



Moray Local Review Body

Thursday, 28 February 2019

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, 28 February 2019 at 14:00.**

BUSINESS

- 1 Sederunt**
- 2 Declaration of Group Decisions and Members Interests ***
Hearing
- 3 LR217 - Ward 8 - Forres** **5 - 114**
Planning Application 18/00795/APP – Erect new rendered blockwork garage and install patio door in house at Bundon, Findhorn, Forres, IV36 3TE

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

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

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

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

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

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

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

THE MORAY COUNCIL

Moray Local Review Body

SEDERUNT

Councillor Amy Patience (Chair)
Councillor David Bremner (Depute Chair)
Councillor George Alexander (Member)
Councillor Paula Coy (Member)
Councillor Donald Gatt (Member)
Councillor Ray McLean (Member)
Councillor Derek Ross (Member)

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



MORAY LOCAL REVIEW BODY

28 FEBRUARY 2019

SUMMARY OF INFORMATION FOR CASE NO LR217

Planning Application 18/00795/APP – Erect new rendered blockwork garage and install patio door in house at Bundon, Findhorn, Forres, IV36 3TE

Ward 8 - Forres

Planning permission was refused under the Statutory Scheme of Delegation by the Appointed Officer on 6 August 2018 on the grounds that:

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

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

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

At the meeting of the Moray Local Review Body (MLRB) on 20 December 2018, the MLRB agreed to defer consideration of the above Notice of Review to a Hearing Session in terms of Regulation 13. The purpose of the Hearing is to consider any technical questions which may be asked by the MLRB in relation to specific flood detail regarding water displacement as a result of the development and the perceived impact to neighbouring properties.

The Hearing procedure is attached as **Appendix 3**.

The Applicant's statement and associated documents are attached as **Appendix 4**.

The Flood Risk Management Team's statement is attached as **Appendix 5**.

Site Plan for Neighbour Notification purposes only

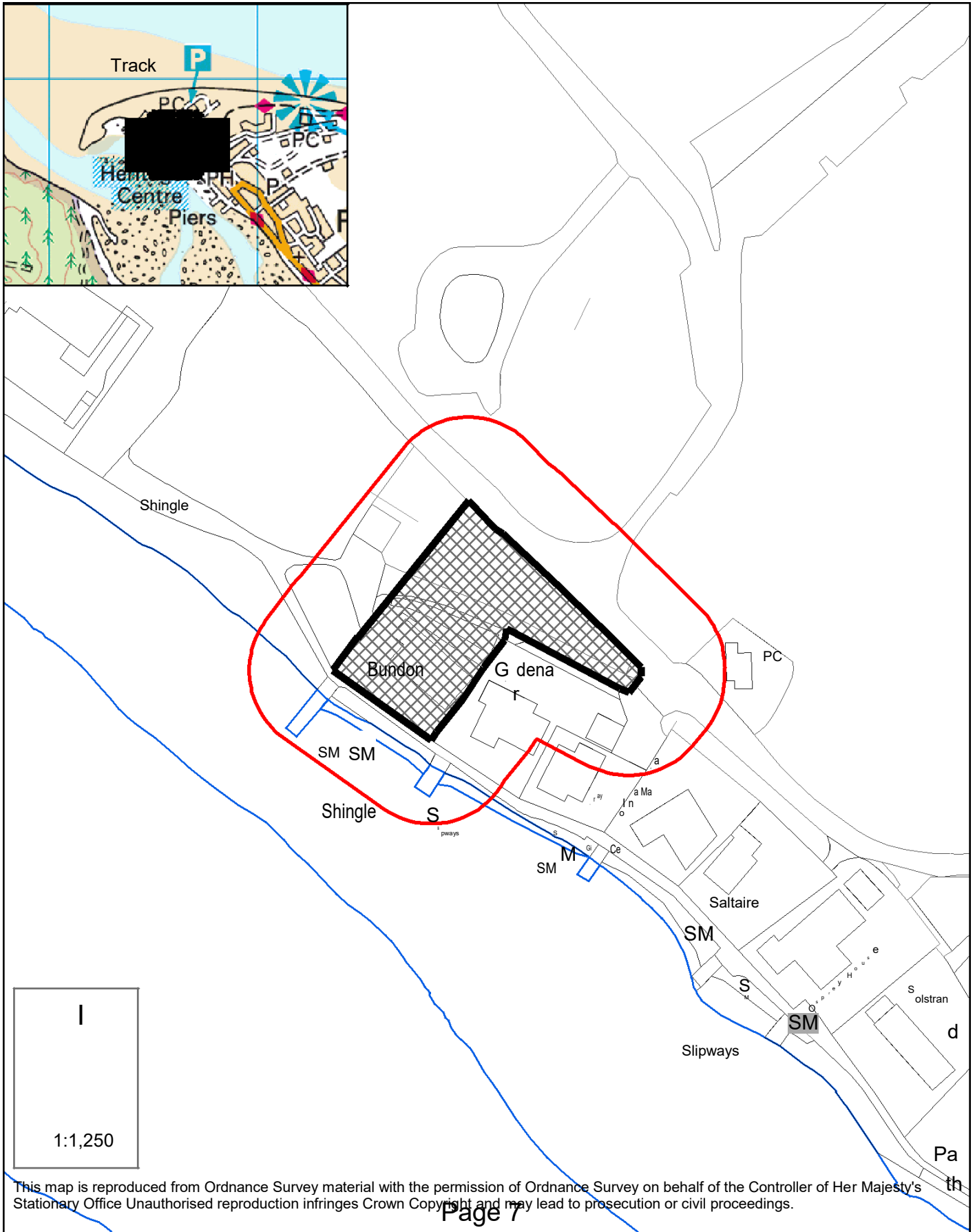
Town and Country Planning

(Development Management Procedure)(Scotland) Regulations 2008



Planning Application Reference Number:

18/00795/APP



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APPENDIX 1

DOCUMENTS CONSIDERED OR PREPARED BY THE APPOINTED OFFICER



The Moray Council Council Office High Street Elgin IV30 1BX Tel: 01343 563 501 Fax: 01343 563 263 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 100120958-001

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)

Erect new rendered blockwork garage Install patio door in house

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:	Wittets Architects		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Duncan	Building Name:	
Last Name: *	MacCallum	Building Number:	26
Telephone Number: *	01343 543237	Address 1 (Street): *	Hay Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Elgin
Fax Number:		Country: *	UK
		Postcode: *	IV30 1NQ
Email Address: *	dm@wittets.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:	Bundon
First Name: *	C	Building Number:	
Last Name: *	Jamieson	Address 1 (Street): *	West Shore
Company/Organisation		Address 2:	
Telephone Number: *		Town/City: *	Findhorn
Extension Number:		Country: *	UK
Mobile Number:		Postcode: *	IV36 3YE
Fax Number:			
Email Address: *			

Site Address Details

Planning Authority:

Moray Council

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

Address 1:

BUNDON

Address 2:

FINDHORN

Address 3:

Address 4:

Address 5:

Town/City/Settlement:

FORRES

Post Code:

IV36 3YE

Please identify/describe the location of the site or sites

Northing

864670

Easting

303592

Pre-Application Discussion

Have you discussed your proposal with the planning authority? *

☒ Yes ☐ No

Trees

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

☐ Yes ☒ No

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

Access and Parking

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

☒ Yes ☐ No

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

Planning Service Employee/Elected Member Interest

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

☒ Yes ☐ No

Certificates and Notices

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

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

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

☐ Yes ☒ No

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

☒ Yes ☐ No

Certificate Required

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

Certificate A

Land Ownership Certificate

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

Certificate A

I hereby certify that –

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

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

Signed: Duncan MacCallum

On behalf of: Mr C Jamieson

Date: 06/06/2018

☐ 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.

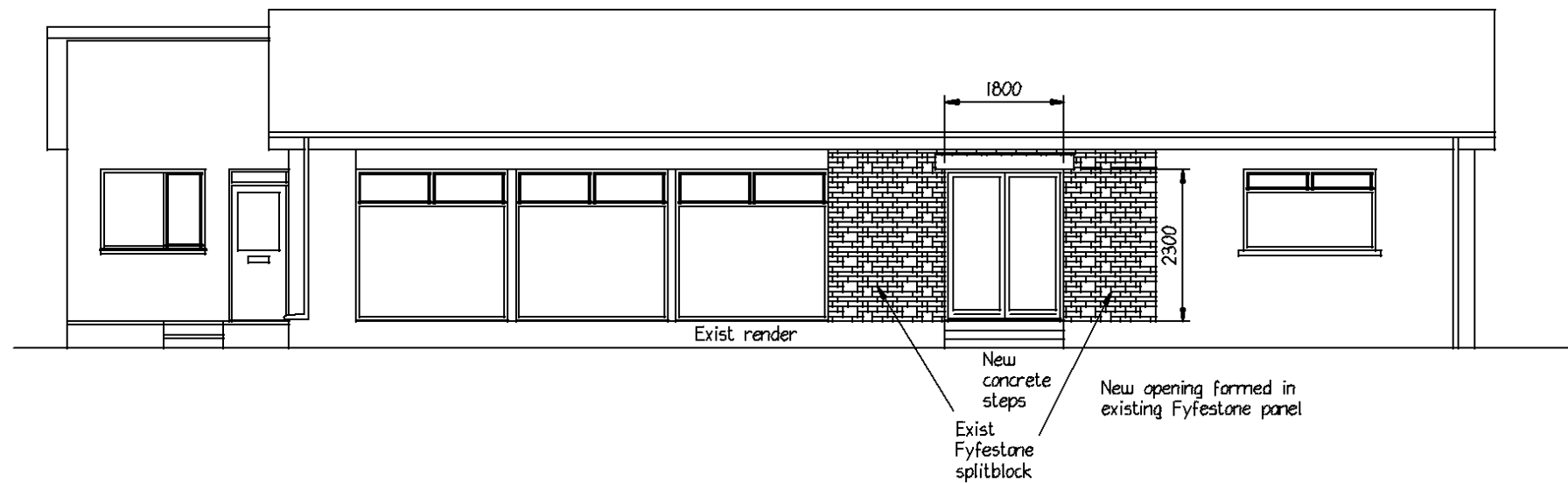
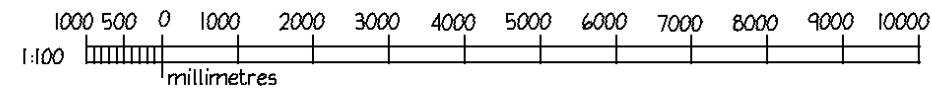
Declaration Name: Mr Duncan MacCallum

Declaration Date: 06/06/2018

Payment Details

Telephone Payment Reference:

Created: 11/06/2018 17:00



South-west Elevation 1:100

New Garage and
French Window at
Bundon, Findhorn for
Mr C Jamieson

French Window Elevation
Planning

WITTETS
ARCHITECTS

26 Hay St, Elgin, Moray IV30 1NQ

T 01343 543237

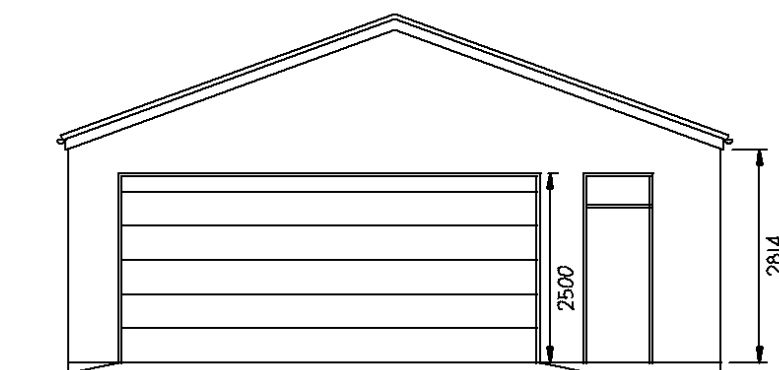
F 01343 540542

e info@wittets.co.uk

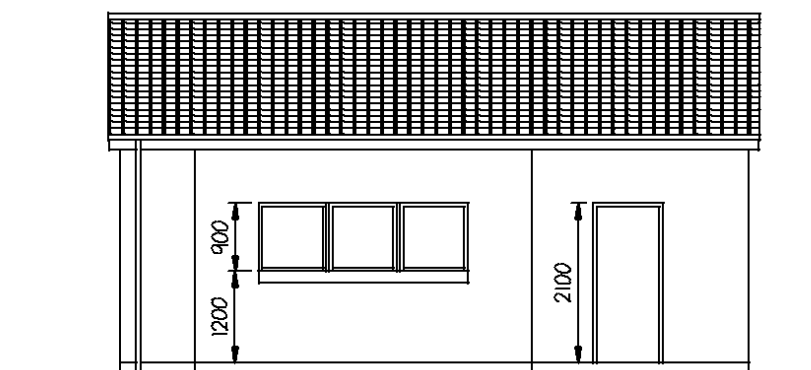
www.wittets.co.uk

1:500@A_3Apr 2018

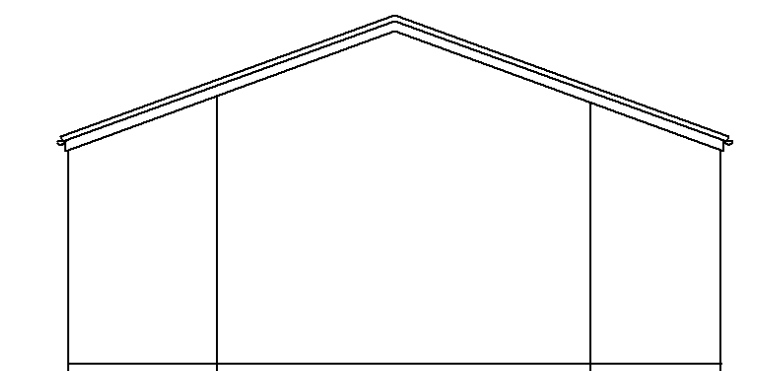
Roof - Red roof tiles to match house
Walls - White wet-dash rendered blockwork to match house
Roof Pitch - 20° to match house



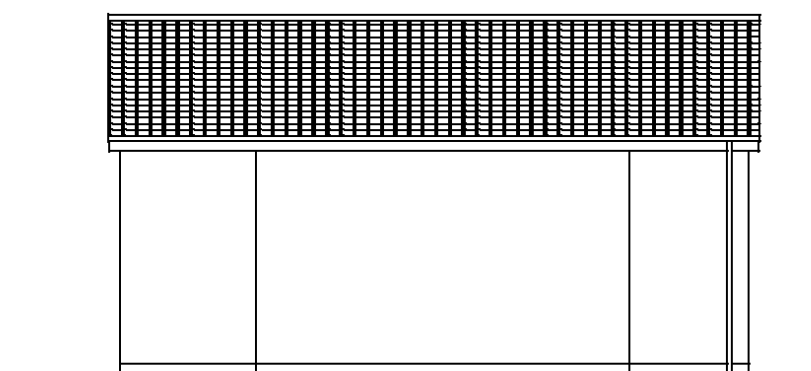
South Elevation



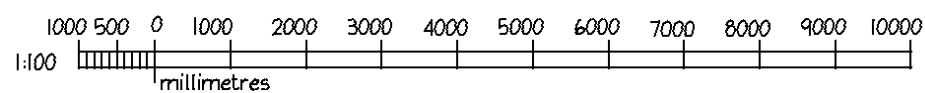
East elevation



North Elevation



West elevation



New Garage and
French Window at
Bundon, Findhorn for
Mr C Jamieson

Elevations
Planning

WITTETS
ARCHITECTS

26 Hay St, Elgin, Moray IV30 1NQ

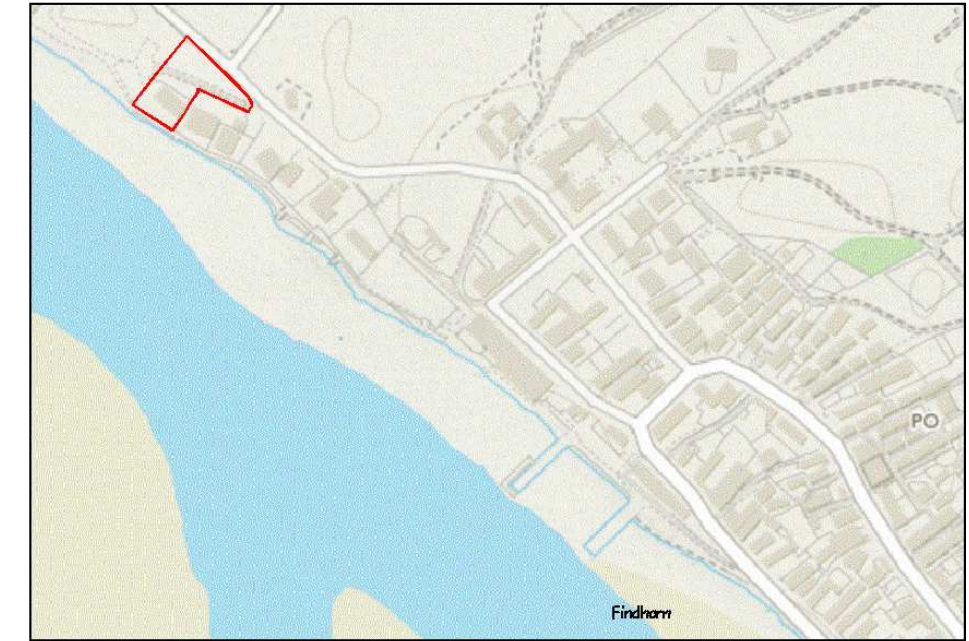
T 01343 543237

e info@wittets.co.uk

F 01343 540542

www.wittets.co.uk

1:100 @A3 Apr 2018



Site Location 1:5000

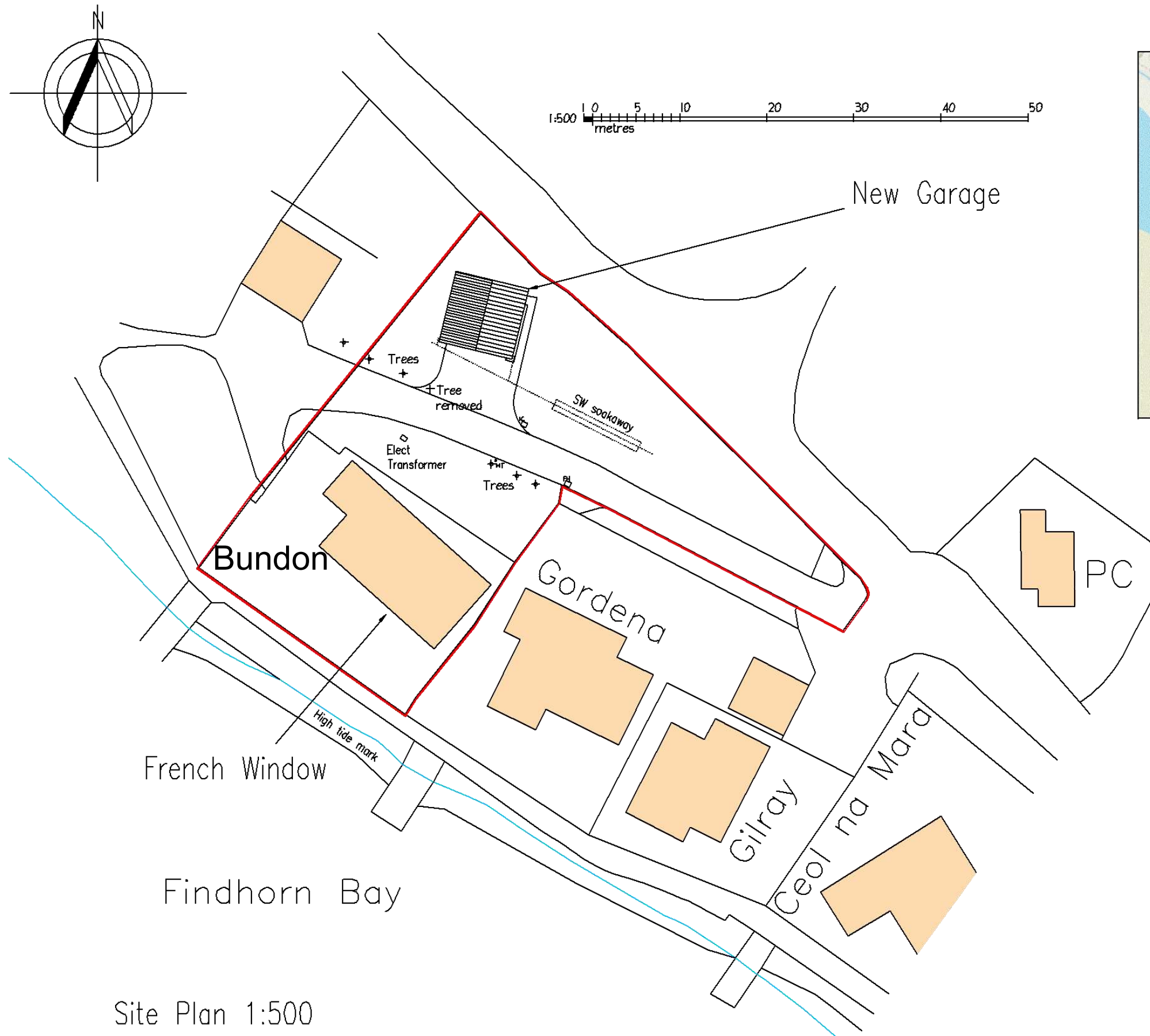
New Garage and
French Window at
Bundon, Findhorn for
Mr C Jamieson

Site Plan
Planning

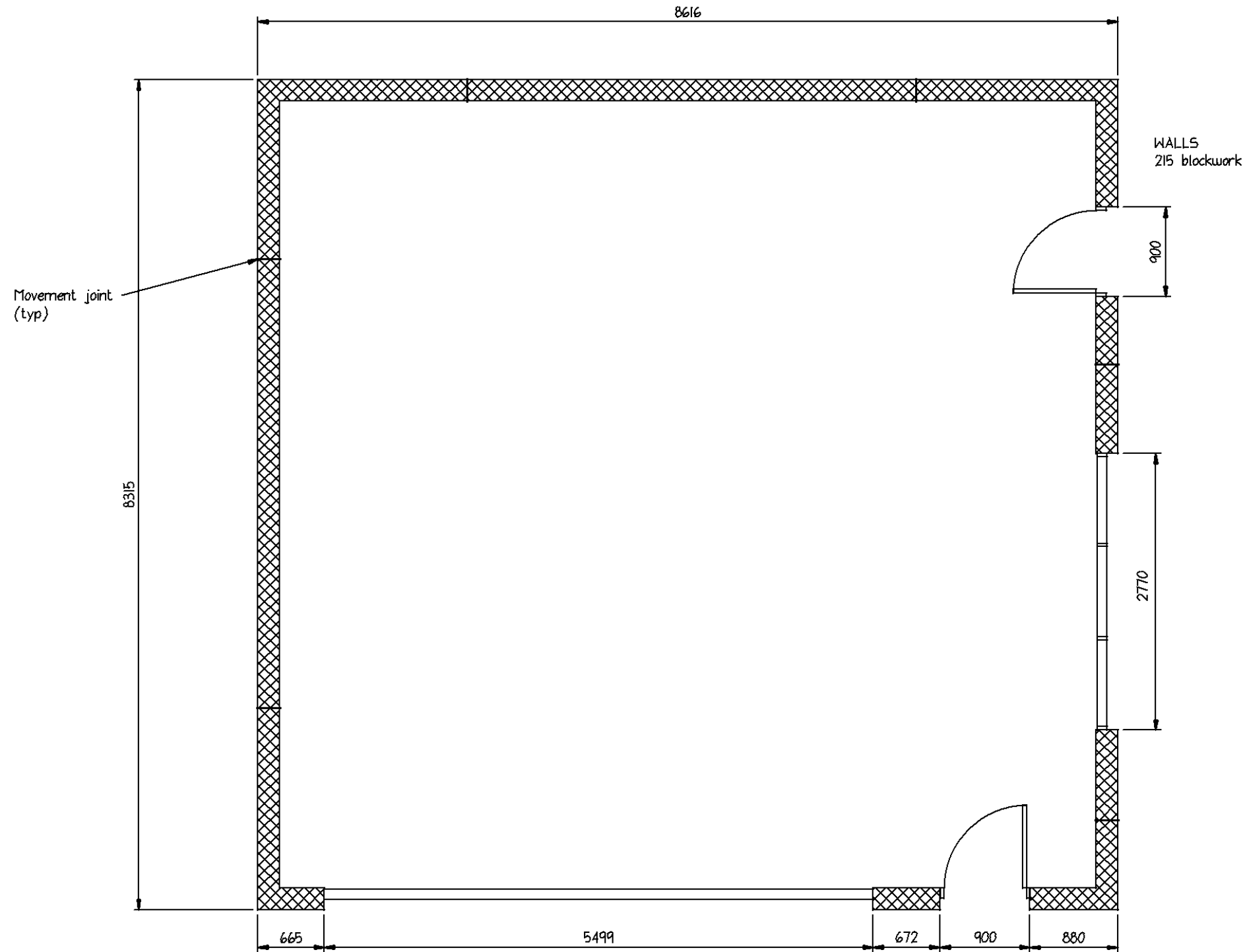
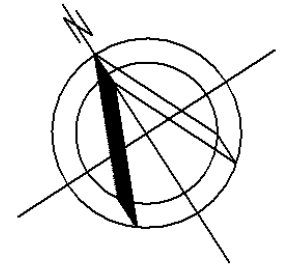
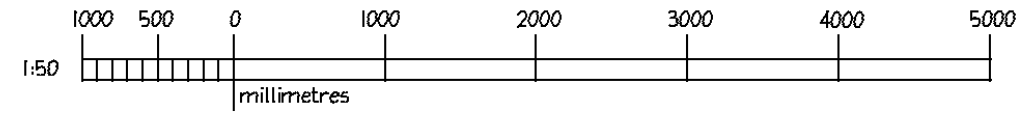
WITTETS
ARCHITECTS

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

1:500 @A3 Apr 2018



Site Plan 1:500



Floorplan 1:50

New Garage and
French Window at
Bundon, Findhorn for
Mr C Jamieson

Floor Plan
Planning

WITTETS
ARCHITECTS

26 Hay St, Elgin, Moray IV30 1NQ

T 01343 543237

e info@wittets.co.uk

F 01343 540542

www.wittets.co.uk

1:50 @A3 Apr 2018

Consultation Request Notification

Planning Authority Name	The Moray Council
Response Date	4th July 2018
Planning Authority Reference	18/00795/APP
Nature of Proposal (Description)	Erect garage and install patio doors at
Site	Bundon Findhorn Forres Moray IV36 3YE
Site Postcode	N/A
Site Gazetteer UPRN	000133052058
Proposal Location Easting	303592
Proposal Location Northing	864670
Area of application site (Ha)	m²
Additional Comment	
Development Hierarchy Level	LOCAL
Supporting Documentation URL	http://public.moray.gov.uk/eplanning/centralDistribution.do?caseType=Application&keyVal=P A74VWBGISY00
Previous Application	06/00053/FUL
Date of Consultation	20th June 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr C Jamieson
Applicant Organisation Name	
Applicant Address	Bundon West Shore Findhorn UK IV36 3YE
Agent Name	Wittets Architects
Agent Organisation Name	
Agent Address	26 Hay Street ELGIN Moray IV30 1NQ
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Cathy Archibald
Case Officer Phone number	01343 563101
Case Officer email address	cathy.archibald@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

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.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Aberdeenshire Council Archaeology Service

Planning Application Ref. No: 18/00795/APP
Erect garage and install patio doors at
Bundon Findhorn Forres Moray for Mr C Jamieson

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 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

None

Condition(s)

None

Further comment(s) to be passed to applicant

Further information required to consider the application

Contact: Claire Herbert
email address:
archaeology@aberdeenshire.gov.uk
Consultee: Archaeology service

Date...21/06/2018..
Phone No ...01467 537717

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

Consultee Comments for Planning Application 18/00795/APP

Application Summary

Application Number: 18/00795/APP

Address: Bundon Findhorn Forres Moray IV36 3YE

Proposal: Erect garage and install pation doors at|cr|

Case Officer: Cathy Archibald

Consultee Details

Name: Mr CL Consultations

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

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

Comments

Approved unconditionally.

Adrian Muscutt

CL Officer

Consultation Request Notification

Planning Authority Name	The Moray Council
Response Date	4th July 2018
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Previous Application	06/00053/FUL
Date of Consultation	20th June 2018
Is this a re-consultation of an existing application?	No
Applicant Name	Mr C Jamieson
Applicant Organisation Name	
Applicant Address	Bundon West Shore Findhorn UK IV36 3YE
Agent Name	Wittets Architects
Agent Organisation Name	
Agent Address	26 Hay Street ELGIN Moray IV30 1NQ
Agent Phone Number	
Agent Email Address	N/A
Case Officer	Cathy Archibald
Case Officer Phone number	01343 563101
Case Officer email address	cathy.archibald@moray.gov.uk
PA Response To	consultation.planning@moray.gov.uk

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.

Please respond using the attached form:-

MORAY COUNCIL

PLANNING CONSULTATION RESPONSE

From: Moray Flood Risk Management

Planning Application Ref. No: 18/00795/APP
Erect garage and install pation doors at
Bundon Findhorn Forres Moray for Mr C Jamieson

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

Please

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

Reason(s) for objection

The application site lies entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps and may therefore be at medium to high risk of Coastal flooding and any development at the site would increase flood risk to surrounding properties.

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

This application is for the erection of a garage in association with the property “Bundon”. Although some types of small scale extensions to existing properties are considered to be outwith the scope of Scottish Planning Policy, in this particular case the proposed garage is a separate, relatively large building which is located away from the property of Bundon. Therefore it does not appear to us that the proposed garage would fall under this definition.

It is important to note that adoption of flood mitigation measures would only be suitable in some circumstances (such as Brownfield sites, clarified in SPP) and that TMC will insist on the avoidance of flood risk as the first principle.

Condition(s)

Further comment(s) to be passed to applicant

The applicant could undertake a Flood Risk Assessment (FRA) to ascertain more detailed and site specific flood information. The detail and technical complexity of a FRA should reflect the scale and potential significance of the proposed development.

The FRA should demonstrate that the development is not at risk of flooding during a 1:200 year flood event (including an allowance for climate change, refer UK Climate Projections 2009). A key requirement of the FRA is that it must consider all sources of flooding and demonstrate how mitigation methods will be managed. The FRA will be required to demonstrate that any flood risk associated with the development can be managed now and for the lifetime of the development, taking into account the potential effects of climate change. It should also demonstrate that the development will not increase the risk of flooding elsewhere. With regard to coastal flood risk this should allow for surge and wave action as well as the astronomical tide level.

In circumstances where mitigation is considered acceptable, the developer must demonstrate the measures will not increase flood risk elsewhere. Mitigation measures should include an allowance for freeboard and climate change and demonstrate that they do not negatively impact on the flood storage and conveyance capacity of the floodplain and that flood risk is not increased.

Please note that if you do undertake an FRA, and provide the information above, there is a strong chance that the application would still be objected to due to flood risk.

Further information required to consider the application

Contact: Katie Cruickshank
email address:
Consultee:

Date 03/07/18.....
Phone No

Return response to	consultation.planning@moray.gov.uk
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Address: Bundon Findhorn Forres Moray IV36 3YE

Proposal: Erect garage and install pation doors at|cr|

Case Officer: Cathy Archibald

Consultee Details

Name: Mr CL Consultations

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

Email: clconsultations@moray.gov.uk

On Behalf Of: Contaminated Land

Comments

Approved unconditionally.

Adrian Muscutt

CL Officer

Comments for Planning Application 18/00795/APP

Application Summary

Application Number: 18/00795/APP

Address: Bundon Findhorn Forres Moray IV36 3YE

Proposal: Erect garage and install patio doors at|cr|

Case Officer: Cathy Archibald

Customer Details

Name: Mr Greig Munro

Address: 156 Findhorn

Comment Details

Commenter Type: Member of the Public

Stance: Customer made comments neither objecting to or supporting the Planning

Application Comment Reasons:

- Inappropriate materials/finishes
- Lack of landscaping

Comment: This is a high profile site location for the proposed new garage as it is seen by all visitors to the village en-route to the Beach Car Parking.

Findhorn has an established history of sheds and outbuildings and it would be reasonable to assume that any new constructions would make an effort to fit in with these historical precedents of building form and external materials.

This is a large garage structure and no details are given for the levels or proposed landscaping.

REPORT OF HANDLING

Ref No:	18/00795/APP	Officer:	Cathy Archibald
Proposal Description/ Address	Erect garage and install patio doors at Bundon Findhorn Forres Moray		
Date:	06/08/18	Typist Initials:	FJA

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

CONSULTATIONS		
Consultee	Date Returned	Summary of Response
Contaminated Land	22/06/18	Approve unconditionally
Aberdeenshire Council Archaeology Service	21/06/18	No objection
Moray Flood Risk Management	04/07/18	Objection The application site lies entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps and may therefore be at medium to high risk of Coastal flooding and any development at the site would increase flood risk to surrounding properties.

DEVELOPMENT PLAN POLICY		
Policies	Dep	Any Comments (or refer to Observations below)
H4: House Alterations and Extensions		
EP9: Contaminated Land		
T2: Provision of Access		
T5: Parking Standards		
BE1: Sch Monuments and Nat Designations		
EP7: Control of Develop in FloodRiskArea	Y	
IMP1: Developer Requirements		

REPRESENTATIONS		
Representations Received	YES	
Total number of representations received		
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>Issue: Findhorn has an established history of sheds and outbuildings and it would be reasonable to assume that any new constructions would make an effort to fit in with these historical precedents of building form and external materials. This is a large garage structure and no details are given for the levels or proposed landscaping.</p> <p>Comments (PO): The materials are proposed to match the adjoining property, which given the garages location closer to some of the modern houses on the northern edge of the village are acceptable in what it clear a modern building. The finishes matching the adjoining building assist in allowing any observer to associate the garage with the close-by house. Had the application been approved, a condition requiring final approval of the finished level of the building would have been imposed.</p> <p>See also the Observations Section below</p>		
OBSERVATIONS – ASSESSMENT OF PROPOSAL		

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

The Proposal

The application seeks planning permission for:

- A detached garage with pitched roof; located adjacent to the house a track runs between the house and garage.
- The external material finishes are wet dash rendered blockwork, colour white, red roof tiles both to match the existing house.
- The external measurements are approx. 8.3m x 8.6m: 2.8m to eaves; 4.8m (to ridgeline of pitched roof)
- Also proposed the installation of French windows on the front elevation of the house.

The proposal is contrary to policy H4 and IMP1 of the Moray Local Plan 2015 based on the following considerations:

Site and Surrounds

The site is located on the edge of the west shore at Findhorn, and out with the Article 4 conservation area and older part of the village. There are mixture of styles of property fronting onto the shoreline.

Policy Assessment

Impact upon the surrounding locality (IMP1)

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

In terms of scale, design and material finishes the garage is considered acceptable. It is in keeping

with the parent house and is considered that it would not have a significant adverse impact on the house or the surrounding locality. Given its location and distance of the neighbouring adjacent properties it will not have a significant adverse impact on sunlight or daylight and no significant overlooking or privacy issues in relation to this application.

The proposed french-doors would be acceptable under policy H4 House alterations and Extensions, and might otherwise have been permitted development had it not been proposed in association with the garage being refused. For the avoidance of doubt, the french-doors do comply with all relevant policies of the Local Development Plan, but as they form part of the current application are not being given planning approval. A separate letter will be issued to the applicant regarding the french-doors confirming that they alone would benefit from permitted development, and not require planning permission.

Flood issues (EP7 and IMP1)

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

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

This application is for the erection of a detached garage in association with the property "Bundon". Although some types of small scale extensions to existing properties are considered to be outwith the scope of Scottish Planning Policy, in this particular case the proposed garage is a separate, relatively large building which is located away from the property of Bundon. Therefore it does not appear to us that the proposed garage would fall under this definition. Local development plan policy EP7 Control of Development in Flood Risk Areas states that development that would be at risk of flooding or would displace flood water elsewhere should not be permitted. Given the coastal location and potential for coastal flooding in this locality, it not considered the development of a garage in this location would be appropriate.

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

Access and Parking (T2 & T5)

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

Conclusion

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

OTHER MATERIAL CONSIDERATIONS TAKEN INTO ACCOUNT

None

HISTORY

Reference No.	Description
	Build boatshed and sail loft at Bundon Findhorn Forres Moray IV36 3YE

06/00053/FUL				
	Decision	Permitted	Date Of Decision	21/02/06

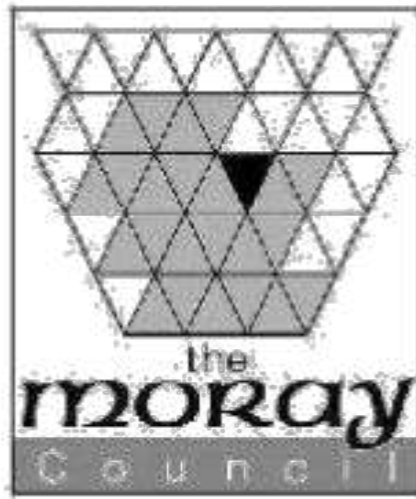
ADVERT			
Advert Fee paid?	N/A		
Local Newspaper	Reason for Advert	Date of expiry	

DEVELOPER CONTRIBUTIONS (PGU)			
Status	N/A		

DOCUMENTS, ASSESSMENTS etc. *			
<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:			

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

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



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

REFUSAL OF PLANNING PERMISSION

**[Forres]
Application for Planning Permission**

TO

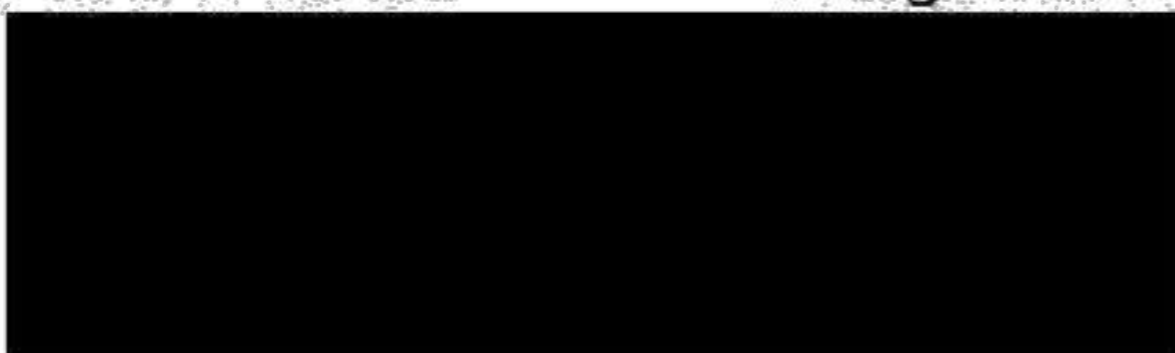


With reference to your application for planning permission under the above mentioned Act, the Council in exercise of their powers under the said Act, have decided to **REFUSE** your application for the following development:-

Erect garage and install patio doors at Bundon Findhorn Forres Moray

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

Date of Notice: **6 August 2018**



HEAD OF DEVELOPMENT SERVICES
Environmental Services Department
The Moray Council
Council Office
High Street
ELGIN
Moray IV30 1BX

IMPORTANT
YOUR ATTENTION IS DRAWN TO THE REASONS and NOTES BELOW

SCHEDULE OF REASON(S) FOR REFUSAL

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

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

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT

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

Reference	Version	Title
18:23:03		French window elevation
18:23:01 A		Garage elevation
18:23:01 A		Location plan
18:23:02		Garage floor plan

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

N/A

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

If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. The notice of review should be addressed to The Clerk, 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.



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

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 100120958-002

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

Applicant or Agent Details

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



Applicant



Agent

Agent Details

Please enter Agent details

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

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



Individual



Organisation/Corporate entity

Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mr"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Bundon"/>
First Name: *	<input type="text" value="C"/>	Building Number:	<input type="text"/>
Last Name: *	<input type="text" value="Jamieson"/>	Address 1 (Street): *	<input type="text" value="West Shore"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Findhorn"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="IV36 3YE"/>
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="BUNDON"/>
Address 2:	<input type="text" value="FINDHORN"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="FORRES"/>
Post Code:	<input type="text" value="IV36 3YE"/>

Please identify/describe the location of the site or sites

<input type="text"/>	
----------------------	--

Northing	<input type="text" value="864670"/>	Easting	<input type="text" value="303592"/>
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Description of Proposal

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

Erect new rendered blockwork garage Install patio door in house

Type of Application

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



Application for planning permission (including householder application but excluding application to work minerals).



Application for planning permission in principle.



Further application.



Application for approval of matters specified in conditions.

What does your review relate to? *



Refusal Notice.



Grant of permission with Conditions imposed.



No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

Statement of reasons for seeking review

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

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

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

See attached document; Planning Refusal Review Statement - Garage at Bundon

Have you raised any matters which were not before the appointed officer at the time the



Yes



No

Determination on your application was made? *

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 Refusal Review Statement - Garage at Bundon Site Plan Floor Plan Elevations SEPA Flood Management Map - Findhorn

Application Details

Please provide details of the application and decision.

What is the application reference number? *

18/00795/APP

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

06/06/2018

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

06/08/2018

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

☐ Yes ☒ No

(e.g. plans and Drawings) 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 (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 Duncan MacCallum

Declaration Date: 05/11/2018

Garage at Bundon, Findhorn

Planning Ref. 18/00795/APP

Planning Refusal Review Statement – Garage at Bundon

The planning refusal stated;

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

The planning refusal is based on the consultation response from Moray Flood Risk Management (MFRM) who objected to the planning application on the grounds that 'the site lies entirely within the medium likelihood (0.5% annual probability or 1 in 200 years) flood extent of the SEPA Flood Maps and may therefore be at medium to high risk of coastal flooding and any development at the site would increase flood risk to surrounding properties'.

It is accepted that the site lies within an area which is susceptible to coastal flooding, as stated above. As the flood risk is from coastal waters, the applicant argues that that the development will not increase flood risk to surrounding properties. There is no indication on the SEPA flood map that the flood will be caused by inundation of seawater as the flood risk area is remote from the sea. The flood will occur at very high tide, when sea level will cause ground water to rise through the porous sand of the site. Coastal waters are effectively limitless in volume; the presence of a garage will not divert this water or increase the risk to surrounding properties.

It is further stated that *'Although some types of small scale extensions to existing properties are considered to be outwith the scope of Scottish Planning Policy, in this particular case the proposed garage is a separate, relatively large building which is located away from the property of Bundon. Therefore it does not appear to us that the proposed garage would fall under this definition'*.

The application was for a garage to serve the house of Bundon. The only place within the applicant's property for an outhouse is on the ground to the rear (north-east) of the house. There is a track through the middle of the site across which others have right of access, limiting the position of any garage to that shown on the application. The applicant makes the argument that a domestic garage does not constitute building development as far as flood zoning is concerned in that it forms part of, and is ancillary to, the Bundon development which already exists.

MFRM suggested that a flood Risk Assessment could be provided, and that it should *'demonstrate that the development is not at risk of flooding during a 1:200 year flood event...'*. It is accepted that the proposed garage may be at risk from such an event, but the proposed construction (concrete floor & blockwork walls) will not be adversely affected by flooding. Electrics can be raised high above any likely flood level. The property will be allowed to flood to prevent pressure difference damaging doors etc, if necessary, by installing vents at floor level. Flood waters will therefore be let into the building, and will be let out when flood water subsides. This means that flood water will not be diverted to increase the flood risk to other properties.

The house Bundon sits on a raised sandbank overlooking Findhorn Bay. There are no existing outhouses attached to the property. It is reasonable to expect that the owners of Bundon will require an outhouse to protect their car, any water sport and gardening equipment they may have from the weather and to provide security for these items.

In summary, it is accepted that the site is liable to suffer a 1:200 year flood. The proposed garage is located on the only position available to the applicants. There should not be any loss of flood storage as the garage will have to accept flood water ingress and any flood will come from coastal waters which are effectively limitless. The construction of the garage will be such that any damage will be negligible.

Whilst it is an argument to prevent new development e.g. a new house, it seems to be unreasonable to deny the applicants planning approval for an outbuilding to an existing house on the basis that the site is liable to a 1 in 200 year flood, especially as it will have no bearing on the level of flood affecting others and the outbuilding will not be materially affected.

The MFRM consultation revealed that a flood risk assessment would effectively be pointless as *'there is a strong chance that the application would still be objected to due to flood risk'*.

Notwithstanding this, for completeness, each section required in a flood risk assessment is commented below:

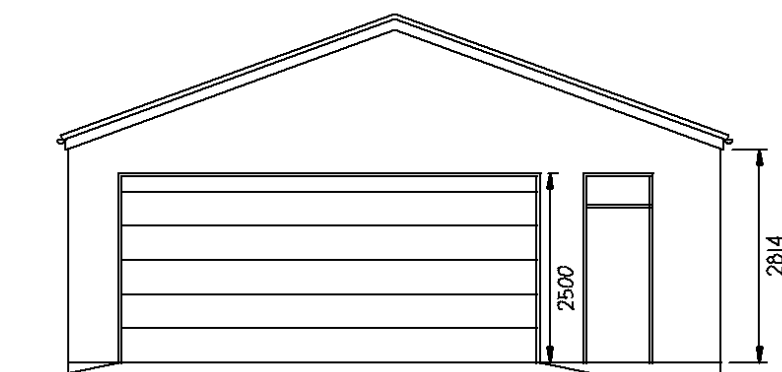
Source of flooding - coastal waters

- Mitigation – The garage shall be free flooding limiting the displaced water to that of the submerged blockwork and concrete floor. This displaced volume will be compensated by the removal of overburden from the Bundon garden immediately adjacent to the proposed garage. There will therefore be no material impact on surrounding properties and the 1:200 year event will effectively be contained on-site.
- Flooding Impact -The garage structure shall be exposed to flooding but resilient to the effects of flooding by design
- Vulnerability – Zero Impact
- Human Health – Zero Impact
- Environment – Zero adverse permanent or long-term impacts
- Environment – Zero pollution sources
- Cultural Heritage – Zero adverse permanent or long-term impacts
- Economic – Due to resilient design of proposed structure – Zero Impact to Property
- Infrastructure – Zero impact to infrastructure
- Rural Land Use – Zero Impact
- Economic Activity – Zero Impact
- Receptors – Even without the overburden removal mitigation measure there would be zero impact to the structure or material impact to flood risk elsewhere

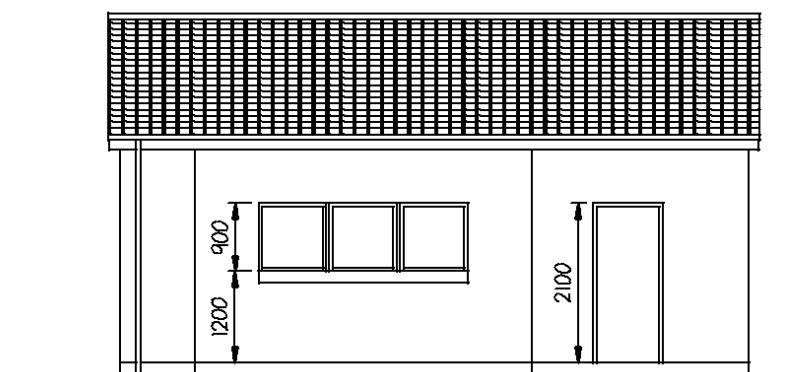
Additional support for approval of the application is provided by SPP par 263 which permits building in areas with a medium to high risk probability of coastal or watercourse flooding (greater than 0.5%; 1:200 years) and Par 264, which states "It is not possible to plan for development solely according to the calculated probability of flooding. In applying the risk framework to proposed development, the following should therefore be taken into account:" (Applicable items are included below)

- a) The Characteristics of the site – The garage site is elevated and limited pooling could occur before reaching the height of the slipway on the Bundon site and draining to the bay.
- b) The design and use of the proposed development – The garage will be designed to free-flood and be resilient to flooding. It will be used for storage of car, gardening equipment, watercraft etc.
- c) The size of the area likely to flood – The flood area is small (see SEPA flood map) and not materially affected by the volume of blockwork and concrete floor required for the garage.
- d) depth of floodwater – this will be less than a metre at the site before draining into the bay
 - Likely flow rate and path – the flow-rate is minimal as the floodwater will rise and pool until it the tide ebbs and the waters will subside back into the sand dunes that form the site.
 - Rate of rise and duration is not applicable to the garage as it shall free-flood and be resilient to flooding
- e) Vulnerability and risk of wave action for coastal sites – Bundon is adjacent to Findhorn Bay and is sheltered from the open sea by sand dunes, approx 230m from the site.
- f) The effects of climate change – considered in the design

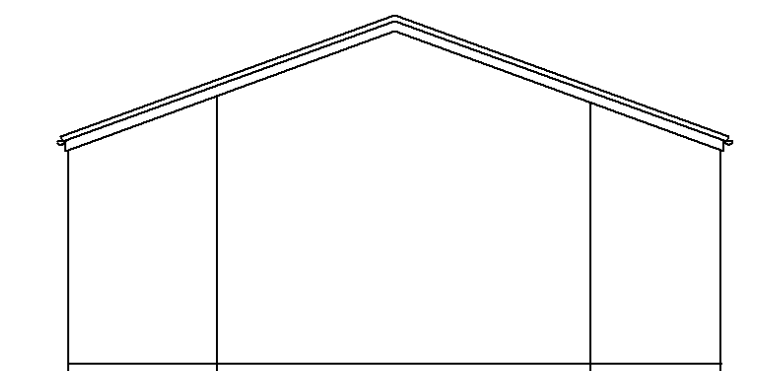
Roof - Red roof tiles to match house
Walls - White wet-dash rendered blockwork to match house
Roof Pitch - 20° to match house



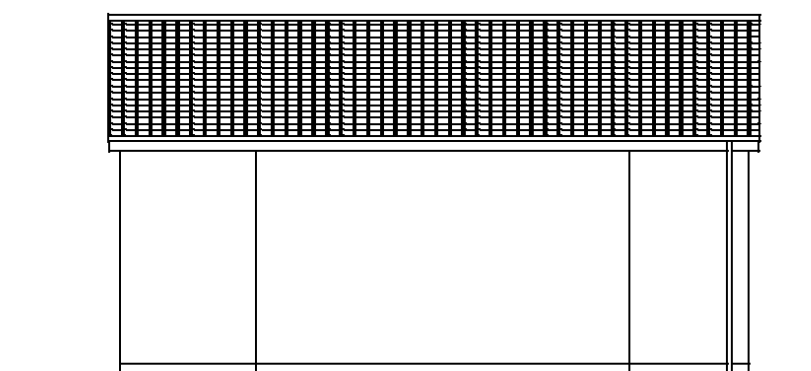
South Elevation



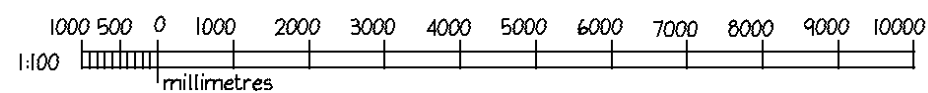
East elevation



North Elevation



West elevation



New Garage and
French Window at
Bundon, Findhorn for
Mr C Jamieson

Elevations
Planning

WITTETS
ARCHITECTS

26 Hay St, Elgin, Moray IV30 1NQ

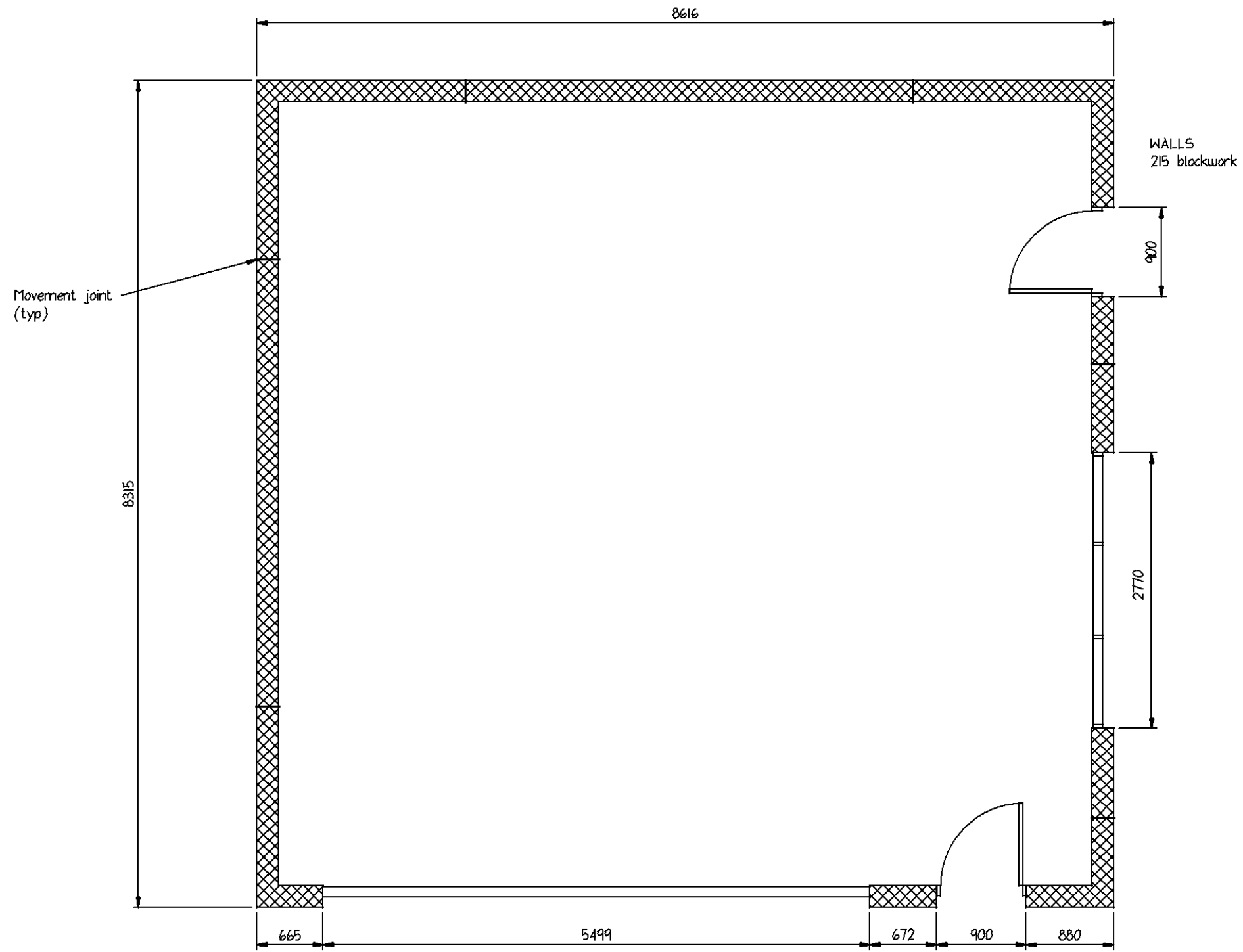
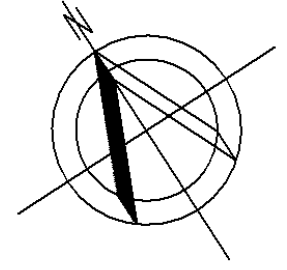
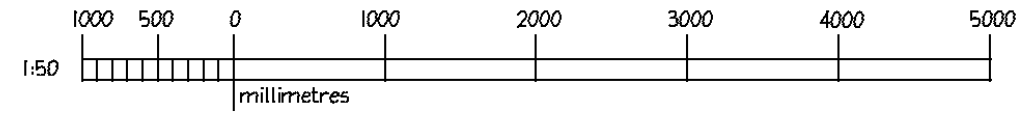
T 01343 543237

e info@wittets.co.uk

F 01343 540542

www.wittets.co.uk

1:100 @A3 Apr 2018



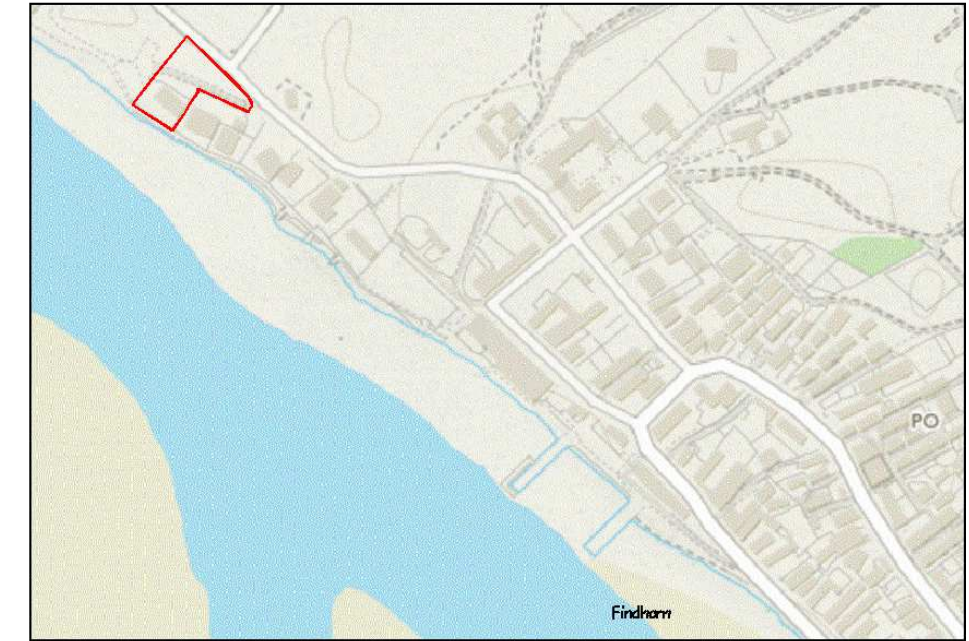
Floorplan 1:50

New Garage and
French Window at
Bundon, Findhorn for
Mr C Jamieson

Floor Plan
Planning

WITTETS
ARCHITECTS

26 Hay St, Elgin, Moray IV30 1NQ
T 01343 543237 F 01343 540542
e info@wittets.co.uk www.wittets.co.uk
1:50 @A3 Apr 2018



Site Location 1:5000

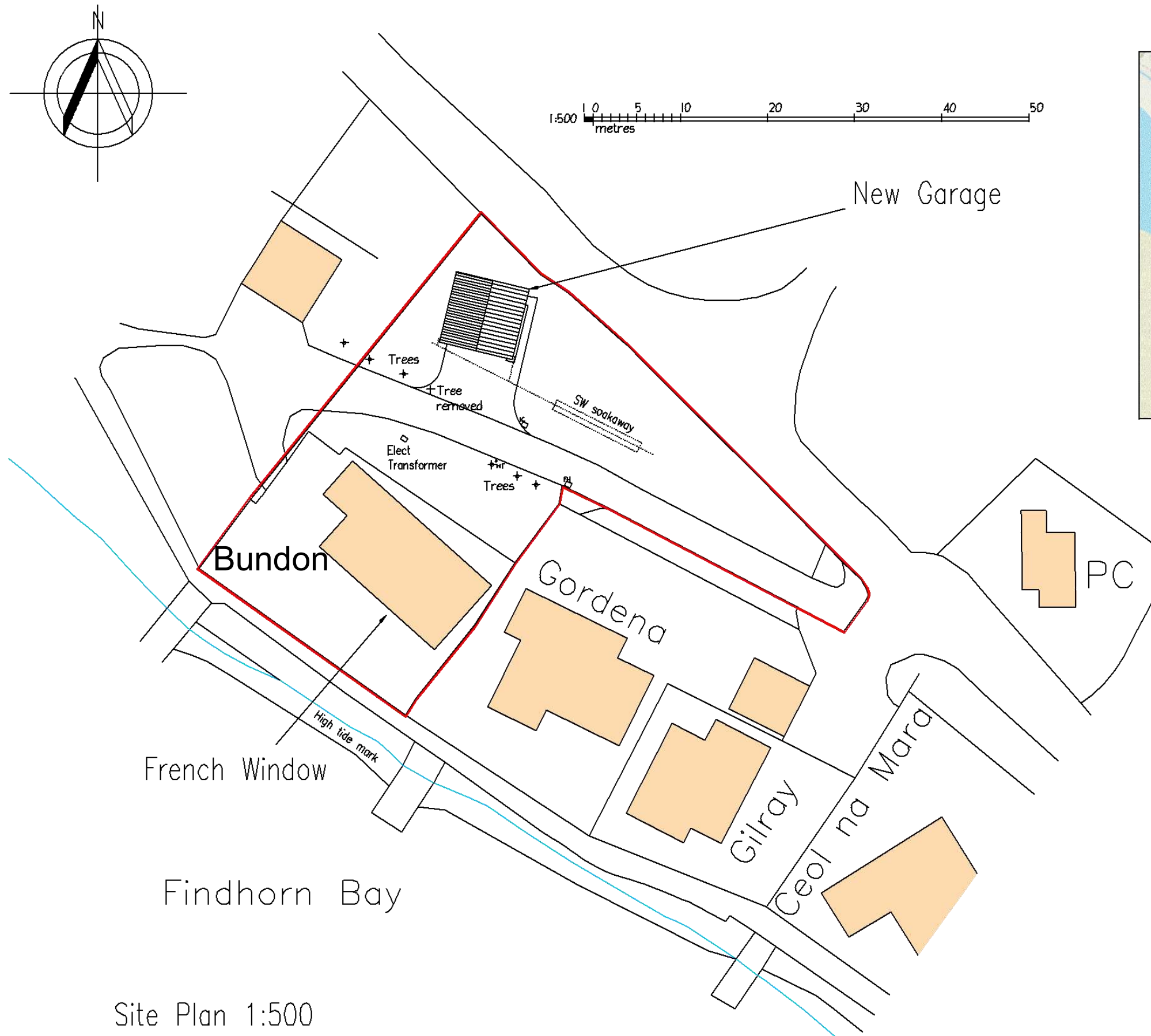
New Garage and
French Window at
Bundon, Findhorn for
Mr C Jamieson

Site Plan
Planning

WITTETS
ARCHITECTS

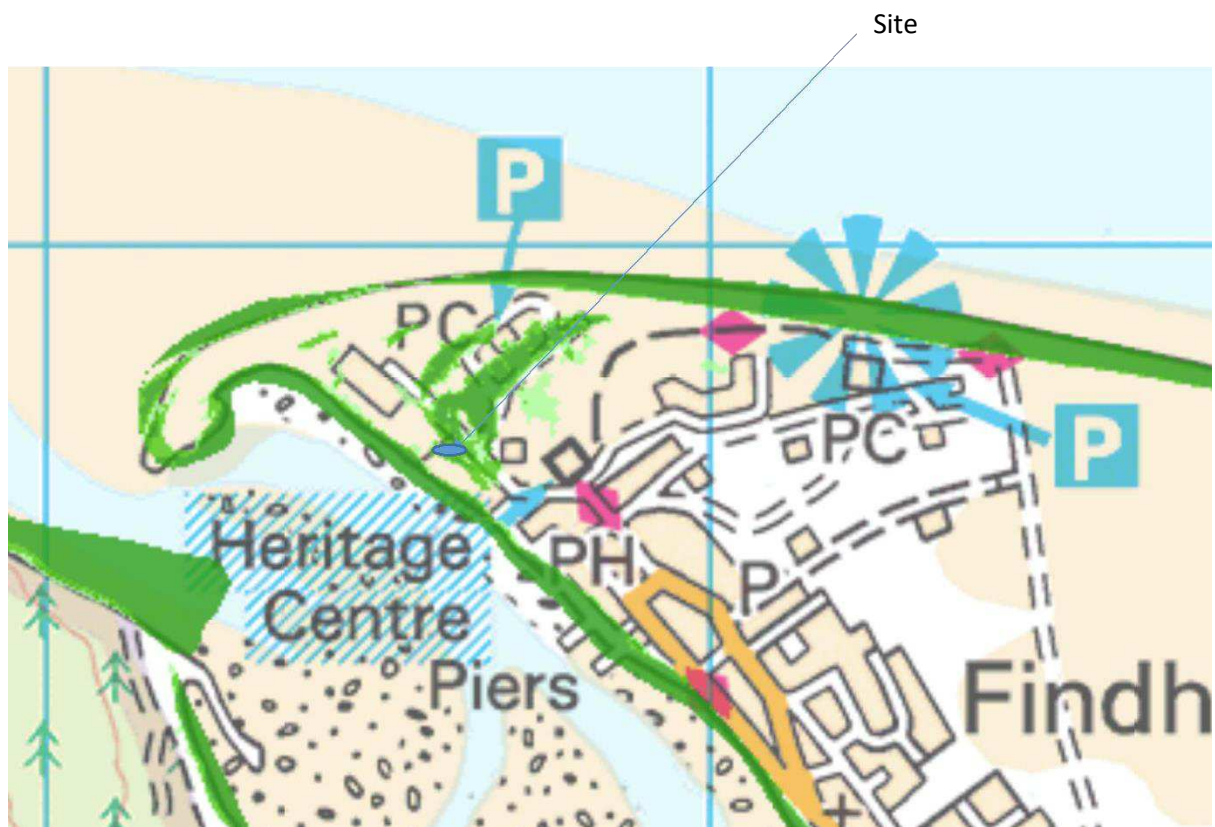
26 Hay St, Elgin, Moray IV30 1NQ
T 01343 543237 F 01343 540542
e info@wittets.co.uk www.wittets.co.uk

1:500 @A3 Apr 2018



Site Plan 1:500

SEPA Flood Management Map - Findhorn





APPENDIX 3

HEARING PROCEDURE



Local Review Body

Hearing Session Meeting Procedure

- (i) The Applicant will speak first, addressing the specified matter(s) identified by the MLRB (5 minutes per specified matter).
- (ii) Members of the MLRB will then have the opportunity to question the Applicant in order to clarify points raised.
- (iii) Those Interested Parties who have made representations in relation to the specified matter(s) will then be given the opportunity to address the specified matter(s) (5 minutes per specified matter).
- (iv) Members of the MLRB will have the opportunity to question each speaker, in turn, in order to clarify points raised.
- (v) Any other body or person invited by the MLRB will then be given the opportunity to address the specified matter(s) (5 minutes per specified matter).
- (vi) Members of the MLRB will have the opportunity to question each speaker, in turn, in order to clarify points raised.
- (vii) All parties, concluding with the Applicant, will then be given the opportunity to summarise their respective cases in light of the submissions to the Local Review Body (maximum of 3 minutes each).
- (viii) The Clerk, Legal and Planning Advisers will then be afforded the opportunity to make any additional comments and/or points of clarification in light of the submissions.
- (ix) The MLRB will consider and, if so disposed, determine the Review.



APPENDIX 4

APPLICANT'S STATEMENT

17th February 2019

To: Lissa Rowan (Clerk to the MLRB)
01343 563015

liisa.rowan@moray.gov.uk

Your Ref: LR/LR217

Relating to planning application 18/00795/APP

Erect Garage and Install Patio Doors

Please find below, a written statement setting out the applicants case and a list of documents which may be relied upon or referred to at the Hearing session, as requested in your letter of 9 January 2019.

Statement:

Summary:

The planning application should be approved as the garage site complies with the conditions set per SEPA Guidance Note 2a (LUPS-DM-GU2a), also complies with the standing advice provided by SEPA guidance note 8 (LUPS-GU8) and by removal of adjacent overburden, meets SEPA's planning objective of a reduction in overall flood risk. Additionally, the planning department is incorrectly considering the site as greenfield when it should be considered as brownfield per the definition of SPP7 Glossary.

The only planning policies which caused the planning application to be refused concern coastal flooding.

- The garage shall be designed to be resilient to flooding and have low-level vents allowing it to accept floodwater. The unmitigated impact of the garage blockwork as discussed in 'Response to B) below is 0.16mm (less than the thickness of 2 sheets of paper) assuming a 1ha floodplain which is much smaller than the actual floodplain and therefore the 0.16mm is a gross over-estimate of the unmitigated impact. With mitigation, by the removal of overburden there shall be a reduction in flood risk to surrounding properties.
- The proposed garage has to be located on the site indicated as it is required to allow the applicant full enjoyment of his house, keeping a car, sail boat, sea kayak, garden tools and boat repair area.
- The application is for an outhouse ancillary to that house. Considering the above, it is unreasonable to refuse the applicant the opportunity to enjoy his house in full.

General Discussion and Background

- A) The reason for rejection of the initial application was refused on the basis the garage was located within the medium likelihood (0.5%) flood extent of the SEPA Flood Maps and
- B) In a location that would increase flood risk to surrounding properties
- C) In support of the reasons above policy sections EP7 and IMP1 were cited.

Response to item A) located within the medium likelihood floodplain

1. Being within the floodplain is insufficient reason in itself for refusal of the application as SEPA guidance note 2a, development management guidance on flood risk (LUPS-DM-GU2a), clearly allows building within the flood plain, under certain conditions (which the garage meets). Additionally, Appendix 2 of SEPA guidance note 8 (LUPS-GU8) provides standing advice on lower risk categories of development in areas subject to flood. The garage would be covered under item 4 of Appendix 2, 'small scale extensions, domestic garages or garden sheds.

LUPS-DM-GU2a discussion

The intended location of the garage is a brownfield site, which already contains a house erected some 50-60 years ago. The issue being, part of the site is out-with the floodplain and the only suitable location for the garage is partially within the floodplain, but it is all one-site under a single title document. The garage after all is going to be constructed in the applicants back garden.

Following through SEPA's planning objectives, the garage should be permitted as it is in accordance with SPP risk framework, contributes to a reduction in overall flood risk (by the removal of overburden) and the proposed development does not place communities and businesses at unacceptable flood risk.

The garage shall be the only building external to the house and as such shall be a multi-use facility; For example, garage, boat workshop, boat shed, potting shed, garden shed, tool shed etc. On review of the SEPA Flood Risk and Land Use Vulnerability Guidance (LUPS-GU24), this would put the garage in class 5, which in accordance with Table 2 is 'generally suitable for development'.

Considering the brownfield nature of the site, development would also be permissible under Classes 1, 2 and 3.

LUPS-GU8 discussion

With reference to the advice provided in Appendix 2 section 4 and sub-sections, which 'applies to small scale domestic and/or non-domestic extensions, sheds or domestic garages that are not covered by permitted development rights.' The 'garage' is covered by this advice and therefore construction should be allowed as permitted development rights have not been removed at the request of SEPA,

the garage would not have a significant detrimental effect on the functional floodplain and it does not increase the number of people at risk from flooding.

Response to Item B) increase flood risk to surrounding properties

Per figures presented by the flood management team, without consideration of any mitigation the impact of the garage blockwork to floodwater level was 0.57mm (To put this in context it is approximately equivalent to the thickness of 5 sheets of paper. The calculations were based upon a 1 Ha floodplain with the garage walls submerged to a depth of 1m deep and the garage being allowed to free flood (per design).

In light of the statement provided to the councilors during the MLRB that the existing garage on the neighbouring site is out-with the floodplain, I re-surveyed the intended garage site and found the back wall of the garage is at the same level as the neighbouring garage and hence also outside the flood-plain. The grade at the front of the garage is some 580mm lower than the grade at the rear wall and therefore applying a conservative assumption, the neighbours garage is right on the edge of the floodplain the maximum floodwater depth on my garage would be an average of 290mm. This is less than a 1/3 of the depth requested to be used in the calculations performed by the flood management team, hence the impact to the water level becomes (0.29×0.57) 0.165mm, the thickness of less than 2 sheets of paper. As mentioned these calculations were based upon a 1Ha floodplain, which is much smaller than the actual floodplain, so the un-mitigated impact of the garage on floodwater depth is much less than the 0.165mm listed above and is likely to be less than halve the thickness of a sheet of paper. This impact is immeasurable by normal survey methods and cannot be considered by any reasonable measure to increase the flood risk to surrounding properties.

In the event the application is approved, the applicant has committed to removing overburden from the garden area immediately adjacent to the garage site to more than compensate the impact of the garage blockwork on floodwaters and hence, ensure the construction of the garage contributes to an overall reduction in flood risk.

Response to Item C) reference to EP7 and IMP1

EP7 Discussion

EP7 is specifically targeting New Developments and is not generally applicable to the case in hand as the garage is to be constructed on a brownfield site in a built-up area.

However, EP7 policy does not provide a blanket exclusion to building on areas at risk from flooding but 'The aim of the policy is to primarily direct development away from areas at risk from flooding...'. The Justification goes on to state, 'Where impacts are identified they should be satisfactorily mitigated without passing on the problem elsewhere.' The applicant has committed to mitigating

the impact of the garage and shall contain the impact of the 200 year flood on-site.

Paragraph c) of the policy describes the type of development that may be suitable in medium to high risk areas (0.5% or above) and the proposed development is much lower risk than permitted by the policy.

IMP1 Discussion

The IMP1 policy is obviously trying to cover all manner of development, including highly vulnerable developments, and as such I expect the Council shall apply appropriate weight to all the issues in applying IMP1 to construction of a garage on a brownfield site. This is especially pertinent to item i) which on reading in isolation would be in conflict with EP7, which I am sure is unintentional. I therefore respectfully suggest, reference to EP7 and SEPA guidelines GU-8, GU-24 and GU-2a would provide an appropriate way to assess the merits of the application in relation to item i).

The Planning Report of Handling states; 'In terms of scale, design and material finishes the garage is considered acceptable. It is in keeping with the parent house and is considered that it would not have a significant adverse impact on the house or the surrounding locality.' It is assumed therefore, the only issue with IMP1 is section i), which refers to flooding and is addressed in the comments above.

Document List

EP7	Moray Local development Plan section EP7 (pages 55-56)
IMP1	Moray Local development Plan section IMP1 (page 84)
LUPS-DM-GU2a	SEPA Development Plan Guidance Note 2a
LUPS-DP-GU2a	SEPA Development Management Guidance on Flood Risk
LUPS-BP-GU2a	SEPA Planning Background Paper: Flood Risk Particularly sections DI.16 and DI-17
LUPS-GU8	SEPA Standing Advice for low impact proposals in flood risk areas
LUPS-GU24	SEPA Flood Risk Land Use Vulnerability Guidance
N/A	Initial Planning Application and Drawings (Particularly Garage Plan and Site Plan)
N/A	Applicants Appeal submission Document to MLRB
9 Jan 2019 Letter	Letter of Hearing Notice issued by Moray Council

How to Use the Plan

The LDP should be read as a whole and sets out the policies for assessing planning applications and sets out exactly where development is expected to take place over the next 5 years. The Principal Policies on Sustainable Economic Growth, Climate Change and Placemaking are overarching and should be applied to all development proposals. Development proposals should also comply with the more detailed policies set out under land use planning topics and if applicable, the detailed site designations. The part of Moray within the Cairngorms National Park has its own separate local development plan.

The Moray Local Development Plan will be reviewed and replaced within 5 years. The Action Programme will be reviewed annually.

The Plan is supported by supplementary guidance which provides extra detail on some of the policies and proposals. Supplementary guidance forms part of the development plan and has that status for decision making. The initial suite of Supplementary Guidance covers;

- Affordable Housing
- Accessible Housing
- Climate Change
- Housing in the Countryside
- Trees in Development
- Urban Design
- Rural Groupings

This will be added to during the Plan period.

In determining planning applications, the Council will apply appropriate weight to all of the issues and material considerations before reaching a decision. Material considerations will include Masterplans and development briefs which will be approved by the Council as non- statutory supplementary guidance, providing more detail on site designations within the Plan.



Environmental Protection

Introduction

It is important for the Local Development Plan to recognise and provide a responsive policy framework related to those areas of activity that could have an adverse impact on the environment. This includes dealing with waste, water supplies and drainage, river engineering and flooding, pollution, air quality and contamination.

Context

Scottish Planning Policy (SPP) requires new development to take into account the implications of development for water, air and soil quality as well as supporting water resource management, sustainable waste management and encouraging the use of sustainable and recycled materials in construction.

Flooding – The Flood Risk Management (Scotland) Act 2009 sets in place a statutory framework for delivering a sustainable and risk based approach to managing flooding. To provide a basis for planning decision making relating to flood risk, the flood risk framework divides flood risk into three categories, little or no risk, low to medium risk, medium to high risk and outlines the appropriate response. Within the plan sites at risk of flooding have been identified and requirements for flood risk assessments and drainage assessments have been set out in the designation text.

Waste – The Government's Zero Waste Plan has set the following targets for municipal waste:

- Increasing the proportion recycled or composted to 40% by 2010, 50% by 2020 and 70% by 2025,
- A 5% limit on landfill of municipal waste by 2025,
- To stop the growth of municipal waste by 2010.

Achieving these targets will require a reduction in the amount of waste produced and a significant increase in waste management infrastructure. The proximity principle requires waste to be dealt with as close as possible to where it is produced. Annexe B of the Zero Waste Plan provides further information on the role of land use planning.

Water and Drainage – The Water Environment (Controlled Activities) (Scotland) Regulations 2005 require all surface water from new development to be treated by a sustainable drainage system (SUDS). New development should ensure the enhancement of the water environment in accordance with the Water Framework Directive (WFD) and the North East River Basin Plan.

Policy EP6 Waterbodies

Proposals must be designed to avoid adverse impacts upon water environment and should seek opportunities for restoration. The Council will only approve proposals impacting on water features where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, nature conservation, fisheries, recreational, landscape, amenity, and economic and social impact can be adequately mitigated.

The report should consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6m between any new development and all water features is required. These should be designed to link with blue and green networks and can contribute to open space requirements. Developers may be required to make improvements to the water environment as part of the development.

Justification

The aim of this policy is to support the protection and enhancement of the water environment in accordance with the Water Framework Directive (WFD) and the North East River Basin Plan. The water environment includes wetlands, rivers, lochs, transitional waters (estuaries), coastal waters (out to 3 nautical miles) and groundwater.

There are a number of works to watercourses and land drainage which fall outwith the General Permitted Development Order including fisheries management, erosion control or flood prevention which can have a significant impact on the management or ecology of watercourses.

These works are controlled under the WFD through the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) and require a holistic approach to be taken in protecting and improving the water environment.

Water features include waterbodies, ponds and existing sustainable drainage systems (SUDS) both natural and man-made.

Policy EP7 Control Of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

Justification

The aim of the policy is to primarily direct development away from areas at risk from flooding in the first instance, and ensure that potential risk from flooding is adequately considered in terms of planning applications. Where impacts are identified they should be satisfactorily mitigated without passing on the problem elsewhere. The Flood Risk Framework in Scottish Planning Policy requires sustainable flood management approaches to be taken forward which will improve bed banks and shores. Such an approach will also contribute to the "protect" and "enhance" objectives of the Water Framework Directive.

The following limitations on development will also be applied to take account of the degree of flooding as defined in Scottish Planning Policy:

- a) In areas of little to no risk (less than 0.1%) there will be no general constraint to development.
- b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range (i.e. close to 0.5%), and for essential civil infrastructure and most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flooding events.
- c) Areas of medium to high risk (0.5% or above) may be suitable for:
 - Residential, institutional, commercial and industrial development within built up areas provided flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan;
 - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow;
 - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place and
 - Job related accommodation e.g. for caretakers or operational staff.

Areas within these risk categories will generally not be suitable:

- Civil infrastructure and most vulnerable uses;
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flow), and
- an alternative, lower risk location is not available and
- New caravan and camping sites.

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

This policy specifies limitations on the type of development within potential flood risk areas and seeks to ensure that essential civic infrastructure is not placed at undue risk on the grounds of public safety. Civil infrastructure in the context of flood risk includes hospitals, fire stations, emergency depots, schools, care homes, ground-based electrical and telecommunications equipment.

Essential infrastructure in a flood risk area for operational reasons is defined as essential transport infrastructure and essential utility infrastructure which may have to be located in a flood risk area for operational reasons. This includes electricity generating stations, power stations and grid and primary sub stations, water treatment works and sewage treatment works and wind turbines.

Most vulnerable uses in the context of flood risk and drainage includes basement dwellings, isolated dwellings in sparsely populated areas, dwelling houses behind informal embankments, residential institutions such as residential care homes/prisons, nurseries, children's homes and educational establishments, caravans, mobile homes and park homes intended for permanent residential use, sites used for holiday or short-let caravans and camping, installations requiring hazardous substance consent.

The source of information used to determine flood risk areas are the Scottish Environment Protection Agency indicative flood maps which are accessible on the SEPA website.

Policy IMP1 Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Justification

The quality of development in terms of its siting, design and servicing is a priority consideration within the Plan. In the first instance, development needs to be suitable to the surrounding built and natural environment. Development should be adequately serviced in terms of transport, water, drainage, with particular emphasis on providing pedestrian and cycle access, and any necessary public transport facilities/connections. The use of SUDS and incorporation of renewable energy techniques and sustainable design and construction methods will all help promote sustainability in Moray. Most of the serious flood risks have been addressed by flood alleviation schemes, but there are still areas that are susceptible and these should be avoided. Similarly, pollution issues in relation to air, noise, groundwater and ground contamination, must be adequately addressed to provide proper development standards.

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Development management requirements	Information requirements
<p>Requirement 1: Flood risk context</p> <p>Proposed developments should not be located in areas at medium to high risk from fluvial or coastal flooding (or low to medium areas for civil infrastructure). Other <i>most vulnerable</i> uses will only be acceptable in low to medium risk areas if the hazard can be alleviated through appropriate mitigation.</p> <p>Where this is not possible, some types of development may be acceptable if they meet the requirements of the risk framework (SPP, paragraph 263). The risk framework should be applied within the context of the issues listed in paragraph 264 of SPP and our <i>Land Use Vulnerability Guidance</i> should be used to inform the vulnerability classification of the proposed land use and ensure that it is suitable for the location and degree of flood risk. In general, the following types of development may be acceptable in areas that are at risk of fluvial or coastal flooding:</p> <ol style="list-style-type: none"> Developments classed as <i>water compatible</i> or that are considered to be <i>essential infrastructure</i> which require a flood risk location for operational reasons. The operational need for the development is for the planning authority to determine. Redevelopment of an existing building, including changes of use to an equal or less vulnerable use to the existing use. Redevelopment of a previously developed site where it involves the demolition of existing buildings and/or erection of additional buildings within a development site, and the proposed land use is equal or less vulnerable than the existing land use. Where the principle of development on the site has been established in an up-to-date, adopted development plan or the National Planning Framework and flood risk issues were given due consideration as part of the plan preparation process and our assessment of risk has not changed in the interim. Development in built up areas protected by an existing or planned flood protection scheme, where the standard of protection is appropriate for the vulnerability of the land use. Further details are provided below. 	<p>As set out in our <i>Technical Guidance for Stakeholders</i> the flood risk assessment should determine the flood extent and flood levels in order to inform the design of the proposed development.</p> <p>The proposed land use should be clearly described and where the application is for a change of use or redevelopment of an existing building the existing/previous land use should be provided. If there is ambiguity about the existing land use the planning authority should be asked to confirm the existing lawful land use.</p>



<p>Development in areas protected by a flood protection scheme</p> <p>A precautionary approach should be taken to proposed development in areas protected by a flood protection scheme.</p> <p>The following categories of development would generally be acceptable when protected by an existing or planned formal flood protection scheme within a built up area. It is recommended that any development protected by a formal scheme is built to a water resilient design (<u>Recommendation 2</u>) and has adequate evacuation procedures in place that are appropriate to the level of risk and use.</p>	
<p>Standard of protection of the scheme at the time of development</p> <p>Less than a 200 year standard of protection (i.e. greater than a 0.5% AEP standard of protection)</p>	<p>Within a built up area, the defended area will generally be acceptable for:</p> <ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development has been established in an up-to-date, adopted development plan or the National Planning Framework with due consideration of flood risk; or, • Any other development that does not increase overall risk (as defined in criterion b) and c) above).
<p>Equal or greater than a 200 year standard of protection (i.e. equal or less than a 0.5% AEP standard of protection)</p>	<ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development has been established in an up-to-date, adopted development plan or the National Planning Framework with due consideration of flood risk; or,



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<p>Equal or greater than a 200 year plus climate change standard of protection (i.e. equal or less than a 0.5% AEP plus climate change standard of protection)</p>	<ul style="list-style-type: none"> Least vulnerable developments; or, Any other development that does not increase overall risk (as defined in criterion b) and c) above). Water compatible uses; or, Essential infrastructure designed to remain operational during flood event; or, the principle of the development has been established in an up-to-date or, adopted development plan or the National Planning Framework with due consideration of flood risk; or, Least vulnerable developments; or, Highly vulnerable developments.
<p>Developments that introduce <i>most vulnerable</i> uses into areas protected by a scheme must be avoided.</p> <p>Any protection offered by informal flood defences would not be taken into account when considering development behind or benefitting from them. Such proposals would be considered in accordance with criterion a – d above</p>	<p>As set out in our Technical Guidance for Stakeholders the flood risk assessment (FRA) should demonstrate how:</p> <ol style="list-style-type: none"> the flooding processes important at the site will be free from interruption up to and including the design flood event e.g. the ability of the functional flood plain to store and convey flood water or the ability of coastal features/processes to deflect and/or dissipate wave energy; and

Requirement 2: Flood Impacts

Proposed development should not increase the risk of flooding elsewhere and not adversely interrupting the following processes in fluvial and coastal areas:

- Fluvial flood risk areas – proposed development must not adversely affect the ability of the functional flood plain to store and/or convey flood water.
- Coastal flood risk areas – proposed development must not interrupt coastal processes or deflect wave energy in a way that could adversely affect coastal flood risk.



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<p>The functionality of the features or processes should be maintained for all flood probabilities up to and during the design flood event.</p>	<p>b) the proposed development will not increase flood risk elsewhere.</p>
<p>Requirement 3: Access and egress</p> <p>Adequate access and egress provision must be included when the proposed development is:</p> <ul style="list-style-type: none"> civil infrastructure or another land use that introduces overnight accommodation onto the site (i.e. new developments or redevelopments which include change of use) when compared to the existing use and is located in a medium to high fluvial or coastal flood risk area (or low to medium risk area for civil infrastructure and other <i>most vulnerable</i> uses), or on an undeveloped site where the buildings will be above the design flood level but surrounded by lower ground i.e. create an island of development. <p>Adequate access and egress involves the provision of a safe and flood free route during the relevant flood probability event that enables the free movement of people of all abilities (on foot or with assistance) both to and from a secure place that is connected to ground above the design flood level and/or wider area.</p> <p>For all other development types, and where no new overnight accommodation is being introduced as part of a redevelopment, access and egress is recommended as good practice.</p>	<p>An access and egress route for pedestrians should be clearly marked on the relevant application drawings e.g. site layout and elevation plans (if applicable).</p>
<p>Requirement 4: Freeboard</p> <p>Adequate freeboard must be provided for developments in fluvial or coastal flood risk areas involving the erection of new buildings in the <i>highly</i> and <i>most vulnerable</i> land use categories (as defined in our <u>Vulnerability Guidance</u>) and civil infrastructure. In the majority of cases an adequate freeboard allowance is considered to be 600mm above the design flood level.</p> <p>For proposed developments involving the redevelopment of existing buildings, and all developments in the <i>least vulnerable</i>, <i>water compatible</i> and <i>essential infrastructure</i> categories the freeboard allowance is only a recommendation and should be applied as far as practicable.</p>	<p>The ground level around the building(s) and finished ground floor level of the lowest room in the building(s) should be clearly marked on the relevant application drawings e.g. site layout and elevation plans (if applicable). All levels should be relevant to Ordnance Datum.</p> <p>The flood risk assessment (FRA) should be used to establish the most appropriate freeboard allowance (depending on the physical processes involved at the site). In the majority of cases this should be a</p>



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	minimum of 600mm above the design flood level (this is separate to any climate change allowance that may be applied).
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Development management recommendations	Information requirements
<p><u>Recommendation 1: Climate change</u></p> <p>An allowance for climate change should be included when calculating estimated design flood level. This includes:</p> <ul style="list-style-type: none"> • Fluvial – the best available guidance should be used to identify an appropriate percentage uplift for the site. This should be added to the estimated design flood peak flow; • Coastal – the best available guidance should be used to derive an allowance for climate change above the extreme still water design level. 	<p>The flood risk assessment (FRA) should clearly show how the predicted impacts of climate change on flood risk at the site have been taken into account.</p>
<p><u>Recommendation 2: Flood resilient design</u></p> <p>To reduce the vulnerability of buildings and their occupants/contents to flooding, proposed developments in fluvial and coastal flood risk areas should incorporate the use of water resilient or resistant materials and construction techniques.</p>	<p>Details of the proposed flood resilience or resistant measures should be provided as part of the planning application e.g. annotated on the application drawings or included as part of the design statement. It is not sufficient to only refer to the measures in the flood risk assessment.</p>
<p><u>Recommendation 3: Pluvial flooding</u></p> <p>Flood risk from heavy rainfall (overland flow and ponding) should be properly considered within the planning process. It is important to ensure that fluvial flood risk is not increased via unregulated diversion of pluvial water. Proposed developments with complex pluvial hazards should ensure that the pluvial flood risk is adequately assessed and managed within the site boundary (where possible).</p>	<p>Where the pluvial flood risk issues are particularly complex, we recommend that a higher level of scrutiny is undertaken in the form of a flood risk assessment or drainage assessment. On receipt of such information from a developer, the planning authority may choose to consult SEPA for such complex cases. The minimum level of information we would need to provide advice to the planning authority would be:</p>



SCOTTISH ENVIRONMENT PROTECTION AGENCY	Identifier:	LUPS-DP-GU2a
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Development Plan Guidance on Flood Risk	Issue date:	10 July 2018

Why we comment on this issue

Our key aim in providing advice to planning authorities regarding flood risk in the development plan process is to promote safe and resilient communities and businesses through sustainable flood risk management. Development planning has a pivotal role to play in delivering sustainable flood risk management through the avoidance of flood risk in the first instance. Delivery of this approach through our planning service accords with our duties under a range of legislation including the:

- Water Environment and Water Services (Scotland) Act 2003,
- Flood Risk Management (Scotland) Act 2009; and,
- Climate Change (Scotland) Act 2009.

Ministerial guidance on Delivering Sustainable Flood Risk Management (Scottish Government, 2011) identifies planning as one of the most powerful tools available to manage flood risk. When the Flood Risk Management Strategies and Local Flood Risk Management Plans are published development plans will have an important role to play in ensuring that objectives are met by supporting the delivery of relevant actions.

SEPA's planning objectives for this topic

- To effectively contribute to sustainable flood management by:
 - Ensuring development is avoided in areas at medium to high flood risk, from any source, unless it accords with the SPP risk framework; and,
 - Exercising our planning functions with a view to reducing overall flood risk;
- To support the delivery of Flood Risk Management Strategies and Local Flood Risk Management Plans (once published); and,
- To promote the health and well-being of the people of Scotland by ensuring that proposed development does not place communities and businesses at unacceptable flood risk.

How we will address this issue through Strategic Environmental Assessment

A Strategic Flood Risk Assessment (SFRA) is required to inform the SEA and to facilitate a catchment based approach to identifying flood risk within the plan area. The assessment should identify and address any strategic cross boundary issues and the potential impacts of climate change on flood risk.



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The findings should inform the SEA, spatial strategy and development allocations. Where river catchments cover more than one local authority area joint SFRAs are undertaken to facilitate an integrated catchment approach to identifying and managing flood risk.

We will also address flood risk issues through SEA by:

- Requiring SEA to consider the effects of policies, proposals and allocations on flood risk on and off site; and,
- Recommending SEA objectives used for assessment include objectives aimed at promoting sustainable flood management by avoiding development in areas at medium to high flood risk and safeguarding land highly suitable for sustainable flood management

Links to other development plan topic tables

Other related topic tables include: water environment.

The following table outlines our requirements and recommendations for Strategic and Local Development Plans relating to flood risk in more detail. If the following requirements are not met then we are likely to make formal representations to the emerging development plan.

Further details on the implementation of the requirements and recommendations and supporting information can be found in the Flood Risk Background Paper (LUPS-BP-GU2a).



Strategic Development Plans	Local Development Plans
<p>Requirements:</p> <ol style="list-style-type: none"> 1. Policy coverage and strategic land allocations support the delivery of relevant objectives and actions within Flood Risk Management Strategies and Local Flood Risk Management Plans that affect the plan area. 2. Identification of strategic development areas should accord with the principles of sustainable flood risk management by avoiding development in areas at flood risk, unless they accord with the risk framework in paragraph 263 of SPP. 3. Policy coverage to ensure that: <ul style="list-style-type: none"> • a precautionary approach is taken to flood risk from all sources taking account of the predicted impacts of climate change; • development is avoided in locations at medium to high flood risk (unless it accords with the risk framework in SPP, paragraph 263) or where it would increase the probability of flooding elsewhere. 	<p>Requirements:</p> <ol style="list-style-type: none"> 1. Policy coverage and allocations support the delivery of relevant objectives and actions within Flood Risk Management Strategies and Local Flood Risk Management Plans that affect the plan area [once published]. 2. Allocated sites accord with the principles of sustainable flood risk management by avoiding development in areas at flood risk. This means that: <ol style="list-style-type: none"> a) sites should not be promoted in areas at medium to high risk from fluvial or coastal flooding; b) any sites that are being promoted for civil infrastructure should not be allocated in low to medium risk areas; and c) any sites that are being promoted in low to medium risk areas that fall within the <i>most vulnerable</i> uses category are only allocated if there is potential for the hazard to be alleviated through appropriate mitigation. In this situation the need for mitigation from the 0.1%AP event should be included as a site requirement. <p>Where this is not possible, some types of development may be acceptable if it satisfies the requirements of the risk framework (SPP, paragraph 263). The risk framework should be applied within the context of the issues listed in paragraph 264 of SPP and our <u>Land Use Vulnerability Guidance</u> should be used to inform the vulnerability classification of the proposed land use and ensure that it is suitable for the location and degree of flood risk.</p>



3. Site requirements are attached to allocations where a potential flood risk has been identified (from any source) to ensure that a site specific Flood Risk Assessment (FRA) is undertaken in advance of the development. This should be used to inform the siting, layout, design and capacity of development on the site in a way that avoids an increase in flood risk on and off site and ensures that there is safe dry pedestrian access and egress at times of flood.
4. Policy coverage to ensure that:
 - a precautionary approach is taken to flood risk from all sources taking account of the predicted impacts of climate change;
 - development is avoided in locations at medium to high flood risk (unless it accords with the risk framework in paragraph 263 of SPP) or where it would lead to an increase in the probability of flooding elsewhere;
 - a Flood Risk Assessment (FRA) is required for all developments at risk of flooding from any source in medium to high risk areas and developments in low to medium risk areas identified in the risk framework (i.e. developments located in an area at the upper end of the probability scale, essential infrastructure and the most vulnerable land uses). The flood risk assessment should be undertaken in accordance with SEPA technical guidance.
5. A precautionary approach should be taken to proposed allocations in areas protected by a formal flood protection scheme.

The following categories of development allocation would generally be acceptable when protected by an existing or planned formal flood protection scheme within a built up area. It is recommended that any allocated protected by a formal scheme is built to a water resilient



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design and has adequate evacuation procedures in place that are appropriate to the level of risk and use.	
Standard of protection of the scheme at the time of development	Within a built up area, the defended area will generally be acceptable for:
Less than a 200 year standard of protection (i.e. greater than a 0.5% AEP standard of protection)	<ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development allocation has been established in an up-to-date, adopted Strategic Development Plan or the National Planning Framework with due consideration of flood risk; or, • Any other development that does not increase overall risk
Equal or greater than a 200 year standard of protection (i.e. equal or less than a 0.5% AEP standard of protection)	<ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development allocation has been established in an up-to-date, adopted Strategic Development Plan or the National Planning Framework with due consideration of flood risk; or, • Least vulnerable developments; or, • Any other development that does not increase overall risk



Development Plan Guidance on Flood Risk

Equal or greater than a 200 year plus climate change standard of protection (i.e. equal or less than a 0.5% AEP plus climate change standard of protection)	<ul style="list-style-type: none"> • Water compatible uses; or, • Essential infrastructure designed to remain operational during flood event; or, • the principle of the development allocation has been established in an up-to-date or, adopted Strategic Development Plan or the National Planning Framework with due consideration of flood risk; or, • Least vulnerable developments; or, • Highly vulnerable developments.
	<p>New allocations for <i>most vulnerable</i> uses must be avoided in areas protected by a scheme.</p> <p>Any protection offered by informal flood defences would not be taken into account when considering allocations behind or benefiting from them. Such allocations would be considered within the context of SPP as if the scheme did not exist.</p>

Recommendation:	Recommendation:
1. The role of sustainable flood risk management should be recognised in the context of sustainable placemaking and blue/green infrastructure. This includes the policy framework for sustainable placemaking and blue/ green infrastructure and the identification of existing and creation of new blue/green infrastructure in the spatial strategy.	1. The role of sustainable flood risk management should be recognised in the context of sustainable placemaking and blue/green infrastructure. This includes the policy framework for sustainable placemaking and blue/ green infrastructure and the identification of existing and creation of new blue/green infrastructure in the spatial strategy.
	2. To ensure that proposed land uses are acceptable for the location and degree of flood risk, SEPA's Land Use Vulnerability guidance



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	<p>should be used to inform the spatial strategy, site allocations, and policy framework. A commitment should be made for development to accord with the guidance.</p> <p>3. To limit the impact of potential flood risk any development permitted in medium to high risk areas (that accords with the exceptions in the risk framework) or is located in adjacent low to medium risk areas should be built to a water resilient design.</p>
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How we comment on this topic

- DI.16 Our role is to serve as an independent advisor on flood risk within the context of National Planning Policy. This includes a duty as a key agency to co-operate in the preparation of development plans and a statutory role to provide flood advice for certain development management applications. Our advice is based on our specialist knowledge and understanding of the water environment and flooding mechanisms. It takes into account all the information available to us including SEPA's Flood Maps, other flood related information we hold, and information provided to us by planning authorities, developers and third parties. We aim to provide proportionate, concise, objective, timely and helpful advice based upon the risk of flooding within national planning policy. Lower impact proposals in flood risk areas are dealt with by our standing advice.

SEPA's overarching objectives in providing advice to planning authorities on flood risk related matters are to:

- Effectively contribute to sustainable flood management by:
 - Ensuring development is avoided in areas at medium to high flood risk, from any source, unless it accords with the SPP risk framework
 - Exercising our planning functions with a view to reducing overall flood risk;
- Support delivery of Flood Risk Management strategies and local Flood Risk Management Plans (once published)
- Promote the health and well-being of the people of Scotland by ensuring that proposed development does not place communities and businesses at unacceptable flood risk

- DI.17 Our approach to flood risk is set out in the following documents. This background paper provides the context and justification for the advice contained in the guidance notes. It also explains how our requirements and recommendations can be achieved.

- [Planning Information Note 4: SEPA position on development protected by a Flood Protection Scheme](#)
- [LUPS-DP-GU2a: Development plan guidance on flood risk](#)
- [LUPS-DM-GU2a: Development management guidance on flood risk](#)
- [LUPS-GU8 \(Appendix 2\): Standing advice for low impact proposals in flood risk areas](#)
- [LUPS-GU24: Land use vulnerability guidance](#)

- DI.18 This is supported by two technical guidance notes:

- [LUPS-GU22: Strategic Flood Risk Assessment – technical guidance](#)
- [SS-NFR-P-002: Technical flood risk guidance for stakeholders](#)

- DI.19 The [SEPA - Planning Authority Protocol \(Policy 41\)](#) contains principles to be followed by SEPA and planning authorities regarding advice and consultation on flood risk issues. The assessment of flood risk is a specialist subject and the Protocol is intended to enable planning authorities and SEPA to work together effectively on planning matters where there is a potential flood risk.

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risk management infrastructure and other risk mitigation measures needed to ensure a development is safe may differ between uses within a particular class.

- 2.2 For changes of use to less or same vulnerability we advise you consult your flood prevention authority colleagues for advice on suitable mitigation measures, and, where relevant, consider any access/egress issues for both inhabitants and emergency services. An overall reduction in flood risk can still be achieved for proposed uses that have the same level of vulnerability through the use of flood resilient materials and design (see PAN 69: Planning and Building Standards Advice on Flooding).

3. Refurbishments and/or alterations which do not increase the footprint of the development and do not result in a change of use to a more vulnerable use

- 3.1 The following advice applies to refurbishments and/or alterations which do not increase the footprint of the development and do not result in a change of use to a more vulnerable use. We have developed a vulnerability matrix to aid the interpretation of this advice (see Section 11 and Table 1). In using the hierarchy please note that the impact of a flood on the particular land use could vary within each vulnerability class. Flood risk management infrastructure and other risk mitigation measures needed to ensure a development is safe may differ between uses within a particular class.

- 3.2 We advise you consult your flood prevention authority colleagues for advice on suitable mitigation measures, and, if relevant, consider any access/egress issues. Useful advice on improving flood resilience can be found in PAN 69: Planning and Building Standards Advice on Flooding. The raising of internal floor levels to mitigate against flood risk should only be permitted where viable and safe egress can be realised. Proposals that could lead to islands of development during flood events must be avoided as they impose an unacceptable risk to human health.

4. Small scale extensions, domestic garages or garden sheds

- 4.1 The following advice applies to small scale domestic and/or non-domestic extensions, sheds or domestic garages that are not covered by permitted development rights. If permitted development rights have been removed, as a result of a request by SEPA (on the grounds of flood risk), we would want to be consulted on the application.
- 4.2 Applications for a small scale extension to an existing building (domestic or non-domestic) are generally outwith the scope of Scottish Planning Policy provided they would not have a significant detrimental effect on the functional floodplain or local flood risk. We advise that, when you receive an application for an extension within the functional floodplain, you specifically ask your flood prevention authority colleagues if they consider if it is likely to have a significant effect on the storage capacity of the functional flood plain or affect local flooding problems. If the flood prevention authority considers this likely, then please consult us for site specific advice

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- 4.3 You should always consider carefully small scale extensions in the functional floodplain, where the development leads to an increase in the number of people at risk from flooding. The use of water resistant materials and forms of construction may be appropriate for some small scale extensions (see PAN 69: Planning and Building Standards Advice on Flooding). If you consider that a proposed extension could have an adverse impact on flood risk you should seek the advice of your flood prevention authority colleagues. If this results in your requesting the applicant to submit a flood risk assessment, then please consult us when it has been received.

5. Single wind turbines and similar structures with a small footprint and no associated new roads or new water crossings

- 5.1 This standing advice applies to proposals for single wind turbines and other similar structures which have a small footprint and do not have associated new roads or water crossings. Such structures should be located in an area which is not at risk of flooding but where this is not feasible the following standing advice applies. Where proposals for such schemes include new access roads and/or replacement river crossings, please consider the standing advice in sections 7 and 8 of this Appendix.
- 5.2 Due to their small footprint, these types of development do not usually create or increase flooding to nearby receptors in their local vicinity. Any risk (potential damage) to these structures themselves is a matter for the developer and local authority to recognise and account for in the design and siting of the structure.

6. Hydro schemes with no associated new roads or new river crossings

- 6.1 Infrastructure for hydro schemes (other than associated access roads and bridges) requires to be located in or adjacent to the water body from which it is taking water and to which it is returning water. As such we consider those elements of run-of-river hydro schemes to be an exception as defined in the Risk Framework set out in Scottish Planning Policy and the following advice applies. Where proposals for such schemes include new access roads and/or replacement river crossings please consider the standing advice in sections 7 and 8.
- 6.2 Generally, we consider that these elements of run-of-river hydro scheme proposals will not affect the ability of the floodplain to store or convey water. However, the construction of weirs to facilitate off-take mechanisms or the transfer of water from one catchment to another may increase the risk of flooding locally if a nearby receptor exists. In such instances you should seek the advice of your flood prevention authority colleagues and, if this results in the applicant being required to submit a flood risk assessment, you should consult SEPA when this has been received. There may be a commercial risk to the operator of the scheme and we recommend that the turbine house is designed and constructed to remain operational during floods. Water resistant materials and construction should be used where appropriate (see PAN 69: Planning and Building Standards Advice on Flooding).

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Update Summary

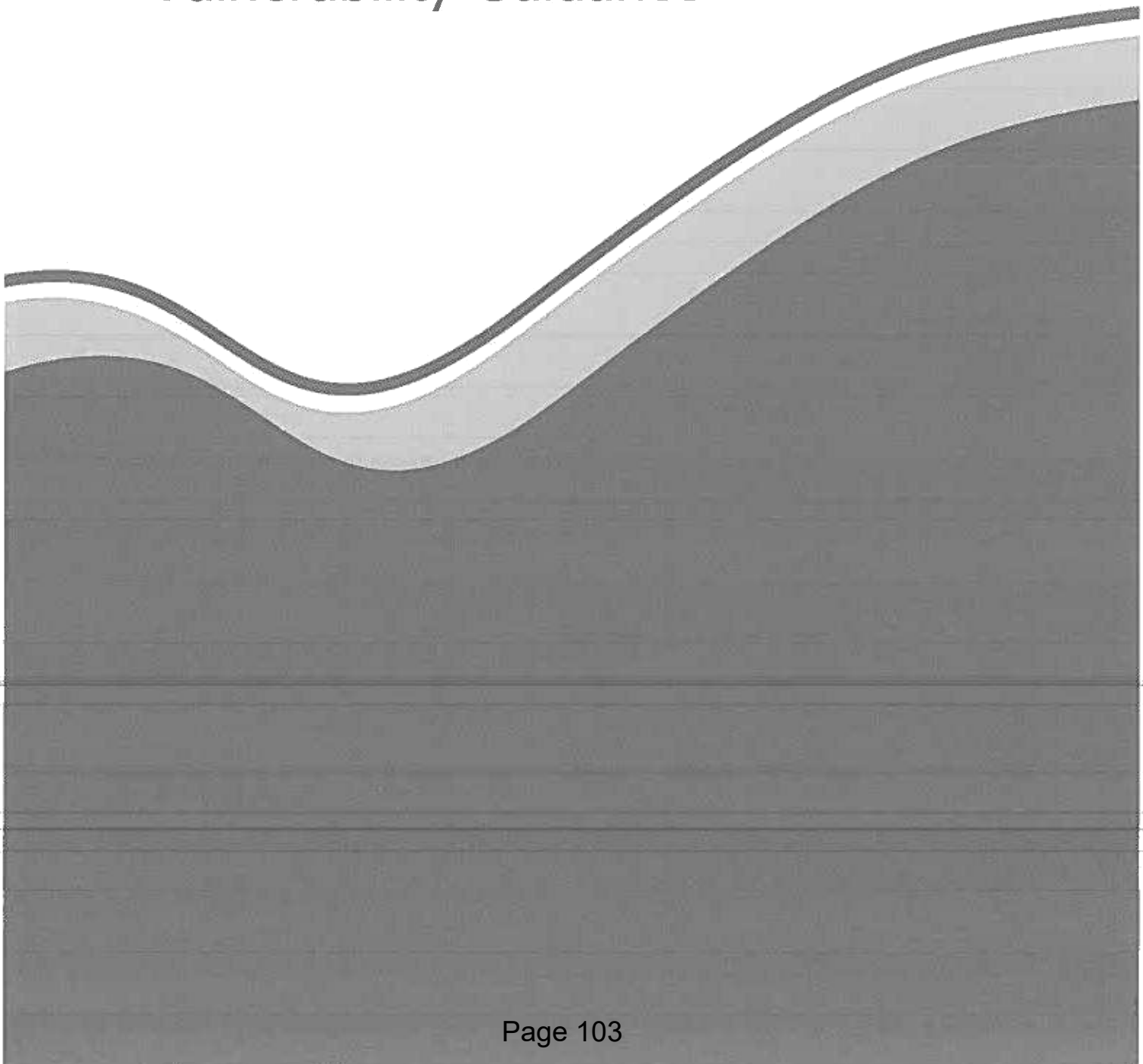
<i>Version</i>	<i>Description</i>
Version 1	First issue 2012
Version 2	Second issue August 2017 – document shortened to remove repetition, and textual changes made to align document with Scottish Planning Policy 2014.
Version 3	Third issue February 2018 – minor amendments made to correct errors in document.
Version 4	Fourth issue July 2018 – minor amendments made to approach to most vulnerable uses to align with LUPS-BP-GU2a v.3.

Notes

This document provides SEPA guidance on land use planning and flood risk. It is based on SEPA's interpretation of national planning policy and duties and requirements under relevant legislation.

This document is uncontrolled if printed. Always refer to the online document for accurate and up-to-date information.

Flood Risk and Land Use Vulnerability Guidance



Flood risk vulnerability guidance

1 Summary and background

1.1 The purpose of this guidance is to:

- aid understanding of the relative vulnerability to flooding of different land uses;
- assist in the interpretation of SEPA's Flood Risk Planning Guidance, which is based upon the risk framework in the Scottish Government's Scottish Planning Policy 2014 (SPP).

1.2 SEPA has created this guidance to assist in our assessment of the vulnerability to flooding of different types of land use. Table 1 classifies the relative vulnerability of land uses, grouping them into five categories from Most Vulnerable through to Water Compatible Uses.

1.3 Table 2 of this document then provides a **very brief outline** of the likely SEPA planning response for each set of land uses relative to the category of flood risk, and based upon the risk framework in SPP. **For a more detailed understanding of SEPA's likely planning response to proposals through both the Development Planning and Development Management process, this document must be read in conjunction with our Flood Risk Planning Guidance.**

1.4 SEPA will use this guidance in the assessment of sites for both Development Planning and Development Management purposes.

1.5 This guidance classifies land uses according to how they are impacted by flooding, i.e. their relative susceptibility and resilience to flooding, and any wider community impacts caused by their damage or loss.

1.6 The classification recognises that certain types of development, and the people who use and live in them, are more at risk from flooding than others (e.g. children, the elderly and people with mobility problems that may have more difficulty in escaping fast flowing water).

1.7 The term 'land use vulnerability' is used in this guidance to differentiate between a range of land uses, taking account of flooding impacts on land uses in terms of their relative susceptibility and resilience to flooding. It also reflects wider community impacts caused by their damage or loss. For example, a police station is not more likely to suffer damage (be susceptible) or less able to recover (be resilient) than a comparable office building. However, it is in a more vulnerable category than an office use because a higher value is placed upon the wider community impacts that would be caused by its potential loss or damage during a flood event. Similar considerations apply to the inclusion of hazardous waste facilities within the highly vulnerable category and other waste treatment facilities being within the less vulnerable category.

1.8 The classification comprises five categories:

1. Most Vulnerable Uses
2. Highly Vulnerable Uses
3. Least Vulnerable Uses
4. Essential Infrastructure
5. Water Compatible Uses

1.9 In relation to Table 1, you should note that:

- The list of uses is neither exhaustive nor definitive.
- Flood risk management infrastructure, and other risk mitigation actions needed to ensure development is safe, may differ between uses within the same category.
- The impact of a flood may change in nature relative to the uses within the same category. In particular, a change of use to a dwelling house from other uses within the Highly Vulnerable Uses category could significantly increase the overall flood risk, especially in relation to human health and financial impacts.

1.10 The classification (Table 1) is linked to the risk framework in SPP by a matrix of flood risk (Table 2). Table 2 gives a very brief outline of SEPA's likely planning response for each of the three flood risk categories of the risk framework relative to each of the five vulnerability categories. In producing this guidance, SEPA has sought to refine and enhance the vulnerability classification and definitions identified in the SPP risk framework.

Table 1: SEPA Land Use Vulnerability Classification¹

1. Most Vulnerable Uses	2. Highly Vulnerable Uses	3. Least Vulnerable Uses	4. Essential Infrastructure	5. Water Compatible Uses ²
<p>For the purpose of this guidance, Most Vulnerable Uses include land uses that are defined as both <i>civil infrastructure</i> and <i>most vulnerable</i> in the SPP 2014 glossary. Civil infrastructure is denoted with an asterisk (*) in the list below.</p> <p>Most Vulnerable Uses therefore comprise:</p> <ul style="list-style-type: none"> • police stations* • ambulance stations* • fire stations* • command centers and telecommunications installations required to be operational during flooding* • emergency dispersal points* • hospitals* • schools* • care homes* • nurseries • residential institutions, e.g. prisons, children's homes • basement dwellings • isolated dwelling(s) in sparsely populated areas • dwelling houses situated behind informal embankments³ • caravans, mobile homes, chalets and park homes intended for permanent residential use • holiday caravans, chalet, and camping sites • installations requiring hazardous substance consent (but where there is demonstrable need to locate such installations for bulk storage of materials with port or other similar facilities, or with energy infrastructure, that require a coastal or water-side location, or other high flood risk areas, then the facilities should be classified as Essential Infrastructure - see column 4). 	<p>Comprise:</p> <ul style="list-style-type: none"> • buildings used for dwelling houses • social services homes (ambulant/adult) • hostels and hotels • student halls of residence • non-residential uses for health service • landfills and sites used for waste management facilities for hazardous waste 	<p>Comprise:</p> <ul style="list-style-type: none"> • shops • financial, professional, and other services • restaurants and cafés • hot-food takeaways • drinking establishments • nightclubs • offices • general industry • storage and distribution • non-residential institutions not included in Most Vulnerable or Highly Vulnerable Uses • assembly and leisure • land and buildings used for agriculture and forestry that are subject to planning control • waste treatment (except landfill) and hazardous waste facilities) • minerals working and processing (except for sand and gravel) 	<p>Comprises:</p> <ul style="list-style-type: none"> • essential transport infrastructure (including mass evacuation routes) that has to cross the area at risk • essential utility infrastructure that has to be located in a flood risk area for operational reasons (this includes electricity generating power stations and grid and primary sub-stations, sewage treatment plants and water treatment works, wind turbines and other energy generating technologies) • installations requiring hazardous substance consent only where there is demonstrable need to locate such installations for the bulk storage of materials with port or other similar facilities, or with energy infrastructure that requires a coastal, water-side, or other high flood risk area location. 	<p>Comprise:</p> <ul style="list-style-type: none"> • flood control infrastructure • environmental monitoring stations • water transmission infrastructure and pumping stations • sewage transmission infrastructure and pumping stations • sand and gravel workings • docks, marinas and wharves • navigation facilities • MOD defence installations • ship building, repairing, and dismantling • dockside fish processing and refrigeration and compatible activities requiring a waterside location • water-based recreation (excluding sleeping accommodation) • lifeguard and coastguard stations • amenity open space • nature conservation and biodiversity • outdoor sports and recreation and essential facilities such as changing rooms • essential ancillary sleeping or residential accommodation for staff required by uses in this category, subject to a specific operational warning⁴ and evacuation plan.

¹ Developments that combine a mixture of uses should be placed in the higher of the relevant classes of flood risk vulnerability. The impact of a flood on the particular land use could vary within each vulnerability class. In particular, a change of use to a dwelling house within the 'Highly Vulnerable' category could significantly increase the overall flood risk, especially in relation to human health and financial impact. Any proposal for a change of use to a dwelling house should therefore be supported by a flood risk assessment. The redevelopment (including change of use) of an existing building or site provides a valuable opportunity to reduce the vulnerability of that site to flooding and therefore to reduce overall flood risk. This can be achieved through changes to less vulnerable land uses and improvements to the management of flood risk on the site.

² Embankments not formally constructed under flood prevention legislation including agricultural flood embankments constructed under permitted development rights.

³ Advice in the SPP risk framework on these activities is limited. The nature of the above activities necessitates locations that are prone to flooding. Generally, it is difficult to recommend a specific annual return period to guide development decisions for such uses. SEPA would recommend that the risk of flooding should be assessed giving particular consideration to:

1. Specific locational requirements of the development and availability of alternative locations;
2. Consideration of any loss of floodplain storage (in riverside developments) that may increase flood risk to nearby existing development and options to mitigate against this;
3. Appropriate mitigation measures, including water resistance and resilience measures;
4. Health and safety implications and the need for access, egress, and evacuation, with specific consideration of, and provision of, measures to provide for these where:
 - The development will attract the public, especially vulnerable people such as children and old people,
 - Large numbers of the public may gather and where evacuation routes are limited.
 - Hazardous materials are stored or processed.

⁴ In this context, specific warning does not mean a formal flood warning from SEPA. SEPA does not support the provision of flood warning as a viable reason to develop in flood risk areas. Warning is a non-structural measure that does not physically prevent flooding and has associated uncertainties.

Table 2: SEPA Matrix of Flood Risk (to be read in conjunction with our Flood Risk Planning Guidance)

Classification	Most Vulnerable Uses	Highly Vulnerable Uses	Least Vulnerable Uses	Essential Infrastructure	Water-Compatible Uses
Flood Risk					
Little or no risk (<0.1% AP)	No constraints	No constraints	No constraints	No constraints	No constraints
Low to medium risk (0.1% - 0.5% AP)	<p>Generally not suitable for Civil Infrastructure: where Civil Infrastructure must be located in these areas, or is being substantially extended, it should be designed to be capable of remaining operational and accessible during extreme flood events (i.e. 0.1% AP).</p> <p>May be suitable for other Most Vulnerable Uses if the risk from a 0.1%AP event can be alleviated through appropriate mitigation, or where one of the following apply:</p> <ul style="list-style-type: none">• Redevelopment of an existing building, including changes of use to an equal or less vulnerable use to the existing use.• Redevelopment of a previously developed site where it involves the demolition of existing buildings and/or erection of additional buildings within a development site, and the proposed land use is equal or less vulnerable than the existing land use.• Where the principle of development on the site has been established in an up-to-date, adopted development plan or the National Planning Framework and flood risk issues were given due consideration as part of the plan preparation process and our assessment of risk has not changed in the interim.	Generally suitable for development though an FRA may be required at upper end of the probability range (i.e. close to 0.5% AP).	Generally suitable for development.	Generally suitable for development.	
Medium to high risk within built up areas (>0.5% AP)	<p>Generally not suitable for development unless one of the following apply:</p> <ul style="list-style-type: none">• Redevelopment of an existing building, including changes of use to an equal or less vulnerable use to the existing use.• Redevelopment of a previously developed site where it involves the demolition of existing buildings and/or erection of additional buildings within a development site, and the proposed land use is equal or less vulnerable than the existing land use.	<p>Generally not suitable for development unless one of the following apply:</p> <ul style="list-style-type: none">• Redevelopment of an existing building, including changes of use to an equal or less vulnerable use to the existing use.• Redevelopment of a previously developed site where it involves the demolition of existing buildings and/or erection of additional buildings within a development site, and the proposed land use is equal or less vulnerable than the existing land use.	<p>Generally not suitable for development unless one of the following apply:</p> <ul style="list-style-type: none">• Redevelopment of an existing building, including changes of use to an equal or less vulnerable use to the existing use.• Redevelopment of a previously developed site where it involves the demolition of existing buildings and/or erection of additional buildings within a development site, and the proposed land use is equal or less vulnerable than the existing land use.	Suitable for essential infrastructure, designed and constructed to remain operational during floods (i.e. 0.5% AP), and not impede water flow.	Generally suitable for development - job related accommodation and some recreational, sport, amenity and nature conservation uses are only suitable provided that appropriate evacuation procedures are in place.

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APPENDIX 5

FLOOD RISK MANAGMEMENT TEAM'S STATEMENT



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

Notice of Review: Planning Application 18/00795/APP – Erect new rendered blockwork garage and install patio door in house at Bundon, Findhorn, Forres, IV36 3TE

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

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

Background Assessment

The site has been assessed against the 3 flood risk maps at a 0.5% probability of an event happening in any single year. The 3 maps looked at were:-

- Surface water
- Fluvial
- Coastal

Following the initial assessment it was clear that the site was within the 0.5% probability for coastal flooding as per map in Appendix A. Following a review of the maps MCFRM feel that this development would be contravening paragraph 255 as the site will be effecting the functional flood plain.

Further Discussion

MCFRM have since been asked a number of follow up questions with regards to the site and these are answered below.

The team have reviewed the questions posed by Cllr Alexander and below is the answers to his questions:-

“The volume of water which would be displaced by the walls of the proposed garage, if it flooded to a depth of one metre. Having calculated that figure can you please ask them to calculate what would be the increased depth, over an area of one hectare of flood water, which would be due to the effect of this displaced water.”

If we were just to consider the walls of the building the results would be as follows:-

- Total area (not incl. door lengths) = 5.69m² @ 1m flood depth, total volume = 5.69m³.
- Therefore, over 1 hectare the increase in depth would be 0.00057m (0.57mm).

If we consider the whole garage footprint the results would be as follows:-



- Total area = 71.4m² @ 1m flood depth, total volume = 71.4m³
- Therefore, over 1 hectare the increase in depth would be 0.00714m (7.14mm).

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

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

Recommendation

Following further information including the statement provided by the applicant for MCFRM to remove its objection the following would have to be applied:-

- We would therefore ask for a condition to be placed on the application to prevent change of use.
- We would also like to have an informative placed that if this development were to go ahead that Moray Council would not be promoting a flood scheme to protect this property in the future as it has been built within the functional flood plain.

Documents used as part of this assessment;-

Moray Council Local Development Plan Policies: Policy EP7

Scottish Planning Policy: Para 255, 263,264

SEPA Flood Maps