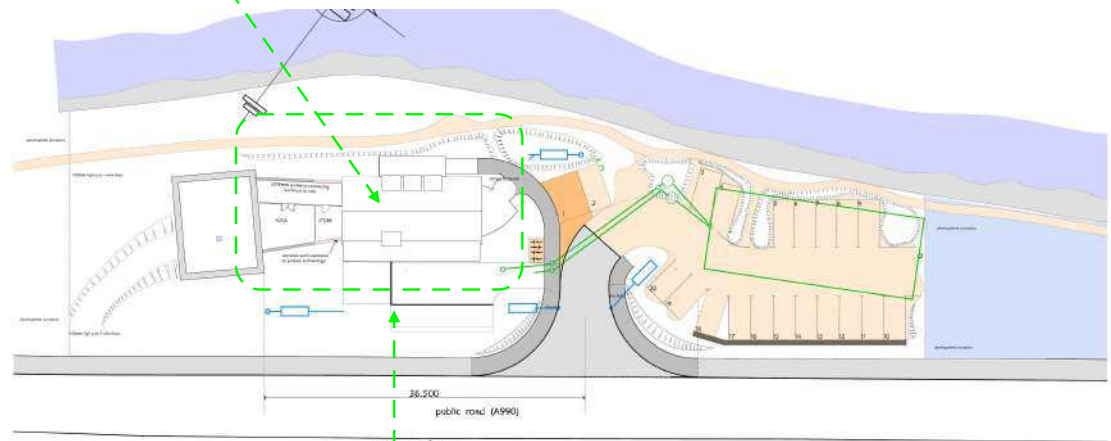


### 13/01730/PPP Erect New Cafe Pavilion next to existing listed Icehouse PORTGORDON

Approved by committee 21.03.2014 shown here are prevailing policy is largely unchanged in the context of this development

LARGE MODERN ALIEN STRUCTURE  
IN PRECINCTS OF CATEGORY B  
LISTED BUILDING

DWARFS EXISTING  
LISTED BUILDING



site plan

NEIGHBOUR VIEW TO SEA BLOCKED

## MORAY PRECEDENTS to 2022

Extend and alter dwelling house at Urie Cottage 6 Hope Street Portgordon Buckie 22/00902/APP approved 30.11.2022

### Siting and Design (DP1 - Development Principles)

Policy DP1 of the MLPD 2020 requires that the scale, density and character of all development be appropriate to the surrounding area, be integrated into the surrounding landscape and not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

The proposal is to construct a single storey extension along the eastern boundary of the garden which will be accessed via an existing single storey extension. The scale, form and design of the extension reflecting traditional form is acceptable and will relate satisfactorily to the existing property. Its height will be in keeping with neighbouring properties to the east and west. Proposed external material finishes as detailed above will also be appropriate in this location, which is characterised by a mix of properties of different styles.

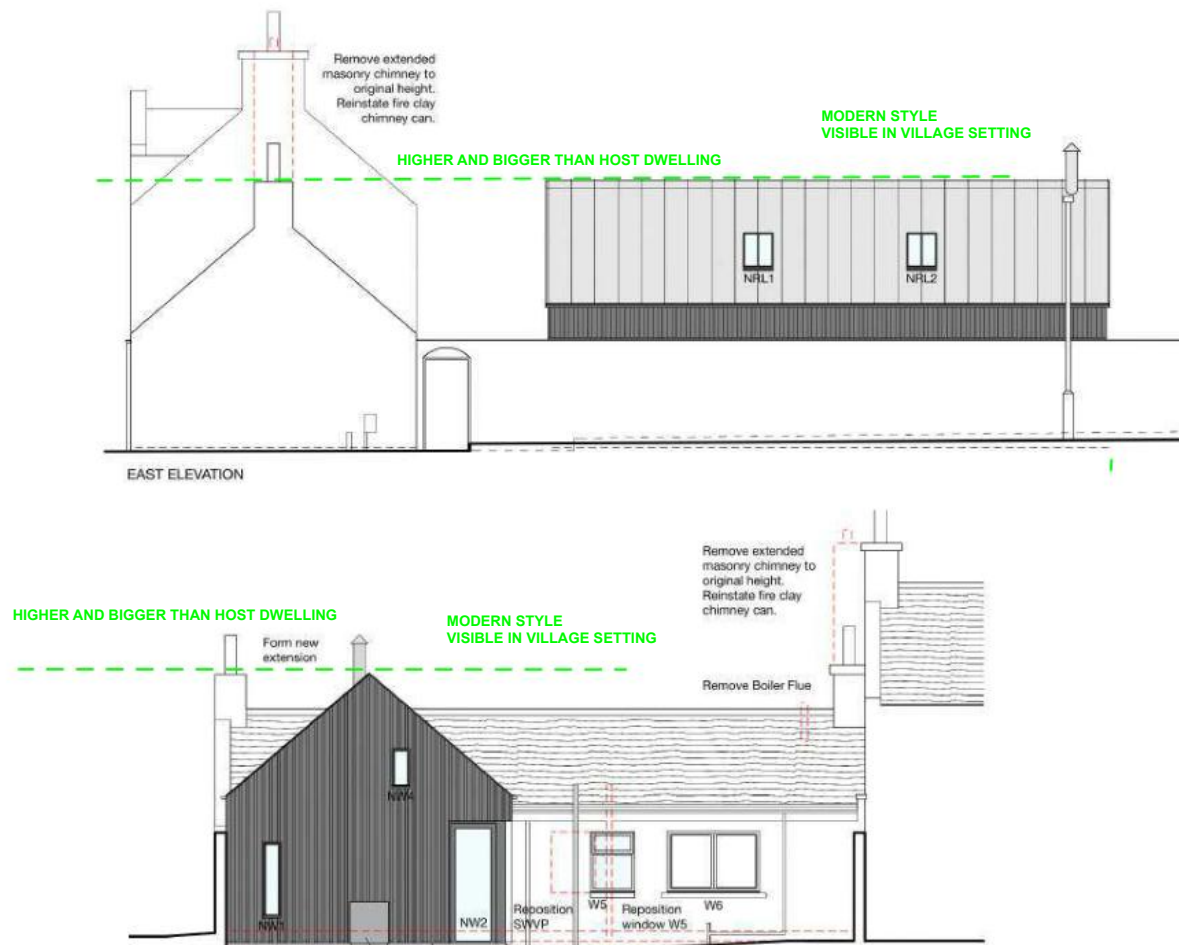
There will be no adverse impact on the amenity of neighbouring properties in regards to overlooking, loss of daylight or privacy. The neighbouring properties have high boundary walls and there would be no windows above this level that would give rise to unacceptable overlooking. The proposed single storey extension is also positioned as such to ensure that it will not cause any unacceptable overshadowing or loss of daylight to neighbouring properties.

Drawing from the above considerations, there will be no adverse impact on the character or appearance of the existing property or that of the surrounding area, and there will be no adverse impact on neighbouring amenity. The proposal therefore complies with Policy DP1.

As such the proposal complies with Policy EP8.

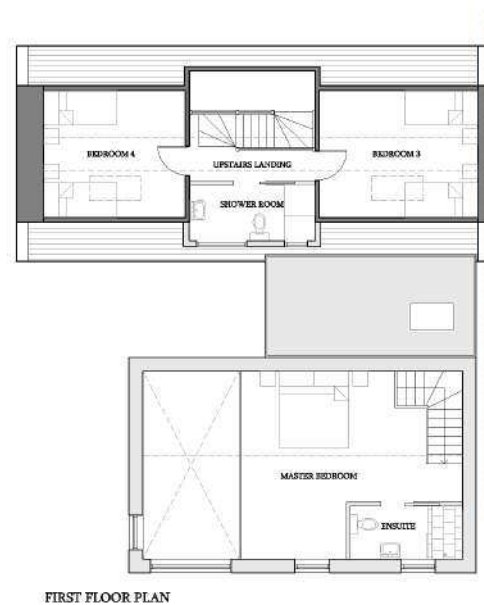
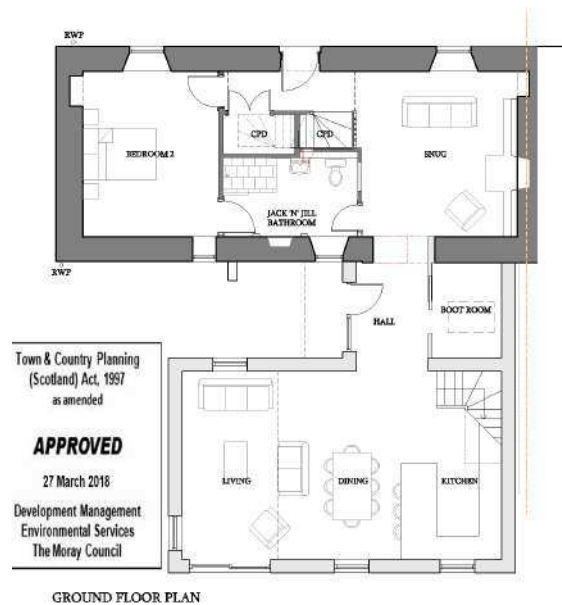
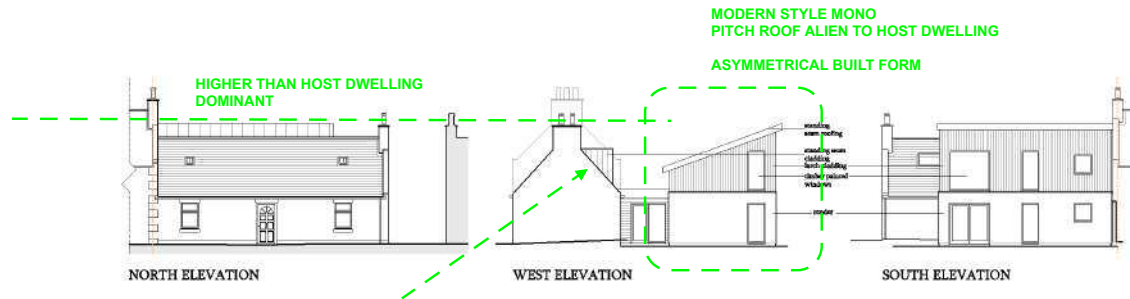
### Recommendation

Based on the above considerations the application represents an appropriate form of development and attracts a recommendation of approval.





## MORAY PRECEDENTS to 2022



18/00193/APP Alter and extend dwellinghouse at 17 Gordon Street Portgordon  
Buckie Moray approved 27.03.18

Policy Assessment

Impact upon the surrounding locality (H4, IMP1)

The proposed extension is required to be assessed against Policy H4: House Alterations and Extensions and 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 proposal will have any adverse effects or impacts on the amenity of the existing house and the surrounding area, including any neighbouring dwellings.

The design of the proposed extension is considered to be acceptable and integrates well to the style, size, scale and proportions of the existing dwelling. The windows look out to the garden, given its location, distance and orientation of the extension from neighbouring adjacent properties it will not have a significant adverse impact on sunlight or daylight nor a significant overlooking or privacy issues in relation to this application, therefore the proposal is acceptable.

LARGE EXTENDED AREA  
ON BOUNDARY  
DWARFING NEIGHBOURS



## MORAY PRECEDENTS to 2022



130 Seatown Cullen is a category C Listed Building within Cullen Seatown Conservation Area. The house is a semi-detached 1 1/2 storey cottage forming part of a terrace. The cottage has a natural stone façade, having had the intended painted rubble finish removed, and a slate roof.

Impact of the proposal on listed building

The main aim of the listed building consent procedure is to ensure that any proposed **new development should preserve the character and special historic interest of the listed building**. It should ensure that any new development protects key views of the listed building and that the works are ultimately reversible and without detriment to the listed building.

The extension has been designed and will be finished in a way that makes clear it is **a subordinate and modern addition to the house**. The development will not alter the way in which the listed building is understood and it will not detract from the character and special architectural interest of the listed building. The proposals will not have an adverse effect on the character, integrity or setting of the listed building.

Recommendation is to approve.

REASON(S) FOR DECISION

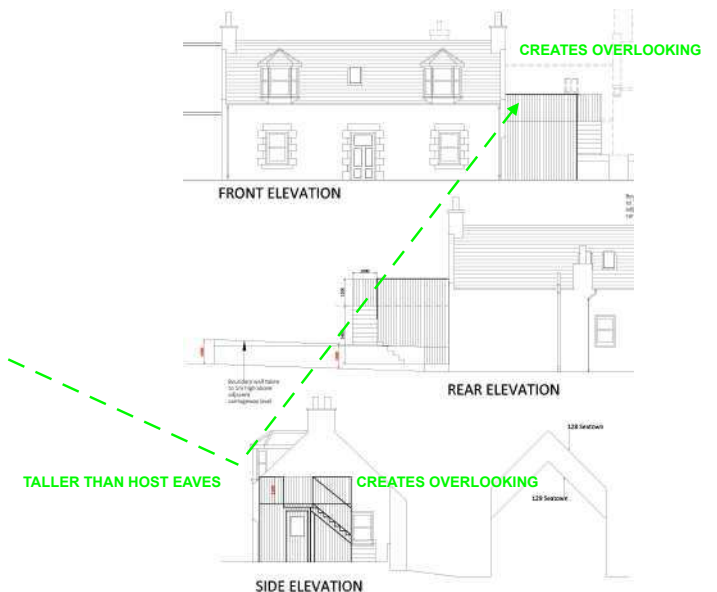
The Council's reason(s) for making this decision are:-

The proposed **extension will not have a detrimental impact on the character and special historic interest of the listed building**. Key views of it will be maintained.



MODERN ALIEN STRUCTURE  
ON LISTED BUILDING  
IN THE CONSERVATION AREA

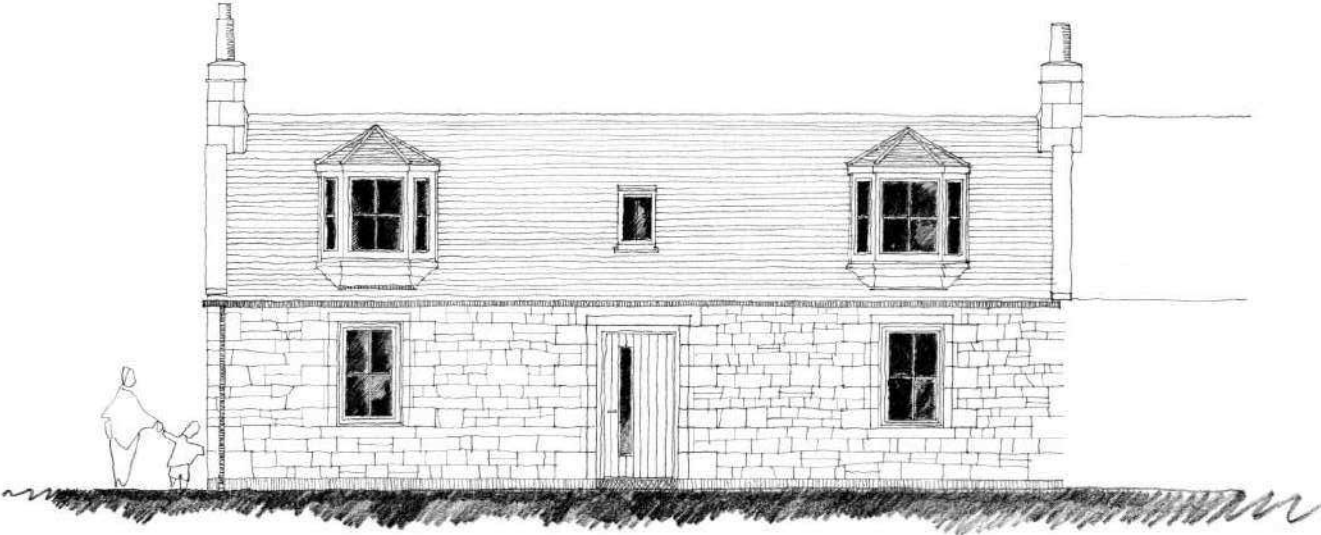
CREATES OVERLOOKING



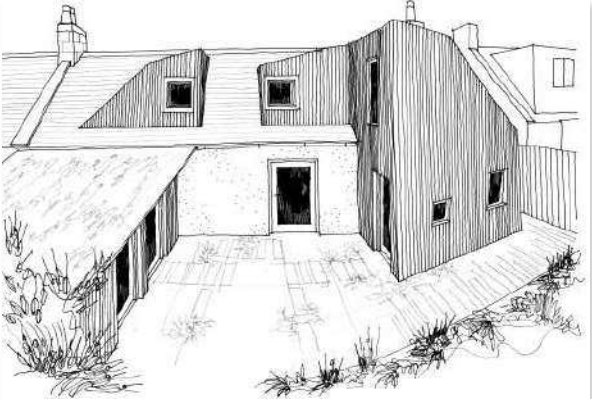
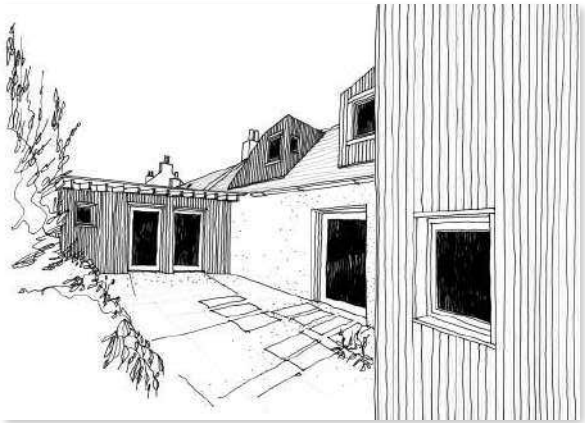
130 Seatown CULLEN  
15/02162/APP



SUPPORTING DOCUMENT 003



PROPOSED design & context data for extending  
No 35 GORDON STREET Portgordon AB56 5QR



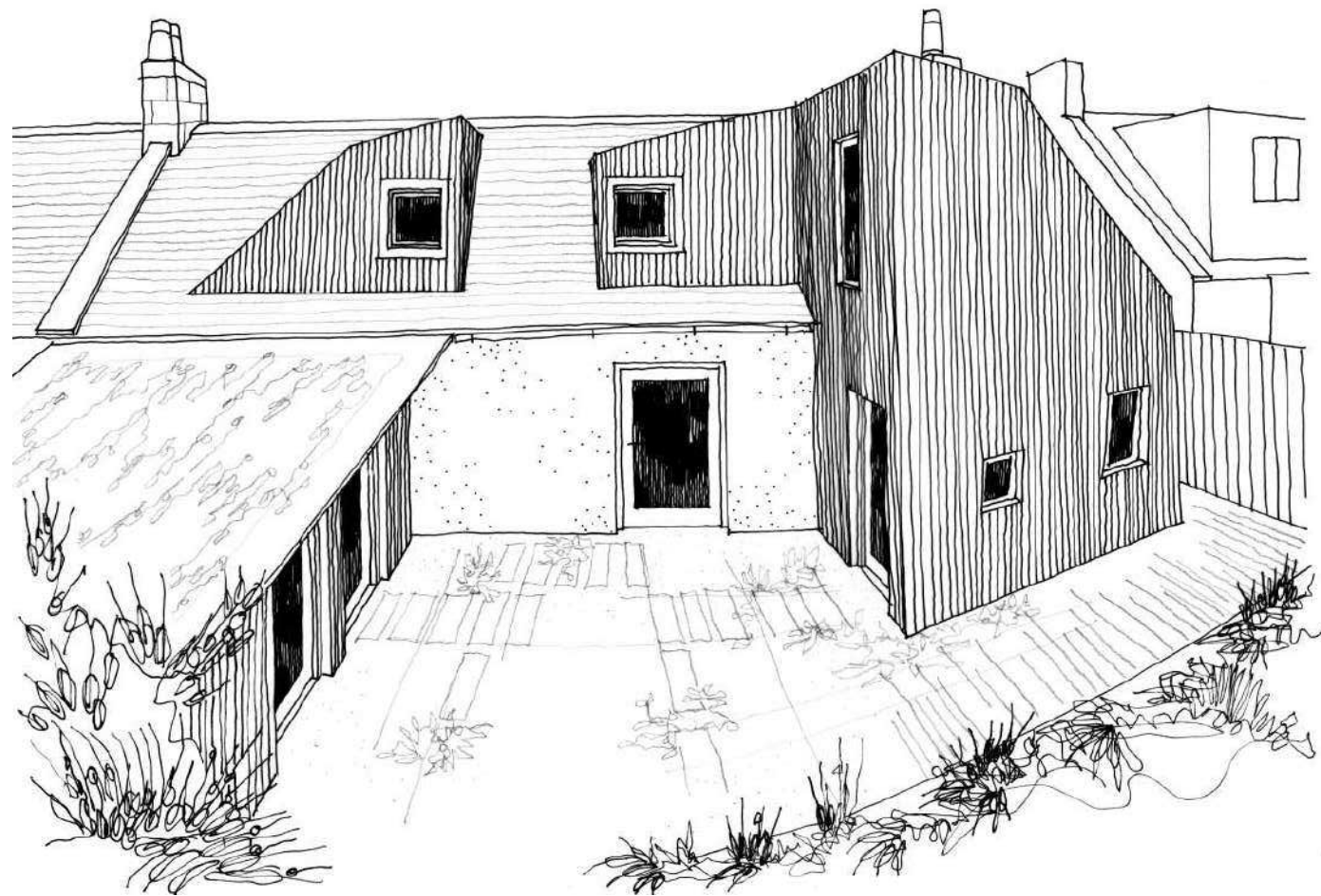


35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - perspective view from south

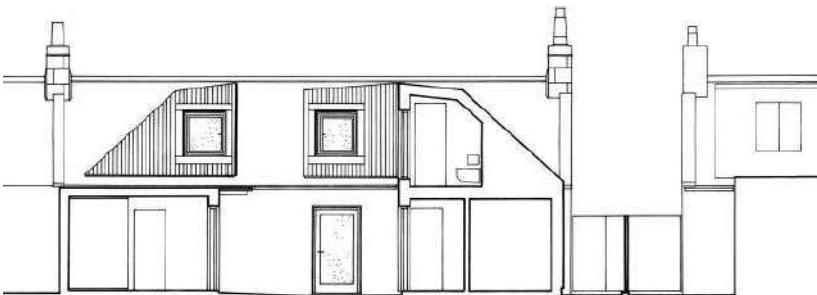


Buro Wagner  
Munich Ho.  
© domus.it



NMD<sup>©</sup>

historic  
contemporary  
contextual



Alain Carle architecte  
Quebec Ho.  
© dezeen





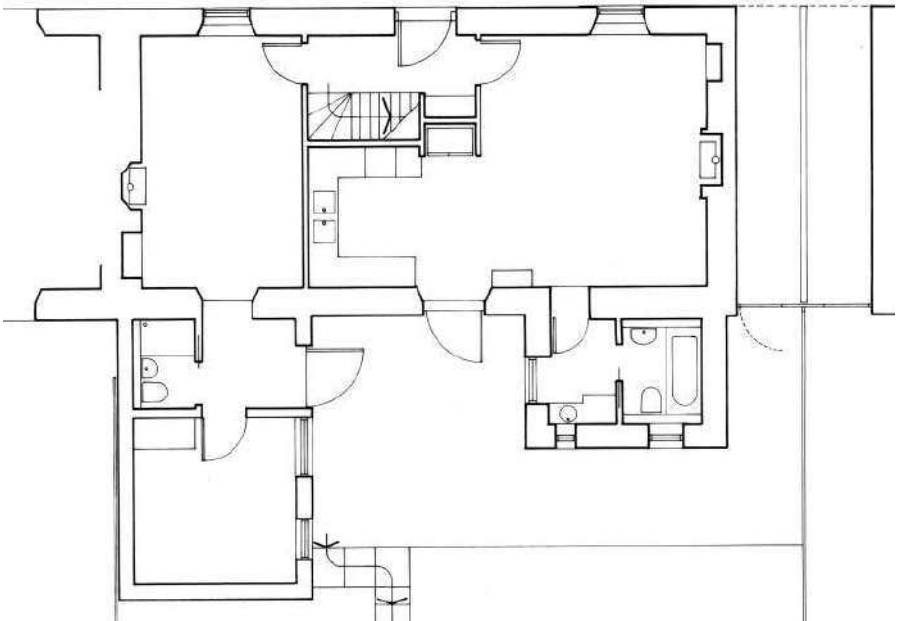
35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - perspective view from south east



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historic  
contemporary  
contextual



Sommerhaus  
© Fryd - Torben Eskerod



Dyke Ho  
© Argen Reas Architekten



Brock Cottage  
©NMD





**35 GORDON STREET Portgordon AB56 5QR**  
Ms C Lambert

PROPOSAL - location context plan - not to scale

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contemporary  
contextual



east end Gordon St foreshore



view east from No. 35



former coastal railway path



view north at west end Gordon St

**PORTGORDON**



foreshore



common access track to foreshore



view west over  
east end Gordon St

note:

extensions tight on  
neighbour boundaries  
at 23 25 27 & 17 19

No. 17 Gordon St  
18/00193/APP two  
storey extension on  
boundary in contemporary  
style with distinctive  
mono pitch roof



view west  
from No. 35

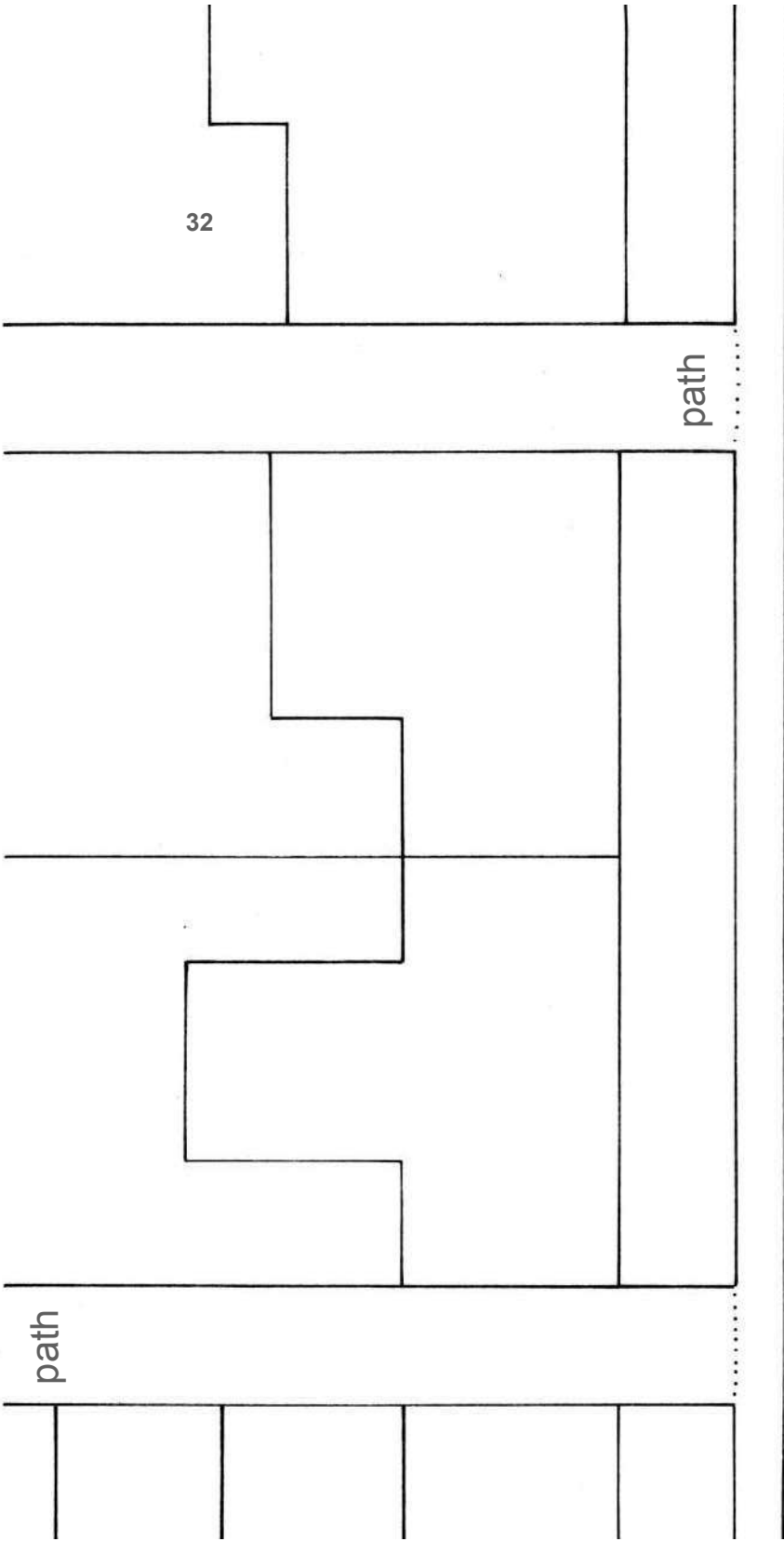


view north  
from No. 35

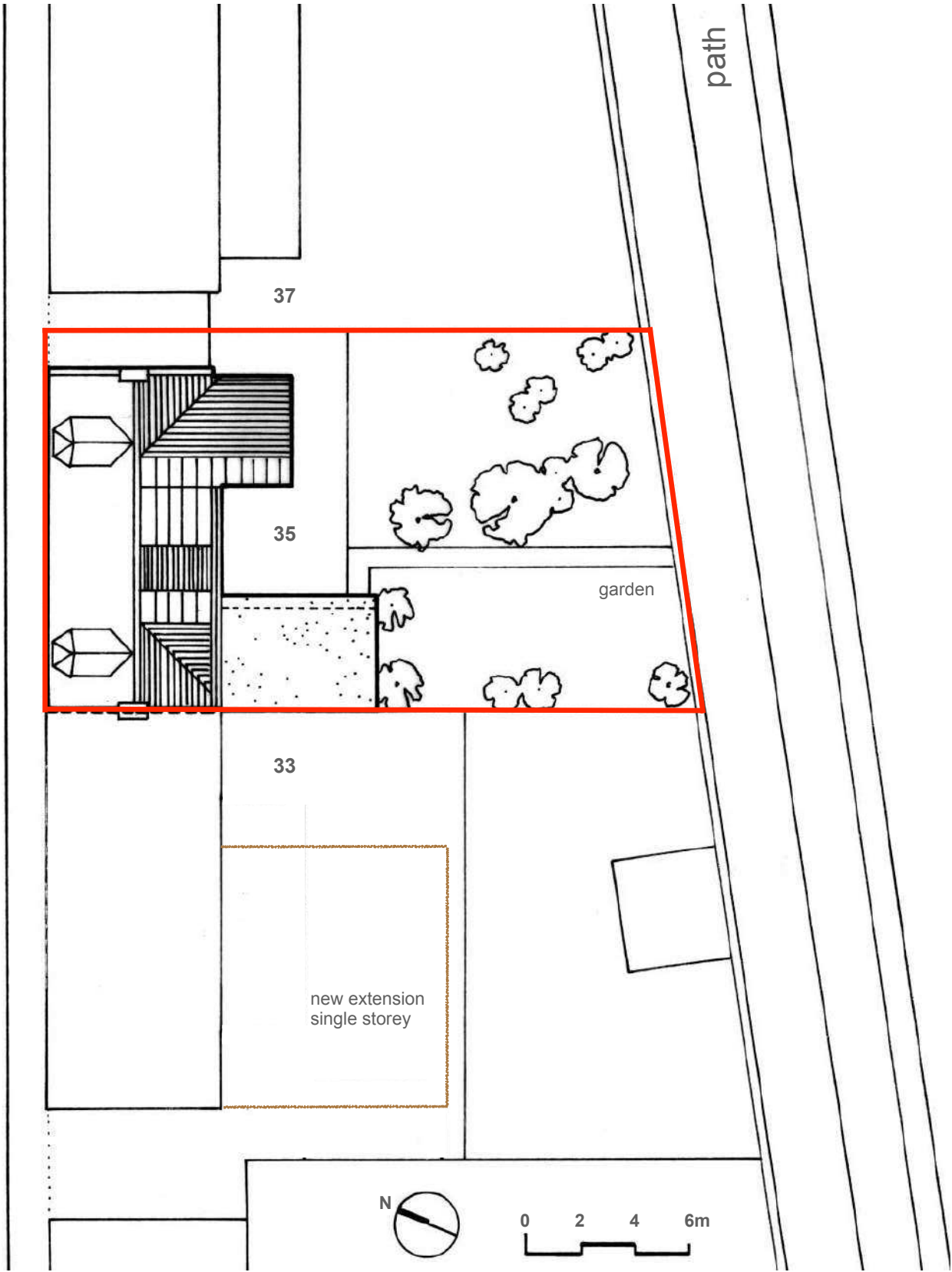


No. 35  
Gordon St





GORDON STREET





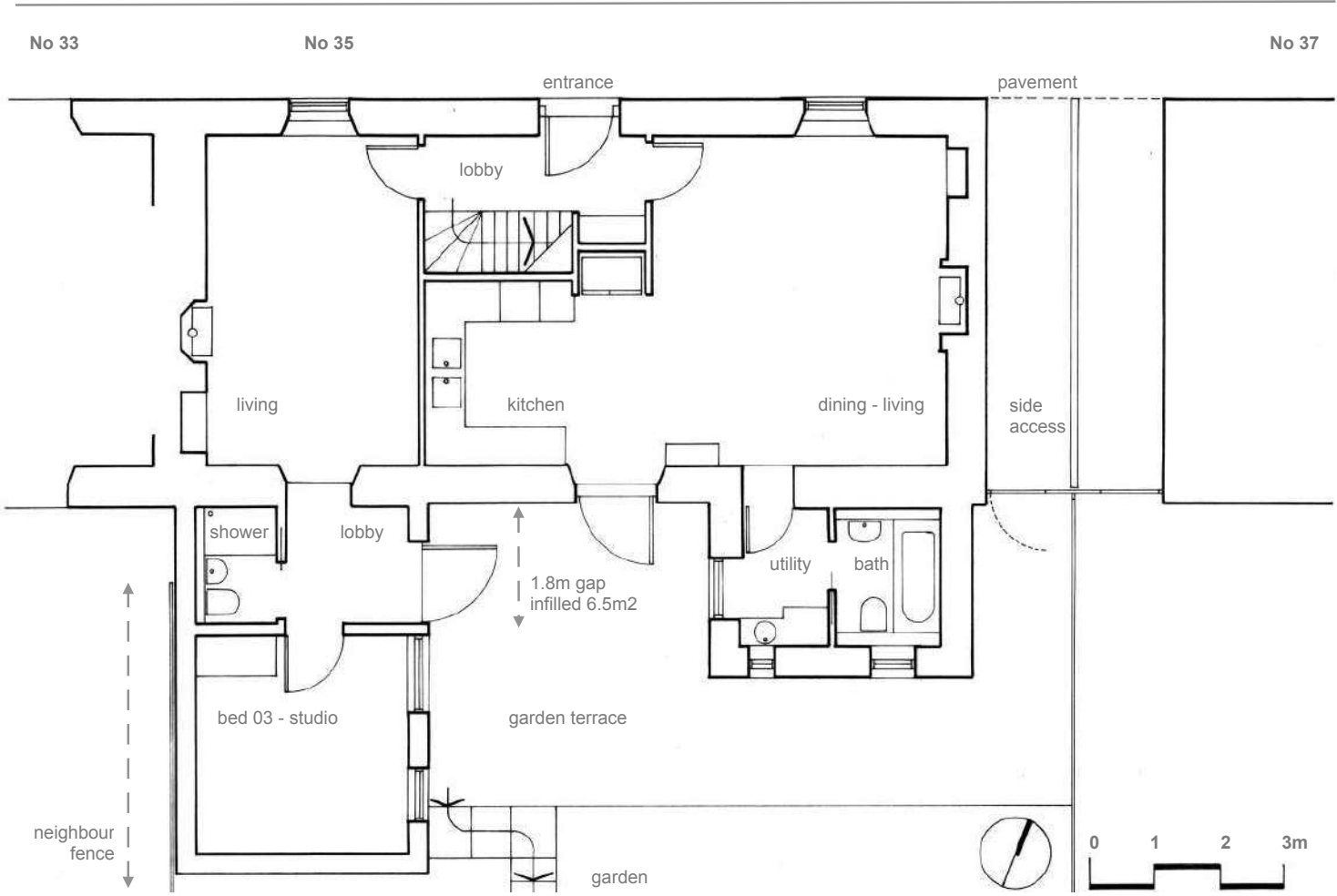
35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - ground floor plan 1:100 @ A3 sheet size

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historic  
contemporary  
contextual

GORDON STREET



proposed  
GROUND FLOOR  
plan

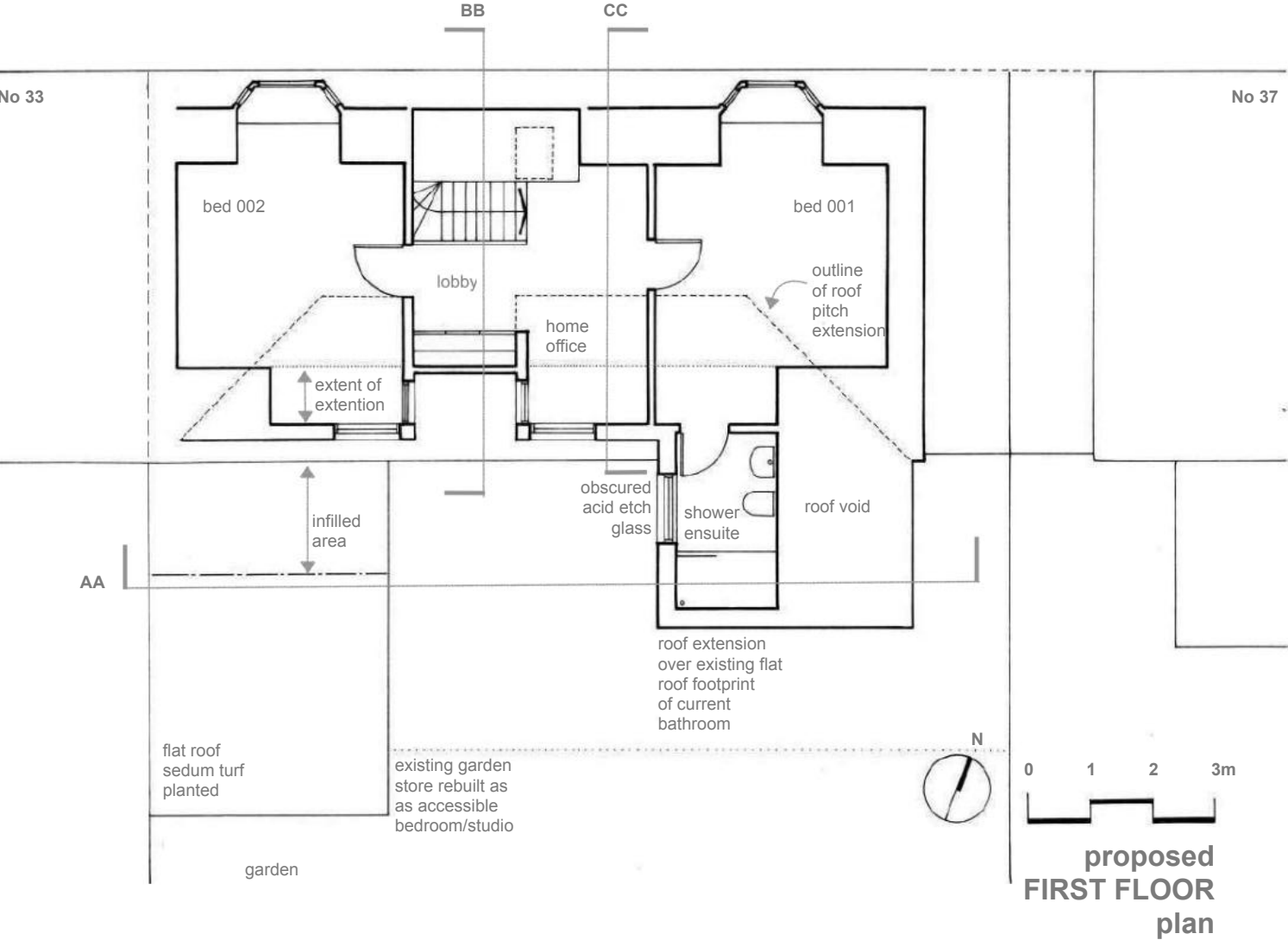
35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - first floor plan 1:100 @ A3 sheet size

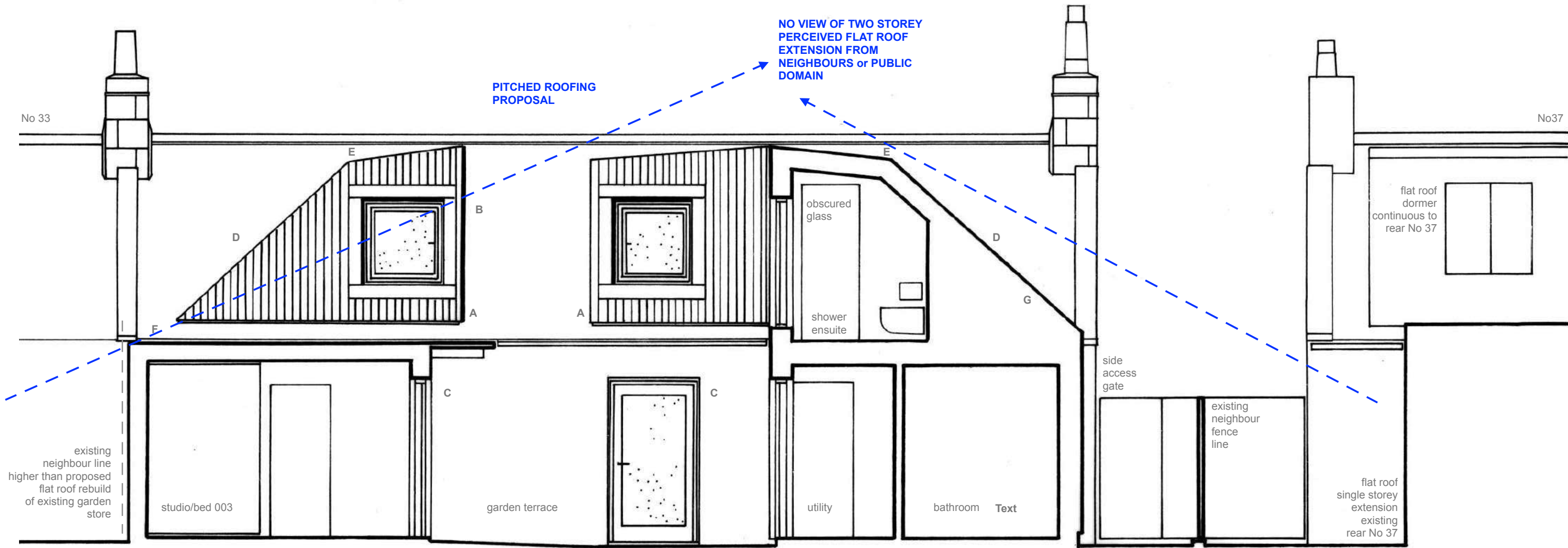
NMD<sup>©</sup>

historic  
contemporary  
contextual

GORDON STREET



PROPOSAL - elevation view from south - section AA 1:50 @ A3 sheet size



- A - smooth sawn vertical larch plank cladding T&G jointed Sadolin Extra high performance satin black wood stain low maintenance finish
- B - contrast natural stained/oiled framing larch plank
- C - triple glaze Danish alu skin mid grey Eco windows & doors - laminated composite softwood
- D - existing slate roof relaid - new reclaimed slating to match
- E - pitched standing seam self coloured lead/aluminum metal roofing
- F - green living roof Sedum planted overhang/shelter to east
- G - near Passiv Haus insulated timber frame eco structure airtight construction - low embodied carbon build

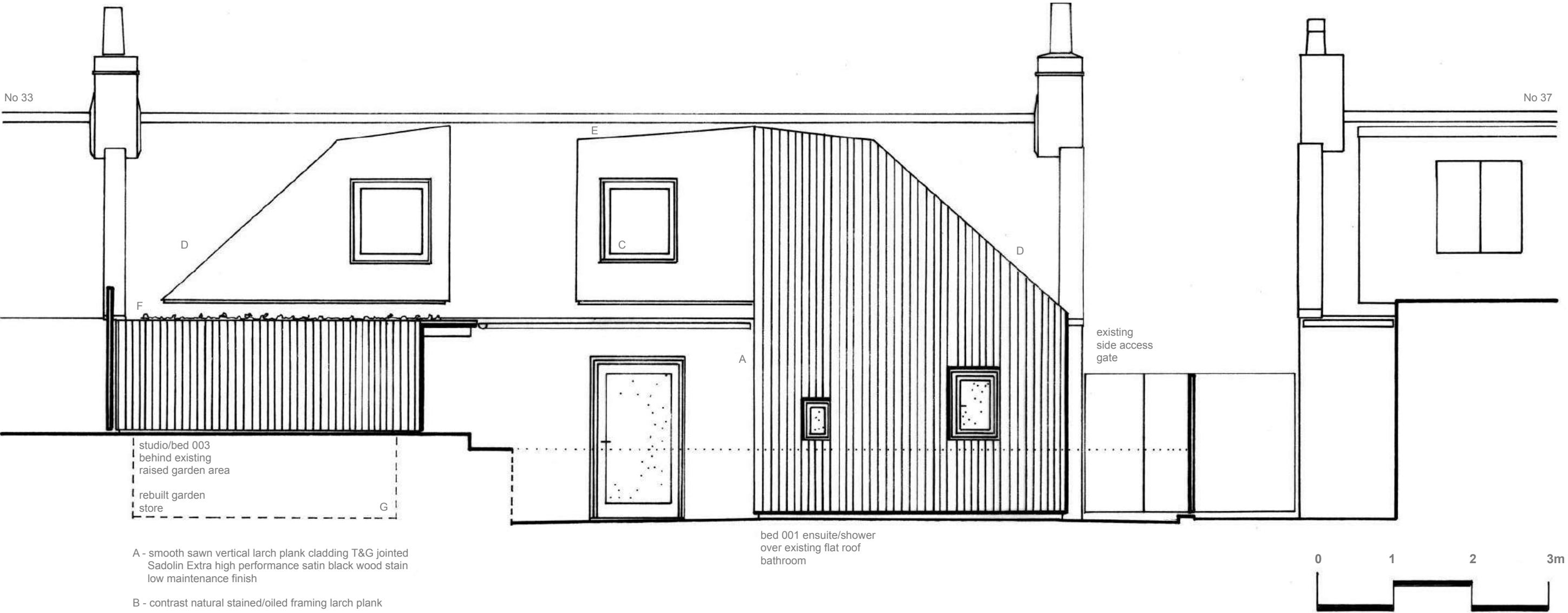


35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - elevation view from south 1:50 @

NMD<sup>©</sup>

historic  
contemporary  
contextual

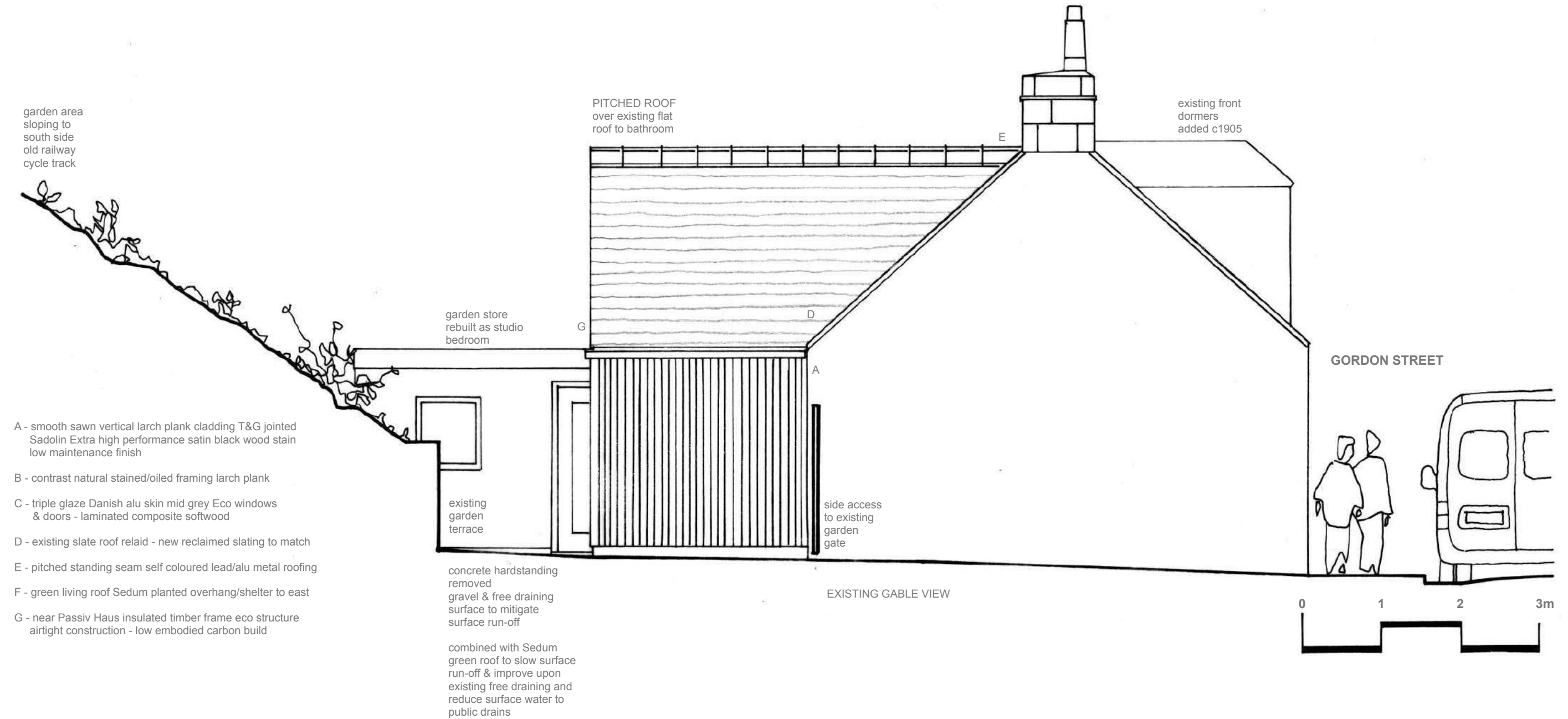


35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

PROPOSAL - elevation view from east 1:50 @ A3 sheet size

NMD<sup>©</sup>

historic  
contemporary  
contextual

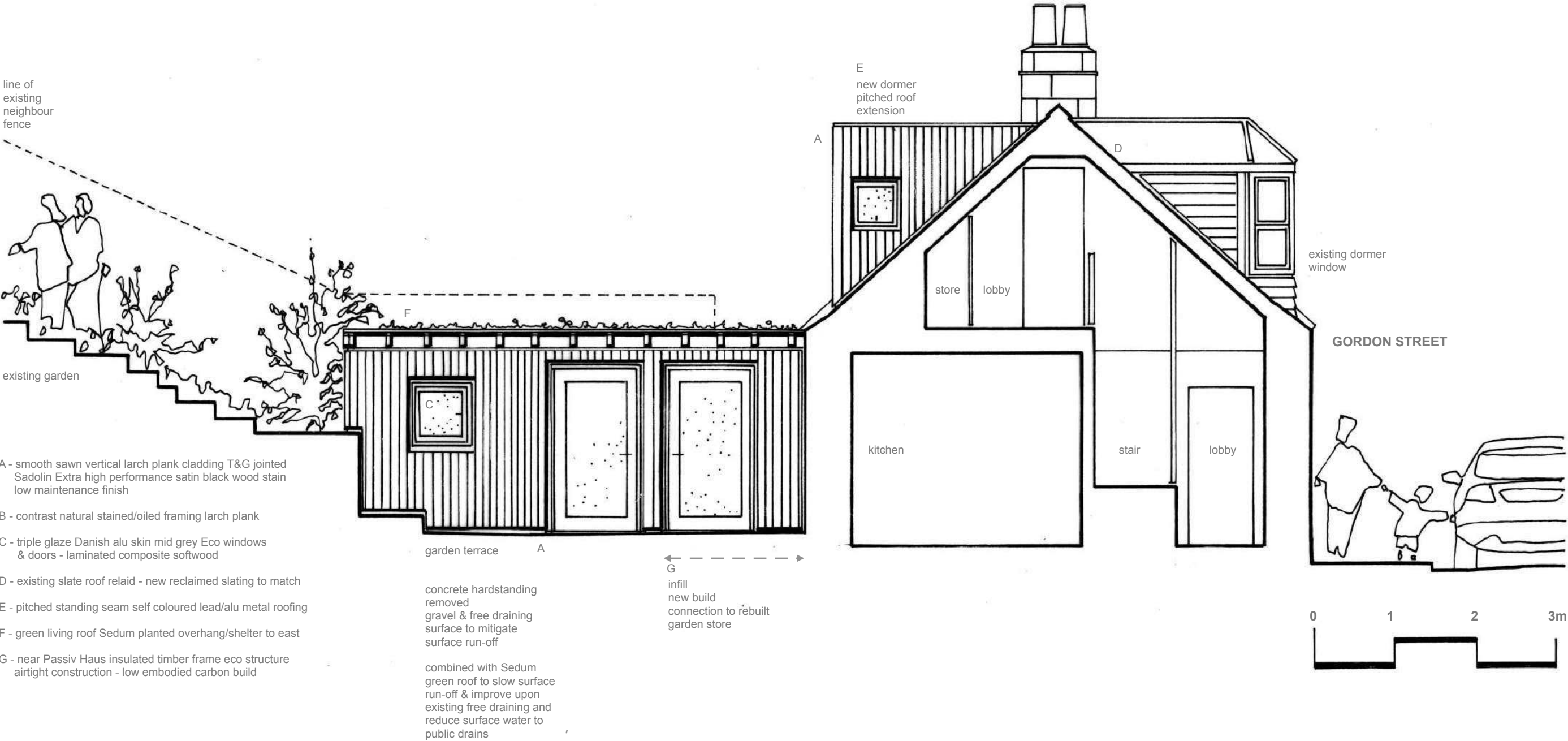


35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

NMD<sup>©</sup>

historic  
contemporary  
contextual

PROPOSAL - elevation view from east 1:50 @ A3 sheet size



PROPOSAL - elevation view from west 1:50 @ A3 sheet size

A - smooth sawn vertical larch plank cladding T&G jointed  
Sadolin Extra high performance satin black wood stain  
low maintenance finish

B - contrast natural stained/oiled framing larch plank

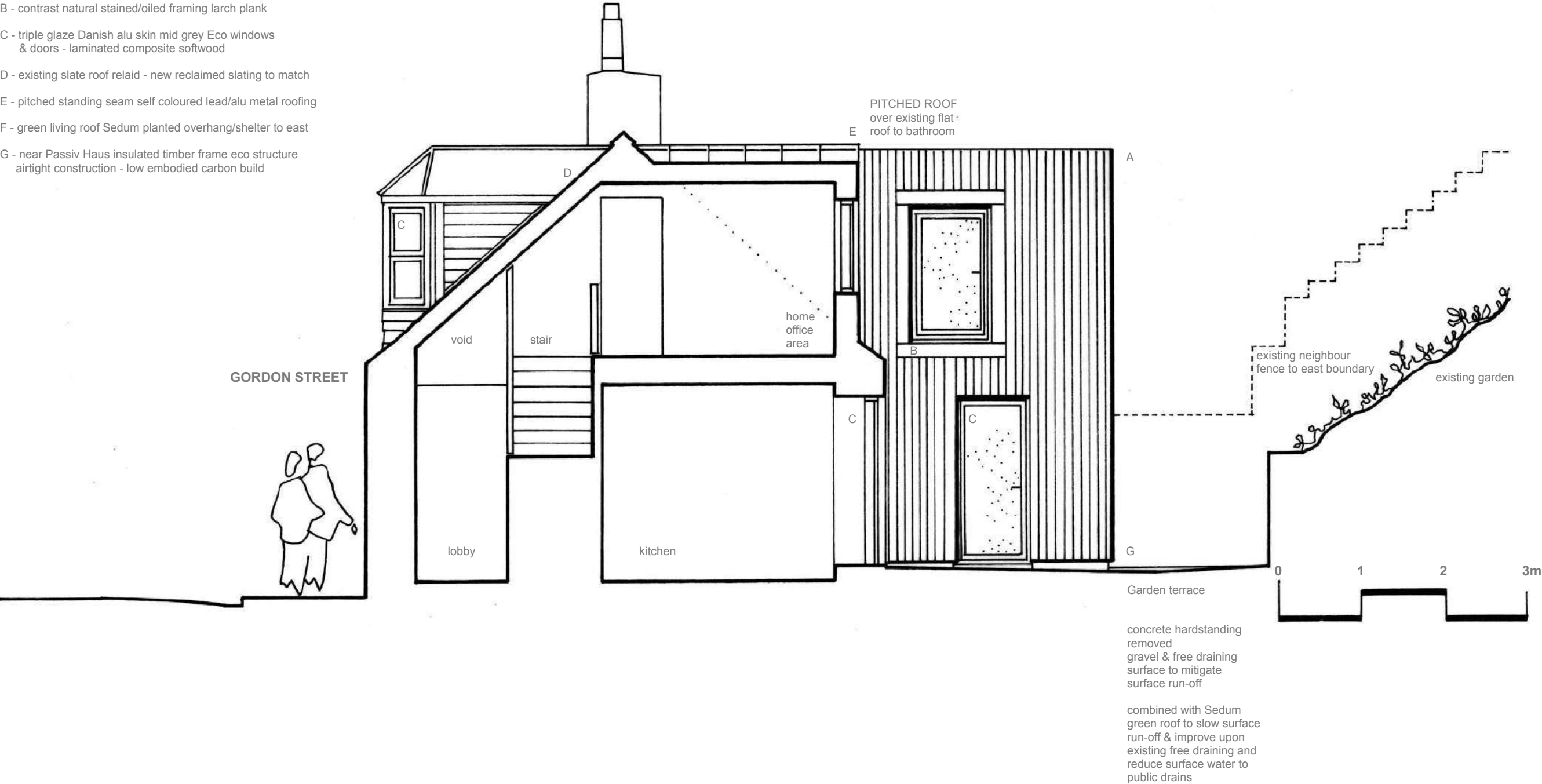
C - triple glaze Danish alu skin mid grey Eco windows  
& doors - laminated composite softwood

D - existing slate roof relaid - new reclaimed slating to match

E - pitched standing seam self coloured lead/aluminum metal roofing

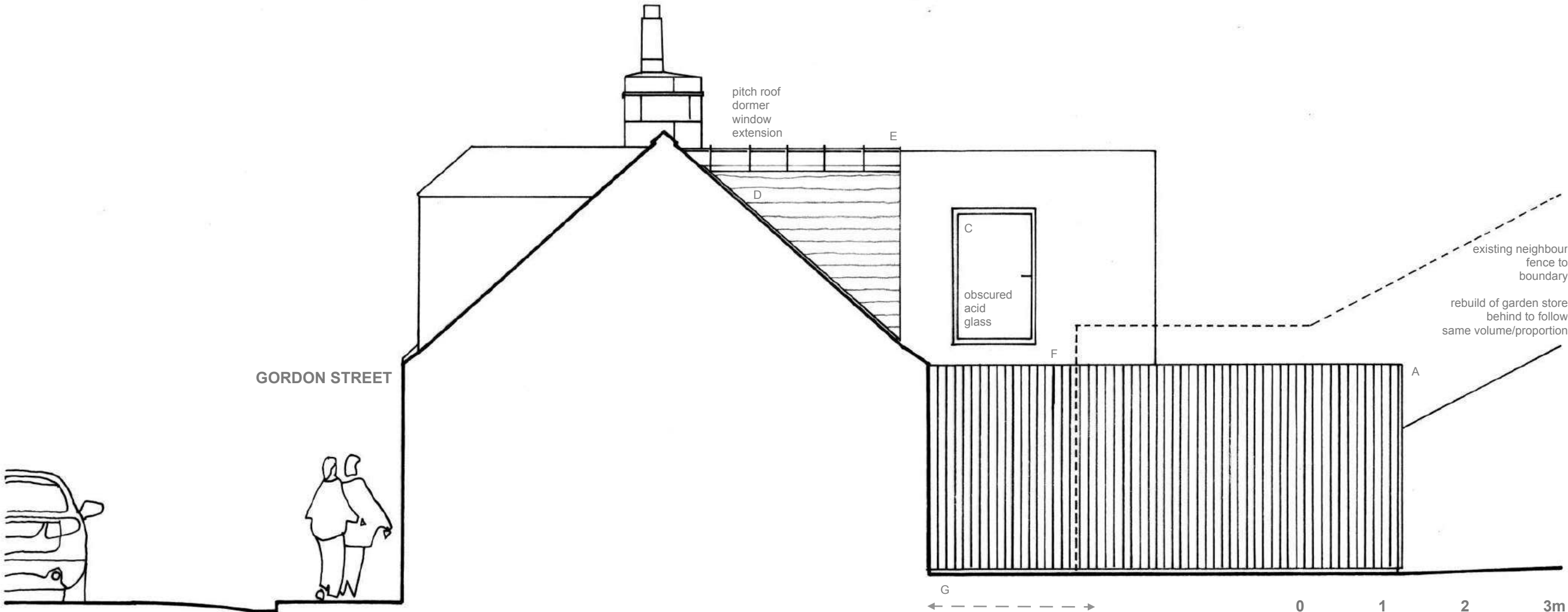
F - green living roof Sedum planted overhang/shelter to east

G - near Passiv Haus insulated timber frame eco structure  
airtight construction - low embodied carbon build





PROPOSAL - elevation view from west 1:50 @ A3 sheet size



- A - smooth sawn vertical larch plank cladding T&G jointed Sadolin Extra high performance satin black wood stain low maintenance finish
- B - contrast natural stained/oiled framing larch plank
- C - triple glaze Danish alu skin mid grey Eco windows & doors - laminated composite softwood
- D - existing slate roof relaid - new reclaimed slating to match
- E - pitched standing seam self coloured lead/aluminum metal roofing
- F - green living roof Sedum planted overhang/shelter to east
- G - near Passiv Haus insulated timber frame eco structure airtight construction - low embodied carbon build

G  
New section  
infill build  
to join existing  
garden store to  
house as  
studio/bed 003

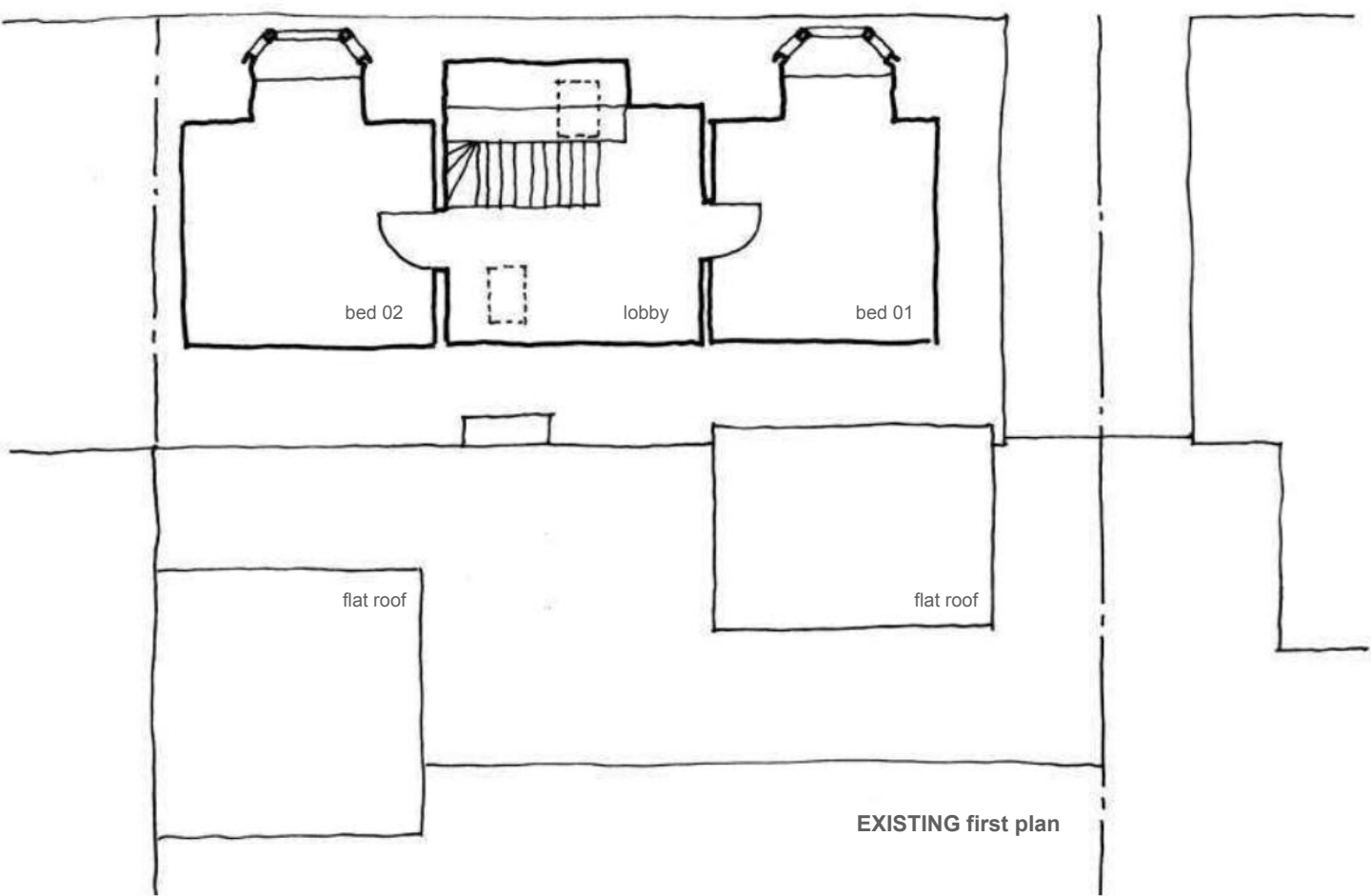
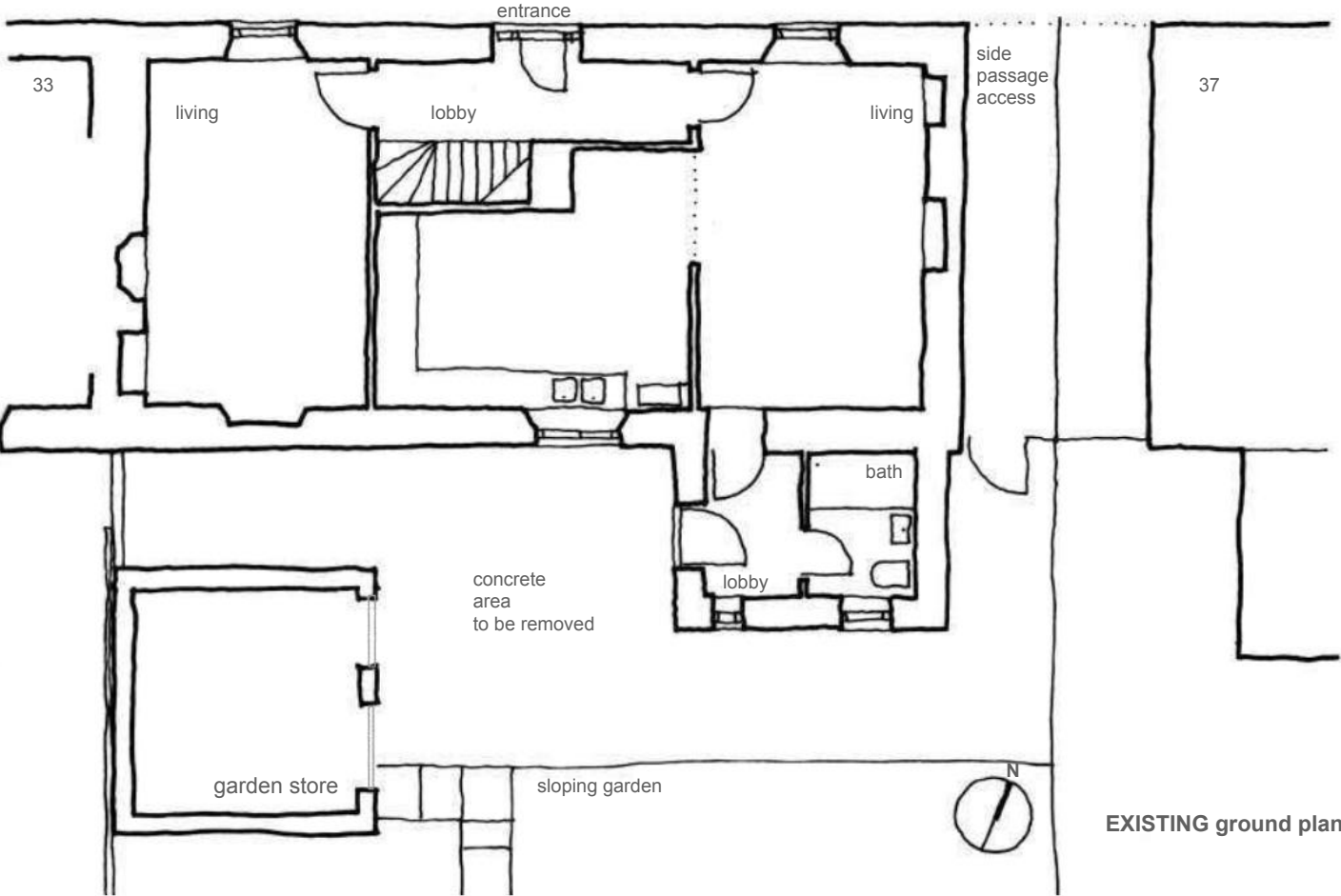
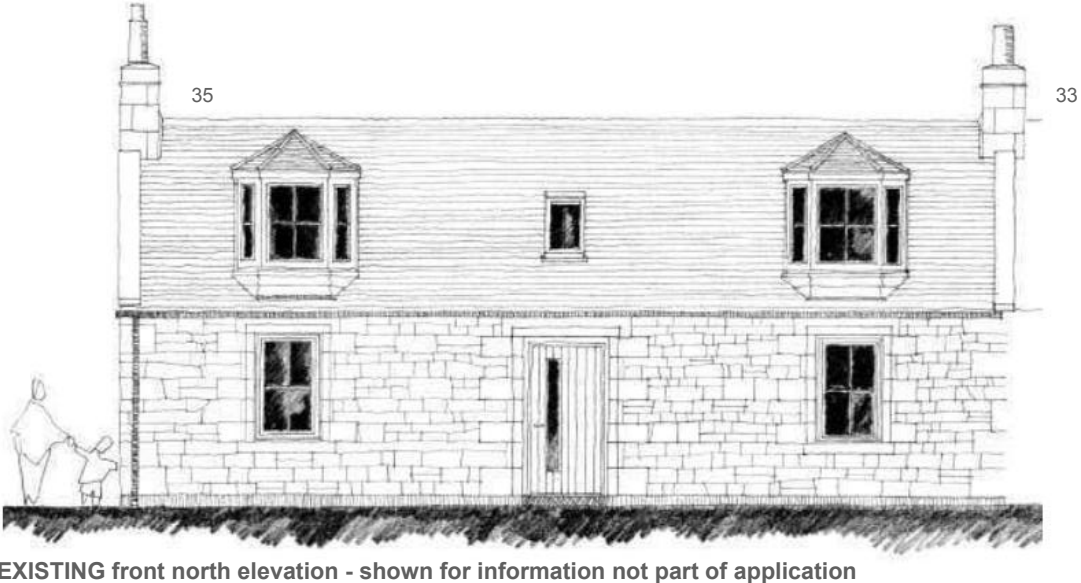
0 1 2 3m

35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

NMD<sup>©</sup>

historic  
contemporary  
contextual

EXISTING - plans & elevations 1:100 @ A3 sheet size



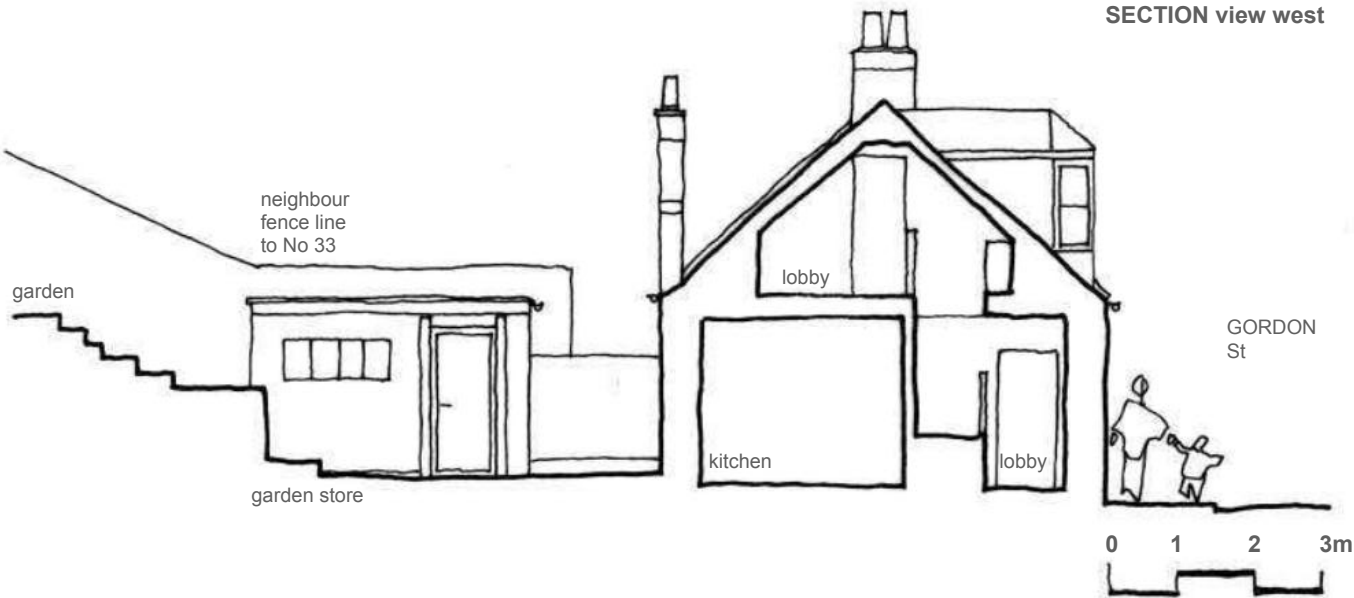
35 GORDON STREET Portgordon AB56 5QR  
Ms C Lambert

EXISTING - elevations & sections 1:100 @ A3 sheet size

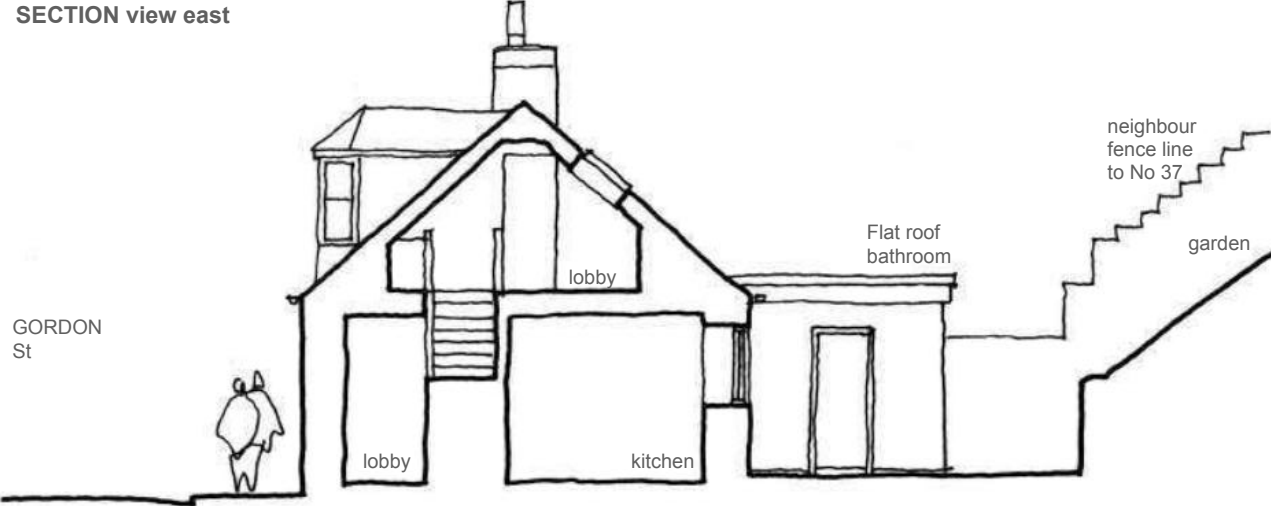
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historic  
contemporary  
contextual

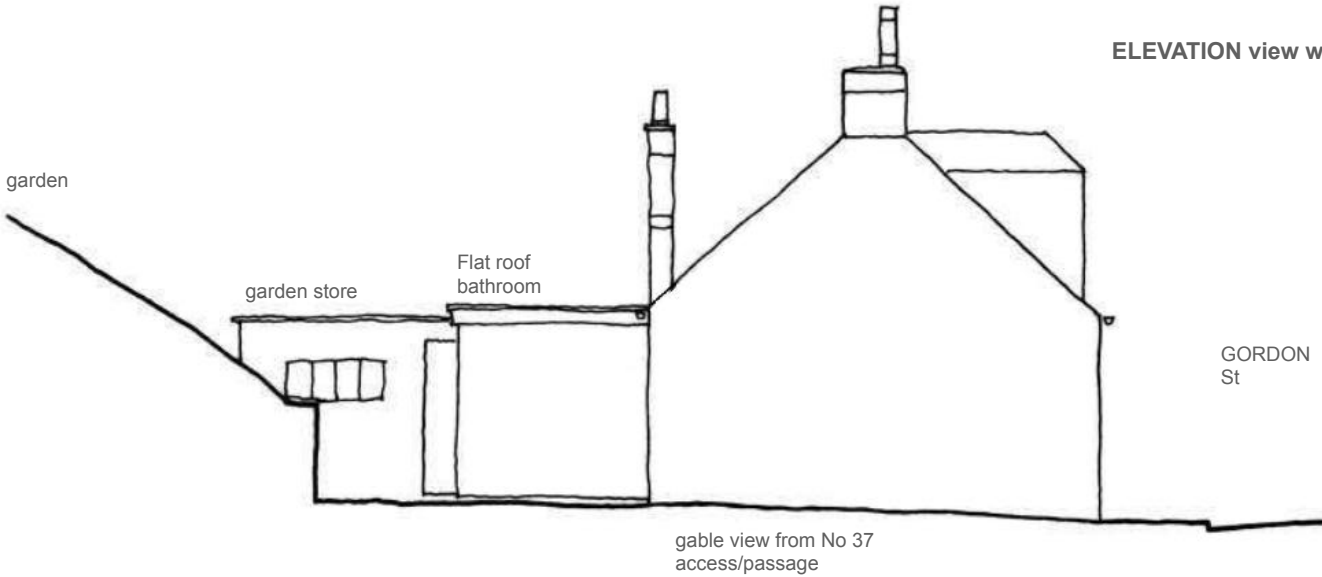
SECTION view west



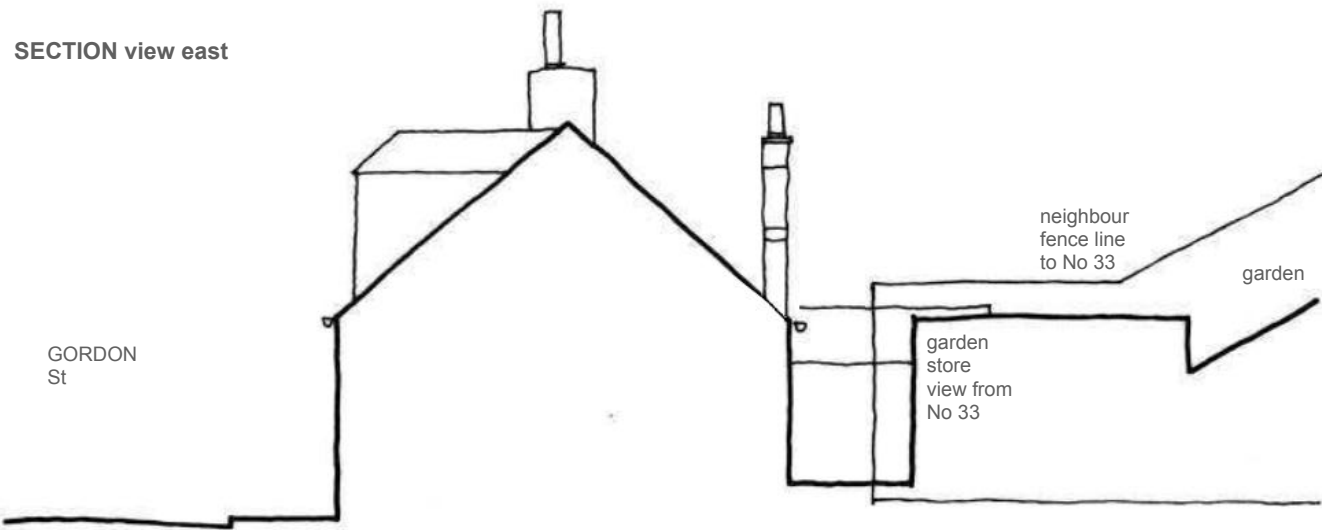
SECTION view east



ELEVATION view west



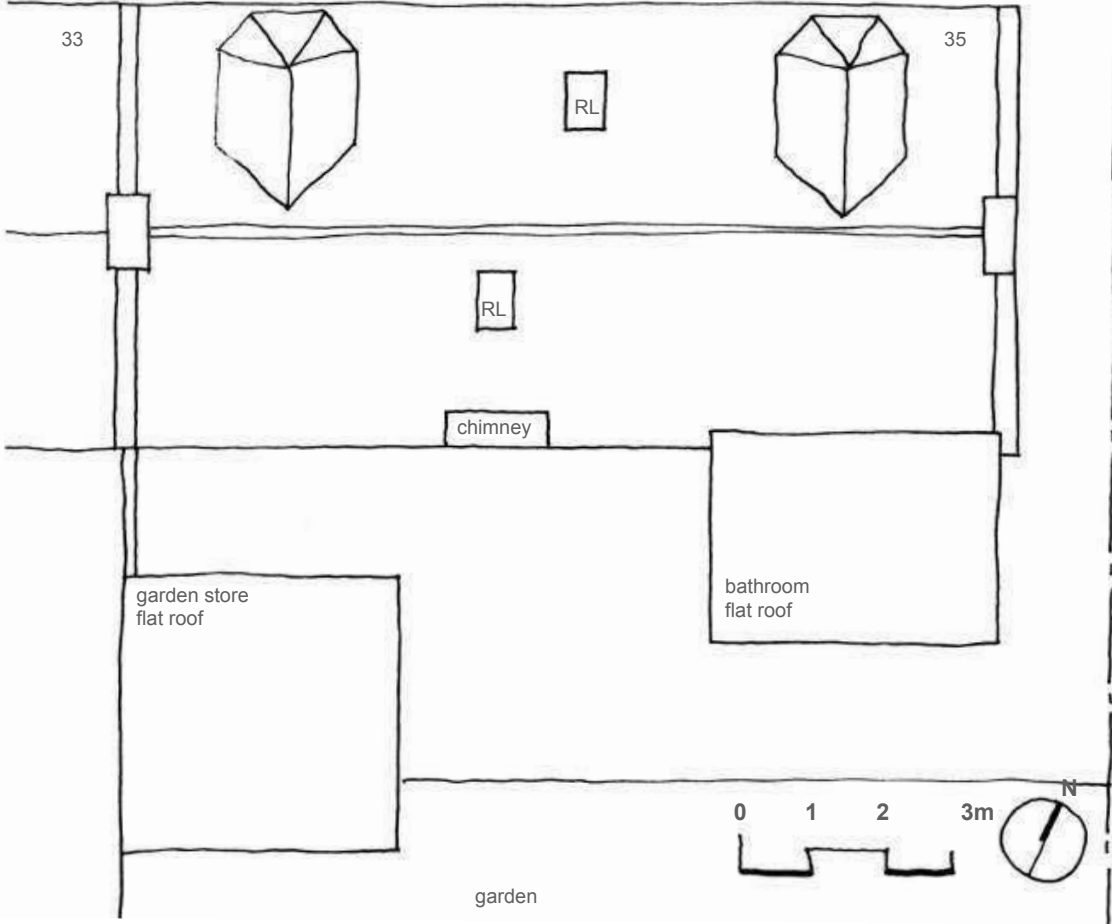
SECTION view east



EXISTING & PROPOSED - roof plan 1:100 @ A3 sheet size

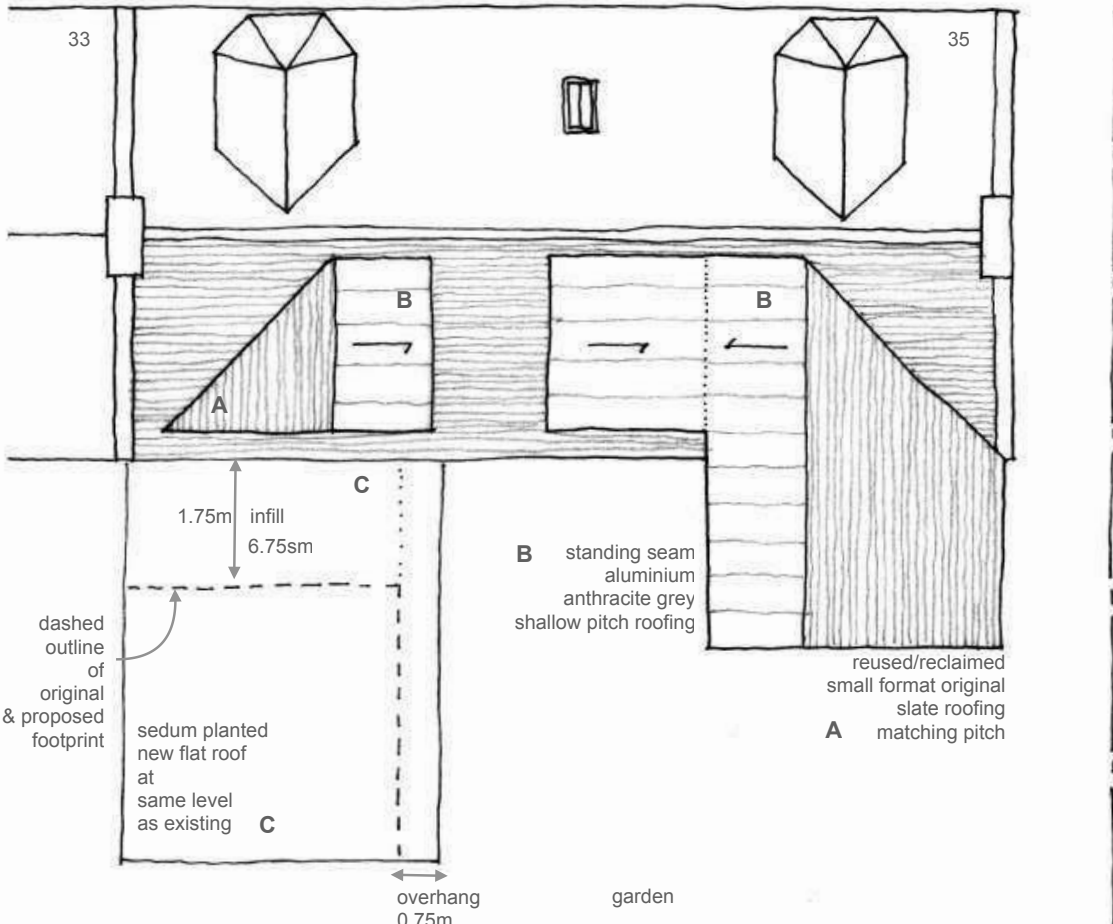
EXISTING roof plan

GORDON St



PROPOSED roof plan

GORDON St







35, Gordon Street, Portgordon, Moray, AB56 5QR

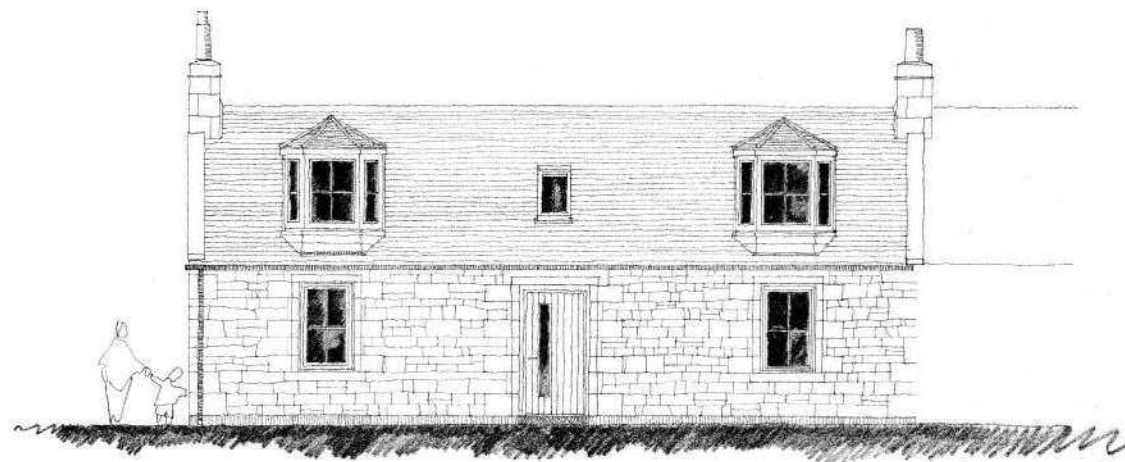
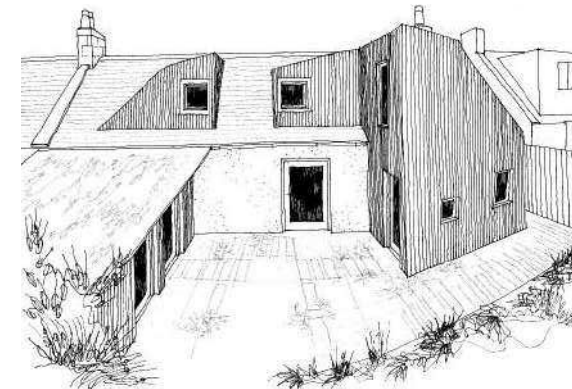
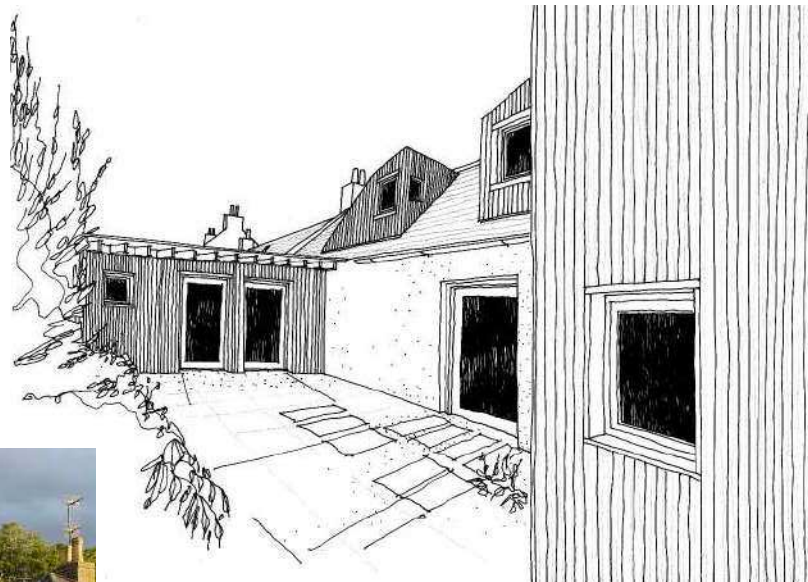


Location Plan shows area bounded by: 339783.2, 864206.25 339983.2, 864406.25 (at a scale of 1:1250), OSGridRef: NJ39886430. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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## PROPOSED - DESIGN STATEMENT context, historic mapping, intent & environment

No 35 GORDON STREET Portgordon AB56 5QR



Portgordon



## INTENT

The intent is to alter and update the property, to provide an extra bedroom at ground floor to support multi generational accessible living, extend the roof level/first floor accommodation to improve head height and volume to the existing bedroom/living spaces and to extend the roof pitch over the flat roofed ground floor bathroom to create a first floor ensuite bathroom.

Overall a complete 21st C renovation of the building fabric, to highly insulate to near Passive Haus standards, damp proof the structure and create an environmentally friendly airtight envelope with an energy efficient wet underfloor heating system [UFH], married to well managed smart energy control, with the allowance for future incorporation of either heat pump technology or hydrogen ready heat generation.

The existing fabric and materials will be retained externally to the north Gordon Street Elevation there will be no outward alteration or physical changes.

## FAMILY living

The accommodation is to provide family accommodation for the applicant, to create a sensitive refurbishment of the existing spaces and with minimal new built footprint to improve the volume of living space, to let more light into the property, to nurture a healthy 21st C environment and to preserve the property for future generations.

## HERITAGE setting

It is important to the applicant to preserve the intrinsic character and qualities of this heritage [mid 1800's] dwelling but to also improve and contrast the new additions, to give an holistic response, that is not slavishly mimicking an historic style with a weak pastiche - but to offer strong yet sympathetic new forms. With embedded vernacular and historic references, whilst offering a contemporary response.

The form and character of the village is unique, as the settlement was a new community and a planned build by the Duke of Gordon' though not as formal as Tomintoul or Fochabers due to its geography on a relatively narrow foreshore strip. The creation of 'Port Gordon' linked the existing settlements of Gollachy and Port Tannachy.

With these modest interventions to the property, we are conscious that the proposals are contemporary - but respond to the here and now of the village and its flow through history.



## SETTLEMENT history & context

In the late 1700's Buckie was the principal fishing community on this local part of the coast. At that time fishing was by line, in boats no larger than 14 tons. Development locally of the industry was limited by the lack of proper harbours and disputes amongst the three owners of the various local boats.

One of these local owners, Alexander, 4th Duke of Gordon, decided to establish a new village, just to the west of the tiny community of Gollachy, which comprised but a few houses in the area that is now Gordon Street. Work was underway on the harbour by 1795 and stone was being shipped from Lossiemouth in 1796. In 1797 houses were built for ten fishermen and their families from Nether Buckie which resulted in the communities of Tannachy and Gollachy being joined together as Port Gordon [Portgordon].

Portgordon developed with other uses for the harbour other than purely fishing, with its developing growth and commercial advantage, it started exporting timber and quarry materials, overtaking Buckie in importance. The village thrived into the late 1800's and early 1900's. By the 1850s a post office had opened and there were many coopers, fish processors and net makers. By 1861 the population had grown to around 630. The opening of a fertiliser factory in Keith lead to traffic in bones through the harbour too. The harbour was also used for the export, from further inland, for timber and stone.

John Gordon of Cluny was the member of the Gordon family to build the 'modern' Gollachy part of Portgordon, at the east end of the village, the [applicants] house/property at No 35 was still owned by the Gordon family and passed to his illegitimate son John, then the majority of Portgordon property ended up with his wife after his death 1878.

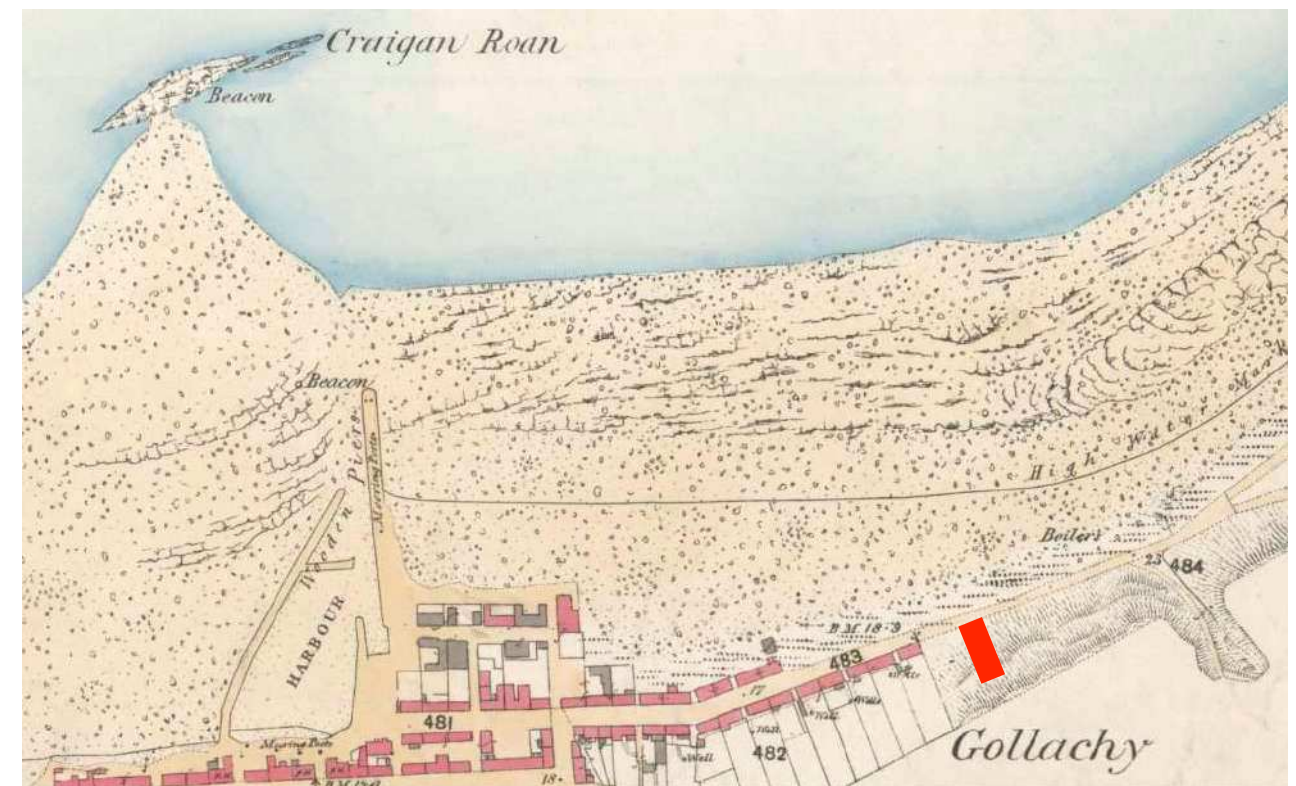
The house was built just before the railway was built, as it's shown on the 1870's plan proposals which the applicant has sourced from the National Record in Edinburgh - but not on the 1860's survey. Various routes were muted for the coastal railway between Portsoy and Elgin with the route through the village being established by an Act of Parliament 1881 and following a line through the mid level of the coastal slope, avoiding most of the existing dwellings, though not requiring to climb to the higher ground to the south of the village. The railway has defined the southern limit of the property, with Gordon Street to the north.

With the railway planned in about 1845 and built and opened by 1886, as referenced in the searches in the title documents for the No 35 property.

In 1956 No 35 came into the family who the current owner/applicant purchased it from. The current dormer windows were added later and from internal structural inspection, noting the carpentry & machine sawn timbers/fixings dates them around c1900, this corresponds with the decline of fishing and artisan uses of the properties when predominantly the upper floor was used for storage. It's likely that the first floor accommodation became habitable space.

A boat-building industry began, and in the early 1900's local boat yards were ranged on the foreshore to the east of the harbour, first constructing Zulu's and from 1903 steam drifters. In 1907 one yard employed fifty men and launched a drifter every month or so - but this business in drifters had dried up by 1915, though the yard continued to produce salmon cobsles.

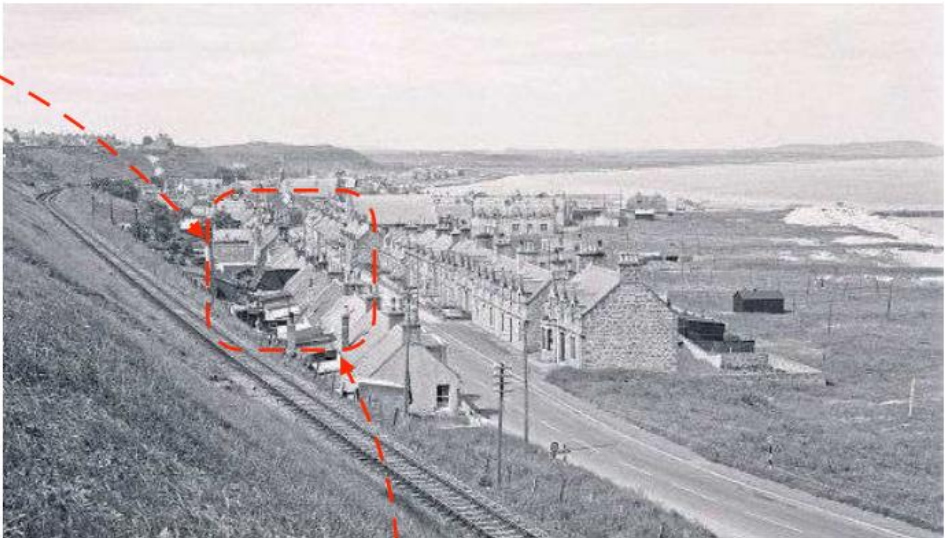
Since the 1960's there has been a steady decline in fishing & coastal industries, the village now has been occupied by families who draw occupations from a wider region, in the first part of the 21st C the village has seen people and families moving in from outside the local region, though the village is predominantly still owner occupiers, with only a very few holiday lettings or tourist related occupations.



map 1825-40's



Portgordon  
harbour view  
from west



context images views  
from east & south

photographs show earlier  
two storey mansard  
roofed outbuilding  
to the rear of 37/39



historic view of harbour  
illustrating groupings  
of ancillary sheds  
& workshops





LISTED historic buildings locally

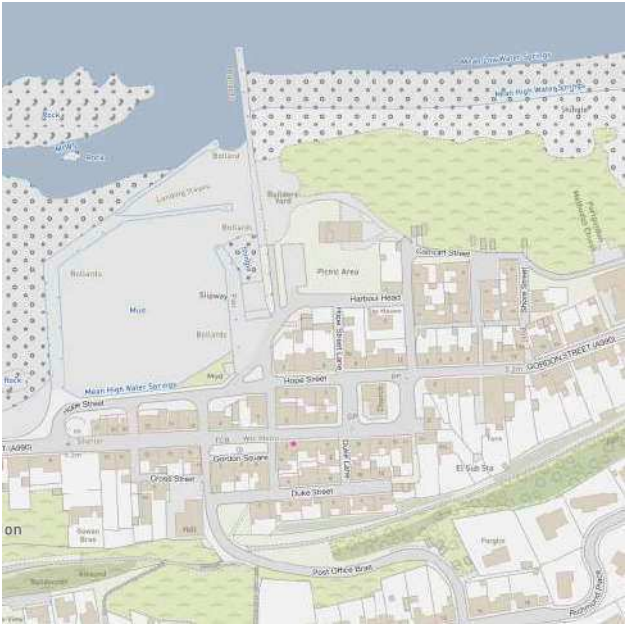
It is interesting that in the ‘fisher town’ of Portgordon there is only one listed building, as there are many good examples of heritage dwellings & structures, all with their own merit, that create the unique setting and character of this historic coastal settlement.

PORTGORDON 2 EAST HIGH STREET      LB15522      Category C

Date Added      22/02/1972  
Local Authority      Moray  
Planning Authority      Moray  
Parish      Rathven  
NGR      NJ 39650 64244  
Coordinates      339650, 864244

Description

Early 19th century. Single storey, 4-bay cottage with single bay return elevation to Gordon Square (W). Rendered rubble with later long and short detailing. Entrance with panelled door flanked by windows with varied glazing; blocked doorway in outer bay at right; single window in W elevation (to Gordon Square). Renewed brick end stacks; piended slate roof.



PORTGORDON, GOLLACHY ICE HOUSE      LB15546      Category B

Date Added      25/04/1989  
Local Authority      Moray  
Planning Authority      Moray  
Parish      Rathven  
NGR      NJ 40260 64565  
Coordinates      340260, 864565

Description

Earlier 19th century. Rectangular rubble ice house with long elevations E and W, and off-centre entrance in E. Modern pinkish harl. Piended turfed roof with blocked chute. Ramp at W leads from road to ice house at roof-height. INTERIOR: steps descend from doorway to ante-room (cool chamber) from whence a further doorway leads to single chambered vaulted ice house.

Statement of Special Interest - Unusual ice house in that it is sited on the shore and excavated rather than being built into side of hill. Restored by Moray District in 1970s.

Gollachy Ice House planning approval 17/00155/LBC



## ASSET nature & context

Whilst there are only two immediate Listed Buildings close to the applicants property and the village is not a Conservation Area, the heritage assets form this planned village and the inherent preserved history of the settlement, this places it equally with other historic settlements on the Moray Coast. It is relevant with new proposals for development to be conscious of the heritage setting, the quality of environment and the catalogue of vernacular properties that are a good record of the social and economic development along this immediate part of the coastal strip.

The applicants property is part of the latter construction of the eastern end of Gordon Street in the mid 1800's, the linear development of the Gollachy part of the village, built on the available land that is slightly higher than the foreshore with its naval uses and the abrupt coastal slope to the south, this slope was likely steepened at this eastern end of the village with the construction of the railway.

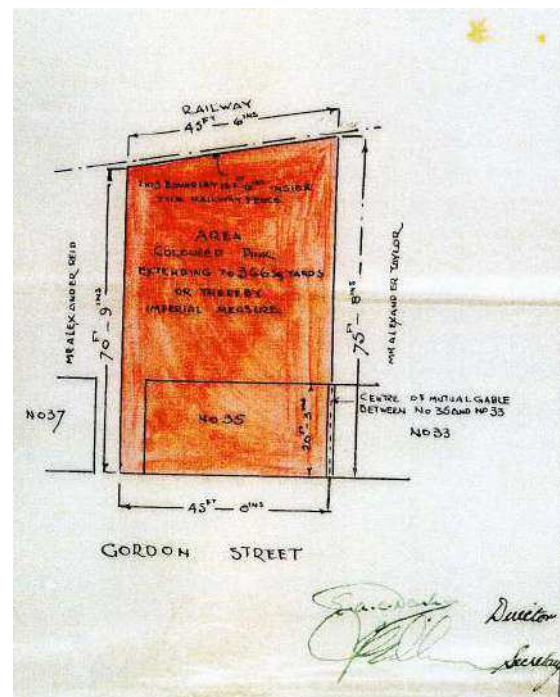
The original properties prior to the planning of railway on Gordon Street were likely to have been built in the first quarter of the 19th C, as the railway was at this point planned on the south side of the village at the top of the coastal slope - these properties we know through discussion with owners on Gordon Street, had longer gardens extending right up to the top of the coastal slope and to the rear of where it was, until more modern development, just farmland.

The gardens to the last 9 properties on the south side of Gordon Street from 33-49 were planned with shorter or no gardens [see the map/plan below] though its likely concurrent with the railway construction, as the land was all in the ownership of the Duke of Gordon gardens were bundled together, when the railway was built or later in 1956 when the land was sold by the benefactors of the Gordon Estate into private ownership. This indicates that the nature of the street and the land adjoining the property has altered little since the mid 1800's.

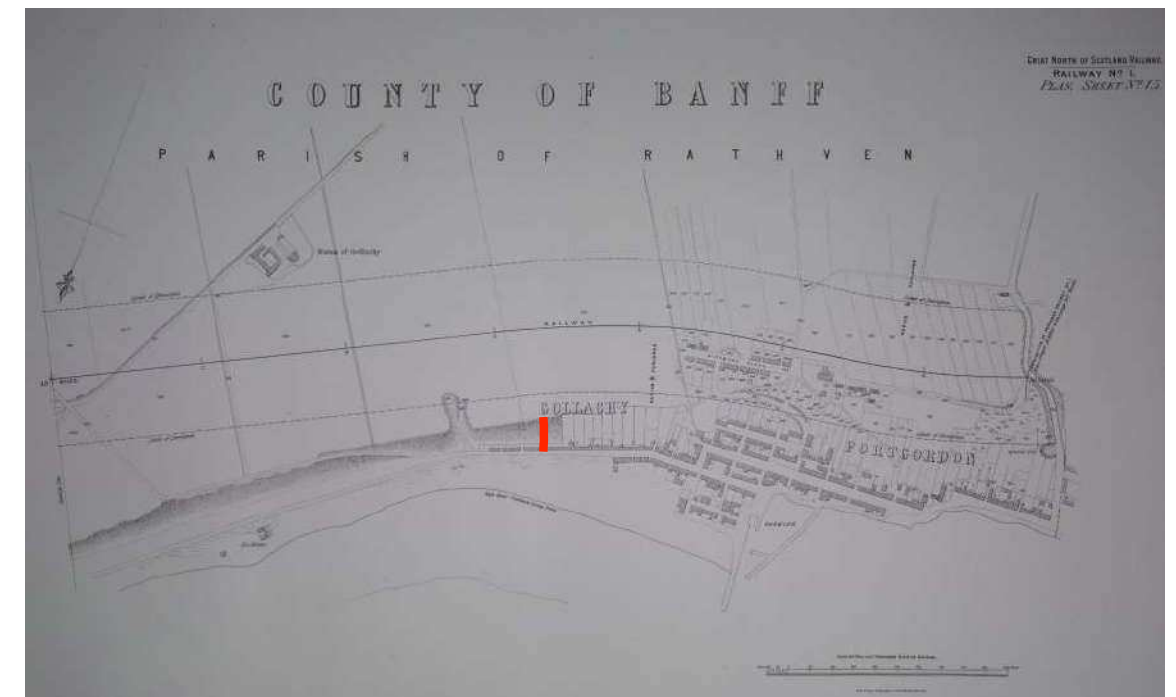
With the proposal we are conscious of the social & economic progression of the village and this design reflects the architectural history of the immediate area whilst also bringing to a fore the contemporary style and use for this property into the 21st C and beyond.



map 1902



legal document 1956



archive map pre Act Of Parliament for railway construction 1825-50



This historic dialogue is evidenced for properties along Gordon Street being used for the boat building and fishing industry. The photographs shown on the adjoining page 5, shows the property to the east of No 35., [No 37/39] had well into the 1950-60's a large sail/net loft or 2 storey workshop to the south. As a full two storey structure, it appears to be dark stained, presumably timber framed/planked building, with a steep mansard type roof and a flattened top. This style of building is typical of sail/net lofts from many east coast communities, where sails or nets could be rigged and stored vertically for repair and drying.

The photographs and mapping [pages 5-9] also show that previously the area to the south of the ribbon of symmetrical houses along Gordon Street, had many varied and different forms of outhouse and potentially ad-hoc dwellings/workshops, mostly on the flat low area before the coastal slope developing a tight and varied built form under the coastal slope.

Many of these forms and structures remain and more recently there has been a steady growth in new 'garden and workshop' ancillary buildings developed as adjuncts to the historic properties. Often these structures are single storey with flat or pitched roofing, though some are two storey. A strong relationship is established between the formality of the street frontage and back plot ancillary accommodation which creates varied and visually interesting variation in scale and forms within the tight village plots.

This is a typical character of the areas to the south of Gordon Street and the loose grid of dwellings closer to the harbour - historically there will have been more shed, workshops and storage buildings around the harbour [image page 5].

Some of the rear development to property along Gordon Street is attached to the existing houses or equally detached. Development has historically been tight on boundaries and parallel with neighbour structures. The aspect from dwellings is predominantly north and south with very little gable or boundary fenestration.

The images [on page 9] illustrate the close knit ad-hoc arrangements of the 'backland' structures and vernacular forms of roofscape, sheds and workshops, compared to the more formal linear character of the Gordon Street frontage, Hope Street and leading into east High Street East and Gordon Square to the south of the harbour. Despite the more formal planned nature of some of the historic villages, the true Moray character is made up with the ranges of cottages and by the varied scales around each property, vernacular forms and the loose development of ancillary buildings that is part of the predominance of the Moray village characteristics.

The growth of Portgordon within the topographical constraints and within the older part of the village beyond the ribbon layout, has to a greater extent been organic, built structures and forms of varying scale, one two and three storey sometimes with high pitched roofing and steep gables, these dwellings fill the spaces between the harbour shore, roadways and alleys.

Giving an intense footprint of buildings, that only dissipates suddenly to the east on the side of the foreshore, this is where the ownership of the land is that of the Crown and to the south where the village was ultimately confined by the railway.





The foreshore historically provided for boat building, the sheds and enclosures must have been transient as little on the historic map surveys records this industry. The now privately owned ranges of drying frames were apparent for fishing equipment and then more latterly used as communal washing lines - the immediate foreshore/access lane now provides for parking and access to the houses on the north side of Gordon Street - as the north side of the A990 roadway is not usually used for residential parking.

The houses on Gordon Street to the south use the street frontage for parking, the frontages of the dwellings stretching to +13m providing ample space for 2-3 vehicles outside each dwelling.

CONTEXTUAL vernacular precedents



Tannachy - out buildings



Gordon Street - outbuildings



Kingston - outbuildings



Spey Bay - varied forms & outbuildings



Kingston WW2 vernacular



Portgordon varied roofscape



Portgordon varied roofscape



Gordon Street view west



No 35 & 37



Tannachy varied forms



Kingston - monopitch



CONTEXTUAL contemporary precedents



West Bank GARMOUTH  
18/00843/APP

incongruous modern box  
dormer to front elevation



130 Seatown CULLEN  
15/02162/APP

modern well designed two  
storey addition to dwelling  
in Conservation Area



Lennox Brae FOCHABERS  
17/00907/APP

modern replacement  
dwelling - well  
designed form and  
context in  
Speyside setting



Dalmunach Distillery STRATHSPEY

large contemporay  
structure in rural  
open setting contextural forms  
relating to historic vernacular

© Norr Design



Strone Cottage NEWTONMORE

contemporary refurbishment &  
extension of existing croft  
exemplary modern building  
within Cairngorm National Park

© Loader Monteith

## **NEW BUILD intent**

The intent is to alter and update the property, to provide an extra bedroom at ground floor to support multi generational accessible living, extend the roof level/first floor accommodation to improve head height and volume to the existing bedroom/living spaces and to extend the roof pitch over the flat roofed ground floor bathroom to create a first floor ensuite bathroom.

Overall a complete 21st C renovation of the building fabric, to highly insulate to near Passive Haus standards, damp proof the structure and create an environmentally friendly airtight envelope with an energy efficient wet underfloor heating system [UFH], married to well managed smart energy control, with the allowance for future incorporation of either heat pump technology or hydrogen heat source generation.

## **VISUAL and local amenity**

The existing fabric and materials will be retained externally to the north Gordon Street Elevation there will be no outward alteration or physical changes. The intent is to be contemporary both in the arrangement of the dwelling and also in the visual aspects of the new additions to the south/rear.

Contextually the intent for the new build rear/south additions, is to carefully moderate the scale and form, the roof level additions are to be built within the roof and to reuse the existing slate for the new pitches, the 'dormer' window arrangements are to be varied pitched forms, with a shallow pitched capping in standing seam zinc or folded aluminium sheet. The new wall cladding is to be a crisp dark stained larch boarding, whilst window openings are to be contrasted with natural coloured timber edge framing - these are all vernacular features, reinterpreted and expressed in a contemporary form - the pitched roofing moves away from the plethora of awkward 'box dormers' dotted around the village on historic properties, here we intend for the scale of the additions to create a comfortable dialogue with the host dwelling, respecting the form and mass, not to be over bearing, creating additions which are obviously 'of a time' and visually pleasing but secondary to the host form.

Looking into the site from neighbours the aspect of the new forms will be pitched slate roofing reusing the small format natural slates, longer views into the dwelling from the south are from the higher ground of the old railway/coastal trail, this aspect is physically separated from the public domain by a 1.5m earth bund and currently low 1.2m boundary fence, reinforcing the separation of the property from public areas. Mature planting in the garden area breaks up any direct views of or into the the property. The partial views of the additions that can be seen from the neighbours and the public realm will be visually interesting and protect amenity.

Non of the new first floor windows overlook the neighbours private amenity and the window facing west from the first floor ensuite bathroom is to have obscured glass.

The flat roof over the SE bathroom addition is removed by building over with a 'within the roof' two storey [inc. the roof] pitched roof addition, this form sits below the existing ridge and only extends over the existing footprint of the bathroom.

The flat roofed garden store to the SW is to be rebuilt utilising only the existing footprint and volume, it is to be joined to the main house, building over the void and filling the space and minor opening to No 33, the new build footprint proposed here is c6.5sm in total [1.8x3.6m] and 2.4m high to the gutter line.

This existing partial boundary opening is currently screened by the No 33 garden fence which is at a higher elevation and the lower cement rendered boundary wall to No 35 - the height of this link will be below the gutter line and contiguous with the existing storeroom height.

It should be noted that building on boundaries with single storey adjuncts are typical of the Portgordon plots, with a recent large scale infill at No 17 Gordon Street [18/00193/APP], adding a two storey extension on the boundary, in contemporary style with a distinctive mono pitch roof. Closing this boundary gap to the east of No 33 will have little detriment to amenity and increase privacy.

The neighbour to the west at No 33 has now constructed a garden extension structure, single storey under Permitted Development [PD], other than the extension over the bathroom at No 35, the other proposed works to provide the roof dormers and the garden store rebuild, would all have been permitted under PD. We do not consider the proposals reduce visual or domestic amenity of neighbours. The neighbour at No 37 to the east has a large box dormer the length of the property, the new roof pitch over the bathroom at No 35 screens any direct views from No 37.



## CONTEXT for the design

The proposals relate to the examples of vernacular forms and secondary adjuncts to dwellings found locally around Portgordon and in the immediate coastal vicinity.

The dark stained timber and simple recessed window and door openings are typical of the extensions, sheds and workshops found along the coast [see page 9-10], varied heights and massing are typical of additions to the historic dwellings, varied roof pitches and contrasting use of materials are reflected in many of the coastal villages.

We have chosen forms that reflect the sheds and additions to older dwellings - but we have with crisp architectural detail and careful selection of materials, attempted to design a response that is 21st C, whilst borrowing its lead from history. The additions will be subtle and secondary to the host dwelling, of a scale and form that marries well in local context and built in a manner that weathers well and requires simple yet minimal maintenance.

The contrast of stained timber, sheet metal with simple and defined openings all features that have a contemporary vernacular dialogue, whilst reflecting the history of build techniques and the locally sourced and used materials. The forms are subtle, visually interesting - but not so overt as to contrast awkwardly in the neighbourhood.

## MATERIALS and build

We have spent time sourcing windows and doors in particular, we do not specify, where possible plastics in our builds, this is paramount in window and door specification, we feel it is important to use window and door units that in their detail and function give a strong visual reference and contribute to the overall quality of the project.

The proposal is to replace windows with the traditional format and proportion of casement timber windows with a natural low gloss paint finish, to pick-up on the existing local heritage style and forms, whilst ensuring a contemporary unit is used that provides the best performance, style and eco credentials.

We have a track record of over 25 years working with high performance triple glazed factory painted, authentic 'Scandinavian' style windows. We propose a traditional style and construction of casement sash window, available in high quality sustainably sourced laminated SW timber framing, with a low gloss self coloured aluminium skin externally.

Narrow traditional format 24 mm glazing bars maintain the heritage style, as well as being low maintenance long-lasting windows - high quality crafted windows that are CE-marked, using FSC timber - guarantee of energy performance - with a cottage window style, this is a rare proposition



Designed to provide an effective barrier against inclement Scandinavian weather, a triple-glazed argon filled window unit is one of the best solutions available. It allows us to strike the balance between a light-filled home with views of the outdoors, and one that will stay warm and cosy throughout the chilliest of winters - in addition to impressively low U-values 1.0 or better, the low-maintenance outer-face gives great performance for years to come with minimal upkeep. The solid timber core of the windows means they score high in terms of acoustic and thermal performance whilst looking good.

The new structures to the rear/south side of the house will be highly insulated timber frame panels, clad vertically in locally sourced T&G smooth sawn larch, tightly jointed. Dark stained with black Sadolin Extra a low sheen high performance low maintenance opaque wood stain - this form is redolent of the vernacular vertical plank on plank boarding found in the coastal buildings along the Moray coast.

The shape of the roof extension and the build-up over the bathroom reflects previously the neighbour structure of the workshops, net and sail lofts [page 5], tar painted, board on board cladding, bluff facades and sculptural yet functional built form.

Through the Pre App discussion and understanding the new 'Local Plan' guidance, we know there is a move away from the plethora of applied 'box dormers', in some cases there are good examples though often these additions are awkward and out of scale with the host dwelling [page 10].

The proposal with the redevelopment of No 35 is to bring a heritage asset back to good repair and to upgrade the scope of the accommodation and renew the fabric to foster a good 21st Century living environment.

The property had until mid 2021 been empty since 2019, there had been only minor upgrading in the last decade, with a grant funded basic central heating system, plastic UPVC windows and a plastic lined wetroom/accessible bathroom installed for an elderly occupant.

The scope of the accommodation is dated and largely unchanged in the layout from the early 1900's. The property is by today's standards poorly insulated and has a relatively primitive heating system with very limited management/control not conducive to energy efficient comfortable 21st C living.

The intent is to complete an invasive refurbishment, strip and remove wet/dry rot and all deleterious material. Currently the ground floor timber floor joist structures sit within the sand & gravel of the foreshore, there is no damp proofing. The dwelling structure is of solid sandstone walling, this typically the lowland Moray outcrop sandstones of Upper Old Red Sandstone age, which were widely quarried along the ridges from Alves to Elgin, with very large workings at Newton and in Quarry Wood.

This stone is creamy yellow to pale pink in colour and the textures vary from pebbly, through gritty to fine-grained varieties. Externally the higher quality fine grained dressed sandstone is used around openings to the north, whilst internally the softer [cheaper] pinker sandstone rubble walling is predominant.

Externally the bays of north facing walling are courses of mis-shapen random or field rubble, that are infilled or caulked with smaller pieces, locally known as 'cherry-cocking'. This is a very old practice which has continued well into this century. Amongst early examples are the walls enclosing the garden at medieval Pluscarden Abbey and the park walls at Rothiemay House, occupying the site of Rothiemay Castle.

The intent is to re point the external walling with a lime/grit mortar, the rendered areas of walling to the east/south will be retained as they are in good condition.

Typically internally the walls are dry lined/battened in hardboard/plasterboard, with the original roof structure slated/boarded over a heavy 'A' frame rafter and floor joist, half lapped joints and skew nailed. The low slate pitched dormer faceted windows are from the early 1900's and cut through the roof frame structure and extend into what was formerly roof void. The staircase and ground floor partitions are relatively modern and plasterboard.

The interior will be stripped out, new dry lining to the walls with near Passive House insulation installed, floors removed and excavated and relaid with damp proof tanking, insulation and a wet underfloor heating system run off either an air source heat pump or eventually a hydrogen ready boiler system. The upper floor will see the roof stripped internally and insulated to the same high standards, vapour barriers installed and relined. The existing roof is to be relayed with the existing slates with reclaimed matching slate to replace/add-to as required.

#### **ENVIRONMENT low embodied carbon - principles of design**

NMD only specify natural and sustainably sourced materials, we tend not to specify first use plastics where possible, preferring recycled building products reusing plastics, polyester and natural materials, we don't use plastics in situations where they can degrade and breakdown into micro particles or give off toxic gaseous emissions that cause illness, pollute living environments and the natural environment.

We look to buildings to be very low maintenance, minimise intensive maintenance like repainting, this reduces the breakdown of deleterious materials into the environment - as such specifying natural materials that need little or no protection with products like solvent based paints or stain coatings:

- We often use Larch from sustainable local sources, which akin to Cedar when used where it is properly detailed, has a 90+ year design life and carries a very low embodied carbon.
- We frequently use Sheep wool insulation, which is a grass fed natural grown organic material, this uses a material that is now virtually a 'modern waste product' - in use it absorbs toxins and locks them away, it filters moisture and dries out structures naturally and is one of the only high performance 'quilt' like insulants that has a very high insulating value when damp. It is not an irritant when being installed and has a design life when correctly installed in excess of 100 years.
- Recycled polyester insulation married to recycled plasticised aluminium foil membranes, create a high performance airtight 'thin layer' quilt, that also acts as a vapour barrier and providing internal waterproofing to solid masonry structures - with a 70+ yr life.
- Recycled slate for roofing repairs is a material with a design life that is almost infinite, within a correct traditional installation - very low in embodied carbon.
- We minimise concrete/cement use and maximise use of natural lime/sand mortars.
- We minimise blown gas slab insulant slab use, only using it 'sealed' within structures to prevent the breakdown of the material and release of deleterious toxic gases into living spaces.
- We do not specify any products with embedded formaldehyde or solvents.
- We limit the use of gypsum products.
- When we specify aluminium and steel - it has long life galvanised or powder coat finishes - used in shallow pitch roofing and/or preformed gutter and downpipes.
- We only specify smart heating systems - designing dwellings to be close to Passiv Haus standards, energy systems that are 'hydrogen ready' or run from bio source materials or heat pumps and MHVR systems with smart user friendly control systems collect and recycle heat.
- All our dwelling designs rely on natural ventilation patterns.
- We design all buildings to maximise natural daylighting to provide a good natural living environment for all seasons.
- We specify argon filled energy coated triple glazing, in aluminium skinned natural timber framed windows, low maintenance and high eco performance - also offering high security and good acoustic insulation. The units generally have a minimum 75 yr design life and are warrantied for 25 yrs.
- We only install LED lighting with dimming and temperature control 'app' operated smart systems to manage switching periods.
- We source the majority of build elements local to the build site, to reduce embodied carbon, minimise vehicle movements and to support small local business & economy.



- We design build programmes to minimise local disruption with a zero tolerance on emissions of dust and dirt, we design in working practice on site to create clean safe working environments.
- We do not use suppliers or practises that support 'modern day slavery', we do not source materials from parts of the world or regimes where the environment, human rights and basic freedoms are not respected.
- Already No. 35 is zero fossil fuel - it only uses wind/solar source electricity and renewable bio gas.
- We incorporate where possible 'flat-roof' Sedum Turf planting or similar, to foster bio diversity and modify surface run-off to reduce local flash flood drainage issues. We minimise hard surfaces to reduce surface run-off and incorporate natural ground percolation for managing storm water/surface water and flash flooding.

#### **DRAINAGE SUDs - reduction in surface water run-off**

The scheme overall improves surface water run-off and reduces the amount of hard surface drainage going to the local drainage system and modifies peak rainfall drainage from flat roof areas by introducing Sedum Turf that slows surface storm water surge run-off.

The run-off currently from pitched, flat roofing and concrete areas is collected by gutters, RWP's and back inlet gullies, that drain to the combined sewerage/rainwater system locally in the village.

Currently the house and garden store has a combined plan footprint of 102sm, the link addition between the house and store will add 6.5sm, a 6% increase in 'built over' area for this development.

Though this is tempered by the intended removal of the south side concrete forecourt in the garden, this is to be replaced with a free draining gravel area, allowing a natural soak-away into the ground for these external amenity areas, this is an area of 35.5sm [equivalent to 33% of the building footprint], by removing this concrete area, we reduce the drained surface area going to surface water run-off and the existing drainage system by 24%.

A gross mitigation of a **reduction of 24%** surface area rainwater to the drainage system.

#### **HIGHWAYS sustainable access & parking**

The dwelling is served locally by the Inverness to Aberdeen No 35 bus route within some 20m of the front access door on Gordon Street, this links the village directly on a near hourly basis from 5.00am-11.pm daily Mon-Sat and 10.30am-11.00pm Sundays, this system allows connections to mainline railway stations in Elgin, Inverness, Aberdeen and local points in-between. And allows bus links from Elgin, Inverness & Nairn direct to Inverness Airport. This allows sustainable access to local, regional and national access to education, healthcare, retail outlets, employment and leisure opportunities.

Parking is available on the south side of Gordon Street, with nominal 2-3 spaces per dwelling, with north side Gordon Street residents having private off road parking behind their properties on the north side foreshore lane or within their own garden forecourts. There is also availability of extra visitor parking within 300m, at the 'free-use' harbour car park.

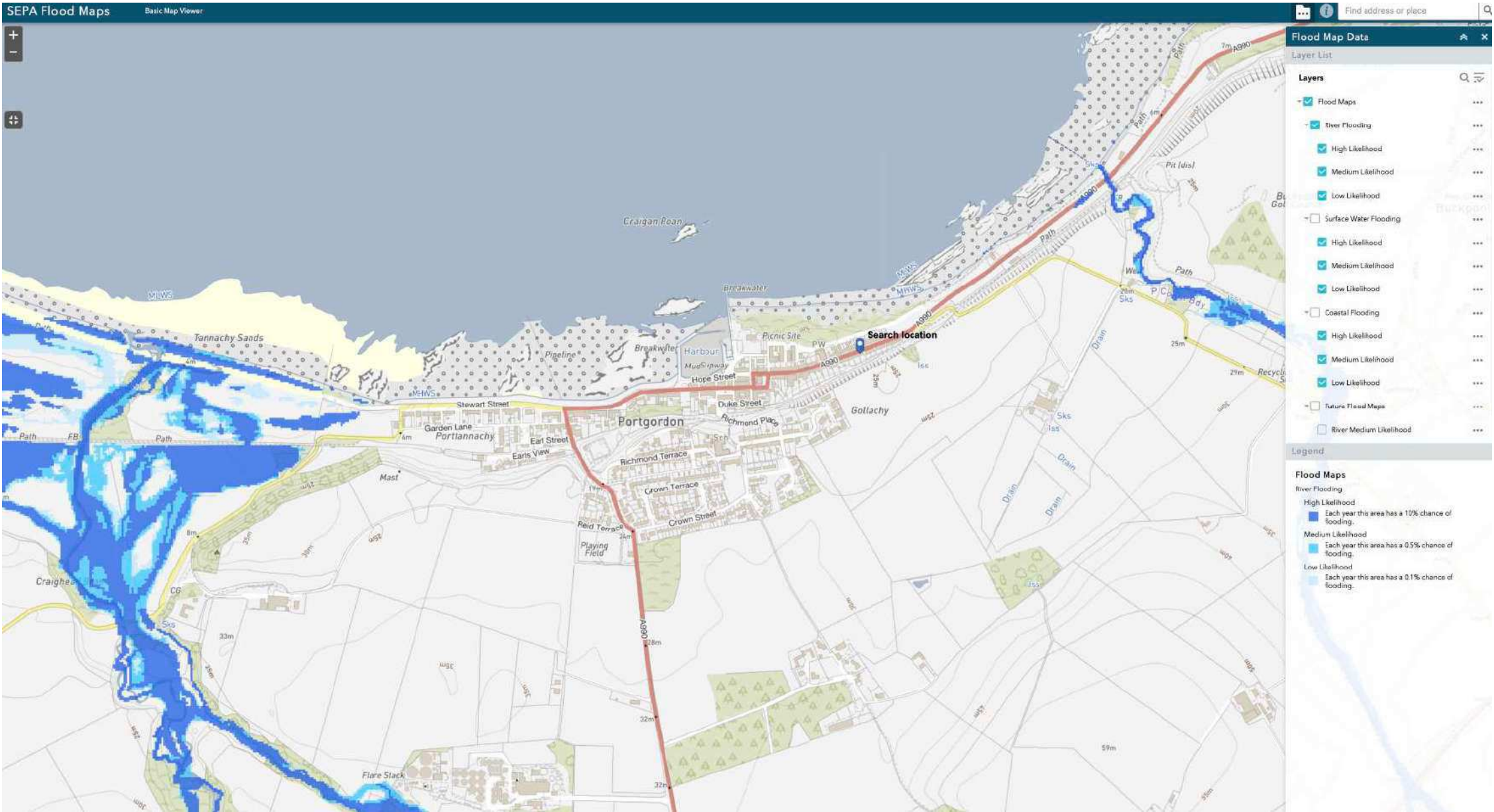
**FLOOD risk** - non for applicant site - even with predicted 1m level increases for coastal flooding/surges as the property sits 5.5m above the high tide level

COASTAL flood risk

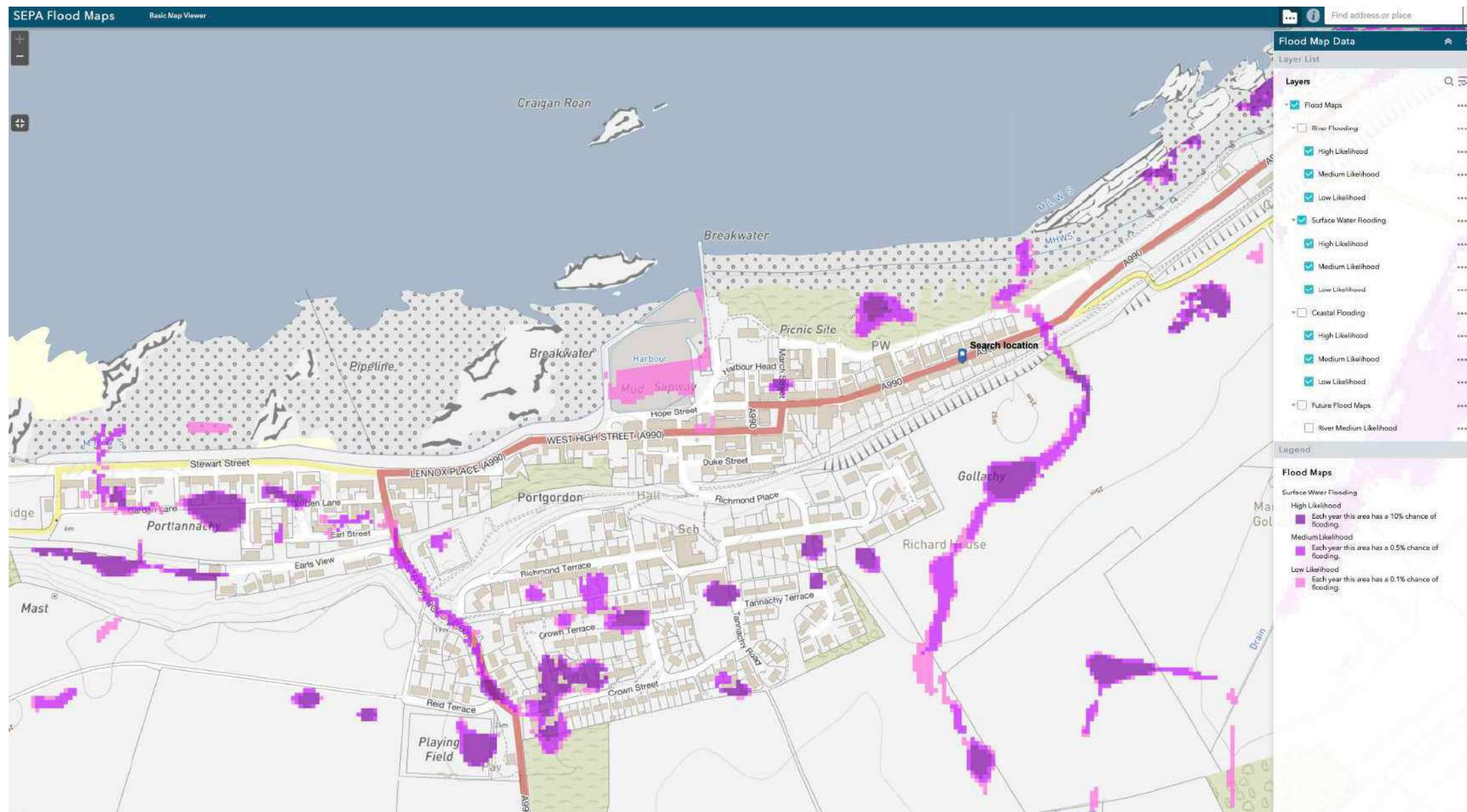


RIVER flood risk





SURFACE water flood risk



## IMPACT on the asset positive outcomes

All the intent is to improve upon the status quo, to add to the longevity of the property with a sustainable, workable, contextual renovation and maintenance programme, that is easy to carry forward enhancing the accommodation for modern living.



Whilst retaining in balance an historic perspective - with the intact heritage assets along Gordon Street and within the historic setting of the village and in the wider aspect of the Moray coastal area.

This dwelling is an important part of the village - in the here and now, historically and in the future - by developing this property to foster renewed use and life for the 21st C, we can preserve historic features, the vernacular detail and character, making sure that for generations to come, that the village of Portgordon and the context of the setting is enhanced and preserved.

### FEEDBACK 21/01027/PEHOU in blue NMD response from Pre App

- As a semi-detached property due regard must be given to neighbouring residential amenity. It is recommended that any future planning application provide details of any overshadowing analysis undertaken as part of the proposal development. Whilst the presence of the high boundary fence is noted, the proposed ground floor link lobby will effectively enclose an existing gap to the proposed downstairs studio/bedroom.
  - The neighbour at 33 has started a Permitted Development ground floor single storey extension across the rear/south of their property - this occupies a larger area than the proposal at 35, it is at a similar height to our proposal, the gap between 33 & 35 and the aspect of over looking and/or over bearing will be mitigated by the side/boundary with both properties being largely unaltered as there is already a tall fence, as shown on the design information, closing most of the boundary on the side of No 33, our extension/infill is the same height as the existing outbuilding and lower than the fence at 2.4m.
- The contemporary design proposed is recognised and understood, however, reference is drawn to part g of the policy which highlights that pitched roofs will be preferred to flat roofs and box dormers are not acceptable. In light of this parts of the design could be reconsidered, albeit it is recognised that the flat roof on to the adjoining property serves to limit the height of that part of the development and incorporates a living/green roof which could bring bio diversity benefits. It is also acknowledged that flat roofs are already present at the property. In terms of the policy wording it is ultimately box dormers which are not permissible under the terms of the policy, and could be addressed by deploying a shallow downward pitch to the single box dormer window.
  - We acknowledge the 'DP1' we have amended the original design and copy here the intent to only have **pitched roofing** - we now have more detail measured survey information for the property and the proposed new roof pitch to the 'top' of the proposed roof adjuncts, serves to create adequate 'head room' internally and incorporate pitched roof extensions, whilst also maintaining the roof extensions well below the existing ridge, we have spaced out the roof interventions and removed the plain box dormer from the Pre App proposal. The intent is to form this volume as an asymmetrical slate roofed, pitched dormer - picking up on the form of our contemporary design theme, the dormer proposals now marry the design intent with the extension at first floor to the east over the bathroom - we read that the Pre App response has broad policy support for these contemporary forms and materials.
- The materials suit the design proposed and would likely sit well as part of the overall contemporary design alongside the existing property given the use of slate roof tiles to tie the extension into the existing roof.
- The proposal is proposals a contemporary intervention to a traditional property and an overall scale which would appear appropriate to the existing property, there would appear to be scope to alter the proposal to comply more readily with Policy DP1 part g.
  - Noted

Transportation comments:

This proposal is for alterations and extension to an existing dwelling and does not trigger the requirement to provide additional parking.

Note - Parking is on- street only and there is an informal agreement in place between

the property owners to park only on the northern side of Gordon Street.

No alterations are proposed to the existing entrance doorway onto Gordon Street. Transportation would therefore have no objections to the proposal.

The property owners on the north side of Gordon Street invariably use the open access lane to foreshore in the the north and park within or behind the properties on private land - there is no intensity of parking on the south side of Gordon Street and frontages of properties are usually in the applicants section of the neighbourhood of c14.5m giving ample space for upto 3 vehicles parallel parked.

All applications must make provision for surface water drainage and this means that all applications must be supported by a drainage statement which details and evidences the drainage design proposed. More information can be found on the Supplementary Guidance for all developments on drainage design and flood risk:

The intent with the reduced run-off of storm water by incorporating sedum roof turf planting is also to remove the concrete hard standing to the rear/south of the property with free draining ground build-up - this reduces surface run-off and reliance on surface water drainage this removes 24% of the existing areas relying on drainage services.

In all there will be a reduction in surface run-off by 24% due to this design mitigation for handling surface water and there will be a reduction in surface water going to the existing top water drainage system in the village.

Design Statement to support the contemporary design

This document embraces the 'Design & Access Statement' which explains the rationale of the acces, living, form of the design and submission in the context of the location and planning policy

## **POLICY sources** particular relevance in blue

Moray Local Development Plan 2020

### PP1 Placemaking

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:

### **(i) Character and Identity**

Create places that are distinctive to prevent homogenous 'anywhere' development;

Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;

Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such



as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development

PP1 Placemaking supports the Scottish Government's aims to create healthy places through high quality design and ensure that Moray remains an attractive place to live and work, and encouraging inward investment and economic development opportunities.

#### DP1 Development Principles

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

#### (i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be

submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m<sup>2</sup>, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.

- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

**(ii) Transportation**

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.

Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.

The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.

The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;

Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

**(iii) Water environment, pollution, contamination**

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

**Justification/ Notes**

The policy sets out detailed criteria to ensure that proposals meet siting, design and servicing requirements, provide sustainable drainage arrangements and avoid any adverse effects on environmental interests.

Adopted Moray Council Supplementary Planning Guidance

Accessible Housing Affordable Housing

This policy refers mostly to wheelchair accessible housing - the proposal here whilst not a new build have at various points single steps for access and internally - the main intent has been to create a fully ambulant disabled ground floor private bedroom with an adjacent walk/roll-in wet room shower area in a private lobby that can be screened from the living area.

## Scottish Planning Policy and Guidance

NPF 4 broadly refers policy back to regional Local Plans as does:

## Scottish Planning Policy (SPP)

### Purpose

i. The purpose of the SPP is to set out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development<sup>[1]</sup> and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:

- the preparation of development plans;
- the design of development, from initial concept through to delivery; and
- the determination of planning applications and appeals.

### Status

ii. The SPP is a statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. It is non-statutory. However, Section 3D of the Town and Country Planning (Scotland) 1997 Act requires that functions relating to the preparation of the National Planning Framework by Scottish Ministers and development plans by planning authorities must be exercised with the objective of contributing to **sustainable development**. Under the Act, Scottish Ministers are able to issue guidance on this requirement to which planning authorities must have regard. The Principal Policy on Sustainability is guidance under section 3E of the Act.

iii. The 1997 Act requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. As a statement of Ministers' priorities the content of the SPP is a material consideration that carries significant weight, though it is for the decision-maker to determine the appropriate weight in each case. Where development plans and proposals accord with this SPP, their progress through the planning system should be smoother.

iv. The SPP sits alongside the following Scottish Government planning policy documents:

- the [National Planning Framework](#) (NPF)<sup>[2]</sup>, which provides a statutory framework for Scotland's long-term spatial development. The NPF sets out the Scottish Government's spatial development priorities for the next 20 to 30 years. The SPP sets out policy that will help to deliver the objectives of the NPF;
- [Creating Places](#)<sup>[3]</sup>, the policy statement on architecture and place, which contains policies and guidance on the importance of architecture and design;
- [Designing Streets](#)<sup>[4]</sup>, which is a policy statement putting street design at the centre of placemaking. It contains policies and guidance on the design of new or existing streets and their construction, adoption and maintenance; and
- [Circulars](#)<sup>[5]</sup>, which contain policy on the implementation of legislation or procedures.  
Circulars



# Supporting Document 004

POR.P.001.22

Fiona Olsen Assoc RTPI  
Planning Officer

Economic Growth & Development  
The Moray Council  
High Street  
Elgin  
IV30 1BX

Friday 26th August 2022

Dear Ms Olsen

**22/01066/APP 35 Gordon Street, Portgordon AB56 5QR**

Thank you for your attention and the email 22.08.2022, we note the positive response with regard to the Archaeological Photo survey, the submission relationships and intent for the existing flat roofing and the overall scope of development.

To pick up on your comment regarding the roof top extension design proposals for the accommodation, we will address this in respect of:

- design
- context
- policy
- precedent

## DESIGN

The scope of the proposals are modest and **does not** include any structure which can be construed to be a 'box dormer', the Moray Local Development Plan 2020 Vol 1 page 35 DP1 para 'g' states that *"Pitched roofs will be preferred to flat roofs and box dormers are not acceptable"* - this is not a great intent



change from previous H4 policy [which still fostered in certain situations until 2020 box dormers in particular settings].

Our discussion via telephone with Shona Stachan late September 2021, advised us that as an authority **you could not offer advice** through our Pre App 21/01027/PEHOU, though she discussed the use of 'catslide' dormers [which we explained would not create usable space - see below] and how we needed to be supporting our submission with a strong contextual design & heritage statement, this along with the design development we have now done. We are clear that the current design proposals move away from the Pre App starting point and foster a much more crafted vernacular design response, that is in context with the location character and the host dwelling. We wrote with earlier sketch proposals to Shona Strachan 21.09.2021 to try to foster a dialogue to move forward, so our client finds it disappointing that it is only now that we are garnering response to a very detailed and carefully presented submission and design.

We are with this proposal **only** creating at ground level 6.5sm of new space and in the roof c11sm in comparison to an overall building footprint of 100sm of space, 28sm of which is within compromised sloping roof areas between 850-1900mm high. The additions cleverly, without an enlarged footprint and with less than a 20% space increase, creates the opportunity for good modern multi generational family living space.

We have consulted with the neighbours and all are very happy to support the changes and keen to help to regenerate with the applicant the dwelling, which had been empty and on the property market for several years.

The proposal overall is a holistic response to the property and setting, the solution proposed has not been arrived at lightly, there has been a considered approach with the applicant to develop a modern 21st C response within the framework of an historic property in an historic setting.

Our client/the applicant is a historian who currently lives in a 1776 cottage property, where we have assisted with contemporary inventions and extensions over a 20 year period. She fully appreciates the historic context and the ebb and flow of societal needs through time, that have formed the character of Portgordon and its varied architecture, whilst also needing to create a family home for multi generational living, that will ultimately also accommodate her octogenarian mother, which is why the ground floor is laid out to provide for easy access and an amount of privacy with the garden bedroom/studio space.

This leads the first floor to accommodate family bedrooms and an area for home working.

Historically the first floor accommodation was all work space, storage etc. ancillary to rudimentary ground floor living and bed spaces.

We illustrated in our Design Statement page 5, the earlier neighbour 37/39 attached extension of a steeply/mansard roofed sail or net loft in a likely black tar stained timber with a flat top - a direct reference for our design and a form typical

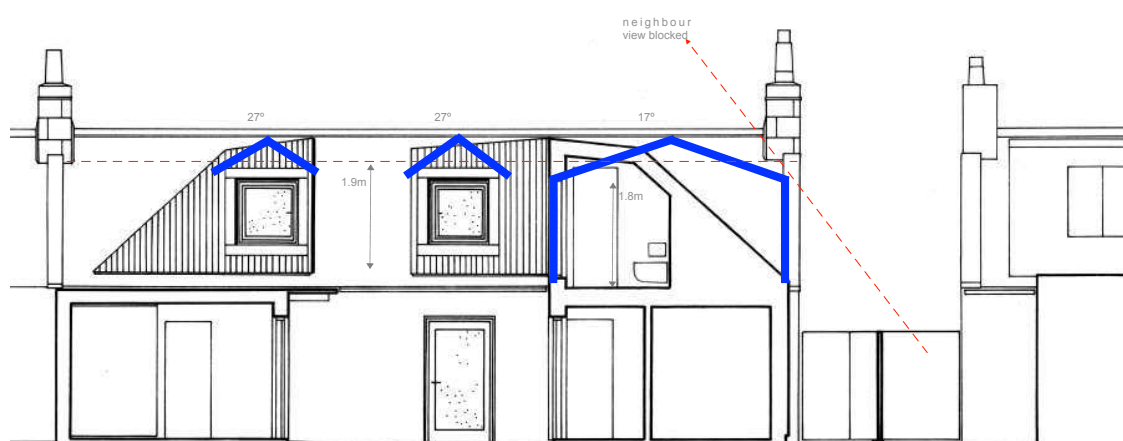
of this immediate part of the coastal settlements. There is still a smoker with a juxtaposition of roof adjuncts in Buckpool attached to a residential property. The area is full of varied forms that have evolved with the social and economic change over time - this area is not a static showpiece theme park but a living community. Portgordon has through its Community Trust in the village made leaps and bounds in starting to regenerate the village for the community and this proposal is just a small part of that process.

By forming a pitched roof over the existing bathroom, we remove a flat roof, we present a pitched roof to the neighbour boundary - not a two storey blank wall [see illustration below] projecting 3m into the eye line behind Nos 35/37 and at over 4.5m it would be inappropriate to tower over the rear aspect of No 37.

This mark-up shows the bulk of your proposed suggestion over the bathroom, to effect a full 1.8m head height throughout is not necessary and would create a disturbing scale and mass of architecture in this context. The wall would be a blank

The applicant is to use the 'void' space created as storage to maximise the roof volume off the bedroom, you'll notice from the plan layout these properties afford very little useful cupboard or storage. So the space is not wasted and we are distinct in our intention not to project back from the existing house a large **box-like** structure that would dwarf the neighbour at No 37.

We have approached the design to encompass many aspects, taking a holistic view to all aspects of design, context, use, environment and build costs - this creates a tight equation for the proposal. Internally the height of the existing bed-



rooms is only 1.95m in a narrow strip in the centre of the house, the doorways are less than standard at 1.8m, that's 100mm lower than the norm. The narrow bay windows to the front elevation to effect pitched roofing of around 27° only provide 1.9m height - usually domestic accommodation is at height of 2.4m.

To afford the most balanced and sensible arrangement for the first floor accommodation we have only added a small amount of floor area, created within pitched roof form volume, setback from the eaves of the main house.

You'll note [above] to squeeze the accommodation under quasi traditional pitches, using matching slate to a buildable pitch, shows that we lose floor area and internal height, creating awkward space akin to the narrow frontage bays - non of these arrangements would allow proper head height, positioning furniture, storage or wardrobes - this would afford no benefit or logical reason to build such forms as they would be properly unusable. Equally building in these forms will increase costs, due to major alterations to the existing roof, with the addition of steel beams, propping down through to the ground floor, disturbing the living area plan arrangement and easily doubling the roof level build costs - just to afford non sensical forms - the extra expenditure would force the budget to be rebalanced and the environmental benefits intended are the most likely cost cuts, damaging the ecological advantages that our client intends.

The existing proposal seeks to maximise the available height on the rear of the property - where there is no visual intrusion - new roofing in a shallow pitched standing seam zinc or aluminium is creative and allows us to maximise volume where it is needed, this is not a flat roof and is **not a box dormer**, a box dormer would have a 1:80 near flat roof and blank vertical sides - our proposal is fully pitched a 3D form, it creates no inward views that have blank square walling in any relationship to a 'box dormer' - we contradict you, there is no view as you state '*from the west*', the neighbour at No 33 would have no view of the ensuite proposal and there are no views into the proposal in the context of the village that would construe the proposals to be a box dormer.

The only potential is for a very distant oblique views from the coastal trail, views from here would not afford anything but an 'birdseye' aspect looking down on the pitched roof dormer proposal and the 'L' shaped ensuite addition with roof pitches in two directions.

Coastal trail views - we show these images to illustrate that the pitched forms will only be viewed from above with viewing angles from the south



view form SW



view from south



view form SE

The dialogue for the architectural style is covered in our Design Statement pages 9-12 shortened here:

*“contextually the intent for the new build rear/south additions, is to carefully moderate the scale and form, the roof level additions are to be built within the roof and to reuse the existing slate for the new pitches, the ‘dormer’ window arrangements are to be **varied pitched forms***

*relating to the examples of vernacular forms and secondary adjuncts to dwellings found locally around Portgordon and in the immediate coastal vicinity - forms that reflect the sheds **and additions to older dwellings***

*but we have with crisp architectural detail and careful selection of materials, attempted to design a response that is 21st C, whilst borrowing its lead from history.*

*The additions will be subtle and secondary to the host dwelling, of a scale and form that marries well in local context and built in a manner that weathers well and requires simple yet minimal maintenance”*

The backs of Portgordon properties show examples of additions good & bad - this is a thoughtful design, that marries the scale of additions sympathetically without ‘out of context slavish copies’ of a sub-urban pitched roof architecture that is not well represented locally.

We could discuss architectural style, form and the distinction between contemporary flat roof structures and when they become ‘box dormers’, though I think that is a fulsome architectural essay best saved for another day.

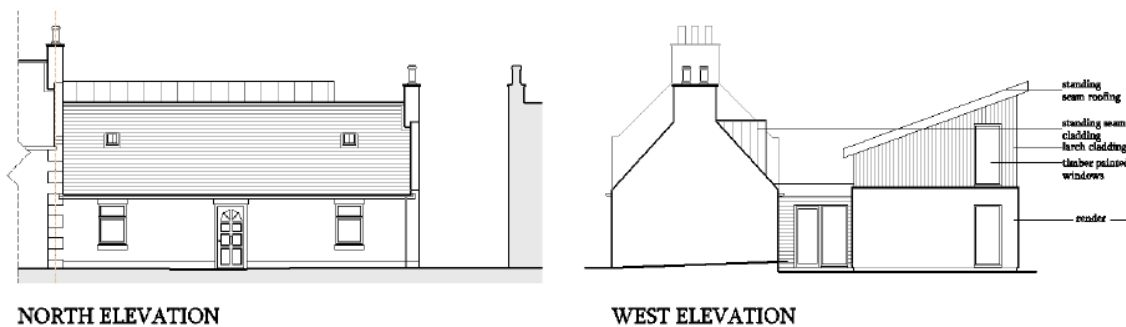
## CONTEXT

The immediate local **south side of Gordon Street** displays many architectural forms:

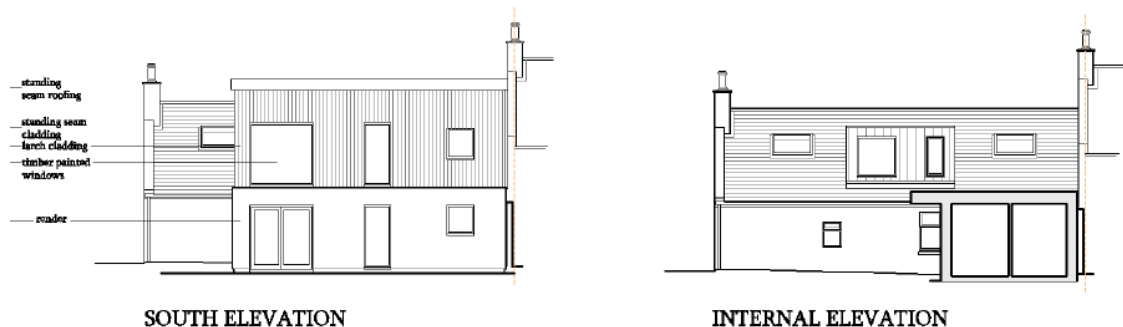
- a flat roof single storey extensive Permitted Development [PD] floor plate of new accommodation at **No 33** using up all the immediate amenity space - that has no relationship to the form of the back gardens, streetscape or historic floor plate of the host dwelling.
- a long 9.5m box dormer at 2nd storey on **No 37** over a long ground floor flat roof extension into the flat garden amenity space - box forms that dominate the host dwelling.
- flat roof extensions & box dormers to **Nos 39 & 41** to the east impinging on amenity space.
- flat roof garden extensions to **Nos 31 & 29** to the west with extensive box dormers.

- A large two storey mono pitch extension to the rear of **No 17** joined by a flat roof link and with a box dormer to the rear pitch approved **18/00193/APP**.

## No 17



- the addition is a mono pitch roof higher than the existing cottage and can be clearly seen from neighbour property, public areas - it dominates the host dwelling, dwarfing the scale with a new massing, style & character that is totally different from the host dwelling and the neighbour properties.



- though this addition demonstrates how good quality design does integrate in this locality with the historic setting and host dwellings - even on a much larger scale dominating the host/context.
- the 'Report of Handling' for the No17's 18/00193/APP states [and there is no major change of intent in current DP1 policy from H4 in this instance]:

*"Policy Assessment - Impact upon the surrounding locality (H4, IMP1)*

*The proposed extension is required to be assessed against Policy H4: House Alterations and Extensions and 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 proposal will have any adverse effects or impacts on the amenity of the existing house and the surrounding area, including any neighbouring dwellings.*

*The design of the proposed extension is considered to be acceptable and integrates well to the style, size, scale and proportions of the existing dwelling. The windows look out to the garden, given its location, distance and orientation of the extension from neighbouring adjacent properties it will not have a significant adverse impact on sunlight or daylight nor a significant overlooking or privacy issues in relation to this application, therefore the proposal is acceptable.*

*The neighbouring property also has a flat room extension in the rear of the property.”*

We feel that these contextual examples show the submission proposal is relevant, even though you are saying

*“I do not feel that these relate to the character of the existing property or surrounding area”*

as this **is contestable** and in fact the character of the setting and the architecture locally is highly varied and displays good strong examples of how contemporary additions over the last 30-40 years have become integrated with the locality without causing overt harm.

The setting is **not a Conservation Area** and other than the height of the extension being at 1m over the allowable [4m] height of an extension within 10m of a boundary, for the roof over the existing bathroom, all aspects of the current proposal would be allowable under PD.

The applicant is minded that PD becomes the most **tempting revision** - to abandon the ensuite shower room proposal and compromise their aspirations due to this subjective interpretation of Planning Policy.

If we were submitting a proposal in a Conservation Area or with a scheduled/listed Historic host dwelling we usually mitigate against causing **harm**, this is key in such a situation, to balance the new proposals within the status quo and to judge if the proposals are harmful, a key point here is that the existing context is not uniform, rear views are very limited and screened, the mantra is

*“what is meant by the conservation and enhancement of the historic environment? Conservation is an active process of maintenance and managing change. It requires a flexible and thoughtful approach to get the best out of assets”*



We are clear and show here through example locally and regionally - and in our Design Statement pages 9-10, that even in this undesignated location we are with the applicant going above and beyond what is contextually required.

**No visual or historic harm** is being caused as the proposed additions can be clearly discerned as contemporary adjuncts and reflect development of architectural form over time.

## **POLICY**

It is clear, that in the case of the application for Planning Permission there is a pre-disposition to support the applicant:

*“refusing an application for planning permission solely on the grounds that it does not accord with the provisions of the development plan and without having had regard to other material considerations. Proper consideration should also be given to the merits of the application”*

The applicant has committed at length to create a 21st refurbishment of the empty property, being prepared for capital investment in environmental aspects, that go well beyond the regulatory framework for new work to an existing dwelling. There is no requirement for the level of quality and responsibility that will be embodied in the design and the build [see Design Statement pages 12-15] intended.

If the proposed build changes were made at roof level, the substantially increased cost of construction would, as we explain above [page 4], lead to a re-evaluation of expenditure across the property refurbishment and definitely cause the downgrading of build quality and responsible positive environmental features would have to be removed and the contribution of the applicants intent to the future life and quality of the fabric of the building, the setting and the village stock of housing would be lost - it is not responsible to foster a 'style of architecture' purely on visual averages, it has to be a balance of environmental responsibility across all aspects of design and context.

The **Local Plan within PP1** states:

*(i) Character and Identity - Create places that are distinctive to prevent homogenous 'anywhere' development*

It refers to distinctiveness, architectural identity, detailing and materials - to create successful healthy places that encompass distinctive urban form.

We are conscious with the proposal that it's important not to have a slavish default to quasi traditional safety net of architecture - though nothing we propose here is challenging or offensive, despite our interpretation of traditional forms with a contemporary idiom.

The Local Plan DP1 states that:

*“Development Principles - will be applied reasonably taking into account the **nature and scale of a proposal and individual circumstances**”*

DP1 states it will support applications if:

*(i) Design a) The scale, density and character must be **appropriate to the surrounding area and create a sense of place** (see Policy PP1)*

We have demonstrated we are creating a sensitive, yet distinctive proposal that relates to the scale, setting and traditional coastal area - that fosters a sense of place and nearness to need.

We have created a proposal that can:

*d) Demonstrate how the development will **conserve and enhance the natural and built environment and cultural heritage resources**, retain original land contours and integrate into the landscape.*

And does not:

*e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.*

And embodies the need for:

*h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.*

*j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) **through the installation and operation of low and zero-carbon generating technologies**.*

The 2020 Moray Settlement Statement for Portgordon proposes:

- Development Strategy / Placemaking Objectives
- Protect the character of the existing settlement
- Provide support for proposals to re- use the harbour
- To promote interest and encourage housing development on designated sites
- Development proposals in the Special Landscape Areas must reflect the traditional settlement character in terms of siting and design and respect the special qualities of the designation.

We have demonstrated that there is protection of the character of the existing settlement, there is no visual intrusion and no extreme characterful harm. The host dwelling sits just out of the Special Landscape Area [SLA] designation and by nature of the scale, orientation and visual accessibility does not impinge on views in or out of the SLA.

By refurbishing and modernising an empty dwelling, this contributes to the re-generation of the whole village - this in turn contributes towards the new life and uses proposed for the harbour and the future generations of this important historic 'planned' harbour village.

## PRECEDENT

We gave a few local examples in the Design Statement pages 9-10, of forms that present different aspects of contemporary change, that show the variation, what has been approved through previous Planning Applications and how these all form the character of an area.

The character of the area is made up of good and bad examples of change over time, though here we do work within a framework to foster holistically an improved environment - we say in our design studio we need to 'build back better', this is our starting point for all projects, to offer a quality of architecture that is visually exciting, creating an environment that nurtures and protects whilst embedding a responsibility towards exceeding energy regulations & offering design solutions to provide comfort & sustainability. There is a balance between aspiration & reality, we guide every project to a built form that is responsible & deliverable.

There are precedents in:

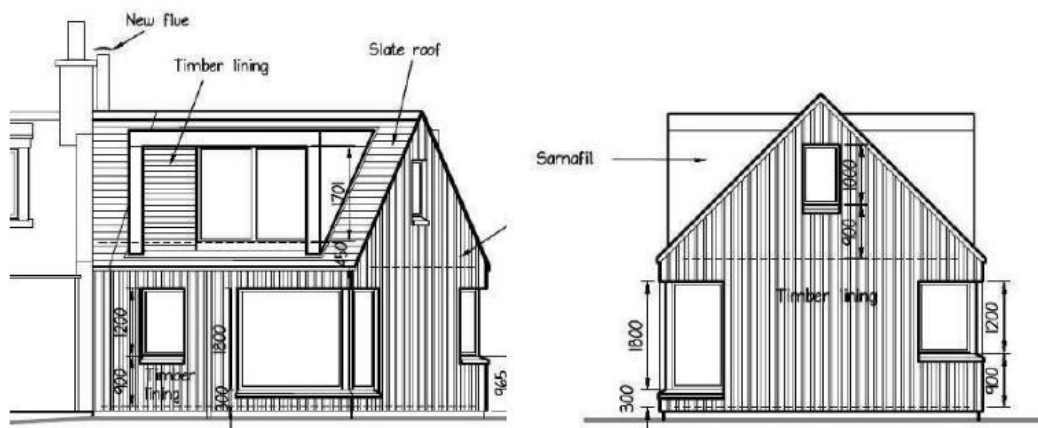
- West Bank GARMOUTH  
15/02162/APP



130 Seatown CULLEN  
18/00843/APP



20/00401/APP



I know the authority will claim that these schemes were approved under an older policy regime, though it is clear the intent of policy has changed little other than becoming slightly more prescriptive in wording in certain aspects and all of these examples have been considered recently and the approved additions to settlements and dwellings are determined under the same auspices of social & economic policy in relation to character of the host dwelling and their locations. These additions are now part of that character and location.

There is nothing we are proposing with the additions to 35 Gordon Street that adversely go beyond the auspices of DP1 as the roof additions cannot be classed in there pitched 3D forms as box dormers.

We'd welcome at this point any comment you have with regard to our mitigation of the submission, as you will realise that the applicant is keen to retain the proposal as submitted.

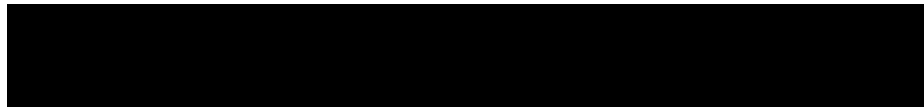
We have advised the applicant of a likely scenario with the determination process and any need to go to a Moray Local Review Body [MLRB] where NMD with our Planning Consultants would need to expand on the submission documentation and this letter in support of a Notice of Review [NOR].

If the authority are to determine with a refusal, the submission can then be presented, explained and discussed/determined via a NOR with the MLRB Members in the context of:

*“matters of wider community interest and/or planning significance”*

We appreciate your attention, if there is any further dialogue needed at this juncture please do contact me direct or I’m quite happy to meet, as I’ll be local over the next week/10 days.

Yours faithfully

A large black rectangular redaction box covering the signature area.

Nick Midgley

NMD

cc Claire Lambert

POR.P.003.22

Lisa MacDonald  
Senior Planning Officer

Economic Growth & Development  
The Moray Council  
High Street  
Elgin  
IV30 1BX

Thursday 15th September 2022

Dear Ms Macdonald

**22/01066/APP 35 Gordon Street, Portgordon AB56 5QR**

Further to our telephone conversation last Friday 09.09.2022 @ 15.06 we present some options for the scope of the application.

We noted in our conversation that you confirmed a preference for the Pre App submission **21/01027/PEHOU - Pre App 35 Gordon Street Portgordon AB56 5QR** which embodies the same form and mass for a two storey extension over the flat roofed existing bathroom, a separate dormer window to the rear/south roof pitch and the flat roof infill to the garden store Grd. Flr. area as the current submission.

We noted you saying that despite DP1 of the adopted Local Plan not allowing 'box dormers', architecturally you felt you would have supported this proposal had the incumbent policy towards box dormers having been different.

We have, as we noted in the submission and our [attached] letter POR.P.001, explained that the submitted design proposal has not been arrived at lightly for the applicant, NMD have picked up the guidance of the Pre App response from Moray in adopting shallow pitched roofing to the dormer and the main extension, along with a symmetrical slate pitched roofing to the dormer, echoing an asymmetrical balance with the roof extension over the existing bathroom flat roof.

We have with the applicant gone 'above & beyond' with the presentation of the design proposal, showing in detail, the context and in relationships to the heritage setting - even though this is not a Conservation Area or listed building.

As we have previously discussed and presented through the submission, NMD made sure, in detail, that the proposal is wholly in alliance with policy [see our letter POR.P.001].



The applicant struggles to accept the scant comment from officers through the submission/determination process and has asked that we point out that other than last weeks telephone conversation there has been no attempt to place Moray Planning's response in the context of her detailed application and submission presentation - she wishes to point out, that bearing in mind the scope of the minor work to the property, she feels singled out and also unduly stressed late in the day with this application.

At no point has Moray Planning shown any prescriptive response to the submission, no comments have been offered in relation to the detail, design or context shown - the applicant feels that the holistic scope of the submission has

*"just been ignored or not even looked at"*

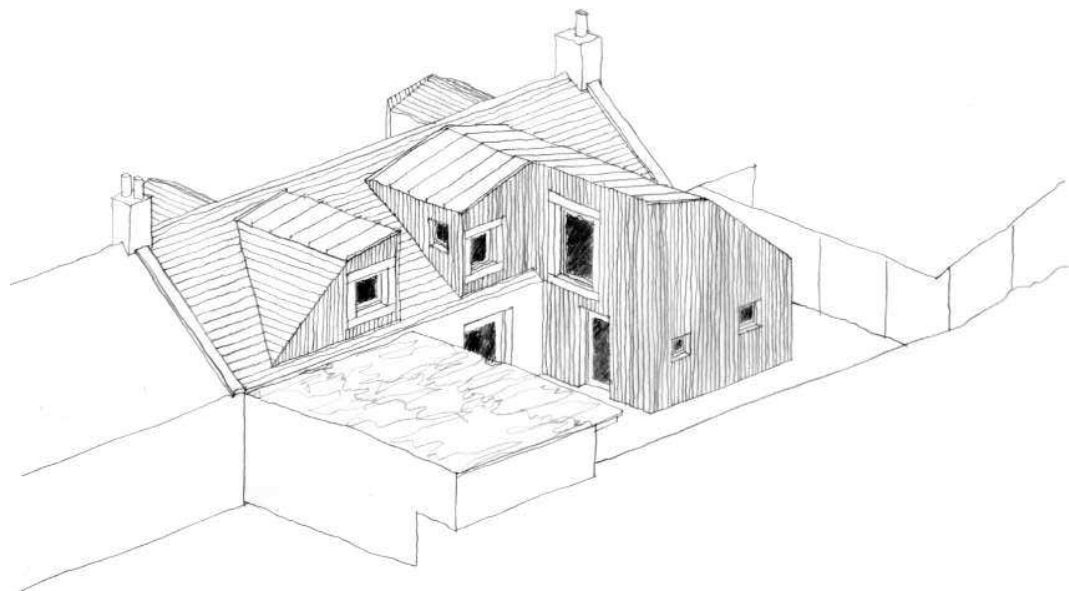
We judge that apparently Moray have given little time to understand the proposal as a 3D form in the setting, its environmental advantages and the regeneration of a 19th C property for the 21st C.

Your comment that the design is 'amorphous' is an odd description - as the applicant points out:

*"an amorphous body is organic and without form - better to describe the proposal as crystalline, as a crystalline form is a structure"*

The pitched roofing could, to be complimentary, be considered as crystalline, we do not not see this though as a negative architectural style.

Shown below is a render and an isometric view of the current submission.



isometric view of current submission proposal

We present here 3no. options:

## A

The existing submission, which best relates to neighbour properties, context, the host dwelling and forms a structure that offers the best arrangement to suit multi-generational living - is a new form that would hardly be seen at all in its backland setting.

It presents a pitched slate roof to the eastern neighbours - can just be seen if a passer-by stands on the private land/bund to the north of the Coastal Trail, though when the applicant has erected their new garden fence at 1850mm there will be no view into the south elevation/roof of the property.

From No 33 to west there's no view of the two storey extension except through the trees from the top of their garden and only a partial view of the slate pitch to the western dormer window. We show the images of the partial birds eye view onto the dwelling pitched roofing, that would only just be seen from outside the dwelling boundary **20m** away standing on the elevated bund - not the public area of the Coastal Trail pathway:



render of partial  
roof top view of  
current proposal

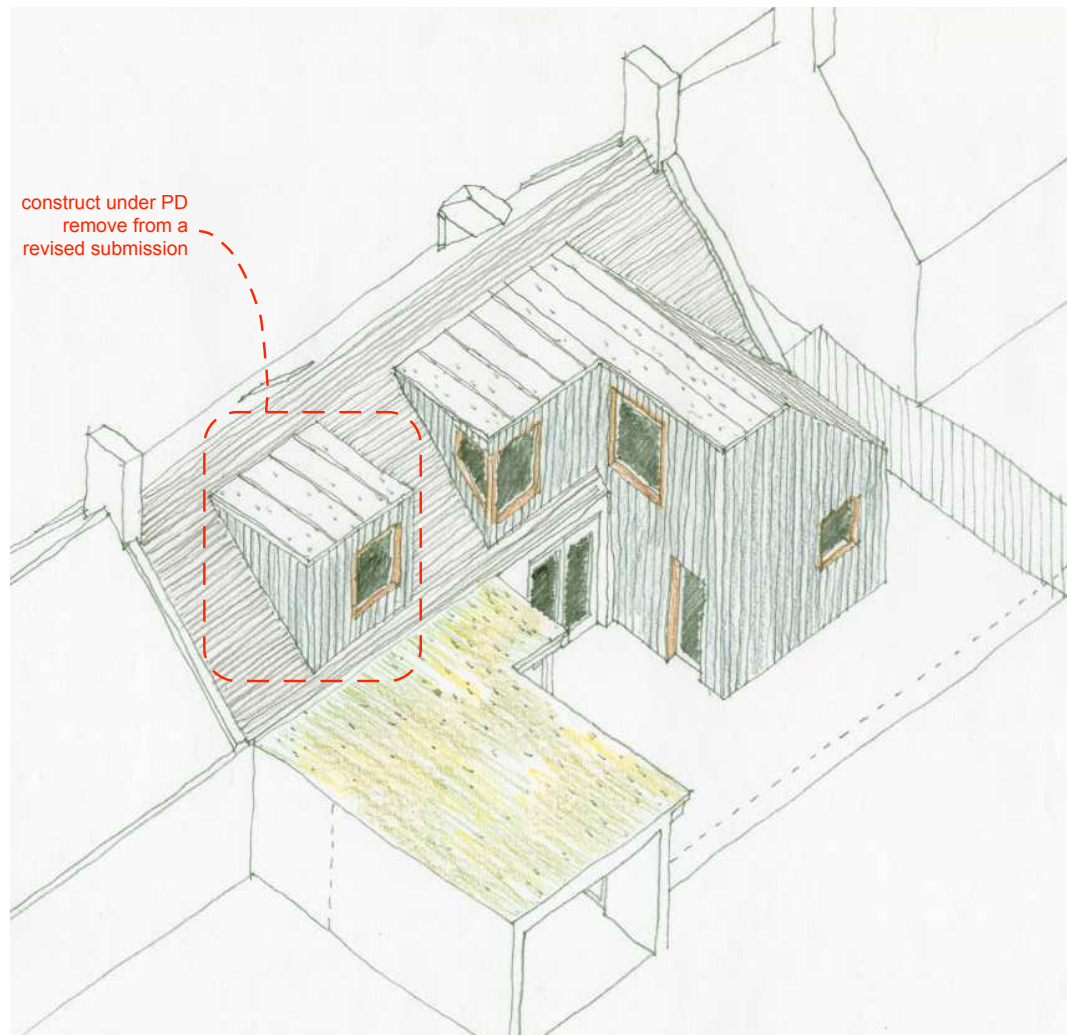
This is the view of the top of the proposed pitched roofing, with the main ridge and chimneys of the host dwelling - between existing mature planting. With new fencing this view will not exist.

The applicant is clear that this is the form they wish to stay with as ideal for the regeneration of the property, they do not wish to compromise.

## B

We have the option of removing from the application submission the existing proposal of the western single dormer window, retaining the roof extension over the bathroom flat roof and the link structure to the landing space roof extension with a flat roof - as we understand from our conversation that you actually have no issues architecturally with this part of the application.

Then under Permitted Development we could change the western dormer into a 3m wide flat roofed 'box dormer' occupying not more than 50% of the 6m wide roof plane positioned 300mm from any edge of the roof - this takes us back to the Pre App submission.





## C

Is an outline proposal of a Permitted Development [PD] quick sketch scheme, to give the same amount of accommodation for the applicant.

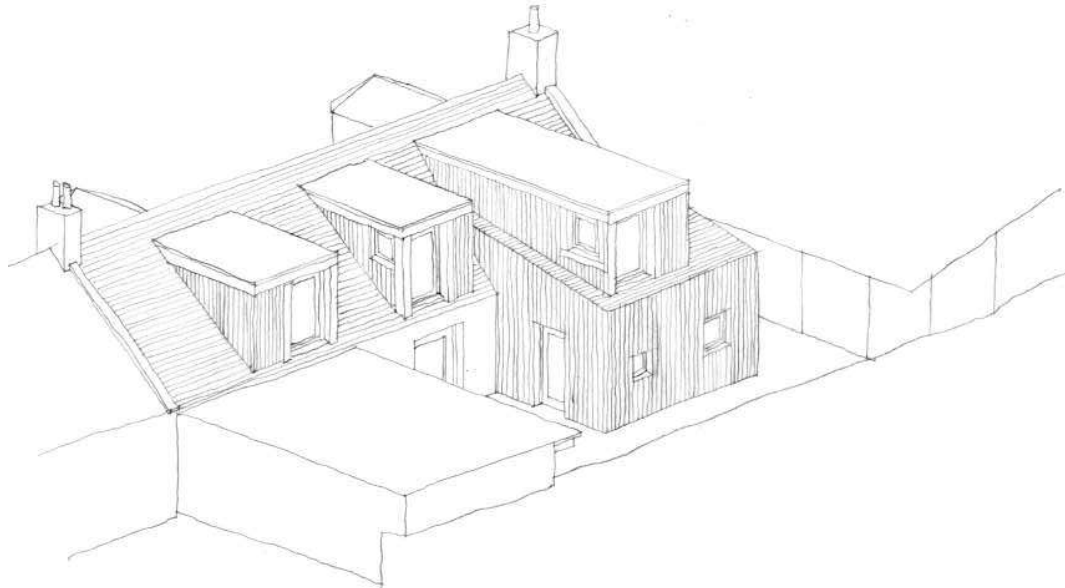
We could introduce a slate pitched roof over the flat bathroom roof with an eaves below 3m and a connection to the main roof no higher than 4m, giving a pitch of 20°.

We could then over 50% of the 12.6m roof width introduce a combined dormer window frontage of 6.3m positioned 300mm from any edge of the roof pitch.

A dormer window within PD is described by mygov.scot in the 2019 'Works that can be carried out through permitted development' as:

*"A dormer is an extension, usually with a window, that sticks out of a sloping roof and gives you a bit more headroom"*

With this in mind, we can introduce box dormers over any part of the roof pitch [the south pitch is 15m away from the rear/south boundary], the isometric diagram below illustrates the scope that satisfies the same internal space. There is no prescriptive constraint to a dormer window form other than the dimensioned position on the roof pitch, we show below how the PD rules shape a potential response:



isometric view of PD box dormer option

This option totally runs against the current Local Plan and DP1, though we have indicated that the applicant is minded as a 'back-stop' to explore this option to its full extent with a more overtly modernist scheme.

The options illustrate architecturally that the current submission creates a proposal that has strong merit, it is a good addition to the host property and the neighbourhood - whilst actually hardly seen in any context - so any subjective fears that the submission causes harm is unwarranted.

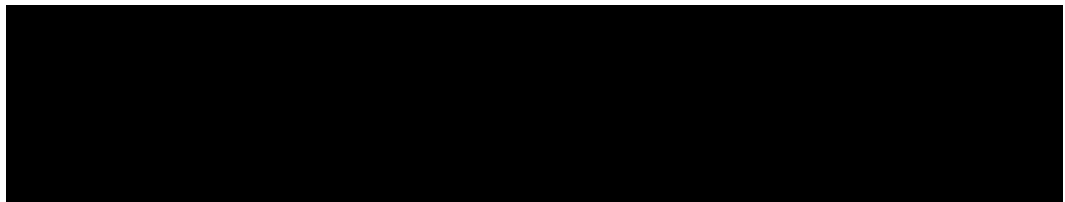
Maybe NMD should have shown some of these 3D images as part of the submission, to help officers understand the complimentary style and nature of the proposal.

We'd judge that with the extra context we have provided with these images and the options open to the applicant, that the submission proposal still remains the best option and we trust that officers would now feel able to support the application.

We are still instructed with a potential refusal of the application to go to appeal, though following your tacit comment that there is doubt if the 'new' review panel is able to make a proper judgement at review, in the circumstances we may request a committee hearing for the application, which would then allow us to seek an appeal through a Regulator. Maybe this is a discussion between us, if you are still minded not to support the application.

Thank you for your assistance with this matter.

Yours faithfully



Nick Midgley

NMD

cc Claire Lambert

----- Original Message -----

From: Scott Sliter <[scott.sliter@portgordon-ct.org](mailto:scott.sliter@portgordon-ct.org)>

To: "[fiona.olsen@moray.gov.uk](mailto:fiona.olsen@moray.gov.uk)" <[fiona.olsen@moray.gov.uk](mailto:fiona.olsen@moray.gov.uk)>

Date: 29/08/2022 14:43 BST

Subject: 22/01066/APP 35 Gordon Street, Portgordon AB56 5QR

Dear Ms Olsen

I feel compelled to reach out to you to present a concern that I have in relation to challenges that a new and welcomed resident, Claire Lambert, is experiencing in progressing her intention to alter her residence on Gordon Street in Portgordon.

As a founding Director and Chairperson of the Portgordon Community Trust, Ms Lambert shared with me her confusion over challenges that you and your office have presented to her in response to her submitted 'planning application'.

I made the effort to review all the documents that create Ms Lambert's submission; I feel strongly that Ms Lambert's hopes to enhance her home as outlined in her planning submission, is nothing less than a thoughtful design that positively contributes toward the regeneration of a Portgordon house that had been empty for years. I find and have latterly learned, others also find that the design is sympathetic, is in-keeping and in relation to the concept of modest alterations. Importantly, adding a modest extension will only improve the quality of the village environment through enhancing property. Further, my own personal perception of the alteration plan as I understand it to be is that Ms Lambert has dedicated care, commitment and resource to a design that promotes an architecturally holistic approach to design that is both highly sensitive to the host structure and to the village. I have been a diligent and committed member of the Portgordon community working with others to improve the over-all appeal of our village. I feel that by not supporting the designs Ms Lambert is pursuing is in turn, not acknowledging that architecture is an embodiment of societal evolution and requires in my opinion, designs that reflect a society that is both living and evolving. Although I am what one may refer to as a 'traditionalist' in aspects of some approaches to design I perceive and view the proposed elevations as empathetic and complimentary to both the principle, host structure and to 'family life' in 2022 and beyond. I think to state differently is overtly prescriptive and not acknowledging societal changes.

I have seen throughout my years in Portgordon, home extensions that some in the village have viewed as highly contentious, street facing and neither complimentary to or in scale with the host dwelling. Two recent examples are at addresses on Station Road and Gordon Street in Portgordon. What Ms Lambert is proposing is neither contentious, street facing or out of scale with the host structure.

The Portgordon Community Trust and its predecessor, the Portgordon Community Harbour Group have worked tirelessly to help Portgordon improve as a village and better its appeal whilst being deemed viable and attractive to new families hoping to invest of themselves in our community, its appearance and the quality of its houses. Ms Lambert is such a resident and her proposed alterations not only flatter her house but lend to the over all improved perceptions of Portgordon.

I hope that you will view Ms Lambert's plans with the same enthusiasm and appreciation that I do and that she and Portgordon can depend on your support toward the progression of her planning submission as she has submitted it.

Respectfully,

Scott Sliter

Chairperson  
Portgordon Community Trust Ltd  
Portgordon, Scotland AB56-5QT  
Land Line 01542-839857  
Mobile 07854 057526







# **APPENDIX 3**

## **APPOINTED OFFICER AND INTERESTED PARTIES RESPONSES TO NPF4**



**Lissa Rowan**

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**From:** Fiona Olsen  
**Sent:** 02 March 2023 13:21  
**To:** Lissa Rowan  
**Subject:** RE: LRB

Hi Lissa,

As per the below I am advised to send you comments in relation to NPF4 for 22/01066/APP which will be heard at the next LRB.

Please see below:

**National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13<sup>th</sup> February 2023, following approval by the Scottish Parliament in January. The basic siting and design principles for householder developments continue to apply within NPF4 Policy 16(g). Whilst NPF4 Policies 1, 2 and 16(h) strongly seek to address the global climate and nature crises and minimise greenhouse gas emissions, this requirement would not overcome the objections to the proposal (22/01066/APP) in terms of design.**

Thanks

Let me know if you need anything else

Fiona

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# **APPENDIX 4**

## **APPLICANT'S RESPONSE TO NPF4**





POR.NOR.003

## SUPPORTING DOCUMENT 006

F.A.O Lissa Rowan

Clerk to:

The Moray Council Local Review Body

Economic Growth & Development  
The Moray Council  
High Street  
Elgin  
IV30 1BX

Tuesday 21st March 2023

Dear Sir / Madam

### NOTICE OF REVIEW

22/01066/APP 35 Gordon Street, Portgordon AB56 5QR

On behalf of the applicant of Planning Application 22/01066/APP we respond to the newly adopted NPF4 as advised in Clerk to the MLRB, Ms Rowan's letter 06.03.2023 LR/L284, with reference in particular to the Appointed Officer Response 02.03.2023

*[statements & policy by others shown in blue italics]*

Forwarded to us today 21st March 2023:

*To: Lissa Rowan*

*From: Fiona Olsen*

*Sent: 02 March 2023 13:21*

*Subject: RE: LRB*

*As per the below I am advised to send you comments in relation to NPF4 for 22/01066/APP which will be heard at the next LRB.*

*Please see below: National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13th February 2023, following approval by the Scottish Parliament in January.*

*The basic siting and design principles for householder developments continue to apply within **NPF4 Policy 16(g)**. Whilst NPF4 Policies 1, 2 and 16(h) strongly seek to address the global climate and nature crises and minimise greenhouse gas emissions, this requirement would not overcome the objections to the proposal (22/01066/APP) in terms of design.*

We wish to correct the Officers **misleading statement and highlight below the key NPF4** policy intent, as it goes beyond **just environmental issues**, in relation to the application and the supporting policy it embodies, which extensively **contradicts the Officers interpretation of NPF4 in their statement above** - we contest that an application has to embody many positive factors [NPF4] and a subjective view point of **‘how it looks’ hidden in a private area** is not one of them - Supporting Doc 003 page 10. NPF4 page 53.

#### NPF4 - POLICY 16g:

- g) Householder development proposals will be supported where they:
- do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and

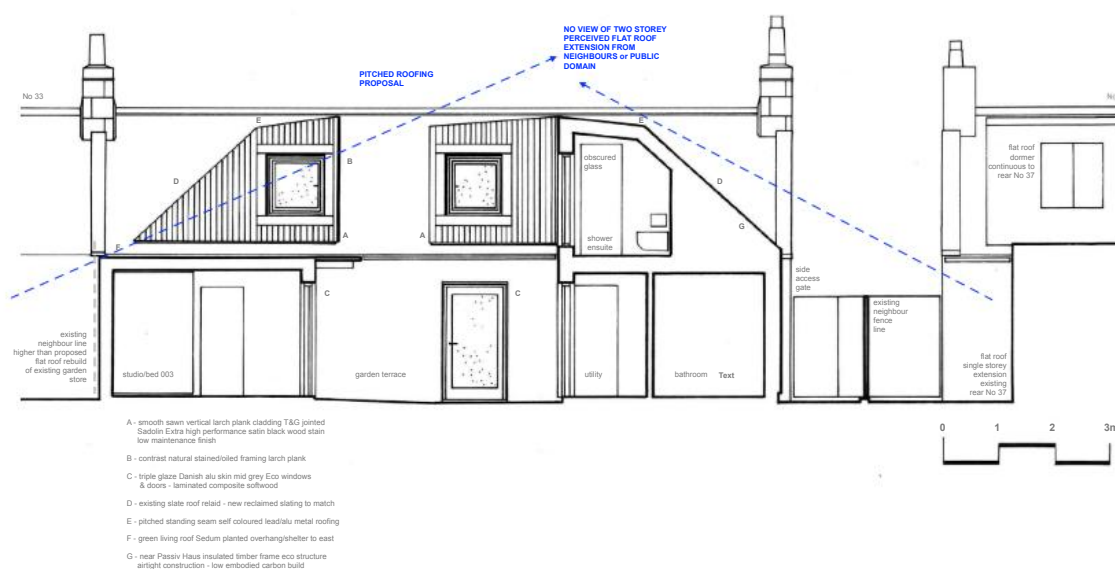
- the original character of the property is preserved, the historic positives are retained and the new proposals are clearly of the 21st C allowing the distinction between old and new elements to be clear.

- the extended areas are tiny, the new ground floor footprint is not part of the Dp1 reasons for refusal.

- do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.

- we reiterate the proposal **cannot be seen from the neighbours on either side or from the public domain** - Supporting Doc 003 page 10.

- once again the Officer shows an ignorance of the site conditions and the proposal detail - only the small west pitched roof dormer can be seen - which is allowed under Permitted Development & from the neighbour to the east, the proposal is visible as only a pitched slate roof. Both neighbours fully support the proposals.



**NPF4 fundamentally supports the application 22/01066/APP - as every policy has an equal weight in a determination.**

**The application proposal embodies requirements of NPF4:**

- revised layout & renovation to allow inclusive living for elderly family members
- high quality environmental refurbishment of near passive Haus quality
- renovation using sustainable materials & low embodied carbon methodology
- reusing an empty property as 21st C family accommodation in a village setting

**NPF4 is a policy that supports the application & wholly fosters:**

- inclusiveness for all & all generations **NPF4** page 14 Policy 16, page 19
- environmental protection **NPF4** page 2, 8, 14, 22, 36-37, 63 Policy 1, 2
- renovation & renewal **NPF4** page 59 policy 14
- regeneration of communities **NPF4** page 11, 14, 19, 28, 37, 50, 59, 64 Policy 1

The application 22/01066/APP embodied all those aspects:

- see the **Supporting Document 003 DAS** page 11 regarding our inclusiveness statement
- see the **Supporting Document 003 DAS** pages 13/14/15 regarding our Environmental Protection
- see the **Supporting Document 003 DAS** page 13 regarding Renovation & Renewal
- the very nature of the **regeneration of an empty property** with modest extension through a full renovation is to give the property a new generation of occupants a home - regenerating community - **Supporting Document 001**.

We always try to be forward thinking, adopting emerging policy & work ahead of new Planning Policy.

We welcome here the new intent of the NPF4. NPF4 was fully embodied in the principles of our application - Moray Planning Officers miss the fact that **all policy aspects carry equal weight when determining an application** and try to single out DP1 to subjectively quash an application that they '**don't personally like the look of**'.

The use by Moray Planning of a subjective view point of an irregular roofs cape as: '**we don't like the look of it**', does not carry weight within the historic DP1 Moray Planning Policy or the new NPF4, particularly of a proposal that **cannot be seen by neighbours or from a public space**.

We show below the key elements of **NPF4** that overwhelmingly support the application.

#### **EXTRACTS NPF4** *[key supporting policy emboldened]:*

**On page 02 of the NPF4 document the Ministerial foreword states the intent of NPF4 is:**

***To improve people's lives by making sustainable, liveable and productive places.***

***Putting the twin global climate and nature crises at the heart of our vision for a future Scotland will ensure the decisions we make today will be in the long-term interest of our country.***

***People care about their neighbourhoods and rightly and reasonably expect that new development should improve their lives, rather than undermining what they value most. To help deliver on this strategy***

***A fairer and more inclusive planning system will ensure that everyone has an opportunity to shape their future so that our places work for all of us***

#### *Spatial principles*

*We will plan our future places in line with six overarching spatial principles:*

- Just transition. We will empower people to shape their places and ensure the transition to net zero is fair and inclusive.*
- Conserving and recycling assets. We will make productive use of existing buildings, places, infrastructure and services, locking in carbon, minimising waste, and building a circular economy.*
- Local living. We will support local liveability and improve community health and wellbeing by ensuring people can easily access services, green space, learning, work and leisure locally.*
- Compact urban growth. We will limit urban expansion so we can optimise the use of land to provide services and resources, including carbon storage, flood risk management, blue and green infrastructure and biodiversity.*
- Rebalanced development. We will target development to create opportunities for communities and investment in areas of past decline, and manage development sustainably in areas of high demand.*
- Rural revitalisation. We will encourage sustainable development in rural areas, recognising the need to grow and support urban and rural communities together.*

***By applying these spatial principles, our national spatial strategy will support the planning and delivery of:***

- **sustainable places, where we reduce emissions, restore and better connect biodiversity**
- **liveable places, where we can all live better, healthier lives; and**
- **productive places, where we have a greener, fairer and more inclusive wellbeing economy.**

Page 08

#### **REDUCING GREENHOUSE GAS EMISSIONS**

*Our strategy and policies support development that helps to meet greenhouse gas emissions targets. The global climate emergency and the nature crisis have formed the foundations for the spatial strategy as a whole. The regional priorities share opportunities and challenges for reducing emissions and adapting to the long-term impacts of climate change, in a way which protects and enhances our natural environment.*

Page 10

*Many people need better places to support their lifelong health and wellbeing and build their future resilience. In recent years communities have found ways to work together to find local solutions to shared challenges. However, the cost crisis is again underlining the need for our future buildings and places to do more to support our long-term resilience.*

**Reuse of and extending existing property through imaginative and placemaking design is embodied in:**

Page 11

***Delivery of good quality, affordable homes - we will promote compact urban growth. Higher density development which will help to sustain public transport and support local living***

***We want to make better use of our spaces to support physical activity, relaxation and play, to bring people together and to celebrate our culture, diversity and heritage***

***Our strategy is to value, enhance, conserve and celebrate our places and to build better communities for future generations. A stronger commitment to placemaking, through a design-led approach and a focus on quality, will ensure every new development improves the experience of our places.***

Page 14

*Policy 16 supports the delivery of high quality, sustainable homes that meet the needs of people throughout their lives. In particular, it supports proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs, and*



*which address identified gaps in provision. This could include: accessible, adaptable and wheelchair accessible homes; homes that meet the needs of older people; a range of size of homes; and other specialist groups.*

*The majority of older people want to remain in their home as they age, preferring mainstream housing, and so accessible and adaptable homes can allow people to continue to live independently. The close alignment of planning and housing delivery at the local level, through LDPs and Local Housing Strategies, will help to deliver the right type and mix of homes in the right locations. In addition Housing to 2040 sets out a commitment to Scottish Accessible Home Standard in 2025/26.*

*Development that provides homes to meet the needs of older people and disabled people will be further promoted by LDPs. Evidence reports will explain the action taken to support and promote the construction and/ or adaptation of homes to meet their needs.*

Page 19

#### **LIFELONG HEALTH AND WELLBEING**

*Our strategy and policies support development that helps to improve health and wellbeing. The spatial strategy as a whole recognises that there are significant health inequalities in Scotland that future development can help to address. The spatial principles aim to ensure that future development is directed to sustainable locations, recognising that the role of planning in supporting development in places which would benefit most from regeneration and investment.*

### **We embody in the application a reduction in surface water run-off:**

*Policy 22 ensures that future flood risk is not exacerbated by development, and facilitates the delivery of sustainable flood risk management solutions. Policy 10*

*manages development to reflect future vulnerability of coastal areas. Policy 9 encourages the redevelopment of brownfield land, helping to reduce the impact of vacant and derelict sites on communities.*

Page 25

#### **North**

*The Highlands of Scotland, Moray, mainland Argyll, northern parts of rural Stirling and Perthshire are world renowned for their stunning landscapes, rich biodiversity and cultural heritage.*

*Settlement patterns vary, from dispersed or low density crofting townships, to key centres such as Inverness, Ullapool, Dingwall, Grantown-on-Spey, Aviemore, Elgin, Pitlochry and Aberfeldy*

*Parts of the area have recently experienced an accelerated increase in house prices. The pandemic has reinforced long standing issues of affordability and a more mobile remote workforce has been attracted to the area, adding increased pressure. Without intervention, access to affordable homes, jobs and services that enable local people, including young people, to stay in their communities could become more challenging. Fuel and transport poverty is a particular challenge towards the north and west and there are significant areas which do not currently benefit from good quality digital connectivity.*

*The area's environmental quality, culture, language, landscape and wildlife sustain key economic sectors including tourism, food and drink, distilling and clean energy. Extensive areas of woodland and peatland act as a carbon sink, contributing significantly to our national sustainability. The area has a strong economy with growing income and low*

*unemployment overall, but there remain pockets of deprivation both in urban areas and in more remote areas where there is a need for alternatives to low skilled and low paid jobs.*

**The reuse of an existing property in a rural location is embodied in the application:**

*Page 28*

*Affordability and choice of homes is acute across the area, especially within Aberdeen. The growing proportion of retirees in Aberdeenshire presents a further challenge to housing and service delivery. There are lower levels of educational attainment and limited access to services for communities along the Aberdeenshire and Moray coast. Many of these places will benefit from further regeneration that builds on their identity and natural assets.*

*The excellent quality of the built environment, natural assets and cultural heritage already contribute to health and wellbeing in the area*

*National Planning Framework 4*

*Page 28 and can form the basis of a transition to net zero.*

*Page 36*

*Local Development Plans:*

*LDPs must address the global climate emergency and nature crisis by ensuring the spatial strategy will reduce emissions and adapt to current and future risks of climate change by promoting nature recovery and restoration in the area.*

**The reuse of an existing property in a rural location is embodied in the application:**

***Policy 1***

***When considering all development proposals significant weight will be given to the global climate and nature crises.***

***Policy impact:***

***Just Transition***

***Conserving and recycling assets***

***Local living***

***Compact urban growth***

***Rebalanced development***

***Rural revitalisation***

*Page 37*

#### *Local Development Plans:*

*The LDP spatial strategy should be designed to reduce, minimise or avoid greenhouse gas emissions. The six spatial principles should form the basis of the spatial strategy, helping to guide development to, and create, sustainable locations. The strategy should be informed by an understanding of the impacts of the proposals on greenhouse gas emissions.*

*LDPs should support adaptation to the current and future impacts of climate change by taking into account climate risks, guiding development away from vulnerable areas, and enabling places to adapt to those risks.*

#### *Policy 2*

*a) Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible.*

*b) Development proposals will be sited and designed to adapt to current and future risks from climate change.*

**We embody sustainable renovation and regeneration in the application:**

37

#### ***Policy Intent:***

***To encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.***

#### ***Policy Outcomes:***

- Emissions from development are minimised; and***
- Our places are more resilient to climate change impacts.***

***c) Development proposals to retrofit measures to existing developments that reduce emissions or support adaptation to climate change will be supported.***

Page 50

#### *Policy Intent:*

*To encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and **empty buildings, and to help reduce the need for greenfield development.***

#### *Policy Outcomes:*

- Development is directed to the right locations, maximising the use of existing assets and minimising additional land take.*
- The contribution of brownfield land to nature recovery is recognised and opportunities for use as productive green space are realised where appropriate.*

- Derelict buildings and spaces are regenerated to improve wellbeing and transform our places.***

#### ***Policy 9***

***a) Development proposals that will result in***

*the sustainable reuse of brownfield land including vacant and derelict land and buildings, whether permanent or temporary, will be supported. In determining whether the reuse is sustainable, the biodiversity value of brownfield land which has naturalised should be taken into account.*

*d) Development proposals for the reuse of existing buildings will be supported, taking into account their suitability for conversion to other uses. Given the need to conserve embodied energy, demolition will be regarded as the least preferred option.*

**The scheme design acknowledges that there is no impact on neighbours, the roof level additions that the Moray Planning Officers dislike are not visible from any public or neighbour properties:**

*Page 53*

*e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:*

*i. impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker;*

*ii. significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/ or appropriate design mitigation has been applied, they will generally be considered to be acceptable;*

*iii. public access, including impact on long distance walking and cycling routes and scenic routes;*

*iv. impacts on aviation and defence interests including seismological recording;*

*v. impacts on telecommunications and broadcasting installations, particularly ensuring that transmission links are not compromised;*

*vi. impacts on road traffic and on adjacent trunk roads, including during construction;*

*vii. impacts on historic environment;*

*viii. effects on hydrology, the water environment and flood risk;*

*ix. biodiversity including impacts on birds;*

*x. impacts on trees, woods and forests;*

*xi. proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration;*

*xii. the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and*

*xiii. cumulative impacts.*

The proposals are designed not to impact on neighbours, cannot be seen from public areas and improve the. Quality of space and volume within the host dwelling to benefit the future occupants:

## ***Design, quality and place Policy Principles***

### ***Policy Intent:***

***To encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.***

### ***Policy Outcomes:***

- Quality places, spaces and environments.***
- Places that consistently deliver healthy, pleasant, distinctive, connected, sustainable and adaptable qualities.***

**Regeneration of derelict property sustains communities and improves neighbourhoods - this is embodied in the application:**

#### ***Local Development Plans:***

***LDPs should be place-based and created in line with the Place Principle.***

***The spatial strategy should be underpinned by the six qualities of successful places. LDPs should provide clear expectations for design, quality and place taking account of the local context, characteristics and connectivity of the area.***

***They should also identify where more detailed design guidance is expected, for example, by way of design frameworks, briefs, masterplans and design codes.***

***Planning authorities should use the Place Standard tool in the preparation of LDPs and design guidance to engage with communities and other stakeholders. They should also where relevant promote its use in early design discussions on planning applications***

### ***Policy 14***

- a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.b) Development proposals will be supported where they are consistent with the six qualities of successful places:***

**We embody within the design, interesting interpretation of local style, vernacular reference that literally and creatively as the NPF4 embodies, reinforcing identity and place**

*Healthy: Supporting the prioritisation of women's safety and improving physical and mental health.*

*Pleasant: Supporting attractive natural and built spaces.*

*Connected: Supporting well connected networks that make moving around easy and reduce car dependency*

*Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity.*

*Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions.*

*Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time.*

**Moray Planning should by this very policy be supporting the application:**

*Further details on delivering the six qualities of successful places are set out in Annex D.*

***c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.***

*Page 62*

*Quality homes  
Policy Principles*

*Policy Intent:*

*To encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.*

*Policy Outcomes:*

*• Good quality homes are at the heart of great places and contribute to strengthening the health and wellbeing of communities.*



**Absolutely key to this application is the policy here, Moray Planners should be supporting the application with these overriding principles that all directly apply to the design and support the application:**

*Page 63*

- g) Householder development proposals will be supported where they:*
- i. do not have a detrimental impact on the character or environmental quality of the home and the surrounding area in terms of size, design and materials; and*
  - ii. do not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking.*
- h) Householder development proposals that provide adaptations in response to risks from a changing climate, or relating to people with health conditions that lead to particular accommodation needs will be supported.*

*Page 64*

### ***Policy 17***

- ii. reuses brownfield land where a return to a natural state has not or will not happen without intervention;*
- iii. reuses a redundant or unused building;*
- iv. is an appropriate use of a historic environment asset or is appropriate enabling development to secure the future of historic environment assets*

*Page 94*

#### ***National Performance Framework***

##### ***Our Purpose, Values and National Outcomes***

*We respect, protect and fulfil human rights and live free from discrimination*

*We have a globally competitive, entrepreneurial, inclusive and sustainable economy*

*We are open, connected and make a positive contribution internationally*

*We are creative and our vibrant and diverse cultures are expressed and enjoyed widely*

*We value, enjoy, protect and enhance our environment*

*We are healthy and active*

#### ***OUR PURPOSE***

*To focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing, and sustainable and inclusive economic growth*

#### ***OUR VALUES***

*We are a society which treats all our people with kindness, dignity and compassion, respects the rule of law, and acts in an open and transparent way*

*We tackle poverty by sharing opportunities, wealth and power more equally*

*We live in communities that are inclusive, empowered, resilient and safe*

*We grow up loved, safe and respected so that we realise our full potential*

*We have thriving and innovative businesses, with quality jobs and fair work for everyone*

*We are well educated, skilled and able to contribute to society*

*Page 95*

*NPF4 is required by law to contribute to 6 outcomes:*

- Meeting the housing needs of people living in Scotland including, in particular, the housing **needs for older people and disabled people**,*
- Improving the health and wellbeing of people living in Scotland,*
- Increasing the population of rural areas of Scotland,*
- Improving equality and eliminating discrimination,*
- Meeting any targets relating to the reduction of emissions of greenhouse gases, and*
- Securing positive effects for biodiversity.*

**The reuse and regeneration of an empty property is directly supported in NPF4:**

*Page 126*

***To deliver liveable places, Regional Spatial Strategies and Local Development Plans in this area should maintain and help to grow the population by taking a positive approach to rural development that strengthens networks of communities.***

*Page 129*

*A new focus on local living could help to address the high levels of car ownership and respond to the area's dispersed settlement pattern.*

*The area's towns contribute to its sense of place and further town centre regeneration will help communities to adapt to current challenges and future change. Service provision also needs to reflect the area's character. Several new or extended primary and secondary schools and community facilities are planned and the area will support wider rural communities by hosting a new centre of excellence for rural and remote medicine and social care. Access to good quality open space and opportunities for local food growing, including allotments and community orchards, can benefit health and wellbeing and tackle inequalities as an integral part of placemaking.*

*The area benefits from a productive coastline that will be a focus for future economic activity and investment associated with offshore renewable energy and the blue economy. The coast is home to communities who will benefit from continued regeneration and a move towards 20 minute neighbourhoods that reduces the need to travel.*

*Page 141*

*Annex D – Six Qualities of Successful Places*

*National Planning Framework 4*

*141*

*1. Healthy: Supporting the prioritisation of women's safety and improving physical and mental health*

*Designing for:*

- lifelong wellbeing through ensuring spaces, routes and buildings feel safe and welcoming e.g. through passive surveillance and use of physical safety measures.*
- healthy and active lifestyles, through the creation of walkable neighbourhoods, food growing opportunities and access to nature and green space*

- accessibility and inclusion for everyone regardless of gender, sexual orientation, age, ability and culture
- social connectivity and creating a sense of belonging and identity within the community
- environmentally positive places with improved air quality, reactivating derelict and brownfield land, removing known hazards and good use of green and blue infrastructure

## 2. Pleasant: Supporting attractive natural and built spaces

Designing for:

- positive social interactions including quality of public realm, civic spaces, streets and ensuring a lively and inclusive experience
- protection from the elements to create attractive and welcoming surroundings, including provision for shade and shelter, mitigating against noise, air, light pollution and undesirable features, as well as ensuring climate resilience, including flood prevention and mitigation against rising sea levels
- connecting with nature including natural landscape, existing landforms and features, biodiversity and eco-systems, integrating blue and green infrastructure and visual connection
- variety and quality of play and recreation spaces for people of all ages and abilities
- enjoyment, enabling people to feel at ease, spend more time outdoors and take inspiration from their surroundings

## 3. Connected: Supporting well connected networks that make moving around easy and reduce car dependency

Designing for:

- active travel by encouraging more walking, wheeling and cycling together with reliable, accessible, public transport and shared transport hubs that allow for simple modal shifts
- connectivity including strategic cycle routes, local cycle routes, footpaths, pavements, active travel networks, desire lines, destinations, permeability, accessibility and catering for different needs and abilities
- convenient connections including local and regional interconnection, infrastructure, sustainable travel, interchange between public transport and active travel and supporting easy modal shifts in transport
- pedestrian experience including safe crossing, pedestrian priority, reduced vehicular speed and noise, inclusive design and surfaces, assistive technology, reduced street clutter, catering for suitable vehicular parking and management of loading/unloading and deliveries and refuse collections

## Part 3 – Annexes

### Place Standard Tool and the delivery of successful places

The Place Standard contains 14 themes that support the Six Qualities of Successful Places, providing a consistent framework to consider and to assess the quality of new and existing places. The Place Standard tool Design Version is specifically created to support the consideration of development planning and design within the framework of the 14 Place Standard themes and to deliver on the Six Qualities of Successful Places.

## Part 3 – Annexes

**We offer an application which embodies the requirements of NPF4 with our interpretation of the local style and form, shown in the Supporting Document 003 DAS:**

*National Planning Framework 4*

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## **4. Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted into designs to reinforce identity**

**Designing for:**

- **scale including density, building heights, massing, orientation, building lines and legibility**
- **built form including mix of typologies, types, uses, sizes and tenures**
- **sense of place including design influences, architectural styles, choice of materials and finishes, detailing, landscape design, active frontages and cultural context**

**5. Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience and integrating nature positive biodiversity solutions**

**Designing for:**

- **transition to net-zero including energy/carbon efficient solutions, retrofitting, reuse and repurposing and sharing of existing infrastructure and resources**
- **climate resilience and nature recovery including incorporating blue and green infrastructure, integrating nature positive biodiversity solutions**

- **active local economy including opportunities for local jobs and training, work spaces, enabling working from home, supporting community enterprise and third sector**

- **community and local living including access to local services and facilities, education, community growing and healthy food options, play and recreation and digital connectivity**

**6. Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can meet the changing needs and accommodate different uses over time**

**Designing for:**

- **quality and function, ensuring fitness for purpose, design for high quality and durability**
- **longevity and resilience including recognising the role of user centred design to cater for changing needs over time and to respond to social, economic and environmental priorities**
- **long-term maintenance including effective engagement, clarity of rights and responsibilities, community ownership/stewardship, continuous upkeep and improvements**

Page 144

**20 minute neighbourhoods**

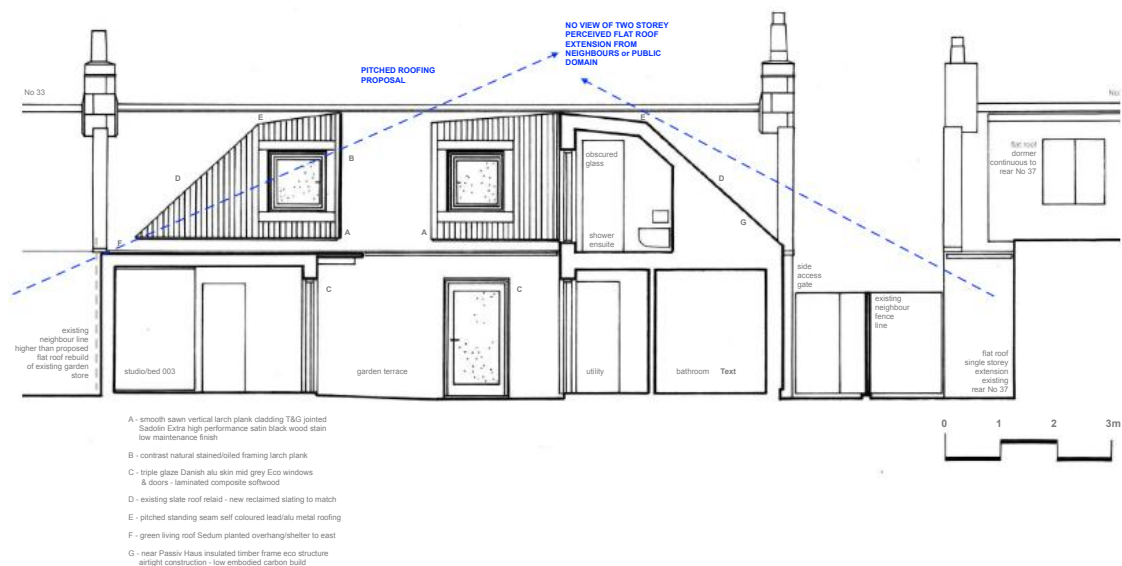
*A flexible approach to assessing our places against the concept of local living. A method of achieving connected and often compact neighbourhoods designed in such a way that people can meet the majority of their daily needs within a reasonable distance of their home preferably by sustainable and active travel methods. The principle can be adjusted to include varying geographical scales from cities and urban environments, to rural and island communities. Housing would be planned together with local infrastructure including schools, community centres, local shops and health and social care to significantly reduce the need to use unsustainable methods of travel, to prioritise quality of life, help tackle inequalities, increase levels of health and wellbeing and respond to the climate emergency.*

With all NMD proposals we create a quality of design and place, we exceed environmental regulation, we work with and beyond the social requirements of Planning Policy as demonstrated here.

The NPF4 directly supports this application, we attempted to collaborate with Moray Planning, they have tried to personally without policy support to dislike the 'irregular look' of the proposal and chose to ignore all other mitigating attributes of the proposal that embody:

- Inclusiveness
- Environmental protection
- Renovation & renewal
- Regeneration of communities

The applicant within their submission acknowledges and champions so much of the intent of NPF4.



**NPF4 closes with:**

*Page 154*

### ***Placemaking***

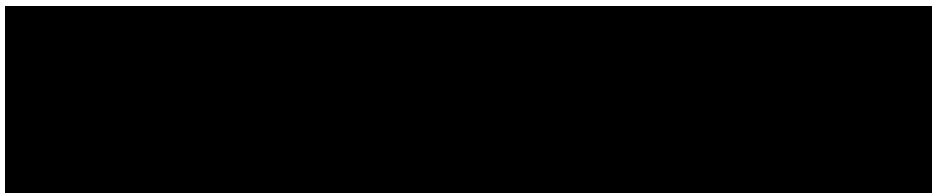
***Placemaking is the process of creating good quality places that promotes people's health, happiness and wellbeing.***

***It concerns the environment in which we live; the people that inhabit these spaces; and the quality of life that comes from the interaction of people and their surroundings.***

***Placemaking is a collaborative approach involving the design and development of places over time, with people and communities central to the process.***

The applicant thanks the Moray Review Panel for their time and attention with this review request.

Yours faithfully



**Nick Midgley** BA Hons Dip Arch Oxford

**NMD**

cc applicant Ms Claire Lambert







## MORAY LOCAL REVIEW BODY

20 APRIL 2023

### SUMMARY OF INFORMATION FOR CASE No LR285

**Planning Application 22/00327/APP – Change of use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty, Buckie**

#### **Ward 3 - Buckie**

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 26 September 2022 on the grounds that:

The proposal would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan 2020 for the following reasons:

1. This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.
2. The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.

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

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

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

At the meeting of the Moray Local Review Body (MLRB) on 16 February 2023, the MLRB noted that National Planning Framework 4 (NPF4) had been adopted by the Council on Monday 13 February 2023 and that all planning applications determined beyond this date would have to take NPF4 into consideration, as this is now part of the MLDP 2020 and deferred consideration of the above Review to request further information from the Appointed Officer and Interested Parties after considering the

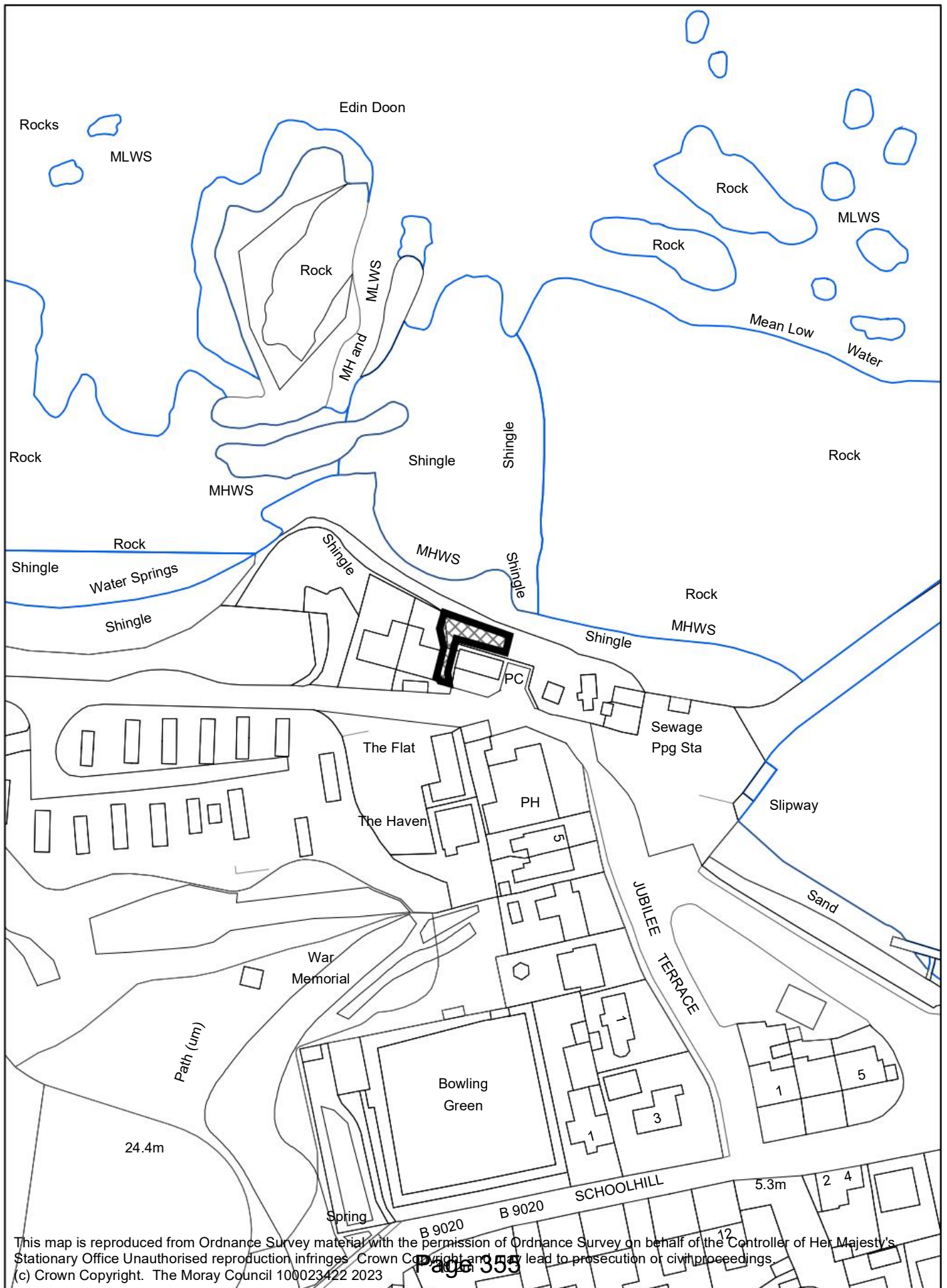
planning application in light of NPF4 with any response received being forwarded to the Applicant for comment.

The Appointed Officer's response is attached as **Appendix 5**. There was no response from any of the Interested Parties.

The Applicant did not provide a response to the Appointed Officer's comments.



# Location plan for Planning Application Reference Number : 22/00327/APP







# **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 100540448-001

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)

Change of Use of amenity land to garden ground at Jubilee Terrace, Findochty, Buckie

Is this a temporary permission? \*

☐ Yes ☒ No

If a change of use is to be included in the proposal has it already taken place?  
(Answer 'No' if there is no change of use.) \*

☐ Yes ☒ No

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

☒ No ☐ Yes – Started ☐ Yes - Completed

## Applicant or Agent Details

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

☐ Applicant ☒ Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Grant and Geoghegan Ltd.		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	Grant Lodge
Last Name: *	Grant	Building Number:	
Telephone Number: *	07769744332	Address 1 (Street): *	Birnie
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	ELGIN
Fax Number:		Country: *	Scotland
		Postcode: *	IV30 8SW
Email Address: *	neil@ggmail.co.uk		
Is the applicant an individual or an organisation/corporate entity? *			
<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Organisation/Corporate entity			

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	per grant and geoghegan
First Name: *	John	Building Number:	
Last Name: *	Gardiner	Address 1 (Street): *	Grant Lodge
Company/Organisation		Address 2:	Birnie
Telephone Number: *		Town/City: *	ELGIN
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 8SW
Fax Number:			
Email Address: *	neil@ggmail.co.uk		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

Address 2:

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

Post Code:

Please identify/describe the location of the site or sites

Ground at Jubilee Terrace, Findochty

Northing

867982

Easting

345954

## Pre-Application Discussion

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

☐ Yes ☒ No

## Site Area

Please state the site area:

113.12

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)

Amenity land

## Access and Parking

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

☐ Yes ☒ No

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

<p>Are you proposing any change to public paths, public rights of way or affecting any public right of access? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes please show on your drawings the position of any affected areas highlighting the changes you propose to make, including arrangements for continuing or alternative public access.</p>	
<p>How many vehicle parking spaces (garaging and open parking) currently exist on the application Site?</p>	<input style="width: 100%;" type="text" value="0"/>
<p>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)? *</p>	<input style="width: 100%;" type="text" value="0"/>
<p>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).</p>	
<h2 style="margin: 0;">Water Supply and Drainage Arrangements</h2>	
<p>Will your proposal require new or altered water supply or drainage arrangements? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>Do your proposals make provision for sustainable drainage of surface water?? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (e.g. SUDS arrangements) *</p> <p>Note:-</p> <p>Please include details of SUDS arrangements on your plans</p> <p>Selecting 'No' to the above question means that you could be in breach of Environmental legislation.</p>	
<p>Are you proposing to connect to the public water supply network? *</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No, using a private water supply</p> <p><input checked="" type="checkbox"/> No connection required</p> <p>If No, using a private water supply, please show on plans the supply and all works needed to provide it (on or off site).</p>	
<h2 style="margin: 0;">Assessment of Flood Risk</h2>	
<p>Is the site within an area of known risk of flooding? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p> <p>If the site is within an area of known risk of flooding you may need to submit a Flood Risk Assessment before your application can be determined. You may wish to contact your Planning Authority or SEPA for advice on what information may be required.</p> <p>Do you think your proposal may increase the flood risk elsewhere? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know</p>	
<h2 style="margin: 0;">Trees</h2>	
<p>Are there any trees on or adjacent to the application site? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>	
<h2 style="margin: 0;">Waste Storage and Collection</h2>	
<p>Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

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

Existing

## Residential Units Including Conversion

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

☐ Yes ☒ No

## All Types of Non Housing Development – Proposed New Floorspace

Does your proposal alter or create non-residential floorspace? \*

☐ Yes ☒ No

## Schedule 3 Development

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

☐ Yes ☒ No ☐ Don't Know

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

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

## Planning Service Employee/Elected Member Interest

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

☐ Yes ☒ No

## Certificates and Notices

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

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

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

☒ Yes ☐ No

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

☐ Yes ☒ No

## Certificate Required

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

Certificate A



# Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Neil Grant

On behalf of: Mr John Gardiner

Date: 03/03/2022

☒ Please tick here to certify this Certificate. \*

## Checklist – Application for Planning Permission

Town and Country Planning (Scotland) Act 1997

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

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

Town and Country Planning (Scotland) Act 1997

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

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

☐ Yes ☐ No ☒ Not applicable to this application

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

- ☒ Site Layout Plan or Block plan.  
☐ Elevations.  
☐ Floor plans.  
☐ Cross sections.  
☐ Roof plan.  
☐ Master Plan/Framework Plan.  
☐ Landscape plan.  
☐ Photographs and/or photomontages.  
☐ Other.

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

Provide copies of the following documents if applicable:

- |                                                                                        |                                                                      |
|----------------------------------------------------------------------------------------|----------------------------------------------------------------------|
| A copy of an Environmental Statement. *                                                | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Design Statement or Design and Access Statement. *                                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Flood Risk Assessment. *                                                             | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). * | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Drainage/SUDS layout. *                                                                | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Transport Assessment or Travel Plan                                                  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Contaminated Land Assessment. *                                                        | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| Habitat Survey. *                                                                      | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |
| A Processing Agreement. *                                                              | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> N/A |

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

## Declare – For Application to Planning Authority

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

Declaration Name: Mr Neil Grant

Declaration Date: 02/03/2022

## Payment Details

Cheque: X, X

Created: 03/03/2022 09:53



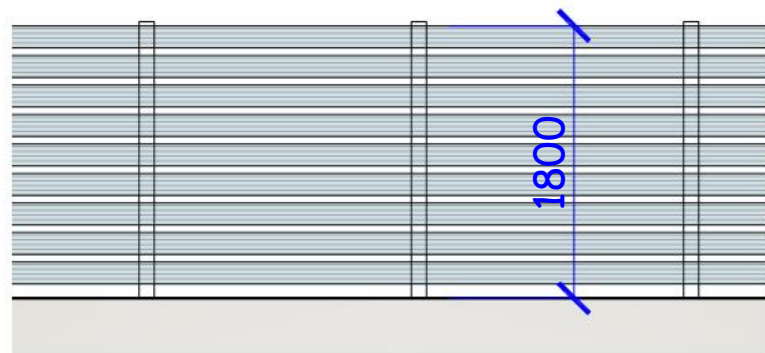


indicates area of extended pathway, finish to match existing

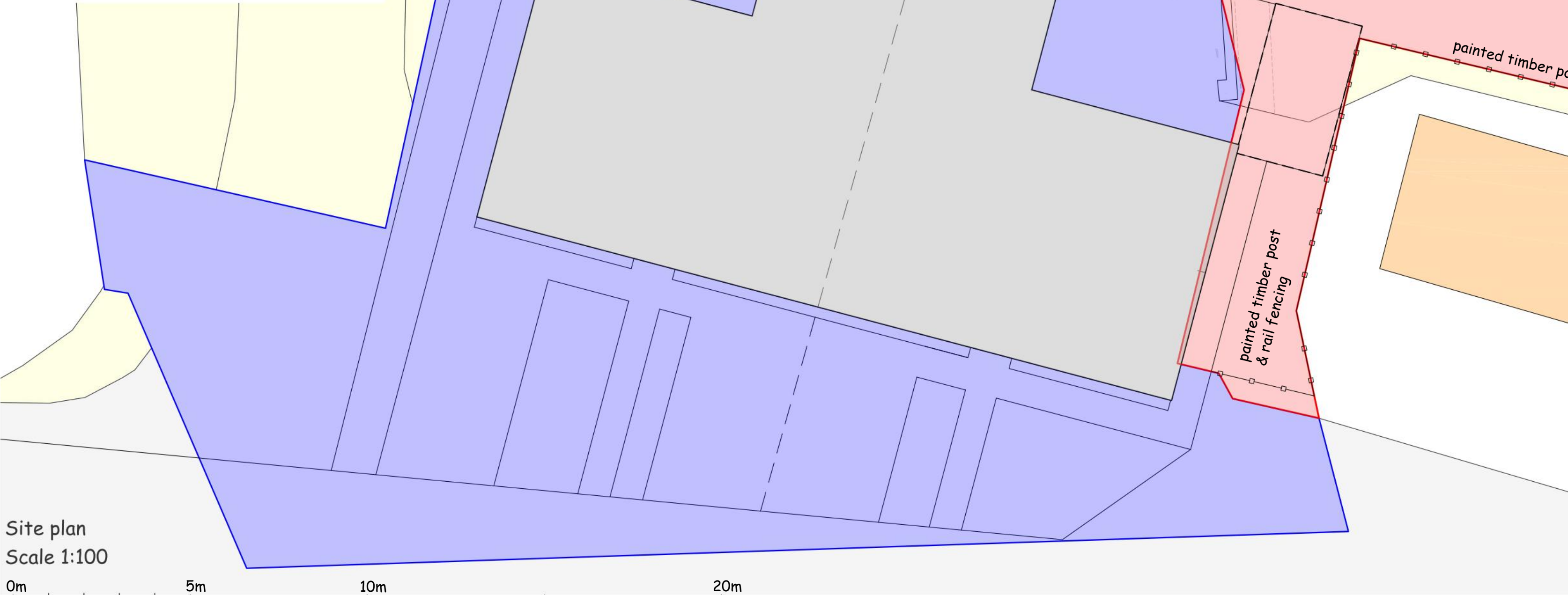
indicates area of land currently owned by applicant

indicates additional land purchased by applicant for which permission is sought

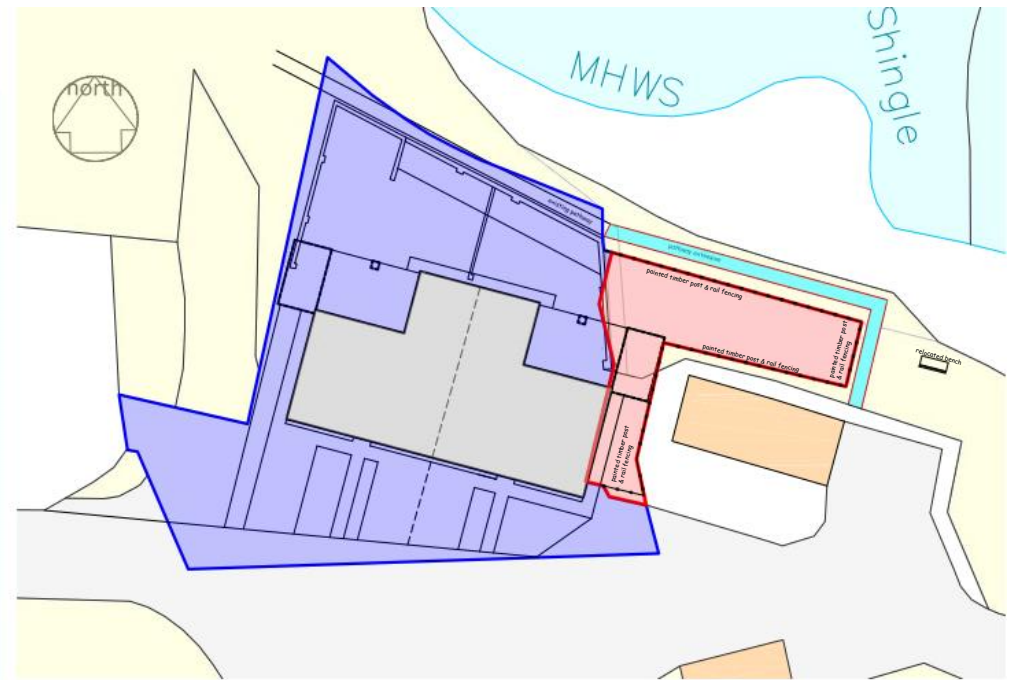
indicates new post and rail fencing to 1.8m maximum height.



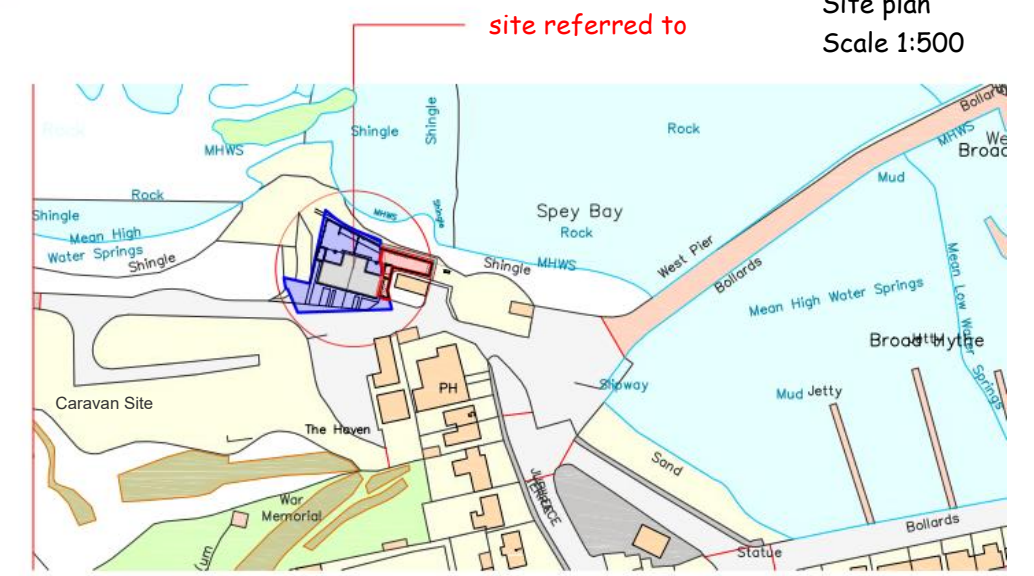
post & rail fence painted to match existing 1:50



Site plan  
Scale 1:100



Site plan  
Scale 1:500



Location plan  
Scale 1:2500

grant and  
geoghegan  
planning, development and  
architectural consultants

T:01343 556644  
E:enquiries@gmail.co.uk

Change of Use of Ground at  
Jubilee Terrace, Findochty

Drawing Title	Drawing No.
Site Plan	17/003/PP01
Scale @ A2	Date
1:100	Feb 2022











# **Consultee Comments for Planning Application 22/00327/APP**

## **Application Summary**

Application Number: 22/00327/APP

Address: Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA

Proposal: Change of Use of amenity land to garden ground at

Case Officer: Iain T Drummond

## **Consultee Details**

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally from Adrian Muscutt (23/3/22).



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	29th March 2022
<b>Planning Authority Reference</b>	22/00327/APP
<b>Nature of Proposal (Description)</b>	Change of Use of amenity land to garden ground at
<b>Site</b>	Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133072693
<b>Proposal Location Easting</b>	345985
<b>Proposal Location Northing</b>	867970
<b>Area of application site (M<sup>2</sup>)</b>	113
<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=R87KS6BGLS000">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R87KS6BGLS000</a>
<b>Previous Application</b>	21/01372/DCG
<b>Date of Consultation</b>	15th March 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr John Gardiner
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Per Agent
<b>Agent Name</b>	Grant And Geoghegan Limited
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	Grant Lodge Birnie Elgin Moray IV30 8SW
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Iain T Drummond
<b>Case Officer Phone number</b>	01343 563607
<b>Case Officer email address</b>	iain.drummond@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

**NOTE:**

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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)

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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:** Estates, Central Services

**Planning Application Ref. No: 22/00327/APP**

**Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty  
Buckie for Mr John Gardiner**

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"/>             |

**Reason(s) for objection**

**Condition(s)**

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

Application is in relation to Garden Ground disposal of Council ground, currently being handled by Estates. As such, Estates have no objection to this proposal.

**Further information required to consider the application**

**Contact: Cameron Queen**

**email address: Cameron.queen@moray.gov.uk**

**Consultee: Estates**

**Date.....15/03/2022.....**

**Phone No 07922436400.....**



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

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**MORAY COUNCIL  
PLANNING CONSULTATION RESPONSE**

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

**Planning Application Ref. No:** 22/00327/APP

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

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

Contact: James Ross Date 18/05/2022  
email address: James.ross@moray.gov.uk Phone No  
**Consultee:** The Moray Council, Flood Risk Management



## Consultation Request Notification – Strategic Planning & Development

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	29th March 2022
<b>Planning Authority Reference</b>	22/00327/APP
<b>Nature of Proposal (Description)</b>	Change of Use of amenity land to garden ground at
<b>Site</b>	Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133072693
<b>Proposal Location Easting</b>	345985
<b>Proposal Location Northing</b>	867970
<b>Area of application site (M<sup>2</sup>)</b>	113
<b>Additional Comments</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=R87KS6BGLS000">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R87KS6BGLS000</a>
<b>Previous Application</b>	21/01372/DCG
<b>Date of Consultation</b>	15th March 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr John Gardiner
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Per Agent
<b>Agent Name</b>	Grant And Geoghegan Limited
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	Grant Lodge Birnie Elgin Moray IV30 8SW
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Iain T Drummond
<b>Case Officer Phone number</b>	01343 563607
<b>Case Officer email address</b>	iain.drummond@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

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

Please respond using the attached form:-

**PLEASE COMPLETE AND RETURN WITHIN 48 HOURS**  
to [consultation.planning@moray.gov.uk](mailto:consultation.planning@moray.gov.uk)

## **MORAY COUNCIL PLANNING CONSULTATION RESPONSE**

**From: Strategic Planning & Development**

**Planning Application Ref. No: 22/00327/APP**

**Change of Use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty, Buckie for Mr John Gardiner**

**Ward: 03\_17 Buckie**

### **DETERMINATION - DEPARTURE FROM DEVELOPMENT PLAN**

*(For Structure/Local Plan Comment)*

		<b>Page No</b>	<b>Policy No(s)</b>	<b>Yes</b>	<b>No</b>
<b>1</b>	<b>Departure from Moray Local Development Plan 2020</b>		PP3 <i>Infrastructure and Services</i>		X
			DP1 <i>Development Principles</i>		X
			EP3 <i>Special Landscape Areas and Landscape Character</i>	X	
			EP6 <i>Settlement Boundaries</i>	X	
			EP9 <i>Conservation Areas</i>		X
<b>2</b>	<b>Further Discussion Required</b>				

### **REASONING FOR THIS DECISION:**

#### **Policy PP3 *Infrastructure & Services***

Policy PP3 seeks to ensure development is planned and co-ordinated with infrastructure to enable places to function properly and are adequately serviced.

The northern boundary of the site is defined by The Moray Coastal Trail, which includes a path that passes through the western part of the site and connecting thereon to the public toilets. The development proposes to reroute the path around the northern and eastern boundaries of the site, maintaining a pathed access from the north to the toilet block. The proposal will therefore have no detrimental impact on existing public access rights, in compliance with Policy PP3



### **Policy DP1 *Development Principles***

Policy DP1 sets out detailed criteria to ensure that proposals meet siting, design and servicing requirements, provide sustainable drainage arrangements and avoid any adverse effects on environmental interests.

The proposal seeks to convert an area of amenity ground into garden ground. The proposal is of an appropriate scale and character to the surrounding area. To reflect the sensitivities of the proposed site, the boundaries of the site will be defined by post & rail fencing to replicate the adjacent properties. The proposal therefore complies with DP1.

### **Policy EP3 *Special Landscape Areas and Landscape Character***

The proposed site is located wholly within Portgordon to Cullen Coast Special Landscape Area (SLA). Policy EP3 aims to protect landscapes from inappropriate development. Proposals must not prejudice the special qualities of the designated area, avoid adverse effects on the landscape and visual qualities and adopt the highest standards of design in accordance with Policy DP1 and other relevant policies.

As the majority of the proposal is outwith the settlement boundary of Findochty, the development is considered against the use criteria for rural areas as set out in Policy EP3 (i) (a). The proposal is not for any of the acceptable uses and therefore is a departure from Policy EP3.

The proposed use is however consistent with immediately adjacent properties, whose garden grounds are also outwith the settlement boundary. The development proposes to be bounded by post & rail fencing which reflects existing boundary treatments in the area. On the basis that the character of the proposal reflects the surrounding area and the development is located behind existing buildings and therefore sensitively sited and integrated into the landscape, the proposal is considered an acceptable departure from Policy EP3.

### **Policy EP6 *Settlement Boundaries***

The proposed site is largely immediately outwith the settlement boundary of Findochty. Policy EP6 seeks to guide development to identified settlements and rural groupings, preventing ribbon development and maintaining a clear distinction between the built-up area and the countryside. As the proposed site is not a designated LONG site, the development is contrary to Policy EP6.

For the reasons set out in Policy EP3 above, the proposal is considered an acceptable departure from Policy EP6.

### **Policy EP9 *Conservation Area***

The site is located within Findochty Conservation Area. Policy EP9 requires all development within a conservation area to preserve and enhance the established traditional character or appearance of the area.

The siting and proposed boundary treatments will not adversely affect the character and appearance of the conservation area and therefore complies with Policy EP9.

## Conclusion

The development site is largely immediately outwith the settlement boundary of Findhochty and falls wholly within the Portgordon to Cullen Coast SLA, where the proposed use is not in compliance with policy. The proposal is therefore contrary to Policies EP3 and EP6.

However, the character of the proposal reflects the surrounding area which consists of a mix of amenity ground and garden ground. On the basis that the character of the proposal reflects the surrounding area and the development is located behind existing buildings and therefore sensitively sited and integrated into the landscape, the proposal is considered an acceptable departure from Policy EP3 and EP6.

The siting and proposed finishes will not adversely affect the character and appearance of Findhochty Conservation Area.

**Contact: Darren Westmacott**

**Email Address: [Darren.Westmacott@moray.gov.uk](mailto:Darren.Westmacott@moray.gov.uk)**

**Consultee: Strategic Planning & Development**

**Date: 03/05/2022**

**Phone No: N/A**

**Return response to**

**[consultation.planning@moray.gov.uk](mailto:consultation.planning@moray.gov.uk)**

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**MORAY COUNCIL**

**PLANNING CONSULTATION RESPONSE**

**From:** Moray Access Manager

**Planning Application Ref. No: 22/00327/APP**

**Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace  
Findochty Buckie for Mr John Gardiner**

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

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

**Reason(s) for objection**

**Condition(s)**

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

**Further information required to consider the application**

**Contact:** Ian M Douglas

**Date**15/03/2022.....

**email address:**ian.douglas@moray.gov.uk

.....  
**Phone** No  
7049.....



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	29th March 2022
<b>Planning Authority Reference</b>	22/00327/APP
<b>Nature of Proposal (Description)</b>	Change of Use of amenity land to garden ground at
<b>Site</b>	Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	000133072693
<b>Proposal Location Easting</b>	345985
<b>Proposal Location Northing</b>	867970
<b>Area of application site (M<sup>2</sup>)</b>	113
<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=R87KS6BGLS000">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=R87KS6BGLS000</a>
<b>Previous Application</b>	21/01372/DCG
<b>Date of Consultation</b>	15th March 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr John Gardiner
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	Per Agent
<b>Agent Name</b>	Grant And Geoghegan Limited
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<b>Case Officer</b>	Iain T Drummond
<b>Case Officer Phone number</b>	01343 563607
<b>Case Officer email address</b>	iain.drummond@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

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Please respond using the attached form:-

## MORAY COUNCIL

### PLANNING CONSULTATION RESPONSE

**From:** Transportation Manager

**Planning Application Ref. No:** 22/00327/APP

**Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty  
Buckie for Mr John Gardiner**

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 change of use.*

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

The developer should note that the site is located beyond the extents of the Public Road.

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

**Date 22 March 2022**

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

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## **REPORT OF HANDLING**

<b>Ref No:</b>	22/00327/APP	<b>Officer:</b>	Iain T Drummond
<b>Proposal Description/ Address</b>	Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty Buckie		
<b>Date:</b>	23.09.2022	<b>Typist Initials:</b>	LMC

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

<b>CONSULTATIONS</b>		
<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Strategic Planning And Development	03/05/22	Offered advice in relation to development plan policy
Moray Access Manager	15/03/22	No objections
Contaminated Land	25/03/22	No objections
Estates, Central Services	15/03/22	No objections
Transportation Manager	22/03/22	No objections
Moray Flood Risk Management	18/05/22	No objections

<b>DEVELOPMENT PLAN POLICY</b>		
<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP3 Infrastructure and Services	N	
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP6 Settlement Boundaries	Y	
EP9 Conservation Areas	Y	

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

## OBSERVATIONS – ASSESSMENT OF PROPOSAL

### The Proposal

This application seeks planning permission for change of use of public open space to form private garden ground on land adjacent to Rockside, 8 Jubilee Terrace, Findochty.

The proposal also involved the erection of a 1m high block wall to enclose the garden space and provision of a footpath round the site to extend the existing informal footpath which runs through the site.

The site presently forms part of the grassy foreshore at Findochty, between the village and the beach. The applicant's house bounds the site to the west, with the public toilets to the south, remainder of open grassy area to the west and beach to the north.

The site lies within the Findochty conservation area, however, only a small proportion of the site lies within the Findochty settlement boundary (as defined by the 2020 Moray Local Development Plan (MLDP)), with the remainder lying immediately outwith the settlement. The site also lies within the Special Landscape Area again as defined by the MLDP 2020.

### Appraisal

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise. The main planning issues are considered below:

#### Principle, siting and design (EP9, EP3, EP6 and DP1)

Policies EP9, EP3 and DP1, require all new development to preserve and enhance the established character and appearance of the conservation area, to ensure that new development does not adversely affect the quality and experience of the Special Landscape Area and ensure proposals do not result in an adverse impact on the amenity of the surrounding area.

Policy EP6 also precludes any development immediately out with the settlement boundary, with the defined settlement boundary representing the limit to which any settlement can expand during the MLDP period.

In this case the site forms part of what is a well kept area of grass foreshore, which acts as a useful amenity space and transition between the village and the beach. Whilst it is accepted that the area of grass, which is the subject of this application, is hidden from many viewpoints by the public toilet, which lies immediately to the south, from wider viewpoints this portion of grassland is visible to the east and contributes to the character and setting of the foreshore of the Findochty conservation area.

At approx. 550sqm, this existing grassed area of open space is relatively small, however, it offers an attractive and useful area of amenity space, where people could sit and have picnics on the grass whilst also enjoying the beach. The proposal would result in the loss of approx. 110sqm of this grass area and although this is a relatively small area of land, it constitutes almost one fifth of the overall grass area and as such will inevitably result in a loss of useful public open space and have a detrimental impact on this area of Findochty, which acts as an attraction for tourist and offers valuable local amenity. Although the site lies behind the public toilets, which could be considered to detract from the value of the area, the toilet building offers a good source of shelter in this instance and views from behind the toilets across the beach are valued, which is demonstrated by the presence of the existing public bench to the rear of the toilet block building.

Whilst the applicants have amended to the proposals to show a 1m high boundary wall rather than a 2m high boundary fence, enclosing the area and using it for domestic garden purposes will result in the loss of an attractive area of public open space to the detriment of this area of Findochty.

In addition to the above, the proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary. Policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts outlined above, there is not considered to be any material planning considerations which would merit departing from policy EP6.

### Conclusion

Overall for the reasons outlined above this proposed change of use is considered to have an adverse impact on the character and appearance of the conservation area in which it lies and the wider qualities of the Special Landscape Area. The proposal would also represent an unwarranted development immediately out with the settlement boundary and for these reasons the proposal, does not comply with MLDP policies EP9, EP3, EP6 and DP1.

### OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

### HISTORY

Reference No.	Description			
21/01372/DCG	Disposal of Council ground at Rockside 8 Jubilee Terrace Findochty Buckie Moray			
	Decision		Date Of Decision	

### ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Banffshire Advertiser and Herald	Planning application affecting LB/CA No Premises	11/04/22	
PINS	Planning application affecting LB/CA No Premises	11/04/22	

### 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:		

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

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





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

**REFUSAL OF PLANNING PERMISSION**

**[Buckie]  
Application for Planning Permission**

TO

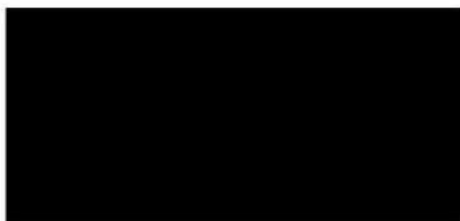


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

**Change of Use of amenity land to garden ground at Rockside 8 Jubilee Terrace Findochty Buckie**

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

Date of Notice: **26 September 2022**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

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

## **IMPORTANT**

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

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

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

The proposal would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan 2020 for the following reasons:

1. This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.
2. The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.

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

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

<b>Reference</b>	<b>Version</b>	<b>Title</b>
17/003/PP01		Elevations site and location plan
17/003/PP01 A		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.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

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





## **APPENDIX 2**

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



# NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN  
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)  
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

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

**Use BLOCK CAPITALS if completing in manuscript**

**Applicant(s)** Name: Mr J Gardiner

**Agent** (if any)

Address:

Name: Grant & Geoghegan

Address: Grant Lodge, Birnie, Elgin

Postcode

Postcode: IV30 8SW

Contact Telephone 1

Contact Telephone 1: 01343 556644

Contact Telephone 2

Contact Telephone 2:

Fax No

Fax No

E-mail\*

E-mail: neil@ggmail.co.uk

Mark this box to confirm all contact should be  
through this representative: X

\* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No  
X ☐

Planning authority

Moray Council

Planning authority's application reference number

22/00327/APP

Site address

Rockside 8 Jubilee Terrace Findochty Buckie Moray AB56 4QA

Description of proposed  
development

Change of Use of amenity land to garden ground

Date of application

04/03/2022

Date of decision (if any)

26/09/2022

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

**Nature of application**



- |                                                                                                                                                                                                                      |                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 1. Application for planning permission (including householder application)                                                                                                                                           | X                        |
| 2. Application for planning permission in principle                                                                                                                                                                  | <input type="checkbox"/> |
| 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition) | <input type="checkbox"/> |
| 4. Application for approval of matters specified in conditions                                                                                                                                                       | <input type="checkbox"/> |

### Reasons for seeking review

- |                                                                                                                             |                          |
|-----------------------------------------------------------------------------------------------------------------------------|--------------------------|
| 1. Refusal of application by appointed officer                                                                              | X                        |
| 2. Failure by appointed officer to determine the application within the period allowed for determination of the application | <input type="checkbox"/> |
| 3. Conditions imposed on consent by appointed officer                                                                       | <input type="checkbox"/> |

### Review procedure

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

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

- |                                                                   |                          |
|-------------------------------------------------------------------|--------------------------|
| 1. Further written submissions                                    | <input type="checkbox"/> |
| 2. One or more hearing sessions                                   | <input type="checkbox"/> |
| 3. Site inspection                                                | <input type="checkbox"/> |
| 4. Assessment of review documents only, with no further procedure | X                        |

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

### Site inspection

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

- |                                                                                      | Yes | No                       |
|--------------------------------------------------------------------------------------|-----|--------------------------|
| 1. Can the site be viewed entirely from public land?                                 | X   | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | X   | <input type="checkbox"/> |

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

### Statement

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

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

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

Grounds of Appeal stated in separate document.

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

Yes No  
☐ ☒

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

N/A

**List of documents and evidence**

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

We understand the refused plans will form part of the appeal papers which Member's will be able to draw on. No further information is required in this instance.

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

---

**Checklist**

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

- ☒ Full completion of all parts of this form
- ☒ Statement of your reasons for requiring 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 [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.**

Signed Neil Grant

Date 23/12/2022

# **grant & geoghegan ltd.**

**Chartered Planning Development and Architectural Consultants**

Unit 4 Westerton Road Business Centre  
4 Westerton Road South  
Keith AB55 5FH

T: 01343 556644  
E: [enquiries@ggmail.co.uk](mailto:enquiries@ggmail.co.uk)

## **Grounds of Appeal**

**Rockside, 8 Jubilee terrace, Findochty, Buckie**

**Issue Date:**  
22<sup>nd</sup> December 2022

## Executive Summary

These grounds for review relate to the modest extension of an existing residential curtilage at Rockside, 8 Jubilee Terrace, Findochty. It is the appellants position that: -

- The site is not subject to specific protection under Policy EP5 Open Space in respect of its contribution to the overall resource.
- It is a logical extension to an existing, domestic curtilage.
- When the quantity, quality, community value, accessibility and use of this land is considered in respect of the aims and objectives of open space provision, it is clear the land has no significant functional value.
- The close relationship of the land to the host property and the sensitive design of the proposals is such that is not considered to have a significantly detrimental impact on the overall character of the conservation area, the surrounding landscape or the integrity of the settlement boundary.
- There have been no objections to the proposals from local residents.

Through the submission of these Grounds of Appeal, the appellants seek to demonstrate that insufficient weight was placed on the above in the decision-making process.

In this context, it is respectfully requested that the Local Review Body reconsider the decision to refuse planning permission.

## CONTENTS

**1.0.** Introduction

**2.0.** The Proposal

**3.0.** Reason for Refusal

**4.0.** Grounds of Appeal

**5.0.** Conclusion

These grounds for review of a decision to refuse planning permission for a change of use of amenity land to garden ground at Rockside, 8 Jubilee Terrace, Findochty are submitted under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended). This notice of review has been lodged within the prescribed 3-month period from the refusal of permission dated the 26<sup>th</sup> of September 2022.

## 2.0 The Proposal

The proposals have been designed to respect the open appearance of the site as much as possible. To this end, the proposed boundary treatment would be a wall constructed to a height of 1 metre and finished to match the existing 1-metre-high wall which bounds the host property.

The proposed development also includes the diversion of an existing informal footpath to a more suitable point of connection into the existing path/ road network of Findochty, to the other side of the public convenience building, a short distance to the east (shown in cyan below).





### 3.0 Reasons for Refusal

The reasons for refusal state that: -

*'The proposal would be contrary to policies EP9, EP3, EP6 and DP1 of the Moray Local Development Plan 2020 for the following reasons:*

- 1. This proposed change of use would result in the loss of a portion of distinctive grassland, which acts as an attractive transition between the built-up area of the village and the beach beyond and also acts as a useful amenity area and as such its loss would have an adverse impact on the amenity, character and appearance of the conservation area in which it lies and the qualities of the wider Special Landscape Area.*
- 2. The proposed site straddles the settlement boundary, with the majority of the site lying out with the settlement boundary, where policy EP6 precludes any development immediately out with the settlement boundary and in this instance, given the adverse impacts on the character and amenity of the area which would result from the development, there is not considered to be any material planning considerations which would merit departing from policy.'*

### 4.0 Grounds of Appeal

The first reason for refusal describes the area as *'distinctive grassland, which acts as an attractive transition between the built-up area of the village and the beach beyond and also acts as a useful amenity area'*. On this basis, the appointed Officer concludes that *'it's loss would have an adverse impact on the amenity, character and appearance of the conservation area....and the qualities of the wider landscape area'*.

The main issue in terms of the assessment of the proposed scheme is not necessarily the appearance of the wall or the use of the land as garden ground (which is a relatively inoffensive form of development in this context), but rather the potential impact that such a proposal would have in terms of altering the use, function and appearance of the land in its current form.

An attempt has therefore been made to assess the significance of the proposed land in terms of its value as a community resource and its contribution to the visual appearance of its locality and the wider area to establish the potential impact of the proposed development on the community and the character of the area as a whole.

Members will note that the residential area in this part of Findochty is well connected to and served by a variety of formal and informal open spaces and areas in the form of public parks, playspace and sports areas, a considerable portion of which are located within a 250-metre radius of the development site. These areas are covered by an ENV4 (Sports Areas) and ENV 6 (Natural/ Semi-Natural Greenspace) designation, which are both protected in guidance contained within parent policy EP5 Open Space. In assessing the principle of development, it is important to note that the subject site and its immediate surrounds are not covered by any specific protection through this policy.

When assessing the proposed site in association with the existing network of informal and formal public open space specifically, it is apparent that the subject site is not inextricably linked to this network. The land appears isolated in this context as a result of its physical and visual disconnection with existing designated open space provision.

The disconnection of the land from designated open space diminishes its value as a useable, functional and accessible resource in terms of promoting opportunities for formal and informal recreation and physical activity as well as its contribution towards nature conservation and environmental enhancement. It should be

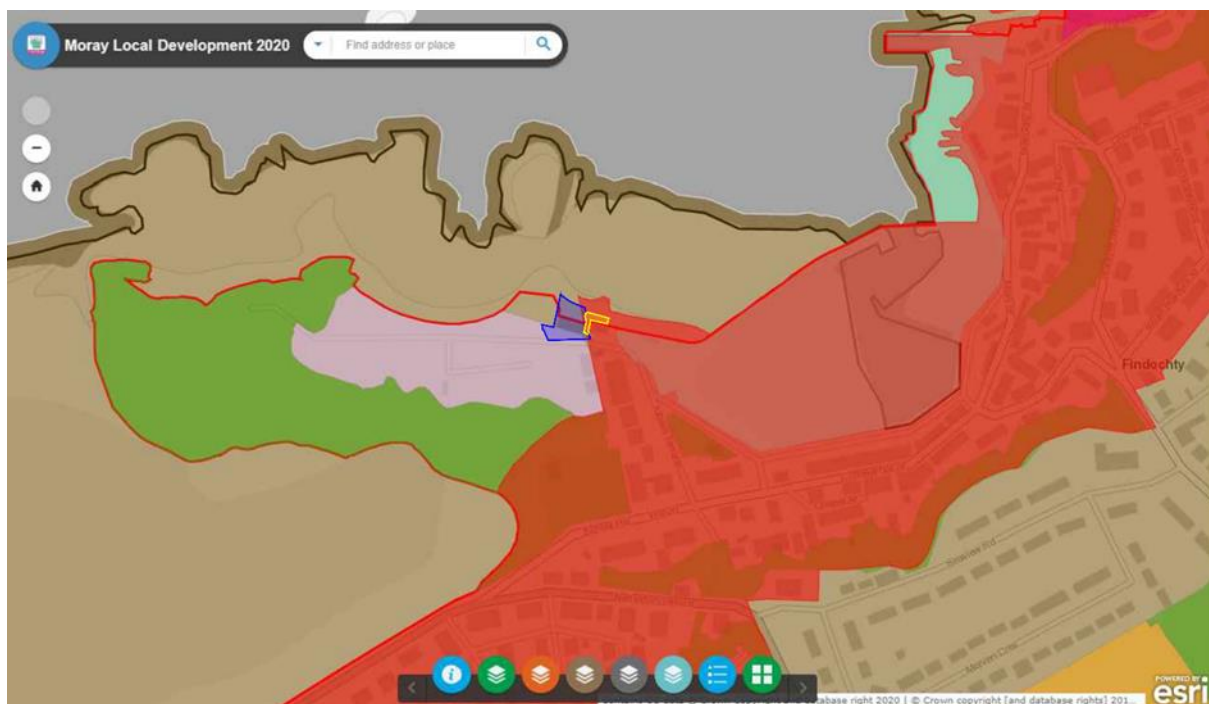
noted that the approval of this application would not affect the function of the Coastal Trail in any way nor does it preclude the use of the remaining resource in its immediate surrounds as informal open space or preclude access to nearby open space provision.

Moreover, given the significant provision of public open space within close proximity to the site and the accessibility of these areas from Jubilee Terrace and the Coastal Trail, it is questionable how much value and emphasis is placed on the proposed site as a community resource for informal purposes. With this in mind, it is reasonable to suggest that the intrinsic value of the site is mainly in the form of its visual merits and aesthetic quality.

Whilst the visual appearance is much improved since the host property was built, due in part to the appellants programme of maintenance, the contribution the land makes to the overall character and appearance of the area is questionable. Such is the location of the land and its association with the surrounding area that it is not considered fundamental to the overall character of the street or the visual/ landscape characteristics of the wider area, emphasised by the sites position at the end of a residential street, behind a public convenience, on the approach to the caravan park.

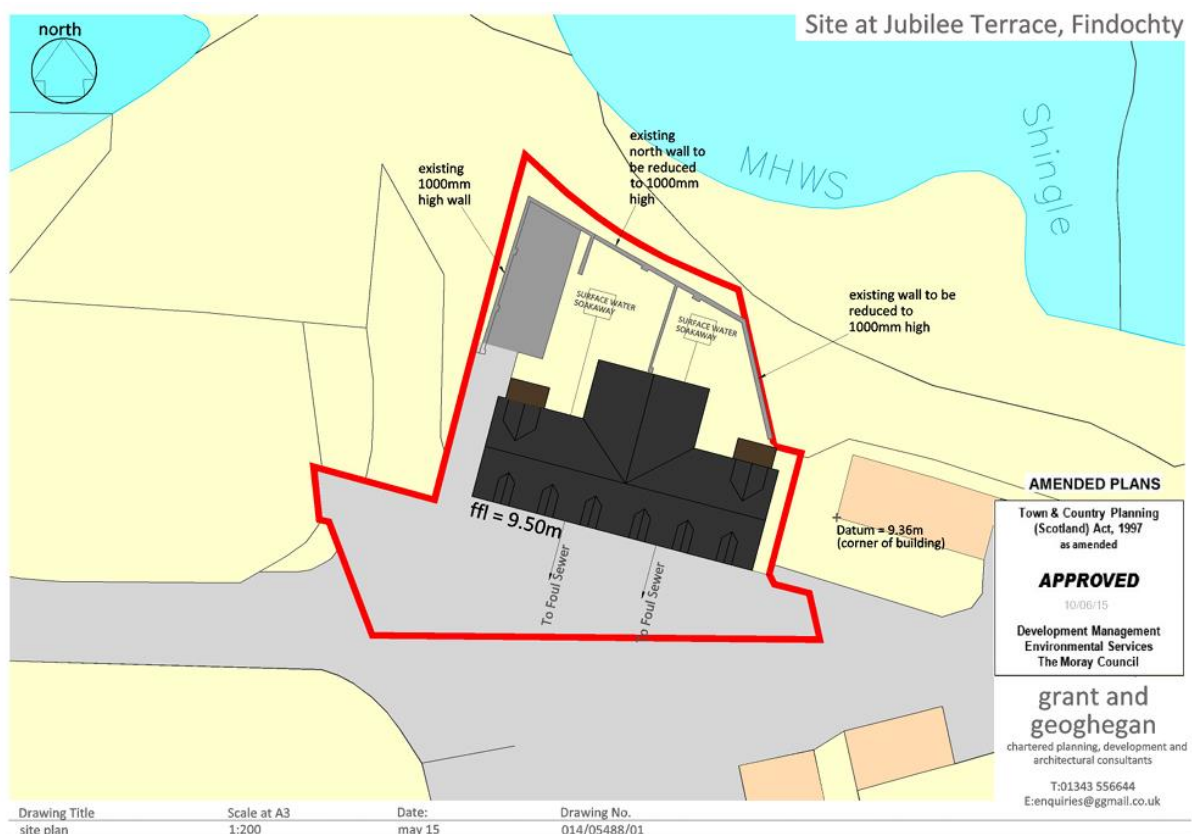
Taking into account the quantity, quality, community value, accessibility and use of existing open space it is considered that the land has no significant functional value. Furthermore, the form and relationship of the land in association with the existing street scene along Jubilee Terrace is such that is not considered to have a significantly detrimental impact on the overall character of the conservation area.

In respect of the second reason for refusal, the appointed officer correctly points out that the proposed site straddles the settlement boundary. However, the same is also true of a large portion of the curtilage of the host building, as shown in fig. 2 below.



**Fig. 2 - Appellants current curtilage (blue), appeal site (yellow), settlement boundary (solid red line), conservation area (red shade), designated green space (green) and special landscape area (brown).**

The subjects originally gained the grant of planning permission under reference 12/01286/APP for the formation of two first floor flats over the (at that time) existing lockup garages before gaining the grant of planning permission under reference 15/00697/APP for the erection of 2 semi-detached dwellings.



Site Plan approved as part of 15/00697/APP with identical boundary to the appeal subjects

The appellants propose that during the plan making process of the MLDP 2020 that the settlement boundary of Findochty was not accurately updated to reflect the extent of an existing, approved domestic curtilage. In this context, the appellants would respectfully propose to Members that the extent of the settlement is blurred in this location, a fact emphasised by a portion of the conservation area also extending out with the settlement boundary for no apparent reason. On this basis, we would contend policy EP6 should carry limited weight in the planning balance.

## 5.0 Conclusion

The Planning Act requires planning applications to be determined in accordance with the Development Plan unless there are “material considerations” to justify doing otherwise.

In this case, when all matter are considered in the round, the appellants would contend that:-

- the proposals do not have a significant impact on open space provision in this part of Findochty, such as to warrant refusal of the planning application;
- do not significantly impact on people’s enjoyment of the Coastal Trail, and;
- due to the scale and location of the proposals, do not have a significantly detrimental impact on the special qualities of the conservation area, the special landscape area or upon the integrity of the settlement boundary.

The appellants respectfully submit that the above constitutes significant material weight in favour of the proposals, sufficient to attract a recommendation of approval. For these reasons, it is respectfully requested that the Local Review Body reconsider the decision to refuse the proposed development and grant planning permission.





# **APPENDIX 5**

## **APPOINTED OFFICER AND INTERESTED PARTIES RESPONSES TO NPF4**





## ECONOMY, ENVIRONMENT AND FINANCE

**Iain T Drummond**

**Planning Officer**

Moray Council

Po Box 6760 Elgin Moray IV30 1BX

Telephone: 01343 563607 Fax: 01343 563990

Education, Communities & Organisational  
Development  
Democratic Services  
Moray Council  
Council Offices, High Street, Elgin, IV30  
1BX  
Telephone: 01343 543451  
DX: 520666, ELGIN

E-mail: [iain.drummond@moray.gov.uk](mailto:iain.drummond@moray.gov.uk)

Website: [www.moray.gov.uk](http://www.moray.gov.uk)

Your reference: LR/LR285

Our reference: 22/00327/APP

16 March 2023

Dear Lissa,

**Notice of Review: Planning Application 22/00327/APP – Change of use of amenity  
land to garden ground at Rockside, 8 Jubilee Terrace, Findochty, Buckie**

I refer to your letter dated 6 March 2023 in relation to the above notice of review and requesting additional comments on the proposal in light of the adoption of National Planning Framework 4 (NPF4).

In this case the following NPF4 policies would be considered relevant to the determination of this proposal,

Policy 1: Tackling the climate and nature crises

Policy 2: Climate mitigation and adaptation

Policy 4: Natural places

Policy 7: Historic assets and places

Policy 13: Sustainable transport

Policy 14: Design, quality and place

Following a review of the proposal in light of these policies, NPF4 does not materially change the original assessment of the application.

I hope the above is of assistance, however, should you require any further comment please do not hesitate to get in touch.



Yours sincerely,



**Iain T Drummond**  
**Planning Officer**



## MORAY LOCAL REVIEW BODY

20 APRIL 2023

### SUMMARY OF INFORMATION FOR CASE No LR286

**Planning Application 22/01594/APP – Proposed erection of garage/storage shed and partial change of use from Farm Land to Garden Ground at The Forecourt, Cummingston**

#### **Ward 5 – Heldon and Laich**

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 19 January 2023 on the grounds that:

1. The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummingston Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.
2. The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.

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

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

No further representations were received.

At the meeting of the Moray Local Review Body (MLRB) on 16 February 2023, the MLRB noted that National Planning Framework 4 (NPF4) had been adopted by the Council on Monday 13 February 2023 and that all planning applications determined beyond this date would have to take NPF4 into consideration, as this is now part of the MLDP 2020. The MLRB asked for further information from the Appointed Officer, Interested Parties and the Applicant in light of NPF 4.

The Appointed Officer's response is attached as **Appendix 3**. There was no response from any of the Interested Parties.

The Applicant's response to the Appointed Officer's comments is attached at **Appendix 4**



# Location plan for Planning Application Reference Number : 22/01594/APP







# **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      100605113-001

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

## Description of Proposal

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

Proposed Erection of Garage/Storage Shed and Partial Change of Use from Farm Land to Garden Ground

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:	Machin Dunn + MacFarlane		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	
Last Name: *	MacFarlane	Building Number:	11
Telephone Number: *	01259 212962	Address 1 (Street): *	Bank Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Alloa
Fax Number:		Country: *	Scotland
		Postcode: *	FK10 1HP
Email Address: *	neil@mdm-architecture.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	The Forecourt
First Name: *	John	Building Number:	
Last Name: *	Marshall	Address 1 (Street): *	Cummingston
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Elgin
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 5XY
Fax Number:			
Email Address: *	<div></div>		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

THE FORECOURT

Address 2:

CUMMINGSTON

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

ELGIN

Post Code:

IV30 5XY

Please identify/describe the location of the site or sites

Northing

868851

Easting

312787

## Pre-Application Discussion

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

☐ Yes ☒ No

## Trees

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

☐ Yes ☒ No

If yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.

## Access and Parking

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

☒ Yes ☐ No

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

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 of existing and any new spaces or a reduced number of spaces)? \*

4

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, cycle spaces).

## 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

Do you have any agricultural tenants? \* ☐ 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:

Address:

Strathdee Properties Limited Viewfield Farm, Craigellachie, Aberlour, Scotland, AB38 9QT

Date of Service of Notice: \*

01/11/2022

(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: Neil MacFarlane

On behalf of: Mr John Marshall

Date: 31/10/2022

☐ Please tick here to certify this Certificate. \*

## Checklist – Application for Householder Application

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

a) Have you provided a written description of the development to which it relates?. \* ☐ Yes ☐ No

b) Have you provided the postal address of the land to which the development relates, or if the land in question has no postal address, a description of the location of the land? \* ☐ Yes ☐ No

c) Have you provided the name and address of the applicant and, where an agent is acting on behalf of the applicant, the name and address of that agent.? \* ☐ Yes ☐ No

d) Have you provided a location plan sufficient to identify the land to which it relates showing the situation of the land in relation to the locality and in particular in relation to neighbouring land? \*. This should have a north point and be drawn to an identified scale. ☐ Yes ☐ No

e) Have you provided a certificate of ownership? \* ☐ Yes ☐ No

f) Have you provided the fee payable under the Fees Regulations? \* ☐ Yes ☐ No

g) Have you provided any other plans as necessary? \* ☐ Yes ☐ No

Continued on the next page

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

You can attach these electronic documents later in the process.

☐ Existing and Proposed elevations.

☐ Existing and proposed floor plans.

☐ Cross sections.

☐ Site layout plan/Block plans (including access).

☐ Roof plan.

☐ Photographs and/or photomontages.

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

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

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

## Declare – For Householder Application

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

Declaration Name: Mr Neil MacFarlane

Declaration Date: 31/10/2022

## Payment Details

Telephone Payment Reference:

Created: 31/10/2022 16:55



Note - Sub-soil PercolationTesting Carried Out By Others (Refer Cameron & Ross Report 26.10.16) In Accordance With BS6297:1993 Confirmed An Average Sub-soil Percolation Value (Vp) of 16.4 secs/mm

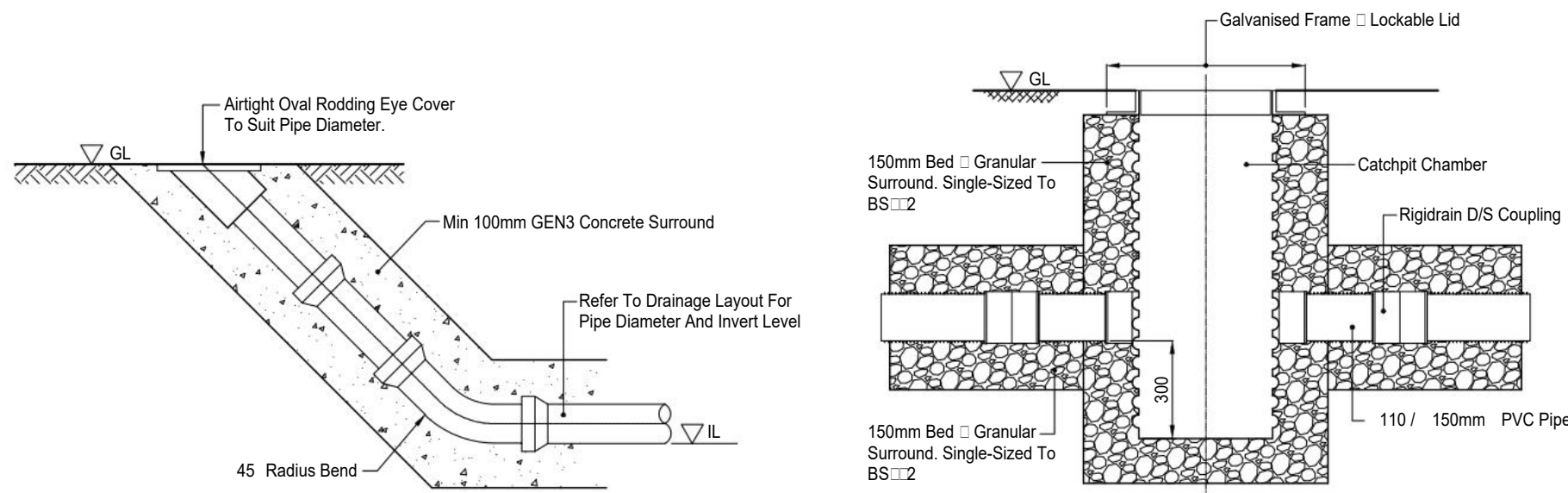
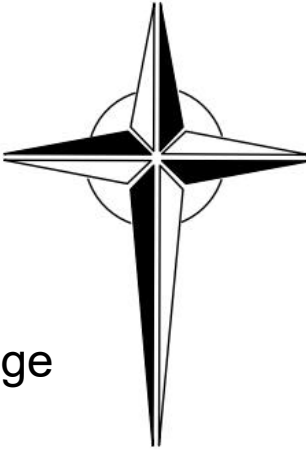
Note - Soakaway To Be Constructed At Least 5m From Boundaries & Buildings

5m Long x 1m Wide x 0.9m Deep Soakaway - See Seperate Detail

SWCP

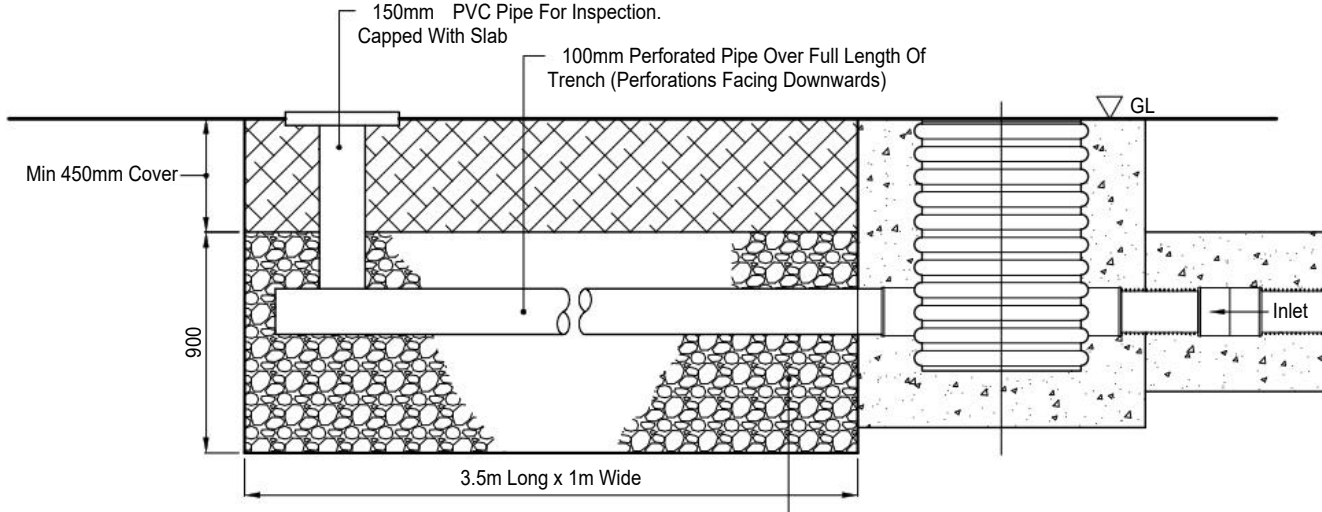
Garage Roof Area <= 2 sq.m.

North

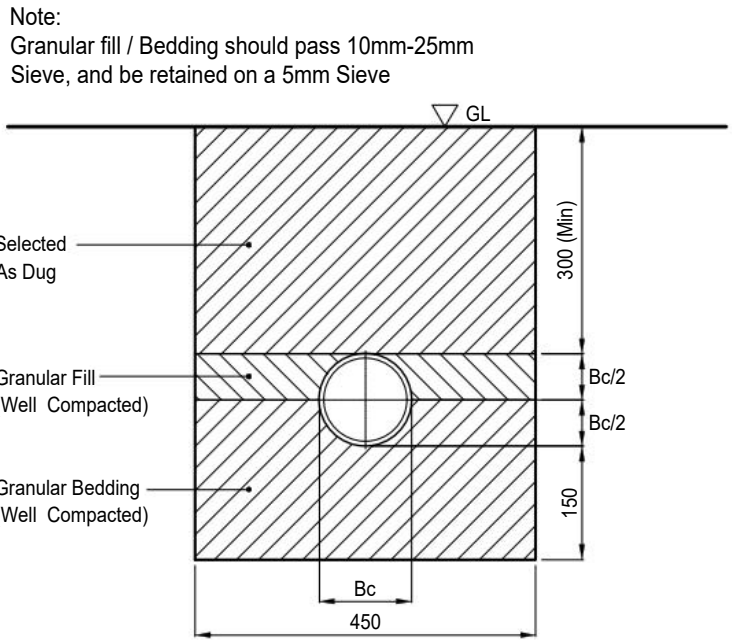


Typical Rodding Eye Detail

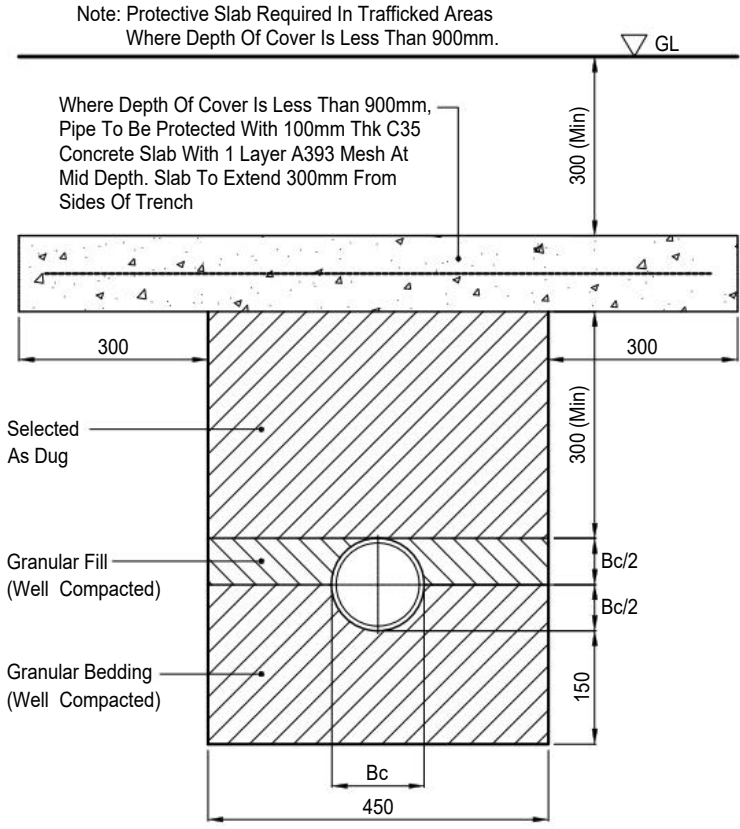
Rigidrain Catchpit Chamber



Soakaway Trench Detail



Bedding For Pipe In Single Trench



Bedding For Pipe In Single Trench, Trafficked Areas

Notes:

Proposed Drainage Legend

- R/E: Denotes Surface Water Rodding Eye  
SWCP: Denotes Surface Water Catch Pit  
Denotes 100mm PVC Storm Water Sewer Laid At 1:100 U.N.O.  
Denotes 100mm Perforated Carrier Pipe Within Filter Sub-base  
Denotes Storm Water Deep Filter Sub-base

Incurtiage Drainage Notes

- All Levels Shown Must Be Confirmed On Site Prior To Commencing Work.
- The Contractor Should Evaluate Which Drainage Lines Require Concrete Protection, As A Result Of The Crown Of The Pipe Being 1.2m From The Finished Trafficked Level.
- The Contractor Must Ensure That The Location Of RWP's & SVP's Indicated On This Drawing Coincide With The Location Of The RWP's & SVP's On The Architects Current Building Layout Plan.
- Refer To Architects Internal Layout For All Internal POP UP/SVP Setting Out Locations.
- All Pipe To Pipe Connections Are To Be Made Crown Of Pipe To Crown Of Pipe Unless Noted Otherwise.
- All Drainage To Be Installed In Accordance With The Manufacturers Recommendations And With Section 3 - Environment: Scottish Building Standards Agency - Technical Handbooks.
- All External Drainage To Be Constructed And Installed In Accordance With BS EN 752-3: 1997 (Amendment 2), BS EN 752-4: 1997 And BS EN 1610: 1997.

The Contractor Must Check All Invert Levels On The Existing Manholes As Soon As They Takes Control Of The Site And Advise Engineer To Allow A Check Of The Drainage To Be Carried Out.

ANY VARIATION FROM THE DESIGN SHOWN ON THIS DRAWING MUST BE NOTIFIED TO THE ENGINEER & HIS APPROVAL MUST BE OBTAINED. ANY UNAUTHORISED VARIATION FROM THE DESIGN MAY INVALIDATE ANY CERTIFICATION. IF IN DOUBT CONTACT THE ENGINEER.

THE CONTRACTOR MUST CONTACT THE ENGINEER PRIOR TO COMMENCING ANY WORK TO DISCUSS AND ENSURE FULL UNDERSTANDING OF THE DESIGN INTENT.

Revision	Description	By	Date

Client

Mr. J. Marshall

Architect

Machin Dunn & MacFarlane Limited



Tel: 01753 649639 email: admin@drgcd.co.uk

Project

Proposed Garage/Storage Shed At  
The Forecourt, Cummingsdown, Lossiemouth

Drawing

Proposed SW Drainage Layout & Details

DRAWING STATUS: FOR INFORMATION

Engineer: KD Date: 13.12.22  
Technician: Date:

Project No. Drawing No. Revision

22.5227 100

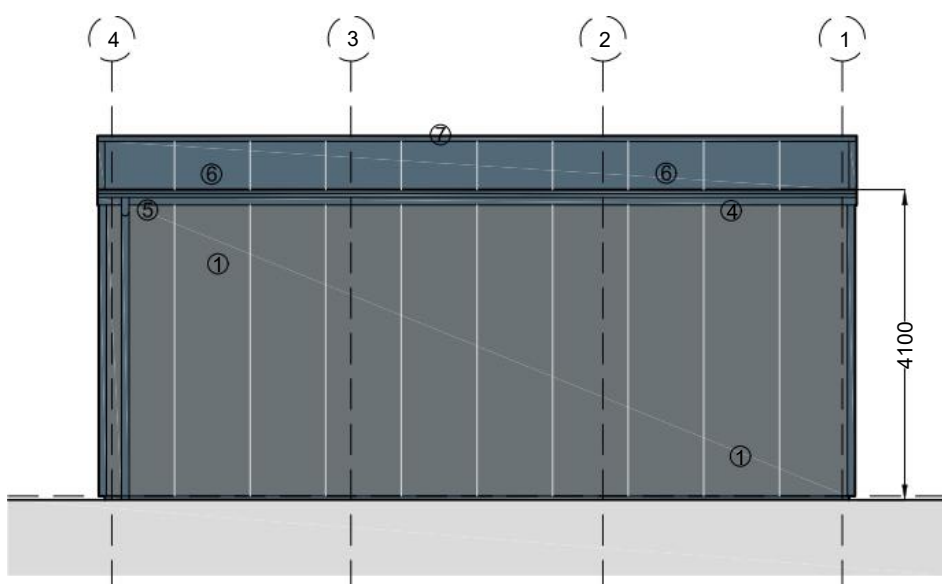
Drawing Scale: As Shown

B9040

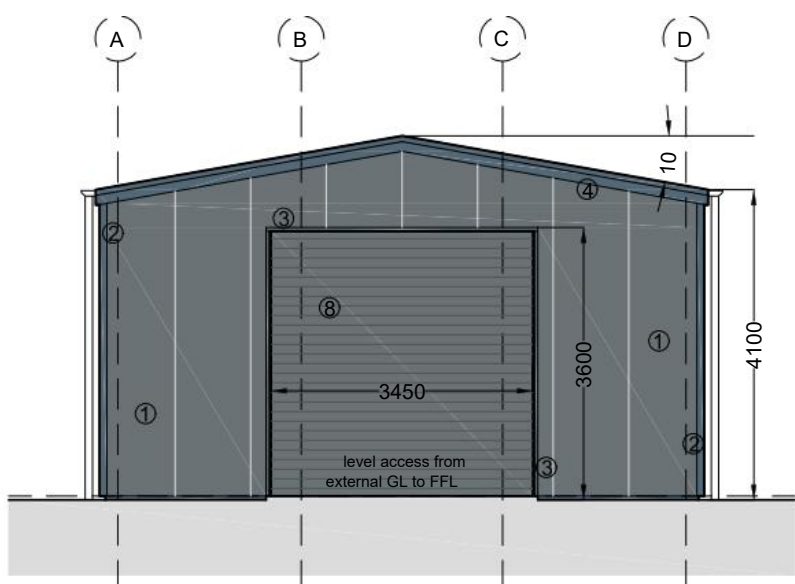
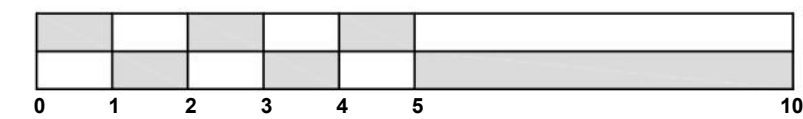




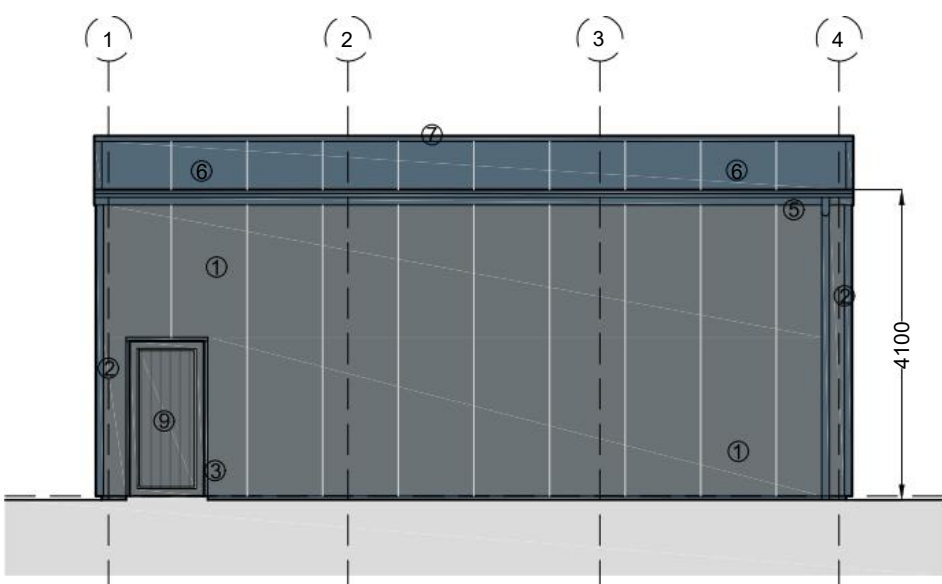




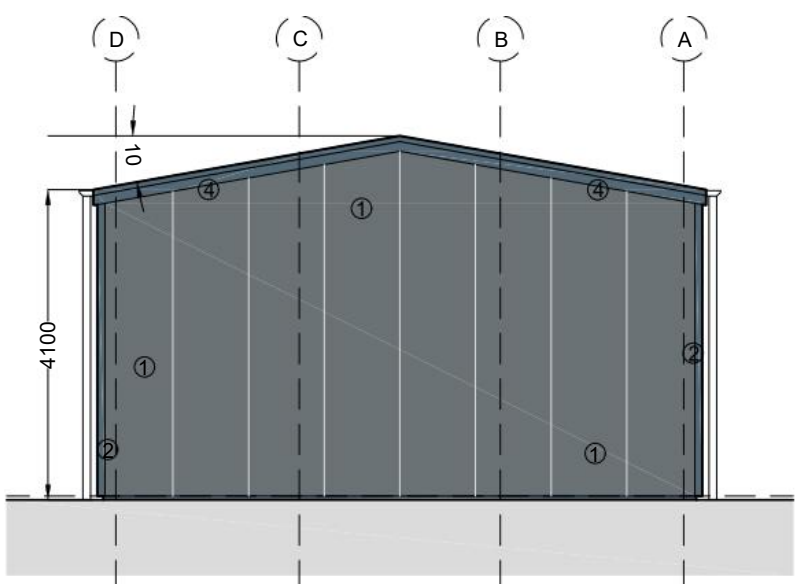
Proposed Side (West) Elevation 1:100



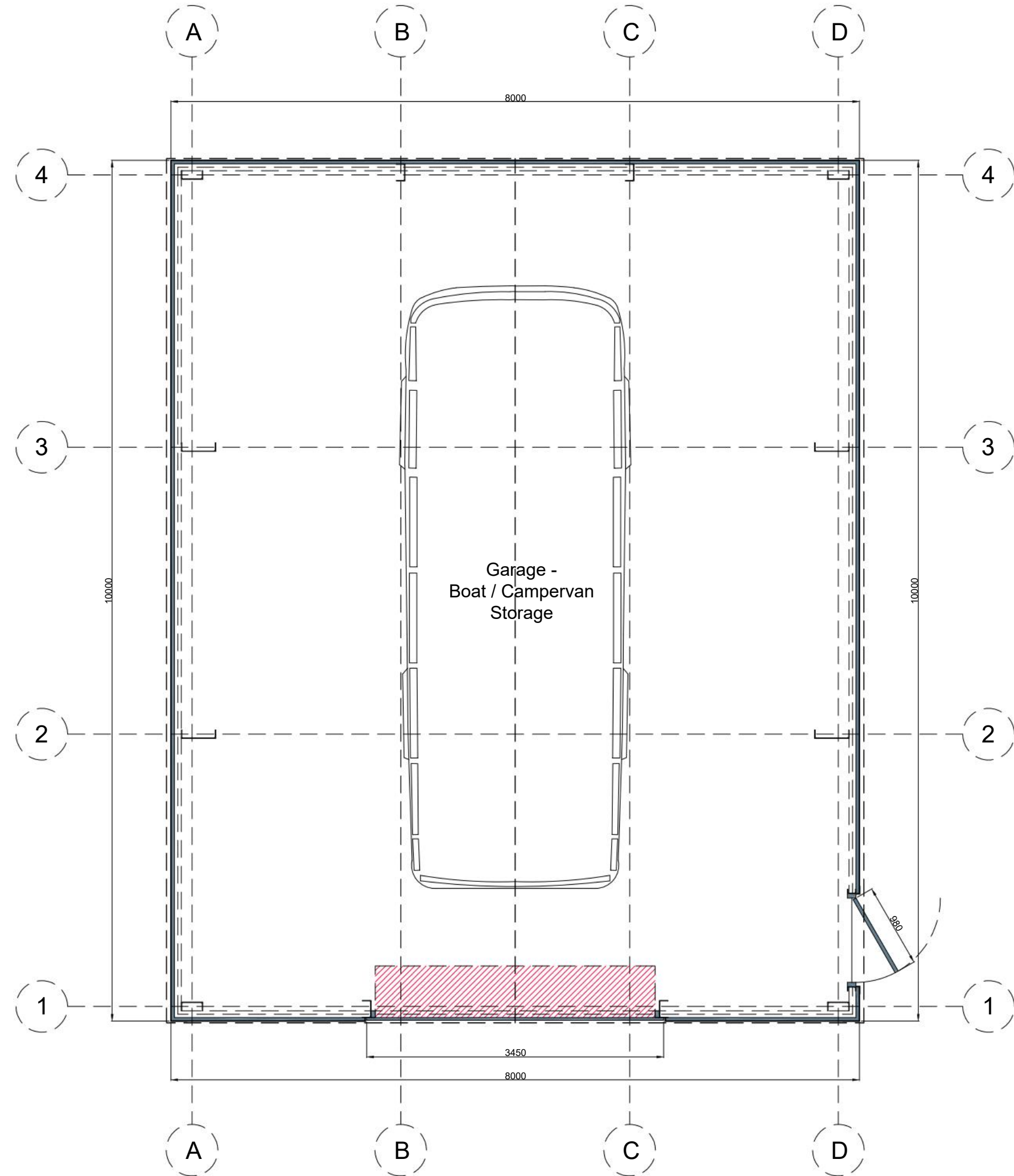
Proposed Front (South) Elevation 1:100



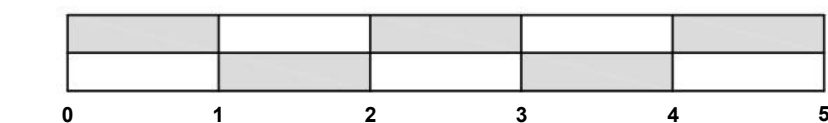
Proposed Side (East) Elevation 1:100



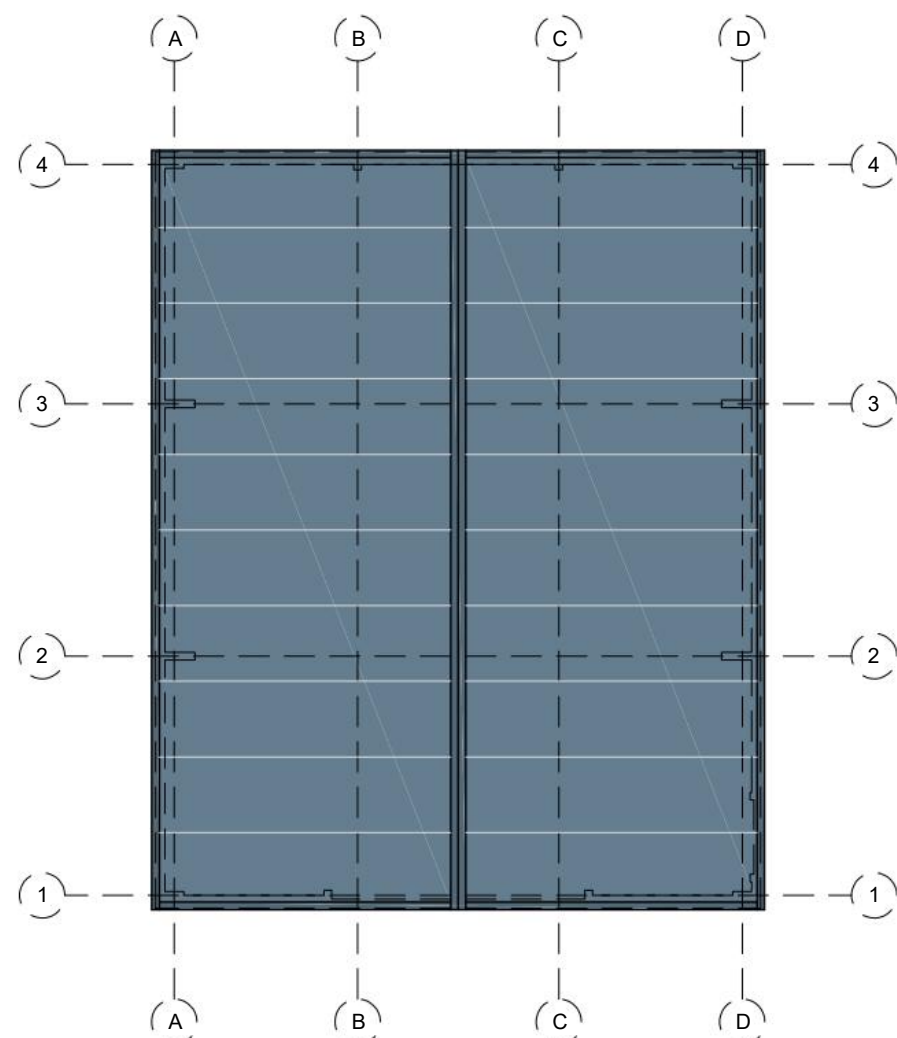
Proposed Rear (North) Elevation 1:100



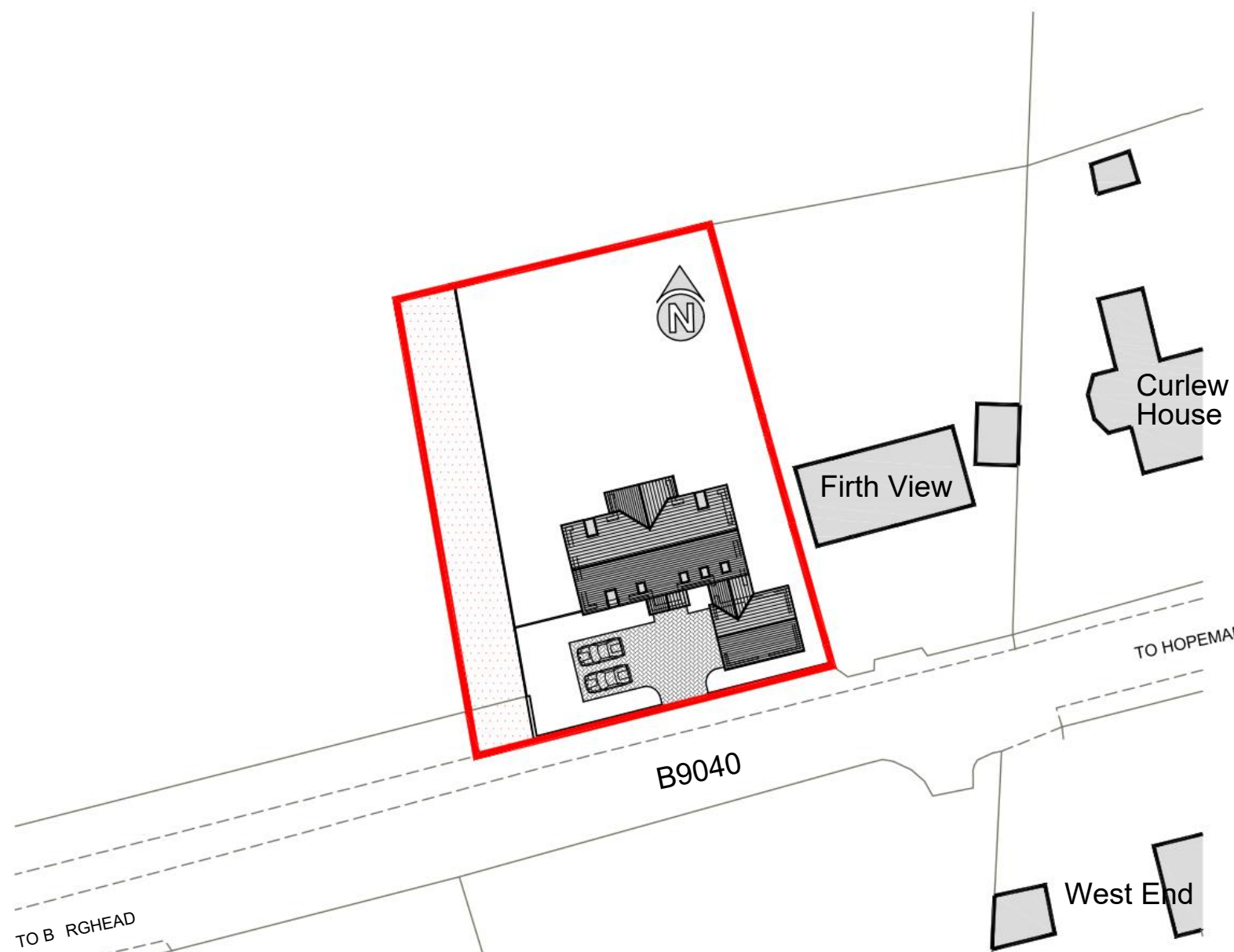
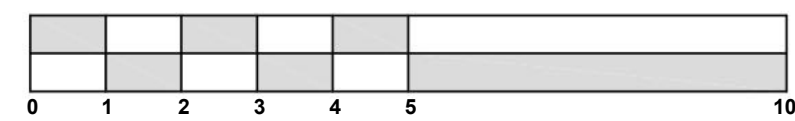
Proposed Garage Floor Plan 1:50



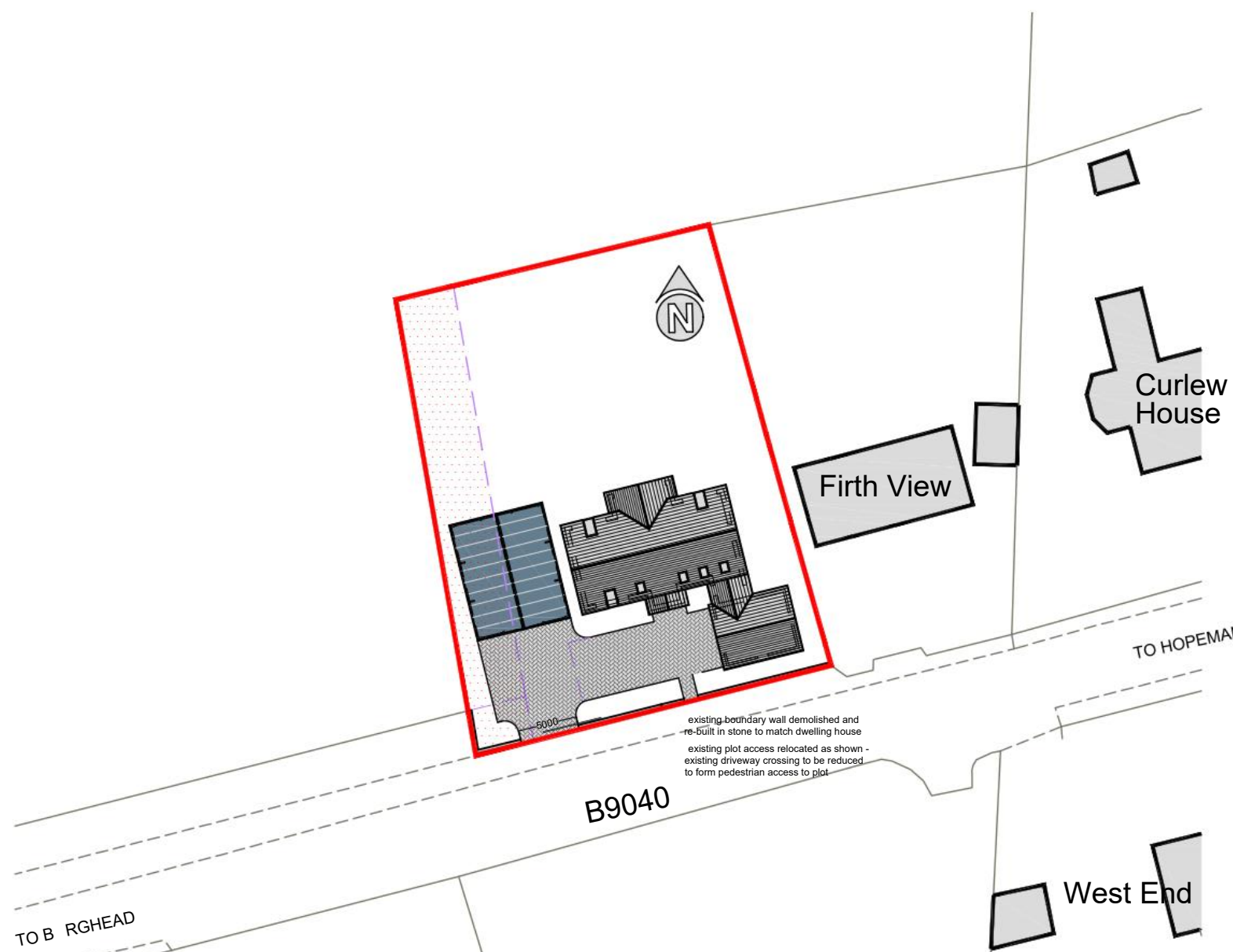
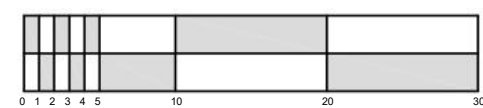
- Proposed Materials**
- Wall Cladding -**
1. 40mm Composite LPC Posco Merlin Grey
  2. Corner Flashings - Posco Slate Blue
  3. Opening Flashings - Posco Slate Blue
  4. Barge Colour - Posco Slate Blue
  5. Gutters - Posco Slate Blue
- Roof Cladding -**
6. 40mm Composite LPC Posco Slate Blue
  7. Ridge Cap - Posco Slate Blue
- Openings -**
8. Roller Door Posco Merlin Grey
  9. Pass Door - Posco Merlin Grey



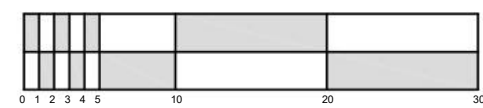
Proposed Roof Plan 1:100



Existing Site Plan 1:500



Proposed Site Plan 1:500



Proposed Streetscape 1:100



## Notes

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2. All dimensions to be checked on site prior to ordering materials
3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

## Revisions

## Date

STAT S

## PLANNING APPLICATION

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**PROJECT**  
Proposed Erection of Garage/Storage Shed and  
Partial Change of Use to Garden Ground at  
'The Forecourt', Cummingstown, Lossiemouth

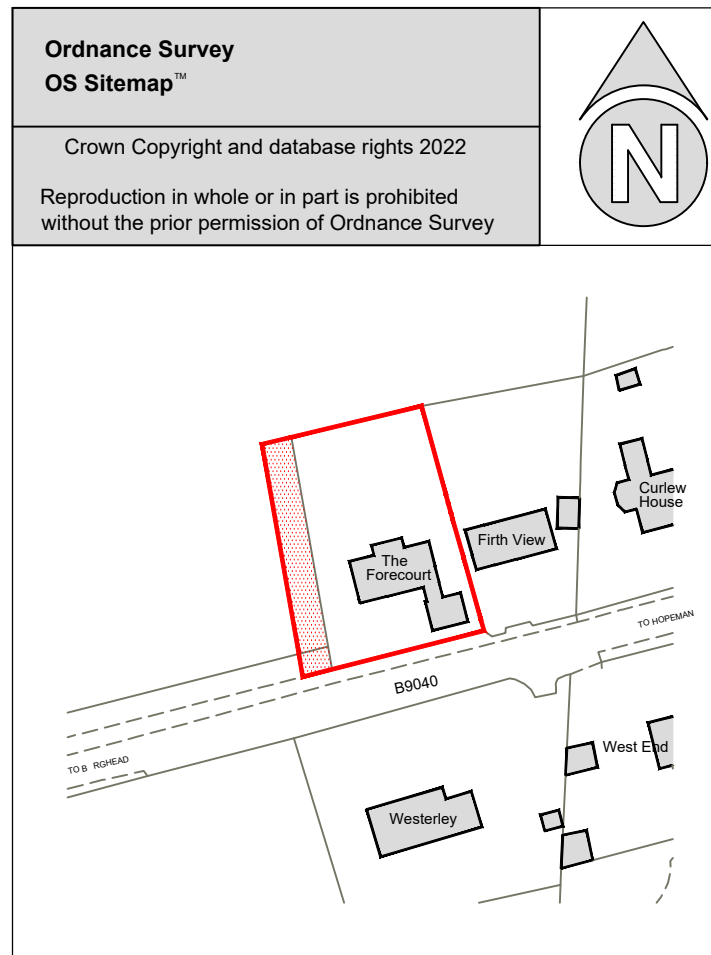
**DRAWING TITLE**  
Proposed Floor Plan, Elevations, Roof and Site Plans

**CLIENT**  
Mr J. Marshall

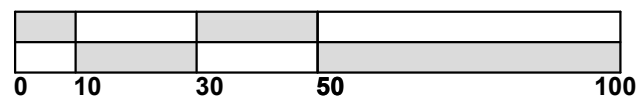
SCALE As Noted @ A1 DATE 31st October 2022  
DRG NO. 2273/P/1.02







Location Plan 1:1250



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Revisions	Date

STAT S

*PLANNING APPLICATION*

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11 Bank Street • Alloa • Clackmannanshire • FK10 1HP

### PROJECT

*Proposed Erection of Garage/Storage Shed and  
 Partial Change of Use to Garden Ground at  
 'The Forecourt', Cummingstown, Lossiemouth*

### DRAWING TITLE

*Location Plan*

### CLIENT

*Mr J. Marshall*

SCALE	<i>As Noted @ A4</i>	DATE	<i>31st October 2022</i>
DRG NO.	<i>2273/P/1.01</i>		











PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| **SUPPORTING STATEMENT**

DECEMBER 2022

Document prepared by :

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On Behalf of :

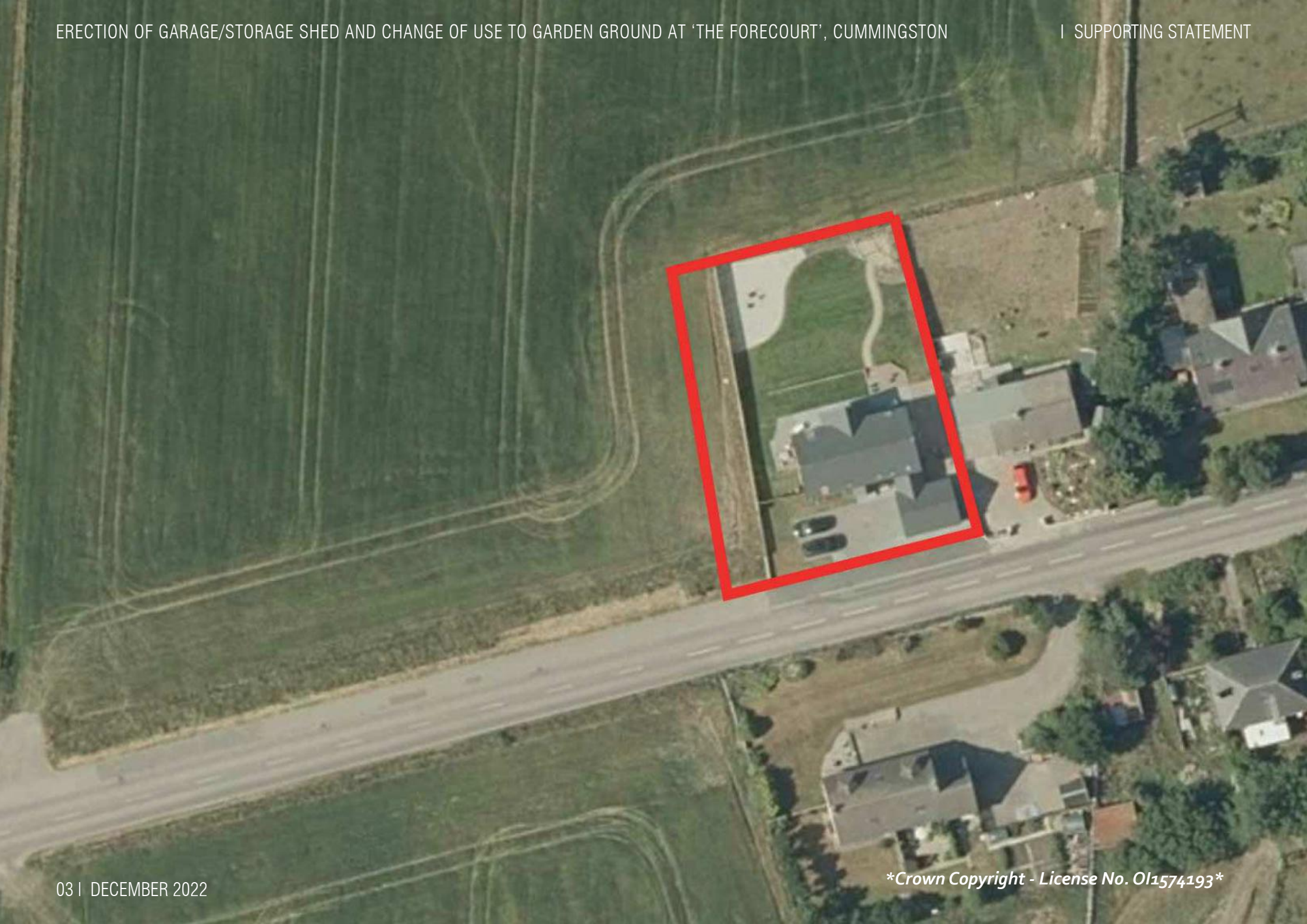
Mr John Marshall – Applicant

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ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND | SUPPORTING STATEMENT  
AT ‘THE FORECOURT’, CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0	INTRODUCTION	
2.0	SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY	
3.0	DESIGN PROPOSALS	
4.0	CONCLUSION	





## 1.0 | INTRODUCTION

### 1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummingston, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.

## 2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

### 2.1 - Site Location

The site is located to the western extents of the village of Cummingston, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummingston settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummingston 'Settlement Strategy/Placemaking Objectives' document it notes *'...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.'*

The existing settlement boundary of Cummingston is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.



*\*Image Copyright - Moray Local Development Plan\**

### 2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.





*\*Western extents of Existing Settlement Boundary\**



*\*Land Subject to Planning Approval ref: 17/00830/APP\**

### Impact on Cummingston settlement boundary and development within the Coastal Protection Zone (E8 and E9)

- *'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'*
- *'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummingston as defined and as development of a form which is not expressly permitted within the CPZ.'*
- *'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshaness...'*
- **REASONS FOR DECISION** - *'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummingston) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'*

The Application was subsequently approved with conditions in July 2017.





*\*Land Subject to Current Application ref: 22/01594/APP\**



*\*'Notional' Settlement Boundary if Approved\**

### 2.3 - Current Application Relative to Settlement Boundary

The are obvious parralels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummingston and Burghead would be retained.
- The proposal is for a change of use of a marginal area of ground to bring it into the curtilage of an existing dwelling. The development does not propose any additional dwellings on this land between Cummingston and Burghead , which the policy objectives obviously look to prevent.
- The adjacent images and those on page 6, note the existing settlement boundary as defined within the current Moray Local Development Plan; the area of ground subject to the 2017 approval (ref: 17/00830/APP); the area of ground subject to the current application (ref: 22/01594/APP) and a final image indicating the overall 'notional' settlement boundary, should consent be granted, to demonstrate the marginal increase and to highlight this will have no impact on the current separation between Cummingston and Burghead.



## 3.0 | DESIGN PROPOSALS

### 3.1 - Design Rationale

The Planning Officer noted that the existing house sits within a generous plot and queried if there was any scope to site the proposed building within the existing site boundary.

Firstly, it would not be possible to site the building within the front garden area due to its size - Not to mention that the visual impact of such a proposal would likely not be supported by either the Client themselves or the Planning Department.

Secondly, to site the building within the rear garden the side of the property would be required for vehicular access with the majority of the rear garden area being sterilised through either the building itself or the necessary turning area required to ensure that vehicles could turn and exit the property appropriately.

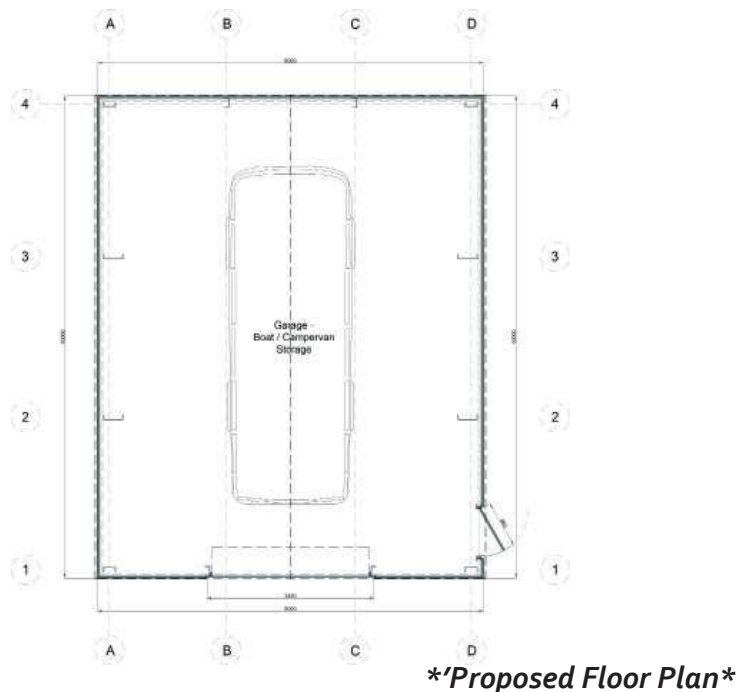
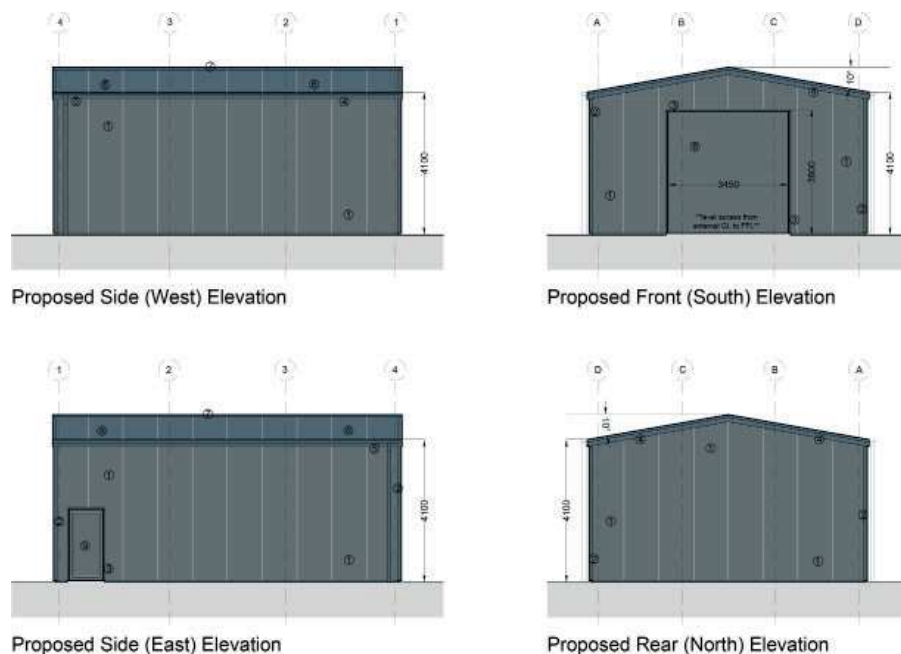
### *\*Streetscape and Indication of Ridge Line Relative to Existing Garage\**

Therefore, the only sensible location for the proposed building is to the side of the existing dwelling house. This will ensure that both the existing front and rear garden areas are respected. It is also in our opinion the best location from a visual impact.

The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.



### 3.2 - Summary of Consultation Responses

Of the two public representations received in relation to the project, the following common themes were noted:

- The proposals were contrary to the Local Development Plan due to part of the land being outwith the settlement boundary
- The height of the proposed development
- Lack of Landscaping
- Over-development of the site

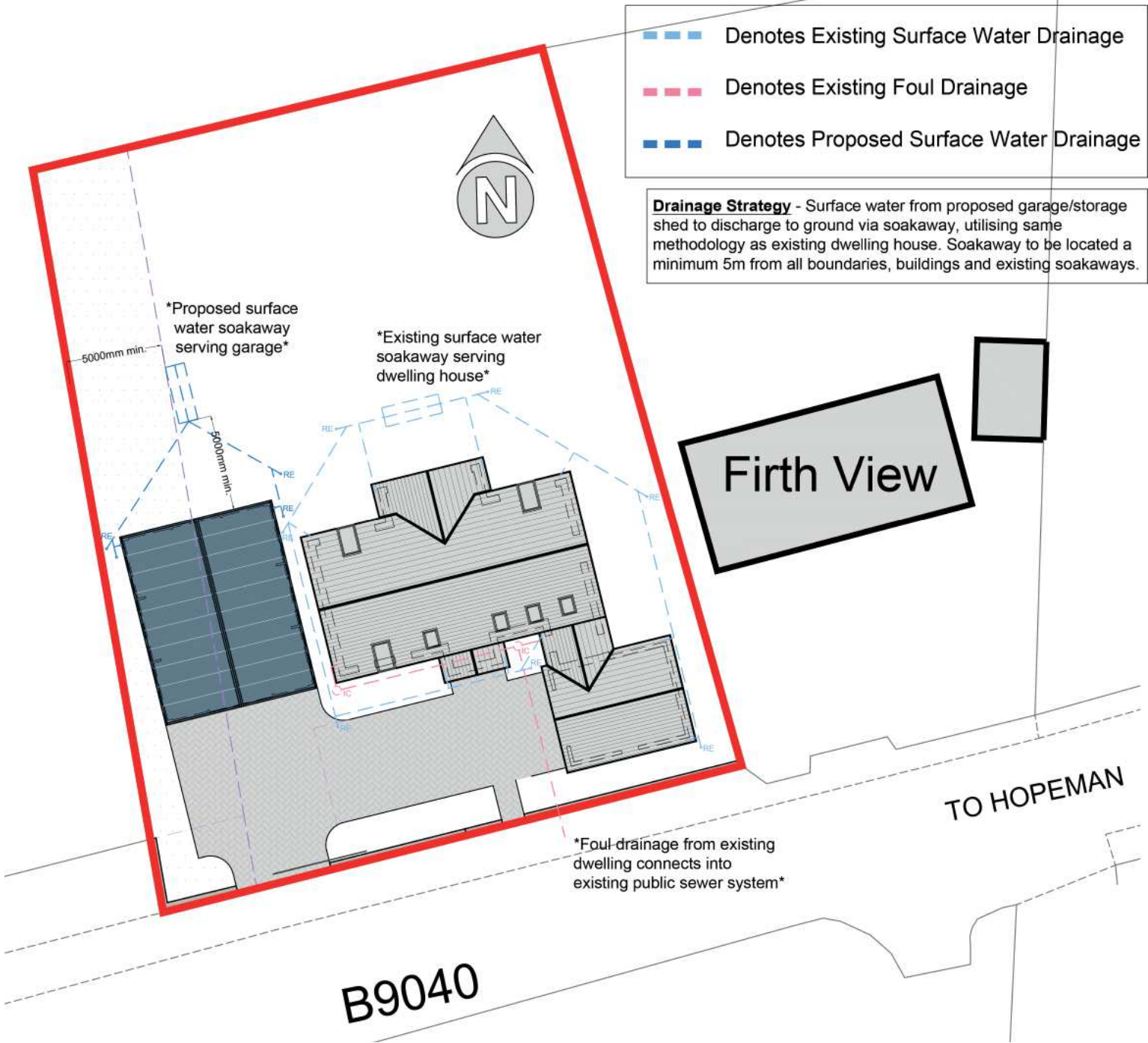
The Statutory Consultee responses can also be summarised as follows:

- Transportation Manager - **No objections subject to conditions**
- Environmental Health - **Approved unconditionally**
- Contaminated Land - **Approved unconditionally**
- Flood Risk Management - Object to Application per below:

*Reasons for Objection - The drainage statement should include plans and calculation for the proposed drainage system. The drainage system should be designed to a 1:30 year return period (including climate change), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involved infiltration, information on the ground conditions is required as well as infiltration testing on or near the location of the infiltration system. The Applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.*

It is proposed for the surface water drainage strategy for the proposed garage/storage shed to discharge to ground via soakaway. This would utilise the same methodology and rationale as that used for the existing dwelling house, the detailed design of which would be required at technical approval stage - Given the principal follows the same methodology previously approved for the existing dwelling, no issues are foreseen in being able to demonstrate suitability on this basis.





B9040

## 4.0 | CONCLUSION

### 4.0 - Conclusion

In conclusion, it is hoped that this document has helped provide supplementary information in relation to the current application relative to the existing settlement boundary, public representation and responses from statutory consultees.

The change of use comprises a marginal area of land, immediately adjacent to the existing settlement boundary. The separation between Cummingston and Burghead will be retained with little or no impact being felt as a result of the proposals.

The size, location and appearance of the proposed building has also been carefully considered through the design process, in order to provide a proposal which meets the Applicants brief. They would however be willing to consider altering the external finish/colour of the building, should an alternative finish be deemed more appropriate.

We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.









PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| **SUPPORTING STATEMENT**

DECEMBER 2022

Document prepared by :



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: enquiries@mdm-architecture.co.uk  
: www.mdm-architecture.co.uk

On Behalf of :

Mr John Marshall – Applicant

E : jm@beatsons.co.uk

ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND

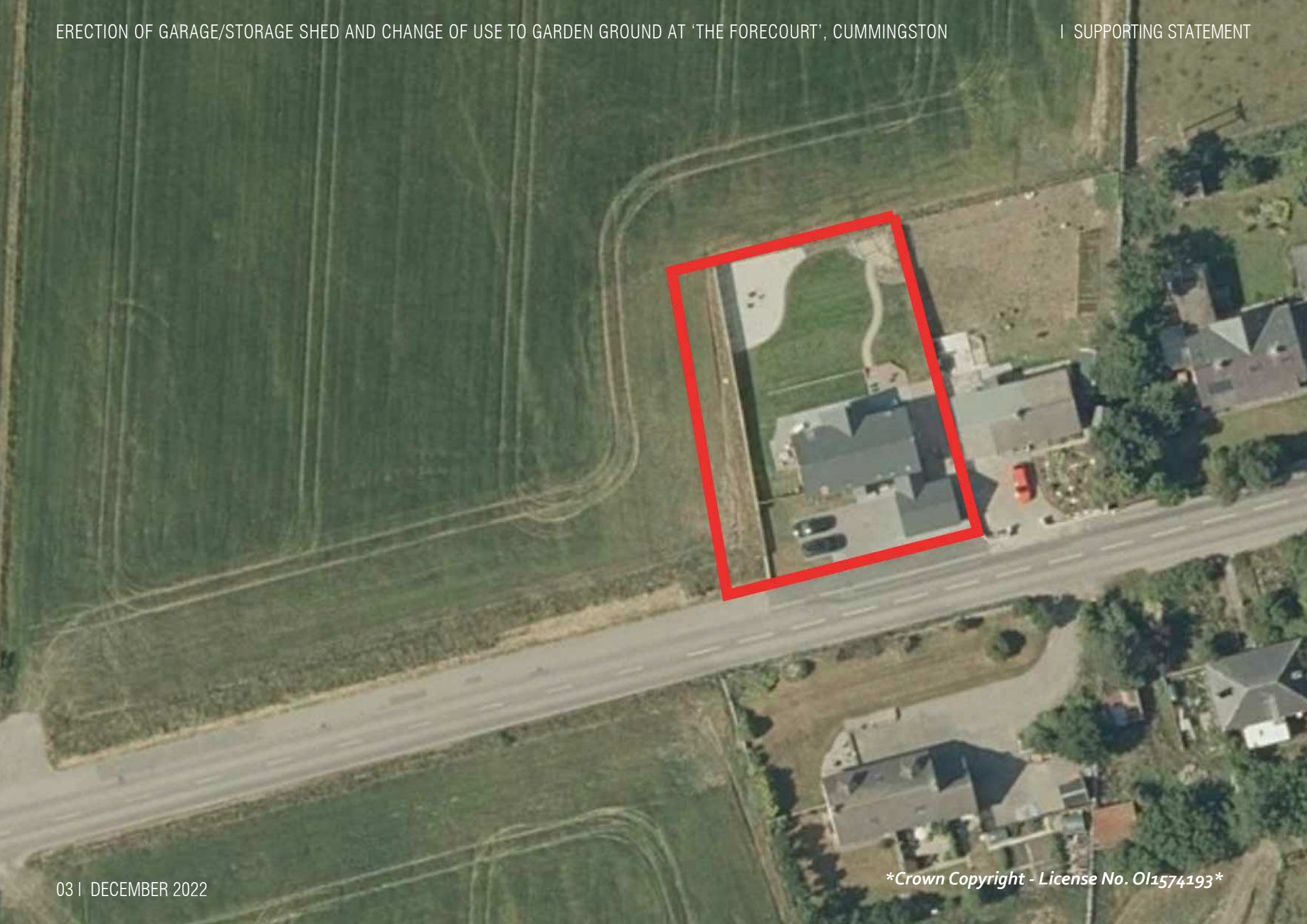
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SUPPORTING STATEMENT

AT ‘THE FORECOURT’, CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0	INTRODUCTION
2.0	SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY
3.0	DESIGN PROPOSALS
4.0	CONCLUSION





## 1.0 | INTRODUCTION

### 1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummingston, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.



## 2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

### 2.1 - Site Location

The site is located to the western extents of the village of Cummingston, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummingston settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummingston 'Settlement Strategy/Placemaking Objectives' document it notes *'...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.'*

The existing settlement boundary of Cummingston is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.



\*Image Copyright - Moray Local Development Plan\*

### 2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.



\*Western extents of Existing Settlement Boundary\*



\*Land Subject to Planning Approval ref: 17/00830/APP\*

Impact on Cummingston settlement boundary and development within the Coastal Protection Zone (E8 and E9)

- 'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'*
- 'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummingston as defined and as development of a form which is not expressly permitted within the CPZ.'*
- 'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshaness...'*
- REASONS FOR DECISION** - *'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummingston) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'*

The Application was subsequently approved with conditions in July 2017.





\*Land Subject to Current Application ref: 22/01594/APP\*



\*'Notional' Settlement Boundary if Approved\*

2.3 - Current Application Relative to Settlement Boundary

The are obvious parallels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummingston and Burghead would be retained.
- The proposal is for a change of use of a marginal area of ground to bring it into the curtilage of an existing dwelling. The development does not propose any additional dwellings on this land between Cummingston and Burghead , which the policy objectives obviously look to prevent.
- The adjacent images and those on page 6, note the existing settlement boundary as defined within the current Moray Local Development Plan; the area of ground subject to the 2017 approval (ref: 17/00830/APP); the area of ground subject to the current application (ref: 22/01594/APP) and a final image indicating the overall 'notional' settlement boundary, should consent be granted, to demonstrate the marginal increase and to highlight this will have no impact on the current separation between Cummingston and Burghead.



\*Streetscape and Indication of Ridge Line Relative to Existing Garage\*

3.0 | DESIGN PROPOSALS

3.1 - Design Rationale

The Planning Officer noted that the existing house sits within a generous plot and queried if there was any scope to site the proposed building within the existing site boundary.

Firstly, it would not be possible to site the building within the front garden area due to its size - Not to mention that the visual impact of such a proposal would likely not be supported by either the Client themselves or the Planning Department.

Secondly, to site the building within the rear garden the side of the property would be required for vehicular access with the majortiy of the rear garden area being sterilised through either the building itself or the necessary turning area required to ensure that vehicles could turn and exit the property appropriately.

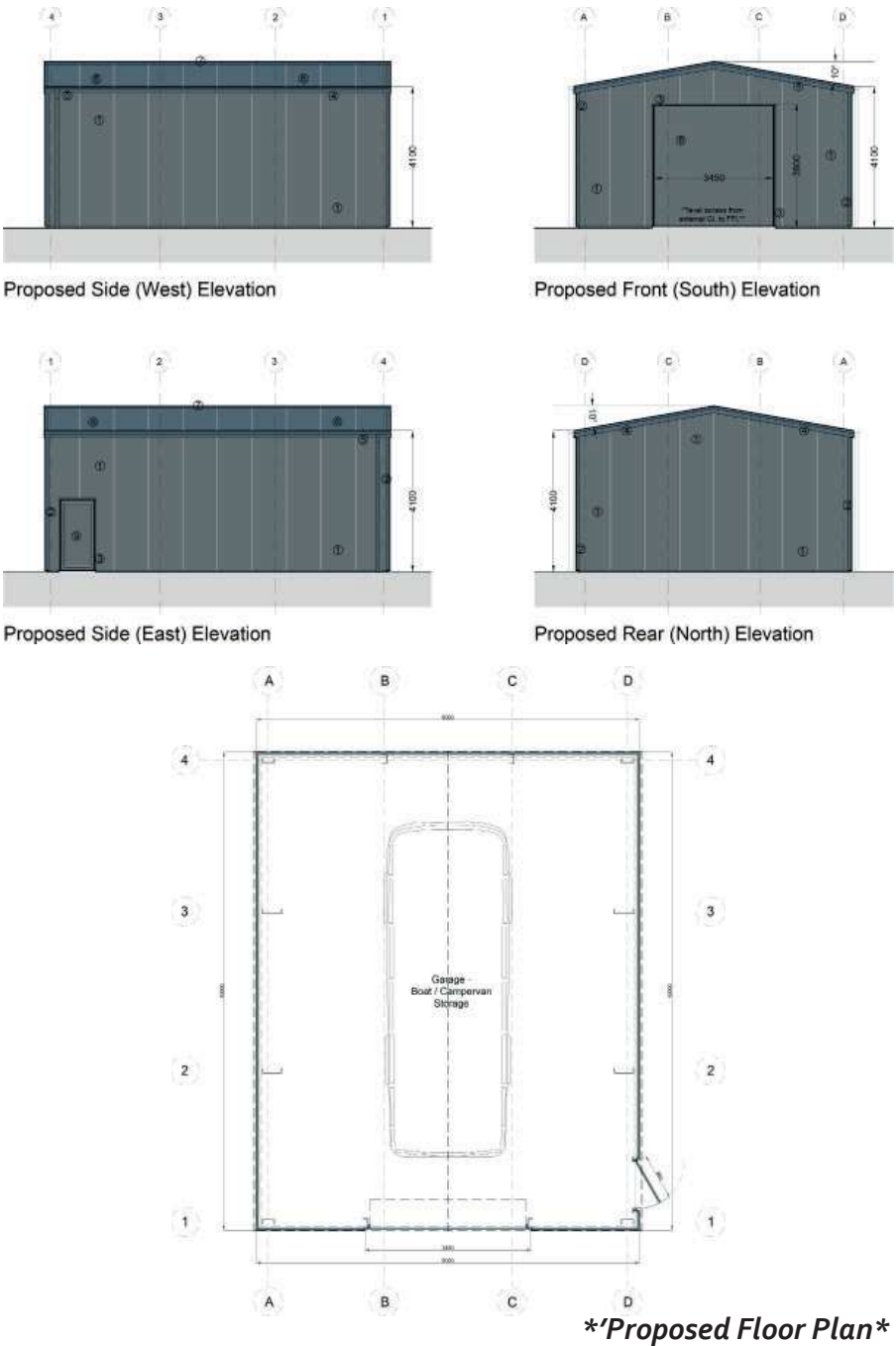
Therefore, the only sensible location for the proposed building is to the side of the existing dwelling house. This will ensure that both the existing front and rear garden areas are respected. It is also in our opinion the best location from a visual impact.

The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.





3.2 - Summary of Consultation Repsonses

Of the two public representations received in relation to the project, the following common themes were noted:

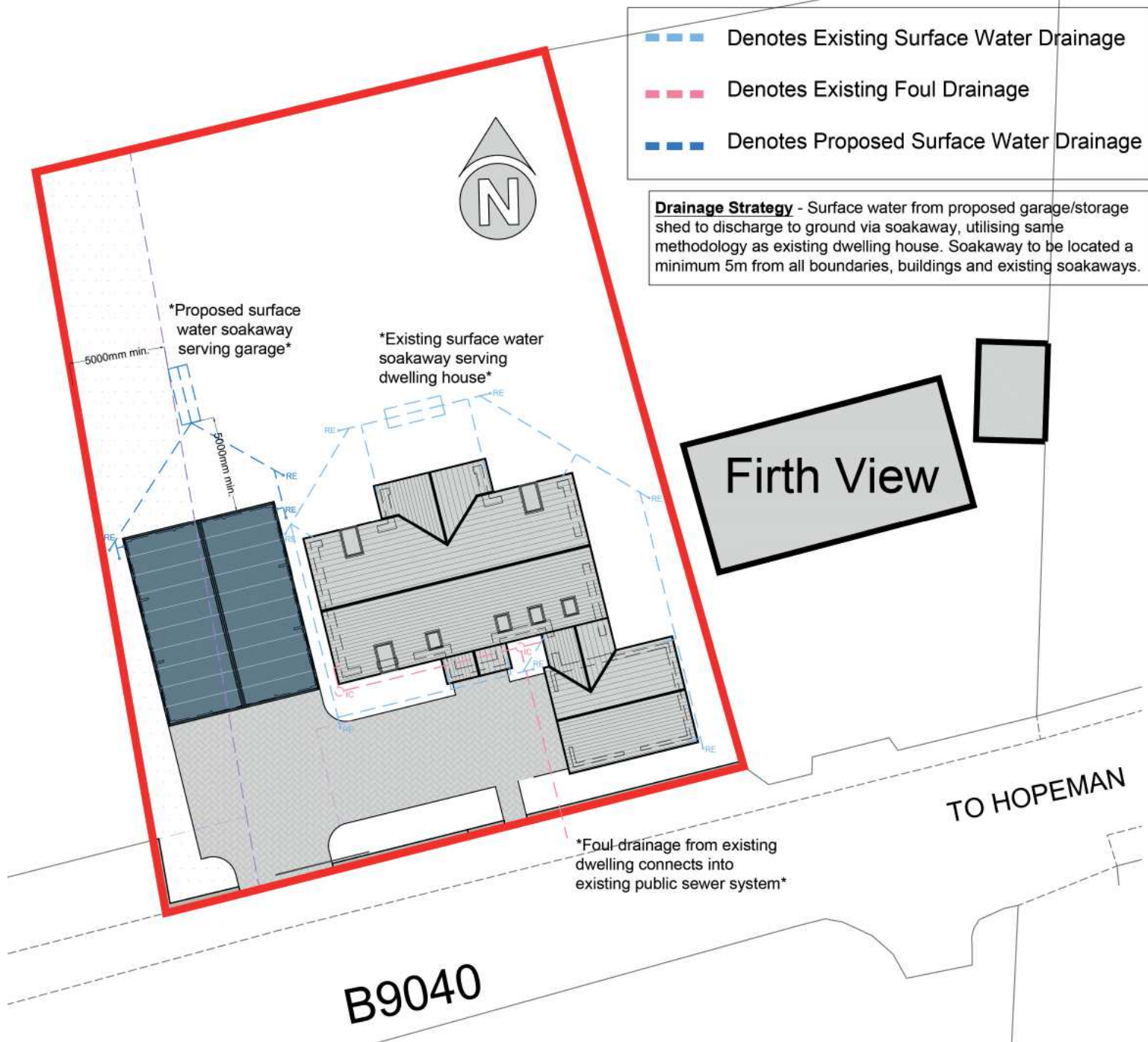
- The proposals were contrary to the Local Development Plan due to part of the land being outwith the settlement boundary
- The height of the proposed development
- Lack of Landscaping
- Over-development of the site

The Statutory Consultee responses can also be summarised as follows:

- Transportation Manager - No objections subject to conditions
- Environmental Health - Approved unconditionally
- Contaminated Land - Approved unconditionally
- Flood Risk Management - Object to Application per below:

*Reasons for Objection - The drainage statement should include plans and calculation for the proposed drainage system. The drainage system should be designed to a 1:30 year return period (including climate change), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involved infiltration, information on the ground conditions is required as well as infiltration testing on or near the location of the infiltration system. The Applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.*

It is proposed for the surface water drainage strategy for the proposed garage/storage shed to discharge to ground via soakaway. This would utilise the same methodology and rationale as that used for the existing dwelling house, the detailed design of which would be required at technical approval stage - Given the principal follows the same methodology previously approved for the existing dwelling, no issues are foreseen in being able to demonstrate suitability on this basis.





## 4.0 | CONCLUSION

### 4.0 - Conclusion

In conclusion, it is hoped that this document has helped provide supplementary information in relation to the current application relative to the existing settlement boundary, public representation and responses from statutory consultees.

The change of use comprises a marginal area of land, immediately adjacent to the existing settlement boundary. The separation between Cummingston and Burghead will be retained with little or no impact being felt as a result of the proposals.

The size, location and appearance of the proposed building has also been carefully considered through the design process, in order to provide a proposal which meets the Applicants brief. They would however be willing to consider altering the external finish/colour of the building, should an alternative finish be deemed more appropriate.

We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.







# Soakaway Design 2

## Project Details

Project Title: The Forecourt, Cummingstown

Project Number: 5227

Designer: KD

## Global Variables

Impermeable Area :- 117 m<sup>2</sup>

Soil Infiltration Rate :- 2.03E-5 m/sec

Storm Duration :- 60 minutes

Rainfall :- 0.016 metres

Void Ratio (Trench Soakaway) :- 0.3

Volumetric Runoff Coeff :- 1.00

## Trench Soakaway

Length = 5 metres

Width = 0.94 metres

Depth = 0.9 metres

Half empty time = 4.28 hours

## Precast Concrete Ring Soakaway

Ring Size (mm)	Depth (metres)	Half Empty Time (hours)
900	2.53	3.07
1050	1.89	3.59
1200	1.47	4.10
1350	1.18	4.61
1500	0.96	5.13
1800	0.68	6.15
2100	0.50	7.18
2400	0.39	8.21
2700	0.31	9.23

\* Ring soakaways are deemed to have failed if their Depth is greater than 4 metres.

As per the guidance outlined in the CIRIA C753 SuDS Manual 2015, SEPA Document "Climate Change allowances for flood risk assessment in land use" (version 2 March 2022), the developments surface water drainage network is designed to include 42% for climate change.

Refer- <https://scottishhepa.maps.arcgis.com/apps/webappviewer/index.html?id=2ddf84e295334f6b93bd0dbbb9ad7417>



# **Consultee Comments for Planning Application 22/01594/APP**

## **Application Summary**

Application Number: 22/01594/APP

Address: The Forecourt Cummington Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

## **Consultee Details**

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally by Adrian Muscutt (09.11.2022)





# **Consultee Comments for Planning Application 22/01594/APP**

## **Application Summary**

Application Number: 22/01594/APP

Address: The Forecourt Cummington Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

## **Consultee Details**

Name: Mr EH Consultations

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

Email: Not Available

On Behalf Of: Environmental Health C12

## **Comments**

Approved unconditionally by James Harris (22.11.2022)



**22/01594/APP MORAY COUNCIL  
PLANNING CONSULTATION RESPONSE**

**From:** The Moray Council, Flood Risk Management  
**Planning Application Ref. No:**  
**22/01594/APP**

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

**Reason(s) for objection**

**Conditions(s)**

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

**Further information required to consider the application**

Contact: Natalie Dunton

Date: 12/01/2023

email address: Natalie.dunton@moray.gov.uk

Phone No

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



## Consultation Request Notification

<b>Planning Authority Name</b>	Moray Council
<b>Response Date</b>	22nd November 2022
<b>Planning Authority Reference</b>	22/01594/APP
<b>Nature of Proposal (Description)</b>	Change of use to garden ground and erect a garage/storage shed at
<b>Site</b>	The Forecourt Cunnington Elgin Moray IV30 5XY
<b>Site Postcode</b>	N/A
<b>Site Gazetteer UPRN</b>	0001330677
<b>Proposal Location Easting</b>	3127
<b>Proposal Location Northing</b>	651
<b>Area of application site (M<sup>2</sup>)</b>	19
<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=RKNQ5GBGJFF00">https://publicaccess.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&amp;keyVal=RKNQ5GBGJFF00</a>
<b>Previous Application</b>	17/0030/APP 16/001/APP
<b>Date of Consultation</b>	th November 2022
<b>Is this a re-consultation of an existing application?</b>	No
<b>Applicant Name</b>	Mr John Marshall
<b>Applicant Organisation Name</b>	
<b>Applicant Address</b>	The Forecourt Cunnington Elgin Moray IV30 5XY
<b>Agent Name</b>	Machin Dunn + MacFarlane
<b>Agent Organisation Name</b>	
<b>Agent Address</b>	11 Bank Street Alloa  FK10 1HP
<b>Agent Phone Number</b>	
<b>Agent Email Address</b>	N/A
<b>Case Officer</b>	Sheila Bernard
<b>Case Officer Phone number</b>	
<b>Case Officer email address</b>	sheila.bernard@moray.gov.uk
<b>PA Response To</b>	consultation.planning@moray.gov.uk

**NOTE:**

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

The statutory period allowed for a consultation response is 14 days. Due to scheduling pressures if a definitive response is not received within 21 days this may well cause the two month determination period to be exceeded.

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

For full terms please visit <http://www.moray.gov.uk/moray-standard/page121513.html>

For full Data Protection policy, information and rights please see <http://www.moray.gov.uk/moray-standard/page11959.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: 22/01594/APP**

**Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray for Mr John Marshall**

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"/>            |

*This proposal is for an extension to the existing site and erection of a new storage shed, including the relocation of the existing vehicular access. The proposal also includes works to the existing boundary wall fronting onto the public road. The following conditions would apply:*

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

1. Prior to the completion or first occupation of the new garage/ storage shed whichever the sooner, the existing vehicular access shall be relocated to the location shown on submitted drawing "2273/ p/1.02". The width of the new vehicular access shall be 5.0m and have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway. Drop kerbs shall be provided across the access to the Moray Council specification. The existing vehicular access shall be reconfigured including the reinstatement to full height kerbs and provision of drop kerbs to the Moray Council specification to provide a pedestrian access only

**Reason:** To ensure acceptable infrastructure at the development access

2. Three existing car parking spaces shall be retained within the site 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.

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

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

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

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

5. New boundary walls/fences shall be set back to the rear of the existing footway.

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

6. No boundary fences, hedges, walls or any other obstruction whatsoever over 0.9m in height and fronting onto the B9040 Main Road shall be within 3.0m of the edge of the public carriageway

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

7. The opening path of any new access gate shall be fully contained within the site and not encroach onto the public footway.

Reason: To ensure acceptable development that does not create any hazard to road users 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. A large utility chamber is located in close proximity to the new access (with dropped kerbs positioned to accommodate the chamber access). Note - the drop kerbs would require to be reinstated to full height kerbs where outwith the new access in the unlikely event of the chamber being relocated.

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 their property.

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

**Contact: AG**

**Date 11 November 2022**

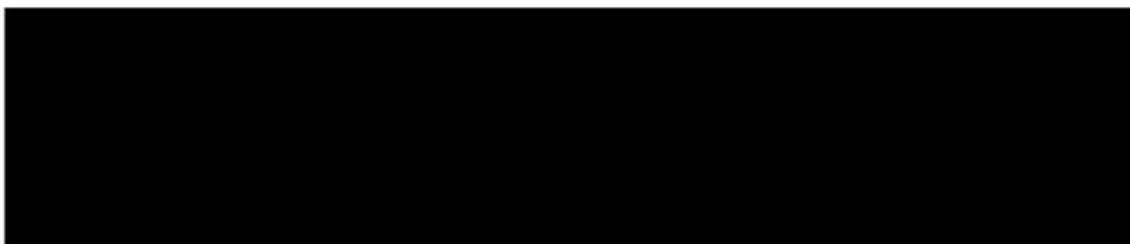
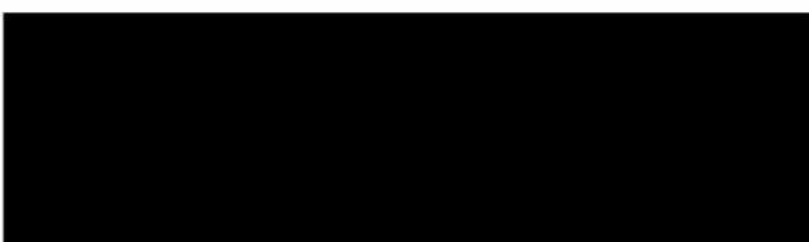
**email address: [transport.develop@moray.gov.uk](mailto:transport.develop@moray.gov.uk)**

**Consultee: TRANSPORTATION**

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





Sent: 13 November 2022 20:57  
To: Planning-Objections <objection.planning@moray.gov.uk>  
Subject: Application Number 22/01594/APP

**Warning. This email contains web links and originates from outside of the Moray Council network. You should only click on these links if you are certain that the email is genuine and the content is safe.**

FAO: the DEVELOPMENT MANAGEMENT AND BUILDING STANDARDS MANAGER.

1. I wish to object to this planning application – Change of use to garden ground and erect a garage /storage shed at the Forecourt, Cummingston, Elgin.
2. Reason for objection – Contrary to the development Plan. The Moray Council's Development Strategy/Placemaking Objectives for Cummingston states:

"Restrict growth to prevent coalescence with Hopeman and Burghead. ***Linear extension along the B9040 is not supported.***"

Whilst I have no objection to someone wishing to build a garage for their motorhome etc... I am concerned that Moray Council would allow building in areas contrary to the development plan.

3. Reference: MLDP 2020 Vol 2: Settlement Statements  
[http://www.moray.gov.uk/moray\\_standard/page\\_133541.html](http://www.moray.gov.uk/moray_standard/page_133541.html)  
<http://www.moray.gov.uk/downloads/file133235.pdf>

Yours sincerely,



# Comments for Planning Application 22/01594/APP

## Application Summary

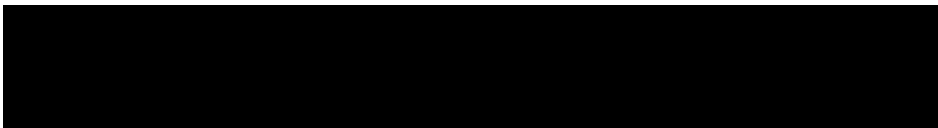
Application Number: 22/01594/APP

Address: The Forecourt Cummingston Elgin Moray IV30 5XY

Proposal: Change of use to garden ground and erect a garage/storage shed at

Case Officer: Sheila Bernard

## Customer Details



## Comment Details

Commenter Type: Member of the Public

Stance: Customer objects to the Planning Application

Comment Reasons:

- Contrary to Local Plan
- Height of proposed development
- Lack of landscaping
- Over-development of site

Comment: This is a large industrial/agricultural style of outbuilding on the road front and approach to the village.

It creates linear expansion of village outwith Local Plan, and is out of character with the existing structures along the main street of Cummingston.

There is ample scope to position this building to rear of property, which would also lower the impact of building as the ground is lower.



## REPORT OF HANDLING

<b>Ref No:</b>	22/01594/APP	<b>Officer:</b>	Lisa Macdonald
<b>Proposal Description/ Address</b>	Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray		
<b>Date:</b>	17.01.2023	<b>Typist Initials:</b>	LMC

### RECOMMENDATION

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

### CONSULTATIONS

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Contaminated Land	11/11/22	No objection
Environmental Health Manager	22/11/22	No objection
Transportation Manager	11/11/22	No objection subject to conditions to ensure that the relocated access is formed to an acceptable standard, adequate parking and turning is provided within the site, boundary treatments do not block visibility and the opening path of any new gate is contained within the site.
Moray Flood Risk Management	13/01/23	No objection following the submission of further information

### DEVELOPMENT PLAN POLICY

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP4 Countryside Around Towns	N	
EP6 Settlement Boundaries	Y	See below
EP12 Management and Enhancement Water	N	
NPF4 policy 1		
NPF4 policy 2		
NPF4 policy 4		
NPF4 policy 9		

NPF4 policy 13		
NPF4 policy 14		
NPF4 policy 16		
NPF4 policy 22		

## REPRESENTATIONS

Representations Received	YES	
Total number of representations received: TWO		
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> The development is a linear expansion beyond the village boundary as identified in the Local Plan and the Local Plan expressly states that linear extension along the B9040 is not supported.</p> <p><b>Comments (PO):</b> This concern is noted and forms part of the reason for refusal as detailed below.</p>		
<p><b>Issue:</b> The style of building is not in keeping with the rest of the village and is inappropriate at the entrance to the village.</p> <p><b>Comments (PO):</b> The building has been designed in a simple and functional style. It is a large structure but the height ties in with that of the existing garage and the house is significantly higher. The form and style is not untypical of garages and outbuildings in rural areas but it is acknowledged that it would be prominent in this setting on the edge of the settlement.</p>		
<p><b>Issue:</b> There is space at the rear of the house to accommodate such a development.</p> <p><b>Comments (PO):</b> The application must be assessed as presented. The agent highlights in the supporting statement that the possibility of moving the building was discussed during the course of the application but this is not acceptable to the applicant as it would take up a large portion of the existing garden.</p>		

## OBSERVATIONS – ASSESSMENT OF PROPOSAL

Following consideration of the revised draft National Planning Framework 4 (NPF4) which was approved by Parliament on 11 January 2023, NPF4 is now a material consideration and will be given significant weight in the consideration of planning applications on a case by case basis. NPF4 is due to be adopted on 13 February 2023.

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Morla Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

### The Proposal

This application seeks permission for change of use of a 5m wide strip of farm land to garden ground

in order to site a domestic garage/storage building. Half the proposed building will be sited on the land that is the subject of the change of use while the rest is within the existing garden ground of the house.

### **The Site**

The building is to be sited to the west of the existing house which fronts the main road (B9040) through Cummingston. The house is the westernmost house in Cummingston on the north side of the road. There is an existing garage in the eastern part of the site which sits between the house and the road. The settlement boundary of Cummingston as identified in the Moray LDP follows the current boundary of the house. The land to the west which the application seeks to incorporate into the garden ground of the subject property is currently farm land. At present there is a clear boundary between the farmland and garden which is currently delineated by a fence and wall. The site is within the Burghead to Lossiemouth Coast Special Landscape Area (SLA).

### **Siting (EP6 & Cummingston Settlement Text)**

Policy EP6 states that proposals immediately outwith the boundaries of settlements will not be acceptable unless part of a LONG designation. The Settlement text for Cummingston goes beyond this stating explicitly that a key development strategy/placemaking objective for the village is to restrict growth to prevent coalescence with Hopeman and Burghead and specifically that linear extension along the B9040 is not supported. The current proposal seeks to incorporate a 5m wide strip of farm land into an existing garden in order to site the building proposed. This would be a linear extension along the B9040 and encroachment onto land immediately outwith the settlement boundary. The proposed expansion of the settlement to the west by 5m is relatively small scale but incremental increases of this kind have the potential to gradually erode the character of a settlement. At present the western boundary of the village is clearly defined and well delineated. The expansion of the existing garden to site the proposed building would be an extension of the build area of Cummingston that does not respect the established pattern of development and erodes the distinction between Cummingston and Burghead which is to the west. The proposal is clearly at odds with the stated aims of the settlement text for Cummingston which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. The siting of this development is contrary to policy and it is therefore refused.

### **Design, Materials and Impact on the Special Landscape Area (SLA) (DP1 & EP3)**

Policy EP3 requires development within defined settlements in a SLA to conform to the requirements of Settlement Statements and all other policies of the LDP and reflect the traditional settlement character in relation to siting and design. In this case the proposal is a clear departure from the clearly stated aim in the settlement statement to prevent linear development along the B9040 and further coalescence with Burghead to the west. This application would be a breach of the established boundaries of the village and result in additional built development along the roadside. A building of the scale proposed would be prominent in this location on the very edge of the settlement. The development does not reflect the traditional settlement pattern and as such is contrary to policy EP3.

Policy DP1 (i) (a) requires development to be of a scale that is appropriate to the character of the area and as noted above policy EP3 requires development within defined settlements to reflect the character of that settlement. The proposed building is large measuring 10m x 10m and 5 m to the ridge. It is noted that it would be lower than the existing house and in line with the existing garage. It has been designed in a simple style with a symmetrically pitched roof and a large roller door on the front (south) elevation. The proposed materials are grey metal cladding on the walls and slate blue metal sheeting on the roof. The design is typical of many outbuildings found in rural areas albeit large in a domestic setting. While the design and materials are of a type that could be accommodated in a less sensitive location a building of this size would be prominent in this location on the very edge of the village breaching the settlement boundary. Furthermore it would be at odds with the aims of the settlement statement which seeks to prevent further linear development along the B9040 and Policies DP1 and EP3 which requires development to conform with traditional

settlement character in terms of siting and design. The proposal is contrary to policy DP1 (i) (a) and policy EP3.

### **Precedent**

It is noted that the Supporting Statement highlights the planning history of this site and suggests that this would set a precedent for the current proposal. The statement (p.5) states that part of the existing curtilage is technically outwith the settlement boundary and that the house was approved as an acceptable departure. This is not the case as the house was assessed (16/00□□1/APP refers) as being in accordance with policy as it was contained within the settlement and the mapping associated with the LDP shows the settlement boundary follows that of the existing garden ground. A further application (17/00□30/APP) was approved to increase the boundaries of the property to the north to incorporate farm land into garden ground. This was a departure from policy as it extended the boundaries of the property outwith the settlement boundary and encroached on the Coastal Protection Zone which was in force at the time. In approving that proposal as an acceptable departure the case officer noted that the expansion was logical as it brought the northern boundary of the property in line with that of the neighbouring property to the east and did not prejudice the aims or objectives of the settlement boundary policy or coastal protection zone policy. The case officer also noted that no built development was proposed as part of that application. The circumstances which made the previous case an acceptable departure do not apply in this instance. Restricting the linear expansion of the village along the road is an express aim of the LDP and this proposal deviates from that as it would result in additional built development along the road on land that is not currently part of the village. While planning history is a material consideration each application must be considered on its own merits. In this case cognisance of the planning history does not alter the assessment that the proposal is contrary to policy and should be refused.

### **Access and Parking (DP1)**

The application seeks to form a new vehicular access in the western part of the site and the existing access will be converted to a pedestrian access only. An area is identified within the site for turning and parking. The Transportation Section has no objection subject to conditions requiring the existing access to be blocked off prior to completion or first use of the building, the new access to be formed to an acceptable standard and to ensure boundary treatments don't obscure visibility or encroach on the footway. Transportation also recommend conditions in relation to parking and turning. The recommended conditions would ensure safe entry and exit to the site and adequate parking and turning as required by policy DP1 (ii) (a) and (e).

### **Drainage (EP12)**

A surface water soakaway is proposed to serve the garage. Additional calculations have been provided to support this element of the scheme. Following the receipt of the further information MFRM have confirmed that they have no objection. The timely provision of the Suds measures could be controlled by condition. The proposals would ensure that the surface water from the development was dealt with in a sustainable manner in accordance with policy EP12.

### **National Planning Framework 4**

NPF4 is now a significant material consideration in the determination of planning applications. The relevant provisions of NPF4 are not considered to change the evaluation of the proposal as outlined above, noting that there are a limited number of policies relevant to this proposal in NPF4 namely policies 1, 2, 4, 9, 13, 14, 16 □ 22

### **Recommendation**

This application proposes the change of use of farm land to garden ground in order to accommodate a large building on the western edge of Cummington. The proposal is clearly at odds with the stated aims of the settlement text for Cummington which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. A building of this scale in a prominent road side location

such as this is not in keeping with the character of this part of Cummingston and is contrary to policies DP1 (i) (a) and policy EP3. The siting of this development is contrary to policy and it is therefore refused.

## OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

## HISTORY

Reference No.	Description			
17/00□30/APP	Change of use from agricultural land to garden ground on Land To Rear Of Former Filling Station Main Street Cummingston Moray			
	Decision	Permitted	Date Of Decision	31/07/17
16/00□□1/APP	Demolish building and erect 2 storey dwellinghouse with integral garage and associated works at Old Filling Station Cummingston Elgin Moray IV30 5XY			
	Decision	Permitted	Date Of Decision	20/07/16

## ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	09/01/23	
PINS	Departure from development plan	09/01/23	

## DEVELOPER CONTRIBUTIONS (PGU)

Status	N/A
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## DOCUMENTS, ASSESSMENTS etc. \*

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

Supporting information submitted with application□	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Planning Statement	
Main Issues:	Explanation of the proposal.	
	Justification for departure from policy including precedent of previous permission.	
Document Name:	Drainage Statement	
Main Issues:	Calculations to support the proposed soakaway.	

## 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 DMR200 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**

**[Heldon And Laich]  
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:-

**Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray**

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

Date of Notice: **19 January 2023**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

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



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

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

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

1. The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummington Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.
2. The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.

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

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

Reference	Version	Title
100		Proposed SW drainage layout and details
2273/P/1.02		Elevations and floor plans
2273/P/1.01		Location plan
2273/P/1.03		Proposed drainage strategy and layout

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

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

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be

permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.



## **APPENDIX 2**

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







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

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100605113-006

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:	Machin Dunn + MacFarlane		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Neil	Building Name:	
Last Name: *	MacFarlane	Building Number:	11
Telephone Number: *	01259 212962	Address 1 (Street): *	Bank Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Alloa
Fax Number:		Country: *	Scotland
		Postcode: *	FK10 1HP
Email Address: *	neil@mdm-architecture.co.uk		

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

☒ Individual ☐ Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	Mr	You must enter a Building Name or Number, or both: *	
Other Title:		Building Name:	The Forecourt
First Name: *	John	Building Number:	
Last Name: *	Marshall	Address 1 (Street): *	Cummingston
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Elgin
Extension Number:		Country: *	Scotland
Mobile Number:		Postcode: *	IV30 5XY
Fax Number:			
Email Address: *	jm@beatsons.co.uk		

## Site Address Details

Planning Authority:	Moray Council
Full postal address of the site (including postcode where available):	
Address 1:	THE FORECOURT
Address 2:	CUMMINGSTON
Address 3:	
Address 4:	
Address 5:	
Town/City/Settlement:	ELGIN
Post Code:	IV30 5XY

Please identify/describe the location of the site or sites

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Northings	868851	Easting	312787
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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)

Proposed Erection of Garage/Storage Shed and Partial Change of Use from Farm Land to Garden Ground

## 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 'Planning Statement in Support of Local Review of Refusal of Planning Application' for full details.

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)

'Planning Statement in Support of Local Review of Refusal of Planning Application 22/01594/APP; Drawing no's 2273/P/1.01, 2273/P/1.02, 2273/P/1.03, 22.5227 100; Soakaway Sizing Calculations; Supporting Statement dated December 2022 in support of Application; Planning Decision Notice relative to Application reference 22/01594/APP and Planning Officers 'Report of Handling' relative to Application reference 22/01594/APP.

## Application Details

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

22/01594/APP

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

31/10/2022

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

19/01/2023

## 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 Neil MacFarlane

Declaration Date: 10/03/2023





**Application to review refusal of planning permission 22/01594/APP – Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingsston Elgin Moray**

This statement is lodged in support of our request for review of the decision to refuse planning permission 22/01594/APP in relation to our proposal for change of use to garden ground and erect a garage/storage shed at The Forecourt, Cummingsston, Elgin, Moray.

The planning application was refused permission on 19<sup>th</sup> January 2023, with two reasons for refusal. We will address these reasons and forward our own contention, that planning permission *ought* to be granted.

Reason 1 was as follows:- *“The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummingsston Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.”*

In reviewing Policy EP6, the Council’s justification/notes states understandably, that it wishes to guide development to the “towns, villages and rural groupings, preventing ribbon development and maintaining a clear distinction between the built up area and the countryside.” The policy itself states that development proposals “outwith the boundaries of these settlements will not be acceptable, unless the proposal is a designated “LONG” term development site....”

We can understand and support the concept of avoiding linear roadside development and increasing the potential for coalescence. However, our proposal relates to the development of an *existing* property. It is not disputed that to make our proposals work, then there is a modest incursion beyond the existing boundary, which in real terms extend westwards no greater than the established development of the village on the southern side of the B9040. It would not extend Cummingsston any nearer to Burghead than the westernmost point of the village as it presently exists. Our proposal does not seek to “grow” the village, rather it seeks to consolidate the existing residential development. Approving this modest domestic extension would not impinge on the policy of maintaining a clear distinction between the built up area and the countryside beyond. Moreover, it is not unreasonable to contend that our proposal does not coalesce the settlement of Cummingsston with Burghead. We believe that as the proposal seeks to enhance an existing residential property, there is no greater potential for coalescence either. Were a new residential property being proposed then we could appreciate the Council’s reservations. That is not the case with our proposal.

Turning to the Cummingsston Settlement Text, the Development Strategy/Placemaking Objectives has the following bullet points-

- *Restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.* Our proposal does not threaten that objective, given that it is consolidating an existing residential development. We do not seek to “grow” the village. The proposal is a domestic type extension where the key issue is that to facilitate our proposal we seek to incorporate a strip of countryside. Our domestic proposal does not threaten to undermine the objective of maintaining separation of Burghead and Cummingsston.
- *To preserve existing linear form and character of the village.* Our proposals do not seek to undermine that objective either. The character of the village would not be impacted by our proposal and it can conceivably be seen as reinforcing the

linear form, since the proposed structure would largely align itself in position with the dwelling house on site.

- Cummingston is described as characterised by its linear street pattern with a strong building line onto the road edge, with simple forms and traditional proportions characteristic of the village. In the Report of Handling, our proposal is described as “a large structure” but one where “the height ties in with that of the existing garage and the house is significantly higher. The form and style is not untypical of garages and outbuildings in rural areas but it is acknowledged that it would be prominent in this setting on the edge of the settlement.” By developing in this location, albeit we have to look to modestly extend to the west, we are seeking to reinforce the character of the village. The Report of Handling acknowledges the house is significantly higher than our proposal. We will address the height element in more detail in response to Reason 2 of the refusal.
- *Development proposals in the Special Landscape Area must reflect the traditional settlement character in terms of siting and design and respect the qualities of the designation.* In response, our proposal does reflect the character in terms of its siting. Whereas there remains discussion over the height of our proposal, we would again refer to the Report of Handling and the description of our proposal as being not untypical of garages and outbuildings in rural areas.

Reason 2 was as follows:- *“The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (1)(a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.”*

Policy DP (1)(a) requires *“the scale, density and character”* to *“be appropriate to the surrounding area and create a sense of place...and support the principles of a walkable neighbourhood.”* Our proposal is for an ancillary building to be erected in association with the existing building form on this residential site. The scale of our proposal is quite specifically *lower* than the house to which it relates. It has been deliberately sited in close proximity to the dwelling house, thereby creating a tight knit urban form, maintaining the openness in the rear garden which is a characteristic of many of the properties in Cummingston. We are therefore reinforcing the characteristics to be found within the village. It is appreciated that this is a taller than usual garage structure, however we have sought in design terms to minimise its height such that the dwelling house remains the key building of focus yet ensuring the structure can properly function for its intended use. We would argue that the siting is in accord with the settlement character, with the design (and materials) chosen to reflect that this is a taller structure than a standard single garage. Were we to adopt an alternative approach, brick or render finish for instance, arguably this would give a greater appearance of bulk to the building than what we have sought to do. The location is prominent, which is why the building has been sited in alignment with the dwelling house, which would remain the key building on the site were this review to be upheld.

Policy EP3 (1) relates to Special Landscape Areas (SLA's) and Landscape Character. It states *“Development proposals within SLA's will only be permitted where they do not prejudice the special qualities of the designated area.....”* Our proposal fundamentally does not seek to undermine the principle of this policy. It is doubtful that our proposal could do that, since it is sited and designed in such a way as to be seen in context with

the existing larger structure that is the dwelling house on this site. It is an ancillary building, where the external execution has been chosen to seek to mitigate its relative scale. As outlined above the siting has been chosen to *reflect* the traditional settlement character and if anything seeks to consolidate the linear development of the village. The design has been chosen to accommodate the needs of the proposal yet reflect a country style characteristic in its external appearance.

## **Conclusion**

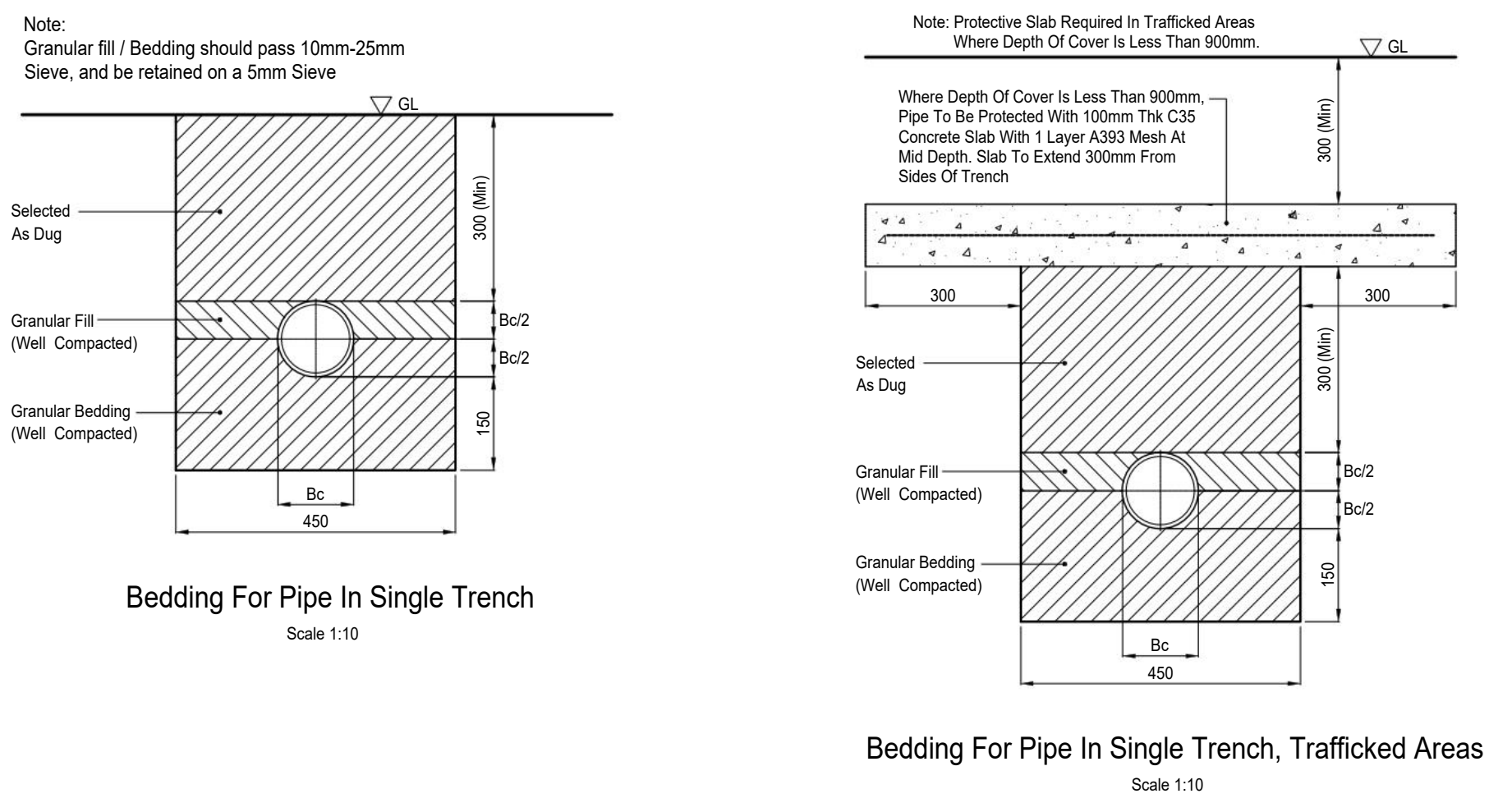
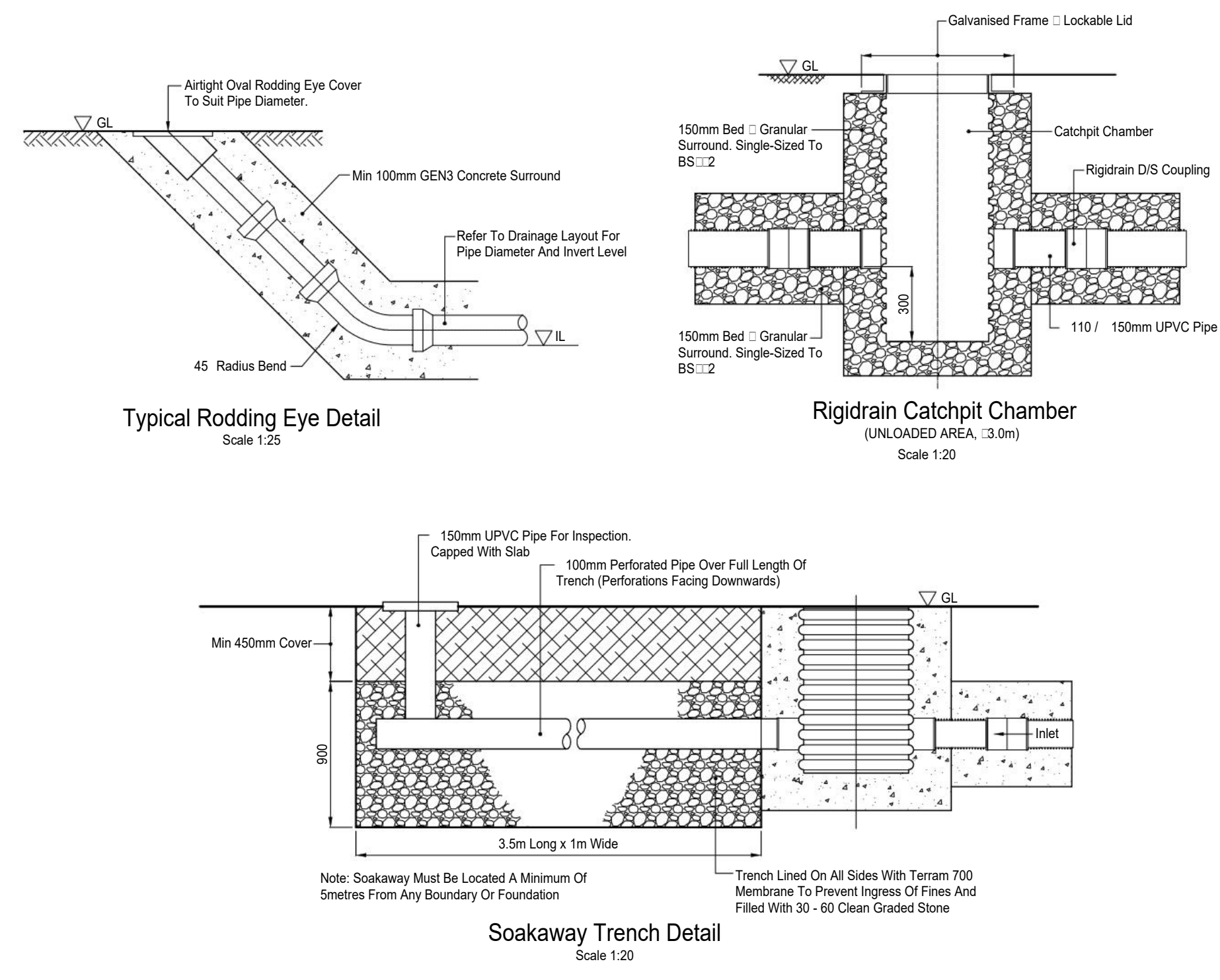
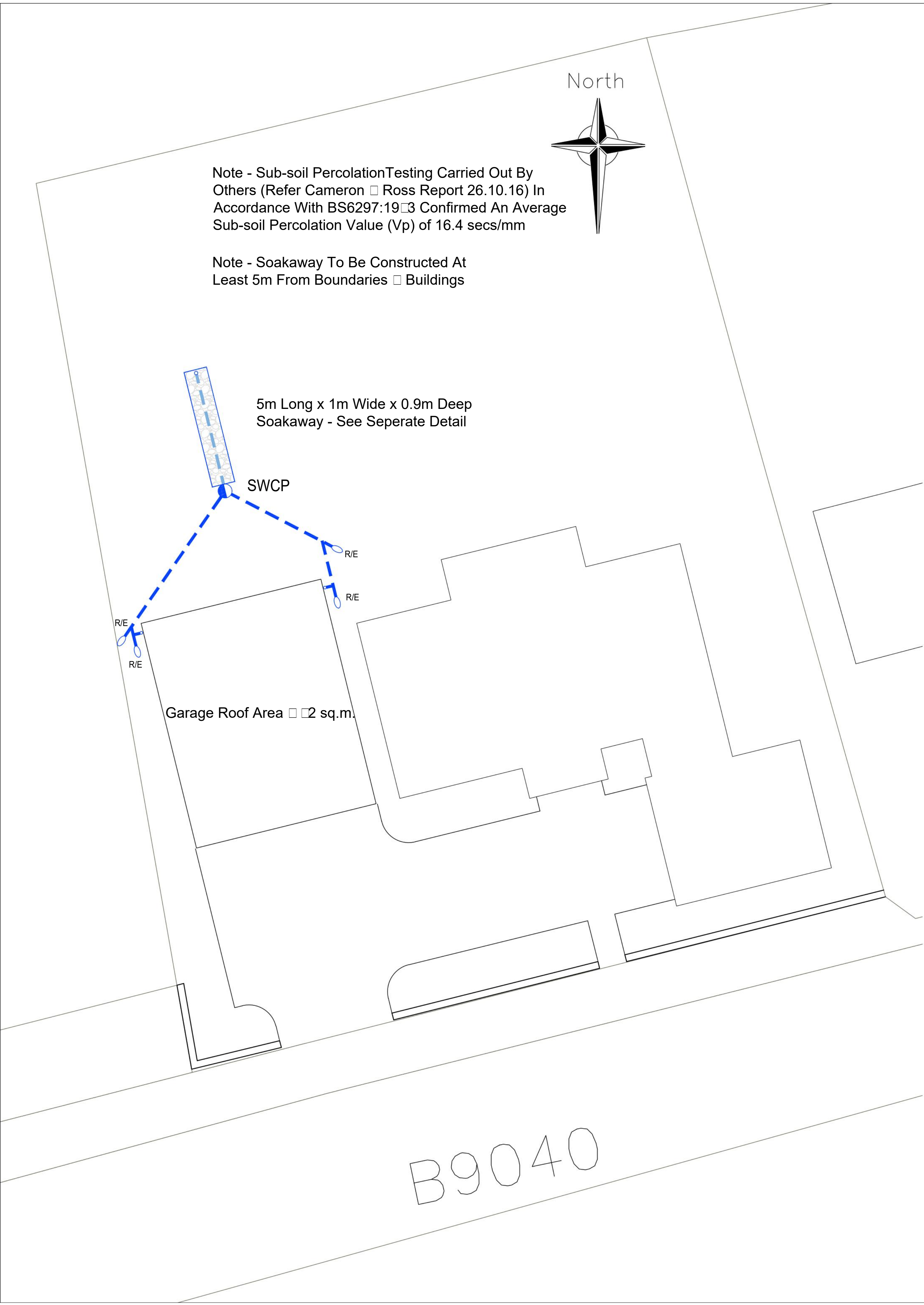
In conclusion, we have sought to bring forward a proposal, which, while acknowledging the modest extension westward of the existing boundary line of the village, seeks to harmonize this with the western most extent of development on the southern side of the road at this location in the village. The proposal is not intended to undermine the policy objectives relating to coalescence and we are confident that it doesn't. This is not a proposal for a new build property, where concerns regarding potential for coalescence could be understood. This proposal, very clearly, is for an ancillary building to serve the existing dwelling house on site.

Our proposal seeks to reinforce the linear characteristics of the village and while it is accepted that our proposal is not a typical single garage, that was never its intention. Instead we've sought to craft the proposal in a manner which reflects similar buildings to be found in the countryside, yet keeping its scale to a degree such that the dwelling house on the site would remain the principal feature should the appeal be upheld and the building permitted.

It is respectfully requested that the Council reconsider the original decision to refuse the planning application, and instead grant planning permission for our proposal.







Notes:

**Proposed Drainage Legend**

R/E: Denotes Surface Water Rodding Eye  
SWIC: Denotes Surface Water Inspection Chamber  
SWCP: Denotes Surface Water Catch Pit  
---: Denotes 100mm UPVC Storm Water Sewer Laid At 1:100 U.N.O.  
---: Denotes 100mm Perforated Carrier Pipe Within Filter Sub-base  
---: Denotes Storm Water Deep Filter Sub-base

**Incurtiage Drainage Notes**

- All Levels Shown Must Be Confirmed On Site Prior To Commencing Work.
- The Contractor Should Evaluate Which Drainage Lines Require Concrete Protection, As A Result Of The Crown Of The Pipe Being 1.2m From The Finished Trafficked Level.
- The Contractor Must Ensure That The Location Of RWP's & SVP's Indicated On This Drawing Coincide With The Location Of The RWP's & SVP's On The Architects Current Building Layout Plan.
- Refer To Architects Internal Layout For All Internal POP UP/SVP Setting Out Locations.
- All Pipe To Pipe Connections Are To Be Made Crown Of Pipe To Crown Of Pipe Unless Noted Otherwise.
- All Drainage To Be Installed In Accordance With The Manufacturers Recommendations And With Section 3 - Environment: Scottish Building Standards Agency - Technical Handbooks.
- All External Drainage To Be Constructed And Installed In Accordance With BS EN 752-3: 1997 (Amendment 2), BS EN 752-4: 1997 And BS EN 1610: 1997.

The Contractor Must Check All Invert Levels On The Existing Manholes As Soon As They Takes Control Of The Site And Advise Engineer To Allow A Check Of The Drainage To Be Carried Out.

ANY VARIATION FROM THE DESIGN SHOWN ON THIS DRAWING MUST BE NOTIFIED TO THE ENGINEER & HIS APPROVAL MUST BE OBTAINED. ANY UNAUTHORISED VARIATION FROM THE DESIGN MAY INVALIDATE ANY CERTIFICATION. IF IN DOUBT CONTACT THE ENGINEER.

THE CONTRACTOR MUST CONTACT THE ENGINEER PRIOR TO COMMENCING ANY WORK TO DISCUSS AND ENSURE FULL UNDERSTANDING OF THE DESIGN INTENT.

Revision	Description	By	Date

Client

Mr. J. Marshall

Architect

Machin Dunn & MacFarlane Limited

**DRGCS**  
CONSULTING CIVIL & STRUCTURAL ENGINEERS

Tel: 01753 649639 email: admin@drgcd.co.uk

Project

Proposed Garage/Storage Shed At  
The Forecourt, Cummingsstoun, Lossiemouth

Drawing

Proposed SW Drainage Layout & Details

**DRAWING STATUS: FOR INFORMATION**

Engineer:	KD	Date:	13.12.22
Technician:		Date:	
Project No.	22.5227	Drawing No.	100
Drawing Scale: As Shown			





# Soakaway Design 2

## Project Details

Project Title: The Forecourt, Cummingstown

Project Number: 5227

Designer: KD

## Global Variables

Impermeable Area :- 117 m<sup>2</sup>

Soil Infiltration Rate :- 2.03E-5 m/sec

Storm Duration :- 60 minutes

Rainfall :- 0.016 metres

Void Ratio (Trench Soakaway) :- 0.3

Volumetric Runoff Coeff :- 1.00

## Trench Soakaway

Length = 5 metres

Width = 0.94 metres

Depth = 0.9 metres

Half empty time = 4.28 hours

## Precast Concrete Ring Soakaway

Ring Size (mm)	Depth (metres)	Half Empty Time (hours)
900	2.53	3.07
1050	1.89	3.59
1200	1.47	4.10
1350	1.18	4.61
1500	0.96	5.13
1800	0.68	6.15
2100	0.50	7.18
2400	0.39	8.21
2700	0.31	9.23

\* Ring soakaways are deemed to have failed if their Depth is greater than 4 metres.

As per the guidance outlined in the CIRIA C753 SuDS Manual 2015, SEPA Document "Climate Change allowances for flood risk assessment in land use" (version 2 March 2022), the developments surface water drainage network is designed to include 42% for climate change.

Refer- <https://scottishhepa.maps.arcgis.com/apps/webappviewer/index.html?id=2ddf84e295334f6b93bd0dbbb9ad7417>





PROPOSED ERECTION OF GARAGE/STORAGE SHED AND PARTIAL CHANGE OF USE TO GARDEN GROUND AT 'THE FORECOURT, CUMMINGSTON, ELGIN - PLANNING REF: 22/01594/APP

| **SUPPORTING STATEMENT**

DECEMBER 2022

Document prepared by :



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ERECTION OF GARAGE/STORAGE SHED AND CHANGE OF USE TO GARDEN GROUND

I

SUPPORTING STATEMENT

AT ‘THE FORECOURT’, CUMMINGSTON, ELGIN PL REF: 22/01594/APP

1.0	INTRODUCTION
2.0	SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY
3.0	DESIGN PROPOSALS
4.0	CONCLUSION





## 1.0 | INTRODUCTION

### 1.00 - Introduction

This document has been produced in support of our detailed Planning Application to Moray Council for the 'Proposed Change of Use to Garden Ground and Erection of Garage/Storage shed at 'The Forecourt, Cummingston, Elgin' PL REF: 22/01594/APP.

The aim of this document is to provide supplementary information on the design approach undertaken, taking cognisance of relevant design guidance and planning policy in order to meet the Clients brief, whilst also seeking to address comments received from the Planning Officer; Consultation responses and public representations.



## 2.0 | SITE LOCATION RELATIVE TO SETTLEMENT BOUNDARY

### 2.1 - Site Location

The site is located to the western extents of the village of Cummingston, with the development boundary comprising the curtilage of the dwelling 'The Forecourt' and an adjoining strip of land, 5m wide, running the full length of the western boundary to the plot.

The Planning Officer has commented that the area of land subject to 'change of use' is outwith the existing Cummingston settlement boundary as defined within the current Moray Local Development Plan 2020.

Within the Cummingston 'Settlement Strategy/Placemaking Objectives' document it notes *'...restrict growth to prevent coalescence with Hopeman and Burghead. Linear extension along the B9040 is not supported.'*

The existing settlement boundary of Cummingston is indicated adjacent, and whilst it is acknowledged that the area of land outwith the existing dwelling curtilage to the west is technically outwith the existing settlement boundary, it should also be highlighted that part of the existing dwelling curtilage which previously benefitted from Planning Approval is also located outwith this boundary, albeit was deemed to be an acceptable departure from planning policy at that time.



\*Image Copyright - Moray Local Development Plan\*

### 2.2 - Recent Planning History Relative to Settlement Boundary

An application was approved in 2017 under application reference: 17/00830/APP for the change of use of agricultural land to garden ground on land to the rear of the existing dwelling curtilage.

Within the report of handling for the application a number of issues were addressed which are similar in nature to the current application, which will be summarised within the following text.



\*Western extents of Existing Settlement Boundary\*



\*Land Subject to Planning Approval ref: 17/00830/APP\*

Impact on Cummingston settlement boundary and development within the Coastal Protection Zone (E8 and E9)

- 'Policy E9 seeks to restrict development immediately outwith the settlement boundary, in order to maintain a clear distinction between defined settlements and the countryside. Policy E8 Coastal Protection Zone (CPZ) seeks to protect and enhance Moray coastline for its landscape, nature conservation, and recreation and tourism benefits and requires proposals not to prejudice the objectives and character of the CPZ or the Water Framework Directive.'*
- 'In this instance, the proposal is a departure from the development plan in terms of the location of the development relative to the settlement boundary for Cummingston as defined and as development of a form which is not expressly permitted within the CPZ.'*
- 'However, in this case, support for the proposal, as an acceptable departure from the development plan, can be considered because the proposal will 'square off' the existing settlement boundary and align with the existing settlement boundary line as defined by the rear garden areas of property to the east including the property Eshaness...'*
- REASONS FOR DECISION** - *'Having regard to its location and purpose, this proposal (as amended) is considered to be an acceptable departure from the development plan as it will neither prejudice the aims and objectives of Policy E8 (in terms of its location/siting relative to the settlement boundary for Cummingston) and Policy E9 (in terms of not detracting from the special character and qualities of the Coastal Protection Zone), and in all other respects the proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.'*

The Application was subsequently approved with conditions in July 2017.





\*Land Subject to Current Application ref: 22/01594/APP\*



\*'Notional' Settlement Boundary if Approved\*

2.3 - Current Application Relative to Settlement Boundary

The are obvious parallels between the above noted consent and the current application:

- Although the land subject to change of use is outwith the settlement boundary, it is a marginal increase.
- Similar to above, this too could be seen as a natural 'squaring off' of the settlement boundary - In this instance to the Western boundary, with the property 'Westerley' to the South. The Western boundary of the proposal would not extend West along the B9040 beyond that of the Western boundary of Westerly, therefore the separation between Cummingston and Burghead would be retained.
- The proposal is for a change of use of a marginal area of ground to bring it into the curtilage of an existing dwelling. The development does not propose any additional dwellings on this land between Cummingston and Burghead , which the policy objectives obviously look to prevent.
- The adjacent images and those on page 6, note the existing settlement boundary as defined within the current Moray Local Development Plan; the area of ground subject to the 2017 approval (ref: 17/00830/APP); the area of ground subject to the current application (ref: 22/01594/APP) and a final image indicating the overall 'notional' settlement boundary, should consent be granted, to demonstrate the marginal increase and to highlight this will have no impact on the current separation between Cummingston and Burghead.



\*Streetscape and Indication of Ridge Line Relative to Existing Garage\*

3.0 | DESIGN PROPOSALS

3.1 - Design Rationale

The Planning Officer noted that the existing house sits within a generous plot and queried if there was any scope to site the proposed building within the existing site boundary.

Firstly, it would not be possible to site the building within the front garden area due to its size - Not to mention that the visual impact of such a proposal would likely not be supported by either the Client themselves or the Planning Department.

Secondly, to site the building within the rear garden the side of the property would be required for vehicular access with the majortiy of the rear garden area being sterilised through either the building itself or the necessary turning area required to ensure that vehicles could turn and exit the property appropriately.

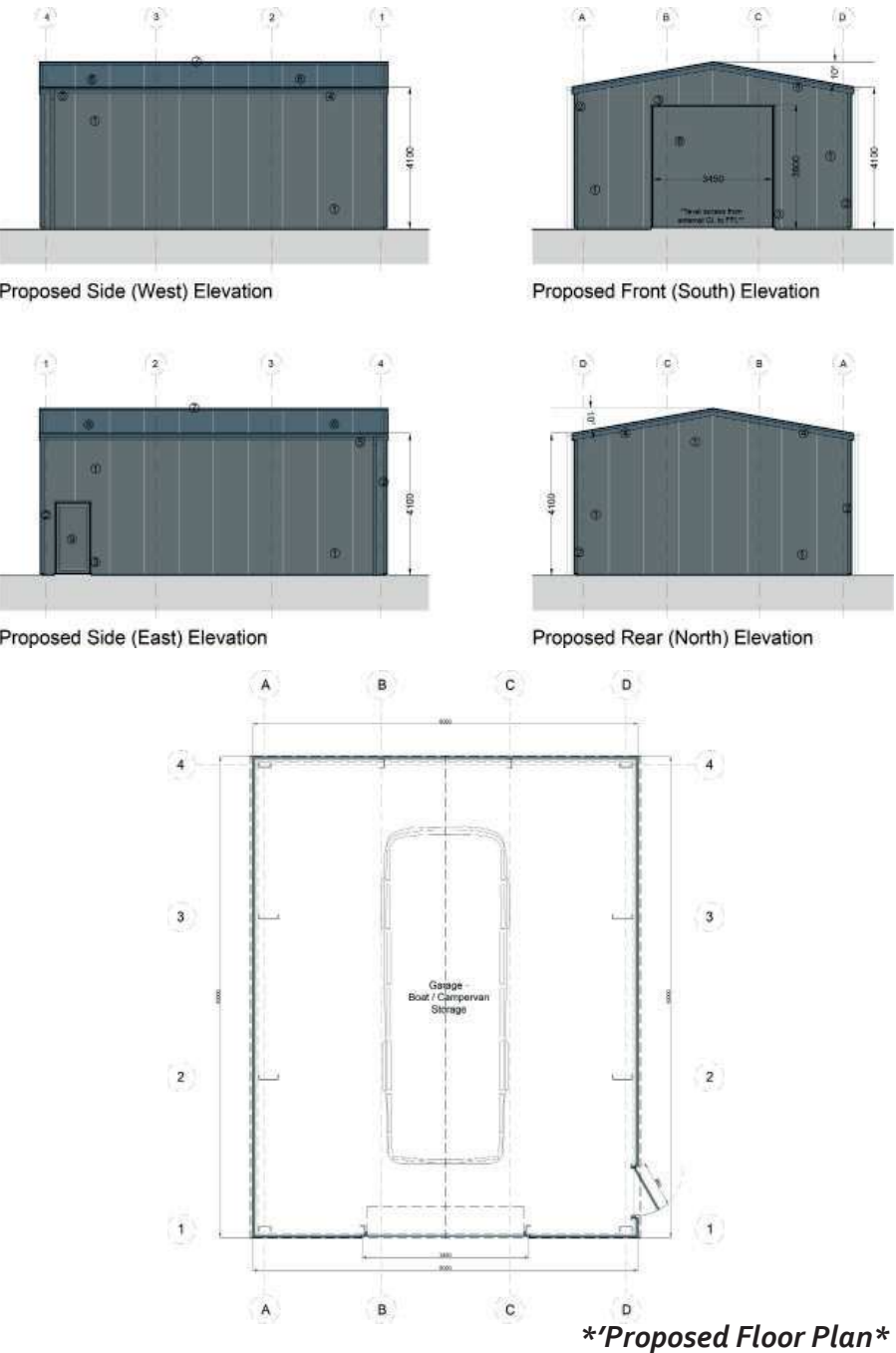
Therefore, the only sensible location for the proposed building is to the side of the existing dwelling house. This will ensure that both the existing front and rear garden areas are respected. It is also in our opinion the best location from a visual impact.

The proposed garage/storage shed has also been designed to meet the Clients brief with regards to its look externally, but also in plan form in order to provide them with the space they require.

In order to achieve this, it is therefore a fundamental requirement that a small area of ground to the West be brought into the existing curtilage to facilitate this.

The height of the proposal was carefully considered at design stage in order to be below that of the existing garage.





3.2 - Summary of Consultation Repsonses

Of the two public representations received in relation to the project, the following common themes were noted:

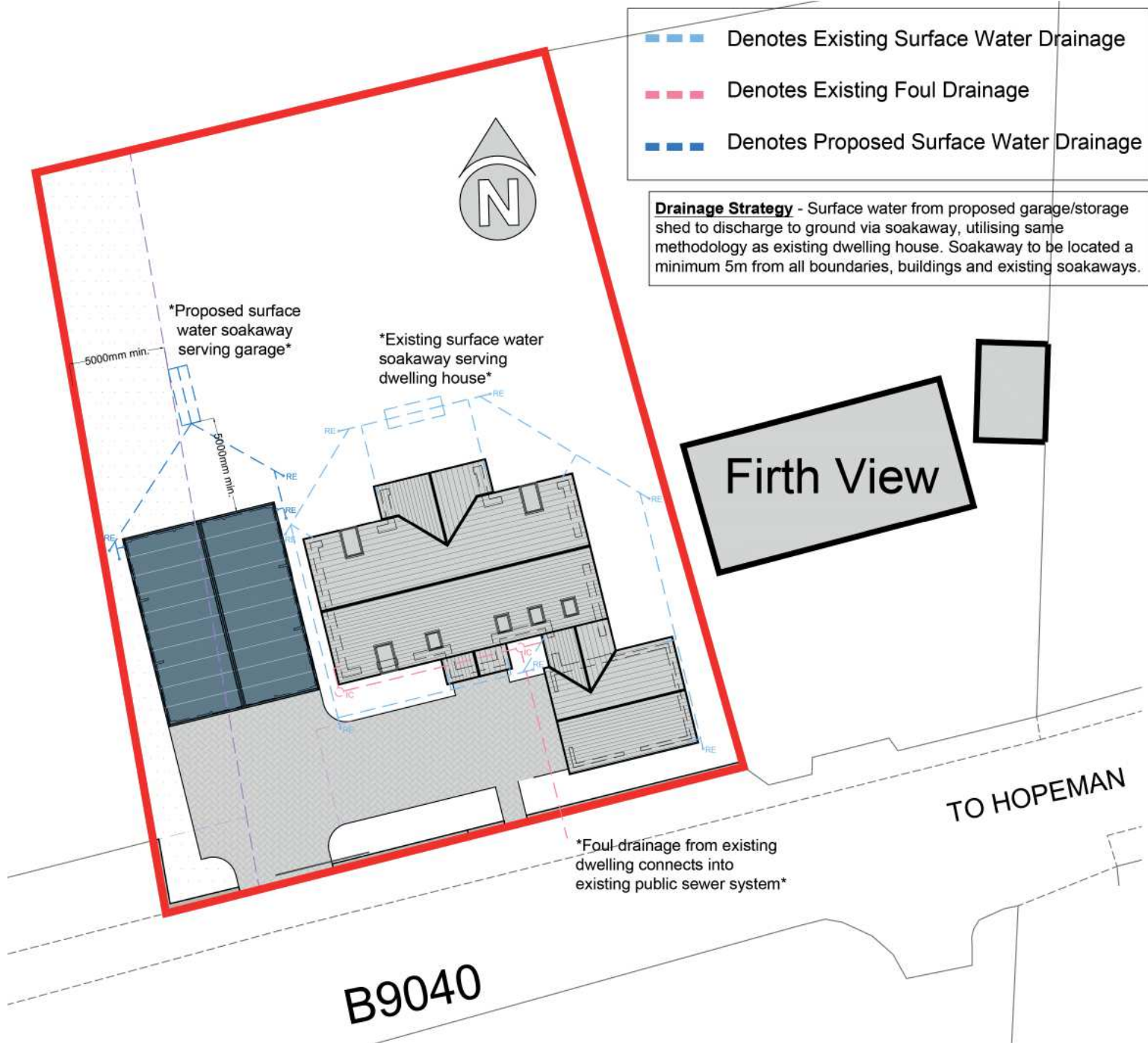
- The proposals were contrary to the Local Development Plan due to part of the land being outwith the settlement boundary
- The height of the proposed development
- Lack of Landscaping
- Over-development of the site

The Statutory Consultee responses can also be summarised as follows:

- Transportation Manager - No objections subject to conditions
- Environmental Health - Approved unconditionally
- Contaminated Land - Approved unconditionally
- Flood Risk Management - Object to Application per below:

*Reasons for Objection - The drainage statement should include plans and calculation for the proposed drainage system. The drainage system should be designed to a 1:30 year return period (including climate change), without surcharging, if attenuation is used the system should drain completely within 24 hours. If the proposed system involved infiltration, information on the ground conditions is required as well as infiltration testing on or near the location of the infiltration system. The Applicant should demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surround land.*

It is proposed for the surface water drainage strategy for the proposed garage/storage shed to discharge to ground via soakaway. This would utilise the same methodology and rationale as that used for the existing dwelling house, the detailed design of which would be required at technical approval stage - Given the principal follows the same methodology previously approved for the existing dwelling, no issues are foreseen in being able to demonstrate suitability on this basis.





## 4.0 | CONCLUSION

### 4.0 - Conclusion

In conclusion, it is hoped that this document has helped provide supplementary information in relation to the current application relative to the existing settlement boundary, public representation and responses from statutory consultees.

The change of use comprises a marginal area of land, immediately adjacent to the existing settlement boundary. The separation between Cummingston and Burghead will be retained with little or no impact being felt as a result of the proposals.

The size, location and appearance of the proposed building has also been carefully considered through the design process, in order to provide a proposal which meets the Applicants brief. They would however be willing to consider altering the external finish/colour of the building, should an alternative finish be deemed more appropriate.

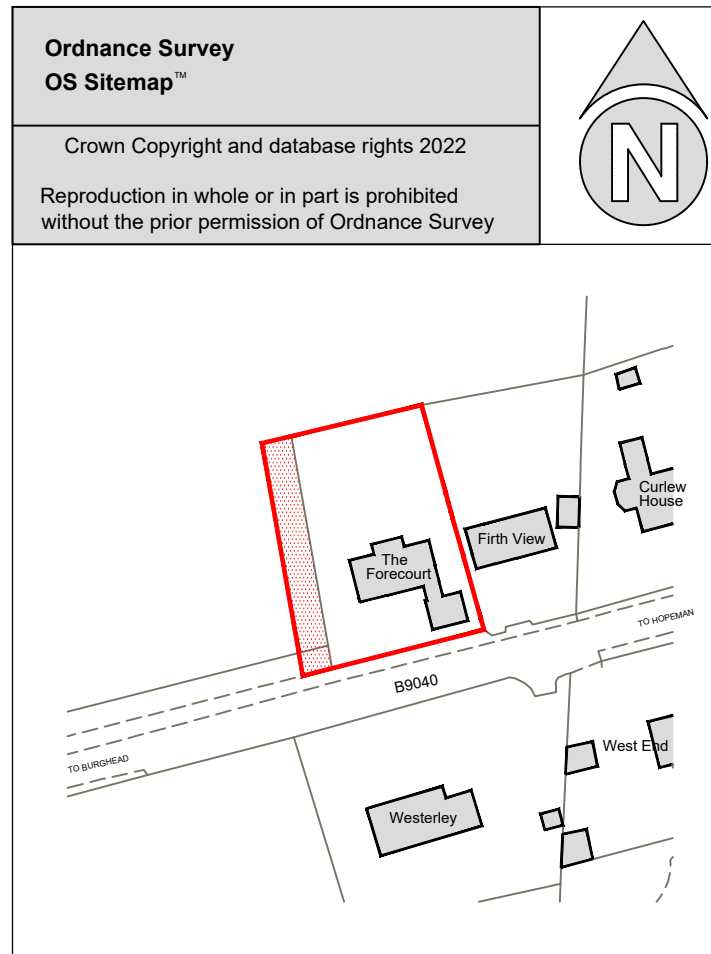
We note the comments received and the responses from Statutory Consultees. As per discussions with the Planning Officer, we are confident that the supplementary information requested from Flood Risk Management can be addressed at the appropriate time, with all other consultees recommending approval.

It is therefore hoped that on consideration of the above, the application will benefit from a positive determination.

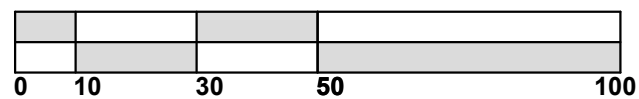








Location Plan 1:1250



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2. All dimensions to be checked on site prior to ordering materials
3. Drawings should be read in conjunction with all structural and services engineer drawings and specifications

Revisions	Date

## STATUS

**PLANNING APPLICATION**

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## PROJECT

*Proposed Erection of Garage/Storage Shed and  
 Partial Change of Use to Garden Ground at  
 'The Forecourt', Cummingstown, Lossiemouth*

## DRAWING TITLE

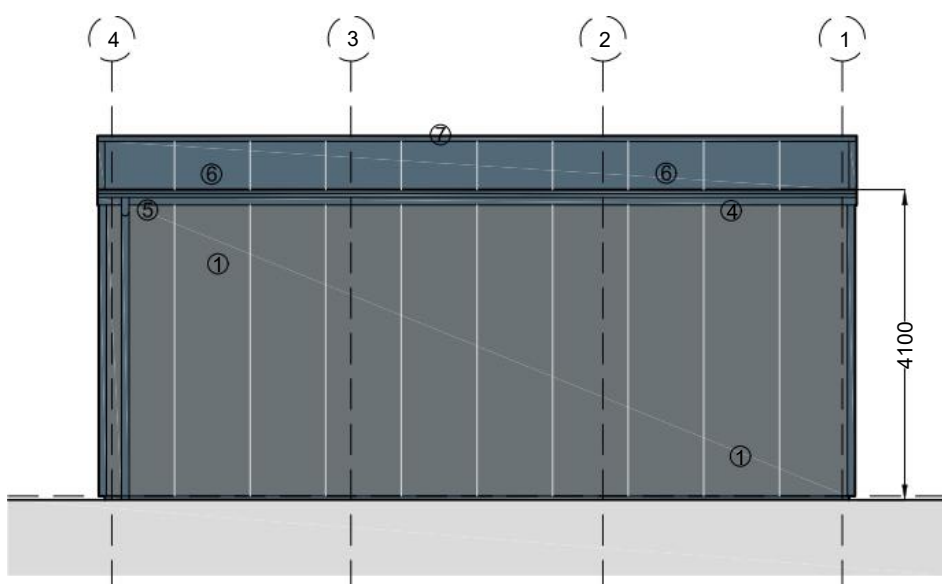
*Location Plan*

## CLIENT

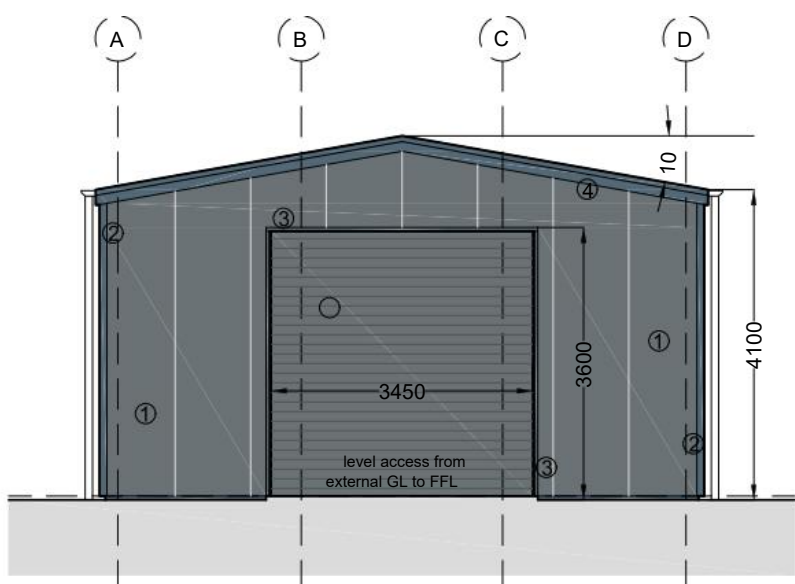
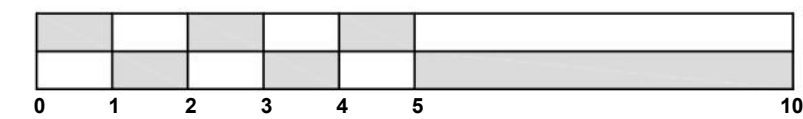
*Mr J. Marshall*

SCALE	As Noted @ A4	DATE	31st October 2022
DRG NO.	2273/P/1.01		

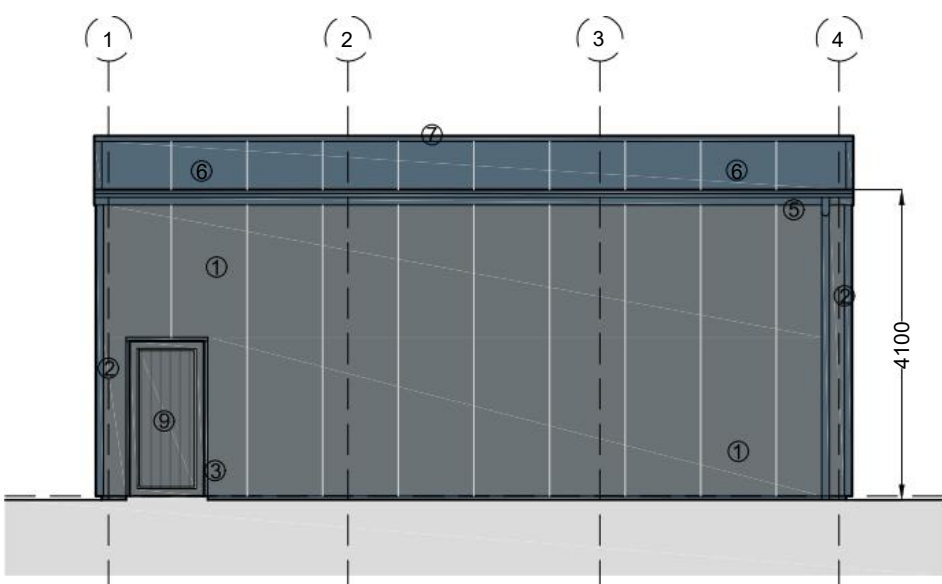




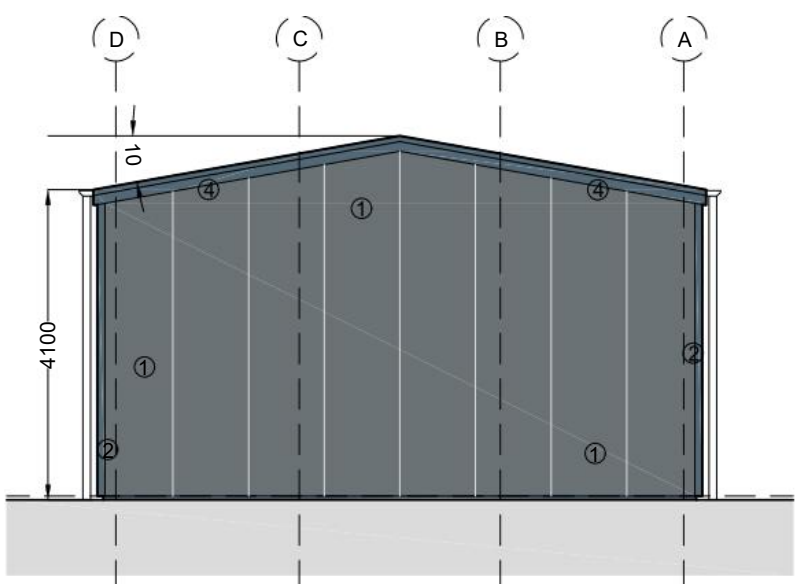
Proposed Side (West) Elevation 1:100



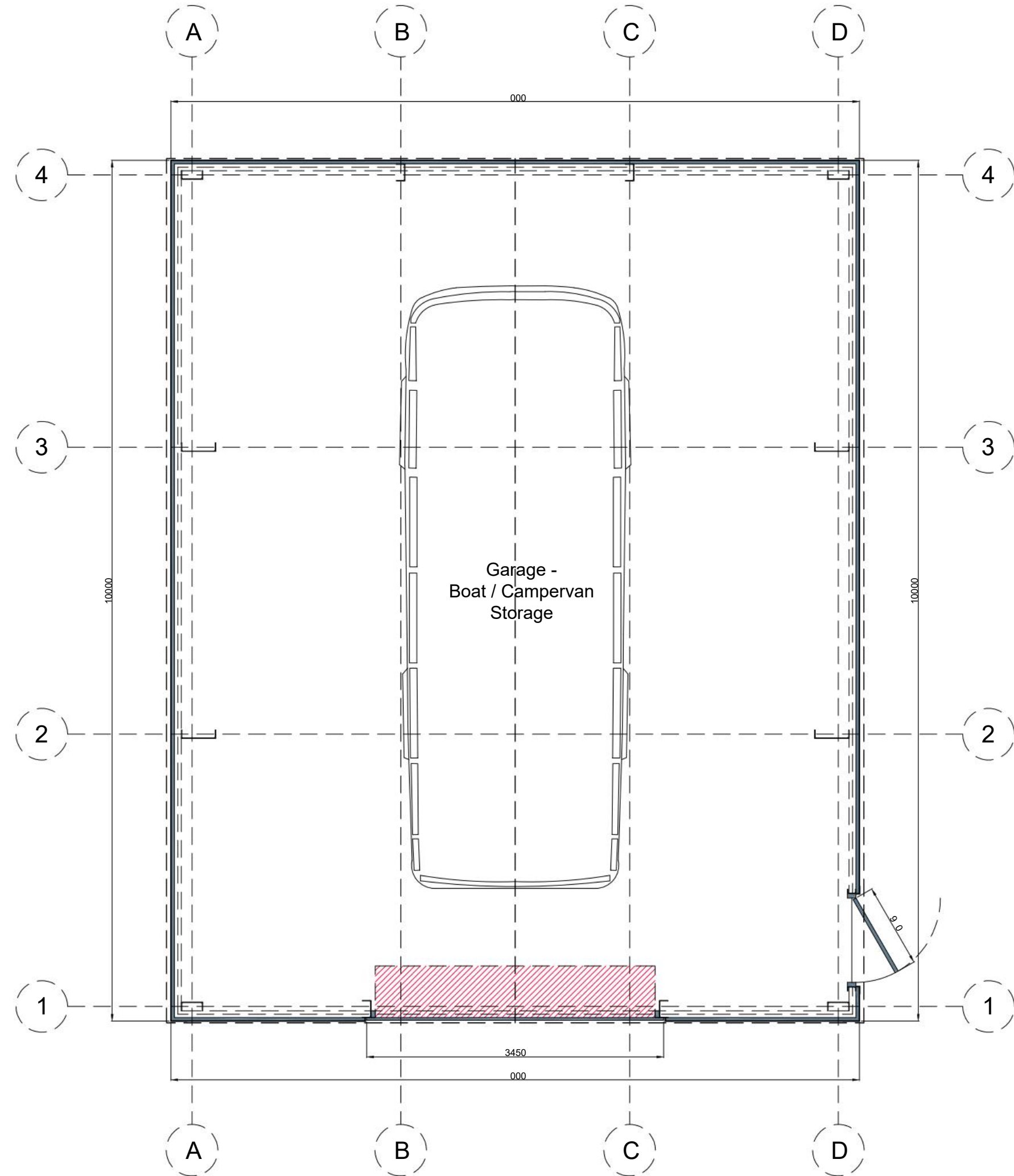
Proposed Front (South) Elevation 1:100



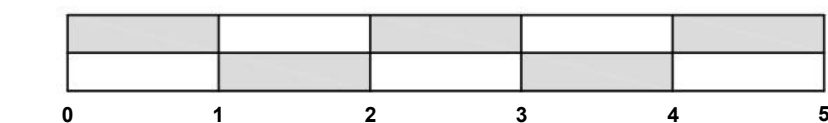
Proposed Side (East) Elevation 1:100



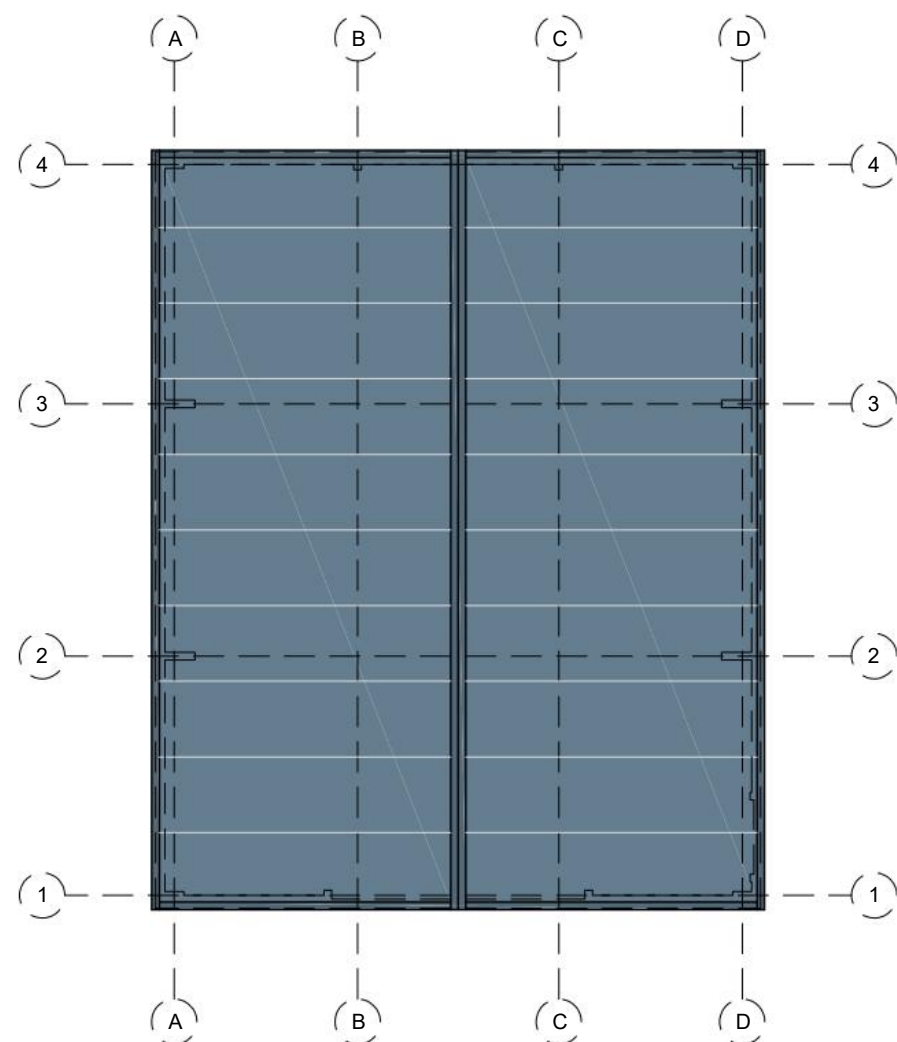
Proposed Rear (North) Elevation 1:100



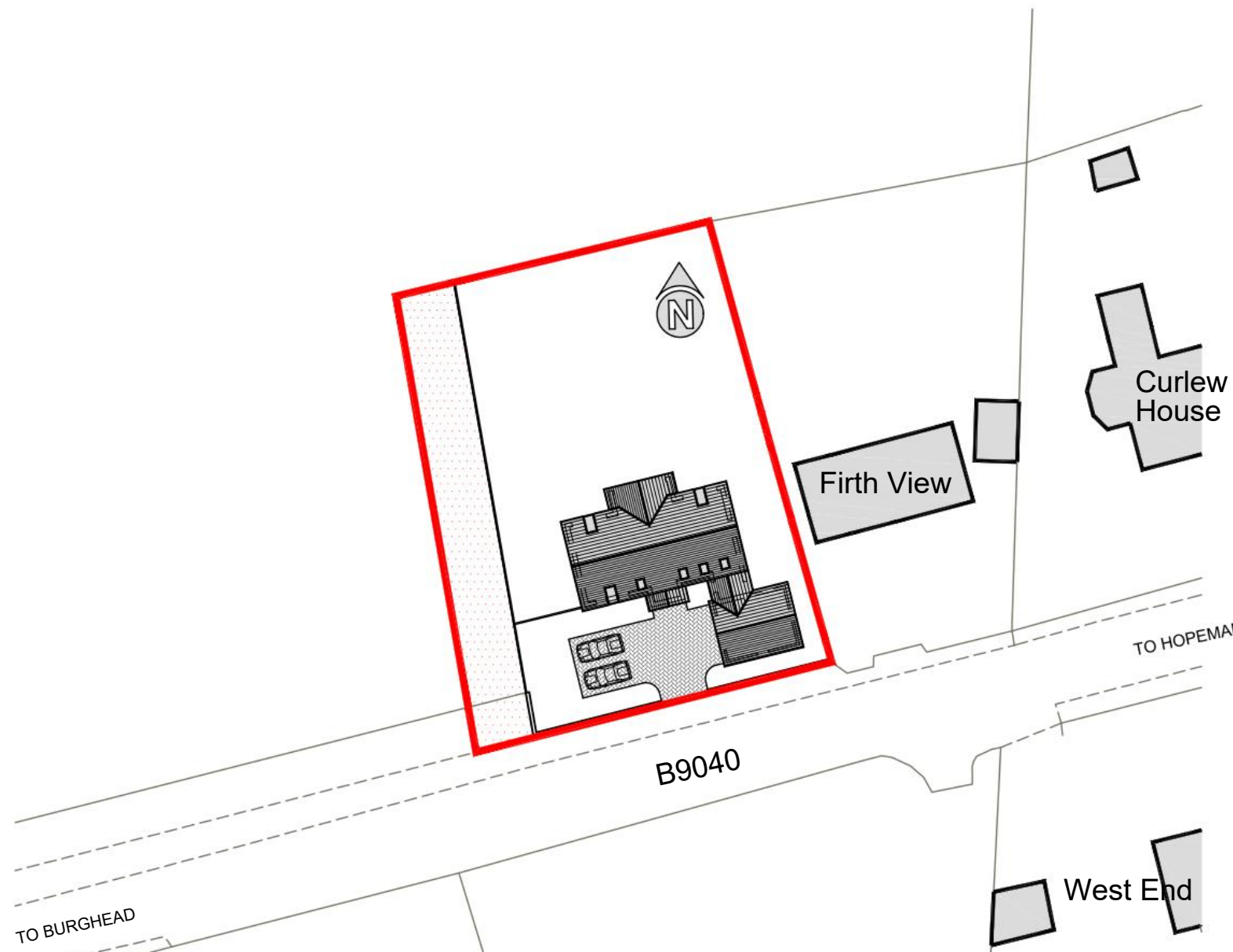
Proposed Garage Floor Plan 1:50



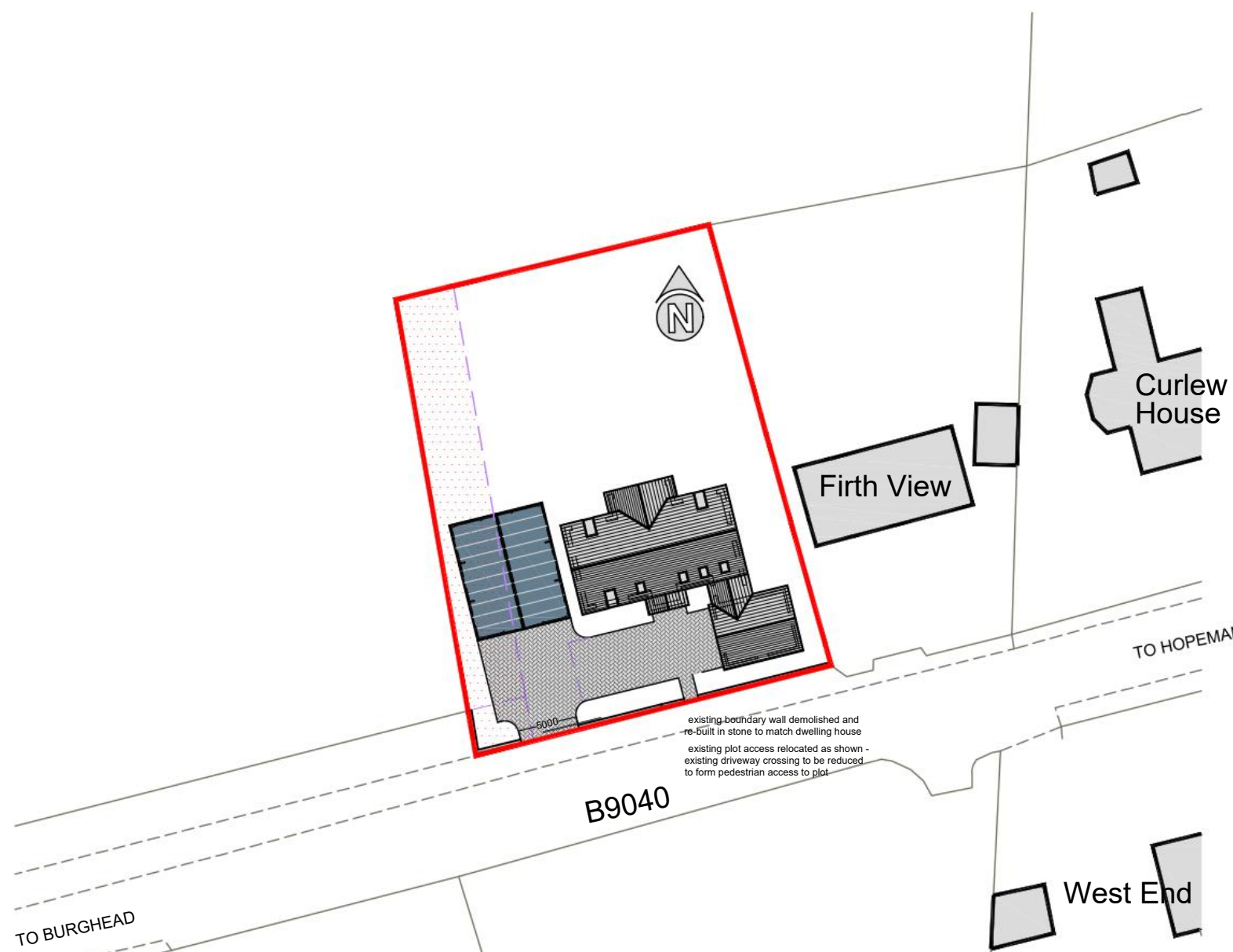
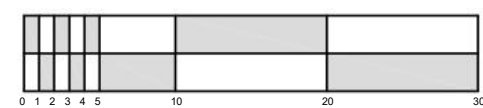
- Proposed Materials**
- Wall Cladding -**
1. 40mm Composite LPC Posco Merlin Grey
  2. Corner Flashings - Posco Slate Blue
  3. Opening Flashings - Posco Slate Blue
  4. Barge Colour - Posco Slate Blue
  5. Gutters - Posco Slate Blue
- Roof Cladding -**
6. 40mm Composite LPC Posco Slate Blue
  7. Ridge Cap - Posco Slate Blue
- Openings -**
8. Roller Door Posco Merlin Grey
  9. Pass Door - Posco Merlin Grey



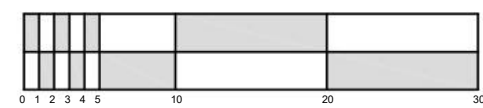
Proposed Roof Plan 1:100



Existing Site Plan 1:500



Proposed Site Plan 1:500



Proposed Streetscape 1:100



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## Revisions

## Date

## STATUS

## PLANNING APPLICATION

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## PROJECT

Proposed Erection of Garage/Storage Shed and  
Partial Change of Use to Garden Ground at  
'The Forecourt', Cummingstown, Lossiemouth

## DRAWING TITLE

Proposed Floor Plan, Elevations, Roof and Site Plans

## CLIENT

Mr J. Marshall

SCALE As Noted @ A1

DATE 31st October 2022

DRG NO. 2273/P/1.02







## REPORT OF HANDLING

<b>Ref No:</b>	22/01594/APP	<b>Officer:</b>	Lisa Macdonald
<b>Proposal Description/ Address</b>	Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray		
<b>Date:</b>	17.01.2023	<b>Typist Initials:</b>	LMC

### RECOMMENDATION

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

### CONSULTATIONS

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Contaminated Land	11/11/22	No objection
Environmental Health Manager	22/11/22	No objection
Transportation Manager	11/11/22	No objection subject to conditions to ensure that the relocated access is formed to an acceptable standard, adequate parking and turning is provided within the site, boundary treatments do not block visibility and the opening path of any new gate is contained within the site.
Moray Flood Risk Management	13/01/23	No objection following the submission of further information

### DEVELOPMENT PLAN POLICY

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
DP1 Development Principles	Y	
EP3 Special Landscape Areas	Y	
EP4 Countryside Around Towns	N	
EP6 Settlement Boundaries	Y	See below
EP12 Management and Enhancement Water	N	
NPF4 policy 1		
NPF4 policy 2		
NPF4 policy 4		
NPF4 policy 9		

NPF4 policy 13		
NPF4 policy 14		
NPF4 policy 16		
NPF4 policy 22		

REPRESENTATIONS		
Representations Received	YES	
Total number of representations received: TWO		
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> The development is a linear expansion beyond the village boundary as identified in the Local Plan and the Local Plan expressly states that linear extension along the B9040 is not supported.</p> <p><b>Comments (PO):</b> This concern is noted and forms part of the reason for refusal as detailed below.</p>		
<p><b>Issue:</b> The style of building is not in keeping with the rest of the village and is inappropriate at the entrance to the village.</p> <p><b>Comments (PO):</b> The building has been designed in a simple and functional style. It is a large structure but the height ties in with that of the existing garage and the house is significantly higher. The form and style is not untypical of garages and outbuildings in rural areas but it is acknowledged that it would be prominent in this setting on the edge of the settlement.</p>		
<p><b>Issue:</b> There is space at the rear of the house to accommodate such a development.</p> <p><b>Comments (PO):</b> The application must be assessed as presented. The agent highlights in the supporting statement that the possibility of moving the building was discussed during the course of the application but this is not acceptable to the applicant as it would take up a large portion of the existing garden.</p>		

## OBSERVATIONS – ASSESSMENT OF PROPOSAL

Following consideration of the revised draft National Planning Framework 4 (NPF4) which was approved by Parliament on 11 January 2023, NPF4 is now a material consideration and will be given significant weight in the consideration of planning applications on a case by case basis. NPF4 is due to be adopted on 13 February 2023.

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moral Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

The main planning issues are considered below:

### The Proposal

This application seeks permission for change of use of a 5m wide strip of farm land to garden ground

in order to site a domestic garage/storage building. Half the proposed building will be sited on the land that is the subject of the change of use while the rest is within the existing garden ground of the house.

### **The Site**

The building is to be sited to the west of the existing house which fronts the main road (B9040) through Cummingston. The house is the westernmost house in Cummingston on the north side of the road. There is an existing garage in the eastern part of the site which sits between the house and the road. The settlement boundary of Cummingston as identified in the Moray LDP follows the current boundary of the house. The land to the west which the application seeks to incorporate into the garden ground of the subject property is currently farm land. At present there is a clear boundary between the farmland and garden which is currently delineated by a fence and wall. The site is within the Burghead to Lossiemouth Coast Special Landscape Area (SLA).

### **Siting (EP6 & Cummingston Settlement Text)**

Policy EP6 states that proposals immediately outwith the boundaries of settlements will not be acceptable unless part of a LONG designation. The Settlement text for Cummingston goes beyond this stating explicitly that a key development strategy/placemaking objective for the village is to restrict growth to prevent coalescence with Hopeman and Burghead and specifically that linear extension along the B9040 is not supported. The current proposal seeks to incorporate a 5m wide strip of farm land into an existing garden in order to site the building proposed. This would be a linear extension along the B9040 and encroachment onto land immediately outwith the settlement boundary. The proposed expansion of the settlement to the west by 5m is relatively small scale but incremental increases of this kind have the potential to gradually erode the character of a settlement. At present the western boundary of the village is clearly defined and well delineated. The expansion of the existing garden to site the proposed building would be an extension of the build area of Cummingston that does not respect the established pattern of development and erodes the distinction between Cummingston and Burghead which is to the west. The proposal is clearly at odds with the stated aims of the settlement text for Cummingston which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. The siting of this development is contrary to policy and it is therefore refused.

### **Design, Materials and Impact on the Special Landscape Area (SLA) (DP1 & EP3)**

Policy EP3 requires development within defined settlements in a SLA to conform to the requirements of Settlement Statements and all other policies of the LDP and reflect the traditional settlement character in relation to siting and design. In this case the proposal is a clear departure from the clearly stated aim in the settlement statement to prevent linear development along the B9040 and further coalescence with Burghead to the west. This application would be a breach of the established boundaries of the village and result in additional built development along the roadside. A building of the scale proposed would be prominent in this location on the very edge of the settlement. The development does not reflect the traditional settlement pattern and as such is contrary to policy EP3.

Policy DP1 (i) (a) requires development to be of a scale that is appropriate to the character of the area and as noted above policy EP3 requires development within defined settlements to reflect the character of that settlement. The proposed building is large measuring 10m x 10m and 5 m to the ridge. It is noted that it would be lower than the existing house and in line with the existing garage. It has been designed in a simple style with a symmetrically pitched roof and a large roller door on the front (south) elevation. The proposed materials are grey metal cladding on the walls and slate blue metal sheeting on the roof. The design is typical of many outbuildings found in rural areas albeit large in a domestic setting. While the design and materials are of a type that could be accommodated in a less sensitive location a building of this size would be prominent in this location on the very edge of the village breaching the settlement boundary. Furthermore it would be at odds with the aims of the settlement statement which seeks to prevent further linear development along the B9040 and Policies DP1 and EP3 which requires development to conform with traditional

settlement character in terms of siting and design. The proposal is contrary to policy DP1 (i) (a) and policy EP3.

### **Precedent**

It is noted that the Supporting Statement highlights the planning history of this site and suggests that this would set a precedent for the current proposal. The statement (p.5) states that part of the existing curtilage is technically outwith the settlement boundary and that the house was approved as an acceptable departure. This is not the case as the house was assessed (16/00□□1/APP refers) as being in accordance with policy as it was contained within the settlement and the mapping associated with the LDP shows the settlement boundary follows that of the existing garden ground. A further application (17/00□30/APP) was approved to increase the boundaries of the property to the north to incorporate farm land into garden ground. This was a departure from policy as it extended the boundaries of the property outwith the settlement boundary and encroached on the Coastal Protection Zone which was in force at the time. In approving that proposal as an acceptable departure the case officer noted that the expansion was logical as it brought the northern boundary of the property in line with that of the neighbouring property to the east and did not prejudice the aims or objectives of the settlement boundary policy or coastal protection zone policy. The case officer also noted that no built development was proposed as part of that application. The circumstances which made the previous case an acceptable departure do not apply in this instance. Restricting the linear expansion of the village along the road is an express aim of the LDP and this proposal deviates from that as it would result in additional built development along the road on land that is not currently part of the village. While planning history is a material consideration each application must be considered on its own merits. In this case cognisance of the planning history does not alter the assessment that the proposal is contrary to policy and should be refused.

### **Access and Parking (DP1)**

The application seeks to form a new vehicular access in the western part of the site and the existing access will be converted to a pedestrian access only. An area is identified within the site for turning and parking. The Transportation Section has no objection subject to conditions requiring the existing access to be blocked off prior to completion or first use of the building, the new access to be formed to an acceptable standard and to ensure boundary treatments don't obscure visibility or encroach on the footway. Transportation also recommend conditions in relation to parking and turning. The recommended conditions would ensure safe entry and exit to the site and adequate parking and turning as required by policy DP1 (ii) (a) and (e).

### **Drainage (EP12)**

A surface water soakaway is proposed to serve the garage. Additional calculations have been provided to support this element of the scheme. Following the receipt of the further information MFRM have confirmed that they have no objection. The timely provision of the Suds measures could be controlled by condition. The proposals would ensure that the surface water from the development was dealt with in a sustainable manner in accordance with policy EP12.

### **National Planning Framework 4**

NPF4 is now a significant material consideration in the determination of planning applications. The relevant provisions of NPF4 are not considered to change the evaluation of the proposal as outlined above, noting that there are a limited number of policies relevant to this proposal in NPF4 namely policies 1, 2, 4, 9, 13, 14, 16 □ 22

### **Recommendation**

This application proposes the change of use of farm land to garden ground in order to accommodate a large building on the western edge of Cummington. The proposal is clearly at odds with the stated aims of the settlement text for Cummington which explicitly states that linear extension along the B9040 will not be accepted and is a breach of policy EP6 which presumes against development immediately outwith settlement boundaries. A building of this scale in a prominent road side location



such as this is not in keeping with the character of this part of Cummingston and is contrary to policies DP1 (i) (a) and policy EP3. The siting of this development is contrary to policy and it is therefore refused.

## OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

## HISTORY

Reference No.	Description			
17/00□30/APP	Change of use from agricultural land to garden ground on Land To Rear Of Former Filling Station Main Street Cummingston Moray			
	Decision	Permitted	Date Of Decision	31/07/17
16/00□□1/APP	Demolish building and erect 2 storey dwellinghouse with integral garage and associated works at Old Filling Station Cummingston Elgin Moray IV30 5XY			
	Decision	Permitted	Date Of Decision	20/07/16

## ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Northern Scot	Departure from development plan	09/01/23	
PINS	Departure from development plan	09/01/23	

## DEVELOPER CONTRIBUTIONS (PGU)

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

## DOCUMENTS, ASSESSMENTS etc. \*

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

Supporting information submitted with application□	YES	
Summary of main issues raised in each statement/assessment/report		
Document Name:	Planning Statement	
Main Issues:	Explanation of the proposal.	
	Justification for departure from policy including precedent of previous permission.	
Document Name:	Drainage Statement	
Main Issues:	Calculations to support the proposed soakaway.	

## 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 DMR200 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**

**[Heldon And Laich]  
Application for Planning Permission**

TO Mr John Marshall  
c/o Machin Dunn + MacFarlane  
11 Bank Street  
Alloa  
FK10 1HP

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:-

**Change of use to garden ground and erect a garage/storage shed at The Forecourt Cummingston Elgin Moray**

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

Date of Notice: **19 January 2023**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

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

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

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

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

1. The proposals is contrary to Moray Local Development Plan Policies 2020 EP6 and the Cummingston Settlement Text as the proposal would introduce a large building at the edge of the village on land that is immediately outwith the existing settlement boundary resulting in additional linear roadside development along the B9040 and increasing the potential for coalescence with surrounding settlements.
2. The proposals is contrary to Moray Local Development Plan Policies 2020 DP1 (i) (a) and EP3 as the development fails to reflect the traditional settlement character in terms of siting and design as the siting of a building of this size in this prominent location would not reflect the character of this part of the village.

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

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

Reference	Version	Title
100		Proposed SW drainage layout and details
2273/P/1.02		Elevations and floor plans
2273/P/1.01		Location plan
2273/P/1.03		Proposed drainage strategy and layout

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

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

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be

permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.







# **APPENDIX 3**

## **APPOINTED OFFICER AND INTERESTED PARTIES RESPONSES TO NPF4**



## Lissa Rowan

---

**From:** Lisa MacDonald  
**Sent:** 15 March 2023 11:34  
**To:** Lissa Rowan  
**Subject:** RE: 22/01594/APP - The Forecourt Cummingston

Hi Lissa

I can confirm that no additional information has been submitted.

I can also confirm that assessing the application against NPF4 would not lead me to a different conclusion.

NPF4 policy 4 (d) states that development proposals that affect a site designated as a local landscape area will only be supported where development will not have a significant adverse effect on the integrity of the area or the qualities for which it has been identified or any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits or at least local importance. Policy 16 (g) states that householder proposals will be supported where they do not have a detrimental impact on the character or environmental quality of the home and surrounding area in terms of size, design and materials. A building of this scale and design in this prominent location would not reflect the character of this part of the village therefore it is considered to be contrary to NPF4 policies 4 (d) and 16 (g).

Regards

Lisa

Lisa MacDonald MRTPI | Senior Planning Officer (Development Management) | Economic Growth & Development  
[lisa.macdonald@moray.gov.uk](mailto:lisa.macdonald@moray.gov.uk) | [website](#) | [facebook](#) | [twitter](#) | [instagram](#) | [news](#)  
01343 563479 | 07779888566



Please note my working pattern is Tuesday-Friday



# **APPENDIX 4**

## **APPLICANT'S RESPONSE TO NPF4**



**Lissa Rowan**

---

**From:** Neil MacFarlane <neil@mdm-architecture.co.uk>  
**Sent:** 04 April 2023 13:52  
**To:** Lissa Rowan  
**Subject:** RE: Notice of Review: Planning Application 22/01594/APP  
**Attachments:** LR286 - NPF Response - Appointed Officer.pdf

**Warning. This email contains one or more attachments and originates from outside of the Moray Council network.**

**You should only open these attachments if you are certain that the email is genuine and the content is safe.**

**Warning. This email contains web links and originates from outside of the Moray Council network.**

**You should only click on these links if you are certain that the email is genuine and the content is safe.**

Afternoon Lissa,

Many thanks for sending through the appointed officers comments in relation to NPF4.

Having reviewed the comments, it is our considered view that the nature of our proposals would not have a significant adverse impact on the local landscape area. While every development, including ours, has some degree of impact on its surroundings, a judgement has to be carefully exercised as to the scale of such an impact, particularly the use of the words 'significant adverse impact'.

As our proposals can be read against the backdrop of the existing property, the scale of impact on the wider area is greatly reduced. We have specifically sought to provide a building which is subservient to the main building on the major part of the site. While we acknowledge that the nature of our proposal extends into the local landscape area, similarly, it ought to be noted by that a significant element of our proposal is contained within the existing settlement boundary - and that it is only in part that our proposals go beyond that settlement boundary.

In accepting that our proposals have some impact, we contend that this is moderated by the scale of the proposal in comparison to the existing dwelling house and the specific micro siting that we adopted for its positioning on the site. We would accept there is some degree of impact, as there is with all proposals, but would strongly contest that this results in a 'significant adverse impact' on the local landscape area. The local landscape area's characteristics will not be unduly harmed were our proposal to be accepted.

We would therefore contend that our proposals are not contrary to NPF4 policies 4 (d) nor 16 (g) for the reasons outlined above.

Can you confirm if any additional comments have been raised by interested parties as yet (I appreciate today is the last day by which they must be returned), and if not, can you confirm whether the dates indicated previously in relation to the case being heard still apply.

Many thanks for all assistance.

Kind Regards,  
Neil MacFarlane  
*DIRECTOR*  
machin dunn + macfarlane

machin dunn + macfarlane and mdm architects are trading names of Machin Dunn and MacFarlane Limited. The entire content of our emails is confidential and solely for the use of the individual or entity to which it is addressed and may contain material which is privileged or exempt from disclosure under applicable law. If you are not the





## MORAY LOCAL REVIEW BODY

20 APRIL 2023

### SUMMARY OF INFORMATION FOR CASE No LR287

**Planning Application 22/01423/APP – Change of use from amenity to garden ground with erection of 1.8m timber fence at 10 Linksvie Road, Mosstodloch**

#### **Ward 4 – Fochabers Lhanbryde**

The proposed development departs from the Moray Local Development Plan 2020 Policy EP5 Open Space and Mosstodloch designation ENV6 Natural/Semi-Natural Greenspace which require ENV designations in settlement statements to be retained as open space and where the proposal does not constitute one of the policy exemptions to the retention of open space. The ENV designation has been reinforced by the Mosstodloch Settlement Statement, superseding the previous erosion of the designation from past consents. The proposal is therefore unacceptable.

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

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

No further representations were received.

At the meeting of the Moray Local Review Body (MLRB) on 16 February 2023, the MLRB noted that National Planning Framework 4 (NPF4) had been adopted by the Council on Monday 13 February 2023 and that all planning applications determined beyond this date would have to take NPF4 into consideration, as this is now part of the MLDP 2020. The MLRB asked for further information from the Appointed Officer, Interested Parties and the Applicant in light of NPF 4.

The Appointed Officer's response is attached as **Appendix 3**. There was no response from any of the Interested Parties.

The Applicant's response to the Appointed Officer's comments are attached at **Appendix 4**.









# **APPENDIX 1**

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







The Moray Council Council Office High Street Elgin IV30 1BX Tel: 0300 1234561 Email: development.control@moray.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100596173-001

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)

Change of use from amenity to private garden for an area of land totalling 360 metres squared to the rear of 10 Linksfield Road. Solely to extend the current garden area. Erection of 1.8 traditional slatted timber fence around new boundary to enclose proposed new extended garden space off from public.

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

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Carrie"/>	Building Number:	<input type="text" value="10"/>
Last Name: *	<input type="text" value="Cuthill"/>	Address 1 (Street): *	<input type="text" value="Linksfield Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Mosstodloch"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV32 7LB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## Site Address Details

Planning Authority:	<input type="text" value="Moray Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="10 LINKSFIELD ROAD"/>
Address 2:	<input type="text" value="MOSSTODLOCH"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="FOCHABERS"/>
Post Code:	<input type="text" value="IV32 7LB"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="860203"/>	Easting	<input type="text" value="332360"/>
----------	-------------------------------------	---------	-------------------------------------

## Pre-Application Discussion

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

☒ Yes ☐ No

## Pre-Application Discussion Details Cont.

In what format was the feedback given? \*

☐ Meeting ☒ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Spoke with Duty Planning Officer on 22/8/22 at 13:25 via telephone - gentleman but didn't catch his name. Confirmed change of use application would be needed and that he knew others had been granted planning permission for the same thing in the past and did not foresee any issues.

Title:

Other title:

First Name:

Last Name:

Correspondence Reference Number:

Date (dd/mm/yyyy):

In what format was the feedback given? \*

☐ Meeting ☒ Telephone ☐ Letter ☐ Email

Please provide a description of the feedback you were given and the name of the officer who provided this feedback. If a processing agreement [note 1] is currently in place or if you are currently discussing a processing agreement with the planning authority, please provide details of this. (This will help the authority to deal with this application more efficiently.) \* (max 500 characters)

Informed that a departure from policy would be required as the land is currently designated as ENV in LDP. Homeowners along Linksfield and Pinewood Road have been granted permission for the same land use change and a precedence has been set for an acceptable departure from policy. Also confirmed what the application fee would be.

Title:

Mr

Other title:

First Name:

Iain

Last Name:

Drummond

Correspondence Reference Number:

N/A

Date (dd/mm/yyyy):

25/08/2022

Note 1. A Processing agreement involves setting out the key stages involved in determining a planning application, identifying what information is required and from whom and setting timescales for the delivery of various stages of the process.

## Site Area

Please state the site area:

360.00

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)

Amenity land currently owned by Crown Estate Scotland. Unused land currently grown over with gorse bushes.

## Access and Parking

Are you proposing a new altered vehicle access to or from a public road? \*  $\leq$  Yes **T** 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? \*  $\leq$  Yes **T** 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)? \*

0

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? \*  $\leq$  Yes **T** No

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

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? \*

$\leq$  Yes

$\leq$  No, using a private water supply

**T** 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? \*  $\leq$  Yes **T** No  $\leq$  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? \*  $\leq$  Yes **T** No  $\leq$  Don't Know

<h2 style="margin: 0;">Trees</h2> <p style="margin: 10px 0;">Are there any trees on or adjacent to the application site? * <span style="float: right;">≤ Yes T No</span></p> <p style="margin: 10px 0;">If Yes, please mark on your drawings any trees, known protected trees and their canopy spread close to the proposal site and indicate if any are to be cut back or felled.</p>
<h2 style="margin: 0;">Waste Storage and Collection</h2> <p style="margin: 10px 0;">Do the plans incorporate areas to store and aid the collection of waste (including recycling)? * <span style="float: right;">≤ Yes T No</span></p> <p style="margin: 10px 0;">If Yes or No, please provide further details: * (Max 500 characters)</p> <div style="border: 1px solid black; padding: 10px; min-height: 60px; margin: 10px 0;"> <p>Solely extending garden area - no waste is being generated or stored on the land.</p> </div>
<h2 style="margin: 0;">Residential Units Including Conversion</h2> <p style="margin: 10px 0;">Does your proposal include new or additional houses and/or flats? * <span style="float: right;">≤ Yes T No</span></p>
<h2 style="margin: 0;">All Types of Non Housing Development – Proposed New Floorspace</h2> <p style="margin: 10px 0;">Does your proposal alter or create non-residential floorspace? * <span style="float: right;">≤ Yes T No</span></p>
<h2 style="margin: 0;">Schedule 3 Development</h2> <p style="margin: 10px 0;">Does the proposal involve a form of development listed in Schedule 3 of the Town and Country Planning (Development Management Procedure (Scotland) Regulations 2013 * <span style="float: right;">≤ Yes ≤ No T Don't Know</span></p> <p style="margin: 10px 0;">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.</p> <p style="margin: 10px 0;">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.</p>
<h2 style="margin: 0;">Planning Service Employee/Elected Member Interest</h2> <p style="margin: 10px 0;">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? * <span style="float: right;">≤ Yes T No</span></p>
<h2 style="margin: 0;">Certificates and Notices</h2> <p style="margin: 10px 0;">CERTIFICATE AND NOTICE UNDER REGULATION 15 – TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (SCOTLAND) REGULATION 2013</p> <p style="margin: 10px 0;">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.</p> <p style="margin: 10px 0;">Are you/the applicant the sole owner of ALL the land? * <span style="float: right;">≤ Yes T No</span></p> <p style="margin: 10px 0;">Is any of the land part of an agricultural holding? * <span style="float: right;">≤ Yes T No</span></p> <p style="margin: 10px 0;">Are you able to identify and give appropriate notice to ALL the other owners? * <span style="float: right;">T Yes ≤ No</span></p>

## 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:

Address:

Crown Estate Scotland Crown Estate Scotland, Quartermile 2, 2nd Floor, 2, 2 Lister Square, Edinburgh, EH3 9GL

Date of Service of Notice: \*

23/09/2022

(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: Mrs Carrie Cuthill

On behalf of:

Date: 29/09/2022

☐ 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	T	N/A
A Design Statement or Design and Access Statement. *	≤	Yes	T	N/A
A Flood Risk Assessment. *	≤	Yes	T	N/A
A Drainage Impact Assessment (including proposals for Sustainable Drainage Systems). *	≤	Yes	T	N/A
Drainage/SUDS layout. *	≤	Yes	T	N/A
A Transport Assessment or Travel Plan	≤	Yes	T	N/A
Contaminated Land Assessment. *	≤	Yes	T	N/A
Habitat Survey. *	≤	Yes	T	N/A
A Processing Agreement. *	≤	Yes	T	N/A

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

## Declare – For Application to Planning Authority

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

Declaration Name: Mrs Carrie Cuthill

Declaration Date: 01/10/2022

## Payment Details

Online payment: 003977

Payment date: 01/10/2022 17:48:33

Created: 01/10/2022 17:48

1. Do not scale drawing. All dimensions and levels to be verified on site by Contractor.
2. Any discrepancies to be reported to the designer.

Revisions:



CP Plans  
2 Balvenie Park  
Elgin  
IV30 8AJ

Tel: 07467 231872  
cpplanselgin@gmail.com

Job Title

New rear boundary fence  
at 10 Linksfield Road  
Mosstodloch  
IV32 7LB

Drawing Title

Fence & gate plan

Drawing Number

PL-01

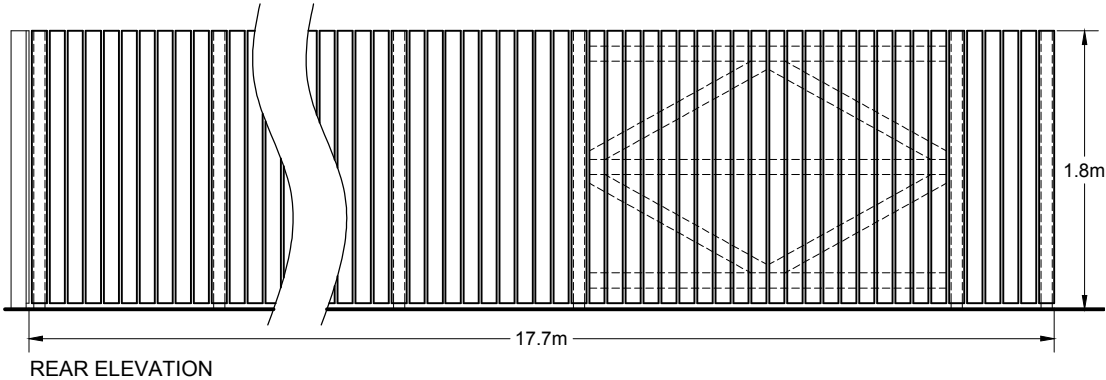
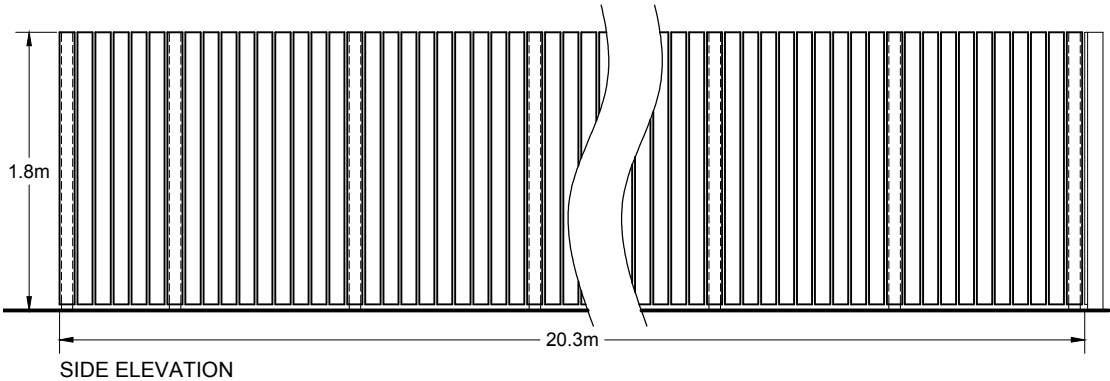
Scale	Date	Rev
1:200	Oct 22	

Drawing by CP



1. Do not scale drawing. All dimensions and levels to be verified on site by Contractor.
2. Any discrepancies to be reported to the designer.

Revisions:



CP Plans  
2 Balvenie Park  
Elgin  
IV30 8AJ

Tel: 07467 231872  
cpplanselgin@gmail.com

Job Title  
New rear boundary fence  
at 10 Linksfield Road  
Mosstodloch  
IV32 7LB

Drawing Title  
Fence elevations

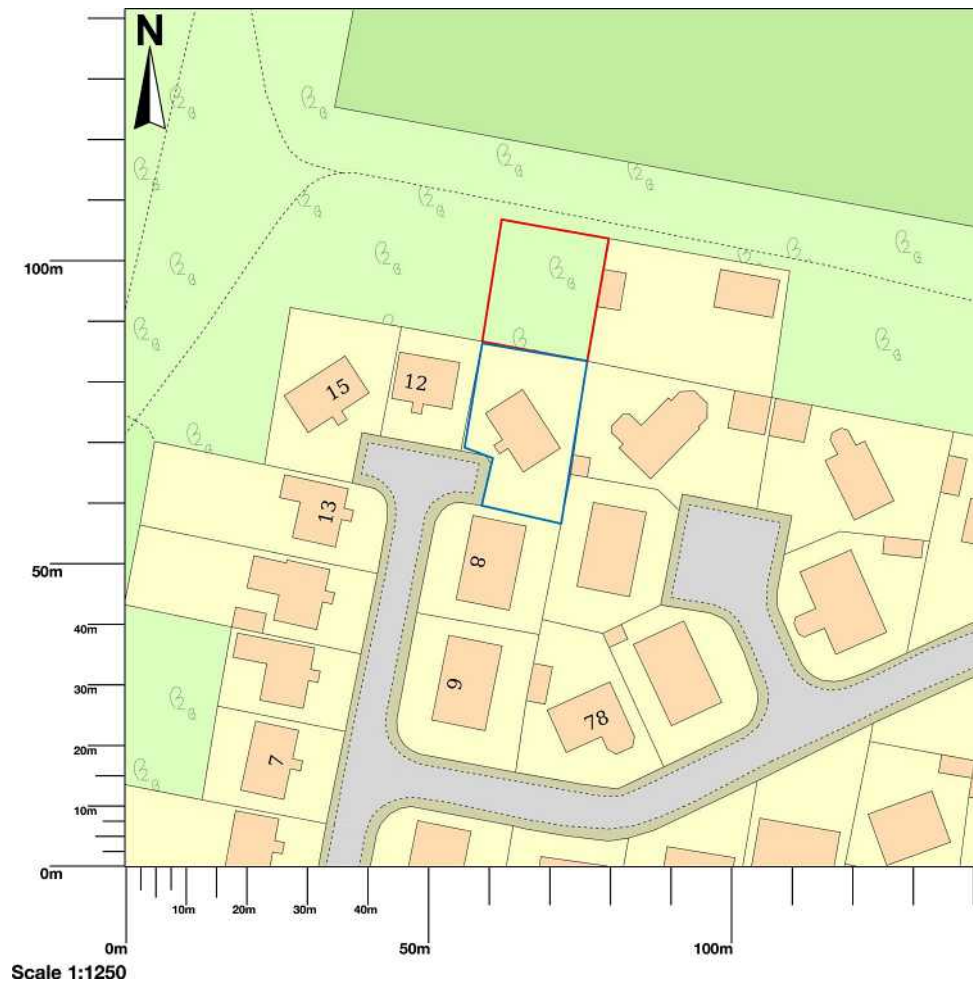
Drawing Number  
PL-02

Scale	Date	Rev
1:50	Oct 22	
Drawing by CP		



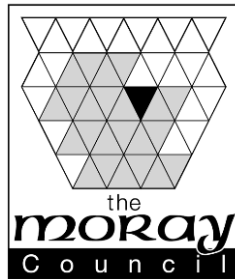


## 10 Linksfield Road, Mosstodloch, Fochabers, IV32 7LB



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## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

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Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 031
- Site address: 72 Pinewood Road, Mosstodloch
- Application for review by Mr Iain MacLeod against the decision by an Appointed Officer of Moray Council.
- Application 10/01928/APP : Retrospective change of use of waste ground to garden ground.
- Unaccompanied site inspection carried out by the MLRB on Monday 25 July 2011.
- Date of Decision Notice: August 2011

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#### Decision

The MLRB agreed to uphold the request for review and grant retrospective planning permission for the change of use of waste ground to garden ground.

#### 1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for full planning permission was considered by the MLRB at meetings on 26 May and 28 July 2011. The Review Body was attended at both meetings by Councillors B Jarvis (Chairman), L Creswell & G Leadbitter.

#### 2.0 Proposal

- 2.1 This is an application for retrospective planning permission for the change of use from waste ground to garden ground at 72 Pinewood Road, Mosstodloch.

### **MLRB Consideration of request for review**

- 3.1 At the meeting of the MLRB on 26 May 2011 there was submitted a Summary of Information report setting out the reasons for refusal together with a copy of the Report of Handling, a copy of the Notice of Review and a copy of the Grounds for Review and supporting documents
- 3.2 Following consideration of the case papers the MLRB agreed that it did not have sufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policies E4, ENV6, ENV10 and IMPI of the Moray Local Plan 2008. The MLRB also requested that the Planning Adviser attend the unaccompanied site inspection.
- 3.3 Councillor Leadbitter referred to the reference in the Report of Handling to seven properties having extended their garden ground/curtilage into the amenity strip and requested that clarification be sought from the Appointed Officer in regard to the locations of these properties and the current position regarding enforcement proceedings which may be ongoing. He also referred to a reference in the appellant's grounds for review in regard to 'advice received at the time was to fence off the purchased piece of ground' and requested that the appellant be requested to clarify from whom this advice had been obtained, for instance the Appellant's own legal adviser, or an officer of the Council. The MLRB agreed that the information requested by Councillor Leadbitter be obtained through the 'Written Submission' procedures set out in Regulation 15 of the Town & Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 and the responses thereto submitted to the next meeting of the MLRB following expiry of the written submission procedure timescales and the unaccompanied site inspection.
- 3.4 At the meeting of the MLRB on 28 July 2011 there was submitted a 'Summary of Information' report detailing the outcome of the MLRB's previous consideration of the request for review and advising the unaccompanied site inspection was carried out on Monday 25 July 2011. There were also appended to the report as Appendices 1& 2 respectively a response from the Appointed Officer to the written submission request and one from the appellant.
- 3.5 In regard to the unaccompanied site inspection the Planning Adviser advised the meeting that on arrival at the site he reminded members of the MLRB of the reasons for refusal and the appellant's grounds for review. Members then viewed the site under review and accessed the track to the rear of the property and proceeded along the track to the west to see other examples where enclosure for additional garden ground had taken place.
- 3.6 The MLRB agreed that it had sufficient information and proceeded to determine the request for review.
- 3.7 Councillor Jarvis sought clarification in regard to the reasoning for establishing a 'buffer zone' between the housing development and agricultural land. The Planning Adviser advised the meeting that the reason was in order to provide separation between the agricultural land to the north and the settlement of Mosstodloch and provides a distinction between the two and the amenity value of it.

- 3.8 Thereafter Councillor Jarvis expressed the view, having considered all aspects of the case and having the opportunity to visit the site, that rather than being detrimental to the concept of the area being an informal recreational open space or having a significant and detrimental impact on the amenity of the area the enclosed additional garden ground was a significant improvement to the area and for these reasons the request for review should be upheld and retrospective consent granted. Councillor Creswell supported Councillor Jarvis's views and added that, in her opinion, the enclosed additional garden ground enhanced the area rather than having a detrimental impact as implied in the grounds for refusal.
- 3.9 Councillor Leadbitter intimated that there were no objections to the proposal from the community and expressed the view that given several parcels of amenity land had been acquired by householders for additional garden ground it would be very difficult to develop the amenity zone in a planned manner. He also expressed the view that it was clear from the site inspection that the amenity on the north side of the core path is much more sympathetic than the amenity to the south side of the core path bordering the houses, which can be described as scrub land. He was also of the view that the core path is clearly defined and the enclosed additional areas of garden ground do not encroach onto the path. Councillor Leadbitter also referred to Policies E4, ENV6 & ENV10 and was of the opinion that whilst the enclosure of the additional garden ground does not outweigh the value of the open space its conversion into garden ground in this case provides a greater degree of amenity and enhances the area. He was also of the view that the provision of additional garden ground was, in effect, an improvement to the landscaped setting as opposed to what previously existed. It was in his opinion the areas to the north and west of the core path that require to be protected. For these reasons Councillor Leadbitter was also of the view that the request for review should be upheld and retrospective consent granted for the change of use to garden ground.
- 3.10 Thereafter the MLRB agreed that the views expressed by the MLRB members were a material consideration of such weight to justify departing from policy and agreed that the request for review and be granted and retrospective planning consent be granted as an acceptable departure from the Moray Local Plan 2008, subject to standard conditions.

.....  
**Rhona Gunn**  
**Legal Adviser to the MLRB**

## **CONDITIONS**

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

## **REASONS**

1. The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area



## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### **Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)**

#### **Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.**

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
- 2 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 V of the Town and Country Planning (Scotland ) Act 1997.

















# **Consultee Comments for Planning Application 22/01423/APP**

## **Application Summary**

Application Number: 22/01423/APP

Address: 10 Linksfield Road Mosstodloch Fochabers Moray IV32 7LB

Proposal: Change of use from amenity to garden ground and erect a 1.8m high timber fence at

Case Officer: Dominic Batty

## **Consultee Details**

Name: Mr CL Consultations

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

Email: Not Available

On Behalf Of: Contaminated Land

## **Comments**

Approved unconditionally by Adrian Muscutt (21.10.2022)



## **REPORT OF HANDLING**

<b>Ref No:</b>	22/01423/APP	<b>Officer:</b>	Dominic Batty
<b>Proposal Description/ Address</b>	Change of use from amenity to garden ground and erect a 1.8m high timber fence at 10 Linksfield Road Mosstodloch Fochabers Moray		
<b>Date:</b>	09.12.2022	<b>Typist Initials:</b>	LMC

### **RECOMMENDATION**

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

### **CONSULTATIONS**

<b>Consultee</b>	<b>Date Returned</b>	<b>Summary of Response</b>
Contaminated Land	25/10/22	No objection

### **DEVELOPMENT PLAN POLICY**

<b>Policies</b>	<b>Dep</b>	<b>Any Comments (or refer to Observations below)</b>
PP3 Infrastructure and Services	N	
EP2 Biodiversity	N	
EP5 Open Space	Y	
EP7 Forestry Woodland and Trees	N	

### **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

### Legislation

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the adopted Moray Local Development Plan 2020 (MLDP2020) unless material considerations indicate otherwise. The main planning issues are considered below:

### Site

The site is located to the rear of the property at 10 Linksfield Road. The site is bound by a public footpath to the rear. There is a neighbouring site to the east.

Under the MLDP2020 Mosstodloch Settlement Statement, the site is designated ENV6 Natural/Semi-Natural Greenspace.

### Proposal

This application seeks consent for a change of use from public amenity to private garden ground and to erect a 1.8m high timber fence surrounding the site. The proposed fence would have a perimeter of 38m. A 2.4m wide double gate would be included on the north elevation.

### Policy Assessment

#### **Open Space (EP5)**

The Site is designated ENV6 Natural/Semi-Natural Greenspace under the Mosstodloch Settlement Statement. Under the MLDP2020 Policy EP5 Open Space, development which would result in a change of use of a site identified under the ENV designation in settlement statements to anything other than open space will be refused. Neighbouring properties previously eroded this ENV6 designation with similar developments under previous Local Development Plans but the designation has since been reinforced by the Mosstodloch Settlement Statement, which has mapped around these previous infringements into the ENV area. The MLDP2020 takes primacy over any older policy document and Policy EP5 must be followed in this decision.

Within policy EP5 Open Space there are several exceptions identified that might permit development within ENV designations. These are where essential community infrastructure is required to deliver the key objectives of the Council and its Community Planning Partners. The proposal for private garden ground does not constitute one of the exemptions referred to, and therefore must be refused.

The designation acknowledges the existing incursions as can be seen in the Settlement Statement map but still seeks to prohibit further incursions as specifically stated. On this basis, the proposed development deviates from the MLDP2020 Policy EP5 Open Space.

### Decision

Refusal of development.

## OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

### **HISTORY**

Reference No.	Description			
99/00020/AGR	Erect general purpose building at Viewfield Mosstodloch Fochabers Moray			
	<b>Decision</b>	Permitted	<b>Date Of Decision</b>	28/01/99



ADVERT		
Advert Fee paid?	Yes	
Local Newspaper	Reason for Advert	Date of expiry
Northern Scot	No Premises	17/11/22
PINS	No Premises	17/11/22

DEVELOPER CONTRIBUTIONS (PGU)	
Status	None Sought

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

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

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]  
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:-

**Change of use from amenity to garden ground and erect a 1.8m high timber fence at 10 Linksfield Road Mosstodloch Fochabers Moray**

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

Date of Notice: **13 December 2022**



**HEAD OF ECONOMIC GROWTH AND DEVELOPMENT**

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

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

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

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

The proposed development departs from the Moray Local Development Plan 2020 Policy EP5 Open Space and Mosstodloch designation ENV6 Natural/Semi-Natural Greenspace which require ENV designations in settlement statements to be retained as open space and where the proposal does not constitute one of the policy exemptions to the retention of open space. The ENV designation has been reinforced by the Mosstodloch Settlement Statement, superseding the previous erosion of the designation from past consents. The proposal is therefore unacceptable.

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

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

Reference	Version	Title
PL-01		Fence and gate location
PL-02		Fence elevations
		Location 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.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

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



## **APPENDIX 2**

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







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

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100615615-001

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

## Applicant or Agent Details

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

☒ Applicant ☐ Agent

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="Carrie"/>	Building Number:	<input type="text" value="10"/>
Last Name: *	<input type="text" value="Cuthill"/>	Address 1 (Street): *	<input type="text" value="Linksfield Road"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value=""/>	Town/City: *	<input type="text" value="Mosstodloch"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV327LB"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text" value=""/>		

## Site Address Details

Planning Authority:

Moray Council

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

Address 1:

10 LINKSFIELD ROAD

Address 2:

MOSSTODLOCH

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

FOCHABERS

Post Code:

IV32 7LB

Please identify/describe the location of the site or sites

Northing

860203

Easting

332360

## 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)

Change of use from amenity to garden ground with erection of 1.8m timber fence.

## 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? * <input checked="" type="checkbox"/> Refusal Notice. <input type="checkbox"/> Grant of permission with Conditions imposed. <input type="checkbox"/> No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.	
<b>Statement of reasons for seeking review</b> 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. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">           Please refer to uploaded document "22-01423-APP_LRB_Statement" in Supporting Documents section.         </div>	
Have you raised any matters which were not before the appointed officer at the time the Determination on your application was made? * <span style="float: right;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No         </span>	
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) <div style="border: 1px solid black; height: 60px; margin-top: 10px;"></div>	
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) <div style="border: 1px solid black; padding: 5px; margin-top: 10px;">           22-01423-APP_LRB_Statement, Appendix_1_10-01928-APP_LRB_Decision, Drawing PL_01 Plan, Drawing PL-02_Fence Elevations, Location Plan, Photographs within LRB Statement (and more on request).         </div>	
<b>Application Details</b>	
Please provide the application reference no. given to you by your planning authority for your previous application.	<div style="border: 1px solid black; padding: 2px;">22/01423/APP</div>
What date was the application submitted to the planning authority? *	<div style="border: 1px solid black; padding: 2px;">17/10/2022</div>
What date was the decision issued by the planning authority? *	<div style="border: 1px solid black; padding: 2px;">13/12/2022</div>

## Review Procedure

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

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

☐ Yes ☒ No

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

Please select a further procedure \*

By means of inspection of the land to which the review relates

Please explain in detail in your own words why this further procedure is required and the matters set out in your statement of appeal it will deal with? (Max 500 characters)

I would respectfully invite the Members' to consider carrying out a site inspection along the rear of both Pinewood and Linksfield Road in order to see this specific area of land in question and how it relates to the maintenance of the core path, open space and amenity of dog walkers etc, as mentioned within appeal statement.

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

## Checklist – Application for Notice of Review

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

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

☒ Yes ☐ No

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

☒ Yes ☐ No

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

☐ Yes ☐ No ☒ N/A

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

☒ Yes ☐ No

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

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

☒ Yes ☐ No

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

## Declare – Notice of Review

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

Declaration Name: Mrs Carrie Cuthill

Declaration Date: 09/03/2023

# Appellant's Supporting Statement to Moray Council Local Review Body

Appeal of decision for refusal 22/01423/APP by The Cuthill Family

## Background

A Notice of Request for Review under Section 43(a)8 of the Town and Country Planning (Scotland) Act 1997 (as amended) and the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 has been submitted to Moray Council on 9<sup>th</sup> March 2023. This Supporting Statement has been prepared to aid Members' consideration of the review.

Planning application 22/01423/APP was submitted on 3<sup>rd</sup> October 2022 and a decision of refusal made under delegated powers was issued on 13<sup>th</sup> December 2022.

The proposal is for "change of use from amenity to garden ground and erect a 1.8m high timber fence" to the rear of existing residential property at 10 Linksfield Road, Mosstodloch.

The single reason for refusal provided within the case officer's report of handling is a departure to Local Development Plan (MLDP2020) Policy 'EP5 Open Space'.



## The Site

The Site is located to the rear, north, of the existing garden ground at 10 Linksfield Road. The land here is designated ENV6 Natural/Semi-Natural Greenspace, under the Mosstodloch Settlement Statement.

Notwithstanding this designation in the MLDP2020, in reality the land is, at best, amenity space used primarily by dogwalkers to access the woods near the properties at Linksfield Road.

Presently, and as evidenced by the photographs enclosed with this submission, the area is dominated by gorse bushes, over 10 feet tall in some places. The vegetation is not regularly maintained and homeowners will typically clear areas to the rear of their own property.

This area was once owned by a developer, Strathdee Properties, with the intention of delivering housing development. Over the past 20+ years there has been no meaningful intervention with the land, resulting in its current state. It is open space in the sense that there is no development upon it, therefore its value may be overstated with its designated status as such in MLDP2020.

The land which is subject of the planning application is presently under ownership of Crown Estate, who have agreed to sell the land to allow for the change of use and ensure it is utilised by residents and maintained to its full potential.

A site visit along the path to the rear of the application site demonstrates that this proposal for change of use is not uncharacteristic of similar activity by a number of neighbouring properties in the area. An invitation is extended to Members of the Local Review Body to undertake a site visit to demonstrate the merits of the appeal. Photographs are enclosed, overleaf, to illustrate points of relevance. Further photographs can be supplied on request.





*Top: View of path, rear of Linksfield Rd, showing existing extended properties.  
 Below Left: An example of where one homeowner has cleared vegetation at their property.  
 Below Right: View showing rear of the application site with overgrown vegetation with neighbour's fence of extended garden (approval 10/01928/APP).*



## Policy Context

The officer's report cites the only reason for refusal being that, citing Policy EP5 Open Space, *development which would result in a change of use of a site identified under the ENV designation in settlement statements to anything other than open space will be refused.*

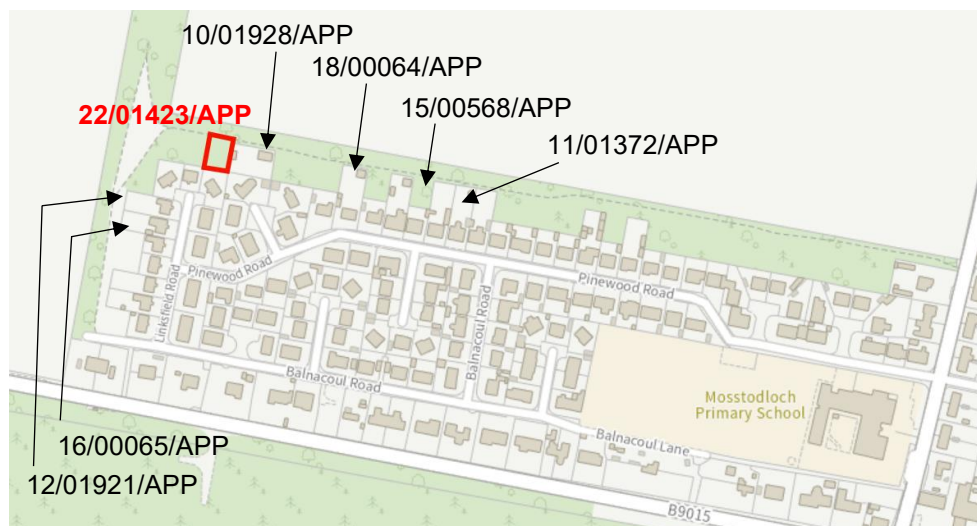
There is no 'development' proposed in this case, however it is considered that the proposed change of use to garden ground is unacceptable.

There is acknowledgement in the case officer's report that *neighbouring properties previously eroded this ENV6 designation with similar developments under previous Local Development Plans but the designation has since been reinforced by the Mosstodloch Settlement Statement, which has mapped around these previous infringements into the ENV area.*

It appears that Moray Council have introduced this land designation in the adopted MLDP2020 in response to a number of similar 'changes of use' that have occurred here over the years. The strip of amenity land to the rear of properties along Pinewood Road/ Linksfield Road has been demonstrably altered.

## Planning History

The case officer's report of handling references "*neighbouring properties previously eroded this ENV6 designation with similar developments*". At least six other cases in the immediate area have been found.



The majority, if not all, of these examples sought planning consent retrospectively. The current application may be the only application which sought consent from the planning authority prior to undertaking works.

Despite the retrospective nature of these examples, the planning authority has supported the change of use to garden ground a number of times. The latest example being in March 2018 and described as 'totally compliant' with the adopted Local Development Plan of the time. The only circumstance that has changed is the policy nuance of the current adopted Plan.

Whilst this Appeal to the Local Review Body cannot attempt to amend the Council's adopted position in MLDP2020, it is suggested that a review into the extents of this designation is carried out as part of the next Plan to take into account the reality of what is on the ground.

## Material Consideration

The case officer's report of handling states that *"the MLDP2020 takes primacy over any older policy document and Policy EP5 must be followed in this decision"*. This may be the case, however Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) states that:

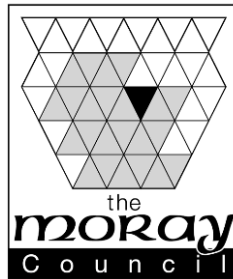
*"Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, **unless material considerations indicate otherwise**, to be made in accordance with that plan"*.

In this case the previous planning decisions made by Moray Council are important material considerations, and it is respectfully requested that Members of the Local Review Body determine that the proposal represents an acceptable departure to the MLDP2020.

Particular reference is made to the reporting of the Moray Local Review Body consideration of 10/01928/APP at 72 Pinewood Road (Appendix 1). The circumstances are comparable. Members at that time determined that the change of use would not be detrimental to the area but would in fact enhance it. It was also noted by one Member that the land to the south of the path is described as "scrub land" (implying low value). Members agreed that the views expressed were a material consideration of such weight to justify departing from policy and agreed that the request for review be upheld and consent granted as an acceptable departure, subject to standard conditions.

## Summary

- The proposal which is subject of this appeal is a change of use from amenity ground to garden ground.
- The appellant understands deeply the importance of protecting areas of open space and respects the purpose of planning policies in doing so, as someone who has dedicated their own career to environmental protection.
- However, there is a detailed planning history and very clear precedent set by Moray Council in awarding this change of use to other properties (usually retrospectively) in the immediate area of Linksfield Road and Pinewood Road. MLDP2020 has applied a designation upon the land which is unduly restrictive upon the specific area at the rear of these properties.
- The change of use, if allowed, will result in no impact upon the accessibility of the public footpath, the overall amenity of the area will be maintained, and in becoming garden ground, will still retain a level of 'open space'.
- An inspection of the site and surrounding area is welcomed to assist the Local Review Body in its careful consideration of this appeal. It is respectfully requested that the appeal be upheld by Members citing that material considerations outweigh the development plan.



## MORAY COUNCIL LOCAL REVIEW BODY

### Review Decision Notice

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Decision by Moray Local Review Body (the MLRB)

- Request for Review reference : Case 031
- Site address: 72 Pinewood Road, Mosstodloch
- Application for review by Mr Iain MacLeod against the decision by an Appointed Officer of Moray Council.
- Application 10/01928/APP : Retrospective change of use of waste ground to garden ground.
- Unaccompanied site inspection carried out by the MLRB on Monday 25 July 2011.
- Date of Decision Notice: August 2011

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#### Decision

The MLRB agreed to uphold the request for review and grant retrospective planning permission for the change of use of waste ground to garden ground.

#### 1.0 Preliminary

- 1.1 This Notice constitutes the formal decision notice of the Moray Local Review Body (MLRB) as required by the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.
- 1.2 The above application for full planning permission was considered by the MLRB at meetings on 26 May and 28 July 2011. The Review Body was attended at both meetings by Councillors B Jarvis (Chairman), L Creswell & G Leadbitter.

#### 2.0 Proposal

- 2.1 This is an application for retrospective planning permission for the change of use from waste ground to garden ground at 72 Pinewood Road, Mosstodloch.



### **MLRB Consideration of request for review**

- 3.1 At the meeting of the MLRB on 26 May 2011 there was submitted a Summary of Information report setting out the reasons for refusal together with a copy of the Report of Handling, a copy of the Notice of Review and a copy of the Grounds for Review and supporting documents
- 3.2 Following consideration of the case papers the MLRB agreed that it did not have sufficient information in order to proceed to determine the request for review and agreed that an unaccompanied site inspection be undertaken, the purpose of which being to view the site in the context of Policies E4, ENV6, ENV10 and IMPI of the Moray Local Plan 2008. The MLRB also requested that the Planning Adviser attend the unaccompanied site inspection.
- 3.3 Councillor Leadbitter referred to the reference in the Report of Handling to seven properties having extended their garden ground/curtilage into the amenity strip and requested that clarification be sought from the Appointed Officer in regard to the locations of these properties and the current position regarding enforcement proceedings which may be ongoing. He also referred to a reference in the appellant's grounds for review in regard to 'advice received at the time was to fence off the purchased piece of ground' and requested that the appellant be requested to clarify from whom this advice had been obtained, for instance the Appellant's own legal adviser, or an officer of the Council. The MLRB agreed that the information requested by Councillor Leadbitter be obtained through the 'Written Submission' procedures set out in Regulation 15 of the Town & Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 and the responses thereto submitted to the next meeting of the MLRB following expiry of the written submission procedure timescales and the unaccompanied site inspection.
- 3.4 At the meeting of the MLRB on 28 July 2011 there was submitted a 'Summary of Information' report detailing the outcome of the MLRB's previous consideration of the request for review and advising the unaccompanied site inspection was carried out on Monday 25 July 2011. There were also appended to the report as Appendices 1& 2 respectively a response from the Appointed Officer to the written submission request and one from the appellant.
- 3.5 In regard to the unaccompanied site inspection the Planning Adviser advised the meeting that on arrival at the site he reminded members of the MLRB of the reasons for refusal and the appellant's grounds for review. Members then viewed the site under review and accessed the track to the rear of the property and proceeded along the track to the west to see other examples where enclosure for additional garden ground had taken place.
- 3.6 The MLRB agreed that it had sufficient information and proceeded to determine the request for review.
- 3.7 Councillor Jarvis sought clarification in regard to the reasoning for establishing a 'buffer zone' between the housing development and agricultural land. The Planning Adviser advised the meeting that the reason was in order to provide separation between the agricultural land to the north and the settlement of Mosstodloch and provides a distinction between the two and the amenity value of it.



- 3.8 Thereafter Councillor Jarvis expressed the view, having considered all aspects of the case and having the opportunity to visit the site, that rather than being detrimental to the concept of the area being an informal recreational open space or having a significant and detrimental impact on the amenity of the area the enclosed additional garden ground was a significant improvement to the area and for these reasons the request for review should be upheld and retrospective consent granted. Councillor Creswell supported Councillor Jarvis's views and added that, in her opinion, the enclosed additional garden ground enhanced the area rather than having a detrimental impact as implied in the grounds for refusal.
- 3.9 Councillor Leadbitter intimated that there were no objections to the proposal from the community and expressed the view that given several parcels of amenity land had been acquired by householders for additional garden ground it would be very difficult to develop the amenity zone in a planned manner. He also expressed the view that it was clear from the site inspection that the amenity on the north side of the core path is much more sympathetic than the amenity to the south side of the core path bordering the houses, which can be described as scrub land. He was also of the view that the core path is clearly defined and the enclosed additional areas of garden ground do not encroach onto the path. Councillor Leadbitter also referred to Policies E4, ENV6 & ENV10 and was of the opinion that whilst the enclosure of the additional garden ground does not outweigh the value of the open space its conversion into garden ground in this case provides a greater degree of amenity and enhances the area. He was also of the view that the provision of additional garden ground was, in effect, an improvement to the landscaped setting as opposed to what previously existed. It was in his opinion the areas to the north and west of the core path that require to be protected. For these reasons Councillor Leadbitter was also of the view that the request for review should be upheld and retrospective consent granted for the change of use to garden ground.
- 3.10 Thereafter the MLRB agreed that the views expressed by the MLRB members were a material consideration of such weight to justify departing from policy and agreed that the request for review and be granted and retrospective planning consent be granted as an acceptable departure from the Moray Local Plan 2008, subject to standard conditions.

.....  
**Rhona Gunn**  
**Legal Adviser to the MLRB**

## **CONDITIONS**

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. Unless otherwise agreed with the Council, as Planning Authority, the development hereby approved shall be carried out strictly in accordance with the approved plans and conditions.

## **REASONS**

1. The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.
2. In order to ensure that there are no unauthorised departures from the approved plans which could adversely affect the development or character and amenity of the surrounding properties and area

## TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### **Notification to be sent to applicant on determination by the planning authority of an application following a review conducted under section 43A(8)**

#### **Notice Under Regulation 21 of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008.**

- 1 If the applicant is aggrieved by the decision of the planning authority to refuse permission or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may question the validity of that decision by making an application to the Court of Session. An application to the Court of Session must be made within 6 weeks of the date of the decision.
- 2 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 V of the Town and Country Planning (Scotland ) Act 1997.



1. Do not scale drawing. All dimensions and levels to be verified on site by Contractor.
2. Any discrepancies to be reported to the designer.

Revisions:



CP Plans  
2 Balvenie Park  
Elgin  
IV30 8AJ

Tel: 07467 231872  
cpplanselgin@gmail.com

Job Title

New rear boundary fence  
at 10 Linksfield Road  
Mosstodloch  
IV32 7LB

Drawing Title

Fence & gate plan

Drawing Number

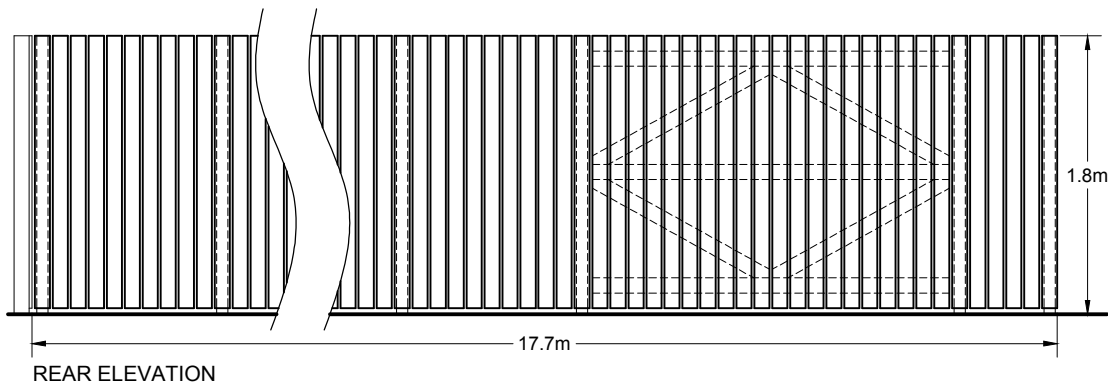
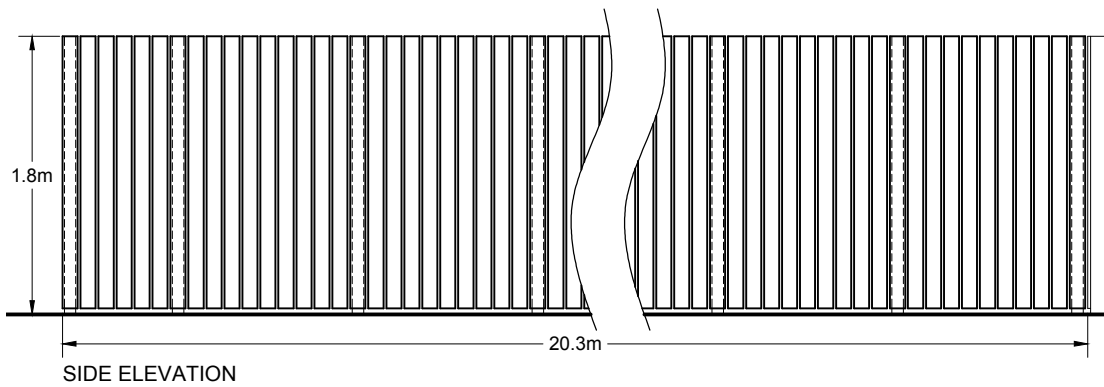
PL-01

Scale	Date	Rev
1:200	Oct 22	

Drawing by CP

1. Do not scale drawing. All dimensions and levels to be verified on site by Contractor.
2. Any discrepancies to be reported to the designer.

Revisions:



CP Plans  
2 Balvenie Park  
Elgin  
IV30 8AJ

Tel: 07467 231872  
cpplanselgin@gmail.com

Job Title

New rear boundary fence  
at 10 Linksfield Road  
Mosstodloch  
IV32 7LB

Drawing Title

Fence elevations

Drawing Number

PL-02

Scale	Date	Rev
1:50	Oct 22	

Drawing by CP

## 10 Linksfield Road, Mosstodloch, Fochabers, IV32 7LB



Map area bounded by: 332294,860131 332436,860273. Produced on 08 September 2022 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2022. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p2c/uk/847419/1145235







# **APPENDIX 3**

## **APPOINTED OFFICER AND INTERESTED PARTIES RESPONSES TO NPF4**



**From:** Dominic Batty  
**Sent:** 24 March 2023 13:52  
**To:** Lissa Rowan  
**Cc:** Beverly Smith; Committee Services  
**Subject:** FW: 22/01423/APP - 10 Linksfield Road Mosstodloch

Good afternoon,

In light of NPF4, the newly implemented policies must be considered in regards to the proposed change of use at 10 Linksfield Road, Mosstodloch. In particular, the policies relevant to this application are: 3. Biodiversity; 14. Design, quality and place; and 20. Blue and green infrastructure.

Policy 3 requires proposals for local developments to conserve, restore, and enhance biodiversity. It is noted that there is a high level of vegetation on the site which would provide biodiversity benefits to the area and the proposed change of use would, as noted within the Appellant's Supporting Statement to the Moray Council Local Review Body, 'clear areas to the rear of [the homeowner's] property' resulting in a loss of biodiversity, deviating from the requirements of NPF4 Policy 3 Biodiversity. This policy further supports the protection of ENV designations within the local development plan.

Policy 14 requires proposals to be consistent with the six qualities of successful places. This policy explicitly states that proposals that are detrimental to the amenity of the surrounding area or are inconsistent with the six qualities of successful places will not be supported under NPF4. These qualities are further detailed in Annex D. Quality 1 Healthy requires proposals to be designed for healthy and active lifestyles, part of which is provided by access to nature and greenspace. Quality 2 Pleasant requires proposals to be designed for connecting with nature including natural landscape, biodiversity and eco-systems, and integrating green infrastructure. Quality 5 Sustainable requires proposals to be designed for climate resilience and nature recovery including incorporating green infrastructure and integrating nature positive biodiversity solutions. This application seeks to remove the public access to nature and greenspace and green infrastructure, which also acts as amenity ground, and would lead to a loss of vegetation that provides and enhances biodiversity and eco-systems, deviating from the requirements of NPF4 Policy 14 Design, quality and place.

Policy 20 states that development proposals that result in fragmentation or net loss of existing green infrastructure will only be supported where it can be demonstrated that the proposal would not result in or exacerbate a deficit in green infrastructure provision. The area of open space under this ENV6 designation has already seen a net loss following the permitting of similar developments prior to the adoption of the Moray Local Development Plan 2020 which reinforced the open space designation through the Mosstodloch Settlement Statement and this application would result in the exacerbation of the deficit that the latest iteration of the local development plan aims to prevent through this ENV6 designation. As such, the proposal would deviate from the requirements of NPF4 Policy 20 Blue and green infrastructure.

Relevance should also be given to Policy 15 Local living and 20 minute neighbourhoods which requires the provision of local access to green spaces and high quality walking networks. The site is adjacent to a Core Path and the proposal would degrade the quality of its setting as well as the provision of green space, deviating from the requirements of this policy. Having (and preserving) naturalised green spaces next to housing also enhances local living.

Further relevance should be given to the NPF4 Spatial Strategy and Local Living Spatial Principle which support easy access to greenspace.

Kind regards,

**Dominic Batty** | Planning Officer | Economic Growth and Development





# **APPENDIX 4**

## **APPLICANT'S RESPONSE TO NPF4**





# Appellant's Supplementary Supporting Statement to Moray Council Local Review Body

Appeal of decision for refusal 22/01423/APP by The Cuthill Family

**Supporting Information: National Planning Framework 4 2023**

## Comments

The significance of the recently adopted National Planning Framework 4 2023 (NPF4) is recognised. NPF4 now forms part of the statutory development plan and is relevant to the determination of planning applications by local authorities.

This supplementary statement has been prepared to accompany the Appellant's Supporting Statement to the Local Review Body. Responses are provided to the Case Officer's comments of 24 March 2023, in relation to NPF4 policies.

The importance of national planning policy is acknowledged when considering planning applications. However, the policy justification which the Case Officer has set out in supporting their refusal of this proposed change of use is challenged, especially when considering the reality of the case being presented to the Local Review Body.

The Case Officer has cited the following NPF4 policies to support the refusal: Policy 3: Biodiversity, Policy 14: Design, Quality and Place, Policy 15: Local Living, and Policy 20: Blue and Green Infrastructure. Each of these will be considered briefly in turn.

## Policy 3: Biodiversity

The Case Officer has cited the first part of Policy 3 part (b) which applies to local development types. The relevance of Policy 3 to this proposed change of use is debatable. The second part of that policy goes on to state: "*Applications for individual householder development, or [national/major development], are excluded from this requirement*".

Notwithstanding, the Case Officer claims that the existing vegetation currently present at the application site would offer biodiversity benefits that would result in an unacceptable loss from the proposed change of use. The Case Officer has described the site as being "a high level of vegetation", with no supporting evidence of the alleged biodiversity benefits. Put simply, this area has become overgrown due to a lack of maintenance. There is no diversity present and the general area, including the application site, is littered and unkempt. The Case Officer has not offered a balanced consideration of the potential biodiversity benefits of the proposed garden space, which could, by comparison, have the potential for greater benefits.

### Policy 14: Design, Quality and Place

The Case Officer cites the six qualities of successful places, detailed in Annex D of NPF4, and incorrectly states that the proposed change of use will “remove public access to nature and greenspace and green infrastructure...”. It is clear that the site boundary does not encroach on the public right of way to the rear of the properties at Linksfield Road; the proposed site boundary is a continuation of the properties’ curtilage lines along this path. The Case Officer’s statement that this proposed change of use is contrary to national planning policy due to an impact upon the public’s access to nature - as a result of the removal of a small section of overgrown vegetation and erection of a fence - is highly overstated.

Each of the relevant ‘qualities’ identified by the case officer from this policy (Healthy, Pleasant, Sustainable) could be equally inverted in **support** of the proposed change of use. Removal of overgrown, unkempt vegetation along this path would contribute to a more attractive, safer, walking route less prone to litter and neglect, thereby potentially encouraging people to walk here.

The Case Officer has cited part (b) of Policy 14, whereas part (a) states that: “*Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale*”. Whilst there is no physical development proposed, it can be argued that the proposed change of use to garden ground will contribute toward the improved quality and attractiveness of this area to the rear of Linksfield Road by removing this overgrown vegetation.

### Policy 15: Local Living

The Case Officer explains that the proposed change of use will result in the degradation of the quality of the setting of the Core Path. Again, this is simply not true. The change of use of this section of land will not impact upon the walking route to the rear of Linksfield Road. As explained for the other policies, the value of this section of overgrown vegetation has been overstated and does not reflect the reality of the area. A site visit by the Local Review Body is welcomed in order to demonstrate this.

### Policy 20: Blue and Green Infrastructure

The Case Officer explains that the proposed change of use will result in the fragmentation or net loss of green infrastructure. It is our view that the removal of bushes to the rear of the existing curtilage, in order to extend that curtilage, will have negligible impact upon the quantity and quality of green infrastructure available to the public in this area.

As set out in the Appellant’s Supporting Statement, this area under the ENV6 designation has been subject of planning approvals and absence of environmental protection for a number of years, resulting in the incremental (and often retrospective) changes of use to garden space. The policy designation of this area in MLDP 2020 does need to be reviewed in the next Plan; the strip between the curtilage line and the path simply does not merit such a designation, unlike the path itself and the amenity area northward.

## Concluding Statement

NPF4, and its statutory status in terms of Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended), is acknowledged. However, the relevance of such strategic policy statements to planning applications such as this is uncertain.

National planning policy plays an important role in creating high-quality places, and places where communities want to live and can be proud of. Each of the policies highlighted by the Case Officer could therefore be utilised in order to **support** the proposed change of use.

With reference to the Appellant's Supporting Statement for consideration by the Local Review Body, careful consideration of material considerations is encouraged and that these sufficiently demonstrate that the proposed change of use can be upheld. Particular reference was made to the reporting of the Moray Local Review Body consideration of 10/01928/APP at 72 Pinewood Road (Appendix 1 of the Appellant's Supporting Statement) and the comparable circumstances to the current Appeal before the Local Review Body.

