



MORAY LOCAL REVIEW BODY

27 AUGUST 2020

SUMMARY OF INFORMATION FOR CASE No LR237

Planning Application 19/01606/APP – Install new thermal panels and external wall opening at 71 Findhorn, Moray, IV36 3YF

Ward 8 – Forres

Planning permission was granted under the Statutory Scheme of Delegation by the Appointed Officer on 5 February 2020 subject to the following conditions:

1. The glazing in both the door and window shall be obscure glazed with glass of obscuration level 4 of the range of glass manufactured by Pilkington plc at the date of this permission or an equivalent manufacturer agreed in writing by this council (as Planning Authority). Glazing of that obscuration level shall be retained in those windows for the lifetime of the development hereby approved.

Reason: To avoid overlooking of the adjacent property in the interest of residential amenity.

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**.

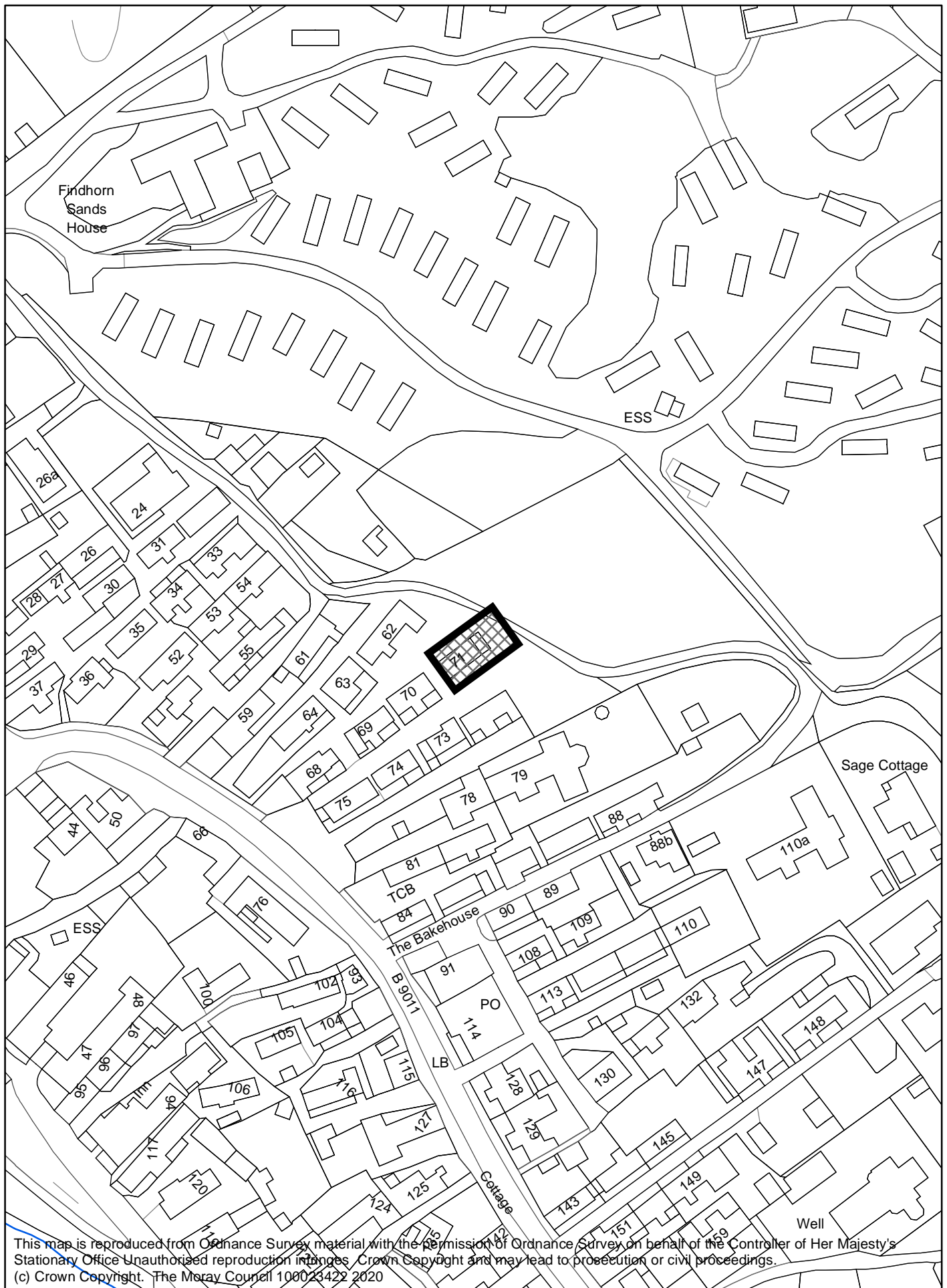
At the meeting of the Moray Local Review Body (MLRB) on 25 June 2020, the MLRB agreed to defer case LR237 to allow an independent person from the Planning Service to visit the site to obtain either a video or photographs of the site for the MLRB to consider and also allow the Appointed Officer to consider and comment on the photographs submitted by the Applicant with his Notice of Review Application.

The photographs of the site can be found at **Appendix 5**.

There was no further comment from the Appointed Officer on the photographs submitted by the Applicant with his Notice of Review Application.



Location plan for Planning Application Reference Number : 19/01606/APP



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APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER

11 DEC 2019

HOUSEHOLDER APPLICATION FOR PLANNING PERMISSION

Town and Country Planning (SCOTLAND) ACT 1997
The Town and Country Planning (Development Management Procedure) (SCOTLAND) REGULATIONS 2013

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR.	Ref No.	
Forename	MARTIN	Forename	
Surname	LUSTY	Surname	
Company Name		Company Name	
Building No./Name	71	Building No./Name	
Address Line 1		Address Line 1	
Address Line 2		Address Line 2	
Town/City	FINDHORN	Town/City	
Postcode	IV36 3YF	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	

3. Address or Location of Proposed Development (please include postcode)

71 FINDHORN IV36 3YF.

NB. If you do not have a full site address please identify the location of the site(s) in your accompanying documentation.

4. Describe the Proposed Works
Please describe accurately the work proposed:

INSTALL NEW THERMAL PANELS AND EXTERNAL WALL OPENINGS

Have the works already been started or completed

Yes ☐ No ☒

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

Date started:

Date completed:

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

5. Pre-Application Discussion

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

Yes ☐ No ☒

If yes, please provide details about the advice below:

In what format was the advice given?

Meeting ☐ Telephone call ☐ Letter ☐ Email ☐

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

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

Name: Date: Ref No.:

6. Trees

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

Yes ☐ No ☒

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

7. Changes to Vehicle Access and Parking

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

Yes ☐ No ☒

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

Are you proposing any changes to public paths, public rights of way or affecting any public rights of access?

Yes ☐ No ☒

If yes, please show on your drawings the position of any affected areas and explain the changes you propose to make, including arrangement for continuing or alternative public access.

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

1

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 reduced number of spaces)

1

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, etc.)

8. Planning Service Employee/Elected Member Interest

Are you / the applicant / the applicant's spouse or partner, a member of staff within the planning service or an elected member of the planning authority? Yes ☐ No ☒

Or, are you / the applicant / the applicant's spouse or partner a close relative of a member of staff in the planning service or elected member of the planning authority? Yes ☐ No ☒

If you have answered yes please provide details:

DECLARATION

I, the applicant / ~~agent~~ certify that this is an application for planning permission and that accompanying plans/drawings and additional information are provided as part of this application. I hereby confirm that the information given in this form is true and accurate to the best of my knowledge.

I, the applicant/~~agent~~ hereby certify that the attached Land Ownership Certificate has been completed ☐

I, the applicant/~~agent~~ hereby certify that requisite notice has been given to other land owners and /or agricultural tenants Yes ☐ No ☐ N/A ☐

Signature:

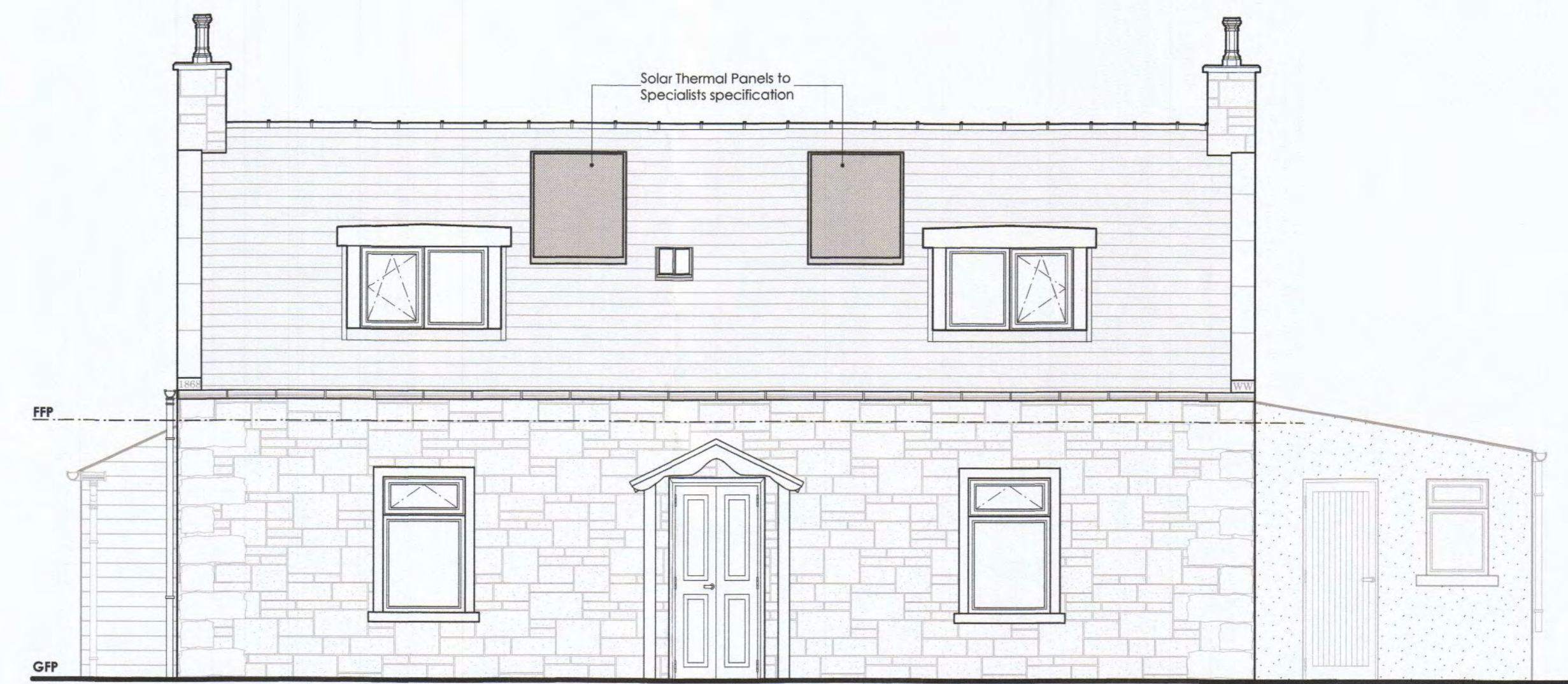
Name:

MARTIN LUSTY

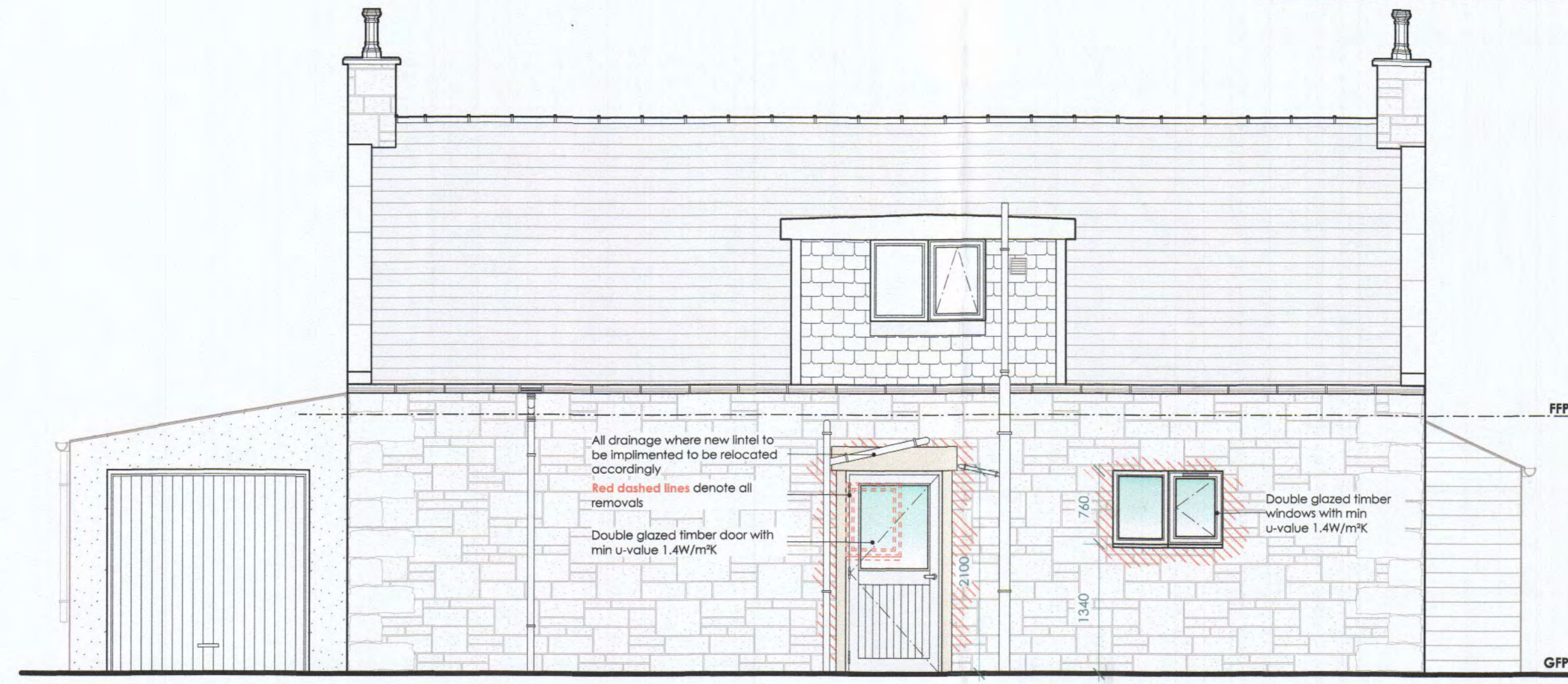
Date:

11/12/19

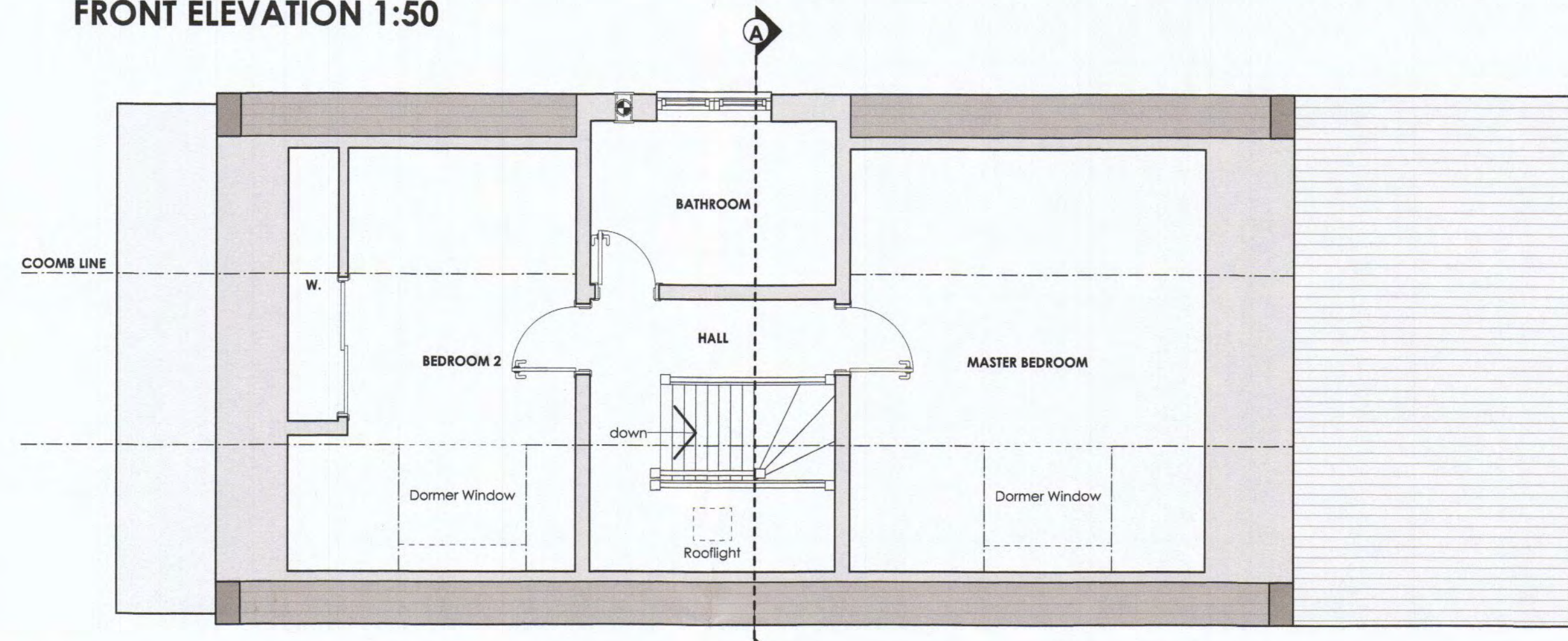
Any personal data that you have been asked to provide on this form will be held and processed in accordance with Data Protection Legislation.



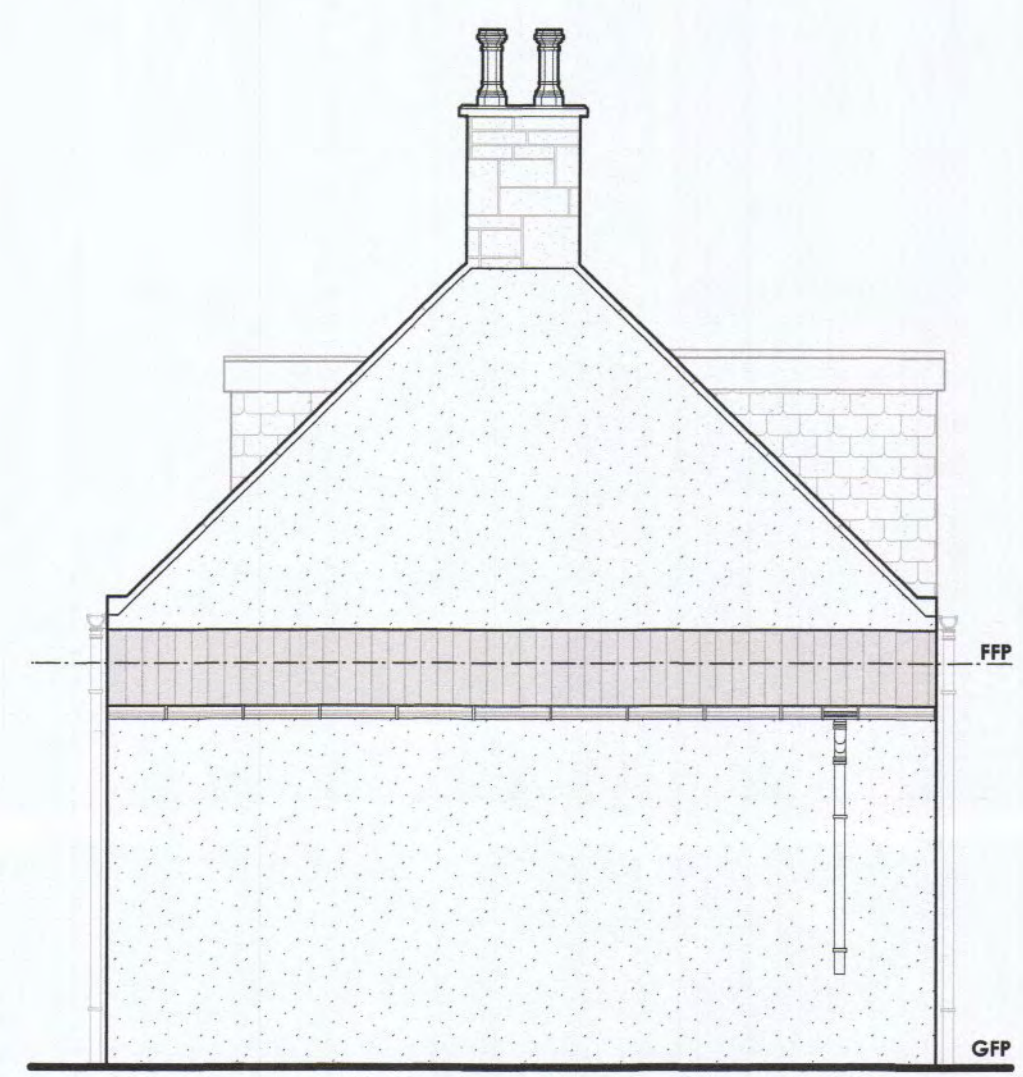
FRONT ELEVATION 1:50



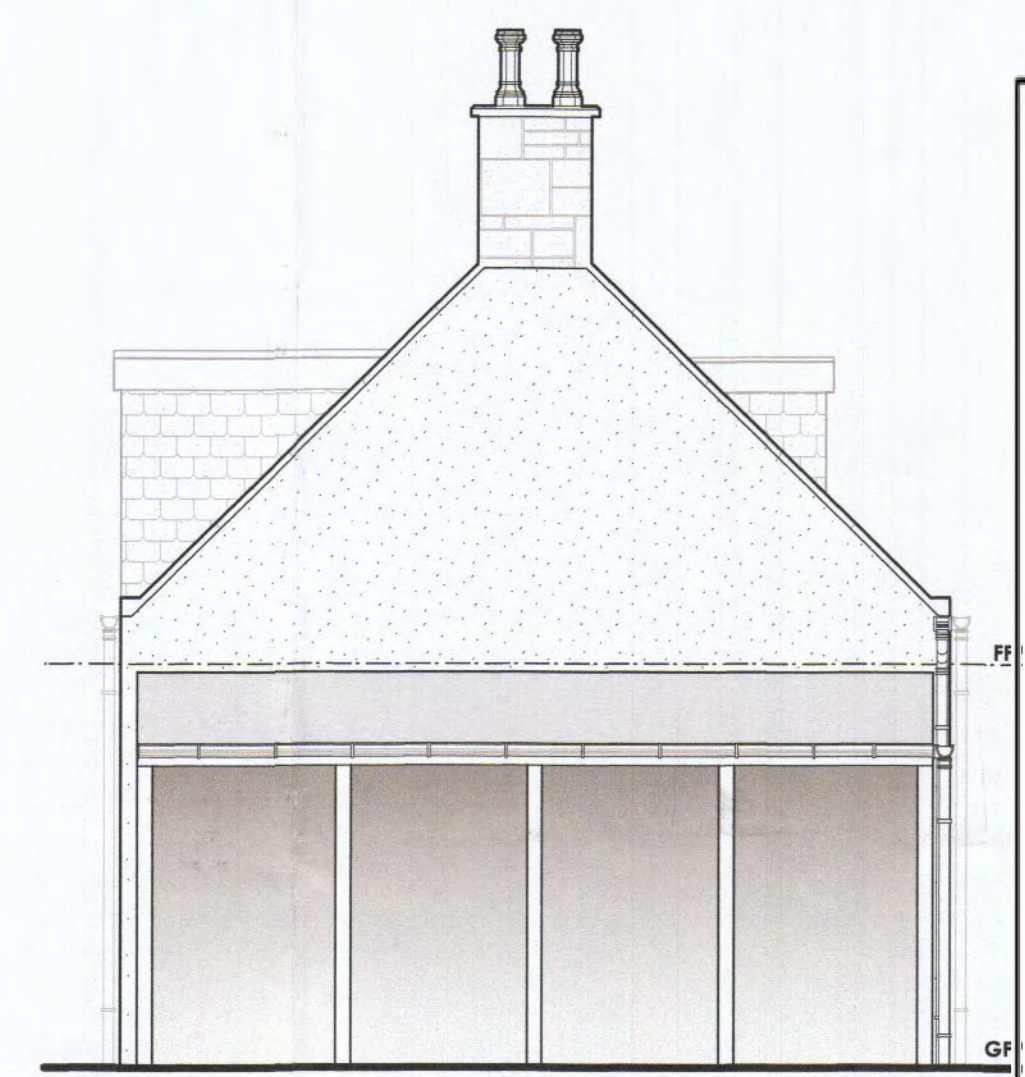
REAR ELEVATION 1:50



FIRST FLOOR ELEVATION 1:50
NO NEW WORKS



SIDE ELEVATION 1:50



SIDE ELEVATION 1:50

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

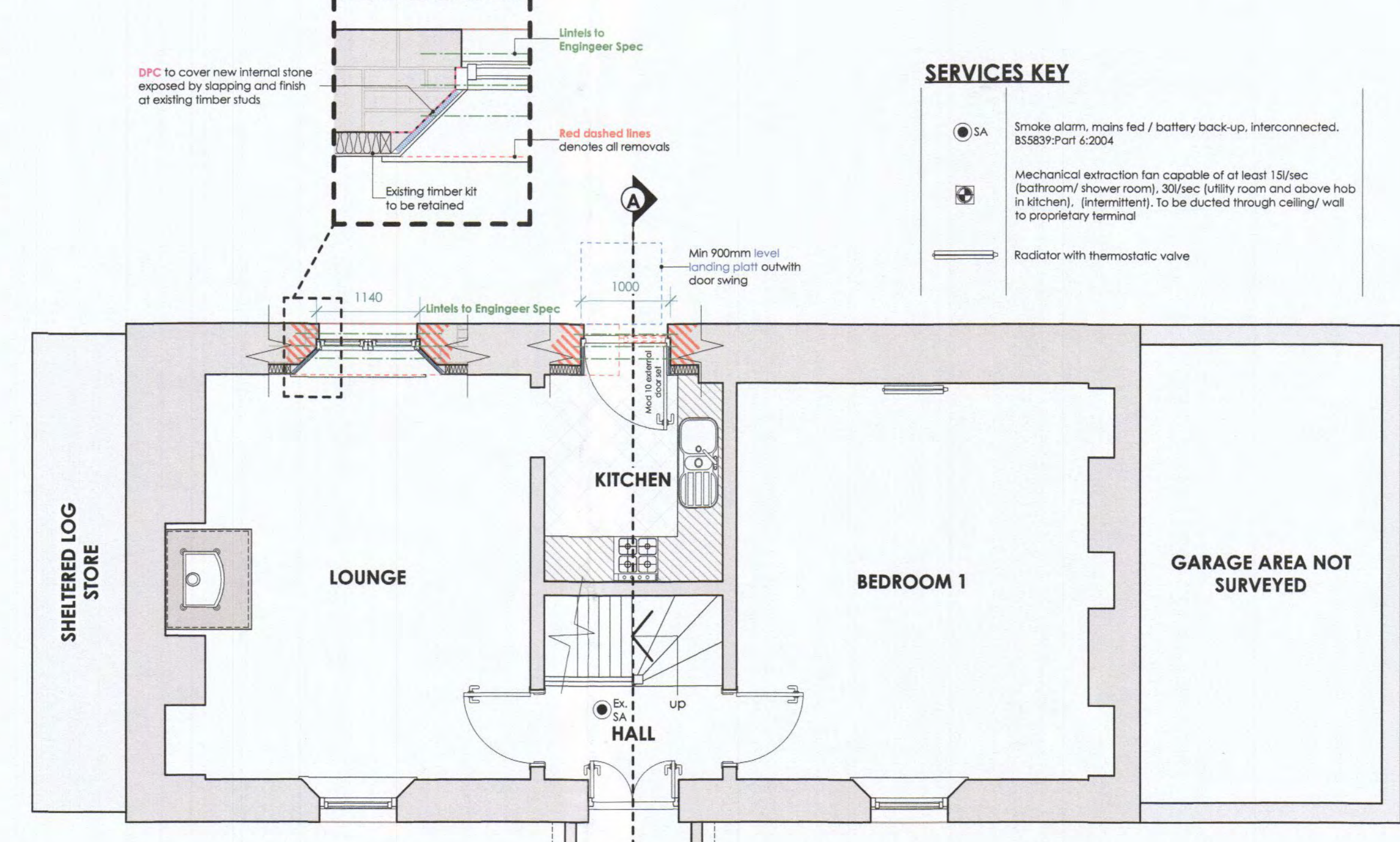
APPROVED

05 February 2020

Development Management
Environmental Services
The Moray Council

Boundary dimensions assumed to relate with existing buildings and fencelines

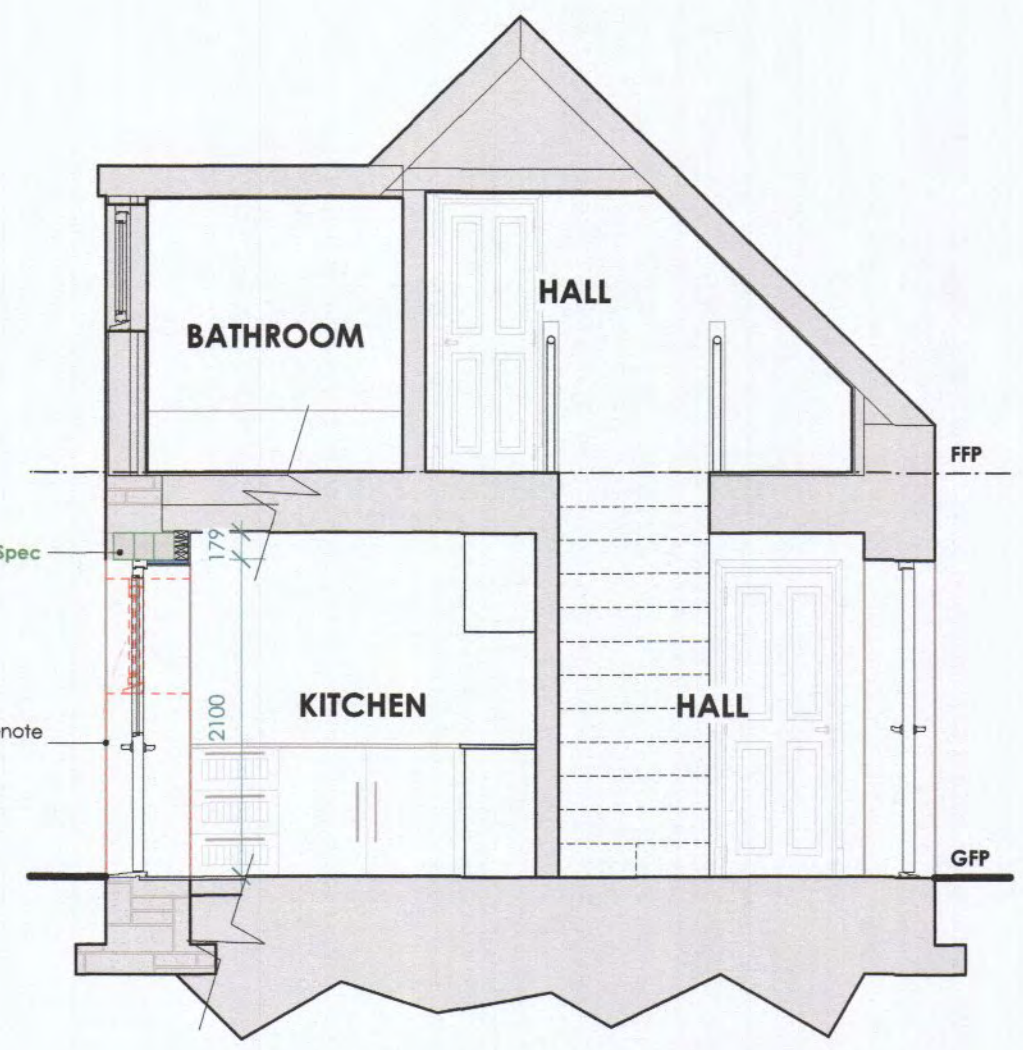
WINDOW SLAPPING
DETAIL 1:10



GROUND FLOOR ELEVATION
1:50

SERVICES KEY

- SA Smoke alarm, mains fed / battery back-up, interconnected, BS5839:Part 6:2004
- Mechanical extraction fan capable of at least 150/sec (bathroom/shower room), 300/sec (utility room and above hob in kitchen), (intermittent). To be ducted through ceiling/ wall to proprietary terminal
- Radiator with thermostatic valve



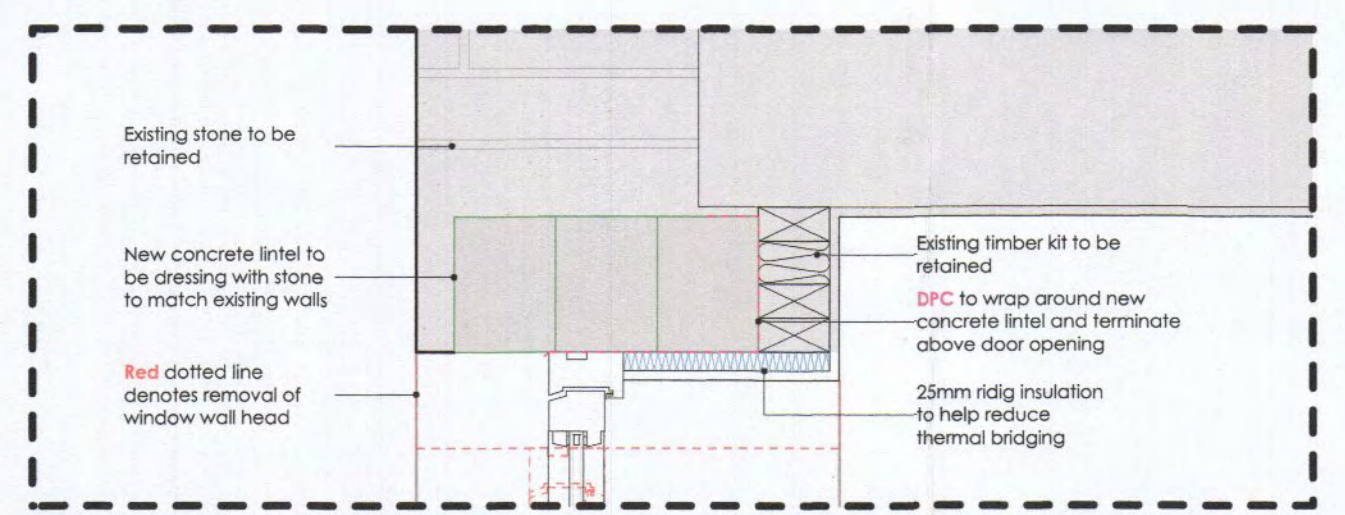
SECTION A-A 1:50

D.P.C.'s:

To be 'Visqueen 2007'. D.P.C.s around inside faces of eills, lintels, and all openings to be pitch free Xtra Load Elite or similar.

WINDOWS:
To be high performance timber windows with U-Value no greater than 1.4W/m²K, 4mm glazing, 16mm airspace, 4mm glazing all to be low 'E' glass (E=0.05), 1200mm² trickle ventilation to apartments and 1000mm² trickle ventilation to bathrooms, en-suites and kitchens.
An operable window or rooflight, that provides natural ventilation to meet standard 3.14, should have controls for opening, positioned at least 350 mm from any internal corner, projecting wall or similar obstruction and at a height of:
• not more than 1.2 m above floor level, where access to controls is unobstructed; or
• not more than 1.5 m above floor level, where access to controls is limited by a fixed obstruction of not more than 900 mm high which projects not more than 600 mm in front of the position of the controls, such as a kitchen base unit. Where obstruction is greater, a remote means of opening, in an unobstructed location, should be provided; or
• not more than 1.2 m above floor level, in an unobstructed location, within an enhanced apartment (see clause 3.11.2) or within accessible sanitary accommodation (see clause 3.12.3) not provided with mechanical ventilation.

DOOR HEAD DETAIL 1:10



cmdesign
architectural consultants

HEAD OFFICE - MORAY
31 Brendans, 69 South Guildry Street, Elgin,
IV30 1QH
T 01343 540020

HIGHLANDS
4 Bridge Street, Nairn, Highlands, IV12 4EJ
T 01467 500230
M 0781 3872818 W cmdesign.biz E office@cmdesign.biz

LOSSIEMOUTH OFFICE
Ellel, James Street, Moray,
IV30 4BX
T 01343 810175

DEVON OFFICE
T 01392 345566

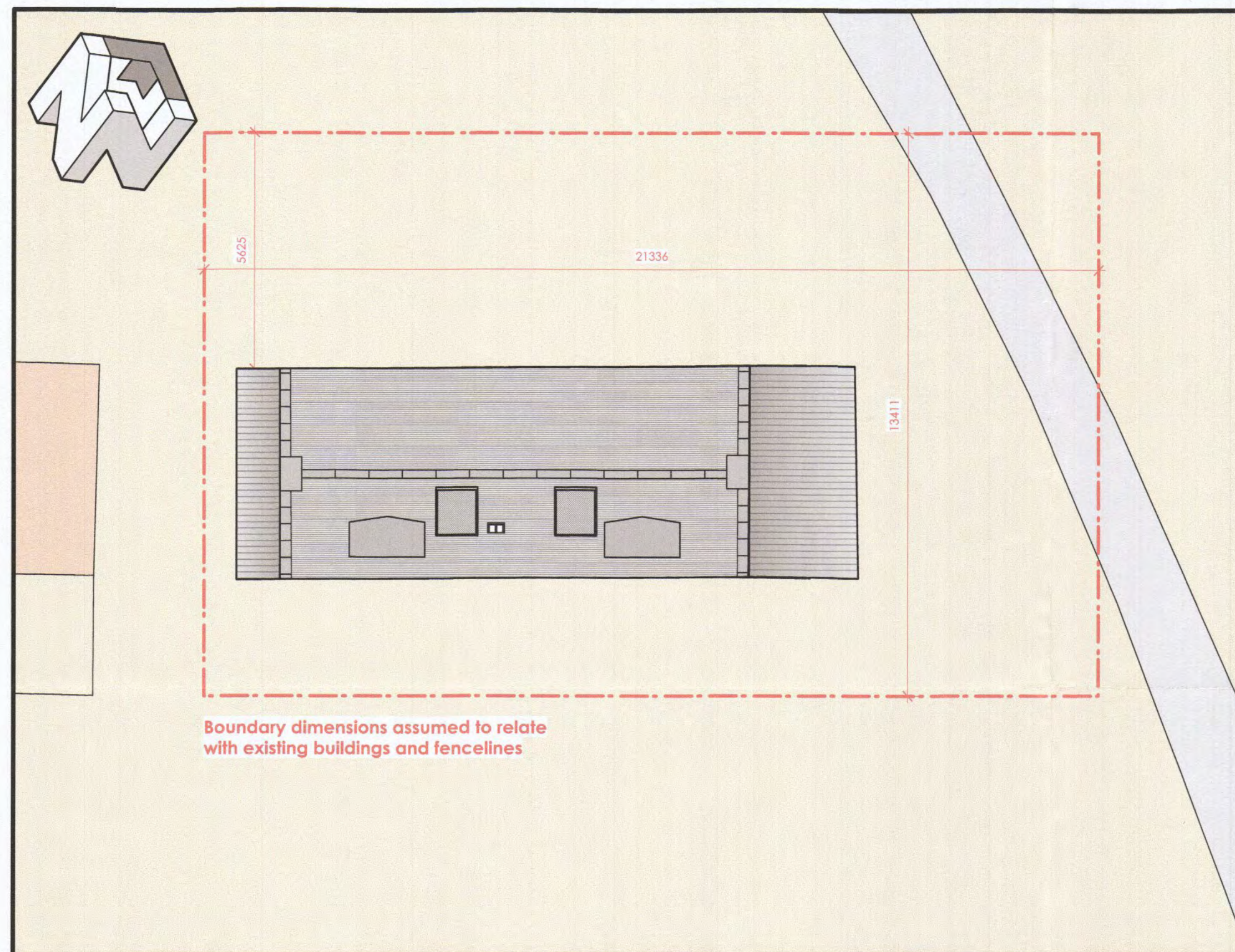
Mr. Lusty

New Thermal Panels & External Wall Openings at 71
Findhorn, IV36 3YF

DETAILED PROPOSALS
Floor Plans, Section & Elevations

Date:	16.09.19	Amendments:	24.09.19	Rev:	B
Drawn By:	Dom Mela	Date:	23.07.19	Checked By:	C
				Date:	D

190062.LUSTY.03PB D



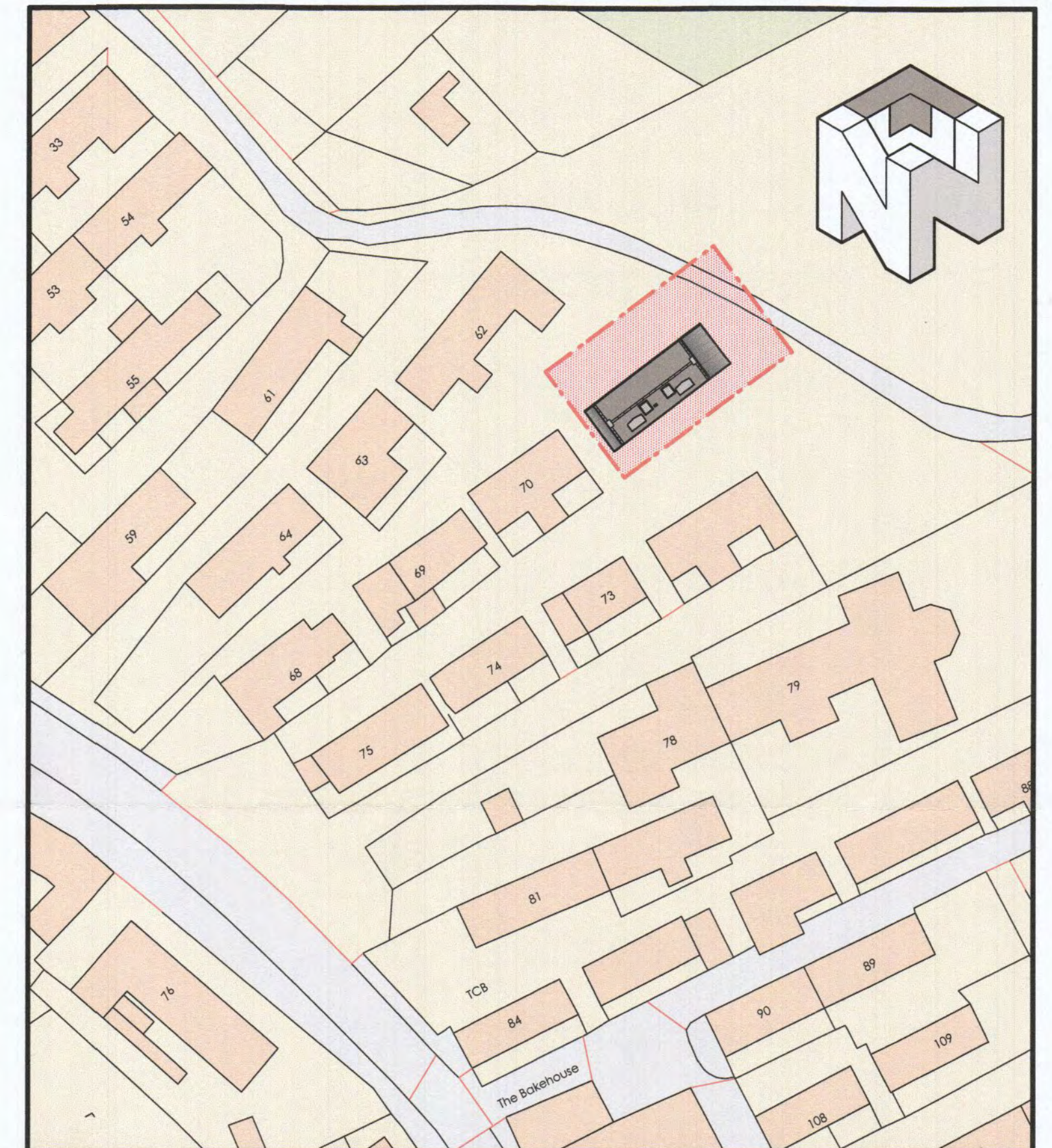
SITE PLAN 1:100

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

APPROVED

05 February 2020

Development Management
Environmental Services
The Moray Council



LOCATION PLAN 1:500

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19/01606/APP .11 DEC 2019

cmdesign
architectural consultants

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DEVON OFFICE
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Mr. Lusty

New Thermal Panels & External Wall Openings at 71
Findhorn, IV36 3YF

DETAILED PROPOSALS
Location & Site Plan

Date:	Amendments:	Rev:
1.11.19	Client amends	A

Drawn By:	Date:	Checked By:	Date:
Dom Melia	25.07.19		

190062.LUSTY.04PB A

Comments for Planning Application 19/01606/APP

Application Summary

Application Number: 19/01606/APP

Address: 71 Findhorn Forres Moray IV36 3YF

Proposal: Install new thermal panels and external wall openings at

Case Officer: Craig Wilson

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Affecting natural environment
- Contrary to Local Plan
- Inadequate plans
- Procedures not followed correctly
- Road access

Comment: We own number [REDACTED] which we currently run as an affordable housing long term rental.

This is the third time we have placed the same objections to the developments at Number 71. This summer a fence was constructed which :

- Destroys the historic green strip - contrary to the Moray Local Plan and to the Conservation Area principles.
- Obstructs the 9 -foot- wide right of way along the strip. impeding emergency access to our property.
- Obtrudes access to number 63 for ordinary deliveries and maintenance.
- Due to its narrowing of the strip, disabled access is now impossible.

Following complaints from neighbours, FVCCC and Findhorn Community Council, Moray Council permitted the owner of number 63 to submit retrospective planning. We registered the same objections again to this. The planning application was withdrawn late into the consultation period by Mr Lusty who was given a further opportunity to re-submit an application. . This new planning application makes no mention of the fence. We accept that the purpose of Planning is to encourage good practice and that it is not intended to be punitive. However considerable time and public money has been wasted on this and we are still stuck with the original problem and our objections are unchanged.

Comments for Planning Application 19/01606/APP

Application Summary

Application Number: 19/01606/APP

Address: 71 Findhorn Forres Moray IV36 3YF

Proposal: Install new thermal panels and external wall openings at

Case Officer: Craig Wilson

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Affecting natural environment
- Contrary to Local Plan
- Inadequate plans
- Legal issues
- Loss of privacy (being overlooked)
- Parking
- Permitted Development
- Poor design
- Precedent
- Procedures not followed correctly
- Road access
- View affected

Comment: I would like to object to the planning application made by Mr Lusty for the following reasons:

1) The boundary indicated encroaches on my land (Title Number MOR8814), and also the FVCC's land (Title Number MOR16171). This includes the area of most of the fence Mr Lusty has constructed. The fence Mr Lusty has erected without planning permission is not shown on this new planning application, nor has the fence been removed. Therefore the amended planning application does nothing to normalise the fence construction. The application does refer to "existing fencelines" however these are not specified or indicated on the location plan.

Accordingly, as per my previous objection as Title Holder, he does not have my consent to have a fence in that location.

2) Windows to the rear of houses in this part of the village are limited in order to provide privacy

to neighbours. If this application is granted it sets a precedent for large rear windows in properties in the conservation area.

3) The new door to Mr Lusty's kitchen is also out of keeping with the area - no houses have back doors into the strip-leys. Again this sets a precedent for the conservation area.

4) Both the new window and door overlook my house and straight into my lounge. It is only 8 metres away. This will affect my privacy greatly.

In summary if permission is granted it would alter the look of the conservation area, set a precedent for similar developments, and reduce the privacy my house currently enjoys. It would not resolve the issue of the fence being constructed without planning permission, the necessity of which Mr Lusty continues to ignore.

Comments for Planning Application 19/01606/APP

Application Summary

Application Number: 19/01606/APP

Address: 71 Findhorn Forres Moray IV36 3YF

Proposal: Install new thermal panels and external wall openings at

Case Officer: Craig Wilson

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

- Affecting natural environment
- Legal issues
- Procedures not followed correctly

Comment: I notice that the fence Mr. Lusty has erected without permission is not now mentioned, despite the fact this is still an on-going issue that has not been resolved. This is STILL a huge concern of mine and needs to be given your full attention.

I have already placed 2 objections.

This is my third.

I back up my neighbours objections 100%. ([REDACTED]) and I will continue to strongly object to this fence which is blocking off our rightful access to the lane and creating a precedent for future unauthorised work in the village.

.

[REDACTED]

Comments for Planning Application 19/01606/APP

Application Summary

Application Number: 19/01606/APP

Address: 71 Findhorn Forres Moray IV36 3YF

Proposal: Install new thermal panels and external wall openings at

Case Officer: Craig Wilson

Customer Details

Name: [REDACTED]

Address: [REDACTED]

Findhorn

Comment Details

Commenter Type: Civic Group

Stance: Customer objects to the Planning Application

Comment Reasons:

- Inadequate plans
- Road access

Comment: The Findhorn Village Conservation Company (TFVCC) have commented on past application by Mr Lusty. The Board's concerns still stand that the feu plans of the property must be carefully examined as it appears that the boundaries of Mr Lusty's property are incorrect. The property boundaries are encompassing land that is owned by TFVCC.

TFVCC are also concerned that a fence has been erected, but it is not detailed in this planning application and as previously commented it is out of character within the stripway which is located in a conservation area. Historically the stripways are a network of open green corridors which form public right of ways between the rows of traditional cottages and the Local Development plan demands the protection of this network.

REPORT OF HANDLING

Ref No:	19/01606/APP	Officer:	Craig Wilson
Proposal Description/ Address	Install new thermal panels and external wall openings at 71 Findhorn Forres Moray IV36 3YF		
Date:	05/02/20	Typist Initials:	FJA

RECOMMENDATION

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

CONSULTATIONS

Consultee	Date Returned	Summary of Response

DEVELOPMENT PLAN POLICY

Policies	Dep	Any Comments (or refer to Observations below)

REPRESENTATIONS

Representations Received	YES	
Total number of representations received FOUR		
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		
Issue: - This is the third time we have placed the same objections to the developments at Number 71. This summer a fence was constructed which : Destroys the historic green strip - contrary to the Moray Local Plan and to the Conservation Area principles. <ul style="list-style-type: none">• Obstructs the 9 -foot- wide right of way along the strip. impeding emergency access to our property.• Obstructs access to number 63 for ordinary deliveries and maintenance.• Due to its narrowing of the strip, disable access is now impossible.		

- The boundary indicated encroaches on my land (Title Number MOR8814), and also the FVCC's land (Title Number MOR16171). This includes the area of most of the fence Mr Lusty has constructed. The fence Mr Lusty has erected without planning permission is not shown on this new planning application, nor has the fence been removed. Therefore the amended planning application does nothing to normalise the fence construction. The application does refer to "existing fencelines" however these are not specified or indicated on the location plan. Accordingly, as per my previous objection as Title Holder, he does not have my consent to have a fence in that location.
- TFVCC are also concerned that a fence has been erected, but it is not detailed in this planning application and as previously commented it is out of character within the stripley which is located in a conservation area. Historically the stripleys are a network of open green corridors which form public right of ways between the rows of traditional cottages and the Local Development plan demands the protection of this network.

Comments (PO): The previous application was withdrawn after the applicant was advised that the fence was unacceptable in its current form and location. A new application to amend the fence is being pursued and if this fails to materialise then formal enforcement action will be taken to seek its regularisation. This application is solely for a new window and door to the rear and solar panels to the front. For the avoidance of doubt, ownership of land is a private legal matter not a planning matter.

Issue: Windows to the rear of houses in this part of the village are limited in order to provide privacy to neighbours. If this application is granted it sets a precedent for large rear windows in properties in the conservation area.

Both the new window and door overlook my house and straight into my lounge. It is only 8 metres away. This will affect my privacy greatly.

Comments (PO): The proposed new window is small scale; it is not a large window and will therefore not set a precedent for large rear windows. In any case each case is assessed on its individual merits. In terms of privacy, it is not considered that the small window would result in a significant amenity loss, in terms of privacy or overlooking, to neighbouring property. The new window would result in mutual overlooking as windows from the objector's property face the applicants. A condition will be imposed that the window and door are obscure glazed.

Issue: The new door to Mr Lusty's kitchen is also out of keeping with the area - no houses have back doors into the stripleys. Again this sets a precedent for the conservation area.

Comments (PO): Doors located to the rear of cottages are features found elsewhere on other historic properties within the conservation area. The insertion of a door to the rear would not alter our understanding of the traditional cottages contribution to the conservation area within the context of its location at the end of a stripley. The proposal would therefore preserve and enhance rather than detract from the character of the conservation area

OBSERVATIONS – ASSESSMENT OF PROPOSAL

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

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

In this case the proposal is not subject to an allocated site.

The main issues are considered below

Impact of the development on the Listed Building and surrounding environment (Policy BE3, H4 & IMP1)

In considering an application for planning permission in a conservation area, current policy, in particular policy BE3, requires all new development to preserve and enhance the character and appearance of an area, to ensure that new development does not adversely affect the quality and experience of the area. The design of the new development should therefore be derived from a thorough understanding of the special qualities of the conservation area, which led to its designation in the first place

Policy H4 seeks to ensure that alterations and extensions do not adversely affect the appearance of the house and the surrounding area in terms of style, scale, proportions or materials.

IMP1 seeks to ensure that development proposals relate satisfactorily to their surroundings in terms of siting, design etc.

The site contains a small traditional fisherman's cottage with lean-to garage on eastern gable. The proposed alterations to the existing cottage will retain one of the earliest surviving structures within the conservation area and located at the eastern end of a strip they will maintain this pattern of development which contributes to the historic layout and understanding of the Findhorn Conservation Area.

In keeping with policy BE3, the proposal will retain the existing building and alter it by adding solar panels to the roof (south facing on front elevation) and inserting a door and small window to rear elevation. The window and door are to be timber and face onto the rear strip. The mix of materials - both old and new - is also found elsewhere and is considered acceptable for use within the Conservation Area.

It has been suggested in objections that the proposal will result in overlooking and create privacy issues. Essential to the determination of this application is the recognition of not only the architectural character of these properties, but also an appreciation of the spaces between them. The size of gardens, open space and proximity between buildings present in the Findhorn Conservation Area would be unacceptable in almost any other village. Therefore the expectations of space between buildings, amenity and privacy must be assessed within the context of a very dense, organic layout of buildings all at varying heights. The spacing between the proposed house and neighbouring properties is directly comparable to dozens of other nearby properties and the strips/lanes dividing them. Windows to the front and rear of properties face on the public lanes and essentially face each other. A small window to the rear of 71 Findhorn already exists. This is to be replaced with a door and a new window slapped in to serve kitchen area to allow light in.

It is not considered that the small window would result in a significant amenity loss, in terms of privacy or overlooking, to neighbouring property. The new window would result in mutual overlooking as windows from the objector's property face the applicants. However the justification for the window is to let light into the lounge area, a condition will therefore be imposed that the new window is obscure glazed. On this basis, there is no sufficient justification to refuse the application in terms of impact on privacy or overlooking grounds.

The window and door located to the rear of cottages are features found on other historic properties within the conservation area. In any case, the insertion of a door to the rear would not alter our understanding of the traditional cottages contribution to the conservation area within the context of its location at the end of a strip. The proposal would therefore preserve and enhance rather than

detract from the character of the conservation area.

Overall, the alterations are considered to be acceptable 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. The proposal is therefore acceptable in terms of policy BE3, H4 and IMP1.

It is recommended that permission be granted for this development.

REASON(S) FOR DECISION

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

The design, scale and materials are considered to be acceptable for the location without creating an adverse effect on the character and appearance of the Conservation area or neighbouring amenity. The application would therefore accord with development plan policies and supplementary planning guidance relating to those matters.

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

HISTORY

Reference No.	Description			
19/01101/APP	Install thermal panels erect new fence line and external wall slapping at 71 Findhorn Forres Moray IV36 3YF			
	Decision	Withdrawn	Date Of Decision	30/10/19
97/01536/FUL	Construct timber store on western gable of cottage at 71 Findhorn Forres Moray IV36 3YF			
	Decision	Permitted	Date Of Decision	13/08/98

ADVERT

Advert Fee paid?	Yes		
Local Newspaper	Reason for Advert	Date of expiry	
Forres Gazette	Planning application affecting LB/CA	16/01/20	
PINS	Planning application affecting LB/CA	16/01/20	

DEVELOPER CONTRIBUTIONS (PGU)

Status	
--------	--

DOCUMENTS, ASSESSMENTS etc. *

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

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

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

Document Name:

Main Issues:

S.75 AGREEMENT

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

Summary of terms of agreement:

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

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

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

Section 31	Requiring planning authority to provide information and restrict grant of planning permission		NO
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Section 32	Requiring planning authority to consider the imposition of planning conditions		NO
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Summary of Direction(s)



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

PERMISSION FOR DEVELOPMENT

**[Forres]
Application for Planning Permission**

TO



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

**Install new thermal panels and external wall openings at 71 Findhorn Forres
Moray IV36 3YF**

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

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

Date of Notice: **5 February 2020**



Head Economic Growth and Development Services
Economy, Environment and Finance
Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

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

CONDITION(S)

Permission is granted subject to the following conditions: -

- 1 The glazing in both the door and window shall be obscure glazed with glass of obscuration level 4 of the range of glass manufactured by Pilkington plc at the date of this permission or an equivalent manufacturer agreed in writing by this council (as Planning Authority). Glazing of that obscuration level shall be retained in those windows for the lifetime of the development hereby approved.

Reason: To avoid overlooking of the adjacent property in the interest of residential amenity.

REASON(S) FOR DECISION

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

The design, scale and materials are considered to be acceptable for the location without creating an adverse effect on the character and appearance of the Conservation area or neighbouring amenity. The application would therefore accord with development plan policies and supplementary planning guidance relating to those matters.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
190062.LUSTY.03PB	D	Elevations and floor plans
190062.LUSTY.04PB	A	Site and location plan

IMPORTANT NOTES ABOUT THIS DECISION

DURATION OF THIS PERMISSION

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

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

COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT

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

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

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

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

ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

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

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

It is noted that an Application for a Building Warrant has been received in respect of these proposals.

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

N/A

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

N/A

TERMS OF S.75 AGREEMENT RELATING TO THIS APPLICATION
The terms, or summary of terms of the Agreement can be inspected at:-

N/A

NOTICE OF APPEAL

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

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

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.



MORAY COUNCIL

NOTIFICATION OF INITIATION OF DEVELOPMENT

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

Application Number **19/01606/APP**

Date Decision Issued

Location and Description of Development Install new thermal panels and external wall openings at 71 Findhorn Forres Moray IV36 3YF

Please note that all suspensive conditions must be discharged prior to commencement of development

Date works are to Commence	
----------------------------	--

Name, Address and contact details of developer

The Full name and Address and contact details of the landowner, if a different person

Where an agent is appointed, their full name and contact details

Signed

Name (Print)

Date

Please complete and return this form to:

Development Management & Building Standards Manager, Moray Council, PO Box 6760, Elgin, Moray, IV30 1BX

OR

E-mail: development.control@moray.gov.uk



MORAY COUNCIL

NOTIFICATION OF COMPLETION OF DEVELOPMENT

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

Application Number **19/01606/APP**

Date Decision Issued

Location and Description of Development Install new thermal panels and external wall openings at 71 Findhorn Forres Moray IV36 3YF

Date of completion of works	
------------------------------------	--

Name, Address and contact details of developer

.....

.....

The Full name and Address and contact details of the landowner, if a different person

.....

.....

Where an agent is appointed, their full name and contact details

.....

.....

Signed

Name (Print)

Date

.....

.....

.....

Please complete and return this form to:

Development Management & Building Standards Manager, Moray Council, PO Box 6760, Elgin, Moray IV30 1BX

E-mail: development.control@moray.gov.uk



APPENDIX 2

NOTICE OF REVIEW, GROUNDS FOR REVIEW & SUPPORTING DOCUMENTS

NOTICE OF REVIEW

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

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

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

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

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

1. Applicant's Details		2. Agent's Details (if any)	
Title	MR	Ref No.	
Forename	MARTIN	Forename	
Surname	LUSTY	Surname	
Company Name		Company Name	
Building No./Name	71	Building No./Name	
Address Line 1	FINDHORN	Address Line 1	
Address Line 2		Address Line 2	
Town/City	MORAY	Town/City	
Postcode	IV36 3YF	Postcode	
Telephone		Telephone	
Mobile		Mobile	
Fax		Fax	
Email		Email	

3. Application Details	
Planning authority	MORAY COUNCIL
Planning authority's application reference number	19/01606/APP
Site address	71 FINDHORN, MORAY, IV36 3YF
Description of proposed development	INSTALL NEW THERMAL PANELS AND EXTERNAL WALL OPENINGS.

Date of application

11/12/19

Date of decision (if any)

5/2/20

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

4. Nature of Application

Application for planning permission (including householder application)



Application for planning permission in principle



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



Application for approval of matters specified in conditions



5. Reasons for seeking review

Refusal of application by appointed officer



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



Conditions imposed on consent by appointed officer



6. Review procedure

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

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

Further written submissions

One or more hearing sessions

Site inspection

Assessment of review documents only, with no further procedure



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

7. Site inspection

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

Can the site be viewed entirely from public land?



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



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

8. Statement

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

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

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

SEE SEPARATE SHEET

Have you raised any matters which were not before the appointed officer at the time your application was determined? Yes ☐ No ☒

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

9. List of Documents and Evidence

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

SITE PLAN
ORIGINAL PLAN.
REVIEW STATEMENT
PLANNING APPROVAL DOCUMENT WITH CONDITION.
PHOTOGRAPHS.

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

10. Checklist

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

Full completion of all parts of this form



Statement of your reasons for requesting a review



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

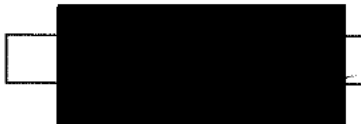


Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number,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

DECLARATION

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

Signature:



Name:

MARTIN LUSTY.

Date:

17/07/20

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

71 FINDHORN MORAY

APPELLANTMR MARTIN LUSTY

REVIEW

INSTALL NEW THERMAL PANELS AND EXTERNAL WALL OPENINGS.

PLANNING REFERENCE NUMBER 19/01606/APP

DATE Thursday, 13 February 2020

PROPOSAL. This is a simple planning application to install 2 No solar panels, provide a new rear door to my house add a small window to increase the light into my lounge area. The solar panels are not an issue. The principal of forming a new door and window are also on the face of it, acceptable. However, the reason for seeking a Review is for the planning condition imposed on the consent which states that any glazing has to be obscure glass to level 4. This requirement defeats the object of going to all the costs to get light into the lounge and will actually reduce the light into my kitchen.

REASONS FOR IMPOSING THE CONDITION. The planning officer states that reason for imposing the condition is “to avoid overlooking of the adjacent property in the interest of residential amenity”.

REASONS TO ALLOW CLEAR GLASS.

1. The planning officer has not taken into consideration any of my rights. I only have a small window in my lounge which makes the room dark and gloomy most of the day. I am a nature lover and like to see the sky and birds during the day.
2. The window itself is only 1.14 x 0.76 high. The cill height is set at 1.34 meters. If I am sitting down in my lounge, I cannot see out of the window nor could any of my neighbours see what I am doing if they were to be looking out of their windows across to me.
3. The area of Findhorn where I live has a tapered layout with the narrowest space between buildings being at the South West side and the widest distance being to the North East where my house is located. The distance between windows at the narrowest end of the taper is 6 meters whereas at the end where my house is situated it is 9 meters. I have provided a site plan which shows houses in a row numbered 62, 63 and 64. These are tapered and are across from the row of houses comprising of 68, 69, 70 and my own house number 71. From this site plan you can also see that the nearest neighbour is number 62 Findhorn who has a gable wall facing my house but even this is on an angle. It is my opinion that the distance between number 62 Findhorn and my own property number 71 Findhorn is one of the very few in the village with this amount (9 meters) between windows. Most others in this area are far less distance between them.

4. Photographs have been provided to demonstrate the size of windows in adjoining properties. I have numbered the photographs to allow the Review Committee to assess what windows are associated with the various houses. In almost every case these windows are bigger than the one proposed by myself and have cill levels much lower than the 1.34 meter high proposed by me. None of these windows have obscure glass fitted.

Why am I being singled out?

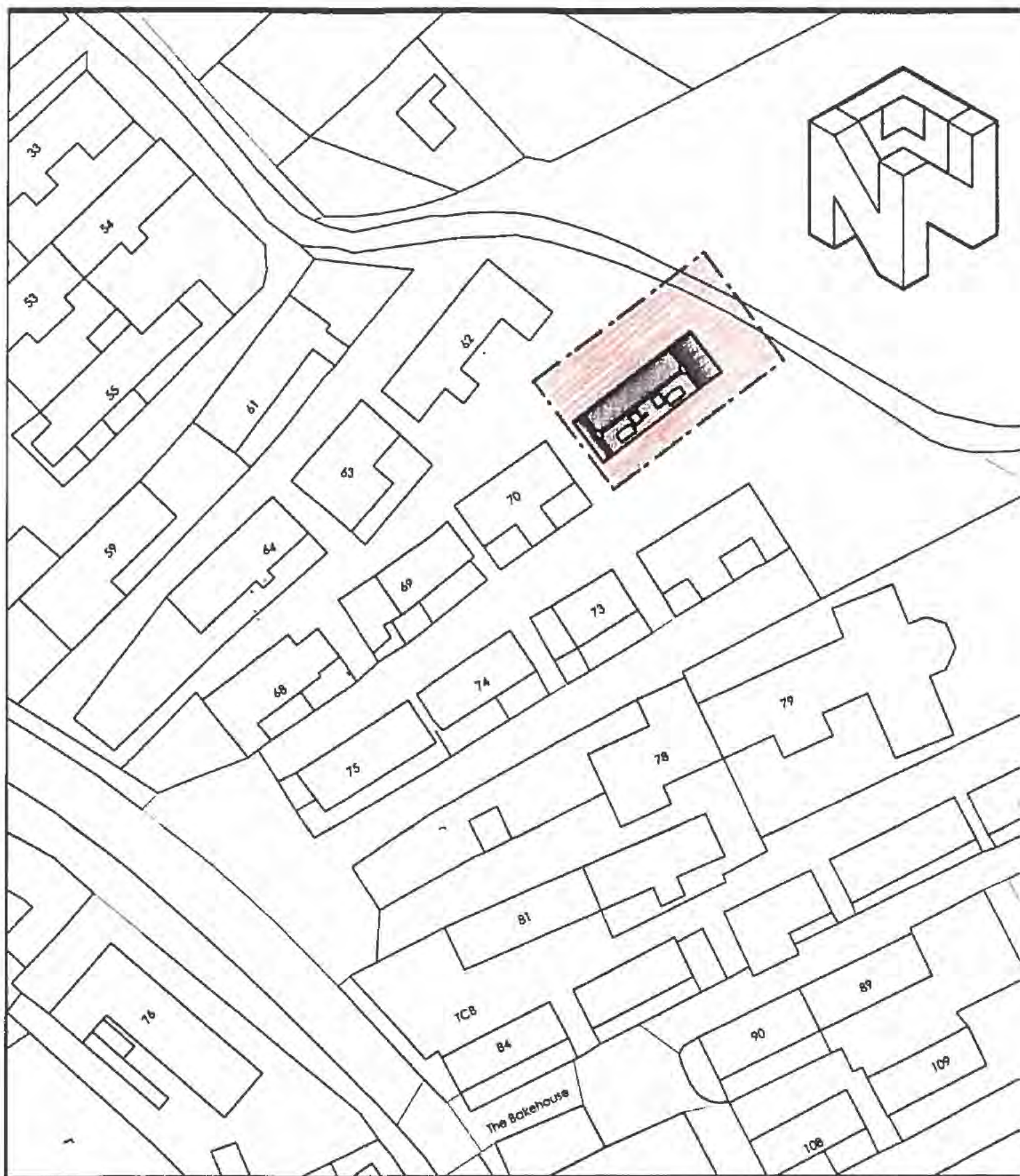
CONCLUSIONS/SUMMARY.

The character of this Conservation area part of Findhorn is for clusters of small cottages all in close proximity to one another. Living in this area, one expects a degree of closeness with ones neighbours. Given the fact that my door and window are located well in excess of what could be considered the average distance from properties adjacent, the justification for imposing this condition appears harsh. Why would my windows being obscure glass make any real difference to the amenity or character of this conservation area?

I tried to give consideration to all my neighbours before embarking on this project which was to improve my carbon footprint of my house and also obtain a better quality of life for myself internally with more light coming in. We are all encouraged to go green or use sustainable materials but if you want just a little more light in your lounge, you have to blank this out in the interest of amenity even although this represents the exact character of the area.

With the utmost respect, I have tried to do the right things here. Went through proper channels and paid out lots of money to obtain a better quality of life for myself. Having Grade 4 obscure glazing does not give me what I was seeking and the only dwelling this has any relevance for is 9 meters away and on an angle. Other buildings ar 6 meters or less away window to window (4.5 meters in one instance) but no one complains. Why am I being treated differently?

Please over turn this unfair condition and grant me normal glazing to be the same as all my other neighbours.



LOCATION PLAN 1:500



No 70











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

PERMISSION FOR DEVELOPMENT

**[Forres]
Application for Planning Permission**

TO Mr Martin Lusty
71 Findhorn
Forres
Moray
IV36 3YF

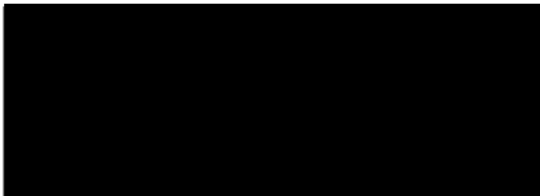
With reference to your application for planning permission under the above-mentioned Act as amended, Moray Council in exercise of its powers hereby **GRANT** planning permission for the following development:-

**Install new thermal panels and external wall openings at 71 Findhorn Forres
Moray IV36 3YF**

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

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

Date of Notice: 5 February 2020



Head Economic Growth and Development Services
Economy, Environment and Finance
Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

IMPORTANT NOTE

YOU ARE OBLIGED TO COMPLY WITH THESE CONDITIONS AND NOTES

SCHEDULE OF CONDITIONS

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

CONDITION(S)

Permission is granted subject to the following conditions: -

- 1 The glazing in both the door and window shall be obscure glazed with glass of obscuration level 4 of the range of glass manufactured by Pilkington plc at the date of this permission or an equivalent manufacturer agreed in writing by this council (as Planning Authority). Glazing of that obscuration level shall be retained in those windows for the lifetime of the development hereby approved.

Reason: To avoid overlooking of the adjacent property in the interest of residential amenity.

REASON(S) FOR DECISION

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

The design, scale and materials are considered to be acceptable for the location without creating an adverse effect on the character and appearance of the Conservation area or neighbouring amenity. The application would therefore accord with development plan policies and supplementary planning guidance relating to those matters.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
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190062.LUSTY.04PB	A	Site and location plan

IMPORTANT NOTES ABOUT THIS DECISION

DURATION OF THIS PERMISSION

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COMMENCEMENT AND COMPLETION OF THE DEVELOPMENT

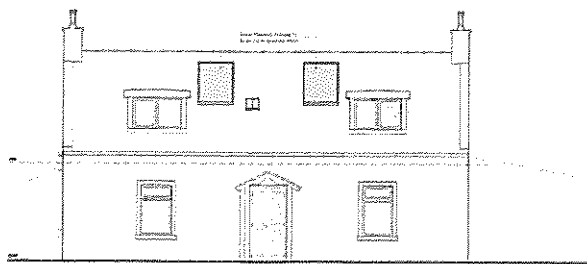
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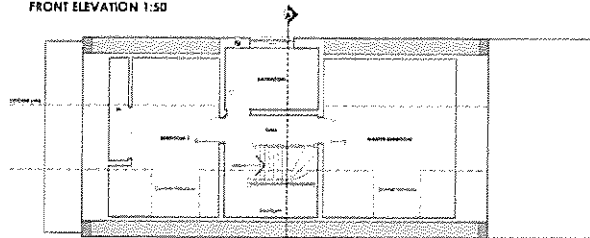
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ADDITIONAL NOTES FOR INFORMATION OF THE APPLICANT

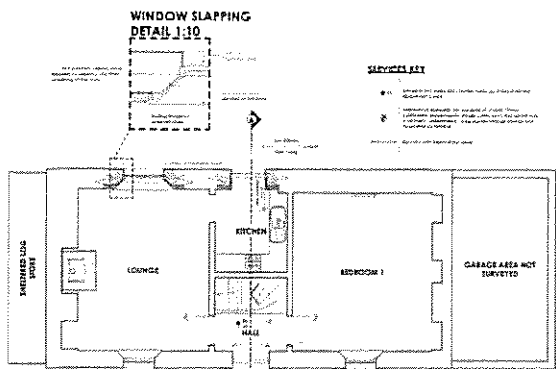


FRONT ELEVATION 1:50



FIRST FLOOR ELEVATION 1:50
NO NEW WORKS

Overhead dimensions indicated
on plan with dashed lines and
notes.

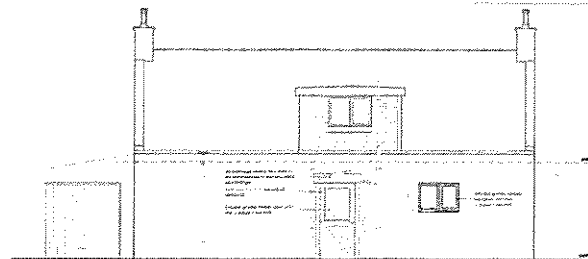


GROUND FLOOR ELEVATION
1:50

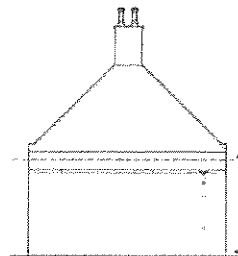
WINDOW SLIPPING
DETAIL 1:10

SERVICE KEY

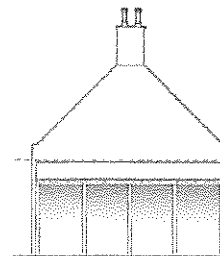
- 1. 100mm thick solid brickwork with 100mm thick plastered exterior.
- 2. 100mm thick solid brickwork with 100mm thick plastered exterior.
- 3. 100mm thick solid brickwork with 100mm thick plastered exterior.
- 4. 100mm thick solid brickwork with 100mm thick plastered exterior.



REAR ELEVATION 1:50



SIDE ELEVATION 1:50



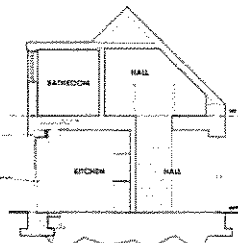
SIDE ELEVATION 1:50

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

APPROVED

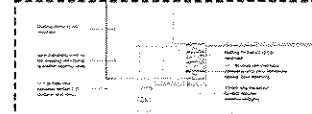
05 February 2020

Development Management
Environmental Services
The Moray Council



SECTION A-A 1:50

DOOR HEAD DETAIL 1:10



<p>Mr. Lusty</p> <p>170012 LUSTY.DPS D</p>	
<p>1. 100mm thick solid brickwork with 100mm thick plastered exterior.</p> <p>2. 100mm thick solid brickwork with 100mm thick plastered exterior.</p> <p>3. 100mm thick solid brickwork with 100mm thick plastered exterior.</p> <p>4. 100mm thick solid brickwork with 100mm thick plastered exterior.</p>	<p>1. 100mm thick solid brickwork with 100mm thick plastered exterior.</p> <p>2. 100mm thick solid brickwork with 100mm thick plastered exterior.</p> <p>3. 100mm thick solid brickwork with 100mm thick plastered exterior.</p> <p>4. 100mm thick solid brickwork with 100mm thick plastered exterior.</p>



APPENDIX 3

FURTHER REPRESENTATIONS FROM INTERESTED PARTIES

Lissa Rowan

From: Lissa Rowan
Sent: 07 April 2020 15:38
To: Lissa Rowan
Subject: FW: Notice of Review - Planning Application 19/01606/APP

From: [REDACTED]
Sent: 07 April 2020 3:23 PM
To: Lissa Rowan
Subject: Re: Notice of Review - Planning Application 19/01606/APP

Good afternoon Ms Rowan,

Thank you for the update about this planning application.

As per my original objection, and comments on the appeal, the distance between the two windows would be under 8 metres and would provide considerable overlooking.

Kind Regards,

--

[REDACTED]



APPENDIX 4

APPLICANT'S RESPONSE TO FURTHER REPRESENTATIONS

Lissa Rowan

From: Martin Lusty <[REDACTED]>
Sent: 04 June 2020 13:30
To: Lissa Rowan
Subject: Application for Review of Planning Application 19

Lissa

Thank you for your email of last week keeping me updated.

Unsurprisingly, the only representation that has been received comes from my neighbour at No 62. As a matter of fact, the distance is about 9m (not 8m as he states) to the recently added extension to no 62. When I arrived in Findhorn 30 years ago the distance would have been considerably greater. [REDACTED]

[REDACTED] Being at the end of the strip, there is quite a distance between our houses, and it is now clear that it was his expectation when purchasing No 62 that the land between the front of his house and the back of mine was available for his amenity; however, I do happen to have a back garden, which I use to cultivate organic vegetables and he is not interested.

Findhorn is a wee fishing village where the distances between the houses are small. The distance between my house and his is on the top end for Findhorn, and there are many other houses where the distance is *much* smaller (the front of No 61 and the back of No 63 have less than 4m between them), yet there are windows of clear glass overlooking one another. Bearing this in mind, would you not deem that the imposed condition for *frosted glass* is discriminatory?

I am of the opinion that planners use the distance of 4 metres as a guide for windows in relation to boundaries. This being the case, the 8-9 meters between my window and that of my neighbour in No 62 would meet this designation. The character of this area of Findhorn is for closely grouped houses together with very little in the way of privacy but people choose to live in this much sought after village knowing that windows and properties are very close together.

There is at present a planning application (20/00348/APP) to erect a wee fence on my property boundary 0.9m high with a minimal visual impact, to protect my garden from vehicular traffic. I could have the height changed to 1.8m and make it a screen, which would block off his property from sight; however, it would be unsightly and my neighbours would not be happy. Unlike [REDACTED], I do respect my neighbours' feelings.

I feel privileged living in a place like Findhorn, and being able to enjoy wildlife that I would never in a big city. Quite apart from back windows allowing more light into my kitchen and lounge, frosted glass would not only reduce the amount of light, but would deprive me of the pleasure of being able to see the birds in my garden as well as watching the plants grow day by day. I can only reiterate what I have stated above, that imposing such a condition (ie frosted glass) is not only discriminatory, but that the owner of No 62 should never have chosen to come to a wee village like Findhorn in the first place, were privacy such an important issue to him.

Kind Regards - Martin Lusty



APPENDIX 5

PHOTOGRAPHS OF SITE



NU08 LUF

Rio



























